

FRANCHISE DISCLOSURE DOCUMENT



**KRISPY KREME DOUGHNUT
CORPORATION**
370 Knollwood Street
Winston-Salem, North Carolina 27103
1-888-249-2726
www.krispykreme.com

This Franchise Disclosure Document (“**Disclosure Document**”) is for a Krispy Kreme Doughnut franchise. Krispy Kreme Shops (“**Krispy Kreme Shops**” or “**Shops**”) offer and serve a variety of doughnuts, beverages, and other related products and services. Franchises for Krispy Kreme Shops are offered in 3 different Shop formats: Hot Light Theater Shops, Fresh Shops, and Box Shops.

The total initial investment necessary to begin operation ranges from \$1,587,500 to \$3,410,000 for a Hot Light Theater Shop, and \$440,500 to \$1,207,500 for a Fresh Shop, and \$200,500 to \$453,000 for a Box Shop. These totals include the following amounts that must be paid to us as initial fees and for a variety of goods and services, as follows: \$360,000 to \$500,000 for a Hot Light Theater Shop; and \$30,000 to \$33,000 for a Fresh Shop, and \$30,000 to \$33,000 for a Box Shop.

This Disclosure Document summarizes in plain English certain provisions of your franchise agreement and other information. 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, us or our affiliate in connection with the franchise sale. **Note, however, that no governmental agency has verified the information contained in this Disclosure 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 Lisa Brown at 370 Knollwood Street, Winston-Salem, North Carolina 27103 or 1-888-249-2726.

The terms of your Franchise Agreement and any Development Agreement (the “**Agreements**”) will govern our franchise relationship. Do not rely on this Disclosure Document alone to understand your Agreements with us. Read all your Agreements carefully. Show 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, DC 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: September 9, 2021

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 Exhibits D and E.
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 F 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 Krispy Kreme® 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 Krispy Kreme® franchisee?	Item 20 or Exhibits D and E list 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 A.

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 and development agreement permit you to litigate with us only in North Carolina. Out of state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with us in North Carolina than in your home state.
2. The franchise agreement and development agreement state that North Carolina law governs the agreement, and this law may not provide the same protections and benefits as local law. You may want to compare these laws.

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.

**THE FOLLOWING APPLY ONLY TO TRANSACTIONS GOVERNED BY
THE MICHIGAN FRANCHISE INVESTMENT LAW**

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 the Michigan Franchise Investment 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 five 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.

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

Any questions regarding this notice should be directed to:

State of Michigan
Department of Attorney General
Consumer Protection Division
Attn: Franchise Section
525 West Ottawa Street
G. Mennen Williams Building, 1st Floor
Lansing, Michigan 48913
Telephone Number: (517) 373-7117

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ITEM 1

THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES

The Franchisor

The Franchisor is Krispy Kreme Doughnut Corporation. For ease of reference, we refer to Krispy Kreme Doughnut Corporation as “we”, “us”, “our”, or “**Krispy Kreme**” in this Disclosure Document. We refer to the person or entity who buys a franchise as “you” throughout the Disclosure Document. If you are a corporation or other business entity, certain provisions of the Development Agreement (as defined below), and the Franchise Agreement (as defined below) also apply to your owners. This Disclosure Document provides certain information about us and our affiliates and the terms on which we currently offer franchises. This Disclosure Document cannot and does not provide all the information a prospective franchisee should consider in making a decision on whether to enter into any of the Agreements. Prospective franchisees should make an independent investigation before making a decision to enter into any of the Agreements, and you should consult with your own advisors, attorneys, and accountants in advance of entering into any such agreement with us. The terms of previous and subsequent franchise agreements and development agreements may vary from the terms of the agreements offered under this Disclosure Document.

Krispy Kreme was founded in 1937 by Vernon Rudolph and has been in the doughnut and coffee business continuously in various corporate forms since that time. Krispy Kreme is a North Carolina corporation incorporated in 1947 and re-incorporated in North Carolina on January 11, 1982. We do business as Krispy Kreme Doughnut Corporation and Krispy Kreme. Our principal business address is 370 Knollwood Street, Winston-Salem, North Carolina 27103. In November 2018, we opened an additional office located at 2116 Hawkins Street, Charlotte, North Carolina. We operate and franchise doughnut shops known as “**Krispy Kreme Shops**” (or “**Shops**”) and we operate doughnut manufacturing facilities known as “**Doughnut Factories**” (*formerly, Commissary Facilities*). As of December 31, 2020, we owned and operated 227 Krispy Kreme Shops and Doughnut Factories, and we franchised 136 Krispy Kreme Shops in the United States. We also produce doughnut production equipment and doughnut mixes used in Krispy Kreme Shops and Doughnut Factories.

We have been offering franchises since the 1950s. From 2004 to late 2007 we did not offer franchises in the United States. We began offering franchises of the type described in this Disclosure Document in the United States in December 2007. We have conducted a business of the type to be operated by franchisees since 1982. Our store types (Hot Light Theater Shops (*formerly, Factory Stores*), Fresh Shops, and Box Shops) are defined under the heading “Krispy Kreme Shops” below. Some of our current franchisees in the United States and other countries have operated Tunnel Oven Shops, Fresh Shops, Box Shops, Kiosks, and Doughnut Factories. Specific agreements for Fresh Shops are offerings in the United States beginning in December 2007. Specific agreements for Box Shops are offerings in the United States beginning in June 2019. Specific agreements for Tunnel Oven Shops and Doughnut Factories were offerings in the United States from December 2007 to August 2021. We no longer offer franchises for Tunnel Oven Shops or Doughnut Factories in the United States. We do not currently and have never offered franchises in other lines of business.

Our Parents

Our parent company is Krispy Kreme Doughnuts, Inc., a North Carolina corporation (“**KKDI**”). KKDI shares our principal business address at 370 Knollwood Street, Winston-Salem, North Carolina 27103. KKDI is a wholly-owned subsidiary of Cotton Parent, Inc., a Delaware corporation (“**Cotton Parent**”). Cotton Parent’s principal business address is 1701 Pennsylvania Ave. NW, Suite 801, Washington, DC 20006. Cotton Parent is a wholly-owned subsidiary of Krispy Kreme, Inc., a Delaware Corporation

(“**KKI**”). KKI’s principal business address is 2116 Hawkins Street, Charlotte, NC 28203. KKI is a publicly-traded company listed on the Nasdaq Global Select Market. Except as disclosed above, KKDI, Cotton Parent, and KKI have never offered franchises in this or any other line of business, nor have they conducted a business of the type to be operated by franchisees. Other than KKDI, Cotton Parent, and KKI, we do not have any parents, predecessors, or affiliates that must be disclosed in this Disclosure Document.

Our Affiliate

Our direct subsidiary, HDN Development Corporation, a Kentucky corporation (“**HDN**”), owns the Krispy Kreme intellectual property assets. HDN’s principal business address is 370 Knollwood Street, Winston-Salem, NC 27103. HDN has never offered franchises in this or any other line of business, nor has it conducted a business of the type to be operated by franchisees.

Our agents for service of process are disclosed in Exhibit A.

Franchises Offered

We offer to qualified persons the opportunity to enter into a development agreement in the form attached as Exhibit B-2 (“**Development Agreement**”), which grants the right and obligation to establish a certain number of Shops in a specified geographic area (“**Development Area**”). These Shops are to be developed in accordance with a development schedule contained in the Development Agreement. They may include more than one format of Krispy Kreme Shop, including Hot Light Theater Shops, Fresh Shops, and Box Shops. For each Shop developed under the Development Agreement, you will be required to sign our then-current form of Franchise Agreement. The current form of Franchise Agreement is attached as Exhibit B-1 (“**Franchise Agreement**”).

Under the Development Agreement, you must meet the following requirements before you will have the right to develop each Krispy Kreme Shop:

- (a) Development. You and your affiliates are in compliance with the Development Agreement, all Franchise Agreements, and any other development agreement between you or your affiliates and us or our affiliates.
- (b) Operational. You are conducting the operation of your existing Krispy Kreme Shops, if any, and are capable of conducting the operation of the proposed Krispy Kreme Shop (i) in accordance with the terms and conditions of the Development Agreement; (ii) in accordance with the provisions of the respective Franchise Agreements; and (iii) in accordance with the System Standards (defined below), as such System Standards may be amended occasionally.
- (c) Financial. You and your owners satisfy our then-current financial criteria for developers and owners of Krispy Kreme Shops with respect to your operation of your existing Krispy Kreme Shops, if any, and the proposed Krispy Kreme Shop. No default relating to any monetary obligations owed to us or our affiliates under the Development Agreement, any Franchise Agreements, or other agreements between you or any of your affiliates and us or any of our affiliates either has (i) occurred and is continuing; or (ii) occurred during the 12 months preceding your request for consent, whether or not such default was cured or curable.
- (d) Legal. You have submitted to us, in a timely manner, all information and documents we requested before, and as a basis for, the issuance of individual licenses or according to any right granted to you by the Development Agreement, or by any Franchise

Agreement, and have taken such additional actions in connection with such submittal as we may request. You and your owners have been and are faithfully performing all terms and conditions of the Development Agreement, each of the existing Franchise Agreements and any other agreement among us, you or any of either's affiliates.

- (e) Ownership. Neither you nor any owners (as applicable) will have transferred a controlling interest in you. You and your owners on whom we have relied to perform the duties under the Development Agreement will continue to own and exercise control over a controlling interest in you.

Krispy Kreme Shops are typically located in retail shopping centers or amongst or nearby other retail stores and restaurants in urban and suburban locations which are acceptable to us (“**Traditional Locations**”). We may, however, consider sites such as train stations, sports arena, airports, shopping malls, university campuses or other captive market spaces on a case-by-case basis (“**Non-Traditional Locations**”). We typically only consider prospective franchisees for Non-Traditional Locations that have significant experience in Non-Traditional Locations operations. We do not offer Franchise Agreements for Fresh Shops or Box Shops on an independent basis, other than (1) to existing Krispy Kreme franchisees that have one or more existing Hot Light Theater Shops with the capacity to support such operations, or (2) for Non-Traditional Locations. Fresh Shops and Box Shops must have their doughnuts supplied by a Hot Light Theater Shop. We no longer offer Doughnut Factory Agreements (formerly, Commissary Facility Agreements), or Franchise Agreements for Tunnel Oven Shops.

Occasionally, we may sell company-owned Shops and franchise them. In these transactions, we negotiate with the prospective franchisee to reach mutually acceptable terms of a sale agreement and, if not acquired, a lease or sublease of the real estate. If you purchase a company-owned Krispy Kreme Shop, you must sign a Franchise Agreement. We may also require you to sign a Development Agreement for the further development of Krispy Kreme Shops in the geographic area where the purchased Shop is located. Depending on the circumstances, the financial and other terms may vary from the standard terms of our Agreements.

Krispy Kreme Shops

Krispy Kreme Shops may be operated in 3 different formats, namely a Hot Light Theater Shop, a Fresh Shop, and a Box Shop. Each Shop is a retail facility used principally for on-premises sales of a variety of fresh doughnuts, beverages, and other related food products and services that we prescribe. The differences in Shop formats are as follows:

- Hot Light Theater Shop – a retail sales facility that manufactures and produces fresh doughnuts on-site, under the System Standards (as defined below). Additionally, Hot Light Theater Shops may have the capacity to supply fresh doughnuts to Fresh Shops and Box Shops. Hot Light Theater Shops were formerly known as Factory Stores.
- Fresh Shop – a retail sales facility with limited manufacturing capabilities (e.g., icing and filling equipment), or no manufacturing capabilities, that receives doughnuts from a Hot Light Theater Shop and finishes them as necessary to sell in accordance with our System Standards.
- Box Shop – a retail sales facility with no manufacturing capabilities that receives doughnuts from a Hot Light Theater Shop to sell in accordance with our System Standards. It is a prefabricated, free-standing self-contained unit resembling a Krispy Kreme doughnut box (which design elements may vary and be modified from time to time) and is typically located in an enclosed retail area.

Hot Light Theater Shops may provide doughnuts and other products to fundraising customers, provided that we authorize you to make such sales. We may authorize you to solicit fundraising business and deliver to fundraising customers outside the store (“**Authorized Fundraising Sales**”). Our current form of Authorized Fundraising Sales Agreement is attached as Exhibit E to the Franchise Agreement. The form of Authorized Fundraising Sales Agreement will be tailored for individual use.

“**Doughnut Factories**” are manufacturing facilities, owned and operated by us, and are dedicated solely to the production of doughnuts and other Products to be sold under the Marks that are supplied to Franchisor’s Krispy Kreme Shops, and to grocery and convenience stores for resale. Doughnut Factories are not used for retail sales.

Krispy Kreme Shops are characterized by a distinctive system that includes special recipes and menu items; distinctive design, décor and color scheme; equipment, fixtures and furnishings, including use of proprietary equipment; standards, specifications, and procedures for operations; procedures for quality control, training and assistance; and advertising and promotional programs, all of which we may improve, further develop or otherwise modify occasionally (the “**System**”). The System is identified by means of certain service marks, trademarks, logos, emblems, and indicia of origin, including the principal trademarks identified in Item 13 of this Disclosure Document. Occasionally, we may designate other service marks, trademarks, slogans, logos, emblems, and indicia of origin for use in the System. Collectively, these identifiers are referred to as the “**Marks**”.

Krispy Kreme Shops are required to be operated in accordance with the mandatory and suggested specifications, standards, operating procedures and rules that we prescribe for the development and operation of Krispy Kreme Shops, including those pertaining to conversion, site selection, construction, signage and layouts; the standards, specifications, recipes and other requirements related to the purchase, preparation, marketing and sale of the Products; advertising and marketing programs and information technology; sales made at the Shop premises (“**On-Premises Sales**”), Authorized Fundraising Sales; customer service; the design, décor and appearance of the Shop; standards and specifications for equipment, fixtures and furnishings and the use of proprietary equipment; the maintenance and remodeling of the Shop and the equipment, fixtures and furnishings therein; the use and display of the Marks; the insurance coverage required to be carried for the Shop; the training of the Shop employees; the days and hours of the Shop operation; and the content, quality and use of advertising and promotional materials, all of which Franchisor may improve, further develop or otherwise modify from time to time (the “**System Standards**”). The documents and other media that contains the System Standards are referred to as the “**System Standards Manuals**”.

Food-service businesses such as Krispy Kreme Shops operate in a highly competitive and developed market that can be affected significantly by many factors, including changes in local, regional, or national economic conditions, changes in consumer tastes, consumer concerns about the nutritional quality of quick-service food, dietary trends, and increases in the number of, and particular locations of, competing food service businesses. Various factors can adversely affect the food-service industry, including weather conditions; inflation; increases in ingredient, food, labor, and energy costs; the availability and cost of suitable sites; fluctuating interest and insurance rates; state and local regulations and licensing requirements; the availability of ingredients, food items, and an adequate number of qualified hourly-paid employees; and other factors that may affect restaurants or retailers in general. In addition, other food-service chains with greater financial resources have similar concepts.

You should consider that certain aspects of any food-service business are regulated by federal, state, and local laws, in addition to the laws applying to businesses generally, such as the Americans with Disabilities Act, Federal Wage and Hour Laws, and the Occupational Safety and Health Act. The Environmental Protection Agency, the U.S. Food and Drug Administration, the U.S. Department of

Agriculture, as well as state and local environmental and health departments and other agencies have laws and regulations concerning the preparation of food and sanitary conditions of food-service facilities. State and local agencies routinely conduct inspections for compliance with these requirements. Under the Clean Air Act and state implementing laws, certain state and local areas are required to attain, by the applicable statutory guidelines, the national quality standards for ozone, carbon monoxide and particulate matters. Certain provisions of such laws impose limits on emissions resulting from commercial-food preparation. You should investigate these laws and regulations and any others that may apply to your business before you acquire the franchise. You should consult with your attorney concerning these and other local laws and ordinances that may affect your operations.

ITEM 2

BUSINESS EXPERIENCE

Director, President and Chief Executive Officer: Michael Tattersfield

Michael Tattersfield has served as our President, Chief Executive Officer and a member of our Board of Directors (the “**Board**”) since January 2017. He also serves in a parallel officer position with KKI and KKDI. He has served as a member of the Board of Directors of KKI since May 2021 and as a member of the Board of Directors of KKDI since September 2016. Mr. Tattersfield served as Chairman of the Board of KKDI from September 2016 to May 2017. Mr. Tattersfield served as the Chief Executive Officer and a member of the Board of Directors of Caribou Coffee Development Company, Inc. (“**CCDC**”), and Chief Executive Officer and President of Caribou Coffee Company, Inc. (“**CCC**”) in Minneapolis, Minnesota from August 2008 to July 2017. He also served as a member of the Board of Directors of CCC from August 2008 to March 2020. Mr. Tattersfield served as the Chief Executive Officer and a member of the Board of Directors of Einstein Bros. Bagels Franchise Corporation (“**EBBFC**”) in Minneapolis, Minnesota from February 2016 to July 2017, Chief Executive Officer and a member of the Board of Directors of Einstein and Noah Corporation, as well as Chief Executive Officer and a member of the Board of Directors of Manhattan Bagel Company from January 2015 to July 2017.

Director, Chief Operating Officer and Chief Financial Officer: Josh Charlesworth

Josh Charlesworth has served as our Chief Operating Officer since May 2019, Chief Financial Officer since April 2017, and a member of the Board since May 2021. He also serves in a parallel officer position with KKI and KKDI. Mr. Charlesworth has served as a member of the Board of Directors of KKDI since May 2021. He served as our Corporate Secretary of from July 2018 to August 2020. He also served as Corporate Secretary of KKDI from July 2018 to August 2020. Prior to joining Krispy Kreme, Mr. Charlesworth held various positions since joining Mars, Incorporated in McLean, Virginia in 1997. He most recently served as Global Chief Financial Officer of Mars Chocolate from January 2015 to April 2017.

Director and North America President: Andrew Skehan

Andy Skehan has served as our North America President since November 2017 and as a member of the Board since May 2021. He also serves in a parallel officer position with KKI and KKDI. Prior to joining Krispy Kreme, Mr. Skehan held various positions with Popeyes Louisiana Kitchen in Atlanta, Georgia, including President of North America from March 2017 to October 2017 and President of International from March 2015 to March 2017.

Chief Growth Officer: Matthew Spanjers

Matthew Spanjers has served as our Chief Growth Officer since August 2019. He also serves in a parallel officer position with KKI and KKDI. Mr. Spanjers served as our Chief Strategy and

Development Officer from April 2017 to August 2019. Prior to joining Krispy Kreme, Mr. Spanjers served as Chief Development Officer with EBBFC in Minneapolis, Minnesota from February 2016 to April 2017, as well as Chief Development Officer and Senior Vice President Commercial with CCDC in Minneapolis, Minnesota from February 2015 to April 2017.

Chief Legal Officer and Corporate Secretary: Cathy Tang

Cathy Tang has served as our Chief Legal Officer since July 2020 and as Corporate Secretary since August 2020. She also serves in a parallel officer position with KKI and KKDI. Prior to joining Krispy Kreme, Ms. Tang held various positions with Yum! Brands in Plano, Texas. She most recently served as Vice President and Associate General Counsel of Yum! Brands from January 2017 to July 2020, Chief New Business Development Officer of Yum! Brands (KFC Global) from July 2015 to January 2017, and Chief Legal Officer of KFC Corporation, a subsidiary of Yum! Brands, from August 2009 to July 2015.

Vice President – Shop Experience and Real Estate: Levi Hetrick

Levi Hetrick has served as our Vice President of Shop Experience and Real Estate June 2018. Prior to joining Krispy Kreme, Mr. Hetrick was an Associate Partner with McKinsey & Company in New York, New York from July 2012 to June 2018.

Chief Financial Officer – U.S. and Canada: Caren Prince

Caren Prince has served as our Chief Financial Officer of U.S. and Canada since August 2019. She served as our Vice President of Retail Ventures from May 2018 to August 2019. Prior to joining Krispy Kreme, Ms. Prince held various positions since joining Mars, Incorporated in McLean, Virginia in 1995. She most recently served as Chief Financial Officer of the M&Ms Retail Division from October 2014 to April 2018.

Chief Supply Chain Officer: Sherif Riad

Sherif Riad has served as our Chief Supply Chain Officer since July 2021. Prior to joining Krispy Kreme, Mr. Riad served as Senior Director of Supply and Procurement, North America, with Mondelez International in East Hanover, New Jersey from January 2016 to June 2021.

Chief Operating Officer – U.S. and Canada: Maria Rivera

Maria Rivera has served as our Chief Operating Officer of U.S. and Canada since August 2019. She served as our Vice President of U.S. and Canada Operations from September 2018 to August 2019. Ms. Rivera served as our Vice President of Company Store Operations from November 2016 to September 2018. Prior to joining Krispy Kreme, Ms. Rivera served as Executive Vice President of Operations for Logan's Roadhouse, Inc. in Nashville, Tennessee from April 2015 to November 2016.

Senior Director – Franchise Relations: Dave Horn

Dave Horn has served as our Senior Director of Franchise Relations since March 2019. Prior to joining Krispy Kreme, Mr. Horn was a self-employed contractor in Sewell, New Jersey from September 2018 to February 2019. Prior to that, he served as Divisional President with Steak N Shake in Indianapolis, Indiana from December 2017 to September 2018, Regional Vice President with Noodles and Company in Broomfield, Colorado from November 2015 to September 2017.

Note: Unless otherwise indicated above, the location of the employer is Winston-Salem, North Carolina or Charlotte, North Carolina.

ITEM 3

LITIGATION

Prior Actions - Franchisee Litigation

1. K²ASIA Ventures v. Robert Trota (Case No. 09 CVS 2766), Forsyth County, North Carolina Superior Court, filed April 20, 2009. K² ASIA Ventures, Ben C. Broocks, and James G.J. Crow served a complaint filed against us and KKDI, our franchisee in the Philippines, and other persons associated with the franchisee. The suit alleges that we and the other defendants conspired to deprive the plaintiffs of claimed “exclusive rights” to negotiate franchise and development agreements with prospective franchisees in the Philippines, and seeks unspecified damages. The complaint also alleges that we tortiously interfered with plaintiffs’ contract with the co-defendants, and committed fraud and unfair trade practices. On July 26, 2013, the Superior Court dismissed the Philippines-based defendants for lack of personal jurisdiction, and the plaintiffs have noticed an appeal of that decision. On January 22, 2015, the North Carolina Supreme Court denied the plaintiffs’ request to review the case. We moved for summary judgment on May 7, 2015. On November 9, 2018, the Superior Court entered an order treating our motion for summary judgment as a motion to dismiss for failure to prosecute, and the Superior Court granted our motion, dismissing the suit. The lone remaining plaintiff filed a notice of appeal from that order to the North Carolina Court of Appeals on December 13, 2018. Plaintiff served the proposed record on appeal on February 15, 2019. Plaintiff requested multiple extensions of the briefing deadlines, and the briefing was completed on September 25, 2019. On December 3, 2019, the Court of Appeals issued a calendar notice scheduling the case to be heard without oral argument on January 7, 2020. The Court of Appeals on September 1, 2020 affirmed the trial court’s November 13, 2018 order dismissing the action. On September 16, 2020, the plaintiff filed a petition for rehearing en banc, which the Court of Appeals denied on October 16, 2020. On November 2, 2020, the plaintiff filed with the North Carolina Supreme Court a petition for discretionary review. We filed a response to this petition on November 16, 2020. On August 10, 2021, the North Carolina Supreme Court denied the plaintiff’s petition, which is the final level of appellate review on the arguments raised by plaintiff.

Prior Actions – Securities Litigation

2. Ronnie Stillwell v. Tim E. Bentsen, et al. (Case No. 16-CVS 3101), Forsyth County, North Carolina Superior Court, filed May 26, 2016 (the “**Stillwell Action**”). A purported KKDI shareholder (“**Plaintiff**”), on behalf of himself and purportedly on behalf of a class of KKDI’s shareholders that owned KKDI’s common stock as of May 9, 2016 (the “**Purported Class**”), filed an action against KKDI’s Board of Directors (the “**KKDI Board**”), JAB Holding Company, Inc. (“**JAB**”), JAB’s wholly-owned subsidiaries Cotton Parent, Inc. and Cotton Sub, Inc. (the “**Cotton Defendants**”) and KKDI as a nominal defendant. This action alleges, among other things, that in connection with the definitive merger agreement entered into between JAB Beech, Inc. (“**JAB Beech**”) and KKDI on May 9, 2016, the KKDI Board breached fiduciary duties owed to KKDI’s shareholders because it failed to properly value KKDI, it failed to act in KKDI’s best interests, it took steps to avoid competitive bidding for KKDI, and it did not protect against potential conflicts of interest between the KKDI Board and KKDI. This action alleges that KKDI, JAB, and the Cotton Defendants aided and abetted the KKDI Board’s breach of its fiduciary duties. It also alleges a derivative claim against the KKDI Board for breach of its duties to KKDI. The action seeks class certification or, alternatively a declarative order that the action is a shareholder derivative suit. Plaintiff also seeks a declaratory judgment, rescission of the transaction or, if the merger is consummated, an award to Plaintiff and the Purported Class of an unspecified amount of rescissory damages, together with reimbursement and costs and expenses of the litigation and other unspecified relief. We plan to vigorously defend these claims. Due to the nature of the transaction between KKDI and JAB Beech, we anticipate that other lawsuits similar to this one may be brought against KKDI asserting substantially the same allegations.

As anticipated, the following additional lawsuits as listed below have been filed making allegations substantially similar to those asserted in the above lawsuit.

- a. Grajzl v. Krispy Kreme Doughnut, Inc., et al. (Case No. 16 CVS 3239), Forsyth County, North Carolina Superior Court, filed May 31, 2016 (the “**Grajzl Action**”).
- b. Horton v. Krispy Kreme Doughnut, Inc., et al. (Case No. 16 CVS 3102), Forsyth County, North Carolina Superior Court, filed May 26, 2016 (the “**Horton Action**”).
- c. Bonnin v. Bentsen, et al. (Case No. 16 CVS 3651), Forsyth County, North Carolina Superior Court, filed June 14, 2016 (the “**Bonnin Action**”).
- d. Weers v. Bentsen, et al. (Case No. 16 CVS 3669), Forsyth County, North Carolina Superior Court, filed June 16, 2016 (the “**Weers Action**”).
- e. Graham v. Krispy Kreme Doughnut, Inc., et al. (Case No. 1:16-cv-00612), United States District Court, Middle District of North Carolina, filed June 13, 2016 (the “**Graham Action**”).
- f. Lomax v. Krispy Kreme Doughnut, Inc., et al. (Case No. 1:16-cv-00923), United States District Court, Middle District of North Carolina, filed July 8, 2016 (the “**Lomax Action**”).

On July 11, 2016, the five actions brought in North Carolina Superior Court (the Stillwell Action, Horton Action, Grajzl Action, Bonnin Action, and Weers Action) were consolidated into a single litigation titled In re Krispy Kreme Shareholders Litigation (Case No. 16-CVS-3669), Forsyth County, North Carolina Superior Court (the “**Consolidated Action**”).

Plaintiffs in each of the lawsuits described above (the Consolidated Action, the Graham Action, and the Lomax Action, collectively the “**Actions**”) and Defendants in the Actions reached an agreement in principle to settle the Actions and the North Carolina Business Court approved this settlement on January 2, 2018, dismissing all claims. Without admitting any wrongdoing, or that any supplemental disclosure was required to be made, KKDI made certain supplemental disclosures in a Form 8-K that was filed with the SEC on July 15, 2016. Defendants received a full and complete release from the plaintiffs and any purported members of the non-opt out class. On January 2, 2018 the North Carolina Business Court approved the settlement, dismissing all claims in the Actions. The Court, however, retained jurisdiction of the matter for the purposes of considering and approving the request for the award of attorneys’ fees and expenses. On June 20, 2018, the Court awarded \$150,000 in attorneys’ fees and the Actions have concluded.

Prior Actions - Other Litigation

3. Irina Agajanyan v. Krispy Kreme Doughnut Corporation (Case No. 2:18-CV-02885), United States District Court, Central District of California, filed April 6, 2018. Irina Agajanyan individually, on behalf of herself, and on behalf of all others similarly situated, and the general public (“**Plaintiff**”) filed a Class Action Complaint against us and DOES 1 through 10 (the “**Action**”). The Action is based on our alleged false and misleading business practices with regard to the marketing and sale of “Maple Iced Glazed” doughnuts, and “Glazed Blueberry Cake” doughnuts and doughnut holes (collectively, the “**Products**”). Based solely on the names of these Products, Plaintiff claims that she thought they would contain actual maple sugar or syrup, and blueberries, respectively. Plaintiff also claims on information and belief that these Products in fact did not contain these ingredients. Plaintiff alleges that if she and other consumers had known that the Products allegedly did not contain these

ingredients, and did not include the alleged nutrients and health benefits allegedly associated with these ingredients, they would not have purchased the Products or would have paid significantly less for them. The Action alleges (i) Breach of Express Warranty; (ii) Breach of Implied Warranty; (iii) Breach of Contract; (iv) Common Law Fraud; (v) Intentional Misrepresentation; (vi) Negligent Misrepresentation; (vii) violation of California's Consumer Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*; (viii) violation of California's Unfair Competition Law, Cal. Civ. Code § 17200 *et seq.*; (ix) violation of California's False Advertising Law, Cal. Civ. Code § 17500 *et seq.*; and (x) Quasi Contract/Restitution/Unjust enrichment. Plaintiff seeks: (i) an order certifying a nationwide class, a California subclass, and a California consumer subclass, naming Plaintiff as representative of all classes, and naming her attorneys as class counsel for all classes; (ii) actual damages, if adequate; (iii) any additional and consequential damages suffered by Plaintiff and the Class; (iv) statutory damages in an amount of not less than \$1,000 per Plaintiff or Class member pursuant to California Civil Code § 1780(a)(1); (v) restitution, as appropriate; (vi) statutory pre-judgment interest; (vii) reasonable attorneys' fees and the costs of the action; (viii) an order enjoining defendants from selling the Products; (ix) an order enjoining defendants from using the words "blueberry" and "maple" in the names of the Products; (x) declaratory and/or equitable relief under the causes of action stated in the complaint; and (xi) other relief as the court may deem just and proper. On May 11, 2018, we waived proper service of the summons and complaint and were granted an extension of time to respond. On June 18, 2018, we filed our Motion to Dismiss the Action. On August 6, 2018, the parties entered into a settlement agreement whereby we paid a total amount to Plaintiff of \$5,000 and no additional amount to Plaintiff's counsel in exchange for a general release by Plaintiff. On August 9, 2018, the Court entered an order dismissing the Action. We have vigorously denied, and continue to vigorously deny, all of the claims that were alleged in the Action.

4. Jason Saidian v. Krispy Kreme Doughnut Corporation (Case No. 2:16-CV-08338), United States District Court, Central District of California, filed November 9, 2016, amended Complaint filed December 5, 2016. Jason Saidian, individually and on behalf of all others similarly situated ("**Plaintiff**") filed a First Amended Class Action Complaint against us (the "**Action**"). The Action was based on our alleged false and misleading business practices with regard to the marketing and sale of our "Chocolate Iced Raspberry Filled" doughnuts, "Maple Iced Glazed" and "Maple Bar" doughnuts, and "Glazed Blueberry Cake" doughnuts and doughnut holes (collectively, the "**Products**"). Based solely on the names of these Products, Plaintiff claimed that he thought they would contain actual raspberries, maple sugar or syrup, and blueberries, respectively. Plaintiff also claimed on information and belief that these Products in fact did not contain these ingredients. Plaintiff alleged that if he and other consumers had known that the Products allegedly did not contain these ingredients, and did not include the alleged nutrients and health benefits allegedly associated with these ingredients, they would not have purchased the Products or would have paid significantly less for them. The Action alleged (i) violation of California's Consumer Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*; (ii) violation of California's Unfair Competition Law, Cal. Civ. Code § 17200 *et seq.*; (iii) California's False Advertising Law, Cal. Civ. Code § 17500 *et seq.*; (iv) breach of express warranty, Cal. Com. Code § 2313; (v) breach of implied warranty, Cal. Com. Code § 2314; (vi) fraud; (vii) intentional misrepresentation; (viii) negligent misrepresentation; (ix) breach of contract; and (x) unjust enrichment/restitution. Plaintiff sought: (i) an order certifying a nationwide class, a California subclass, and a California consumer subclass, naming Jason Saidian as representative of all classes, and naming his attorneys as class counsel for all classes; (ii) an order declaring that our alleged conduct violates the statutes and laws referenced in the Action; (iii) an order finding in favor of Plaintiff and all classes on all counts asserted; (iv) an order awarding all alleged compensatory and punitive damages, including under the California Consumers Legal Remedies Act on behalf of the purported California consumer subclass, in amounts to be determined by the court and/or jury; (v) prejudgment interest on all amounts awarded; (vi) interest on the amount of any and all alleged economic losses at the prevailing rate; (vii) an order of restitution and all other forms of equitable monetary relief; (viii) injunctive relief as pleaded or as the court may deem proper; (ix) an order awarding Plaintiff and all purported classes their reasonable attorneys' fees, expenses and costs of suit, including as provided by statute such as under California Code of Civil Procedure section 1021.5; and (x) any other

relief as the court deems just and proper. On January 4, 2017, we filed a Motion to Dismiss or Stay Complaint and Motion to Strike which was denied by the court on February 27, 2017. On March 13, 2017, we filed our Answer to First Amended Class Action Complaint. On April 26, 2017, the parties entered into a settlement agreement whereby we paid Plaintiff \$8,500 and Plaintiff's counsel \$76,500 in exchange for a general release by Plaintiff. On April 26, 2017, the parties filed a Stipulation to Dismiss Action, voluntarily dismissing all of Plaintiff's claims with prejudice and any class action allegations without prejudice. We have vigorously denied, and continue to vigorously deny, all of the claims that were alleged in the Action.

Other than these 4 actions, no litigation is required to be disclosed in this Item.

ITEM 4

BANKRUPTCY

The following bankruptcy case involves a company unrelated to Krispy Kreme but with which one of our officers was associated before her employment with us.

Our Chief Operating Officer of U.S. and Canada, Maria Rivera, was the Executive Vice President of Operations for Logan's Roadhouse, Inc. ("**Logan's Roadhouse**") from April 2015 until November 2016. Logan's Roadhouse is a chain of sit-down casual company-owned and franchised restaurants with its headquarters at 3011 Armory Drive, Suite 300, Nashville, TN 37204. On August 8, 2016, Logan's Roadhouse filed a voluntary bankruptcy petition under Chapter 11 of the U.S. Bankruptcy Code (Logan's Roadhouse, Inc., 1:16-bk-11825, Delaware Bankruptcy Court). On December 6, 2016, the matter was concluded after the presiding judge confirmed its plan of reorganization which included a restructure of its debt, closing of 34 restaurants, and renegotiation of leases and contracts.

Other than this 1 action, no bankruptcy information is required to be disclosed in this Item.

ITEM 5

INITIAL FEES

Development Agreement

The standard development fees (each, a "**Development Fee**") are \$25,000 for a Hot Light Theater Shop, \$12,500 for a Fresh Shop, and \$12,500 for a Box Shop.

You must sign a Development Agreement regardless of the total number of Krispy Kreme Shops you commit to develop. You must pay us a Development Fee applicable for the number of Krispy Kreme Shops to be developed under the Development Agreement. The number and format of Krispy Kreme Shops to be developed under a particular Development Agreement are determined by mutual agreement. In determining that number, we look at a number of factors, including format of Shop, size of the territory, demographic data and trends, population density and growth rates, and other conditions. The Development Fee is payable on execution of the Development Agreement, is fully earned and is non-refundable, except that a pro rata portion will be refundable if we exercise our right to terminate the Development Agreement based upon our determination that an applicable law, enacted or revised after the Development Agreement was signed, will have a materially adverse effect on our rights, remedies or discretion in franchising Krispy Kreme Shops.

Franchise Agreement

The standard initial franchise fees (each, an “**Initial Franchise Fee**”) are \$25,000 for a Hot Light Theater Shop, \$12,500 for a Fresh Shop, and \$12,500 for a Box Shop. The Initial Franchise Fee, which is in addition to the Development Fee, is payable on execution of the Franchise Agreement and is deemed fully earned at that time. It is not refundable. Separate Franchise Agreements are required for each Shop opened under a Development Agreement.

Required Purchases

Before you open your Shop, you must purchase certain items from us. The estimated costs of these items are:

- Opening Inventory Package. The cost of the opening inventory of supplies, raw materials and related products that you must purchase ranges from \$40,000 to \$50,000 for a Hot Light Theater Shop, \$5,000 to \$8,000 for a Fresh Shop, and \$5,000 to \$8,000 for a Box Shop. (See Item 7)
- Production Equipment. The cost of the production equipment ranges from \$270,000 to \$400,000 for a Hot Light Theater Shop. (See Item 7) No production equipment is necessary for a Fresh Shop or Box Shop.

All of these payments are non-refundable, unless otherwise indicated above. Although we have waived or negotiated certain of these fees in the past, we expect that they will be uniformly imposed on franchisees who receive this Disclosure Document.

ITEM 6

OTHER FEES

Franchise Agreement

TYPE OF FEE⁽¹⁾	AMOUNT	DUE DATE	REMARKS
Royalties	4.5% of Net Sales ⁽²⁾ of the Shop, including Fundraising Sales.	Payable each week on the day of the week we periodically designate, currently Friday	We will debit your bank account for Royalties due. ⁽³⁾
Transfer	\$5,000, plus any applicable transfer fee for any other agreements, as well as our costs and expenses (including legal and accounting fees) incurred in relation to the transfer.	Before consummation of transfer	Payable on transfer of an interest in you, any owner, or any interest in a Franchise Agreement.

TYPE OF FEE ⁽¹⁾	AMOUNT	DUE DATE	REMARKS
Opening Team	Cost and expenses our opening team incurs in connection with the opening of your Shop, other than travel, room and board and salaries, for which we are responsible.	As incurred	As specified in the Development Agreement and the Franchise Agreement, if you and your affiliates are opening multiple Shops under Development Agreements, we will provide for 7 days (i) entire opening team for the 1 st Shop; (ii) ½ of an opening team for the 2 nd Shop; (iii) a field consultant for the 3 rd Shop; and (iv) at our option, a field consultant for any subsequent Shops.
Brand Fund	Up to a maximum of 2% of Net Sales ⁽²⁾	Payable each week on the day of the week we periodically designate, currently Friday	We will debit your bank account for Brand Fund payments due. ⁽³⁾
Advertising Placement Fund	Up to a maximum of 1% of Net Sales ⁽²⁾	Payable each week on the day of the week we periodically designate, currently Friday	We will debit your bank account for Advertising Placement Fund payments due. ⁽³⁾
Additional Copies of Advertising (Franchise Agreement only)	Cost associated with providing additional copies of advertising materials	As incurred	
Local Advertising Requirement	At least 2.5% of Net Sales ⁽²⁾	As incurred	For each year of the Franchise Agreement, you must spend at least 2.5% of Net Sales on approved local advertising and promotion.
Local and/or Regional and/or National Advertising Cooperatives	Up to 3% of Net Sales ⁽²⁾	As incurred	We currently do not require Franchisees to be members of local and/or regional and/or national advertising cooperatives. If we establish a local and/or regional and/or national advertising cooperative, we will credit your required contributions against your local advertising requirement. The amount of these contributions will be determined by each cooperative by majority vote. At this time, we have not determined what the amount of the contributions would be if we own a majority of Shops in the cooperative.

TYPE OF FEE ⁽¹⁾	AMOUNT	DUE DATE	REMARKS
Required Purchases	Varies	As incurred	Currently, you must purchase from us the following items: doughnut-making equipment, proprietary doughnut mixes and related ingredients, coffee beans and associated beverage syrups, coffee grinders, employee apparel, logoed items and apparel, paper goods, and other related items and supplies – See Item 8 for additional information. You must purchase such items in sufficient quantity to operate your Shop. See Items 7 and 8 for additional information. We may debit your bank account for amounts due. ⁽³⁾
Hosting Fee	\$150 per Shop per month	As incurred	Under the Service Provider Agreement, you must pay this fee if we license you to use our Platform in accordance with the Service Provider Agreement. See Items 8 and 11 for additional information.
Maintenance Fee	\$150 per Shop per month	As incurred	Under the Service Provider Agreement, you must pay this fee if we license you to use our Platform in accordance with the Service Provider Agreement. See Items 8 and 11 for additional information.
Additional Service Fee	\$65 per hour	As incurred	Under the Service Provider Agreement, you must pay this fee at the time of service request if we provide you with services not related to the then-current version of the Platform.
Systems Fee	Our then-current fees (currently \$0)	As incurred	We do not currently charge a fee for the use of software beyond the Hosting Fee, Maintenance Fee and Additional Service Fee described above, but we have the right to charge additional fees for software, hardware or computer systems and enhancements that we license to you or other computer support services we provide to you.
Replacement Fee for System Standards Manuals	Currently \$1,000	As incurred	You must obtain a replacement copy of the System Standards Manuals if your copy is lost, destroyed or significantly damaged. We reserve the right to charge a fee for replacement copies.

TYPE OF FEE⁽¹⁾	AMOUNT	DUE DATE	REMARKS
Relocation Fee	Fee of \$2,500 plus our expenses associated with the relocation of a Shop.	As incurred	Payable if we grant your request to relocate the Shop.
Audit/Inspection Expenses	Cost of audit or inspection, includes legal fees, accountants' fees and travel expenses, room and board, per diem charges and other associated expenses.	15 days after receipt of inspection or audit report	Payable if you (i) fail to provide in a timely manner any reports or supporting records relating to the operation of the Shop, or (ii) understate Net Sales by more than 2%.
Costs and Attorneys' Fees	Varies	As incurred	The prevailing party in any legal action arising under your agreement is entitled to reasonable attorneys' fee and costs.
Indemnification	Varies	As incurred	You must reimburse us for any claims against us related to the development or operation of your Shop.
Training of Additional Managers	You must pay your managers' wages, salaries, travel, room and board, and living expenses during training.	As incurred	Before the opening of the Shop, we will provide our standard initial training for 1 of your general managers. After opening, we will provide our standard training annually for up to 1 additional manager for the Shop. We reserve the right to charge fees for the training of any additional managers.
Additional or Special Training	Our reasonable fee plus your managers' wages, salaries, travel, room and board, and living expenses during training.	As incurred	Your managers must attend any additional or special training we require, for which we have the right to charge a reasonable fee.
Interest on late payment	1.5% per month or the highest rate of interest permitted by law, whichever is less	As incurred	If you fail to make any payments to us when due. If you fail to make payments when due under the Service Provider Agreement, the late payment will bear interest of 1% per month.
Fees to evaluate proposed alternative suppliers	Our reasonable costs and expenses	As incurred	We may impose fees to cover our costs in evaluating alternative suppliers you propose in accordance with the Franchise Agreement.
Successor Fee	\$10,000	Upon execution of a successor agreement	See Item 17.

Development Agreement

If you sign a Development Agreement, you should review both the above table of fees applicable to Franchise Agreements, as well as the following table of fees.

TYPE OF FEE ⁽¹⁾	AMOUNT	DUE DATE	REMARKS
Transfer	\$5,000, plus any applicable transfer fee for any other agreements, as well as our costs and expenses (including legal and accounting fees) incurred in relation to the transfer.	Before consummation of transfer	Payable on transfer of an interest in you, any owner, or any interest in the Development Agreement, plus any transfer fees required under your franchise agreement(s), as applicable.
Costs and Attorneys' Fees	Varies	As incurred	Payable if incurred by us in enforcement of any term of the Development Agreement.
Indemnification	Varies	As incurred	You have to reimburse us for claims against us related to your breach of the Development Agreement or the development and operation of your Shops

(1) All fees are uniformly imposed by and payable to us. All fees are non-refundable.

(2) "Net Sales" means all the Shop's revenue from food, beverages, and other products and merchandise of any type sold, whether or not produced at the Shop or acquired from any third party, including Krispy Kreme products purchased from other Krispy Kreme franchises (regardless whether owned by you) and services rendered at or away from your Shop's site (whether or not such sales are authorized by us) or from any use of the Marks, recorded using the accrual basis of accounting and otherwise in accordance with accounting principles generally accepted in the United States. "Net Sales" includes, but is not limited to: (a) On-Premises Sales and Fundraising Sales; (b) all amounts you receive or have the right to receive from the conveyance of products and services, whether such sales are made for cash or cash equivalents (including, but not limited to, credit, debit, and gift cards) or on credit terms, but excludes (i) sales and similar taxes collected by you from customers and which you must by law remit to a taxing authority, (ii) customer refunds, (iii) credits for product returns, (iv) the value of redeemed customer coupons and customer discounts, and (v) sales or delivery of products to other Krispy Kreme Shops (whether or not owned by you); and (c) will not be reduced by any charge or other provision for uncollectible accounts. Neither the inclusion of any type of revenue in the definition of Net Sales nor our demand or receipt of Royalties, Brand Fund, or Advertising Placement Fund contributions on those revenues will constitute waiver or approval of any unauthorized sales by you, and we reserve all rights and remedies if you make unauthorized sales.

(3) Before opening, you must sign and deliver to us and your bank all required documents that permit us to debit your bank account for each week's Royalty, Brand Fund, and Advertising Placement Fund contributions, any purchases that you make from us, and any other amounts due to us. If you fail to report Net Sales, we will be authorized to debit your bank account in an amount equal to the Royalty payment, Brand Fund contribution, Advertising Placement Fund contribution, payment for purchases, and any other amount transferred from your account based on 200% of Net Sales for the last week for which reports of Net Sales of the Shop were provided to us or based on information reasonably known to us. Within 10 days after proper reports have been submitted and reviewed, we will apply any overpayment. Any deficiency will be debited against your account.

ITEM 7

ESTIMATED INITIAL INVESTMENT

**ESTIMATED INITIAL INVESTMENT
FOR A HOT LIGHT THEATER SHOP***

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Development Fee	\$25,000	Lump Sum	On signing Development Agreement	Us
Initial Franchise Fee	\$25,000	Lump Sum	On signing Franchise Agreement	Us
Real Estate and Improvements – 3 Months ⁽¹⁾	\$20,000 to \$75,000	As Agreed	As Incurred	Third Parties
Construction Costs ⁽²⁾	\$800,000 to \$2,200,000	As Agreed	As Incurred	Outside Suppliers
Equipment/Signage/ Furniture/Fixtures ⁽³⁾	\$230,000 to \$370,000	As Agreed	As Incurred	Us, Our Affiliates, Outside Suppliers
Truck ⁽³⁾	\$25,000 to \$50,000 per truck	As Agreed	As Incurred	Outside Suppliers
Initial Inventory ⁽⁴⁾	\$40,000 to \$50,000	Lump Sum	As Incurred	Us, Our Affiliates, Outside Suppliers
Production Equipment ⁽⁵⁾	\$270,000 to \$400,000	Lump Sum	As Incurred	Us, Our Affiliates
Grand Opening Marketing Program ⁽⁶⁾	\$25,000 to \$45,000	As Agreed	As Incurred	Advertising Sources
Training Expenses	\$45,000 to \$50,000	Lump Sum	As Incurred	Outside Vendors, Your Employees
Security Deposits and Other Pre-Paid	\$7,500 to \$20,000	Lump Sum	As Incurred	Outside Suppliers
Additional Funds – 3 Months ⁽⁷⁾	\$75,000 to \$100,000	As Agreed	As Incurred	Outside Suppliers
TOTAL ESTIMATED INITIAL INVESTMENT ⁽⁸⁾	\$1,587,500 to \$3,410,000			

* Unless otherwise stated, all fees are uniformly imposed by and payable to us and are non-refundable.

(1) **Real Estate and Improvements.** Your land acquisition costs will vary depending on a multitude of factors including whether the property is purchased or leased, the size and location of the property, and the availability of financing on commercially reasonable terms. For a Hot Light Theater Shop, the approximate size of the site is 27,000 to 50,000 square feet and the building itself will be

between 2,700 and 3,500 square feet. Hot Light Theater Shops may be located only in freestanding buildings on leased or owned property. The Hot Light Theater Shop location must be one accessible to vehicular traffic and have a drive-thru window. In addition, site improvement costs may vary based on numerous factors, including but not limited to, soil and environmental conditions, availability of utilities to the site, the topography of the site, the size of the parcel, and local zoning and other building requirements. If you elect to purchase the site, it is anticipated the range of cost of the property plus the site improvements may be \$500,000 to \$1,500,000 depending on location. Acquisition costs may be beyond this range in certain cases or localities. Rent will vary widely from location to location, but should range from \$80,000 to \$300,000 per year plus other occupancy related costs including common area maintenance, property taxes, and insurance. The amounts in the chart are estimates of rent for a 3-month period.

(2) **Construction Costs.** This item assumes building a new structure. We will provide you with the general, model plans, specifications, and standards that you will need to adapt for the construction of a Hot Light Theater Shop. The building must be a stand-alone building of construction that meets all applicable building requirements with a drive-thru corridor and an indoor dining facility. Construction costs may be beyond this range in certain cases or localities.

(3) **Equipment/Signage/Furniture/Fixtures.** This line item is for the standard furniture, fixtures and equipment including interior and exterior signs, point of sale computer systems, headsets and furniture (including retail equipment such as drink dispensers, cup dispensers, product display cases, etc.). You must purchase or lease certain of these items from us, our affiliates or designated suppliers. (See Item 8) If your Hot Light Theater Shop produces Products for Fresh Shops and Box Shops, you will need additional equipment such as racks, rack covers, and pans, among other items. The amount you will spend depends on the number of Fresh Shops and Box Shops to which you deliver. You will also need to purchase or lease a truck. The cost to purchase a truck generally ranges between \$25,000 and \$50,000. Typically, a truck can be leased with payments ranging from \$1,300 to \$1,600 per month depending on the type of truck and lease. Truck lease payments are not included in the chart.

(4) **Initial Inventory.** The inventory start-up package includes doughnut mix which must be purchased from us or a designated supplier. You must purchase certain items in the initial inventory of supplies and raw materials from us, our affiliates, or designated suppliers. You may purchase other items from approved suppliers. (See Items 5 and 8)

(5) **Production Equipment.** We manufacture certain production equipment used in Hot Light Theater Shops. You must purchase the production equipment from us. The price includes freight, crating, tax, installation, and limited warranty. (See Items 5 and 8)

(6) **Grand Opening Marketing Program.** You must conduct, with our guidance, a Grand Opening Marketing Program during the period beginning 30 days before and ending 90 days after the opening of the Shop. The Grand Opening Marketing Program will utilize the public relations and advertising programs, as well as the media, advertising and promotional materials that we have developed or approved in addition to other promotional materials that you may need to produce. Amounts spent on the Grand Opening Marketing Program, up to 1% of the Shop's annual Net Sales, will be credited against your first year's annual requirement to spend at least 2.5% of the Shop's annual Net Sales, as the Local Advertising Requirement. Experience has shown that the cost of the Grand Opening Marketing Program generally ranges between \$25,000 and \$45,000 and depends greatly on the market.

(7) **Additional Funds.** Additional Funds is an estimate of the funds for a 3-month period needed to cover start-up costs such as various pre-opening expenses including initial employee wages, utility deposits, insurance premiums, licenses, permit costs, recruitment, advertising expenses (other than grand opening expenses), Platform fees, electricity, telephone and other supplies (other than supplies purchased from Krispy Kreme). These figures are estimates, and we cannot guarantee that you will not

have additional expenses opening the Hot Light Theater Shop and starting the business. Your costs will depend on a number of factors including but not limited to the following examples: the number of Shops that you operate; your management skill, experience and business acumen; local economic conditions; the local market for your Products and services; the prevailing wage rate; and competition.

(8) **Business Experience.** To compile these estimates, we relied on our experience. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.

**YOUR ESTIMATED INITIAL INVESTMENT
FOR A FRESH SHOP***

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Development Fee	\$12,500	Lump Sum	On signing Development Agreement	Us
Initial Franchise Fee	\$12,500	Lump Sum	On signing Franchise Agreement	Us
Real Estate and Improvements – 3 Months ⁽⁹⁾	\$8,000 to \$37,500	As Agreed	As Incurred	Third Parties
Construction Costs ⁽¹⁰⁾	\$250,000 to \$837,000	As Agreed	As Incurred	Outside Suppliers
Equipment/Signage/Furniture/Fixtures ⁽¹¹⁾	\$90,000 to \$175,000	As Agreed	As Incurred	Us, Our Affiliates, Outside Suppliers
Initial Inventory ⁽¹²⁾	\$5,000 to \$8,000	Lump Sum	As Incurred	Us, Our Affiliates, Outside Suppliers
Grand Opening Marketing Program ⁽¹³⁾	\$20,000 to \$45,000	As Agreed	As Incurred	Advertising Sources
Training Expenses	\$15,000 to \$20,000	Lump Sum	As Incurred	Outside Vendors, Your Employees
Security Deposits and Other Pre-Paid	\$2,500 to \$10,000	Lump Sum	As Incurred	Outside Suppliers
Additional Funds – 3 Months ⁽¹⁴⁾	\$25,000 to \$50,000	As Agreed	As Incurred	Outside Suppliers
TOTAL ESTIMATED INITIAL INVESTMENT ⁽¹⁵⁾	\$440,500 to \$1,207,500			

* Unless otherwise stated, all fees are uniformly imposed by and payable to us and are non-refundable..

(9) **Real Estate and Improvements.** For a Krispy Kreme Fresh Shop, the approximate size of the building itself will generally be between 750 and 2,000 square feet. Fresh Shops will generally be located in leased properties such as strip centers and other facilities. Rent will vary widely from location to location, but should range from \$32,000 to \$150,000 per year, plus other occupancy related costs including common area maintenance, property taxes and insurance. The amounts in the chart are estimates of rent for a 3-month period.

(10) **Construction Costs.** This item assumes build-out of an existing structure. We will provide you with general, model plans, specifications, and standards which you will need to adapt for the construction of a Fresh Shop. Construction costs may be beyond this range in certain cases or localities.

(11) **Equipment/Signage/Furniture/Fixtures.** This line item is for the standard furniture, fixtures and equipment, including interior and exterior signs, point of sale computer systems, headsets, and furniture (including retail equipment such as drink dispensers, cup dispensers, product display cases, etc., as applicable). However, no production equipment is needed for a Fresh Shop. You must purchase or lease certain of these items from us, our affiliates, or designated suppliers. (See Item 8)

(12) **Initial Inventory.** The inventory of fresh doughnuts is supplied from a Hot Light Theater Shop. Doughnut mixes must be purchased from us or a designated supplier. (See Items 5 and 8) You must purchase other items from us or from approved suppliers.

(13) **Grand Opening Marketing Program.** You must conduct, with our guidance, a Grand Opening Marketing Program during the period beginning 30 days before and ending 90 days after the opening of the Shop. The Grand Opening Marketing Program will utilize the public relations and advertising programs, as well as the media, advertising and promotional materials that we have developed or approved in addition to other promotional materials that you may need to produce. Amounts spent on the Grand Opening Marketing Program, up to 1% of the Shop's annual Net Sales, will be credited against your first year's annual requirement to spend at least 2.5% of the Shop's annual Net Sales, as the Local Advertising Requirement. Experience has shown that the cost of the Grand Opening Marketing Program generally ranges between \$20,000 and \$45,000 and depends greatly on the market.

(14) **Additional Funds.** Additional Funds is an estimate of the funds for a 3-month period needed to cover start-up costs such as various pre-opening expenses including initial employee wages, insurance premiums, licenses, permit costs, recruitment, advertising expenses (other than grand opening expenses), electricity, telephone, and other supplies (other than initial supplies purchased from Krispy Kreme). These figures are estimates, and we cannot guarantee that you will not have additional expenses opening the Fresh Shop and starting the business. Your costs will depend on a number of factors including but not limited to the following examples: the number of Shops that you operate; your management skill, experience, and business acumen; local economic conditions; the local market for your Products and services; the prevailing wage rate; and competition.

(15) **Business Experience.** The estimates for a Fresh Shop are based on general information and pro-forma costs, and are for guidance purposes only. You should develop your own estimates, and be confident in those estimates, before deciding to invest in a Fresh Shop.

**YOUR ESTIMATED INITIAL INVESTMENT
FOR A BOX SHOP***

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Development Fee	\$12,500	Lump Sum	On signing Development Agreement	Us
Initial Franchise Fee	\$12,500	Lump Sum	On signing Franchise Agreement	Us
Real Estate and Improvements – 3 Months ⁽¹⁶⁾	\$8,000 to \$30,000	As Agreed	As Incurred	Third Parties
Construction Costs ⁽¹⁷⁾	\$15,000 to \$150,000	As Agreed	As Incurred	Outside Suppliers
Equipment/Signage/Furniture/Fixtures ⁽¹⁸⁾	\$85,000 to \$120,000	As Agreed	As Incurred	Us, Our Affiliates, Outside Suppliers
Initial Inventory ⁽¹⁹⁾	\$5,000 to \$8,000	Lump Sum	As Incurred	Us, Our Affiliates, Outside Suppliers
Grand Opening Marketing Program ⁽²⁰⁾	\$20,000 to \$40,000	As Agreed	As Incurred	Advertising Sources
Training Expenses	\$15,000 to \$20,000	Lump Sum	As Incurred	Outside Vendors, Your Employees
Security Deposits and Other Pre-Paid	\$2,500 to \$10,000	Lump Sum	As Incurred	Outside Suppliers
Additional Funds – 3 Months ⁽²¹⁾	\$25,000 to \$50,000	As Agreed	As Incurred	Outside Suppliers
TOTAL ESTIMATED INITIAL INVESTMENT ⁽²²⁾	\$200,500 to \$453,000			

* Unless otherwise stated, all fees are uniformly imposed by and payable to us and are non-refundable..

(16) **Real Estate and Improvements.** For a Krispy Kreme Box Shop, the approximate size of the building itself will generally be between 100 and 150 square feet. Box Shops will generally be located in leased properties such as malls and other enclosed facilities. Rent will vary widely from location to location, but should range from \$32,000 to \$120,000 per year, plus other occupancy related costs including common area maintenance, property taxes and insurance. The amounts in the chart are estimates of rent for a 3-month period.

(17) **Construction Costs.** We will provide you with general, model plans, specifications, and standards which you will need to adapt for the construction of a Box Shop. Construction costs may be beyond this range in certain cases or localities. We may require you to purchase the physical Box Shop structure from us, our affiliates or designated suppliers (See Item 8).

(18) **Equipment/Signage/Furniture/Fixtures.** This line item is for the standard furniture, fixtures and equipment, including signs, point of sale computer systems, headsets, and furniture (including retail equipment such as drink dispensers, cup dispensers, product display cases, etc., as applicable). However, no production equipment is needed for a Box Shop. You must purchase or lease certain of these items from us, our affiliates, or designated suppliers. (See Item 8)

(19) **Initial Inventory.** The inventory of fresh doughnuts is supplied from a Hot Light Theater Shop. Doughnut mixes must be purchased from us or a designated supplier. (See Items 5 and 8) You must purchase other items from us or from approved suppliers.

(20) **Grand Opening Marketing Program.** You must conduct, with our guidance, a Grand Opening Marketing Program during the period beginning 30 days before and ending 90 days after the opening of the Shop. The Grand Opening Marketing Program will utilize the public relations and advertising programs, as well as the media, advertising and promotional materials that we have developed or approved in addition to other promotional materials that you may need to produce. Amounts spent on the Grand Opening Marketing Program, up to 1% of the Shop's annual Net Sales, will be credited against your first year's annual requirement to spend at least 2.5% of the Shop's annual Net Sales, as the Local Advertising Requirement. Experience has shown that the cost of the Grand Opening Marketing Program generally ranges between \$20,000 and \$45,000 and depends greatly on the market.

(21) **Additional Funds.** Additional Funds is an estimate of the funds for a 3-month period needed to cover start-up costs such as various pre-opening expenses including initial employee wages, insurance premiums, licenses, permit costs, recruitment, advertising expenses (other than grand opening expenses), electricity, telephone, and other supplies (other than initial supplies purchased from Krispy Kreme). These figures are estimates, and we cannot guarantee that you will not have additional expenses opening the Box Shop and starting the business. Your costs will depend on a number of factors including but not limited to the following examples: the number of Shops that you operate; your management skill, experience, and business acumen; local economic conditions; the local market for your Products and services; the prevailing wage rate; and competition.

(22) **Business Experience.** The estimates for a Box Shop are based on general information and pro-forma costs, and are for guidance purposes only. You should develop your own estimates, and be confident in those estimates, before deciding to invest in a Box Shop.

ITEM 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

You must use, in developing and operating a Shop, and in producing, marketing and selling the Products (as defined below) and other goods we require you to sell, only the equipment, fixtures, furnishings, signs, delivery vehicles, raw materials (including doughnut mixes and coffee beans), supplies, point of sale system ("**POS System**"), computers, software and other items that we have approved that meet our System Standards. You may not sell any items from your Shop that we have not approved. Any deviation from our System Standards must receive prior written approval from us, which may be withheld at our option. "**Products**" means the current and future products that we authorize to be offered and sold at Krispy Kreme Shops, including: (1) fresh doughnuts (including, yeast-raised doughnuts, cake doughnuts, miniature doughnuts, and doughnut holes, which doughnuts have various types and flavors of fillings, glazes, or other coatings); (2) hot or cold fresh-brewed coffee beverages suitable for immediate consumption; (3) hot or cold espresso drinks suitable for immediate consumption; (4) frozen beverages suitable for immediate consumption; and (5) such other products and beverages as we may determine.

We require you to purchase or lease, install, and maintain all required equipment, fixtures, furnishings, and signs required for the Shop which items must be purchased from or maintained by us, our affiliates, or suppliers whom we designate. Except with our prior written consent, all proprietary equipment is not permitted to be encumbered in any way, including by way of pledge, collateral assignment, grant of security, collateral, conditional interest, or other encumbrance.

Currently, you must purchase from us the following items: doughnut-making equipment, proprietary doughnut mixes and related ingredients, coffee beans and associated beverage syrups, coffee grinders, employee apparel, logoed items and apparel, paper goods, and other related items and supplies. These items are also described in the System Standards Manuals and are subject to change. Our affiliates are not currently approved suppliers of any items.

If we do not require you to purchase a particular item from us, our affiliates or designated suppliers, you may purchase such items from a supplier that we have approved. If you propose to purchase any such item from any supplier that is not approved by us, you and that supplier must submit to us all information that we may request in order to determine whether to approve the supplier. We will have the unconditional right to approve or disapprove any proposed supplier, and we may approve a supplier conditionally. Within 60 days after we receive all requested information, we will use our reasonable efforts to communicate to you in writing our decision to approve or disapprove your proposed supplier. Unless and until an affirmative written approval is provided by us, the proposed supplier is deemed disapproved. We will evaluate proposed suppliers on, among other things, their ability to comply with applicable standards, specifications and procedures, and their ability to supply products to your Shop on a continuous and timely basis, among other factors, and we will only approve those proposed suppliers that meet our high standards. We may disapprove any supplier who we previously approved, and you may not, after receipt of notice of disapproval, reorder from any supplier we have disapproved. We may prescribe procedures for the submission of requests for approval and impose obligations on approved suppliers, which may be incorporated in a written license agreement with the supplier. We require you to reimburse our costs and expenses incurred in connection with the approval process and monitoring of the supplier's compliance with our requirements. You acknowledge and agree that we do not act as an agent, representative or in any other intermediary or fiduciary capacity for you in our relationship with approved suppliers and we do not have any responsibility for their level of performance, products, or services supplied. We may impose limits on the number of approved suppliers. We have the right to monitor the quality of services provided by approved suppliers in a manner we deem appropriate and may terminate any approved supplier that does not meet our quality standards and specifications, as may be in effect.

A list of approved products and the suppliers from which these products may be purchased will be published in our System Standards Manuals or in other written communications. We may amend this list occasionally. Approved suppliers may establish additional policies and procedures, occasionally, for the allocation and distribution of items among the Shops.

We estimate that purchases of products and services from us and our affiliates will represent 95% of your total purchases of products and services to establish your Shop and 90% of your total purchases of products and services to operate your Shop.

For the fiscal year ending January 3, 2021, KKI's consolidated total revenue was approximately \$1,122 million, of which \$70.3 million was derived from required purchases by franchisees (approximately 6% of KKI's consolidated total revenue). For fiscal year 2020, none of our affiliates received revenue from required purchases by franchisees, and we and our affiliates did not receive revenue from third parties based on franchisees' purchases.

None of our officers own an interest in any privately-held suppliers, or a material interest in any publicly-held suppliers, of the Krispy Kreme franchise system. Occasionally, our officers may own non-

material interests in publicly-held companies that may be suppliers (or have subsidiaries that may be suppliers) to our franchise system; however, we have an internal Code of Conduct that prohibits officers and employees from using our property, position or information for improper personal gain.

Any advertising, promotion and marketing you conduct must be clear and factual, and not misleading. It must conform to the System Standards that we may prescribe. You must submit samples of all advertising, promotions and marketing materials to us for approval if we have not prepared them. If we do not provide you with written disapproval within 15 days of your submission, or other response that is not an approval (such as revisions or requests for more information), the materials will be deemed approved. You may not use any advertising or promotional materials that we have not approved, and must immediately stop using any advertising or promotional materials that we later disapprove.

Before signing, you must submit a copy of any lease, sublease or purchase contract for the Shop for our review and prior written approval. Any lease or sublease must include the terms and conditions that are required by the Franchise Agreement including execution by you and the landlord of a lease rider in a form we designate.

The Shop must be constructed or remodeled in accordance with our System Standards. You must purchase or lease and use only equipment that we specify or approve, and only from us, our affiliates or designated suppliers. We may require you to conduct a full reimagining, renovation, and refurbishment of the Shop (the “**Renovation**”). We will not require a Renovation more than once every 7 years, if you have completed all other Shop Renovations according to our System Standards, in the time frames we prescribe. We will not require a Renovation if there is less than 5 years remaining on the current term of your Franchise Agreement.

You must furnish us with copies of all insurance policies required by the Franchise Agreement, or any other evidence of insurance coverage and payment of premiums as we request.

You must purchase certain computer hardware and software, including a POS System, personal computers and peripheral equipment, and related software applications, from us or our affiliates or other suppliers we may designate from time to time. See Item 11 for more detail on these requirements.

Currently, we have no purchasing or distribution cooperatives. Other than as described above, we provide no material benefits to you based on your purchase of required Products or use of designated or approved suppliers.

ITEM 9

FRANCHISEE’S OBLIGATIONS

This table lists your principal obligations under the Franchise Agreement and the Development Agreement. It will help you find more detailed information about your obligations in these Agreements and in other Items of this Disclosure Document.

Franchise Agreement: FA
Development Agreement: DA

OBLIGATION	SECTION IN AGREEMENTS	DISCLOSURE DOCUMENT ITEM
(a) Site Selection and Acquisition/Lease	Section 6 of FA Sections 4.3, 6 and 7 of DA	Items 7, 8, and 11
(b) Pre-opening purchases/leases	Sections 6, 7, and 8.1 of FA Section 7.2, 8.3, 8.4, and 8.5 of DA	Items 5, 6, 7, 8, and 11
(c) Site development and other pre-opening requirements	Section 6 of FA Sections 4.3, 6, and 7, and Exhibit A of DA	Items 6, 7, 8 and 11
(d) Initial and ongoing training	Section 11 of the FA Sections 6.8 and 9.1 of DA	Item 11
(e) Opening	Section 8 of the FA Sections 4 and 9 of the DA	Item 11
(f) Fees	Sections 7.3, 10, 11.2, 11.4, 19, 22.2(f), 24.1(g) and the Summary Page of the FA Sections 4.5, 4.6, and 8.3, and Exhibit A of DA	Items 5, 6 and 7
(g) Compliance with standards and policies/System Standards Manuals	Sections 3, 6-8, 12, and 13 of FA Sections 5.2, 7.2(c), 9.1(c), and 10 of DA	Items 8 and 11
(h) Trademarks, proprietary information, patents, and copyrights	Sections 13-16 of FA Section 12 of DA	Items 13 and 14
(i) Restrictions on products/services offered	Sections 4 and 6.3 of FA Section 5(f) of DA	Items 8, 11, and 16
(j) Warranty and customer service requirements	Section 6.5 of FA	Item 16
(k) Territorial development	Sections 4 and 6-9 and Exhibit A of DA	Item 12
(l) On-going product/service purchases	Sections 6, 7, 8, and 12 of FA Sections 8 and 10 of DA	Items 6 and 8
(m) Maintenance, appearance and remodeling requirements	Sections 9 and 12 of FA Sections 7 and 10 of DA	Items 8 and 11
(n) Insurance	Sections 8.1(d) and 27.8 of FA Section 9.1(d) of DA	Items 6, 7, and 8
(o) Advertising	Section 19 of FA	Items 6, 7, 8 and 11
(p) Indemnification	Section 27.7 of FA Section 18.5 of DA	Item 6
(q) Owner's participation/management/staffing	Section 4 of FA Section 5.3 of DA	Items 11 and 15
(r) Records/reports	Sections 10.3-10.5 and 20 of FA Sections 6.4, 8.8, and 19.14 of DA	Item 11

OBLIGATION	SECTION IN AGREEMENTS	DISCLOSURE DOCUMENT ITEM
(s) Inspections/audits	Sections 12.3 and 20.7 of FA Section 8.7 of DA	Item 6
(t) Transfer	Sections 21 and 22 of FA Sections 13 and 14 of DA	Item 17
(u) Renewal	Section 24 of FA Section 4.2 of DA	Item 17
(v) Post-termination obligations	Section 26 of FA Section 17 of DA	Item 17
(w) Non-competition covenants	Sections 17 and 26.3 of FA Sections 11.6 and 17.2 of DA	Item 17
(x) Dispute resolution	Section 28 of FA Section 19 of DA	Item 17
(y) Other:		
Guarantee of Franchisee Obligations	Section 3.8 and Exhibit B of FA Section 3.7 and Exhibit D of DA	Item 15
Franchisor's Approval of Acquisitions by Developer	Section 6.9 of DA	Not Applicable

ITEM 10

FINANCING

Neither we nor any agent or affiliate offers any direct or indirect financing to you. Neither we nor any agent or affiliate guarantees any notes, leases, or other obligations you make. We do not receive direct or indirect payments for placing financing.

ITEM 11

FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING

Except as listed below, we are not required to provide any assistance to you.

Pre-Opening Obligations

Before you open a Shop, the following must occur:

Development Agreement

1. Under the Development Agreement, we grant you rights to establish Shops at locations we approve. (Development Agreement, Section 4.1). We will furnish you with our standard site selection criteria. We will provide on-site evaluation of proposed sites as we deem necessary or appropriate. (Development Agreement, Section 6.2).

If you are in good standing and meet our expansion criteria, we will accept proposals for sites up to the total number of Shops provided for in the development schedule contained in the Development Agreement. For each proposed location, you must submit a complete and accurate site information package (and any other related information we request) that contains all information that we may reasonably require for each proposed site on which you plan to develop and from which you will operate a Shop. We will use our reasonable efforts to make a site acceptance decision for each proposed site within 60 days of receiving a complete and accurate site information package together with any additional information we request. If the site is accepted, we will deliver to you a signed site acceptance letter. Our acceptance of a proposed site is confirmed only by a site acceptance letter we sign. We may at our option determine the factors that we deem appropriate in accepting or rejecting a site. Some of the factors we consider in evaluating a site include general location and neighborhood, demographic information, traffic patterns, access, visibility, location of other retail food establishments (including other Krispy Kreme Shops), and size, condition, configuration, appearance and other physical characteristics of the site. (Development Agreement, Section 6.3). If a site is not accepted by us, you may not proceed to develop it as a Krispy Kreme Shop (as applicable).

On our approval of a proposed site for a Shop, we will deliver the Franchise Agreement (and other related documents) to you in the forms as are in effect at such time. You must sign and return the Franchise Agreement (and the other related documents), and pay to us the applicable initial franchise fee, within 14 days after delivery to you. Our approval of a location and the delivery of a Franchise Agreement (and the related documents) will be conditioned on our determination in our reasonable judgment, that you have the financial and management capabilities to develop and operate the Shop. (Development Agreement, Section 6.6).

2. We will review the lease, sublease or purchase contract for the Shop's Site. (Development Agreement, Section 6.7)

3. We offer certain training programs to one of your Owners or Operations Director as defined in the Development Agreement. (Development Agreement, Sections 5.3 and 6.8)

4. We review and approve/disapprove your written business plan for the development and financing of Shops. (Development Agreement, Section 5.1)

5. We will provide you with general plans for all buildings, equipment, design, signs, furnishings and fixtures for a Shop. (Development Agreement, Section 7.1)

6. We grant you the right to establish and open a Shop at a location that we approve. (Development Agreement, Section 6.3). For a Shop, you must prepare and submit to us a site plan and your proposed modifications to our basic architectural plans and specifications; and you may not commence construction or renovation of the Site without our prior written approval of such plans. (Development Agreement, Section 7.1). You may modify our basic plans and specifications to the extent required to comply with applicable ordinances, building codes, and permit requirements. You are solely responsible for ensuring that the plans and specifications comply with applicable ordinances, building codes, and permit requirements. (Development Agreement, Section 7.1). You may be in default under the Agreements if you fail to obtain site approval for your Shop, as applicable. You will not be permitted to open a Shop until we approve the Site.

7. We will loan or otherwise make available to you one copy of the System Standards Manuals for use in developing and operating your Shop. In the System Standards, we will furnish you with our general plans and layouts for a Shop, including the equipment, design, signs, furnishings, fixtures, raw materials and supplies. (Development Agreement, Section 10.1)

Franchise Agreement

1. We will loan or otherwise make available to you one copy of the System Standards Manuals for the Shop. In the System Standards, we will furnish you with our general plans and layouts for a Shop, including the equipment, design, signs, furnishings, fixtures, raw materials and supplies. (Franchise Agreement, Section 12.1)
2. We will review the lease, sublease or purchase contract for the Shop's Site. (Franchise Agreement, Section 6.1)
3. We will offer certain training programs designed to assist you and your Shop management in the operation of the Shop. (Franchise Agreement, Section 11)
4. We will provide an opening team to assist you with opening the Shop. The size of the opening team, if any, is based on how many previous Shops you and your affiliates have previously opened. (Franchise Agreement, Section 8.2)
5. We will provide you with guidance and approve or disapprove advertising related to the Grand Opening Advertising Program. (Franchise Agreement, Section 19.3)

Typical Length of Time Before You Open Your Shop

The interval between signing the Franchise Agreement and opening the Shop depends on the format and design of the Shop and can be as long as 18 months for a Hot Light Theater Shop and as little as 2 months for a Fresh Shop. Under the Franchise Agreement, you must open within 365 days after the agreement is signed. For a freestanding Hot Light Theater Shop, we estimate the interval to be between 43 and 65 weeks, and for an inline Fresh Shop, between 22 and 41 weeks. This time may be extended or reduced depending on the location and condition of the Site, the construction schedule for the Shop, the extent to which an existing location must be upgraded or remodeled, the delivery schedule for equipment and supplies, permits and zoning requirements, delays in securing financing arrangements and completing training and your compliance with local laws and regulations, among other factors.

Continuing Obligations

During the operation of your Shop, we will:

Development Agreement

1. We will offer certain training programs to your Operations Director. (Development Agreement, Section 5.3)
2. We will review and approve or disapprove your written business plan for the development and financing of Shops. (Development Agreement, Section 5.1)

Franchise Agreement

1. We will offer certain training programs designed to assist you and your Shop management in the operation of the Shop. (Franchise Agreement, Section 11)
2. We will provide periodic guidance with respect to the System, including improvements and/or changes to the System. (Franchise Agreement, Section 11.3)
3. We may provide special assistance or additional training to your employees. (Franchise Agreement, Section 11.2)

4. We will revise the System Standards Manuals occasionally. (Franchise Agreement, Section 12.2)
5. We will review and approve or disapprove your annual business plan. (Franchise Agreement, Section 20.6)
6. We will review and approve or disapprove any renovations of the Shop. (Franchise Agreement, Section 9.1)
7. We will maintain, administer, approve and disapprove advertising, promotional marketing and public relations programs and materials associated with the Brand Fund. (Franchise Agreement, Section 19.1)
8. We will prepare an annual statement of monies collected and costs incurred by the Brand Fund and at your request, furnish you a written copy. (Franchise Agreement, Section 19.1)
9. We will maintain, administer, approve and disapprove programs and materials associated with the Advertising Placement Fund, and will prepare an annual statement of monies collected and costs incurred by the Advertising Placement Fund and at your request, furnish you a written copy. (Franchise Agreement, Section 19.2)
10. We will review and approve or disapprove your annual marketing plan for a Shop. (Franchise Agreement, Section 19.4)
11. At our option, we may establish, maintain and administer local and/or regional and/or national advertising cooperatives and require you to participate in such advertising cooperatives. (Franchise Agreement, Section 19.8)
12. We may establish a website to advertise, market, and promote the Shops, the Products, and/or the Krispy Kreme franchise system. (Franchise Agreement, Section 19.9)

Advertising

Brand Fund

We have established a Brand Fund for the research, development, creation, production and analysis of advertising, promotional, marketing, public relations and other communications programs and materials we deem appropriate. You must contribute to the Brand Fund up to a maximum of 2% of your Net Sales. Any Brand Fund contribution by you in excess of 1% of Net Sales will offset a commensurate portion of the required local advertising and promotional expenditures. All of our company Shops and Doughnut Factories located in the United States will contribute to the Brand Fund on at least the same basis as the franchisees. We will administer all programs funded by the Brand Fund. We may periodically give you samples of advertising, marketing and promotional formats and materials at no cost, and at your option, you may purchase additional copies of these materials. The media in which these materials may be disseminated include, but are not limited to, print ads, radio and television. Such programs may be conducted on a local, regional and/or national basis. We may utilize various advertising, promotions and public relations agencies to help create and execute materials and programs. The costs associated with the development of these materials and programs will be charged to the Brand Fund. You must participate in any promotion, marketing or advertising campaigns created under and/or funded by the Brand Fund. Brand Fund contributions will not be used to principally solicit franchise sales.

Although we will endeavor to utilize the Brand Fund to develop advertising, promotional, marketing and public relations programs and materials so as to benefit all Shops, neither we nor the Brand Fund undertake any obligation to ensure that expenditures by the Brand Fund in or affecting any geographic area are proportionate or equivalent to contributions to the Brand Fund. There is no guarantee that your Shop will benefit directly or in proportion to your contribution to the Brand Fund.

The Brand Fund will be accounted for separately from our other funds and will not be used to defray any of our general operating expenses, except for reasonable salaries, administrative costs and overhead we incur in activities related to the administration of the Brand Fund and the implementation of its programs. Examples of this are conducting market research; preparing advertising, promotions, public relations and marketing materials; and collecting and accounting for contributions to the Brand Fund. We may spend, for the Brand Fund, in any fiscal year, an amount greater or less than the aggregate contribution of all Krispy Kreme Shops and Doughnut Factories to the Brand Fund in that year, and the Brand Fund may borrow from us or others to cover deficits or retain any surplus for future use. We have discretion to transfer funds between the Brand Fund and the Advertising Placement Fund, and will account for any such transfer. We will determine what activities, programs, advertising, marketing, etc., may be funded by the Brand Fund in our discretion. We will prepare annually a statement of monies collected and costs incurred by the Brand Fund and furnish you a copy on your request. This statement need not be audited. Except as otherwise provided in the Franchise Agreement, we assume no direct or indirect liability or obligation with respect to the functions, maintenance, direction, or administration of the Brand Fund. We do not act as trustee or in any other fiduciary capacity with respect to the Brand Fund.

We may operate the Brand Fund through a separate entity whenever we deem appropriate and such successor entity will have all of the rights and duties related to directing and administering the Brand Fund as we have.

We may use collection agents and institute legal proceedings to collect Brand Fund contributions at the Brand Fund's expense. We may also forgive, waive, settle and compromise any and all claims for contributions to the Brand Fund. Except as expressly provided in the Franchise Agreement, we assume no direct or indirect liability or obligation to you for collecting amounts due to maintaining, directing, or administering the Brand Fund. We may reduce the Brand Fund contributions of one or more franchisees and, on 30 days' prior written notice to you, reduce or suspend Brand Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Brand Fund. If we terminate the Brand Fund, we will distribute all unspent monies to our franchisees, and to us and our affiliates, in proportion to their, and our respective Brand Fund contributions during the preceding 12-month period.

During our fiscal year ended January 3, 2021, Brand Fund monies were spent as follows: 30% on production, 40% on administrative, 13% on research and development, and 17% on "other", which includes creative development, concept, product, packaging, display and merchandising development, customer experience, research, public relations, product placement, interactive/social media and agency fees. We intend that future expenditures from the Brand Fund will continue in these areas and support the creation, production and/or implementation of advertising, promotional, marketing and public relations programs, and materials.

Advertising Placement Fund

We have established an Advertising Placement Fund to facilitate media placement of advertising, promotional, marketing, and public relations programs and materials to the consumer as we deem appropriate. You must contribute to the Advertising Placement Fund up to a maximum of 1% of your Net Sales, and we will allow you to offset a commensurate portion of the local advertising and promotional

expenditures requirement. All of our company Shops and Doughnut Factories located in the United States will contribute to the Advertising Placement Fund on at least the same basis as the franchisees. You must participate in any promotion, marketing or advertising campaigns created under and/or funded by the Advertising Placement Fund. We may, at our option, direct working dollars funded by the Advertising Placement Fund.

Although we will endeavor to utilize the Advertising Placement Fund for media placement of advertising, promotional, marketing, and public relations programs and materials to the consumer so as to benefit all Shops, neither we nor the Advertising Placement Fund undertake any obligation to ensure that expenditures by the Advertising Placement Fund in or affecting any geographic area are proportionate or equivalent to contributions to the Advertising Placement Fund. There is no guarantee that your Shop will benefit directly or in proportion to your contribution to the Advertising Placement Fund.

The Advertising Placement Fund will be accounted for separately from our other funds and will not be used to defray any of our general operating expenses, except for reasonable salaries, administrative costs and overhead we incur in activities related to the administration of the Advertising Placement Fund and the implementation of its programs. Examples of this are actual placement of print, broadcast, and media. We may spend, for the Advertising Placement Fund, in any fiscal year, an amount greater or less than the aggregate contribution of all Krispy Kreme Shops to the Advertising Placement Fund in that year, and the Advertising Placement Fund may borrow from us or others to cover deficits or retain any surplus for future use. We have discretion to transfer funds between the Brand Fund and the Advertising Placement Fund, and will account for any such transfer. We will determine what activities, programs, advertising, marketing, etc., may be funded by the Advertising Placement Fund in our discretion. We will prepare annually a statement of monies collected and costs incurred by the Advertising Placement Fund and furnish you a copy on your request. This statement need not be audited. Except as otherwise provided in the Franchise Agreement, we assume no direct or indirect liability or obligation with respect to the functions, maintenance, direction, or administration of the Advertising Placement Fund. We do not act as trustee or in any other fiduciary capacity with respect to the Advertising Placement Fund.

We may operate the Advertising Placement Fund through a separate entity whenever we deem appropriate and such successor entity will have all of the rights and duties related to directing and administering the Advertising Placement Fund as we have.

We may use collection agents and institute legal proceedings to collect Advertising Placement Fund contributions at the Advertising Placement Fund's expense. We may also forgive, waive, settle and compromise any and all claims for contributions to the Advertising Placement Fund. Except as expressly provided in the Franchise Agreement, we assume no direct or indirect liability or obligation to you for collecting amounts due to maintaining, directing, or administering the Advertising Placement Fund. We may reduce the Advertising Placement Fund contributions of one or more franchisees and, on 30 days' prior written notice to you, reduce or suspend Advertising Placement Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Advertising Placement Fund. If we terminate the Advertising Placement Fund, we will distribute all unspent monies to our franchisees, and to us and our affiliates, in proportion to their, and our respective Advertising Placement Fund contributions during the preceding 12-month period.

During our fiscal year ended January 3, 2021, Advertising Placement Fund monies were spent as follows: 66% on media placement, 16% on loyalty/rewards program, 3% on administrative, and 15% on "other", which includes content development, web hosting, systems infrastructure, and technology maintenance.

Grand Opening Marketing Program

You must conduct a grand opening marketing program (the “**Grand Opening Marketing Program**”) for each Shop you open. The Grand Opening Marketing Program will use the public relations and advertising, media, and promotional materials that we have either developed or approved in addition to other promotional materials that you may need to produce. You must conduct the Grand Opening Marketing Program in accordance with the requirements of the Franchise Agreement. Amounts spent on the Grand Opening Marketing Program, up to 1% of the Shop’s Net Sales, will be credited against your requirement to spend 2.5% of the Shop’s Net Sales, for the first year.

Local Advertising and Promotion

For each 12-month period during the term of the Franchise Agreement, you must spend at least 2.5% of Net Sales of the Shop for local advertising and promotion of the Shop, and you must submit plans for such programs for our approval or disapproval in accordance with schedules prescribed by us. Local advertising expenditures include amounts spent for public relations firms, advertising media, such as television, radio, newspaper, billboards, posters, direct mail, yellow pages, collateral, promotional and novelty items, advertising on public vehicles, such as cabs and buses, and, if not provided by us, the cost of producing approved materials necessary to participate in these media. Advertising expenditures may include the cost of local store/relationship marketing programs used to market the Shop in and around its trading area including activities with community groups, schools, sponsorships, flyers and local promotions. Advertising expenditures may include the cost of developing and executing digital marketing such as texting programs, internet advertising, website(s), and other social and viral media. Advertising expenditures do not include Brand Fund or Advertising Placement Fund contributions or amounts spent for items which we, in our reasonable judgment, deem inappropriate for the minimum advertising requirement, including permanent on-premises signs and menu boards, lighting, menus, premiums, discounts, free offers, charitable contributions, fundraising activities, employee incentive programs and employee salaries, unless Franchisee has a salaried employee solely responsible for local retail marketing. We will have the right to review your books and records from time to time to determine your expenditures for local advertising and promotion. All advertising and promotional materials (including signage and point of purchase materials) that have not been prepared or approved by us must be submitted to us for approval before they are used. You must at all times comply with our instructions regarding the use of advertising materials, including modifying or ceasing to use these materials, whether or not these materials had been previously prepared or approved by us. You must also submit reports verifying your local marketing expenditures as requested by us.

You must participate in all promotional activities, as we require, that we participate in for substantially all similarly situated Krispy Kreme Shops and Doughnut Factories owned by us and located in the U.S. Such participation will include, without limitation, limited-time offerings of Products, Product introductions, contests, loyalty programs, coupons, discounts, gift card programs, other services, platforms, and programs related to customer experience and/or brand enhancement, and promotional pricing and offers to the extent permitted by law. We may establish procedures and regulations related to promotional activities in the System Standards Manuals and you must honor and participate in these promotional activities in accordance with such procedures and regulations specified by us in the System Standards Manuals or otherwise in writing. We have no obligation to reimburse you for any costs you incur due to your mandatory participation in promotional activities.

System Website

We have established one or more websites and participate in social networking sites like Facebook and Twitter to advertise, market, and promote Shops, the Products, and/or the Krispy Kreme franchise system (each, a “**System Website**”). System Websites shall also include mobile websites, apps, and other forms of web-based platforms such as social media websites, etc. We may require you to

participate in such System Website such as by including information relating to your Shop, and participating in any promotional activities. We will control website traffic and registration of additional domain names. You must comply with our requirements, standards, and specifications concerning your use of a website to promote your Shop (or other software-based advertising of your Shop), including our requirement that you receive our prior written approval of your proposed website information before implementing the website and before changing an approved website.

Intranet

We may, at our option, establish and maintain a so-called intranet through which owners and operators of Krispy Kreme Shops may communicate with each other and through which we may disseminate updates and supplements to the System Standards and other information (the “**Krispy Kreme Intranet**”). We will have no obligation to maintain the Krispy Kreme Intranet indefinitely, and may dismantle it at any time without liability to you.

- A. Policies and Procedures. We will establish policies and procedures for the Krispy Kreme Intranet’s use. These policies, procedures and other terms of use may address issues such as (i) restrictions on the use of abusive, slanderous or otherwise offensive language in electronic communications; (ii) restrictions on communications between or among franchisees that endorse or encourage breach of any agreement with us; (iii) confidential treatment of materials that we transmit via the Krispy Kreme Intranet; (iv) password protocols and other security precautions; (v) grounds and procedures for our suspending or revoking a franchisee’s access to the Krispy Kreme Intranet; and (vi) a privacy policy governing our access to and use of electronic communications that franchisees post on the Krispy Kreme Intranet.
- B. Computer System Additions and Electronic Connection. On receipt of notice from us that the Krispy Kreme Intranet has become operational for your franchise, you must purchase and install all necessary additions to the Computer System (defined below) and establish and continually maintain electronic connection with the Krispy Kreme Intranet that allows us to send messages to and receive messages from you.

If you default under the Franchise Agreement or fail to pay when due amounts payable to us or our affiliates, or if you fail to comply with any policy or procedure governing the Krispy Kreme Intranet or System Websites or otherwise fail to comply with any other provision of the Franchise Agreement, we may remove information about the Shop from the System Websites and may temporarily suspend your access to any feature the Krispy Kreme Intranet includes, until such time as you pay your outstanding obligation in full or cure the default.

Franchisee’s Website

You may not promote, offer or sell any products or services relating in any way to the Shop, or use any of the Marks, on or through the Internet without our prior written consent.

Local and/or Regional and/or National Advertising Cooperatives

Although we do not currently have local and/or regional and/or national advertising cooperatives, we may establish them for Shops covering such geographical areas as we may designate occasionally. If we establish advertising cooperatives, you must participate in the advertising cooperatives and their programs and abide by their by-laws. You must contribute amounts to the advertising cooperatives as they may determine in accordance with their by-laws. Any Shops owned by us or any of our affiliates located in the designated local or regional areas will contribute to the cooperatives on at least the same basis. Contributions to the local, regional, and national advertising cooperatives will not exceed 3% of Net Sales and are credited toward the local advertising and promotion expenditure requirements. No

advertising cooperatives have been established to date. Any advertising cooperatives established in the future may be changed, dissolved or merged by us, and must operate from by-laws that we approve.

Advertising Council

We have also established a more formal franchisee advisory council (the “**Council**”). The Council confers with us on a broad range of matters that may include advertising and marketing. The bylaws of the Council provide for not more than 9 nor less than 6 franchise representatives, 5 of which are elected by our franchisees. We have the option to appoint up to 4 additional franchise representatives. The Council serves in an advisory capacity and we have the authority to change or dissolve the Council.

Other Advertising Requirements

Any advertising, promotion and marketing you conduct must be clear and factual, and not misleading. It must conform to the System Standards that we may prescribe. You must submit samples of all advertising, promotions, marketing materials, and press releases to us for approval before their use if we have not prepared them according to the guidelines and timelines established by the marketing department. If we do not provide you with written disapproval within 15 days of your submission, or other response that is not an approval (such as revisions or requests for more information), the materials will be deemed approved. You may not use any advertising or promotional materials that we have disapproved, and you must immediately stop using any such materials that we later disapprove at any time. You must submit annual marketing plans to us in a form we specify, and we must approve or disapprove such annual marketing plans or any parts of the annual marketing plans.

Computer System

You must install and use at the Shop the POS System, computer terminals, personal computers, operating software, virus protection, internet connectivity, firewall protection, and other related hardware, peripherals, and software (collectively, the “**Computer System**”) that we authorize and no other. You must use them in the manner that we direct occasionally. The Computer System must be capable of transmitting (and permitting us to collect) electronic information and identifying Product categories and other items in the Computer System in the form and frequencies we specify. You must submit to us, at any time, sales information and other financial data, including profit and loss statements, balance sheets, cash flows, category sales data and other related data generated by the Computer System and also permit us to access your Computer System to download this information at any time. We may, at any time, request and/or obtain financial data identifying product categories and other items in the Computer System, and you must provide financial data to us in the form and manner that we specify, including by:

- (a) submitting data directly to us in the format (i.e., .xls, .csv, XML or other formats we specify) and frequency which we specify;
- (b) providing a dedicated internet line to be utilized by us for the purpose of accessing data (sufficient bandwidth speed is required for accessing the Computer System to obtain and transfer data and to access any back-office applications hosted by us); or
- (c) any other methods that we may specify from time to time in accordance with System Standards.

The Computer System must have a fully managed, private DSL or cable modem (or similar service, high-speed networking means) and a dedicated line that we will use to access sales information and other data. You are also obligated to provide secure, broadband internet access in each Shop. The access must provide sufficient bandwidth to allow access to our hosted back-office applications and

equipped with firewall protection approved by us. A general description of the POS System, personal computer, and software requirements follows:

- POS System. You may only use POS System vendors and platforms that we have certified. A certified POS System must be obtained for the purpose of capturing customer orders, recording sales and producing local summary and sales reports and receipt printers that can utilize the proprietary software. We reserve the right to change certified systems at our option on reasonable advance notice. We reserve the right to certify any vendor at our option. All custom development and research and discovery costs associated with certifying the POS System vendor are your sole responsibility. The certified POS System must be capable of providing detailed transactional data of retail sales (i.e., sales taken at the retail registers) on a regular basis, and you must allow us to access this information and download it via the internet.
- Personal Computers. Personal computers must be used in the operation of your Shop for the purpose of communicating with your POS System. A printer is also required to print daily summary and sales reports generated by your personal computer. You may purchase any personal computer which is capable of supporting our approved operating system.
- Software and Applications. You may be obligated to purchase from us certain application-specific software developed for franchise operations to obtain, assimilate, report and transmit data collected from the POS System, or to gain access to other our back-office applications. We will consider other software packages for approval if these software packages, in our sole discretion, provide you and us with the same capabilities as our software packages. We have developed, and may in the future develop, proprietary software packages, and we have the right to charge a reasonable fee to cover the costs of licenses and enhancements made to the software to benefit us and our franchisees.
- Support Systems and Applications. You may be obligated to purchase and/or install a suite of applications, including but not limited to, hosting and maintenance for the operation of your business. Examples may include the POS System, video surveillance or other monitoring and support services.

We estimate the cost of the Computer System will be approximately \$90,000 to \$130,000, depending on the size of the Shop. We may also require you to use our proprietary software and you agree to sign such agreements and/or pay such fees as may be required. On termination of a franchise, we may require the return of proprietary software.

You must comply with all industry regulations and standards related to information technology and security.

Neither we, our affiliates, nor any third parties must provide ongoing maintenance, repairs, upgrades or updates to the Computer System. Currently, we do not require maintenance/upgrade contracts for the Computer System. If you elect to have a maintenance/upgrade contract for the Computer System, we estimate the cost will be \$2,000 to \$4,000 annually, depending on the hardware and software configuration of your specific Computer System.

We may modify occasionally the specifications and components of the Computer System you must use. We may require you to obtain specified computer hardware and/or software, including a license to use proprietary software developed by us or others. Our modification of specifications for the components of the Computer System may require you to incur costs to purchase, lease, and/or license new or modified computer hardware and/or software and to obtain service and support for the Computer

System. Within 60 days after you receive notice from us, you must obtain the components of the Computer System that we designate and require. There are no contractual limitations on our right to require you to upgrade or update your Computer System.

We have the right to charge a reasonable systems fee for software, hardware, or systems modifications and enhancements specifically made for us that are licensed to you and other maintenance and support services that we or our affiliates furnish to you related to the Computer System. If we license you to use the Platform, you must pay a monthly Hosting Fee of \$150 per Shop, a monthly Maintenance Fee of \$150 per Shop and an Additional Service Fee of \$65 per hour if we provide services not related to the then-current version of the Platform. We reserve the right to change the Hosting Fee, Maintenance Fee and Additional Service Fee without prior notice to you.

Information Security

Information security is your sole responsibility. In addition to establishing and maintaining a secure environment, you must comply with all industry regulations and standards related to information technology and security. This may include the Fair and Accurate Credit Transactions Act (FACTA), Payment Card Industry Data Security Standards (PCI DSS), the Health Insurance Portability and Accountability Act, and other state and federal laws and industry regulations regarding information technology and security. You must provide us, upon request, documentation evidencing such compliance. You must immediately notify us if you suspect or become aware of a Security Breach (defined below). With the exception of any required notification by you to payment card brands under PCI DSS (or other applicable standards), we will have the option to notify affected persons and regulatory authorities on your behalf in accordance with applicable law. If, after consultation with you, we determine that notification is required or appropriate, you will bear all costs associated with such notification, which may include, without limitation, any costs for providing credit monitoring to affected persons, and any other measures that we determine are appropriate. Upon discovery of a Security Breach, you must promptly investigate and remediate, at your expense, the source of such Security Breach. You must pay all costs and expenses we incur (including legal expenses) in connection with responding to any Security Breach involving or related to your operations. A “**Security Breach**” is any known or suspected unauthorized use, theft, access or acquisition of any confidential information, any customer information, or any information or data that is stored or contained in your Computer System or in your possession.

System Standards Manuals

After you sign the Franchise Agreement, we will loan you a copy of our System Standards Manuals. A copy of the table of contents of the System Standards Manuals is attached as Exhibit C. (Currently, the manuals are for Hot Light Theater Shops and are in the process of being updated to also reflect Fresh Shops and Box Shops.) We consider the contents of the System Standards Manuals to be proprietary, and you must treat them as confidential.

Training

Under the Development Agreement, we will provide initial training for your Operations Director (See Item 15), who must complete such training to our satisfaction. Under the Franchise Agreement, we will provide initial training on the operation of a Shop for your Operations Director (if applicable), one General Manager, one assistant general manager or equivalent, and up to 4 of your employees serving in a multi-unit supervisory capacity, such as a district manager. They must complete the training to our satisfaction. We do not charge a fee for training your Operations Director, General Manager, or up to 4 of your employees serving in a multi-unit supervisory capacity, but you are responsible for their wages, salaries, travel, room and board, and living expenses during training. Additionally, we will train 1 additional manager of the Shop per year (subject to schedules for the training program) that you hire after the Shop is open, without fee or other charge, but you are responsible for your managers’ wages, salaries,

travel, room and board, and living expenses during training. We reserve the right to charge fees for the initial training of any additional managers or employees. (See the charts in Item 6.)

Our initial training program may be provided at our designated training facility and/or at an operating Shop. Currently, our initial training program for Shop managers is conducted in Winston-Salem, North Carolina and at various store locations we select.

Our training programs will be supervised by Dave Horn, Senior Director of Franchise Relations. Mr. Horn has served in that position since February 2020. The materials used in training include the System Standards Manuals, training guides and workbooks, as well as other presentation materials, including audio and video presentations, and PowerPoint handouts.

We plan to be flexible in scheduling training to accommodate our personnel, you, and your personnel. There currently is a fixed training schedule which will be provided to you. The initial training program lasts approximately 8 weeks for Hot Light Theater Shops, but this may be adjusted for Fresh Shops and Box Shops. The subjects covered and other information relevant to our initial training programs are described below.

INITIAL TRAINING PROGRAM

Subject	Week	Hours of Classroom Training	Hours of On the Job Training	Location
Orientation, Equipment Introduction, and Day 1 Processing	1	0	40-50 hrs. per week	Winston-Salem, North Carolina and Shop location we select*
Production	2	0	40-50 hrs. per week	Shop location we select*
Production	3	0	40-50 hrs. per week	Shop location we select*
Processing	4	0	40-50 hrs. per week	Shop location we select*
Retail	5	0	40-50 hrs. per week	Shop location we select*
Shift Management	6	0	40-50 hrs. per week	Shop location we select*
Shop Management	7	0	40-50 hrs. per week	Shop location we select*
Shop Management	8	0	40-50 hrs. per week	Shop location we select*

* No training was conducted during fiscal year ending January 3, 2021. Training conducted during our previous fiscal year ending December 30, 2019 was conducted in approved specified locations including the following:

6689 Highway #85
Riverdale, GA 30274

12586 Research Blvd.
Austin, TX 78759

We expect that training will be conducted for your Shop managers after the Franchise Agreement has been signed and before opening the Shop. Your managers must complete initial training no later than 30 days before opening of the Shop that they will manage.

Orientation will be conducted at the Krispy Kreme training centers located at 370 Knollwood Street, Winston-Salem, NC 27103 and 1814 Ivy Avenue, Winston-Salem, NC 27105. On the job training and field training will be conducted at a Shop we select which may include your Shop.

Managers may be required to attend and successfully complete periodic and additional training programs. We may charge reasonable fees for providing periodic or additional training programs, and you will be responsible for your managers' wages, salaries, travel, room and board, and living expenses incurred in attending such periodic and additional training. Additionally, if you request or we require additional or special training for your employees, you will be responsible for all the expenses we incur in connection with such training, including per diem charges and travel and expenses for our personnel. You must immediately replace any manager who fails to successfully complete any mandatory training program or who we deem as not being qualified to serve in this capacity.

The opening team will assist you for a minimum of seven days in the opening of the Shop. However, if you and/or your affiliates are developing several Krispy Kreme Shops pursuant to Development Agreements, or have already developed Krispy Kreme Shops, including under separate Development Agreements, this team will be made available at no charge for the first Krispy Kreme Shop, one half of a team will be made available at no charge for the second Krispy Kreme Shop, a field consultant will be made available at no charge for the third Krispy Kreme Shop and a field consultant may or may not be made available at no charge for any subsequent Krispy Kreme Shops, at our option. “**No charge**” means we will be responsible for the team’s travel, room and board, and salaries, but you will be responsible for all other charges or expenses.

ITEM 12

TERRITORY

Although some territorial protection is granted under a Development Agreement, you will not receive any exclusive territory under any Franchise Agreement. You may face competition from other franchisees, from outlets we own, or from other channels of distribution, or competitive brands that we control.

Franchise Agreement

The Franchise Agreement grants to you the right to own and operate a Shop at a specific location. You may not operate your Shop at any other location other than the Site described in the Franchise Agreement or relocate your Shop without our prior written consent. The Franchise Agreement does not provide you with any options, rights of first refusal, or similar rights to acquire additional franchises. You may engage only in On-Premises Sales and Fundraising Sales from your Shop. A Shop may be granted the non-exclusive right to engage in Authorized Fundraising Sales under an Authorized Fundraising Sales Agreement.

Except to the extent provided in any Development Agreement (see description below), you are not granted any exclusive territory, protection, or other right in the contiguous space, area, market of the Shop, and we reserve the right to operate and to grant others the right to operate Shops and Doughnut Factories at any location on such terms and conditions as we deem appropriate, and such Shops or Doughnut Factories may be in direct competition with your Shop.

We and our affiliates (and our respective successors and assigns, by purchase, merger, consolidation or otherwise) retain all rights not expressly granted under the Franchise Agreement, including those with respect to Krispy Kreme Shops in general, the Marks, and the sale of Products. We reserve the right to license, manufacture, sample, sell or market by any means (including the Internet) the Products and any goods or services identified by the Marks or identified by marks other than the Marks. These goods and services may be licensed, manufactured, sampled, sold or marketed in any and all locations and venues, and through any method or channel of distribution we deem appropriate at our

option (including wholesale distribution of Products to supermarkets, grocery stores, convenience stores and other retail outlets).

We reserve the right to acquire, develop and operate, or be acquired by, any company, including a company operating one or more food service businesses (including food service businesses selling doughnuts or coffee). Although we do not currently anticipate offering franchises under a different trademark for any business, including a business that sells or will sell goods or services similar to those you will sell, we are not restricted from doing so.

We will not pay you any compensation for Products that we sell or that we license others to sell.

Development Agreement

The Development Agreement grants you the right and obligation to develop and open the agreed upon number of Shops within the Development Area. The size of the Development Area will depend on the number of Shops suitable for the Development Area, as you and we determine in light of numerous factors such as population density and the residential or commercial character of the Development Area. The number and type of Shops you are required to develop and the dates they are to be open and operating will be set out in Exhibit A to the Development Agreement (the “**Development Schedule**”). The Development Agreement does not provide you with any options, rights of first refusal or similar rights to acquire and develop additional Shops in the Development Area or in any other geographic area.

Under the Development Agreement, you must have open and operating, on the dates they are required to be open and operating, the cumulative number of and type of Shops as provided for in the Development Schedule. We have no obligation under any circumstances to extend the Development Schedule. Your failure to develop and operate a Shop in accordance with the Development Schedule will be a material breach of the Development Agreement and entitling us, among other things, to terminate the Development Agreement. However, we do not have the unilateral right to alter the Development Area in those circumstances.

During the term of the Development Agreement and provided you are in compliance with the Development Agreement and all other agreements with us or any of our affiliates (including any Franchise Agreements signed under the Development Agreement) we will: (a) grant to you the right to develop the agreed upon cumulative number and type of Shops, all of which are to be located within the Development Area; and (b) not own or operate (directly or through an affiliate) nor grant franchises for others to own and operate, any Shop located within the Development Area, except for food service establishments that we purchase or acquire through merger (or as to which we purchase the rights as franchisor) that are part of another franchise system or chain, regardless whether such food services establishments are converted to operate using any of the Marks and/or any or all of the System or whether such food service establishments operate under other trademarks, service marks or trade dress and/or use other operating systems.

We and our affiliates (and our respective successors and assigns, by purchase, merger, consolidation or otherwise) retain all rights not expressly granted under the Development Agreement, including those with respect to Krispy Kreme Shops generally, the Marks, and the sale of Products. We reserve the right to license, manufacture, sample, sell, or market by any means (including the Internet) the Products and any goods or services identified by the Marks. Such goods and services may be licensed, manufactured, sampled, sold, or marketed in any and all locations and venues (including within the Development Area), on any terms and conditions that we deem appropriate, and through any method or channel of distribution we deem appropriate at our option (including wholesale distribution of Products to supermarkets, grocery stores, convenience stores, and other retail outlets located within or outside the Development Area).

We reserve the right to acquire, develop, and operate, or be acquired by, any company, including a company operating one or more food service businesses (including food service businesses selling doughnuts or coffee).

Other Concepts

Neither we nor our affiliates currently operate or franchise, nor do we have any current plans to operate or franchise, any business that offers and sells products similar to the Products under different trademarks. However, we reserve the right to do so in the future.

ITEM 13

TRADEMARKS

Under the Franchise Agreement, we grant you the non-exclusive right to use the Marks in the development and operation of the Shop.

The following chart identifies the principal trademarks associated with the System, and there are a number of other related trademarks which have also been registered (or applied for) and are described in the System Standards Manuals. All required affidavits of use and renewals have been filed for the registrations of the principal Marks, and they remain current and valid.

Mark	Registration Number/(Serial Number)	Registration Date/(Application Date)	International Class
KRISPY KREME	967,684	September 4, 1973	29, 30
KRISPY KREME	938,245	July 18, 1972	42
KRISPY KREME	(88/360,489)	(March 28, 2019)	29, 30
KRISPY KREME Stylized	539,165	March 13, 1951	30
KRISPY KREME Stylized	5,828,024	August 6, 2019	30
KRISPY KREME Stylized	939,106	July 25, 1972	42
KRISPY KREME DOUGHNUTS and design	1,683,112	April 14, 1992	30, 42
KRISPY KREME DOUGHNUTS and design	5,826,766	August 6, 2019	30, 43
KRISPY KREME DOUGHNUTS and design	(88/360,493)	(March 28, 2019)	29, 30
ORIGINAL GLAZED	2,452,758	May 22, 2001	30
ORIGINAL GLAZED	5,687,322	February 26, 2019	30
HOT KRISPY KREME ORIGINAL GLAZED NOW and Design	2,748,338	August 5, 2003	35
KK and Design	939,105	July 25, 1972	42
KK and Design	4,662,802	December 30, 2014	30
KK and Design	5,307,931	October 10, 2017	30, 43

Mark	Registration Number/(Serial Number)	Registration Date/(Application Date)	International Class
DOUGHNUT THEATER	3,171,816	November 14, 2006	43
Green Spots Design	3,953,321	May 3, 2011	30
HOME OF THE ORIGINAL GLAZED DOUGHNUT & Design	(88,527,086)	(July 22, 2019)	30, 32, 43

Your right to use the Marks granted under the Franchise Agreement is non-exclusive; and we retain the right, among others: (a) to use the Marks for selling products and services; (b) to grant others licenses for the Marks, in addition to those licenses already granted to existing franchisees; (c) to develop and establish other systems using the same or similar Marks, or any other proprietary marks; and (d) to grant licenses or franchises in those systems without providing any rights to you.

Your use of the Marks and any goodwill you establish will inure solely to the benefit of HDN, and you retain no rights in the Marks on the termination or expiration of the Franchise Agreement. You may not use the Marks as a part of any corporate or trade name or as part of a domain name, or an electronic address, nor may you use any trade name, trademark, service mark, emblem or logo other than the Marks, except as we designate in writing. You must prominently display the Marks on the items we designate, including signs, plastic or paper products and other supplies and packaging materials. You must obtain fictitious or assumed name registrations as we require or as required under applicable law. You must identify yourself as the owner and operator of the Shop by placing your name on the Shop and on all checks, invoices, receipts, contracts and other documents that bear any of the Marks, and on all printed materials your name must be followed by the phrase “A franchisee of Krispy Kreme Doughnut Corporation” or any other phrase as we direct. You must comply with our requirements for use of the Marks on a website you may develop, including our approval of website information prior to its implementation.

There are currently no effective, materially adverse determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, nor are there any pending infringement, opposition or cancellation proceedings or material litigation that adversely impact our right to use or license the Marks. Under a Trademark License Agreement dated May 27, 1996 from HDN, we were given a license to use and to sublicense the Marks throughout the United States. This license has a one-year term, with automatic, unlimited renewals. HDN cannot terminate the agreement unless we fail to perform our obligations. There are no other agreements currently in effect which significantly limit our right to use or license the use of the Marks in any manner material to the franchises offered hereunder.

You must immediately notify us of any information that you acquire concerning any use by others of names or marks which are the same as, or confusingly or deceptively similar to, any of the Marks. We will indemnify you against and reimburse you for all damages for which you are held liable in any proceeding resulting from your authorized use of any Mark and for all costs reasonably incurred by you in the defense of any claim brought against you or in any such proceeding in which you are named as a party, if you have timely notified us of such claim or proceeding, have given us sole control of the defense and settlement of any claim, and have otherwise complied with the Agreements.

If it becomes advisable at any time in our sole discretion for us and/or you to modify or discontinue the use of any Mark and/or use one or more additional or substitute trademarks or service marks, you must comply with our directions within a reasonable time after receiving notice from us. We are not obligated to reimburse you for the loss of revenue or expenses caused by any such modification or discontinuance.

We are aware of a company, Crispie Licious, Inc., and/or other entities located in Ohio and Kentucky, which owns and/or franchises stores under the name “Crispie Crème Donut Company.” These companies and/or their franchisees operate Crispie Crème Donut stores in the cities of Wilmington, Hillsboro, Portsmouth and Chillicothe, Ohio, as well as in Grayson, Kentucky. Our investigations indicate that at least one of these locations has been open since the 1940s or earlier, while the others are more recent. We have reached a settlement agreement with the operator in Portsmouth, Ohio which restricts his operations to one county. We continue to evaluate the situation in other towns. Except as noted in this paragraph, we do not actually know of either superior prior rights or infringing uses that could materially affect a franchisee’s use of the principal trademarks in any state.

ITEM 14

PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

Our direct subsidiary, HDN, has obtained patent protection and may seek additional patent protection on aspects of our systems, equipment, processes, and/or products that may be material to the franchises offered hereunder. The inventions protected by the patents are considered proprietary and may be used by you only as provided in the Franchise Agreement. The inventions sought to be protected in currently pending, unpublished patent applications, or future patent applications, are considered proprietary and confidential. Should a currently pending, unpublished patent application, or future patent application, issue as a patent, any inventions protected by such patent or patents may be used by you only as provided in the Franchise Agreement.

HDN owns the following patents and published pending patent applications (collectively, the “**Patents and Applications**”) which may be material to the franchises offered hereunder.

U.S. Patent No.	Title	Issue Date
6,511,689	Methods and Systems for Automatically Extruding and Cutting Dough-based Products Having Pre-selected Weights	January 28, 2003
7,029,715	Methods and Systems for Automatically Extruding and Cutting Dough-based Products Having Pre-Selected Weights	April 18, 2006
8,002,534	Methods and Apparatuses for Cutting Dough Utilizing a Shaped Opening	August 23, 2011
9,398,772	Methods and Apparatuses for Cutting Dough Utilizing a Shaped Opening	July 26, 2016
10,092,012	Methods and Systems for Preparing Dough-Based Products	October 9, 2018

U.S. Patent No. 6,511,689 and U.S. Patent No. 7,029,715 are utility patents that relate to methods for automatically forming dough-based products, apparatuses for automatically forming dough-based products, and apparatuses for extruding. U.S. Patent No. 8,002,534 is a utility patent that relates to dough cutting apparatuses. U.S. Patent No. 9,398,772 is a utility patent that relates to removable dies for use in dough cutters. U.S. Patent No. 10,092,012 is a utility patent that relates to more compact doughnut-making equipment. We expect that franchisees may find this equipment compelling because of its small footprint and efficiency. The Patents and Applications relate to methods and equipment that may be used in the production of doughnuts at our Shops. As described in the Franchise Agreement, you must acquire extruders, doughnut cutters, and related equipment directly from us or our affiliates. We or our affiliates

will only authorize you to use the inventions protected by the Patents and Applications as provided in the Franchise Agreement.

There are currently no effective, materially adverse determinations of the United States Patent and Trademark Office or any court, nor are there any pending infringement, reexamination or reissue proceedings or material litigation, that might adversely impact the Patents and Applications.

You must notify us immediately of any apparent infringement of any patents owned by us and/or our affiliates, any claim by any person or entity of any rights in any patents owned by us and/or our affiliates, or any allegations of patent infringement by any person or entity. You must not communicate with any person other than us, our attorneys and your attorneys in connection with any such infringement, claim, or allegation. We have the option to take such action as we deem appropriate and the right to control exclusively any litigation, U.S. Patent and Trademark Office proceeding, or any other proceeding arising out of any such infringement, claim, or allegation, and any award recovered in such action or proceeding will belong exclusively to us, or, as appropriate, our affiliates. You must sign any and all instruments and documents, render such assistance, and do such acts and things as, in the opinion of our attorneys, may be necessary or advisable to protect and maintain our interests in any litigation or U.S. Patent and Trademark Office proceeding or other proceeding or otherwise to protect and maintain our interests or the interests of our affiliates in any patents or patented technology.

If it becomes advisable at any time in our sole discretion for us and/or you to modify or discontinue the use of any technology protected by a patent owned by us and/or our affiliates, and/or to use a substitute technology, you must comply with our directions within a reasonable time after receiving such notice. However, we are not obligated to reimburse you for any loss of revenue or expenses caused by any modification or discontinuance, or any other expense.

We claim copyright protection of our System Standards Manuals and related materials, certain proprietary software, and advertisement and promotional materials, although these materials have not been registered with the United States Copyright Office. We also have one or more licenses to certain proprietary software that is used in operating the System, and have the ability to sublicense that software to you. These materials are considered proprietary and confidential and are considered our property and may be used by you only as provided in the Agreements.

There currently are no effective determinations of the Copyright Office (Library of Congress) or any court regarding any of the copyrighted materials. There are no agreements in effect which significantly limit our right to use or license the copyrighted materials. We have exclusive rights to bring an action for infringement and retain any amounts recovered with respect to such action. Finally, we do not know of any infringing uses which could materially affect your use of the copyrighted materials in any state. We are not required by any agreement to protect or defend copyrights.

We will disclose to you certain confidential and proprietary information, and we may disclose to you information that constitutes trade secrets. Such confidential information and trade secrets relate generally to information, knowledge, or know-how concerning the recipes, ingredients, food products, production methods, advertising, marketing, designs, plans, methods of operation, and other aspects of operating a Shop and/or the System. All such information, knowledge, or know-how, including drawings, materials, equipment, marketing, recipes, and other data will be deemed secret and confidential for purposes of the Agreements. The Agreements each impose restrictions on your use and disclosure of our confidential information and trade secrets. You will also be required to execute a separate confidentiality agreement concerning your obligations to maintain the confidentiality of such confidential information and trade secrets.

ITEM 15

OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

Under the Development Agreement, you must designate an Operations Director who must complete to our satisfaction our training program. The Operations Director will use his or her full-time efforts to fulfill your obligations under the Development Agreement. The Operations Director may not directly or indirectly engage in any other business or activity that requires any significant management responsibility or time commitments, or that otherwise conflicts with your obligations under the Development Agreement. If the Operations Director is terminated in that role, or if the Operations Director does not carry out their responsibilities or otherwise perform in accordance with the Development Agreement, you must promptly designate a replacement.

You (or your managing shareholder or partner) are not obligated to participate personally in the direct operation of your Shop. Under the Franchise Agreement, you must designate a General Manager, who must provide direct, on-premises supervision of the Shop. The General Manager must complete initial and periodic additional training to our satisfaction. We may, at our sole discretion, require the Operations Director to own up to 25% in the Shop or, if you are a corporation, limited liability company, or partnership, in you. The General Manager is not required to own any interest in the Shop or, if you are a corporation, limited liability company, or partnership, in you. The Operations Director and General Manager must devote his or her full time and best efforts to the supervision of the Shop. You must immediately replace the Operations Director or General Manager if (i) we determine that he or she is not qualified to serve in this capacity at the Shop and/or (ii) he/she fails to successfully complete any mandatory training.

Under the Agreements, you must implement all reasonable procedures we prescribe from time to time to prevent unauthorized use or disclosure of confidential information. At the end of the term of a Franchise Agreement or a Development Agreement, respectively, you must return all confidential information to us. If you are a partnership, corporation, limited liability company, or other legal entity, each person who is or becomes an owner must sign an agreement in the form we prescribe of investor personal covenants, undertaking to be bound by the confidentiality and non-competition covenants and other obligations and requirements contained in the Development Agreement and/or the Franchise Agreement. The investor personal covenants form is attached as an exhibit to each of the Development Agreement and Franchise Agreement (See Exhibits B-1 and B-2 to this Disclosure Document).

If you are a partnership, corporation, limited liability company, or other legal entity, each person who is or becomes an owner, directly or indirectly, of at least a 10% interest must sign an agreement in the form we prescribe, undertaking to guarantee and be bound by the terms of the Development Agreement and/or the Franchise Agreement. The guarantee is attached as an exhibit to each of the Development Agreement and Franchise Agreement (see Item 9). The guarantee is not binding on the owner's spouse or immediate family members, but is binding on his or her personal representatives in the event of death. Each person who is or becomes an owner must sign an agreement in the form we prescribe, undertaking to be bound by the confidentiality and non-competition provisions and other obligations and requirements contained in the Development Agreement and/or the Franchise Agreement, as applicable.

ITEM 16

RESTRICTIONS ON WHAT THE FRANCHISE MAY SELL

You must sell and distribute only those Products that we approve or specify. You may not offer for sale any products that we have not approved. You must offer for sale any products that we require.

We have the right to change the types of authorized products and there are no limits on our right to do so. Under the Franchise Agreement, you may engage only in On-Premises Sales at and from the Shop and sales for fundraising purposes (fundraising sales are sales from inside the Shop of doughnuts, partnership cards, fundraising certificates, bagged coffee and such other fundraising items as we may determine, to authorized non-profit charitable, community, educational and religious institutions for resale to the end consumer). Fundraising does not include the right to solicit sales outside of the Shop unless specifically authorized by us in the Authorized Fundraising Sales Agreement.

ITEM 17

RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

These tables list certain important provisions of the Franchise Agreement 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 franchise term	Summary Page	Commences on the effective date of the Franchise Agreement and expires 15 years from the Shop's opening date.
b. Renewal or extension of the term	Section 24	On the expiration of the term of your agreement, you may sign our then-current franchise agreement for one successor term of 15 years if you (and your owners and affiliates) are in good standing. The new agreement may have terms and conditions materially different from your original agreement.
c. Requirements for franchisee to renew or extend	Section 24	You must be in compliance with all agreements between you (and your owners and affiliates) and us (and our affiliates); you must maintain possession of the Site and agree to upgrade the Site to our then-current standards, or if we approve a substitute site, you develop that site in compliance with our then-current standards; written notice, substantial compliance with the Agreement; sign new agreement (which may contain materially different terms and conditions as the original agreement) and ancillary agreements; sign general release. You must also pay a successor franchise fee of \$10,000.
d. Termination by franchisor with cause	Section 25	We can terminate only for specified causes.
e. "Cause" defined- curable defaults	Sections 25.2 and 25.3	You have 24 hours to cure health violations; 10 days to correct delinquent payments to us; and 30 days to cure other breaches of the Franchise Agreement.

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
f. “Cause” defined- non-curable defaults	Section 25.1	Includes misrepresentations; failure to open or abandonment; unauthorized transfer; cancellation of lease for the Premises; conviction of a felony; unauthorized use of confidential information or violation of non-compete or non-solicitation; assignment for benefit of creditors; bankruptcy; or repeated defaults.
g. Franchisee’s obligations on termination/non-renewal	Section 26	Pay all amounts due (including interest); cease use of confidential information and Marks; assign phone numbers; cease using all computer software licensed by us or our affiliates and comply with your obligations under any software license agreements; allow us or our designee to remove, cover, or otherwise obscure all signs, marketing materials, forms and other materials containing any of the Marks or identifying or relating to a Shop; sell to us, at our option, all equipment at net book value (but not less than 10% of your original purchase price); and furnish us with written evidence satisfactory to us of your compliance with the post-termination obligations.
h. Assignment of contract by franchisor	Section 21	No restriction on our right to assign.
i. “Transfer” by franchisee – defined	Section 22	Includes transfer of any interest in: the Franchise Agreement, the Shop; you or any holder of a direct or indirect ownership interest in you; or all or substantially all of the assets of the Shop.
j. Franchisor approval of transfer by franchisee	Section 22	We have the right to approve all transfers.
k. Conditions for franchisor approval of transfer	Section 22	Transfer must include all Franchise Agreements and Development Agreements. As to same transferee, full compliance; we decline our right of first refusal; transferee qualifies and is not a publicly-held company; all amounts due are paid in full; completion of training; transfer fee paid; transferee agrees to be bound by the terms of the then-current form of agreements; franchisee signs other required documents, including release and non-competition agreements; we approve of the financial terms of the transfer; and any seller financing is subordinated to our interests.
l. Franchisor’s right of first refusal to acquire franchisee’s business	Section 22.5	We have right to match offer, or if the proposed transfer is by gift, to purchase the interest or property to be gifted at fair market value.
m. Franchisor’s option to purchase franchisee’s business	Sections 26.4 - 26.9	For equipment, we may select either (i) net book value, or (ii) fair market value determined by 3 appraisers if parties are unable to agree. For all other assets, fair market value determined by 3 appraisers if parties are unable to agree
n. Death or disability of franchisee	Section 22	Considered a transfer.

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
o. Non-competition covenants during the term of the franchise	Section 17	No direct or indirect involvement in any Competitive Business.
p. Non-competition covenants after the franchise is terminated or expires	Section 26.3	No involvement in any Competitive Business for 2 years after termination or expiration within a radius of 10 miles of the Site or of any other Shop then open.
q. Modification of the agreement	Section 28.9	Except for System Standards Manuals, no modification unless mutually signed by the parties.
r. Integration/merger clause	Section 28.9	Only terms of Franchise Agreement are binding (subject to state law), except that nothing in the Franchise Agreement is intended to disclaim the representations made in the Disclosure Document. Any representations or promises made outside of the Disclosure Document, or Franchise Agreement may not be enforceable.
s. Dispute resolution by arbitration or mediation	Not applicable	Not applicable
t. Choice of forum	Section 28.2	Litigation in Winston-Salem, North Carolina (subject to state law).
u. Choice of law	Section 28.1	North Carolina law applies (unless prohibited by laws of state where Shop is located).

Development Agreement

PROVISION	SECTION IN DEVELOPMENT AGREEMENT	SUMMARY
a. Length of the development term	Summary Page, Section 4.2	The term of the agreement runs from execution until the last date of the Development Schedule.
b. Renewal or extension of the term	Not applicable	You have no right to renew or extend. However, we may offer you the right to renew or extend at our option.
c. Requirements for franchisee to renew or extend	Not applicable	Not applicable
d. Termination by franchisee	Not applicable	Not applicable
e. Termination by franchisor without cause	Not applicable	Not applicable
f. Termination by franchisor with cause	Section 16	We can terminate only for specified causes.
g. "Cause" defined- curable defaults	Section 16.2	30 days to cure any other breach of the Development Agreement.

PROVISION	SECTION IN DEVELOPMENT AGREEMENT	SUMMARY
h. "Cause" defined- non-curable defaults	Section 16.1	Bankruptcy or insolvency; failure to meet Development Schedule; unauthorized transfer; misrepresentation; conviction of a felony; unauthorized disclosure of confidential information or violation of non-compete or non-solicitation; breach of any Franchise Agreement warranting termination; or adverse franchise litigation.
i. Franchisee's obligations on termination/ non-renewal	Section 17	Adhere to obligations that survive termination or expiration of the Development Agreement; and covenant not to compete.
j. Assignment of contract by franchisor	Section 13	No restriction on our right to assign.
k. "Transfer" by franchisee – defined	Section 14	Includes transfer of any interest in the Development Agreement or your development rights; you or any holder of a direct or indirect ownership interest in you; or all or substantially all of the assets of the area development business.
l. Franchisor approval of transfer by franchisee	Section 14.1	We have the right to approve all transfers.
m. Conditions for franchisor approval of transfer	Section 14.2	You are in good standing, the proposed transferee meets our then-current standards for a developer and is not required to comply with the reporting and information requirements of the Securities and Exchange Act of 1934; you pay a transfer fee; you and your owners execute a general release; you provide all of the information we request in connection with the transfer; transferee agrees to be bound by the terms of the then-current form of agreements; we approve of the financial terms of the transfer; and any seller financing is subordinated to our interests.
n. Franchisor's right of first refusal to acquire franchisee's business	Section 14.6	We have right to match offer, or if the proposed transfer is by gift, to purchase the interest or property to be gifted at the monetary equivalent.
o. Franchisor's option to purchase franchisee's business	Section 14.6	Monetary equivalent determined by 3 appraisers if parties are unable to agree. Under any circumstance, the purchase price under our right of first refusal for a Transfer or the portion of a Transfer that relates to the Development Rights will not exceed the percentage interest being transferred multiplied by the pro-rata amount of the Development Fee paid by you to us for the then-remaining undeveloped Krispy Kreme Shops scheduled to be developed under the Development Schedule, which amount shall be further reduced by 20% for a portion of the value of the good will associated with Marks owned by us or our affiliate. The value of the good will associated with Marks owned by us or our affiliate is far greater than this reduction, and we are solely using this percentage reduction for purposes of our right of first refusal.
p. Death or disability of franchisee	Section 14	Considered a transfer.
q. Non-competition covenants during the term of the franchise	Section 11.6	No involvement in any Competitive Business.

PROVISION	SECTION IN DEVELOPMENT AGREEMENT	SUMMARY
r. Non-competition covenants after the franchise is terminated or expires	Section 17.2	No involvement in any Competitive Business for 2 years in Development Area or within a radius of 10 miles of any Shop or Doughnut Factory then open.
s. Modification of the agreement	Section 19.9	No modification unless mutually signed by the parties.
t. Integration/merger clause	Section 19.9	Only terms of Development Agreement are binding (subject to state law), except that nothing in the Development Agreement is intended to disclaim the representations made in the Disclosure Document. Any representations or promises made outside of the Disclosure Document or Development Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Not applicable	Not applicable
v. Choice of forum	Section 19.2	Litigation in Winston-Salem, North Carolina (subject to state law).
w. Choice of law	Section 19.1	North Carolina law applies (unless prohibited by laws of state of Development Area or Franchise Agreement).

ITEM 18

PUBLIC FIGURES

Shaquille O’Neal, a well-known former professional basketball player, owns an interest in a “Krispy Kreme” franchise in the Atlanta, Georgia market. Before investing in that franchise, Mr. O’Neal signed a limited-time endorsement agreement with us, under which he agreed to promote “Krispy Kreme” products and our brand to consumers in exchange for compensation. In these roles, Mr. O’Neal may also recommend our franchises to prospective franchisees. Mr. O’Neal is not involved in the management or control of the franchisor and has made no investment in the franchisor.

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 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 received other financial performance information or projections of your future income, you should report it to the franchisor’s management by contacting us at 370 Knollwood Street, Winston-Salem, North Carolina

27103, Attention: Chief Legal Officer, (704) 378-8345, the Federal Trade Commission, and the appropriate state regulatory agencies.

ITEM 20

OUTLETS AND FRANCHISEE INFORMATION

For purposes of this Item 20, the term “**Outlet**” includes all Shops and Doughnut Factories as of December 31 in each year.

**TABLE NO. 1
SYSTEMWIDE OUTLET SUMMARY
FOR YEARS 2018 TO 2020**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2018	218	205	-13
	2019	205	187	-18
	2020	187	136	-51
Company-Owned	2018	120	145	+25
	2019	145	173	+28
	2020	173	227	+54
Total Outlets	2018	338	350	+12
	2019	350	360	+10
	2020	360	363	+3

**TABLE NO.2
TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS
(OTHER THAN THE FRANCHISOR)
FOR YEARS 2018 TO 2020**

State	Year	Number of Transfers
None	2018	0
	2019	0
	2020	0

TABLE NO. 3
FRANCHISED OUTLETS STATUS SUMMARY
FOR YEARS 2018 TO 2020

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
Alabama	2018	4	0	0	0	2	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
Alaska	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	1	0	0	0	0	2
Arizona	2018	9	0	0	0	0	1	8
	2019	8	0	0	0	0	0	8 ⁽¹⁾
	2020	8	1	0	0	0	1	8 ⁽¹⁾
Arkansas	2018	4	0	0	0	0	0	4 ⁽²⁾
	2019	4	0	0	0	0	1	3
	2020	3	0	0	0	1	0	2
California	2018	36	1	0	0	0	2	35 ⁽³⁾
	2019	35	2	0	0	0	1	36 ⁽¹⁾
	2020	36	1	0	0	0	0	37 ⁽¹⁾
Colorado	2018	3	0	0	0	0	0	3
	2019	3	0	0	0	0	0	3 ⁽¹⁾
	2020	3	0	0	0	0	0	3 ⁽¹⁾
Connecticut	2018	4	0	0	0	0	0	4
	2019	4	0	0	0	0	0	4
	2020	4	0	0	0	0	0	4
Delaware	2018	1	0	0	0	1	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
Florida	2018	27	2	0	0	0	0	29
	2019	29	0	0	0	9	0	20
	2020	20	1	0	0	6	0	15
Georgia	2018	8	1	0	0	0	0	9
	2019	9	1	0	0	0	0	10
	2020	10	0	0	0	2	0	8
Hawaii	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Idaho	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Illinois	2018	6	1	0	0	0	0	7
	2019	7	1	0	0	0	0	8
	2020	8	0	0	0	7	0	1

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
Iowa	2018	2	1	0	0	0	0	3
	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
Kansas	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	1	0	0
Louisiana	2018	2	0	0	0	2	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
Maine	2018	1	1	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	2	0
Maryland	2018	7	1	0	0	8	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
Mississippi	2018	4	0	0	0	0	0	4
	2019	4	0	0	0	0	0	4
	2020	4	0	0	0	0	0	4
Missouri	2018	6	0	0	0	0	0	6
	2019	6	1	0	0	0	0	7
	2020	7	0	0	0	6	0	1
Montana	2018	3	0	0	0	0	0	3
	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
Nebraska	2018	3	0	0	0	0	0	3
	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
Nevada	2018	6	0	0	0	0	0	6
	2019	6	0	0	0	0	1	5 ⁽¹⁾
	2020	5	0	0	0	0	0	5 ⁽¹⁾
New Jersey	2018	2	0	0	0	1	0	1
	2019	1	1	0	0	0	0	2
	2020	2	1	0	0	0	0	3
New Mexico	2018	4	0	0	0	0	0	4
	2019	4	0	0	0	0	0	4 ⁽⁴⁾
	2020	4	0	0	0	0	1	3 ⁽¹⁾
North Carolina	2018	7	0	0	0	0	0	7
	2019	7	0	0	0	0	0	7
	2020	7	0	0	0	5	0	2
Oklahoma	2018	2	0	0	0	2	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0

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
Oregon	2018	2	0	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
Pennsylvania	2018	6	0	0	0	4	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
South Carolina	2018	10	0	0	0	0	0	10
	2019	10	0	0	0	0	0	10
	2020	10	1	0	0	7	0	4
Tennessee	2018	1	1	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
Texas	2018	30	3	0	0	0	2	31
	2019	31	1	0	0	13	0	19
	2020	19	0	0	0	16	2	1
Utah	2018	3	2	0	0	0	0	5
	2019	5	0	0	0	0	0	5 ⁽¹⁾
	2020	5	0	0	0	0	0	5 ⁽¹⁾
Virginia	2018	2	0	0	0	2	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
Washington	2018	8	0	0	0	0	0	8
	2019	8	0	0	0	0	0	8
	2020	8	0	0	0	0	0	8
Wisconsin	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1 ⁽¹⁾
	2020	1	0	0	0	0	0	1 ⁽¹⁾
Totals	2018	218	14	0	0	22	5	205
	2019	205	7	0	0	22	3	187
	2020	187	6	0	0	51	6	136

⁽¹⁾ Through a joint venture, we own a majority interest in 8 outlets in Arizona, 29 in California, 3 outlets in Colorado, 3 outlets in Nevada, 3 outlets in New Mexico, 5 outlets in Utah, and 1 outlet in Wisconsin.

⁽²⁾ We operated 1 franchised outlet in Arkansas pursuant to a management agreement with the franchisee. The outlet closed June 23, 2019.

⁽³⁾ Through a joint venture, we owned a majority interest in 17 outlets in California.

⁽⁴⁾ Through a joint venture, we owned a majority interest in 4 outlets in New Mexico.

TABLE NO. 4
COMPANY-OWNED OUTLETS STATUS SUMMARY
FOR YEARS 2018 TO 2020

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Alabama	2018	9	1	2	0	0	12
	2019	12	0	0	0	0	12
	2020	12	0	0	0	0	12
Arkansas	2018	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2020	0	0	1	0	0	1
Delaware	2018	0	0	1	0	0	1
	2019	1	0	0	0	0	1
	2020	1	0	0	0	0	1
District of Columbia	2018	1	0	0	0	0	1
	2019	1	0	0	0	0	1
	2020	1	0	0	0	0	1
Florida	2018	2	0	0	0	0	2
	2019	2	1	9	0	0	12
	2020	12	0	6	0	0	18
Georgia	2018	20	1	0	0	0	21 ⁽¹⁾
	2019	21	2	0	0	0	23 ⁽¹⁾
	2020	23	1	2	3	0	23 ⁽¹⁾
Illinois	2018	1	0	0	0	0	1
	2019	1	0	0	0	0	1
	2020	1	0	7	0	0	8
Indiana	2018	4	0	0	0	0	4
	2019	4	0	0	0	0	4
	2020	4	0	0	0	0	4
Kansas	2018	3	0	0	0	0	3
	2019	3	0	0	0	0	3
	2020	3	0	1	0	0	4
Kentucky	2018	6	1	0	1	0	6
	2019	6	0	0	0	0	6
	2020	6	0	0	1	0	5
Louisiana	2018	0	0	2	0	0	2
	2019	2	0	0	0	0	2
	2020	2	0	0	0	0	2
Maryland	2018	1	0	8	0	0	9
	2019	9	1	0	0	0	10
	2020	10	1	0	1	0	10
Michigan	2018	3	0	0	0	0	3
	2019	3	1	0	0	0	4
	2020	4	0	0	0	0	4

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Mississippi	2018	2	0	0	0	0	2
	2019	2	0	0	0	0	2
	2020	2	0	0	0	0	2
Missouri	2018	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2020	0	0	6	0	0	6
New Jersey	2018	0	0	1	0	0	1
	2019	1	0	0	0	0	1
	2020	1	0	0	0	0	1
New York	2018	1	0	0	0	0	1
	2019	1	0	0	0	0	1
	2020	1	7	0	0	0	8
North Carolina	2018	22	1	0	0	0	23
	2019	23	2	0	1	0	24
	2020	24	2	5	2	0	29
Ohio	2018	7	0	0	0	0	7
	2019	7	0	0	0	0	7
	2020	7	1	0	0	0	8
Oklahoma	2018	0	0	2	0	0	2
	2019	2	0	0	0	0	2
	2020	2	0	0	0	0	2
Pennsylvania	2018	0	0	4	0	0	4
	2019	4	0	0	0	0	4
	2020	4	0	0	0	0	4
South Carolina	2018	9	0	0	0	0	9
	2019	9	0	0	0	0	9
	2020	9	0	7	1	0	15
Tennessee	2018	16	1	0	1	0	16
	2019	16	1	0	1	0	16
	2020	16	0	0	1	0	15
Texas	2018	0	0	0	0	0	0
	2019	0	0	13	0	0	13 ⁽²⁾
	2020	13	0	16	0	0	29
Virginia	2018	12	0	2	0	0	14
	2019	14	0	0	0	0	14
	2020	14	0	0	0	0	14
West Virginia	2018	1	0	0	0	0	1
	2019	1	0	0	0	0	1
	2020	1	0	0	0	0	1
Totals	2018	120	5	22	2	0	145
	2019	145	8	22	2	0	173
	2020	173	12	51	9	0	227

⁽¹⁾ We have 1 consolidated joint venture franchised outlet in Georgia of which we are a majority owner.

⁽²⁾ We indirectly owned 13 outlets in Texas through one of our wholly-owned subsidiaries. The outlets were operated pursuant to a management agreement with the former franchisee. The term of the management agreement expired August 30, 2020, and we now directly own the 13 outlets.

**TABLE NO. 5
PROJECTED OPENINGS
AS OF JANUARY 3, 2021**

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
Arizona	0	1	0
California	0	1	0
District of Columbia	0	0	1
Florida	0	0	1
Indiana	0	0	1
Nevada	0	1	0
New Jersey	1	1	0
New York	0	0	5
Ohio	0	0	2
Utah	0	1	0
Total	1	5	10

Current Franchisees

The name, business address and business telephone number of each current franchisee as of December 31, 2020 are listed on Exhibit D.

Former Franchisees

The name, city and state, and current business telephone number (or, if unknown, the last known home telephone number) of every franchisee who has had a Krispy Kreme Shop or Doughnut Factory terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement or Doughnut Factory Agreement during the most recently completed fiscal year, has had a Krispy Kreme Shop or Doughnut Factory transferred, or who has not communicated with us within 10 weeks of the issuance date of this Disclosure Document, are listed on Exhibit E.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Purchase of Previously-Owned Franchise

If we offer to sell you any previously owned franchised Shop that we now own, specific information about the outlet will be provided to you in a separate supplement to this Disclosure Document.

Confidentiality Agreements

In some instances in connection with settling disputes within the last 3 fiscal years, current and former franchisees have signed provisions restricting their ability to speak openly about their experience with the Krispy Kreme 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.

Trademark-Specific Franchisee Organizations

As of the issuance date of this Disclosure Document, there are no trademark-specific franchisee organizations associated with the Krispy Kreme franchise network.

ITEM 21

FINANCIAL STATEMENTS

Attached to this Disclosure Document as Exhibit F are KKI's audited consolidated balance sheets as of January 3, 2021 and December 29, 2019 and consolidated statements of operations, cash flows and changes in shareholders' equity for the 3 fiscal periods ending January 3, 2021.

KKI's fiscal year ends on the Sunday closest to December 31 and will periodically result in a 53-week year. The fiscal year ended January 3, 2021 included 53 weeks, and fiscal years ended December 29, 2019 and December 30, 2018 each included 52 weeks.

KKI absolutely and unconditionally guarantees our obligations to our franchisees under the Agreements in the form attached to this Disclosure Document as Exhibit G-1 (General) and Exhibit G-2 (Illinois).

ITEM 22

CONTRACTS

The following agreements are attached as exhibits to this Disclosure Document:

- Franchise Agreement – Exhibit B-1
- Development Agreement – Exhibit B-2
- Service Provider Agreement – Exhibit B-3
- Guarantee of Performance (General) – Exhibit G-1
- Guarantee of Performance (Illinois) – Exhibit G-2
- State Specific Amendments to Franchise Agreement – Exhibit I-1
- State Specific Amendments to Development Agreement – Exhibit I-2

ITEM 23

RECEIPTS

Attached as the last 2 pages of this Disclosure Document (after the exhibits) are 2 copies of the Receipt for this Disclosure Document. We will keep one and you will keep one after you sign both copies.

EXHIBIT A

STATE AGENCIES/AGENTS FOR SERVICE OF PROCESS

A. Below are the names, addresses and telephone numbers of state agency personnel with responsibility for franchising disclosure/registration laws. Krispy Kreme believes that this information is accurate as of the date of this Disclosure Document. However, the names, position titles, addresses and phone numbers of state agency personnel with responsibility for franchising disclosure/registration laws change periodically. Krispy Kreme cannot assure that this information is accurate or that it is current as of any date, and you should check the applicable directory listing or service if you have difficulty contacting the appropriate person in any state.

CALIFORNIA

Commissioner of Business Oversight
California Department of Business Oversight
1515 K Street, Suite 200
Sacramento, California 95814-4052
(916) 445-7205

HAWAII

Hawaii Commissioner of Securities
Department of Commerce and Consumer Affairs
Business Registrations Division
Securities Compliance Branch
335 Merchant Street, Room 203
Honolulu, Hawaii 96813
(808) 586-2722

ILLINOIS

Illinois Office of the Attorney General
Franchise Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-4465

INDIANA

Indiana Securities Division
Franchise Section
302 West Washington Street, Room E-111
Indianapolis, Indiana 46204
(317) 232-6681

MARYLAND

Office of the Attorney General
Securities Division
200 St. Paul Place
Baltimore, Maryland 21202
(410) 576-6360

MICHIGAN

Michigan Attorney General's Office
Consumer Protection Division, Franchise Section
670 Law Building 525 West Ottawa Street
G. Mennen Williams Building, 1st Floor
Lansing, Michigan 48913
(517) 373-7117

MINNESOTA

Commissioner of Commerce
Minnesota Department of Commerce
85 7th Place East, Suite 280
St. Paul, Minnesota 55101-2198
(651) 539-1500

NEW YORK

Office of the New York State Attorney General
Investor Protection Bureau
Franchise Section
120 Broadway, 23rd Floor
New York, New York 10271-0332
(212) 416-8236

NORTH DAKOTA

North Dakota Securities Department
600 East Boulevard Avenue, State Capitol, 5th Floor
Bismarck, North Dakota 58505-0510
(701) 328-4712

RHODE ISLAND

Department of Business Regulation
Securities Division
1511 Pontiac Avenue
John O. Pastore Complex – Building 69-1
Cranston, Rhode Island 02920
(401) 462-9527

SOUTH DAKOTA

Division of Insurance
Securities Regulation
124 S. Euclid, Suite 104
Pierre, South Dakota 57501
(605) 773-3563

VIRGINIA

State Corporation Commission
Division of Securities and Retail Franchising
1300 E. Main Street, 9th Floor
Richmond, VA 23219
(804) 371-9051

WASHINGTON

Department of Financial Institutions
Securities Division – 3rd Floor
150 Israel Road, S.W.
Tumwater, Washington 98501
(360) 902-8760

WISCONSIN

Office of the Commissioner of Securities
4822 Madison Yards Way, North Tower
Madison, Wisconsin 53705
(608) 261-9555

B. Krispy Kreme has either appointed, or if Krispy Kreme intends to register to become authorized to offer and sell franchises in the following jurisdictions, it will appoint, the following agents for service of process in the indicated jurisdictions:

CALIFORNIA

Commissioner of Business Oversight
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, California 95814-4017

NEW YORK

Secretary of State of the State of New York
New York Department of State
One Commerce Plaza
99 Washington Avenue, 6th Floor
Albany, New York 12231

HAWAII

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

NORTH DAKOTA

North Dakota Securities Commissioner
600 East Boulevard Avenue, 5th Floor
Bismarck, North Dakota 58505-0510

ILLINOIS

Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706

RHODE ISLAND

Director of Department of Business Regulation
Department of Business Regulation
Securities Division
1511 Pontiac Avenue
John O. Pastore Complex – Building 69-1
Cranston, Rhode Island 02920

INDIANA

Secretary of State
Franchise Section
302 West Washington Street, Room E-111
Indianapolis, Indiana 46204

SOUTH DAKOTA

Division of Insurance
Securities Regulation
124 S. Euclid, Suite 104
Pierre, South Dakota 57501
(605) 773-3563

MARYLAND

Maryland Securities Commissioner
200 St. Paul Place
Baltimore, Maryland 21202-2020

VIRGINIA

Clerk of the State Corporation Commission
1300 E. Main Street, 1st Floor
Richmond, VA 23219

MICHIGAN

Michigan Attorney General's Office
Consumer Protection Div., Franchise Section
525 West Ottawa Street
G. Mennen Williams Building, 1st Floor
Lansing, Michigan 48913

WASHINGTON

Director of Department of Financial Institutions
Securities Division – 3rd Floor
150 Israel Road SW
Tumwater, Washington 98501

MINNESOTA

Commissioner of Commerce
85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198

WISCONSIN

Commissioner of Securities
4822 Madison Yards Way, North Tower
Madison, Wisconsin 53705

EXHIBIT B-1
FRANCHISE AGREEMENT

KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE AGREEMENT
SUMMARY PAGE

A.	Effective Date: <i>(Insert date Franchisor executes this Agreement)</i>										
B.	Franchisor:	Krispy Kreme Doughnut Corporation, a North Carolina corporation									
C.	Shop Number:										
D.	Shop Address:										
E.	Shop Type & Initial Franchise Fee:	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; border-bottom: 1px solid black;"></td> <td style="width: 40%;">Hot Light Theater Shop</td> <td style="width: 30%; text-align: right;">\$25,000</td> </tr> <tr> <td style="border-bottom: 1px solid black;"></td> <td>Fresh Shop</td> <td style="text-align: right;">\$12,500</td> </tr> <tr> <td style="border-bottom: 1px solid black;"></td> <td>Box Shop</td> <td style="text-align: right;">\$12,500</td> </tr> </table>		Hot Light Theater Shop	\$25,000		Fresh Shop	\$12,500		Box Shop	\$12,500
	Hot Light Theater Shop	\$25,000									
	Fresh Shop	\$12,500									
	Box Shop	\$12,500									
F.	Franchisee:										
	Franchisee's Address:										
	Telephone:										
	Secure E-mail Address:										
G.	Operations Director:										
H.	Term:	Commences on the Effective Date and expires on the fifteenth (15 th) anniversary of the Opening Date described in Exhibit A-2 of this Agreement.									
I.	Royalties:	On-Premises Sales: 4.5% of Net Sales Fundraising Sales: 4.5% of Net Sales									
J.	Brand Fund Contribution:	Initially 1.5% of Net Sales (variable percentage not to exceed 2%)									
K.	AP Fund Contribution:	Initially 1% of Net Sales (variable percentage not to exceed 1%)									
L.	Advertising Expenditures:	Not less than 2.5% of Net Sales during each 12-month period									
M.	Advertising Coop Contribution:	Not more than 3% of Net Sales during each 12-month period									

Franchisor: _____
(initials)

Franchisee: _____
(initials)

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EXHIBIT A-1	FRANCHISEE INFORMATION
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EXHIBIT B	FORM OF PERSONAL GUARANTY AGREEMENT
EXHIBIT C	FORM OF INVESTOR PERSONAL COVENANTS
EXHIBIT D	FORM OF AUTHORIZATION FOR ACH DEBITS OR CREDITS
EXHIBIT E	FORM OF AUTHORIZED FUNDRAISING SALES AGREEMENT
EXHIBIT F	GENERAL RELEASE AND COVENANT NOT TO SUE
EXHIBIT G	LEASE RIDER

KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT is made and entered into as of the Effective Date by and between Franchisor and Franchisee.

1. BACKGROUND

- 1.1 Franchisor has developed, as a result of considerable time, skill, effort, and money, a distinctive System for operating shops called “**Krispy Kreme Shops**” that offer and serve a variety of doughnuts, beverages, and other authorized products and services under the Marks.
- 1.2 Franchisor’s Affiliate, HDN Development Corporation, a Kentucky corporation (“**HDN**”), owns the Marks and has granted Franchisor the right to sublicense the Marks to its franchisees for their use in operating Krispy Kreme Shops.
- 1.3 Franchisor grants franchises to own and operate Krispy Kreme Shops to persons or entities that meet its qualifications and are willing to undertake the investment and effort to properly develop and operate them.
- 1.4 Franchisor and Franchisee, or an Affiliate of Franchisee, are parties to a Development Agreement, pursuant to which this Franchise Agreement is being executed.

2. DEFINITIONS

- 2.1 Capitalized terms used in this Agreement have the meanings given to them in this Section 2.1.

Account – The designated bank account into which Franchisee will deposit all of the SHOP’s Net Sales, and from which Franchisor will be authorized to withdraw funds by electronic funds transfers.

Affiliate – Any person or entity that directly or indirectly owns or controls the referenced party, that is directly or indirectly owned or controlled by the referenced party, or that is under common ownership or control with the referenced party, including parents and subsidiaries. The term “**control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the referenced party, whether through ownership, by contract, or otherwise.

Agreement – This Franchise Agreement, including all of its amendments, exhibits, riders, guaranties and other agreements used in connection with this Franchise Agreement.

AP Fund – A fund established by Franchisor for services including and related to the placement of advertising, promotional, marketing, and public relations programs and materials as Franchisor deems appropriate.

Appraisal Notice – Defined in Section 26.5.

Appraisal Report – Defined in Section 26.8.

Appraisers – Defined in Section 26.7.

Box Shop – A retail sales facility with no manufacturing capabilities that receives doughnuts from a Hot Light Theater Shop to sell in accordance with our System Standards. It is a prefabricated, free-standing self-contained unit resembling a Krispy Kreme doughnut box (which design elements may vary and be modified from time to time) and is typically located in an enclosed retail area.

Brand Fund – A fund established by Franchisor for services including and related to the research, development, creation, production and analysis of advertising, promotional, marketing, public relations and other communications programs and materials that Franchisor deems appropriate.

Competitive Business – A business, other than a Krispy Kreme Shop or Doughnut Factory, that:

- (a) makes, sells or distributes yeast-raised doughnuts, cake doughnuts, or any other types of doughnuts, miniature doughnuts, doughnut holes or any other bakery products in any distribution channel to any customer for consumption or resale, and those sales constitute ten percent (10%) or more of its total sales (or those sales from any single location constitute ten percent (10%) or more of the total sales of that location) during any calendar quarter or calendar year;
- (b) sells coffee or coffee drinks in any distribution channel to any customer for consumption or resale, and those sales constitute twenty percent (20%) or more of its total sales (or those sales from any single location constitute twenty percent (20%) or more of the total sales of that location) during any calendar quarter or calendar year;
- (c) is the same as, or similar to, the Krispy Kreme Shop concept as it evolves over time; or
- (d) grants franchises or licenses, or establishes joint ventures, to develop and/or operate any business referred to in (a) through (c), above.

Restrictions in this Agreement on having an Ownership Interest in a Competitive Business will not apply to the ownership of shares of a class of securities listed on a stock exchange or traded on a public stock market that represents less than three percent (3%) of the number of shares of that class of securities issued and outstanding.

Computer System – The point-of-sale system, computer terminals, personal computers, operating software, virus protection, internet connectivity, firewall protection and such other hardware, peripherals and software, as Franchisor may designate from time to time for use in Krispy Kreme Shops and/or Doughnut Factories.

Confidential Information – Franchisor’s proprietary and confidential information relating to the development and operation of Krispy Kreme Shops and Doughnut Factories, which includes:

- (a) methods, techniques, equipment, specifications, standards, policies, procedures, information, concepts, and systems relating to and knowledge of and experience in the development, equipping, operation, outfitting and franchising of Krispy Kreme Shops and Doughnut Factories, as well as expansion, growth and development plans, and prospects;
- (b) marketing and advertising programs for Krispy Kreme Shops;

- (c) knowledge concerning the logic, code, structure, and operation of computer software programs which Franchisor authorizes for use in connection with the operation of Krispy Kreme Shops and Doughnut Factories, and all additions, modifications and enhancements, and all data generated from using such programs;
- (d) specifications and standards for, and sources of, buildings, equipment, furnishings, fixtures, signs, products, materials, supplies, and services utilized in the development and operation of Krispy Kreme Shops and Doughnut Factories;
- (e) ingredients, formulas, mixes, recipes for and methods of preparation, cooking, serving, packaging, and delivery of the Products;
- (f) sales information, operating results, financial performance, consumer preferences, inventory requirements, materials and supplies, and other financial data of Krispy Kreme Shops and Doughnut Factories, and customer lists;
- (g) current and concluded research, development and test programs for products, services and operations for use in Krispy Kreme Shops and Doughnut Factories;
- (h) the contents of any System Standards Manuals, System Standards, and site selection criteria;
- (i) employee training, and staffing levels;
- (j) all other information that Franchisor provides to Franchisee and designates proprietary or confidential; and
- (k) all other information relating to the System, the Products, and Krispy Kreme Shops or Doughnut Factories, that are not generally known in the food service business.

Failure to include a confidentiality notice on any materials shall not give rise to an inference that the information disclosed is not confidential.

Data – Financial data, including, but is not limited to, detailed and summary sales information, profit and loss statements, balance sheets, cash flow information, category sales data and other related financial data generated by the Computer System.

Development Agreement – The Krispy Kreme Doughnut Corporation Development Agreement through which Franchisor has granted Franchisee the right to develop one or more Krispy Kreme Shops in the Development Area, and under which this Agreement has been executed.

Development Area – The geographic area described in the Development Agreement where Franchisee has the right to develop one or more Krispy Kreme Shops, as set forth in the Development Agreement.

Doughnut Factory – A manufacturing facility, owned and operated by Franchisor, and is dedicated solely to the production of doughnuts and other Products to be sold under the Marks that are supplied to Franchisor’s Krispy Kreme Shops, and to grocery and convenience stores for resale. Doughnut Factories are not used for retail sales.

Effective Date – As defined on the Summary Page.

Event – As defined in Section 27.7.

Fair Market Value – As defined in Section 26.7.

Force Majeure – Any of the following events or circumstances: (a) fire, earthquake, storm, hurricane, tornado, flood or other act of God; (b) war, act of terrorism, insurrection, rebellion, riots or other civil unrest; (c) epidemics, quarantine restrictions or other public health restrictions or advisories; and (d) other similar events beyond the reasonable control of the party.

Franchise – The rights granted and the obligations imposed pursuant to this Agreement that relate to the development and operation of the SHOP at the Site.

Franchise Agreement – An agreement, such as this Agreement, used by Franchisor to grant franchises for the operation of Krispy Kreme Shops at specific locations (including all of its amendments, exhibits, riders, guaranties and other ancillary agreements).

Franchise Application – The application submitted by Franchisee for the Franchise.

Franchise Disclosure Document – The franchise disclosure document required by applicable law.

Franchisee – As defined on the Summary Page.

Franchisor – As defined on the Summary Page.

Franchisor's Exercise of Discretion – As defined in Section 27.2.

Fresh Shop – A retail sales facility with limited manufacturing capabilities (*e.g.*, icing and filling equipment), or no manufacturing capabilities, that receives doughnuts from a Hot Light Theater Shop and finishes them as necessary to sell in accordance with System Standards.

Fundraising Sales – Sales of doughnuts, partnership cards, fundraising certificates, bagged coffee, and such other fundraising items as Franchisor may determine from time to time, to authorized non-profit charitable, community, educational and religious institutions for resale to the end consumer. Franchisee is prohibited from soliciting or making Fundraising Sales outside the SHOP except through an Authorized Fundraising Sales Agreement with Franchisor in the form attached as Exhibit E to this Agreement.

General Manager – The person designated as general manager of the SHOP.

Good Standing – The condition that Franchisee and its Affiliates: (a) are current with all payments due to Franchisor, its Affiliates and third parties, including suppliers; and (b) are not in default of any of their obligations under this Agreement, any Development Agreement (including any Development Schedule), any Franchise Agreement, or any other agreement with Franchisor or its Affiliates.

Grand Opening Marketing Program – As defined in Section 19.3.

Hot Light Theater Shop – A retail sales facility that manufactures and produces fresh doughnuts on-site, under the System Standards. Hot Light Theater Shops may have some capacity to supply fresh doughnuts to Fresh Shops and Box Shops.

Immediate Family – The spouse, parents, brothers, sisters and children, whether natural or adopted, of the referenced person.

Indemnified Parties – As defined in Section 27.7.

Initial Franchise Fee – The nonrecurring and nonrefundable fee specified on the Summary Page.

Insured Event – As defined in Section 27.7.

KKI – Krispy Kreme, Inc., a Delaware corporation, and indirect parent company of Franchisor.

KKDI – Krispy Kreme Doughnuts, Inc., a North Carolina corporation, and the parent company of Franchisor.

Krispy Kreme Intranet – The intranet through which owners and operators of Krispy Kreme Shops may communicate with each other and through which Franchisor may disseminate updates and supplements to the System Standards and other information.

Krispy Kreme Shop(s) – Shops which Franchisor or any of its Affiliates own, operate or franchise (pursuant to valid Franchise Agreements), operating under and identified by the Marks and the Krispy Kreme System. Krispy Kreme Shops include Hot Light Theater Shops, Tunnel Oven Shops, Fresh Shops, and Box Shops, but do not include Doughnut Factories, or any other shop, store, or facility that does not sell products to retail customers, and also do not include other locations that offer Products under the Marks to customers, but which locations are not primarily identified by the Marks and the Krispy Kreme System such as grocery stores, convenience stores, etc.

Lease Rider – As defined in Section 6.1.

Marks – The current and future trademarks, service marks, logos, designs, trade names, insignia, emblems, slogans, and other commercial symbols, together with all distinctive trade dress elements, or combinations thereof, used by Franchisor to identify the sources of goods and services offered and sold at Krispy Kreme Shops, including the trademark and service mark KRISPY KREME®.

Net Sales – All the SHOP's revenue from food, beverages, and other products and merchandise of any type whatsoever sold, whether or not produced at the SHOP or acquired from a third party, including Products purchased from other Krispy Kreme franchises (regardless whether owned by Franchisee) and services rendered at or away from the SHOP (whether or not such sales are authorized by Franchisor) or from any use of the Marks, recorded using the accrual basis of accounting and otherwise in accordance with accounting principles generally accepted in the United States. “**Net Sales**” includes, but is not limited to:

- (a) On-Premises Sales and Fundraising Sales;
- (b) all amounts Franchisee receives or has the right to receive from the conveyance of products and services, whether such sales are made for cash or cash equivalents (including, but not limited to, credit, debit and gift cards) or on credit terms, but excludes: (i) sales and similar taxes collected by Franchisee from customers and which Franchisee is required by law to remit to a taxing authority, (ii) customer refunds, (iii) credits for product returns, (iv) the value of

redeemed customer coupons and customer discounts, and (v) sales or delivery of products to other Krispy Kreme Shops or Doughnut Factories (whether or not owned by Franchisee); and

(c) will not be reduced by any charge or other provision for uncollectible accounts.

Neither the inclusion of any type of revenue in the definition of Net Sales nor Franchisor's demand or receipt of Royalties, Brand Fund contributions or AP Fund contributions on such revenues will constitute waiver or approval of any unauthorized sales by Franchisee, and Franchisor reserves all rights and remedies if Franchisee makes unauthorized sales.

On-Premises Sales – Sales conducted on-premises to retail customers visiting the SHOP.

Opening Date – The date on which the SHOP opens for business (i.e., begins offering and selling goods and services to the public), which date will be inserted by Franchisor into Exhibit A-2.

Operations Director – An individual designated by Franchisee as Operations Director of Franchisee's business that meets all of the qualifications outlined below, unless waived in writing by Franchisor. The initial Operations Director is identified on the Summary Page.

- (a) The Franchisor may, in its sole discretion, require the Operations Director be an Owner in Franchisee of up to twenty-five percent (25%).
- (b) The Operations Director will have full control over the day-to-day activities of Franchisee, including operations, control over the standards of operations, and financial performance.
- (c) The Operations Director will devote his or her full-time and best efforts to supervising the operation of Franchisee and the SHOP and those other Krispy Kreme operated by Franchisee or its Affiliates, and will not engage in any other business or activity, directly or indirectly, that requires substantial management responsibility.
- (d) The Operations Director will maintain his or her primary residence within a one (1) hour driving distance of at least one Krispy Kreme Shop owned by Franchisee or an Affiliate of Franchisee.
- (e) The Operations Director will successfully complete the Krispy Kreme New Franchisee Orientation Program (if applicable).
- (f) Franchisor will have approved the Operations Director, and not have later withdrawn that approval.
- (g) If any acting Operations Director no longer meets these qualifications, Franchisee will designate another qualified person to act as Operations Director within thirty (30) days after the date the prior Operations Director ceases to be qualified. Franchisee's designee to become the Operations Director must successfully complete Franchisor's mandatory training program not later than one (1) year after Franchisor approves such individual as the Operations Director.

Organizational Documents – The articles of incorporation, articles of organization, operating agreement or principles, partnership agreement, bylaws, subscription agreements, buy-sell agreements, voting trust agreements, trust agreements and such other documents relating to

Franchisee's ownership, organization, capitalization, management and control as Franchisor may prescribe.

Owner – Each person or entity holding: (a) a direct or indirect, legal or beneficial Ownership Interest or voting rights in Franchisee or any Affiliate of Franchisee that owns an Ownership Interest or voting rights in Franchisee; (b) a direct or indirect, legal or beneficial interest in this Agreement; (c) a direct or indirect, legal or beneficial interest in the SHOP; or (d) any other legal or equitable interest, or the power to vest in himself or herself or itself of any legal or equitable interest, in the revenue, profits, rights or assets arising from any of the foregoing.

Ownership Interest – Any direct or indirect, legal or beneficial ownership interest of any type, including (a) in relation to a corporation, the ownership of shares in the corporation; (b) in relation to a partnership, the ownership of a general or limited partnership interest; (c) in relation to a limited liability company, the ownership of a membership interest; or (d) in relation to a trust, the ownership of a legal or beneficial interest of such trust.

Payment Day – The day of the Week on which Royalties are due, which is presently Friday, but may be changed by Franchisor.

Portal – An interactive electronic document contained in a network of computers linked by communications software, including, without limitation, the Internet and World Wide Web home pages.

Products – The current and future products that Franchisor authorizes to be offered and sold at Krispy Kreme Shops, including (a) fresh doughnuts (including, yeast-raised doughnuts, cake doughnuts, miniature doughnuts, and doughnut holes, and the various types of flavors, fillings, glazes, or other coatings for the doughnuts; (b) hot or cold fresh-brewed coffee beverages suitable for immediate consumption; (c) hot or cold espresso drinks suitable for immediate consumption; (d) frozen beverages suitable for immediate consumption; and (e) such other products and beverages as Franchisor may determine from time to time. Products will include, as applicable, Product recipes, ingredients, brands, portion sizes, shapes and configurations. Franchisor reserves the right to change, alter, amend, add and remove authorized Products at any time.

Purchased Assets – As defined in Section 26.5.

Reporting Day – The day of the Week by which Franchisee must report Net Sales, which is presently Tuesday, but is subject to change by Franchisor.

Restricted Person – Franchisee, its Owners and Affiliates, and members of their Immediate Families (when such are persons).

Royalties – The percentage of Net Sales for the preceding Week, as described on the Summary Page.

Security Breach - any known or suspected unauthorized use, theft, access or acquisition of any Confidential Information, any customer information, or any information or Data that is stored or contained in Franchisee's Computer System or in Franchisee's possession.

SHOP – The Krispy Kreme Shop identified on the Summary Page that Franchisee will operate at the Site pursuant to this Agreement. The term includes all of the assets of the SHOP, including its revenue and income.

SHOP Renovation – A full reimagining, renovation and refurbishment of the SHOP to modernize and conform the SHOP to the then-current image of the System Standards for new Krispy Kreme Shops.

Site – The location of the SHOP with the street address identified on the Summary Page.

Summary Page – The cover page to this Agreement that summarizes certain key information concerning the parties' relationship and the terms of this Agreement.

System – The business formats, methods, procedures, signs, designs, layouts, equipment, and mixes designated by Franchisor for use in developing and operating Krispy Kreme Shops and Doughnut Factories, including the System Standards, all of which Franchisor may improve, further develop or otherwise modify from time to time.

System Standards – The mandatory and suggested specifications, standards, operating procedures and rules that Franchisor prescribes for the development and operation of Krispy Kreme Shops and Doughnut Factories, including those pertaining to conversion, site selection, construction, signage and layouts; the standards, specifications, recipes, and other requirements related to the purchase, preparation, marketing and sale of the Products; advertising and marketing programs and information technology; On-Premises Sales; customer service; the design, décor and appearance of the SHOP; standards and specifications for equipment, fixtures and furnishings and the use of proprietary equipment; the maintenance and remodeling of the SHOP and its equipment, fixtures and furnishings; the use and display of the Marks; the insurance coverage required to be carried for the SHOP; the training of SHOP employees; the days and hours of SHOP operation; and the content, quality and use of advertising and promotional materials, all of which Franchisor may improve, further develop or otherwise modify from time to time.

System Standards Manuals – The documents and other media that describe or contain the System Standards.

System Websites – One or more websites designated to Franchisor from time to time to advertise, market, and promote Krispy Kreme Shops, the Products, and/or the Krispy Kreme franchise system. System Websites shall also include mobile websites, apps, and other forms of web-based platforms such as social media websites, etc.

Term – As defined on the Summary Page.

Transfer or Transfer the Franchise (or similar words) – Any type of transfer, directly or indirectly, including the transfer of a partial legal interest. Transfer is meant to be broadly construed and includes, but is not limited to, any sale, assignment, exchange, conversion, license, sublicense, lease, sublease, mortgage, pledge, collateral assignment, grant of security, collateral, or conditional interest or other encumbrance in the Franchise, Franchisee, the holder of a direct or indirect Ownership Interest in Franchisee, or all or substantially all of the assets of the SHOP, whether voluntary or not or by operation of law. The definition of Transfer also includes any act or event that Franchisor, in its judgment, determines to be a transfer, including, without limitation, the following:

- (a) any transfer, redemption or issuance of a legal or beneficial ownership interest in the capital stock of, a membership interest in, or a partnership interest in, Franchisee or any

interest convertible into or exchangeable for capital stock of, a membership interest in or a partnership interest in, Franchisee;

- (b) any merger or consolidation of Franchisee, whether or not Franchisee is the surviving entity, or any conversion of Franchisee from one form of legal entity into another form of legal entity, or any sale, exchange, encumbrance or other disposition of Franchisee's assets;
- (c) any transfer in connection with or as a result of a divorce, dissolution of marriage or similar proceeding or a property settlement or legal separation agreement in the context of a divorce, dissolution or marriage or similar proceeding, an insolvency, bankruptcy or assignment for benefit of creditors, a judgment, a corporate, limited liability company or partnership dissolution or otherwise by operation of law; or
- (d) any transfer by gift, declaration of trust, transfer in trust, revocation of trust, trustee succession, trust termination, discretionary or mandatory trust distribution, occurrence of any event (*e.g.*, death of a person) that affects or ripens the rights of contingent beneficiaries, exercise of a power of appointment, exercise of a withdrawal right, adjudication of Franchisee or any Owner as legally disabled, or upon or after Franchisee's death or the death of any of Franchisee's Owners by will, disclaimer or the laws of intestate succession or otherwise.

Franchisor will not require approval, and a transfer fee will not be required for loans where the collateral is other than this Agreement, the Development Agreement, any of the rights of Franchisor or its Affiliates or Franchisee or its Affiliates set forth in any agreement between them (including Franchisor's right to the various fees set forth in the agreements), certain proprietary equipment, including the extruder, auto-extruder, PLC controls, glaze pump, or glaze tank, or any equity interest in Franchisee or its Owners.

Tunnel Oven Shop – A retail sales facility with an impinger oven and limited manufacturing capabilities (*e.g.*, icing and filling equipment) that receives doughnuts from a Hot Light Theater Shop or a Doughnut Factory and finishes them as necessary to sell in accordance with System Standards.

Week – Any consecutive seven (7) calendar day period that Franchisor may designate from time to time, currently consisting of each seven (7) calendar day period ending at 11:59 PM on each Sunday.

2.2 Other terms used in this Agreement are defined in the context in which they arise.

3. ACKNOWLEDGMENTS, REPRESENTATIONS, AND WARRANTIES

3.1 Acknowledgments. Franchisee acknowledges that Franchisee has read this Agreement and Franchisor's Franchise Disclosure Document and understands and accepts that the terms and conditions contained in this Agreement are reasonably necessary to maintain Franchisor's high standards of quality and service. Franchisee further acknowledges that the uniformity of those standards at each Krispy Kreme Shop is reasonably necessary to protect and preserve the goodwill of the Marks. Franchisee acknowledges that Franchisee has conducted an independent investigation of the business venture contemplated by this Agreement and recognizes that, like any other business, the nature of the business conducted by a Krispy Kreme Shop may evolve and change over time, that an investment in a Krispy Kreme Shop involves business risks, and that

Franchisee's business abilities and efforts are vital to the success of the venture. Any information Franchisee acquires from other Krispy Kreme franchisees relating to their sales, profits, or cash flows does not constitute information obtained from Franchisor, nor does Franchisor make any representation as to the accuracy of any such information or the likelihood of Franchisee achieving comparable results. Franchisee acknowledges that, in all of its dealings with Franchisor, Franchisor's officers, directors, employees and agents act only in a representative, and not in an individual, capacity. All business dealings between Franchisee and such persons in connection with this Agreement are solely between Franchisee and Franchisor. Franchisee further acknowledges that Franchisor has advised Franchisee to have this Agreement reviewed and explained to Franchisee by an attorney representing Franchisee and not Franchisor.

- 3.2 Disclosure. Franchisee represents and warrants to Franchisor, as an inducement to Franchisor's entry into this Agreement, that all statements Franchisee and its Owners have made and all of the materials Franchisee and its Owners have submitted to Franchisor in connection with Franchisee's Franchise Application and the purchase of the Franchise are accurate and complete and that Franchisee and its Owners have made no misrepresentations or material omissions to obtain the Franchise. Franchisor has approved Franchisee's Franchise Application for a franchise for a Krispy Kreme Shop in reliance on each of Franchisee's and its Owners' representations to Franchisor.
- 3.3 Authority. Franchisee represents and warrants to Franchisor that Franchisee has the authority to execute and deliver this Agreement and to perform Franchisee's obligations under this Agreement.
- 3.4 Due Execution. Franchisee represents and warrants to Franchisor that this Agreement has been duly executed and delivered by Franchisee and, assuming the due authorization, execution and delivery by Franchisor, constitutes a legal, valid and binding obligation of Franchisee, enforceable in accordance with its terms.
- 3.5 No Conflicts. Franchisee represents and warrants to Franchisor that Franchisee's execution, delivery and performance under this Agreement will not, with or without the giving of notice or the lapse of time (or both), (a) conflict with or violate its organizational documents, if applicable, (b) conflict with or violate any law, statute, ordinance, rule, regulation, order, judgment or decree applicable to Franchisee, or (c) conflict with, result in any breach of, or constitute a default under, any contract, agreement, lease, license, permit, franchise or other instrument or obligation to which Franchisee or any of its Owners are a party or by which Franchisee or any of its Owners are bound.
- 3.6 Real Property. Franchisee represents and warrants to Franchisor that: (a) Franchisee owns fee simple title to the real property and improvements which comprise the SHOP; or (b) if Franchisee holds a leasehold interest in the SHOP, Franchisee has or will have a binding and effective lease with a lease term (plus renewal options) extending at least to the end of the Term and otherwise conforming to Franchisor's requirements in accordance with the Development Agreement and Section 6.1 of this Agreement.
- 3.7 Organization. If Franchisee is, or at any time becomes, a business corporation, partnership, limited liability company or other legal entity, Franchisee and each of its Owners represent, warrant and agree that:
- (a) Franchisee is organized and validly existing under the laws of the state of its organization, and, if a foreign business corporation, partnership, limited liability company

or other legal entity, Franchisee is qualified to transact business in the state in which the SHOP is located;

- (b) Franchisee has the authority to execute and deliver this Agreement and to perform its obligations under this Agreement;
- (c) true and complete copies of the Organizational Documents will be promptly delivered to Franchisor for its approval, which approval will not be unreasonably withheld;
- (d) any and all amendments, deletions and additions to Franchisee's Organizational Documents will be promptly delivered to Franchisor for its approval, which approval will not be unreasonably withheld;
- (e) Franchisee's sole purpose and business activities will be to develop, own, and operate Krispy Kreme Shops in accordance with this Agreement and any other agreements entered into with Franchisor or any of its Affiliates;
- (f) the Organizational Documents recite that the issuance, transfer or pledge of any direct or indirect legal or beneficial ownership interest is restricted by the terms of this Agreement;
- (g) all certificates representing direct or indirect legal or beneficial ownership interests now or hereafter issued must bear a legend in conformity with applicable law reciting or referring to such restrictions; and
- (h) Franchisee will deliver to Franchisor a Secretary/Clerk's/Trustee's Certificate or other evidence satisfactory to Franchisor that the execution, delivery and performance of this Agreement and all other agreements and ancillary documents contemplated hereby or thereby have been duly authorized by all necessary action by the corporation, partnership, limited liability company or other legal entity, as applicable, and are within the legal powers of Franchisee's trustee, if Franchisee is a trust.

3.8 Ownership. Franchisee and each of its Owners represent, warrant, and agree that Exhibit A-1 is current, complete and accurate. Franchisee agrees that an updated Exhibit A-1 will be furnished promptly to Franchisor, so that Exhibit A-1 (as so revised and signed by Franchisee) is at all times current, complete and accurate. Each person who is or becomes an Owner of ten percent (10%) or more Ownership Interest must execute an agreement in the form Franchisor prescribes, undertaking to guarantee and be bound jointly and severally by the terms of this Agreement, the current form of which is attached as Exhibit B to this Agreement. Each person who is or becomes an Owner must execute an agreement in the form Franchisor prescribes, undertaking to be bound by the confidentiality and non-competition covenants contained in this Agreement, the current form of which is attached as Exhibit C to this Agreement. Each Owner that is a person must be an individual acting in his/her individual capacity, unless Franchisor waives this requirement.

3.9 Continuing Representations and Warranties. The provisions of Section 3 constitute continuing representations and warranties, and Franchisee and Franchisee's Owners will notify Franchisor immediately in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate, or misleading.

- 3.10 Acquisition of Existing Krispy Kreme Shops. Neither Franchisee nor its Affiliates, Owners, or Restricted Persons shall solicit, purchase, or otherwise acquire, directly or indirectly, an Ownership Interest in any Krispy Kreme franchisee or Krispy Kreme developer, all or substantially all of the assets of an existing Krispy Kreme Shop, or an interest in any Krispy Kreme Franchise Agreement, or development agreement, without Franchisor's prior written consent, which Franchisor may withhold at its option.

4. GRANT OF FRANCHISE

- 4.1 Grant. Subject to the terms of and on the conditions contained in this Agreement, Franchisor grants to Franchisee the right to operate the SHOP and use the Marks and the System during the Term in the performance of Franchisee's obligations under this Agreement.

- 4.2 Best Efforts. Franchisee will faithfully, honestly, and diligently perform Franchisee's obligations under this Agreement. Franchisee will continuously exert its best efforts to promote and enhance the operation of the SHOP and to maximize the sale of Products.

- 4.3 Relocation. Franchisee may not operate the SHOP from any location other than the Site without Franchisor's prior written consent, which consent Franchisor may withhold in its sole discretion. Any proposed relocation is subject to the site approval requirements, and lease, sublease or purchase agreement approval requirements set forth herein, along with any additional policies, procedures, and requirements set forth in the System Standards Manuals. If Franchisor consents to the relocation of the SHOP, Franchisor has the right to charge Franchisee for its expenses in connection with the relocation, along with a relocation fee of Two Thousand Five Hundred Dollars (\$2,500). If Franchisor consents to the relocation of the SHOP, Franchisee will construct, furnish and equip the relocated SHOP according to Franchisor's then-current System Standards.

- 4.4 Direct Management. Franchisee agrees that the SHOP will be under direct, on-premises management of the Operations Director, a trained General Manager, or any employee of Franchisee in a multi-unit supervisory capacity, such as an assistant manager or district manager, who must have completed training to Franchisor's satisfaction. The Operations Director must immediately execute an agreement with Franchisee, undertaking to be bound by the confidentiality and non-competition covenants in a substantially similar manner as required by Franchisee's Owners in this Agreement, to the maximum extent enforceable under applicable law, which agreement must receive Franchisor's prior written approval, and name Franchisor as an intended third party beneficiary with all rights to enforce its terms. All General Managers, assistant managers, and any employee of Franchisee in a multi-unit supervisory capacity, such as a district manager, must immediately execute an agreement with Franchisee, undertaking to be bound by the confidentiality covenants in a substantially similar manner as required by Franchisee's Owners in this Agreement, to the maximum extent enforceable under applicable law, which agreement must receive Franchisor's prior written approval, and name Franchisor as an intended third party beneficiary with all rights to enforce its terms. Franchisee shall promptly furnish executed copies of the agreements to Franchisor.

- 4.5 Continuous Operation. Franchisee agrees that the SHOP will not be closed for five (5) or more consecutive days without Franchisor's prior written consent and that the SHOP will be open and in operation during such hours and such days as Franchisor may specify from time to time in writing.

- 4.6 Sale of Products. In addition to selling the Products, Franchisee agrees to offer and sell such other goods and services as Franchisor requires periodically. Franchisee will not sell anything at,

from or in connection with the SHOP, other than the Products and other goods or services Franchisor authorizes Franchisee to offer or sell.

- 4.7 Authorized Sales. Franchisee may engage only in On-Premises Sales and Fundraising Sales at and from the SHOP and, to the extent authorized pursuant to an Authorized Fundraising Sales Agreement, respectively, outside the SHOP. Franchisee may not engage in any other types of sales or distribution of Products.

5. FRANCHISOR'S RESERVATION OF RIGHTS

- 5.1 Retained Rights. Franchisor and its Affiliates (and their respective successors and assigns, by purchase, merger, consolidation or otherwise) retain all rights not expressly granted to Franchisee in this Agreement, including those with respect to Krispy Kreme Shops and Doughnut Factories, the Marks, and the sale of Products, including all rights Franchisor expressly reserves in this Section 5. Franchisee waives, to the fullest extent permitted under applicable law, all claims, demands or causes of action arising from or related to any of such activities by Franchisor or any of its Affiliates.
- 5.2 Non-Exclusivity. No exclusive territory, protection, or other right in the contiguous space, area, or market of the SHOP is expressly or impliedly granted to Franchisee under this Agreement, and Franchisor reserves the right to operate and to grant others the right to operate Krispy Kreme Shops and Doughnut Factories at any location on such terms and conditions as it deems appropriate, as well as to operate and grant others the right to operate any type of business, including those which are the same as or similar to the operations of Krispy Kreme Shops and Doughnut Factories, under any marks or the Marks or the System or any variation of the System, all regardless of proximity to or economic impact upon the SHOP. Franchisee acknowledges and agrees that such Krispy Kreme Shops and Doughnut Factories, or other businesses, may be in direct competition with the SHOP, without regard to any adverse effect on the SHOP and without any obligation or liability to Franchisee.
- 5.3 Certain Transactions Involving Franchisor. Franchisor reserves the right to acquire, develop, and operate, or be acquired by, any company, including a company operating one or more food service businesses (including food service businesses selling doughnuts or coffee), regardless of proximity of such food service businesses to or economic impact upon the SHOP. Franchisee acknowledges and agrees that such food service businesses may be in direct competition with the SHOP, without regard to any adverse effect on the SHOP and without any obligation or liability to Franchisee.
- 5.4 Marketing, Manufacturing, and Selling of the Products and other Goods and Services. Franchisor reserves the right to license, manufacture, sample, sell, or market by any means whatsoever (including the Internet) the Products and any goods or services, whether or not identified by the Marks. Such goods and services may be licensed, manufactured, sampled, sold, or marketed in any and all locations and venues, on any terms and conditions that Franchisor deems appropriate, and through any method or channel of distribution Franchisor determines at its option (including wholesale distribution of Products to supermarkets, grocery stores, convenience stores, and other retail outlets), regardless of proximity or economic impact to the SHOP. Such sales may be in direct competition with the SHOP, without regard to any adverse effect on the SHOP and without any obligation or liability to Franchisee.

5.5 Variation of Terms.

- (a) Franchisee understands and acknowledges that other franchisees of Franchisor may be granted franchise agreements at different times and in different situations. Franchisee acknowledges that the provisions of such agreements may vary substantially from those contained in this Agreement and that Franchisee's obligations hereunder may differ substantially from those of other franchisees.
- (b) Franchisor reserves the right in its discretion to vary its specifications, standards and operating practices and requirements among franchisees, including, without limitation, those relating to equipment, signage, operations, Products, and services. Franchisor may impose such variations to address differing or unique circumstances or for other reasons Franchisor, in its discretion, deems good and sufficient. Franchisee understands and acknowledges that such variations may lead to different costs or obligations among franchisees. Franchisee understands and acknowledges that Franchisor and its Affiliates have the right and discretion to treat franchisees differently even if they are similarly situated.

6. SITE, EQUIPMENT, FIXTURES, FURNISHINGS, SIGNS AND SUPPLIES

6.1 Lease or Purchase of Site and Franchisor Approval. Franchisee may not execute a lease, sublease or purchase contract pertaining to the site for the SHOP, or any modification thereof, without Franchisor's prior written approval. Any lease or sublease for the SHOP premises shall contain a Lease Rider in the form attached as Exhibit G hereto, or some other form as Franchisor may designate. Without limiting the foregoing, and regardless of whether the lease or sublease contains the following provisions, Franchisee agrees that Franchisor has the following rights, and further agrees to use its best efforts and take all necessary measures, including the payment of any necessary fees, in order to cause any third party, such as a landlord, to ensure that Franchisor can freely exercise the following rights:

- (a) Landlord shall provide notice to Franchisor and Franchisor's consent shall be required for assignment by Franchisee or modification of the lease or sublease.
- (b) Franchisor shall have the right, upon any termination or expiration (without renewal) of the Franchise Agreement, to assume the lease or sublease, upon notice to Franchisee and landlord, without landlord's or Franchisee's consent, and without payment of a fee or the obligation to cure any then-existing default.
- (c) If Franchisor assumes the lease or sublease, Franchisor shall have the right to further assign the lease or sublease to an Affiliate or *bona-fide* Krispy Kreme Franchisee for the operation of a Krispy Kreme Shop on the premises, upon notice to Landlord, and upon any such further assignment, Franchisor shall have no liability to Landlord for anything arising after the effective date of the assignment.
- (d) Franchisor shall have the right to enter the premises to remove signs and other tangible property that embodies any of the Marks or Franchisor's trade dress or that contains or embodies trade secrets or patents owned by Franchisor or any of its affiliates, and landlord shall relinquish to Franchisor, on any termination or expiration (without renewal) of the Franchise Agreement, any lien or other ownership interest, whether by operation of law or otherwise, in and to any tangible property, including any outdoor sign, that embodies any of the Marks or Franchisor's trade dress or embodies trade

secrets or patents owned by Franchisor or any of its Affiliates. Franchisor shall repair any damage to the premises, at Franchisee's sole cost and expense, directly caused by Franchisor's removal of such property or Marks; provided, this obligation shall not include any normal and necessary restoration or replacement to any area of the premises to which the property or Marks are attached.

Franchisor's approval of the lease, sublease or purchase contract does not constitute a warranty or representation of any kind, express or implied, as to its fairness or suitability or as to Franchisee's ability to comply with its terms. Franchisor does not, by virtue of approving the lease, sublease or purchase contract, assume any liability or responsibility to Franchisee or to any third parties. Franchisee further acknowledges that Franchisor has advised Franchisee to have any proposed lease, sublease, or purchase contract reviewed, negotiated and explained to Franchisee by an attorney representing Franchisee and not Franchisor.

Franchisee must deliver a copy of the fully signed lease, sublease or purchase contract to Franchisor within five (5) days after its execution.

- 6.2 Supply Chain. Franchisee acknowledges that the Products, Marks, and System have established significant prestige and goodwill and are well-recognized in the mind of the public and the trade. In order to preserve this prestige and goodwill, Franchisee understands and agrees that it is necessary and appropriate for Franchisor to closely control the supply chain for all equipment (including production equipment and Computer System), fixtures, furnishings, signs, delivery vehicles, raw materials (including doughnut mixes and coffee beans), supplies, and any other items used or useful in developing or operating the SHOP or producing, marketing, or selling the Products or other goods Franchisor requires Franchisee to sell.
- 6.3 Approved Items. Franchisee agrees to use in developing and operating the SHOP (and producing, marketing, and selling the Products and other goods Franchisor requires Franchisee to sell) only the equipment, fixtures, furnishings, signs, delivery vehicles, raw materials, supplies, Computer System, and other items that Franchisor has approved for Franchisee's use in conjunction with the SHOP as meeting its specifications and standards for quality, design, appearance, function and performance in accordance with the System Standards. Franchisor must approve any deviations from Franchisor's mandatory specifications and standards as prescribed by the System Standards in writing before implementation. Approval of any item for use by Franchisor, its Affiliates, or other developers or franchisees will not be construed as approval of such item for Franchisee's use.
- 6.4 Purchases From Franchisor or Designated Sources. Notwithstanding Section 6.3, Franchisor may require Franchisee to purchase or lease any or all of the equipment, fixtures, furnishings, signs, delivery vehicles, raw materials, supplies, and other items for the SHOP directly from Franchisor or its Affiliates or other suppliers Franchisor may designate periodically. Franchisee agrees to purchase or lease all such items from Franchisor, its Affiliates or designated suppliers, as Franchisor may require. Franchisee acknowledges and agrees that Franchisor, its Affiliates and designated suppliers have the right to profit from the sale or lease of such items and that Franchisor does not act as agent, representative or in any other intermediary or fiduciary capacity for Franchisee in Franchisor's relationship with any designated suppliers. Franchisee acknowledges and agrees that (a) Franchisor and/or its Affiliates may receive payments, fees, commission or reimbursements from designated suppliers and third parties from such purchases, (b) Franchisor and/or its Affiliates may have investments in designated suppliers, and (c) Franchisor and/or its Affiliates may profit from Franchisee's purchases or leasing from designated suppliers. Franchisor, its Affiliates and designated suppliers will not be liable for any

delay in the delivery of ingredients as a result of any Force Majeure. Franchisor, its Affiliates and designated suppliers may establish policies and procedures from time to time for the allocation and distribution of items among Krispy Kreme Shops and Doughnut Factories. All equipment (including production equipment), fixtures, furnishings, raw materials, or food (including doughnut mixes and coffee beans) that Franchisee purchases or leases from Franchisor, its Affiliates or designated suppliers will be at such prices and on such purchase terms (including credit, such as COD, and shipping) and conditions as Franchisor, its Affiliates or designated suppliers may determine from time to time. Except with the prior written consent of Franchisor, Franchisee agrees that all proprietary equipment, including the extruder, auto-extruder, PLC controls, glaze pump, and glaze tank shall not be encumbered in any way, including by way of pledge, collateral assignment, grant of security, collateral, conditional interest, or other encumbrance.

6.5 Warranties.

- (a) Franchisor warrants to Franchisee that each shipment or other delivery of food sold to Franchisee by Franchisor is guaranteed, as of the date of such shipment or delivery, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, and not an article which may not, under the provisions of Section 404, 505, or 512 of the Federal Food, Drug, and Cosmetic Act, be introduced into interstate commerce. The warranties for food described above will survive only for so long as the shelf life of the food as evidenced by the expiration label on the packaging of such food. This warranty shall not apply in the event it is determined that the defect, damage, nonconformance, adulteration, or misbranding was caused, in whole or in part, by the negligence, actions, or inactions, of anyone other than Franchisor. Franchisor's sole obligation and Franchisee's sole and exclusive remedy under this limited warranty is that Franchisor, at its option and at its expense, will either replace such food that it determines is defective, damaged, or nonconforming, or issue a credit to Franchisee for the purchase price for such food. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION 6.5, FRANCHISOR DISCLAIMS ALL WARRANTIES FOR THE GOODS, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY, AND NONINFRINGEMENT. FRANCHISOR WILL NOT BE LIABLE TO FRANCHISEE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY ACTS OR OMISSIONS ASSOCIATED WITH THIS AGREEMENT OR RELATING TO THE RESALE OF ANY OF THE GOODS FURNISHED, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, CONTRACT, TORT OR OTHER LEGAL THEORY AND REGARDLESS OF THE CAUSES OF SUCH LOSS OR DAMAGES OR WHETHER ANY OTHER REMEDY PROVIDED IN THIS AGREEMENT FAILS AND IN NO EVENT WILL ANY SUCH LIABILITY UNDER THIS SECTION 6.5(a) EXCEED THE PURCHASE PRICE PAID FOR THE GOODS.**
- (b) Notwithstanding Section 6.5(a), Franchisor agrees to indemnify Franchisee, its Affiliates and their respective directors, officers, employees, shareholders, members, managers, agents, successors and assigns (collectively "**Franchisee Indemnified Parties**"), and to hold the Franchisee Indemnified Parties harmless to the fullest extent permitted by law, from any and all losses and expenses (as defined below) incurred in connection with any litigation or other form of adjudicatory procedure, claim, demand, investigation, or

formal or informal inquiry (regardless of whether it is reduced to judgment) or any settlement thereof which arises directly from, or as a direct result of, a claim of a third party against any one or more of the Franchisee Indemnified Parties, in connection with Franchisor's breach of the warranties set forth in this Section 6.5. The foregoing indemnity will not apply if it is determined that the Franchisee Indemnified Parties' or a third party's negligence, actions, or inactions, was the cause, in whole or in part, of such loss, liability or expense. The term "**losses and expenses**" as used in this Section 6.5 includes compensatory, exemplary, and punitive damages; fines and penalties; attorneys' fees; experts' fees; court costs; costs associated with investigating and defending against claims; settlement amounts; judgments; and all other costs associated with any of the losses and expenses noted above. Franchisee agrees to give Franchisor prompt and reasonable notice of any event of which Franchisee becomes aware for which indemnification may be required, and Franchisor may elect (but is not obligated) to direct the defense of any action. Franchisor may, at its option, take the actions Franchisor deems necessary and appropriate to investigate, defend, or settle any event or take other remedial or corrective actions with respect thereto as Franchisor deems necessary for the protection of the System and/or Krispy Kreme Shops generally. The Franchisee Indemnified Parties shall fully cooperate with Franchisor as requested by Franchisor. Any failure by the Franchisee Indemnified Parties to provide prompt and reasonable notice or to fully cooperate with Franchisor shall be a breach of this Agreement and constitute a waiver by the Franchisee Indemnified Parties of the indemnification. In the event this indemnification is waived by the Franchisee Indemnified Parties, Franchisor shall still have the right, but not the obligation, to direct the defense of any action, and exercise any or all of the rights granted to Franchisor in this Section, at the sole cost of Franchisee.

- 6.6 Approved Suppliers. If Franchisor does not require Franchisee to purchase or lease a particular item from Franchisor, its Affiliates, or a designated supplier, Franchisee may purchase such item from a supplier Franchisor has approved. If Franchisee proposes to purchase any such item from any supplier that Franchisor has not approved, Franchisee and the proposed supplier must submit to Franchisor all information that Franchisor may request in order to determine whether to approve the supplier. Franchisor will have the unconditional right to approve or disapprove any proposed supplier, and Franchisor may approve a supplier conditionally. Within thirty (30) days after Franchisor receives all requested information, Franchisor will use reasonable efforts to communicate to Franchisee in writing Franchisor's decision to approve or disapprove Franchisee's proposed supplier. Unless and until an affirmative written approval is provided by Franchisor, the proposed supplier shall be deemed disapproved. Franchisor will evaluate proposed suppliers on, among other things, their ability to comply with applicable standards, specifications and procedures and their ability to supply products to Krispy Kreme Shops on a continuous and timely basis. Franchisor will only approve those proposed suppliers that, in Franchisor's judgment, meet Franchisor's high standards. Franchisor may disapprove any supplier who Franchisor previously approved, and Franchisee will not, after receipt of notice of disapproval, reorder from any supplier Franchisor has disapproved. Franchisor may prescribe procedures for the submission of requests for approval and impose obligations on approved suppliers, which will be incorporated in a written license agreement with the supplier. Franchisor may obtain from Franchisee and/or such approved suppliers reimbursement of Franchisor's reasonable costs and expenses incurred in connection with the approval process of the supplier's compliance with Franchisor's requirements. Franchisee acknowledges and agrees that Franchisor does not act as agent, representative or in any other intermediary or fiduciary capacity for Franchisee in Franchisor's relationship with approved suppliers. Franchisor may impose limits on the number of approved suppliers. Franchisor has the right to monitor the quality of services

provided by approved suppliers in a manner Franchisor deems appropriate and may terminate any approved supplier that does not meet Franchisor's quality standards and specifications, as may be in effect from time to time.

- 6.7 Approval of Signage. Franchisee agrees to place or display at the Site (interior and exterior) only such signs, emblems, lettering, logos, and display materials that Franchisor approves from time to time.
- 6.8 Maintenance. Without limiting other Maintenance set forth herein, Franchisee will maintain the SHOP premises in a clean and safe condition and will maintain all equipment, fixtures, furnishings and signs used in or by the SHOP in a clean, safe and fully-functional condition. Franchisee shall immediately notify Franchisor and provide Franchisor a copy of any notice regarding a violation or non-compliance with any health, safety or sanitation law, ordinance or regulation, relating to the SHOP.

7. COMPUTER SYSTEM

- 7.1 Computer System. Franchisee agrees to install and use in the development and operation of the SHOP the Computer System that Franchisor authorizes from time to time, to use the Computer System in the manner that Franchisor directs from time to time, and not to use any other Computer System. All information and Data entered into, or stored on the Computer System will be owned solely by Franchisor. Franchisee agrees to transmit to Franchisor (and otherwise permit Franchisor to collect) in the form and at frequencies it specifies from time to time, such electronic information from the Computer System as Franchisor may designate. Franchisee also agrees to identify Product categories and other items in the Computer System in a form that Franchisor specifies. Franchisor reserves the right, at any time and at its option, to request and/or obtain Data and identifying Product categories and other items in the Computer System. Franchisee agrees to install and maintain at the SHOP a fully managed, private DSL or cable modem, or similar means of secure high-speed networking, and dedicated line that Franchisor may use to access sales information and other data on the Computer System. Franchisee is responsible for maintaining a secure network environment consistent with this Agreement and all applicable legal requirements.

When requested, Data must be provided to Franchisor in the form and manner Franchisor specifies, including by:

- (a) submitting Data directly to Franchisor in the format (i.e., .xls, .csv, XML or other formats specified by Franchisor) and frequency specified by Franchisor;
- (b) providing a dedicated internet line to be utilized by Franchisor for the purpose of accessing Data (sufficient bandwidth speed is required for accessing the Computer System to obtain and transfer Data and to access any back-office applications hosted by Franchisor); or
- (c) any other methods that Franchisor may specify from time to time in accordance with System Standards.

Franchisor reserves the right to analyze Data obtained and received by Franchisor at its option.

- 7.2 Modifications to the Computer System. Franchisee acknowledges that Franchisor has developed specifications for certain components of the Computer System and may modify such

specifications and the components of the Computer System from time to time. As part of the Computer System, Franchisor may require Franchisee to obtain specified computer hardware and/or software, including a license to use proprietary software developed by Franchisor or others. Franchisor's modification of such specifications for the components of the Computer System may require Franchisee to incur costs to purchase, lease and/or license new or modified computer hardware and/or software and to obtain service and support for the Computer System during the term of this Agreement. Franchisee acknowledges that Franchisor cannot estimate the future costs of the Computer System (or additions or modifications thereto) and that the cost to Franchisee of obtaining the Computer System (including software licenses) (or additions or modification thereto) may not be fully amortizable over the remaining term of this Agreement. Within sixty (60) days after Franchisee receives notice from Franchisor, Franchisee agrees to obtain the components of the Computer System that Franchisor designates and requires.

- 7.3 System Fees. Franchisee further acknowledges and agrees that Franchisor has the right to charge reasonable systems fees for software, hardware, or systems modifications and enhancements specifically made for Franchisor that are licensed to Franchisee and other maintenance and support services that Franchisor or its Affiliates furnish to Franchisee related to the Computer System. Information security is Franchisee's sole responsibility. It is Franchisee's responsibility to protect its Computer System from vulnerabilities, including but not limited to, viruses, bugs, power disruptions, communication disruptions, internet access failures, denial of service attacks, unauthorized access. Franchisor recommends that best practices are established to update firewalls, use of strong passwords, ensure anti-virus is up-to-date and employ the use of backup systems. In addition to establishing and maintaining a secure networking environment, Franchisee must comply with all industry regulations and standards related to information technology and security. This may include, but is not limited to, the Fair and Accurate Credit Transactions Act (FACTA), Payment Card Industry Data Security Standards (PCI DSS), and Health Insurance Portability and Accountability Act (HIPPA) and other state and federal laws and industry regulations as applicable. Franchisee agrees to provide Franchisor, upon request, documentation evidencing such compliance. Franchisee shall immediately notify Franchisor if Franchisee suspects or becomes aware of a Security Breach (defined below). With the exception of any required notification by Franchisee to payment card brands under PCI DSS (or other applicable standards), Franchisee agrees that Franchisor will have the option to notify affected persons and regulatory authorities on Franchisee's behalf in accordance with applicable law. If, after consultation with Franchisee, Franchisor determines that notification is required or appropriate, Franchisee agrees that Franchisee shall bear all costs associated with such notification, which may include, without limitation, any costs for providing credit monitoring to affected persons, and any other measures that Franchisor determines are appropriate. Upon discovery of a Security Breach, Franchisee further agrees that Franchisee shall promptly investigate and remediate, at Franchisee's expense, the source of such Security Breach. Franchisee shall pay all costs and expenses Franchisor incurs (including legal expenses) in connection with responding to any Security Breach involving or related to Franchisee's operations under this Agreement.

8. SHOP OPENING

- 8.1 Shop Opening. Franchisee will open the SHOP for business within three hundred sixty-five (365) days after the Effective Date. Franchisee will not open the SHOP for business without Franchisor's prior written consent, which Franchisor may withhold unless, among other things:

- (a) Franchisor approves the SHOP and site plan as developed in accordance with Franchisor's specifications and System Standards, and any applicable lease, sublease or purchase agreement;
- (b) All required training has been completed to Franchisor's satisfaction;
- (c) Franchisee and its Affiliates and Owners are in compliance with all agreements with Franchisor and/or its Affiliates, including Franchise Agreements and Development Agreements, including the payment of the Initial Franchise Fee and all other amounts then due to Franchisor and its Affiliates, and Franchisee and its Affiliates and Owners are in Good Standing;
- (d) Franchisor has been furnished with copies of all insurance policies required by this Agreement, or such other evidence of insurance coverage and payment of premiums as Franchisor requests or accepts; and
- (e) Other items which Franchisor may reasonably require have been furnished to Franchisor.

8.2 Opening Team. Franchisee must properly staff the SHOP prior to opening. Franchisor will supply at no charge an opening team that will assist Franchisee for a minimum of seven (7) days during the opening of the SHOP. However, the full opening team will only be provided to Franchisee if Franchisee and/or its Affiliates have not developed, opened, and/or operated other Krispy Kreme Shops. If Franchisee and/or its Affiliates have developed, opened, and/or operated other Krispy Kreme Shops, regardless of the form or type of agreement under which they were developed, opened, and/or operated, then the type of opening assistance will be as follows: (a) one-half of a team will be made available at no charge for the second Krispy Kreme Shop developed by Franchisee and/or its Affiliates; (b) a field consultant will be made available at no charge for the third Krispy Kreme Shop developed by Franchisee and/or its Affiliates; and (c) a field consultant may or may not be made available at no charge for any subsequent Krispy Kreme Shops, at Franchisor's option. "**No charge**" means Franchisor will be responsible for the team's travel, room and board, and salaries, but Franchisee will be responsible for all other charges or expenses. In the event there is any disagreement as to the type of opening support that is applicable to the SHOP, Franchisor's decision, in its judgment, shall be final.

8.3 Opening Date. Franchisor is authorized to unilaterally complete the Confirmation of Opening Date in Exhibit A-2 by inserting the Opening Date, which completed Exhibit A-2 will then be deemed to be a part of this Agreement.

9. SHOP RENOVATION

9.1 SHOP Renovation. In addition to the requirements of Section 7 pertaining to the Computer System, Franchisor may require Franchisee to complete a SHOP Renovation at the sole cost and expense of Franchisee and within the time frame required by Franchisor. Franchisor will not require the SHOP Renovation if there is less than five (5) years remaining on the Term. Franchisor will not require the SHOP Renovation more often than once every seven (7) years (if Franchisee completed its previous SHOP Renovation after a system-wide deadline imposed by Franchisor, then the seven (7) year period will run from such deadline). The SHOP Renovation may include, but is not limited to, changes to the building design, parking lot, landscaping, equipment, signs, interior and exterior décor items, fixtures, furnishings, trade dress, color scheme, presentation of the Marks, delivery vehicles, supplies and other products and materials, to meet Franchisor's then-current System Standards, as determined by Franchisor, including

without limitation, such structural changes, remodeling and redecoration and such modifications to existing improvements as Franchisor deems necessary to do so. Within sixty (60) days after receipt of Franchisor's notice regarding the required SHOP Renovation, Franchisee will prepare and complete, at its sole expense, drawings and plans for the renovation. Franchisee must submit these drawings and plans to Franchisor, and Franchisor must approve their use, prior to the commencement of work. Any changes to the approved drawings and plans must receive the prior written approval of Franchisor. Franchisee will complete the SHOP Renovation within the time reasonably specified by Franchisor in its notice. Franchisee further agrees that all intellectual property rights to any such SHOP Renovation, if applicable, will be the exclusive property of Franchisor or its Affiliates. Additionally, Franchisee shall maintain all fixtures, furnishings, equipment, and all other items and aspects of the SHOP, including but not limited to lighting, cabinetry, displays, flooring, parking lot, counters, building interior and exterior, landscaping, signs, décor, and delivery vehicles, in excellent working order and appearance (“**Maintenance**”). Franchisee shall timely perform all Maintenance as necessary. Franchisee must perform Maintenance within ten (10) days of Franchisor's written notice, or if the Maintenance is of a nature which cannot reasonably be completed within such ten (10) day period, such additional time as is necessary so long as Franchisee is working in good faith to promptly complete the Maintenance (which additional time shall not exceed twenty (20) days). Maintenance does not include matters regarding cleanliness or sanitation of the SHOP or that violate any applicable health, safety or sanitation law, ordinance or regulation that Franchisor in its sole judgment believes may pose harm to the public or to its reputation, which matters are separate breaches under this Agreement, and provide Franchisor with additional rights and remedies.

10. INITIAL FRANCHISE FEE AND ROYALTIES

- 10.1 Initial Franchise Fee. Concurrently with the signing of this Agreement, Franchisee agrees to pay Franchisor a nonrecurring Initial Franchise Fee in the amount specified on the Summary Page. The Initial Franchise Fee is fully-earned, non-refundable, and payable to Franchisor on the Effective Date.
- 10.2 Royalties. On or before the Payment Day each Week, Franchisee will pay Franchisor Royalties for the preceding Week as described on the Summary Page.
- 10.3 Reporting Net Sales. On or before the Reporting Day each Week, Franchisee will report to Franchisor, in the then-current form Franchisor specifies, the true and correct Net Sales of the SHOP for the preceding Week. If Franchisee fails to report Net Sales on or before the Reporting Day of any Week, Franchisor shall have the right, in its discretion, to estimate Net Sales based on information reasonably known to Franchisor or to calculate Franchisee's Royalties and other periodic payments based on Net Sales on the basis of two hundred percent (200%) of Net Sales for the last Week in which Franchisee reported Net Sales and Franchisor shall have the right to draft Franchisee's Account accordingly. Adjustments in the Royalties and other payments actually due will be calculated and settled within ten (10) days after Franchisee furnishes the required report.
- 10.4 Direct Debits and Credits. Franchisee agrees to give Franchisor authorization, in the form that Franchisor designates from time to time (the current form is attached as Exhibit D), for direct debits from, or credits to, the Account. Franchisee will not close the Account (or allow the Account to be closed) without first opening and notifying Franchisor of an alternate Account, nor will Franchisee terminate any direct debit authorization from the Account without a replacement authorization approved by Franchisor. Franchisee hereby authorizes Franchisor to initiate debit entries and/or credit entries to the Account for payments of Royalties and other amounts payable

under this Agreement, including purchases for production equipment, fixtures, furnishings, doughnut mixes and other ingredients, packaging and all supplies purchased from Franchisor and any interest charges due thereon. Franchisee agrees to make the funds available in the Account for withdrawal no later than the due date for payment. The amount actually transferred from the Account to pay Royalties will be based on the SHOP's Net Sales reported to Franchisor or determined by Franchisor as described in Section 10.3. If Franchisee has not reported Net Sales of the SHOP to Franchisor for any reporting period as required above, Franchisee hereby authorizes Franchisor to debit the Account in an estimated amount based on the methods provided in Section 10.3. Nothing contained herein shall constitute a waiver of the right of Franchisor and its Affiliates to demand immediate cash payment of any and all sums then due and owing, which right Franchisee hereby expressly acknowledges and affirms.

- 10.5 Under-Reporting and Under-Payments. If at any time Franchisor determines that Franchisee has under-reported the Net Sales of the SHOP, or underpaid Royalties or any other amounts due to Franchisor under this Agreement, Franchisee hereby authorizes Franchisor to initiate immediately a debit to the Account in the appropriate amount, including interest as provided for in this Agreement, without limiting any of Franchisor's other rights and remedies. Any overpayment will be credited to the Account through a credit effective as of the first reporting date after Franchisor and Franchisee determine that such credit is due.
- 10.6 Interest. All amounts that Franchisee owes Franchisor will bear interest after their due date at the rate of one and one-half percent (1.5%) per month or the highest contract rate of interest permitted by law, whichever is less. Franchisee acknowledges that this Section does not constitute Franchisor's agreement to accept any payments after they are due or Franchisor's commitment to extend credit to, or otherwise finance Franchisee's operation of, the SHOP. Franchisee's failure to pay all amounts when due constitutes a material breach and grounds for termination of this Agreement, as provided in Section 26 hereof, notwithstanding the provisions of this Section 10.6.
- 10.7 Application of Payments. Notwithstanding any designation Franchisee might make, Franchisor may, at its option, apply any of Franchisee's payments to any of Franchisee's or its Affiliates' past due indebtedness to Franchisor or its Affiliates in any sequence.
- 10.8 Setoff. Franchisee acknowledges and agrees that Franchisee has no right to set off any amounts that Franchisee claims Franchisor or its Affiliates owe Franchisee against Royalties, Brand Fund contributions, AP Fund contributions, payments for purchases, or any other amounts Franchisee owes Franchisor or its Affiliates under this Agreement or otherwise.

11. TRAINING AND GUIDANCE

- 11.1 Initial Training. Before the SHOP begins operating, Franchisor will furnish training on the operation of a Krispy Kreme Shop as follows. Franchisor will furnish a training program for the Operations Director (if applicable), one (1) General Manager, one (1) assistant general manager or equivalent, and up to four (4) of Franchisee's employees serving in a multi-unit supervisory capacity, such as a district manager, at Franchisor's designated training facility and/or at an operating Krispy Kreme Shop, at Franchisor's option. The Operations Director, General Manager, assistant general manager or equivalent, and any employee of Franchisee in a multi-unit supervisory capacity are required to complete training to Franchisor's satisfaction. Although Franchisor will furnish training to these individuals at no additional fee or other charge, Franchisee will be responsible for the wages, salaries, travel, room and board, and living expenses during training for its employees. Franchisee agrees to replace a General Manager immediately if

Franchisor determines that he or she is not qualified to serve in this capacity at the SHOP. Franchisor will furnish the same training program to one (1) additional manager of the SHOP per year that Franchisee hires after the SHOP is open, without fee or other charge, subject to the schedules for the training program in effect from time to time. Franchisee will be responsible for the managers' wages, salaries, travel, room and board, and living expenses during training.

- 11.2 Additional Training. Franchisor may require the Operations Director, General Manager, and/or any employee of Franchisee in a multi-unit supervisory capacity to attend and successfully complete periodic or additional training programs, and Franchisor may also offer optional training programs. Except as provided in Section 11.1, Franchisor has the right to charge reasonable fees for providing any such initial, periodic or additional training programs. Franchisee will be responsible for the wages, salaries, travel, room and board, and living expenses incurred by Franchisee and Franchisee's personnel in attending any training programs. Franchisee will immediately replace the Operations Director, General Manager, or any other employee of Franchisee who fails to successfully complete any training program.
- 11.3 Periodic Guidance. Franchisor will furnish Franchisee periodic guidance regarding the System, including improvements and changes to the System. Such guidance, at Franchisor's option, will be furnished in the form of the System Standards Manuals, bulletins and other written materials, consultations by telephone or in person at Franchisor's offices or at the SHOP, or by any other means of communications.
- 11.4 Special Assistance. If requested by Franchisee, Franchisor may, at Franchisor's option, provide special assistance for which Franchisee will be required to pay the fees and charges Franchisor may establish from time to time, which fees and charges may include reimbursement of all expenses that Franchisor incurs in connection with such special assistance, including per diem charges and travel and living expenses for Franchisor's personnel.

12. SYSTEM STANDARDS

- 12.1 System Standards Manuals. Franchisor will loan or otherwise make available to Franchisee one (1) copy of its System Standards Manuals solely for use in operating the SHOP during the Term, which may be in an electronic form or access to a Portal, extranet or website. The System Standards Manuals at all times will remain Franchisor's property, and they are protected by copyright. For all portions of the System Standards Manuals that are loaned to Franchisee in a paper or "hard" form, Franchisee will keep its copy of the System Standards Manuals current and in a secure location at the SHOP and will return them to Franchisor immediately upon request, upon termination, or expiration of this Agreement or upon any Transfer. Franchisee will immediately notify Franchisor in writing if any copies of the System Standards Manuals in Franchisee's possession are lost, destroyed or significantly damaged, and will obtain a replacement copy at Franchisor's then applicable charge. At Franchisor's option, Franchisor may post some or all of the System Standards Manuals and any changes on a restricted Portal or extranet to which Franchisee will have access. Any passwords or other digital identifications necessary to access the System Standards Manuals on the Portal or extranet are Confidential Information. Franchisee may not at any time copy, duplicate, record, or otherwise reproduce any part of the System Standards Manuals or allow any unauthorized persons access to any System Standards Manuals, including those that are made available electronically, nor may Franchisee post all or any part of the System Standards Manuals on any limited access intranet sites without Franchisor's approval. Franchisee may not distribute any part of the System Standards Manuals and may not disclose any part of the System Standards Manuals to any person, other than its employees who have a need to know the contents of the System Standards Manuals in order to

perform their jobs, and are bound to protect its confidentiality. Franchisee will be obligated to monitor and access the Portal or extranet for any updates to the System Standards Manuals.

- 12.2 Compliance with Standards. During the Term, Franchisee will comply with all of the System Standards and other requirements contained in System Standards Manuals, in addition to all applicable laws, regulations, rules, codes, by-laws, orders and ordinances in connection with its operation of the SHOP. If a dispute arises relating to the contents of the System Standards Manuals, the master copy of the System Standards Manuals maintained by Franchisor at its principal office is controlling. Franchisor may at any time and from time to time change the System Standards Manuals to reflect changes in System Standards.
- 12.3 Inspections. To determine whether Franchisee is in compliance with this Agreement and all System Standards, Franchisor and/or Franchisor's agents and/or designated representatives have the unrestricted right at any time during regular business hours, or at any time when Franchisee or an Owner, director, officer, or employee of Franchisee is at the SHOP, and without prior notice to Franchisee, to: (a) inspect the SHOP; (b) observe, photograph and videotape the operations of the SHOP; (c) remove samples of any Products, materials or supplies for testing and analysis; (d) interview personnel of the SHOP; (e) interview customers of the SHOP and to require Franchisee to present to Franchisee customers any evaluation forms periodically prescribed by Franchisor and to participate in and/or request its customers to participate in any surveys performed by or on behalf of Franchisor; and (f) inspect and copy any books, records and documents relating to the operation of the SHOP.

13. MARKS

- 13.1 Ownership. Franchisee acknowledges that HDN is the owner of the Marks, and that Franchisor has the right to sublicense the use of the Marks. Franchisee also acknowledges that Franchisee's right to use the Marks is derived solely from this Agreement and is limited to the performance of Franchisee's responsibilities and obligations under this Agreement. Franchisee acknowledges that its unauthorized use of any of the Marks will constitute a material breach of this Agreement, warranting immediate termination of this Agreement by Franchisor at Franchisor's election. Franchisee acknowledges and agrees that its usage of the Marks and any goodwill established thereby will inure solely to the benefit of the owner of the Marks and that this Agreement does not confer any goodwill or other interests in any of the Marks upon Franchisee or Franchisee's Owners (other than the rights specifically granted by this Agreement). All provisions of this Agreement applicable to the Marks apply to any additional trademarks, service marks, logos, slogans, trade dress and commercial symbols Franchisor authorizes Franchisee to use. Franchisee may not at any time during or after the Term contest, or assist any other person or entity in contesting, the validity or ownership of any of the Marks.
- 13.2 Use by Franchisee. Franchisee will use the Marks as the sole brand and other source identifier of the SHOP. Franchisee will identify itself as the independent owner and operator of the SHOP in the manner Franchisor prescribes. Franchisee will use the Marks only as Franchisor prescribes or allows in writing, whether in connection with the sale of Products and the operation of the SHOP, or otherwise, and will use only such Marks in connection with the sale of Products and the operation of the SHOP.

- 13.3 Improper Uses. Franchisee and Franchisee's Owners, Affiliates and agents may not:
- (a) challenge the validity of any of the Marks or any registration or application for registration, or attempt to claim ownership of or to register anywhere any of the Marks or any derivation or colorable imitation thereof;
 - (b) attempt to claim ownership of or to register anywhere any trademark, service mark, trade name, or trade dress confusingly similar to any of the Marks;
 - (c) use any of the Marks or any other trademark or trade dress confusingly similar to the Marks, as determined by Franchisor, in any manner that would jeopardize Franchisor's rights in the Marks;
 - (d) do any act that would invalidate registration for any of the Marks. Franchisee may not use any of the Marks as part of any corporate or legal business name or with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos licensed to Franchisee through this Agreement), or in any modified form, nor may Franchisee use any of the Marks in connection with the performance or sale of any unauthorized products or services or in any other manner Franchisor has not expressly authorized in writing. Franchisee agrees to display the Marks prominently in the manner Franchisor prescribes, including at the SHOP, on packaging and serving materials that Franchisor designates and in connection with forms and advertising and marketing materials. Franchisee agrees to give such notices of trademark and service mark registrations and such other trademark and service mark notices as Franchisor specifies and to obtain any fictitious or assumed name registrations required under applicable law.
- 13.4 Infringement or Challenge to the Marks. Franchisee agrees to notify Franchisor immediately of any apparent infringement of, or challenge to, any of the Marks, or of any claim by any person or entity of any rights in any of the Marks, and Franchisee agrees not to communicate with any person or entity other than Franchisor, Franchisor's attorneys and Franchisee's attorneys in connection with any such apparent infringement, challenge or claim. Franchisor has the option to take such action as Franchisor deems appropriate and the right to control exclusively any litigation, U.S. Patent and Trademark Office proceeding or any other proceeding arising out of any such apparent infringement, challenge or claim or otherwise relating to any of the Marks, including the exclusive right to utilize counsel of Franchisor's choice to prosecute or defend any such litigation or proceeding. Any award recovered in any such action or proceeding will belong exclusively to Franchisor, or, as appropriate, Franchisor's Affiliates. Franchisee agrees to sign any and all instruments and documents, render such assistance and do such acts and things as, in the opinion of Franchisor and/or Franchisor's attorneys, may be necessary or advisable to protect and maintain Franchisor's interests in any litigation or U.S. Patent and Trademark Office proceeding or other proceeding or otherwise to protect and maintain Franchisor's interests in the Marks.
- 13.5 Internet Use. Franchisee may not register, or attempt to register, any of the Marks as part of any Internet domain name or URL, and may neither display nor use any of the Marks or other of Franchisor's or its Affiliates' intellectual property in connection with, or associate the System with (through a link or otherwise) any website advertising, address or listing on the World Wide Web or any other portion of the Internet such as social networking sites (e.g., Facebook and Twitter) without Franchisor's prior written consent.

- 13.6 Obligation or Indebtedness. Franchisee may not use any of the Marks to incur any obligation or indebtedness on behalf of Franchisor or its Affiliates.
- 13.7 Assignment of Tangible Media of Expression. Franchisee hereby assigns to Franchisor all rights, title, and interest in any tangible media of expression derived from any of the Marks, and agrees to execute such further assignments as Franchisor may request. Franchisee will take all actions and sign all documents necessary to give effect to the purpose and intent of this Section 13. Franchisee irrevocably appoints Franchisor as the true and lawful attorney-in-fact for Franchisee and authorizes Franchisor to take such actions and to execute, acknowledge and deliver all such documents as may from time to time be necessary to convey to Franchisor all rights granted by this Agreement.
- 13.8 Modification or Discontinuance of the Marks. Franchisor may, at its option, at any time, modify or discontinue the use of any of the Marks and/or to use one or more additional or substitute trademarks or service marks. Franchisee agrees to immediately comply with Franchisor's directions regarding the modification, discontinuance, addition, or substitution of any Mark, at Franchisee's sole cost and expense. Franchisor will not be obligated to reimburse Franchisee for any expense or loss of revenue relating to changes to the Marks.
- 13.9 Quality Control. Franchisee acknowledges that the Marks have established prestige and goodwill and are well recognized in the mind of the public and the trade, and that it is of great importance to Franchisor that the high standards and reputation symbolized by the Marks be maintained in the manufacture, marketing, and sale of the various Products and other authorized goods bearing and services utilizing the Marks. Accordingly, all items of Products manufactured, marketed, or sold, and services rendered, by Franchisee pursuant to this Agreement will be of high quality as determined by Franchisor at its option. They will be suitable for the exploitation of the Marks to the best advantage and the protection and enhancement of the Marks and the goodwill associated with the Marks. Franchisor will have the right to, and will, exercise quality control over Franchisee's use of the Marks to the degree reasonably necessary to maintain the validity thereof and to protect the goodwill associated with the Marks, including but not limited to the right to inspect and monitor Franchisee's use of the Marks in any manner and time prescribed by Franchisor.

14. CONFIDENTIAL INFORMATION

- 14.1 Disclosure to Franchisee. Franchisor will disclose to Franchisee such parts of the Confidential Information as Franchisor deems necessary or advisable from time to time for the performance of Franchisee's obligations under this Agreement. Franchisee acknowledges and agrees that Franchisee and its Owners and Affiliates will not acquire any interest in or right to use the Confidential Information, other than the right to use it in the performance of Franchisee's obligations under this Agreement, and that the use or duplication of the Confidential Information in any other business would constitute an unfair method of competition with Franchisor and with other developers and Franchisees of Krispy Kreme Shops. Franchisee agrees to disclose the Confidential Information to Franchisee's Owners and to Franchisee's employees that are bound to protect its confidentiality and only to the extent reasonably necessary for the performance of Franchisee obligations under this Agreement. Franchisee's Owners that are persons must execute the form of Investor Personal Covenants Regarding Confidentiality and Non-Competition attached hereto as Exhibit C contemporaneous with the execution of this Agreement.
- 14.2 Confidentiality. Franchisee acknowledges and agrees that the Confidential Information is confidential, is Franchisor's proprietary and valuable asset, includes trade secrets owned by

Franchisor and Franchisor Affiliates and is disclosed to Franchisee solely on the condition that Franchisee, Franchisee's Owners and employees who have access to the Confidential Information agree, and Franchisee agrees that, during and after the Term, Franchisee, Franchisee's Owners, Franchisee's Affiliates and Franchisee's employees:

- (a) will not use Confidential Information in any other business or capacity;
- (b) will maintain the absolute confidentiality of Confidential Information during and after the Term;
- (c) will not make unauthorized copies of any portion of Confidential Information whether through electronic media, writings, or other tangible or intangible means of expression; and
- (d) will adopt and implement all reasonable procedures including any procedures that Franchisor prescribes from time to time to prevent unauthorized use or disclosure of Confidential Information, including restrictions on disclosure thereof to SHOP personnel and others.

14.3 Securities Trading. Without limiting the above, Franchisee and its Owners, as applicable, each (i) acknowledge the possibility that they may gain access to Franchisor's material non-public information and/or that of KKI, and that the securities laws prohibit trading in KKI securities while in possession of such information, and (ii) agree to refrain from trading in KKI securities in violation of such laws.

14.4 Exceptions. Notwithstanding anything to the contrary contained in this Agreement and provided Franchisee has obtained Franchisor's prior written consent, the restrictions on Franchisee's disclosure and use of the Confidential Information will not apply to the following:

- (a) information or techniques which are or become generally known in the food service industry, other than through disclosure (whether deliberate or inadvertent) by Franchisee, Franchisee's Owners, agents, or employees, or through a breach of an obligation of confidentiality owed by anyone to Franchisor. The burden of proving the applicability of this exception will reside with Franchisee. Information or techniques which may otherwise be generally known in the food service industry, but are implemented or used as part of the System in a manner or for a reason not generally known in the food service industry shall not be excepted; and
- (b) the disclosure of the Confidential Information in judicial, arbitration or administrative proceedings to the extent that Franchisee is legally compelled to disclose such information, provided Franchisee has notified Franchisor prior to such disclosure and has used Franchisee's best efforts to obtain, and has afforded Franchisor sufficient opportunity to seek an appropriate protective order and obtain, assurances satisfactory to Franchisor of confidential treatment for the information required to be so disclosed.

15. PATENTS, INVENTIONS AND SYSTEM IMPROVEMENTS

15.1 Ownership by Franchisor and its Affiliates. Franchisor and/or its Affiliates have obtained certain patent protection and may seek additional patent protections for other aspects of the System, the Products, and/or other technology related to the development and operation of Krispy Kreme Shops and Doughnut Factories and the production, marketing, and sale of the Products, or

otherwise, including all improvements thereto. Nothing in this Agreement will be construed as transferring ownership of any patents or patent applications from Franchisor or its Affiliates to Franchisee. Nothing in this Agreement will be construed as transferring the right to sublicense any patents or patent applications from Franchisor or its Affiliates to Franchisee.

- 15.2 Improvements, Innovations and Inventions. Franchisee agrees to promptly disclose to Franchisor and/or its Affiliates, and Franchisee agrees not to disclose to any other person or entity or permit any other person or entity to use (absent Franchisor's prior written consent), any and all improvements, innovations and inventions (collectively, "**inventions**", which term includes any invention, idea, concept, method, technique, material (including marketing material and training material), design, discovery, formula, code, technology, know-how, development, improvement, product, recipe, process, or innovation, or any other intellectual property), including all improvements thereto, which are developed by Franchisee, Franchisee's Owners, or Franchisee's Affiliates, whether or not constituting protectable intellectual property, which are in any way related to the System, the brand, the Products, the development or operation of Krispy Kreme Shops or Doughnut Factories, or the production, marketing, or sale of the Products. Franchisee will not use any inventions in the operation of the SHOP without Franchisor's prior written consent.
- 15.3 Assignment to Franchisor and its Affiliates. Franchisee hereby irrevocably assigns, and shall cause Franchisee's Affiliates, and Owners, and any third parties engaged by any of them, to likewise assign, to Franchisor and/or the Affiliates Franchisor designates all right, title, and interest in any invention, patent application, or patent conceived of or reduced to practice which is in any way related to the System, the brand, the Products, the development or operation of Krispy Kreme Shops or Doughnut Factories, or the production, marketing, or sale of the Products. Franchisor will have no obligation to make payments to Franchisee or any other person or entity with respect to any such assignments. Franchisee agrees that all inventions, patent applications, and patents referenced above will belong to Franchisor and/or Franchisor's Affiliates, and that all right, title, and interest to the inventions, patent applications, and patents will be the sole and exclusive property of Franchisor and/or Franchisor's Affiliates, except that Franchisee will be entitled to use all such inventions without charge by Franchisor in connection with this Agreement for the Term, if Franchisor provides its written consent to such use in the operation of the SHOP. Franchisee further covenants that any invention, patent application, or patent, created by Franchisee or Franchisee's Affiliates, Owners, or by any third party engaged by any of them, are original to that party and do not violate the rights of any other person or entity. Franchisee hereby waives, and shall cause its Affiliates, Owners, and any third party engaged by any of them, to waive all "moral rights" they may have in any invention, patent application, or patent.
- 15.4 Assistance to Franchisor and its Affiliates. Franchisee agrees to assist Franchisor and/or Franchisor's Affiliates in the evaluation and documentation of any inventions, patent applications, and patents referred to above. Franchisee also agrees to assist Franchisor and/or Franchisor's Affiliates in documenting the assignment(s) in any way necessary to transfer Franchisee's interest and the interests of Franchisee's Affiliates' and Owners' and any third parties engaged by any of them to Franchisor and/or Franchisor's Affiliates. Franchisee also agrees to assist Franchisor and/or Franchisor's Affiliates in obtaining and maintaining such interest, including signing any declaration, patent application, assignment of rights, power of attorney, or other documents in such form and substance as Franchisor may require related to such invention or interest. Franchisee further agrees to assist, and cause Franchisee's Affiliates, and Owners, and any third parties engaged by any of them, to assist, Franchisor and/or Franchisor's Affiliates in the protection and enforcement of any such interest, including testifying to the validity of the obligations and Franchisor's and its Affiliates' rights set forth in this Section

15 in any court action brought to enforce, protect, or defend such interest or invention. Franchisor agrees to reimburse Franchisee's, and its Affiliates', and Owners', and any third parties engaged by any of them, reasonable costs associated with compliance with this Section 15.4.

16. WORKS OF AUTHORSHIP AND COPYRIGHTS

- 16.1 Sole Property of Franchisor and its Affiliates. Franchisee agrees that all works (including works of authorship, works in any tangible medium, writings, documents, and computer programs) authored, made, or produced by Franchisee, Franchisee's Owners, or Franchisee's Affiliates, that are in any way related to the System, the brand, the Products, the development or operation of Krispy Kreme Shops or Doughnut Factories, or the production, marketing, or sale of the Products, whether or not such works are copyrightable, are "works-made-for-hire" and that Franchisee, Franchisee's Owners, and Franchisee's Affiliates, or any third parties engaged by any of them, will not have, under this Agreement or otherwise, any right, title, or interest of any kind or nature in and to such works, and that all rights to the works are the sole and exclusive property of Franchisor and/or its Affiliates.
- 16.2 Assignment to Franchisor and its Affiliates. If any portion of any work described above is not considered a work-made-for-hire for Franchisor or its Affiliates, Franchisee hereby agrees to assign, and does hereby irrevocably assign, and shall cause Franchisee's Affiliates, and Owners, and any third parties engaged by any of them, to likewise assign, to Franchisor and/or the Affiliates Franchisor designates, all right, title, and interest in any work authored, made, or produced by Franchisee or its Owners or Affiliates or any third parties engaged by any of them (whether alone or in conjunction with one or more other persons or entities) in the course of involvement with Franchisor under this Agreement or otherwise relating to the System, the brand, the Products, the Marks, the development or operation of Krispy Kreme Shops or Doughnut Factories, or the production, marketing, or sale of the Products. Franchisor will have no obligation to make payments to Franchisee or any other person or entity with respect to any such assignment. Franchisee agrees that all such works referenced above will belong to Franchisor and/or its Affiliates, and that all right, title, and interest to the works, including any copyrights, will be the sole and exclusive property of Franchisor and/or its Affiliates, except that Franchisee will be entitled to use all such works at the SHOP (if authorized by Franchisor) without charge by Franchisor.
- 16.3 Assistance to Franchisor and its Affiliates. Franchisee agrees to assist Franchisor in the evaluation, documentation, and registration of any such work described above. Franchisee also agrees to assist Franchisor in the documentation of such assignment in any way necessary to transfer such interest and any interest of Franchisee's Affiliates' and Owners' and any third parties engaged by any of them to Franchisor or its Affiliates. Franchisee also agrees to assist Franchisor in obtaining and maintaining such interest, including signing any assignment of rights, copyright application, power of attorney, or other document in such form and substance as Franchisor may require related to such work or interest. Franchisee further agrees to assist, and cause Franchisee's Affiliates, and Owners, and any third parties engaged by any of them, to assist, Franchisor in the protection and enforcement of any such interest, including testifying to the validity of the obligations and Franchisor's and its Affiliates' rights set forth in this Section 16 in any court action brought to enforce, protect, or defend such work. Franchisor agrees to reimburse Franchisee's, and its Affiliates', and Owners', and any third parties engaged by any of them, reasonable costs associated with compliance with this Section 16.3.

17. EXCLUSIVE RELATIONSHIP

17.1 In-Term Non-Competition Covenants. Franchisee acknowledges and agrees that Franchisor would be unable to protect the Confidential Information against unauthorized use or disclosure; preserve the prestige, integrity, and goodwill of the Products, Marks, and System; or encourage the free exchange of ideas and information among Franchisor, developers, franchisees, and Krispy Kreme Shops and Doughnut Factories if franchisees or their owners, or other owners of Krispy Kreme Shops were permitted to engage in or benefit from certain competitive activities. Franchisee also acknowledges that Franchisor has granted the Franchise to Franchisee in consideration of and reliance on Franchisee's agreement that Franchisee and its Owners will deal exclusively with Franchisor. Except as expressly authorized by this Agreement or another written agreement with Franchisor, Franchisee agrees that during the term of this Agreement, without Franchisor's prior written consent, neither Franchisee, nor any other Restricted Person will:

- (a) have any Ownership Interest in a Competitive Business;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, or any function of these roles, of or for any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business;
- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, where such services could be reasonably expected to cause Franchisee, the Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed; or
- (d) offer for sale any products branded as a private label, house brand, or any other brand, or utilizing trademarks, service marks, logo, design, trade name, or commercial symbol other than the Marks.

18. COMPLIANCE WITH LAW

18.1 Compliance with Law. Franchisee agrees to comply with all laws, including, but not limited to, all federal, state, and local laws, rules, regulations, ordinances, court orders, and decrees. Franchisee agrees that its failure to comply with these laws is a material breach and grounds for termination of this Agreement.

18.2 Foreign Asset Control and Corrupt Business Practices Laws. Franchisee and Franchisee's Owners represent and warrant to Franchisor that neither Franchisee nor any Owner is identified, either by name or an alias, pseudonym or nickname, on the lists of "Specially Designated Nationals" or "Blocked Persons" maintained by the U.S. Treasury Department's Office of Foreign Assets Control. Further, Franchisee and Franchisee's Owners represent and warrant that neither has violated and agree that neither will violate any law (in effect now or which may become effective in the future) prohibiting corrupt business practices, money laundering or the aid or support of persons or entities who conspire to commit acts of terror against any person or government, including acts prohibited by the U.S. Patriot Act, U.S. Executive Order 13244, or similar law.

19. MARKETING AND ADVERTISING

19.1 Brand Fund.

- (a) General. Franchisee agrees to contribute the amount specified on the Summary Page to the Brand Fund, which is subject to change by the Franchisor as indicated on the Summary Page and upon notice to Franchisee, and which is payable in the same manner as the Royalties. Any Brand Fund contribution by Franchisee in excess of one percent (1%) of Net Sales will offset a commensurate portion of the local advertising and promotional expenditures required by Section 19.4. Krispy Kreme Shops and Doughnut Factories located in the U.S. and owned or operated by Franchisor will contribute to the Brand Fund at least on the same basis.
- (b) Programs. Franchisor will direct all programs funded by the Brand Fund. Periodically, Franchisor may give Franchisee, at no cost, samples of advertising, marketing, and promotional formats and materials produced and funded by the Brand Fund. Franchisee may purchase additional copies of these materials at cost. Franchisee agrees to participate in any promotion, marketing or advertising campaigns created under and/or funded by the Brand Fund.
- (c) Expenditures. The Brand Fund will be accounted for separately from Franchisor's other funds and will not be used to defray any of its general operating expenses, except for reasonable salaries, administrative costs and overhead Franchisor may incur in activities related to the administration of the Brand Fund and its programs, including conducting market research, preparing advertising and marketing materials and collecting and accounting for contributions to the Brand Fund. Franchisor may spend in any fiscal year an amount greater or less than the aggregate contributions of all Krispy Kreme Shops and Doughnut Factories to the Brand Fund in that year, and the Brand Fund may borrow from Franchisor or other lenders to cover deficits in the Brand Fund or cause the Brand Fund to invest any surplus for future use by the Brand Fund. Franchisor shall additionally have discretion to transfer funds between the Brand Fund and the AP Fund, and will account for any such transfer. Franchisor shall determine what activities, programs, advertising, marketing, etc., may be funded by the Brand Fund in its discretion.
- (d) Accounting. Franchisor will prepare annually a statement of monies collected and costs incurred by the Brand Fund and provide a copy to Franchisee upon Franchisee's written request.
- (e) Franchisor Liability. Except as otherwise expressly provided in this Section 19, Franchisor assumes no direct or indirect liability or obligation with respect to the maintenance, direction or administration of the Brand Fund. Franchisor does not act as trustee or in any other fiduciary capacity with respect to the Brand Fund.
- (f) Operating Entity. Franchisor may operate the Brand Fund through a separate entity whenever it deems appropriate. The successor entity will have all of the rights and duties specified in Section 19.1.
- (g) Benefits. Franchisor cannot ensure that Brand Fund expenditures in or affecting any geographic area are proportionate or equivalent to Brand Fund contributions by contributors operating in that geographic area or that any contributor benefits directly or in proportion to its Brand Fund contribution.

- (h) Collection of Contributions. Franchisor has the right, but no obligation, to use collection agents and institute legal proceedings to collect Brand Fund contributions at the Brand Fund's expense. Franchisor may also forgive, waive, settle and compromise any and all claims for contributions to the Brand Fund. Except as expressly provided in Section 19.1, Franchisor assumes no direct or indirect liability or obligation to Franchisee for collecting amounts due to, maintaining, directing or administering the Brand Fund.
- (i) Deferrals and Reductions of Contributions. Franchisor may at any time defer or reduce the Brand Fund contributions of one or more franchisees and, upon thirty (30) days' prior written notice to Franchisee, reduce or suspend Brand Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Brand Fund. If Franchisor terminates the Brand Fund, it will distribute all unspent monies to its franchisees, and to Franchisor and its Affiliates, in proportion to their, and Franchisor's, respective Brand Fund contributions during the preceding twelve (12)-month period.

19.2 AP Fund.

- (a) General. Franchisee agrees to contribute to the AP Fund the amount specified on the Summary Page, which is subject to change by Franchisor as indicated on the Summary Page and upon notice to Franchisee, and which is payable by electronic funds transfer in the same manner as the Royalties. Franchisor agrees to allow Franchisee to offset a commensurate portion of the local advertising and promotional expenditures required by Section 19.4. Krispy Kreme Shops and Doughnut Factories located in the U.S. and owned or operated by Franchisor will contribute to the AP Fund at least on the same basis.
- (b) Direction of Working Dollars. Franchisor will, at its option, direct working dollars funded by the AP Fund. Franchisee agrees to participate in any promotion, marketing or advertising campaigns created under and/or funded by the AP Fund.
- (c) Expenditures. The AP Fund will be accounted for separately from Franchisor's other funds and will not be used to defray any of its general operating expenses, except for reasonable salaries, administrative costs and overhead Franchisor may incur in activities related to the administration of the AP Fund. Franchisor may spend in any fiscal year an amount greater or less than the aggregate contributions of all Krispy Kreme Shops and Doughnut Factories to the AP Fund in that year, and the AP Fund may borrow from Franchisor or other lenders to cover deficits in the AP Fund or cause the AP Fund to invest any surplus for future use by the AP Fund. Franchisor shall additionally have discretion to transfer funds between the Brand Fund and the AP Fund, and will account for any such transfer. Franchisor shall determine what activities, programs, advertising, marketing, etc., may be funded by the AP Fund in its discretion.
- (d) Accounting. Franchisor will prepare annually a statement of monies collected and costs incurred by the AP Fund and furnish Franchisee a copy upon Franchisee's written request.
- (e) Franchisor Liability. Except as otherwise expressly provided in this Section 19, Franchisor assumes no direct or indirect liability or obligation with respect to the maintenance, direction or administration of the AP Fund. Franchisor does not act as trustee or in any other fiduciary capacity with respect to the AP Fund.

- (f) Operating Entity. Franchisor may operate the AP Fund through a separate entity whenever it deems appropriate. The successor entity will have all of the rights and duties specified in Section 19.2.
 - (g) Benefits. Franchisor cannot ensure that AP Fund expenditures in or affecting any geographic area are proportionate or equivalent to AP Fund contributions by contributors operating in that geographic area or that any contributor benefits directly or in proportion to its AP Fund contribution.
 - (h) Collection of Contributions. Franchisor has the right, but no obligation, to use collection agents and institute legal proceedings to collect AP Fund contributions at the AP Fund's expense. Franchisor may also forgive, waive, settle and compromise any and all claims for contributions to the AP Fund. Except as expressly provided in Section 19.2, Franchisor assumes no direct or indirect liability or obligation to Franchisee for collecting amounts due to, maintaining, directing or administering the AP Fund.
 - (i) Deferrals and Reductions of Contributions. Franchisor may at any time defer or reduce the AP Fund contributions of one or more franchisees and, upon thirty (30) days' prior written notice to Franchisee, reduce or suspend AP Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the AP Fund. If Franchisor terminates the AP Fund, it will distribute all unspent monies to its franchisees, and to Franchisor and its Affiliates, in proportion to their, and Franchisor's, respective AP Fund contributions during the preceding twelve (12)-month period.
- 19.3 Grand Opening Marketing Program. Franchisee will be responsible for conducting, with Franchisor's guidance, a grand opening marketing program (the "**Grand Opening Marketing Program**") during the period commencing thirty (30) days before and ending ninety (90) days after the opening of the SHOP. The Grand Opening Marketing Program will utilize public relations and advertising, media, and promotional materials that Franchisor has developed or approved in addition to other promotional materials that Franchisee may need to produce. Amounts so spent on the Grand Opening Marketing Program, up to one percent (1%) of the SHOP's Net Sales, will be credited against Franchisee's required advertising expenditures as set forth in Section 19.4, for the first year.
- 19.4 Advertising Expenditures. During each twelve (12)-month period of the Term, Franchisee agrees to spend for advertising and promotion of the SHOP such amount as described on the Summary Page, and to submit plans for such programs for Franchisor's approval or disapproval in accordance with schedules prescribed by Franchisor. For these purposes, advertising expenditures include amounts spent for advertising media, such as television, radio, newspaper, billboards, posters, direct mail, yellow pages, collateral promotional and novelty items, advertising on public vehicles, such as cabs and buses, and, if not provided by Franchisor, the cost of producing approved materials necessary to participate in these media. Advertising expenditures may include the cost of local shop/relationship marketing programs used to market the SHOP in and around its trading area including activities with community groups, schools, sponsorships, flyers and local promotions. Advertising expenditures may also include the cost of developing and executing digital marketing such as texting programs, internet advertising, website(s), and other social and viral media. Advertising expenditures do not include Brand Fund or AP Fund contributions or amounts spent for items which Franchisor, in its reasonable judgment, deems inappropriate for meeting the minimum advertising requirement, including permanent on-premises signs and menu boards, lighting, menus, premiums, discounts, free offers, charitable contributions, fundraising activities, employee incentive programs and employee salaries, unless Franchisee has a salaried employee solely responsible for

local retail marketing. Franchisor will have the right to review Franchisee's books and records from time to time to determine Franchisee's expenditures for local advertising and promotion.

- 19.5 Franchisor's Approval. Franchisee will not execute or conduct any advertising, promotional activity, or issue any press release in relation to the SHOP or the System without Franchisor's prior written approval. Before Franchisee uses any advertising, promotional or marketing materials, or issues any press release that Franchisor has not prepared or previously approved, Franchisee must send samples of all such materials to Franchisor for approval. If Franchisee does not receive Franchisor's written disapproval, or other response that is not an approval (such as revisions or requests for more information), within fifteen (15) days after Franchisor receives the materials, they are deemed approved. Franchisor may disapprove such materials, based upon, among other things, the medium in which such materials will be placed, the use of the Marks, and the consistency of such materials with the image of the System. Franchisee may not use, and must immediately stop using, any advertising, promotional, or marketing materials that Franchisor later disapproves, at any time.
- 19.6 Advertising Standards. Franchisee agrees that any advertising, promotion and marketing it conducts will be completely clear and factual and not misleading and conform to the highest standards of ethical marketing and the promotion policies and System Standards that Franchisor prescribes from time to time.
- 19.7 Participation. Franchisee agrees to participate in all promotional activities, as required by Franchisor, that Franchisor participates in for substantially all similarly situated Krispy Kreme Shops and Doughnut Factories owned by Franchisor and located in the U.S. Such participation will include, without limitation, limited-time offerings of Products, Product introductions, contests, loyalty programs, coupons, discounts, gift card programs, other services, platforms, and programs related to customer experience and/or brand enhancement, and promotional pricing and offers to the extent permitted by law. Franchisor may establish procedures and regulations related to promotional activities in the System Standards Manuals and Franchisee agrees to honor and participate in these promotional activities in accordance with such procedures and regulations specified by Franchisor in the System Standards Manuals or otherwise in writing. Franchisee agrees that Franchisor has no obligation to reimburse Franchisee for any costs it incurs due to its mandatory participation in promotional activities.
- 19.8 Advertising Cooperatives. Franchisor has the right to establish local and/or regional and/or national advertising cooperatives for Krispy Kreme Shops, covering such geographical areas as Franchisor may designate from time to time. Cooperatives will operate from by-laws approved by Franchisor and Franchisor will have the right to dissolve any cooperatives at its option. Franchisee must participate in any advertising cooperatives and their programs and abide by their by-laws. Franchisee must contribute such amounts to the advertising cooperatives as the applicable cooperative(s) determine from time to time in accordance with their by-laws, but in no event greater than that amount described on the Summary Page. Any Krispy Kreme Shops owned by Franchisor or any of its Affiliates located in such designated geographical areas will contribute to the cooperatives on at least the same basis. Contributions to such local, regional, or national advertising cooperatives will be credited toward the required annual advertising expenditures as set forth in Section 19.4.
- 19.9 System Websites. At Franchisor's option, Franchisor may establish System Websites. Franchisor will have control over the System Websites' design and contents. Franchisor will have no obligation to maintain the System Websites indefinitely, and may dismantle them (and if dismantled may reinstate them) at any time without liability to Franchisee. Franchisor shall have

the right to require Franchisee to participate in such System Websites, such as by including information relating to the SHOP, and participating in any promotional activities.

- (a) Interior Pages. The System Websites may include a series of interior pages that identify participating Krispy Kreme Shops by address and telephone number. At Franchisee's request and upon Franchisee's execution of a Terms of Use Agreement in a form provided by Franchisor, Franchisor will, technology permitting, include at the applicable System Website(s) one or a series of interior pages dedicated to information about the SHOP. Franchisee may propose the content of the page(s), but such content will be developed by Franchisor or its webmaster at Franchisee's expense, with a template that Franchisor provides and will be subject to Franchisor's approval prior to posting as to form, content and programming quality. Franchisee will not have the capability to modify its page(s) except in coordination with Franchisor's webmaster and in compliance with Franchisor's standards.
- (b) Maintenance and Development. Franchisor may use Brand Fund and AP Fund contributions that Franchisor collects under this Agreement to maintain and further develop the System Websites.

19.10 Krispy Kreme Intranet. Franchisor may, at its option, establish and maintain a Krispy Kreme Intranet. Franchisor will have no obligation to maintain the Krispy Kreme Intranet indefinitely, and may dismantle it at any time without liability to Franchisee.

- (a) Policies and Procedures. Franchisor will establish policies and procedures for the Krispy Kreme Intranet's use. These policies, procedures and other terms of use may address issues including: (i) restrictions on the use of abusive, slanderous or otherwise offensive language in electronic communications; (ii) restrictions on communications between or among franchisees that endorse or encourage breach of any agreement with Franchisor; (iii) confidential treatment of materials that Franchisor transmits via the Krispy Kreme Intranet; (iv) password protocols and other security precautions; (v) grounds and procedures for Franchisor's suspending or revoking a Franchisee's access to the Krispy Kreme Intranet; and (vi) a privacy policy governing Franchisor's access to and use of electronic communications that franchisees post on the Krispy Kreme Intranet. Franchisee acknowledges that, as administrator of the Krispy Kreme Intranet, Franchisor can technically access and view any communication that anyone posts on the Krispy Kreme Intranet. Franchisee further acknowledges that the Krispy Kreme Intranet facility and all communications that are posted to it will become Franchisor's property, free of any claims of privacy or privilege that Franchisee or any other person or entity may assert. Franchisor shall have the right to remove any comments or postings in its discretion.
- (b) Computer System Additions and Electronic Connection. Upon receiving notice from Franchisor that the Krispy Kreme Intranet has become operational for the Franchise, Franchisee agrees to purchase and install all necessary additions to the Computer System and to establish and continually maintain electronic connection with the Krispy Kreme Intranet that allows Franchisor to send messages to and receive messages from Franchisee. Franchisee's obligation to maintain connection with the Krispy Kreme Intranet will continue until the expiration or termination of this Agreement (or, if earlier, until Franchisor dismantles the facility).

- (c) Maintenance and Development. Franchisor may use Brand Fund and AP Fund contributions that Franchisor collects under this Agreement to develop, maintain and further develop the Krispy Kreme Intranet.

19.11 Effect of Defaults on Access to Krispy Kreme Intranet and System Websites. If Franchisee defaults under this Agreement or fails to pay when due amounts payable to Franchisor or its Affiliates, or if Franchisee fails to comply with any policy or procedure governing the Krispy Kreme Intranet or System Websites or otherwise fails to comply with any other provision of this Agreement, Franchisor may remove information about the SHOP from the System Websites and may temporarily suspend Franchisee's access to any feature the Krispy Kreme Intranet includes, until such time as Franchisee pays its outstanding obligation in full or cures such default as provided in Section 26, if applicable. Such actions by Franchisor are in addition to all other rights and remedies available to Franchisor.

19.12 Franchisee's Website.

- (a) Consent Required. Franchisee will not promote, offer or sell any products or services relating in any way to the SHOP, or use any of the Marks, on or through the Internet without Franchisor's prior written consent. In connection with any such prior written consent, Franchisor may establish such requirements as Franchisor deems appropriate, including (i) obtaining Franchisor's prior approval of any Internet domain name and home page addresses or licensing such name to Franchisee; (ii) submission for Franchisor's approval of all website pages, materials and content; (iii) use of all hyperlinks and other links (including a required link to Franchisor's or its Affiliates' website); (iv) restrictions on use of any materials (including text, video clips, photographs, images and sound bites) in which any third party has any interest; and (v) obtaining Franchisor's prior approval of any modifications.
- (b) Accuracy of Information. Franchisee acknowledges and agrees that Franchisee is solely responsible for the accuracy of all information posted on any website maintained by Franchisee or otherwise provided to any party by Franchisee via the Internet or other media.
- (c) Use of Marks. Franchisee will have no right, license or authority to use any of the Marks on or in connection with the Internet, except as stated in and permitted by this Section 19.12(c); including but not limited to, any right to use any of the Marks or make any reference to Franchisee's affiliation with Franchisor on or through the Internet in connection with any other business or other ventures separate and apart from the SHOP.

20. ACCOUNTING, REPORTS AND FINANCIAL STATEMENTS

20.1 Maintenance of Records. Franchisee will, at Franchisee's expense, retain all records relating to the development and operation of the SHOP. All such records will be kept at the premises of the SHOP, unless Franchisor otherwise approves in writing.

20.2 Furnishing of Reports. Franchisee will furnish to Franchisor via the medium Franchisor prescribes from time to time, in a form consistent with its then-current accounting practices and procedures: (a) by each Reporting Day, reports of the SHOP's sales, cost of goods sold, labor expense and number of transactions for the preceding Week; (b) within thirty (30) days after the end of each month, an operating income statement of Franchisee, the SHOP, or both for such month and fiscal year to date, prepared in accordance with generally accepted accounting

principles consistently applied; (c) within forty-five (45) days after the end of each fiscal quarter, a balance sheet and income statement of Franchisee, the SHOP, or both for such quarter and fiscal year to date, prepared in accordance with generally accepted accounting principles consistently applied; (d) within one hundred twenty days (120) days after the end of Franchisee's fiscal year, a balance sheet and an income statement for the SHOP and/or Franchisee for such fiscal year (reflecting all year-end adjustments), and a statement of cash flow of the SHOP, prepared in accordance with generally accepted accounting principles consistently applied; and (e) upon request by Franchisor, any other data, reports, information and supporting records as Franchisor may require periodically. Franchisee will sign and verify as correct and complete each report and financial statement submitted by Franchisee in the manner prescribed by Franchisor.

- 20.3 Tax Returns. Franchisee agrees to maintain and to furnish to Franchisor, upon request, complete copies of all withholding, income, sales, value added, use and service tax returns filed by Franchisee reflecting activities of the SHOP.
- 20.4 Franchisor Rights. Franchisor has the right to (a) disclose data derived from all reports; (b) require Franchisee to have audited financial statements prepared on an annual basis; and (c) to access all computer terminals and Franchisee's Computer System and retrieve all information relating to the SHOP, as often as it deems appropriate. Franchisee will take such action as may be necessary to provide such access to Franchisor.
- 20.5 Material Adverse Change. Franchisee will immediately report to Franchisor any events or developments which may have a significant or material adverse impact on the operation of the SHOP, Franchisee's performance under this Agreement, or the goodwill associated with the Marks and Krispy Kreme Shops.
- 20.6 Business Plan. Franchisee must submit an annual business plan each year for Franchisor's review.
- 20.7 Audit. Franchisor has the right to audit at any time during regular business hours, and without prior notice to Franchisee, to inspect and audit, or cause to be inspected and audited, the business, financial and tax records of the SHOP and Franchisee. Franchisee will fully cooperate and cause its employees and agents to fully cooperate with Franchisor's representatives and independent accountants hired by Franchisor to conduct any such inspection or audit, and shall immediately provide access to all information requested. Franchisor's right to audit includes the right to access the Computer System. If any such inspection or audit reveals an understatement of the Net Sales of the SHOP, Franchisee will pay to Franchisor, within fifteen (15) days after receipt of the inspection or audit report, the Royalty payments and Brand Fund and AP Fund contributions (and any required advertising cooperative contributions) due on the amount of such understatement, plus interest (at the rate and on the terms provided in this Agreement) from the date originally due until the date of payment. Further, if an inspection or audit is made necessary by Franchisee's failure to furnish timely any reports or supporting records required to be submitted under this Agreement or if an understatement of Net Sales for the period of any audit is determined by any such audit or inspection to be greater than two percent (2%), Franchisee will reimburse Franchisor for the cost of such inspection or audit, including legal fees, accountants' fees and the travel expenses, room and board, per diem charges, and other associated expenses for Franchisor's employees. The remedies provided under this Section shall be in addition to any other remedies Franchisor may have under this Agreement, at law or in equity.

21. TRANSFER BY FRANCHISOR

21.1 Transfer by Franchisor. Franchisor and any holder of an Ownership Interest in Franchisor may voluntarily, involuntarily, directly or indirectly sell, assign, transfer, license, sublicense, sublease, collaterally assign, grant a security, collateral or conditional interest, inter vivos transfer, testamentary disposition or other disposition of all or any part of its rights or obligations under this Agreement or any Ownership Interest in Franchisor to any person or entity without Franchisee's consent. Specifically, and without limitation to the foregoing, Franchisor may sell its assets, Marks or the System to a third party; may offer its securities privately or publicly; may merge, spin-off, acquire other business entities, or be acquired by another business entity; may undertake a refinancing, recapitalization, leveraged buyout, or other economic or financial restructuring; and with regard to any or all of the above sales, assignments, and dispositions, Franchisee expressly and specifically waives any claims, demands, or damages against Franchisor arising from or related to the transfer of the Marks (or any variation thereof) or the System from Franchisor to any other party. If Franchisor assigns its rights in this Agreement, such assignment will constitute a novation of Franchisor and Franchisor will be released from all further liability to Franchisee under this Agreement after the effective date of such transfer, and the transferee will be liable to Franchisee as if it was the original party to this Agreement. Franchisor is not obligated to offer any services or products, whether or not bearing the Marks, to Franchisee if Franchisor assigns its rights in this Agreement.

22. TRANSFER BY FRANCHISEE

22.1 Franchisor's Prior Written Approval Required. Franchisee's rights and duties under this Agreement are personal to Franchisee, or if Franchisee is a business corporation, partnership, limited liability company or any other legal entity, its Owners. Accordingly, neither Franchisee nor any of its Owners may Transfer the Franchise, a direct or indirect Ownership Interest in the Franchise, a direct or indirect Ownership Interest in Franchisee, or a direct or indirect Ownership Interest in any Owner, or all or substantially all of the assets of Franchisee and/or the SHOP, without Franchisor's prior approval and without complying with the terms and conditions of Section 22. Any Transfer without such approval or compliance constitutes a breach of this Agreement and is void and of no force or effect. Franchisee may not under any circumstances, directly or indirectly, subfranchise or sublicense any of its rights or obligations under this Franchise.

22.2 Conditions for Franchisor Approval. If Franchisor has not exercised its right of first refusal under Section 22.5, Franchisor will not unreasonably withhold its approval of a Transfer of the Franchise that meets all of the restrictions, requirements and conditions Franchisor imposes on the Transfer, the transferor(s) and/or the transferee(s) from time to time. The conditions may include, but are not limited to the following:

- (a) Franchisee and all of its Affiliates must be in Good Standing;
- (b) the proposed transferee and its owners (if the proposed transferee is a corporation, partnership, limited liability company or other legal entity) must provide Franchisor on a timely basis all information Franchisor requests, and must be individuals acting in their individual capacities who are of excellent character and reputation, who must have sufficient education, business experience, aptitude and financial resources, as determined in Franchisor's judgment, to operate the SHOP pursuant to this Agreement and to develop Krispy Kreme Shops pursuant to the Development Agreement, if applicable, and who must otherwise meet Franchisor's then-current standards for approval;

- (c) Franchisee must provide Franchisor with all information requested by Franchisor in connection with the Transfer, and Franchisor must not have disapproved the material terms and conditions of such Transfer (including the price and terms of payment and the amount to be financed by the transferee in connection with such Transfer) on the basis that they are, in Franchisor's judgment, either (i) burdensome as to be likely to adversely affect the transferee's operation of the SHOP or its compliance with this Agreement, all Franchise Agreements, and Development Agreements being transferred, and any other agreements to be executed by the transferee, or (ii) unreasonable as to diminish the value of the Marks or brand goodwill, or the value of other Krispy Kreme Shops or Doughnut Factories;
- (d) the proposed transferee may not be an entity, or be affiliated with an entity, that is required to comply with the reporting and information requirements of the Securities Exchange Act of 1934, as amended;
- (e) If Franchisee or any of its Owners or Affiliates finances any part of the sales price of the transferred interest, Franchisee and/or its Owners or Affiliates must agree that all obligations of the transferee, and security interests reserved by any of them in the assets transferred, will be subordinate to the transferee's obligations to pay all amounts due Franchisor and its Affiliates and to otherwise comply with this Agreement, all Franchise Agreements, and Development Agreements being transferred and any other agreements to be executed by the transferee;
- (f) Franchisee or the transferee must pay Franchisor a transfer fee in an amount equal to Five Thousand Dollars (\$5,000), plus any transfer fee required by any other agreement between Franchisee or its Affiliates and Franchisor or its Affiliates, plus any costs and expenses incurred by Franchisor and its Affiliates, including legal and accounting fees, in relation to the Transfer (all transfer fees are non-refundable and do not include costs for training);
- (g) the transferee (and its Owners) must agree to be bound by all of the provisions of this Agreement for the remainder of the Term or, at Franchisor's option, execute Franchisor's then-current Franchise Agreement and related documents used in the state where the SHOP is located (which may provide for different royalties, advertising contributions and expenditures, duration and other rights and obligations than those provided in this Agreement), for a term equal to the then-unexpired term hereof, including all then-unexpired successor or renewal terms;
- (h) the transferee must acquire, in a concurrent transaction, all of the rights and obligations of Franchisee and its Affiliates under all agreements between Franchisee or its Affiliates and Franchisor or its Affiliates, including any Development Agreement and all Franchise Agreements executed by Franchisee or its Affiliates pursuant to the Development Agreement or pursuant to any other development or similar agreement with Franchisor;
- (i) prior to releasing any Guaranty, transferee's Owners shall provide Franchisor with a Guaranty in a form acceptable to Franchisor;
- (j) Franchisee and its Owners and Affiliates must, except to the extent limited or prohibited by applicable law, execute a general release, in form and substance satisfactory to Franchisor, of any and all claims against Franchisor, its Affiliates and shareholders, members, managers, officers, directors, employees, agents, successors and assigns;

- (k) Transferee and its Owners must execute confidentiality and non-competition covenants, in form and substance satisfactory to Franchisor, substantially similar to those contained in Section 26.3; and
- (l) Franchisee and its Owners and Affiliates must execute such other documents and do such other things as Franchisor requires to protect its rights under this Agreement and all Development Agreements, Franchise Agreements, and other agreements being transferred.

22.3 Franchisor Approval is Not a Representation or Release. Franchisor's approval of a Transfer does not constitute: (a) a representation as to the fairness of the terms of any agreement or arrangement between Franchisee or its Owners and the transferee or as to the prospects for success by the transferee; or (b) a release of Franchisee and its Owners, a waiver of any claims against Franchisee or its Owners or a waiver of Franchisor's right to demand the transferee's compliance with this Agreement or any other agreements being transferred. Any approval will apply only to the specific Transfer being proposed and will not constitute Franchisor's approval of, or have any bearing on, any other proposed Transfer.

22.4 Notice of Transfer/Bona Fide Offer.

- (a) Bona Fide Offer. If Franchisee or any of its Owners desires to Transfer the Franchise, a direct or indirect Ownership Interest in the Franchise, a direct or indirect Ownership Interest in Franchisee, or a direct or indirect Ownership Interest in any Owner, or all or substantially all of the assets of Franchisee and/or the SHOP, Franchisee or such Owners must obtain a *bona fide*, executed written offer from a responsible and fully disclosed purchaser (which must contain a confidentiality covenant by Franchisee and the prospective buyer to which Franchisor will be an intended third party beneficiary). Franchisee must deliver immediately to Franchisor a complete and accurate copy of that offer. If the offeror proposes to buy any other property or rights from Franchisee or any of its Owners or Affiliates (other than rights under any Development Agreements, Franchise Agreements) as part of the *bona fide* offer, the proposal for such property or rights must be set forth in a separate, contemporaneous offer that is fully disclosed to Franchisor, and the price and terms of purchase offered to Franchisee or its Owners for the Transfer must reflect the *bona fide* price offered and not reflect any value for any other property or rights.
- (b) Gifts. If Franchisee or any of its Owners desires to make a Transfer by gift, Franchisee or such Owners must, prior to such Transfer, deliver to Franchisor a notice thereof, identifying the interest to be gifted and the intended recipient. The requirement of a *bona fide* offer does not apply to a gift or bequest.

22.5 Right of First Refusal.

- (a) Franchisor's Option of Right of First Refusal. Franchisor has the option, exercisable by notice delivered to Franchisee or its Owners within thirty (30) days from the date of receipt of a complete and accurate copy of such offer by Franchisor or within one hundred twenty (120) days from receipt of notice by Franchisor of a proposed gift, to purchase such interest for:
 - (i) the price and on the terms and conditions contained in such offer, provided that:
 - (1) Franchisor may substitute cash for any form of payment proposed in such

offer; (2) Franchisor's credit will be deemed equal to the credit of any proposed purchaser; (3) Franchisor will have not less than ninety (90) days from the option exercise date to consummate the transaction; (4) Franchisor will not be required to pay deposits (such as earnest money) or to escrow funds prior to closing; and (5) the price will not include any broker's or other commissions; or

- (ii) the Fair Market Value (as defined in Section 26.7) of any interest to be gifted.

Franchisor has the right to investigate and analyze the business, assets and liabilities and all other matters Franchisor deems necessary or desirable in order to make an informed investment decision with respect to the fairness of the terms of the right of first refusal. Franchisor may conduct such investigation and analysis in any manner Franchisor deems appropriate, and Franchisee and its Owners must cooperate fully with Franchisor in connection with any investigation.

- (b) Exercise of Right of First Refusal. If Franchisor exercises its option to purchase, Franchisor is entitled to purchase such interest subject to all representations and warranties, closing documents, releases, non-competition covenants, indemnities, and other terms and conditions as Franchisor, in its judgment, may require.
- (c) Nonexercise of Right of First Refusal. If Franchisor does not exercise its option to purchase, Franchisee or its Owners may complete the gift or the sale to that offeror pursuant to and on the exact terms of that offer, subject to the terms of this Agreement including but not limited to Section 6.9 and this Section 22.
- (d) Change in Terms of Offer. If the gift or the sale to such offeror is not completed within ninety (90) days after delivery of that offer to Franchisor, or if there is a change in the terms of the offer, Franchisee must promptly notify Franchisor and Franchisor will have an additional option to purchase (on the terms of the revised offer, if any, and otherwise as set forth in this Agreement) during the thirty (30)-day period following Franchisee's notification of the expiration of the ninety (90)-day period or the change to the terms of the offer. If Franchisor does not exercise its additional option to purchase, then Franchisee will have ninety (90) days from the date of that notice to complete its transaction.

- 22.6 Issuance of Securities. Neither Franchisee nor any of its Owners or Affiliates may issue or sell, or offer to issue or sell, any of Franchisee's securities or any securities of any of its Affiliates, regardless of whether such sale or offer would be required to be registered pursuant to the provisions of the Securities Act of 1933, as amended, or the securities laws of any other jurisdiction and regardless of the means by which such sale is conducted, directly or indirectly, or by operation of law (including by merger, consolidation, reorganization or otherwise) without obtaining Franchisor's prior consent and complying with all of its requirements and restrictions concerning use of information about Franchisor and its Affiliates. Notwithstanding anything to the contrary contained in this Agreement, neither Franchisee nor any of its Owners or Affiliates may issue or sell Franchisee's securities or the securities of any of its Affiliates if: (a) such securities would be required to be registered pursuant to the Securities Act of 1933, as amended, or its successor; or (b) after such issuance or sale, Franchisee or such Affiliate would be required to comply with the reporting and information requirements of the Securities Exchange Act of 1934, as amended, or its successor. Any memorandum or other communications circulated in connection with any solicitation of offers to purchase that would require Franchisor's consent to

the Transfer (through whatever form of transaction, whether through direct or indirect sale of assets or securities, by operation of law or otherwise) will be subject to approval by Franchisor.

23. GENERAL RELEASE AND COVENANT NOT TO SUE

- 23.1 General Release. Contemporaneous with the execution of this Agreement, Franchisee and each of Franchisee's Owners will execute a general release and covenant not to sue in the form attached as Exhibit F to this Agreement.

24. SUCCESSOR FRANCHISE

- 24.1 Successor Franchise. When the Term expires, Franchisee will have the option to enter into one (1) consecutive successor franchise agreement for a term of fifteen (15) years. The successor franchise agreement will be Franchisor's then-current form of successor franchise agreement (modified to reflect the successor term), which agreement may differ materially from the terms of this Agreement, including, higher fees. Such option will be granted only if Franchisee and each of its Owners and Affiliates are in full compliance with the provisions of this Agreement and any other agreements with Franchisor or any of its Affiliates, and provided that the following conditions are met:

- (a) Franchisee maintains possession of the Site and agrees to upgrade the SHOP to Franchisor's then-current standards for Krispy Kreme Shops within a timeframe acceptable to Franchisor;
- (b) If Franchisee is unable to maintain possession of the Site, or if in Franchisor's judgment the SHOP should be relocated, and Franchisee secures a substitute site approved by Franchisor, Franchisee develops such site in compliance with Franchisor's then-current standards for Krispy Kreme Shops, and continues to operate the SHOP at the Site until operations are transferred to the substitute site;
- (c) Franchisee gives Franchisor written notice of its election to acquire a successor franchise at least six (6) months but not more than twelve (12) months prior to the expiration of the term of the Franchise;
- (d) Franchisee and its Owners and Affiliates are at the time of providing its notice, as well as upon expiration of this Agreement, and upon execution of a successor franchise agreement, in Good Standing and are fully compliant with all of the terms and conditions of this Agreement and all other agreements between such parties and Franchisor and its Affiliates, and have been in substantial compliance with all such agreements throughout their respective terms, as determined by Franchisor;
- (e) In addition to Franchisor's then-current form of franchise agreement, Franchisee and its Owners will execute any other agreements Franchisor then customarily uses in connection with the grant of successor franchises for Krispy Kreme Shops in the state where the SHOP is located, including personal guaranties and confidentiality and noncompetition covenants;
- (f) Franchisee and its Owners and Affiliates will execute and deliver general releases, in form and substance satisfactory to Franchisor, of any and all claims against Franchisor and its Affiliates, shareholders, officers, directors, employees, agents, successors, and assigns; and

- (g) In lieu of paying an Initial Franchise Fee, Franchisee will pay to Franchisor a non-refundable successor franchise fee equal to Ten Thousand Dollars (\$10,000).

24.2 Franchisor Notice. Within ninety (90) days of receiving notice from Franchisee pursuant to Section 24.1(c) above, and receiving any other information Franchisor may then require in connection with granting successor franchises, Franchisor will notify Franchisee of Franchisor's decision:

- (a) to grant Franchisee a successor franchise;
- (b) to grant Franchisee a successor franchise on the condition that deficiencies of the SHOP, and/or in its operation of the SHOP, or such other matters as Franchisor may indicate are deficient in its sole discretion are corrected; or
- (c) not to grant Franchisee a successor franchise.

If Franchisor's notice states that Franchisee must cure certain deficiencies of the SHOP, its operation or otherwise as a condition to the grant of a successor franchise, Franchisee will have thirty (30) days from the receipt of such notice to cure such deficiencies. If Franchisee does not cure such deficiencies, Franchisor will give Franchisee written notice of a decision not to grant a successor franchise, based upon Franchisee's failure to cure such deficiencies, within thirty (30) days after the expiration of the cure period, provided, however, that Franchisor will not be required to give Franchisee such notice if Franchisor decides not to grant Franchisee a successor franchise due to Franchisee's breach of this Agreement during the cure period or the thirty (30)-day period thereafter. Franchisor shall have the right to revoke an approval if Franchisee thereafter fails to meet any of the requirements set forth in Section 24.1.

Franchisee hereby acknowledges that Franchisee shall have no further right to renew or extend this Agreement, and no representations, warranties, promises, assurances, commitments or agreements, whether expressed, implied or collateral, have been made by Franchisor to Franchisee to that effect, other than the right provided for in this Section 24, and this Agreement shall expire at the end of the Term or, if a Successor Franchise is obtained, at the end of the term of such successor franchise agreement.

25. TERMINATION OF FRANCHISE

25.1 Termination Without Notice. Franchisee is in material breach of this Agreement, and this Agreement will automatically terminate without notice if:

- (a) Franchisee becomes insolvent by reason of its inability to pay its debts as they mature;
- (b) Franchisee is adjudicated bankrupt or insolvent;
- (c) Franchisee files a petition in bankruptcy, reorganization or similar proceeding under the bankruptcy laws of the United States or has such a petition filed against Franchisee, which is not discharged within thirty (30) days;
- (d) a receiver or other custodian, permanent or temporary, is appointed for Franchisee's business, assets or property;

- (e) Franchisee requests the appointment of a receiver or makes a general assignment for the benefit of creditors;
- (f) a final judgment against Franchisee in the amount of Five Thousand Dollars (\$5,000) or more remains unsatisfied of record for sixty (60) days or longer;
- (g) Franchisee's bank accounts, property or accounts receivable are attached;
- (h) execution is levied against Franchisee's business or property;
- (i) suit is filed to foreclose any lien or mortgage against any of Franchisee's assets and such suit is not dismissed within thirty (30) days;
- (j) Franchisee voluntarily dissolves or liquidates or has a petition filed for corporate or partnership dissolution and such petition is not dismissed within thirty (30) days; or
- (k) Franchisee's assets, property or interest are "blocked" under any law, ordinance or regulation relating to terrorist activities or if Franchisee is otherwise in violation of any such law, ordinance or regulation.

25.2 Termination Upon Notice. In addition to Franchisor's right to terminate pursuant to other provisions of this Agreement and under applicable law, Franchisor has the right to terminate this Agreement, effective upon delivery of notice of termination to Franchisee, if Franchisee or any Owner or Affiliate:

- (a) opens the SHOP in violation of Section 8.1;
- (b) abandons or fails actively to operate the SHOP for five (5) consecutive days, unless a closing of the SHOP has been approved by Franchisor;
- (c) makes any material misstatement or omission in the Franchise Application or in any other information, report, or summary provided to Franchisor at any time;
- (d) suffers cancellation or termination of the lease or sublease for the SHOP;
- (e) is convicted of, or pleads no contest to, a felony or other crime or offense that Franchisor believes, in its sole judgment, may adversely affect the System or the goodwill associated with the Marks;
- (f) makes an unauthorized Transfer;
- (g) makes any unauthorized use or disclosure of any Confidential Information or uses, duplicates or discloses any portion of the System Standards Manuals in violation of this Agreement, or violates any non-competition or non-solicitation provisions set forth or referenced in this Agreement;
- (h) fails or refuses to comply with any mandatory specification, standard, or operating procedure prescribed by Franchisor relating to the cleanliness or sanitation of the SHOP or violates any applicable health, safety or sanitation law, ordinance or regulation that Franchisor in its sole judgment believes may pose harm to the public or to its reputation, and does not BOTH (i) immediately close the SHOP to the public and cease offering and

selling any goods and services at, from, or through the SHOP upon delivery of written notice to Franchisee, and (ii) correct such failure, refusal or violation within twenty-four (24) hours after written notice thereof is delivered to Franchisee;

- (i) fails to accurately report Net Sales, to establish, maintain and/or have sufficient funds available in the Account as required by Sections 10.3 and 10.4, respectively, or fails to make payment of any amounts due Franchisor or any of its Affiliates, and does not correct such failure within ten (10) days after written notice of such failure is delivered to Franchisee;
- (j) fails to make a timely payment of any amount due to a supplier unaffiliated with Franchisor (other than payments which are subject to bona fide dispute, as determined by Franchisor), and does not correct such failure within thirty (30) days after Franchisor delivers to Franchisee notice of such failure to comply;
- (k) fails to lease, sublease or purchase the Site within one hundred eighty (180) days after the date of Franchisor's acceptance letter, as provided in the Development Agreement;
- (l) fails to comply with any other provision of this Agreement or any other mandatory specification, standard or operating procedure or other obligation prescribed in the System Standards Manuals and does not correct such failure within thirty (30) days after notice of such failure to comply is delivered to Franchisee;
- (m) fails on three (3) or more separate occasions within any period of twelve (12) consecutive months to submit when due reports or other data, information or supporting records or to pay when due Royalties, Brand Fund contributions, AP Fund contributions or other payments due Franchisor, any of its Affiliates or any unaffiliated suppliers or otherwise fails to comply with this Agreement or any mandatory specification, standard or operating procedure or other obligation prescribed in the System Standards Manuals, regardless of whether a formal non-compliance or default notice is issued on any of these occasions, and regardless of whether any of these failures were cured; or
- (n) is in breach under any other agreement between Franchisor (or any Affiliate) and Franchisee (or any Affiliate), such that Franchisor or its Affiliate, as the case may be, shall have the right to terminate such agreement, whether or not Franchisor elects to exercise its right to do so, or such agreement automatically terminates, or is in breach under any agreement between Franchisor (or any Affiliate) and any Owner, and Owner remains in breach after any applicable cure period, if any.

Franchisor has no obligation whatsoever to refund any portion of the Initial Franchise Fee upon any termination.

- 25.3 Franchisor Right to Cure. Franchisor has the option, but not the obligation, to cure any of Franchisee's default under Section 25.2. If Franchisor chooses to exercise such option, then within five (5) days of the date Franchisor sends Franchisee notice of Franchisor's expenses incurred in curing Franchisee's default, Franchisee will reimburse Franchisor for all such expenses.

26. EFFECT OF TERMINATION OR EXPIRATION

26.1 Payment of Amounts Owed. Within ten (10) days after the effective date of termination or expiration (without renewal) of this Agreement, Franchisee must pay Franchisor and its Affiliates all Royalties, Brand Fund contributions, AP Fund contributions, amounts owed for purchases from Franchisor or its Affiliates, interest due on any of the foregoing and all other amounts owed to Franchisor or its Affiliates which are then unpaid. Termination or expiration of this Agreement shall not terminate any monetary obligations that Franchisee may owe Franchisor or its Affiliates, and shall not entitle Franchisee to any refund of any monies previously paid pursuant to the terms of this Agreement.

26.2 Actions by Franchisee. Upon the termination or expiration (without renewal) of this Agreement, Franchisee will, at Franchisee's expense:

- (a) not directly or indirectly at any time or in any manner use any Mark, any colorable imitation of any Mark or any other indicia of a Krispy Kreme Shop or Doughnut Factory;
- (b) take such action as may be required to cancel all fictitious or assumed name registrations relating to Franchisee's use of any Mark;
- (c) notify the telephone company and all telephone directory publishers of the termination or expiration of Franchisee's right to use any telephone number and any regular, classified or other telephone directory listings associated with any Mark and to authorize transfer of the number to Franchisor or at its direction. Franchisee irrevocably appoints an authorized officer of Franchisor as Franchisee's duly authorized agent and attorney-in-fact to execute all instruments and take all steps to transfer such telephone numbers and listings;
- (d) if Franchisor does not exercise its option to assume the applicable lease or sublease, or purchase the Site, immediately remove from the Site, and discontinue using for any purpose, all signs, fixtures, furniture, decor items, advertising materials, forms and other materials and supplies which display any of the Marks or any distinctive features, images, or designs associated with Krispy Kreme Shops or Doughnut Factories and, at Franchisee's expense, make such alterations as may be necessary to distinguish the Site so clearly from its former appearance as a Krispy Kreme Shop as to prevent any possibility of confusion by the public;
- (e) immediately cease to use all Confidential Information and return to Franchisor or destroy, as instructed by Franchisor, all copies of the System Standards Manuals and any other confidential materials which have been loaned to Franchisee, and any unauthorized copies thereof, as well as any materials generated by Franchisee, its Affiliates, or Owners, that include any part of the Confidential Information (including notes, analyses, compilations and any electronic copies), without retaining a copy of any such material;
- (f) immediately discontinue any mode of communications on the Internet directly or indirectly relating to the SHOP or the Marks, including any websites or web pages, social media pages, or e-mail addresses, and immediately take all steps required by Franchisor to transfer to Franchisor any domain name and e-mail addresses associated with the SHOP or the Marks (such as executing a registrant name change agreement with the applicable registrar). Franchisee irrevocably appoints an authorized officer of Franchisor

as Franchisee's duly authorized agent and attorney-in-fact to execute all instruments and take all steps to transfer such domain names, social media pages, and e-mail addresses;

- (g) immediately discontinue using any proprietary software and return it to Franchisor; and
- (h) within thirty (30) days after the effective date of termination or expiration, furnish evidence satisfactory to Franchisor of Franchisee's compliance with the foregoing obligations, as well as confirm its compliance with the foregoing obligations in a sworn writing by Franchisee in a form acceptable to Franchisor.

26.3 Non-Competition Covenants. When this Agreement expires (without renewal) or is terminated, neither Franchisee nor any Restricted Person will, for a period of two (2) years commencing on the effective date of the termination or expiration, whichever is earlier:

- (a) have any Ownership Interest in a Competitive Business, located within a radius of ten (10) miles of the Site or of any other Krispy Kreme Shop or Doughnut Factory, open or under construction on the effective date of termination or expiration, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, or any function of these roles, of or for any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business, located within a radius of ten (10) miles of the Site or of any other Krispy Kreme Shop or Doughnut Factory open or under construction on the effective date of termination or expiration, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement; or
- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, located within a radius of ten (10) miles of the Site or of any other Krispy Kreme Shop or Doughnut Factory open or under construction on the effective date of termination or expiration, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement, where such services could be reasonably expected to cause Franchisee, the Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed.

Franchisee and each of its Owners expressly acknowledge the possession of skills and abilities of a general nature and other opportunities for exploiting such skills in other ways, so that enforcement of the covenants contained in Section 26.3 will not deprive any of them their personal goodwill or ability to earn a living. If Franchisee or any of its Owners fail or refuse to abide by any of the foregoing covenants and Franchisor obtains enforcement in a judicial or arbitration proceeding, the obligations under the breached covenant will be tolled during the period(s) of time that the covenant is breached and/or Franchisor seeks to enforce it and will continue in effect for a period of time ending two (2) years after the date of the order enforcing the covenant.

- 26.4 Right to Purchase Equipment. Upon termination or expiration (without renewal) of this Agreement, Franchisor will have the right, exercisable by giving notice thereof within thirty (30) days after the date of such termination or expiration, to purchase (and, if necessary, take possession of and remove from the Site) any or all equipment used or useable at the SHOP (including all equipment that contains or embodies proprietary information owned by Franchisor or any of its Affiliates) at its net book value, determined in accordance with generally accepted accounting principles, consistently applied, but not less than ten percent (10%) of the original purchase price. Franchisor will be entitled to all representations, warranties, covenants, title insurance policies and other indemnifications and hold-backs as Franchisor requires, including instruments transferring good and marketable title to the equipment, free and clear of all liens, encumbrances, and liabilities, to Franchisor or its designee, with all sales and other transfer taxes paid by Franchisee, and a general release executed by Franchisee and its Owners and Affiliates in form and substance satisfactory to Franchisor. Franchisee shall at no time take any action or enter into any agreement that would serve to prevent or hinder Franchisor's ability to exercise its purchase rights under this Section 26.4. Franchisee shall take all steps necessary, at its sole expense, including any actions directed by Franchisor, to ensure that the equipment is protected and not harmed, seized, removed, or impacted in any way that would prevent or hinder Franchisor's ability to exercise its purchase rights under this Section 26.4. This right is separate and apart from Franchisor's rights under Section 26.5, which also includes a right to purchase equipment.
- 26.5 Right to Purchase Other Assets. Upon termination or expiration (without renewal) of this Agreement, Franchisor will have the right, exercisable by giving notice thereof (“**Appraisal Notice**”) within thirty (30) days after the date of such termination or expiration, to require that a determination be made of the “**Fair Market Value**” (as defined below) of any or all of the assets of the SHOP which Franchisee owns, including inventory of non-perishable products, materials, supplies, furniture, equipment, signs, and any and all leasehold improvements, fixtures, building and land, but excluding any cash and short-term investments and any items not meeting Franchisor's specifications for Krispy Kreme Shops (the “**Purchased Assets**”). Notwithstanding the foregoing, if Franchisee notifies Franchisor not less than one hundred eighty (180) days nor more than two hundred seventy (270) days prior to the expiration of this Agreement that Franchisee does not desire to enter into a successor franchise agreement on expiration, then Franchisor agrees, if Franchisor desires to exercise its right to purchase, to give Franchisee the Appraisal Notice at least one hundred twenty (120) days prior to the date of expiration of this Agreement. Franchisee shall at no time take any action or enter into any agreement that would serve to prevent or hinder Franchisor's ability to exercise its purchase rights under this Section 26.5. Franchisee shall take all steps necessary, at its sole expense, including any actions directed by Franchisor, to ensure that the Purchased Assets are protected and not harmed, seized, removed, or impacted in any way that would prevent or hinder Franchisor's ability to exercise its purchase rights under this Section 26.5.
- 26.6 Access to SHOP and Records. Upon delivery of the Appraisal Notice, Franchisee may not sell or remove any of the assets of the SHOP from the Premises (other than in the ordinary course of business) and must give Franchisor, its designated agents and the Appraisers full access to the SHOP and all of Franchisee's books and records at any times during customary business hours in order to conduct inventories and determine the purchase price for the Purchased Assets.
- 26.7 Fair Market Value. “**Fair Market Value**” is defined as the amount at which an arm's length purchaser would be willing to pay for the Purchased Assets or other assets or interest being transferred, assuming that the Purchased Assets or such other assets would be used for the operation of a Krispy Kreme Shop under a valid franchise agreement reflecting the then-current

(or if Franchisor is not offering franchises at that time, then the most recent) standard terms upon which Franchisor offers franchises for Krispy Kreme Shops. Under no circumstances will any value be attributed to any goodwill associated with the Marks or any value attributed to the System (all of which Franchisee acknowledges to be owned by Franchisor and its Affiliates). In the first instance, Fair Market Value will be determined by consultation between Franchisor and Franchisee. If Franchisee and Franchisor are unable to agree on the Fair Market Value of the Purchased Assets within fifteen (15) days after the Appraisal Notice, then Fair Market Value will be determined by calculating the mean average of three (3) separate appraisals done by three (3) independent appraisers (“**Appraisers**”). Franchisor and Franchisee will each designate one (1) Appraiser within thirty (30) days of the Appraisal Notice and the two (2) Appraisers so designated will select a third (3rd) Appraiser within ten (10) days thereafter. If the two designated Appraisers are unable to select a third (3rd) Appraiser within such ten (10) days, then the third (3rd) Appraiser will be selected, on demand of either party, by the director of the Regional Office of the American Arbitration Association located nearest to Winston-Salem, North Carolina.

- 26.8 Appraisal Report. Each Appraiser will make his or her determination and submit a written report (“**Appraisal Report**”) to Franchisee and Franchisor as soon as practicable, but in no event more than thirty (30) days after his or her appointment. Each party may submit in writing to the Appraisers its judgment of Fair Market Value (together with its reasons and with copies to each other); however, the Appraisers will not be limited to these submissions and may make such independent investigations as they reasonably determine to be necessary. The Appraisers’ fees and costs will be borne equally by the parties.
- 26.9 Franchisor’s Option Upon Last Appraisal Report. Franchisor has the option, exercisable by delivering notice thereof within thirty (30) days after submission of the last Appraisal Report (or the date that an agreement is reached, if the parties agree to the Fair Market Value), to agree to purchase any or all of the Purchased Assets at the Fair Market Value, as so determined. Franchisor will have the unrestricted right to assign this option to purchase separate and apart from the remainder of this Agreement.
- 26.10 Other Terms. If Franchisor exercises its option to purchase, the purchase price for the Purchased Assets will be paid in cash at the closing, which will occur at the place, time and date Franchisor designates, but not later than sixty (60) days after Franchisor delivers notice of its exercise of its option, as described in Section 26.9. At the closing, Franchisor will be entitled to all representations, warranties, covenants, title insurance policies and other closing documents and post-closing indemnifications and hold-backs as Franchisor requires, including:
- (a) instruments transferring good and marketable title to the Purchased Assets, free and clear of all liens, encumbrances, and liabilities, to Franchisor or its designee, with all sales and other transfer taxes paid by Franchisee;
 - (b) an assignment of all leases of assets used in the operation of the SHOP, including land, building and/or equipment (or if an assignment is prohibited, a sublease to Franchisor or its designee for the full remaining term and on the same terms and conditions as Franchisee’s lease, including renewal and/or purchase options), provided, however, that if any of Franchisee’s Owners or Affiliates directly or indirectly owns the land, building and/or equipment of the SHOP, Franchisee will, at Franchisor’s option, cause such Owner or Affiliate to grant to Franchisor a lease at reasonable and customary rental rates and other terms prevailing in the community where the SHOP is located; and

- (c) a general release by Franchisee and its Owners and Affiliates in form and substance satisfactory to Franchisor.
- 26.11 Closing Through Escrow. If Franchisee cannot deliver clear title to all of the Purchased Assets, or if there are other unresolved issues, the closing of the sale may, at Franchisor's option, be accomplished through an escrow on such terms and conditions as Franchisor deems appropriate, including the making of payments, to be deducted from the purchase price, directly to third parties in order to obtain clear title to all of the Purchased Assets.
- 26.12 Bulk Transfer Laws. Franchisee and Franchisor will comply with any applicable Bulk Sales provisions of the Uniform Commercial Code as enacted in the state where the SHOP is located and all applicable state and local sales and income tax notification and/or escrow procedures.
- 26.13 Setoff. Franchisor has the right to set off against and reduce the purchase price by any and all amounts owed by Franchisee or any of its Owners or Affiliates to Franchisor or any of its Affiliates.
- 26.14 Temporary Operations. Upon delivery of the Appraisal Notice and pending (a) determination of Fair Market Value, (b) Franchisor's option period, and (c) the closing of the purchase, Franchisor may authorize continued temporary operations of the SHOP pursuant to the terms of this Agreement, subject to the supervision and control of one or more of Franchisor's appointed managers. The appointed managers will be employed by Franchisor, at Franchisor's expense. Neither Franchisor nor such appointed managers will owe a fiduciary duty to Franchisee or its Owners with respect to such temporary operations of the SHOP.
- 26.15 Other Rights and Remedies. Franchisor's exercise of any of its rights under Section 26 will be in addition to and not in limitation of any other rights and remedies it may have if Franchisee commits a breach or default under this Agreement. Without limiting the foregoing, and notwithstanding anything to the contrary, if the termination is a result of Franchisee's, an Owner's, or an Affiliate's breach or default under this Agreement or any other agreement with Franchisor or its Affiliates, Franchisor shall also be entitled to pursue any and all rights and recover all damages available at law or in equity. To that end, Franchisee, its Owners and Affiliates each acknowledge and confirm that by granting Franchisee the Franchise, Franchisor lost the opportunity to grant a franchise to another person or entity or to itself to own and operate a Krispy Kreme Shop at the Site. Additionally, Franchisee, its Owners and Affiliates confirm that Franchisor and its Affiliates will suffer substantial damages by virtue of the termination of this Agreement, including, without limitation, lost future Royalties, lost Brand Fund and AP Fund contributions, lost profits from the sale of products, ingredients, and other items, lost market penetration and goodwill, lost opportunity costs and the expense Franchisor will incur in developing another Krispy Kreme Shop at the Site, which damages Franchisor shall have the right to recover from Franchisee, its Owners and Affiliates.
- 26.16 Survival. All the obligations of Franchisee and its Owners and Affiliates under this Agreement, which expressly or by their nature survive or are intended to survive the termination or expiration of this Agreement, will continue in full force and effect subsequent to and notwithstanding the termination or expiration until they are satisfied in full or by their nature expire.

27. RELATIONSHIP OF PARTIES/INDEMNIFICATION

- 27.1 No Fiduciary Relationship. Neither this Agreement nor the dealings of the parties pursuant to this Agreement will create any fiduciary relationship or any other relationship of trust or confidence

between the parties hereto. Franchisor and Franchisee, as between themselves, are and will be independent contractors.

- 27.2 Exercise of Discretion. Franchisee understands and agrees that Franchisor may operate and change the System and its business in any manner that is not expressly and specifically prohibited by this Agreement. Whenever Franchisor has expressly reserved in this Agreement or is deemed (or it is implied) to have a right, option, discretion, and/or exercise of Franchisor's judgment, to take or withhold an action, or to grant or decline to grant Franchisee a right to take or withhold an action, or any words of similar effect, except as otherwise expressly and specifically provided in this Agreement, Franchisor may make its decision or exercise its right, option, discretion, and/or judgment on the basis of Franchisor's unfettered sole and exclusive determination of what is in its best interests, including its judgment of what is in the best interests of its franchise network, at the time its decision is made or its right, option, discretion, and/or judgment is exercised, without regard to whether: (a) other reasonable alternative decisions or actions could have been made by Franchisor; (b) Franchisor's decision or action promotes its financial or other individual interest; (c) Franchisor's decision or action applies differently to Franchisee and one or more other franchisees or its company-owned operations; or (d) Franchisor's decision or the exercise of its right, option, judgment, or discretion is adverse to Franchisee's interests (collectively, "**Franchisor's Exercise of Discretion**"). Franchisor shall have no liability to Franchisee for any of Franchisor's Exercise of Discretion. The parties intend that Franchisor's Exercise of Discretion shall be final and will not be subject to limitation or review. Neither Franchisee nor any third party (including a trier of fact), will substitute its judgment, decision, discretion, or determination for Franchisor's Exercise of Discretion. If applicable law implies a covenant of good faith and fair dealing in this Agreement, the parties agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement, as written, is intended and expected by the parties, supported by adequate consideration, to grant Franchisor the right to make decisions, exercise discretion, exercise judgment, take actions and/or refrain from taking actions pursuant to the definition of Franchisor's Exercise of Discretion, and that this Section is not inconsistent with Franchisee's rights and obligations hereunder, and this Section is expressly entered into by the parties in good faith and as a fair, negotiated, and material part of the Agreement.
- 27.3 No Partnership or Employment Created. Nothing contained in this Agreement, nor arising from the conduct of the parties hereunder, is intended to make either party a general or special agent, joint venturer, partner or employee of the other for any purpose whatsoever. Franchisee must conspicuously identify itself in all dealings with customers, lessors, contractors, suppliers, public officials, employees and others as the owner of the rights granted under this Agreement, and must place such other notices of independent ownership on such forms, receipts, business cards, stationery, advertising and other materials, including but not limited to trucks and other vehicles, as Franchisor may require from time to time. Franchisee will display at such location on the SHOP premises as Franchisor designates, a placard of such size as Franchisor prescribes containing the following statement: "This restaurant is independently owned and operated by a franchisee under a license from Krispy Kreme Doughnut Corporation." Franchisee will never make a statement or representation to any person or entity that is contrary to or inconsistent with Section 27 of this Agreement. Franchisee is solely responsible for all employment decisions with respect to its personnel, including hiring, firing, compensation, training, supervision and discipline, and regardless whether Franchisee receives advice from Franchisor on any of these subjects.
- 27.4 Franchisee Not to Incur Obligations for Franchisor. Franchisee may not make any express or implied agreements, warranties, guaranties or representations or incur any debt in Franchisor's

name or on its behalf or represent that the relationship of the parties hereto is anything other than that of independent contractors. Franchisor will not be obligated by or have any liability under any agreements made by Franchisee with any third party or for any representations made by Franchisee to any third party. Franchisor will not be obligated for any damages to any person, entity, or property arising directly or indirectly out of the operation of the Franchisee's business.

- 27.5 No Franchisor Liability for Taxes. Franchisor will have no liability for any sales, use, service, occupation, excise, gross receipts, income, property or other taxes, whether levied upon Franchisee or the SHOP, in connection with the business Franchisee conducts (except for taxes Franchisor is required by law to collect from Franchisee with respect to purchases from Franchisor). Payment of all such taxes is Franchisee's responsibility.
- 27.6 Indemnification by Franchisor. Franchisor agrees to indemnify Franchisee against, and to reimburse Franchisee for, all damages for which Franchisee is held liable as a result of a claim that Franchisee's authorized use of any Mark or of any of Franchisor's other intellectual property rights pursuant to and in full compliance with this Agreement infringes on the rights of another person and, except as provided for in this Agreement, for all costs Franchisee reasonably incurs in defending any such claim brought against Franchisee, provided that Franchisee has timely notified Franchisor of such claim and provided further that Franchisee and Franchisee's Owners and Affiliates are in full compliance with this Agreement and with all other agreements entered into with Franchisor or any of its Affiliates. HDN or its agent or assignee, at its option, is entitled to prosecute, defend and/or settle any such proceeding arising out of Franchisee's use of any Mark or other intellectual property right pursuant to this Agreement and, if HDN or its agent or assignee undertakes to prosecute, defend and/or settle any such matter, Franchisor, HDN or its agent or assignee, has no obligation to indemnify or reimburse Franchisee for any fees or disbursements of any legal counsel retained by Franchisee.
- 27.7 Indemnification by Franchisee. Franchisee agrees to indemnify Franchisor, its Affiliates and their respective directors, officers, employees, shareholders, members, managers, agents, successors and assigns (collectively "**Indemnified Parties**"), and to hold the Indemnified Parties harmless to the fullest extent permitted by law, from any and all losses and expenses (as defined below) incurred in connection with any litigation or other form of adjudicatory procedure, claim, demand, investigation, or formal or informal inquiry (regardless of whether it is reduced to judgment) or any settlement thereof which arises directly or indirectly from, or as a result of, a claim of a third party against any one or more of the Indemnified Parties, including, without limitation, those in connection with:
- (a) Franchisee's failure to perform or breach of any covenant, agreement, term or provision of this Agreement;
 - (b) Franchisee's breach of any representation or warranty contained in this Agreement;
 - (c) Franchisee's marketing, promotion, advertisement or sale of any of the products and services offered by the SHOP, including unfair or fraudulent advertising claims (whether in print advertising, electronic media or otherwise), and product liability claims;
 - (d) Franchisee's development, ownership, operation and/or closing of the SHOP;
 - (e) Franchisee's failure to pay any amounts owed to a supplier;
 - (f) claims by Franchisee's employees (including workers' or unemployment compensation);

- (g) personal injury claims;
- (h) Franchisee's failure to comply with any law; and
- (i) any allegedly unauthorized service or act, rendered or performed in connection with this Agreement, (collectively "**Event**") and regardless of whether it resulted from any strict or vicarious liability imposed by law on the Indemnified Parties.

The foregoing indemnity will apply even if it is determined that the Indemnified Parties' negligence caused such loss, liability or expense, in part, provided, however, that this indemnity will not apply to any liability directly arising from a breach of this Agreement by Franchisor or with respect to any Indemnified Party whose gross negligence or willful misconduct directly caused such liability (except to the extent that joint liability is involved, in which event this indemnification will extend to any finding of comparative or contributory negligence attributable to Franchisee). The foregoing indemnity will not apply if it is determined, according to a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction, that the Indemnified Parties' gross negligence or willful misconduct was the sole cause of such loss, liability or expense. The term "**losses and expenses**" includes compensatory, exemplary, and punitive damages; fines and penalties; attorneys' fees; experts' fees; court costs; costs associated with investigating and defending against claims; settlement amounts; judgments; compensation for damages to Franchisor's reputation and goodwill; and all other costs associated with any of the losses and expenses noted above. Franchisor agrees to give Franchisee reasonable notice of any event of which Franchisor becomes aware for which indemnification may be required, and Franchisor may elect (but is not obligated) to direct the defense of any action, provided that the selection of counsel will be subject to Franchisee's consent, which consent will not be unreasonably withheld or delayed. Franchisor may, at its option, take the actions Franchisor deems necessary and appropriate to investigate, defend, or settle any event or take other remedial or corrective actions with respect thereto as may be necessary for the protection of the Indemnified Parties or Krispy Kreme Shops generally. Further, notwithstanding the above, if the insurer on a policy or policies obtained in compliance with this Agreement agrees to undertake the defense of an Event (an "**Insured Event**"), Franchisor agrees not to exercise its right to select counsel to defend the Event if such would cause Franchisee's insurer to deny coverage, so long as the appointed counsel is reasonably acceptable to Franchisor and has substantial knowledge and experience in the specific applicable practice area of law. Franchisor reserves the right to retain counsel to represent Franchisor with respect to an Insured Event at Franchisor's sole cost and expense.

- 27.8 Insurance. In furtherance of the indemnity contained in Section 27.7, during the Term, Franchisee agrees to maintain commercial general liability insurance, product liability coverage, automobile liability insurance, worker's compensation insurance, employer's liability insurance and any other insurance policies as Franchisor may require from time to time, insuring Franchisee and the Indemnified Parties against the matters described in Section 27.7, including claims for bodily and personal injury, death and property damage, among other things, caused by or occurring in conjunction with the conduct of business by Franchisee pursuant to this Agreement, under one or more policies of insurance acceptable to Franchisor and containing minimum liability coverage Franchisor prescribes from time to time. Each such insurance policy shall be on a primary and non-contributory basis. Each such insurance policy will name Franchisor and its Affiliates as additional named insureds (without obligation to pay the premium or any deductible amounts, all of which shall be paid by Franchisee) and will provide for thirty (30) days' prior written notice to Franchisor of any material modification, cancellation, or expiration of such policy. Each such insurance policy will give Franchisor notice of default under the policy

and the opportunity to cure such default on Franchisee's behalf. Simultaneous with the execution of this Agreement, Franchisee will provide Franchisor with evidence of such insurance; thereafter, Franchisee will furnish to Franchisor annually and upon the replacement or material modification of any insurance policy providing the coverage required under this Agreement, a copy of the certificate of insurance or other evidence requested by Franchisor that such insurance coverage is continuously in force without interruption, together with information concerning claims and losses under such insurance. The maintenance of sufficient insurance coverage (both as to the type and limits of coverage) for the SHOP is Franchisee's sole responsibility.

27.9 Survival. The terms of Section 27 will survive the termination or expiration of this Agreement.

28. MISCELLANEOUS

28.1 Governing Law. This Agreement is deemed made and entered into in the State of North Carolina. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement and all issues arising from or relating to this Agreement will be governed by and construed under the laws of the State of North Carolina, provided the foregoing will not constitute a waiver of Franchisee's rights under any applicable franchise law of another state, if such applicable franchise law of another state expressly does not allow for such a waiver. Otherwise, in the event of any conflict of law, North Carolina law will prevail, without regard to the application of North Carolina conflict of law principles, except that any North Carolina law regulating the sale of franchises or business opportunities or governing the relationship of a franchisor and its franchisees will not apply unless its jurisdictional requirements are met independently without reference to this Section.

28.2 Venue and Forum. Franchisee and each of its Owners agree that the U.S. District Court for the Middle District of North Carolina, or if such court lacks jurisdiction, the Superior Court (or its successor) for Forsyth County North Carolina, will be the exclusive jurisdiction and exclusive venue and forum in which to adjudicate any case or controversy arising from or relating to this Agreement, or any Development Agreement, or any other Franchise Agreement, including any guaranties or covenants by Franchisee's Owners, or any other agreement between Franchisor and Franchisee, or the relationship between Franchisor and Franchisee. If a case or controversy is to be heard by the Superior Court (or its successor) for Forsyth County North Carolina, any party may request that the matter be assigned to the North Carolina Business Court. Franchisee and each of its Owners irrevocably submit and consent to the exclusive jurisdiction and exclusive venue of such courts and waive any objections to either the jurisdiction of or venue in such courts. Franchisee and each of its Owners irrevocably waive, to the fullest extent they may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agree that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of North Carolina but may be served with the same effect as if they were served within the State of North Carolina, by certified mail or any other means permitted by law, addressed to Franchisee and its Owners (as applicable) at the address set forth in this Agreement. Nothing contained in this Agreement will affect Franchisor's rights to bring a suit, action or proceeding in any other appropriate jurisdiction to enforce any judgment, order, or award against Franchisee or any of its Owners entered by a State or Federal Court.

28.3 Injunctive Relief. Notwithstanding Section 28.2, Franchisor may obtain at any time in any court of competent jurisdiction any injunctive relief, including temporary restraining orders and preliminary injunctions, against conduct or threatened conduct for which no adequate remedy at law may be available or which may cause Franchisor irreparable harm. Franchisor shall have

such injunctive relief, without bond, but upon due notice (if reasonably possible), in addition to such further and other relief as may be available at equity or in law, and Franchisee's sole remedy in the event of the entry of such injunction, will be the dissolution of such injunction, if warranted, upon hearing duly had (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). Franchisee and each of its Owners acknowledge that any violation of Sections 13, 14.1, 14.2, 14.3, 15, 16, 17, 22.2(k) or 26.3 would result in irreparable injury to Franchisor for which no adequate remedy at law shall be available. Accordingly, Franchisee and each of its Owners consent to the issuance of an injunction at Franchisor's request (without posting a bond or other security) prohibiting any conduct in violation of any of those sections and agree that the existence of any claims Franchisee or any of its Owners may have against Franchisor, whether or not arising under this Agreement, will not constitute a defense to the enforcement of any of those Sections.

28.4 Costs and Attorneys' Fees. In any legal action arising from this Agreement, the prevailing party will be entitled to recover its costs, including reasonable attorneys' fees, against the non-prevailing party.

28.5 Waiver of Punitive, Exemplary and Consequential Damages, Limitations on Actions. Except with respect to any of Franchisee's obligations contained in this Agreement regarding the Confidential Information, Indemnification, the Marks, any other intellectual property rights of Franchisor, and the Non-Competition Covenants, Franchisor and Franchisee (and its Owners) each waives, to the fullest extent permitted by law, any right to or claim for any punitive or exemplary damages against the other. Franchisee and each of its Owners waive, to the fullest extent permitted by applicable law, the right to recover consequential damages for any claim directly or indirectly arising from or relating to this Agreement.

ANY DISAGREEMENT, DISPUTE, ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BETWEEN OR INVOLVING FRANCHISEE (AND/OR ITS AFFILIATES AND/OR OWNERS) AND FRANCHISOR (AND/OR ITS AFFILIATES) WILL BE CONSIDERED UNIQUE AS TO ITS FACTS AND MUST NOT BE BROUGHT AS A CLASS ACTION AND FRANCHISEE (AND ITS AFFILIATES AND OWNERS) WAIVE ANY RIGHT TO PROCEED AGAINST FRANCHISOR (AND/OR ITS AFFILIATES) BY WAY OF CLASS ACTION, OR BY WAY OF A MULTI-PLAINTIFF, CONSOLIDATED OR COLLECTIVE ACTION.

FURTHERMORE, FRANCHISOR AND ITS AFFILIATES, AND FRANCHISEE AND EACH OF ITS OWNERS AND AFFILIATES IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, DISPUTE, CLAIM OR COUNTERCLAIM, BROUGHT BY FRANCHISOR AND/OR ITS AFFILIATES AGAINST FRANCHISEE AND/OR ANY OF ITS OWNERS AND/OR AFFILIATES, OR BROUGHT BY FRANCHISEE AND/OR ANY OF ITS OWNERS AND/OR AFFILIATES AGAINST FRANCHISOR AND/OR ITS AFFILIATES, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION, PROCEEDING, OR COUNTERCLAIM.

FRANCHISEE AND EACH OF ITS OWNERS AND AFFILIATES AGREE THAT THEIR SOLE RECOURSE FOR CLAIMS ARISING BETWEEN THE PARTIES SHALL BE AGAINST FRANCHISOR AND/OR ITS AFFILIATES OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. FRANCHISEE AND EACH OF ITS OWNERS AND AFFILIATES AGREE THAT THE OWNERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS OF FRANCHISOR AND ITS AFFILIATES SHALL NOT BE PERSONALLY LIABLE NOR NAMED AS A PARTY IN ANY ACTION BETWEEN

FRANCHISOR AND/OR ITS AFFILIATES AND FRANCHISEE AND/OR ANY OWNER OR AFFILIATE OF FRANCHISEE.

- 28.6 Severability. Every part of this Agreement will be considered severable. If for any reason any part of this Agreement is held to be invalid, that determination will not impair the other parts of this Agreement. If any covenant contained in this Agreement which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of geographical area, type of business activity prohibited and/or length of time, but could be rendered enforceable by reducing any part or all of it, Franchisee and Franchisor agree that it will be so modified as to remain enforceable to the fullest extent permissible under applicable law. If any applicable law requires a greater prior notice of the termination of or refusal to enter into a successor franchise than is required hereunder, a different standard of “good cause”, or the taking of some other action not required hereunder, the prior notice, “good cause” standard and/or other action required by such law will be substituted for the comparable provisions hereof. If any provision of this Agreement or any specification, standard or operating procedure prescribed by Franchisor is invalid or unenforceable under applicable law, Franchisor has the right, at its option, to modify the invalid or unenforceable provision, specification, standard or operating procedure to the extent required to make it valid and enforceable.
- 28.7 Unilateral Waiver. Franchisor and Franchisee may by written instrument signed by the waiving party unilaterally waive or reduce any obligation of the other under this Agreement. Any waiver granted by Franchisor will be without prejudice to any other rights Franchisor may have, will be subject to continuing review by Franchisor and may be revoked, at its option, at any time and for any reason, effective upon delivery to Franchisee of ten (10) days’ prior notice. Franchisee and Franchisor will not be deemed to have waived any right reserved by this Agreement by virtue of any custom or practice of the parties at variance with it; any failure, refusal or neglect by Franchisee or Franchisor to exercise any right under this Agreement or to insist upon exact compliance by the other with its obligations under this Agreement; any waiver, forbearance, delay, failure or omission by Franchisor to exercise any right, whether of the same, similar or different nature, with respect to other Krispy Kreme Shops; or the acceptance by Franchisor of any payments due from Franchisee after any breach of this Agreement.
- 28.8 Cumulative Rights. The rights of Franchisor and Franchisee under this Agreement are cumulative and no exercise or enforcement by Franchisor or Franchisee of any right or remedy hereunder will preclude the exercise or enforcement by Franchisor or Franchisee of any other right or remedy hereunder which Franchisor or Franchisee is entitled to enforce by law.
- 28.9 Fair Meaning/Entire Agreement/No Third Party Beneficiaries/Modification. The language of this Agreement will be construed according to its fair meaning and not more strictly against any one party than the other. The Summary Page, introduction, personal guaranties and covenants, exhibits, schedules and riders (if any) to this Agreement are a part of this Agreement, which constitutes the entire agreement of the parties with respect to the subject matter hereof. Except as otherwise expressly provided for in this Agreement, there are no other oral or written agreements, understandings, representations or statements relating to the subject matter of this Agreement, including but not limited to, statements relating to financial performance, profits, or financial success, other than the Franchise Disclosure Document, that either party may or does rely on or that will have any force or effect. Nothing in this Agreement will be deemed to confer any rights or remedies on any person or legal entity not a party hereto. Except as otherwise expressly provided in this Agreement, this Agreement will not be modified except by written agreement signed by both parties.

- 28.10 Headings and Use of Certain Terms. The headings of sections are for convenience only and do not limit or construe their contents. The word “including” will be construed to include the words “without limitation.” The term “Franchisee” is applicable to one or more persons, a corporation, limited liability company or a partnership, as the case may be. If two (2) or more persons are at any time a Franchisee hereunder, whether as partners, joint venturers or otherwise, their obligations and liabilities to Franchisor will be joint and several.
- 28.11 Reserved.
- 28.12 Binding on Successors/Multiple Copies/Time is of Essence. This Agreement is binding on the parties to this Agreement and their respective executors, administrators, heirs, assigns and successors in interest. This Agreement, and all ancillary agreements, may be executed in multiple copies, each of which will be deemed an original. This Agreement, and all ancillary agreements, may be signed with full legal force and effect using electronic or digital signatures and records. Time is of the essence in this Agreement.
- 28.13 Approvals and Consent. Whenever this Agreement requires the approval or consent of either party, the other party will make a written request and any approval or consent will be obtained in writing; unless specified otherwise in this Agreement, either party may withhold approval or consent for any reason or for no reason at all. Furthermore, unless specified otherwise in this Agreement, no such approval or consent will be deemed to constitute a warranty or representation of any kind, express or implied, and the approving or consenting party will have no responsibility, liability or obligation arising therefrom.
- 28.14 Notices. All notices, requests and reports permitted or required to be delivered by this Agreement will be deemed delivered: (a) at the time delivered by hand to the recipient party (or to an officer, director or partner of the recipient party); (b) one (1) business day after being placed in the hands of a commercial courier service for guaranteed overnight delivery; or (c) upon the date of confirmed receipt after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid and addressed to the party to be notified at its most current principal business address of which the notifying party has been notified in writing. All payments and reports required by this Agreement will be sent to Franchisor at the address identified in this Agreement unless and until a different address has been designated by written notice. No restrictive endorsement on any check or in any letter or other communication accompanying any payment will bind Franchisor, and its acceptance of any such payment will not constitute an accord and satisfaction. All notices to Franchisor shall be sent to the attention of Franchisor’s General Counsel, with a mandatory copy of the notice sent by the same method to Jan Gilbert, Esq., Polsinelli, 1401 Eye Street N.W., Suite 800, Washington, DC 20005.
- 28.15 Modification of Payment Terms. To the extent that Franchisor or its Affiliates may offer or sell products or services to Franchisee, Franchisor and its Affiliates will have the right to alter, amend or otherwise modify the payment terms therefore in response to an assessment of Franchisee’s creditworthiness. Such modified payment terms may include cash in advance, payment upon delivery, and payment within an abbreviated time period.

29. ACKNOWLEDGMENTS

29.1 Acknowledgments. By initialing below, Franchisee hereby specifically acknowledges the following:

- (a) **Domicile.** Franchisee acknowledges that Franchisee is not a domiciliary or a resident of any state, other than the state where the SHOP is located or, if different, the state listed on the Summary Page as Franchisee’s address.

Initials _____

- (b) **Receipt of Franchise Disclosure Document.** Franchisee acknowledges that Franchisee received Franchisor’s Franchise Disclosure Document at least fourteen (14) calendar days before signing a binding agreement or before making any payment to Franchisor or any of its Affiliates relating to this Agreement. Franchisee has read and understands Franchisor’s Franchise Disclosure Document.

Initials _____

- (c) **Receipt of this Agreement.** Franchisee acknowledges that Franchisee received this Agreement, including all exhibits, in final, execution form, at least seven (7) calendar days before signing this Agreement or before making any payment to Franchisor or any of its Affiliates relating to this Agreement. Franchisee has read and understands this Agreement.

Initials _____

- (d) **No Inconsistent Representations.** Franchisee acknowledges that no representations, including but not limited to, statements relating to financial performance, profits, or financial success, have been made to Franchisee or its representatives which are inconsistent with information presented in Franchisor’s Franchise Disclosure Document, and Franchisee has not relied on any representations inconsistent with or not contained in Franchisor’s Franchise Disclosure Document.

Initials _____

- (e) **Business Risks; Independent Investigation.** Franchisee recognizes that the nature of Krispy Kreme Shops may change over time, that an investment in a Krispy Kreme Shops involves business risks and that the success of the investment is largely dependent on Franchisee’s own business abilities, efforts and financial resources. Franchisee has conducted an independent investigation of the business contemplated by this Agreement and recognizes that the food service industry is highly competitive.

Initials _____

- (f) **Independent Counsel.** Franchisee acknowledges having had the opportunity to seek independent counsel concerning the execution of this Agreement and the operation of the Franchise.

Initials _____

- (g) **No Guarantee or Assurance.** Franchisee has not received from Franchisor or its representatives or relied on any statement, representation, guarantee or assurance, express or implied, as to the revenues, profits or success of the business venture contemplated by this Agreement, nor has Franchisee received from Franchisor or its representatives any information from which Franchisee may easily ascertain a specific level or range of actual or potential sales, income, gross or net profits from franchised or non-franchised Krispy Kreme Shops or Doughnut Factories.

Initials _____

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Effective Date.

FRANCHISOR:

FRANCHISEE:

**KRISPY KREME DOUGHNUT
CORPORATION**

[FRANCHISEE]

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT A-1

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

FRANCHISEE INFORMATION

1. Form of Entity of Franchisee.

Franchisee is a [corporation, limited liability company or partnership], incorporated or formed on _____, under the laws of the State of _____. Its Federal Identification Number is _____. It has not conducted business under any name other than its legal entity name and _____. The following is a list of Franchisee's partners, directors, officers and/or members as of the Effective Date.

<u>Name of Each Director/Officer/Member/Partner</u>	<u>Position(s) Held</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. Owners. Franchisee and each of its Owners represents and warrants that the following is a complete and accurate list of all Owners of Franchisee, including the full name and mailing address of each Owner, and fully describes the nature and extent of each Owner's interest in Franchisee. Franchisee and each Owner as to his/her ownership interest, represents and warrants that each Owner is the sole and exclusive legal and beneficial owner of his/her ownership interest in Franchisee, free and clear of all liens, restrictions, agreements and encumbrances of any kind or nature, other than those required or permitted by this Agreement.

<u>Owner's Name and Mailing Address</u>	<u>Percentage and Nature of Ownership Interest</u>
_____	_____
_____	_____
_____	_____

Effective this _____ day of _____, 20____.

FRANCHISOR:

**KRISPY KREME DOUGHNUT
CORPORATION**

By: _____

Title: _____

FRANCHISEE:

[FRANCHISEE]

By: _____

Title: _____

OWNERS:

(Signature)

(Print Name)

(Signature)

(Print Name)

(Signature)

(Print Name)

EXHIBIT A-2

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

CONFIRMATION OF OPENING DATE

Pursuant to Section 8.3 of the Franchise Agreement, the Opening Date for Shop No. ____ located at _____
_____ was _____, 20__.

Confirmed _____, 20__.

FRANCHISOR:

**KRISPY KREME DOUGHNUT
CORPORATION**

By: _____

Title: _____

EXHIBIT B

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

**FORM OF PERSONAL GUARANTY AGREEMENT
OF FRANCHISEE'S OBLIGATIONS**

This Personal Guaranty Agreement of Franchisee's Obligations (this "**Personal Guaranty**"), effective _____, 20__, is made by _____ and _____ (collectively, "**Guarantors**"), in favor of **KRISPY KREME DOUGHNUT CORPORATION**, a North Carolina corporation ("**Franchisor**").

A. _____, a _____ ("**Franchisee**") has entered into a Franchise Agreement with Franchisor dated _____, 20__ (the "**Agreement**"). Any capitalized terms used but not defined in this Personal Guaranty will have the meaning set forth in the Agreement.

B. Each of the Guarantors, directly or indirectly, owns an equity interest in Franchisee of 10% or more.

C. In consideration of Franchisor's entering into the Agreement, the Guarantors agree as follows:

1. **Unconditional Guaranty.** Guarantors, jointly and severally, irrevocably and unconditionally, fully guarantee to Franchisor (and its successors and assigns): (a) prompt, full and complete payment and performance of all undertakings, agreements and covenants set forth in the Agreement and any amendment to the Agreement and the payment of any other amount owed by Franchisee to Franchisor; (b) that each and every representation of Franchisee made in connection with the Agreement and any amendment to the Agreement are true, correct and complete in all respects; and (c) to be personally bound by each and every provision in the Agreement and any amendment to the Agreement. Guarantors agree that the obligations of each Guarantor hereunder are absolute and unconditional and will remain in full force and effect until the Franchisee has fully and satisfactorily discharged all of Franchisee's obligations under the Agreement and any amendment, and irrespective of any assignment of the Agreement or of any termination of the Agreement, except in accordance with the express provisions of the Agreement and payment of all amounts due under the Agreement and any amendment.

2. **Pay or Perform.** Guarantors, jointly and severally, irrevocably and unconditionally, consent and agree: (a) to render any payment or performance required under the Agreement upon demand as if such payment or obligation constituted the direct and primary obligation of Guarantors; (b) that Guarantors' obligation to pay or perform any obligation under the Agreement will not be contingent or conditioned upon Franchisor's pursuit of any remedies against Franchisee, any other Guarantor or any other person or entity; (c) that Guarantors' obligation to pay or perform will not be diminished or relieved by any extension of time, credit or other action that Franchisor may grant or allow Franchisee, including

Franchisor's acceptance of any partial payment or performance or the compromise or release of any claims; and (d) that Guarantors' obligation to pay or perform will continue until satisfied in full.

3. **Waiver of Defenses.** Guarantors waive and agree not to assert or take advantage of: (a) any right to require Franchisor to proceed against Franchisee or any other Guarantor, person, firm or corporation or to proceed against or exhaust any security held by Franchisor at any time or to pursue any other remedy in Franchisor's power; (b) protest and notice of Franchisee's default in the payment or performance of any obligation guaranteed in this Personal Guaranty; (c) any statute of limitations in any action hereunder to collect any indebtedness guaranteed in this Personal Guaranty; (d) any defense arising out of any amendment to the Agreement; (e) any demand, protest or notice of any kind to which the Guarantors may be entitled; (f) all rights and defenses arising out of an election of remedies by Franchisor, even if such election of remedies destroys Guarantors' rights of subrogation and reimbursement against Franchisee by operation of law or otherwise; and (g) the provisions of North Carolina General Statutes § 26-7 *et seq.* (which, among other things, provides that a guarantor may require a creditor to use all reasonable diligence to recover against the principal and to proceed to realize upon any securities which the creditor holds for the obligation).

4. **No Subrogation.** Guarantors will have no right of subrogation which the Guarantors may have against Franchisee as a result of the execution and performance of this Personal Guaranty until all payments to Franchisor are paid in full and all of Franchisee's obligations to Franchisor are fully performed. Guarantors waive any and all right to enforce any remedy that Franchisor has or may have against Franchisee.

5. **Cumulative Remedies.** Guarantors agree that Guarantors' liabilities and Franchisor's powers and remedies under this Personal Guaranty and under any other current or future agreement between Franchisor and Guarantors will be cumulative (and not alternative) and that such rights, powers and remedies will be in addition to all rights, powers and remedies given to Franchisor by law.

6. **Governing Law and Venue.** This Personal Guaranty will be governed by and construed in accordance with the internal laws of the State of North Carolina, without reference to conflict of law principles. Any controversy or claim arising out of or relating to this Personal Guaranty will be brought exclusively in the U.S. District Court for the Middle District of North Carolina, or if such court lacks jurisdiction, the Superior Court (or its successor) for Forsyth County North Carolina, will be the exclusive jurisdiction and exclusive venue and forum in which to adjudicate any case or controversy arising from or relating to this Personal Guaranty. If a case or controversy is to be heard by the Superior Court (or its successor) for Forsyth County North Carolina, any party may request that the matter be assigned to the North Carolina Business Court. Each of the undersigned irrevocably submits to the exclusive jurisdiction and exclusive venue of such courts and waives any objections to either the jurisdiction of or venue in such courts. Each of the undersigned irrevocably waives, to the fullest extent he/she may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agrees that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of North Carolina but may be served with the same effect as if the undersigned were served within the State of North Carolina, by certified mail or any other means permitted by law addressed to the undersigned at the address set forth below. Nothing contained in this Personal Guaranty will affect Franchisor's rights to bring a suit, action or proceeding in any other appropriate jurisdiction to enforce any judgment, order, or award against the undersigned entered by a State or Federal Court.

7. **Expenses.** In any legal action arising from this Personal Guaranty, the prevailing party will be entitled to recover its costs, including attorneys' fees, against the non-prevailing party.

8. **Binding Effect.** This Personal Guaranty will inure to the benefit of Franchisor and its successors and assigns and will be binding upon the Guarantors and their permitted successors and assigns.

9. **Entire Agreement.** This Personal Guaranty constitutes the entire agreement of Guarantors with respect to the subject matter hereof and this Personal Guaranty may only be amended in writing upon consent of Franchisor and Guarantors.

10. **Acknowledgements.** Each of the undersigned further acknowledges and agrees as follows:

Each has read the terms and conditions of the Agreement and acknowledges that the execution of this Personal Guaranty is in partial consideration for, and a condition to the granting of the rights to the Marks and the System, and the Franchisor would not have granted such rights without the execution of this Personal Guaranty by each of the undersigned;

This Personal Guaranty will remain in force notwithstanding the death of the undersigned, and will be binding on the undersigned's personal representatives; and

This Personal Guaranty will continue and will be enforceable notwithstanding any change in the name or the constitution of the Franchisor or Franchisee.

11. **Counterparts.** This Personal Guaranty may be executed in various counterparts, each of which will be an original and all of which will constitute the Personal Guaranty.

IN WITNESS WHEREOF, the undersigned have executed this Personal Guaranty to be effective on the date set forth above.

GUARANTOR(S)

(Signature)

(Print Name)

(Address)

(Signature)

(Print Name)

(Address)

EXHIBIT C

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

**FORM OF INVESTOR PERSONAL COVENANTS REGARDING
CONFIDENTIALITY AND NON-COMPETITION**

In conjunction with your investment in _____, a _____
 (“**Franchisee**”), _____ (“**Owner**”), acknowledges and agrees as follows:

1. Franchisee owns and operates, or intends to own and operate, a Krispy Kreme Shop pursuant to a Franchise Agreement dated _____, _____ (“**Franchise Agreement**”) with Krispy Kreme Doughnut Corporation (“**Franchisor**”), which Franchise Agreement requires persons with legal or beneficial ownership interests in Franchisee to be personally bound by the confidentiality and noncompetition covenants contained in the Franchise Agreement. All capitalized terms contained in this Agreement will have the same meaning set forth in the Franchise Agreement.

2. Owner owns or intends to own, directly or indirectly, a legal or beneficial ownership interest in Franchisee and acknowledges and agrees that the execution of this Agreement is a condition to Franchisee’s ability to enter into the Franchise Agreement and/or Owner’s ability to invest in Franchisee. Owner has received good and valuable consideration for executing this Agreement. Franchisor may enforce this Agreement directly against Owner.

3. Owner may gain access to information comprising Franchisor’s Confidential Information as a result of investing in Franchisee. The Confidential Information is proprietary and includes Franchisor’s trade secrets. Owner hereby agrees that while Owner has a legal or beneficial ownership interest in Franchisee and all times thereafter, Owner: (a) will not use the Confidential Information in any other business or capacity; (b) will maintain the confidentiality of the Confidential Information; and (c) will not make unauthorized copies of any portion of the Confidential Information, whether through electronic media, writings, or other tangible or intangible means of expression. Without limiting the foregoing, Owner (i) acknowledges that he/she may have access to Franchisor’s material non-public information and that of its indirect parent, Krispy Kreme, Inc. (“**KKI**”), and that the securities laws prohibit trading in KKI securities while in possession of such information, and (ii) agrees to refrain from trading in KKI securities in violation of such laws. If Owner ceases to have an interest in Franchisee, Owner must deliver to Franchisor any such Confidential Information in his/her possession or control.

4. Notwithstanding anything to the contrary contained in this Agreement, and provided Owner has obtained Franchisor’s prior written consent, the restrictions on Owner’s disclosure and use of the Confidential Information will not apply to the following:

- (a) information or techniques which are or become generally known in the food service industry, other than through disclosure (whether deliberate or inadvertent) by Franchisee, Franchisee’s Owners, agents, or employees, or through a breach of an obligation of confidentiality owed by anyone to Franchisor (the burden of proving the applicability of this exception will reside with Owner). Information or techniques which may otherwise be generally known in the food service industry, but are implemented or used as part of

the System in a manner or for a reason not generally known in the food service industry shall not be excepted; and

- (b) the disclosure of the Confidential Information in judicial, arbitration or administrative proceedings to the extent that Owner is legally compelled to disclose such information, provided Owner has notified Franchisor prior to such disclosure and has used its best efforts to obtain, and has afforded Franchisor sufficient opportunity to seek an appropriate protective order and obtain, assurances satisfactory to Franchisor of confidential treatment for the information required to be so disclosed.

5. Owner acknowledges and agrees that Franchisor would be unable to protect the Confidential Information against unauthorized use or disclosure; preserve the prestige, integrity, and goodwill of the Products, Marks, and System; or encourage the free exchange of ideas and information among Franchisor, developers, franchisees, and Krispy Kreme Shops and Doughnut Factories if franchisees of Krispy Kreme Shops and Doughnut Factories or their owners were permitted to engage in or benefit from certain competitive activities. Except as expressly authorized by another written agreement with Franchisor, Owner agrees that during the term of the Franchise Agreement or during such time as Owner has an Ownership Interest in Franchisee (whichever is shorter), without Franchisor's prior written consent, Owner will not directly or indirectly (including through a Restricted Person):

- (a) have any Ownership Interest in a Competitive Business;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, of or for any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business;
- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, where such services could be reasonably expected to cause Franchisee, Owner, any Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed; or
- (d) offer for sale any Products branded as a private label, house brand, or any other brand, or utilizing trademarks, service marks, logo, design, trade name, or other commercial symbol than the Marks.

6. Upon termination or expiration of the Franchise Agreement or termination of Owner's Ownership Interest in Franchisee (whichever first occurs), Owner will not directly or indirectly (including through a Restricted Person), for a period of two (2) years commencing on the effective date of such termination or expiration:

- (a) have any Ownership Interest in a Competitive Business, located within a radius of ten (10) miles of the Site or of any other Krispy Kreme Shop or Doughnut Factory then open or under construction, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates, regardless of whether such are operated under Franchise Agreements or any other type of agreement;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, of any Competitive Business, located

within a radius of ten (10) miles of the Site or of any other Krispy Kreme Shop or Doughnut Factory then open or under construction, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement; or

- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, located within a radius of ten (10) miles of the Site or of any other Krispy Kreme Shop or Doughnut Factory then open or under construction, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates, regardless of whether such are operated under Franchise Agreements or any other type of agreement, where such services could be reasonably expected to cause Franchisee, Owner, any Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed.

7. Owner acknowledges and confirms that Owner has read and reviewed the Franchise Agreement, and Owner understands and expressly agrees to be personally bound by each of the obligations, agreements, requirements, restrictions, covenants, and representations applicable to “Owners” as set forth in the Franchise Agreement, and any other agreement between Franchisor and/or its Affiliates and Franchisee and/or its Affiliates, and to undertake all the actions that Franchisee is required to cause Owner to perform.

8. Owner expressly acknowledges the possession of skills and abilities of a general nature and the opportunity to exploit such skills in other ways, so that enforcement of the covenants contained in Sections 5 and 6 of these covenants will not deprive him/her of his/her personal goodwill or ability to earn a living. If any covenant above which restricts competitive activity is deemed unenforceable by virtue of its scope or in terms of geographic area, type of business activity prohibited and/or length of time, but could be rendered enforceable by reducing any part or all of it, Owner agrees that it will be enforced to the fullest extent permissible under applicable law and public policy. Franchisor may, by written instrument signed by Franchisor, unilaterally waive or reduce any obligation of Owner contained in this Agreement. Notwithstanding anything to the contrary, Franchisor may obtain in any court of competent jurisdiction, any injunctive relief, including temporary restraining orders and preliminary injunctions, against conduct or threatened conduct for which no adequate remedy at law may be available or which may cause it irreparable harm. Franchisor shall have such injunctive relief, without bond, but upon due notice (if reasonably possible), in addition to such further and other relief as may be available to Franchisor, at equity or law, and Owner’s sole remedy in the event of the entry of such injunction, will be the dissolution of such injunction, if warranted, upon hearing duly had (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). Owner acknowledges that any violation of Sections 3, 4, 5, 6 or 7 of these covenants would result in irreparable injury for which no adequate remedy at law shall be available. Accordingly, Owner consents to the issuance of an injunction at Franchisor’s request (without posting a bond or other security) prohibiting any conduct in violation of any of those Sections and agrees that the existence of any claims Owner may have against Franchisor, whether or not arising under this Agreement, will not constitute a defense to the enforcement of any of those Sections. If Franchisor files a claim to enforce this Agreement and prevails in such proceeding, Owner agrees to reimburse Franchisor for all its costs and expenses, including reasonable attorneys’ fees.

9. Owner agrees that the U.S. District Court for the Middle District of North Carolina, or if such court lacks jurisdiction, the Superior Court (or its successor) for Forsyth County North Carolina, will be the exclusive jurisdiction and exclusive venue and forum in which to adjudicate any case or controversy

arising from or relating to these covenants. If a case or controversy is to be heard by the Superior Court (or its successor) for Forsyth County North Carolina, any party may request that the matter be assigned to the North Carolina Business Court. Owner irrevocably submits to the exclusive jurisdiction and exclusive venue of such courts and waives any objections to either the jurisdiction of or venue in such courts. Owner irrevocably waives, to the fullest extent he or she may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agrees that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of North Carolina but may be served with the same effect as if he or she were served within the State of North Carolina, by certified mail or any other means permitted by law, addressed to Owner at the address set forth below. Nothing contained in this Agreement will affect Franchisor's rights to bring a suit, action or proceeding in any other appropriate jurisdiction to enforce any judgment, order, or award against Owner entered by a State or Federal Court.

10. If Franchisor claims in any judicial proceeding that Owner has breached any of the covenants contained in this Agreement, and Franchisor prevails on such claims, then Franchisor will be awarded its costs and expenses incurred in connection with such proceedings, including reasonable attorneys' fees.

IN WITNESS WHEREOF, the undersigned has executed this Agreement to be effective _____, 20__.

OWNER

(Signature)

(Print Name)

(Address)

EXHIBIT D

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

**Form of
Automatic Debit Notification (ADN) Program
Authorization for ACH Debits or Credits**

_____, a _____ (“Franchisee”), effective _____, 20__, hereby authorizes **KRISPY KREME DOUGHNUT CORPORATION**, a North Carolina corporation (“Franchisor”), to initiate debit and/or credit entries via the Automated Clearing House (ACH) to the bank account established with the bank shown below. This authority is to remain in full and force and effect until the bank has received written notification from Franchisee of the termination of such authority and such termination has been confirmed in writing by Franchisor.

BANK NAME

City, State

Bank Transit/ABA Number

Bank Account Number

FRANCHISEE:

By: _____

Name: _____

Title: _____

EXHIBIT E

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

FORM OF AUTHORIZED FUNDRAISING SALES AGREEMENT

_____, a _____ (“**Franchisee**”), owns and operates Krispy Kreme Shop No. _____ located at _____ (the “**SHOP**”) pursuant to a Franchise Agreement dated _____, 20__ (“**Franchise Agreement**”) with Krispy Kreme Doughnut Corporation, a North Carolina corporation (“**Franchisor**”). Unless otherwise defined below, capitalized terms used in this Authorized Fundraising Sales Agreement (this “**Agreement**”) will have the meanings ascribed to them in the Franchise Agreement for the SHOP.

By signing below, Franchisor grants Franchisee the non-exclusive right to solicit and make Fundraising Sales outside of the SHOP in the Territory described below, subject to the terms of the Franchise Agreement, the System Standards, and the System Standards Manuals, and provided Franchisee and its Owners and Affiliates are in compliance with this Agreement, the Franchise Agreement, and all other agreements with Franchisor and its Affiliates. Fundraising Sales by Franchisee outside the Territory will be considered a default and subject to an immediate termination of this Agreement.

For purposes of this Agreement, “**Authorized Fundraising Sales**” and “**Territory**” have the following meanings:

Fundraising Sales: sales of doughnuts, partnership cards, fundraising certificates, bagged coffee, and such other fundraising items as Franchisor may determine from time to time, to authorized non-profit charitable, community, educational and religious institutions for resale to the end consumer.

Territory: _____

Notwithstanding anything to the contrary contained in the Franchise Agreement, the amount of Royalties, Brand Fund contributions, and AP Fund contributions applicable to all Net Sales from Fundraising Sales authorized by this Agreement will be as follows:

Royalties: 4.5% of Net Sales from Fundraising Sales authorized by this Agreement

Brand Fund Contribution: Initially 1.5% of Net Sales from Fundraising Sales authorized by this Agreement (variable percentage not to exceed 2%)

AP Fund Contribution: Initially 1% of Net Sales from Fundraising Sales authorized by this Agreement (variable percentage not to exceed 1%)

Franchisor may at its option impose such other terms and conditions on such Fundraising Sales and Franchisee’s rights under this Agreement from time to time by written directives, including but not limited to, modification of the Territory including upon the grant of development rights in the Territory to another franchisee.

This Agreement runs concurrently with the Term of the Franchise Agreement and terminates automatically and without notification on any termination or expiration of the Franchise Agreement. This Agreement and the authorization provided by this Agreement may be revoked at Franchisor's option immediately upon Franchisor sending Franchisee notice of default under the Franchise Agreement. In addition, either party may terminate this Agreement, with or without cause, upon 180 days' written notice to the other party.

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective _____, 20____.

FRANCHISOR:

FRANCHISEE:

**KRISPY KREME DOUGHNUT
CORPORATION**

[FRANCHISEE]

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT F

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

GENERAL RELEASE AND COVENANT NOT TO SUE

(UPON EXECUTION OF FRANCHISE AGREEMENT)

THIS GENERAL RELEASE AND COVENANT NOT TO SUE (this “**Release and Covenant**”) is made and entered into _____, 20__, by _____ (“**Franchisee**”), _____ (collectively and individually, the “**Owners**”), and the following affiliates of Franchisee and the Owners _____ (collectively and individually, the “**Affiliates**”).

RECITALS

WHEREAS, Franchisee desires to execute a franchise agreement (the “**Franchise Agreement**”) with **KRISPY KREME DOUGHNUT CORPORATION**, a North Carolina corporation (“**Franchisor**”), for the establishment of a Krispy Kreme franchised business to be located at _____ and, as partial consideration therefore and other good and valuable consideration, Franchisee, the Owners, and the Affiliates desire to tender this Release to Franchisor.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged by each of the parties hereto, Franchisee, the Owners and the Affiliates agree as follows:

AGREEMENT

1. RELEASE. Franchisee, and each of the Owners and the Affiliates, individually and collectively, jointly and severally, do hereby release and forever discharge Franchisor and its affiliates, and each of their respective successors, partners, and the shareholders, partners, representatives, assigns, agents, servants, employees, independent contractors, officers, and directors of each of them, in their corporate and individual capacities (“**Designees**”), of and from any claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, known or unknown, vested or contingent (“**Claims**”), which Franchisee, the Owners or the Affiliates now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Franchisor, or any of the respective Designees of the Franchisor, arising under or in connection with any agreement, law, rule, regulation ordinance, or any other context whatsoever, from the beginning of the world to the date of this Release and Covenant (including, without limitation, any franchise agreements, or the operation of any Krispy Kreme Shops established thereunder, and any state or federal franchise or business opportunity laws, rules, and ordinances); provided, however, that this Release and Covenant will not serve to terminate any agreement currently effective by and among Franchisee or any or all of the Owners or the Affiliates and Franchisor.

[The parties intend this paragraph 1 to cover, encompass, release, and extinguish all claims and matters that might otherwise be reserved by California Civil Code section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.”]

2. COVENANT NOT TO SUE. Franchisee, and each of the Owners and the Affiliates, individually and collectively, jointly and severally, agree, covenant, and acknowledge that none of them will commence, participate, or assist in any Claim which Franchisee, the Owners or the Affiliates now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Franchisor, or any of the respective Designees, including but not limited to any Claims arising under or in connection with any agreement, law, rule, regulation ordinance, or any other context whatsoever, from the beginning of the world to the date of this Release and Covenant (including, without limitation, any other franchise agreements, or the operation of any Krispy Kreme Shops established thereunder, and any state or federal laws, rules and ordinances). Franchisee, and each of the Owners and the Affiliates, individually and collectively, jointly and severally, further agree, covenant, and acknowledge that none of them will seek relief (including, but not limited to, monetary damages, injunctive relief, attorneys’ fees, expenses, or costs) for any Claim which Franchisee, the Owners or the Affiliates now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Franchisor, or any of the respective Designees, including but not limited to any Claims arising under or in connection with any agreement, law, rule, regulation ordinance, or any other context whatsoever, from the beginning of the world to the date of this Release and Covenant (including, without limitation, any other any franchise agreements, or the operation of any Krispy Kreme Shops established thereunder, and any state or federal laws, rules and ordinances).

3. AUTHORITY. By executing this Release and Covenant, the parties represent and warrant that each have the right and authority to enter into and to accept the terms and covenants of this Release and Covenant, and that no third party has or claims an interest in any claim released hereby.

4. NO CONFLICTS. Each of the undersigned hereby represents and warrants that its execution of this Release and Covenant does not violate any other agreement to which it is a party.

5. MISCELLANEOUS.

5.1 Defenses. The alleged breach of the Franchise Agreement will not constitute a defense to the enforcement hereof or otherwise effect the validity hereof.

5.2 Counterparts. This Release and Covenant may be executed simultaneously in two or more counterparts, each of which will be deemed an original and all of which together will constitute but one and the same instrument.

5.3 Opportunity to Review. Franchisee, the Owners, and the Affiliates represent and warrant that they: (i) have had an opportunity to review this Release and Covenant; (ii) have had an opportunity to consult with an attorney; and (iii) fully understand the content and legal effect of this Release and Covenant.

5.4 Governing Law. This Release and Covenant will be governed by the laws of the State of North Carolina, without regard to its conflict of law principles.

5.5 Section Headings. The section headings of this Release and Covenant are for the convenience of the parties only will have no force or effect.

5.6 Severability. Each portion, section, part, term and provision of this Release and Covenant will be considered severable; and if, for any reason, any portion, section, part, term or provision is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having jurisdiction, this will not impair the operation of, or have any other effect upon, the other portions, sections, parts, terms or provisions of this Release and Covenant that may remain otherwise intelligible, and the latter will continue to be given full force and effect and bind the parties. Any invalid portions, sections, parts, terms or provisions will be deemed not to be part of this Release and Covenant and there will be automatically added such portion, section, part, term or provision as similar to that which was severed which will be valid and not contrary to or in conflict with any law or regulation.

IN WITNESS WHEREOF, Franchisee, the Owners and the Affiliates have executed and delivered this Release and Covenant.

FRANCHISEE:

By: _____

Name: _____

Title: _____

OWNERS:

Name: _____

Name: _____

AFFILIATES:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT G

**TO THE FRANCHISE AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

LEASE RIDER

This Lease Rider (“**Lease Rider**” or “**Rider**”) is executed as of this ____ day of _____, 20__, by and between _____, a _____ (“**Franchisee**”), and _____, a _____ (“**Landlord**”), as a Rider to the lease or sublease (as amended, renewed, and/or extended from time to time, the “**Lease**”) for the premises located at _____, State of _____ (the “**Premises**”) dated as of _____, 20__.

WHEREAS, Franchisee has executed or intends to execute a Franchise Agreement (the “**Franchise Agreement**”) with Krispy Kreme Doughnut Corporation, a North Carolina corporation (“**Franchisor**”), for the operation of a Krispy Kreme Shop on the Premises, and as a requirement thereof, the Lease for the Premises must include the provisions contained in this Rider; and

WHEREAS, Landlord and Franchisee agree that the terms contained herein shall supersede any terms to the contrary set forth in the Lease.

NOW THEREFORE, in consideration of mutual covenants set forth herein, the execution and delivery of the Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Franchisee hereby agree as follows:

1. Landlord shall deliver to Franchisor a copy of any notice of default or termination of the Lease at the same time such notice is delivered to Franchisee, and Franchisor shall have the same opportunity to cure any default as Franchisee, without any liability or obligation to Landlord.

2. Notwithstanding anything to the contrary contained in the Lease, Franchisee shall have the absolute right to sublet, assign or otherwise transfer its interest in the Lease to Franchisor or Franchisor’s Affiliate, or to a business entity with which Franchisee or Franchisor may merge or consolidate, without Landlord’s approval, written or otherwise, and without execution of a guarantee of Franchisor’s, Franchisor’s Affiliate’s, or such other business entity’s obligations thereunder. Franchisor’s “**Affiliate**” means any person or entity that directly or indirectly owns or controls Franchisor, that is directly or indirectly owned or controlled by Franchisor, or that is under common ownership or control with Franchisor.

3. Landlord shall provide notice to Franchisor and Franchisor’s consent shall be required for assignment by Franchisee or modification of the Lease.

4. Landlord shall, on Franchisor’s request, disclose to Franchisor sales and other information furnished by Franchisee.

5. Franchisor shall have the right, upon any termination or expiration (without renewal) of the Franchise Agreement, to assume the Lease, upon notice to Franchisee and Landlord, without

Landlord's or Franchisee's consent, and without payment of a fee or the obligation to cure any then-existing default. In the event the Franchise Agreement is terminated as a result of the termination of the Lease, Franchisor shall have fourteen (14) days after receiving notice of termination from Landlord to assume the Lease upon notice to Franchisee and Landlord, without Landlord's or Franchisee's consent, and without payment of a fee or the obligation to cure any then-existing default.

6. Landlord acknowledges and agrees that the Premises shall be used for the operation of a Krispy Kreme Shop with a drive through lane and window for the production, storage, preparation, sale and consumption, or distribution, on and off the Premises, of doughnuts (including, but not limited to, off-premises fundraising deliveries), and/or, if Franchisee elects (with the prior written approval of Franchisor), any of the following: bagels, muffins, bread, sandwiches, baked goods, pastry products, chocolate and chocolate related items and products, frozen beverages, frozen dessert products (including without limitation ice cream, frozen yogurt, and frozen custard), bagged and brewed coffee, coffee beans and coffee-based beverages, soft drinks, water, juices, and other non-alcoholic beverages, and other restaurant fare and complementary products, or any other items or products used or sold by Franchisor, or its Affiliates, in their retail shops, including without limitation, Krispy Kreme branded merchandise such as mugs, t-shirts and hats (the "**Permitted Use**").

7. If Franchisor or Franchisor's Affiliate assumes the Lease, as above provided, Franchisor or its Affiliate shall have the right to further assign the Lease to an Affiliate or a *bona-fide* Krispy Kreme franchisee for the operation of a Krispy Kreme Shop on the Premises, upon written notice to Landlord, and upon any such further assignment, Franchisor and/or Franchisor's Affiliate that is assigning the Lease shall have no liability to Landlord for anything arising after the effective date of the assignment. Landlord agrees to execute such further documentation as necessary to memorialize or effectuate the assignments permitted under this Rider as Franchisor or Franchisor's Affiliate may request. Further, if Franchisor or Franchisor's Affiliate assumes the Lease, Franchisor and Franchisor's Affiliate: (i) shall not be required to provide Landlord with any financial information other than information solely and directly related to sales from the Premises (and subject to the execution by Landlord of a confidentiality agreement in a form provided by Franchisor or its Affiliate); and (ii) shall not be bound or obligated by any restrictions, such as radius restrictions, that in any way limit or prevent Franchisor or Franchisor's Affiliate from conducting business in any manner outside of the Premises.

8. Franchisor will have the right to enter the Premises to remove signs and other tangible property that embodies any of the Marks (as defined in the Franchise Agreement) or Franchisor's trade dress or that contains or embodies trade secrets or patents owned by Franchisor or any of its Affiliates, and Landlord shall relinquish to Franchisor, on any termination or expiration (without renewal) of the Franchise Agreement, any lien or other ownership interest, whether by operation of law or otherwise, in and to any tangible property, including any outdoor sign, that embodies any of the Marks or Franchisor's trade dress or embodies trade secrets or patents owned by Franchisor or any of its Affiliates. Franchisor shall be obligated to repair any damage to the Premises, at Franchisee's sole cost and expense, directly caused by Franchisor's removal of such property or Marks; provided, this obligation shall not include any normal and necessary restoration or replacement to any area of the Premises to which the property or Marks are attached.

9. Landlord acknowledges that Franchisor has no liability or obligation whatsoever under the Lease until and unless Franchisor assumes the Lease on termination or expiration of the Franchise Agreement.

10. Copies of any and all notices required or permitted hereby or by the Lease will also be sent to Franchisor at 370 Knollwood Street, Attention: Legal Department, Winston-Salem, NC 27103, or such other address as Franchisor will specify by written notice to Landlord.

11. Under the Franchise Agreement, the Lease is subject to Franchisor's approval. Accordingly, the Lease is contingent upon such approval.

12. Franchisor is an intended third party beneficiary of this Rider, with the independent right to enforce its terms.

LANDLORD:

FRANCHISEE:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT B-2
DEVELOPMENT AGREEMENT

KRISPY KREME DOUGHNUT CORPORATION

DEVELOPMENT AGREEMENT

SUMMARY PAGE

A.	Effective Date: <i>(Insert date Franchisor executes this Agreement)</i>		
B.	Franchisor:	Krispy Kreme Doughnut Corporation, a North Carolina corporation	
C.	Developer:		
	Developer's Address:		
	Telephone:		
	Secure E-mail Address:		
D.	Operations Director:		
E.	Development Area: <i>(See Exhibit A for more detailed description)</i>		
F.	Development Schedule Totals: <i>(See Exhibit A for specific requirements)</i>	<u>Cumulative Number of Franchises</u>	<u>End of Development Period</u>
G.	Development Fee: <i>(See Exhibit A for itemization)</i>		

Franchisor: _____
(initials)

Developer: _____
(initials)

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KRISPY KREME DOUGHNUT CORPORATION
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the Effective Date by and between Franchisor and Developer.

1. BACKGROUND

- 1.1 Franchisor has developed, as a result of considerable time, skill, effort, and money, a distinctive System for operating shops called “**Krispy Kreme Shops**” that offer and serve a variety of doughnuts, beverages, and other authorized products and services under the Marks.
- 1.2 Franchisor’s Affiliate, HDN Development Corporation, a Kentucky corporation (“**HDN**”), owns the Marks and has granted Franchisor the right to sublicense the Marks to its franchisees for their use in operating Krispy Kreme Shops.
- 1.3 Franchisor grants franchises to own and operate Krispy Kreme Shops to persons or entities that meet its qualifications and are willing to undertake the investment and effort to properly develop and operate them.
- 1.4 Developer has submitted a Franchise Application to develop and open one or more Krispy Kreme Shops in the Development Area, and Franchisor has accepted the application in reliance on all information Developer has provided.
- 1.5 Pursuant to the terms of this Agreement, Franchisor grants Developer the right to develop and open Krispy Kreme Shops within the Development Area. The operation of each Krispy Kreme Shop will be governed by a separate Franchise Agreement.

2. DEFINITIONS

- 2.1 Capitalized terms used in this Agreement have the meanings given to them in this Section 2.1.

ADA – Americans With Disabilities Act of 1990, Pub. L. No. 101-336, §1, 104 Stat. 328 (1998).

Affiliate – Any person or entity that directly or indirectly owns or controls the referenced party, that is directly or indirectly owned or controlled by the referenced party, or that is under common ownership or control with the referenced party, including parents and subsidiaries. The term “**control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the referenced party, whether through ownership, by contract, or otherwise.

Agreement – This Development Agreement, including all amendments, exhibits, riders, guaranties and other agreements used in connection with this Development Agreement.

Box Shop – A retail sales facility with no manufacturing capabilities that receives doughnuts from a Hot Light Theater Shop to sell in accordance with our System Standards. It is a prefabricated, free-standing self-contained unit resembling a Krispy Kreme doughnut box (which design elements may vary and be modified from time to time) and is typically located in an enclosed retail area.

Competitive Business – A business, other than a Krispy Kreme Shop or Doughnut Factory, that:

- (a) makes, sells, or distributes yeast-raised doughnuts, cake doughnuts, or any other types of doughnuts, miniature doughnuts, doughnut holes or any other bakery products in any distribution channel to any customer for consumption or resale, and those sales constitute ten percent (10%) or more of its total sales (or those sales from any single location constitute ten percent (10%) or more of the total sales of that location) during any calendar quarter or calendar year;
- (b) sells coffee or coffee drinks in any distribution channel to any customer for consumption or resale, and those sales constitute twenty percent (20%) or more of its total sales (or those sales from any single location constitute twenty percent (20%) or more of the total sales of that location) during any calendar quarter or calendar year;
- (c) is the same as, or similar to, the Krispy Kreme Shop concept as it evolves over time; or
- (d) grants franchises or licenses, or establishes joint ventures, for the development and/or operation of any business referred to in (a) through (c), above.

Restrictions in this Agreement on having an Ownership Interest in a Competitive Business will not apply to the ownership of shares of a class of securities listed on a stock exchange or traded on a public stock market that represents less than three percent (3%) of the number of shares of that class of securities issued and outstanding.

Confidential Information – Franchisor’s proprietary and confidential information relating to the development and operation of Krispy Kreme Shops and Doughnut Factories, which includes:

- (a) methods, techniques, equipment, specifications, standards, policies, procedures, information, concepts, and systems relating to and knowledge of and experience in the development, equipping, operation, outfitting of Krispy Kreme Shops and Doughnut Factories, and franchising of Krispy Kreme Shops, as well as expansion, growth and development plans, and prospects;
- (b) marketing and advertising programs for Krispy Kreme Shops and Doughnut Factories;
- (c) knowledge concerning the logic, structure, code, and operation of computer software programs that Franchisor authorizes for use in connection with the operation of Krispy Kreme Shops, and all additions, modifications and enhancements, and all data generated from using such programs;
- (d) specifications and standards for, and sources of, buildings, equipment, furnishings, fixtures, signs, products, materials, supplies, and services utilized in the development and operation of Krispy Kreme Shops and Doughnut Factories;
- (e) ingredients, formulas, mixes, recipes for and methods of preparation, cooking, serving, packaging, and delivery of the Products;
- (f) sales information, operating results, financial performance, consumer preferences, inventory requirements, materials and supplies, and other financial data of Krispy Kreme Shops and Doughnut Factories, and customer lists;

- (g) current and concluded research, development and test programs for products, services and operations for use in Krispy Kreme Shops and Doughnut Factories;
- (h) the contents of any System Standards Manuals, System Standards, and site selection criteria;
- (i) employee training, and staffing levels;
- (j) all other information that Franchisor provides to Developer and designates proprietary or confidential; and
- (k) all other information relating to the System, the Products, and Krispy Kreme Shops or Doughnut Factories, that are not generally known in the food service business.

Developer – As defined on the Summary Page.

Development Area – The geographic area described on the Summary Page and Exhibit A. Political boundaries described on the Summary Page and Exhibit A will be considered fixed as of the Effective Date and will not change, even if there is a political reorganization or other change to such boundaries or regions. All street boundaries will be deemed to end at the street center line unless otherwise specified above.

Development Fee – The non-refundable development fee that Developer agrees to pay Franchisor, as set forth on the Summary Page.

Development Rights – The rights granted to Developer under this Agreement to develop Krispy Kreme Shops within the Development Area.

Development Schedule – The cumulative number of Krispy Kreme Shops that Developer agrees to sign franchise agreements, open and operate by the corresponding date set forth in Exhibit A. Only Krispy Kreme Shops developed pursuant to this Agreement shall count towards the Development Schedule.

Doughnut Factory – A manufacturing facility owned and operated by Franchisor that is dedicated solely to the production of doughnuts and other Products to be sold under the Marks that are supplied to Franchisor’s Krispy Kreme Shops, and to grocery and convenience stores for resale. Doughnut Factories are not used for retail sales.

Effective Date – As defined on the Summary Page.

Event – As defined in Section 18.5.

Expansion Criteria – Requirements which must be met before a Franchise is granted by Franchisor to develop each Krispy Kreme Shop including the following (Franchisor may waive any of these criteria in its sole discretion, and the grant of a Franchise by Franchisor shall in no way, either express or implied, serve as an acknowledgement by Franchisor that Developer meets each of these criteria, nor shall it serve to waive or reduce any of Franchisor’s rights or remedies):

- (a) Development. Developer and its Affiliates are fully compliant with the Development Schedule, this Agreement, all Franchise Agreements, and any other agreement between Developer or any of its Affiliates and Franchisor or any of its Affiliates. All then-

existing Krispy Kreme Shops are fitted with current signage, image and equipment standards as prescribed by Franchisor from time to time.

- (b) Operational. Developer demonstrates to Franchisor's satisfaction, as solely determined by Franchisor, that Developer is capable of operating Developer's existing Krispy Kreme Shops, if any, and operating the proposed new Krispy Kreme Shop in accordance with: (i) the terms and conditions of this Agreement; (ii) the provisions of the respective Franchise Agreements; and (iii) the System Standards, as such System Standards may be amended from time to time.
- (c) Financial. Developer and its Owners satisfy Franchisor's then-current financial criteria for developers and owners of Krispy Kreme shops with respect to Developer's operation of its existing Krispy Kreme Shops, if any, and the proposed Krispy Kreme Shop. No default relating to any monetary obligations owed to Franchisor or its Affiliates under this Agreement, any Franchise Agreements or other agreements between Developer or any of its Affiliates and Franchisor or any of its Affiliates either has (i) occurred and is continuing; or (ii) occurred during the twelve (12) months preceding Developer's request for consent, whether or not such default was cured or curable.
- (d) Legal. Developer has submitted to Franchisor, in a timely manner, all information and documents requested by Franchisor prior to and as a basis for the issuance of individual licenses or pursuant to any right granted to Developer by this Agreement, or by any Franchise Agreement, and has taken such additional actions in connection therewith as may be requested by Franchisor from time to time. Developer and each of its Owners have been and are faithfully performing all terms and conditions of this Agreement, each of the existing Franchise Agreements and any other agreement among Franchisor, Developer or any of their respective Affiliates.
- (e) Ownership. Neither Developer nor its Owners have transferred a controlling interest in Developer since the Effective Date unless consented to in writing by Franchisor. The Developer and its Owners upon whom Franchisor have relied to perform the duties under this Agreement will continue to own and exercise control over a controlling interest in Developer.

Franchise – The rights granted and obligations imposed to operate a Krispy Kreme Shop at a specific location within the Development Area under an effective Franchise Agreement.

Franchise Agreement – An agreement used by Franchisor to grant franchises for the operation of Krispy Kreme Shops at specific locations (including all amendments, exhibits, riders, guaranties and other agreements used in connection therewith), the current form of which is attached as Exhibit C to this Agreement.

Franchise Application – The application submitted by Developer for Development Rights or for a Franchise, as applicable.

Franchise Disclosure Document – The franchise disclosure document provided to Developer.

Franchisee – Developer, or a wholly-owned subsidiary designated by Developer, and approved in writing by Franchisor, to whom a Franchise may be granted under this Agreement.

Franchisor – As defined on the Summary Page.

Franchisor's Exercise of Discretion – As defined in Section 18.2.

Fresh Shop – A retail sales facility with limited manufacturing capabilities (*e.g.*, icing and filling equipment), or no manufacturing capabilities, that receives doughnuts from a Hot Light Theater Shop and finishes them as necessary to sell according to Franchisor's System Standards.

Good Standing – The condition that Developer and its Affiliates: (a) are current with all payments due to Franchisor, its Affiliates and third parties, including suppliers; (b) have met all obligations under the Development Schedule; and (c) are not in default of any obligations under this Agreement, any Franchise Agreement or any other agreement between the parties hereto or any of their Affiliates.

Hot Light Theater Shop – A retail sales facility that manufactures and produces fresh doughnuts on-site, under the System Standards. Additionally, Hot Light Theater Shops may have some capacity to supply fresh doughnuts to Fresh Shops and Box Shops.

Immediate Family – The spouse, parents, brothers, sisters and children, whether natural or adopted, of the referenced person.

Indemnified Parties – Franchisor, together with its Affiliates and their respective directors, officers, employees, shareholders, members, managers, agents, successors and assigns.

Insured Event – As defined in Section 18.5.

KKI – Krispy Kreme, Inc., a Delaware corporation, and indirect parent company of Franchisor.

KKDI – Krispy Kreme Doughnuts, Inc., a North Carolina corporation, and the parent company of Franchisor.

KKNFOP – As defined in Section 6.8.

Krispy Kreme Shop(s) – Shops which Franchisor or any of its Affiliates own, operate or franchise (pursuant to valid Franchise Agreements), operating under and identified by the Marks and the Krispy Kreme System. Krispy Kreme Shops include Hot Light Theater Shops, Tunnel Oven Shops, Fresh Shops, and Box Shops, but do not include Doughnut Factories, or any other shop, store, or facility that does not sell products to retail customers, and also do not include other locations that offer Products under the Marks to customers, but which locations are not primarily identified by the Marks and the Krispy Kreme System such as grocery stores, convenience stores, etc.

Lease Rider – As defined in Section 6.7.

Marks – The current and future trademarks, service marks, logos, designs, trade names, insignia, emblems, slogans, and other commercial symbols, together with all distinctive trade dress elements or combinations thereof, used by Franchisor to identify the sources of goods and services offered and sold at Krispy Kreme Shops, including the trademark and service mark KRISPY KREME®.

Operations Director – An individual designated by Developer as Operations Director of Developer's business pursuant to Section 5.3. The initial Operations Director is identified on the Summary Page.

Organizational Documents – The articles of incorporation, articles of organization, operating agreement or principles, partnership agreement, bylaws, subscription agreements, buy-sell agreements, voting trust agreements, trust agreements and all other documents relating to Developer’s ownership, organization, capitalization, management and control.

Owner – Any person or entity holding: (a) a direct or indirect, legal or beneficial Ownership Interest or voting rights in Developer or any Affiliate of Developer that owns an Ownership Interest or voting rights in Developer; (b) a direct or indirect, legal or beneficial interest in this Agreement; or (c) any other legal or equitable interest, or the power to vest in himself or herself or itself of any legal or equitable interest, in the revenue, profits, rights or assets arising from any of the foregoing.

Ownership Interest – Any direct or indirect, legal or beneficial ownership interest of any type, including (a) in relation to a corporation, the ownership of shares in the corporation; (b) in relation to a partnership, the ownership of a general or limited partnership interest; (c) in relation to a limited liability company, the ownership of a membership interest; or (d) in relation to a trust, the ownership of a legal or beneficial interest of such trust.

Portal – An interactive electronic document contained in a network of computers linked by communications software, including, without limitation, the Internet and World Wide Web home pages.

POS System – Point of Sale System.

Products – The current and future products that Franchisor authorizes to be offered and sold at Krispy Kreme Shops, including (a) fresh doughnuts (including, yeast-raised doughnuts, cake doughnuts, miniature doughnuts, and doughnut holes, and the various types of flavors, fillings, glazes, or other coatings for the doughnuts; (b) hot or cold fresh-brewed coffee beverages suitable for immediate consumption; (c) hot or cold espresso drinks suitable for immediate consumption; (d) frozen beverages suitable for immediate consumption; and (e) such other products and beverages as Franchisor may determine from time to time. Products will include, as applicable, Product recipes, ingredients, brands, portion sizes, shapes and configurations. Franchisor reserves the right to change, alter, amend, add and remove authorized Products at any time.

Restricted Person – Developer, its Owners and Affiliates, and members of their Immediate Families (when such are persons).

Site Information Package – The site evaluation form with the attachments, approval request letter, and such other documents Franchisor requires.

Summary Page – The cover page to this Agreement that summarizes certain key information concerning the parties’ relationship and the terms of this Agreement.

System – The business formats, methods, procedures, signs, designs, layouts, equipment, and mixes designated by Franchisor for use in developing and operating Krispy Kreme Shops and Doughnut Factories, including the System Standards, all of which Franchisor may improve, further develop or otherwise modify from time to time.

System Standards – The mandatory and suggested specifications, standards, operating procedures and rules that Franchisor prescribes for the development and operation of Krispy Kreme Shops and Doughnut Factories, including those pertaining to conversion, site selection,

construction, signage and layouts; the standards, specifications, recipes, and other requirements related to the purchase, preparation, marketing and sale of the Products; advertising and marketing programs and information technology; On-Premises Sales; customer service; the design, décor and appearance of Krispy Kreme Shops and Doughnut Factories; standards and specifications for equipment, fixtures and furnishings and the use of proprietary equipment; the maintenance and remodeling of Krispy Kreme Shops and its equipment, fixtures and furnishings; the use and display of the Marks; the insurance coverage required to be carried for Krispy Kreme Shops; the training of employees of Krispy Kreme Shops; the days and hours of operation for Krispy Kreme Shops; and the content, quality and use of advertising and promotional materials, all of which Franchisor may improve, further develop or otherwise modify from time to time.

System Standards Manuals – The documents and other media that describe or contain the System Standards.

Term – The period commencing on the Effective Date and ending on the expiration of the last date indicated on the Development Schedule (regardless of whether all Krispy Kreme Shops are open and operating at that time), unless terminated earlier in accordance with the provisions of this Agreement.

Transfer or Transfer the Development Rights (or similar words) –

Any type of transfer, directly or indirectly, including the transfer of a partial legal interest. Transfer is meant to be broadly construed and includes, but is not limited to, any sale, assignment, exchange, conversion, license, sublicense, lease, sublease, mortgage, pledge, collateral assignment, grant of security, collateral, or conditional interest or other encumbrance, whether voluntary or not or by operation of law. The definition of Transfer also includes any act or event that Franchisor, in its judgment, determines to be a transfer, including the following:

- (a) any transfer, redemption or issuance of a legal or beneficial ownership interest in the capital stock of, a membership interest in, or a partnership interest in, Developer or any interest convertible into or exchangeable for capital stock of, a membership interest in or a partnership interest in, Developer;
- (b) any merger or consolidation of Developer, whether or not Developer is the surviving entity, or any conversion of Developer from one form of legal entity into another form of legal entity, or any sale, exchange, encumbrance or other disposition of Developer's assets;
- (c) any transfer in connection with or as a result of a divorce, dissolution of marriage or similar proceeding or a property settlement or legal separation agreement in the context of a divorce, dissolution or marriage or similar proceeding, an insolvency, bankruptcy or assignment for benefit of creditors, a judgment, a corporate, limited liability company or partnership dissolution or otherwise by operation of law; or
- (d) any transfer by gift, declaration of trust, transfer in trust, revocation of trust, trustee succession, trust termination, discretionary or mandatory trust distribution, occurrence of any event (*e.g.*, death of a person) that affects or ripens the rights of contingent beneficiaries, exercise of a power of appointment, exercise of a withdrawal right, adjudication of Developer or any of its Owners as legally disabled, or upon or after Developer's death or the death of any of Developer's Owners by will, disclaimer or the laws of intestate succession or otherwise.

- (e) Franchisor will not require approval, and a transfer fee will not be required, for loans where the collateral is other than this Agreement, the Franchise Agreement, any of the rights of Franchisor or its Affiliates or Developer or its Affiliates set forth in any agreement between them (including Franchisor's right to the various fees set forth in the agreements), certain proprietary equipment, including the extruder, auto-extruder, PLC controls, glaze pump, or glaze tank, or any equity interest in Developer or its Owners.

Tunnel Oven Shop – A retail sales facility with an impinger oven and limited manufacturing capabilities (e.g., icing and filling equipment) that receives doughnuts from a Hot Light Theater Shop or a Doughnut Factory and finishes them as necessary to sell in accordance with System Standards.

- 2.2 Other terms used in this Agreement are defined in the context in which they arise.

3. ACKNOWLEDGMENTS, REPRESENTATIONS, AND WARRANTIES

- 3.1 Acknowledgments. Developer acknowledges that Developer has read this Agreement and Franchisor's Franchise Disclosure Document, and understands and accepts that the terms and conditions contained in this Agreement are reasonably necessary to maintain Franchisor's high standards of quality and service. Developer further acknowledges that the uniformity of those standards at Krispy Kreme Shops is reasonably necessary to protect and preserve the goodwill of the Marks. Developer acknowledges that Developer has conducted an independent investigation of the business venture contemplated by this Agreement and recognizes that, like any other business, the nature of the business conducted by Krispy Kreme Shops and Doughnut Factories may evolve and change over time, that an investment in Krispy Kreme Shops involves business risks, and that Developer's business abilities and efforts are vital to the success of the venture. Any information Developer acquires from Franchisor's other developers or franchisees relating to their sales, profits, or cash flows does not constitute information obtained from Franchisor, nor does Franchisor make any representation as to the accuracy of any such information or the likelihood of Developer achieving comparable results. Developer acknowledges that, in all of its dealings with Franchisor, Franchisor's officers, directors, employees and agents act only in a representative, and not in an individual, capacity. All business dealings between Developer and such persons in connection with this Agreement are solely between Developer and Franchisor. Developer further acknowledges that Franchisor has advised Developer to have this Agreement reviewed and explained to Developer by an attorney representing Developer and not Franchisor.
- 3.2 Disclosure. Developer represents and warrants to Franchisor, as an inducement to Franchisor's entry into this Agreement, that all statements Developer and its Owners have made and all of the materials Developer and its Owners have submitted to Franchisor in connection with Developer's Franchise Application are accurate and complete and that Developer and its Owners have made no misrepresentations or material omissions to obtain the rights granted hereunder. Franchisor has approved Developer's Franchise Application in reliance on each of Developer's representations to Franchisor.
- 3.3 Authority. Developer represents and warrants to Franchisor that Developer has the authority to execute and deliver this Agreement and to perform Developer's obligations hereunder.
- 3.4 Due Execution. Developer represents and warrants to Franchisor that this Agreement has been duly executed and delivered by Developer and, assuming the due authorization, execution and delivery by Franchisor, constitutes a legal, valid and binding obligation of Developer, enforceable in accordance with its terms.

- 3.5 No Conflicts. Developer represents and warrants to Franchisor that Developer's execution and delivery of this Agreement does not, and Developer's performance of its obligations under this Agreement will not, with or without the giving of notice or the lapse of time or both, (a) conflict with or violate its organizational documents, if applicable, (b) conflict with or violate any law, statute, ordinance, rule, regulation, order, judgment or decree applicable to Developer, or (c) conflict with, result in any breach of, or constitute a default under, any contract, agreement, lease, license, permit, franchise or other instrument or obligation to which Developer or any of its Owners are a party or by which Developer or any of its Owners are bound.
- 3.6 Organization. If Developer is, or at any time becomes, a business corporation, partnership, limited liability company, or other legal entity, Developer and each of its Owners represent, warrant and agree that:
- (a) Developer is organized and validly existing under the laws of the state of its organization, and, if a foreign business corporation, partnership, limited liability company or other legal entity, Developer is duly qualified to transact business in the state in which the Development Area is located;
 - (b) Developer has the authority to execute and deliver this Agreement and to perform its obligations under this Agreement;
 - (c) true and complete copies of the Organizational Documents must be promptly delivered to Franchisor for its approval, which approval will not be unreasonably withheld;
 - (d) any and all amendments, deletions and additions to Developer's Organizational Documents must be promptly delivered to Franchisor for its approval, which approval will not be unreasonably withheld;
 - (e) Developer's activities are restricted to those necessary solely for the development, ownership and operation of Krispy Kreme Shops in accordance with this Agreement and in accordance with any other agreements entered into with Franchisor or any of its Affiliates;
 - (f) the Organizational Documents recite that the issuance, transfer or pledge of any direct or indirect legal or beneficial ownership interest is restricted by the terms of this Agreement;
 - (g) all certificates representing direct or indirect legal or beneficial ownership interests now or hereafter issued must bear a legend in conformity with applicable law reciting or referring to such restrictions; and
 - (h) Developer will deliver to Franchisor a Secretary/Clerk's/Trustee's Certificate or other evidence satisfactory to Franchisor that the execution, delivery and performance of this Agreement and all other agreements and ancillary documents contemplated under this Agreement have been authorized by all necessary action by the corporation, partnership, limited liability company or other legal entity, as applicable, and are within the legal powers of Developer's trustee, if Developer is a trust.
- 3.7 Ownership. Developer and each of its Owners represent, warrant, and agree that Exhibit B is current, complete and accurate. Developer agrees that an updated Exhibit B will be furnished promptly to Franchisor, so that Exhibit B (as so revised and signed by Developer) is at all times current, complete and accurate. Each person who is or becomes an Owner of ten percent (10%)

or more Ownership Interest must execute an agreement in the form Franchisor prescribes, undertaking to guarantee and be bound jointly and severally by the terms of this Agreement, the current form of which is attached as Exhibit D to this Agreement. Each person who is or becomes an Owner must execute an agreement in the form Franchisor prescribes, undertaking to be bound by the confidentiality and non-competition covenants contained in this Agreement, the current form of which is attached as Exhibit E to this Agreement. Each Owner that is a person must be an individual acting in his/her individual capacity, unless Franchisor waives this requirement.

- 3.8 Continuing Representations and Warranties. The provisions of Section 3 constitute continuing representations and warranties, and Developer and Developer's Owners will notify Franchisor immediately in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate, or misleading.

4. TERM, DEVELOPMENT SCHEDULE AND FEES

- 4.1 Development Obligation. Franchisor grants Developer the right to develop (as long as Developer remains in Good Standing and meets the Expansion Criteria), and Developer accepts the obligation to develop, within the Development Area, such number of Krispy Kreme Shops described in the Development Schedule (which may consist of one or more such shops and/or facilities) during the Term subject to and in compliance with the terms of this Agreement, including the Development Schedule.

- 4.2 Term. Franchisor's obligation to grant Franchises to Developer to develop and open Krispy Kreme Shops in the Development Area will expire upon the expiration of the Term. Developer has no right to renew or extend the rights granted under this Agreement. If Developer has been in Good Standing and has met the Expansion Criteria during the Term, Franchisor may, but is not obligated to, offer Developer further development rights on such terms and conditions as Franchisor deems appropriate. When this Agreement expires or is terminated, Franchisor has the right to develop and operate, and to allow others to develop and operate, Krispy Kreme Shops and Doughnut Factories in the Development Area, unless further development rights are granted to Developer, as provided above. Nothing in this Section 4.2 shall in any way limit Franchisor's rights including but not limited to those set forth in Sections 11.1(a), 11.1(b), and 11.2 – 11.5.

- 4.3 Development Schedule. Developer agrees that during the Term, it will strictly and diligently perform its obligations under this Agreement, including, without limitation, all Exhibits to this Agreement. Without limiting the foregoing obligations, Developer agrees to develop and open in the Development Area the number of Krispy Kreme Shops specified in the Development Schedule. For each Krispy Kreme Shop to be developed during the Term, Developer must first obtain Franchisor's written acceptance of the proposed Site by the Site Acceptance Date listed in the Development Schedule. Time is of the essence in this Agreement. Developer's failure to develop and operate Krispy Kreme Shops in accordance with the Development Schedule, or failure to obtain Site acceptance by the date specified in the Development Schedule, is a material breach of this Agreement for which Franchisor has the right to exercise any and all rights and remedies conferred under this Agreement and applicable law, including the right to terminate this Agreement pursuant to Section 16 without prejudice to its recovery of damages. Without limiting the foregoing, any failure by Developer to meet the Development Schedule including but not limited to as a result of Developer's failure to remain in Good Standing, failure to meet the Expansion Criteria, failure to timely submit a complete and accurate Site Approval Package, or failure to timely obtain Franchisor's acceptance of a proposed Site (including in the event

Franchisor rejects a proposed Site in its sole discretion), shall not serve in any way to reduce, modify, or waive Developer's strict performance of its obligations under this Agreement, or Franchisor's rights under this Agreement.

- 4.4 Force Majeure. Provided Developer delivers notice thereof to Franchisor not later than two (2) days following the occurrence of the event, describing, among other things, the nature of such event, its expected duration, and such other information as Franchisor may prescribe, Developer will not be deemed to be in breach of this Agreement if it fails to meet the Development Schedule solely due to the following force majeure events: windstorms, rains, floods, earthquakes, mudslides, fires or other natural disasters. Any delay resulting from any of such causes will extend performance accordingly, in whole or in part, as may be reasonable, except that no such cause, alone or in combination with other causes, will extend performance more than ninety (90) days without Franchisor's prior written consent.
- 4.5 Development Fee. Developer will pay to Franchisor the Development Fee as set forth on the Summary Page. The Development Fee will be fully earned, non-refundable (except as otherwise provided in Section 16.2), and payable to Franchisor when Developer executes this Agreement. The Development Fee will not be credited to or otherwise applied to any other fees or payments due to Franchisor, including, without limitation, any Initial Franchise Fee due under any Franchise Agreement(s).
- 4.6 Initial Franchise Fee. In addition to the Development Fee required by Section 4.5, an Initial Franchise Fee in such amount as required under Franchisor's then-current form of Franchise Agreement will be paid to Franchisor for each Franchise granted pursuant to this Agreement. For each Franchise granted pursuant to this Agreement, the Royalties (defined in the Franchise Agreement) and other fees will be as set forth in the respective Franchise Agreement.

5. BUSINESS PLANS AND MANAGEMENT

- 5.1 Business Plans. Prior to execution of this Agreement, and on an annual basis thereafter, Developer will submit for review and approval by Franchisor, a written business plan for the development and financing of Krispy Kreme Shops in the Development Area in accordance with the Development Schedule.
- 5.2 Permits / Good Standing / Compliance with Laws. Developer must secure and maintain in force in its name all required licenses, permits, and certificates relating to the conduct of its business pursuant to this Agreement. Developer will at all times remain in Good Standing. Developer must comply with all applicable laws, including all federal, state and local laws, rules, regulations, ordinances, court orders and decrees. Developer must refrain from any business practice that Franchisor determines at its option may be injurious to the business or reputation of Franchisor or Developer or the goodwill associated with the Marks or the System.
- 5.3 Operations Director. Developer will, at all times during the Term, employ an individual meeting all of the qualifications outlined below unless otherwise waived in writing by Franchisor:
- (a) The Franchisor may, in its sole discretion, require the Operations Director be an Owner in Developer of up to a twenty-five percent (25%) Ownership Interest.
 - (b) The Operations Director will be designated by Developer and will have full control over the day-to-day activities of Developer, including operations, control over the standards of operations, and financial performance.

- (c) The Operations Director will devote his or her full-time and best efforts to supervising the operation of Developer and the Krispy Kreme Shops operated by Developer or its Affiliates and will not engage in any other business or activity, directly or indirectly, that requires substantial management responsibility.
- (d) The Operations Director will maintain his or her primary residence within a one (1) hour driving distance of at least one Krispy Kreme Shop owned by Developer or an Affiliate of Developer.
- (e) The Operations Director will successfully complete the KKNFOP (if applicable).
- (f) Franchisor will have approved the Operations Director, and not have later withdrawn that approval.
- (g) If the Operations Director no longer qualifies as such, Developer will designate another qualified person to act as Operations Director within thirty (30) days after the date the prior Operations Director ceases to be qualified. Developer's designee to become the Operations Director must successfully complete Franchisor's mandatory training program not later than one (1) year after Franchisor approves such individual as the Operations Director.
- (h) The Operations Director must immediately execute an agreement with Developer, undertaking to be bound by the confidentiality and non-competition covenants in a substantially similar manner as required by Developer's Owners in this Agreement, to the maximum extent enforceable under applicable law, which agreement must receive Franchisor's prior written approval, and name Franchisor as an intended third party beneficiary with all rights to enforce its terms. Developer shall promptly furnish an executed copy of the agreement to Franchisor.

6. DEVELOPMENT PROCEDURES

- 6.1 Developer's Responsibility. Developer assumes all cost, liability and expense of locating, obtaining and developing sites for Krispy Kreme Shops, and constructing and equipping the Krispy Kreme Shops in accordance with Franchisor's System Standards. Developer may not execute a lease, sublease, or purchase contract pertaining to a site for Krispy Kreme Shops without Franchisor's approval pursuant to Section 6.
- 6.2 Site Selection. Franchisor will furnish Developer with its standard site selection criteria, and provide such site selection assistance for Krispy Kreme Shops as Franchisor deems advisable. Franchisor also will provide such on-site evaluation of sites proposed pursuant hereto as Franchisor deems necessary or appropriate.
- 6.3 Site Plan Review. Subject to the terms and conditions of Section 4.1, Franchisor will grant Franchises for the cumulative number and type of Krispy Kreme Shops set forth in the Development Schedule located within the Development Area in accordance with the following provisions:
 - (a) Developer must submit to Franchisor, in accordance with Franchisor's procedures, a complete and accurate Site Information Package for each Krispy Kreme Shop that Developer proposes to develop and open and that Developer, in good faith, believes to

conform to Franchisor's then-current standard site selection criteria for Krispy Kreme Shops.

- (b) In deciding whether to accept or reject a site Developer proposes, Franchisor may consider such factors as Franchisor, at its option, deems appropriate, including the general location and neighborhood, demographic information, traffic patterns, access, visibility, location of other retail food establishments (including other Krispy Kreme Shops and Doughnut Factories) and size, condition, configuration, appearance and other physical characteristics of the site.
- (c) Neither Franchisor's acceptance of a proposed site, nor any information communicated to Developer regarding Franchisor's standard site selection criteria or the proposed site, constitutes a warranty or representation of any kind, express or implied, as to the suitability of the proposed site for a Krispy Kreme Shop or for any other purpose. Franchisor's acceptance of a proposed site merely signifies that Franchisor is willing to grant a Franchise for a Krispy Kreme Shop at that location in accordance with the terms of this Agreement. Developer's decision to develop and operate a Krispy Kreme Shop at any site is based solely on its own independent investigation of the suitability of the site for a Krispy Kreme Shop, as applicable.

6.4 Furnishing of Reports. In conjunction with its decision whether to accept or reject a proposed site, Franchisor may require that Developer and its Owners furnish Franchisor with financial statements (historical and pro forma), statements of the sources and uses of capital funds, budgets and other information regarding Developer, its Owners and each legal entity, if any, involved in the development, ownership and operation of any Krispy Kreme Shop that Developer proposes, as well as any then-existing Krispy Kreme Shops that Developer or its Affiliates own. All of the information will be verified by Developer and its Owners as being complete and accurate in all respects, must be submitted to Franchisor in accordance with its requirements and will be relied on by Franchisor in determining whether to grant a Franchise for the proposed Krispy Kreme Shop or Doughnut Factory.

6.5 Site Acceptance. If Franchisor accepts the site, Franchisor will do so by delivering its standard site acceptance letter. The site acceptance letter, duly executed by Franchisor, is the exclusive means by which Franchisor accepts a proposed site, and no other direct or indirect representation, approval or acceptance, whether in writing or orally, by any of Franchisor's officers, employees or agents, will be effective or bind Franchisor. Franchisor will use all reasonable efforts to make a site acceptance decision and, if the site is accepted, deliver a site acceptance letter to Developer, within sixty (60) days after Franchisor receives the complete and accurate Site Information Package and any other materials Franchisor has requested.

6.6 Execution of Franchise Agreement. If Franchisor accepts a proposed site pursuant to Section 6.3, and Developer demonstrates the requisite financial and management capabilities (if requested by Franchisor) pursuant to Section 6.3, then Franchisor agrees to offer Developer a Franchise to operate a Krispy Kreme Shop at the proposed site by delivering to Developer the then-current form of Franchise Agreement for the state in which the Krispy Kreme Shop is to be located. The Franchise Agreement must be executed by Franchisee and its Owners (as applicable) and returned to Franchisor no later than fourteen (14) days after Franchisor delivers them to Developer. If Franchisor does not receive the fully executed Franchise Agreement and payment of the Initial Franchise Fee as required hereunder, all within said fourteen (14) day period, Franchisor may revoke its offer to grant a Franchise to operate a Krispy Kreme Shop at the proposed site and may revoke its acceptance of the proposed site.

- 6.7 Lease or Purchase of Site and Franchisor Approval. Developer must lease, sublease or purchase the site within one-hundred and eighty (180) days after the date of Franchisor's site acceptance letter. Franchisor has the right to disapprove the terms of any lease, sublease or purchase contract for the site, and Developer agrees to deliver a copy to Franchisor for Franchisor's approval before Developer signs it. Franchisor will use all reasonable efforts to approve or disapprove the terms of any lease, sublease or purchase contract for the site within sixty (60) days after Franchisor receives a draft of a purported final copy of said agreement that is ready to be executed by Developer and the seller, lessor or sublessor (as applicable). Any lease or sublease for the site shall contain a Lease Rider in the form attached to the Franchise Agreement, or such other form as Franchisor may designate. Developer acknowledges that the review by Franchisor of a lease, sublease or purchase contract for a site may include a process in which comments are exchanged and additional revisions and drafts are submitted before approval is obtained. To that end, it is Developer's responsibility to ensure that there is adequate time for the completion of this process, and any delay or disapproval by Franchisor of any lease, sublease, or purchase agreement shall not limit, modify or waive Developer's requirement to strictly comply with the Development Schedule, or Franchisor's rights under this Agreement.

Developer may not execute a lease, sublease or purchase contract pertaining to the site for Krispy Kreme Shops, or any modification thereof, without Franchisor's prior written approval. Franchisor's approval of the lease, sublease or purchase contract does not constitute a warranty or representation of any kind, express or implied, as to its fairness or suitability or as to Developer's ability to comply with its terms. Franchisor does not, by virtue of approving the lease, sublease or purchase contract, assume any liability or responsibility to Developer or to any third parties. Developer further acknowledges that Franchisor has advised Developer to have any proposed lease, sublease, or purchase contract reviewed, negotiated and explained to Developer by an attorney representing Developer and not Franchisor.

Developer must deliver a copy of the fully signed lease, sublease or purchase contract to Franchisor within five (5) days after its execution.

- 6.8 Krispy Kreme's New Franchisee Orientation Program. Before Developer opens its first Krispy Kreme Shop to be developed under this Agreement, an Owner (that is a person) or Operations Director must complete, to Franchisor's satisfaction, Krispy Kreme's New Franchisee Orientation Program ("KKNFOP"). The KKNFOP will last two days and will be conducted at a training facility designated by Franchisor. Franchisor will bear all expenses for the KKNFOP, provided that Developer will pay all travel, living, meals, wages and other expenses incurred by Developer's Owner or Operations Director and Developer's employees while attending the KKNFOP.
- 6.9 Acquisition of Existing Krispy Kreme Shops. Neither Developer nor its Affiliates, Owners, or Restricted Persons shall solicit, purchase, or otherwise acquire, directly or indirectly, an Ownership Interest in any Krispy Kreme franchisee or Krispy Kreme developer, all or substantially all of the assets of an existing Krispy Kreme Shop, or an interest in any Krispy Kreme Franchise Agreement, or development agreement, without Franchisor's prior written consent, which Franchisor may withhold at its option.

7. CONSTRUCTION

- 7.1 Design Approval. In the System Standards Manuals or otherwise in writing, Franchisor will furnish Developer with mandatory and suggested specifications and layouts for a Krispy Kreme Shop, including requirements for dimensions, design, image, interior layout, decor, equipment,

fixtures, furnishings, construction materials, and signs. Developer acknowledges that the System Standards Manuals do not contain the requirements of any federal, state, or local law, code, ordinance or regulation (including building codes, permit requirements, and regulations and the ADA or similar rules governing accommodations for persons with disabilities). Developer is obligated to prepare all required construction plans and specifications to suit the shape and dimensions of the site and to ensure that such plans and specifications comply with all applicable state, federal, and local laws, codes, ordinances, regulations (including building codes, permit requirements, and regulations and the ADA or similar rules governing accommodations for persons with disabilities). Developer is obligated to submit construction plans and specifications to Franchisor for approval before construction of the Krispy Kreme Shop is commenced and, at Franchisor's request, to submit all revised plans and specifications during the course of such construction with "as built" plans to be provided upon completion. Developer must not begin constructing or renovating the site without Franchisor's prior written approval of Developer's plans. Franchisor may, at its option, assist Developer in developing the Krispy Kreme Shops by recommending engineers and architects and otherwise furnishing information to assist Developer in developing the Krispy Kreme Shop in accordance with Franchisor's specifications.

7.2 Commencement and Completion of Construction. Developer agrees, at its own expense, to do the following with respect to developing the Krispy Kreme Shop at the site:

- (a) secure all financing required to develop and operate the Krispy Kreme Shop;
- (b) obtain all building, utility, sign, health, sanitation, business and other permits and licenses required to construct and operate the Krispy Kreme Shop;
- (c) construct all required improvements to the site and decorate the Krispy Kreme Shop in compliance with plans and specifications and designs Franchisor has approved;
- (d) purchase or lease, install, and maintain all required equipment, fixtures, furnishings, and signs required for the Krispy Kreme Shop which items must, at Franchisor's option, be purchased from and maintained by Franchisor, its Affiliates, or suppliers designated by Franchisor, all as described in the System Standards Manuals (any lease, financing, lien, or other encumbrance for any such items requires Franchisor's prior written approval); and
- (e) purchase an opening inventory of authorized and approved materials and supplies, certain of which items must be purchased from Franchisor, its Affiliates, or suppliers designated by Franchisor, all as described in the System Standards Manuals.

8. FURNISHINGS, FIXTURES AND EQUIPMENT

8.1 Supply Chain. Developer acknowledges that the Products, Marks, and System have established significant prestige and goodwill and are well-recognized in the mind of the public and the trade. In order to preserve this prestige and goodwill, Developer understands and agrees that it is necessary and appropriate for Franchisor to closely control the supply chain for all equipment (including production equipment, POS System and computer), fixtures, furnishings, signs, delivery vehicles, raw materials (including doughnut mixes and coffee beans), supplies, and any other items used or useful in developing and operating Krispy Kreme Shops or for producing, marketing, or selling the Products or other goods Franchisor requires Developer to sell.

- 8.2 Approved Items. Developer agrees to use in developing and operating Krispy Kreme Shops (and producing, marketing, and selling the Products and other goods Franchisor requires Developer to sell) only the equipment, fixtures, furnishings, signs, delivery vehicles, raw materials, supplies, POS System, and computers and other items that Franchisor has approved for Developer's use in conjunction with Krispy Kreme Shops as meeting its specifications and standards for quality, design, appearance, function and performance in accordance with the System Standards. Franchisor must approve any deviations from Franchisor's mandatory specifications and standards as prescribed by the System Standards in writing before implementation. Approval of any item for use by Franchisor, its Affiliates, or other developers or franchisees will not be construed as approval of such item for Developer's use.
- 8.3 Purchases From Franchisor or Designated Sources. Notwithstanding Section 8.2, Franchisor may require Developer to purchase or lease any or all of the equipment, fixtures, furnishings, signs, delivery vehicles, raw materials, supplies, and other items for Krispy Kreme Shops directly from Franchisor or its Affiliates or other suppliers Franchisor may designate periodically. Developer agrees to purchase or lease all such items from Franchisor, its Affiliates or designated suppliers, as Franchisor may require. Developer acknowledges and agrees that Franchisor, its Affiliates and designated suppliers have the right to profit from the sale or lease of such items and that Franchisor does not act as agent, representative or in any other intermediary or fiduciary capacity for Developer in Franchisor's relationship with any designated suppliers. Developer acknowledges and agrees that (a) Franchisor and/or its Affiliates may receive payments, fees, commission or reimbursements from designated suppliers and third parties from such purchases; (b) Franchisor and/or its Affiliates may have investments in designated suppliers; and (c) Franchisor and/or its Affiliates may profit from Developer's purchases or leasing from designated suppliers. Franchisor, its Affiliates and designated suppliers will not be liable for any delay in the delivery of ingredients as a result of any Force Majeure. Franchisor, its Affiliates and designated suppliers may establish policies and procedures from time to time for the allocation and distribution of items among Krispy Kreme Shops. All equipment (including production equipment), fixtures, furnishings, raw materials, or food (including doughnut mixes and coffee beans) that Developer purchases or leases from Franchisor, its Affiliates or designated suppliers will be at such prices and on such purchase terms (including credit, such as COD, and shipping) and conditions as Franchisor, its Affiliates or designated suppliers may determine from time to time.
- 8.4 Warranties.
- (a) Franchisor warrants to Developer that each shipment or other delivery of food sold to Developer by Franchisor is guaranteed, as of the date of such shipment or delivery, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, and not an article which may not, under the provisions of Section 404, 505, or 512 of the Federal Food, Drug, and Cosmetic Act, be introduced into interstate commerce. The warranties for food described above will apply exclusively during shelf life of the food as evidenced by the expiration label on the packaging of such food, and will expire immediately on the expiration date. Franchisor's sole obligation and Developer's sole and exclusive remedy under this limited warranty is that Franchisor, at its option and at its expense, will either replace such food that it determines is defective, damaged, or nonconforming, or issue a credit to Developer for the purchase price for such food. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION 8.4, FRANCHISOR DISCLAIMS ALL WARRANTIES FOR THE GOODS, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY, AND**

NONINFRINGEMENT. FRANCHISOR WILL NOT BE LIABLE TO DEVELOPER FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY ACTS OR OMISSIONS ASSOCIATED WITH THIS AGREEMENT OR RELATING TO THE RESALE OF ANY OF THE GOODS FURNISHED, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, CONTRACT, TORT OR OTHER LEGAL THEORY AND REGARDLESS OF THE CAUSES OF SUCH LOSS OR DAMAGES OR WHETHER ANY OTHER REMEDY PROVIDED IN THIS AGREEMENT FAILS AND IN NO EVENT WILL ANY SUCH LIABILITY UNDER THIS SECTION 8.4(a) EXCEED THE PURCHASE PRICE PAID FOR THE GOODS.

- (b) Notwithstanding Section 8.4(a), Franchisor agrees to indemnify Developer, its Affiliates and their respective directors, officers, employees, shareholders, members, managers, agents, successors and assigns (collectively “**Developer Indemnified Parties**”), and to hold the Developer Indemnified Parties harmless to the fullest extent permitted by law, from any and all losses and expenses (as defined below) incurred in connection with any litigation or other form of adjudicatory procedure, claim, demand, investigation, or formal or informal inquiry (regardless of whether it is reduced to judgment) or any settlement thereof which arises directly from, or as a direct result of, a claim of a third party against any one or more of the Developer Indemnified Parties, in connection with Franchisor’s breach of the warranties set forth in this Section 8.4. The foregoing indemnity will not apply if it is determined that the Developer Indemnified Parties’ negligence, actions, or inactions, was the cause, in whole or in part, of such loss, liability or expense. The term “**losses and expenses**” as used in this Section 8.4 includes compensatory, exemplary, and punitive damages; fines and penalties; attorneys’ fees; experts’ fees; court costs; costs associated with investigating and defending against claims; settlement amounts; judgments; and all other costs associated with any of the losses and expenses noted above. Developer agrees to give Franchisor reasonable notice of any event of which Developer becomes aware for which indemnification may be required, and Franchisor may elect (but is not obligated) to direct the defense of any action. Franchisor may, at its option, take the actions Franchisor deems necessary and appropriate to investigate, defend, or settle any event or take other remedial or corrective actions with respect thereto as Franchisor deems necessary for the protection of the System and/or Krispy Kreme Shops generally. The Developer Indemnified Parties shall fully cooperate with Franchisor as requested by Franchisor.

- 8.5 Approved Suppliers. If Franchisor does not require Developer to purchase or lease a particular item from Franchisor, its Affiliates, or a designated supplier, Developer may purchase such item from a supplier Franchisor has approved. If Developer proposes to purchase any such item from any supplier that is not then-approved by Franchisor, Developer and the proposed supplier must submit to Franchisor all information that Franchisor may request in order to determine whether to approve the supplier. Franchisor will have the unconditional right to approve or disapprove any proposed supplier, and Franchisor may approve a supplier conditionally. Within thirty (30) days after Franchisor receives all requested information, Franchisor will use reasonable efforts to communicate to Developer in writing Franchisor’s decision to approve or disapprove Developer’s proposed supplier. Unless and until an affirmative written approval is provided by Franchisor, the proposed supplier shall be deemed disapproved. Franchisor will evaluate proposed suppliers on, among other things, their ability to comply with applicable standards, specifications and procedures and their ability to supply products to Krispy Kreme Shops and Doughnut Factories

on a continuous and timely basis. Franchisor will only approve those proposed suppliers that meet Franchisor's high standards. Franchisor may disapprove any supplier who Franchisor previously approved, and Developer may not, after receipt of notice of disapproval, reorder from any supplier Franchisor has disapproved. Franchisor may prescribe procedures for the submission of requests for approval and impose obligations on approved suppliers, which will be incorporated in a written license agreement with the supplier. Franchisor may obtain from Developer and/or such approved suppliers reimbursement of Franchisor's reasonable costs and expenses incurred in connection with the approval process of the supplier's compliance with Franchisor's requirements. Developer acknowledges and agrees that Franchisor does not act as agent, representative or in any other intermediary or fiduciary capacity for Developer in Franchisor's relationship with approved suppliers. Franchisor may impose limits on the number of approved suppliers. Franchisor has the right to monitor the quality of services provided by approved suppliers in a manner Franchisor deems appropriate, and may terminate any approved supplier that does not meet Franchisor's quality standards and specifications, as may be in effect from time to time.

- 8.6 Approval of Signage. Developer agrees to place or display at the site of Krispy Kreme Shops (interior and exterior) only the signs, emblems, lettering, logos, and display materials that Franchisor approves periodically.
- 8.7 Inspection. During the course of construction of each Krispy Kreme Shop, Developer will, and will cause its architect, engineer, constructors, and subcontractors to, cooperate fully with Franchisor and its designees to inspect the premises of any Krispy Kreme Shops under construction in order to ensure that construction is proceeding in accordance with the System Standards.
- 8.8 Reports. At Franchisor's request, Developer will submit to Franchisor a report with photographs and other evidence the Franchisor requires, showing progress made in connection with the construction process and equipping of Krispy Kreme Shops.
- 8.9 No Franchisor Liability. Developer acknowledges that Franchisor is not responsible for, and will have no liability for, the architecture, design, engineering, or construction of the Krispy Kreme Shops, for the Krispy Kreme Shops' compliance with any federal, state, or local law (including the ADA and any other federal, state or local law or ordinance regulating standards for access to, use of the, or modification of buildings for and by persons who are protected by law by virtue of such disability or whose disabilities are otherwise recognized by law), for any errors, omissions or discrepancies of any nature in any drawings or specifications with respect to the Krispy Kreme Shops, or for any other matter relating to the development, use or operation of the Krispy Kreme Shops, even if Franchisor assists or is directly involved in the development of the Krispy Kreme Shops.

9. OPENING OF KRISPY KREME SHOPS

- 9.1 Shop Opening. Developer will open a Krispy Kreme Shop for business pursuant to the Development Schedule described on Exhibit A attached to this Agreement. Developer will not open a Krispy Kreme Shop for business without Franchisor's prior written consent, which Franchisor may withhold unless, among other things:

- (a) Franchisor approves the Krispy Kreme Shop and site plan as developed in accordance with Franchisor's specifications and System Standards, and any applicable lease, sublease or purchase agreement;

- (b) All required training has been completed to Franchisor's satisfaction;
- (c) Developer and its Affiliates and Owners are in compliance with all agreements with Franchisor and/or its Affiliates, including Franchise Agreements and Development Agreements, including the payment of the Initial Franchise Fee and all other amounts then due to Franchisor and its Affiliates, and Developer and its Affiliates and Owners are in Good Standing;
- (d) Franchisor has been furnished with copies of all insurance policies required by the applicable Franchise Agreement, or such other evidence of insurance coverage and payment of premiums as Franchisor requests or accepts; and
- (e) Other items which Franchisor may require have been furnished to Franchisor.

9.2 Opening Team. Developer must properly staff the Krispy Kreme Shop prior to opening. Franchisor will supply at no charge an opening team that will assist Developer for a minimum of seven (7) days during the opening of a Krispy Kreme Shop. However, if Developer or its Affiliates are developing several Krispy Kreme Shops pursuant to Development Agreements, or have already developed Krispy Kreme Shops, including pursuant to separate Development Agreements, this team will be made available at no charge for the first Krispy Kreme Shop, one-half of a team will be made available at no charge for the second Krispy Kreme Shop, a field consultant will be made available at no charge for the third Krispy Kreme Shop and a field consultant may or may not be made available at no charge for any subsequent Krispy Kreme Shops, at Franchisor's option. "**No charge**" means Franchisor will be responsible for the team's travel, room and board, and salaries, but Developer will be responsible for all other charges or expenses.

10. SYSTEM STANDARDS

10.1 System Standards Manuals. Franchisor will loan or otherwise make available to Developer one (1) copy of its System Standards Manuals solely for use in developing and operating Krispy Kreme Shops during the Term, which may be in an electronic form or access to a Portal, extranet or website. The System Standards Manuals at all times will remain Franchisor's property, and they are protected by copyright. For all portions of the System Standards Manuals that are loaned to Franchisee in a paper or "hard" form, Developer will keep its copy of the System Standards Manuals current and in a secure location at its principal office and will return them to Franchisor immediately upon request, upon termination, or expiration of this Agreement or upon any Transfer. Developer will immediately notify Franchisor in writing if any copies of the System Standards Manuals in Developer's possession are lost, destroyed or significantly damaged, and will obtain a replacement copy at Franchisor's then applicable charge. At Franchisor's option, Franchisor may post some or all of the System Standards Manuals and any changes on a restricted Portal or extranet to which Developer will have access. Any passwords or other digital identifications necessary to access the System Standards Manuals on the Portal or extranet are Confidential Information. Developer may not at any time copy, duplicate, record, or otherwise reproduce any part of the System Standards Manuals or allow any unauthorized persons access to any System Standards Manuals, including those that are made available electronically, nor may Developer post all or any part of the System Standards Manuals on any limited access intranet sites without Franchisor's approval. Developer may not distribute any part of the System Standards Manuals and may not disclose any part of the System Standards Manuals to any person, other than its employees who have a need to know the contents of the System Standards Manuals in order to

perform their jobs, and are bound to protect its confidentiality. Developer will be obligated to monitor and access the Portal or extranet for any updates to the System Standards Manuals.

- 10.2 Compliance with System Standards. During the Term, Developer will comply with all of the System Standards and other requirements contained in System Standards Manuals, in addition to all applicable laws, regulations, rules, by-laws, orders and ordinances in connection with the development and operation of Krispy Kreme Shops. If a dispute arises relating to the contents of the System Standards Manuals, the master copy of the System Standards Manuals maintained by Franchisor at its principal office is controlling. Franchisor may at any time and from time to time change the System Standards Manuals to reflect changes in System Standards.

11. FRANCHISOR'S RIGHTS AND LIMITATIONS / LIMITED PROTECTION

- 11.1 Limited Protection. Without limiting any of the retained rights of Franchisor, including those set forth in Sections 11.2 through 11.5, provided that Developer is in Good Standing, neither Franchisor nor its Affiliates will, during the Term, own or operate, or grant Franchises for the ownership or operation of, Krispy Kreme Shops (as such are narrowly defined) at or from physical premises located in the Development Area, except for the following locations, which are hereby excluded from the Development Area:

- (a) any food service establishment using any part or all of the System and/or Marks at locations situated in a destination venue within the Development Area, including, without limitation, school and college campuses, hospitals, public transportation facilities (e.g. airport facilities or highway rest stops), stadiums, arenas, ball parks, government (e.g. military bases) or institutional locations, malls, hotels, corporate office parks, supermarkets, convenience stores, grocery stores, department stores, as well as mobile units located temporarily at special events, such as sports or entertainment events; and
- (b) food service establishments that Franchisor purchases (or as to which Franchisor purchases the rights as franchisor) that are part of another franchise system or chain, regardless whether such food services establishments are converted to operate using any of the Marks and/or any or all of the System or whether such food service establishments operate under other trademarks, service marks or trade dress and/or use other operating systems.

- 11.2 Retained Rights. Franchisor and its Affiliates (and their respective successors and assigns, by purchase, merger, consolidation or otherwise) retain all rights not expressly granted to Developer in Section 11.1, including those with respect to Krispy Kreme Shops, Doughnut Factories, the Marks, and the sale of Products. Developer waives, to the fullest extent permitted under applicable law, all claims, demands or causes of action arising from or related to any of such activities by Franchisor, its Affiliates or their respective successors and assigns.

- 11.3 Non-Exclusivity. Except for the limited protection provided in Section 11.1, no exclusive territory or protection is expressly or impliedly granted to Developer under this Agreement, and Franchisor reserves the right to operate and to grant others the right to operate Krispy Kreme Shops and Doughnut Factories at any location on such terms and conditions as it deems appropriate.

- 11.4 Certain Transaction Involving Franchisor. Franchisor reserves the right to acquire, develop and operate, or be acquired by, any company, including a company operating one or more food service businesses (including food service businesses manufacturing and/or selling doughnuts or

coffee), regardless of proximity of such food service businesses to or economic impact upon any Krispy Kreme Shops and Doughnut Factories.

11.5 Marketing, Manufacturing and Selling of the Products and Other Goods and Services. Notwithstanding anything to the contrary, including Section 11.1, Franchisor expressly reserves the right to license, manufacture, sample, sell, or market by any means whatsoever (including the Internet) the Products and any goods or services identified by the Marks. Notwithstanding anything to the contrary, including Section 11.1, any such Products, goods and services (which may be identified by the Marks) may be licensed, manufactured, sampled, sold, or marketed in any and all locations and venues (including within the Development Area), and through any method or channel of distribution Franchisor deems appropriate at its option (including wholesale distribution of Products to supermarkets, grocery stores, convenience stores, and other retail outlets located within or outside the Development Area).

11.6 In-Term Non-Competition Covenants. Developer acknowledges and agrees that Franchisor would be unable to protect the Confidential Information against unauthorized use or disclosure; preserve the prestige, integrity, and goodwill of the Products, Marks, and System; or encourage the free exchange of ideas and information among Franchisor, developers, franchisees, and Krispy Kreme Shops and Doughnut Factories if developers or franchisees of Krispy Kreme Shops or their Owners were permitted to engage in or benefit from certain competitive activities. Developer also acknowledges that Franchisor has granted the Development Rights to Developer in consideration of and reliance on Developer's agreement that Developer and its Owners will deal exclusively with Franchisor. Except as expressly authorized by this Agreement or another written agreement with Franchisor, Developer agrees that during the Term, without Franchisor's prior written consent, neither Developer nor any Restricted Person will:

- (a) have any Ownership Interest in a Competitive Business;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, or any function of these roles, of or for any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business;
- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, where such services could be reasonably expected to cause Developer, the Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed; or
- (d) offer for sale any Products branded as a private label, house brand, or any other brand, or utilizing trademarks, service marks, logo, design, trade name, or other commercial symbol than the Marks.

11.7 Variation of Terms.

- (a) Developer understands and acknowledges that other developers of Franchisor may be granted development agreements at different times and in different situations. Developer acknowledges that the provisions of such agreements may vary substantially from those contained in this Agreement and that Developer's obligations hereunder may differ substantially from those of other developers.

- (b) Franchisor reserves the right in its discretion to vary its specifications, standards and operating practices and requirements among developers, including, without limitation, those relating to equipment, signage, operations, Products, and services. Franchisor may impose such variations to address differing or unique circumstances or for other reasons Franchisor, in its discretion, deems good and sufficient. Developer understands and acknowledges that such variations may lead to different costs or obligations among developers. Developer understands and acknowledges that Franchisor and its Affiliates have the right and discretion to treat developers differently even if they are similarly situated.

12. MARKS / COPYRIGHTS / CONFIDENTIAL INFORMATION

- 12.1 Restricted Use by Developer. This Agreement does not grant Developer any right to use the Marks. This Agreement does not grant Developer, and Developer does not have, any right to any copyrighted work or patent which Franchisor or its Affiliates may now or in the future own. Rights to the Marks, copyrighted works and/or patents are granted only under the Franchise Agreements to be executed by Franchisor and Franchisee.
- 12.2 Disclosure to Developer. Franchisor will disclose parts of its Confidential Information to Developer solely for its use in connection with this Agreement. The Confidential Information is proprietary and includes Franchisor's trade secrets. During the Term and at all times thereafter: (a) Developer and its Owners may not use the Confidential Information in any other business or capacity (Developer acknowledges such use is an unfair method of competition); (b) Developer and its Owners must maintain the confidentiality of the Confidential Information; (c) Developer and its Owners may not make unauthorized copies of any portion of the Confidential Information disclosed in written, electronic or other form; and (d) Developer and its Owners must implement all reasonable procedures Franchisor prescribes from time to time to prevent unauthorized use or disclosure of the Confidential Information, including the use of nondisclosure agreements with Developer's Owners, officers, directors, managing director, managers, and assistant managers, and Developer and its Owners must deliver such agreements to Franchisor.
- 12.3 Securities Trading. Without limiting the foregoing, Developer, and its Owners, as applicable, each (a) acknowledge possibly gaining access to Franchisor's material non-public information and that of KKI, and that the securities laws prohibit trading in KKI securities while in possession of such information; and (b) agree to refrain from trading in KKI securities in violation of any applicable laws or regulations.
- 12.4 Exceptions. At the end of the Term, Developer and its Owners must deliver to Franchisor all of the Confidential Information, except for the Confidential Information Developer is permitted to retain under any Franchise Agreements then in effect. Developer's restrictions on disclosure and use of Confidential Information do not apply to information or techniques which are or become generally known in the food service industry, other than through Developer's or its Owner's, agents or employees own disclosure (whether deliberate or inadvertent), or through a breach of an obligation of confidentiality owed by anyone to Franchisor, provided Developer obtains Franchisor's prior written consent to such disclosure or use. The burden of proving the applicability of this exception will reside with Developer. Information or techniques which may otherwise be generally known in the food service industry, but are implemented or used as part of the System in a manner or for a reason not generally known in the food service industry shall not be excepted.

13. TRANSFER BY FRANCHISOR

- 13.1 Transfer by Franchisor. Franchisor and any holder of an Ownership Interest in Franchisor may voluntarily, involuntarily, directly or indirectly sell, assign, transfer, license, sublicense, sublease, collaterally assign, grant a security, collateral or conditional interest, inter vivos transfer, testamentary disposition or other disposition of all or any part of its rights or obligations under this Agreement or any Ownership Interest in Franchisor to any person or entity without Developer's consent. Franchisor may sell its assets, Marks or the System to a third party; may offer its securities privately or publicly; may merge, spin-off, acquire other business entities, or be acquired by another business entity; may undertake a refinancing, recapitalization, leveraged buyout, or other economic or financial restructuring; and with regard to any or all of the above sales, assignments and dispositions, Developer expressly and specifically waives any claims, demands or damages against Franchisor arising from or related to the transfer of the Marks (or any variation thereof) or the System from Franchisor to any other party. If Franchisor assigns its rights in this Agreement, such assignment will constitute a novation of Franchisor and Franchisor will be released from all further liability to Developer under this Agreement after the effective date of such transfer, and the transferee will be liable to Developer as if it was the original party to this Agreement. Franchisor is not obligated to offer any services or products, whether or not bearing the Marks, to Developer if Franchisor assigns its rights in this Agreement.

14. TRANSFER BY DEVELOPER

- 14.1 Franchisor's Prior Written Approval Required. Developer's rights and duties under this Agreement are personal to Developer, or if Developer is a business corporation, partnership, limited liability company or any other legal entity, its Owners. Accordingly, neither Developer nor any of its Owners may Transfer a direct or indirect interest in the Development Rights, Developer, the holder of a direct or indirect Ownership Interest in Developer, or all or substantially all of the assets of Developer's *Krispy Kreme* business without Franchisor's prior written approval and without complying with the terms and conditions of Section 14. Any such Transfer without such approval or compliance constitutes a breach of this Agreement, and is void and of no force or effect. Developer may not under any circumstances, directly or indirectly, subfranchise or sublicense any of its rights or obligations under this Agreement.
- 14.2 Conditions for Franchisor Approval. Franchisor will not unreasonably withhold its approval of a Transfer that meets all of the restrictions, requirements and conditions then imposed by Franchisor. The conditions may include, but are not limited to the following:
- (a) Developer and all of its Affiliates must be in Good Standing;
 - (b) the proposed transferee and its owners (if the proposed transferee is a corporation, partnership, limited liability company or other legal entity) must provide Franchisor on a timely basis all information Franchisor requests, and must be individuals acting in their individual capacities who are of excellent character and reputation, who must have sufficient education, business experience, aptitude and financial resources, as determined in Franchisor's judgment, to develop and operate Franchises pursuant to this Agreement, and who must otherwise meet Franchisor's then-current standards for approval;
 - (c) Developer must provide Franchisor with all information requested by Franchisor in connection with the Transfer, and Franchisor must not have disapproved the material terms and conditions of such Transfer (including the price and terms of payment and the amount to be financed by the transferee in connection with such Transfer) on the basis

that they are, in Franchisor's judgment, either (i) burdensome as to be likely to adversely affect the transferee's operation of Krispy Kreme Shops or its compliance with this Agreement, and all Franchise Agreements being transferred, and any other agreements to be executed by the transferee, or (ii) unreasonable as to diminish the value of the Marks or brand goodwill, or the value of other Krispy Kreme Shops;

- (d) the proposed transferee may not be an entity, or be affiliated with an entity, that is required to comply with the reporting and information requirements of the Securities Exchange Act of 1934, as amended;
- (e) if Developer (or any of its Owners or Affiliates) finances any part of the sale price of the transferred interest, Developer and/or its Owners or Affiliates must agree that all obligations of the transferee, and security interests reserved by any of them in the assets transferred, will be subordinate to the transferee's obligations to pay all amounts due Franchisor and its Affiliates and to otherwise comply with this Agreement, and all Franchise Agreements being transferred, and any other agreements to be executed by the transferee;
- (f) Developer or the transferee must pay to Franchisor a transfer fee of Five Thousand Dollars (\$5,000), plus Five Thousand Dollars (\$5,000) for each Franchise for which a Franchise Agreement has been executed pursuant to this Agreement (as required under the terms of such agreements), plus any transfer fee required by any other agreement between Developer or its Affiliates and Franchisor or its Affiliates, plus any costs and expenses incurred by Franchisor and its Affiliates, including legal and accounting fees, in relation to the Transfer (all transfer fees are non-refundable and do not include costs for training);
- (g) the transferee and its owners must agree to be bound by all of the provisions of this Agreement for the remainder of the Term, and the transferee's Owners must execute agreements in the form Franchisor prescribes, undertaking to guarantee and be bound jointly and severally by the terms of this Agreement, including the confidentiality and non-compete covenants contained herein. Franchisor shall have the right to require the transferee and its Owners to execute Franchisor's then-current form of development agreement, and Franchise Agreements (as applicable);
- (h) the transferee must acquire, in a concurrent transaction, all of the rights and obligations of Developer and its Affiliates under all agreements between Developer or its Affiliates and Franchisor or its Affiliates, including all Franchise Agreements executed by Developer or its Affiliates pursuant to this Agreement or pursuant to any other development or similar agreement with Franchisor;
- (i) prior to releasing any Guaranty, transferee's Owners shall provide Franchisor with a Guaranty in a form acceptable to Franchisor;
- (j) Developer and its Owners and Affiliates must, except to the extent limited or prohibited by applicable law, execute a general release and covenant not to sue, in the form Franchisor prescribes, of any and all claims against Franchisor, its Affiliates and shareholders, members, managers, officers, directors, employees, agents, successors and assigns;

- (k) Transferee must execute confidentiality and noncompetition covenants, in form and substance satisfactory to Franchisor, substantially similar to those contained in Section 17.2 hereof; and
- (l) Developer and its Owners and Affiliates must execute such other documents and do such other things as Franchisor requires to protect its rights under this Agreement and all Franchise Agreements, and other agreements being transferred.

14.3 Franchisor Approval is Not a Representation or Release. Franchisor's approval of a Transfer does not constitute: (a) a representation as to the fairness of the terms of any agreement or arrangement between Developer or its Owners and the transferee or as to the prospects for success by the transferee; or (b) a release of Developer and its Owners, a waiver of any claims against Developer or its Owners or a waiver of Franchisor's right to demand the transferee's compliance with this Agreement or any other agreements being transferred. Any approval will apply only to the specific Transfer being proposed and will not constitute Franchisor's approval of, or have any bearing on, any other proposed Transfer.

14.4 Notice of Transfer/Bona Fide Offer.

- (a) Bona Fide Offer. If Developer or any of its Owners desires to Transfer a direct or indirect interest in the Development Rights, Developer, the holder of a direct or indirect Ownership Interest in Developer, or all or substantially all of the assets of Developer's or its Affiliates' *Krispy Kreme* business, Developer or such Owners must obtain a *bona fide*, executed written offer from a responsible and fully disclosed purchaser (which must contain a confidentiality covenant by Developer and the prospective buyer to which Franchisor will be an intended third party beneficiary). Developer must deliver immediately to Franchisor a complete and accurate copy of that offer. If the offeror proposes to buy any other property or rights from Developer or any of its Owners or Affiliates (other than rights under any Development Agreement, or Franchise Agreement for *Krispy Kreme* Shops) as part of the *bona fide* offer, the proposal for such property or rights must be set forth in a separate, contemporaneous offer that is fully disclosed to Franchisor, and the price and terms of purchase offered to Developer or its Owners for the Transfer must reflect the *bona fide* price offered and not reflect any value for any other property or rights.
- (b) Gifts. If Developer or any of its Owners desires to make a Transfer by gift, Developer or such Owners must, prior to such Transfer, deliver to Franchisor a notice thereof, identifying the interest to be gifted and the intended recipient. The requirement of a *bona fide* offer does not apply to a gift or bequest.

14.5 Issuance of Securities. Neither Developer nor any of its Owners or Affiliates may issue or sell, or offer to issue or sell, any of Developer's securities or any securities of any of its Affiliates, regardless of whether such sale or offer would be required to be registered pursuant to the provisions of the Securities Act of 1933, as amended, or the securities laws of any other jurisdiction and regardless of the means by which such sale is conducted, directly or indirectly, or by operation of law (including by merger, consolidation, reorganization or otherwise) without obtaining Franchisor's prior consent and complying with all of its requirements and restrictions concerning use of information about Franchisor and its Affiliates. Notwithstanding anything to the contrary contained in this Agreement, neither Developer nor any of its Owners or Affiliates may issue or sell Developer's securities or the securities of any of its Affiliates if: (a) such securities would be required to be registered pursuant to the Securities Act of 1933, as amended,

or its successor; or (b) after such issuance or sale, Developer or such Affiliate would be required to comply with the reporting and information requirements of the Securities Exchange Act of 1934, or its successor. Any memorandum or other communications circulated in connection with any solicitation of offers to purchase that would require Franchisor's consent to the Transfer (through whatever form of transaction, whether through direct or indirect sale of assets or securities, by operation of law or otherwise) will be subject to approval by Franchisor.

14.6 Right of First Refusal.

- (a) Franchisor's Option of Right of First Refusal. Franchisor has the option, exercisable by notice delivered to Developer or its Owners within thirty (30) days from the date of receipt of a complete and accurate copy of such offer by Franchisor or within one hundred twenty (120) days from receipt of notice of a proposed gift, to purchase such interest for:
- (i) the price and on the terms and conditions contained in such offer, provided that: (1) Franchisor may substitute cash for any form of payment proposed in such offer; (2) Franchisor's credit will be deemed equal to the credit of any proposed purchaser; (3) Franchisor will have not less than ninety (90) days from the option exercise date to consummate the transaction; (4) Franchisor will not be required to pay deposits (such as earnest money) or to escrow funds prior to closing; and (5) the price will not include any broker's or other commissions, or
 - (ii) the monetary equivalent of any interest to be gifted to the extent the gift relates to the Development Rights (as opposed to the rights under Franchise Agreements which shall be governed by the right of first refusal provisions contained therein). If the parties cannot agree within a reasonable time on the monetary equivalent of the gift, they must attempt to appoint a mutually-acceptable independent appraiser to make a binding determination. If the parties are unable to agree upon one (1) independent appraiser, then an independent appraiser shall be promptly designated by Franchisor and another independent appraiser shall be promptly designated by Developer or transferor. Each such appraiser shall be required to provide a written estimate of the costs which will be associated with their work and the transferor shall be required to deposit with the Franchisor the costs as estimated by the appraiser selected by the transferor. These two (2) appraisers shall, in turn, promptly designate a third appraiser and such third appraiser shall be required to provide a written estimate of the costs which will be associated with its work and the transferor shall be required to deposit with the Franchisor one half of the costs as estimated by the third appraiser; all three (3) appraisers shall promptly confer and reach a single determination, which determination shall, be based solely on the number of Krispy Kreme Shops to be developed under this Agreement as to which a Franchise Agreement has not yet been executed with the Franchisor, and shall be reduced by the value of the good will associated with Marks owned by the Franchisor or its Affiliate. This determination shall be binding upon Franchisor and Developer or transferor. The cost of any such appraisal shall be shared equally by Franchisor and Developer or transferor and Franchisor shall promptly pay over to the appraisers any of the deposits based upon the earlier estimates and the transferor or Developer shall pay any additional amounts which shall be due and owing and Franchisor shall be responsible for paying the amounts owed to the appraiser selected by it and one half of the amount owed to the third party appraiser. If Franchisor elects to

exercise its right under this Section, Franchisor shall have the right to set off all amounts due from Developer or transferor, and any remaining cost of the appraisal owed by the transferor, if any, against any payment to be made by the Franchisor to the transferor.

- (iii) Notwithstanding anything to the contrary, the purchase price by Franchisor under its right of first refusal for a Transfer or the portion of a Transfer that relates to the Development Rights pursuant to this Agreement shall under no circumstances exceed the percentage interest being transferred multiplied by the pro-rata amount of the Development Fee paid by Developer to Franchisor for the then-remaining undeveloped Krispy Kreme Shops scheduled to be developed pursuant to the Development Schedule, which amount shall be further reduced by twenty percent (20%) for a portion of the value of the good will associated with Marks owned by Franchisor or its Affiliate. Franchisee acknowledges that the value of the good will associated with Marks owned by Franchisor or its Affiliate is far greater than the reduction set forth in this sub-Section, and Franchisor is solely using this percentage reduction for purposes of this sub-Section.

Franchisor has the right to investigate and analyze the business, assets and liabilities and all other matters Franchisor deems necessary or desirable in order to make an informed investment decision with respect to the fairness of the terms of the right of first refusal. Franchisor may conduct such investigation and analysis in any manner Franchisor deems appropriate, and Developer and its Owners must cooperate fully with Franchisor in connection with any investigation.

- (b) Exercise of Right of First Refusal. If Franchisor exercises its option to purchase, Franchisor is entitled to purchase such interest subject to all representations and warranties, closing documents, releases, non-competition covenants, indemnities, and other terms and conditions as Franchisor, in its judgment, may require.
- (c) Nonexercise of Right of First Refusal. If Franchisor does not exercise its option to purchase, Developer or its Owners may complete the gift or the sale to that offeror pursuant to and on the exact terms of that offer, subject to the terms of this Agreement including but not limited to Section 6.9 and this Section 14.
- (d) Change in Terms of Offer. If the gift or the sale to such offeror is not completed within ninety (90) days after delivery of that offer to Franchisor, or if there is a change in the terms of the offer, Developer must promptly notify Franchisor and Franchisor will have an additional option to purchase (on the terms of the revised offer, if any, and otherwise as set forth in this Agreement) during the thirty (30)-day period following Developer's notification of the expiration of the ninety (90)-day period or the change to the terms of the offer. If Franchisor does not exercise its additional option to purchase, then Developer will have ninety (90) days from the date of that notice to complete its transaction.

15. GENERAL RELEASE AND COVENANT NOT TO SUE

Contemporaneous with the execution of this Agreement, Developer and each of Developer's Owners will execute a general release and covenant not to sue in the form attached as Exhibit F to this Agreement.

16. TERMINATION OF DEVELOPMENT RIGHTS

16.1 Termination Without Notice. Developer is in material breach of this Agreement, and this Agreement will automatically terminate without notice if:

- (a) Developer becomes insolvent by reason of its inability to pay its debts as they mature;
- (b) Developer is adjudicated bankrupt or insolvent;
- (c) Developer files a petition in bankruptcy, reorganization or similar proceeding under the bankruptcy laws of the United States or has such a petition filed against Developer, which is not discharged within thirty (30) days;
- (d) a receiver or other custodian, permanent or temporary, is appointed for Developer's business, assets or property;
- (e) Developer requests the appointment of a receiver or makes a general assignment for the benefit of creditors;
- (f) a final judgment against Developer in the amount of Five Thousand Dollars (\$5,000) or more remains unsatisfied of record for sixty (60) days or longer;
- (g) Developer's bank accounts, property or accounts receivable are attached;
- (h) execution is levied against Developer's business or property;
- (i) suit is filed to foreclose any lien or mortgage against any of Developer's assets and such suit is not dismissed within thirty (30) days;
- (j) Developer voluntarily dissolves or liquidates or has a petition filed for corporate or partnership dissolution and such petition is not dismissed within thirty (30) days; or
- (k) Developer's assets, property or interest are "blocked" under any law, ordinance or regulation relating to terrorist activities or if Developer is otherwise in violation of any such law, ordinance or regulation.

16.2 Termination Upon Notice. In addition to Franchisor's right to terminate pursuant to other provisions of this Agreement or under applicable law, Franchisor may terminate this Agreement, effective upon delivery of notice of termination to Developer, if Developer or any of its Owners or Affiliates:

- (a) fails to meet any part of the Development Schedule;
- (b) makes an unauthorized Transfer;
- (c) makes any material misstatement or omission in any Franchise Application or in any other information, report, or summary provided to Franchisor at any time;
- (d) is convicted of, or plead no contest to, a felony or other crime or offense that Franchisor believes, in its sole judgment, may adversely affect the System or the goodwill associated with the Marks;

- (e) makes any unauthorized use or disclosure of the Confidential Information or violates any non-competition or non-solicitation provisions set forth or referenced in this Agreement;
- (f) fails to comply with any other provision of this Agreement and does not correct such failure within thirty (30) days after written notice of such failure to comply is delivered to Developer;
- (g) is in breach of any Franchise Agreement such that Franchisor has the right to terminate such agreement, whether or not Franchisor elects to exercise its right to do so;
- (h) is in breach of any other agreement between Developer or any of its Affiliates and Franchisor or any of its Affiliates such that Franchisor has a right to terminate such agreement, whether or not Franchisor elects to exercise its right to do so, or is in breach under any agreement between Franchisor (or any Affiliate) and any Owner, and Owner remains in breach after any applicable cure period, if any; or
- (i) if Franchisor determines that any applicable federal or state statute, regulation, rule or law, which is enacted, promulgated or amended after the date hereof, may have a material adverse effect on its rights, remedies or discretion in franchising Krispy Kreme Shops or Doughnut Factories.

Franchisor has no obligation whatsoever to refund any portion of the Development Fee upon any termination, except that Franchisor will refund a pro rata portion of the Development Fee in the event of a termination solely pursuant to Section 16.2(i).

17. EFFECT OF TERMINATION AND EXPIRATION

17.1 Survival. All obligations under this Agreement, which expressly or by their nature survive the expiration or termination of this Agreement, will continue in full force and effect until they are satisfied in full or by their nature expire.

17.2 Non-Competition Covenants. When this Agreement expires or is terminated, neither Developer nor any Restricted Person will, for a period of two (2) years, starting on the effective date of termination or expiration (whichever is earlier):

- (a) have any Ownership Interest in a Competitive Business, operating within the Development Area, or within a radius of ten (10) miles of any other Krispy Kreme Shop or Doughnut Factory in operation or under construction on the effective date of termination or expiration, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, or any function of these roles, of or for any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business, operating within the Development Area, or within a radius of ten (10) miles of any Krispy Kreme Shop or Doughnut Factory in operation or under construction on the effective date of termination or expiration, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement; or

- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, operating within the Development Area, or within a radius of ten (10) miles of any Krispy Kreme Shop or Doughnut Factory in operation or under construction on the effective date of termination or expiration, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement, where such services could be reasonably expected to cause Developer, the Restricted Person and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed.

Developer and each of its Owners expressly acknowledge the possession of skills and abilities of a general nature and other opportunities for exploiting such skills in other ways, so that enforcement of the covenants contained in this Section 17.2 will not deprive any of them their personal goodwill or ability to earn a living. If Developer or any of its Owners fail or refuse to abide by any of the foregoing covenants and Franchisor obtains enforcement in a judicial or arbitration proceeding, the obligations under the breached covenant will be tolled during the period(s) of time that the covenant is breached and/or Franchisor seeks to enforce it and will continue in effect for a period of time ending two (2) years after the date of the order enforcing the covenant.

- 17.3 Other Rights and Remedies. Franchisor's exercise of any of its rights under Section 17 will be in addition to, and not in limitation of, any other rights and remedies it may have if Developer commits a breach or default under this Agreement. Without limiting the foregoing, and notwithstanding anything to the contrary, if the termination is a result of Developer's, an Owner's, or an Affiliate's breach or default under this Agreement or any other agreement with Franchisor or its Affiliates, Franchisor shall also be entitled to pursue any and all rights and recover all damages available at law or in equity. To that end, Developer, its Owners, and Affiliates each acknowledge and confirm that by granting Developer the Development Rights, Franchisor lost the opportunity to grant Development Rights to another person or entity or to itself to develop the Development Area. Additionally, Developer, its Owners and Affiliates confirm that Franchisor and its Affiliates will suffer substantial damages by virtue of the termination of this Agreement, including, without limitation, lost future Royalties, lost Brand Fund and AP Fund contributions, lost profits from the sale of products, ingredients, and other items, lost market penetration and goodwill, lost opportunity costs and the expense Franchisor will incur in developing the Development Area, which damages Franchisor shall have the right to recover from Developer, its Owners and Affiliates.

18. RELATIONSHIP OF PARTIES / INDEMNIFICATION

- 18.1 No Fiduciary Relationship. Neither this Agreement nor the dealings of the parties pursuant to this Agreement will create any fiduciary relationship or any other relationship of trust or confidence between the parties. Franchisor and Developer, as between themselves, are and will be independent contractors.
- 18.2 Exercise of Discretion. Developer understands and agrees that Franchisor may operate and change the System and its business in any manner that is not expressly and specifically prohibited by this Agreement. Whenever Franchisor has expressly reserved in this Agreement or is deemed (or it is implied) to have a right, option, discretion, and/or exercise of Franchisor's judgment, to take or withhold an action, or to grant or decline to grant Developer a right to take or withhold an

action, or any words of similar effect, except as otherwise expressly and specifically provided in this Agreement, Franchisor may make its decision or exercise its right, option, discretion, and/or judgment on the basis of Franchisor's unfettered sole and exclusive determination of what is in its best interests, including its judgment of what is in the best interests of its franchise network, at the time its decision is made or its right, option, discretion, and/or judgment is exercised, without regard to whether: (a) other reasonable alternative decisions or actions could have been made by Franchisor; (b) Franchisor's decision or action promotes its financial or other individual interest; (c) Franchisor's decision or action applies differently to Developer and one or more other developers, franchisees or its company-owned operations; or (d) Franchisor's decision or the exercise of its right, option, judgment or discretion is adverse to Developer's interests (collectively, "**Franchisor's Exercise of Discretion**"). Franchisor shall have no liability to Developer for any of Franchisor's Exercise of Discretion. The parties intend that Franchisor's Exercise of Discretion shall be final and will not be subject to limitation or review. Neither Developer nor any third party (including a trier of fact), will substitute its judgment, decision, discretion, or determination for Franchisor's Exercise of Discretion. If applicable law implies a covenant of good faith and fair dealing in this Agreement, the parties agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement, as written, is intended and expected by the parties, supported by adequate consideration, to grant Franchisor the right to make decisions, exercise discretion, exercise judgment, take actions and/or refrain from taking actions pursuant to the definition of Franchisor's Exercise of Discretion, and that this Section is not inconsistent with Developer's rights and obligations hereunder, and this Section is expressly entered into by the parties in good faith and as a fair, negotiated, and material part of the Agreement.

- 18.3 No Partnership or Employment Created. Nothing contained in this Agreement, or arising from the conduct of the parties under this Agreement, is intended to make either party a general or special agent, joint venturer, partner or employee of the other for any purpose whatsoever. Developer must conspicuously identify itself in all dealings with customers, lessors, contractors, suppliers, public officials, employees and others as the owner of Development Rights granted under this Agreement and must place such other notices of independent ownership on such forms, business cards, stationery, advertising and other materials as we may require from time to time.
- 18.4 Developer Not to Incur Obligations for Franchisor. Developer may not make any express or implied agreements, warranties, guaranties or representations or incur any debt in Franchisor's name or on its behalf or represent that the relationship of the parties hereto is anything other than that of independent contractors. Franchisor will not be obligated by or have any liability under any agreements made by Developer with any third party or for any representations made by Developer to any third party. Franchisor will not be obligated for any damages to any person, entity, or property arising directly or indirectly out of the operation of Developer's business.
- 18.5 Indemnification by Developer. Developer agrees to indemnify the Indemnified Parties, and to hold the Indemnified Parties harmless to the fullest extent permitted by law, from any and all losses and expenses (as defined below) incurred in connection with any litigation or other form of adjudicatory procedure, claim, demand, investigation, formal or informal inquiry (regardless of whether it is reduced to judgment) or any settlement thereof which arises directly or indirectly from, or as a result of, a claim of a third party against any one or more of the Indemnified Parties, including, without limitation, in connection with:
- (a) Developer's failure to perform or breach of any covenant, agreement, term or provision of this Agreement;

- (b) Developer's breach of any representation or warranty contained in this Agreement;
- (c) Developer's development, ownership, operation and/or closing of Krispy Kreme Shops; and
- (d) any allegedly unauthorized service or act rendered or performed in connection with this Agreement (collectively "**Event**"), and regardless of whether it resulted from any strict or vicarious liability imposed by law on the Indemnified Parties.

The foregoing indemnity will apply even if it is determined that the Indemnified Parties' negligence caused such loss, liability or expense, in part, provided, however, that this indemnity will not apply to any liability directly arising from a breach of this Agreement by Franchisor or with respect to any Indemnified Party whose gross negligence or willful misconduct directly caused such liability (except to the extent that joint liability is involved, in which event this indemnification will extend to any finding of comparative or contributory negligence attributable to Developer). The foregoing indemnity will not apply if it is determined, according to a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction, that the Indemnified Parties' gross negligence or willful misconduct, was the sole cause of such loss, liability or expense. The term "**losses and expenses**" includes compensatory, exemplary and punitive damages; fines and penalties; attorneys' fees; experts' fees; court costs; costs associated with investigating and defending against claims; settlement amounts; judgments; compensation for damages to Franchisor's reputation and goodwill; and all other costs associated with any of the losses and expenses noted above. Franchisor agrees to give Developer reasonable notice of any Event of which Franchisor becomes aware for which indemnification may be required, and Franchisor may elect (but is not obligated) to direct the defense of any action, provided that the selection of counsel will be subject to Developer's consent, which consent will not be unreasonably withheld or delayed. Franchisor may, at its option, take the actions Franchisor deems necessary and appropriate to investigate, defend or settle any event or take other remedial or corrective actions with respect thereto as may be necessary for the protection of the Indemnified Parties or Krispy Kreme Shops and/or Doughnut Factories generally. Further, notwithstanding the above, if the insurer on a policy or policies obtained in compliance with any Franchise Agreement agrees to undertake the defense of an Event (an "**Insured Event**"), Franchisor agrees not to exercise its right to select counsel to defend the Event if such would cause Developer's insurer to deny coverage, so long as the appointed counsel is reasonably acceptable to Franchisor and has substantial knowledge and experience in the specific applicable practice area of law. Franchisor reserves the right to retain counsel to represent Franchisor with respect to an Insured Event at its sole cost and expense. This Section 18.5 will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

19. MISCELLANEOUS

- 19.1 Governing Law. This Agreement is deemed made and entered into in the State of North Carolina. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement and all issues arising from or relating to this Agreement will be governed by and construed under the laws of the State of North Carolina, provided the foregoing will not constitute a waiver of Developer's rights under any applicable franchise law of another state, if such applicable franchise law of another state expressly does not allow for such a waiver. Otherwise, in the event of any conflict of law, North Carolina law will prevail, without regard to the application of North Carolina conflict of law principles, except that any North Carolina law regulating the sale of franchises or business

opportunities or governing the relationship of a franchisor and its franchisees will not apply unless its jurisdictional requirements are met independently without reference to this Section.

- 19.2 Venue and Forum. Developer and each of its Owners agree that the U.S. District Court for the Middle District of North Carolina, or if such court lacks jurisdiction, the Superior Court (or its successor) for Forsyth County North Carolina, will be the exclusive jurisdiction and exclusive venue and forum in which to adjudicate any case or controversy arising from or relating to this Agreement, any other agreement between Franchisor and Developer, the relationship between Franchisor and Developer, and any guarantees or covenants by Developer's Owners. In the event a case or controversy is to be heard by the Superior Court (or its successor) for Forsyth County North Carolina, any party may request that the matter be assigned to the North Carolina Business Court. Developer and each of its Owners irrevocably submit and consent to the exclusive jurisdiction and exclusive venue of such courts and waive any objections to either the jurisdiction of or venue in such courts. Developer and each of its Owners irrevocably waive, to the fullest extent they may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agrees that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of North Carolina but may be served with the same effect as if they were served within the State of North Carolina, by certified mail or any other means permitted by law, addressed to Developer and its Owners (as applicable) at the address set forth herein. Nothing contained herein will affect Franchisor's rights to bring a suit, action or proceeding in any other appropriate jurisdiction to enforce any judgment, order or award against Developer or any of its Owners entered by a State or Federal Court.
- 19.3 Injunctive Relief. Notwithstanding Section 19.2, Franchisor may obtain at any time in any court of competent jurisdiction any injunctive relief, including temporary restraining orders and preliminary injunctions, against conduct or threatened conduct for which no adequate remedy at law may be available or which may cause Franchisor irreparable harm. Franchisor shall have such injunctive relief, without bond, but upon due notice (if reasonably possible), in addition to such further and other relief as may be available to Franchisor at equity or law, and Developer's sole remedy in the event of the entry of such injunction, will be the dissolution of such injunction, if warranted, upon hearing duly had (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). Developer and each of its Owners acknowledge that any violation of Sections 11.6, 12.1, 12.2, 14.2(k) or 17.2 would result in irreparable injury to Franchisor for which no adequate remedy at law shall be available. Accordingly, Developer and each of its Owners consent to the issuance of an injunction at Franchisor's request (without posting a bond or other security) prohibiting any conduct in violation of any of those sections and agrees that the existence of any claims Developer or any of its Owners may have against Franchisor, whether or not arising under this Agreement, will not constitute a defense to the enforcement of any of those Sections.
- 19.4 Costs and Attorneys' Fees. In any legal action arising from this Agreement, the prevailing party will be entitled to recover its costs, including reasonable attorneys' fees, against the non-prevailing party.
- 19.5 Waiver of Punitive, Exemplary and Consequential Damages, Limitations on Actions. Except with respect to any of Developer's obligations in this Agreement regarding the Confidential Information, Indemnification, the Marks, any other intellectual property rights of Franchisor, and the Non-Competition Covenants, Franchisor and Developer and its Owners each waive, to the fullest extent permitted by law, any right to or claim for any punitive or exemplary damages against the other. Developer and each of its Owners waive, to the fullest extent permitted by

applicable law, the right to recover consequential damages for any claim directly or indirectly arising from or relating to this Agreement.

ANY DISAGREEMENT, DISPUTE, ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BETWEEN OR INVOLVING DEVELOPER (AND/OR ITS AFFILIATES AND/OR OWNERS) AND FRANCHISOR (AND/OR ITS AFFILIATES) WILL BE CONSIDERED UNIQUE AS TO ITS FACTS AND MUST NOT BE BROUGHT AS A CLASS ACTION AND DEVELOPER (AND ITS AFFILIATES AND OWNERS) WAIVE ANY RIGHT TO PROCEED AGAINST FRANCHISOR (AND/OR ITS AFFILIATES) BY WAY OF CLASS ACTION, OR BY WAY OF A MULTI-PLAINTIFF, CONSOLIDATED OR COLLECTIVE ACTION.

FURTHERMORE, FRANCHISOR AND ITS AFFILIATES, AND DEVELOPER AND EACH OF ITS OWNERS AND AFFILIATES IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, DISPUTE, CLAIM OR COUNTERCLAIM, BROUGHT BY FRANCHISOR AND/OR ITS AFFILIATES AGAINST DEVELOPER AND/OR ANY OF ITS OWNERS AND/OR AFFILIATES, OR BROUGHT BY DEVELOPER AND/OR ANY OF ITS OWNERS AND/OR AFFILIATES AGAINST FRANCHISOR AND/OR ITS AFFILIATES, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION, PROCEEDING, OR COUNTERCLAIM.

DEVELOPER AND EACH OF ITS OWNERS AND AFFILIATES AGREE THAT THEIR SOLE RECOURSE FOR CLAIMS ARISING BETWEEN THE PARTIES SHALL BE AGAINST FRANCHISOR AND/OR ITS AFFILIATES OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. DEVELOPER AND EACH OF ITS OWNERS AND AFFILIATES AGREE THAT THE OWNERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS OF FRANCHISOR AND ITS AFFILIATES SHALL NOT BE PERSONALLY LIABLE NOR NAMED AS A PARTY IN ANY ACTION BETWEEN FRANCHISOR AND/OR ITS AFFILIATES AND DEVELOPER AND/OR ANY OWNER OR AFFILIATE OF DEVELOPER.

19.6 Severability. Every part of this Agreement will be considered severable. If for any reason any part of this Agreement is held to be invalid, that determination will not impair the other parts of this Agreement. If any covenant contained in this Agreement which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of geographical area, type of business activity prohibited and/or length of time, but could be rendered enforceable by reducing any part or all of it, Developer and Franchisor agree that it will be enforced to the fullest extent permissible under applicable law. If any applicable law requires a greater prior notice of the termination of or refusal to enter into a successor franchise than is required hereunder, a different standard of “good cause”, or the taking of some other action not required hereunder, the prior notice, “good cause” standard and/or other action required by such law will be substituted for the comparable provisions hereof. If any provision of this Agreement or any specification, standard or operating procedure prescribed by Franchisor is invalid or unenforceable under applicable law, Franchisor has the right, at its option, to modify the invalid or unenforceable provision, specification, standard or operating procedure to the extent required to make it valid and enforceable.

19.7 Unilateral Waiver. Franchisor and Developer may, by written instrument signed by the waiving party unilaterally, waive or reduce any obligation of the other under this Agreement. Any waiver granted by Franchisor will be without prejudice to any other rights Franchisor may have, will be subject to continuing review by Franchisor and may be revoked, at its option, at any time and for

any reason, effective upon delivery to Developer of ten (10) days' prior notice. Developer and Franchisor will not be deemed to have waived any right reserved by this Agreement by virtue of any custom or practice of the parties at variance with it; any failure, refusal or neglect by Developer or Franchisor to exercise any right under this Agreement or to insist upon exact compliance by the other with its obligations under this Agreement; any waiver, forbearance, delay, failure or omission by Franchisor to exercise any right, whether of the same, similar or different nature, with respect to other Krispy Kreme Shops; or the acceptance by Franchisor of any payments due from Developer after any breach of this Agreement.

- 19.8 Cumulative Rights. The rights of Franchisor and Developer under this Agreement are cumulative and no exercise or enforcement by Franchisor or Developer of any right or remedy hereunder will preclude the exercise or enforcement by Franchisor or Developer of any other right or remedy hereunder which Franchisor or Developer is entitled to enforce by law.
- 19.9 Fair Meaning/Entire Agreement/No Third Party Beneficiaries/Modification. The language of this Agreement will be construed according to its fair meaning and not strictly against any party. The Summary Page, introduction, personal guaranties and covenants, exhibits, schedules and riders (if any) to this Agreement are a part of this Agreement, which constitutes the entire agreement of the parties with respect to the subject matter hereof. Except as otherwise expressly provided for in this Agreement, there are no other oral or written agreements, understandings, representations or statements relating to the subject matter of this Agreement, including but not limited to, statements relating to financial performance, profits, or financial success, other than the Franchise Disclosure Document, that either party may or does rely on or that will have any force or effect. Nothing in this Agreement will be deemed to confer any rights or remedies on any person or legal entity not a party hereto. Except as otherwise expressly provided in this Agreement, this Agreement will not be modified except by written agreement signed by both parties.
- 19.10 Headings and Use of Certain Terms. The headings of sections are for convenience only and do not limit or construe their contents. The word “**including**” will be construed to include the words “**without limitation.**” The term “**Developer**” is applicable to one or more persons, a corporation, limited liability company or a partnership and its owners, as the case may be. If two (2) or more persons are at any time Developer hereunder, whether as partners, joint venturers or otherwise, their obligations and liabilities to Franchisor will be joint and several.
- 19.11 Controlling Interest. References to a controlling interest in an entity will mean more than fifty percent (50%) of the equity and voting control of such entity.
- 19.12 Binding on Successors/Multiple Copies/Time if of Essence. This Agreement is binding on the parties to this Agreement and their respective executors, administrators, heirs, assigns and successors in interest. This Agreement, and all ancillary agreements may be executed in multiple copies, each of which will be deemed an original. This Agreement, and all ancillary agreements, may be signed with full legal force and effect using electronic or digital signatures and records. Time is of the essence in this Agreement.
- 19.13 Approvals and Consent. Whenever this Agreement requires the approval or consent of either party, the other party will make a written request and the approval or consent will be obtained in writing; unless specified otherwise in this Agreement, either party may withhold approval or consent for any reason or for no reason at all. Furthermore, unless specified otherwise in this Agreement, no such approval or consent will be deemed to constitute a warranty or representation of any kind, express or implied, and the approving or consenting party will have no responsibility, liability or obligation arising therefrom.

19.14 Notices. All notices, requests and reports permitted or required to be delivered by this Agreement will be deemed delivered: (a) at the time delivered by hand to the recipient party (or to an officer, director or partner of the recipient party); (b) one (1) business day after being placed in the hands of a commercial courier service for guaranteed overnight delivery; or (c) upon the date of confirmed receipt after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid and addressed to the party to be notified at its most current principal business address of which the notifying party has been notified in writing. All payments and reports required by this Agreement will be sent to Franchisor at the address identified in this Agreement unless and until a different address has been designated by written notice. No restrictive endorsement on any check or in any letter or other communication accompanying any payment will bind Franchisor, and its acceptance of any such payment will not constitute an accord and satisfaction. All notices to Franchisor shall be sent to the attention of Franchisor's General Counsel, with a mandatory copy of the notice sent by the same method to Jan Gilbert, Esq., Polsinelli, 1401 Eye Street N.W., Suite 800, Washington, DC 20005.

20. ACKNOWLEDGMENTS

20.1 Acknowledgments. By initialing below, Developer hereby specifically acknowledges the following:

(a) **Domicile.** Developer acknowledges that Developer is not a domiciliary or a resident of any state, other than the state where the Development Area is predominantly located or, if different, the state listed on the Summary Page as Developer's address.

Initials _____

(b) **Receipt of Franchise Disclosure Document.** Developer acknowledges that Developer received Franchisor's Franchise Disclosure Document at least fourteen (14) calendar days before signing a binding agreement or before making any payment to Franchisor or any of its Affiliates relating to this Agreement. Developer has read and understands Franchisor's Franchise Disclosure Document.

Initials _____

(c) **Receipt of this Agreement.** Developer acknowledges that Developer received this Agreement, including all exhibits, in final, execution form, at least seven (7) calendar days before signing this Agreement or before making any payment to Franchisor or any of its Affiliates relating to this Agreement. Developer has read and understands this Agreement.

Initials _____

(d) **No Inconsistent Representations.** Developer acknowledges that no representations, including but not limited to, statements relating to financial performance, profits, or financial success, have been made to Developer or its representatives which are inconsistent with information presented in Franchisor's Franchise Disclosure Document, and Developer has not relied on any representations inconsistent with or not contained in Franchisor's Franchise Disclosure Document.

Initials _____

- (e) **Business Risks; Independent Investigation.** Developer recognizes that the nature of Krispy Kreme Shops may change over time, that an investment in a Krispy Kreme Shop involves business risks and that the success of the investment is largely dependent on Developer's own business abilities, efforts and financial resources. Developer has conducted an independent investigation of the business contemplated by this Agreement and recognizes that the food service industry is highly competitive.

Initials _____

- (f) **Independent Counsel.** Developer acknowledges having had the opportunity to seek independent counsel concerning the execution of this Agreement.

Initials _____

- (g) **No Guarantee or Assurance.** Developer has not received from Franchisor or its representatives or relied on any statement, representation, guarantee or assurance, express or implied, as to the revenues, profits or success of the business venture contemplated by this Agreement, nor has Developer received from Franchisor or its representatives any information from which Developer may easily ascertain a specific level or range of actual or potential sales, income, gross or net profits from franchised or non-franchised Krispy Kreme Shops or Doughnut Factories.

Initials _____

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement in multiple originals as of the Effective Date set forth on the Summary Page.

FRANCHISOR:

DEVELOPER:

**KRISPY KREME DOUGHNUT
CORPORATION**

[DEVELOPER]

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A

**TO THE DEVELOPMENT AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

DEVELOPMENT AREA, FEES AND SCHEDULE

1. **Development Area.** The Development Area is the geographic area described as follows:

2. **Development Fee:** \$ _____. The Development Fee consist of \$25,000 for each Hot Light Theater Shop, \$12,500 for each Fresh Shop, and \$12,500 for each Box Shop, as reflected in the Development Schedule in Section 3 below.

3. **Development Schedule.** Developer agrees to have open and operating in the Development Area the **cumulative numbers** of Krispy Kreme Shops (of the types set forth below) developed pursuant to this Agreement as of each of the following dates:

Shop Type (Hot Light Theater Shop / Fresh Shop / Box Shop)	Site Acceptance Date	Opening Date	Cumulative Number to be Open and Operating on the Opening Date

4. **Expiration Date.** The last date set forth in the table above under the heading “Opening Date” will be the expiration date of this Agreement. For purposes hereof, no Krispy Kreme Shop that is open and operating as of the date of this Agreement, or that was developed pursuant to a separate development agreement, will be counted for purposes of the Development Schedule. In addition, a Krispy Kreme Shop that is permanently closed after having been opened, other than as a result of noncompliance by Franchisee with the terms of the applicable Franchise Agreement will be deemed open for a period of six (6) months after the last day it was open for business, provided that: (a) during such period of time, Developer continuously and diligently takes such actions as may be required to develop and open a substitute Krispy Kreme Shop within the Development Area pursuant to a new Franchise Agreement; and (b) by the end of such period Franchisee has the substitute Krispy Kreme Shop open and operating in compliance with the Franchise Agreement.

EXHIBIT B

**TO THE DEVELOPMENT AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

DEVELOPER INFORMATION

1. Form of Entity of Developer. Developer is a [corporation, limited liability company, or partnership], incorporated or formed on _____, under the laws of the State of _____. Its Federal Identification Number is _____. It has not conducted business under any name other than its legal entity name and _____. The following is a list of the Developer's partners, directors, officers and/or members as of the Effective Date.

<u>Name of Each Director/Officer/Member/Partner</u>	<u>Position(s) Held</u>
_____	_____
_____	_____
_____	_____

2. Owners. Developer and each of its Owners represent and warrant that the following is a complete and accurate list of all Owners of Developer, including the full name and mailing address of each Owner, and fully describes the nature and extent of each Owner's interest in Developer. Developer and each Owner as to his/her/its ownership interest, represent and warrant that each Owner is the sole and exclusive legal and beneficial owner of his/her/its ownership interest in Developer, free and clear of all liens, restrictions, agreements and encumbrances of any kind or nature, other than those required or permitted by this Agreement.

<u>Owner's Name and Mailing Address</u>	<u>Percentage and Nature of Ownership Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____

Effective _____, 20__.

FRANCHISOR:

**KRISPY KREME DOUGHNUT
CORPORATION**

By: _____
Name: _____
Title: _____

DEVELOPER:

[DEVELOPER]

By: _____
Name: _____
Title: _____

OWNERS:

(Signature)

(Print Name)

(Signature)

(Print Name)

(Signature)

(Print Name)

EXHIBIT C

**TO THE DEVELOPMENT AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

FORM OF FRANCHISE AGREEMENT

EXHIBIT D

**TO THE DEVELOPMENT AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

**FORM OF PERSONAL GUARANTY AGREEMENT
OF DEVELOPER'S OBLIGATIONS**

This Personal Guaranty Agreement of Developer's Obligations (this "**Personal Guaranty**"), effective _____, 20__, is made by _____ and _____ (collectively, "**Guarantors**"), in favor of **KRISPY KREME DOUGHNUT CORPORATION**, a North Carolina corporation ("**Franchisor**").

A. _____, a _____ ("**Developer**") has entered into a Development Agreement with Franchisor dated _____, 20__ (the "**Agreement**"). Any capitalized terms used but not defined in this Personal Guaranty will have the meaning set forth in the Agreement.

B. Each of the Guarantors owns, directly or indirectly, an equity interest in Developer of 10% or more.

C. In consideration of Franchisor's entering into the Agreement, the Guarantors agree as follows:

1. **Unconditional Guaranty.** Guarantors, jointly and severally, irrevocably and unconditionally, fully guarantee to Franchisor (and its successors and assigns): (a) prompt, full and complete payment and performance of all undertakings, agreements and covenants set forth in the Agreement and any amendment to the Agreement and the payment of any other amount owed by Developer or its Affiliates to Franchisor; (b) that each and every representation of Developer made in connection with the Agreement and any amendment to the Agreement are true, correct and complete in all respects; and (c) to be personally bound by each and every provision in the Agreement and any amendment to the Agreement. Guarantors agree that the obligations of each Guarantor hereunder are absolute and unconditional and will remain in full force and effect until the Developer has fully and satisfactorily discharged all of Developer's obligations under the Agreement and any amendment, and irrespective of any assignment of the Agreement or of any termination of the Agreement, except in accordance with the express provisions of the Agreement and payment of all amounts due under the Agreement and any amendment.

2. **Pay or Perform.** Guarantors, jointly and severally, irrevocably and unconditionally, consent and agree: (a) to render any payment or performance required under the Agreement upon demand as if such payment or obligation constituted the direct and primary obligation of Guarantors; (b) that Guarantors' obligation to pay or perform any obligation under the Agreement will not be contingent or conditioned upon Franchisor's pursuit of any remedies against Developer, any other Guarantor or any other person or entity; (c) that Guarantors' obligation to pay or perform will not be diminished or relieved by any extension of time, credit or other action that Franchisor may grant or allow Developer, including Franchisor's acceptance of any partial payment or performance or the compromise or release of any claims; and (d) that Guarantors' obligation to pay or perform will continue until satisfied in full.

3. **Waiver of Defenses.** Guarantors waive and agree not to assert or take advantage of: (a) any right to require Franchisor to proceed against Developer or any other Guarantor, person, firm or corporation or to proceed against or exhaust any security held by Franchisor at any time or to pursue any other remedy in Franchisor's power; (b) protest and notice of Developer's default in the payment or performance of any obligation guaranteed herein; (c) any statute of limitations in any action hereunder to collect any indebtedness guaranteed herein; (d) any defense arising out of any amendment to the Agreement; (e) any demand, protest or notice of any kind to which the Guarantors may be entitled; (f) all rights and defenses arising out of an election of remedies by Franchisor, even if such election of remedies destroys Guarantors' rights of subrogation and reimbursement against Developer by operation of law or otherwise; and (g) the provisions of North Carolina General Statutes § 26-7 *et seq.* (which, among other things, provides that a guarantor may require a creditor to use all reasonable diligence to recover against the principal and to proceed to realize upon any securities which the creditor holds for the obligation).

4. **No Subrogation.** Guarantors will have no right of subrogation which the Guarantors may have against Developer as a result of the execution and performance of this Personal Guaranty until all payments to Franchisor are paid in full and all of Developer's obligations to Franchisor are fully performed. Guarantors waive any and all right to enforce any remedy that Franchisor has or may have against Developer.

5. **Cumulative Remedies.** Guarantors agree that Guarantors' liabilities and Franchisor's powers and remedies under this Personal Guaranty and under any other current or future agreement between Franchisor and Guarantors will be cumulative (and not alternative) and that such rights, powers and remedies will be in addition to all rights, powers and remedies given to Franchisor by law.

6. **Governing Law and Venue.** This Personal Guaranty will be governed by and construed in accordance with the internal laws of the State of North Carolina, without reference to conflict of law principles. Any controversy or claim arising out of or relating to this Personal Guaranty will be brought exclusively in the U.S. District Court for the Middle District of North Carolina, or if such court lacks jurisdiction, the Superior Court (or its successor) for Forsyth County North Carolina, will be the exclusive jurisdiction and exclusive venue and forum in which to adjudicate any case or controversy arising from or relating to this Personal Guaranty. If a case or controversy is to be heard by the Superior Court (or its successor) for Forsyth County North Carolina, any party may request that the matter be assigned to the North Carolina Business Court. Each of the undersigned irrevocably submits to the exclusive jurisdiction and exclusive venue of such courts and waives any objections to either the jurisdiction of or venue in such courts. Each of the undersigned irrevocably waives, to the fullest extent he/she may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agrees that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of North Carolina but may be served with the same effect as if the undersigned were served within the State of North Carolina, by certified mail or any other means permitted by law addressed to the undersigned at the address set forth below. Nothing contained in this Personal Guaranty will affect Franchisor's rights to bring a suit, action or proceeding in any other appropriate jurisdiction to enforce any judgment, order, or award against the undersigned entered by a State or Federal Court.

7. **Expenses.** In any legal action arising from this Personal Guaranty, the prevailing party will be entitled to recover its costs, including attorneys' fees, against the non-prevailing party.

8. **Binding Effect.** This Personal Guaranty will inure to the benefit of Franchisor and its successors and assigns and will be binding upon the Guarantors and their permitted successors and assigns.

9. **Entire Agreement.** This Personal Guaranty constitutes the entire agreement of Guarantors with respect to the subject matter hereof and this Personal Guaranty may only be amended in writing upon consent of Franchisor and Guarantors.

10. **Acknowledgements.** Each of the undersigned further acknowledges and agrees as follows:

Each has read the terms and conditions of the Agreement and acknowledges that the execution of this Personal Guaranty is in partial consideration for, and a condition to the granting of the rights to the Marks and the System, and the Franchisor would not have granted such rights without the execution of this Personal Guaranty by each of the undersigned;

This Personal Guaranty will remain in force notwithstanding the death of the undersigned, and will be binding on the undersigned's personal representatives; and

This Personal Guaranty will continue and will be enforceable notwithstanding any change in the name or the constitution of the Franchisor or Developer.

11. **Counterparts.** This Personal Guaranty may be executed in various counterparts, each of which will be an original and all of which will constitute the Personal Guaranty.

IN WITNESS WHEREOF, the Guarantors have executed this Personal Guaranty to be effective on the date set forth above.

GUARANTOR(S)

(Signature)

(Print Name)

(Address)

(Signature)

(Print Name)

(Address)

EXHIBIT E

**TO THE DEVELOPMENT AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

**FORM OF INVESTOR PERSONAL COVENANTS REGARDING
CONFIDENTIALITY AND NON-COMPETITION**

In conjunction with your investment in _____, a _____
 (“**Developer**”), _____ (“**Owner**”), acknowledges and agrees as follows:

1. Developer is developing Krispy Kreme Shops pursuant to a Development Agreement dated _____, 20__ (“**Development Agreement**”) with Krispy Kreme Doughnut Corporation, a North Carolina corporation (“**Franchisor**”), which Development Agreement requires persons with legal or beneficial ownership interests in Developer under certain circumstances to be personally bound by the confidentiality and noncompetition covenants contained in the Development Agreement. All capitalized terms contained in this Agreement will have the same meaning set forth in the Development Agreement.

2. Owner owns or intends to own, directly or indirectly, a legal or beneficial ownership interest in Developer and acknowledges and agrees that the execution of this Agreement is a condition to such ownership interest and that Owner has received good and valuable consideration for executing this Agreement. Franchisor may enforce this Agreement directly against Owner.

3. Owner may gain access to information comprising Franchisor’s Confidential Information as a result of investing in Developer. The Confidential Information is proprietary and includes Franchisor’s trade secrets. Owner hereby agrees that while Owner has a legal or beneficial ownership interest in Developer and all times thereafter, Owner: (a) will not use the Confidential Information in any other business or capacity; (b) will maintain the confidentiality of the Confidential Information; and (c) will not make unauthorized copies of any portion of the Confidential Information, whether through electronic media, writings, or other tangible or intangible means of expression. Without limiting the foregoing, Owner (i) acknowledges that he/she may have access to Franchisor’s material non-public information and that of its indirect parent, Krispy Kreme, Inc. (“**KKI**”), and that the securities laws prohibit trading in KKI securities while in possession of such information, and (ii) agrees to refrain from trading in KKI securities in violation of such laws. If Owner ceases to have an interest in Developer, Owner must deliver to Franchisor any such Confidential Information in his/her possession or control.

4. Notwithstanding anything to the contrary contained in this Agreement and provided Owner has obtained Franchisor’s prior written consent, the restrictions on Owner’s disclosure and use of the Confidential Information will not apply to the following:

- (a) information or techniques which are or become generally known in the food service industry, other than through disclosure (whether deliberate or inadvertent) by Developer, Developer’s Owners, agents, or employees, or through a breach of an obligation of confidentiality owed by anyone to Franchisor (the burden of proving the applicability of this exception will reside with Owner). Information or techniques which may otherwise be generally known in the food service industry, but are implemented or used as part of

the System in a manner or for a reason not generally known in the food service industry shall not be excepted.; and

- (b) the disclosure of the Confidential Information in judicial, arbitration or administrative proceedings to the extent that Owner is legally compelled to disclose such information, provided Owner has notified Franchisor prior to such disclosure and has used its best efforts to obtain, and has afforded Franchisor sufficient opportunity to seek an appropriate protective order and obtain, assurances satisfactory to Franchisor of confidential treatment for the information required to be so disclosed.

5. Owner acknowledges and agrees that Franchisor would be unable to protect the Confidential Information against unauthorized use or disclosure; preserve the prestige, integrity, and goodwill of the Products, Marks, and System; or encourage the free exchange of ideas and information among Franchisor, developers, franchisees, and Krispy Kreme Shops if developers or franchisees of Krispy Kreme Shops or their owners were permitted to engage in or benefit from certain competitive activities. Except as expressly authorized by another written agreement with Franchisor, Owner agrees that during the term of the Development Agreement or during such time as Owner has an Ownership Interest in Developer (whichever is shorter), without Franchisor's prior written consent, Owner will not directly or indirectly (including through a Restricted Person):

- (a) have any Ownership Interest in a Competitive Business;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, or any function of these roles, of or for any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business; or
- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, where such services could be reasonably expected to cause Developer, Owner, any Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed; or
- (d) offer for sale any Products branded as a private label, house brand, or any other brand, or utilizing trademarks, service marks, logo, design, trade name, or other commercial symbol than the Marks.

6. Upon termination or expiration of the Development Agreement or termination of Owner's Ownership Interest in Developer (whichever first occurs), Owner will not directly or indirectly (including through a Restricted Person) for a period of two (2) years commencing on the effective date of such termination or expiration:

- (a) have any Ownership Interest in a Competitive Business, within the Development Area, or within a radius of ten (10) miles of any Krispy Kreme Shop or Doughnut Factory then open or under construction, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates, regardless of whether such are operated under Franchise Agreements or any other type of agreement;
- (b) perform services, directly or indirectly, as a director, officer, manager, operator, partner, or supervisory or management-level employee, or any function of these roles, of or for

any Competitive Business, or be connected in any manner with the management, operations, supervision, or control, of any Competitive Business, within the Development Area, or within a radius of ten (10) miles of any Krispy Kreme Shop or Doughnut Factory then open or under construction, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates regardless of whether such are operated under Franchise Agreements or any other type of agreement; or

- (c) perform services, directly or indirectly, as an employee, consultant, representative, agent, or otherwise, for a Competitive Business, within the Development Area, or within a radius of ten (10) miles of any Krispy Kreme Shop or Doughnut Factory then open or under construction, including any Krispy Kreme Shop or Doughnut Factory operated by Franchisor or its Affiliates, regardless of whether such are operated under Franchise Agreements or any other type of agreement, where such services could be reasonably expected to cause Developer, Owner, any Restricted Person, and/or the Competitive Business, to benefit, either directly or indirectly, whether financially or otherwise, from the disclosure of any Confidential Information to such Competitive Business, regardless of whether Confidential Information is disclosed.

7. Owner acknowledges and confirms that Owner has read and reviewed the Development Agreement, and Owner understands and expressly agrees to be personally bound by each of the obligations, agreements, requirements, restrictions, covenants, and representations applicable to “Owners” as set forth in the Development Agreement, and any other agreement between Franchisor and/or its Affiliates and Developer and/or its Affiliates, and to undertake all the actions that Developer is required to cause Owner to perform.

8. Owner expressly acknowledges the possession of skills and abilities of a general nature and the opportunity to exploit such skills in other ways, so that enforcement of the covenants contained in Sections 5 and 6 of these covenants will not deprive him/her of his/her personal goodwill or ability to earn a living. If any covenant above which restricts competitive activity is deemed unenforceable by virtue of its scope or in terms of geographic area, type of business activity prohibited and/or length of time, but could be rendered enforceable by reducing any part or all of it, Owner agrees that it will be enforced to the fullest extent permissible under applicable law and public policy. Franchisor may, by written instrument signed by Franchisor, unilaterally waive or reduce any obligation of Owner contained in this Agreement. Notwithstanding anything to the contrary, Franchisor may obtain in any court of competent jurisdiction, any injunctive relief, including temporary restraining orders and preliminary injunctions, against conduct or threatened conduct for which no adequate remedy at law may be available or which may cause it irreparable harm. Franchisor shall have such injunctive relief, without bond, but upon due notice (if reasonably possible), in addition to such further and other relief as may be available to Franchisor, at equity or law, and Owner’s sole remedy in the event of the entry of such injunction, will be the dissolution of such injunction, if warranted, upon hearing duly had (all claims for damages by reason of the wrongful issuance of any such injunction being expressly waived hereby). Owner acknowledges that any violation of Sections 3, 4, 5, 6 or 7 of these covenants would result in irreparable injury for which no adequate remedy at law shall be available. Accordingly, Owner consents to the issuance of an injunction at Franchisor’s request (without posting a bond or other security) prohibiting any conduct in violation of any of those Sections and agrees that the existence of any claims Owner may have against Franchisor, whether or not arising under this Agreement, will not constitute a defense to the enforcement of any of those Sections. If Franchisor files a claim to enforce this Agreement and prevails in such proceeding, Owner agrees to reimburse Franchisor for all its costs and expenses, including reasonable attorneys’ fees.

9. Owner agrees that the U.S. District Court for the Middle District of North Carolina, or if such court lacks jurisdiction, the Superior Court (or its successor) for Forsyth County North Carolina, will be the exclusive jurisdiction and exclusive venue and forum in which to adjudicate any case or controversy arising from or relating to these covenants. If a case or controversy is to be heard by the Superior Court (or its successor) for Forsyth County North Carolina, any party may request that the matter be assigned to the North Carolina Business Court. Owner irrevocably submits to the exclusive jurisdiction and exclusive venue of such courts and waives any objections to either the jurisdiction of or venue in such courts. Owner irrevocably waives, to the fullest extent he or she may lawfully do so, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding and agrees that service of process for purposes of any such suit, action or proceeding need not be personally served or served within the State of North Carolina but may be served with the same effect as if he or she were served within the State of North Carolina, by certified mail or any other means permitted by law, addressed to Owner at the address set forth below. Nothing contained in this Agreement will affect Franchisor's rights to bring a suit, action or proceeding in any other appropriate jurisdiction to enforce any judgment, order or award against Owner entered by a State or Federal Court.

10. If Franchisor claims in any judicial proceeding that Owner has breached any of the covenants contained in this Agreement, and Franchisor prevails on such claims, then Franchisor will be awarded its costs and expenses incurred in connection with such proceedings, including reasonable attorneys' fees.

IN WITNESS WHEREOF, the undersigned has executed this Agreement to be effective _____, 20____.

OWNER

(Signature)

(Print Name)

(Address)

EXHIBIT F

**TO THE DEVELOPMENT AGREEMENT BETWEEN
KRISPY KREME DOUGHNUT CORPORATION
AND**

DATED _____, 20__

GENERAL RELEASE AND COVENANT NOT TO SUE

(UPON EXECUTION OF DEVELOPMENT AGREEMENT)

THIS GENERAL RELEASE AND COVENANT NOT TO SUE (this “**Release and Covenant**”) is made and entered into _____, 20__, by _____ (“**Developer**”), _____ (collectively and individually, the “**Owners**”), and the following affiliates of Developer and the Owners _____ (collectively and individually, the “**Affiliates**”).

RECITALS

WHEREAS, Developer desires to execute a development agreement (the “**Development Agreement**”) with **KRISPY KREME DOUGHNUT CORPORATION**, a North Carolina corporation (“**Franchisor**”), for the establishment of one or more Krispy Kreme franchised businesses and, as partial consideration therefore and other good and valuable consideration, Developer, the Owners, and the Affiliates desire to tender this Release to Franchisor.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged by each of the parties hereto, Developer, the Owners and the Affiliates agree as follows:

AGREEMENT

1. RELEASE. Developer, and each of the Owners and the Affiliates, individually and collectively, jointly and severally, do hereby release and forever discharge Franchisor and its affiliates, and each of their respective successors, partners, and the shareholders, partners, representatives, assigns, agents, servants, employees, independent contractors, officers, and directors of each of them, in their corporate and individual capacities (“**Designees**”), of and from any claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, known or unknown, vested or contingent (“**Claims**”), which Developer, the Owners or the Affiliates now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Franchisor, or any of the respective Designees, including but not limited to any Claims arising under or in connection with any agreement, law, rule, regulation ordinance, or any other context whatsoever, from the beginning of the world to the date of this Release and Covenant (including, without limitation, any other development agreements or the operation of any Krispy Kreme shops established thereunder, and any state or federal laws, rules and ordinances); provided, however, that this Release and Covenant will not serve to terminate any agreement currently effective by and among Developer or any or all of the Owners or the Affiliates and Franchisor.

[The parties intend this paragraph 1 to cover, encompass, release, and extinguish all claims and matters that might otherwise be reserved by California Civil Code section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.”]

2. COVENANT NOT TO SUE. Developer, and each of the Owners and the Affiliates, individually and collectively, jointly and severally, agree, covenant, and acknowledge that none of them will commence, participate, or assist in any Claim which Developer, the Owners or the Affiliates now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Franchisor, or any of the respective Designees, including but not limited to any Claims arising under or in connection with any agreement, law, rule, regulation ordinance, or any other context whatsoever, from the beginning of the world to the date of this Release and Covenant (including, without limitation, any other development agreements or the operation of any Krispy Kreme shops established thereunder, and any state or federal laws, rules and ordinances). Developer, and each of the Owners and the Affiliates, individually and collectively, jointly and severally, further agree, covenant, and acknowledge that none of them will seek relief (including, but not limited to, monetary damages, injunctive relief, attorneys’ fees, expenses, or costs) for any Claim which Developer, the Owners or the Affiliates now own or hold, or have at any time heretofore owned or held, or may at any time own or hold against the Franchisor, or any of the respective Designees, including but not limited to any Claims arising under or in connection with any agreement, law, rule, regulation ordinance, or any other context whatsoever, from the beginning of the world to the date of this Release and Covenant (including, without limitation, any other development agreements or the operation of any Krispy Kreme shops established thereunder, and any state or federal laws, rules and ordinances).

3. AUTHORITY. By executing this Release and Covenant, the parties represent and warrant that each have the right and authority to enter into and to accept the terms and covenants of this Release and Covenant, and that no third party has or claims an interest in any claim released hereby.

4. NO CONFLICTS. Each of the undersigned hereby represents and warrants that its execution of this Release does not violate any other agreement to which it is a party.

5. MISCELLANEOUS.

5.1 Defenses. The alleged breach of the Development Agreement will not constitute a defense to the enforcement hereof or otherwise effect the validity hereof.

5.2 Counterparts. This Release and Covenant may be executed simultaneously in two or more counterparts, each of which will be deemed an original and all of which together will constitute but one and the same instrument.

5.3 Opportunity to Review. Developer, the Owners, and the Affiliates represent and warrant that they: (i) have had an opportunity to review this Release and Covenant; (ii) have had an opportunity to consult with an attorney; and (iii) fully understand the content and legal effect of this Release and Covenant.

5.4 Governing Law. This Release will be governed by the laws of the State of North Carolina, without regard to its conflict of law principles.

5.5 Section Headings. The section headings of this Release and Covenant are for the convenience of the parties only and will have no force or effect.

5.6 Severability. Each portion, section, part, term and provision of this Release and Covenant will be considered severable; and if, for any reason, any portion, section, part, term or provision is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having jurisdiction, this will not impair the operation of, or have any other effect upon, the other portions, sections, parts, terms or provisions of this Release and Covenant that may remain otherwise intelligible, and the latter will continue to be given full force and effect and bind the parties. Any invalid portions, sections, parts, terms or provisions will be deemed not to be part of this Release and Covenant and there will be automatically added such portion, section, part, term or provision as similar to that which was severed which will be valid and not contrary to or in conflict with any law or regulation.

IN WITNESS WHEREOF, Developer, the Owners and the Affiliates have executed and delivered this Release and Covenant.

DEVELOPER:

[DEVELOPER]

By: _____
Name: _____
Title: _____

OWNERS:

Name: _____

Name: _____

AFFILIATES:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT B-3

SERVICE PROVIDER AGREEMENT

SERVICE PROVIDER AGREEMENT

THIS SERVICE PROVIDER AGREEMENT (this “**Agreement**”) is made and entered into as of _____, 20__ (“**Effective Date**”) by and between Krispy Kreme Doughnut Corporation, a North Carolina corporation, having its principal place of business at 370 Knollwood Street, Winston-Salem, North Carolina 27103 (“**KKDC**”), and _____, (“**Franchisee**”), a _____. As used below, the term “Parties” refers to KKDC and Franchisee collectively.

RECITALS

WHEREAS, Franchisee owns and operates a Krispy Kreme® Shop located at _____ (the “**Shop**”) pursuant to a franchise agreement dated _____, 20__ (the “**Franchise Agreement**”);

WHEREAS, KKDC has a proprietary route accounting software platform (the “**Platform**”); and

WHEREAS, Franchisee desires to acquire a license to access and use the Platform for its own information management purposes in connection with its business of producing, distributing, marketing, and selling Krispy Kreme doughnuts, pastry products, other consumable items, and related products at the Shop (the “**Business**”).

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, KKDC and Franchisee agree as follows:

1. **License.** KKDC hereby grants Franchisee a non-exclusive, non-transferable license to access and use the Platform only at the Shop, in accordance with such license, for the purpose of managing information related only to the Business and not for any other purposes or in any other manner. KKDC retains all rights, including intellectual property rights, in the Platform. The Platform shall include any and all updates, upgrades, new versions, patches, releases and modifications thereto (individually and collectively, the “**Platform Upgrades**”), in each case prepared by KKDC and distributed to Franchisee, and all related documentation (the “**Platform Documentation**”).

2. **Access.** Franchisee may access and use the Platform only with respect to the Business and may not distribute, demonstrate, allow access to or otherwise disclose the Platform, or any part thereof, to anyone outside of the Business, Franchisee’s employees or KKDC personnel. Franchisee may not sub-license, assign or transfer to anyone the Platform, or any part thereof. Any such attempted sub-license, assignment or transfer shall be deemed void and of no effect. Franchisee agrees to protect the Platform with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, that Franchisee uses for its own confidential information. Franchisee shall be responsible for procuring, at its expense, the necessary environment and connectivity to use the Platform, including, without limitation, (i) all computer hardware, software and equipment; (ii) Internet access (as applicable); and (iii) telecommunications services (as applicable). Franchisee shall be solely responsible for obtaining all software licenses necessary to enable the Platform to operate on Franchisee’s computer equipment. Franchisee agrees not to copy the Platform, provided that Franchisee may make a reasonable number of copies of the Platform Documentation solely for Franchisee’s internal use with the Platform so long as all copyright notices are reproduced. Franchisee shall be solely responsible for the confidentiality and use of all IDs, passwords and other security data, methods and devices furnished to Franchisee in connection with the Platform. Franchisee will be solely responsible for the use of any data and information obtained

and all transaction requests electronically transmitted by any person using Franchisee's IDs and other security data related to any use of the Platform.

3. Prohibitions. FRANCHISEE MAY NOT COPY, REPRODUCE, RECOMPILE, DECOMPILE, DISASSEMBLE, REVERSE ENGINEER, DISTRIBUTE, PUBLISH, DISPLAY, PERFORM, MODIFY, UPLOAD TO, CREATE DERIVATIVE WORKS FROM, TRANSMIT OR IN ANY WAY EXPLOIT ANY PART OF THE PLATFORM, EXCEPT THAT FRANCHISEE MAY DOWNLOAD AS SPECIFICALLY MADE AVAILABLE BY KKDC, AT ITS SOLE DISCRETION, MATERIAL FROM THE PLATFORM OR MAKE COPIES OF SUCH MATERIALS FOR USE WITHIN FRANCHISEE'S ORGANIZATION, PROVIDED THAT ALL COPIES RETAIN ALL COPYRIGHT AND OTHER PROPRIETARY NOTICES. MODIFICATION OF THE PLATFORM'S CONTENT IS A VIOLATION OF KKDC'S COPYRIGHT AND OTHER PROPRIETARY RIGHTS.

FRANCHISEE MAY NOT OFFER ANY PART OF THE PLATFORM FOR SALE OR DISTRIBUTE IT OVER ANY OTHER MEDIUM INCLUDING, BUT NOT LIMITED TO, A COMPUTER NETWORK ON THE INTERNET WITHOUT THE PRIOR WRITTEN CONSENT OF KKDC. FRANCHISEE MAY NOT USE THE PLATFORM NOR THE INFORMATION CONTAINED THEREIN, TO CONSTRUCT A DATABASE OF ANY KIND OR TO IMPROVE THE QUALITY OF ANY DATA SOLD OR CONTRIBUTED BY FRANCHISEE TO ANY THIRD-PARTY. EXCEPT AS SPECIFICALLY PERMITTED BY THIS AGREEMENT, THE PLATFORM MAY NOT BE STORED BY FRANCHISEE, IN ITS ENTIRETY OR IN ANY PART, IN DATABASES FOR ACCESS BY FRANCHISEE OR ANY THIRD-PARTY. FURTHERMORE, FRANCHISEE MAY NOT DISTRIBUTE ANY DATABASE SYSTEMS CONTAINING DATA OBTAINED FROM THE PLATFORM.

4. Services. KKDC shall provide Franchisee with access to the Platform and to any and all Platform Upgrades. KKDC, at its sole discretion, may also provide Franchisee with software maintenance for the most current version of the Platform, as of the Effective Date of this Agreement, and any and all Platform Upgrades provided by KKDC; *provided that*, Franchisee installs and utilizes such Platform Upgrades per KKDC's instructions or request within thirty (30) days of receipt of such Platform Upgrade. Any services provided by KKDC not related to the then-current version of the Platform, at the time of service request shall be subject to the Additional Service Fee (as defined below). KKDC, shall, in its sole discretion, determine the scope of those services needed other than on the then-current version of the Platform. Franchisee shall incorporate any and all Platform Upgrades issued by KKDC. Franchisee alone shall be responsible for ensuring that Franchisee has the ability to access, accept and incorporate any and all Platform Upgrades.

5. Franchisee Confidential Information. Other than with respect to any analyses, studies, or reports that KKDC or its representatives, agents, employees, or affiliates may conduct, or engage a third-party to conduct, from time to time in the ordinary course of business, KKDC will not knowingly disclose to any third-party any confidential information of Franchisee to which KKDC may be exposed in the course of KKDC satisfying its obligations under this Agreement, except as necessary to satisfy its obligations under this Agreement in connection with the Platform. For the purposes of this Section 5, the following information shall not be considered confidential information: information that (a) is publicly known prior to disclosure to KKDC hereunder or is publicly known, other than through acts or omissions of KKDC or its employees or its representatives, after disclosure to KKDC hereunder; (b) as demonstrated by prior written records, is independently developed by KKDC or is already known to KKDC at the time of disclosure; (c) is disclosed to KKDC by a third-party that KKDC had no reason to believe had any confidentiality or fiduciary obligation to Franchisee with respect to such information; or (d) is disclosed as required by law, court order, administrative order or regulation of any governmental

entity or judicial process. The obligations set forth in this Section 5 shall expire two (2) years after termination or expiration of this Agreement.

6. **Term; Termination.**

(a) The initial term of this Agreement shall be one (1) year commencing on the Effective Date, unless earlier terminated in accordance with this Section 6. After such initial term, this Agreement shall automatically renew for additional one (1) year terms until terminated in accordance with this Section 6.

(b) Either Party may terminate this Agreement without cause upon thirty (30) days written notice.

(c) Either Party may terminate this Agreement, effective immediately, if the other Party breaches any material term and fails to cure such breach, to the reasonable satisfaction of the non-breaching Party, within thirty (30) calendar days following the receipt of written notice of such breach. However, in the event that the breaching Party is in the process of attempting in good faith to remedy such breach at the end of the cure period provided, the cure period shall be extended by an additional thirty (30) calendar days.

(d) KKDC may terminate this Agreement, effective immediately, if KKDC determines, in its sole reasonable discretion, that the Platform has experienced, or is likely to experience in the short term, a security breach, systems failure, operational failure or any issue that renders the Platform or any data or information transmitted by, to or through the Platform vulnerable to a security breach, systems failure or operational failure.

(e) This Agreement terminates automatically and without notice upon the termination or expiration of the Franchise Agreement for the Shop.

If this Agreement is terminated due to a breach, the outstanding monthly fee and any additional amount owed to KKDC shall be due and payable immediately. Upon the expiration or termination of this Agreement, Franchisee shall (i) make no further use of the Platform; (ii) discontinue accessing the Platform; (iii) remove all links to the Platform; (iv) destroy or return all copies of the Platform and Platform Documentation, at KKDC's direction; and (v) certify in writing that it has taken such action. KKDC will retain, for one hundred eighty (180) days following the expiration or termination of this Agreement, any and all information of Franchisee provided to KKDC in connection with this Agreement or the Platform.

7. **Fees; Payment.** Franchisee shall be invoiced for and pay to KKDC a monthly hosting fee per Shop in the amount of One Hundred Fifty Dollars (USD \$150) (the "**Hosting Fee**") and a monthly software maintenance fee per Shop in the amount of One Hundred Fifty Dollars (USD \$150) (the "**Maintenance Fee**") in addition to all reasonable travel costs and expenses related to the services provided under this Agreement. In addition, as applicable, Franchisee shall be invoiced for and pay to KKDC an additional service fee in the amount of Sixty-Five Dollars (USD \$65) per hour whenever KKDC shall provide Franchisee with services not related to the then-current version of the Platform, as provided by KKDC, at the time of service request (the "**Additional Service Fee**") as well as all reasonable travel costs and expenses related to such services. Each of the Hosting Fee, Maintenance Fee and Additional Service Fee are subject to change without notice. Payments by Franchisee to KKDC shall be net thirty (30) calendar days from the original invoice date. Payment not made within forty (40) calendar days from the original invoice date will bear interest of one percent (1%) per month from the original invoice date. If payment is not made by the later of seventy-five (75) days after the original invoice date or fifteen (15) days after notice that KKDC intends to terminate this Agreement for non-

payment, this Agreement and all of Franchisee's rights hereunder shall terminate immediately without further notice.

8. **Taxes.** Franchisee shall be liable for any taxes including, but not limited to, federal manufacturers' and retailers' excise, state and local sales and use taxes, and personal property taxes, public charges, tariffs and export and import duties, however designated, and any interest and penalties thereon, arising from this Agreement, the license of the Platform to Franchisee, the installation, maintenance or use of the Platform or the provision of services by KKDC hereunder, other than taxes based on KKDC's income. All such taxes shall be included in amounts invoiced to Franchisee.

9. **Representations and Warranties.** KKDC represents and warrants that, to the best of its knowledge, prior to access by Franchisee, the Platform does not contain any disabling programming devices (e.g., viruses, key locks, back doors, trap doors, etc.). KKDC will use its best efforts and all reasonable practices and security procedures necessary to avoid insertion of such devices prior to the delivery of access to the Platform.

10. **Scope of Responsibility.**

(a) KKDC shall not be responsible for:

(i) any inaccuracies caused by Franchisee's third-party computer systems, or any inaccuracies that such systems may cause within the Platform;

(ii) any inaccuracies caused by Franchisee entering data into the Platform through third-party tools;

(iii) any third-party applications, equipment, software or hardware used by Franchisee in conjunction with the Platform or which interface with the Platform;

(iv) any data that KKDC receives from Franchisee or third-party sources, including the accuracy of such data;

(v) the Platform, to the extent that the Platform is modified by anyone other than KKDC;

(vi) the failure of Franchisee to install any Platform Upgrades or any new release or patch;

(vii) any willful or negligent action or omission of Franchisee; or

(viii) any misuse or incorrect use of the Platform by Franchisee.

(b) To the extent that the Platform utilizes Internet systems to transmit data or communications, KKDC will take reasonable security precautions to protect any data or communications transmitted through the Platform, but KKDC disclaims any liability for interception of any such data or communications, including of encrypted data. KKDC shall not be responsible for, and makes no warranties regarding, the access, speed or availability of Internet or network systems. Franchisee agrees that KKDC shall have no responsibility or liability for: (i) any injury or damages, whether caused by the negligence of KKDC, its employees, subcontractors, agents or otherwise, arising in connection with any use of the Platform by Franchisee or Franchisee's employees; or (ii) any fault, inaccuracy, omission, delay or any other failure in the Platform caused by Franchisee's computer equipment or arising from use of the Platform on such equipment. The content of other Web sites, systems, products or advertisements

that may be linked to the Platform is not maintained or controlled by KKDC, and KKDC is not responsible for the availability, content or accuracy of other Web sites, systems or goods that may be linked to, or advertised on, the Platform.

(c) KKDC does not: (i) make any warranty, express or implied, with respect to the use of the Platform; (ii) guarantee the accuracy, completeness, usefulness or adequacy of any other systems, products or advertisements that may be linked to the Platform; or (iii) make any endorsement, express or implied, of any other Web sites, systems, products or advertisements that may be linked to the Platform. Additionally, KKDC is not responsible for the reliability or continued availability of the telephone lines and equipment used by Franchisee to access the Platform. Franchisee acknowledges and agrees that KKDC has the right to change the content or technical specifications of any aspect of the Platform at any time at KKDC's sole discretion and that KKDC is under no obligation to make any such changes in response to Franchisee request.

(d) Franchisee acknowledges and agrees that Franchisee shall install and maintain the most current version of any and all virus protections, firewalls and similar database and equipment protections on any and all of Franchisee's computer equipment on which the Platform will operate. Franchisee shall be responsible for ensuring that any Franchisee data, information or other materials that are used by Franchisee in conjunction with the Platform are accurate, are not corrupt in any way, and do not contain any viruses or other malicious code. Franchisee shall, at KKDC's reasonable request, install and maintain the version and types of virus protections, firewalls and other database and equipment protections of KKDC's selection.

11. Warranty. OTHER THAN AS STATED IN THIS AGREEMENT, KKDC MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO FRANCHISEE AND EXPRESSLY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR ANY OTHER WARRANTY, WHETHER ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR OTHERWISE, REGARDING THE PLATFORM, THE DEVELOPED INTELLECTUAL PROPERTY, THE CONFIDENTIAL INFORMATION, THE USE BY FRANCHISEE OF ANY OF THE ABOVE OR THE LICENSED PRODUCTS CONTEMPLATED BY THIS AGREEMENT. FRANCHISEE ACKNOWLEDGES THAT THE PLATFORM AND CONFIDENTIAL INFORMATION HAVE NOT BEEN USED OR TESTED BY KKDC FOR ANY PURPOSE AND THAT FRANCHISEE'S USE THEREOF, AND/OR THE USE OF THE PLATFORM, FOR ANY AND ALL PURPOSES, IS ENTIRELY AT FRANCHISEE'S SOLE RESPONSIBILITY AND RISK.

12. Limitation of Liability. IN NO EVENT SHALL KKDC BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER OR THE USE OF OR INABILITY TO USE THE PLATFORM, OR THE BREACH BY KKDC OF ANY REPRESENTATION, WARRANTY, COVENANT OR AGREEMENT CONTAINED IN THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES INCLUDING, BUT NOT LIMITED TO, COSTS INCURRED AS A RESULT OF DECISIONS MADE IN RELIANCE ON THE PLATFORM, LOST PROFITS OR REVENUE, LOSS OF USE OF THE PLATFORM OR ANY SOFTWARE OR OTHER PROPERTY, LOSS OF DATA OR INFORMATION, THE COSTS OF RECOVERING OR RECONSTRUCTING SUCH DATA OR INFORMATION OR THE COSTS OF SUBSTITUTE SOFTWARE, SERVICES, DATA OR INFORMATION, OR FOR ANY CLAIMS BY THIRD PARTIES.

IN NO EVENT SHALL KKDC BE LIABLE OR OBLIGATED IN ANY MANNER UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE PAYMENTS ACTUALLY MADE TO KKDC HEREUNDER DURING THE TWELVE MONTHS PRECEDING THE DATE ON WHICH ANY CLAIM IS MADE AGAINST KKDC. THIS LIMITATION OF KKDC'S LIABILITY IS CUMULATIVE. ALL OF KKDC'S EXPENDITURES ON ACCOUNT OF ANY LIABILITY OR OBLIGATION ARISING UNDER THIS AGREEMENT SHALL BE AGGREGATED TO DETERMINE THE EXHAUSTION OF THE LIMITATION OF KKDC'S LIABILITY.

13. **Compliance with Foreign Laws.** If Franchisee accesses the Platform from outside of the United States, Franchisee shall be solely responsible for compliance with all foreign and local laws. The Platform is not available through KKDC or its affiliates to any person located or organized in, controlled by or who is a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan or any other country with respect to which the United States has enacted trade embargoes or any entity on the United States Treasury Department's list of "Specially Designated Nationals and Blocked Persons" (a "**Restricted Entity**"). Franchisee represents and warrants that Franchisee is not a Restricted Entity and is not using the Platform for the benefit of a Restricted Entity.

14. **Intellectual Property.** Franchisee acknowledges and agrees that, as between Franchisee and KKDC, KKDC is the sole and exclusive owner of all right, title and interests, including intellectual property right, in and to, the Platform and the Platform Documentation. The name "**Krispy Kreme Route Accounting System**" and any related names, and the works and elements comprising the Platform are protected by copyrights, trademarks, service marks, international treaties and/or other proprietary rights and laws of the United States and other countries. The Platform is also protected as a collective work or compilation under United States copyright and other laws and treaties. Franchisee agrees to abide by all applicable copyright and other laws, as well as any additional copyright notices or restrictions contained in the Platform. Franchisee acknowledges that the Platform has been developed, compiled, prepared, revised, selected and arranged by KKDC through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort and money and constitutes valuable intellectual property and trade secrets of KKDC. Franchisee agrees to protect the proprietary rights of KKDC and all others having rights in the Platform during and after the term of this Agreement and to comply with all reasonable written requests made by KKDC to protect its and others' contractual, statutory and common law rights in the Platform. Franchisee agrees to notify KKDC in writing promptly upon becoming aware of any unauthorized access or use of the Platform by any party or of any claim that the Platform infringes upon any copyright, trademark or other contractual, statutory or common law rights. All present and future rights in and to trade secrets, patents, copyrights, trade names, trademarks, service marks, databases, know-how and other proprietary rights of any type under the laws of any governmental authority, domestic or foreign, including rights in and to all applications, works of authorship, marks and registrations relating to the Platform shall, as between Franchisee and KKDC, at all times be and remain the sole and exclusive property of KKDC. All present and future rights in and title to the Platform, including the right to exploit the Platform and any portions of the Platform over any present or future technology, are reserved to KKDC. Title to and ownership of any portion of the Platform or Platform Documentation incorporated into a derivative product shall at all times remain with KKDC, and Franchisee shall not have any title or ownership interest therein. Title to and ownership of any error corrections, updates, bug fixes, patches or other modifications of the Platform or Platform Documentation provided by KKDC shall at all times remain with KKDC, and Franchisee shall not have any title or ownership interest therein.

15. **Force Majeure.** KKDC shall have no liability for any failure or delay in performance of its obligations under this Agreement because of circumstances beyond its reasonable control, including without limitation, acts of God, fires, floods, earthquakes, wars, terrorism, civil disturbances, sabotage,

accidents, unusually severe weather, labor disputes, governmental products, inability to obtain labor, material or equipment, catastrophic hardware failures, usage spikes, attacks on KKDC's server, or any inability to transmit or receive information over the Internet, nor shall any such failure or delay give Franchisee the right to terminate this Agreement. Upon any force majeure event causing the performance of the services contemplated under this Agreement impossible for greater than one week, KKDC may terminate this Agreement without any liability.

16. **Indemnity.** Franchisee agrees to indemnify, defend and hold harmless KKDC for and against any damage, cost, liability, expense, claim, suit, action or other proceeding, to the extent based on or arising in connection with (i) a violation of this Agreement by Franchisee or Franchisee's employees or anyone using Franchisee's computers; or (ii) any deletions, additions, insertions or alterations to, or any unauthorized use of, the Platform by Franchisee or Franchisee's employees or anyone using Franchisee's computers.

17. **Amendments; Waivers.** This Agreement sets forth the entire understanding of the Parties with respect to the transactions contemplated hereby and may not be amended, modified or supplemented unless such amendment is in writing and duly executed by both Parties.

18. **Assignment.** This Agreement may not be assigned by either Party without the prior written consent of the non-assigning Party. Any attempted assignment without the consent of the non-assigning Party shall be deemed null and void and of no effect.

19. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. **Notices.** Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, or by commercial overnight courier service, postage prepaid, to the respective addresses above or to such other address as the addressee may specify.

21. **Headings.** The headings used herein are for reference only and shall not be deemed part of this Agreement.

22. **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina without regard to conflict of laws provisions.

23. **Severability.** Whenever possible each provision and term of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision or term of this Agreement shall be held to be prohibited by or invalid under such applicable law, or determined to be void or unenforceable for any reason, then such provision or term shall be ineffective only to the extent of such prohibition, invalidity or unenforceability, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.

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

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Name: _____
Title: _____

[FRANCHISEE]

By: _____
Name: _____
Title: _____

EXHIBIT C

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EXHIBIT D

LIST OF FRANCHISEES

**KRISPY KREME DOMESTIC FRANCHISE STORES
AS OF DECEMBER 31, 2020**

***Shop Type:**

FS: Fresh Shop
HLTS: Hot Light Theater Shop (formerly, Factory Store)
TO: Tunnel Oven Shop
DF: Doughnut Factory (formerly, Commissary Facility)

FRANCHISEE	SHOP NO.	SHOP TYPE*	STREET ADDRESS	CITY	STATE	ZIP	PHONE
North to Alaska, LLC	1330	HLTS	7710 Grass Creek Road	Anchorage	AK	99504	907-929-9866
North to Alaska, LLC	1333	HLTS	2141 East Sun Mountain Ave., Suite 103	Wasilla	AK	99654	907-376-9866
Dale's Doughnuts of Dothan, Inc.	455	HLTS	3095 Ross Clark Circle, 84 West	Dothan	AL	36301	334-677-0741
Smith's Doughnuts, Inc.	430	HLTS	1400 McFarland Boulevard, E	Tuscaloosa	AL	35405	205-758-6913
DTL of the Emerald Coast, Inc.	1350	HLTS	1105 Dave Ward Drive	Conway	AR	72034	501-499-9849
DTL of the Emerald Coast, Inc.	1351	HLTS	2821 E. Highland Drive	Jonesboro	AR	72401	870-333-2134
W.K.S. Krispy Kreme, LLC	771	HLTS	6626 East Superstition Springs Blvd.	Mesa	AZ	85206	480-325-6789
W.K.S. Krispy Kreme, LLC	772	TO	7055 E. Shea Blvd.	Scottsdale	AZ	85254	480-483-0821
W.K.S. Krispy Kreme, LLC	773	TO	1984 West Main St.	Mesa	AZ	85202	480-668-2704
W.K.S. Krispy Kreme, LLC	774	FS	3201 W. Indian School Rd.	Phoenix	AZ	85017	602-265-3147
W.K.S. Krispy Kreme, LLC	775	FS	3607 E. Bell Rd., Suite 1	Phoenix	AZ	85032	602-923-1142
W.K.S. Krispy Kreme, LLC	776	HLTS	1459 N. Dysart	Avondale	AZ	85323	623-209-7328
W.K.S. Krispy Kreme, LLC	777	HLTS	5621 E. Broadway	Tucson	AZ	85711	520-485-0062
W.K.S. Krispy Kreme, LLC	778	HLTS	5220 W. Bell Rd.	Glendale	AZ	85308	602-661-1400
Awesome Doughnut, LLC	578	TO	4760 E. Los Coyotes Diagonal	Long Beach	CA	90815	562-494-4662
Awesome Doughnut, LLC	579	HLTS	1199 West Artesia Boulevard	Gardena	CA	90248	310-532-5281
Awesome Doughnut, LLC	583	HLTS	4034 Crenshaw Boulevard	Los Angeles	CA	90008	323-291-4133
Awesome Doughnut, LLC	584	HLTS	4485 Mills Circle	Ontario	CA	91764	909-476-8421
Awesome Doughnut, LLC	585	HLTS	330 City Drive, South	Orange	CA	92868	714-769-4330
Awesome Doughnut, LLC	586	HLTS	1548 Azusa Avenue	City of Industry	CA	91748	626-964-5044
Awesome Doughnut, LLC	587	HLTS	1521 North Victory Place	Burbank	CA	91504	818-955-9015
Awesome Doughnut, LLC	588	HLTS	4180 Clairemont Mesa Boulevard	San Diego	CA	92117	858-273-4581
Awesome Doughnut, LLC	589	HLTS	25802 El Paseo Avenue	Mission Viejo	CA	92691	949-348-8900

FRANCHISEE	SHOP NO.	SHOP TYPE*	STREET ADDRESS	CITY	STATE	ZIP	PHONE
Awesome Doughnut, LLC	590	HLTS	748 W. Rancho Vista Blvd., Suite F	Palmdale	CA	93551	661-575-9821
Awesome Doughnut, LLC	591	HLTS	30007 Haun Rd.	Menifee	CA	92584	951-672-0035
Awesome Doughnut, LLC	592	HLTS	11050 Rancho Carmel Dr.	San Diego	CA	92128	858-521-9051
Awesome Doughnut, LLC	593	HLTS	1024 W. Gladstone St.	San Dimas	CA	91773	909-599-4882
Awesome Doughnut, LLC	594	HLTS	15280 Civic Drive	Victorville	CA	92394	760-243-2735
Awesome Doughnut, LLC	595	HLTS	220 Riverpark Blvd.	Oxnard	CA	93036	805-278-0216
Awesome Doughnut, LLC	596	FS	1231 Wilshire Boulevard	Santa Monica	CA	90403	310-393-8319
Awesome Doughnut, LLC	597	FS	2305 Otay Lakes Road, Suite 206	Chula Vista	CA	91914	619-482-8700
Awesome Doughnut, LLC	599	HLTS	72787 Dinah Shore Dr.	Rancho Mirage	CA	92270	442-268-7274
Awesome Doughnut, LLC	576	HLTS	2325 Vista Way	Oceanside	CA	92054	760-573-7045
Golden Gate Doughnuts, LLC	1019	HLTS	32450 Dyer St	Union City	CA	94587	510-471-6121
Golden Gate Doughnuts, LLC	1020	HLTS	2146 Leghorn St	Mountain View	CA	94043	650-254-1231
Golden Gate Doughnuts, LLC	1021	HLTS	1575 Sullivan Ave	Daly City	CA	94015	650-985-5612
Golden Gate Doughnuts, LLC	1022	TO	121 Curtner Ave., Suite 40	San Jose	CA	95125	408-293-2011
Golden Gate Doughnuts, LLC	1023	TO	43835 Pacific Commons Blvd.	Fremont	CA	94538	510-445-1351
Golden Gate Doughnuts, LLC	1024	TO	3133 Mission College Blvd.	Santa Clara	CA	95054	408-986-8824
Golden Gate Doughnuts, LLC	1025	HLTS	5090 Redwood Drive	Rohnert Park	CA	94928	707-303-7944
Golden Gate Doughnuts, LLC	1575	HLTS	353 Jefferson Street, Fisherman's Wharf	San Francisco	CA	94133	415-775-1123
W.K.S. Krispy Kreme, LLC	779	HLTS	2809 West March Lane	Stockton	CA	95219	209-951-1169
W.K.S. Krispy Kreme, LLC	780	FS	2530 Sand Creek Road	Brentwood	CA	94513	925-516-4649
W.K.S. Krispy Kreme, LLC	781	HLTS	10317 Fairway Drive	Roseville	CA	95678	916-797-2221
W.K.S. Krispy Kreme, LLC	782	HLTS	1991 Diamond Blvd.	Concord	CA	94520	925-363-4570
W.K.S. Krispy Kreme, LLC	783	TO	1620 E. Monte Vista Ave., Suite 102	Vacaville	CA	95688	707-452-0905
W.K.S. Krispy Kreme, LLC	784	HLTS	2060 Business Lane	Chico	CA	95928	530-891-3492
W.K.S. Krispy Kreme, LLC	785	HLTS	9410 Rosedale Hwy.	Bakersfield	CA	93312	661-383-0007
W.K.S. Krispy Kreme, LLC	786	TO	5900 Florin Rd.	Sacramento	CA	95823	916-392-1034
W.K.S. Krispy Kreme, LLC	787	TO	5692 N. Blackstone Ave.	Fresno	CA	93710	559-691-4401
W.K.S. Krispy Kreme, LLC	788	HLTS	2224 S. Bradley Rd	Santa Maria	CA	93455	805-268-7800
W.K.S. Krispy Kreme, LLC	409	HLTS	7514 East Parkway Drive	Lone Tree	CO	80124	303-649-9933
W.K.S. Krispy Kreme, LLC	411	HLTS	1051 East 120 th Avenue	Thornton	CO	80233	720-977-8555
W.K.S. Krispy Kreme, LLC	412	FS	303 16 th Street, #120	Denver	CO	80202	720-279-0802
Jan Dough, LLC	1206	HLTS	1 Mohegan Sun Boulevard	Uncasville	CT	06382	860-862-4681
Jan Dough, LLC	4601	FS	1 Mohegan Sun Boulevard (Sky)	Uncasville	CT	06382	860-862-4681
Jan Dough, LLC	4602	FS	1 Mohegan Sun Boulevard (Mall)	Uncasville	CT	06382	860-862-4681

FRANCHISEE	SHOP NO.	SHOP TYPE*	STREET ADDRESS	CITY	STATE	ZIP	PHONE
Jan Dough, LLC	4603	FS	1 Mohegan Sun Blvd. (Fueling Facility)	Uncasville	CT	06382	860-862-4681
Dale's Doughnuts South, Inc.	451	HLTS	1300 East Park Avenue	Tallahassee	FL	32308	850-325-2451
Dale's Doughnuts South, Inc.	453	TO	2590 North Monroe Street	Tallahassee	FL	32303	850-385-6038
Family Doughnut Operations, LLC	1171	TO	1595 W. 49 th St.	Hialeah	FL	33012	786-476-8197
Family Doughnut Operations, LLC	1198	DF	3260 SW 11 th Avenue	Ft. Lauderdale	FL	33315	954-541-9865
Family Doughnut Operations, LLC	1199	TO	2510 W. Broward Blvd., Suite 101	Ft. Lauderdale	FL	33312	954-585-6446
Ft. Myers Doughnut Operations, LLC	1480	HLTS	4904 S. Cleveland Ave.	Ft. Myers	FL	33907	239-931-9926
HBT Donut Inc.	440	HLTS	310 NW 13 th Street	Gainesville	FL	32601	352-377-0052
HOTDN, Inc.	429	HLTS	465 West 23 rd Street	Panama City	FL	32405	850-747-0097
Krispy Kreme of South Florida LLC	1177	HLTS	530 NE 167 th Street	Miami	FL	33162	305-949-6135
Krispy Kreme of South Florida LLC	1178	HLTS	2401 North Federal Highway	Ft. Lauderdale	FL	33305	954-565-5599
Krispy Kreme of South Florida LLC	1179	FS	10010 West McNab Road	Tamarac	FL	33321	954-724-1008
Krispy Kreme of South Florida LLC	1216	TO	1240 West Hillsboro Blvd.	Deerfield Beach	FL	33442	954-420-9130
South Florida Doughnut Operations, LLC	1047	TO	Sunshine Plaza, 4299 W. Commercial Blvd.	Tamarac	FL	33319	954-617-9299
South Florida Doughnut Operations, LLC	1048	TO	32999 South Dixie Highway (US1)	Florida City	FL	33034	305-245-0595
South Florida Doughnut Operations, LLC	1049	TO	16851 South Dixie Highway	Palmetto Bay	FL	33157	305-255-5030
Ellis Enterprises, Inc.	473	HLTS	3703 Atlanta Highway	Bogart	GA	30622	706-208-0628
Ellis Enterprises, Inc.	474	TO	40103 Highway 441	Commerce	GA	30529	706-336-8312
Global Concessions, Inc.	400	FS	Concourse C, Hartfield-Jackson Atlanta International Airport, 6000 N. Terminal Parkway	Atlanta	GA	30320	
M&M Doughnuts, Inc.	475	HLTS	400 North Slappey Boulevard	Albany	GA	31701	229-435-0777
S&P of Macon, Inc.	490	HLTS	2800 Pio Nono Avenue	Macon	GA	31206	478-781-9460
S&P of Macon, Inc.	491	TO	519 North Avenue	Macon	GA	31201	478-745-2621
S&P of Macon, Inc.	3600	TO	2706 Watson Blvd, Ste. A	Warner Robbins	GA	31093	478-953-5533
S&P of Macon, Inc.	3601	HLTS	1700 N. Columbia Street	Milledgeville	GA	31061	478-295-3212
KremeWorks Hawaii, LLC	1123	HLTS	433 Kele Street	Kahului	HI	96732	808-893-0883
RION, LLC	938	FS	2420 West Broadway	Council Bluffs	IA	51501	712-352-0296
RION, LLC	957	HLTS	1880 N. W. 86 th Street	Clive	IA	50325	515-334-0355
RION, LLC	1577	FS	810 East 1 st Street	Ankeny	IA	50021	515-964-9696
W.K.S. Krispy Kreme, LLC	789	HLTS	1525 North Eagle Road	Meridian	ID	83642	208-846-8500
Hungry Guys, LLC	1390	HLTS	1307 Halfway Road	Marion	IL	62959	618-579-0606
Hungry Guys, LLC	1391	HLTS	2122 William Street	Cape Girardeau	MO	63703	573-708-6698
Biloxi/Gulfport Doughnut Company, Inc.	502	TO	1419 Bienville Blvd.	Ocean Springs	MS	39564	228-215-0013

FRANCHISEE	SHOP NO.	SHOP TYPE*	STREET ADDRESS	CITY	STATE	ZIP	PHONE
Biloxi/Gulfport Doughnut Company, Inc.	505	HLTS	9347 Highway 49	Gulfport	MS	39503	228-867-7002
Columbus / Starkville Doughnut Company, Inc.	567	HLTS	1725 Hwy. 45 North	Columbus	MS	39705	662-848-0044
Hattiesburg Doughnut Company, Inc.	506	HLTS	5006 W. Hardy Street	Hattiesburg	MS	39402	601-271-7700
Sweet Opportunity #1, LLC	580	HLTS	1025 W. Central Ave.	Missoula	MT	59801	406-926-2810
Sweet Opportunity #2, LLC	581	HLTS	2274 Hwy 93 N.	Kalispell	MT	59901	406-890-2251
Sweet Opportunity #3, LLC	582	HLTS	2520 Central Avenue	Billings	MT	59102	406-652-5939
Hodges Management Group, Inc.	516	HLTS	1879 Startown Rd	Hickory	NC	28602	828-326-9174
Hodges Management Group, Inc.	519	HLTS	801 Blowing Rock Blvd.	Lenoir	NC	28645	828-572-2693
RION, LLC	955	HLTS	2715 South 120 th Street	Omaha	NE	68144	402-334-9000
RION, LLC	963	FS	707 S. 72 nd St.	Omaha	NE	68114	402-932-5581
RION, LLC	964	HLTS	6410 O Street	Lincoln	NE	68510	402-817-7923
Entrepreneurs LLC	1274	HLTS	95 Columbus Avenue	Jersey City	NJ	07302	201-360-2005
Entrepreneurs LLC	1275	HLTS	25-US 22 East	Springfield	NJ	07081	973-232-6305
Entrepreneurs LLC	1278	HLTS	51 NJ-17 South	East Rutherford	NJ	07073	201-340-4342
W.K.S. Krispy Kreme, LLC	790	HLTS	3709 Ellison Rd NW	Albuquerque	NM	87114	505-792-0494
W.K.S. Krispy Kreme, LLC	791	FS	2270 Wyoming Blvd NE, Suite G	Albuquerque	NM	87112	505-298-0374
W.K.S. Krispy Kreme, LLC	792	TO	2760 Coors Blvd. NW	Albuquerque	NM	87120	505-352-1212
KK Big Top, LLC	4501	FS	2880 Las Vegas Blvd South, Circus Circus	Las Vegas	NV	89109	702-733-9944
KK Castle, LLC	949	FS	Excalibur Hotel, 3850 Las Vegas Blvd S	Las Vegas	NV	89109	702-736-5235
W.K.S. Krispy Kreme, LLC	404	HLTS	7015 West Spring Mountain Road	Las Vegas	NV	89117	702-222-1813
W.K.S. Krispy Kreme, LLC	407	HLTS	9791 South Eastern Avenue	Las Vegas	NV	89123	702-617-9160
W.K.S. Krispy Kreme, LLC	408	HLTS	1331 West Craig Road	Las Vegas	NV	89030	702-657-9575
KremeWorks Oregon, LLC	1118	HLTS	16415 NW Cornell Road	Beaverton	OR	97006	503-645-2228
KremeWorks Oregon, LLC	1119	HLTS	9950 SE 82 nd Avenue	Portland	OR	97086	503-774-3300
Early Morning Donuts, Inc.	525	HLTS	511 Moosic Street	Scranton	PA	18505	570-343-4608
KK Clarks Summit, LLC	527	HLTS	831 Northern Boulevard	Clarks Summit	PA	18411	570-585-4120
GGRJDR, LLC	551	HLTS	354 North Church Street	Spartanburg	SC	29303	864-585-1956
JDRGGR, LLC	552	HLTS	1620 N. Main St.	Anderson	SC	29621	864-359-1013
R. L. Warren Doughnut Company, Inc.	542	HLTS	1709 West Palmetto Street	Florence	SC	29501	843-665-4727
R. L. Warren Doughnut Company, Inc.	543	TO	2014 W Lucas St	Florence	SC	29501	843-407-7859
Messick Doughnuts, Inc.	558	HLTS	4074 Parkway	Pigeon Forge	TN	37863	865-428-3222
Messick Doughnuts, Inc.	562	HLTS	705 Winfield Dunn Parkway, Suite 1	Sevierville	TN	37876	865-446-2744
Krazy Donuts LLC	1578	HLTS	1312 Harvey Road	College Station	TX	77840	979-704-5346

FRANCHISEE	SHOP NO.	SHOP TYPE*	STREET ADDRESS	CITY	STATE	ZIP	PHONE
W.K.S. Krispy Kreme, LLC	769	HLTS	1051 N. Main Street	Logan	UT	84341	435-557-0887
W.K.S. Krispy Kreme, LLC	793	HLTS	968 North Main Street	Layton	UT	84041	801-497-9001
W.K.S. Krispy Kreme, LLC	794	HLTS	417 West 1300 South	Orem	UT	84057	801-222-9995
W.K.S. Krispy Kreme, LLC	796	HLTS	48 W. 10600 South Street	Sandy	UT	84070	801-349-3882
W.K.S. Krispy Kreme, LLC	859	HLTS	4212 W. Riverdale Rd.	Riverdale	UT	84405	801-396-5916
Kreme de la Kreme LLC	1245	HLTS	2801 Duportail St.	Richland	WA	99352	509-371-1112
Kreme de la Kreme LLC	1246	HLTS	2330 S. 14 th Street	Yakima	WA	98903	800-457-4779
KremeWorks Oregon, LLC	1126	HLTS	8517 NE Andersen Road	Vancouver	WA	98665	360-260-0066
KremeWorks Washington, LLC	1111	HLTS	6210 E. Lake Sammamish Pkwy SE	Issaquah	WA	98029	425-391-8011
KremeWorks Washington, LLC	1112	HLTS	15401 East Indiana Avenue	Spokane Valley	WA	99216	509-922-7101
KremeWorks Washington, LLC	1114	HLTS	12505 Aurora Avenue North	Seattle	WA	98133	206-440-1900
KremeWorks Washington, LLC	1115	HLTS	1900 1 st Avenue S.	Seattle	WA	98134	206-625-1554
KremeWorks Washington, LLC	1120	HLTS	4302 Tacoma Mall Blvd.	Tacoma	WA	98409	253-472-6888
W.K.S. Krispy Kreme, LLC	795	HLTS	2900 S 108 th Street	West Allis	WI	53227	414-604-1234

EXHIBIT E

**LIST OF DOMESTIC FRANCHISEES
WHO LEFT THE SYSTEM OR CLOSED STORES
DURING FISCAL YEAR ENDED JANUARY 3, 2021**

Below are the last known addresses and telephone numbers of all franchisees who had their franchise transferred, terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement or Doughnut Factory Agreement during the most recently completed fiscal year, or who have not communicated with us within 10 weeks before the date of this Disclosure Document.

STATE	FRANCHISEE
Arizona	W.K.S. Krispy Kreme, LLC 5856 Corporate Ave., Suite 200 Cypress, CA 90630 562-425-1402 (1 Shop closed)
Arkansas	Razorback Dough, LLC c/o Ozark Mountain Dough, LLC Attention: Mike Parker P.O. Box 14319 Springfield, MO 65814 417-844-1603 (1 Shop reacquired)
Florida	Florida Doughnut Company Attention: Ms. Jeanette A. Anderson PO Box 731557 Ormond Beach, FL 32173 386-334-8672 (2 Shops reacquired)
Florida	Florida Family Foods, LLC Attention: Ms. Jeanette A. Anderson PO Box 731557 Ormond Beach, FL 32173 386-334-8672 (4 Shops reacquired)
Georgia	755 Doughnut Corp. Attention: Victor Haydel 3466 Buffington Center Atlanta, GA 30349 404-766-2727 (2 Shops reacquired)
Illinois	CLR Evergreen Park LLC Attention: Rogelio Tovar 16725 N.W. 57 th Avenue Miami Gardens, FL 33055 305-302-5700 (1 Shop reacquired)

STATE	FRANCHISEE
Illinois	CLR Hillside LLC Attention: Rogelio Tovar 16725 N.W. 57 th Avenue Miami Gardens, FL 33055 305-302-5700 (1 Shop reacquired)
Illinois	CLR Homewood LLC Attention: Rogelio Tovar 16725 N.W. 57 th Avenue Miami Gardens, FL 33055 305-302-5700 (1 Shop reacquired)
Illinois	CLR Loop LLC Attention: Rogelio Tovar 16725 N.W. 57 th Avenue Miami Gardens, FL 33055 305-302-5700 (1 Shop reacquired)
Illinois	Gateway Dough Operations, LLC Attention: Laura Schlegel 2275 Cassens Drive, Suite 115 Fenton, MO 63026 314-283-4787 (1 Shop reacquired)
Illinois	R&S Holdings, LLC Attention: Laura Schlegel 2275 Cassens Drive, Suite 115 Fenton, MO 63026 314-283-4787 (2 Shops reacquired)
Kansas	Great Plains Dough, LLC c/o Ozark Mountain Dough, LLC Attention: Mike Parker P.O. Box 14319 Springfield, MO 65814 417-844-1603 (1 Shop reacquired)
Maine	HL Maine 1, LLC Hector Mendez 26 The Flume Amherst, NH 03031 603-860-8603 (1 Shop closed)
Maine	HL Maine 2, LLC Hector Mendez 26 The Flume Amherst, NH 03031 603-860-8603 (1 Shop closed)

STATE	FRANCHISEE
Missouri	Gateway Dough Operations, LLC Attention: Laura Schlegel 2275 Cassens Drive, Suite 115 Fenton, MO 63026 314-283-4787 (4 Shops reacquired)
Missouri	Queen City Dough, LLC c/o Ozark Mountain Dough, LLC Attention: Mike Parker P.O. Box 14319 Springfield, MO 65814 417-844-1603 (1 Shop reacquired)
Missouri	White River Dough, LLC c/o Ozark Mountain Dough, LLC Attention: Mike Parker P.O. Box 14319 Springfield, MO 65814 417-844-1603 (1 Shop reacquired)
New Mexico	W.K.S. Krispy Kreme, LLC 5856 Corporate Ave., Suite 200 Cypress, CA 90630 562-425-1402 (1 Shop closed)
North Carolina	North Carolina KKD, LLC Attention: Miles Herring 4720 Jenn Drive Myrtle Beach, SC 29577 843-222-5355 (2 Shops reacquired)
North Carolina	Coastal Baking Company, Inc. Attention: Amanda Tilley P.O. Box 10187 Goldsboro, NC 27532 252-717-8359 (1 Shop reacquired)
North Carolina	Down East Baking Company, Inc. Attention: Amanda Tilley P.O. Box 10187 Goldsboro, NC 27532 252-717-8359 (1 Shop reacquired)
North Carolina	Eastern Express Doughnut Co., Inc. Attention: Amanda Tilley P.O. Box 10187 Goldsboro, NC 27532 252-717-8359 (1 Shop reacquired)

STATE	FRANCHISEE
South Carolina	Myrtle Beach KKD, LLC Attention: Miles Herring 4720 Jenn Drive Myrtle Beach, SC 29577 843-222-5355 (5 Shops reacquired)
South Carolina	Lowcountry KKD, LLC Attention: Miles Herring 4720 Jenn Drive Myrtle Beach, SC 29577 843-222-5355 (2 Shops reacquired)
Texas	Dulce Restaurants, LLC Attention: Guillermo Perales 4515 LBJ Freeway Dallas, TX 75244 (16 Shops reacquired; 2 Shops closed)

EXHIBIT F
FINANCIAL STATEMENTS

Krispy Kreme, Inc.
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)

Opinion on the financial statements

We have audited the accompanying consolidated balance sheets of Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.) (a Delaware corporation) and subsidiaries (the “Company”) as of January 3, 2021 and December 29, 2019, the related consolidated statements of operations, comprehensive income (loss), changes in shareholders’ equity, and cash flows for each of the three years ended January 3, 2021, December 29, 2019 and December 30, 2018, and the related notes and financial statement schedule I (collectively referred to as the “financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of January 3, 2021 and December 29, 2019, and the results of its operations and its cash flows for each of the three years ended January 3, 2021, December 29, 2019 and December 30, 2018, in conformity with accounting principles generally accepted in the United States of America.

Basis for opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (“PCAOB”) and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical audit matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Goodwill Impairment Assessment

As described in Note 6 to the consolidated financial statements, for each reporting unit, the Company assesses goodwill for impairment annually at the beginning of the fourth quarter or more frequently when impairment indicators are present. Management estimates the fair values of the goodwill reporting units using a combination of the income and market approaches. We identified the estimation of the fair values of the reporting units as a critical audit matter.

The principle considerations for our determination that the estimation of the fair values of the reporting units is a critical audit matter is that there was high estimation uncertainty due to significant judgement with respect to assumptions used to project the future cash flows, including revenue growth rates, earnings, and capital expenditures, discount rate, guideline public companies and market multiples. Given the subjective nature and judgement applied by management, auditing these estimates required a high degree of auditor judgement and an increased extent of effort including the use of specialists.

Our audit procedures related to the estimation of the fair value of the reporting units included the following, among others.

- Utilized an internal valuation specialist to evaluate:
 - The methodologies used and whether they were acceptable for the underlying assets or operations and applied correctly by performing independent calculations
 - The calculation of the risk-adjusted discount rates by recalculating the weighted average cost of capital
 - The guideline public companies and transactions utilized by the Company by examining financial metrics of the comparable public companies and transactions within the industry, and considering market participant guidance and perspective
- We evaluated the reasonableness of management's forecasts of revenues, earnings and capital expenditures by assessing the historical accuracy of management's estimates and the reasonableness of assumptions used by management, including analyzing the sensitivity of changes in significant assumptions and the resulting impact to the estimated fair values.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2017.

Denver, Colorado

April 23, 2021 (except Note 6a and Note 18, as to which the date is May 28, 2021)

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Consolidated Statements of Operations
(In thousands, except per share amounts and number of shares)

	Fiscal Years Ended		
	January 3, 2021 (53 weeks)	December 29, 2019 (52 weeks)	December 30, 2018 (52 weeks)
Net revenue			
Product sales	\$1,085,110	\$912,805	\$748,860
Royalties and other revenues	36,926	46,603	47,023
Total net revenues	1,122,036	959,408	795,883
Product and distribution costs	310,909	262,013	246,458
Operating expenses	488,061	390,849	295,966
Selling, general and administrative expense	216,317	190,237	160,932
Pre-opening costs	11,583	7,078	1,903
Other expenses, net	10,488	7,465	6,708
Depreciation and amortization expense	80,398	63,767	49,447
Operating income	4,280	37,999	34,469
Interest expense, net	34,741	38,085	27,881
Interest expense – related party	22,468	21,947	18,902
Other non-operating (income)/expense, net	(1,101)	(609)	5,443
Loss before income taxes	(51,828)	(21,424)	(17,757)
Income tax expense/(benefit)	9,112	12,577	(5,318)
Net loss	(60,940)	(34,001)	(12,439)
Net income attributable to noncontrolling interest	3,361	3,408	1,633
Net loss attributable to Krispy Kreme, Inc.	\$ (64,301)	\$ (37,409)	\$ (14,072)
Net loss per share:			
Common stock - Basic	\$ (904.39)	\$ (518.40)	\$ (173.52)
Common stock - Diluted	(904.53)	\$ (519.30)	(173.85)
Weighted average shares outstanding:			
Basic	71,626	71,626	71,626
Diluted	71,626	71,626	71,626

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Consolidated Statements of Comprehensive Income (Loss)
(In thousands)

	Fiscal Years Ended		
	January 3, 2021 (53 weeks)	December 29, 2019 (52 weeks)	December 30, 2018 (52 weeks)
Net loss	<u>\$(60,940)</u>	<u>\$(34,001)</u>	<u>\$(12,439)</u>
Other comprehensive income:			
Foreign currency translation adjustment, net of income tax benefit/ (expense) of \$0.0 million, (\$0.8) million and \$6.9 million	19,426	6,940	(20,764)
Unrealized loss on cash flow hedges, net of income tax benefit of \$4.8 million, \$2.1 million and \$1.2 million	(14,430)	(6,446)	(3,734)
Unrealized loss on employee benefit plans, net of income tax benefit/(expense) of \$0.0 million, \$0.0 million and \$0.0 million	(106)	—	—
Total other comprehensive income/(loss)	<u>4,890</u>	<u>494</u>	<u>(24,498)</u>
Comprehensive loss	<u>(56,050)</u>	<u>(33,507)</u>	<u>(36,937)</u>
Net income attributable to noncontrolling interest	3,361	3,408	1,633
Currency translation adjustment income/(loss) attributable to noncontrolling interest	547	—	(688)
Total comprehensive income attributable to noncontrolling interest	<u>3,908</u>	<u>3,408</u>	<u>945</u>
Comprehensive loss attributable to Krispy Kreme, Inc.	<u>\$(59,958)</u>	<u>\$(36,915)</u>	<u>\$(37,882)</u>

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Consolidated Balance Sheets
(In thousands, except per share amounts and number of shares)

	As of	
	January 3, 2021	December 29, 2019
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 37,460	\$ 35,373
Marketable securities	1,048	2,022
Restricted cash	23	77
Accounts receivable, net	74,351	48,353
Inventories	38,519	22,563
Prepaid expense and other current assets	12,692	9,486
Total current assets	164,093	117,874
Property and equipment, net	395,255	323,581
Goodwill	1,086,546	1,049,675
Other intangible assets, net	998,014	984,866
Operating lease right of use asset, net	399,688	385,153
Other assets	17,399	13,477
Total assets	\$3,060,995	\$2,874,626
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current Liabilities:		
Current portion of long-term debt	\$ 41,245	\$ 46,361
Current operating lease liabilities	45,675	46,943
Accounts payable	148,645	138,751
Accrued liabilities	124,951	80,562
Structured payables	137,319	69,883
Total current liabilities	497,835	382,500
Long-term debt, less current portion	785,810	713,722
Related party notes payable	344,581	340,195
Noncurrent operating lease liabilities	376,099	354,876
Deferred income taxes, net	144,866	152,710
Other long-term obligations and deferred credits	63,445	47,206
Total liabilities	2,212,636	1,991,209
Commitments and contingencies		
Shareholders' Equity:		
Common stock, \$0.01 par value; 100,000 shares authorized; 71,626 shares issued and outstanding as of January 3, 2021 and December 29, 2019	1	1
Additional paid-in capital	846,748	835,482
Shareholder note receivable	(18,660)	(17,232)
Accumulated other comprehensive loss, net of income tax	(1,208)	(5,551)
Retained deficit	(142,197)	(77,880)
Total shareholders' equity attributable to Krispy Kreme, Inc.	684,684	734,820
Noncontrolling interest	163,675	148,597
Total shareholders' equity	848,359	883,417
Total liabilities and shareholders' equity	\$3,060,995	\$2,874,626

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Consolidated Statements of Changes in Shareholders' Equity
(In thousands, except number of shares)

	Common Stock		Accumulated Other Comprehensive Income/(Loss)				Retained (Deficit) Earnings	Noncontrolling Interest	Total
	Shares Outstanding	Amount	Additional Paid-in Capital	Shareholder Note Receivable	Foreign currency translation adjustment	Unrealized loss on cash flow hedges			
Balance at December 31, 2017	71,626	\$ 1	\$732,309	\$(17,078)	\$ 18,453	\$ —	\$ (23,629)	\$ 69,870	\$779,926
Net (loss)/income for the fiscal year ended December 30, 2018							(14,072)	1,633	(12,439)
Other comprehensive loss for the fiscal year ended December 30, 2018 before reclassifications						(4,729)			(25,493)
Reclassification from AOCI					(20,764)	995			80,000
Capital contribution by shareholders			80,000						9,163
Share-based compensation			9,134	29				8,052	5,889
Purchase of shares by noncontrolling interest				(2,163)				60,189	(29,839)
Noncontrolling interest of acquired entity							(29,750)	(89)	(6,330)
Distribution to shareholders				2,060					(497)
Distribution to noncontrolling interest				(339)					
Other							(158)		
Balance at December 30, 2018	71,626	\$ 1	\$821,443	\$(17,491)	\$ (2,311)	\$ (3,734)	\$ (67,609)	\$131,265	\$861,564
Change in accounting standard							29,767	1,711	31,478
Net (loss)/income for the fiscal year ended December 29, 2019							(37,409)	3,408	(34,001)
Other comprehensive income/(loss) for the fiscal year ended December 29, 2019 before reclassifications									(1,280)
Reclassification from AOCI					6,940	(8,220)			1,774
Share-based compensation						1,774			10,736
Purchase of shares by noncontrolling interest			10,675					61	15,621
Noncontrolling interest of acquired entity				(1,646)				17,267	16,010
Distribution to shareholders								16,010	(2,629)
Distribution to noncontrolling interest							(2,629)		(18,856)
Non-cash contribution for tax sharing arrangements with related parties			3,412						3,412
Other			(48)	(364)					(412)
Balance at December 29, 2019	71,626	\$ 1	\$835,482	\$(17,232)	\$ 4,629	\$(10,180)	\$ (77,880)	\$148,597	\$883,417
Net (loss)/income for the fiscal year ended January 3, 2021							(64,301)	3,361	(60,940)
Other comprehensive income/(loss) for the fiscal year ended January 3, 2021 before reclassifications									(2,743)
Reclassification from AOCI					18,879	(22,063)		547	7,633
Share-based compensation						7,633			11,601
Purchase of shares by noncontrolling interest			11,601	(1,467)				22,853	21,386
Distribution to shareholders			(39)				(3)		(42)
Distribution to noncontrolling interest			(296)	(255)			(13)		(11,389)
Other									(564)
Balance at January 3, 2021	71,626	\$ 1	\$846,748	\$(18,660)	\$ 23,508	\$(24,610)	\$ (142,197)	\$163,675	\$848,359

See accompanying notes to Consolidated Financial Statements

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Consolidated Statements of Cash Flows
(In thousands)

	Fiscal Years Ended		
	January 3, 2021 (53 weeks)	December 29, 2019 (52 weeks)	December 30, 2018 (52 weeks)
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	\$ (60,940)	\$ (34,001)	\$ (12,439)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization expense	80,398	63,767	49,447
Deferred income taxes	(36)	8,422	(17,907)
Loss on extinguishment of debt	—	1,567	—
Impairment and lease termination charges	4,701	3,081	2,755
Loss on disposal of property and equipment	2,771	585	166
Share-based compensation	11,601	10,741	9,449
Change in accounts and notes receivable allowances	1,047	365	33
Inventory write-off	726	231	426
(Gain)/loss on contingent consideration related to a business combination	(1,521)	(499)	4,728
Payment of contingent consideration in excess of acquisition date fair value	—	(4,229)	—
Collection of related party income tax receivable	—	28,593	—
Other	410	4,703	9,075
Change in assets and liabilities, excluding business acquisitions and foreign currency translation adjustments:			
Accounts and notes receivable	(11,942)	(1,258)	(1,103)
Inventories	(15,353)	(3,217)	3,877
Other current and non-current assets	434	(5,603)	2,603
Deferred rent	—	—	2,658
Operating lease assets and liabilities	(1,575)	3,500	—
Accounts payable and accrued liabilities	12,906	(10,153)	90,792
Other long-term obligations and deferred credits	5,048	14,217	3,777
Net cash provided by operating activities	28,675	80,812	148,337
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchase of property and equipment	(97,826)	(76,373)	(42,836)
Proceeds from disposals of assets	2,837	—	1,548
Proceeds from sale and leaseback transactions	—	—	79,366
Acquisition of shops and franchise rights from franchisees, net of cash acquired	(74,890)	(150,373)	(200,844)
Acquisition of Insomnia Cookies, net of cash acquired	—	—	(140,042)
Principal payments received from loans to franchisees	684	645	—
Purchases of held-to-maturity debt securities	(57)	(776)	(576)
Maturities of held-to-maturity debt securities	1,124	271	101
Net cash used for investing activities	(168,128)	(226,606)	(303,283)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from the issuance of debt	288,097	804,002	255,337
Repayment of long-term debt and lease obligations	(225,541)	(714,617)	(150,826)
Payment of financing costs	—	(5,665)	(1,886)
Proceeds from structured payables	292,756	124,666	34,382
Payments on structured payables	(225,320)	(68,757)	(20,532)
Payment of contingent consideration related to a business combination	(506)	(4,646)	—
Capital contribution by shareholders	—	—	80,000
Proceeds from sale of noncontrolling interest in subsidiary	21,386	15,625	5,889
Distribution to shareholders	(42)	(2,629)	(29,839)
Distribution to noncontrolling interest	(11,389)	(18,902)	(6,330)
Net cash provided by financing activities	139,441	129,077	166,195
Effect of exchange rate changes on cash, cash equivalents and restricted cash	2,045	(941)	410
Net increase/(decrease) in cash, cash equivalents and restricted cash	2,033	(17,658)	11,659
Cash, cash equivalents and restricted cash at beginning of the fiscal year	35,450	53,108	41,449
Cash, cash equivalents and restricted cash at end of the fiscal year	\$ 37,483	\$ 35,450	\$ 53,108
Supplemental schedule of non-cash investing and financing activities:			
Accrual for property and equipment	10,182	10,489	697
Stock issuance under shareholder notes	1,535	1,856	2,163
Contingent consideration incurred for acquisition of Krispy Kreme Mexico	—	14,021	—
Contingent consideration incurred for acquisition of shops and franchise rights from domestic franchisees	—	506	—
Contingent consideration incurred for acquisition of Krispy Kreme Australia	—	—	4,646
Reconciliation of cash, cash equivalents and restricted cash at end of fiscal year:			
Cash and cash equivalents	\$ 37,460	\$ 35,373	\$ 52,880
Restricted cash	23	77	228
Total cash, cash equivalents and restricted cash	\$ 37,483	\$ 35,450	\$ 53,108

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
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Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Notes to Consolidated Financial Statements
(Dollars in thousands, unless otherwise specified)

Note 1 —Description of Business and Summary of Significant Accounting Policies

Description of Business

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.) (“Krispy Kreme”) and its subsidiaries (collectively, the “Company”) operates through its omni-channel business model to provide an experiential consumer experience and produce doughnuts for fresh retail, Delivered Fresh Daily (“DFD”), e-Commerce and delivery and Krispy Kreme branded sweet treats (“Branded Sweet Treat Line”) distribution channels, ensuring that consumers are able to access products in numerous ways.

As of January 3, 2021, the Company had 1,687 Krispy Kreme and Insomnia Cookies branded shops in 30 countries around the world, of which 879 were controlled and operated by the Company and 808 were franchised. The ownership and location of those shops is as follows:

	<u>Krispy Kreme Domestic</u>	<u>Krispy Kreme International</u>	<u>Insomnia Cookie Shops</u>	<u>Total</u>
Company Shops	276	419	184	879
Franchise Shops	93	715	—	808
Total	<u>369</u>	<u>1,134</u>	<u>184</u>	<u>1,687</u>

Basis of Presentation and Consolidation

The Company operates and reports financial information on a 52 or 53-week year with the fiscal year ending on the Sunday closest to December 31. The data periods contained within fiscal years 2020, 2019 and 2018 reflect the results of operations for the 53-week period ended January 3, 2021 and the 52-week periods ended December 29, 2019 and December 30, 2018.

The accompanying Consolidated Financial Statements include the accounts of Krispy Kreme and subsidiaries and have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”). All significant intercompany balances and transactions among Krispy Kreme and subsidiaries have been eliminated in consolidation. Investments in entities over which the Company has the ability to exercise significant influence but which it does not control and whose financial statements are not otherwise required to be consolidated, are accounted for using the equity method.

Noncontrolling interest in the Company’s Consolidated Financial Statements represents the interest in subsidiaries held by joint venture partners and employee shareholders. The joint venture partners hold noncontrolling interests in the Company’s consolidated subsidiaries, Awesome Doughnut, LLC (“Awesome Doughnut”) and W.K.S Krispy Kreme, LLC (“WKS Krispy Kreme”). Employee shareholders hold noncontrolling interests in the consolidated subsidiaries Krispy Kreme Holdings Inc. (“KKHI”), Krispy Kreme Holding UK Ltd. (“KKUK”), Krispy Kreme Holdings Pty Ltd (“KK Australia”), Krispy Kreme Mexico S. de R.L. de C.V. (“KK Mexico”) and Insomnia Cookies Holdings, LLC (“Insomnia Cookies”). Since the Company consolidates the financial statements of these subsidiaries, the noncontrolling owners’ share of each subsidiary’s net assets and results of operations are deducted and reported as a noncontrolling interest on the Consolidated Balance Sheets and as net income attributable to noncontrolling interest in the Consolidated Statements of Operations and comprehensive income attributable to noncontrolling interest in the Consolidated Statements of Comprehensive Income.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates under different assumptions or conditions.

Revenue Recognition

Revenue is recognized in accordance with Accounting Standards Codification (“ASC”) 606, Revenue from Contracts with Customers. Revenue is recognized when control of promised goods or services is transferred to a customer in an amount that reflects the consideration expected to be received for those goods or services.

Product sales

Product sales include revenue derived from (1) the sale of doughnuts, cookies and complementary products to on-premise, Branded Sweet Treat Line and DFD customers and (2) the sale of doughnut mix, other ingredients and supplies and doughnut-making equipment to franchisees. Revenue is recognized at the time of delivery for on-premise sales and sales to franchisees. For Branded Sweet Treat Line and DFD sales, revenue is recognized either at the time of delivery, net of provisions for estimated product returns or, with respect to those Branded Sweet Treat Line customers that take title to products purchased from the Company at the time those products are sold by the Branded Sweet Treat Line customer to consumers, simultaneously with such consumer purchases. Control transfers to customers at the time of delivery. Revenues from Branded Sweet Treat Line customers and from the sale of doughnut mix, other ingredients and supplies and doughnut-making equipment to franchisees include any applicable shipping and handling costs invoiced to the customer and the expense of such shipping and handling costs is included in Operating expenses. The Company recorded shipping revenue of approximately \$15.2 million, \$6.5 million and \$2.8 million in the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

Franchise revenue

Franchise revenue included in Royalties and other revenues is derived from development and initial franchise fees relating to new shop openings and ongoing royalties charged to franchisees based on their sales. The Company sells individual franchises domestically and internationally, as well as development agreements that grant the right to develop shops in designated areas. Generally, the franchise license granted for each individual shop within an arrangement represents a single performance obligation. The franchise agreements and development agreements typically require the franchisee to pay initial nonrefundable franchise fees (i.e. initial services such as training and assisting with shop set-up) prior to opening. The franchisees also pay a royalty on a monthly basis based upon a percentage of franchisee gross sales. Royalties are recognized in income as underlying franchisee sales occur. The initial term of domestic franchise agreements is typically 15 years. The Company recognizes the initial nonrefundable fees over the term of the franchise agreements on an output method based on time elapsed, corresponding with the customer’s right to use the franchise for the term of the agreement. A franchisee may elect to renew the term of a franchise agreement and, if approved, will typically pay a renewal fee upon execution of the renewal term.

Franchise-related advertising fund revenue

Franchise-related advertising fund revenue included in Other revenues is derived from domestic and international franchise agreements that typically require the franchisee to pay advertising fees on a continuous monthly basis based on a percentage of franchisee net sales, which are recognized based on fees earned each period. Total advertising fund revenue for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018 is \$8.1 million, \$9.3 million and \$7.8 million, respectively.

Gift card sales

The Company and its franchisees sell gift cards that are redeemable for products in the company-owned or franchise shops. The Company manages the gift card program and collects all funds from the activation of gift cards and reimburses franchisees for the redemption of gift cards in their shops. Deferred revenue for unredeemed gift cards is included in Accrued liabilities in the Consolidated Balance Sheets. As of January 3, 2021 and December 29, 2019, the gross amount of deferred revenue recognized for unredeemed gift cards was \$18.0 million and \$15.1 million, respectively. Gift cards sold do not have an expiration date or service fees charged. The likelihood of redemption may be determined to be remote for certain cards due to long periods of inactivity. In these circumstances, the Company recognizes revenue from unredeemed gift cards (“breakage revenue”) within Product sales if they are not subject to unclaimed property laws. The Company estimates breakage for the portfolio of gift cards and recognizes it based on the estimated pattern of gift card use. As of January 3, 2021 and December 29, 2019, deferred revenue, net of breakage revenue recognized, was \$10.4 million and \$9.3 million, respectively.

Gift card costs incurred to fulfill obligations under a contract are capitalized when such costs generate or enhance resources to be used in satisfying future performance obligations and the costs are deemed recoverable. Judgement is used in determining whether certain contract costs can be capitalized. These costs are capitalized and amortized on a systematic basis to match the timing of revenue recognition, depending on when the gift card is used. This amortization expense is recorded in operating expense in the Company’s Consolidated Statement of Operations. From time to time, management will review the capitalized costs for impairment. As of January 3, 2021 and December 19, 2019, the capitalized gift card costs were \$1.7 million and \$1.8 million, respectively.

Customer loyalty program

Customers can participate in spend-based loyalty programs. Customers who join the loyalty programs will receive a credit or point for each purchase of eligible product. After accumulating a certain number of credits or points, the customers can redeem their credits or points for a free product. The Company defers revenue based on an estimated selling price of the free product earned by the customer and establishes a corresponding liability in deferred revenue. As of January 3, 2021 and December 29, 2019, the deferred revenue related to loyalty programs is \$3.6 million and \$2.2 million, respectively.

Revenue-based taxes

The Company reports revenue net of any revenue-based taxes assessed by governmental authorities that are imposed on and concurrent with specific revenue-producing transactions. The primary revenue-based taxes are sales tax and value-added tax (“VAT”).

Operating Expenses

Operating expenses consist of expenses primarily related to company-operated shops including payroll and benefit costs for service employees at company-operated locations, rent and utilities, expenses associated with company operations, costs associated with procuring materials from suppliers and other shop-level operating costs.

Marketing Expenses

Costs associated with marketing the products, including advertising and other brand promotional activities, are expensed as incurred, and were approximately \$34.0 million, \$28.8 million and \$23.0 million in the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

Cash and Cash Equivalents and Restricted Cash

Cash equivalents consist of demand deposits in banks and short-term, highly liquid debt instruments with original maturities of three months or less.

All credit and debit card transactions that are processed in less than five days are classified as cash and cash equivalents. The amounts due from banks for these transactions totaled \$9.6 million as of January 3, 2021 and \$4.3 million as of December 29, 2019.

Restricted cash consists of funds related to the employee benefit plan.

Marketable Securities

Marketable securities consist of debt instruments that are being held to maturity longer than three months but less than one year. Their fair value approximates their carrying value on the Consolidated Balance Sheets.

Account Receivable, Net of Allowance for Expected Credit Losses

Accounts receivable relate primarily to payments due for sale of products, franchise fees, royalties, advertising fees and licensing fees. The Company maintains allowances for expected credit losses related to its accounts receivable, including receivables from franchisees, in amounts which the Company believes are sufficient to provide for losses estimated to be sustained on realization of these receivables. Such estimates inherently involve uncertainties and assessments of the outcome of future events, and changes in facts and circumstances may result in adjustments to the allowance for expected credit losses. The Company had allowance for expected credit losses of \$1.4 million and \$0.7 million as of January 3, 2021 and December 29, 2019, respectively.

Concentration of Credit Risk

Financial instruments that subject the Company to credit risk consist principally of receivables from Sweet Treat Line and DFD customers and franchisees and guarantees of certain franchisee leases. Branded Sweet Treat Line and DFD receivables are primarily from grocer/mass merchants and convenience stores. For the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, no customer accounted for more than 10% of revenue or a significant amount of receivables that would result in a concentration.

Management also evaluates the recoverability of receivables from the franchisees and maintain allowances for expected credit losses which management believes are sufficient to provide for losses which may be sustained on realization of these receivables. In addition, management evaluates the likelihood of potential payments by the Company under lease guarantees and records estimated liabilities for payments the managements consider probable.

Inventories

Inventories, which consist of raw materials, work in progress, finished goods and purchased merchandise, are recorded at the lower of cost and net realizable value with cost determined using the first-in, first-out method. Raw materials inventory also includes doughnut equipment spare parts. Finished goods and purchased merchandise are net of reserves for excess or obsolete finished goods.

Prepaid Expense and Other Current Assets

Prepaid expense and other current assets consist primarily of prepaid assets of \$11.3 million and \$8.1 million, related to service contracts and insurance premiums, as of January 3, 2021 and December 29, 2019, respectively.

Property and Equipment, net

Property and equipment are recorded at cost. Depreciation of property and equipment is provided using the straight-line method over the estimated useful lives of the respective assets.

The lives used in computing depreciation are as follows:

Buildings	20 to 35 years
Machinery and equipment	3 to 15 years
Computer software	2 to 7 years

Leasehold improvements are amortized over the shorter of the estimated useful life of the asset or the lease term.

The Company assesses long-lived fixed asset groups for potential impairment whenever events or changes in circumstances indicate that their carrying amount may not be recoverable. If the carrying amount of the assets exceeds the sum of the undiscounted cash flows, the Company records an impairment charge in an amount equal to the excess of the carrying value of the assets over their estimated fair value.

Impairment charges related to the Company's long-lived assets were \$0.3 million, \$0.5 million and \$2.3 million for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively. Such charges related to underperforming shops, including refranchised shops, shops closed or likely to be closed and shops which management believes will not generate sufficient future cash flows to enable the Company to recover the carrying value of the shops' assets, but which management has not yet decided to close. The impaired shop assets include real properties, the fair values of which were estimated based on independent appraisals or, in the case of any properties which the Company is negotiating to sell, based on its negotiations with unrelated third-party buyers; leasehold improvements, which are typically abandoned when the leased properties revert to the lessor; and doughnut-making and other equipment the fair values of which were estimated based on the replacement cost of the equipment, after considering refurbishment and transportation costs. The impairment charges are included within Other operating expenses on the Consolidated Statements of Operations.

Leases

Effective December 31, 2018, the first day of fiscal year 2019, the Company implemented Accounting Standards Update ("ASU") 2016-02 ("the new standard"), *Leases*, which amended authoritative guidance on leases and is codified in ASC 842, *Leases*. The amended guidance requires lessees to recognize most leases on their balance sheets as right-of-use assets along with corresponding lease liabilities. The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification determines whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease. The new standard also requires increased disclosures to help financial statement users better understand the amount, timing and uncertainty of cash flows arising from leases. The FASB's authoritative guidance provides companies with the option to apply this ASU to new and existing leases within the scope of the guidance as of the beginning of the period of adoption. The Company elected this transition method of applying the new lease standard and has recognized right-of-use assets, lease liabilities and any cumulative-effect adjustments to the opening balance of retained earnings as of December 31, 2018. Prior period amounts were not adjusted and will continue to be reported under the accounting standards in effect for those periods.

The adoption of the new standard had a material impact to the balance sheet due to the capitalization of right-of-use assets and lease liabilities associated with the current operating leases in which the Company is the lessee. The adoption of the new standard resulted in the recording of additional lease assets and lease liabilities (net of prior period reported capital leases) of \$280.0 million and \$291.0 million at the date of adoption, respectively. The adoption of the new standard had a material impact on the Consolidated Statements of Changes in Shareholders' Equity due to the recognition of a deferred gain on a sale-leaseback transaction completed in March 2018 and the recognition of a previously unrecognized portion of an impairment to a right-of-use asset at the date of adoption. There was also a \$4.1 million deferred tax benefit in the Consolidated Statements of Changes in Shareholders' Equity as a result of the adoption. The adoption of the new standard did not have a material impact on the Consolidated Statements of Operations nor the Consolidated Statements of Cash Flows.

The cumulative effect of the changes made to the Company's Consolidated Balance Sheets as of December 31, 2018 for the adoption of ASC 842 was as follows:

Account	<u>December 30, 2018 (as reported)</u>	<u>ASC 842 Adjustments</u>	<u>December 31, 2018 (as adjusted)</u>
Operating lease right of use asset, net	\$ —	\$270,170	\$270,170
Property and equipment, net	227,102	10,085	237,187
Other intangible assets, net	920,265	(7,305)	912,960
Current portion of long-term debt	38,126	1,168	39,294
Current operating lease liabilities	—	24,088	24,088
Accrued liabilities	82,281	(2,967)	79,314
Noncurrent operating lease liabilities	—	258,152	258,152
Long-term debt, less current portion	592,684	7,152	599,836
Other long-term obligations and deferred credits	76,576	(54,378)	22,198
Deferred income taxes, net	128,360	8,257	136,617
Noncontrolling interest	131,265	1,711	132,976
Retained (deficit) earnings	\$(67,609)	\$ 29,767	\$(37,842)

Upon the adoption of the new standard on December 31, 2018, the Company elected the package of practical expedients provided under the guidance. The practical expedient package applies to leases commenced prior to the adoption of the new standard and permits companies not to reassess whether existing or expired contracts are or contain a lease, the lease classification and any initial direct costs for any existing leases. The Company has elected to not separate the lease and non-lease components within the contract. Therefore, all fixed payments associated with the lease are included in the right-of-use asset and the lease liability. These costs often relate to the payments for a proportionate share of real estate taxes, insurance, common area maintenance and other operating costs in addition to a base rent. Any variable payments related to the lease are recorded as lease expense when and as incurred. The Company has elected this practical expedient for its real estate, vehicles and equipment leases. The Company did not elect the hindsight practical expedient. The Company has elected the short-term lease expedient. A short-term lease is a lease that, as of the commencement date, has a lease term of 12 months or less and does not include an option to purchase the underlying asset that the lessee is reasonably certain to exercise. For such leases, the Company will not apply the recognition requirements of Topic 842 and instead will recognize the lease payments as lease cost on a straight-line basis over the lease term. Additionally, the Company elected the practical expedient under ASU No. 2018-01, which allows an entity to not reassess whether any existing land easements are or contain leases.

Lease termination costs represent the estimated fair value of liabilities related to unexpired leases, after reduction by the amount of accrued rent expense, if any, related to the leases, and are recorded when the lease contracts are terminated or, if earlier, the date on which the Company ceases use of the leased property. The fair values of these liabilities were estimated as the excess, if any, of the contractual payments required under the unexpired leases over the current market lease rates for the properties, discounted at a credit-adjusted risk-free rate over the remaining term of the leases. The provision for lease termination costs also includes adjustments to liabilities recorded in prior periods arising from changes in estimated sublease rentals and from settlements with landlords.

Goodwill and Other Intangible Assets

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business combination. For each reporting unit, the Company assesses goodwill for impairment annually at the beginning of the fourth quarter or more frequently when impairment indicators are present. If the carrying value of the reporting unit exceeds its fair value, the Company recognizes an impairment charge for the difference up to the carrying value of the allocated goodwill. The value is estimated under a discounted cash flow approach,

which incorporates assumptions regarding future growth rates, terminal values and discount rates. For the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, there were no goodwill impairment charges.

In fiscal year 2019, the Company changed the date of the annual impairment test from December 1 to the beginning of the fourth quarter. There has not been a lapse of more than 12 months between assessment dates and the change was not made with the intent of accelerating or delaying an impairment charge.

Other intangible assets primarily represent the trade names for the Company's brands, franchise agreements (domestic and international), reacquired franchise rights, customer relationships and non-competition agreements. The trade names have been assigned an indefinite useful life and are reviewed annually for impairment. All other intangible assets are amortized on a straight-line basis over their estimated useful lives. Definite-lived intangible assets are assessed for impairment whenever triggering events or indicators of potential impairment occur. The Company did not have any impairment charges of other intangible assets during any of the periods presented.

Accrued Liabilities

Accrued liabilities include accrued compensation, accrued legal fees, accrued utilities, accrued marketing and other accrued liabilities. As of January 3, 2021 and December 29, 2019, accrued compensation and benefits included in the Accrued liabilities balance was \$34.1 million and \$22.0 million, respectively.

Supply Chain Financing Program

The Company has undertaken broad efforts to improve its working capital, in part by negotiating longer payment terms with vendors. The Company has an agreement with a third-party administrator which allows participating suppliers to track payments from the Company, and if voluntarily elected by the supplier, to sell payment obligations from the Company to financial institutions (the "Supply Chain Financing Program" or the "SCF Program"). When participating suppliers elect to sell one or more of the Company's payment obligations, the rights and obligations of the Company to settle its payables on their contractual due date are not impacted. The Company has no economic or commercial interest in a supplier's decision to enter into these agreements and the financial institutions do not provide incentives such as rebates or profit sharing to the Company under the SCF Program. The Company and suppliers agree on commercial terms for the goods and services procured, which are consistent with payment terms observed at other peer companies in the industry. The Company's obligations to its suppliers, including amounts due, are not impacted by the SCF Program and thus remain classified as trade payables.

Cards Program

The Company utilizes various purchase cards issued by financial institutions to facilitate purchases of goods and services. By using the cards, the Company receives rebates and differing levels of discounts based on timing of repayment. The payment obligations under these purchased cards are classified as Structured payables on the Consolidated Balance Sheets and constitute the entire Structured payables' balance. The associated cash flows are included in the financing section of the Consolidated Statements of Cash Flows.

Share-based Compensation

The Company measures and recognizes compensation expense for share-based payment awards based on the fair value of each award at its grant date and recognizes expense over the related service period on a straight-line basis necessary for each award to vest. The Company accounts for forfeitures of share-based compensation awards as they occur. Compensation expense is included in Selling, general and administrative expenses in the Consolidated Statements of Operations.

Fair Value

The accounting standards for fair value measurements define fair value as the price that would be received for an asset or paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants at the measurement date. The accounting standards for fair value measurements establish a three-level fair value hierarchy that prioritizes the inputs used to measure fair value. This hierarchy requires entities to maximize the use of observable inputs and minimize the use of unobservable inputs. The three levels of inputs used to measure fair value are as follows:

- Level 1—Quoted prices in active markets that are accessible as of the measurement date for identical assets or liabilities.
- Level 2—Observable inputs other than quoted prices included within Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.
- Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value measurement of the assets or liabilities. These include certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

The Company's financial instruments not measured at fair value on a recurring basis include cash and cash equivalents, receivables, accounts payable and accrued liabilities and are reflected in the Consolidated Financial Statements at cost which approximates fair value for these items due to their short-term nature. Management believes the fair value determination of these short-term financial instruments is a Level 1 measure. The Company's other assets and liabilities measured at fair value on a non-recurring basis include long-lived assets, right-of-use assets, goodwill and other indefinite-life intangible assets, if determined to be impaired. Refer to Property and Equipment, net policy section in Note 1 to the Consolidated Financial Statements, for information about impairment charges on long-lived assets. The fair values of assets evaluated for impairment were determined using an income-based approach and are classified as Level 3 measures within the fair value hierarchy.

Derivative Financial Instruments and Derivative Commodity Instruments

Management reflects derivative financial instruments, which typically consist of interest rate derivatives, foreign currency derivatives and fuel commodity derivatives in the Consolidated Balance Sheets at their fair value. Prior to April 30, 2018, changes in the fair value of the interest rate derivatives were reflected in income as the Company did not apply hedge accounting to those derivatives. For interest rate derivatives entered subsequent to April 30, 2018, changes in the fair value of the interest rate derivatives are reflected in other comprehensive income as the Company applies cash flow hedge accounting to those derivatives. Consistent with the classification of interest paid, cash flows from interest rate derivatives are classified as operating on the Consolidated Statements of Cash Flows. The changes in the fair values of the foreign currency and fuel commodity derivatives are reflected in income as the Company does not apply hedge accounting to those derivatives.

Self-Insurance Risks and Receivables from Insurers

The Company is subject to workers' compensation, vehicle and general liability claims. The Company is self-insured for the cost of workers' compensation, vehicle and general liability claims up to the amount of stop-loss insurance coverage purchased by the Company from commercial insurance carriers. The Company maintains accruals for the estimated cost of claims, without regard to the effects of stop-loss coverage, using actuarial methods which evaluate known open and incurred but not reported claims and consider historical loss development experience. As of January 3, 2021 and December 29, 2019, the Company had approximately \$14.4 million and \$11.2 million, respectively, reserved for such programs. The liability recorded for assessments has

not been discounted. In addition, the Company records receivables from the insurance carriers for claims amounts estimated to be recovered under the stop-loss insurance policies when these amounts are estimable and probable of collection. The Company estimates such stop-loss receivables using the same actuarial methods used to establish the related claims accruals, and taking into account the amount of risk transferred to the carriers under the stop-loss policies. The stop-loss policies provide coverage for claims in excess of retained self-insurance risks, which are determined on a claim-by-claim basis. Inclusive of the receivables from the stop-loss insurance policies, the Company's limited liability balance was \$7.7 million and \$7.1 million as of January 3, 2021 and December 29, 2019, respectively.

Preferred Stock

The Company has 1,000 shares of authorized preferred stock with one cent par value per share. There were no shares of preferred stock issued or outstanding as of January 3, 2021 and December 29, 2019.

Earnings (Loss) per Share (EPS)

The Company discloses two calculations of earnings (loss) per share ("EPS"): basic EPS and diluted EPS. The numerator in calculating common stock basic and diluted EPS is net income (loss) attributable to the Company. The denominator in calculating common stock basic EPS is the weighted average shares outstanding. The denominator in calculating common stock diluted EPS includes the additional dilutive effect of unvested restricted stock units ("RSUs") when the effect is not antidilutive. Refer to Note 17, Net Loss per Share, to the Consolidated Financial Statements for further discussion.

Recent Accounting Pronouncements

Recently Adopted

Accounting Standards Adopted at the Beginning of Fiscal Year 2020

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. This ASU enables financial statement users to obtain more decision-useful information about the expected credit losses on financial instruments and other commitments to extend credit held by a reporting entity as of each reporting date. This ASU replaces the incurred loss impairment methodology in current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. It is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. The adoption of this standards did not materially impact the financial statements presented herein.

Accounting Standards Adopted at the Beginning of Fiscal Year 2019

In February 2018, the FASB issued ASU 2018-02, *Income Statement—Reporting Comprehensive Income (Topic 220): Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income*. The guidance permits entities to reclassify the stranded income tax effects resulting from the Tax Cuts and Jobs Act, enacted in December 2017, ("Tax Act") from accumulated other comprehensive income to retained earnings. The guidance is effective for fiscal years beginning after December 15, 2018 and interim periods within those fiscal years. The guidance may be applied in the period of adoption or retrospectively to each period in which the effect of the change related to the Tax Act was recognized. The adoption of this standard did not have a material impact on the Company's financial statements.

In January 2017, the FASB issued ASU 2017-04, *Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. ASU 2017-04 simplifies the measurement of goodwill by eliminating the requirement to calculate the implied fair value of goodwill (step 2 of the current impairment test) to measure the goodwill impairment charge. Instead, entities will record impairment charges based on the excess of a

reporting unit's carrying amount over its fair value. It is effective for annual and interim periods beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment test performed with a measurement date after January 1, 2017. The adoption of this standard did not have a material impact on the Company's financial statements.

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*, which supersedes the existing lease guidance under current U.S. GAAP. ASU 2016-02 is based on the principle that entities should recognize assets and liabilities arising from leases. Under the new standard, a lessee will recognize on its balance sheet a lease liability and a right-of-use ("ROU") asset for all leases, including operating leases, with a term greater than 12 months. The new standard will also distinguish leases as either finance leases or operating leases. This distinction will affect how leases are measured and presented in the income statement and statement of cash flows. The new standard is effective for fiscal years beginning after December 15, 2018, and interim periods within those annual periods. Early adoption is permitted. Upon adoption, lessees and lessors are required to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach. Refer to the Leases policy section in Note 1 to the Consolidated Financial Statements for more information about the Company's adoption of this standard.

Accounting Standards Adopted at the Beginning of Fiscal Year 2018

In August 2018, the FASB issued ASU 2018-15, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*. This ASU aligns the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software (and hosting arrangements that include an internal-use software license). For privately held companies, ASU 2018-15 is effective for annual reporting periods beginning after December 15, 2020, and interim periods within annual periods beginning after December 15, 2021. Early adoption is permitted. The Company adopted the guidance in ASU 2018-15 as of the beginning of fiscal year 2018 and applies the new guidance prospectively to costs incurred in fiscal year 2018 and thereafter. In fiscal year 2018, the Company capitalized \$3.0 million of cloud-based software costs, of which \$0.5 million has been amortized as of the end of the fiscal year.

In August 2017, the FASB issued ASU 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities*. This ASU amends and simplifies the hedge accounting model in ASC 815, *Derivatives and Hedging*. The ASU enables entities to better portray the economics of their risk management activities in the financial statements and enhance the transparency and understandability of hedge results. The guidance requires the presentation of all items that affect earnings in the same income statement line as the hedged item and is effective for fiscal years beginning after December 15, 2018 and interim periods within those fiscal years with early adoption permitted. The adoption of this standard did not materially impact the financial statements presented herein.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations (Topic 805): Clarifying the Definition of a Business*. This ASU changes the definition of a business to assist companies in evaluating when a set of transferred assets and activities constitutes a business. The guidance is effective for annual periods beginning after December 15, 2017, including interim periods within those periods. The adoption of this standard did not have a material impact on the Company's financial statements.

In October 2016, the FASB issued ASU 2016-16, *Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory*. This ASU is intended to improve the accounting for the income tax consequences of intra-entity transfers of assets other than inventory. The updated guidance indicates that an entity should recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs instead of when the asset has been sold to an outside party. The updated guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years, and early

adoption is permitted. The amendments are to be applied on a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of the adoption. The adoption of this standard did not have a material impact on the Company's financial statements.

In August 2016, the FASB issued ASU 2016-15, *Statement of Cash Flows (Topic 231): Classification of Certain Cash Receipts and Cash Payments*, which provides guidance on eight specific cash flow classification issues. ASU 2016-15 is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. Early adoption is permitted. Under ASU 2016-15, contingent consideration payments that were made to the seller related to the Company acquisition of KK Australia were classified as cash outflows for financing and operating activities, because they were not made "soon after" the acquisition.

In November 2016, the FASB issued ASU 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash*. This ASU requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents and amounts generally described as restricted cash. As a result, restricted cash should be included with cash and cash equivalents in the beginning-of-period and end-of-period amounts shown on the statement of cash flows. The new standard also requires companies to disclose the nature of the restriction on restricted cash. The Company adopted the new standard in fiscal year 2018 and revised the prior period in accordance with this ASU.

In March 2016, the FASB issued ASU 2016-09, *Compensation – Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting*. This ASU is intended to simplify several aspects of accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities and classification on the statement of cash flows. The updated guidance is effective for annual reporting periods beginning after December 15, 2017. The Company adopted the new standard at the beginning of fiscal year 2018. The adoption of this standard did not materially impact the financial statements presented herein.

In January 2016, the FASB issued ASU 2016-01, *Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities*, which addresses certain aspects of recognition, measurement, presentation and disclosure of financial instruments. The guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The Company adopted this guidance at the beginning of fiscal year 2018. The adoption of this guidance did not materially impact the financial statements presented herein.

In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)*, as amended, which provides for a single five-step model to be applied to all revenue from contracts with customers. The guidance also requires improved disclosures to help users of the financial statements better understand the nature, amount, timing and uncertainty of revenue that is recognized. The standard allows for either a full retrospective or modified retrospective transition method. In April 2016, the FASB issued ASU 2016-08 to clarify the implementation of ASU 2014-09. The guidance in ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2018, and interim reporting periods within annual reporting periods beginning after December 15, 2019. Early adoption is permitted beginning after December 15, 2016, including interim reporting periods within that reporting period. The Company adopted the standard for its fiscal year 2018. The Company applied the modified retrospective method of adoption, recording the cumulative effect of applying the new standard to its retained earnings as of January 1, 2018, without restatement of prior periods. Refer to Note 16, Revenue Recognition, to the Consolidated Financial Statements for more information about the Company's adoption of this standard.

Not Yet Adopted

In March 2020, the FASB issued ASU 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides companies with optional guidance to

ease the potential accounting burden associated with transitioning away from reference rates that are expected to be discontinued. It is effective for all entities as of March 12, 2020 through December 31, 2022. A company may elect to apply the amendments for contract modifications by as of any date from the beginning of an interim period that includes or is subsequent to March 12, 2020, or prospectively from a date within an interim period that includes or is subsequent to March 12, 2020, up to the date that the financial statements are available to be issued. The Company is currently evaluating the effect of the new guidance on its Consolidated Financial Statements and related disclosures.

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740) Simplifying the Accounting for Income Taxes*. ASU 2019-12 simplifies the accounting for income taxes by removing certain exceptions in Topic 740 and clarifying and amending existing guidance. It is effective for annual and interim periods beginning after December 15, 2020, and interim periods within those fiscal years. Early adoption is permitted. There are several adoption methods for different amendments in this ASU, including retrospective method for amendments related to separate financial statements of legal entities that are not subject to tax, modified retrospective method for amendments related to changes in ownership of foreign equity method investments or subsidiaries, either retrospective or modified retrospective method for amendments related to franchise taxes that are partially based on income and prospective method for all other amendments. The Company is currently evaluating the impact of adoption to the financial statements and expect the adoption will not have a material impact on the Company's financial statements.

There are other new accounting pronouncements issued by the FASB that the Company has adopted or will adopt, as applicable, and the Company does not believe any of these accounting pronouncements have had, or will have, a material impact on its Consolidated Financial Statements or disclosures.

Note 2—Acquisitions

The Company strategically acquires companies in order to increase its footprint and sell products that diversify its existing offerings. These acquisitions are accounted for as business combinations using the acquisition method, whereby the purchase price is allocated to the assets acquired and liabilities assumed, based on their estimated fair values as of the date of the acquisition.

Transaction-related expenses as a result of these acquisitions, which exclude costs incurred to integrate the acquired entities, were recorded within Operating income in the Statements of Operations (primarily Selling, general and administrative expenses) during the fiscal year such costs were incurred.

Goodwill recognized for these acquisitions represents the intangible assets that do not qualify for separate recognition and primarily includes the acquired customer base, the acquired workforce including shop partners in the region that have strong relationships with these customers and the existing geographic retail and online presence.

2020 Acquisitions

Acquisition of KK Japan

On December 8, 2020, the Company acquired all equity interests in Krispy Kreme Doughnut Japan Co., Ltd. ("KK Japan"). KK Japan holds the franchise and development rights of the Krispy Kreme brand for the territory of Japan. KK Japan manufactures and distributes doughnuts through 44 shops and through wholesale channels.

Acquisition-date fair value of consideration transferred was \$3.8 million, consisting of settlement of pre-existing relationships, including the write-off of deferred revenue of (\$0.1) million and the disposal of the franchise intangible asset related to the KK Japan franchisee recorded by the Company in connection with the acquisition by JAB Holding Company ("the Merger"). The net book value of the franchise intangible asset was \$3.9 million as of the date of the acquisition of KK Japan.

The Company calculated an excess of estimated fair values of net assets acquired over the acquisition consideration paid, resulting in a bargain purchase gain of \$0.7 million. The bargain purchase gain, which is primarily the result of favorable purchase terms due to KK Japan's historical net losses from operations, was recorded within Other income in the Statements of Operations for the fiscal year 2020.

Acquisition of Other Krispy Kreme Shops in 2020

In 2020, the Company acquired the business and operating assets of an additional eight franchisees, collectively consisting of 51 Krispy Kreme shops in the United States. The Company paid total consideration of \$89.9 million, consisting of \$80.4 million cash and \$9.5 million settlement of amounts related to pre-existing relationships, to acquire substantially all of the shops' assets. The settlement of pre-existing relationships included in the purchase consideration includes the write-off of accounts and notes receivable, net of deferred revenue, of \$2.6 million. It also includes the disposal of the franchise intangible asset related to the eight franchisees recorded by the Company at the time of the Merger. The net book value of the franchise intangible asset was a cumulative \$6.9 million as of the dates of acquisition of the franchisees.

The following table summarizes the preliminary fair values of assets acquired and liabilities assumed as of the date of acquisition for the 2020 acquisitions as well as the acquired businesses' impact on consolidated results in the year of acquisition.

	<u>KK Japan</u>	<u>Other KK Shops</u>	<u>Total Purchase Price Allocation for Acquisitions</u>
<u>Assets acquired:</u>			
Cash, cash equivalents and restricted cash	\$ 5,340	\$ 112	\$ 5,452
Marketable securities	—	—	—
Receivables	3,322	—	3,322
Inventory	354	779	1,133
Other current assets	469	23	492
Property and equipment	1,029	16,585	17,614
Other intangible assets	—	48,011	48,011
Operating lease right of use asset	12,260	38,096	50,356
Other assets	3,975	3,781	7,756
Total identified assets acquired	26,749	107,387	134,136
<u>Liabilities assumed:</u>			
Accounts payable	(2,522)	—	(2,522)
Accrued liabilities	(3,049)	(1,656)	(4,705)
Current operating lease liabilities	(4,430)	(2,968)	(7,398)
Noncurrent operating lease liabilities	(7,861)	(35,128)	(42,989)
Deferred income taxes, net	(1,966)	—	(1,966)
Other long-term obligations and deferred credits	(2,468)	—	(2,468)
Total liabilities assumed	(22,296)	(39,752)	(62,048)
Goodwill	—	22,329	22,329
Noncontrolling interest	—	—	—
Bargain purchase gain	(688)	—	(688)
Purchase consideration, net	\$ 3,765	\$ 89,964	\$ 93,729
Transaction costs (approx.)	\$ 3,192	\$ 4,636	\$ 7,828
Reportable segment(s)	Market Development	US and Canada	

The results of operations of the aforementioned acquired shops were consolidated by the Company from the date of acquisition and include \$38.5 million of total revenue and \$0.3 million of net income attributable to the Company for fiscal year 2020. The amounts do not reflect adjustments for franchise royalties and related expenses that the Company could have generated as revenue and expenses from the acquired franchisees during the fiscal year had the transaction not been completed.

2019 Acquisitions

Acquisition of KK Mexico

On November 19, 2019, the Company acquired all equity interests in KK Mexico. KK Mexico holds the franchise and development rights of the Krispy Kreme brand for the territory of Mexico. KK Mexico manufactures and distributes doughnuts through 231 shops and through wholesale channels. Acquisition-date fair value of consideration transferred was \$76.8 million, consisting of cash of \$70.4 million, fair value of contingent consideration of \$14.0 million and settlement of pre-existing relationships (net of debt pushed down) of (\$7.6) million.

The purchase agreement for KK Mexico included potential earnout payments of up to \$12.5 million based on EBITDA results for the fiscal year 2019 and up to \$12.5 million for revenue results for the fiscal year 2020. The Company included the fair value of these contingent payments in the purchase consideration. Based on the EBITDA results for fiscal year 2019, the Company paid the full \$12.5 million of contingent consideration related to the fiscal year 2019, which was included as a cash outflow from investing activities in the Company's Consolidated Statements of Cash Flows for the fiscal year 2019. Based on the revenue results for the fiscal year 2020, the Company made no earnout payment related to this fiscal year and recognized a gain of \$1.5 million in its Consolidated Statements of Operations for the fiscal year 2020.

The settlement of pre-existing relationships included in the purchase consideration includes the write-off of deferred revenue of (\$0.5) million and the establishment of push-down debt of (\$10.7) million. It also includes the disposal of the franchise intangible asset related to the KK Mexico franchisee recorded by the Company at the time of the Merger. The net book value of the franchise intangible asset was \$3.6 million as of the date of the acquisition of KK Mexico.

Other intangible assets consist of reacquired franchise rights with an estimated useful life equal to the weighted average remaining franchise agreement term. None of the goodwill nor the reacquired franchise rights are deductible as goodwill for income tax purposes.

Within the measurement period, there were cumulative adjustments to goodwill of \$1.2 million related to valuation adjustments on accounts receivable, property and equipment, operating lease right of use assets, other assets, accounts payable and deferred income taxes, net.

Acquisition of WKS Krispy Kreme

On November 18, 2019, the Company entered into a joint venture with W.K.S. Holdings Corporation ("WKS Holdings") whereby the Company holds a 55% membership interest in WKS Krispy Kreme and WKS Holdings holds the remaining 45% membership interest. The Company paid total consideration of \$19.6 million to acquire the interest in the joint venture, consisting of cash of \$46.2 million, fair value of contingent consideration of \$0.5 million and settlement of pre-existing relationships (net of debt pushed down) of (\$27.1) million. WKS Holdings, a Krispy Kreme franchisee formerly operating under the name Hot Glaze Enchantment, contributed the assets of 30 Krispy Kreme shops in various states in the Western U.S. to the joint venture.

The contingent consideration arrangement required the Company to pay Hot Glaze Enchantment based on the fluctuation in fair value of rental payments associated with a Krispy Kreme shop in Layton, UT whereupon

lease renegotiation was ongoing as of the acquisition date. The payment was to be on or before the earlier of (a.) April 30, 2021 or (b.) within 30 days following execution of the new lease agreement. Based on the results of the lease renegotiation a payment of \$0.5 million was made to Hot Glaze Enchantment in 2020 to settle the contingent consideration liability. The Company has not recognized any expense associated with this contingent consideration in its Consolidated Statements of Operations for the fiscal year 2020.

The settlement of pre-existing relationships included in the purchase consideration includes the write-off of accounts and notes receivable, net of deferred revenue, of (\$0.1) million and the establishment of push-down debt of (\$33.0) million. It also includes the disposal of the franchise intangible asset related to the Westward Dough, LLC (which contributed six shops into the WKS Krispy Kreme joint venture) and Hot Glaze Enchantment franchisees recorded by the Company at the time of the Merger. The net book value of the franchise intangible asset was \$6.0 million as of the date of acquisition of WKS Krispy Kreme.

Other intangible assets consist of reacquired franchise rights with an estimated useful life equal to the weighted average remaining franchise agreement term. A total of \$49.2 million of goodwill and reacquired franchise rights are expected to be deductible as goodwill for U.S. income tax purposes.

The fair value of the 45% noncontrolling interest in WKS Krispy Kreme was estimated to be \$16.0 million. The fair value estimate was based on a total value of the equity in WKS Krispy Kreme derived from the consideration paid by the Company for its equity interests.

Within the measurement period, there were cumulative adjustments to goodwill of \$1.1 million related to valuation adjustments on property and equipment, other intangible assets and accounts payable.

Acquisition of Other Krispy Kreme Shops in 2019

In 2019, the Company acquired the business and operating assets of an additional three franchisees, collectively consisting of 22 Krispy Kreme shops in the United States. The Company paid total consideration of \$26.6 million, consisting of \$23.2 million cash and \$3.4 million settlement of amounts related to pre-existing relationships, to acquire substantially all of the shops' assets. The settlement of pre-existing relationships included in the purchase consideration includes the write-off of accounts and notes receivable, net of deferred revenue, of \$0.2 million. It also includes the disposal of the franchise intangible asset related to the three franchisees recorded by the Company as of the time of the Merger. The net book value of the franchise intangible asset was a cumulative \$3.2 million at the dates of acquisition of the franchisees.

Within the measurement period, there was an adjustment to goodwill of \$0.1 million related to an adjustment to accrued liabilities.

The following table summarizes the fair values of the assets acquired and liabilities assumed as of the date of acquisition for the 2019 acquisitions as well as the acquired businesses' impact on consolidated results in the year of acquisition. This table incorporates certain measurement period adjustments during the fiscal year 2019.

	KK Mexico	WKS	Other KK Shops	Total Purchase Price Allocation for Acquisitions
<u>Assets acquired:</u>				
Cash, cash equivalents and restricted cash	\$ 856	\$ 2,356	\$ 44	\$ 3,256
Marketable securities	1	19	—	20
Receivables	4,242	115	334	4,691
Inventory	1,470	566	171	2,207
Other current assets	412	237	83	732
Property and equipment	14,383	19,213	5,758	39,354
Other intangible assets	52,779	26,400	16,049	95,228
Operating lease right of use asset	6,723	42,208	11,397	60,328
Other assets	1,649	51	559	2,259
Total identified assets acquired	82,515	91,165	34,395	208,075
<u>Liabilities assumed:</u>				
Accounts payable	(6,002)	(1,702)	(565)	(8,269)
Accrued liabilities	(5,564)	(6,370)	(2,167)	(14,101)
Note payable	(10,706)	(33,000)	—	(43,706)
Noncurrent operating lease liabilities	(2,846)	(38,121)	(9,726)	(50,693)
Deferred income taxes, net	(16,576)	—	—	(16,576)
Other long-term obligations and deferred credits	(271)	—	(950)	(1,221)
Total liabilities assumed	(41,965)	(79,193)	(13,408)	(134,566)
Goodwill	36,223	23,606	5,625	65,454
Noncontrolling interest	—	(16,010)	—	(16,010)
Purchase consideration, net	\$ 76,773	\$ 19,568	\$ 26,612	\$ 122,953
Transaction costs in 2020 (approx.)	\$ 1,734	\$ 540	\$ 114	\$ 2,388
Transaction costs in 2019 (approx.)	7,447	3,053	2,336	12,836
Total transaction costs (approx.)	\$ 9,181	\$ 3,593	\$ 2,450	\$ 15,224
Reportable segment(s)	International	US and Canada	US and Canada	

The results of operations of the aforementioned acquired shops were consolidated by the Company from the date of acquisition and include \$31.7 million of total revenue and \$3.7 million of net income attributable to the Company for fiscal year 2019. The amounts do not reflect adjustments for franchise royalties and related expenses that the Company could have generated as revenue and expenses from the acquired franchisees during the fiscal year had the transaction not been completed.

2018 Acquisitions

Acquisition of KK Australia

On March 18, 2018, the Company acquired all equity interests in KK Australia. KK Australia holds the franchise and development rights of the Krispy Kreme brand for the majority of the territory of Australia and all of New Zealand. KK Australia manufactures and distributes doughnuts through 29 shops and through wholesale channels. Acquisition-date fair value of consideration transferred was \$123.0 million, consisting of cash of \$118.3 million and fair value of contingent consideration of \$4.7 million.

The contingent consideration arrangement required the Company to pay the seller if EBITDA of KK Australia for the fiscal year 2018 exceeded a certain target. The contingent consideration was capped at 12.5 million Australian dollars, which is equivalent to \$8.8 million using the exchange rate on December 31, 2018. Based on the performance of KK Australia for the fiscal year 2018, the Company paid the full 12.5 million Australian dollars of contingent consideration. As a result, the Company recognized \$4.7 million of additional expense associated with this contingent consideration in Other non-operating (income)/expense, net in its Consolidated Statements of Operations for the fiscal year ended December 30, 2018.

The settlement of pre-existing relationships included in the purchase consideration includes the disposal of the franchise intangible asset related to the KK Australia franchisee recorded at time of the Merger. The net book value of the franchise intangible asset was \$3.8 million as of the date of acquisition of the franchisee. Disposal of the intangible asset resulted in \$3.8 million of additional goodwill.

Other intangible assets acquired consisted primarily of reacquired franchise rights with an estimated useful life equal to the weighted average remaining franchise agreement term. The goodwill of \$75.5 million is expected to be deductible for U.S. income tax purposes.

In connection with the acquisition, a former director of the seller was appointed Chief Executive Officer of KK Australia, purchased 2.60% of the shares in KK Australia and was granted restricted stock rights for an additional 1.91% of shares. Restricted stock rights will vest in full after the employment period of 4.5 years. The Company recognized compensation expense, separately from the business combination, of \$0.5 million for the restricted stock grant in Selling, general and administrative expenses for the fiscal year 2018.

Awesome Doughnut Joint Venture

On April 30, 2018, the Company entered into a joint venture with Great Circle Family Foods LLC (“Great Circle”) whereby the Company holds a 70% membership interest in Awesome Doughnut and Great Circle holds the remaining 30% membership interest. The Company paid total consideration of \$59.3 million to acquire the interest in the joint venture, consisting of \$57.4 million cash and \$1.9 million cancellation of pre-existing receivable from Great Circle. Great Circle, a Krispy Kreme franchisee, contributed substantially all assets of 17 Krispy Kreme shops in southern California to the joint venture.

The settlement of pre-existing relationships included in the purchase consideration includes the disposal of the franchise intangible asset related to the Awesome Doughnut franchisee recorded at time of the Merger. The net book value of the franchise intangible asset was \$5.1 million as of the date of acquisition of the franchisee. Disposal of the intangible asset resulted in \$5.1 million of additional goodwill.

Other intangible assets acquired consisted primarily of reacquired franchise rights with an estimated useful life equal to the weighted average remaining franchise agreement term. A total of \$72.2 million of goodwill and reacquired franchise rights are expected to be deductible as goodwill for U.S. income tax purposes.

The fair value of the 30% noncontrolling interest in Awesome Doughnut was estimated to be \$25.4 million. The fair value estimate was based on a total value of the equity in Awesome Doughnut derived from the consideration paid by the Company for its equity interests.

Acquisition of Insomnia Cookies

On September 16, 2018, the Company acquired a 74.7% interest in Insomnia Cookies for approximately \$139.5 million in cash. As of the acquisition date, Insomnia Cookies had 135 cookie shops in the United States.

Other intangible assets acquired consisted of the Insomnia Cookies brand, which has an indefinite useful life. Goodwill is expected to be deductible for U.S. income tax purposes.

The fair value of the 25.3% noncontrolling interest in Insomnia Cookies was estimated to be \$34.8 million using the income approach. As Insomnia Cookies was a private company, the fair value measurement was based on significant inputs unobservable in the market and thus represents a Level 3 measurement as defined in ASC 820, *Fair Value Measurements*. The fair value estimate was based on a total value of the equity in Insomnia Cookies derived from the consideration paid by the Company for its equity interests.

At the acquisition date, Insomnia Cookies was a party to a class action lawsuit alleging violations of minimum wage laws, overtime laws and attendant recordkeeping requirements. The estimated contingent liability for the class action lawsuit was determined to be approximately \$2.0 million as of the acquisition date. The contingent liability for the class action lawsuit was settled for \$1.5 million during 2020.

Acquisition of Other Krispy Kreme Shops in 2018

In 2018, the Company acquired the business and operating assets of five franchisees, collectively consisting of 22 Krispy Kreme shops in the United States. The Company paid total consideration of \$28.5 million, consisting of \$26.9 million cash and \$1.6 million settlement of pre-existing relationships, to acquire substantially all of the shops' assets.

The following table summarizes the fair values of the assets acquired and liabilities assumed as of the date of acquisition for the 2018 acquisitions as well as the acquired businesses' impact on consolidated results in the year of acquisition. This table incorporates certain measurement period adjustments during the fiscal year 2019, which did not have a significant impact on the Company's Consolidated Statements of Operations, balances sheets or cash flows.

	<u>KK Australia</u>	<u>Awesome Doughnut Joint Venture</u>	<u>Insomnia Cookies</u>	<u>Other KK Shops</u>	<u>Total Purchase Price Allocation for Acquisitions</u>
<u>Assets acquired:</u>					
Cash, cash equivalents and restricted					
cash	\$ 5,189	\$ 132	\$ 1,233	\$ —	\$ 6,554
Marketable securities	1,164	—	—	—	1,164
Receivables	542	27	232	—	801
Inventory	1,714	206	2,346	1,022	5,288
Other current assets	363	223	506	354	1,446
Property and equipment	28,973	12,313	22,364	10,568	74,218
Other intangible assets	29,225	53,750	104,500	15,453	202,928
Other assets	—	68	672	—	740
Total identified assets acquired	<u>67,170</u>	<u>66,719</u>	<u>131,853</u>	<u>27,397</u>	<u>293,139</u>
<u>Liabilities assumed:</u>					
Accounts payable	(3,794)	(274)	(5,866)	—	(9,934)
Accrued liabilities	(6,425)	(850)	(3,933)	—	(11,208)
Deferred income taxes, net	(6,617)	—	—	—	(6,617)
Long-term debt, less current portion			(2,692)	—	(2,692)
Other long-term obligations and deferred credits	(2,895)	(730)	—	(227)	(3,852)
Total liabilities assumed	<u>(19,731)</u>	<u>(1,854)</u>	<u>(12,491)</u>	<u>(227)</u>	<u>(34,303)</u>
Goodwill	75,529	19,904	54,851	2,315	152,599
Noncontrolling interest	—	(25,431)	(34,758)	—	(60,189)
Bargain purchase gain	—	—	—	(980)	(980)
Purchase consideration, net	<u>\$ 122,968</u>	<u>\$ 59,338</u>	<u>\$139,455</u>	<u>\$ 28,505</u>	<u>\$350,266</u>
Transaction costs in 2018 (approx.)	<u>2,841</u>	<u>1,235</u>	<u>3,952</u>	<u>865</u>	<u>8,893</u>
Reportable segment(s)	International	US and Canada	US and Canada	US and Canada	

The results of operations of the aforementioned acquired shops were consolidated by the Company from the date of acquisition and include \$153.2 million of total revenue and \$10.0 million of net income attributable to the Company for fiscal year 2018. The amounts do not reflect adjustments for franchise royalties and related expenses that the Company could have generated as revenue and expenses from the acquired franchisees during the fiscal year had the transaction not been completed.

Supplemental unaudited pro forma information

The following unaudited pro forma information presents estimated combined results of the Company as if the 2020 acquisitions had occurred on December 31, 2018, the 2019 acquisitions had occurred on January 1, 2018 and the 2018 acquisitions had occurred on January 2, 2017:

	Fiscal Years Ended		
	<u>January 3, 2021</u>	<u>December 29, 2019</u>	<u>December 30, 2018</u>
Revenue	\$1,151,041	\$1,083,747	\$975,717
Loss before income taxes	\$ (48,788)	\$ (5,989)	\$ (5,214)

The amounts in the supplemental pro forma earnings for the fiscal years presented above reflect adjustments for transaction costs, franchise royalties and related expenses, and amortization that would have been charged assuming the same fair value adjustments to acquired intangibles. The acquisitions of “Other Krispy Kreme Shops” are not material to the Company’s financial statements, and therefore, the supplemental pro forma financial information related to these acquisitions is not included herein. These supplemental pro forma results are unaudited and are not necessarily indicative of results of operations that would have occurred had the acquisitions actually closed in the prior period. The pro forma results are also not indicative of results of operations for any future period.

Note 3—Accounts Receivable, net

The components of Accounts receivable, net are as follows:

	<u>January 3, 2021</u>	<u>December 29, 2019</u>
Trade receivables, net	\$39,624	\$34,202
Other receivables, net	26,887	6,250
Receivables from related parties, net	<u>7,840</u>	<u>7,901</u>
Total Accounts receivable, net	<u>\$74,351</u>	<u>\$48,353</u>

As of January 3, 2021, Other receivables, net includes accrued income taxes receivable of \$15.9 million, value-added tax receivables of \$5.0 million and miscellaneous receivables of \$6.0 million. As of December 29, 2019, Other receivables, net includes accrued income taxed receivable of \$0.9 million, value-added tax receivables of \$2.4 million and miscellaneous receivables of \$3.0 million.

Receivables from related parties, net includes the following (refer to Note 15, Related Party Transactions, to the Consolidated Financial Statements for further information):

	<u>January 3, 2021</u>	<u>December 29, 2019</u>
Income tax receivable from related party	\$7,424	\$7,424
Receivables from equity method investee	<u>416</u>	<u>477</u>
Receivables from related parties, net . .	<u>\$7,840</u>	<u>\$7,901</u>

Note 4—Inventories

The components of Inventories are as follows:

	<u>January 3, 2021</u>	<u>December 29, 2019</u>
Raw materials	\$16,263	\$14,173
Work in progress	871	82
Finished goods and purchased merchandise . .	<u>21,385</u>	<u>8,308</u>
Total Inventories	<u>\$38,519</u>	<u>\$22,563</u>

Note 5—Property and Equipment, net

Property and equipment, net consist of the following:

	<u>January 3, 2021</u>	<u>December 29, 2019</u>
Land	\$ 13,187	\$ 13,005
Buildings	141,853	108,216
Leasehold improvements	158,145	111,456
Machinery and equipment	217,566	150,646
Computer software	34,580	21,290
Construction and projects in progress	43,769	45,819
Property and equipment, gross	609,100	450,432
Less: accumulated depreciation	(213,845)	(126,851)
Total Property and equipment, net ...	<u>\$ 395,255</u>	<u>\$ 323,581</u>

Computer software includes \$4.2 million and \$0.6 million of costs to develop, code, test and license software under hosting arrangements as of January 3, 2021 and December 29, 2019, respectively. Software under hosting arrangements consists primarily of solutions that empower the Company's customer-facing website and mobile application. Depreciation expense was \$51.5 million, \$40.0 million and \$32.1 million in the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

Note 6—Goodwill and Other Intangible Assets

6A—Goodwill

Changes in the carrying amount of goodwill by reportable segment are as follows:

	<u>US & Canada</u>	<u>International</u>	<u>Market Development</u>	<u>Total</u>
Balance as of December 30, 2018	\$484,550	\$225,122	\$270,671	\$ 980,343
Acquisitions	86,656	47,720	(71,347)	63,029
Measurement period adjustments related to 2018 acquisitions	1,580	—	—	1,580
Foreign currency impact	—	4,723	—	4,723
Balance as of December 29, 2019	572,786	277,565	199,324	1,049,675
Acquisitions	68,683	—	(46,354)	22,329
Measurement period adjustments related to 2019 acquisitions	1,235	1,190	—	2,425
Foreign currency impact	—	12,117	—	12,117
Balance as of January 3, 2021	<u>\$642,704</u>	<u>\$290,872</u>	<u>\$152,970</u>	<u>\$1,086,546</u>

Acquisitions of franchises result in a reclassification of goodwill between segments.

6B—Other intangible assets

Other intangible assets consist of the following:

	January 3, 2021			December 29, 2019		
	Gross Carrying Amount	Accumulated Amortization	Net Amount	Gross Carrying Amount	Accumulated Amortization	Net Amount
Intangible assets with indefinite lives						
Trade name	\$ 657,900	\$ —	\$657,900	\$ 657,900	\$ —	\$657,900
Intangible assets with definite lives						
Franchise agreements	36,254	(7,519)	28,735	49,582	(7,853)	41,729
Customer relationships	15,000	(3,819)	11,181	15,000	(2,954)	12,046
Reacquired franchise rights	358,095	(59,432)	298,663	305,563	(36,127)	269,436
Non-competition and non-solicitation agreements	—	—	—	100	(61)	39
Website development costs	6,500	(4,965)	1,535	6,500	(2,784)	3,716
Total intangible assets with definite lives	415,849	(75,735)	340,114	376,745	(49,779)	326,966
Total intangible assets	\$1,073,749	\$(75,735)	\$998,014	\$1,034,645	\$(49,779)	\$984,866

Amortization expense related to intangible assets included in Depreciation and amortization expense was \$26.3 million, \$21.3 million and \$17.4 million for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

Estimated future amortization expense as of January 3, 2021 is as follows:

Fiscal year	Estimated amortization expense
2021	\$ 28,246
2022	26,711
2023	26,711
2024	26,864
2025	26,711
Thereafter	204,871
Total	\$340,114

The aforementioned estimates do not reflect the impact of future foreign exchange rate changes.

Note 7—Long-Term Debt

The Company's long-term debt obligations consists of the following:

	Fiscal Years Ended	
	January 3, 2021	December 29, 2019
2019 Credit facility—term loan	\$656,250	\$700,000
2019 Credit facility—revolving credit facility	150,000	40,000
Less: Debt issuance costs	(5,419)	(7,005)
Financing obligations	<u>26,224</u>	<u>27,088</u>
Total long-term debt	827,055	760,083
Less: current portion of long-term debt	<u>(41,245)</u>	<u>(46,361)</u>
Long-term debt, less current portion	<u>\$785,810</u>	<u>\$713,722</u>

2016 & 2019 Secured Credit Facilities

The Company entered into a \$500.0 million senior secured credit facility (collectively, the “prior facility”) that provided for a term loan with a principal amount of \$350.0 million and a \$150.0 million senior secured revolving credit facility, which had the following amendments: (1) add \$65.0 million in borrowings on the term loan and \$15.0 million in borrowing capacity on the revolving credit facility (2) add \$125.0 million in borrowings on the term loan and (3) add \$50.0 million in borrowings on the term loan.

In June 2019, the Company refinanced its prior facility. This resulted in the repayment of the outstanding term loan and revolving credit facility. The Company incurred a \$1.6 million loss on extinguishment, related primarily to the write-off of debt issuance costs as part of the refinancing of the prior facility, included in Interest expense, net in the Consolidated Statements of Operations. Upon completion of this extinguishment, the Company entered into a \$1.0 billion senior secured credit facility that provided for a term loan with a principal amount of \$700.0 million and a \$300.0 million senior secured revolving credit facility (collectively, the “2019 Facility”). The 2019 Facility is secured by a first priority lien on substantially all of the Company's personal property assets, certain real properties and all of the Company's domestic wholly-owned subsidiaries. The Company capitalized \$10.9 million of debt issuance costs related to the 2019 Facility, \$8.0 million of which is related to the term loan and \$2.9 million related to the revolving credit facility.

After consideration of outstanding borrowings and letters of credit secured by the 2019 Facility, the Company had \$150.0 million and \$260.0 million of available borrowing capacity under the revolving credit facility as of January 3, 2021 and December 29, 2019, respectively.

The 2019 Facility provides for quarterly scheduled principal payments on the term loan and repayment of all outstanding balances on the term loan and revolving credit facility at maturity, June 13, 2024. Further, the Company may be required to prepay additional amounts annually upon the occurrence of a prepayment event as defined in the 2019 Facility. Because the amounts of any such future repayments are not currently determinable, they are excluded from the long-term debt maturities schedule below.

Interest on borrowings under the 2019 Facility is payable either at the London Interbank Offered Rate (“LIBOR”) rounded up to the next 1/16% of 1% or the Alternate Base Rate (which is the greatest of the prime rate, the Federal Funds rate plus 0.50%, or the one-month LIBOR rate plus 1.00%), in each case plus the Applicable Rate. The Applicable Rate for LIBOR loans ranges from 1.75% to 2.25%, and for Base Rate loans ranges from 0.75% to 1.25%, in each case depending on the Company's leverage ratio. All borrowings outstanding under the 2019 Facility as of January 3, 2021 and December 29, 2019 were LIBOR loans. The Applicable Rate was 2.00% and 2.00% for the fiscal years ended January 3, 2021 and December 29, 2019, respectively, and the LIBOR rate was 0.19 % and 1.75% for the fiscal years ended January 3, 2021 and December 29, 2019, respectively, under the 2019 Facility. As of January 3, 2021 and December 29, 2019, \$505.0

million out of the \$656.3 million term loan balance and \$455.0 million out of the \$700.0 million term loan balance, respectively, was hedged. The effective interest rate on the term loan was approximately 3.67% and 4.11% for the fiscal years ended January 3, 2021 and December 29, 2019, respectively. Refer to Note 10, Derivative Instruments, to the Consolidated Financial Statements for further discussion of the interest rate swap arrangements.

The 2019 Facility allows the Company to obtain letters of credit without applying those amounts against the usage of the senior secured revolving credit facility. The Company is required to pay a fee equal to the Applicable Rate for LIBOR-based loans on the outstanding amount of letters of credit plus a fronting fee to the issuing bank. Commitment fees on the unused portion of the senior secured revolving credit facility range from 0.25% to 0.375%, based on the Company's leverage ratio. At January 3, 2021, December 29, 2019 and December 30, 2018, the fee on the unused portion of the senior secured revolving credit facility was 0.25%, 0.25% and 0.38%, respectively, included in Interest expense in the Consolidated Statements of Operations.

Restrictions and Covenants

The 2019 Facility requires the Company to meet a maximum leverage ratio financial test. The leverage ratio is required to be not greater than 6.00 to 1.00 initially, reducing in steps throughout the term of the 2019 Facility ultimately to 5.00 to 1.00. The leverage ratio under the 2019 Facility was required to be below 5.50 to 1.00 and 6.00 to 1.00 as of January 3, 2021 and December 29, 2019, respectively and is calculated using Net Debt and Adjusted EBITDA as defined in the 2019 Facility.

The 2019 Facility also contains covenants which, among other things, generally limit (with certain exceptions): mergers, amalgamations or consolidations; the incurrence of additional indebtedness (including guarantees); the incurrence of additional liens; the sale, assignment, lease, conveyance or transfer of assets; certain investments; dividends and stock redemptions or repurchases in excess of certain amounts; transactions with affiliates; engaging in materially different lines of business; and other activities customarily restricted in such agreements. The 2019 Facility also prohibits the transfer of cash or other assets to the parent company, whether by dividend, loan or otherwise, but provides for exceptions to enable the parent company to pay taxes, directors' fees and operating expenses, as well as exceptions to permit dividends in respect of the Company's common stock and stock redemptions and repurchases, to the extent permitted by the 2019 Facility. Substantially all of the net assets of the Company's consolidated subsidiaries were restricted as of January 29, 2021. As of January 3, 2021 and December 29, 2019, the Company was in compliance with the financial and other covenants related to the 2019 Facility.

The 2019 Facility also contains customary events of default including, but not limited to, payment defaults, breaches of representations and warranties, covenant defaults, non-loan party indebtedness in excess of \$35.0 million, certain events of bankruptcy and insolvency, judgment defaults in excess of \$35.0 million and the occurrence of a change of control.

Borrowings and issuances of letters of credit under the 2019 Facility are subject to the satisfaction of usual and customary conditions, including the accuracy of representations and warranties and the absence of defaults.

The aggregate maturities of the 2019 Facility for each of the following five years by fiscal year are as follows:

<u>Fiscal year</u>	<u>Principal Amount</u>
2021	\$ 35,000
2022	35,000
2023	35,000
2024	701,250
2025	—

Cash Payments of Interest

Interest paid, inclusive of debt issuance costs, totaled \$33.5 million, \$40.1 million and \$29.9 million in the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

Financing Obligations

The Company has long-term financing obligations primarily in the form of lease obligations (related to both Company-operated and franchised restaurants). Refer to Note 8, Leases, to the Consolidated Financial Statements for additional discussion of the financing obligations.

Note 8—Leases

The Company has various lease agreements related to real estate, vehicles and equipment. Its operating leases include real estate (buildings and ground), vehicles and equipment. Operating lease right-of-use assets and operating lease liabilities are recognized based on the present value of the future lease payments over the term. The operating lease right-of-use asset also includes accrued lease expense resulting from the straight-line accounting under prior accounting methods, which is now being amortized over the remaining life of the lease.

The Company is the lessee on a number of ground leases and multiple building leases, which were classified as operating leases under ASC 840. As the Company elected the package of practical expedients, the Company was not required to reassess the classification of these existing leases and as such, these leases continue to be accounted for as operating leases. In the event the Company modifies the existing leases, or enters into new ground or building leases in the future, such leases may be classified as finance leases.

The Company's finance leases relate primarily to vehicles and equipment. The lease payments are largely fixed in nature. The Company is generally obligated for the cost of property taxes, insurance and common area maintenance relating to its leases, which are variable in nature. The Company determines the variable payments based on invoiced amounts from Lessors. The Company has elected to not apply the recognition requirements to leases of twelve months or less. These leases will be expensed on a straight-line basis, and no operating lease liability will be recorded. In March 2018, the Company entered into a sale-leaseback transaction whereby the Company disposed of fixed assets with a net book value of \$38.6 million and received proceeds of \$77.4 million, net of expenses. In October 2018, the Company entered into another sale-leaseback transaction whereby the Company disposed of fixed assets with a net book value of \$1.4 million and received proceeds of \$2.0 million, net of expenses. The gains on sale were previously deferred and were being recognized ratably over the term of 20 years for each leaseback under ASC 840. The gains on sale were recognized in the Consolidated Statements of Changes in Shareholders' Equity upon the adoption of ASC 842.

The Company included the following amounts related to operating and finance assets and liabilities within the Consolidated Balance Sheets:

		As of	
		January 3, 2021	December 29, 2019
Assets	Classification		
Operating lease	Operating lease right of use asset, net	\$399,688	\$385,153
Finance lease	Property and equipment, net	23,556	22,166
Total leased assets		<u>\$423,244</u>	<u>\$407,319</u>
Liabilities			
Current			
Operating lease	Current operating lease liabilities	\$ 45,675	\$ 46,943
Finance lease	Current portion of long-term debt	6,245	2,611
Noncurrent			
Operating lease	Noncurrent operating lease liabilities	376,099	354,876
Finance lease	Long-term debt, less current portion	19,979	24,477
Total leased liabilities		<u>\$447,998</u>	<u>\$428,907</u>

The Company has long-term contractual obligations primarily in the form of lease obligations related to Company-operated restaurants and franchised restaurants. Interest expense associated with the finance lease obligations is computed using the incremental borrowing rate at the time the lease is entered into and is based on the amount of the outstanding lease obligation.

The weighted-average remaining lease term and weighted-average discount rate for operating and finance leases were as follows:

	As of	
	<u>January 3, 2021</u>	<u>December 29, 2019</u>
Weighted average remaining lease term (in years)		
Operating lease	11.1	14.3
Finance lease	12.0	15.6
Weighted average discount rate		
Operating lease	6.94%	7.20%
Finance lease	7.13%	7.30%

Lease costs were as follows:

		For Fiscal Years Ended	
		<u>January 3, 2021</u>	<u>December 29, 2019</u>
Lease cost	Classification		
Operating lease cost	Selling, general and administrative expense	\$ 3,127	\$ 2,816
Operating lease cost	Operating expenses	70,855	45,732
Short-term lease cost	Operating expenses	2,867	1,850
Variable lease costs	Operating expenses	9,195	13,161
Sublease income	Royalties and other revenues	(506)	(480)
Finance lease cost:			
Amortization of right-of-use assets	Depreciation and amortization expense	2,587	2,469
Interest on lease liabilities	Interest expense, net	\$ 2,040	\$ 1,915

Supplemental disclosures of cash flow information related to leases were as follows:

	For Fiscal Years Ended	
	<u>January 3, 2021</u>	<u>December 29, 2019</u>
Other information		
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$78,465	\$ 59,227
Operating cash flows from finance leases	1,781	1,914
Financing cash flows from finance leases	3,694	1,290
Right-of-use assets obtained in exchange for new lease liabilities:		
Operating leases	74,979	135,163
Finance leases	\$ 7,500	\$ 5,062

A majority of the leases include options to extend the lease. If the Company is reasonably certain to exercise an option to extend a lease, the extension period is included as part of the right-of-use asset and the lease liability. Some of the leases include an option to early terminate the lease. Leases with an early termination option generally involve a termination payment. For the twelve months ending January 3, 2021 and December 29, 2019, the Company recorded lease termination costs of \$4.4 million and \$2.6 million, respectively. Correspondingly,

the right-of-use assets were reduced by \$4.4 million and \$2.6 million, respectively. For the twelve months ending December 30, 2018, lease termination costs represent the estimated fair value of liabilities related to unexpired leases, after reduction by the amount of accrued rent expense, if any, related to the leases, and are recorded when the lease contracts are terminated or, if earlier, the date on which the Company cease use of the leased property. The fair values of these liabilities were estimated as the excess, if any, of the contractual payments required under the unexpired leases over the current market lease rates for the properties, discounted at a credit-adjusted risk-free rate over the remaining term of the leases. The provision for termination costs were \$0.4 million for the twelve months ending December 30, 2018. Correspondingly, the lease termination costs were \$0.4 million for fiscal year 2018.

The Company's leases do not contain restrictions or covenants that restrict the Company from incurring other financial obligations. The Company also does not provide any residual value guarantees for the leases or have any significant leases that have yet to be commenced.

At the inception of the contract, management determines if the contract is or contains a lease. A contract is or contains a lease if it conveys the right to control the use of an identified asset for a period of time in exchange for consideration. The incremental borrowing rate ("IBR") reflects a fully secured rate based on the credit rating taking into consideration the repayment timing of the lease and any impacts due to the economic environment in which the lease operates. The estimate of the incremental borrowing rate reflects considerations such as market rates for the outstanding debt, interpolations of rates for leases with terms that differ from the outstanding debt, and market rates for debt of companies with similar credit ratings.

Future lease commitments to be paid by the Company as of January 3, 2021 were as follows:

<u>Fiscal year</u>	<u>Operating Leases</u>	<u>Finance Leases</u>
2021	\$ 73,109	\$ 4,146
2022	66,429	3,367
2023	55,984	2,778
2024	53,198	2,508
2025	48,040	2,479
Thereafter	348,283	28,467
Total lease payments	645,043	43,745
Less: interest	(223,269)	(17,521)
Present value of lease liabilities	<u>\$ 421,774</u>	<u>\$ 26,224</u>

Rent expense, net of rental income, totaled \$42.6 million for the fiscal year ended December 30, 2018 under ASC 840. Such rent expense includes rents under non-cancelable operating leases as well as sundry short-term rentals.

Note 9—Fair Value Measurements

The following table presents assets and liabilities that are measured at fair value on a recurring basis as of January 3, 2021 and December 29, 2019:

	January 3, 2021		
	Level 1	Level 2	Level 3
Assets:			
401(k) mirror plan assets	\$237	\$ —	\$—
Foreign currency derivative	—	131	—
Commodity derivatives	—	420	—
	<u>\$237</u>	<u>\$ 551</u>	<u>\$—</u>
Liabilities:			
Interest rate derivative	—	32,813	—
	<u>\$—</u>	<u>\$32,813</u>	<u>\$—</u>
	December 29, 2019		
	Level 1	Level 2	Level 3
Assets:			
401(k) mirror plan assets	\$319	\$ —	\$—
Foreign currency derivative	—	152	—
Commodity derivatives	—	153	—
	<u>\$319</u>	<u>\$ 305</u>	<u>\$—</u>
Liabilities:			
Interest rate derivative	—	13,573	—
	<u>\$—</u>	<u>\$13,573</u>	<u>\$—</u>

There were no transfers of financial assets or liabilities among the levels within the fair value hierarchy during the fiscal years ended January 3, 2021 and December 29, 2019. The Company's derivatives are valued using discounted cash flow analyses that incorporate observable market parameters, such as interest rate yield curves and currency rates.

Note 10—Derivative Instruments

The Company is exposed to certain risks relating to its ongoing business operations. Management evaluates various strategies in managing its exposure to market-based risks, such as entering into transactions to manage its exposure to commodity price risk and floating interest rates. The Company does not hold or issue derivative instruments for trading purposes. The Company is exposed to credit-related losses in the event of non-performance by the counterparties to its derivative instruments. The Company mitigates this risk of nonperformance by dealing with highly rated counterparties.

Commodity Price Risk

The Company is exposed to the effects of commodity price fluctuations in the cost of ingredients of its products, of which flour, sugar and shortening are the most significant. In order to bring greater stability to the cost of ingredients, from time to time the Company may forward contract for supply, purchases exchange-traded commodity futures contracts and options on such contracts, for raw materials which are ingredients of its products or which are components of such ingredients, including wheat and soybean oil. The Company is also exposed to the effects of commodity price fluctuations in the cost of gasoline used by its delivery vehicles. To

mitigate the risk of fluctuations in the price of its gasoline purchases, the Company may purchase swaps, exchange-traded commodity futures contracts and options on such contracts. The difference between the cost, if any, and the fair value of commodity derivatives is reflected in earnings because the Company has not designated any of these instruments as hedges. Gains and losses on these contracts are intended to offset losses and gains on the hedged transactions in an effort to reduce the earnings volatility resulting from fluctuating commodity prices. The settlement of commodity derivative contracts is reported in the Consolidated Statements of Cash Flows as a cash flow from operating activities. As of January 3, 2021 and December 29, 2019 the total notional amount of commodity derivatives was 3.0 million and 0.8 million gallons of gasoline, respectively. They were scheduled to mature between January 1, 2021 and December 1, 2022 and December 31, 2019 and December 31, 2020, respectively. As of January 3, 2021 and December 29, 2019, the Company has recorded an asset of \$0.4 and \$0.2 million, respectively, related to the fair market values of its commodity derivatives.

Interest Rate Risk

The Company is exposed to market risk from increases in interest rates on any borrowings outstanding under its Debt Facility. In November 2016, the Company entered into various interest rate swap agreements (“original interest rate swap”) with a notional amount totaling \$300.0 million that would have matured in July 2021. Under the original interest rate swap agreements, the Company made payments based on a fixed rate of 1.18% and in exchange received payments at a variable rate based on the one-month LIBOR. In April 2018, the Company novated these interest swap agreements and realized a gain of \$10.2 million, of which \$7.0 million had been unrealized as of December 31, 2017. Prior to the novation, none of the outstanding interest rate swaps had been designated as hedges. The Company recorded gains of \$3.2 million and \$1.7 million during the fiscal years ended December 30, 2018 and December 31, 2017, respectively, which were included as a component of interest expense.

In May 2018, following the novation of its original interest rate swap, the Company entered into a new interest rate swap (“May 2018 swap agreement”). The May 2018 interest rate swap agreements had a notional amount of \$300.0 million and were to mature in July 2021. Under the novated swap agreements, the Company had fixed the variable portion of the interest rate on a portion of the Debt Facility and was required to make payments based on a fixed rate of 2.70% and in exchange would receive payments at a variable rate based on the one-month LIBOR. In November 2018, the Company entered into a new interest swap agreement with an aggregate notional amount of \$155.0 million (“November 2018 swap agreements”). Under the November 2018 swap agreements, the Company made payments based on a fixed rate of 2.92% and in exchange received payments at a variable rate based on the one-month LIBOR. The November 2018 swap agreements were to mature in November 2023, corresponding with an expected extension of the Debt Facility.

In June 2019, following its debt modification (modification to the “2019 Debt Facility”), the Company effectively cancelled its swap agreements on \$300.0 million of the \$455.0 million hedged notional and entered into new agreements with the same counterparties (the “June 2019 swap agreement”). The only differences between these new agreements and the prior versions included an extension of the maturity term of the swaps from 2023 to 2024, and the locking in of a new payment rate on the fixed leg of the swaps (1.99%), through the 2024 maturity.

In February 2020, the Company effectively cancelled its swap agreements on the other \$155.0 million hedged notional and entered into new agreements with the same counterparties (the “February 2020 swap agreement”). The only differences between these new agreements and the prior versions included an extension of the maturity term of the swaps from 2023 to 2024, and the locking in of a new payment rate on the fixed leg of the swaps (2.72%), through the 2024 maturity. At the same time, the Company also entered into a new interest rate swap agreement with a notional amount of \$50.0 million and a maturity date in June 2024. Under this swap agreement, the Company had fixed the variable portion of the interest rate on a portion of the Debt Facility and was required to make payments based on a fixed rate of 0.95% and in exchange would receive payments at a variable rate based on the one-month LIBOR.

The net effect of the interest rate swap arrangements will be to fix the interest rate on the term loan under the 2019 Debt Facility up to the notional amount outstanding at the rates payable under the swap agreements plus the Applicable Rate (as defined by the 2019 Debt Facility). Management has designated the 2018, the June 2019 and the February 2020 swap agreements as cash flow hedges and recognized the changes in the fair value of these swaps in other comprehensive income. As of January 3, 2021 and December 29, 2019, the Company has recorded liabilities of \$32.8 million and \$13.6 million, respectively, related to the fair market values of its interest rate derivatives. The cash flows associated with the interest rate swaps are reflected in the operating activities in the Consolidated Statements of Cash Flows, which is consistent with the classification as operating activities of the interest payments on the term loan.

All of the interest rate swap derivatives have certain early termination triggers caused by an event of default or termination. The events of default include failure to make payments when due, failure to give notice of a termination event, failure to comply with or perform obligations under the agreements, bankruptcy or insolvency and defaults under other agreements (cross-default provisions).

Foreign Currency Exchange Rate Risk

The Company is exposed to foreign currency risk primarily from its investments in consolidated subsidiaries that operate in the United Kingdom, Ireland, Australia, New Zealand, Mexico and Japan. In order to mitigate foreign exchange fluctuations, the Company enters into foreign exchange forward contracts. Management has not designated these forward contracts as hedges. As of January 3, 2021 and December 29, 2019, the total notional amount of foreign exchange derivatives was \$26.7 million and \$13.0 million, respectively. They were scheduled to mature in January 2021 and January 2020, respectively. As of January 3, 2021 and December 29, 2019, the Company has recorded an asset of \$0.1 million and \$0.2 million, respectively, related to the fair market values of its foreign exchange derivatives.

Quantitative Summary of Derivative Positions and Their Effect on Results of Operations

The following tables present the fair values of derivative instruments included in the Consolidated Balance Sheets as of January 3, 2021 and December 29, 2019, for derivatives not designated as hedging instruments and derivatives designed as hedging instruments, respectively. The Company only has cash flow hedges that are designated as hedging instruments.

Derivatives Not Designated as Hedging Instruments	Derivatives Fair Value		Balance Sheet Location
	January 3, 2021	December 29, 2019	
Foreign currency derivatives	\$ 131	\$ 152	Prepaid expense and other current assets
Commodity derivatives	420	153	Prepaid expense and other current assets
	\$ 551	\$ 305	

Derivatives Designated as Hedging Instruments	Derivatives Fair Value		Balance Sheet Location
	January 3, 2021	December 29, 2019	
Interest rate derivatives	\$10,235	\$ 678	Accrued liabilities
Interest rate derivatives	22,578	12,895	Other long-term obligations and deferred credits
	\$32,813	\$13,573	

The effect of derivative instruments on the Consolidated Statements of Operations for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018:

Derivatives Designated as Hedging Instruments	Amount of Derivative Gain (Loss) Recognized in Income in Fiscal Years Ended			Location of Derivative Gain (Loss) Recognized in Income
	January 3, 2021	December 29, 2019	December 30, 2018	
Loss on interest rate derivatives	<u>\$(7,633)</u>	<u>\$(1,774)</u>	<u>\$(995)</u>	Interest expense, net
	<u>\$(7,633)</u>	<u>\$(1,774)</u>	<u>\$(995)</u>	

Derivatives Not Designated as Hedging Instruments	Amount of Derivative Gain (Loss) Recognized in Income in Fiscal Years Ended			Location of Derivative Gain (Loss) Recognized in Income
	January 3, 2021	December 29, 2019	December 30, 2018	
Gain on interest rate derivatives	\$—	\$ —	\$ 3,250	Interest expense, net
Loss on foreign currency	(21)	(248)	(1,727)	Other non-operating expense/ (income), net
Gain on commodity derivatives	267	153	—	Other non-operating expense/ (income), net
	<u>\$246</u>	<u>\$ (95)</u>	<u>\$ 1,523</u>	

Note 11—Employee Benefit Plans

Defined contribution plans

The Company has a 401(k) savings plan (the “401(k) Plan”) to which eligible employees may contribute up to 100% of their salary and bonus on a tax deferred basis, subject to statutory limitations. The Company currently matches 100% of the first 3% and 50% of the next 2% of compensation contributed by each employee to the 401(k) Plan.

The Company operates defined contribution plans in the UK and Republic of Ireland (“KKUK and Ireland Contribution Plans”), to which eligible employees may contribute up to 100% of their salary, subject to statutory limitations. The Company currently matches contributions at a rate of 3% of pensionable earnings. The KKUK and Ireland Contribution Plans are pension plans under which the Company pays fixed contributions into a separate entity. The Company has no legal or constructive obligations to pay further contributions if the fund does not hold sufficient assets to pay all employees the benefits relating to employee service in the current and prior periods. The Company has no further payment obligations once the contributions have been paid. The contributions are recognized as employee benefit expense when they are due. Prepaid contributions are recognized as an asset to the extent that a cash refund or a reduction in the future payments is available.

The Company’s Insomnia Cookies subsidiary sponsors a 401(k) plan (the “Insomnia Cookies Contribution Plan”) which allows all its eligible employees to elect to defer up to 100% of their annual compensation not to exceed statutory limits. The Insomnia Cookies Contribution Plan provides for discretionary matching contributions, which may not exceed 2% of the employee’s overall compensation.

KK Australia operates a defined contribution retirement benefit plan for its employees in Australia (the “Australia Plan”) and in New Zealand (the “New Zealand Plan”). The Company contributes 9.5% of employee compensation to the Australia Plan and matches employee contributions of up to 3% of compensation to the New Zealand Plan.

Total contribution plan expense for defined contribution plans is \$4.9 million, \$4.6 million and \$3.5 million for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

Other employee benefit plans

The Company has a Nonqualified Deferred Compensation Plan (the “401(k) Mirror Plan”) designed to enable officers of the Company whose contributions to the 401(k) Plan are limited by certain statutory limitations to have the same opportunity to defer compensation as is available to other employees of the Company under the qualified 401(k) savings plan. The investments are not a legally separate fund of assets and are subject to the claims of the Company’s general creditors. Such investments are included in Other assets in the Consolidated Balance Sheets. The corresponding liability to participants is included in Other long-term obligations and deferred credits in the Consolidated Balance Sheets. The balance in the asset and corresponding liability account was \$0.2 million and \$0.3 million as of January 3, 2021 and December 29, 2019, respectively.

KK Mexico operates defined benefit plans for its employees related to seniority premium (the “Mexico Seniority Premium Plan”) and termination indemnity (the “Mexico Termination Indemnity Plan”). The Mexico Seniority Premium Plan provides eligible employees a defined benefit of 12 days of salary per full year of service, and the Mexico Termination Indemnity Plan provides eligible employees a defined benefit of up to three months of base salary. Net periodic benefit cost for these plans totalled less than \$0.1 million for the fiscal years ended January 3, 2021 and December 29, 2019, respectively.

Note 12—Share-based Compensation

The Company and certain of its subsidiaries issue time-vested restricted stock units (“RSUs”) under their respective executive ownership plans and long-term incentive plans. The time-vested RSUs are awarded to eligible employees and non-employee directors and entitle the grantee to receive shares of common stock at the end of a vesting period. The RSUs vest in 54 months from the date of grant and include a minimum holding period of six months before the shareholder may redeem the shares. Throughout the vesting period and the holding period, shareholders are subject to the market risk on the value of their shares.

The U.S. employees and directors are granted RSUs held by KKHI. The U.K. employees receive RSUs held by KKUK. The Insomnia Cookies employees receive RSUs held by Insomnia. The Australia employees receive RSUs held by KK Australia. The Mexico employees receive RSUs held by KK Mexico.

RSU activity under the various plans during the fiscal years presented is as follows:

	Non-vested shares outstanding at December 30, 2018	Granted	Vested	Forfeited	Non-vested shares outstanding at December 29, 2019	Granted	Vested	Forfeited	Non-vested shares outstanding at January 3, 2021
KKHI									
RSUs	697,935	144,924	33,723	60,918	748,218	124,702	651	28,781	843,488
Weighted Average Grant Date Fair Value	\$ 53.10	75.24	50.34	51.32	\$ 57.66	92.92	56.06	62.95	\$ 62.69
KKUK									
RSUs	434,810	3,258	—	22,000	416,068	—	—	11,500	404,568
Weighted Average Grant Date Fair Value	\$ 12.36	21.33	—	12.22	\$ 12.44	—	—	12.22	\$ 12.45
Insomnia Cookies									
RSUs	19,356	16,203	809	3,791	30,959	13,688	810	14,558	29,279
Weighted Average Grant Date Fair Value	\$ 63.70	72.10	74.12	63.70	\$ 67.82	66.71	74.12	64.30	\$ 68.87
KK Australia									
RSUs	1,859,573	21,368	—	—	1,880,941	63,560	—	100,260	1,844,241
Weighted Average Grant Date Fair Value	\$ 1.47	1.61	—	—	\$ 1.47	1.67	—	1.36	\$ 1.48
KK Mexico									
RSUs	—	—	—	—	—	25,055	—	—	25,055
Weighted Average Grant Date Fair Value	\$ —	—	—	—	\$ —	29.21	—	—	\$ 29.21

The Company recorded total non-cash compensation expense related to the RSUs under the plans of \$11.6 million, \$10.7 million and \$9.4 million for fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively. The deferred tax benefits recognized were \$2.7 million, \$2.6 million and \$2.3 million for fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively.

The unrecognized compensation cost related to the unvested RSUs and the weighted-average period over which such cost is expected to be recognized are as follows:

	As of January 3, 2021	
	Unrecognized compensation cost	Recognized over a weighted- average period of
KKHI	\$22,985	1.9 years
KKUK	807	0.6 years
Insomnia Cookies	1,466	3.4 years
KK Australia	1,116	1.9 years
KK Mexico	\$ 732	4.5 years

The estimated fair value of restricted stock is calculated using a market approach (i.e. market multiple is used for the KKHI, KKUK and Insomnia Cookies' plans and an agreed-upon EBITDA buyout multiple is used for KK Australia and KK Mexico plans).

The total grant date fair values of shares vested under the KKHI plan were \$0.0 million, \$1.7 million and \$0.0 million for fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively. The total fair values of shares vested under the Insomnia Cookies' plan were \$0.1 million and \$0.1 million for fiscal years ended January 3, 2021 and December 29, 2019; no shares vested in 2018. No shares under the KKUK, KK Australia and KK Mexico vested during the three fiscal years presented.

Note 13—Income Taxes

Income (loss) before income taxes consisted of:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
United States	\$(47,080)	\$(34,836)	\$(27,067)
International	(4,748)	13,412	9,310
Total	<u>\$(51,828)</u>	<u>\$(21,424)</u>	<u>\$(17,757)</u>

The components of the provision for income taxes are as follows:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
Current:			
Federal	\$ —	\$ 2,209	\$ —
State	156	(396)	243
International	8,992	2,342	12,346
Total Current ...	<u>9,148</u>	<u>4,155</u>	<u>12,589</u>
Deferred:			
Federal	(8,844)	10,117	(11,938)
State	13,472	(743)	(3,143)
International	(4,664)	(952)	(2,826)
Total Deferred ...	<u>(36)</u>	<u>8,422</u>	<u>(17,907)</u>
Income tax expense	<u>\$ 9,112</u>	<u>\$12,577</u>	<u>\$ (5,318)</u>

A reconciliation of the statutory U.S. federal income tax rate and the Company's effective tax rate is as follows:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
Statutory Federal Rate	21.0%	21.0%	21.0%
State Income Taxes, net of federal Benefit	4.1	0.8	7.9
Foreign operations	(10.7)	6.0	(42.6)
Credit for foreign income taxes	—	6.3	42.6
Change in valuation allowance	(34.9)	(31.0)	—
Noncontrolling Interest	2.6	(3.3)	(2.0)
Impact of uncertain tax positions	(1.3)	(55.8)	(0.6)
Other permanent differences	1.3	3.0	0.5
Transaction Costs	(0.8)	(10.0)	(2.7)
Deferred Adjustments	(0.9)	(10.2)	—
Other	2.0	14.5	5.8
Effective tax rate	<u>(17.6)%</u>	<u>(58.7)%</u>	<u>29.9%</u>

The Company establishes valuation allowances for deferred income tax assets in accordance with GAAP, which provides that such valuation allowances shall be established unless realization of the income tax benefits is more likely than not.

The Company recognizes deferred income tax assets and liabilities based upon its expectation of the future tax consequences of temporary differences between the income tax and financial reporting bases of assets and liabilities. Deferred tax liabilities generally represent tax expense recognized for which payment has been deferred, or expenses which have been deducted in the Company's tax returns, but which have not yet been recognized as an expense in the financial statements. Deferred tax assets generally represent tax deductions or credits that will be reflected in future tax returns for which the Company has already recorded a tax benefit in the Consolidated Financial Statements.

The Company continues to assert permanent reinvestment with respect to its initial basis differences of international affiliates but does not assert indefinite reinvestment on the earnings of the foreign subsidiaries. Accordingly, no deferred taxes have been provided for with regard to the Company's initial basis difference in international affiliates. Due to the complexities of tax law in the respective jurisdictions, it is not practical to estimate the tax liability that might be incurred if such earnings were remitted to the US. The Company has not established a deferred tax liability for the earnings of the foreign subsidiaries as any distributions made from those jurisdictions are expected to be made in a tax neutral manner.

The tax effects of temporary differences are as follows:

	As of	
	January 3, 2021	December 29, 2019
Deferred income tax assets		
Intangible assets	\$ 1,884	\$ 2,083
Accrued compensation	3,302	2,215
Insurance accruals	2,040	2,118
Share-based compensation	7,676	5,018
Deferred revenue	1,903	1,273
Acquisition costs	1,091	299
Subsidiary investments	—	880
Disallowed interest expense	9,660	9,916
Lease liability	91,828	82,898
Foreign net operating loss carryforward	574	1,163
Foreign capital loss carryforwards	23,067	15,923
Federal net operating loss carryforward	22,976	—
Federal tax credits	12,320	9,205
State net operating loss and credit carryforwards	9,082	9,578
Unrealized gain/loss	8,203	3,889
Other	11,243	8,078
	<u>206,849</u>	<u>154,536</u>
Gross deferred income tax assets		
Valuation allowance	(40,502)	(25,852)
	<u>166,347</u>	<u>128,684</u>
Deferred income tax assets, net of valuation allowance	<u>166,347</u>	<u>128,684</u>

	As of	
	January 3, 2021	December 29, 2019
Deferred income tax liabilities		
Intangibles	(150,818)	(157,327)
Subsidiary investments	(5,359)	—
Property and equipment	(19,104)	(4,841)
Foreign reacquired franchise rights	(44,236)	(37,763)
Right of use asset	(85,764)	(80,101)
Other	(5,840)	(1,362)
Gross deferred income tax liabilities	(311,121)	(281,394)
Net deferred income tax liabilities	<u>\$(144,774)</u>	<u>\$(152,710)</u>

The presentation of deferred income taxes on the Consolidated Balance Sheets is as follows:

	As of	
	January 3, 2021	December 29, 2019
Included in:		
Other assets	\$ 92	\$ —
Deferred income taxes, net	(144,866)	(152,710)
Net deferred income tax liabilities	<u>\$(144,774)</u>	<u>\$(152,710)</u>

The changes in the valuation allowance on deferred income tax assets are summarized as follows:

	As of	
	January 3, 2021	December 29, 2019
Balance at beginning of year	\$25,852	\$ 2,533
KKUK valuation allowance change	(209)	(12)
Increase in valuation allowance on state net operating losses	11,786	—
Foreign tax credit valuation allowance	2,220	6,644
Increase in valuation allowance on other credits	853	—
KKMX valuation allowance	—	16,687
Balance at end of year	<u>\$40,502</u>	<u>\$25,852</u>

The valuation allowances of \$40.5 million and \$25.9 million as of January 3, 2021 and December 29, 2019 respectively, represent the portion of its deferred tax assets the Company estimated would not be realized in the future. Of the \$40.5 million as of January 3, 2021, \$16.7 million is for KK Mexico losses and capital loss carryforwards that are not expected to generate taxable income sufficient to utilize the losses, and \$12.0 million is for U.S. foreign tax credits and general business credits for which sufficient taxable income is not expected to be generated. In addition, as of January 3, 2021, after analyzing the positive and negative evidence associated with the Company's state NOLs and the Company's associated state profile, a valuation allowance of \$11.8 million was recorded associated with the respective U.S. state and local NOLs.

Realization of net deferred tax assets generally is dependent on generation of taxable income in future periods. While the Company believes its forecast of future taxable income is reasonable, actual results will inevitably vary from management's forecasts. Such variances could result in adjustments to the valuation allowance on deferred tax assets in future periods, and such adjustments could be material to the financial statements.

As of January 3, 2021, the Company had NOL carryforwards of approximately \$243.0 million for U.S. state tax purposes and \$109.4 million for U.S. federal tax purposes. As of December 29, 2019, the Company had NOL carryforwards of approximately \$214.8 million for U.S. state tax purposes and none for U.S. federal tax purposes. U.S. federal NOL carryforwards are eligible to be carried forward indefinitely. A portion of the Company's U.S. state tax carryforwards will begin to expire in the current year. As provided above, as of January 3, 2021, the Company recorded a valuation allowance against the entire balance of state net operating loss carryforwards based on management's determination that it is more likely than not that the tax benefits related to these assets will not be utilized. As of January 3, 2021 and December 29, 2019 the Company had foreign NOL carryforwards of approximately \$2.4 million and \$4.5 million, respectively. As of December 29, 2019, \$1.3 million of NOL carryforwards have no expiration, and the remaining have a 10-year carryover. As of December 29, 2019, the Company had foreign capital loss carryforwards of \$53.0 million. The loss carryforwards have a 10-year carryover period.

As of January 3, 2021, the Company had various tax credit carryforwards of \$12.0 million for U.S. federal purposes and zero for U.S. state purposes. As of December 29, 2019, the Company had various tax credit carryforwards of \$9.0 million for U.S. federal purposes and zero for U.S. state purposes. If not utilized, the credits can be carried forward between 10 and 20 years. If certain substantial changes in the entity's ownership occur, there would be an annual limitation on the amount of the NOLs and credits that can be utilized.

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act ("CARES Act") was enacted to provide economic relief to those impacted by the COVID-19 pandemic. The CARES Act made various tax law changes including among other things (i) modifications to the federal NOL carryback rules, (ii) increased the limitation under IRC Section 163(j) for 2019 and 2020 to permit additional expensing of interest, and (iii) enacted a technical correction so that qualified improvement property can be immediately expensed under IRC Section 168(k). The Company was able to take additional deductions as a result of the CARES Act, resulting in additional NOLs for the fiscal years ended January 3, 2021 and December 29, 2019. The Company was also able to defer \$8.3 million social security taxes to future years.

The Company files income tax returns in the U.S. federal jurisdiction and various U.S. state and foreign jurisdictions. For U.S. federal tax purposes, tax years prior to the year ended December 31, 2016 are closed for assessment purposes; however, tax years in which a NOL was generated will remain open for examination until the statute of limitations will close on tax years utilizing NOL carry forwards to reduce the tax due. Generally, the statute of limitations will close on tax years utilizing NOL carryforwards three years subsequent to the utilization of NOLs. For state purposes, the statute of limitations remains open in a similar manner for states where the Company generated NOLs.

Income tax payments, net of refunds, were \$9.3 million and \$9.3 million in the fiscal years ended January 3, 2021 and December 29, 2019, respectively.

The following table presents a reconciliation of the beginning and ending amounts of unrecognized tax benefits:

	As of	
	January 3, 2021	December 29, 2019
Unrecognized tax benefits at beginning of year	\$17,342	\$ 2,981
Increases related to positions taken in the current year	18	8
Increases (decreases) related to positions taken in prior years	(19)	14,382
Lapsing of statutes of limitations	—	(29)
Unrecognized tax benefits at end of year	<u>\$17,341</u>	<u>\$17,342</u>

Approximately all of the aggregate \$17.3 million and \$17.3 million of unrecognized income tax benefits as of January 3, 2021 and December 29, 2019, respectively, would, if recognized, impact the annual effective tax rate. The Company does not believe that changes in its uncertain tax benefits will result in a material impact during the next twelve months.

The Company's policy is to recognize interest and penalties related to income tax issues as components of income tax expense. The Company's Consolidated Balance Sheets reflect approximately \$1.9 million and \$1.3 million of accrued interest and penalties as of January 3, 2021 and December 29, 2019, respectively. Interest and penalties were not material during the years presented in the Company's Consolidated Statements of Operations.

Note 14—Commitments and Contingencies

Except as disclosed below, the Company currently is not a party to any material legal proceedings.

Pending Litigation

K2 Asia litigation

On April 7, 2009, a Cayman Islands corporation, K2 Asia Ventures and its owners filed a lawsuit in Forsyth County, North Carolina Superior Court against the Company, the Company's franchisee in the Philippines and other persons associated with the franchisee. The suit alleges that the Company and the other defendants conspired to deprive the plaintiffs of claimed "exclusive rights" to negotiate franchise and development agreements with prospective franchisees in the Philippines and sought at least \$3.0 million. The Company believes that these allegations lack merit and continues to vigorously defend against the lawsuit. On July 26, 2013, the Superior Court dismissed the Philippines-based defendants for lack of personal jurisdiction and the plaintiffs appealed that decision. On January 22, 2015, the North Carolina Supreme Court denied the plaintiffs' request to review the case. The Company moved for summary judgment on May 7, 2015, on the basis that the remaining plaintiff was not the real party in interest. On November 13, 2018, the Superior Court entered an order granting the motion and dismissing the action pursuant to Rules 17(a) and 41(b). This dismissal was without prejudice to the real party in interest commencing a new action for the same claims within six months, which did not occur. The plaintiff filed a notice of appeal from that order to the North Carolina Court of Appeals on December 13, 2018. The Court of Appeals on September 1, 2020 affirmed the trial court's November 13, 2018 Order dismissing the action. On September 16, 2020, the plaintiff filed a petition for rehearing en banc, which the Court of Appeals denied on October 16, 2020. On November 2, 2020, the plaintiff filed with the North Carolina Supreme Court a petition for discretionary review. The Company filed a response to this petition on November 16, 2020. The Company is awaiting a decision from the Court. The Company does not believe it is probable that a loss has been incurred with respect to this matter, and accordingly no liability related to it has been reflected in the accompanying financial statements.

Insomnia Cookies litigation related to employee wages

Insomnia Cookies was a party to a class action lawsuit alleging violations of minimum wage laws, overtime laws and attendant recordkeeping requirements. The complaint alleged that Insomnia Cookies did not (i) properly reimburse delivery employees for personal expenses incurred while making deliveries, (ii) properly notify delivery employees regarding tip credits and (iii) calculate overtime pay correctly. Insomnia Cookies settled with plaintiff for approximately \$1.5 million during the fiscal year ended January 3, 2021 which was previously accrued at \$2.0 million as of December 29, 2019.

Insomnia Cookies is also currently a party to a class action lawsuit alleging violations of unfair competition, unpaid minimum wages, unpaid overtime, meal and rest period violations and unpaid premiums, failure to reimburse for business expenses, untimely paid wages, and violation of the California Private Attorneys General Act. Insomnia Cookies is vigorously defending these claims. At this time, the Company is unable to predict the outcome of these lawsuits, the potential loss or range of loss, if any, associated with the resolution of these lawsuits or any potential effect they may have on the Company or its operations.

TSW Food, LLC litigation

On November 13, 2020, TSW Foods, LLC (“TSW”), a reseller of certain Krispy Kreme packaged products, filed a demand for arbitration and statement of claim alleging Anticipatory Repudiation of the Master Reseller Agreement, Breach of the Master Reseller Agreement, and Breach of the Implied Covenant of Good Faith and Fair Dealing. On December 12, 2020, the Company filed its answering statement denying all of TSW’s claims. On February 8, 2021, the Company filed its counterclaim against TSW alleging Breach of Master Reseller Agreement, Breach of Trade Secret Agreement, and Breach of Good Faith and Fair Dealing. On March 5, 2021, TSW filed its answering statement denying all of the Company’s claims. The Company intends to vigorously defend against TSW’s claims and prosecute its counterclaims. At this time, the Company is unable to predict the outcome of this matter, the potential loss or range of loss, if any, associated with the resolution of this matter or any potential effect it may have on the Company or its operations.

Other Legal Matters

The Company also is engaged in various legal proceedings arising in the normal course of business. The Company maintains insurance policies against certain kinds of such claims and suits, including insurance policies for workers’ compensation and personal injury, all of which are subject to deductibles. While the ultimate outcome of these matters could differ from management’s expectations, management currently does not believe their resolution will have a material adverse effect on the Company’s Consolidated Financial Statements.

Purchase Commitments

The Company is exposed to the effects of commodity price fluctuations on the cost of ingredients for its products, of which flour, shortening and sugar are the most significant. In order to secure adequate supplies of products and bring greater stability to the cost of ingredients, the Company routinely enters into forward purchase contracts with suppliers under which it commits to purchase agreed-upon quantities of ingredients at agreed-upon prices at specified future dates. Typically, the aggregate outstanding purchase commitment at any point in time will range from one month to several years of anticipated ingredients purchases, depending on the ingredient. In addition, from time to time the Company enters into contracts for the future delivery of equipment purchased for resale and components of doughnut-making equipment manufactured by the Company. As of January 3, 2021 and December 29, 2019, the Company had approximately \$48.3 million and \$66.5 million, respectively, of commitments under ingredient and other forward purchase contracts. These ingredient and other forward purchase contracts are for physical delivery in quantities expected to be used over a reasonable period in the normal course of business. These agreements often meet the definition of a derivative. However, the Company does not measure its forward purchase commitments at fair value as the amounts under contract meet the physical delivery criteria in the normal purchase exception under ASC 815. While the Company has multiple suppliers for most of the ingredients, the termination of the Company’s relationships with vendors with whom it has forward purchase agreements or those vendors’ inability to honor the purchase commitments, could adversely affect the Company’s results of operations and cash flows.

Other Commitments and Contingencies

The Company has guaranteed certain franchisee lease obligations, usually in connection with subleasing or assigning leases in connection with refranchising transactions. The remaining outstanding guarantee as of fiscal year ended January 3, 2021 expires in October 2021. The aggregate liability recorded for such obligations was \$0.0 million and \$0.1 million as of January 3, 2021 and December 29, 2019, respectively, and is included in Accrued liabilities.

One of the Company’s primary banks issued letters of credit on its behalf totaling \$14.0 million and \$12.2 million as of January 3, 2021 and December 29, 2019, respectively, substantially all of which secure the Company’s reimbursement obligations to insurers under its self-insurance arrangements.

Note 15—Related Party Transactions

As of January 3, 2021 and December 29, 2019, the Company had an equity ownership in two franchisees, KremeWorks USA, LLC (20% ownership) and KremeWorks Canada, L.P. (25% ownership), with an aggregate carrying value of \$0.9 million and \$1.0 million as of January 3, 2021 and December 29, 2019, respectively. Revenues from sales of ingredients and equipment to these franchisees were \$6.6 million, \$5.2 million and \$5.0 million for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively. Royalty revenue from these franchisees of \$1.2 million, \$1.2 million and \$1.1 million in each of the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018, respectively. Trade receivables from these franchisees are included in Accounts receivable, net on the balance sheet. These transactions were conducted pursuant to franchise agreements, the terms of which are substantially the same as the agreements with unaffiliated franchisees. Refer to Note 3, Accounts Receivable, net, to the Consolidated Financial Statements for more information.

In connection with tax sharing arrangements with JAB and other JAB portfolio companies, the Company had a \$7.4 million related party receivable from JAB as of January 3, 2021 and December 29, 2019, respectively. In the fiscal year ended December 29, 2019, the Company collected \$28.6 million cash from the related-party income tax receivable balance outstanding as of December 30, 2018. In addition, the Company had a \$15.3 million and \$0.0 million related party payable to the other JAB portfolio companies as of January 3, 2021 and December 29, 2019, respectively, offset with a \$15.3 million income tax receivable due from taxing authorities.

The Company is party to a senior unsecured note agreement (the “original agreement”) with Krispy Kreme G.P. (“KK GP”). In the original agreement, which was outstanding prior to fiscal year ended December 30, 2018, the aggregate principal amount was \$283.1 million. In April 2019, the Company entered into an additional unsecured note with KK GP for \$54.0 million (the “additional agreement”), which in part funded the repayment of \$78.9 million of third-party debt. The notes under both agreements will mature in series: \$202.3 million in October 2027, \$89.9 million in October 2028 and \$44.9 million in October 2029, with an interest rate of 6.55%, 6.65% and 6.75%, respectively. Under both agreements, the interest payment is due 60 days after December 31 of each calendar year. Any overdue amount of principal and interest will bear interest payable at a rate per annum equal to the sum of (1) two percent and (2) the weighted average interest rates of the notes. The unpaid accrued interest is included in Related party notes payable in the Consolidated Balance Sheets. Additionally, the agreements include covenants that prohibit the Company to subordinate the notes to other unsecured indebtedness. As of January 3, 2021, and December 29, 2019, the outstanding amount of principal and interest was \$344.6 million and \$340.2 million, respectively. The interest expense for the fiscal years ended January 3, 2021, December 29, 2019 and December 30, 2018 was \$22.5 million, \$21.9 million and \$18.9 million, respectively.

The Company granted loans to employees of KKHI, KKUK, KK Australia, KK Mexico and Insomnia Cookies for the purchase of shares in those subsidiaries. The loan balance was \$18.7 million and \$17.2 million as of January 3, 2021 and December 29, 2019, respectively, and it is presented as a reduction from Shareholders’ equity on the Consolidated Balance Sheet.

Note 16—Revenue Recognition

Disaggregation of Revenue

Revenues are disaggregated as follows:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
Company shops, Branded Sweet Treat Line and DFD	\$1,014,790	\$788,607	\$618,310
Mix and equipment revenue from franchisees	70,320	124,198	130,550
Franchise royalties, and other	36,926	46,603	47,023
	<u>\$1,122,036</u>	<u>\$959,408</u>	<u>\$795,883</u>

Other revenues include advertising fund contributions, rental income, development and franchise fees and licensing royalties from Keurig related to Krispy Kreme brands coffee sales.

Contract Balances

Deferred revenue subject to ASC 606 and related receivables are as follows:

	January 3, 2021	December 29, 2019	Balance Sheet Classification
Trade receivables, net of allowances of \$1,437 and \$739, respectively	\$39,624	\$34,202	Accounts receivables, net
Deferred revenue			
Current	16,045	13,622	Accrued liabilities
Non-current	2,838	3,377	Other long-term obligations and deferred credits
	<u>\$18,883</u>	<u>\$16,999</u>	

Trade receivables at the end of each fiscal year relate primarily to payments due for royalties, franchise fees, advertising fees, sale of products and licensing fees. Deferred revenue primarily represents the Company's remaining performance obligations under gift cards and franchise and development agreements for which consideration has been received or is receivable and is generally recognized on a straight-line basis over the remaining term of the related agreement. The noncurrent portion of deferred revenue primarily relates to the remaining performance obligations in the franchise and development agreements. Of the deferred revenue balances as of December 29, 2019, \$7.8 million was recognized as revenue in the fiscal year ended January 3, 2021. Of the deferred revenue balance as of December 30, 2018, \$4.9 million was recognized as revenue in fiscal the year ended December 29, 2019.

Transaction price allocated to remaining performance obligations

Estimated revenue expected to be recognized in the future related to performance obligations that are either unsatisfied or partially satisfied as of January 3, 2021 is as follows:

<u>Fiscal year</u>	
2021	\$10,353
2022	4,164
2023	769
2024	769
2025	769
Thereafter	<u>2,059</u>
	<u>\$18,883</u>

The estimated revenue in the table above relates to gift cards, customer loyalty programs and franchise fees paid upfront which are recognized over the life of the franchise agreement. The estimated revenue does not contemplate future issuances of gift cards or benefits to be earned by members of customer loyalty programs. The estimated revenue also does not contemplate future franchise renewals or new franchise agreements for shops for which a franchise agreement or development agreement does not exist as of January 3, 2021. The Company has applied the sales-based royalty exemption which permits exclusion of variable consideration in the form of sales-based royalties from the disclosure of remaining performance obligations in the table above.

Note 17—Net Loss per Share

The following table presents the calculations of basic and diluted EPS:

<i>(In thousands, except share and per share amounts)</i>	<u>Fiscal Years Ended</u>		
	<u>January 3, 2021</u>	<u>December 29, 2019</u>	<u>December 30, 2018</u>
Net loss attributable to Krispy Kreme, Inc.	\$(64,301)	\$(37,409)	\$(14,072)
Adjustment to net loss attributable to common stockholders	<u>(477)</u>	<u>278</u>	<u>1,643</u>
Net loss attributable to common shareholders —			
Basic	\$(64,778)	\$(37,131)	\$(12,429)
Additional income attributed to noncontrolling interest due to subsidiary potential common shares	<u>(10)</u>	<u>(64)</u>	<u>(23)</u>
Net loss attributable to common shareholders —			
Diluted	\$(64,788)	\$(37,195)	\$(12,452)
Basic and Diluted weighted average common shares outstanding	71,626	71,626	71,626
Loss per share attributable to common shareholders:			
Basic	\$(904.39)	\$(518.40)	\$(173.52)
Diluted	\$(904.53)	\$(519.30)	\$(173.85)

Potential dilutive shares consist of unvested RSUs, calculated using the treasury stock method. The calculation of dilutive shares outstanding excludes certain unvested RSUs granted under certain subsidiaries' executive ownership plans and long-term incentive plans, because their inclusion would have been antidilutive. Refer to Note 12, Share-based Compensation, to the Consolidated Financial Statements for further information about the plans.

The following table summarizes the number of unvested RSUs excluded due to antidilution:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
KKHI	843,488	748,218	697,935
KKUK	416,068	438,068	434,810
Insomnia Cookies	—	809	19,552

Note 18—Segment Reporting

The Company conducts business through the following three reportable segments:

- *U.S. and Canada:* reflects all company-owned operations in the United States and Canada, including Krispy Kreme and Insomnia-branded shops and Branded Sweet Treat Line operations.
- *International:* reflects all Krispy Kreme’s company-owned operations in the United Kingdom, Ireland, Australia, New Zealand and Mexico.
- *Market Development:* reflects franchise operations across the globe. It also includes 44 company-owned shops in Japan, which belonged to a franchise acquired in December 2020. Franchise operations include franchisee royalties and sales of doughnut mix, other ingredients, supplies and doughnut-making equipment to franchisees.

Unallocated corporate costs are excluded from the Company’s measurement of segment performance. These costs include general corporate expenses.

Segment information is identified and prepared on the same basis that the CEO, the Company’s Chief Operating Decision Maker (CODM), evaluates financial results, allocates resources and makes key operating decisions. The CODM allocates resources and assesses performance based on geography and line of business, which represents the Company’s operating segments. The operating segments within the U.S. and Canada and International reportable segments have been evaluated and combined into reportable segments because they have met the similar economic characteristics and qualitative aggregation criteria set forth in the relevant accounting guidance.

The primary financial measures used by the CODM to evaluate the performance of its operating segments are net revenues and segment adjusted EBITDA. The following tables reconcile segment results to consolidated results reported in accordance with U.S. GAAP. The accounting policies used for internal management reporting at the operating segments are consistent with those described in Note 1, Business and Summary of Accounting Policies. The Company manages its assets on a total company basis and the CODM does not review asset information by segment when assessing performance or allocating resources. Consequently, the Company does not report total assets by reportable segment.

The reportable segment results are as follows:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
<i>Net revenues:</i>			
U.S. and Canada	\$ 782,717	\$587,522	\$443,563
International	230,185	223,115	185,840
Market Development	109,134	148,771	166,480
Total net revenues	\$1,122,036	\$959,408	\$795,883

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
<i>Depreciation and Amortization</i>			
U.S. and Canada	\$ 43,056	\$ 30,610	\$ 21,011
International	30,438	25,188	21,152
Market Development	2,304	3,464	3,854
Corporate	4,600	4,505	3,430
Total Depreciation and Amortization	\$ 80,398	\$ 63,767	\$ 49,447

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
<i>Segment adjusted EBITDA:</i>			
U.S. and Canada	\$ 98,555	\$ 75,815	\$ 55,915
International	45,022	53,663	43,735
Market Development	39,067	51,615	56,271
Corporate	(29,754)	(30,062)	(27,621)
	152,890	151,031	128,300
Interest expense, net	34,741	38,085	27,881
Interest expense—related party	22,468	21,947	18,902
Income tax expense	9,112	12,577	(5,318)
Depreciation and amortization expense	80,398	63,767	49,447
Other non-operating (income)/expense, net	(1,101)	(609)	5,443
Share-based compensation	11,619	10,680	9,449
Pre-opening costs and related expenses ⁽¹⁾	13,969	8,431	4,053
Strategic initiatives ⁽²⁾	20,517	4,059	5,342
Acquisition and integration expenses ⁽³⁾	12,679	20,433	9,972
Store closure expenses ⁽⁴⁾	6,269	629	3,396
Restructuring and severance expenses ⁽⁵⁾	—	583	5,703
Other ⁽⁶⁾	3,159	4,450	6,469
Net income (loss)	\$ (60,940)	\$ (34,001)	\$ (12,439)

- (1) Consists of pre-opening costs as reflected within the consolidated statement of operations and additional incremental related costs. Pre-opening costs, which include rent, labor and marketing expenses incurred prior to opening a new shop, were \$11.6 million, \$7.0 million and \$1.9 million in fiscal 2020, 2019 and 2018, respectively. Additional incremental related costs of \$2.4 million and \$1.4 million in fiscal 2020 and 2019, respectively, related to the Company's New York City flagship Hot Light Theater Shop opening and

- consisted of additional consulting and training costs incurred and reflected in selling, general and administrative expenses. New market entry costs of \$2.2 million in fiscal 2018 related to the Company's entry into Ireland and New Zealand are reflected in selling, general and administrative expenses.
- (2) Fiscal 2020 and 2019 consist mainly of consulting and advisory fees, personnel transition costs, and network conversion and set-up costs related to the evolution of the Company's legacy wholesale business in the United States. Fiscal 2018 reflects costs related to the Company's digital transformation including digital rebranding and mobile application overhaul, and consulting costs associated with the development of future shop concepts.
 - (3) Consists of acquisition and integration-related costs in connection with the Company's business and franchise acquisitions, including legal, due diligence, consulting and advisory fees incurred in connection with acquisition-related activities for the applicable period.
 - (4) Consists of lease termination costs, impairment charges, and loss on disposal of property, plant and equipment.
 - (5) Consists of severance and related benefits costs associated with the Company's hiring of a new global management team.
 - (6) Fiscal 2020 includes \$1.2 million of management fees paid to JAB and \$3.2 million of consulting and advisory fees incurred in connection with preparation for the Company's initial public offering (IPO), partially offset by a \$2.5 million gain on the sale of land. Fiscal 2019 includes \$3.1 million lease impairment expenses related to the Company's Winston-Salem office location incurred in connection with the Company's Corporate headquarters relocation to Charlotte, North Carolina. Fiscal 2018 includes \$4.0 million of consulting and professional fees related to a sale leaseback transaction and other finance projects.

Geographical information related to consolidated revenues and long-lived assets are as follows:

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
<i>Net revenues</i>			
United States	\$ 854,097	\$696,841	\$568,981
United Kingdom	93,121	120,009	110,639
Australia / New Zealand	78,677	86,734	70,657
Mexico	53,085	8,991	—
All Other	43,056	46,833	45,606
Total net revenues	<u>\$1,122,036</u>	<u>\$959,408</u>	<u>\$795,883</u>

	Fiscal Years Ended		
	January 3, 2021	December 29, 2019	December 30, 2018
<i>Long-lived Assets</i>			
United States	\$625,928	\$565,933	\$164,232
United Kingdom	68,500	63,543	31,005
Australia / New Zealand	59,656	54,003	28,285
Mexico	23,094	20,965	—
All Other	17,765	4,290	3,580
Total long-lived assets	<u>\$794,943</u>	<u>\$708,734</u>	<u>\$227,102</u>

Total long-lived assets consist of Property and equipment, net and, beginning the fiscal year ended December 29, 2019, the Company's Operating leases right of use asset, net.

Note 19—Subsequent Events

The Company evaluated subsequent events and transactions for potential recognition or disclosure in the Consolidated Financial Statements through April 23, 2021, the date the Consolidated Financial Statements were available to be issued. All subsequent events requiring recognition and disclosure have been incorporated into these financial statements.

On January 19, 2021 the Company completed the acquisition of 11 franchise shops in South Florida for total consideration of approximately \$19.7 million, consisting of approximately \$17.0 million in cash and approximately \$2.7 million related to settlement of pre-existing relationships. The acquisition will be accounted for as a business combination.

On March 8, 2021 the Company completed the acquisition of 7 franchise shops in California for total consideration of approximately \$18.3 million, consisting of approximately \$16.6 million in cash and approximately \$1.7 million related to settlement of pre-existing relationships. The acquisition will be accounted for as a business combination.

On April 2, 2021, KKHI received \$10.9 million in capital contributions from employee shareholders and other minority interest investors. On April 9, 2021, the Company received an additional \$144.1 million in capital contributions from shareholders and other minority interest investors. These amounts will be accounted for as capital contributions in the Consolidated Statements of Changes in Shareholders' Equity.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Schedule I—Condensed Financial Information
Parent Company Only
Statements of Operations and Comprehensive Loss
(in thousands USD)

	Fiscal Years Ended		
	January 3, 2021 (53 weeks)	December 29, 2019 (52 weeks)	December 30, 2018 (52 weeks)
Interest expense—related party	22,468	21,947	18,902
Other non-operating expense	—	—	32
Loss before income taxes and equity in net loss/(income) of subsidiaries	(22,468)	(21,947)	(18,934)
Income tax expense/(benefit)	(4,356)	6,964	(4,208)
Equity in net loss/(income) of subsidiaries	46,189	8,498	(654)
Net loss	(64,301)	(37,409)	(14,072)
Other comprehensive income/(loss), net of tax	4,343	494	(23,810)
Comprehensive loss	<u>\$(59,958)</u>	<u>\$(36,915)</u>	<u>\$(37,882)</u>

See accompanying notes to Condensed Financial Statements.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Schedule I—Condensed Financial Information
Parent Company Only
Balance Sheets

(In thousands, except per share amounts and number of shares)

	As of	
	January 3, 2021	December 29, 2019
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 1,578	\$ 352
Accounts receivable, net	15,308	871
Total current assets	16,886	1,223
Investments in subsidiaries	1,026,222	1,075,715
Deferred income taxes, net	17,475	12,240
Other assets	—	341
Total assets	\$1,060,583	\$1,089,519
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current Liabilities:		
Accrued liabilities	\$ 15,342	\$ —
Total current liabilities	15,342	—
Related party notes payable	344,581	340,195
Other long-term obligations and deferred credits	15,976	14,504
Total liabilities	375,899	354,699
Commitments and contingencies		
Shareholders' Equity:		
Common stock, \$0.01 par value; 100,000 shares authorized; 71,626 shares issued and outstanding as of January 3, 2021 and December 29, 2019	1	1
Additional paid-in capital	846,748	835,482
Shareholder note receivable	(18,660)	(17,232)
Accumulated other comprehensive loss, net of income tax	(1,208)	(5,551)
Retained deficit	(142,197)	(77,880)
Total shareholders' equity	684,684	734,820
Total liabilities and shareholders' equity	\$1,060,583	\$1,089,519

See accompanying notes to Condensed Financial Statements.

Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.)
Schedule I—Condensed Financial Information
Parent Company Only
Statements of Cash Flows
(In thousands)

	<u>Fiscal Years Ended</u>		
	<u>January 3, 2021 (53 weeks)</u>	<u>December 29, 2019 (52 weeks)</u>	<u>December 30, 2018 (52 weeks)</u>
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	\$(64,301)	\$(37,409)	\$(14,072)
Adjustments to reconcile net loss to net cash (used for)/provided by operating activities:			
Equity in net loss/(income) of subsidiaries	46,189	8,498	(654)
Deferred income taxes	(5,235)	(8,032)	(4,208)
Other	(255)	3,355	—
Change in assets and liabilities:			
Current and non-current assets	(14,096)	(1,212)	—
Current and non-current liabilities	21,200	(177)	29,669
Net cash (used for)/provided by operating activities . . .	<u>(16,498)</u>	<u>(34,977)</u>	<u>10,735</u>
CASH FLOWS FROM INVESTING ACTIVITIES:			
Distributions from subsidiaries	20,660	45,231	—
Investments in subsidiaries, net	(2,936)	2,296	(2)
Net cash provided by/(used for) investing activities . . .	<u>17,724</u>	<u>47,527</u>	<u>(2)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from the issuance of debt	—	54,002	—
Repayment of long-term debt and lease obligations	—	(78,891)	—
Net cash used for financing activities	<u>—</u>	<u>(24,889)</u>	<u>—</u>
Net increase/(decrease) in cash, cash equivalents and restricted cash	1,226	(12,339)	10,733
Cash, cash equivalents and restricted cash at beginning of the quarter . . .	352	12,691	1,958
Cash, cash equivalents and restricted cash at end of the quarter	<u>\$ 1,578</u>	<u>\$ 352</u>	<u>\$ 12,691</u>

See accompanying notes to Condensed Financial Statements.

Notes to Condensed Parent Company Financial Statements

Basis of Presentation

All operating activities of Krispy Kreme, Inc. (formerly known as Krispy Kreme HoldCo, Inc.) (“Krispy Kreme” or “Parent Company”) are conducted by the subsidiaries, primarily the wholly owned subsidiary and operating company Krispy Kreme Doughnuts, Inc. (“KKDI”). The 2019 Senior Secured Credit Facility of KKDI contains provisions whereby KKDI has restrictions on the ability to pay dividends, loans or advances to Krispy Kreme. Accordingly, these condensed financial statements have been presented on a “parent-only” basis, using the same accounting principles and policies described in the notes to the consolidated financial statements.

Under a parent-only presentation, Krispy Kreme’s investment in its consolidated subsidiaries is presented under the equity method of accounting and is stated at cost plus equity in undistributed earnings of subsidiaries and less distributions. The Parent Company’s share of net loss or income of its subsidiaries is included in the Condensed Statements of Operations and Comprehensive Loss using the equity method. These parent-only financial statements should be read in conjunction with Krispy Kreme’s audited Consolidated Financial Statements included elsewhere herein.

As of January 3, 2021, the Parent Company has no major commitments and contingencies and is not a guarantor of indebtedness for any of its subsidiaries. The Parent Company received cash distributions from its subsidiary, KKDI, of \$20.7 million and \$45.2 million for the fiscal years ended January 3, 2021 and December 29, 2019, respectively, which were generated primarily through KKDI operating and financing activities for each respective year.

The Parent Company had \$15.3 million and \$0.9 million of income tax receivable from taxing authorities as of January 3, 2021 and December 29, 2019, respectively. In connection with tax sharing arrangements with related parties under common control prior to the fiscal year ended December 30, 2018 as described in the consolidated financial statements, the Parent Company had \$15.3 million and \$0.0 million related party payable to the other JAB portfolio companies as of January 3, 2021 and December 29, 2019, respectively, offset with a \$15.3 million income tax receivable. Additionally, the Parent Company had deferred income tax assets of \$17.5 million and \$12.2 million as of January 3, 2021 and December 29, 2019, respectively. The Parent Company had \$15.9 million and \$15.0 million of unrecognized income tax benefits as of January 3, 2021 and December 29, 2019, respectively, included in Other long-term obligations and deferred credits on the Condensed Balance Sheets and, if recognized, would impact the annual effective tax rate. The Parent Company does not believe that changes in its uncertain tax benefits will result in a material impact during the next twelve months.

Krispy Kreme, Inc.
Condensed Consolidated Statements of Operations (Unaudited)
(In thousands, except per share amounts and number of shares)

	<u>Quarters Ended</u>	
	<u>April 4, 2021 (13 weeks)</u>	<u>March 29, 2020 (13 weeks)</u>
Net revenue		
Product sales	\$313,585	\$251,536
Royalties and other revenues	8,224	9,680
Total net revenues	321,809	261,216
Product and distribution costs	79,997	68,148
Operating expenses	147,541	115,779
Selling, general and administrative expense	59,044	49,196
Pre-opening costs	1,391	3,437
Other (income)/expenses, net	(3,245)	1,171
Depreciation and amortization expense	23,401	19,087
Operating income	13,680	4,398
Interest expense, net	8,249	8,644
Interest expense — related party	5,566	5,566
Other non-operating (income)/expense, net	(442)	2,548
Income/(loss) before income taxes	307	(12,360)
Income tax expense/(benefit)	685	(1,412)
Net loss	(378)	(10,948)
Net income attributable to noncontrolling interest	2,683	567
Net loss attributable to Krispy Kreme, Inc.	\$ (3,061)	\$ (11,515)
Net loss per share:		
Common stock — Basic	\$ (44.71)	\$ (159.29)
Common stock — Diluted	\$ (45.89)	\$ (159.39)
Weighted average shares outstanding:		
Basic	71,626	71,626
Diluted	71,626	71,626

See accompanying notes to Condensed Consolidated Financial Statements.

Krispy Kreme, Inc.
Condensed Consolidated Statements of Comprehensive Income (Loss) (Unaudited)
(In thousands)

	Quarters Ended	
	April 4, 2021 (13 weeks)	March 29, 2020 (13 weeks)
Net loss	\$ (378)	\$(10,948)
Other comprehensive income:		
Foreign currency translation adjustment, net of income tax benefit/(expense) of \$0.0 million and \$0.0 million	(2,264)	(46,423)
Unrealized income/(loss) on cash flow hedges, net of income tax benefit/(expense) of (\$1.7) million and \$5.1 million	5,102	(15,435)
Unrealized income/(loss) on employee benefit plans, net of income tax benefit/ (expense) of \$0.0 million and \$0.0 million	—	—
Total other comprehensive income/(loss)	2,838	(61,858)
Comprehensive income/(loss)	2,460	(72,806)
Net income attributable to noncontrolling interest	2,683	567
Total comprehensive income attributable to noncontrolling interest	2,683	567
Comprehensive loss attributable to Krispy Kreme, Inc.	\$ (223)	\$(73,373)

See accompanying notes to Condensed Consolidated Financial Statements.

Krispy Kreme, Inc.
Condensed Consolidated Balance Sheets
(In thousands, except number of shares)

	As of	
	(Unaudited) April 4, 2021	January 3, 2021
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 50,650	\$ 37,460
Marketable securities	858	1,048
Restricted cash	128	23
Accounts receivable, net	66,966	74,351
Inventories	37,962	38,519
Prepaid expense and other current assets	14,453	12,692
Total current assets	171,017	164,093
Property and equipment, net	411,106	395,255
Goodwill	1,096,269	1,086,546
Other intangible assets, net	1,011,234	998,014
Operating lease right of use asset, net	409,485	399,688
Other assets	17,620	17,399
Total assets	\$3,116,731	\$3,060,995
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current Liabilities:		
Current portion of long-term debt	\$ 37,581	\$ 41,245
Current operating lease liabilities	46,500	45,675
Accounts payable	159,841	148,645
Accrued liabilities	117,546	124,951
Structured payables	138,451	137,319
Total current liabilities	499,919	497,835
Long-term debt, less current portion	816,876	785,810
Related party notes payable	350,147	344,581
Noncurrent operating lease liabilities	385,207	376,099
Deferred income taxes, net	144,452	144,866
Other long-term obligations and deferred credits	56,727	63,445
Total liabilities	2,253,328	2,212,636
Commitments and contingencies		
Shareholders' Equity:		
Common stock, \$0.01 par value; 100,000 shares authorized; 71,626 shares issued and outstanding as of April 4, 2021 and January 3, 2021	1	1
Additional paid-in capital	849,090	846,748
Shareholder note receivable	(18,228)	(18,660)
Accumulated other comprehensive income/(loss), net of income tax	1,630	(1,208)
Retained deficit	(145,256)	(142,197)
Total shareholders' equity attributable to Krispy Kreme, Inc.	687,237	684,684
Noncontrolling interest	176,166	163,675
Total shareholders' equity	863,403	848,359
Total liabilities and shareholders' equity	\$3,116,731	\$3,060,995

See accompanying notes to Condensed Consolidated Financial Statements.

Krispy Kreme, Inc.
Condensed Consolidated Statements of Changes in Shareholders' Equity (Unaudited)
(In thousands, except number of shares)

	Common Stock		Accumulated Other Comprehensive Income/(Loss)					Total		
	Shares Outstanding	Amount	Additional Paid-in Capital	Shareholder Note Receivable	Unrealized		Retained (Deficit) Earnings			
					Foreign currency translation adjustment	loss on cash flow hedges			Unrealized loss on employee benefit plans	
Balance at January 3, 2021	71,626	\$ 1	\$846,748	\$(18,660)	\$23,508	\$(24,610)	\$(106)	\$(142,197)	\$163,675	\$848,359
Net (loss)/income for the quarter ended April 4, 2021	—	—	—	—	—	—	—	(3,061)	2,683	(378)
Other comprehensive (loss)/income for the quarter ended April 4, 2021 before reclassifications	—	—	—	—	(2,264)	2,572	—	—	—	308
Reclassification from AOCI	—	—	—	—	—	2,530	—	—	—	2,530
Share-based compensation	—	—	2,368	—	—	—	—	—	—	2,368
Purchase of shares by noncontrolling interest	—	—	—	139	—	—	—	—	12,048	12,187
Distribution to shareholders	—	—	—	—	—	—	—	—	—	—
Distribution to noncontrolling interest	—	—	—	363	—	—	—	—	(2,239)	(1,876)
Other	—	—	(26)	(70)	—	—	—	2	(1)	(95)
Balance at April 4, 2021	71,626	\$ 1	\$849,090	\$(18,228)	\$21,244	\$(19,508)	\$(106)	\$(145,256)	\$176,166	\$863,403

See accompanying notes to Condensed Consolidated Financial Statements

Krispy Kreme, Inc.
Condensed Consolidated Statements of Changes in Shareholders' Equity (Unaudited)
(In thousands, except number of shares)

	Common Stock		Accumulated Other Comprehensive Income/(Loss)					Retained (Deficit) Earnings	Noncontrolling Interest	Total
	Shares Outstanding	Amount	Additional Paid-in Capital	Shareholder Note Receivable	Foreign currency translation adjustment	Unrealized loss on cash flow hedges	Unrealized loss on employee benefit plans			
Balance at December 29, 2019	71,626	\$ 1	\$835,482	\$(17,232)	\$ 4,629	\$(10,180)	\$—	\$(77,880)	\$148,597	\$883,417
Net (loss)/income for the quarter ended March 29, 2020	—	—	—	—	—	—	—	(11,515)	567	(10,948)
Other comprehensive (loss)/income for the quarter ended March 29, 2020 before reclassifications	—	—	—	—	(46,423)	(16,130)	—	—	—	(62,553)
Reclassification from AOCI	—	—	—	—	—	695	—	—	—	695
Share-based compensation	—	—	3,167	—	—	—	—	—	—	3,167
Purchase of shares by noncontrolling interest	—	—	—	—	—	—	—	—	17,562	17,562
Distribution to shareholders	—	—	(15)	—	—	—	—	—	—	(15)
Distribution to noncontrolling interest	—	—	—	—	—	—	—	—	(2,506)	(2,506)
Other	—	—	—	(76)	—	—	—	—	(1)	(77)
Balance at March 29, 2020	71,626	\$ 1	\$838,634	\$(17,308)	\$(41,794)	\$(25,615)	\$—	\$(89,395)	\$164,219	\$828,742

See accompanying notes to Condensed Consolidated Financial Statements

Krispy Kreme, Inc.
Condensed Consolidated Statements of Cash Flows (Unaudited)
(In thousands)

	<u>Quarters Ended</u>	
	<u>April 4,</u> <u>2021 (13</u> <u>weeks)</u>	<u>March 29,</u> <u>2020 (13</u> <u>weeks)</u>
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$ (378)	\$ (10,948)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization expense	23,401	19,087
Deferred income taxes	593	(2,653)
Impairment and lease termination charges	1,151	—
Loss on disposal of property and equipment	116	—
Share-based compensation	2,368	3,167
Change in accounts and notes receivable allowances	180	112
Inventory write-off	870	—
Other	(2,798)	2,250
Change in operating assets and liabilities, excluding business acquisitions and foreign currency translation adjustments:	15,138	(11,104)
Net cash provided by/(used for) operating activities	40,641	(89)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property and equipment	(30,297)	(22,775)
Proceeds from disposals of assets	43	—
Acquisition of shops and franchise rights from franchisees, net of cash acquired	(33,568)	212
Principal payments received from loans to franchisees	—	145
Purchases of held-to-maturity debt securities	—	(55)
Maturities of held-to-maturity debt securities	169	74
Net cash used for investing activities	(63,653)	(22,399)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from the issuance of debt	40,000	260,000
Repayment of long-term debt and lease obligations	(14,629)	(9,833)
Proceeds from structured payables	65,550	66,095
Payments on structured payables	(64,418)	(49,623)
Proceeds from sale of noncontrolling interest in subsidiary	12,187	17,562
Distribution to shareholders	—	(15)
Distribution to noncontrolling interest	(1,876)	(2,506)
Net cash provided by financing activities	36,814	281,680
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(507)	(739)
Net increase/(decrease) in cash, cash equivalents and restricted cash	13,295	258,453
Cash, cash equivalents and restricted cash at beginning of the fiscal year	37,483	35,450
Cash, cash equivalents and restricted cash at end of the fiscal year	\$ 50,778	\$293,903
Supplemental schedule of non-cash investing and financing activities:		
Accrual for property and equipment	\$ 1,123	\$ 2,753
Stock issuance under shareholder notes	446	—
Reconciliation of cash, cash equivalents and restricted cash at end of fiscal year:		
Cash and cash equivalents	\$ 50,650	\$293,711
Restricted cash	128	192
Total cash, cash equivalents and restricted cash	\$ 50,778	\$293,903

See accompanying notes to Condensed Consolidated Financial Statements.

Krispy Kreme, Inc.
Index for Notes to Condensed Consolidated Financial Statements

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Krispy Kreme, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited)
(Dollars in thousands, unless otherwise specified)

Note 1 — Description of Business and Summary of Significant Accounting Policies

Description of Business

Krispy Kreme, Inc. (“KKI”) and its subsidiaries (collectively, the “Company”) operates through its omni-channel business model to provide an experiential consumer experience and produce doughnuts for fresh retail, Delivered Fresh Daily (“DFD”), e-Commerce and delivery and Krispy Kreme branded sweet treats (“Branded Sweet Treat Line”) distribution channels, ensuring that consumers are able to access products in numerous ways.

The Company has three reportable operating segments: 1) U.S. and Canada, which includes all Krispy Kreme’s company-owned operations in the U.S. and Canada, Insomnia-branded retail shops and consumer packaged goods operations; 2) International, which includes all Krispy Kreme’s company-owned operations in the United Kingdom, Ireland, Australia, New Zealand and Mexico; and 3) Market Development, which includes franchise operations across the globe, as well as Krispy Kreme company-owned shops in Japan. Unallocated corporate costs are excluded from the Company’s measurement of segment performance.

Basis of Presentation and Consolidation

The Company operates and reports financial information on a 52 or 53-week year with the fiscal year ending on the Sunday closest to December 31. The data periods contained within fiscal years 2020 and 2021 reflect the results of operations for the 53-week period ended January 3, 2021 and the 52-week period ended January 2, 2022, respectively. The quarters ended April 4, 2021 and March 29, 2020 were both 13-week periods. On May 10, 2021, Krispy Kreme HoldCo, Inc. changed its name to Krispy Kreme, Inc.

The unaudited Condensed Consolidated Financial Statements include the accounts of KKI and subsidiaries and have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) for interim financial information and pursuant to the rules and regulations of the Securities and Exchange Commission. Accordingly, these interim financial statements do not include all information and footnotes required under U.S. GAAP for complete financial statements. In the opinion of management, the accompanying unaudited Condensed Consolidated Financial Statements contain all adjustments, consisting of only normal recurring adjustments, necessary for a fair statement of results of operations, balance sheet, cash flows, and shareholders’ equity for the periods presented. All significant intercompany balances and transactions among KKI and subsidiaries have been eliminated in consolidation. Investments in entities over which the Company has the ability to exercise significant influence but which it does not control and whose financial statements are not otherwise required to be consolidated, are accounted for using the equity method.

These condensed consolidated interim financial statements should be read in conjunction with the Consolidated Financial Statements and notes thereto as of and for the year ended January 3, 2021, included elsewhere in this prospectus. The Condensed Consolidated Balance Sheet as of January 3, 2021 was derived from audited annual financial statements but does not contain all of the footnote disclosures from the annual financial statements. The results of operations for the quarter ended April 4, 2021 are not necessarily indicative of the results of operations that may be achieved for the entire fiscal year ending January 2, 2022.

Noncontrolling interest in the Company’s Condensed Consolidated Financial Statements represents the interest in subsidiaries held by joint venture partners and employee shareholders. The joint venture partners hold noncontrolling interests in the Company’s consolidated subsidiaries, Awesome Doughnut, LLC (“Awesome Doughnut”) and W.K.S Krispy Kreme, LLC (“WKS Krispy Kreme”). Employee shareholders hold noncontrolling interests in the consolidated subsidiaries Krispy Kreme Holdings Inc. (“KKHI”), Krispy Kreme Holding UK Ltd. (“KKUK”), Krispy Kreme Holdings Pty Ltd (“KK Australia”), Krispy Kreme Mexico S. de

R.L. de C.V. (“KK Mexico”) and Insomnia Cookies Holdings, LLC (“Insomnia Cookies”). Since the Company consolidates the financial statements of these subsidiaries, the noncontrolling owners’ share of each subsidiary’s net assets and results of operations are deducted and reported as a noncontrolling interest on the Condensed Consolidated Balance Sheets and as net income attributable to noncontrolling interest in the Condensed Consolidated Statements of Operations and comprehensive income attributable to noncontrolling interest in the Condensed Consolidated Statements of Comprehensive Income.

Summary of Significant Accounting Policies

The Company’s significant accounting policies are described in Note 1, “Description of Business and Summary of Significant Accounting Policies,” to the Consolidated Financial Statements for the year ended January 3, 2021. There have been no material changes to the significant accounting policies during the quarter ended April 4, 2021.

Recent Accounting Pronouncements

In December 2019, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2019-12, *Income Taxes (Topic 740) Simplifying the Accounting for Income Taxes*. ASU 2019-12 simplifies the accounting for income taxes by removing certain exceptions in Topic 740 and clarifying and amending existing guidance. The Company adopted ASU 2019-12 at the beginning of fiscal year 2021, and the adoption had no material impact to the Company’s Condensed Consolidated Financial Statements.

In March 2020, the FASB issued ASU 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides companies with optional guidance to ease the potential accounting burden associated with transitioning away from reference rates that are expected to be discontinued. It is effective for all entities as of March 12, 2020 through December 31, 2022. A company may elect to apply the amendments for contract modifications by as of any date from the beginning of an interim period that includes or is subsequent to March 12, 2020, or prospectively from a date within an interim period that includes or is subsequent to March 12, 2020, up to the date that the financial statements are available to be issued. The Company is currently evaluating the effect of the new guidance on its Condensed Consolidated Financial Statements and related disclosures.

Note 2 — Acquisitions

2021 Acquisitions

Acquisitions of Krispy Kreme Shops in 2021

In the quarter ended April 4, 2021, the Company acquired the business and operating assets of an additional two franchisees, collectively consisting of 17 Krispy Kreme shops in the United States. The Company paid total consideration of \$38.1 million, consisting of \$33.6 million cash, \$1.2 million consideration payable to the sellers within 12 months of the respective acquisition dates, and \$3.3 million settlement of amounts related to pre-existing relationships, to acquire substantially all of the shops’ assets. Consideration payable of \$1.2 million was withheld to cover indemnification claims that could arise after closing. Absent any claims, these amounts are payable within 12 months of the respective acquisition dates.

The settlement of pre-existing relationships included in the purchase consideration includes the write-off of accounts and notes receivable, net of deferred revenue, of \$0.6 million. It also includes the disposal of the franchise intangible asset related to the two franchisees recorded at time of the acquisition of Krispy Kreme Doughnuts by JAB Holding Company. The net book value of the franchise intangible asset was a cumulative \$2.7 million at the dates of acquisition of the franchisees. The Company accounted for the transactions as business combinations.

The following table summarizes the preliminary fair values of assets acquired and liabilities assumed as of the date of acquisition for the acquisitions above.

	<u>KK U.S. Shops</u>
<u>Assets acquired:</u>	
Cash, cash equivalents and restricted cash	\$ 40
Other current assets	511
Property and equipment, net	3,829
Other intangible assets	23,906
Operating lease right of use asset	19,292
Other assets	115
Total identified assets acquired	<u>47,693</u>
<u>Liabilities assumed:</u>	
Accrued liabilities	(334)
Current operating lease liabilities	(2,093)
Noncurrent operating lease liabilities	(17,199)
Total liabilities assumed	<u>(19,626)</u>
Goodwill	9,999
Purchase consideration, net	<u>\$ 38,066</u>
Transaction costs in 2021 (approx.)	\$ 1,192
Transaction costs in 2020 (approx.)	184
Reportable segment(s)	U.S. and Canada

During the measurement period, the Company will continue to obtain information to assist in determining the fair value of net assets acquired, which may differ materially from these preliminary estimates. Measurement period adjustments, if applicable, will be applied in the reporting period in which the adjustment amounts are determined.

2020 Acquisitions

In the second half of fiscal year 2020, the Company acquired all equity interests in Krispy Kreme Doughnut Japan Co., Ltd. (“KK Japan”) and the business and operating assets of an additional eight franchisees in the United States. The valuation for the acquisitions requires significant estimates and assumptions. The estimates are inherently uncertain and subject to revision as additional information is obtained during the measurement period for the acquisitions. Measurement period changes for the 2020 acquisitions did not have a material impact to the Condensed Consolidated Financial Statements for the quarter ended April 4, 2021.

Note 3 — Inventories

The components of Inventories are as follows:

	<u>April 4, 2021</u>	<u>January 3, 2021</u>
Raw materials	\$15,380	\$16,263
Work in progress	570	871
Finished goods and purchased merchandise	22,012	21,385
Total Inventories	<u>\$37,962</u>	<u>\$38,519</u>

Note 4 — Goodwill and Other Intangible Assets

Goodwill

Changes in the carrying amount of goodwill by reportable segment are as follows:

	<u>U.S and Canada</u>	<u>International</u>	<u>Market Development</u>	<u>Total</u>
Balance as of January 3, 2021	\$642,704	\$290,872	\$152,970	\$1,086,546
Acquisitions	27,523	—	(17,524)	9,999
Measurement periods adjustments related to fiscal year 2020 acquisitions	186	—	—	186
Foreign currency impact	—	(462)	—	(462)
Balance as of April 4, 2021	<u>\$670,413</u>	<u>\$290,410</u>	<u>\$135,446</u>	<u>\$1,096,269</u>

Acquisitions of franchises result in a reclassification of goodwill between segments.

Other intangible assets

Other intangible assets consist of the following:

	<u>April 4, 2021</u>			<u>January 3, 2021</u>		
	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>	<u>Net Amount</u>	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>	<u>Net Amount</u>
Intangible assets with indefinite lives						
Trade name	\$ 657,900	\$ —	\$ 657,900	\$ 657,900	\$ —	\$657,900
Intangible assets with definite lives						
Franchise agreements	32,961	(7,305)	25,656	36,254	(7,519)	28,735
Customer relationships	15,000	(4,035)	10,965	15,000	(3,819)	11,181
Reacquired franchise rights ...	381,590	(65,870)	315,720	358,095	(59,432)	298,663
Website development costs ...	6,500	(5,507)	993	6,500	(4,965)	1,535
Total intangible assets with definite lives	<u>436,051</u>	<u>(82,717)</u>	<u>353,334</u>	<u>415,849</u>	<u>(75,735)</u>	<u>340,114</u>
Total intangible assets	<u>\$1,093,951</u>	<u>\$(82,717)</u>	<u>\$1,011,234</u>	<u>\$1,073,749</u>	<u>\$(75,735)</u>	<u>\$998,014</u>

Amortization expense related to intangible assets included in depreciation and amortization expense was \$7.4 million and \$6.4 million for the quarters ended April 4, 2021 and March 29, 2020, respectively.

Note 5 — Leases

The Company included the following amounts related to operating and finance assets and liabilities within the Condensed Consolidated Balance Sheets:

		As of	
		April 4, 2021	January 3, 2021
Assets	Classification		
Operating lease	Operating lease right of use asset, net	\$409,485	\$399,688
Finance lease	Property and equipment, net	25,019	23,556
Total leased assets		<u>\$434,504</u>	<u>\$423,244</u>
Liabilities			
Current			
Operating lease	Current operating lease liabilities	\$ 46,500	\$ 45,675
Finance lease	Current portion of long-term debt	2,581	6,245
Noncurrent			
Operating lease	Noncurrent operating lease liabilities	385,207	376,099
Finance lease	Long-term debt, less current portion	24,398	19,979
Total leased liabilities		<u>\$458,686</u>	<u>\$447,998</u>

Lease costs were as follows:

		For Quarters Ended	
		April 4, 2021	March 29, 2020
Lease cost	Classification		
Operating lease cost	Selling, general and administrative expense	\$ 710	\$ 819
Operating lease cost	Operating expenses	20,338	17,489
Short-term lease cost	Operating expenses	772	632
Variable lease costs	Operating expenses	3,079	3,213
Sublease income	Royalties and other revenues	(80)	(109)
Finance lease cost:			
Amortization of right-of-use assets ..	Depreciation and amortization expense	798	1,000
Interest on lease liabilities	Interest expense, net	\$ 593	\$ 226

Supplemental disclosures of cash flow information related to leases were as follows:

		For Quarters Ended	
		April 4, 2021	March 29, 2020
Other information			
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash flows from operating leases		\$22,196	\$19,116
Operating cash flows from finance leases		512	489
Financing cash flows from finance leases		879	1,083
Right-of-use assets obtained in exchange for new lease liabilities:			
Operating leases		26,275	4,177
Finance leases		\$ 1,788	\$ 6,686

The Company did not terminate any leases for the quarters ended April 4, 2021 and March 29, 2020.

Note 6 — Fair Value Measurements

The following table presents assets and liabilities that are measured at fair value on a recurring basis as of April 4, 2021 and January 3, 2021:

	April 4, 2021		
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Assets:			
401(k) mirror plan assets	\$242	\$ —	\$—
Commodity derivatives	<u>—</u>	<u>1,413</u>	<u>—</u>
	<u>\$242</u>	<u>\$ 1,413</u>	<u>\$—</u>
Liabilities:			
Foreign currency derivative	—	423	—
Interest rate derivative	<u>—</u>	<u>26,010</u>	<u>—</u>
	<u>\$—</u>	<u>\$26,433</u>	<u>\$—</u>
	January 3, 2021		
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Assets:			
401(k) mirror plan assets	\$237	\$ —	\$—
Foreign currency derivative	—	131	—
Commodity derivatives	<u>—</u>	<u>420</u>	<u>—</u>
	<u>\$237</u>	<u>\$ 551</u>	<u>\$—</u>
Liabilities:			
Interest rate derivative	—	32,813	—
	<u>\$—</u>	<u>\$32,813</u>	<u>\$—</u>

There were no transfers of financial assets or liabilities among the levels within the fair value hierarchy during the quarter ended April 4, 2021 and fiscal year ended January 3, 2021.

Note 7 — Derivative Instruments

Commodity Price Risk

The Company uses forward and option currency contracts as well as purchase swaps to protect against the effects of commodity price fluctuations in the cost of ingredients of its products, of which flour, sugar and shortening are the most significant, and cost of gasoline used by its delivery vehicles. Management has not designated these forward contracts as hedges. As of April 4, 2021 and January 3, 2021, the total notional amount of commodity derivatives was 2.6 million and 3.0 million gallons of gasoline, respectively. They were scheduled to mature between April 5, 2021 and December 1, 2022 and January 4, 2021 and December 1, 2022, respectively. As of April 4, 2021 and January 3, 2021, the Company has recorded an asset of \$1.4 million and \$0.4 million, respectively, related to the fair market values of its commodity derivatives.

Interest Rate Risk

The Company is exposed to interest rate risk related to its borrowing obligations. From time to time, the Company enters into interest rate swap arrangement to manage the risk. Management has designated the swap agreements as cash flow hedges and recognized the changes in the fair value of these swaps in other comprehensive income. As of April 4, 2021 and January 3, 2021, the Company has recorded liabilities of \$26.0 million and \$32.8 million, respectively, related to the fair market values of its interest rate derivatives. The

cash flows associated with the interest rate swaps are reflected in the operating activities in the Condensed Consolidated Statements of Cash Flows, which is consistent with the classification as operating activities of the interest payments on the term loan.

Foreign Currency Exchange Rate Risk

The Company is exposed to foreign currency risk primarily from its investments in consolidated subsidiaries that operate in the United Kingdom, Ireland, Australia, New Zealand, Mexico and Japan. In order to mitigate foreign exchange fluctuations, the Company enters into foreign exchange forward contracts. Management has not designated these forward contracts as hedges. As of April 4, 2021 and January 3, 2021, the total notional amount of foreign exchange derivatives was \$30.4 million and \$26.7 million, respectively. They were scheduled to mature in April 2021 and January 2021, respectively. The Company recorded a liability of \$0.4 million and an asset of \$0.1 million as of April 4, 2021 and January 3, 2021, respectively, related to the fair market values of its foreign exchange derivatives.

Quantitative Summary of Derivative Positions and Their Effect on Results of Operations

The following tables present the fair values of derivative instruments included in the Condensed Consolidated Balance Sheets as of April 4, 2021 and January 3, 2021, for derivatives not designated as hedging instruments and derivatives designated as hedging instruments, respectively. The Company only has cash flow hedges that are designated as hedging instruments.

Derivatives Not Designated as Hedging Instruments	Derivatives Fair Value		Balance Sheet Location
	April 4, 2021	January 3, 2021	
Foreign currency derivatives	\$ —	\$ 131	Prepaid expense and other current assets
Commodity derivatives	1,413	420	Prepaid expense and other current assets
	<u>\$ 1,413</u>	<u>\$ 551</u>	
Foreign currency derivatives	\$ 423	\$ —	Accrued liabilities
	<u>\$ 423</u>	<u>\$ —</u>	
Derivatives Designated as Hedging Instruments	Derivatives Fair Value		Balance Sheet Location
	April 4, 2021	January 3, 2021	
Interest rate derivatives	\$ 9,787	\$10,235	Accrued liabilities
Interest rate derivatives	16,223	22,578	Other long-term obligations and deferred credits
	<u>\$26,010</u>	<u>\$32,813</u>	

The effect of derivative instruments on the Condensed Consolidated Statements of Operations for the quarters ended April 4, 2021 and March 29, 2020 is as follows:

Derivatives Designated as Hedging Instruments	Amount of Derivative Gain (Loss) Recognized in Income for the Quarters Ended		Location of Derivative Gain (Loss) Recognized in Income
	April 4, 2021	March 29, 2020	
Loss on interest rate derivatives	<u>\$(2,530)</u>	<u>\$ (695)</u>	Interest expense, net
	<u>\$(2,530)</u>	<u>\$ (695)</u>	

Derivatives Not Designated as Hedging Instruments	Amount of Derivative Gain (Loss) Recognized in Income for the Quarters Ended		Location of Derivative Gain (Loss) Recognized in Income
	April 4, 2021	March 29, 2020	
(Loss)/gain on foreign currency	\$ (611)	\$ 480	Other non-operating expense/(income), net
Gain/(loss) on commodity derivatives	993	(2,293)	Other non-operating expense/(income), net
	<u>\$ 382</u>	<u>\$(1,813)</u>	

Note 8 — Share-based Compensation

Restricted stock unit (“RSU”) activity under the Company’s various plans during the periods presented is as follows:

	Non-vested shares outstanding at January 3, 2021	Granted	Vested	Forfeited	Non-vested shares outstanding at April 4, 2021
KKHI					
RSUs	843,488	87,511	27,274	29,306	874,419
Weighted Average Grant Date Fair Value	\$ 62.69	100.42	49.50	70.12	\$ 66.63
KKUK					
RSUs	404,568	—	—	—	404,568
Weighted Average Grant Date Fair Value	\$ 12.45	—	—	—	\$ 12.45
Insomnia Cookies					
RSUs	29,279	15,173	—	1,908	42,544
Weighted Average Grant Date Fair Value	\$ 68.87	97.77	—	69.98	\$ 79.12
KK Australia					
RSUs	1,844,241	78,534	—	—	1,922,775
Weighted Average Grant Date Fair Value	\$ 1.48	1.45	—	—	\$ 1.48
KK Mexico					
RSUs	25,055	167	—	—	25,222
Weighted Average Grant Date Fair Value	\$ 29.21	28.69	—	—	\$ 29.21

The Company recorded total non-cash compensation expense related to RSUs under the plans of \$2.4 million and \$3.2 million for the quarters ended April 4, 2021 and March 29, 2020, respectively.

The unrecognized compensation cost related to the unvested RSUs and the weighted-average period over which such cost is expected to be recognized are as follows:

	As of April 4, 2021	
	Unrecognized compensation cost	Recognized over a weighted-average period of
KKHI	\$27,913	2.1 years
KKUK	590	0.4 years
Insomnia Cookies	2,771	3.7 years
KK Australia	1,061	1.8 years
KK Mexico	\$ 684	4.2 years

The estimated fair value of restricted stock is calculated using a market approach (i.e. market multiple is used for the KKHI, KKUK and Insomnia Cookies’ plans and an agreed-upon EBITDA buyout multiple is used for KK Australia and KK Mexico plans).

Note 9 — Income Taxes

For interim tax reporting, the Company estimates a worldwide annual effective tax rate and applies that rate to the year-to-date ordinary income/(loss). The tax effects of significant unusual or infrequently occurring items are excluded from the estimated annual effective tax rate calculation and recognized in the interim period in which they occur.

The Company's effective income tax rates for the quarters ended April 4, 2021 and March 29, 2020 were 223.13% and 11.42%, respectively. The Company's effective income tax rate for the quarter ended April 4, 2021 was unusual given an insignificant discrete item and pre-tax income that was close to break-even during the period. The Company's effective income tax rates were also impacted by the mix of income and taxes attributable to foreign jurisdictions.

Note 10 — Commitments and Contingencies

Except as disclosed below, the Company currently is not a party to any material legal proceedings.

Pending Litigation

K² Asia litigation

On April 7, 2009, a Cayman Islands corporation, K2 Asia Ventures and its owners filed a lawsuit in Forsyth County, North Carolina Superior Court against the Company, the Company's franchisee in the Philippines and other persons associated with the franchisee. The suit alleges that the Company and the other defendants conspired to deprive the plaintiffs of claimed "exclusive rights" to negotiate franchise and development agreements with prospective franchisees in the Philippines and sought at least \$3.0 million. The Company believes that these allegations lack merit and continues to vigorously defend against the lawsuit. After the North Carolina Court of Appeals denied the plaintiff's petition for rehearing en banc, the plaintiff filed with the North Carolina Supreme Court a petition for discretionary review on November 2, 2020. The Company filed a response to this petition on November 16, 2020. The Company is awaiting a decision from the Court. The Company does not believe it is probable that a loss has been incurred with respect to this matter, and accordingly no liability related to it has been reflected in the accompanying financial statements.

Insomnia Cookies litigation related to employee wages

Insomnia Cookies was a party to a class action lawsuit alleging violations of minimum wage laws, overtime laws and attendant recordkeeping requirements. The complaint alleged that Insomnia Cookies did not (i) properly reimburse delivery employees for personal expenses incurred while making deliveries, (ii) properly notify delivery employees regarding tip credits and (iii) calculate overtime pay correctly. Insomnia Cookies settled with plaintiff for approximately \$1.5 million during the year ended January 3, 2021 which was previously accrued at \$2.0 million as of December 29, 2019.

Insomnia Cookies is currently a party to a class action lawsuit alleging violations of unfair competition, unpaid minimum wages, unpaid overtime, meal and rest period violations and unpaid premiums, failure to reimburse for business expenses, untimely paid wages, and violation of the California Private Attorneys General Act. Insomnia Cookies vigorously disputes these claims. On March 11, 2021, the parties participated in a mediation and reached a class wide settlement and release of claims in principle for \$0.4 million. The parties have executed a memorandum of understanding memorializing the key settlement terms and are in the process of finalizing long form settlement documents and seeking preliminary court approval of the settlement.

TSW Food, LLC litigation

On November 13, 2020, TSW Foods, LLC ("TSW"), a reseller of certain Krispy Kreme packaged products, filed a demand for arbitration and statement of claim alleging Anticipatory Repudiation of the Master Reseller

Agreement, Breach of the Master Reseller Agreement, and Breach of the Implied Covenant of Good Faith and Fair Dealing. On December 12, 2020, the Company filed its answering statement denying all of TSW's claims. On February 8, 2021, the Company filed its counterclaim against TSW alleging Breach of Master Reseller Agreement, Breach of Trade Secret Agreement, and Breach of Good Faith and Fair Dealing. On March 5, 2021, TSW filed its answering statement denying all of the Company's claims. The Company intends to vigorously defend against TSW's claims and prosecute its counterclaims. At this time the Company is unable to predict the outcome of this matter, the potential loss or range of loss, if any, associated with the resolution of this matter or any potential effect it may have on the Company or its operations.

Other Legal Matters

The Company also is engaged in various legal proceedings arising in the normal course of business. The Company maintains insurance policies against certain kinds of such claims and suits, including insurance policies for workers' compensation and personal injury, all of which are subject to deductibles. While the ultimate outcome of these matters could differ from management's expectations, management currently does not believe their resolution will have a material adverse effect on the Company's Condensed Consolidated Financial Statements.

Other Commitments and Contingencies

One of the Company's primary banks issued letters of credit on its behalf totaling \$13.5 million and \$14.0 million as of April 4, 2021 and January 3, 2021, respectively, substantially all of which secure the Company's reimbursement obligations to insurers under its self-insurance arrangements.

Note 11 — Related Party Transactions

As of April 4, 2021 and January 3, 2021, the Company had an equity ownership in two franchisees, KremeWorks USA, LLC (20% ownership) and KremeWorks Canada, L.P. (25% ownership), with an aggregate carrying value of \$0.8 million and \$0.9 million as of April 4, 2021 and January 3, 2021, respectively. Revenues from sales of ingredients and equipment to these franchisees were \$1.8 million and \$1.7 million for the quarters ended April 4, 2021 and March 29, 2020, respectively. Royalty revenue from these franchisees was \$0.3 million for both quarters ended April 4, 2021 and March 29, 2020. Trade receivables from these franchisees are included in Accounts receivable, net on the Condensed Consolidated Balance Sheets, which were \$0.5 million and \$0.4 million as of April 4, 2021 and January 3, 2021, respectively.

Keurig Dr Pepper Inc. (KDP), an affiliated company of JAB, licenses the Krispy Kreme trademark for the Company in the manufacturing of portion packs for the Keurig brewing system. KDP also sells beverage concentrates and packaged beverages to Krispy Kreme for resale through Krispy Kreme's shops. Licensing revenue from KDP was \$0.5 million for both quarters ended April 4, 2021 and March 29, 2020.

The Company had service agreements with BDT Capital Partners, LLC (BDT), a minority investor in KKI, to provide advisory services to the Company, including valuation services related to certain acquisitions. The Company recognized expenses of \$0.6 million and \$0.5 million related to the service agreements with BDT for the quarters ended April 4, 2021 and March 29, 2020, respectively.

In connection with tax sharing arrangements with JAB and other JAB portfolio companies, the Company had a \$7.4 million related party receivable from JAB as of both April 4, 2021 and January 3, 2021. In addition, the Company had a \$15.3 million related party payable to the other JAB portfolio companies as of both April 4, 2021 and January 3, 2021, offset by a \$15.3 million income tax receivable due from taxing authorities, respectively.

The Company is party to a senior unsecured note agreement (the "original agreement") with Krispy Kreme G.P. ("KK GP"). In the original agreement, which was outstanding prior to fiscal year ended December 30, 2018, the

aggregate principal amount was \$283.1 million. In April 2019, the Company entered into an additional unsecured note with KK GP for \$54.0 million (the “additional agreement”). As of April 4, 2021, and January 3, 2021, the outstanding amount of principal and interest was \$350.1 million and \$344.6 million, respectively. The interest expense was \$5.6 million for both quarters ended April 4, 2021 and March 29, 2020.

The Company granted loans to employees of KKHI, KKUK, KK Australia, KK Mexico and Insomnia Cookies for the purchase of shares in those subsidiaries. The loan balance was \$18.2 million and \$18.7 million as of April 4, 2021 and January 3, 2021, respectively, and it is presented as a reduction from Shareholders’ equity on the Condensed Consolidated Balance Sheet. Each of such loans have been repaid in full as of May 14, 2021.

Note 12 — Revenue Recognition

Disaggregation of Revenue

Revenues are disaggregated as follows:

	<u>Quarters Ended</u>	
	<u>April 4, 2021</u>	<u>March 29, 2020</u>
Company shops, Branded Sweet Treat Line and DFD . . .	\$300,495	\$230,614
Mix and equipment revenue from franchisees	13,090	20,922
Franchise royalties, and other	8,224	9,680
	<u>\$321,809</u>	<u>\$261,216</u>

Other revenues include advertising fund contributions, rental income, development and franchise fees and licensing royalties from Keurig related to Krispy Kreme brands coffee sales.

Contract Balances

Deferred revenue subject to Accounting Standards Codification Topic 606, *Revenue from Contracts with Customers*, and related receivables are as follows:

	<u>April 4, 2021</u>	<u>January 3, 2021</u>	<u>Balance Sheet Classification</u>
Trade receivables, net of allowances of \$1,073 and \$1,437, respectively	\$32,423	\$39,624	Accounts receivables, net
Deferred revenue			
Current	15,927	16,045	Accrued liabilities
Non-current	2,812	2,838	Other long-term obligations and deferred credits
	<u>\$18,739</u>	<u>\$18,883</u>	

Note 13 — Net Loss per Share

The following table presents the calculations of basic and diluted EPS:

	<u>Quarters Ended</u>	
	<u>April 4, 2021</u>	<u>March 29, 2020</u>
<i>(In thousands, except share and per share amounts)</i>		
Net loss attributable to Krispy Kreme, Inc.	\$ (3,061)	\$(11,515)
Adjustment to net loss attributable to common shareholders . . .	(141)	106
Net loss attributable to common shareholders - Basic	\$ (3,202)	\$(11,409)
Additional income attributed to noncontrolling interest due to subsidiary potential common shares	(85)	(8)
Net loss attributable to common shareholders - Diluted	\$ (3,287)	\$(11,417)
Basic and Diluted weighted average common shares outstanding . . .	71,626	71,626
Loss per share attributable to common shareholders:		
Basic	\$ (44.71)	\$(159.29)
Diluted	\$ (45.89)	\$(159.39)

Potential dilutive shares consist of unvested RSUs, calculated using the treasury stock method. The calculation of dilutive shares outstanding excludes certain unvested RSUs granted under certain subsidiaries' executive ownership plans and long-term incentive plans, because their inclusion would have been antidilutive. Refer to Note 8, Share-based Compensation, to the Condensed Consolidated Financial Statements for further information about the plans.

The following table summarizes the number of unvested RSUs excluded due to antidilution:

	<u>Quarters Ended</u>	
	<u>April 4, 2021</u>	<u>March 29, 2020</u>
KKHI	—	773,863
KKUK	3,258	416,068
Insomnia Cookies	—	28,280
KK Australia	1,922,775	—
KK Mexico	25,222	—

Note 14 — Segment Reporting

The Company conducts business through the three reportable segments: U.S. and Canada, International, and Market Development. Unallocated corporate costs are excluded from the Company's measurement of segment performance. These costs include general corporate expenses.

The reportable segment results are as follows:

	<u>Quarters Ended</u>	
	<u>April 4, 2021</u>	<u>March 29, 2020</u>
<i>Net revenues:</i>		
U.S. and Canada	\$222,470	\$170,450
International	66,506	60,659
Market Development	32,833	30,107
Total net revenues	<u>\$321,809</u>	<u>\$261,216</u>
	<u>Quarters Ended</u>	
	<u>April 4, 2021</u>	<u>March 29, 2020</u>
<i>Segment adjusted EBITDA:</i>		
U.S. and Canada	\$28,731	\$ 22,860
International	15,571	11,268
Market Development	10,891	10,712
Corporate	(7,399)	(7,091)
	47,794	37,749
Interest expense, net	8,249	8,644
Interest expense — related party	5,566	5,566
Income tax expense/(benefit)	685	(1,412)
Depreciation and amortization expense	23,401	19,087
Share-based compensation	2,368	3,170
Other non-operating (income)/expense, net	(442)	2,548
Pre-opening costs and related expenses ⁽¹⁾	1,391	3,877
Strategic initiatives ⁽²⁾	—	3,613
Acquisition and integration expenses ⁽³⁾	2,152	3,611
Other ⁽⁴⁾	4,802	(7)
Net income (loss)	<u>\$ (378)</u>	<u>\$(10,948)</u>

1. Consists of pre-opening costs as reflected within the Condensed Consolidated Statement of Operations and additional incremental related costs. Pre-opening costs, which include rent, labor and marketing expenses incurred prior to opening a new shop, were \$1.4 million and \$3.4 million for the quarters ended April 4, 2021 and March 29, 2020, respectively. Additional incremental related costs of \$0.5 million for the quarter ended March 29, 2020 related to the Company's New York City flagship Hot Light Theater Shop opening and consisted of additional consulting and training costs incurred and reflected in selling, general and administrative expenses.
2. The quarter ended March 29, 2020 consists mainly of consulting and advisory fees, personnel transition costs, and network conversion and set-up costs related to the transformation of the Company's legacy wholesale business in the United States. This transformation was completed by the end of fiscal year 2020.
3. Consists of acquisition and integration-related costs in connection with the Company's business and franchise acquisitions, including legal, due diligence, consulting and advisory fees incurred in connection with acquisition-related activities for the applicable period.
4. The quarter ended April 4, 2021 consists primarily of \$3.5 million of consulting and advisory fees incurred in connection with preparation for the Company's initial public offering.

Note 15 — Subsequent Events

The Company evaluated subsequent events and transactions for potential recognition or disclosure in the Condensed Consolidated Financial Statements through May 28, 2021, the date the Condensed Consolidated Financial Statements were available to be issued. All subsequent events requiring recognition and disclosure have been incorporated into these financial statements.

On April 9, 2021, the Company received \$144.1 million in capital contributions from shareholders and other minority interest investors. This amount was used to repay a portion of the outstanding debt balance under the 2019 Facility and will be accounted for as a capital contribution in the Condensed Consolidated Statements of Changes in Shareholders' Equity.

During May 2021, the Company granted stock options and RSUs to certain employees and members of the Board of Directors of KKHI. The estimated fair values of the stock options and RSUs were \$29.1 million and \$55.9 million, respectively.

Subsequent to the quarter ended April 4, 2021, the Company settled \$14.6 million of the loans to employees of KKHI for the purchase of shares. Refer to Note 11, Related Party Transactions, to the Condensed Consolidated Financial Statement for discussion of the loans.

EXHIBIT G-1

PARENT GUARANTEE OF PERFORMANCE – GENERAL

GUARANTEE OF PERFORMANCE

(Multi-State)

For value received, Krispy Kreme Doughnuts, Inc., a North Carolina corporation (the “Guarantor”) located at 370 Knollwood St., Winston-Salem, North Carolina, 27103, absolutely and unconditionally guarantees to assume the duties and obligations of Krispy Kreme Doughnut Corporation, a North Carolina corporation (the “Franchisor”) located at 370 Knollwood St., Winston-Salem, North Carolina, 27103, under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2021 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 the 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 on its successors and assigns.

The Guarantor executes this guarantee at Charlotte, North Carolina, on the 8th day of September, 2021.

Guarantor:

Krispy Kreme Doughnuts, Inc.

By: _____

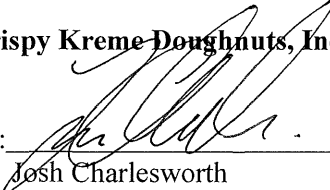

Josh Charlesworth
Chief Financial Officer

EXHIBIT G-2

PARENT GUARANTY OF PERFORMANCE – ILLINOIS

GUARANTY OF PERFORMANCE

(Illinois)

For value received, Krispy Kreme Doughnuts, Inc., a North Carolina corporation (the “Guarantor”) located at 370 Knollwood St., Winston-Salem, North Carolina, 27103, absolutely and unconditionally guarantees the performance by Krispy Kreme Doughnut Corporation, a North Carolina Corporation (the “Franchisor”) located at 370 Knollwood St., Winston-Salem, North Carolina, 27103, of all obligations under the Illinois Franchise Disclosure Act and Rules, and of all of the obligations of Franchisor to furnish goods and/or services necessary to establish and open the business of franchisees to whom franchises are granted by Franchisor pursuant to the registration of such franchises in the State of Illinois and the terms and conditions of its license and other agreements entered into after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed, or extended from time to time. This guaranty shall continue in force until all such obligations of Franchisor shall have been satisfied or until such liability of Franchisor to such franchisees has been completely discharged, whichever occurs first. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. Notice of default on the part of Franchisor is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, Guaranty has, by a duly authorized officer, executed this guaranty at Charlotte, North Carolina, on the 8th day of September, 2021.

Guarantor:

Krispy Kreme Doughnuts, Inc.

By: _____



Josh Charlesworth
Chief Financial Officer

EXHIBIT H

STATE SPECIFIC ADDENDA TO THE FRANCHISE DISCLOSURE DOCUMENT

**ADDENDUM TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF ILLINOIS**

This Addendum to the Franchise Disclosure Document modifies and supersedes the Franchise Disclosure Document with respect to franchises offered or sold to either a resident of the State of Illinois or a non-resident who will be operating a franchise in the State of Illinois as follows:

1. The Cover Page and “Summary” section of Item 17(v) entitled Choice of forum, (Franchise and Development Agreement charts) are amended to provide that if the Franchise Disclosure Document or the Agreement requires litigation to be conducted in a forum other than the State of Illinois, the requirement is void with respect to claims under the Illinois Franchise Disclosure Act.

2. The Cover Page and “Summary” section of Item 17(w) entitled Choice of law, (Franchise and Development Agreement charts) are amended to provide that if the Franchise Disclosure Document or the Agreement requires that it be governed by a state’s law, other than the State of Illinois, to extent that such law conflicts with the Illinois Franchise Disclosure Act, Illinois law will control.

**ADDENDUM TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MARYLAND**

This Addendum to the Franchise Disclosure Document modifies and supersedes the Franchise Disclosure Document with respect to franchises offered or sold to either a resident of the State of Maryland or a non-resident who will be operating a franchise in the State of Maryland as follows:

1. Item 17 (Franchise and Development Agreement charts) is amended as follows:
 - (a) Any choice of forum for litigation is subject to your right to bring an action in Maryland under the Maryland Franchise Registration and Disclosure Law, Md. Code Ann., Bus. Reg. §§ 14-201 to 14-233 (2010 Repl. Vol. and Supp. 2010) and the rules and regulations promulgated thereto (the “Maryland Franchise Law”).
 - (b) The general release required as a condition of renewal, sale, and/or assignment/transfer will not apply to any liability under the Maryland Franchise Law. This may affect the enforceability of certain provisions in the Franchise and/or Development Agreement relating to renewal, sale, assignment or transfer of the Franchise and/or Development Agreement.
 - (c) Any claims that Franchisee or Developer may have under the Maryland Franchise Law must be brought within 3 years after the grant of the franchise.
 - (d) A provision in the Franchise and /or Development Agreement which terminates the agreement upon your bankruptcy may not be enforceable under Title 11, United States Code Section 101.
2. The Franchise Disclosure Document is amended to include the following:

The representations made by you in connection with this Franchise Disclosure Document, the Franchise Agreement and the Development Agreement are not intended to nor will they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Law.
3. The Code of Maryland Regulations, COMAR 02.02.08.16L., states that a general release required as a condition of renewal, sale and/or assignment/transfer will not apply to any liability under the Maryland Franchise Law. This may affect the enforceability of certain provisions in the Franchise Agreement and/or Development Agreement relating to renewal, sale, assignment or transfer.

**ADDENDUM TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE
AGREEMENT AND DEVELOPMENT AGREEMENT
FOR THE STATE OF MINNESOTA**

The Krispy Kreme Doughnut Franchise and/or Development Agreement between _____ (“Franchisee”, “Developer” or “You”) and Krispy Kreme Doughnut Corporation (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “Addendum”):

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 80C.01 et seq., and the Rules and Regulations promulgated under the Act (collectively the “Franchise Act”). To the extent that the Agreement/and or Franchise Disclosure Document contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Minnesota Department of Commerce requires that franchisors indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee’s use of the franchisor’s proprietary marks infringes trademark rights of the third party.
- b. Minn. Stat. Sec. 80C.14, Subds. 3, 4., and 5 requires, except in certain specified cases, 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. If the Agreement contains a provision that is inconsistent with the Franchise Act, the provisions of the Agreement shall be superseded by the Act’s requirements and shall have no force or effect.
- c. 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 Franchise Act, such release shall exclude claims arising under the Franchise Act, and such acknowledgments shall be void with respect to claims under the Franchise Act.
- d. If the Agreement requires that it be governed by the law of a State other than the State of Minnesota or arbitration or mediation, those provisions shall not in any way abrogate or reduce any rights of the Franchisee as provided for in the Franchise Act, including the right to submit matters to the jurisdiction of the courts of Minnesota.
- e. Any provision that requires the Franchisee to consent to a claims period that differs from the applicable statute of limitations period under Minn. Stat § 80C.17, Subd. 5. may not be enforceable under Minnesota.

2. Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, including your rights to any procedure, forum, or remedies provided for in that law.

3. The Agreement/and or Franchise Disclosure Document is hereby amended to delete all references to Liquidated Damages (as defined) in violation of Minnesota law; provided, that no such deletion shall excuse the franchisee from liability for actual or other damages and the formula for Liquidated Damages in the Agreement/and or Franchise Disclosure Document shall be admissible as evidence of actual damages.

4. To the extent required by Minnesota Law, the Agreement/and or Franchise Disclosure Document is amended to delete all references to a waiver of jury trial.

5. All sections of the Agreement/and or Franchise Disclosure Document referencing Franchisor's right to obtain injunctive relief are hereby amended to refer to Franchisor's right to seek to obtain.

6. Each provision of this Agreement 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.

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Addendum and be bound thereby. The parties have duly executed and delivered this Addendum to the Agreement on _____, 20__.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the day and year first above written.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Title: _____
Dated: _____

**IF FRANCHISEE IS A [CORPORATION]
[LIMITED LIABILITY COMPANY]
[PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
Title: _____
Dated: _____

IF FRANCHISEE IS ONE OR MORE INDIVIDUALS:

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

**ADDENDUM TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NEW YORK**

This Addendum to the Franchise Disclosure Document modifies and supersedes the Disclosure Document with respect to franchises offered or sold to either a resident of the State of New York or a non-resident who will be operating a franchise in the State of New York as follows:

1. The Cover Page to the Disclosure Document is amended by adding the following as an additional Risk Factor:

4. WE MAY, IF WE CHOOSE, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE DISCLOSURE DOCUMENT. HOWEVER, KRISPY KREME CANNOT USE THE NEGOTIATING PROCESS TO REQUIRE YOU TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THE DISCLOSURE DOCUMENT.

**ADDENDUM TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NORTH DAKOTA**

This Addendum to the Franchise Disclosure Document modifies and supersedes the Disclosure Document with respect to franchises offered or sold to either a resident of the State of North Dakota or a non-resident who will be operating a franchise in the State of North Dakota as follows:

1. Item 17 is modified by the addition of the following:

The North Dakota Securities Commissioner has determined that requiring a franchisee to sign a general release upon renewal of a franchise agreement is unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law and may not be enforceable. To the extent that any provision of the Franchise Agreement or Development Agreement is interpreted to require that the franchisee sign a general release upon renewal of the Franchise Agreement or Development Agreement, such provision will be modified to the extent necessary to ensure that the provision is consistent with the Commissioner's determinations and the North Dakota Franchise Investment Law.

The North Dakota Securities Commissioner has determined that requiring a franchisee to consent to termination or liquidated damages is unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law and such requirements may not be enforceable. To the extent that any provision of the Franchise Agreement or Development Agreement is inconsistent with the Commissioner's determinations and the North Dakota Franchise Investment Law, such provision will be modified to the extent necessary to ensure that the provision is consistent with the Commissioner's determinations and the North Dakota Franchise Investment Law.

Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota.

With respect to claims under the North Dakota Franchise Investment Law, mediation of disputes under the Franchise Agreement will take place at a location that is mutually agreeable to all parties.

If the Franchise Agreement or Development 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.

The Franchise Agreement and Development Agreement will be governed by the North Dakota Franchise Investment Law.

**ADDENDUM TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF VIRGINIA**

This Addendum to the Franchise Disclosure Document modifies and supersedes the Disclosure Document with respect to franchises offered or sold to either a resident of the State of Virginia or a non-resident who will be operating a franchise in the State of Virginia as follows:

1. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, Item 17(h) of this Franchise Disclosure Document for use in the Commonwealth of Virginia will be amended as follows:

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 ground for default or termination stated in the 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.

EXHIBIT I-1

STATE SPECIFIC AMENDMENTS TO THE FRANCHISE AGREEMENT

**AMENDMENT TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE AGREEMENT
FOR THE STATE OF ILLINOIS**

The Krispy Kreme Doughnut Corporation Franchise between _____ (“Franchisee” or “You”) and Krispy Kreme Doughnut Corporation (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “Amendment”):

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 Illinois Franchise Disclosure Act of 1987, 815 ILCS 705/1-44 (“Illinois Franchise Act”). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Illinois Franchise Act paragraphs 705/19 and 705/20 provide rights to You concerning nonrenewal and termination of the Agreement. If the Agreement contains a provision that is inconsistent with the Illinois Franchise Act, the Illinois Franchise Act will control.
- b. Any release of claims or acknowledgments of fact contained in the Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Illinois Franchise Act, or a rule or order under the Illinois Franchise Act shall be void and are hereby deleted with respect to claims under the Illinois Franchise Act.
- c. If this Agreement requires litigation to be conducted in a forum other than the State of Illinois, the requirement is void with respect to claims under the Illinois Franchise Act.
- d. If this Agreement requires that it be governed by the law of a state, other than the State of Illinois, to the extent that such law conflicts with the Illinois Franchise Act, Illinois law will control.
- e. Section 29 of the Agreement should be amended by the addition of the following sentence:

However, this Section shall not act as a condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act of 1987 at Section 705/41.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Illinois law applicable to the provision are met independent of this Addendum. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, Franchisee, on behalf of itself and its owners, acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on _____, 20__.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Title: _____
Dated: _____

**IF FRANCHISEE IS A [CORPORATION]
[LIMITED LIABILITY COMPANY]
[PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
Title: _____
Dated: _____

IF FRANCHISEE IS ONE OR MORE INDIVIDUALS:

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

**AMENDMENT TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE AGREEMENT
FOR THE STATE OF MARYLAND**

The KRISPY KREME DOUGHNUT CORPORATION Franchise Agreement between _____ (“Franchisee” or “You”) and Krispy Kreme Doughnut Corporation (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “Amendment”):

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, Md. Code Ann., Bus. Reg. §§ 14-201 to 14-233 (2010 Repl. Vol. and Supp. 2010) and the rules and regulations promulgated thereto (“Law”). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Franchisee is required in this Agreement to execute a release of claims as a condition of renewal, sale, and/or assignment/transfer of the Agreement. Such release shall exclude claims arising under the Maryland Franchise Law, and such release shall be void with respect to claims under the Maryland Franchise Law.
- b. Any provision in the Agreement that requires you to disclaim and/or acknowledge the occurrence or nonoccurrence of any act that violates the Law as a condition to purchase a franchise, is amended to exclude such representation. Additionally, such representation will not act as a release, estoppel or waiver of any liability incurred under the Law.
- c. Any requirement that litigation be conducted in a forum other than the State of Maryland shall not be interpreted to limit any rights Franchisee may have under Section 14-216(c)(25) of the Law to bring suit in the State of Maryland.
- d. Any claims that Franchisee may have under the Law must be brought within 3 years after the grant of the franchise.
- e. Section 26 of the Agreement is supplemented by the addition of the following language:

Any provision in the Agreement which terminates the agreement upon bankruptcy may not be enforceable under Title 11, United States Code Section 101.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Maryland 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.

IN WITNESS WHEREOF, Franchisee, on behalf of itself and its owners, acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on _____, 20__.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Title: _____
Dated: _____

**IF FRANCHISEE IS A [CORPORATION]
[LIMITED LIABILITY COMPANY]
[PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
Title: _____
Dated: _____

IF FRANCHISEE IS ONE OR MORE INDIVIDUALS:

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

**AMENDMENT TO KRISPY KREME DOUGHNUT CORPORATION
FRANCHISE AGREEMENT
FOR THE STATE OF NORTH DAKOTA**

The Krispy Kreme Corporation Franchise Agreement between _____ (“Franchisee” or “You”) and Krispy Kreme Doughnut Corporation (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered and integral part of the Agreement (the “Amendment”):

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 (1995). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If 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 North Dakota Franchise Investment Law, and such acknowledgments shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term of and upon termination or expiration of the 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 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 Agreement requires that it be governed by the law of a state, other than the State of North Dakota, to the extent that such law conflicts with North Dakota Law, North Dakota Law will control.
- e. If the 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 Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.
- g. Any provision that provides that the parties waive their right to a jury trial may not be enforceable under North Dakota law.
- h. Any provision that provides that Franchisee consent to a waiver of punitive and exemplary damages may not be enforceable under North Dakota Law.

- i. Any provision that requires Franchisee to consent to a claims period that differs from the applicable statute of limitations period under North Dakota Law may not be enforceable under North Dakota Law.

2. 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.

IN WITNESS WHEREOF, Franchisee, on behalf of itself and its owners, acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on _____, 20__.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
 Title: _____
 Dated: _____

**IF FRANCHISEE IS A [CORPORATION]
 [LIMITED LIABILITY COMPANY]
 [PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
 Title: _____
 Dated: _____

IF FRANCHISEE IS ONE OR MORE INDIVIDUALS:

 Print Name

 Signature
 Dated: _____

 Print Name

 Signature
 Dated: _____

 Print Name

 Signature
 Dated: _____

EXHIBIT I-2

STATE SPECIFIC AMENDMENTS TO THE DEVELOPMENT AGREEMENT

**AMENDMENT TO KRISPY KREME DOUGHNUT CORPORATION
DEVELOPMENT AGREEMENT
FOR THE STATE OF ILLINOIS**

The KRISPY KREME DOUGHNUT CORPORATION Development Agreement between _____ (“Developer” or “You”) and KRISPY KREME DOUGHNUT CORPORATION (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “Amendment”):

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 Illinois Franchise Disclosure Act of 1987, 815 ILCS 705/1-44. (“Illinois Franchise Act”). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Illinois Franchise Act paragraphs 705/19 and 705/20 provide rights to You concerning nonrenewal and termination of the Agreement. If the Agreement contains a provision that is inconsistent with the Illinois Franchise Act, the Illinois Franchise Act will control.
- b. Any release of claims or acknowledgments of fact contained in the Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Illinois Franchise Act, or a rule or order under the Illinois Franchise Act shall be void and are hereby deleted with respect to claims under the Illinois Franchise Act.
- c. If this Agreement requires litigation to be conducted in a forum other than the State of Illinois, the requirement is void with respect to claims under the Illinois Franchise Act.
- d. If this Agreement requires that it be governed by the law of a state, other than the State of Illinois, to the extent that such law conflicts with the Illinois Franchise Act, Illinois law will control.
- e. Section 13 of the Agreement should be amended by the addition of the following sentence:

However, this Section shall not act as a condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act of 1987 at Section 705/41.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Illinois 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.

IN WITNESS WHEREOF, Developer, on behalf of itself and its owners, acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on _____, 20__.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Title: _____
Dated: _____

**IF DEVELOPER IS A [CORPORATION]
[LIMITED LIABILITY COMPANY]
[PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
Title: _____
Dated: _____

IF DEVELOPER IS ONE OR MORE INDIVIDUALS:

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

**AMENDMENT TO KRISPY KREME DOUGHNUT CORPORATION
DEVELOPMENT AGREEMENT
FOR THE STATE OF MARYLAND**

The KRISPY KREME DOUGHNUT CORPORATION Development Agreement between _____ (“Developer” or “You”) and Krispy Kreme Doughnut Corporation (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “Amendment”):

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, Md. Code Ann., Bus. Reg. §§ 14-201 to 14-233 (2010 Repl. Vol. and Supp. 2010) and the rules and regulations promulgated thereto (“Law”). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Developer is required in this Agreement to execute a release of claims as a condition of renewal, sale, and/or assignment/transfer of the Agreement. Such release shall exclude claims arising under the Maryland Franchise Law, and such release shall be void with respect to claims under the Maryland Franchise Law.
- b. Any provision in the Agreement that requires you to disclaim and/or acknowledge the occurrence or nonoccurrence of any act that violates the Law as a condition to purchase a franchise, is amended to exclude such representation. Additionally, such representation will not act as a release, estoppel or waiver of any liability incurred under the Law.
- c. Any requirement that litigation be conducted in a forum other than the State of Maryland shall not be interpreted to limit any rights Developer may have under Section 14-216(c)(25) of the Law to bring suit in the State of Maryland.
- d. Any claims that Developer may have under the Law must be brought within 3 years after the grant of the franchise.
- e. Section 10.1 of the Agreement is supplemented by the addition of the following language:

Any provision in the Agreement which terminates the agreement upon bankruptcy may not be enforceable under Title 11, United States Code Section 101.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Maryland 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.

IN WITNESS WHEREOF, Developer, on behalf of itself and its owners, acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on _____, 20__.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Title: _____
Dated: _____

**IF DEVELOPER IS A [CORPORATION]
[LIMITED LIABILITY COMPANY]
[PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
Title: _____
Dated: _____

IF DEVELOPER IS ONE OR MORE INDIVIDUALS:

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

**AMENDMENT TO KRISPY KREME DOUGHNUT CORPORATION
DEVELOPMENT AGREEMENT
FOR THE STATE OF NORTH DAKOTA**

The Krispy Kreme Corporation Franchise Agreement between _____ (“Developer” or “You”) and Krispy Kreme Doughnut Corporation (“Franchisor”) dated _____ (the “Agreement”) shall be amended by the addition of the following language, which shall be considered and integral part of the Agreement (the “Amendment”):

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 (1995). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If Developer 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 North Dakota Franchise Investment Law, and such acknowledgments shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term of and upon termination or expiration of the 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 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 Agreement requires that it be governed by the law of a state, other than the State of North Dakota, to the extent that such law conflicts with North Dakota Law, North Dakota Law will control.
- e. If the 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 Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.
- g. Any provision that provides that the parties waive their right to a jury trial may not be enforceable under North Dakota law.
- h. Any provision that provides that the Franchisee consent to a waiver of punitive and exemplary damages may not be enforceable under North Dakota Law.

2. 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.

IN WITNESS WHEREOF, Developer, on behalf of itself and its owners, acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on _____, 20__.

KRISPY KREME DOUGHNUT CORPORATION

By: _____
Title: _____
Dated: _____

**IF DEVELOPER IS A [CORPORATION]
[LIMITED LIABILITY COMPANY]
[PARTNERSHIP]**

[INSERT LEGAL NAME]

By: _____
Title: _____
Dated: _____

IF DEVELOPER IS ONE OR MORE INDIVIDUALS:

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

Print Name

Signature
Dated: _____

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:

State	Effective Date
California	September 9, 2021
Hawaii	Pending
Illinois	September 9, 2021
Indiana	Pending
Maryland	Pending
Michigan	September 9, 2021
Minnesota	Pending
New York	September 9, 2021
North Dakota	Pending
Rhode Island	September 23, 2021
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.

ITEM 23

RECEIPT

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 Krispy Kreme offers you a franchise, Krispy Kreme 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, or sooner if required by applicable state law. Applicable state law in (a) Michigan requires Krispy Kreme to provide you the Franchise Disclosure Document at least 10 business 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 and (b) New York, Oklahoma, and Rhode Island require Krispy Kreme to provide you the Franchise Disclosure Document the earlier of the first personal meeting or 10 business 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.

If Krispy Kreme 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, D.C. 20580 and any applicable state agency.

The names, addresses and telephone numbers of the franchise sellers offering the franchise are:

<u>Name</u>	<u>Telephone Number</u>	<u>Address</u>
Matthew Spanjers	704-350-2221	Krispy Kreme Doughnut Corporation
Andy Skehan	704-350-2222	2116 Hawkins Street
Maria Rivera	704-350-2253	Charlotte, NC 28203

Issuance Date: September 9, 2021

I received a Franchise Disclosure Document dated September 9, 2021 (see the State Registrations page for state registration effective dates). The Disclosure Document included the following Exhibits and Attachments:

- | | |
|--|---|
| A State Agencies/Agents for Service of Process | G-1 Parent Guarantee of Performance (General) |
| B-1 Franchise Agreement | G-2 Parent Guarantee of Performance (Illinois) |
| B-2 Development Agreement | H State Specific Addenda to the Franchise Disclosure Document |
| B-3 Service Provider Agreement | I-1 State Specific Amendments to the Franchise Agreement |
| C System Standards Manual Table of Contents | I-2 State Specific Amendments to the Development Agreement |
| D List of Franchisees | |
| E List of Franchisees Who Have Left the System | |
| F Financial Statements | |

Date Received: _____

Individually and as an Officer

Printed Name

of _____

(a _____ Corporation)

(a _____ Partnership)

(a _____ Limited Liability Company)

[Sign and return this page to us.]

ITEM 23

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| B-3 Service Provider Agreement | I-1 State Specific Amendments to the Franchise Agreement |
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| D List of Franchisees | |
| E List of Franchisees Who Have Left the System | |
| F Financial Statements | |

Date Received: _____

Individually and as an Officer

Printed Name

of _____

(a _____ Corporation)

(a _____ Partnership)

(a _____ Limited Liability Company)

[Keep this page for your records.]