

## FRANCHISE DISCLOSURE DOCUMENT

### ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.

(a Colorado corporation)  
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Durango, Colorado 81303  
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Rocky Mountain Chocolate Factory is offering franchises for the retail sale of gourmet chocolate and other premium confectionery products. The total estimated investment necessary to begin operation of a full-sized ROCKY MOUNTAIN CHOCOLATE FACTORY Store ranges from \$186,517 to \$486,793. These amounts include between \$12,500 and \$57,285 that must be paid to the franchisor.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact the Franchise Administrator at Rocky Mountain Chocolate Factory, 265 Turner Drive, Durango, Colorado 81303 and (800) 438-7623.

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

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as *"Buying a Franchise: A Consumer Guide"* which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC's home page at [www.ftc.gov](http://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: October 22, 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
<b>How much can I earn?</b>	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, Exhibit C or Exhibit D.
<b>How much will I need to invest?</b>	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.
<b>Does the franchisor have the financial ability to provide the support to my business?</b>	Item 21 or Exhibit E includes the financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only ROCKY MOUNTAIN CHOCOLATE FACTORY business in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a ROCKY MOUNTAIN CHOCOLATE FACTORY franchisee?</b>	Item 20 or Exhibit C and Exhibit D lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	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 franchisor 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 risks be highlighted:

1. **Out-of-State Dispute Resolution**. The franchise agreement requires you to resolve disputes with the franchisor by litigation only in Colorado except for franchisees in the states of California, Idaho, Illinois, Iowa, Minnesota, Rhode Island and South Dakota, where the franchise agreement requires that disputes are submitted first to non-binding arbitration in Colorado and, failing settlement, then are litigated. Out-of-state non-binding arbitration and litigation may force you to accept a less favorable settlement for disputes. It may also cost you more to submit disputes first to non-binding arbitration or to litigate with the franchisor in Colorado than in your home state

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 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.**

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

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

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

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

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

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

Any questions regarding the notice should be directed to:

State of Michigan  
Department of Attorney General  
Consumer Protection Division  
Attention: Franchise Section  
P.O. Box 30213  
Lansing, Michigan 48909  
Telephone Number: (517) 373-7117

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## ITEM 1

### **THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

The name of the franchisor is Rocky Mountain Chocolate Factory, Inc. For ease of reference, Rocky Mountain Chocolate Factory, Inc. is referred to as “**we**”, “**us**”, “**our**” or “**RMCF**” in this Disclosure Document. We refer to the person who buys the franchise as “**you**” or “**your**” throughout this Disclosure Document. If you are a corporation, partnership or limited liability company (“**Business Entity**”), certain provisions of the Franchise Agreement also apply to your owners as noted in the Franchise Agreement.

Our principal offices are located at 265 Turner Drive, Durango, Colorado 81303. We presently do business under the name “Rocky Mountain Chocolate Factory, Inc.” We were formed on November 30, 1982, as a Colorado corporation. We have no predecessors.

Effective March 1, 2015, we were reorganized to create a holding company structure. RMCF became a wholly-owned subsidiary of a newly formed entity, Rocky Mountain Chocolate Factory, Inc., a Delaware corporation (“**Parent**”), and all of the outstanding shares of common stock of RMCF, par value \$0.03 per share, were exchanged on a one-for-one basis for shares of common stock, par value \$0.001, of Parent. Parent guarantees our performance. Parent does not offer franchises in any line of business or operate a business of any kind; it is a holding company.

Our affiliate, Aspen Leaf Yogurt, LLC (“**ALY**”), a Colorado limited liability company formed on September 30, 2010, shares our principal business address. ALY offered franchises for self-serve frozen yogurt shops under the ASPEN LEAF and ROCKY MOUNTAIN CHOCOLATE FACTORY brands, with RMCF supplying candy toppings to ASPEN LEAF units until January 14, 2013, when we sold substantially all of our ALY assets to U-Swirl, Inc., a publicly traded company, in exchange for a 60% controlling equity interest in U-Swirl, Inc. On completion of these transactions, we ceased operating any company-owned ASPEN LEAF YOGURT Units and ALY ceased selling and supporting franchise locations.

Our subsidiary, Ulysses Asset Acquisition, LLC, a Colorado limited liability company formed on January 2, 2013, acquired substantially all of the assets of YHI, Inc. and Yogurtini International, LLC (collectively, “**Yogurtini**”), which were the franchisors of self-serve frozen yogurt retail units branded as “**YOGURTINI**.” Immediately following this acquisition, on January 14, 2013, we sold all of our membership interests in Ulysses Asset Acquisition, LLC to U-Swirl International, Inc. Ulysses Asset Acquisition, LLC shared our principal business address until it merged into U-Swirl International, Inc. and ceased to exist.

U-Swirl, Inc. (“**SWRL**”) was the parent company of U-Swirl International, Inc. (“**USI**”), which has offered franchises for self-service retail frozen yogurt stores under the U-SWIRL brand since 2008. U-Swirl, Inc. and USI both share our principal business address. In January 2016, U-Swirl, Inc. defaulted on its loan from RMCF. As a result of the default, RMCF issued a demand for payment of all obligations under the SWRL Loan Agreement. SWRL was unable to repay the obligations under the SWRL Loan Agreement, and as a result, RMCF foreclosed on all of the outstanding stock of U-Swirl International, Inc. as of February 29, 2016 in full satisfaction of the amounts owed under the SWRL Loan Agreement. This resulted in USI becoming a wholly-owned subsidiary of RMCF as of February 29, 2016 and concurrently RMCF ceased to have financial control of U-Swirl, Inc.

Following the closing of the transactions in January 2013, USI has also offered franchises under the “ASPEN LEAF”, “YOGURTINI”, “U-SWIRL”, “YOGLI MOGLI”, “FUZZY PEACH”, “LET’S YO!” and “CHERRYBERRY” brands of self-serve frozen yogurt shops. As of the date of this Disclosure

Document, USI offers franchises for new frozen yogurt shops under the brands “U-SWIRL”, “YOGURTINI” and “CHERRYBERRY.” In addition, since May 29, 2013, USI has offered franchises for U-SWIRL, CHERRYBERRY and YOGURTINI frozen yogurt shops together with ROCKY MOUNTAIN CHOCOLATE FACTORY stores that are co-branded using both marks to offer frozen yogurt, chocolate candies and other confections.

Our agents for service of process are listed on Exhibit A.

### **The Franchise.**

We offer franchises for the establishment and operation of retail stores (“**ROCKY MOUNTAIN CHOCOLATE FACTORY Stores**” or “**Stores**”) which sell gourmet chocolates and other premium confectionery products, featuring ROCKY MOUNTAIN CHOCOLATE FACTORY brand candy that you purchase from our factory in Durango, Colorado (“**Factory Candy**”), confectionery items that you make in the Store, such as caramel apples (“**Store Candy**”), and non-confectionery items (“**Items**”), including gifts and small toys. We license the Stores to use the service mark “ROCKY MOUNTAIN CHOCOLATE FACTORY” and related trademarks (“**Marks**”) and our marketing plan and proprietary business methods (“**Licensed Methods**”).

You must sign our Franchise Agreement (“**Franchise Agreement**”), which is Exhibit B to this Disclosure Document, for each ROCKY MOUNTAIN CHOCOLATE FACTORY Store purchased. The Franchise Agreement grants you the right to use our Marks and Licensed Methods to operate your own Store at a business premises which you select and which we must first approve (“**Franchised Location**”). If they qualify, existing franchisees may operate “**Satellite Stores**” and “**Temporary Stores**” by signing the applicable addendums to the Franchise Agreement, Exhibits G-1 and G-2 to this Disclosure Document. Depending on the type of retail environment you choose for your Franchised Location and the type of Store you wish to operate, we offer four different Store plans, ranging from a full-sized Store option to a variety of “**Kiosk Stores**,” all of which we refer to in this Disclosure Document as “**Stores**” or “**ROCKY MOUNTAIN CHOCOLATE FACTORY Stores**.” See Item 7.

A ROCKY MOUNTAIN CHOCOLATE FACTORY Store is typically located in a regional center, a factory outlet mall or a tourist area that has a high level of pedestrian traffic. Full-sized Stores are commonly 1,000 square feet, with approximately 650 retail square feet, usually in leased space. ROCKY MOUNTAIN CHOCOLATE FACTORY Stores have an inviting, fun atmosphere that features products including fudge and caramel apples, being made in the Store as customers watch, conveying an image of freshness and homemade quality. Customers can observe Store personnel making fudge from start to finish, including the mixing of ingredients in old-fashioned copper kettles and the cooling of the fudge on large granite or marble tables. A typical Store offers up to 100 varieties of chocolate candy and other confections made in our factory, using proprietary recipes developed by our master candy makers. Factory Candy includes clusters, caramels, creams, mints and truffles. During the Christmas, Easter and Valentine’s Day holiday seasons, our factory may prepare up to 100 additional candies, including many candies offered in packages specially designed for the holidays. A typical Store will offer many of these specially designed candies during the holiday seasons.

In August 2009, we entered into a Master License Agreement with Cold Stone Creamery, Inc. (“**Cold Stone**”), a subsidiary of Kahala Corp., to allow Cold Stone to offer new and existing Cold Stone franchisees the opportunity to incorporate ROCKY MOUNTAIN CHOCOLATE FACTORY products into their COLD STONE CREAMERY stores. Cold Stone offers franchises for super-premium ice cream stores under the “Cold Stone Creamery” mark. Franchises for co-branded stores are offered by separate Disclosure Document from Cold Stone. As of the date of this Disclosure Document, there were 95

franchisee-owned co-branded Stores offering both COLD STONE CREAMERY products and ROCKY MOUNTAIN CHOCOLATE FACTORY products.

In April 2013, we and ALY entered into a Master License Agreement with USI to allow USI to offer its franchisees the opportunity to add ROCKY MOUNTAIN CHOCOLATE FACTORY products to their stores. USI offers the franchises for co-branded stores by separate Disclosure Document. As of the date of this Disclosure Document, there were seven co-branded stores offering U-SWIRL frozen yogurt and ROCKY MOUNTAIN CHOCOLATE FACTORY products, one co-branded store offering ASPEN LEAF frozen yogurt and ROCKY MOUNTAIN CHOCOLATE FACTORY products, and one co-branded store offering YOGURTINI and ROCKY MOUNTAIN CHOCOLATE FACTORY products.

We may, but are not required to, periodically make available optional programs (“**Optional Programs**”) in which you may be eligible to participate. These programs are sometimes provided in association with the Marks and Licensed Methods, or they may be associated with other trademarks and service marks owned by us or by third parties. The focus of Optional Programs is to enable Stores to provide additional products or services to customers, or make available strategic alliances to market Store products and services in different ways. There may be qualification standards, set by us or by a third-party provider, that you must meet in order to participate. In order to participate in some Optional Programs, you may be required to sign an Addendum to your Franchise Agreement or a separate agreement with us or a third-party provider. We have the right to modify the terms and conditions of Optional Programs and the right to discontinue them in our sole discretion.

You must participate in our Gift Card Program by using a POS System that is compatible with Worldpay processing systems. The Gift Card Program allows customers to purchase gift cards that may be redeemed at any participating Store. You will incur fees to participate in the Gift Card Program depending on your credit card processing agent and on the sophistication of the POS System (defined in Item 7) in your Store. See Items 6, 8 and 11.

In January 2020, we entered into a Co-Branding Agreement with Crest Foods, Inc. (“**Crest**”), a Texas corporation, under which both RMCF and Crest may offer their franchisees the opportunity to sell certain products bearing the other party’s brands in their stores. Crest sells franchises for stores offering cookies, desserts, savory food items, ice cream, coffee and other beverages using the Crest trademarks which include the “Nestle Toll House® Café by Chip” brand. As of the date of this Disclosure Document, there are no co-branded stores offering both Crest products and ROCKY MOUNTAIN CHOCOLATE FACTORY products. If you purchase the rights to operate a co-branded Store, you will sign both a Crest Franchise Agreement and our Franchise Agreement with a Co-Brand Addendum, the form of which is attached to this Disclosure Document as Exhibit G-3.

In December 2019 and January 2020, we entered into a strategic alliance with Edible Arrangements, LLC and its affiliates (“**Edible**”) whereby we became the exclusive supplier of certain branded chocolate products to Edible and its franchisees who operate retail stores using the Edible Arrangements® mark. We supply ROCKY MOUNTAIN CHOCOLATE FACTORY branded products to Edible for sale on its websites and in Edible Arrangements® retail stores throughout the United States. In addition, Edible is responsible for marketing and fulfilling orders for ROCKY MOUNTAIN CHOCOLATE FACTORY branded products from our corporate website and from other websites owned by third parties.

### **Regulations Affecting the Franchise.**

There are no regulations specific to the operation of a ROCKY MOUNTAIN CHOCOLATE FACTORY Store in your state, though you must comply with all local, state and federal health and sanitation laws and regulations, including licensing requirements, and all laws and regulations relating to

food handling and the sale of food. You must comply with employment, worker's compensation, insurance, corporate, taxing, health, licensing and similar laws and regulations of a more general nature applicable to most businesses.

### **Market and Competition.**

The market for gourmet chocolates and confections is well established and highly competitive. According to the National Confectioners Association ("NCA"), U.S. confectionery sales reached \$36.7 billion in 2020, inclusive of \$21.9 billion in chocolate candy sales, \$11.5 billion in non-chocolate candy sales and \$3.9 billion in the sale of gum and mints. From March 2020 through August 2020, sales increased 5.5% for non-premium chocolate and 12.5% for premium chocolate. The NCA predicts chocolate candy sales will increase to \$23.4 billion by 2025. As a ROCKY MOUNTAIN CHOCOLATE FACTORY franchisee, you may face competition from confection retailers such as Kilwins Chocolates, See's Candy, or local, independent candy stores and other specialty food stores. Store sales fluctuate depending on the season, with higher sales occurring during the Christmas and summer vacation seasons than at other times of the year. Sales of chocolate and other confections are also affected by changes in consumer tastes and prevailing attitudes about the consumption of chocolate.

### **Our Prior Business Experience.**

We have 39 years of experience in the operation of our retail and manufacturing business. As of the date of this Disclosure Document, we operate two company-owned Stores. We began offering franchises in 1982.

Our affiliate, Aspen Leaf Yogurt, LLC, offered franchises for frozen yogurt stores under the ASPEN LEAF and the ROCKY MOUNTAIN CHOCOLATE FACTORY marks from November 2010 to January 2013. Most of the assets of ALY were acquired by U-Swirl, Inc. through a sales transaction with RMCF and ALY on January 14, 2013. In January 2013, our subsidiary, Ulysses Asset Acquisition, LLC acquired substantially all of the assets of Yogurtini and immediately afterwards we sold all of our membership interests in Ulysses Asset Acquisition, LLC and substantially all of the assets of ALY to U-Swirl, Inc., in exchange for a 60% controlling interest in U-Swirl, Inc. On completion of these transactions, we ceased to operate any company-owned ASPEN LEAF YOGURT locations or sell and support ASPEN LEAF YOGURT franchise locations. We operated eight company-owned ASPEN LEAF YOGURT stores and sold eight ASPEN LEAF YOGURT franchises from November 2010 until we sold the ASPEN LEAF YOGURT system in January 2013. As of February 29, 2016, we no longer have an interest in U-Swirl, Inc.

We offered franchises for retail stores which featured moving characters, lights, music and imitation candy-making machines and which sold bulk candy under the mark FUZZIWIG'S CANDY FACTORY from June 1996 through May 1998. We sold two FUZZIWIG'S CANDY FACTORY franchises before we sold the system in May 1998. Other than the FUZZIWIG'S CANDY FACTORY franchises, the ASPEN LEAF franchises offered by ALY, and the other franchises offered by USI, we have not offered franchises in any other line of business.

## ITEM 2

### **BUSINESS EXPERIENCE**

#### **President, Chief Executive Officer, Chief Financial Officer and Treasurer: Bryan Merryman**

Bryan Merryman joined us in December 1997 as our Chief Financial Officer. Mr. Merryman became our Chairman of the Board, President and Chief Executive Officer in February 2019 after serving as Chief Operating Officer from April 1999 until February 2019. He stepped down as Chairman of the Board in July 2021. Mr. Merryman was appointed to the board of directors in March 1999 and left the Board in October 2021. He was elected Treasurer in January 2000.

#### **Senior Vice President/Sales and Marketing: Ed Dudley**

Ed Dudley joined us in January 1997 as Vice President of Product Sales Development. In 1998, he was promoted to Vice President of Sales and Marketing and in 2000, he was promoted to Senior Vice President of Sales and Marketing.

#### **Senior Vice President/Franchise Development: Greg Pope**

Greg Pope was appointed Senior Vice President of Franchise Development in May 2004. He served as Vice President of Franchise Operations beginning in June 2001. Since joining RMCF in October 1990, he has served in various positions including Store manager, new Store opener and franchise field consultant.

#### **Vice President /Information Technology: Ryan McGrath**

Ryan McGrath has served as Vice President of Information Technology since August 2017. He joined RMCF in October 2009 as a network and systems analyst and was promoted to Director of Information Technology in the fall of 2011.

#### **Vice President/Franchise Support and Training: Donna Coupe**

Donna Coupe rejoined RMCF on June 1, 2008 as Vice President of Franchise Support and Training. She previously served RMCF in various positions, most recently as Director of Franchise Support from August 2000 to August 2006.

#### **Corporate Secretary: Tracy Wojcik**

Tracy Wojcik has served as our Corporate Secretary since April 2011 and she has also served as ALY's corporate secretary since April 2011. From January 2007 through March 2011, she was an independent consultant to RMCF on financial reporting matters.

#### **Chair of the Board of Directors: Jeffrey Geygan**

Jeffrey Geygan became a director in August 2021 and was elected as Chair of the Board of Directors in October 2021. Mr. Geygan has served as the Chief Executive Officer and President of Global Value Investment Corp., an investment company based in Milwaukee, Wisconsin, since July 2007. He has also served as a director of Wayside Technology Group, Inc. since February 2018 and as Chairman of the Board since May 2018.

**Director: Brett Seabert**

Brett Seabert became a director in April 2017, and he is a Certified Public Accountant with more than 30 years of experience in business management, operations, finance and administration. Mr. Seabert currently serves in various capacities including Director, President, Chief Financial Officer and Chief Operating Officer of various companies, including Tanamera Construction, LLC (since April 2007), TD Construction, LLC (since September 2009), Caughlin Club Management Partners, LLC (since July 2008) and B&L Investments, Inc. (since March 2003).

**Director: Elisabeth B. Charles**

Elisabeth Charles became a director in October 2021 after serving as a director of the At Home Group, a home furnishings retailer headquartered in Plano, Texas, from 2017 until 2021. Ms. Charles has been an independent consultant in consumer branding since March 2021. From November 2017 to December 2019, she served as Chief Marketing Officer for Rodan + Fields, a multilevel marketing company specializing in skincare products and headquartered in San Francisco, California. Before that from November 2016 to August 2017, she served as Senior Vice President and General Manager at Old Navy Outlet, a clothing retailer headquartered in San Francisco, California, and she served as Interim Chief Marketing Officer for Old Navy from May 2016 to October 2016. Before joining Old Navy, Ms. Charles was Senior Vice President, Chief Marketing Officer of Athleta from March 2015 to May 2016.

**Director: Gabriel Arreaga**

Gabriel Arreaga became a director in October 2021. He has served as Senior Vice President and Chief Supply Chain Officer for The Kroger Company, a retail grocery store chain headquartered in Cincinnati, Ohio, since October 2020. Previously, he served as Senior Vice President, Integrated Supply Chain North America of Mondelez International, Inc. from August 2018 to September 2020. From July 2016 to August 2018, he served as Vice President of Global Supply Chain for Stanley Black & Decker, Inc.

**Director: Sandra E. Taylor**

Sandra Taylor became a director in October 2021. Since 2008, Ms. Taylor has served as Chief Executive Officer of Sustainable Business International LLC, a consultancy based in Charlottesville, Virginia, that specializes in environmental sustainability and social responsibility for global businesses. She has over 30 years' experience serving as a corporate executive with various companies including Starbucks Coffee Company, a coffee retailer based in Seattle, Washington, from 2003 to 2008.

**Director: Mark O. Riegel**

Mark Riegel became a director in October 2021. Since January 2021 he has served as President and Chief Executive Officer of FroDo Baking Company, a manufacturer and distributor of frozen dough products to retailers based in Kansas City, Kansas. From November 2017 to August 2020, he served as Vice President of Marketing for Russell Stover Chocolates, a manufacturer and distributor of chocolate confections based in Kansas City, Kansas. Before that, he served as Vice President of Marketing and a Director of Ferrara Candy Company from January 2014 to October 2017, a distributor of cookies and non-chocolate confections located in Chicago, Illinois.

### ITEM 3

#### LITIGATION

1. Tomco LLC v. Aspen Leaf Yogurt, LLC, Rocky Mountain Chocolate Factory, Inc. and U-Swirl, Inc., Dist. Ct., Polk County, Iowa, Case No. LACL 131406. On October 29, 2014, Tomco LLC, a landlord, filed a complaint against Aspen Leaf Yogurt, LLC, U-Swirl, Inc., and Rocky Mountain Chocolate Factory, Inc. alleging breach of a lease, property damage, misrepresentation related to the transfer of Aspen Leaf Yogurt's assets to U-Swirl, alleging that Aspen Leaf Yogurt intentionally transferred its assets to U-Swirl to avoid liability under the lease, and liability of Rocky Mountain Chocolate Factory for allegedly transferring Aspen Leaf Yogurt's capital to its own account, thereby depriving the plaintiff of rental payments due under the lease. Plaintiff alleged damages in the amount of \$91,728, plus attorney's fees and costs. Defendants denied the allegations and asserted affirmative defenses. Following a mediation on June 1, 2016, a settlement was reached between all of the parties. Defendants paid Tomco, LLC \$60,000 in order to release all claims plaintiff may have had against the defendants. This case was dismissed with prejudice on July 20, 2016.

2. DJRJ, LLC, DJRJ Corporate, LLC; DJRJ Enterprises, LLC v. U-Swirl, Inc. and Rocky Mountain Factory, Inc.; United States District Court for the Northern District of Oklahoma, Civil Case No. 16-cv-00021 -GKF-FHM. On January 13, 2016, DJRJ, LLC, DJRJ Corporate, LLC and DJRJ Enterprises filed their previously dismissed counterclaims (which had been asserted in U-Swirl Inc. and U-Swirl International, Inc. v. CherryBerry Enterprises, LLC, CherryBerry Corporate, LLC, CherryBerry LLC, Dallas Jones, Robyn Jones, Ulderico Conte and other unknown individuals, Dist. Ct., La Plata County, Colo., Case No. 2015CV030137, and removed to the United States District Court for the District of Colorado at Case No. 2015 CV 30137) against U-Swirl, Inc. and Rocky Mountain Chocolate Factory, Inc. a Delaware corporation. Plaintiffs amended their complaint and assert claims for breach of contract against U-Swirl, Inc. and alter ego liability and a request for declaratory judgment of debt recharacterization against Rocky Mountain Chocolate Factory, Inc., a Colorado Corporation (retracting their claims against Rocky Mountain Chocolate Factory, Inc., a Delaware Corporation). Plaintiffs are the principals of CherryBerry companies who sold these companies to U-Swirl, Inc. As part of the consideration for the CherryBerry acquisition, U-Swirl agreed to issue stock to the Plaintiffs, subject to certain lock-up provisions and other terms. Following the lock-up period, the purchase agreement provided that the Plaintiffs would be permitted to sell the shares in accordance with certain limitations on amounts sold in a given period of time. The purchase agreement also provided that should the price of the shares drop below \$0.50 per share, U-Swirl, Inc. would pay the Plaintiffs the shortfall amount. Plaintiffs claim that U-Swirl, Inc. failed to pay the shortfall amount and breached the asset purchase agreement, alleging the shortfall payment, after acceleration would be approximately \$1,945,487.40 plus interest and attorney's fees. U-Swirl, Inc., in turn, made counterclaims against the Plaintiffs wherein it alleges that the defendants sold a substantial number of shares of the stock of U-Swirl, Inc. on the open market with the intention of manipulating the price of the stock to the detriment of U-Swirl Inc., USI, and other U-Swirl, Inc. shareholders. U-Swirl, Inc. alleges breach of the asset purchase agreement, breach of fiduciary duty and engaging in a civil conspiracy, and asks the Court to determine the amount of damages to which U-Swirl is entitled, together with costs, interest and attorneys' fees. On July 11, 2017, the court granted motions for summary judgment in favor of both defendants. On September 26, 2017, the court granted a motion to dismiss U-Swirl, Inc.'s counterclaims and third-party claims against the plaintiffs, ending the case.

3. Rocky Mountain Chocolate Factory, Inc. v. Candice Wright and Kyle Wright, in the District Court for La Plata County, Colorado, Case No. 2016-CV-030084. On May 18, 2016, RMCF filed a motion for preliminary injunction against Candice and Kyle Wright ("**Wrights**") seeking to enforce the post termination covenants of their franchise agreement. RMCF and the Wrights were parties to a franchise agreement dated March 19, 2009, pursuant to which the Wrights had operated a store in Orange, California. By letter dated May 19, 2015, RMCF terminated the franchise agreement for uncured breaches. The action

sought to enjoin the Wrights from operating a competing business as defined in the Franchise Agreement. The court granted RMCF's motion for a preliminary injunction against Candice Wright on August 26, 2016, that ordered her to close her competing store and enforced the terms of the post-termination covenants. The Court granted a permanent injunction against Kyle Wright on September 2, 2016 and the case was dismissed on the same date.

4. Brokish Holdings, LLC and William Brokish v. U-Swirl International, Inc. and Rocky Mountain Chocolate Factory, Inc., Case 01-18-0001-4152 American Arbitration Association. On April 16, 2018, Brokish Holdings LLC and William Brokish ("**Claimants**") filed arbitration claims against USI and RMCF alleging franchise disclosure violations, fraudulent misrepresentation and breach of contract arising out of a franchise agreement and development agreement signed with USI in 2013. USI and RMCF filed affirmative defenses and counterclaims alleging that Claimants breached the development agreement and the franchise agreement. In December 2018, all of the parties agreed to settle and USI paid \$55,000 to Claimants in exchange for dismissing the claims.

5. Snowmass Mall Investment Group, LLC v. Rocky Mountain Chocolate Factory, Inc., in the District Court for Pitkin County, Colorado, Case no. 2018-CV-30088. On August 15, 2018, Snowmass Mall Investment Group, LLC, ("**Plaintiff**") filed a complaint against RMCF for unlawful detainer and rent pursuant to a lease between the parties. In September 2018, the parties agreed to settle and RMCF paid \$95,000 to Plaintiff. The case was dismissed on October 10, 2018.

6. Rocky Mountain Chocolate Factory, Inc. v. Ava Karas Ent., LLC and Ihab Samuel, in the Superior Court of New Jersey, Monmouth County, Case no. MON-L-4006-19. On November 11, 2019, we filed a complaint against a franchisee in New Jersey for unpaid royalties and candy purchases in the total amount of \$49,434, plus interest, court costs and attorneys' fees. Defendants counterclaimed for breach of contract alleging \$437,600 in damages, unjust enrichment and fraud. The parties signed a settlement agreement and franchisee paid us \$5,000 to settle the case in July 2020. The court will be asked to dismiss the claims in due course.

7. Rocky Mountain Chocolate Factory, Inc. v. Immaculate Confection, Ltd., Brian Kerzner and Tammi Kerzner, in the District Court for La Plata County, Colorado, Case no. 2020CV030048. On March 20, 2020, we filed a complaint against Immaculate Confection, Ltd., the subfranchisor in Canada, and its principals, for breach of contract, declaratory relief, demand for accounting, violation of the Lanham Act, unfair competition, and unjust enrichment, based on an old agreement between the parties and requesting that the court determine the status of the agreement. Defendants moved to dismiss the claims and counterclaimed for declaratory judgment and injunctive relief. The court dismissed two of the claims on July 7, 2020, and we filed an amended complaint. Trial began on August 2, 2021 and was suspended when the parties reached a settlement. The settlement agreement was executed on September 21, 2021 and states that the parties will negotiate in good faith for up to six months to continue their business relationship. If no agreement is reached in six months, then following 90 days notice: (i) Defendants must de-identify at least 80% of its stores in not less than 18 months ("**First Phase**"); (ii) Defendants must de-identify the remaining stores within the next 18 months; and (iii) we may sell products in Canada directly and sell master franchise rights for Canada following the First Phase. We agree to pay Defendants 50% of any licensing fee that we earn from a third party and Defendants will pay us a \$500 per month penalty for any stores that are not de-identified within the applicable time frame. The parties have not agreed to other payments or consideration. This case was dismissed by the court on September 22, 2021.

8. Immaculate Confection, Ltd. v. Rocky Mountain Chocolate Factory, Inc., in the Supreme Court of British Columbia, Canada, Case no. S 216688. On July 20, 2021, Immaculate Confection, Ltd. ("**IC**"), defendant in the lawsuit in paragraph 7 above, filed a complaint against us alleging that public statements made by us in connection with a court ruling and other conduct in the lawsuit described in paragraph 7 above were defamatory, false, breached our duty of good faith and fair dealing, intentionally



interfered with IC's contracts and that we engaged in a civil conspiracy to harm IC. IC demanded damages in an unspecified amount. The parties agreed to dismiss this lawsuit in the settlement agreement described in paragraph 7 above. The parties filed a proposed order asking the court to dismiss this case on September 24, 2021.

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

#### **ITEM 4**

#### **BANKRUPTCY**

In Re T.D. Wojcik, Case No. 12-11367-SBB, U.S. Bankr. Ct. (D. Colo.). On April 30, 2012, our Secretary, Ms. Wojcik, was granted a discharge under Chapter 7 of the U.S. Bankruptcy Code, for obligations related to a divorce.

Other than this action, no bankruptcies are required to be disclosed in this Item.

#### **ITEM 5**

#### **INITIAL FEES**

You must pay a non-refundable initial franchise fee of \$35,000 in full when you sign the Franchise Agreement for your ROCKY MOUNTAIN CHOCOLATE FACTORY Store. Unless agreed in writing by us and you, we may terminate your Franchise Agreement if you fail to open your Store within 180 days after you sign the Franchise Agreement and in this case, we will refund \$5,000 of your initial franchise fee. We are offering a \$10,000 discount from the initial franchise fee for franchisees who are in good standing and wish to open an additional Store, and for qualified veterans. In addition, we are offering first and subsequent franchises for an initial fee of only \$5,000 to our employees and to college students at schools that participate in our University Program. Individuals who are affiliated with us may also pay reduced initial fees. Except as stated above, we do not give refunds of these amounts, once paid, under any circumstances. See Item 7. We offer no financing for the initial franchise fee. See Item 10.

You must also pay between \$7,500 and \$22,285 to us for opening Factory Candy inventory and cooking supplies for a full-sized Store within 30 days after the products are shipped to you. These costs are nonrefundable in all circumstances. See Item 7.

During our fiscal year ended February 28, 2021, all franchisees paid the same initial fees except for one franchisee who paid \$2,500 due to circumstances related to the pandemic. All franchisees currently acquiring a franchise pay the same initial fees.

**ITEM 6**

**OTHER FEES**

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Cost of Factory Candy, Ingredients and other Products <sup>1</sup>	As stated in our published price lists	Net 30 days from invoice	We may change our price lists periodically.
Royalty <sup>2,3,4</sup>	5% of Gross Retail Sales each month, with a quarterly adjustment to exclude payments on purchases of Factory Candy, Store Candy ingredients and other items purchased from us.	Payable monthly on the 15th day of the next month. Any amounts due following the quarterly adjustment are payable on the 15th day of the next month. Royalties are paid by electronic transfer of funds. We reserve the right to require payments on a bi-monthly or weekly basis.	“Gross Retail Sales” is defined below. Following the end of each quarter, we calculate the number of pounds of Factory Candy and other items you purchased during the previous quarter, multiply those numbers by a fixed amount depending on the item purchased and subtract the resulting total estimated retail value of items purchased from us from Gross Retail Sales, resulting in an Adjusted Gross Retail Sales figure. You owe us 10% of Adjusted Gross Retail Sales each quarter. We then compare total monthly Royalty paid to the amount due on Adjusted Gross Retail Sales and you pay us the difference or you receive a credit for the difference. If you already own a Store that calculates Royalty differently, we reserve the right to modify the purchases per Store to even out the Adjusted Gross Retail Sales amounts among your Stores.
Marketing and Promotion Fee <sup>2,3</sup>	Up to 2% of Gross Retail Sales; currently we charge 1% of Gross Retail Sales	Payable monthly on the 15th day of the next month by electronic transfer of funds.	“ <b>Gross Retail Sales</b> ” is all revenue from the Store, but does not include taxes, refunded sales, settlements, gift card revenues, non-inventory sales or shipping expenses charged to a customer.
POS System Maintenance and Support <sup>7</sup>	Approximately \$1,000 to \$2,000 each year	Payable monthly or as charged by third-party suppliers	You will pay these fees to designated or approved third party suppliers.

Type of Fee	Amount	Due Date	Remarks
Inspection and Audit Fee <sup>2</sup>	Costs of audit or inspection	On demand	Payable only if we decide to conduct an audit, and (1) you understated your Gross Retail Sales by more than 5%; (2) the audit resulted from your failure to submit reports to us or our inability to collect Royalties due for two consecutive months; or (3) you do not cooperate in our request for an inspection and audit.
Transfer Fee <sup>2</sup>	\$5,000	Upon approval of transferee and before the transferee attends the initial training program	Payable by either you or transferee. Non-refundable once paid. The transferee is not charged an initial franchise fee.
Initial Training Fee for Transfers <sup>2</sup>	\$5,000	Before an approved transferee attends the initial training program	This fee will be applied toward payment of the Transfer Fee if the transfer is successfully completed.
Successor Franchise Fee <sup>2</sup>	\$2,500 if you renew on time or \$5,000 if you do not	When you sign the then current Franchise Agreement	We will charge \$2,500 if you renew by signing the then current Franchise Agreement within 30 days after you receive the Franchise Agreement for signature. If more than 30 days elapses, you will pay \$5,000.
Extension Fee <sup>2</sup>	\$200 per month up to a maximum of 12 months	As incurred	Payable only if you wish to renew the term of your Franchise Agreement and are in negotiations with a landlord and you do not want to make upgrades to the Store premises before renewing the lease. We will permit only one extension of the term of a Franchise Agreement under these circumstances.
Training Program Expenses <sup>5,6</sup>	We estimate the costs associated with attending initial training and mandatory additional training sessions to range from \$300 to \$500 per person per day	As incurred	When you sign a lease for your Store, and before commencing operations of your Store, you must attend initial training in Durango, Colorado. We may also require you to attend meetings in person that include training once a year and webinars occasionally. See Item 11.

Type of Fee	Amount	Due Date	Remarks
Store Upgrades <sup>2</sup>	Estimated range is \$3,000 to \$190,000	As incurred	Payable if you transfer your Store or renew your Franchise Agreement. The amount varies depending on the items upgraded or remodeled. Most of these amounts will be paid to us or to designated suppliers. A Design Fee may apply depending on the extent of the upgrades.
Costs and Attorneys' Fees <sup>2</sup>	Varies under circumstances	As incurred	Payable only if you do not comply with the Franchise Agreement.
Interest <sup>2</sup>	18% per annum	On demand, but only if you are delinquent in your payments to us.	Begins to accrue the day after payments are due.
Liquidated Damages / Administrative Fee <sup>2</sup>	\$500 per day for liquidated damages; 15% of amount owed for administrative fee	As incurred	Payable only if you commit breaches described in Sections 18.1 or 18.2 of your Franchise Agreement.
Design Fee for the Interior and Layout of Relocated or Remodeled Stores <sup>2</sup>	\$2,500	As incurred	Payable only if you relocate or remodel your Store during the term of your Franchise Agreement.
Indemnification Under Franchise Agreement <sup>2</sup>	Varies under circumstances	As incurred	You must reimburse us if we are held liable for claims resulting from your Store.
Insurance Premiums <sup>2</sup>	Varies under circumstances	As incurred	If you do not pay your premiums, we can pay them for you and you must reimburse us.
Gift Card Program Fees <sup>7</sup>	We estimate between \$15 - \$35 per month for gift card servicing. If your POS System is not capable of processing our gift cards, you must acquire a card reader that is compatible with Worldpay processing systems. As of the date of this Disclosure Document, a compatible Worldpay card reader is available for \$19.95 per month plus \$120 for a minimum of 500 (one bundle) of gift cards.	Payable monthly to our designated gift card vendor	You must participate in the gift card program. We reserve the right to require all Stores to pay additional fees and purchase equipment related to the Gift Card Program on 30 days' notice. See Items 8 and 11.

Type of Fee	Amount	Due Date	Remarks
Administrative Fee <sup>2</sup>	Varies up to 15% of the amount collected by us	As incurred	If you do not pay your landlord or any other third party, we can collect the money from you and pay the person owed and you must pay us a fee for this service.
Operations Manual Return Fee <sup>2</sup>	Currently \$150 per volume not returned to us or not transferred to buyer	As incurred	Payable if you sell your Store or close it for any reason and do not return all volumes of the Operations Manual to us or transfer them to the buyer. As of the date of this Disclosure Document, there are currently 3 volumes of the Operations Manual.

<sup>1</sup> You will purchase products from us or a supplier we designate or approve. We are the only supplier of boxed chocolates and other Factory Candy. We reserve the right to change the prices of Factory Candy sold to licensees who operate co-branded stores. These fees are nonrefundable.

<sup>2</sup> Fees which are imposed by and payable to us. All fees are non-refundable and all are uniformly imposed on similarly situated franchisees currently acquiring a franchise. We reserve the right to modify these fees in certain circumstances, including in a co-branded store, and under other circumstances.

<sup>3</sup> All franchisees pay Royalties and Marketing and Promotion Fees by electronic funds transfer. We had no advertising or purchasing cooperatives as of the date of this Disclosure Document.

<sup>4</sup> We currently use the following formula when calculating the quarterly Royalty adjustment: (a) number of pounds of Factory Candy x \$24.95 (our maximum suggested retail price for Factory Candy) = Factory Candy retail value plus (b) Store Candy ingredient costs and other item costs x 220%-290% (our estimated retail mark-up) = Store Candy ingredient retail value = (c) Total Calculated Retail Value of items purchased from us. Then we take your quarterly reported Gross Retail Sales and subtract (c). The resulting number is (d) Adjusted Gross Retail Sales. Multiply (d) by 10% to get the amount owed for the quarter. Compare the amount owed to the amount actually paid and you will pay us the difference or receive a credit for the difference. Note that the figures for our maximum suggested retail price and our estimated mark-up on Store Candy ingredients and other items should not be construed as nor are they intended to suggest a level of sales or income. See Item 19.

<sup>5</sup> Expenses associated with travel, meals and lodging while you attend initial and additional training sessions. You pay all of these expenses to third parties.

<sup>6</sup> If you are a former RMCF Franchisee who has not owned a Store in more than five years, you must successfully complete the initial training program as a condition to purchasing a Store.

<sup>7</sup> Fees and costs payable to third parties. These payments are non-refundable.

**ITEM 7**

**ESTIMATED INITIAL INVESTMENT  
FOR FULL-SIZED STORES  
LOCATED IN VARIOUS RETAIL ENVIRONMENTS**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Full-Sized Store Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Franchise Fee	\$5,000 - \$35,000	Cash or Check	Due in full at signing of Franchise Agreement	Us
Real Estate and Improvements (See Note 1)	\$86,000 - \$211,000	As incurred	Before opening	Landlord, Contractor, Architect or Engineer
Furniture and Fixtures (See Note 2)	\$14,600 - \$30,000	As incurred	Before opening	Suppliers
Equipment (See Note 2)	\$40,062 - \$82,781	As incurred	Before opening	Suppliers
Signs (See Note 2)	\$3,080 - \$12,455	As incurred	Before opening	Suppliers
Opening Inventory and Cooking Supplies Purchased from Us (See Note 3)	\$7,500 - \$22,285	Lump sum	30 days after shipping	Us
Opening Inventory and Cooking Supplies Purchased from Other Suppliers (See Note 3)	\$500 - \$5,778	As incurred	10-30 days after shipping	Suppliers
In-Store Promotional Graphics (Note 4)	\$3,675 - \$10,291	Lump sum	Before opening	Suppliers
Security Deposits, Utility Deposits, Business Licenses, and Lease Review Fees (See Notes 1 and 5)	\$5,000 - \$11,000	As incurred	Before opening	Suppliers
Pre-Opening Training, Travel and Living Expenses (See Note 6)	\$1,500 - \$3,000	As incurred	Before opening	Suppliers
Additional Funds - 3 months (See Note 7)	\$19,400 - \$63,003	As incurred	As incurred	Suppliers

Full-Sized Store Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment Is To Be Made
TOTAL ESTIMATED INITIAL INVESTMENT FOR A FULL-SIZED STORE (See Note 8)	\$186,517 - \$486,793			

### Explanatory Notes for Full-Sized Stores

**Note 1: Real Estate and Improvements.** Real estate costs vary widely from location to location, and we may not be including all of your real estate expenditures in these estimates. First, you must purchase or lease retail space that meets our standards and specifications. We may require you to hire a professional to negotiate the lease for your Franchised Location and you must pay the professional's fees or you may hire your own professional provided that certain provisions we require are included in the lease. We have included an estimated amount for these fees in the high number. Space requirements for full-sized Stores average approximately 1,000 total square feet with 650 retail square feet, but the exact size will result in cost variances to you. Your costs to improve the Franchised Location will depend in part on whether your space is completely constructed or is the remodel of an existing space. It will also depend on the size of the space, the overall costs in the market, and the type of retail environment in which the Store is located. We assist you in determining which of our two different full-sized Store configurations will suit your Franchised Location. You must hire an architect to design your Store layout according to our specifications and submit a plan to us for our prior approval. Architect fees depend on the condition of the space, its location and local permitting requirements. If your Store opens in a strip center or any building other than a major mall, the landlord will sometimes pay a portion of your tenant improvements. Your Store may open in a retail environment that offers tenant allowances and improvements. Please consult with your lease professional to clarify if your Store is in a major mall or Triple A location. If this is the case, the landlord will usually not pay for any of your tenant improvements, resulting in higher construction costs to you. The condition of previously occupied sites varies greatly and the amount of usable space also varies greatly.

**Note 2: Furniture, Fixtures, Equipment and Signs.** These items include the estimated costs to equip your Store with storage cabinets, display cabinets, cooking equipment, storage fixtures, signs, refrigeration equipment, and a computerized point of sale system ("POS System") that includes PC-based registers, cash drawers, thermal receipt printers, scales, credit card authorization software, credit card readers and laser bar code scanners. See Item 11 for more information on the POS System.

**Note 3: Opening Inventory and Cooking Supplies.** Because Stores vary in size, we do not have an opening inventory requirement. You must maintain a minimum inventory of no less than 1,000 pounds of Factory Candy at all times. In addition, you need cooking supplies including chocolate, sugar, glucose, nuts, butter, evaporated milk, fresh and preserved fruit, flavorings and other items.

**Note 4: In-Store Promotional Graphics.** Our designated supplier will provide you with promotional graphics for the walls of your Store, which are tailored to different seasons of the year. You will alternate these graphics depending on the season or time of year.

**Note 5: Security Deposits, Utility Deposits, Business Licenses and Lease Review Fees.** Security deposits range from \$0 to two months' rent; utility deposits range from \$0 to approximately \$1,500 and business licenses range from approximately \$50 to \$550, depending on your location.

**Note 6: Pre-Opening Training, Travel and Living Expenses.** Your travel and living expenses when you attend our initial training program vary depending on the length of your instruction, the distance you must travel and the standard of living you desire while you attend the program. See Item 6.

**Note 7: Additional Funds.** This estimates your pre-operational expenses, which are not listed above, as well as additional funds necessary for the first three months of your business operations. These figures are estimates and we cannot guarantee that you will not have additional expenses when you start the business. Your costs depend on factors such as: how much you follow our methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our products; the prevailing wage rate; competition; and the sales level you reach during this initial period. This item includes a variety of expenses and working capital items during your start-up phase, such as legal and accounting fees; insurance premiums; advertising, promotional and grand opening expenses and materials; rent; employee salaries; and other miscellaneous costs. This item does not include your salary or living expenses.

**Note 8: Total Estimated Initial Investment.** We relied on our 39 years of experience in the industry and on information voluntarily reported by franchisees when we prepared these figures, but we have not made any independent verification of the information reported by franchisees. You should review these figures carefully with a business advisor before you make any decision to purchase a franchise. None of the fees estimated in the chart above are refundable. We offer no direct financing of the initial franchise fee. See Item 10 of this Disclosure Document.

**ESTIMATED INITIAL INVESTMENT  
FOR KIOSKS LOCATED IN VARIOUS RETAIL ENVIRONMENTS**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Kiosk Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Franchise Fee	\$5,000 – \$35,000	Cash or Check	Due in full at signing of Franchise Agreement	Us
Real Estate and Improvements (See Note 1)	\$12,000 - \$96,360	As incurred	Before opening	Landlord, Contractor, Architect or Engineer
Furniture and Fixtures (See Note 2)	\$17,000 - \$38,600	As incurred	Before opening	Suppliers
Equipment (See Note 2)	\$25,000 - \$32,700	As incurred	Before opening	Suppliers
Signs/Graphics (See Note 2)	\$1,000 - \$3,400	As incurred	Before opening	Suppliers
Opening Inventory and Cooking Supplies Purchased from Us (See Note 3)	\$7,500 - \$11,500	Lump sum	30 days after shipping	Us



<b>Kiosk Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Opening Inventory and Cooking Supplies Purchased from Other Suppliers (See Note 3)	\$500 - \$6,000	As incurred	10-30 days after shipping	Suppliers
Security Deposits, Utility Deposits, Business Licenses, and Lease Review Fees (See Note 4)	\$3,200 - \$7,500	As incurred	Before opening	Suppliers
Pre-Opening Training, Travel and Living Expenses (See Note 5)	\$2,000 - \$5,000	As incurred	Before opening	Suppliers
Additional Funds - 3 months (See Note 6)	\$23,500 - \$30,800	As incurred	As incurred	Suppliers
<b>TOTAL ESTIMATED INITIAL INVESTMENT FOR A KIOSK (See Note 7)</b>	<b>\$96,700 - \$266,860</b>			

### **Explanatory Notes for Kiosk Chart**

**Note 1: Real Estate and Improvements.** Real estate costs vary widely from location to location, and we may not be including all of your real estate expenditures in these estimates. First, you must purchase or lease retail space that meets our standards and specifications. We may require you to hire a professional to negotiate the lease for your Franchised Location and you must pay for the professional's fees or you may hire your own professional provided that certain provisions we require are included in the lease. We have not included any amounts for lease negotiation fees in the chart above. Space requirements for Kiosk Stores may range from approximately 100 to 260 retail square feet, with offsite storage required, resulting in cost variances to you. Your costs to improve the Franchised Location will depend in large part on the size of your Kiosk Store, availability of utilities and the Kiosk Store configuration, including whether your space includes cooking facilities or sells only products that require little or no preparation. It will also depend on the size of the space, the overall costs in the market, and the type of retail environment in which the Kiosk Store is located. We assist you in determining which of our two different Kiosk Store configurations will suit your Franchised Location. You must hire an architect to design your Kiosk Store layout according to our specifications and submit a plan to us for our prior approval. Architect fees will depend on the condition of the space, its location and local permitting requirements. If your Kiosk Store opens in a strip center or any building other than a major mall, the landlord will sometimes pay a portion of your tenant improvements. Your Kiosk Store may open in a retail environment that offers tenant allowances and improvements. Please consult with your lease professional to clarify if your Store is in a major mall or Triple A location. If this is the case, the landlord will usually not pay for any of your tenant improvements, resulting in higher construction costs to you. The condition of previously occupied sites varies greatly and the amount of usable space also varies greatly.

**Note 2: Furniture, Fixtures, Equipment and Signs/Graphics.** These items include the estimated costs to equip your Kiosk Store with storage cabinets, display cabinets, storage fixtures, signs, promotional graphics, refrigeration equipment, chocolate dipping equipment, and a POS System that includes PC-based registers, cash drawers, thermal receipt printers, scales, credit card authorization software, credit card

readers and laser bar code scanners. See Item 11 for more information on the POS System. Large Kiosk Stores also require some cooking equipment, which is included in the high Kiosk number.

**Note 3: Opening Inventory and Cooking Supplies.** Neither large nor small Kiosk Stores have an opening inventory requirement, but both must maintain a minimum inventory of no less than 1,000 pounds of Factory Candy at all times. If you purchase a large Kiosk Store, you need cooking supplies, including chocolate, sugar, glucose, nuts, butter, evaporated milk, fresh and preserved fruit, flavorings and other items, included in the high Kiosk number.

**Note 4: Security Deposits, Utility Deposits, Business Licenses and Lease Review Fees.** See Note 5 for full-sized Stores above.

**Note 5: Pre-Opening Training, Travel and Living Expenses.** See Note 6 for full-sized Stores above.

**Note 6: Additional Funds.** See Note 7 for full-sized Stores above.

**Note 7: Total Estimated Initial Investment.** See Note 8 for full-sized Stores above.

## **ITEM 8**

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

#### **Operations.**

You must establish and operate your Store in compliance with your Franchise Agreement and the operations manual we loan to you, in the form of several manuals, technical bulletins, cookbooks and other written materials (collectively, “**Operations Manual**”), which we may modify occasionally, in our sole discretion. All products, equipment, furniture, fixtures, services, supplies, materials, uniforms, recipes, marketing, advertising, inventory items and all related products and services that you use or offer for sale through your Store must meet the minimum standards and specifications in our Operations Manual.

You must sell only Factory Candy, Store Candy and Items that we designate. If you want to sell other products, you must first receive our written consent, which we may withhold in our sole discretion. You may not sell any products resembling Factory Candy manufactured or sold by us unless you first receive our written consent. In addition, your Store must devote at least 50% of its retail display space to ROCKY MOUNTAIN CHOCOLATE FACTORY bulk chocolates and packaged Factory Candy either manufactured or sold by us. The only Store Candy you may sell that we do not supply is candy made at your Store that you prepare from recipes found in our Operations Manual through the process of molding, cooking and dipping foods such as cookies, crackers, pretzels, fresh and dried fruit, dog bones and plain chocolates, but you may sell them only if you prepare them according to our recipes and specifications. We will provide you with these recipes and specifications in the Operations Manual. You may not purchase, manufacture or sell any product or service, unless we first consent in writing.

#### **Purchases From Designated or Approved Suppliers.**

You must purchase all of the Factory Candy, ingredients for Store Candy and other Items that you sell at or through your ROCKY MOUNTAIN CHOCOLATE FACTORY Store from us or a source we designate. We are the designated supplier of ROCKY MOUNTAIN CHOCOLATE FACTORY-branded Factory Candy. You must purchase all products and services that you require to operate your Store from

manufacturers, distributors or suppliers we designate or approve, or who meet our standards and specifications. None of our officers owns an interest in any approved or designated suppliers, other than RMCF.

We derive revenue from the sale of Factory Candy, Store Candy ingredients, packaging materials, other Items and certain services to you. In the fiscal year ended February 28, 2021, our revenue from purchases by franchisees was \$10,931,900 or 47% of our total revenues of \$23,480,705. See our financial statements in Item 21. We estimate that the costs of your purchases from designated or approved sources, or according to our standards and specifications will range from 80% to 84% of the total cost of establishing your Store and approximately 38% of the total cost of operating your Store after that time. We are not affiliated with any approved or designated suppliers.

If you propose to offer, conduct or utilize any products, services, materials, forms, items or supplies for sale or use in your ROCKY MOUNTAIN CHOCOLATE FACTORY Store from manufacturers, suppliers or distributors which we have not previously approved as meeting our specifications, you must first notify us in writing requesting our approval. We may, in our sole discretion, and for any reason, withhold our approval. Our criteria for supplier approval are available to you upon request. We base our approval on quality, vendor reputation, pricing and our opinion about the compatibility of the product or supplier with our brand image and product line. We may require that samples from a proposed new supplier be delivered to us for testing before we approve the product or supplier. You are required to reimburse us for the actual cost of conducting the test. We will advise you within 60 days whether the product or supplier meets our specifications. We may revoke our approval if we determine the product or supplier no longer meet our published standards.

We require all franchisees to purchase pre-recorded music from our designated music supplier. If there is no designated or approved supplier for a particular item, you must purchase all products and services from other suppliers who meet all of our specifications and standards. We formulate and modify our specifications and standards based on quality, composition, finish, appearance and service. Suppliers must adequately demonstrate their capacity to supply your needs, in the quantities, at the times and with the reliability requisite to an efficient operation. We may change our standards and specifications, or suppliers who have our authorization, at any time if we give you 30 days written notice in advance.

### **Store Build-Out and Lease**

You must, at your expense, construct, convert, design and decorate the Franchised Location in accordance with our plans and specifications and with the assistance of contractors, architects and suppliers designated or approved by us. First-time franchisees must use one of our designated fixture contractors for the build-out of their Stores and we reserve the right to require experienced franchisees to use a designated contractor as well. We require that you obtain our written consent to any improvements to the Franchised Location before construction begins.

We must approve any purchase agreement and any lease or sublease (the “**Lease**”) for the Franchised Location of your Store before you sign the purchase agreement, lease or sublease. A copy of the signed Lease is to be delivered to us within 15 days after you sign it. Your Lease must include the following provisions: (1) allowing the tenant under the Lease to assign the Lease to us if the Franchise Agreement is terminated or not renewed; (2) requiring the landlord to give us written notice of any defaults by you under the Lease and the right to cure the defaults; (3) allowing us to assume the Lease and to sublease the premises to you; and (4) allowing us to enter the leased premises to cure any defaults under the Franchise Agreement or to protect the Marks and Licensed Methods. You are responsible for obtaining the landlord’s consent to these provisions. If you have already signed a lease or you have already purchased a location

for your Store when you sign the Franchise Agreement, our execution of the Franchise Agreement does not imply that we approve of any particular location.

### **Equipment, Furnishings and Fixtures**

You must purchase display cabinets, cooking equipment, storage fixtures, refrigeration equipment, and all other fixtures and furnishings in your Store from suppliers designated or approved by us.

### **POS System, Software and Other Technology**

You must purchase a computerized point of sale system meeting our specifications (together with the software, referred to as the “**POS System**”) from a designated or approved supplier. The POS System allows us to receive certain sales and other information related to retail operations that we specify. We derive no revenue from your purchase of the POS System. You must also have a back office personal computer and bookkeeping software that are compatible with Microsoft products. We recommend QuickBooks for bookkeeping software. See Items 7 and 11. We reserve the right to require, upon 30 days prior written notice to you, that you purchase additional hardware and software meeting our specifications.

### **Advertising and Marketing**

All marketing and promotion of your Store must conform to our standards and specifications. You must submit to us samples of all advertising and promotional materials which have not been prepared or previously approved by us. See Items 6 and 11. Your Store must participate in promotions and public relations campaigns (e.g., contributions to charitable events) we institute from time to time for all ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, or for all Stores within a particular geographic area. You must also participate in customer service, community service programs, complimentary product promotions, customer loyalty, gift card and other promotional programs, that we may reasonably determine are needed in your particular Store. We reserve the right to develop and control all advertising media including but not limited to the following: Print (direct mail, magazine, newspaper, in-store signage, posters, etc.) broadcast (radio, television, etc.) and electronic (websites, e-commerce, email, social media, internet advertising, etc.) We reserve the right, upon 30 days prior written notice to you, to require that you participate in any such electronic advertising. All ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, including any owned by us, must participate in these programs or other promotions that we may adopt in the future.

### **Insurance**

You must maintain certain types and amounts of insurance coverage described in the Operations Manual and in the Franchise Agreement. These types of insurance include comprehensive general liability, products liability, unemployment and worker’s compensation, personal property, and owned and non-owned auto liability coverage. If you fail to purchase this insurance, we may demand that you cease operations or obtain insurance for you and you must reimburse us for the cost of the insurance. All insurance policies must name us as an additional insured and give us at least 30 days prior written notice of termination, amendment or cancellation. You also must provide us with certificates of insurance evidencing your insurance coverage before the opening of your Store. You must furnish us with copies of all required insurance policies or other evidence of insurance coverage and payment of premiums as we request from time to time. We reserve the right to require you to change the type of insurance you are required to maintain and upon prior reasonable notice, we may revise the required coverage limits.

## **Purchasing Arrangements**

Currently, we maintain purchasing arrangements for the supply of certain raw materials for the preparation of Store Candy, such as fudge, brittles and caramel, packaging items such as bags and tins, and other items. During our last fiscal year, we did not receive any rebates, incentives or overrides by third-party suppliers from whom you buy items. We estimate that any purchases by you for which we collect a fee will constitute less than 3% of the total cost of establishing your Store and less than 3% of the total cost of operating your Store. We may, in our discretion, either retain a credit or rebate received as a result of your purchases or contribute the funds to the Marketing Fund.

You should not rely on the continued availability of any particular pricing or distribution arrangement, nor on the availability of any particular product or brand in deciding whether to purchase the franchise. Except as described above, we do not negotiate purchase arrangements with suppliers for the benefit of franchisees, although we reserve the right to do so. We have no purchasing or distribution cooperatives. We do not give you any material benefits based on your use of designated or approved sources or suppliers.

## **Gift Card and Other Promotional Card Programs**

You must participate in our gift card program, referred to as the “**Gift Card Program**” in this Disclosure Document. You may also be required to participate in other prepaid card, rewards card or customer loyalty programs (each, a “**Card Program**”) that we implement from time to time. We agree to provide you with at least 30 days’ notice before you must start participating in a new Card Program. You must follow the guidelines set forth in the Operations Manual with respect to your obligations and responsibilities under a Card Program, the methods of operation for a Card Program, the transaction information you are required to provide to us and the retention of complete and accurate books and records regarding transactions made in compliance with the terms of a Card Program. You may pay a monthly fee to the vendor depending on whether you use the designated gift card vendor to process credit cards and depending on the sophistication of the POS System in your Store. See Items 6 and 11 for more information.

We reserve the right to require you to purchase and utilize processing equipment and software designated by us for the Gift Card Program or another Card Program. In order to enable you to comply with applicable state laws and regulations, the funds you receive in connection with the sale, activation and reloading of prepaid cards, gift cards, rewards cards or similar promotional cards, and the subsequent transactions which are made by the holders of the cards will be accounted for separately from other sales made at your Store. We reserve the right to collect the funds you receive in connection with the sale and activation and reloading of prepaid cards, gift cards, rewards cards or similar promotional cards for reconciliation of the cardholder revenue and debited cardholder sales. You are responsible for compliance with all federal and state laws that regulate gift and stored value cards, including any unclaimed property laws in your state. We reserve the right to charge you transaction fees to activate, reload, redeem and otherwise administer the Gift Card Program and any other Card Program that we may require in the future. You may be required to sign an addendum to your Franchise Agreement in the future as a condition of participation in a Card Program. Additionally, we have the right to audit your books, records and processes relating to all Card Programs. You must pay the costs of an audit if the audit reflects an underpayment of more than 5% during the period reviewed.

## **Optional Programs**

If you participate in one of the Optional Programs that we may make available to you from time to time, depending on the program, you may be required to purchase from us, our affiliates, or another designated source, specified products, supplies or services made available for sale through your Store. You

may also be required to obtain training from a designated source in order to participate in the Optional Program. If the required purchases through one of these programs are from us, we will typically derive revenue from those sales or from any related provision of services under the Optional Program. We will publish any Optional Program training requirements, purchase requirements and other program terms and conditions to help you decide whether to participate in an Optional Program.

## ITEM 9

### FRANCHISEE'S OBLIGATIONS

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

Obligation	Section in Franchise Agreement	Disclosure Document Item
(a) Site selection and acquisition/lease	Sections 3.1 and 5.1; Relocation Amendment (Exhibit H-3)	Items 7, 8 and 11
(b) Pre-opening purchases/leases	Sections 5.1, 5.3 and 5.4	Items 5, 7 and 8
(c) Site development and other pre-opening requirements	Sections 5.2 and 5.5	Items 7, 8 and 11
(d) Initial and ongoing training	Article 6	Items 6, 7 and 11
(e) Opening	Section 5.6	Item 11
(f) Fees	Articles 11 and 12, Sections 4.1, 10.1, 16.2, 17.3, 17.4, 18.3 and 22.8; Gift Card Program (Exhibit VII to the Franchise Agreement)	Items 5 and 6
(g) Compliance with standards and policies/ Operations Manual	Article 8 and Sections 13.1 and 13.2	Items 8, 11, 14, 15 and 16
(h) Trademarks and proprietary information	Article 14 and Section 20.3	Items 13 and 14
(i) Restrictions on products/services offered	Sections 10.1(d) and 13.4	Items 8 and 16
(j) Warranty and customer service requirements	Not Applicable	Not Applicable
(k) Territorial development and sales quotas	Not Applicable	Not Applicable
(l) On-going product/service purchases	Sections 10.2, 10.3, 10.4, 10.5, 13.4, 13.5, 13.6 and 13.7	Items 8 and 16

<b>Obligation</b>	<b>Section in Franchise Agreement</b>	<b>Disclosure Document Item</b>
(m) Maintenance, appearance and remodeling requirements	Sections 10.1(a), (b) and (g); Renewal Amendment (Exhibit H-1); Transfer Amendment (Exhibit H-2)	Item 8
(n) Insurance	Article 21	Item 7
(o) Advertising	Article 12	Items 6 and 11
(p) Indemnification	Section 19.3	Not Applicable
(q) Owner's participation/management/staffing	Sections 10.1(c) and (h)	Item 15
(r) Records and reports	Article 15	Item 6
(s) Inspections/audits	Sections 13.3 and 15.5	Item 6
(t) Transfer	Article 16; Transfer Amendment (Exhibit H-2)	Item 17
(u) Renewal	Sections 17.2, 17.3 and 17.4; and Renewal Amendment (Exhibit H-1)	Item 17
(v) Post-termination obligations	Section 18.4	Item 17
(w) Non-competition covenants	Article 20	Item 17
(x) Dispute Resolution	Article 22	Item 17
(y) Personal Guaranty	Section 10.1 and Exhibit II	Item 15

## **ITEM 10**

### **FINANCING**

We do not offer direct or indirect financing. We do not guarantee your note, lease or obligation.

## **ITEM 11**

### **FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

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

#### **Pre-Opening Assistance.**

Before you open your Store, we (or our designee) will:

1. You must have obtained our consent to a proposed location as of the date you sign the Franchise Agreement. We base our approval of a proposed Franchised Location on information you submit in a form sufficient to assess the location and on information we gather independently. (Section 7.1(b), Franchise Agreement.)

2. Provide you with advice regarding the required conversion, design and decoration of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store premises, plus specifications concerning signs, decor, furniture, fixtures and equipment. (Section 7.1(c), Franchise Agreement.)

3. Provide you with advice regarding the selection of suppliers of equipment, furniture, fixtures, supplies and materials used and Factory Candy, Store Candy and Items offered for sale through your ROCKY MOUNTAIN CHOCOLATE FACTORY Store. Depending on the size and configuration of your Store, we will determine your initial purchase of Factory Candy inventory. We provide you with a list of approved suppliers, if any, of equipment, furniture, fixtures, supplies, materials, ingredients for Store Candy and Items, and, if available, a description of any national or central purchase and supply agreements that approved suppliers offer for the benefit of ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees. (Section 7.1(d), Franchise Agreement.)

4. Train you in Durango, Colorado or at another location we designate. (Section 7.1(a), Franchise Agreement.)

5. Loan you one copy of an Operations Manual, covering the operating and marketing techniques of the Store and all updates and revisions. (Section 8.1, Franchise Agreement.)

6. Provide up to five days of on-site opening assistance, beginning approximately two days before you open a new ROCKY MOUNTAIN CHOCOLATE FACTORY Store, or we provide up to two days of opening assistance if you purchase a Store that was already operating. (Section 7.1(f), Franchise Agreement.)

#### **Continuing Assistance.**

During the operation of your Store, we will:

1. If you request, provide consultation by telephone and electronic mail regarding the continued operation and management of your ROCKY MOUNTAIN CHOCOLATE FACTORY Store and advice regarding retail services, product quality control, inventory issues, customer relations and similar advice. (Section 9.1(a), Franchise Agreement.)

2. Give you access to advertising and promotional materials as we may develop, the cost of which we may pass on to you at our option. (Section 9.1(b), Franchise Agreement.)



3. Provide you with on-going updates of information and programs regarding the candy industry, the ROCKY MOUNTAIN CHOCOLATE FACTORY concept and related Licensed Methods, including information about special or new products we develop and make available to our franchisees. (Section 9.1(c), Franchise Agreement.)

4. Train replacement or additional General Managers during the term of the Franchise Agreement. We may charge a tuition or fee, commensurate with our other current published prices, for training and payable in advance. You must pay all travel and living expenses for your personnel during the training program. The availability of the training programs depends on space considerations and prior commitments to new ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees. (Section 9.1(d), Franchise Agreement.)

5. Make our employees or designated agents available to you for advice and assistance regarding the on-going operation of the Store. If you request additional assistance and we agree to provide it, we may charge you for all travel, lodging, living expenses, telephone charges and other identifiable expenses associated with the assistance, plus a fee based on the salary of each employee and the time spent by each employee on your behalf. (Section 9.2, Franchise Agreement.)

### **Marketing and Promotion.**

You must pay a Marketing and Promotion Fee of up to 2% of your monthly Gross Retail Sales. Currently, we charge only 1% of Gross Retail Sales, but we reserve the right to charge up to 2% on 30 days prior notice. You must pay the Marketing and Promotion Fee by electronic funds transfer together with the payment of the monthly Royalty, within 15 days after the end of each calendar month, based on the amount of Gross Retail Sales in the previous month. We deposit the Marketing and Promotion Fee in a bank, commercial account or savings account (“**Marketing Fund**”) and account for these funds separately from operating funds. Our company-owned Stores do not contribute to the Marketing Fund on the same percentage basis as franchised Stores; however, each year we contribute amounts to the Fund equal to or greater than the amounts those Stores would contribute on an annual basis. If you request it in writing, we send you an annual unaudited financial statement for the Marketing Fund that indicates how we spent the Marketing Fund. Because we do not have the Fund audited, audited financial statements are not available to franchisees.

We administer the Marketing Fund in our sole discretion. We use the Marketing Fund to create, produce and place point of purchase advertising, in-store signs and in-store promotions. In the future, we may use the Marketing Fund for commercial advertising, agency costs and commissions, to create and produce video, audio, and written advertisements, to administer multi-regional advertising programs, including direct mail and other media advertising, Internet advertising, marketing through social media, website design and maintenance, electronic mail communication, to implement and administer gift card and customer loyalty card programs, and to employ advertising agencies and in-house staff assistance, to support public relations, market research and other advertising and marketing activities. As of the date of this Disclosure Document, you must participate in our Gift Card Program. Franchisees will sell gift cards in their stores that are tracked by our designated gift card vendor and pay the applicable fees to the vendor. The Gift Card Program is subject to rules as set forth in the Operations Manual. We may require all franchisees to pay additional fees and purchase equipment to participate in the Gift Card Program or another Card Program in the future. See Items 6 and 8.

We may reimburse ourselves from the Marketing Fund for administrative costs, salaries and overhead expenses related to the administration of the Marketing Fund and its marketing programs, including conducting market research, preparing material, collecting and accounting for Marketing Fund contributions. In any fiscal year we may spend an amount greater or less than the aggregate contribution

of all ROCKY MOUNTAIN CHOCOLATE FACTORY Stores to the Marketing Fund in that year. The Marketing Fund may borrow from us or other lenders to cover deficits or cause the Marketing Fund to invest any surplus for future use. Any amounts that remain in the Marketing Fund at the end of each year accrue and we apply them toward the next year's expenses. We do not guarantee that advertising expenditures from the Marketing Fund will benefit you or any other franchisee directly or on a pro rata basis. The Marketing Fund is not a trust fund, and we do not owe a fiduciary duty to you with respect to the maintenance, direction or administration of the Marketing Fund. We assume no other direct or indirect liability or obligation to you for collecting amounts due to any advertising account or for maintaining, directing or administering any advertising account. We do not solicit franchisees with the Fund's money. We reserve the right to terminate the Marketing Fund upon 30 days prior written notice to all franchisees and any remaining monies will be distributed pro rata based on all Stores' contributions within the preceding 12 months.

We are not obligated to conduct advertising, but we customarily employ in-house creative personnel or contract with design firms or advertising agencies to develop advertising, promotional and marketing materials, websites, and product and retail packaging for use on a national basis. If you wish to create your own advertising or promotional and marketing materials you must receive written approval, in advance, from either our Sales and Marketing or Creative Services departments before you may use the materials. Materials must conform to our brand standards, including fonts, design, layout, imagery, logo and Marks. If you fail to obtain written approval before displaying or publishing materials, you may be required to remove, destroy or reprint such materials at your expense. This is to ensure professional quality and brand consistency in both message and content. You are not permitted to create your own website or sell products over an internet site that is not sponsored by us. Under no circumstances are you permitted to create your own product or retail packaging.

In fiscal year ended February 28, 2021, we spent 111% of the contributions by franchisees to the Fund on national marketing, 38% on new products and packaging development and 17% on local store marketing materials. These percentages total 166% because RMCF contributed 66% in addition to the amount the franchisees contributed to the Fund during fiscal year 2021. The Fund is used for advertising, marketing and promotions on a national basis; we are not obligated to spend any amount on advertising, marketing or promotions in any particular geographic area.

We had not established a franchisee advertising council as of the date of this Disclosure Document.

### **Local Advertising.**

We may require you to spend up to 1% of Gross Retail Sales each month on local advertising in addition to the Marketing and Promotion Fee. If we require it, you must give us an accounting of the amounts you spent on local advertising within 30 days following the end of each calendar quarter. If we require you to spend money on local advertising, all company-owned Stores would spend money for local advertising on an equal percentage basis with all franchised Stores. You may purchase local advertising separately through local marketing and media sources within a geographical area. Local advertising is your responsibility. We approve all final advertising and promotional materials before publication.

### **Regional Advertising.**

We reserve the right to designate geographic areas to establish regional advertising associations ("Associations"). If your Store is within the territory of an existing Association when your Store opens, you must become a member of the Association. If we establish an Association during the term of the Franchise Agreement, you must become a member within 30 days after we establish the Association. If you fail to participate in the Association or pay any Association dues, you breach the Franchise Agreement.

We must approve all final advertising and promotion materials before publication. At the request of the Association, you would contribute up to 50% of your Marketing and Promotion Fee described in this Item 11, as would all other franchises in the Association. These funds would be available for specific programs selected by the majority of the Association members and approved by us in advance. If we form an Association, you will be bound by the decisions of the majority of the members of the Association with respect to expenditures, assessments and dues, to the extent we approve them. Each Association could require its members to make additional minimum contributions to the Association monthly up to the full amount of your Marketing and Promotion Fee. We would approve all advertising materials before they were used by an Association or furnished to its members. The Association would be required to prepare unaudited annual financial statements and send them to you if you request them. An Association would be comprised of franchisees. We can form, change and dissolve Associations. Each Association would operate under written documents which franchisees could view. Either we or the Association could create the Association's advertising, but advertising created by the Association would be required to have our written approval before use. We also reserve the right to establish advertising cooperatives in particular regions to enable the cooperative to self-administer a regional advertising program. If we establish a cooperative, you must participate in it. As of the date of this Disclosure Document, we had not established any regional advertising Associations or cooperatives.

See Items 6, 8 and 9 of this Disclosure Document for more discussion of advertising.

### **Operations Manual.**

Exhibit F to this Disclosure Document is the table of contents of our Operations Manual. The total number of pages in our Operations Manual as of the date of this Disclosure Document is 224.

### **Site Selection Assistance.**

You must select and acquire the premises for your Store. You must not, without our prior written approval, enter into any contract for the purchase or lease of any premises you intend to use as a Franchised Location for your Store. We consider the following factors when we approve or disapprove your proposed Franchised Location: the coordination of the proposed Franchised Location's address with protected territories previously granted to other franchisees operating under the ROCKY MOUNTAIN CHOCOLATE FACTORY Marks, if any, mall character, quality and location and the nature and location of other competition and potential customers. Approval of a location does not infer or guarantee the success or profitability of a Franchised Location in any manner. There is no contractual limit on the time it takes us to approve or disapprove your proposed site. We typically take 30 days to approve or disapprove of your proposed Franchised Location.

### **Schedule For Opening.**

We estimate that the typical length of time between the date you sign the Franchise Agreement and the date your ROCKY MOUNTAIN CHOCOLATE FACTORY Store opens will be between 90 and 180 days. The factors that may affect this time period are your ability to locate a site, secure financing, and obtain a lease, the extent to which you must upgrade or remodel an existing location, the delivery schedule for equipment, inventory and supplies, and completing your training. Unless otherwise agreed in writing by you and us, you must open your Store within 180 days after you sign the Franchise Agreement.

### **Point of Sale System.**

You must use a POS System in your Store that you purchase from a designated or approved supplier. As of the date of this Disclosure Document, the POS System consists of PC-based registers, cash

drawers, thermal receipt printers, credit card authorization software, credit card scanners, laser bar code scanners and scales. You must contract with an Internet service provider (“ISP”) to facilitate communication between your POS System and our data collection server. The POS System will be delivered to you already configured with proprietary software owned by a third-party supplier. A designated or approved supplier will provide all support, updates and maintenance for your POS System. As of the date of this Disclosure Document, the annual maintenance and support fee ranges from \$1,000 to \$2,000, depending on the maintenance options you select. You must subscribe to an annual maintenance and support service package from a designated or approved supplier. We may require you to upgrade or update your POS System. No contractual limit exists on the frequency or cost of this obligation.

The POS System provides you with detailed information about your sales and retail operation. The POS System also permits us to receive information electronically regarding your Store’s sales and other information we may specify. We do not have independent access to your POS System information. There is no contractual limit on our right to receive information from the POS System or by electronic transmission or other means.

In conjunction with the operation of your POS System, you must use a personal computer that is separate from the POS System to communicate with us by electronic mail and to support other back office functions. You must maintain an electronic mail account through which we can communicate with you. You will find it is more convenient to send and receive electronic mail messages and track information generated by the POS System on a personal computer. The personal computer must use software compatible with Microsoft products. You must purchase off-the-shelf bookkeeping software that we specify and use it to produce reports submitted to us periodically. We reserve the right to specify different software and to require updates and maintenance of the software. There is no contractual limit on the frequency or cost of this obligation. The total cost of the POS System, a basic personal computer and specified software ranges from approximately \$5,000 to \$12,000, depending on options selected.

### **Additional Training Information.**

After you sign the Franchise Agreement and before you open your Store, you must complete the initial training program to our satisfaction. We do not charge you for this training for up to three individuals, although you must pay travel, living expenses and wages for you and all employees who attend the training session. The initial training program consists of a total of seven days of instruction and all training is conducted in Durango, Colorado, or via webinar or other remote transmission, in our discretion. The training material consists of written, video and audiotaped instruction. The initial training program includes hands-on training in a mock retail store in our training center in Durango, Colorado, or via remote transmission, in our discretion.

In addition to the initial training program, we will provide up to five days of opening assistance at your Store near the time that your Store opens. We do not provide this assistance between approximately December 22nd and January 4th, however, nor do we offer this training within three days before or after the following holidays: Valentine’s Day, Easter, Memorial Day, July Fourth, Labor Day, Thanksgiving and Hanukkah.

As often as annually, we may require you and/or your General Manager to attend in person or via remote transmission, at your expense, a national, regional or local meeting, training seminar or conference that we present for the purpose of discussing a topic such as advertising programs, new operations methods, training, management, sales, or sales promotion, to the extent that we offer any meetings, seminars or conferences. We will notify you of any mandatory meeting 30 days in advance. These meetings vary in location and in length, but you will not be required to attend any meeting in person or via remote

transmission for more than three days. In addition, we may require you to attend webinars occasionally. See Item 6.

As of our most recent fiscal year end, we gave the following initial training to franchisees.

### TRAINING PROGRAM

Subject <sup>1</sup>	Hours of Classroom Training <sup>2</sup>	Hours of On-The-Job Training	Location
Introduction to Rocky Mountain Chocolate Factory	3	0	Durango, Colorado
Product Knowledge/Candy Identification	3.5	0	Durango, Colorado
Our Factory Manufacturing and Shipping	0	4	Durango, Colorado
Inventory Control/Daily Record Keeping	1	0	Durango, Colorado
Financial Control – COG, P&L Review, Gross Margins	1.5	0	Durango, Colorado
Cooking	0	20	Durango, Colorado
Introduction to Retail (Customer Service)	1	0	Durango, Colorado
Our Ordering and Shipping Procedures	1	0	Durango, Colorado
Our Accounting Policies	1	0	Durango, Colorado
POS System	1	1	Durango, Colorado
Human Resources	1	0	Durango, Colorado
Online Tools	1	0	Durango, Colorado
Social Media	1	0	Durango, Colorado
Merchandising and Marketing Techniques	3.5	1.5	Durango, Colorado
Vendor Book	2	0	Durango, Colorado
Employees – Hiring, Firing and Maintaining	1	0	Durango, Colorado
<b>TOTAL</b>	<b>22.5</b>	<b>26.5</b>	

<sup>1</sup> For each subject, we hold training classes approximately 6 to 12 times per year. You must attend training after you sign the Franchise Agreement and before you open your Store. The primary instructors are Donna Coupe, our Vice President of Franchise Support since June 2008, Lisa Taylor, our Director of Franchise Support since August 2006, Heather Demacopoulos, our Franchise Field Consultant since September 2013, Laura Trujillo, our Franchise Field Consultant since September 2006, Wendy Smith, our Franchise Field Consultant since March 2019, Katie Johnson, our Franchise Field Consultant since March 2020 and Erika Lightburne, our Co-liaison to Cold Stone Creamery since April 2011. Donna Coupe's background is described further in Item 2.

<sup>2</sup> If you wish, you may work in a company-owned Store at your expense to gain experience interacting directly with actual customers. If you live near a company-owned Store, you may spend up to three days in that Store; otherwise you may travel to one of our company-owned Stores at your expense for one day. In addition, many experienced franchisees allow new franchisees to work in their Stores at no charge after the new franchisee has completed the initial training program.

## ITEM 12

### TERRITORY

You will operate your ROCKY MOUNTAIN CHOCOLATE FACTORY Store at a specific location that is referred to as the “**Franchised Location**” in the Franchise Agreement. We must approve your Franchised Location before you sign a Franchise Agreement. The designation of your Franchised Location does not grant you the exclusive right to any particular market or customers. You may advertise your ROCKY MOUNTAIN CHOCOLATE FACTORY Store anywhere, provided that you receive our prior approval of all advertising and you do not violate the terms of any national, regional or co-op advertising group of ROCKY MOUNTAIN CHOCOLATE FACTORY Stores. Other ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees have the same rights to advertise. See Item 11 for more discussion of advertising.

You may not relocate your Franchised Location without our prior written approval. If you have operated your ROCKY MOUNTAIN CHOCOLATE FACTORY Store for at least 12 months and you desire to change its Franchised Location, you may send us a written request explaining your reasons and proposing an alternative location. If we approve an alternative location in writing, you must pay us a Design Fee of \$2,500 (see Item 6), sign our then current form of Franchise Agreement, and you must complete the move and open your new Franchised Location within 12 months from the date the Store at the prior Franchised Location closes. Upon relocation, you may not change the owners or your percentage ownership interests from that of the prior location unless you comply with the transfer provisions in the Franchise Agreement. You must sign the Relocation Amendment to the Franchise Agreement attached to this Disclosure Document as Exhibit H-3 if you relocate your Store.

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. You have no option, right of first refusal or similar contractual right to acquire additional ROCKY MOUNTAIN CHOCOLATE FACTORY franchises. You may face competition from co-branded Cold Stone Creamery® Stores or Nestle Toll House® Café by Chip stores offering ROCKY MOUNTAIN CHOCOLATE FACTORY products, from other retailers, including Edible Arrangements® stores, offering ROCKY MOUNTAIN CHOCOLATE FACTORY products, from co-branded U-SWIRL stores, co-branded ASPEN LEAF stores, co-branded YOGURTINI stores, co-branded CHERRYBERRY stores, co-branded YOGLI MOGLI stores, co-branded FUZZY PEACH stores or from co-branded LET’S YO stores offering ROCKY MOUNTAIN CHOCOLATE FACTORY products. As of the date of this Disclosure Document, we own U-SWIRL, LET’S YO, YOGURTINI, CHERRYBERRY, YOGLI MOGLI, FUZZY PEACH and ASPEN LEAF brands due to our ownership in USI. As of the date of this Disclosure Document, we own three (3) U-Swirl Stores. We do not own any ASPEN LEAF, LET’S YO, CHERRYBERRY, YOGLI MOGLI, FUZZY PEACH or YOGURTINI stores and have no plans to acquire any. We own some ROCKY MOUNTAIN CHOCOLATE FACTORY Stores and we sell products to other retailers that sell branded products in alternative channels of distribution, including in certain big-box retail locations. U-Swirl International, Inc. (“**USI**”) offers franchises for U-SWIRL, LET’S YO, ASPEN LEAF, CHERRYBERRY, YOGLI MOGLI, FUZZY PEACH and YOGURTINI frozen yogurt stores and for co-branded stores that also sell our products under a separate disclosure document that is available from USI. We have an agreement with Cold Stone Creamery, Inc. (“**Cold Stone**”) whereby Cold Stone offers co-branded stores that sell COLD STONE CREAMERY products and our products under a separate Disclosure Document that is available from Cold Stone. We also have an agreement with Crest Foods, Inc. (“**Crest**”) in which both Crest and we offer our franchisees the opportunity to sell products using the other company’s brands in co-branded stores. Crest licenses its franchisees to sell cookies and other baked goods using the “Nestle Toll House® Café by Chip” brand. In the past, we offered co-branded stores with a different frozen dessert

franchisor. You have no option, right of first refusal or similar contractual right to acquire additional ROCKY MOUNTAIN CHOCOLATE FACTORY franchises.

We may establish other related franchises or company-owned Stores that sell or lease similar products or services under a different name or trademark. We retain the rights, among others: (1) to use, and to license others to use, the Marks and Licensed Methods for the operation of ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, including Kiosk Stores, Satellite Stores and Temporary Stores, at any location other than at the Franchised Location; (2) to use the Marks and Licensed Methods to identify services and products, promotional and marketing efforts or related items, and to identify products and services similar to or the same as those which you will sell, but made available through alternative channels of distribution other than through traditional ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, at any location other than at the Franchised Location, including through Satellite Stores, Temporary Stores, Kiosk Stores, co-branded stores, by way of mail order (including electronic mail order), electronic ordering for pick-up at the Franchised Location or delivery to a local customer, offers and sales on websites and other internet platforms, and Electronic Advertising as defined in the Franchise Agreement, which includes blogs and social media such as Facebook and Twitter, by way of catalogs, telemarketing, other direct marketing methods, television, retail store displays or through the wholesale sale of products to unrelated retail outlets or to candy distributors or outlets located in stadiums, arenas, airports, turnpike rest stops or supermarkets; and (3) to use and license the use of other proprietary marks or methods in connection with the sale of products and services similar to those which you will sell or in connection with the operation of retail stores selling gourmet chocolates or other premium confectionery products, at any location other than at the Franchised Location, which stores are the same as, or similar to, or different from a traditional ROCKY MOUNTAIN CHOCOLATE FACTORY Store, a Kiosk Store or a Satellite Store or a Temporary Store, on any terms and conditions as we deem advisable, and without granting you any rights in them.

Your continuation of the right to operate the Store during the term of the Franchise Agreement does not depend on the achievement of any certain sales volume, market penetration or similar contingency. Although in some instances, we grant a franchisee a right of first refusal on a neighboring or extended territory, you have no option, right of first refusal or similar contractual right to acquire additional Stores within a territory or in areas contiguous to your Stores. We have no present plans to establish other franchises or company-owned businesses selling similar products or services under a different name or trademark, although, as stated above, we reserve the right to do so.

### **ITEM 13**

#### **TRADEMARKS**

We grant you the right to use the Marks, including the trademarks and service marks ROCKY MOUNTAIN CHOCOLATE FACTORY, ROCKY MOUNTAIN CHOCOLATE FACTORY design mark and other trademarks, service marks and commercial symbols which we may authorize. We have registered the following principal trademarks on the Principal Register of the United States Patent and Trademark Office:

<b><u>Mark</u></b>	<b><u>Registration No.</u></b>	<b><u>Date of Registration</u></b>
Rocky Mountain Chocolate Factory	Reg. No. 1,552,146	August 15, 1989
Rocky Mountain Chocolate Factory and design	Reg. No. 1,718,498	September 22, 1992
Rocky Mountain Chocolate Factory and design	Reg. No. 6,195,628	November 10, 2020

We have filed all required affidavits and renewals for these Marks. You must follow our rules when you use the Marks. You may not use the phrase, an abbreviation or any of the words “ROCKY MOUNTAIN CHOCOLATE FACTORY” in the legal name of your Business Entity.

You must modify or discontinue your use of a Mark if we require you to modify or discontinue it, at your own expense. We do not allow you to use or register any domain names or use the Internet, including blogs and social media, to market or promote your Store, or any products sold in or through your Store without our prior written consent. See Items 11 and 16.

There are no presently effective determinations of the United States Patent and Trademark Office, the trademark trial and appeal board, the trademark administrator of any state or any court, any pending infringement, opposition or cancellation proceedings or material litigation involving the principal Marks.

No agreements limit our right to use or license the use of the Marks. We entered into an agreement with a third party allowing us to register the mark “CHOCOLATE FACTORY,” for retail store services and we allowed the third party to register “THE CHOCOLATE FACTORY” for cookbooks in May, 2007.

We are not contractually obligated by the Franchise Agreement to protect you against claims of infringement or unfair competition related to your use of the Marks, but it is our policy to do so when, in the opinion of our legal counsel, your right to use the Marks requires protection. In this case, we will pay all costs, including attorneys’ fees and court costs, associated with any litigation required to defend or protect your authorized use of the Marks. You must cooperate with us in any litigation.

We do not know of any infringing uses that could materially affect your use of the Marks.

#### **ITEM 14**

#### **PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION**

We do not own rights in or licenses to any patents or copyrights that are material to the franchise. We have no pending patent applications that are material to the franchise.

We consider our Operations Manual and related materials to be proprietary and confidential and we consider them to be a part of our Licensed Methods to be used by you only as described in the Franchise Agreement. You must maintain the confidentiality of our proprietary information and adopt reasonable procedures to prevent unauthorized disclosure of our trade secrets and information. Although we have not obtained a copyright registration, we own the copyright in our Operations Manual, trade dress, product packaging and other works.

#### **ITEM 15**

#### **OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

You (or your managing partner or principal shareholder) are not required to participate personally in the direct on-premises operation of your Store although we strongly urge you to do so. If you (or your managing partner or principal shareholder) do not participate in the day-to-day operation of the Store, you must designate a manager (“**General Manager**”) to be responsible for the direct on-premises supervision of the Store at all times during its hours of operation. If you are a Business Entity, we do not require that your General Manager own an equity interest in you. You (or your managing partner or principal



shareholder) or, if applicable, the General Manager, must successfully complete our mandatory initial training program. You and your managers must enter into a confidentiality and noncompetition agreement with us (Exhibit VI to Franchise Agreement). Other than the foregoing, we make no recommendations and have no requirements regarding employment or other written agreements between you and your employees.

We may require each of your officers, directors, principal shareholders, partners and/or members to sign an agreement (Exhibit II to Franchise Agreement) personally guaranteeing and agreeing to perform all of your obligations under the Franchise Agreement.

## **ITEM 16**

### **RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must offer for sale through your Store only the Factory Candy, Store Candy and Items that we approve in writing. The authorized vendor list, which is part of our Operations Manual, describes the full line of products identified with ROCKY MOUNTAIN CHOCOLATE FACTORY Stores. We may change the types of authorized products and services, and do not limit our right to do so, although we provide you with written notice 30 days before any change becomes effective.

You must devote a minimum of 50% of all retail display space to Factory Candy, or in other words, chocolates and packaged candies either manufactured or sold by us. The other edible items we permit you to serve, make and sell through your Store are store-made candies that you prepare from recipes and specifications in the Operations Manual, through the process of molding, cooking and dipping various foods, such as cookies, crackers, pretzels, fresh and dried fruits, dog bones, plain chocolate and other items we approve in writing, in our sole discretion. We refer to these other edible items as “**Store Candy**” throughout this Disclosure Document. All Factory Candy, Store Candy and Items must be sold in containers or bags that we approve.

You must obtain our consent in writing before you operate food carts, participate in food festivals or offer any other type of off-site services using our Marks and Licensed Methods. See Exhibits G-1 (Satellite Store) and G-2 (Temporary Store) to this Disclosure Document. You will also offer gift cards through our Gift Card Program. If you choose not to participate in one of our Optional Programs or you for any reason lose your authorization to do so, or you are not eligible to participate based on a supplier’s requirements, you may not offer to sell the products, supplies or services subject to that Optional Program.

You must not offer any other type of product or service, or operate or engage in any other type of business or profession, from or through your Franchised Location, including offering candy classes or filling “wholesale orders,” which we define in the Franchise Agreement as those orders or sales where the principal purpose of the purchase is for resale, not for consumption, or any sale other than over-the-counter sales at a price other than the price charged to the general public. We permit volume discounted sales made at the Franchised Location to a single purchaser, not for resale, and discounted sales made at the Franchised Location to charitable organizations for fund-raising purposes with our prior written consent. See Items 1 and 6 for more information.

**ITEM 17**

**RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

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

Provision	Section in Franchise Agreement	Summary
(a) Length of the franchise term	Section 17.1	10 years
(b) Renewal or extension of the term	Section 17.2	One 10-year term.
(c) Requirements for franchisee to renew or extend	Section 17.3	Pay fee, sign a general release, upgrade Store and sign then current franchise agreement with addendum attached as Exhibit H-1. You may be asked to sign a contract with materially different terms and conditions than your original contract if you choose to renew.
(d) Termination by franchisee	Not Applicable	Not Applicable
(e) Termination by franchisor without cause	Not Applicable	Not Applicable
(f) Termination by franchisor with cause	Sections 18.1 and 18.2	We can terminate only if you commit any one of several listed violations.
(g) "Cause" defined – curable defaults	Sections 18.1 and 18.2	30 days for failure to comply with any provision of Franchise Agreement or Operations Manual.
(h) "Cause" defined – non-curable defaults	Section 18.1	Assignment for benefit of creditors, inability to pay debts, bankruptcy (this provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.)), reorganization, liquidation, dissolution, receivership, certain unreversed judgments, abandonment, material understatement of income, unlawful or deceptive practices, failure to pay fees, etc. to us after 10 days' notice, repeated defaults.
(i) Franchisee's obligations on termination/nonrenewal	Section 18.5	Pay outstanding amounts, de-identify Store, transfer telephone number, no use of our trade secrets or proprietary materials, covenant not to compete, sign general release attached as Exhibit I (see also r).
(j) Assignment of contract by franchisor	Section 16.6	No restriction on our right to assign.

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
(k) “Transfer” by franchisee – definition	Section 16.1	Includes transfer of at least 25% of stock or assets of Store.
(l) Franchisor’s approval of transfer by franchisee	Section 16.3	We have the right to approve all transfers, our consent not to be unreasonably withheld.
(m) Conditions for franchisor approval of transfer	Section 16.2	You must have complied with Franchise Agreement and Operations Manual, transferee must qualify, you must pay all amounts due in full, you or the qualified transferee must pay transfer fee upon approval of the transferee’s franchise application, transferee must sign then current franchise agreement and the transfer amendment to the franchise agreement attached as Exhibit H-2, and you must sign a general release, attached as Exhibit I.
(n) Franchisor’s right of first refusal to acquire franchisee’s business	Section 16.4	We may match any offer.
(o) Franchisor’s option to purchase franchisee’s business	Section 18.4	We may offer to buy your Store or just your Store assets.
(p) Death or disability of franchisee	Section 16.7	Transfer must occur within 120 days.
(q) Non-competition covenants during the term of the franchise	Section 20.1	No involvement in competing business.
(r) Non-competition covenants after the franchise is terminated or expires	Section 20.2	No involvement in competing business.
(s) Modification of the agreement	Section 22.3	No modifications generally but Operations Manual may change.
(t) Integration/merger clause	Section 22.4	Only terms of Franchise Agreement are binding (subject to state law). Nothing in Franchise Agreement is meant to disclaim any representation made in this Disclosure Document, its attachments or addenda.
(u) Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable, with exceptions. In California, Idaho, Illinois, Iowa, Minnesota, Rhode Island and South Dakota, most disputes must be submitted to non-binding arbitration before either party can pursue a civil action against the other.
(v) Choice of forum	Section 22.1	Litigation in LaPlata County, Colorado (subject to state law).

Provision	Section in Franchise Agreement	Summary
(w) Choice of law	Section 22.1	Colorado law applies (subject to state law).

## **ITEM 18**

### **PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

## **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 this Disclosure Document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

While the table below shows franchisee-reported gross sales of franchised stores during our most recent fiscal year ended February 28, 2021, the following data should not be considered as the actual, potential or probable gross sales that will be realized by you or any other franchisees. The COVID-19 pandemic forced many franchised stores to close temporarily beginning in March 2020 due to government orders, and many of the stores that remained open were restricted to delivery and pickup. While the changes to retail store operations are expected to be temporary, there is continuing uncertainty about the duration of the pandemic and resulting restrictions on retail stores as of the date of this Disclosure Document.

The gross sales figures do not reflect the costs of sales, operating expenses, taxes, refunded sales, settlements, gift card revenues, non-inventory sales or shipping expenses charged to a customer that must be deducted from the gross sales figures to obtain net income, profit or loss. We do not disclose information about expenses or costs. You should conduct an independent investigation of the costs and expenses you will incur in operating your ROCKY MOUNTAIN CHOCOLATE FACTORY Store. We recommend that you consult with an accountant to assist you in your investigation of costs and expenses. Franchisees or former franchisees, listed in this disclosure document, may be one source of this information.

**Some stores have earned this amount. Your individual results may differ. There is no assurance that you will earn as much.**

This financial information is prepared without an audit. Prospective franchisees or sellers of franchises should be advised that no certified public accountant has audited these figures or expressed his/her opinion with regard to the content or form.

**FISCAL YEAR 2021 ACTUAL GROSS RETAIL SALES  
FOR ALL FRANCHISED STORES**

	<b>No. of Stores</b>	<b>Combined Annual Gross Retail Sales</b>	<b>Average Annual Gross Retail Sales</b>	<b>Median Annual Gross Retail Sales</b>	<b>Highest Annual Gross Retail Sales</b>	<b>Lowest Annual Gross Retail Sales</b>
Top 25%	38	\$22,781,732	\$599,519	\$527,443	\$1,158,252	\$432,498
Middle 50%	77	\$23,943,031	\$310,948	\$308,047	\$419,612	\$212,609
Lower 25%	38	\$5,665,460	\$149,091	\$158,394	\$211,301	\$28,652
All Stores	153	\$52,390,223	\$342,420	\$308,047	\$1,158,252	\$28,652

**EXPLANATORY NOTES**

1. The information provided above is based on reports of Gross Retail Sales (as defined in the Franchise Agreement) provided by the 153 franchised ROCKY MOUNTAIN CHOCOLATE FACTORY Stores that had been open during our most recent fiscal year ending February 28, 2021. The Gross Retail Sales for Stores that we own are not included in this information, but we have included information on any satellite or temporary Stores operated by Franchisees.

2. Of the 38 Stores included in the top 25%, 14 met or exceeded the average Gross Retail Sales of \$599,519. Of the 77 Stores in the middle 50%, 37 met or exceeded the average Gross Retail Sales of \$310,948. Of the 38 Stores in the lower 25%, 20 met or exceeded the average Gross Retail Sales of \$149,091. Of the 153 Stores, 65 met or exceeded the average Gross Retail Sales of \$342,420.

3. Differences in Gross Retail Sales may be attributable to differences in the mix of Factory Candy, Store Candy or other non-edible items offered for sale at each Store, which is subject, in part, to the Franchisee's discretion. Other factors that may affect the results among Stores include geographic and demographic characteristics, the type of mall or other location, length of time the Store has been open and the managerial or entrepreneurial abilities of the franchisee and its managers.

4. The above information was prepared from royalty reports provided by each individual franchisee. A franchisee pays us a royalty based on sales. We know of no instance, and have no reason to believe, that any franchisee would overstate its level of sales receipts in its royalty report, however, these results have not been audited and we have not independently verified these results.

Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

Other than the preceding financial performance representation, RMCF does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing store, however, we may provide you with the actual records of that store. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Greg Pope, at Rocky Mountain Chocolate Factory, 265 Turner Drive, Durango, Colorado 81303, (970) 259-0554, the Federal Trade Commission and the appropriate state regulatory agencies.

**ITEM 20**

**OUTLETS AND FRANCHISEE INFORMATION**

**Table 1.**

**SYSTEMWIDE OUTLET SUMMARY  
FOR YEARS 2019 TO 2021<sup>(1)</sup>**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
Franchised	2019	183	183	0
	2020	183	176	-7
	2021	176	158	-18
Company- Owned	2019	5	2	-3
	2020	2	2	0
	2021	2	2	0
<b>Total Outlets</b>	<b>2019</b>	<b>188</b>	<b>185</b>	<b>-3</b>
	<b>2020</b>	<b>185</b>	<b>178</b>	<b>-7</b>
	<b>2021</b>	<b>178</b>	<b>160</b>	<b>-18</b>

<sup>(1)</sup> All numbers are as of February 28 or 29 for each year.

**Table 2.**

**TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS  
(OTHER THAN FRANCHISOR)  
FOR YEARS 2019 TO 2021<sup>(1)</sup>**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
Arizona	2019	1
	2020	0
	2021	0
California	2019	1
	2020	1
	2021	2
Colorado	2019	1
	2020	0
	2021	2
Louisiana	2019	0
	2020	0
	2021	1
Mississippi	2019	1
	2020	0
	2021	0

State	Year	Number of Transfers
Missouri	2019	0
	2020	1
	2021	0
Ohio	2019	1
	2020	0
	2021	0
Utah	2019	0
	2020	0
	2021	1
Washington	2019	1
	2020	0
	2021	0
<b>Totals</b>	<b>2019</b>	<b>6</b>
	<b>2020</b>	<b>2</b>
	<b>2021</b>	<b>6</b>

(1) All numbers are as of February 28 or 29 for each year.

**Table 3.**

**STATUS OF FRANCHISED OUTLETS  
FOR YEARS 2019 TO 2021<sup>(1)</sup>**

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
Alaska	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	1	0
	2021	0	0	0	0	0	0	0
Arizona	2019	8	0	0	0	0	0	8
	2020	8	0	0	0	0	0	8
	2021	8	0	0	0	0	0	8
Arkansas	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
California	2019	48	2	1	1	0	2	46
	2020	46	0	0	1	0	1	44
	2021	44	1	0	0	0	3	42
Colorado	2019	22	2	1	0	0	0	23
	2020	23	0	0	0	0	0	23
	2021	23	0	0	0	0	4	19
Florida	2019	3	1	0	0	0	1	3
	2020	3	0	1	0	0	0	2
	2021	2	0	0	0	0	0	2
Idaho	2019	0	1	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
Illinois	2019	9	0	0	0	0	0	9
	2020	9	0	0	0	0	0	9
	2021	9	0	0	0	0	0	9

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
Iowa	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
Kansas	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
Louisiana	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
Michigan	2019	5	0	0	0	0	0	5
	2020	5	0	0	0	0	0	5
	2021	5	0	0	0	0	0	5
Minnesota	2019	4	0	0	0	0	0	4
	2020	4	0	0	0	0	0	4
	2021	4	0	0	0	0	1	3
Mississippi	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
Missouri	2019	4	0	0	0	0	0	4
	2020	4	0	0	0	0	0	4
	2021	4	0	0	0	0	1	3
Nevada	2019	5	0	0	0	0	0	5
	2020	5	0	0	0	0	0	5
	2021	5	2	2	0	0	0	5
New Hampshire	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
New Jersey	2019	3	0	0	0	0	1	2
	2020	2	0	1	0	0	0	1
	2021	1	0	0	0	0	0	1
New Mexico	2019	4	1	0	0	0	0	5
	2020	5	0	0	1	0	0	4
	2021	4	1	0	0	0	1	4
North Carolina	2019	6	1	0	0	0	0	7
	2020	7	1	0	0	0	0	8
	2021	8	1	0	0	0	0	9
Ohio	2019	5	0	0	0	0	1	4
	2020	4	0	0	0	0	0	4
	2021	4	0	0	0	0	2	2
Oklahoma	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
Oregon	2019	5	0	0	0	0	0	5
	2020	5	0	0	0	0	0	5
	2021	5	0	0	0	0	1	4
Pennsylvania	2019	1	1	0	0	0	0	2
	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2



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
South Dakota	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
Tennessee	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
Texas	2019	20	1	1	0	0	1	19
	2020	19	0	0	0	0	0	19
	2021	19	0	0	0	0	3	16
Utah	2019	10	0	0	0	0	0	10
	2020	10	0	0	0	0	0	10
	2021	10	0	0	0	0	3	7
Washington	2019	7	0	0	0	0	0	7
	2020	7	0	0	0	0	1	6
	2021	6	0	0	0	0	2	4
Wisconsin	2019	1	0	0	0	0	0	1
	2020	1	0	0	1	0	0	0
	2021	0	0	0	0	0	0	0
<b>United States Totals</b>	<b>2019</b>	<b>183</b>	<b>10</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>6</b>	<b>183</b>
	<b>2020</b>	<b>183</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>176</b>
	<b>2021</b>	<b>176</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>21</b>	<b>158</b>

(1) All numbers are as of February 28 or 29 for each year.

**Table 4.**

**STATUS OF COMPANY-OWNED OUTLETS  
FOR YEARS 2019 TO 2021<sup>(1)</sup>**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired by Franchisor	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Colorado	2019	3	0	0	2	0	1
	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
Illinois	2019	2	0	0	1	0	1
	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
<b>Totals</b>	<b>2019</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>2</b>
	<b>2020</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>
	<b>2021</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>

(1) All numbers are as of February 28 or 29 for each year.

Table 5.

**PROJECTED NEW FRANCHISED OUTLETS  
AS OF FEBRUARY 28, 2021**

State	Franchise Agreements Signed but Outlets Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
California	1	1	0
Florida	1	1	0
Idaho	1	1	0
Massachusetts	0	1	0
Minnesota	0	1	0
Missouri	0	1	0
New Mexico	0	1	0
Pennsylvania	0	1	0
<b>TOTALS</b>	<b>3</b>	<b>8</b>	<b>0</b>

A list of names of all Franchisees and the addresses and telephone numbers of their Stores are in the list attached as Exhibit C to this Disclosure Document. A list of the name, city, state and current business or last known home telephone number of the 26 franchisees (owning 29 Stores) who have had a franchise terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during our fiscal year 2021 or who have not communicated with us within 10 weeks of the date of this Disclosure Document is listed on Exhibit D to this Disclosure Document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In the last three fiscal years, we have signed confidentiality clauses with several former franchisees in conjunction with settling lawsuits or disputes related to terminations of their franchise rights. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the ROCKY MOUNTAIN CHOCOLATE FACTORY 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.

No independent franchisee organizations have asked to be included in this Disclosure Document. As of the date of this Disclosure Document, there are no trademark-specific franchisee organizations associated with the franchise system that have been created, sponsored or endorsed by us.

**ITEM 21**

**FINANCIAL STATEMENTS**

Attached to this Disclosure Document in Exhibit E are the audited balance sheets of Rocky Mountain Chocolate Factory, Inc. and its subsidiaries, as of February 28, 2021, and February 29, 2020, and the results of their operations and cash flows for each of the years in the three-year period ended February 28, 2021. Also attached in Exhibit E are unaudited financial statements for the three months ended August 31, 2021.

Included in Exhibit E is a Guarantee of Performance by Rocky Mountain Chocolate Factory, Inc. of its obligations under the Franchise Agreement and state franchise registrations.

Our fiscal year ends the last day of February.

**ITEM 22**

**CONTRACTS**

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

Exhibit B	Franchise Agreement
Exhibit G-1	Addendum to Franchise Agreement – Satellite Stores
Exhibit G-2	Addendum to Franchise Agreement – Temporary Stores
Exhibit G-3	Addendum to Franchise Agreement – Co-Branded Stores
Exhibit H-1	Amendment to Franchise Agreement – Renewal
Exhibit H-2	Amendment to Franchise Agreement – Transfer
Exhibit H-3	Amendment to Franchise Agreement – Relocation
Exhibit I	General Release

**ITEM 23**

**RECEIPTS**

The last page of the Disclosure Document (following the exhibits and attachments) is a document acknowledging receipt of the Disclosure Document by you (one copy for you and one to be signed for us).

**EXHIBIT A  
(TO DISCLOSURE DOCUMENT)**

**LIST OF STATE AGENCIES/AGENTS FOR SERVICE OF PROCESS**

**LIST OF STATE AGENCIES**

**California**

Department of Financial Protection and  
Innovation  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344  
(213) 576-7505  
(866) 275-2677

2101 Arena Blvd.  
Sacramento, CA 95834  
(916) 445-7205  
(866) 275-2677

1350 Front Street  
San Diego, CA 92101  
(619) 525-4044  
(866) 275-2677

One Sansome Street, Suite 600  
San Francisco, CA 94104  
(415) 972-8559  
(866) 275-2677

**Florida**

Department of Agriculture and  
Consumer Services  
Division of Consumer Services  
Terry Lee Rhodes Building  
2005 Apalachee Parkway  
Tallahassee, FL 32399-6500  
(850) 488-2221

**Hawaii**

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

**Illinois**

Office of Attorney General  
Franchise Division  
500 South Second Street  
Springfield, IL 62706  
(217) 782-4465

**Indiana**

Indiana Secretary of State  
Securities Division  
302 West Washington Street  
Room E-111  
Indianapolis, IN 46204  
(317) 232-6681

**Maryland**

Office of Attorney General  
Maryland Division of Securities  
200 St. Paul Place  
Baltimore, MD 21202-2020  
(410) 576-6360

**Michigan**

State of Michigan  
Consumer Protection Division  
Attention: Franchise  
P.O. Box 30213  
Lansing, MI 48909  
(517) 373-7117

**Minnesota**

Minnesota Department of Commerce  
Securities Unit  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101  
(651) 539-1600

**Nebraska**

Department of Banking and Finance  
1200 N Street, Suite 311  
P.O. Box 95006  
Lincoln, NE 68509  
(402) 471-3445

**New York**

New York State  
Department of Law  
Investor Protection Bureau  
Franchise Section  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, NY 10005  
(212) 416-8222

**North Dakota**

North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol, 5<sup>th</sup> Floor, Dept. 414  
Bismarck, ND 58505-0510  
(701) 328-4712

**Oregon**

Department of Insurance and Finance  
Corporate Securities Section  
Labor and Industries Building  
Salem, OR 97310  
(503) 378-4387

**Rhode Island**

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

**South Dakota**

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

**Texas**

Secretary of State  
Statutory Document Section  
P.O. Box 13563  
Austin, TX 78711  
(512) 475-1769

**Virginia**

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

**Washington**

Securities Administrator  
Department of Financial Institutions  
Securities Division  
150 Israel Road S.W.  
Tumwater, WA 98501  
(360) 902-8760

**Wisconsin**

Department of Financial Institutions  
Division of Securities  
345 W. Washington Avenue, 4<sup>th</sup> Floor  
Madison, WI 53703  
(608) 261-9555

## LIST OF AGENTS FOR SERVICE OF PROCESS

### California

Commissioner of Financial Protection and Innovation  
California Department of Financial Protection and Innovation  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344  
(213) 576-7505  
(866) 275-2677

### Hawaii

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

### Illinois

Illinois Attorney General  
500 South Second Street  
Springfield, IL 62706  
(217) 782-1090

### Indiana

Indiana Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, IN 46204  
(317) 232-6531

### Maryland

Maryland Securities Commissioner  
200 St. Paul Place  
Baltimore, MD 21202-2020  
(410) 576-6360

### Michigan

Michigan Department of Commerce  
Corporations and Securities Bureau  
6546 Mercantile Way  
Lansing, MI 48910  
(517) 334-6212

### Minnesota

Minnesota Commissioner of Commerce  
Department of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101  
(651) 539-1600

### New York

New York Department of State  
One Commerce Plaza  
99 Washington Avenue, 6<sup>th</sup> Floor  
Albany, NY 12231-0001  
(518) 473-2492

### North Dakota

North Dakota Securities Commissioner  
600 E. Boulevard Avenue  
State Capitol, 5<sup>th</sup> Floor  
Bismarck, ND 58505-0510  
(701) 328-2910

### Oregon

Director of Oregon Department of Insurance and Finance  
700 Summer Street, N.E.  
Suite 120  
Salem, OR 97310  
(503) 378-4387

### Rhode Island

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

### South Dakota

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

### Virginia

Clerk of the State Corporation Commission  
1300 East Main Street, 1<sup>st</sup> Floor  
Richmond, VA 23219  
(804) 371-9733

### Washington

Securities Administrator  
Washington State Department of Financial Institutions  
150 Israel Road S.W.  
Tumwater, WA 98501  
(360) 902-8760

### Wisconsin

Wisconsin Commissioner of Securities  
345 W. Washington Ave., 4<sup>th</sup> Floor  
Box 1768  
Madison, WI 53703  
(608) 261-9555

**EXHIBIT B  
(TO DISCLOSURE DOCUMENT)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY  
FRANCHISE AGREEMENT**

Franchisee: \_\_\_\_\_

Date: \_\_\_\_\_

Franchised Location: \_\_\_\_\_

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**EXHIBITS**

- I. Addendum to Franchise Agreement - Location Approval
- II. Personal Guaranty
- III. Statement of Ownership
- IV. Authorization Agreement for Electronic Funds Transfers
- V. Permit, License and Construction Certificate
- VI. Confidentiality and Noncompetition Agreement

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT**

THIS AGREEMENT (the “**Agreement**”) is made this \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, by and between ROCKY MOUNTAIN CHOCOLATE FACTORY, INC., a Colorado corporation, located at 265 Turner Drive, Durango, Colorado 81303 (the “**Franchisor**”) and \_\_\_\_\_, located at \_\_\_\_\_ (the “**Franchisee**”), who, on the basis of the following understandings and agreements, agree as follows:

**1. PURPOSE**

**1.1** The Franchisor has developed methods for establishing, operating and promoting retail stores selling gourmet chocolates and other premium confectionery products (“**ROCKY MOUNTAIN CHOCOLATE FACTORY Stores**” or “**Stores**”) using the service mark “ROCKY MOUNTAIN CHOCOLATE FACTORY” and related trade names and trademarks (“**Marks**”) and the Franchisor’s proprietary methods of doing business (the “**Licensed Methods**”).

**1.2** The Franchisor grants the right to others to develop and operate ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, under the Marks and pursuant to the Licensed Methods.

**1.3** The Franchisee desires to establish one ROCKY MOUNTAIN CHOCOLATE FACTORY Store at a location identified herein or to be later identified, and the Franchisor desires to grant the Franchisee the right to operate one ROCKY MOUNTAIN CHOCOLATE FACTORY Store at such location under the terms and conditions which are contained in this Agreement.

**2. GRANT OF FRANCHISE**

**2.1 Grant of Franchise.** The Franchisor grants to the Franchisee, and the Franchisee accepts from the Franchisor, the right to use the Marks and Licensed Methods in connection with the establishment and operation of one ROCKY MOUNTAIN CHOCOLATE FACTORY Store, at the location described in Article 3 of this Agreement. The Franchisee agrees to use the Marks and Licensed Methods, as they may be changed, improved, and further developed by the Franchisor from time to time, only in accordance with the terms and conditions of this Agreement.

**2.2 Scope of Franchise Operations.** The Franchisee agrees at all times to faithfully, honestly and diligently perform the Franchisee’s obligations hereunder, and to continuously exert best efforts to promote the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisee agrees to utilize the Marks and Licensed Methods to operate all aspects of the business franchised hereunder in accordance with the methods and systems developed and prescribed from time to time by the Franchisor, all of which are a part of the Licensed Methods. The Franchisee’s ROCKY MOUNTAIN CHOCOLATE FACTORY Store shall offer such products and services as the Franchisor shall designate and shall be restricted from manufacturing, offering or selling any products or services not previously approved by the Franchisor in writing. The Franchisee is required to devote a minimum of 50% of all retail display space to ROCKY MOUNTAIN CHOCOLATE FACTORY brand assorted bulk chocolates and boxed and packaged candies. The Franchisee’s ROCKY MOUNTAIN CHOCOLATE FACTORY Store must feature ROCKY MOUNTAIN CHOCOLATE FACTORY brand candy manufactured by the Franchisor or its designees and sold by the Franchisor (“**Factory Candy**”) and related nonconfectionery items (“**Items**”) approved by the Franchisor in writing. Depending on the retail environment and the configuration of the Store, the Franchisee may also be permitted to make, offer and sell confections made in the Store, including candy-

coated apples (“**Store Candy**”) prepared in accordance with recipes and processes set forth in the Operations Manual, as that term is defined in Section 8.1. Some Stores do not offer Store Candy.

### 3. FRANCHISED LOCATION

**3.1 Franchised Location.** The Franchisee is granted the right and franchise to own and operate one ROCKY MOUNTAIN CHOCOLATE FACTORY Store at the address and location which shall be set forth in Exhibit I, attached hereto (“**Franchised Location**”). The type of Store configuration shall also be set forth in Exhibit I, attached hereto. Smaller Stores, regardless of their configuration, are referred to as “**Kiosks**” or “**Kiosk Stores**” in this Agreement and all references to “Stores” shall be deemed to include Kiosk Stores.

**3.2 Limitation on Franchise Rights; Relocation.** The rights that are hereby granted to the Franchisee are for the specific Franchised Location and cannot be transferred to an alternative Franchised Location, or any other location, without the prior written approval of the Franchisor. If the Franchisee has operated a ROCKY MOUNTAIN CHOCOLATE FACTORY Store for not less than 12 months and desires to relocate it to an alternative site, the Franchisee must set forth its reasons for requesting the relocation in writing to the Franchisor, along with a proposed new location. The Franchisor will have 30 days from receipt of the Franchisee’s written request to respond. If the Franchisor approves the relocation and the proposed new location, and if the Franchisor determines that the resulting ownership of the Franchisee does not change in any respect from the ownership of the Franchisee before the relocation, then the Franchisee may move its Store to the new approved location, provided that the Franchisee signs the Franchisor’s then current form of Franchise Agreement and opens the Store at the new location within 12 months after the Store closes at its former Franchised Location. In addition, the Franchisee will be required to pay a nonrefundable design fee of \$2,500 to the Franchisor for the Franchisor’s Store designers to design the layout of the Franchisee’s new Store location. A similar design fee will also apply if the Franchisor determines that the Franchisee requires design assistance in remodeling its Store at any time during the term of this Agreement. See Section 5.2 below. The Marks and Licensed Methods are licensed to the Franchisee for the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store only at the Franchised Location; therefore, the Franchisee may not operate temporary food carts, participate in food festivals or offer any other type of off-site food services using the Marks and Licensed Methods without the prior written consent of the Franchisor, in which case the Franchisor and the Franchisee shall execute an addendum to this Agreement relating to the operation of “**Satellite Stores**” (if this Agreement governs the operation of a traditional Store, any Satellite Store(s) shall be governed by separate Franchise Agreements) or “**Temporary Stores.**” In addition, if the Store operated at the Franchised Location is approved to offer products under trademarks not owned by the Franchisor, an addendum for co-branded Stores (“**Co-Branded Stores**”) will be signed by the Franchisee and the Franchisor.

**3.3 Franchisor’s Reservation of Rights.** The Franchisee acknowledges that the franchise granted hereunder is non-exclusive and that the Franchisor retains the rights, among others: (1) to use, and to license others to use, the Marks and Licensed Methods for the operation of ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, Kiosk Stores, Satellite Stores and Temporary Stores, at any location other than at the Franchised Location; (2) to use the Marks and Licensed Methods to identify services and products, promotional and marketing efforts or related items, and to identify products and services similar to or the same as those which the Franchisee will sell, but made available through alternative channels of distribution other than through traditional ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, at any location other than at the Franchised Location, including, but not limited to, through Satellite Stores, Temporary Stores, Kiosk Stores, co-branded Stores, by way of mail order, (including electronic mail order), the Internet and Electronic Advertising, defined in Section 12.6, which includes blogs, and social media such as Facebook and Twitter, by way of catalogs, telemarketing, other direct marketing methods,

(10/22/21)

television, retail store display or through the wholesale sale of its products to other retail outlets or to candy distributors or outlets located in “Captive Audience Facilities,” defined below; and (3) to use and license the use of other proprietary marks or methods in connection with the sale of products and services similar to those which the Franchisee will sell, in alternative channels of distribution or in connection with the operation of retail stores selling gourmet chocolates or other premium confectionery products, at any location other than at the Franchised Location, which stores are the same as, or similar to, or different from a traditional ROCKY MOUNTAIN CHOCOLATE FACTORY Store or a Satellite Store, a Temporary Store, a Kiosk Store, or a Co-Branded Store, on any terms and conditions as the Franchisor deems advisable, and without granting the Franchisee any rights therein; and (4) to use and license others to use the Marks and Licensed Methods at any location in connection with the operation of Stores within “**Captive Audience Facilities**” which are defined as facilities where people are congregating for a primary purpose unrelated to the Store business, creating significant foot traffic in the facility, including airports and other transportation hubs, hospitals, college campuses, convention centers, grocery stores, sports arenas, stadiums, department stores, resorts and hotels, within office buildings, town centers and “big box” retail centers. The Franchisor and its affiliates reserve the right to contract with Captive Audience Facilities to develop and operate Stores within these facilities.

#### 4. INITIAL FEES

**4.1 Initial Franchise Fee.** In consideration for the right to develop and operate one ROCKY MOUNTAIN CHOCOLATE FACTORY Store, the Franchisee agrees to pay to the Franchisor an initial franchise fee in the amount set forth in Exhibit I attached hereto, all of which is due and payable on the date the Franchisee signs this Agreement. The Franchisee acknowledges and agrees that the initial franchise fee represents payment for the initial grant of the rights to use the Marks and Licensed Methods, that the Franchisor has earned the initial franchise fee upon receipt thereof and that the fee is under no circumstances refundable to the Franchisee after it is paid. If a transfer occurs, no initial franchise fee shall be due at the time that the Franchisee transfers the Store to another party, but a transfer fee will apply as set forth in Section 16.2 of this Agreement.

#### 5. DEVELOPMENT OF FRANCHISED LOCATION

**5.1 Approval of Lease.** Prior to executing a lease or a purchase agreement for the Franchised Location, the Franchisee shall submit a copy of the proposed lease or purchase agreement to the Franchisor for review. The Franchisee shall obtain the Franchisor’s prior written approval before executing any lease or purchase agreement for the Franchised Location. Any lease for the Franchised Location shall, at the option of the Franchisor, contain provisions: (1) allowing for assignment of the lease to the Franchisor in the event that this Agreement is terminated or not renewed for any reason; (2) giving the Franchisor notice and the right to cure any default by the Franchisee under the lease; (3) allowing the Franchisor to enter the premises to cure defaults under the Franchise Agreement if the Franchisee fails to cure within a specified cure period or to protect the Marks and the Licensed Methods; and (4) providing the Franchisor with the right, exercisable upon and as a condition of the approval of the Franchised Location, to execute the lease agreement or other document providing entitlement to the use of the Franchised Location in its own name or jointly with the Franchisee as lessee and, upon the exercise of such option, the Franchisor shall provide the Franchisee with the right to use the premises as its sublessee, assignee, or other similar capacity upon the same terms and conditions as obtained by the Franchisor. The Franchisor may require the Franchisee to hire a lawyer or other professional approved by the Franchisor, to negotiate lease terms for the Franchised Location, at the Franchisee’s expense. The Franchisee shall deliver a copy of the signed lease for the Franchised Location to the Franchisor within 15 days of its execution. The Franchisee acknowledges that approval of a lease for the Franchised Location by the Franchisor does not constitute a recommendation,

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endorsement or guarantee by the Franchisor of the suitability of the location or the lease and the Franchisee should take all steps necessary to ascertain whether such location and lease are acceptable to the Franchisee.

**5.2 Conversion and Design.** The Franchisee acknowledges that the layout, design, decoration and color scheme of ROCKY MOUNTAIN CHOCOLATE FACTORY Stores are an integral part of the Franchisor's proprietary Licensed Methods and accordingly, the Franchisee shall convert, design and decorate the Franchised Location in accordance with the Franchisor's plans and specifications which are contained in a Design and Construction Manual that is considered, for the purposes of this Agreement, to be a part of the Operations Manual, defined in Section 8.1. The Franchisee shall hire an approved or designated architect/designer to prepare written plans for the Store's layout and construction, which plans shall be submitted to the Franchisor for its prior written approval. Throughout the term of this Agreement, the Franchisee shall also obtain the Franchisor's written consent to any remodeling or decoration of the premises before remodeling or decorating begins, recognizing that such remodeling, decoration and any related costs are the Franchisee's sole responsibility. If the Franchisee remodels its Store or if the Franchisee relocates its Store at any time during the term of this Agreement, the Franchisee shall pay the Franchisor \$2,500 for the Franchisor's review and approval of the new Store design.

**5.3 Signs.** The Franchisee shall purchase or otherwise obtain for use at the Franchised Location and in connection with the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, signs which comply with the standards and specifications of the Franchisor as set forth in the Operations Manual, as that term is defined in Section 8.1. It is the Franchisee's sole responsibility to insure that any signs comply with applicable local ordinances, building codes and zoning regulations. Any modifications to the Franchisor's standards and specifications for signs that must be made due to local ordinances, codes or regulations shall be submitted to the Franchisor for prior written approval. The Franchisee acknowledges the Marks, or any other name, symbol or identifying marks on any signs shall only be used in accordance with the Franchisor's standards and specifications and only with the prior written approval of the Franchisor.

**5.4 Equipment.** The Franchisee shall purchase or otherwise obtain for use at the Franchised Location and in connection with the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, equipment of a type and in an amount which complies with the standards and specifications of the Franchisor in effect during the term of this Agreement. The Franchisee acknowledges that the type, quality, configuration, capability or performance of the equipment are all standards and specifications which are a part of the Licensed Methods and therefore such equipment must be purchased, leased, or otherwise obtained in accordance with the Franchisor's standards and specifications and only from suppliers or other sources designated or approved by the Franchisor. The Franchisee shall equip the Store with an electronic point-of-sale system ("**POS System**"), that includes PC-based registers, cash drawers, thermal receipt printers, scales, credit card authorization software, credit card readers and laser bar code scanners and other designated equipment consistent with the standards and specifications of the Franchisor. The Franchisor reserves the right to require the Franchisee to purchase new and upgraded computer hardware components and software upon 30 days prior written notice. The Franchisor also reserves the right to require the Franchisee to purchase, install and implement computer data security hardware and software, firewall protection and data security breach insurance that meets the Franchisor's standards and specifications or from the Franchisor's designated supplier, if applicable, on 30 days prior notice. The Franchisor requires that it be provided reasonable access to information and data regarding the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store by electronic transmission through the POS System and using hardware and software that meet the Franchisor's standards and specifications. The Franchisee must purchase and maintain throughout the term of this Agreement a maintenance and support agreement for the POS System with the Franchisor's designated or approved supplier. The Franchisee shall be responsible

for all maintenance costs associated with the computer hardware, the POS System and the computer software.

**5.5 Electronic Communications.** The Franchisee shall obtain and maintain computer hardware and software meeting the Franchisor's standards and specifications as they may exist from time to time. The Franchisor requires the Franchisee to obtain and maintain an account with an Internet service provider that meets the Franchisor's standards and specifications to facilitate electronic communication between the Franchisor and the Franchisee and among all ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees, and to facilitate the Franchisor's access to Store operating information. The Franchisee agrees that the Franchisor may assign an electronic mail address to the Franchisee and the Franchisee agrees to use such address to access messages and information posted by the Franchisor and other ROCKY MOUNTAIN CHOCOLATE FACTORY franchise owners ("**Owners**"). The Franchisor may post information about the Franchisee's Store on the Franchisor's intranet system for comparative analysis purposes. The Franchisee agrees to participate in the Franchisor's electronic intranet system and to abide by the terms of use governing it. Information on the Franchisor's intranet system and the terms of use governing the Franchisor's intranet system are deemed to be incorporated into the terms of the Operations Manual and any violations of the terms of use will be treated as a violation of the rules governing the Operations Manual.

**5.6 Permits and Licenses.** The Franchisee agrees to obtain all such permits and certifications as may be required for the lawful construction and operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store together with all certifications from government authorities having jurisdiction over the site, that all requirements for construction and operation have been met, including without limitation, zoning, access, sign, health, safety requirements, building and other required construction permits, licenses to do business and fictitious name registrations, sales tax permits, health and sanitation permits and ratings and fire clearances. The Franchisee agrees to obtain all customary contractors' sworn statements and partial and final lien waivers for construction, remodeling, decorating and installation of equipment at the Franchised Location. The Franchisee shall sign and deliver to the Franchisor the Permit, License and Construction Certificate set forth as Exhibit V to this Agreement, to confirm Franchisee's compliance with the Americans with Disabilities Act and other provisions of this Section 5.6 not later than 30 days prior to the date the Store begins operating. Copies of all inspection reports, warnings, certificates and ratings issued by any governmental entity during the term of this Agreement in connection with the conduct of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store which indicates the Franchisee's failure to meet or maintain the highest governmental standards, or less than full compliance by the Franchisee with any applicable law, rule or regulation, shall be forwarded to the Franchisor within five days of the Franchisee's receipt thereof.

**5.7 Commencement of Operations.** Unless otherwise agreed in writing by the Franchisor and the Franchisee, the Franchisee who is developing a new location has 180 days from the date of this Agreement within which to develop the Franchised Location, complete the initial training program, described in Section 6.1 of this Agreement, and commence operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. Failure to commence operations within this time frame shall constitute grounds for termination under Article 18 of this Agreement. The Franchisor will extend the time in which the Franchisee has to commence operations for a reasonable period of time in the event factors beyond the Franchisee's reasonable control prevent the Franchisee from meeting this development schedule, so long as the Franchisee has made reasonable and continuing efforts to comply with such development obligations and the Franchisee requests, in writing, an extension of time in which to have its ROCKY MOUNTAIN CHOCOLATE FACTORY Store established before such development period lapses. However, notwithstanding the Franchisor's written agreement to extend the Franchisee's development period, if more than 270 days elapse between the date of this Agreement and the commencement of operation of the Store,

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the Franchisor reserves the right, in its sole discretion, to require the Franchisee to execute the Franchisor's then current form of Franchise Agreement or an amendment to this Agreement to conform this Agreement with the terms of the then current Franchise Agreement.

## 6. TRAINING

**6.1 Initial Training Program.** After the Franchisee executes a lease for the Franchised Location, the Franchisee or, if the Franchisee is not an individual, the person designated by the Franchisee to assume primary responsibility for the management of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, ("**General Manager**") is required to attend and successfully complete the initial training program which is offered by the Franchisor at one or more of the Franchisor's designated training facilities, or by webinar or other remote method, if circumstances warrant, in the Franchisor's sole discretion. Up to three individuals are eligible to participate in the Franchisor's initial training program without charge of a tuition or fee. The Franchisee shall be responsible for any and all traveling and living expenses incurred in connection with attendance at the training program. At least one individual must successfully complete the initial training program prior to the Franchisee's commencement of operation of its ROCKY MOUNTAIN CHOCOLATE FACTORY Store.

**6.2 Length of Training.** The initial training program shall consist of 7 days of instruction at one or more locations designated by the Franchisor, or by webinar or other remote method if circumstances warrant, in the Franchisor's sole discretion; provided, however, that the Franchisor reserves the right to waive a portion of the training program or alter the training schedule, if in the Franchisor's sole discretion, the Franchisee or General Manager has sufficient prior experience or training.

**6.3 Additional Training.** From time to time, the Franchisor may present seminars, conventions or continuing development programs or conduct meetings or webinars for the benefit of the Franchisee. The Franchisee or its General Manager shall be required to attend any ongoing mandatory seminars, webinars, conventions, programs or meetings as may be offered by the Franchisor. The Franchisor shall give the Franchisee at least 30 days prior written notice of any ongoing seminar, convention or program that is deemed mandatory. The Franchisor shall not require that the Franchisee attend any ongoing training in person more often than once a year for up to three days. All mandatory training will be offered without charge of a tuition or fee; provided, however, the Franchisee will be responsible for all traveling and living expenses which are associated with attendance at the same.

## 7. DEVELOPMENT ASSISTANCE

**7.1 Franchisor's Development Assistance.** The Franchisor, or its designee, shall provide the Franchisee with assistance in the initial establishment of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store as follows:

a. Provision of the initial training program to be conducted at the Franchisor's designated training facilities or at another location designated by the Franchisor, as described in Article 6 above.

b. The Franchisee must have obtained the Franchisor's consent to a proposed location not later than the date this Agreement is signed. The Franchisee acknowledges that the Franchisor shall have no obligation to provide assistance in the selection and approval of a Franchised Location other than the provision of written specifications and approval or disapproval of a proposed Franchised Location, which approval or disapproval shall be based on information submitted to the Franchisor by the Franchisee in a form sufficient to assess the proposed location as may be required

by the Franchisor, in the Franchisor's sole discretion, and on information gathered by the Franchisor.

c. Direction regarding the required conversion, design and decoration of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store premises, plus specifications concerning signs, seasonal graphics, music, décor, equipment, furniture and fixtures.

d. Direction regarding the selection of suppliers of equipment, seasonal graphics, music, furniture, fixtures, supplies and materials used and inventory offered for sale in connection with the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisor will determine the Franchisee's initial inventory of Factory Candy that the Franchisee will purchase, depending on the size and configuration of the Store. After execution of this Agreement, the Franchisor will provide the Franchisee with a list of approved suppliers, if any, of equipment, items, seasonal graphics, music, furniture, fixtures, supplies, materials and inventory and, if available, a description of any national or central purchase and supply agreements offered by approved suppliers for the benefit of ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees.

e. Provision of an Operations Manual in accordance with Section 8.1 below.

f. As the Franchisor may reasonably schedule, and depending on availability of personnel, the Franchisor will make available to the Franchisee at or close to the opening of the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store, a representative ("**Site Representative**") who will be present for up to five days beginning approximately three days prior to the opening of the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store. No in-Store assistance is available between December 22nd and January 4th. If the Franchisee's Store opens on or near a holiday, however, the Site Representative shall not begin the in-Store assistance until three days after the holiday. Holidays include, but are not limited to, New Year's Day, Valentine's Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Hanukkah and Christmas. There will be no charge to the Franchisee for this service provided by the Franchisor. The Site Representative will assist the Franchisee's employees in opening the Store, unless in the Franchisor's determination, the Franchisee or the General Manager have sufficient prior training or experience.

## 8. OPERATIONS MANUAL

**8.1 Operations Manual.** The Franchisor agrees to loan to the Franchisee one or more manuals, technical bulletins, cookbooks and recipes and other written or electronic materials transmitted to the Franchisee during the term of this Agreement (collectively referred to as "**Operations Manual**") covering Factory Candy ordering, Store Candy manufacturing, processing and stocking and other operating methods, advertising and marketing techniques for the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisee agrees that it shall comply with the Operations Manual as an essential aspect of its obligations under this Agreement, that the Operations Manual shall be deemed to be incorporated herein by reference and failure by the Franchisee to substantially comply with the Operations Manual may be considered by the Franchisor to be a breach of this Agreement. Upon the expiration, transfer or termination of this Agreement for any reason, the Franchisee shall return to the Franchisor, or transfer to an approved transferee, if applicable, all paper volumes, DVDs, disks or other media which together comprise the Operations Manual. Failure to return or transfer, as applicable, all volumes of the Operations Manual in good condition, reasonable wear and tear excepted, shall cost the Franchisee \$150 per volume, payable to the Franchisor upon demand.



**8.2 Use of Operations Manual.** The Franchisee agrees to use the Marks and Licensed Methods only as specified in the Operations Manual. The Operations Manual is the sole property of the Franchisor and shall be used by the Franchisee only during the term of this Agreement and in strict accordance with the terms and conditions hereof. The Franchisee shall not duplicate the Operations Manual nor disclose its contents to persons other than its employees or officers who have signed the form of Confidentiality and Noncompetition Agreement attached hereto as Exhibit VI and incorporated herein by reference.

**8.3 Changes to Operations Manual.** The Franchisor reserves the right to revise the Operations Manual from time to time as it deems necessary to update or change operating and marketing techniques, standards and specifications for all components of the Licensed Methods and approved Factory Candy, Items and Store Candy offered by Stores. Revisions may be sent to the Franchisee by electronic mail, by regular mail or any other method in the Franchisor's discretion. The Franchisee, within 30 days of receiving any updated information, shall in turn update its copy of the Operations Manual as instructed by the Franchisor and shall conform its operations with the updated provisions within a reasonable time after receipt of such updated information. The Franchisee acknowledges that a master copy of the Operations Manual maintained by the Franchisor at its principal office shall be controlling in the event of a dispute relative to the content of any Operations Manual.

## 9. OPERATING ASSISTANCE

**9.1 Franchisor's Services.** The Franchisor agrees that, during the Franchisee's operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, the Franchisor, or its designee, shall make available to the Franchisee the following services:

a. Upon the reasonable request of the Franchisee, consultation by telephone and electronic mail regarding the continued operation and management of a ROCKY MOUNTAIN CHOCOLATE FACTORY Store and advice regarding the retail services, product quality control, inventory issues, customer relations issues and similar advice.

b. Access to advertising and promotional materials as may be developed by the Franchisor, the cost of which may be passed on to the Franchisee at the Franchisor's option.

c. On-going updates of information and programs regarding the candy industry, the ROCKY MOUNTAIN CHOCOLATE FACTORY concept and related Licensed Methods, including, without limitation, information about special or new products which may be developed and made available to ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees.

d. Depending on availability, allow replacement or additional General Managers to attend the initial training program. The Franchisor reserves the right to charge a tuition or fee in an amount payable in advance, commensurate with the Franchisor's then current published prices for such training. The Franchisee shall be responsible for all travel and living expenses incurred by its personnel during the training program. Further, the availability of the training program shall be subject to space considerations and prior commitments to new ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees.

**9.2 Additional Franchisor Services.** Although not obligated to do so, upon the reasonable request of the Franchisee, the Franchisor may make its employees or designated agents available to the Franchisee for on-site advice and assistance in connection with the on-going operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store governed by this Agreement. In the event that the Franchisee requests such additional assistance and the Franchisor agrees to provide the same, the Franchisor

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reserves the right to charge the Franchisee for all travel, lodging, living expenses, telephone charges and other identifiable expenses associated with such assistance, plus a fee based on the time spent by each employee on behalf of the Franchisee, which fee will be charged in accordance with the then current daily or hourly rates being charged by the Franchisor for assistance.

## 10. FRANCHISEE'S OPERATIONAL COVENANTS

**10.1 Store Operations.** The Franchisee acknowledges that it is solely responsible for the successful operation of its ROCKY MOUNTAIN CHOCOLATE FACTORY Store and that the continued successful operation thereof is, in part, dependent upon the Franchisee's compliance with this Agreement and the Operations Manual. In addition to all other obligations contained in this Agreement and in the Operations Manual, the Franchisee covenants that:

a. The Franchisee shall maintain clean, efficient and high-quality ROCKY MOUNTAIN CHOCOLATE FACTORY Store operations and shall operate the business in accordance with the Operations Manual and in such a manner as not to detract from or adversely reflect upon the name and reputation of the Franchisor and the goodwill associated with the ROCKY MOUNTAIN CHOCOLATE FACTORY name and Marks.

b. The Franchisee will operate its ROCKY MOUNTAIN CHOCOLATE FACTORY Store in compliance with all applicable laws, health department regulations, data security laws, privacy laws and other ordinances in such a manner so as to promote a good public image in the community. In connection therewith, the Franchisee will be solely and fully responsible for obtaining any and all licenses to operate the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisee shall promptly forward to the Franchisor copies of all health department, fire department, building department and other similar reports of inspections as and when they become available.

c. The Franchisee and all persons who work at the Store in any capacity, whether or not they are employees of the Franchisee ("**Personnel**"), shall conduct themselves in such a manner so as to promote a good image to the public and to the business community. At no time while at the Franchised Location, on the shopping center premises, or when wearing apparel bearing a Mark, shall any of the Personnel engage in unreasonable or disrespectful behavior toward anyone, including using offensive or rude language or gestures. The Franchisee shall require its Personnel to follow the Code of Conduct as set forth in the Operations Manual.

d. The Franchisee acknowledges that proper management of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store is important and shall insure that an individual who signs this Agreement on behalf of the Franchisee or the General Manager who has completed the Franchisor's initial training program will be responsible for the management of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store after commencement of Store operations. Further, either an individual Franchisee or the General Manager, in each case a person who has completed the Franchisor's initial training program, will be present at the Franchised Location at all times during operation of the Store.

e. The Franchisee shall offer only authorized products and services as are more fully described in the inventory lists and in the vendor lists which are a part of the Operations Manual, which may include, without limitation, Factory Candy, Store Candy, Items and other authorized confectionery food and beverage products. Further, the Franchisee shall operate the Store using only those supplies, equipment, ingredients, signs, décor, music and methods which are described in the Operations Manual. The Franchisee shall offer only the types of products and services as

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from time to time may be prescribed by the Franchisor and shall refrain from offering any other types of products or services, from or through the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, including, without limitation, filling “Wholesale Orders,” defined below, selling Factory Candy, Store Candy, Items or other authorized products through the Internet, or catering or other off-premises sales, without the prior written consent of the Franchisor. “**Wholesale Orders**” are defined as those orders or sales where the principal purpose of the purchase is for resale, not consumption, or any sale other than those sold over the counter at a price other than that price charged to the general public; provided, however, that volume discounted sales made on the premises at the Franchised Location to a single purchaser, not for resale, and discounted sales made on the premises at the Franchised Location to charitable organizations for fund-raising purposes shall be permitted. Factory Candy, Store Candy and Items shall never be sold in containers or bags other than those approved by the Franchisor.

f. The Franchisee shall promptly pay when due all taxes and other obligations owed to third parties in the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, including without limitation, unemployment and sales taxes, and any and all accounts or other indebtedness of every kind incurred by the Franchisee in the conduct of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. In the event of a bona fide dispute as to the liability for taxes assessed or other indebtedness, the Franchisee may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law; however, in no event shall the Franchisee permit a tax sale or seizure by levy or execution or similar writ or warrant, or attachment by a creditor to occur against the premises of the Franchised Location, or any improvement thereon.

g. The Franchisee agrees to notify the Franchisor within 15 days of receipt of claims or service of process that the Franchisee has been named in a lawsuit or arbitration or that claims have been made against it that in any way involve, relate to or affect the franchise, the Store or the assets of the Store. Notice will include a copy of the complaint or claims and the Franchisee’s proposed response.

h. The Franchisee shall subscribe for and maintain one telephone number for its ROCKY MOUNTAIN CHOCOLATE FACTORY Store at the Franchised Location that will be used exclusively for voice communication. The telephone number shall be listed and identified exclusively with the ROCKY MOUNTAIN CHOCOLATE FACTORY Store in all telephone directories and in advertising and shall be separate and distinct from all other telephone numbers subscribed for by the Franchisee.

i. The Franchisee shall comply with all agreements with third parties related to the ROCKY MOUNTAIN CHOCOLATE FACTORY Store including, in particular, all provisions of any lease for the Franchised Location.

j. The Franchisee and all employees of the Franchisee shall adhere to strict grooming and dress code guidelines, as described in the Code of Conduct set forth in the Operations Manual, while on duty at the Franchised Location. The Franchisee is required, at the Franchisee’s expense, to purchase specified apparel from suppliers approved by the Franchisor. All General Managers, employees of the Franchisee, the Franchisee and its owners shall wear the specified apparel at all times while working at the Franchised Location. The Franchisor has the right, in its sole and absolute discretion, to change or modify such grooming and dress code guidelines in the Operations Manual.

k. The Franchisee agrees to renovate, refurbish, remodel or replace, at its own expense, the personal property and equipment used in the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, when reasonably required by the Franchisor in order to comply with the image, standards of operation and performance capability established by the Franchisor from time to time. If the Franchisor changes its image or standards of operation, it shall give the Franchisee a reasonable period of time within which to comply with such changes.

l. The Franchisee shall be responsible for training all of its Personnel who work in any capacity in the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisee must conduct its Personnel training in the manner and according to the standards as prescribed in the Operations Manual. All Personnel who do not satisfactorily complete the training shall not work in any capacity in the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store.

m. The Franchisee shall at all times during the term of this Agreement own and control the ROCKY MOUNTAIN CHOCOLATE FACTORY Store authorized hereunder. The Franchisee shall not operate any other business or profession from or through the Store. If the Franchisee is an entity, the entity shall only operate the ROCKY MOUNTAIN CHOCOLATE FACTORY Store governed by this Agreement and no other business, unless the Franchisee receives the Franchisor's prior written approval. Upon request of the Franchisor, the Franchisee shall promptly provide satisfactory proof of such ownership to the Franchisor. The Franchisee represents that the Statement of Ownership, attached hereto as Exhibit III and by this reference incorporated herein, is true, complete, accurate and not misleading, and, in accordance with the information contained in the Statement of Ownership, the controlling ownership of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store is held by the Franchisee. The Franchisee shall promptly provide the Franchisor with a written notification if the information contained in the Statement of Ownership changes at any time during the term of this Agreement and shall comply with the applicable transfer provisions contained in Article 16 herein. In addition, if the Franchisee is an entity, all of the owners of the Franchisee shall sign the Personal Guaranty attached hereto as Exhibit II.

n. The Franchisee shall at all times during the term of this Agreement keep its ROCKY MOUNTAIN CHOCOLATE FACTORY Store open during the business hours designated by the landlord or retail venue.

**10.2 Factory Candy Purchases.** The Franchisee shall, during the term of this Agreement, maintain a sufficient inventory of Factory Candy and related products, to allow it to meet customer demands for the products offered by a ROCKY MOUNTAIN CHOCOLATE FACTORY Store and in compliance with the Franchisor's standards and specifications as may be described in the Operations Manual from time to time. The Franchisee agrees to purchase exclusively from the Franchisor or from its designated or approved suppliers, all of the Factory Candy and ingredients for making Store Candy and all related products required for the Franchisee's operation of the Store, as may be offered for sale by the Franchisor or its designated or approved suppliers from time to time.

**10.3 Payment for Factory Candy.** Unless notified in writing otherwise by the Franchisor, all Factory Candy and related products shall be sold and shipped to the Franchisee on a net 30-day basis, or according to the then current payment terms set by the Franchisor or its designated suppliers. Payments to the Franchisor will be made by electronic funds transfer and the Franchisee agrees to provide the information necessary to implement transfer payments by completing and signing the Authorization Agreement for Electronic Funds Transfer ("**Authorization Agreement**") attached as Exhibit IV to this Agreement. The Franchisee agrees to make payments for inventory in compliance with the terms of Section

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11.4 of this Agreement. The Franchisor reserves the right to charge interest at the rate of 1.5% per month if the Franchisee fails to pay for its orders on time and the Franchisor reserves the right to discontinue shipment of Factory Candy and related products to the Franchisee if the Franchisee is repeatedly delinquent in paying for its Factory Candy and related products, in the Franchisor's sole discretion. The Franchisee may be required to pay in advance for Factory Candy orders, notwithstanding the payment policy set forth above, in the event of poor payment performance. The Franchisor reserves the right to change payment terms and policies at any time. The Franchisor also reserves the right to change the prices for Factory Candy and related products from time to time as may be set forth in the most recent price bulletin sent to all franchisees or the then current Operations Manual.

**10.4 Limitations on Supply Obligations.** The delivery of Factory Candy and related products by the Franchisor or its designated suppliers is subject to and conditioned upon availability. Nothing in this Agreement shall be construed by the Franchisee to be a promise or guarantee by the Franchisor as to the continued existence of any particular Factory Candy or related product, nor shall any provision herein imply or establish an obligation on the part of the Franchisor and its designated suppliers to sell Factory Candy and related products to the Franchisee if the Franchisee is in arrears on any payment to the Franchisor and its designated suppliers or otherwise in default under this Agreement.

**10.5 Changes in Products.** The Franchisee understands that the Franchisor and its designated suppliers shall have the right, at any time and without notice, to add items to, or withdraw items from, the list of Factory Candy and other products; to add to or delete from the list of designated suppliers of Factory Candy and other products; to change the formulation of any particular Factory Candy or other product; and to change the prices, discounts or terms of sale of any Factory Candy or other product; provided, however, no such changes in prices, discounts or terms shall affect accepted orders pending with the Franchisor and its designated suppliers at the time of change. No such changes will give the Franchisee the right to recover damages against, or be reimbursed by, the Franchisor and its designated suppliers for any losses suffered by the Franchisee.

## 11. ROYALTIES

**11.1 Monthly Royalty.** The Franchisee agrees to pay to the Franchisor a monthly royalty ("Royalty") equal to 5% of its Gross Retail Sales generated from or through its ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisee also agrees to pay a quarterly Royalty based on Adjusted Gross Retail Sales during each calendar quarter. The amount of monthly Royalty paid during each quarter shall be credited toward the amount of quarterly Royalty owed. Within 15 days following the end of each calendar quarter, the Franchisor shall calculate the amount of the Franchisee's Adjusted Gross Retail Sales during the previous quarter and the Franchisee shall owe the Franchisor a quarterly Royalty equal to 10% of its Adjusted Gross Retail Sales. "Adjusted Gross Retail Sales" shall be calculated as the amount of "Gross Retail Sales," defined in Section 11.2 below, minus a fixed dollar amount for each pound of Factory Candy purchased from the Franchisor and minus a multiple of the wholesale price, as specified by the Franchisor, on certain Store Candy ingredients, packaging and other products and supplies purchased from the Franchisor during the previous calendar quarter. The Franchisor reserves the right to change the fixed dollar amount per pound of Factory Candy and the multiple of the wholesale price from time to time, in the Franchisor's sole discretion. The Franchisee shall be notified of any credits from or amounts owing to the Franchisor for the quarterly Royalty based on Adjusted Gross Retail Sales. Any credits or amounts owed will be added to or deducted from the following month's Royalty payment. If the Franchisee owns other ROCKY MOUNTAIN CHOCOLATE FACTORY Stores governed by other franchise agreements that calculate Royalties differently than described above, the Franchisor reserves the right to adjust the calculation of Adjusted Gross Retail Sales based on variances in other Stores' past and current purchases.

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**11.2 Gross Retail Sales.** “Gross Retail Sales” shall be defined as receipts and income of any kind from all products or services sold from or through the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, including any such sale of products or services made for cash or upon credit, or partly for cash and partly for credit, regardless of collection of charges for which credit is given, less returns for which refunds are made, provided that the refund shall not exceed the sales price and exclusive of discounts, sales taxes and other taxes, amounts received in settlement of a loss of merchandise, shipping expenses paid by the customer, revenue from the sale of gift cards and revenue from sales of non-inventory items. “Gross Retail Sales” shall also include the fair market value of any services or products received by the Franchisee in barter or in exchange for its services and products.

**11.3 Royalty Payments.** The Franchisee agrees that Royalty payments shall be paid monthly and paid by electronic funds transfer initiated by the Franchisor on the 15th day of each month based on Gross Retail Sales for the immediately preceding month. Franchisee agrees to send monthly reports to the Franchisor, as more fully described in Article 15 hereof, and standard transmittal forms containing information regarding the Franchisee’s Gross Retail Sales and such additional information as may be requested by the Franchisor. The Franchisor reserves the right to require Royalty payments be made weekly or bi-monthly on a system-wide basis upon 30 days prior notice. If the Franchisee repeatedly fails to timely submit complete payments or reports, the Franchisee may be required to make payments on a weekly or bi-monthly basis upon 10 days’ notice. The Franchisor shall have the right to verify Royalty payments from time to time as it deems necessary, in any reasonable manner. In the event that the Franchisee fails to pay Royalties within 14 days after they are due, the Franchisee shall, in addition to Royalties, pay a late charge equivalent to 18% of the late Royalty payment; provided, however, in no event shall the Franchisee be required to pay a late payment at a rate greater than the maximum interest rate permitted by applicable law.

**11.4 Authorization for Electronic Funds Transfers.** The Franchisor requires that Royalty payments, applicable late charges, the Marketing and Promotion Fee and applicable late charges (as set forth in Section 12.3 below) be made by means of electronic funds transfer and the Franchisee agrees to provide the information necessary to implement transfer payments by completing and signing the Authorization Agreement for Electronic Funds Transfers (“**Authorization Agreement**”) attached as Exhibit IV to this Agreement. The Franchisee authorizes the Franchisor to initiate debit entries and/or credit correction entries to the Franchisee’s checking or savings account set forth on the Authorization Agreement, and authorizes the depository named on the Authorization Agreement (“**Depository**”) to debit such account pursuant to the Franchisor’s instructions. The Authorization Agreement is to remain in full force and effect until the Depository has received joint written notification from the Franchisor and the Franchisee of the Franchisee’s termination of such authority in such time and in such manner as to afford the Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, the Depository shall provide the Franchisor and the Franchisee with 30 days’ prior written notice of the termination of this authority. If an erroneous debit entry is initiated to the Franchisee’s account, the Franchisee shall have the right to have the amount of such entry credited to such account by the Depository, if (a) within 15 calendar days following the date on which the Depository sent to the Franchisee a statement of account or a written notice pertaining to such entry or (b) 45 days after posting, whichever occurs first, the Franchisee shall have sent to the Depository a written notice identifying such entry, stating that such entry was in error and requesting the Depository to credit the amount thereof to such account. These rights are in addition to any rights the Franchisee may have under federal and state banking laws.

## 12. ADVERTISING

**12.1 Approval of Advertising.** The Franchisee shall obtain the Franchisor’s prior written approval of all advertising or other marketing or promotional programs published by any method, including print, broadcast and electronic media, regarding the ROCKY MOUNTAIN CHOCOLATE FACTORY

Store, including, without limitation, “Yellow Pages” advertising, newspaper ads, flyers, brochures, coupons, direct mail pieces, specialty and novelty items, radio, television, Internet, including social media such as Facebook and Twitter, and World Wide Web advertising. The Franchisee acknowledges and agrees that the Franchisor may disapprove of any advertising, marketing or promotional programs submitted to the Franchisor, for any reason, in the Franchisor’s sole discretion. The Franchisee shall also obtain the Franchisor’s prior written approval of all promotional materials provided by vendors. The proposed written advertising or a description of the marketing or promotional program shall be submitted to the Franchisor at least 10 days prior to publication, broadcast or use. The Franchisee acknowledges that advertising and promoting the ROCKY MOUNTAIN CHOCOLATE FACTORY Store in accordance with the Franchisor’s standards and specifications is an essential aspect of the Licensed Methods, and the Franchisee agrees to comply with all advertising standards and specifications. The Franchisee shall display all required promotional materials, signs, point of purchase displays and other marketing materials in its ROCKY MOUNTAIN CHOCOLATE FACTORY Store in the manner prescribed by the Franchisor. The Franchisee shall not, under any circumstances, use handwritten signs in the operation of its Store. The Franchisee agrees to participate in the Franchisor’s gift card program by using hardware, software and other items required by the Franchisor’s designated gift card vendor. Further, the Franchisee agrees to participate in any other mandatory card programs implemented by the Franchisor in accordance with all of the Franchisor’s standards and specifications. The Franchisee acknowledges and agrees that participation in a card program, whether voluntary or required, may require the Franchisee to pay fees, enter into agreements or purchase equipment or other products or services from the Franchisor or from a designated third-party supplier.

**12.2 Local Advertising.** The Franchisor reserves the right to require the Franchisee to spend up to 1% of the total amount of its quarterly Gross Retail Sales on local advertising to create public awareness of the Franchisee’s ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The Franchisee will submit to the Franchisor an accounting of the amounts spent on advertising within 30 days following the end of each calendar quarter. If the Franchisee’s lease requires it to advertise locally, the Franchisor may, in its sole discretion, count such expenditures toward the Franchisee’s local advertising expenditure required by this Section 12.2. The Franchisee shall obtain the Franchisor’s prior written approval of all written advertising and promotional materials before publication, in accordance with Section 12.1 above.

**12.3 Marketing and Promotion Fee.** The Franchisee shall contribute to a marketing fund established by the Franchisor (“**Marketing Fund**”), a fee of up to 2% of the total amount of the Franchisee’s Gross Retail Sales (“**Marketing and Promotion Fee**”). The Franchisor may change the amount of the Marketing and Promotion Fee upon 30 days’ notice, but the amount will not exceed 2% of Gross Retail Sales. The Marketing and Promotion Fee shall be in addition to and not in lieu of the Franchisee’s expenditures for local advertising, as described in Section 12.2 above. The following terms and conditions will apply:

- a. The Marketing and Promotion Fee shall be payable concurrently with the payment of the Royalties, and transmitted to the Franchisor in accordance with Sections 11.3 and 11.4 above, for all Marketing and Promotion Fees for the immediately preceding month.
- b. The Marketing and Promotion Fees will be subject to the same late charges as the Royalties, in an amount and manner set forth in Sections 11.3 and 11.4 above.
- c. Upon written request by the Franchisee, the Franchisor will make available to the Franchisee, no later than 120 days after the end of each fiscal year, an annual financial statement which indicates how the money in the Marketing Fund has been spent.

d. The Marketing Fund will be administered by the Franchisor, in its sole discretion, and may be used for production and placement of point of purchase advertising, in-store signage, in-store promotions, media advertising, direct mailings, brochures, collateral material advertising, Electronic Advertising, such as websites, blogs and social media, including Facebook and Twitter, communication by electronic mail, implementing and administering gift card, stored value card and customer loyalty programs, surveys of advertising effectiveness, agency costs and commissions, training programs, employing advertising agencies and in-house staff to produce advertising and marketing in various media, market research, brand recognition, packaging development, logo, design or other advertising or public relations expenditures relating to advertising the Franchisee's products and services.

e. The Franchisor may reimburse itself for independent audits, reasonable accounting, bookkeeping, reporting and legal expenses, taxes and other reasonable direct and indirect expenses as may be incurred by the Franchisor or its authorized representatives in connection with the programs funded by the Marketing Fund. The Franchisor will not be liable for any act or omission with respect to the Marketing Fund that is consistent with this Agreement and is done in good faith. The Franchisor reserves the right to terminate the Marketing Fund upon 30 days' prior written notice to all franchisees and any remaining monies will be distributed pro rata based on all Stores' contributions within the preceding 12 months.

**12.4 Regional Advertising Programs.** The Franchisor reserves the right upon 30 days prior written notice to the Franchisee, to create a regional advertising association (“Co-op”) for the benefit of ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees located within a particular geographic area. If a Co-op is established for the area where the Franchisee is located, the Franchisee will be required to participate in the Co-op for the purpose of selecting and participating in regional marketing and promotion programs for ROCKY MOUNTAIN CHOCOLATE FACTORY Stores. The Franchisee will be required to remain a member of and be bound by the decisions of the majority of the members of the Co-op regarding expenditures, assessments and dues of the Co-op, to the extent that they are approved by the Franchisor. The Franchisor may, in its sole discretion, allocate all or a portion of the Marketing and Promotion Fee to the Co-op. The Franchisor may require the Franchisee to allocate up to 50% of the local advertising spending requirement under Section 12.2 as a required advertising contribution to the Co-op. Each Co-op has the right, by majority vote, to require its members to pay additional monthly dues to the Co-op. The failure of the Franchisee to participate in the Co-op or pay any dues required by the Co-op, may, at the option of the Franchisor, be deemed to be a breach of this Agreement. The Franchisor has the right, in its sole discretion, to determine the composition of all geographic territories and market areas for the implementation of such regional advertising and promotion campaigns and to require that the Franchisee participate in such regional advertising programs as and when they may be established by the Franchisor. If a regional advertising program is implemented on behalf of a particular region by the Franchisor, the Franchisor, to the extent reasonably calculable, will only use contributions from ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees within such region for the particular regional advertising program. The Franchisor reserves the right to seek reimbursement from the Co-op for reasonable administrative costs, salaries and overhead as the Franchisor may incur in activities related to the implementation and administration of the Co-op and marketing programs. The Franchisor also reserves the right to establish an advertising cooperative for a particular region to enable the cooperative to self-administer the regional advertising program; provided that the Franchisor shall have the right to review and approve the governing documents of a self-administered cooperative.

**12.5 Marketing Services.** The Franchisor may, in its sole discretion, offer marketing and merchandising services to the Franchisee at rates that are competitive with those charged by third parties offering similar services. The Franchisee may utilize such services, if they are offered, at the Franchisee's



option. Services offered by the Franchisor may include marketing consulting, graphic design, copywriting, advertising, public relations and merchandising consultations.

**12.6 Electronic Advertising.** The Franchisee shall not develop, create, contribute to, distribute, disseminate or use any electronic or Internet communication, including blogs, instant message services such as Twitter, social media sites such as Facebook, other electronic communications, or any multimedia, telecommunications, mass electronic mail messages, facsimile or audio/visual advertising, promotional or marketing materials (“**Electronic Advertising**”), directly or indirectly related to the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, the Marks, the Licensed Methods, other franchisees, other ROCKY MOUNTAIN CHOCOLATE FACTORY Stores, the Franchisor, its employees and affiliates, without the Franchisor’s prior written consent which may be withheld in the Franchisor’s sole discretion. The Franchisee acknowledges and agrees that it will not post a blog, create or contribute to a website, engage in any type of social networking or conduct any type of Internet communication that refers to the Marks, the Licensed Methods, the Franchisor, its affiliates and employees, any ROCKY MOUNTAIN CHOCOLATE FACTORY Stores or other franchisees without the Franchisor’s prior written permission. The Franchisor shall retain the exclusive right to develop, publish and control the content of all Electronic Advertising for ROCKY MOUNTAIN CHOCOLATE FACTORY Stores. The Franchisor reserves the right, upon 30 days’ prior written notice, to require the Franchisee to participate in any Electronic Advertising of ROCKY MOUNTAIN CHOCOLATE FACTORY Stores sponsored by the Franchisor. If the Franchisor permits the Franchisee to develop any Electronic Advertising, the Franchisee shall do so in strict compliance with the Franchisor’s policies and rules regarding the creation, maintenance, use, publication and content of such Electronic Advertising as set forth in this Agreement or the Operations Manual. The Franchisee shall not publish or communicate any of the Franchisor’s confidential information using the Internet, and the Franchisee shall not publish or communicate any of the Franchisor’s copyrighted material or information containing the Marks or any of the Licensed Methods using the Internet without the Franchisor’s prior written permission; nor shall the Franchisee assist any other party in doing so. Any amounts that the Franchisee spends to participate in Electronic Advertising that has been approved by the Franchisor in advance shall be credited toward the Franchisee’s local advertising obligations if the Franchisee is required to advertise locally.

### **13. QUALITY CONTROL**

**13.1 Compliance with Operations Manual.** The Franchisee agrees to maintain and operate the ROCKY MOUNTAIN CHOCOLATE FACTORY Store in compliance with this Agreement and the standards and specifications contained in the Operations Manual, as the same may be modified from time to time by the Franchisor.

**13.2 Standards and Specifications.** The Franchisor will make available to the Franchisee standards and specifications for products and services offered at or through the ROCKY MOUNTAIN CHOCOLATE FACTORY Store and specifically, for the recipes for Store Candy, display cases, furniture, fixtures, equipment, uniforms, materials, forms, menu boards, items and supplies used in connection with the Store. The Franchisor reserves the right to change standards and specifications for services and products offered at or through the ROCKY MOUNTAIN CHOCOLATE FACTORY Store and for the recipes for Store Candy, display cases, furniture, fixtures, equipment, uniforms, materials, forms, items and supplies used in connection with the Store upon 30 days prior written notice to the Franchisee. The Franchisee shall strictly adhere to all of the Franchisor’s current standards and specifications for the ROCKY MOUNTAIN CHOCOLATE FACTORY Store as prescribed from time to time. The Franchisee agrees that the Franchisor may offer optional or mandatory programs (“**Programs**”) from time to time that allow the Franchisee to offer additional products and services in the Store, subject to terms and conditions which may change in the Franchisor’s sole discretion. All terms and conditions related to a Program shall be deemed

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to be a part of the Operations Manual and Franchisee shall adhere to them accordingly. The Franchisor reserves the right to modify any Program or discontinue a Program, in the Franchisor's sole discretion.

**13.3 Inspections.** The Franchisor shall have the right to examine the Franchised Location, including the inventory, products, equipment, materials and supplies, to ensure compliance with all standards and specifications set by the Franchisor. The Franchisor shall conduct such inspections during regular business hours and the Franchisee may be present at such inspections. The Franchisor, however, reserves the right to conduct the inspections without prior notice to the Franchisee.

**13.4 Restrictions on Services and Products.** The Franchisee will be required to purchase all of its Factory Candy for its ROCKY MOUNTAIN CHOCOLATE FACTORY Store from the Franchisor or its designee. Factory Candy shall consist of any and all varieties from time to time made available to the Franchisor's franchisees by the Franchisor and its designated suppliers. The parties hereby acknowledge the uniqueness and importance of Factory Candy being prepared by the Franchisor or its designee in order to maintain the uniformity, quality and uniqueness of Factory Candy, and therefore, the Franchisor and its designees are hereby appointed the Franchisee's exclusive source of Factory Candy. The Franchisee is prohibited from offering or selling any products or services not expressly authorized in writing by the Franchisor, including, without limitation, offering candy making classes, operating a catering or wholesale business, or offering Factory Candy, Items, Store Candy or other authorized products for sale on a wholesale basis or on a retail basis away from the Franchised Location, including on the Internet. If the Franchisee proposes to offer, conduct or utilize any products, services, materials, forms, items or supplies for use in connection with or sale through the ROCKY MOUNTAIN CHOCOLATE FACTORY Store which are not previously approved by the Franchisor as meeting its specifications, the Franchisee shall first notify the Franchisor in writing requesting approval. The Franchisor may, in its sole discretion, for any reason whatsoever, elect to withhold such approval. In order to make such determination, the Franchisor may require submission of specifications, information, or samples of such products, services, materials, forms, items or supplies. The Franchisor will advise the Franchisee within a reasonable time whether such products, services, materials, forms, items or supplies meet its specifications.

**13.5 Approved Suppliers.** The Franchisee shall purchase all products, services, supplies and materials required for the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store licensed herein, from manufacturers, suppliers or distributors designated by the Franchisor or, if there is no designated supplier for a particular product, service, supply or material, from such other suppliers who meet all of the Franchisor's specifications and standards as to quality, composition, finish, appearance and service, and who shall adequately demonstrate their capacity and facilities to supply the Franchisee's needs in the quantities, at the times, and with the reliability requisite to an efficient operation.

**13.6 Request to Change Supplier.** In the event the Franchisee desires to purchase products, services, supplies or materials from manufacturers, suppliers or distributors other than those previously approved by the Franchisor, the Franchisee shall, prior to purchasing any such products, services, supplies or materials, give the Franchisor a written request by certified mail, return receipt requested, to change supplier. In the event the Franchisor rejects the Franchisee's requested new manufacturer, supplier or distributor, the Franchisor shall notify the Franchisee of its rejection within 60 days of the receipt of the Franchisee's request to change suppliers. Failure to notify the Franchisee within such time period shall not constitute approval or a waiver of objections. The Franchisor may continue from time to time to inspect any manufacturer's, supplier's, or distributor's facilities and products to assure proper production, processing, storing and transportation of products, services, supplies or materials to be purchased from the manufacturer, supplier or distributor by the Franchisee. Permission for such inspection shall be a condition of the continued approval of such manufacturer, supplier or distributor.

**13.7 Approval of Intended Supplier.** The Franchisor may at its sole discretion, for any reason whatsoever, elect to withhold approval of the manufacturer, supplier or distributor; however, in order to make such determination, the Franchisor may require that samples from a proposed new supplier be delivered to the Franchisor for testing prior to approval and use. A charge not to exceed the actual cost of the test may be made by the Franchisor and shall be paid by the Franchisee. The Franchisor may revoke its approval of a manufacturer, supplier or distributor if the product, service or the manufacturer, supplier or distributor fail to meet the Franchisor's standards and specifications as set forth in the Operations Manual as it may be revised from time to time.

## **14. TRADEMARKS, TRADE NAMES AND PROPRIETARY INTERESTS**

**14.1 Marks.** The Franchisee hereby acknowledges that the Franchisor has the sole right to license and control the Franchisee's use of the ROCKY MOUNTAIN CHOCOLATE FACTORY service mark and other of the Marks, and that such Marks shall remain under the sole and exclusive ownership and control of the Franchisor. The Franchisee acknowledges that it has not acquired any right, title or interest in such Marks except for the right to use such Marks in the operation of its ROCKY MOUNTAIN CHOCOLATE FACTORY Store as it is governed by this Agreement. Except as permitted in the Operations Manual, the Franchisee agrees not to use any of the Marks as part of an electronic mail address, or on any sites on the Internet or World Wide Web and the Franchisee agrees not to use or register any of the Marks as a domain name on the Internet.

**14.2 No Use of Other Marks.** The Franchisee further agrees that no service mark other than "ROCKY MOUNTAIN CHOCOLATE FACTORY" or such other Marks as may be specified by the Franchisor shall be used in the marketing, promotion or operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store.

**14.3 Licensed Methods.** The Franchisee hereby acknowledges that the Franchisor owns and controls the distinctive plan for the establishment, operation and promotion of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store and all related licensed methods of doing business, previously defined as the "**Licensed Methods**", which include, but are not limited to, gourmet chocolate specialty recipes and cooking methods, confectionery ordering, processing, manufacturing, stocking and inventory control, technical equipment standards, order fulfillment methods and customer relations, marketing techniques, written promotional materials, advertising, accounting systems, and the contents of the Operations Manual, all of which constitute trade secrets of the Franchisor, and the Franchisee acknowledges that the Franchisor has valuable rights in and to such trade secrets. The Franchisee further acknowledges that it has not acquired any right, title or interest in the Licensed Methods except for the right to use the Licensed Methods in the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store as it is governed by this Agreement.

**14.4 Effect of Termination.** In the event this Agreement is terminated for any reason, the Franchisee shall immediately cease using any of the Licensed Methods and Marks, trade names, trade dress, trade secrets, copyrights or any other symbols used to identify the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, and all rights the Franchisee had to the same shall automatically terminate. The Franchisee agrees to execute any documents of assignment as may be necessary to transfer any rights the Franchisee may possess in and to the Marks.

**14.5 Mark Infringement.** The Franchisee agrees to notify the Franchisor in writing of any possible infringement or illegal use by others of a trademark the same as or confusingly similar to the Marks which may come to its attention. The Franchisee acknowledges that the Franchisor shall have the right, in its sole discretion, to determine whether any action will be taken on account of any possible infringement or illegal use. The Franchisor may commence or prosecute such action in the Franchisor's own name and

may join the Franchisee as a party thereto if the Franchisor determines it to be reasonably necessary for the continued protection and quality control of the Marks and Licensed Methods. The Franchisor shall bear the reasonable cost of any such action, including attorneys' fees. The Franchisee agrees to fully cooperate with the Franchisor in any such litigation. The Franchisee may retain its own counsel in any such action and will bear the costs and expenses related thereto.

**14.6 Franchisee's Business Name and Domain Name.** The Franchisee acknowledges that the Franchisor has a prior and superior claim to the ROCKY MOUNTAIN CHOCOLATE FACTORY trade name. The Franchisee shall not use any of the words "ROCKY MOUNTAIN CHOCOLATE FACTORY" or abbreviations thereof in the legal name of its corporation, limited liability company or any other business entity used in conducting the business provided for in this Agreement. The Franchisee also agrees not to register or attempt to register an Internet domain name or a trade name with a state using any of the words "ROCKY MOUNTAIN CHOCOLATE FACTORY" or abbreviations thereof, without the prior written consent of the Franchisor. When this Agreement expires or terminates, the Franchisee shall execute any assignment or other document the Franchisor requires to transfer to the Franchisor any rights the Franchisee may possess in a trade name or an Internet domain name utilizing any or all of the words "ROCKY MOUNTAIN CHOCOLATE FACTORY," any abbreviations thereof or any other Mark owned by the Franchisor. The Franchisee further agrees that it will not identify itself as being "Rocky Mountain Chocolate Factory, Inc." or as being associated with the Franchisor in any manner other than as a franchisee or licensee. The Franchisee further agrees that in all advertising and promotion and promotional materials it will display its business name only in obvious conjunction with the phrase "ROCKY MOUNTAIN CHOCOLATE FACTORY Licensee" or "ROCKY MOUNTAIN CHOCOLATE FACTORY Franchisee" or with such other words and in such other phrases as may from time to time be prescribed in the Operations Manual, in the Franchisor's sole discretion.

**14.7 Change of Marks.** In the event that the Franchisor, in its sole discretion, shall determine it necessary to modify or discontinue use of any proprietary Marks, or to develop additional or substitute marks, the Franchisee shall, within a reasonable time after receipt of written notice of such a modification or discontinuation from the Franchisor, take such action, at the Franchisee's sole expense, as may be necessary to comply with such modification, discontinuation, addition or substitution, provided, however, that the Franchisee will not be required to completely rebrand the entire Store on more than one occasion during the term of this Agreement.

**14.8 Creative Ownership.** All copyrightable works created by the Franchisee or any of its owners, officers or employees in connection with the Store shall be the sole property of the Franchisor. The Franchisee assigns all proprietary rights, including copyrights, in these works to the Franchisor without additional consideration. The Franchisee hereby assigns and will execute such additional assignments or documentation to effectuate the assignment of all intellectual property, inventions, copyrights and trade secrets developed in part or in whole in relation to the Store, during the term of this Agreement, as the Franchisor may deem necessary in order to enable it, at its expense, to apply for, prosecute and obtain copyrights, patents or other proprietary rights in the United States and in foreign countries or in order to transfer to the Franchisor all right, title, and interest in said property. The Franchisee shall promptly disclose to the Franchisor all inventions, discoveries, improvements, recipes, creations, patents, copyrights, trademarks and confidential information relating to the Store which it or any of its owners, officers or employees has made or may make solely, jointly or commonly with others and shall promptly create a written record of the same. In addition to the foregoing, the Franchisee acknowledges and agrees that any improvements or modifications, whether or not copyrightable, directly or indirectly related to the Store, shall be deemed to be a part of the Licensed Methods and shall inure to the benefit of the Franchisor.

**14.9 Non-Disparagement.** The Franchisee and the Franchisor agree that neither of them shall take any action or make any statements to any third parties that would constitute a criticism, denigration or disparagement of the other or of the Licensed Methods or would tend to be injurious to the reputation or goodwill of the Marks, or which in any manner might interfere with the business affairs or business relations of either the Franchisor or the Franchisee.

## **15. REPORTS, RECORDS AND FINANCIAL STATEMENTS**

**15.1 Franchisee Reports.** The Franchisee shall establish and maintain at its own expense a bookkeeping and accounting system which conforms to the specifications which the Franchisor may prescribe from time to time, including specified off-the-shelf software that must be used to prepare all reports and financial statements submitted to the Franchisor, and the Franchisor's current "Standard Code of Accounts" as described in the Operations Manual. The Franchisor reserves the right to require the Franchisee to purchase and use other specified bookkeeping software and to update and maintain the bookkeeping software from time to time, at the Franchisee's expense. The Franchisee shall supply to the Franchisor such reports in a manner and form as the Franchisor may from time to time reasonably require, including:

- a. Monthly summary reports, in a form as may be prescribed by the Franchisor, mailed to the Franchisor postmarked no later than the 15th day of the month and containing information relative to the previous month's operations; and
- b. Quarterly financial statements, prepared in accordance with generally accepted accounting principles ("GAAP"), and consisting of a profit and loss statement and balance sheet for the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, mailed to the Franchisor postmarked no later than the 15th day following the end of the calendar quarter, based on operating results of the prior quarter, which shall be submitted in a form approved by the Franchisor and shall be certified by the Franchisee to be correct.

The Franchisor reserves the right to disclose data derived from all financial and accounting reports received from the Franchisee to other franchisees and affiliates in the ROCKY MOUNTAIN CHOCOLATE FACTORY system with information identifying the Franchisee. The Franchisor also reserves the right to disclose data derived from the Franchisee's financial and accounting reports to parties outside of the ROCKY MOUNTAIN CHOCOLATE FACTORY system, without identifying the Franchisee, except to the extent identification of the Franchisee is required by law. The Franchisee consents to the Franchisor obtaining financial and customer information regarding the Store and its operations from third parties with whom the Franchisee does business, as and when deemed necessary by the Franchisor.

**15.2 Annual Financial Statements.** The Franchisee shall, within 90 days after the end of its fiscal year, provide to the Franchisor annual unaudited financial statements, compiled or reviewed by an independent certified public accountant acceptable to and approved by the Franchisor and prepared in accordance with GAAP, and state and federal income tax returns prepared by a certified public accountant. If these financial statements or tax returns show an underpayment of any amounts owed to the Franchisor, these amounts shall be paid to the Franchisor concurrently with the submission of the statements or returns.

**15.3 Verification.** Each report and financial statement to be submitted to the Franchisor hereunder shall be signed and verified by the Franchisee.

**15.4 Books and Records.** The Franchisee shall maintain all books and records for its ROCKY MOUNTAIN CHOCOLATE FACTORY Store in accordance with GAAP, consistently applied, and preserve these records for at least five years after the fiscal year to which they relate.

**15.5 Audit of Books and Records.** The Franchisee shall permit the Franchisor to inspect and audit the books and records of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store at any reasonable time, at the Franchisor's expense. If any audit discloses a deficiency in amounts for payments owed to the Franchisor pursuant to this Agreement, then such amounts shall become immediately payable to the Franchisor by the Franchisee, with interest from the date such payments were due at the lesser of 1½% per month or the maximum rate allowed by law. If the Franchisee (1) fails to furnish required reports or supporting records on a timely basis for two or more consecutive reporting periods; (2) fails to have sufficient funds available to pay Royalties and Marketing and Promotion Fees for two or more consecutive reporting periods; (3) fails to have books and records available for an audit after receiving reasonable advance notice from the Franchisor, or otherwise fails to cooperate with the Franchisor's requested inspection and audit; or (4) understates its Gross Retail Sales for the period of any audit by greater than 5%, then the Franchisee will reimburse the Franchisor for the cost of the audit and inspection, including, without limitation, attorneys' fees, independent accountants' fees, and the travel expenses, room and board and compensation of the Franchisor's employees who conducted the audit and inspection.

**15.6 Failure to Comply with Reporting Requirements.** If the Franchisee fails to prepare and submit any statement or report as required under this Article 15, then the Franchisor shall have the right to treat the Franchisee's failure as good cause for termination of this Agreement. In addition to all other remedies available to the Franchisor, in the event that the Franchisee fails to prepare and submit any statement or report required under this Article 15 for two consecutive reporting periods, the Franchisor shall be entitled to audit, at the expense of the Franchisee, the Franchisee's books, records and accounts, including the Franchisee's bank accounts, which in any way pertain to the Gross Retail Sales or the Adjusted Gross Retail Sales of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The statements or reports not previously submitted shall be prepared by or under the direction and supervision of an independent certified public accountant selected by the Franchisor.

**15.7 Shopping Service.** The Franchisor reserves the right to use third party shopping services from time to time to evaluate the conduct of the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store, including such things as customer service, cleanliness, merchandising and proper use of registers. The Franchisor may use such shopping services to inspect the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store at any time at the Franchisor's expense, without prior notification to the Franchisee. The Franchisor may make the results of any such service evaluation available to the Franchisee, in the Franchisor's sole discretion.

## **16. TRANSFER**

**16.1 Transfer by Franchisee.** The franchise granted herein is personal to the Franchisee and, except as stated below, the Franchisor shall not allow or permit any transfer, assignment, subfranchise or conveyance of this Agreement or any interest hereunder nor purport to do so without the Franchisor's prior written consent which may be withheld in the Franchisor's reasonable discretion. The Franchisee acknowledges that prior to approving any transfer, the Franchisor may impose reasonable conditions on the Franchisee and its purported transferee including but not limited to those conditions listed in Section 16.2. As used in this Agreement, the term "**transfer**" includes the Franchisee's voluntary, involuntary, direct or indirect assignment, sale, gift, merger, consolidation, exchange or other disposition of any interest in: (1) this Agreement; (2) the ownership of the Franchisee entity; (3) the Store governed by this Agreement; or (4) all or a substantial portion of the assets of the Store. The term "transfer" shall include an assignment, sale, gift or other disposition, including those transfers described in Sections 16.5 and 16.7 and those resulting from a divorce, insolvency, corporate or partnership dissolution proceeding, merger, consolidation, exchange, public or private offering of stock or other ownership interests in an entity, change of control, operation of law or, in the event of the death of the Franchisee, or an owner of the Franchisee

by will, declaration of or transfer in trust or under the laws of intestate succession. For the purposes of this Article 16, “**change of control**” of a Franchisee that is an entity shall mean a transfer, new issuance or assignment of 25% or more of the Franchisee’s beneficial equity ownership interests.

**16.2 Pre-Conditions to Franchisee’s Transfer.** The Franchisee shall not engage in a transfer unless the Franchisee obtains the Franchisor’s written consent and the Franchisee and the proposed transferee comply with the following requirements:

a. All amounts due and owing pursuant to this Agreement by the Franchisee to the Franchisor or its affiliates or to third parties whose debts or obligations the Franchisor has guaranteed on behalf of the Franchisee, if any, are paid in full;

b. The proposed transferee agrees to operate the Store as a ROCKY MOUNTAIN CHOCOLATE FACTORY Store and agrees to complete the initial training program to the Franchisor’s satisfaction prior to the effectiveness of the transfer;

c. The proposed transferee agrees to execute the then current form of Franchise Agreement which shall supersede this Agreement in all respects. The proposed transferee also agrees to execute all then current or otherwise applicable addenda to the Franchise Agreement. If a new Franchise Agreement is signed, the terms thereof may differ from the terms of this Agreement; provided, however, the transferee will not be required to pay any initial franchise fee;

d. The Franchisee provides written notice to the Franchisor 30 days’ prior to the proposed effective date of the transfer, and includes information reasonably detailed to enable the Franchisor to evaluate the terms and conditions of the proposed transfer and which at a minimum includes a written offer from the proposed transferee. If the Franchisee is an entity and one or more owners of the Franchisee entity wish to transfer, sell, assign, or otherwise dispose of his or her interest in the Franchisee entity or if the Franchisee entity wishes to make a public or private offer of its stock or other ownership interests, the Franchisee must submit to the Franchisor at least 30 days in advance of the proposed effective date, and obtain the Franchisor’s prior written approval, of the documents effectuating the transfer, sale, assignment, offering or disposition;

e. The proposed transferee provides information to the Franchisor sufficient for the Franchisor to assess the proposed transferee’s business experience, aptitude and financial qualification, and the Franchisor approves the proposed transferee as a franchisee;

f. The Franchisee executes a general release, in a form satisfactory to the Franchisor, of any and all claims against the Franchisor, its affiliates and their respective officers, directors, employees and agents;

g. The Franchisee or the proposed transferee pay a nonrefundable transfer fee of \$5,000 before the proposed transferee attends the initial training program; provided, however, that no transfer fee will be charged for a transfer by the Franchisee to a corporation wholly-owned by the Franchisee, or to a spouse of an individual Franchisee upon the death or disability of the individual Franchisee;

h. The Franchisee or transferee remodels the Store and upgrades equipment, including installing the Franchisor’s then current POS System, fixtures, furnishings and signage, and paying a design fee, if a Store design is necessary in the Franchisor’s sole discretion; and

i. The Franchisee agrees to abide by all post-termination covenants set forth herein, including, without limitation, the covenant not to compete in Section 20.2 below.

**16.3 Franchisor's Approval of Transfer.** The Franchisor has 30 days from the date of the written notice to approve or disapprove in writing, of the Franchisee's proposed transfer, which approval shall not be unreasonably withheld, delayed or conditioned, other than as set forth in this Agreement. The Franchisee acknowledges that the proposed transferee shall be evaluated for approval by the Franchisor based on the same criteria as is currently being used to assess new franchisees of the Franchisor and that the Franchisor shall provide such proposed transferee, if appropriate, with such disclosures as may be required by state or federal law. If the Franchisee and its proposed transferee comply with all conditions for transfer set forth herein and the Franchisor has not given the Franchisee notice of its approval or disapproval within such period, approval is deemed granted.

**16.4 Right of First Refusal.** In the event the Franchisee wishes to engage in a transfer, the Franchisee agrees to grant to the Franchisor a 30-day right of first refusal to purchase such rights, interest or assets on the same terms and conditions as are contained in the written notice set forth in Section 16.2.d; provided, however, the following additional terms and conditions shall apply:

a. The 30-day right of first refusal period will run concurrently with the period in which the Franchisor has to approve or disapprove the proposed transferee;

b. The right of first refusal will be effective for each proposed transfer and any material change in the terms or conditions of the proposed transfer shall be deemed a separate offer on which the Franchisor shall have a new 30-day right of first refusal;

c. If the consideration or manner of payment offered by a proposed transferee is such that the Franchisor may not reasonably be required to furnish the same, then the Franchisor may purchase the interest which is proposed to be sold for the reasonable cash equivalent. If the parties cannot agree within a reasonable time on the cash consideration, each of the Franchisor and the Franchisee shall designate an independent appraiser who, in turn, shall designate a third independent appraiser. The third appraiser's determination will be binding upon the parties. All expenses of the appraiser shall be paid for equally between the Franchisor and the Franchisee; and

d. If the Franchisor chooses not to exercise its right of first refusal, the Franchisee shall be free to complete the transfer subject to compliance with Sections 16.2 and 16.3 above. Absence of a reply to the Franchisee's notice of a proposed transfer within the 30-day period may be deemed a waiver of such right of first refusal.

**16.5 Types of Transfers.** The Franchisee acknowledges that the Franchisor's right to approve or disapprove of a proposed transfer as provided for above, shall apply (1) if the Franchisee is a partnership, corporation or other business association, (i) to the addition or deletion of a partner, shareholder or members of the association or the transfer of any ownership interest among existing partners, shareholders or members; (ii) to any proposed transfer of 25% or more of the interest (whether stock, partnership interest or membership interest) to a third party, whether such transfer occurs in a single transaction or several transactions; and (2) if the Franchisee is an individual, to the transfer from such individual or individuals to a corporation or other entity controlled by them, in which case the Franchisor's approval will be conditioned upon: (i) the continuing personal guarantee of the individual (or individuals) for the performance of obligations under this Agreement; and (ii) a limitation on the corporation's or other entity's business activity to that of operating the ROCKY MOUNTAIN CHOCOLATE FACTORY Store and related activities provided that with respect to such transfer, the Franchisor's right of first refusal to purchase shall not apply and the Franchisor will not charge any transfer fee.



**16.6 Transfer by the Franchisor.** This Agreement is fully assignable by the Franchisor and shall inure to the benefit of any assignee or other legal successor in interest, and the Franchisor shall in such event be fully released from the same.

**16.7 Franchisee's Death or Disability.** Upon the death or permanent disability of the Franchisee (or individual owning 25% or more of, or controlling the Franchisee entity), the personal representative of such person shall transfer the Franchisee's interest in this Agreement or such interest in the Franchisee entity to an approved third party. Such disposition of this Agreement or such interest (including, without limitation, transfer by bequest or inheritance) shall be completed within a reasonable time, not to exceed 120 days from the date of death or permanent disability (unless extended by probate proceedings), and shall be subject to all terms and conditions applicable to transfers contained in this Article 16. Provided, however, that for purposes of this Section 16.7, there shall be no transfer fee charged by the Franchisor. Failure to transfer the interest within said period of time shall constitute a breach of this Agreement. For the purposes hereof, the term "permanent disability" shall mean a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent the Franchisee (or the owner of 25% or more of, or controlling, the Franchisee entity) from supervising the management and operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store for a period of 120 days from the onset of such disability, impairment or condition.

## **17. TERM AND EXPIRATION**

**17.1 Term.** The term of this Agreement begins on the date this Agreement is fully executed and ends 10 years later, unless sooner terminated as provided herein.

**17.2 Continuation.** If, for any reason, the Franchisee continues to operate the Store beyond the term of this Agreement without fulfilling the requirements for exercising its option to acquire a successor franchise, the franchise rights shall be deemed to be granted on a month-to-month basis under the terms of this Agreement and subject to termination upon 30 days' notice or as required by law. If said holdover period exceeds 90 days, this Agreement is subject to immediate termination unless applicable law requires a longer period. Upon termination after any holdover period, the Franchisee and those in active concert with the Franchisee, including family members, officers, directors, partners and managing agents, are subject to the terms of Articles 20 and 22 and Section 18.5 of this Agreement and all other applicable post-termination obligations contained in this Agreement.

**17.3 Rights Upon Expiration.** At the end of the initial term hereof the Franchisee shall have the option to renew its franchise rights for one additional ten-year term, by acquiring successor franchise rights, if the Franchisor does not exercise its right not to offer a successor franchise in accordance with Section 17.5 below and if the Franchisee:

- a. At least 30 days prior to expiration of the term, executes the form of Franchise Agreement then in use by the Franchisor;
- b. Has complied with all provisions of this Agreement during the current term, including the payment on a timely basis of all Royalties and other fees due hereunder. "Compliance" shall mean, at a minimum, that the Franchisee has not received any written notification from the Franchisor of breach hereunder more than four times during the term hereof;
- c. Upgrades and/or remodels the ROCKY MOUNTAIN CHOCOLATE FACTORY Store and its operations at the Franchisee's sole expense (the necessity of which shall be in the sole discretion of the Franchisor) to conform with the then current Operations Manual;

d. Executes a general release, in a form satisfactory to the Franchisor, of any and all claims against the Franchisor and its affiliates, and their respective officers, directors, employees and agents arising out of or relating to this Agreement; and

e. Pays a successor franchise fee of (i) \$2,500 if a new Franchise Agreement is executed by the Franchisee within 30 days of receipt of the new Franchise Agreement, or (ii) \$5,000 if the new Franchise Agreement is signed more than 30 days after receipt of the new Franchise Agreement.

**17.4 Exercise of Option for Successor Franchise.** The Franchisee may exercise its option for a successor franchise by giving written notice of such exercise to the Franchisor not later than 90 days prior to the scheduled expiration of this Agreement. If the Franchisee fails to provide such notice to the Franchisor within the time frame set forth in the preceding sentence, but notifies the Franchisor of its desire to obtain a successor franchise prior to the expiration of the then-current term of this Agreement, the Franchisee shall pay the Franchisor a penalty of \$1,000 for every 30-day period that the Franchisee was late, plus attorneys' and administrative fees and expenses attributable to such late renewal. The Franchisee's successor franchise rights shall become effective by signing the Franchise Agreement then currently being offered to new franchisees of the Franchisor.

**17.5 Conditions of Refusal.** The Franchisor shall not be obligated to offer the Franchisee a successor franchise upon the expiration of this Agreement if the Franchisee fails to comply with any of the above conditions of renewal. In such event, except for failure to execute the then current Franchise Agreement or pay the successor franchise fee, the Franchisor shall give notice of expiration at least 180 days prior to the expiration of the term, and such notice shall set forth the reasons for such refusal to offer successor franchise rights. Upon the expiration of this Agreement, the Franchisee shall comply with the provisions of Section 18.5 below.

## 18. DEFAULT AND TERMINATION

**18.1 Termination by Franchisor - Effective Upon Notice.** The Franchisor shall have the right, at its option, to terminate this Agreement and all rights granted the Franchisee hereunder, without affording the Franchisee any opportunity to cure any default (subject to any state laws to the contrary, where state law shall prevail), effective when notice is sent to the Franchisee, addressed as provided in Section 22.13, upon the occurrence of any of the following events:

a. **Abandonment.** If the Franchisee ceases to operate the ROCKY MOUNTAIN CHOCOLATE FACTORY Store or otherwise abandons the ROCKY MOUNTAIN CHOCOLATE FACTORY Store for a period of five consecutive days, or any shorter period that indicates an intent by the Franchisee to discontinue operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, unless and only to the extent that full operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store is suspended or terminated due to fire, flood, earthquake or other similar causes beyond the Franchisee's control and not related to the availability of funds to the Franchisee;

b. **Insolvency; Assignments.** If the Franchisee becomes insolvent or is adjudicated a bankrupt; or any action is taken by the Franchisee, or by others against the Franchisee under any insolvency, bankruptcy or reorganization act, (this provision may not be enforceable under federal bankruptcy law, 11 U.S.C. §§ 101 et seq.), or if the Franchisee makes an assignment for the benefit of creditors, or a receiver is appointed by the Franchisee;

c. **Unsatisfied Judgments; Levy; Foreclosure.** If any material judgment (or several judgments which in the aggregate are material) is obtained against the Franchisee and remains unsatisfied or of record for 30 days or longer (unless a supersedeas or other appeal bond has been filed); or if execution is levied against the Franchisee's business or any of the property used in the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store and is not discharged within five days; or if the real or personal property of the Franchisee's business shall be sold after levy thereupon by any sheriff, marshal or constable;

d. **Criminal Conviction.** If the Franchisee is convicted of a felony, a crime involving moral turpitude, or any crime or offense that is reasonably likely, in the sole opinion of the Franchisor, to materially and unfavorably affect the Licensed Methods, Marks, goodwill or reputation thereof;

e. **Failure to Make Payments.** If the Franchisee fails to pay any amounts due the Franchisor or affiliates, including any amounts which may be due as a result of any subleases or lease assignments between the Franchisee and the Franchisor, within 10 days after receiving notice that such fees or amounts are overdue;

f. **Misuse of Marks.** If the Franchisee misuses or fails to follow the Franchisor's directions and guidelines concerning use of the Franchisor's Marks and fails to correct the misuse or failure within ten days after notification from the Franchisor;

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

h. **Repeated Noncompliance.** If the Franchisee has received two previous notices of default from the Franchisor and is again in default of this Agreement at any time during the term of this Agreement, regardless of whether the previous defaults were cured by the Franchisee, provided, however, that following the Franchisee's receipt of three notices of default, the Franchisor reserves the right to assess a penalty in the amount of the then current initial franchise fee payable within 10 days of receipt of notice related thereto, and to require the Franchisee to sign the Franchisor's then current form of Franchise Agreement for the remainder of the term of the Franchisee's previous Franchise Agreement in lieu of immediately terminating the Franchise Agreement, on the condition that a fourth notice of default may result in immediate termination of the Franchise Agreement; or

i. **Unauthorized Transfer.** If the Franchisee sells, transfers or otherwise assigns the Franchise, an interest in the Franchise or the Franchisee entity, this Agreement, the ROCKY MOUNTAIN CHOCOLATE FACTORY Store or a substantial portion of the assets of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store owned by the Franchisee without complying with the provisions of Article 16 above.

**18.2 Termination by Franchisor - Thirty Days' Notice.** The Franchisor shall have the right to terminate this Agreement (subject to any state laws to the contrary, where state law shall prevail), effective upon 30 days written notice to the Franchisee, if the Franchisee breaches any other provision of this Agreement and fails to cure the default during such 30-day period. In that event, this Agreement will terminate without further notice to the Franchisee, effective upon expiration of the 30-day period. Defaults shall include, but not be limited to, the following:

- a. **Failure to Maintain Standards.** The Franchisee fails to maintain the then-current operating procedures and adhere to the specifications and standards established by the Franchisor as set forth herein or in the Operations Manual or otherwise communicated to the Franchisee;
- b. **Deceptive Practices.** The Franchisee engages in any unauthorized business or practice or sells any unauthorized product or service under the Franchisor's Marks or under a name or mark which is confusingly similar to the Franchisor's Marks;
- c. **Failure to Obtain Consent.** The Franchisee fails, refuses or neglects to obtain the Franchisor's prior written approval or consent as required by this Agreement;
- d. **Failure to Comply with Manual.** The Franchisee fails or refuses to comply with the then-current requirements of the Operations Manual; or
- e. **Breach of Related Agreement.** The Franchisee or an affiliate of the Franchisee defaults under any term of the lease, sublease or lease assignment for the Franchised Location, any equipment lease or any other agreement material to the ROCKY MOUNTAIN CHOCOLATE FACTORY Store or any other Franchise Agreement between the Franchisor and the Franchisee or an affiliate of the Franchisee and such default is not cured within the time specified in such lease, sublease, other agreement or other Franchise Agreement. Provided, however, so long as financing from the United States Small Business Administration remains outstanding, the Franchisee will be given the same opportunity to cure defaults under any agreement between the Franchisor or its affiliates and the Franchisee, as the Franchisee is given under this Agreement.

Notwithstanding the foregoing, if the breach is curable, but is of a nature which cannot be reasonably cured within such 30-day period and the Franchisee has commenced and is continuing to make good faith efforts to cure the breach during such 30-day period, the Franchisee shall be given an additional reasonable period of time to cure the same, and this Agreement shall not automatically terminate without written notice from the Franchisor.

### **18.3 Franchisor's Remedies.**

- a. **Failure to Pay.** In addition to all other remedies that may be exercised by the Franchisor upon a default by the Franchisee under the terms of this Agreement, the Franchisor reserves the right to collect amounts due from the Franchisee to any third party and to pay the third party directly. If the Franchisor collects any such amounts, the Franchisor may, in its sole discretion, charge the Franchisee an administrative fee to reimburse the Franchisor for its costs of collecting and paying such amounts. Any administrative fee charged would not exceed 15% of the total amount of money collected.
- b. **Acknowledgment.** In the event this Agreement is terminated by the Franchisor prior to its expiration as set forth in Sections 18.1 or 18.2 above, the Franchisee acknowledges and agrees that in addition to all other available remedies, the Franchisor shall have the right to recover lost future Royalties during any period in which the Franchisee fails to pay such Royalties through and including the remainder of the then current term of this Agreement.
- c. **Liquidated Damages.** Franchisee acknowledges that if it is responsible for any action that results in a violation of Sections 18.1 or 18.2 of this Agreement, it will be impossible to accurately calculate the damages to the Franchisor. Therefore, for purposes of this Agreement, as liquidated damages and not as a penalty, for each day that the Franchisee is in violation of Sections

18.1 or 18.2 of this Agreement, the Franchisee shall pay to the Franchisor the sum of \$500, up to a maximum of \$250,000 in liquidated damages payments.

**18.4 Right to Purchase.** Upon termination or expiration of this Agreement for any reason, the Franchisor shall have the option to purchase some or all of the assets of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, which may include, at the Franchisor's option, all of the Franchisee's interest, if any, in and to the real estate upon which the ROCKY MOUNTAIN CHOCOLATE FACTORY Store is located, and all buildings and other improvements thereon, including leasehold interests, at fair market value, less any amount apportioned to the goodwill of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store which is attributable to the Franchisor's Marks and Licensed Methods, and less any amounts owed to the Franchisor by the Franchisee. The following additional terms shall apply to the Franchisor's exercise of this option:

a. The Franchisor's option hereunder shall be exercisable by providing the Franchisee with written notice of its intention to exercise the option given to the Franchisee no later than the effective date of termination, in the case of termination, or at least 90 days prior to the expiration of the term of the franchise, in the case of non-renewal. Such notice shall include a description of the assets the Franchisor will purchase.

b. In the event that the Franchisor and the Franchisee cannot agree to a fair market value for the assets of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, then the fair market value shall be determined by an independent third-party appraisal. The Franchisor and the Franchisee shall each select one independent, qualified appraiser, and the two so selected shall select a third appraiser, all three to determine the fair market value of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The purchase price shall be the median of the fair market values as determined by the three appraisers and this price shall be binding upon the parties. All expenses of the appraisers shall be paid for equally between the Franchisor and Franchisee.

c. The Franchisor and the Franchisee agree that the terms and conditions of this right and option to purchase may be recorded, if deemed appropriate by the Franchisor, in the real property records and the Franchisor and the Franchisee further agree to execute such additional documentation as may be necessary and appropriate to effectuate such recording.

The closing for the purchase of the assets of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store will take place no later than 60 days after the termination or nonrenewal date. The Franchisor will pay the purchase price in full at the closing, or, at its option, in five equal consecutive monthly installments with interest at a rate of 10% per annum. The Franchisee must sign all documents of assignment and transfer as are reasonably necessary for purchase of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store by the Franchisor.

In the event that the Franchisor does not exercise the Franchisor's right to purchase the assets of the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store as set forth above, the Franchisee will be free to keep or to sell, after such termination or expiration, to any third party, all of the assets of its ROCKY MOUNTAIN CHOCOLATE FACTORY Store; provided, however, that all appearances of the Marks are first removed in a manner approved in writing by the Franchisor. The Franchisor will only be obligated to purchase any assets of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store in the event and to the extent it is required by applicable state or federal law.

**18.5 Obligations of Franchisee Upon Termination or Expiration.** The Franchisee is obligated upon termination or expiration of this Agreement to immediately:

- a. Pay to the Franchisor all Royalties, other fees, and any and all amounts or accounts payable then owed the Franchisor or its affiliates pursuant to this Agreement, or pursuant to any other agreement, whether written or oral, including subleases and lease assignments, between the parties;
- b. Cease to identify itself as a ROCKY MOUNTAIN CHOCOLATE FACTORY Franchisee or publicly identify itself as a former Franchisee or use any of the Franchisor's trade secrets, signs, symbols, devices, trade names, trademarks, or other materials.
- c. Cease to identify the Franchised Location as being, or having been, associated with the Franchisor, and, if deemed necessary by the Franchisor, paint or otherwise change the interior and exterior of the Franchisee's former Store to distinguish it from a ROCKY MOUNTAIN CHOCOLATE FACTORY Store, and immediately cease using any proprietary mark of the Franchisor or any mark in any way associated with the ROCKY MOUNTAIN CHOCOLATE FACTORY Marks and Licensed Methods;
- d. Deliver to the Franchisor all non-perishable Items of inventory that bear the ROCKY MOUNTAIN CHOCOLATE FACTORY trade name or logo, signs, sign-faces, advertising materials, forms and other materials bearing any of the Marks or otherwise identified with the Franchisor and obtained by and in connection with this Agreement;
- e. Deliver to the Franchisor the Operations Manual and all other information, documents and copies thereof which are proprietary to the Franchisor;
- f. Promptly take such action as may be required to cancel all fictitious or assumed names or equivalent registrations relating to the Franchisee's use of any Marks which are under the exclusive control of the Franchisor or, at the option of the Franchisor, assign the same to the Franchisor;
- g. Notify the telephone company and domain name registries, if applicable, of the termination or expiration of the Franchisee's right to use any telephone number and any domain name containing the Marks and to authorize transfer thereof to the Franchisor or its designee. The Franchisee acknowledges that, as between the Franchisee and the Franchisor, the Franchisor has the sole rights to and interest in all telephone numbers, domain names and electronic mail addresses associated with any Mark. The Franchisee authorizes the Franchisor, and hereby appoints the Franchisor and any of its officers as the Franchisee's attorney-in-fact, to direct the telephone company and domain name registry, if applicable, to transfer any telephone numbers and domain names and electronic mail addresses, relating to the ROCKY MOUNTAIN CHOCOLATE FACTORY Store to the Franchisor or its designee, should the Franchisee fail or refuse to do so, and the telephone company and domain name registry may accept such direction or this Agreement as conclusive of the Franchisor's exclusive rights in such telephone numbers and domain names and the Franchisor's authority to direct their transfer;
- h. Abide by all restrictive covenants set forth in Article 20 of this Agreement;
- i. Sign a general release, in a form satisfactory to the Franchisor, of any and all claims against the Franchisor, its affiliates and their respective officers, directors, employees and agents; and
- j. If applicable, take such action as may be required to remove from the Internet all sites referring to the Franchisee's former ROCKY MOUNTAIN CHOCOLATE FACTORY Store

or any of the Marks and to cancel or assign to the Franchisor, in the Franchisor's sole discretion, all rights to electronic mail addresses, social media accounts, and domain names for sites on the Internet that refer to the Franchisee's former ROCKY MOUNTAIN CHOCOLATE FACTORY Store or any of the Marks.

**18.6 State and Federal Law.** THE PARTIES ACKNOWLEDGE THAT IN THE EVENT THE TERMS OF THIS AGREEMENT REGARDING TERMINATION OR EXPIRATION ARE INCONSISTENT WITH APPLICABLE STATE OR FEDERAL LAW, SUCH LAW SHALL GOVERN THE FRANCHISEE'S RIGHTS REGARDING TERMINATION OR EXPIRATION OF THIS AGREEMENT.

## 19. BUSINESS RELATIONSHIP

**19.1 Independent Businesspersons.** The parties agree that each of them are independent businesspersons, that their only relationship is by virtue of this Agreement and that no fiduciary relationship is created hereunder. Neither party is liable or responsible for the other's debts or obligations, nor shall either party be obligated for any damages to any person or property directly or indirectly arising out of the operation of the other party's business authorized by or conducted pursuant to this Agreement. The Franchisor and the Franchisee agree that neither of them will hold themselves out to be the agent, employer or partner of the other and that neither of them has the authority to bind or incur liability on behalf of the other. The Franchisee acknowledges and agrees that the Franchisor will not have the power to hire or fire the Franchisee's employees. The Franchisee expressly agrees and will never contend otherwise, that the Franchisor's authority under this Agreement to approve certain of the Franchisee's employees to perform certain functions for the Store does not directly or indirectly vest in the Franchisor the power to hire, fire or control any such employees. The Franchisee acknowledges and agrees, and will never contend otherwise, that the Franchisee alone will exercise day-to-day control over all operations, activities and elements of the Store and under no circumstances shall the Franchisor do so or be deemed to do so. The Franchisee further acknowledges and agrees, and will never contend otherwise, that the various requirements, restrictions, prohibitions, specifications and procedures which the Franchisee is required to comply with under this Agreement, whether set forth in the Operations Manual or otherwise, do not directly or indirectly constitute, suggest, infer or imply that the Franchisor controls any aspect or element of the day-to-day operations of the Franchisee's Store.

**19.2 Payment of Third-Party Obligations.** The Franchisor shall have no liability for the Franchisee's obligations to pay any third parties, including without limitation, any product vendors, or any sales, use, service, occupation, excise, gross receipts, income, property or other tax levied upon the Franchisee, the Franchisee's property, the ROCKY MOUNTAIN CHOCOLATE FACTORY Store or upon the Franchisor in connection with the sales made or business conducted by the Franchisee (except any taxes the Franchisor is required by law to collect from the Franchisee with respect to purchases from the Franchisor).

**19.3 Indemnification.** The Franchisee agrees to indemnify, defend and hold harmless the Franchisor, its subsidiaries and affiliates, and their respective shareholders, directors, officers, employees, agents, successors and assignees, (the "**Indemnified Parties**") against, and to reimburse them for all claims, obligations and damages described in this Section 19.3, any and all third party obligations described in Section 19.2 and any and all claims and liabilities directly or indirectly arising out of the operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store or arising out of the use of the Marks and Licensed Methods in any manner not in accordance with this Agreement. For purposes of this indemnification, claims shall mean and include all obligations, actual and consequential damages and costs reasonably incurred in the defense of any claim against the Indemnified Parties, including, without limitation,

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reasonable accountants', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses. The Indemnified Parties shall have the right to defend any claims against them. This indemnity shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

## 20. RESTRICTIVE COVENANTS

**20.1 Non-Competition During Term.** The Franchisee acknowledges that, in addition to the license of the Marks hereunder, the Franchisor has also licensed commercially valuable information which comprises and is a part of the Licensed Methods, including without limitation, recipes, operations, marketing, advertising and related information and materials and that the value of this information derives not only from the time, effort and money which went into its compilation, but from the usage of the same by all the franchisees of the Franchisor using the Marks and Licensed Methods. The Franchisee therefore agrees that other than the ROCKY MOUNTAIN CHOCOLATE FACTORY Store licensed herein, neither the Franchisee, its General Manager, its Personnel, nor any of the Franchisee's officers, directors, shareholders, members, managers or partners, nor any member of his or their immediate families, shall during the term of this Agreement:

- a. have any direct or indirect controlling interest as a disclosed or beneficial owner in a "Competitive Business" as defined below;
- b. perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for a Competitive Business; or
- c. divert or attempt to divert any business related to, or any customer or account of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, the Franchisor's business or any other ROCKY MOUNTAIN CHOCOLATE FACTORY franchisee's business, by direct inducement or otherwise, to any Competitive Business by any direct inducement or otherwise.

The term "**Competitive Business**" as used in this Agreement shall mean any business operating, or granting franchises or licenses to others to operate, a retail, wholesale, distribution or manufacturing business with either of the following attributes: (i) a business deriving a total of 10% or more of its gross receipts from the sale, processing or manufacturing of one or a combination of any of the following: boxed chocolate candies; or products which are the same as or substantially similar to products offered for sale in ROCKY MOUNTAIN CHOCOLATE FACTORY Stores; or products made with recipes, or processes, included in the Operations Manual; or (ii) a business devoting a total of 10% or more of its retail display space to one or a combination of the following: boxed chocolate candies; or products which are the same as or substantially similar to products offered by ROCKY MOUNTAIN CHOCOLATE FACTORY Stores; or products made with recipes, or processes, included in the Operations Manual; provided, however, the Franchisee shall not be prohibited from owning securities in a Competitive Business if such securities are listed on a stock exchange or traded on the over-the-counter market and represent 5% or less of that class of securities issued and outstanding.

**20.2 Post-Termination Covenant Not to Compete.** Upon termination or expiration of this Agreement for any reason, the Franchisee and its General Manager, Personnel, Owners, officers, directors, shareholders, members, managers and/or partners agree that, for a period of two years commencing on the effective date of termination or expiration, or the date on which the Franchisee ceases to conduct business, whichever is later, neither Franchisee nor its officers, directors, shareholders, members, managers, and/or partners shall have any direct or indirect interest (through a member of any immediate family of the Franchisee or its Owners or otherwise) as a disclosed or beneficial owner, investor, partner, director, officer, member, manager, employee, consultant, representative or agent or in any other capacity in any

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Competitive Business, defined in Section 20.1 above, located or operating within a 25-mile radius of the Franchised Location or within a 25-mile radius of any other franchised or company-owned ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The restrictions of this Section shall not be applicable to the ownership of shares of a class of securities listed on a stock exchange or traded on the over-the-counter market that represent 5% or less of the number of shares of that class of securities issued and outstanding. The Franchisee and its officers, directors, shareholders, members, managers, and/or partners expressly acknowledge that they possess skills and abilities of a general nature and have other opportunities for exploiting such skills. Consequently, enforcement of the covenants made in this Section will not deprive them of their personal goodwill or ability to earn a living.

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

**20.4 Confidentiality Agreement.** The Franchisor requires that the Franchisee cause each of its officers, directors, partners, shareholders, members, managers, and General Manager, and, if the Franchisee is an individual, immediate family members (together, "**Personnel**"), to execute a confidentiality and noncompetition agreement containing the above restrictions, in the form attached hereto as Exhibit VI and incorporated herein by reference, no later than 10 days after this Agreement is signed by the Franchisee and all guarantors. During the term of this Agreement, Franchisee will require all new Personnel to sign a confidentiality agreement within 10 days of being hired. The Franchisee shall provide copies of all signed confidentiality agreements to the Franchisor within 10 days after they are signed.

## 21. INSURANCE

**21.1 Insurance Coverage.** The Franchisee shall procure, maintain and provide evidence of (i) comprehensive general liability insurance for the Franchised Location and its operations with a limit of not less than \$2,000,000 combined single limit, or such greater limit as may be required as part of any lease agreement for the Franchised Location; (ii) automobile liability insurance covering all employees of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store with authority to operate a motor vehicle in an amount not less than \$1,000,000 or, with the prior written consent of the Franchisor, such lesser amount as may be available at a commercially reasonable rate, but in no event less than any statutorily imposed minimum coverage; (iii) unemployment and worker's compensation insurance with a broad form all-states endorsement coverage sufficient to meet the requirements of the law; and (iv) all-risk personal property insurance in an amount equal to at least 100% of the replacement costs of the contents and tenant improvements located at the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. All of the required policies of insurance shall name the Franchisor as an additional insured and shall provide for a 30-day advance written notice to the Franchisor of termination, amendment or cancellation.

**21.2 Proof of Insurance Coverage.** The Franchisee will provide proof of insurance to the Franchisor prior to commencement of operations at its ROCKY MOUNTAIN CHOCOLATE FACTORY Store. This proof will show that the insurer has been authorized to inform the Franchisor in the event any policies lapse or are cancelled. The Franchisor has the right to change the minimum amount of insurance the Franchisee is required to maintain by giving the Franchisee prior reasonable notice, giving due consideration to what is reasonable and customary in the similar business. The Franchisee's failure to comply with the insurance provisions set forth herein shall be deemed a material breach of this Agreement.

In the event of any lapse in insurance coverage, in addition to all other remedies, the Franchisor shall have the right to demand that the Franchisee cease operations of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store until coverage is reinstated, or, in the alternative, pay any delinquencies in premium payments and charge the same back to the Franchisee.

## 22. MISCELLANEOUS PROVISIONS

**22.1 Governing Law/Consent to Venue and Jurisdiction.** Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any disputes between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in a legal proceeding involving the Franchisee, its officers, directors, partners or managers (collectively, “**Franchisee Affiliates**”) and the Franchisor, its officers, directors or sales employees (collectively, “**Franchisor Affiliates**”), all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County and federal courts located in Colorado. THE FRANCHISOR, THE FRANCHISOR AFFILIATES, THE FRANCHISEE AND THE FRANCHISEE AFFILIATES EACH WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

**22.2 Cumulative Rights.** The rights and remedies of the Franchisor and the Franchisee hereunder are cumulative and no exercise or enforcement by either of them of any right or remedy hereunder shall preclude the exercise or enforcement by either of them of any other right or remedy hereunder which they are entitled by law to enforce.

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

**22.4 Entire Agreement.** This Agreement, including all exhibits and addenda and the Operations Manual, contain the entire agreement between the parties and supersedes any and all prior agreements concerning the subject matter hereof. Nothing in this Agreement, including all exhibits and addenda hereto, or in any other agreement between the Franchisor and the Franchisee, is intended to disclaim the representations made in the most recent franchise disclosure document provided by the Franchisor or its representatives. No modifications of this Agreement shall be effective except those in writing and signed by both parties. The Franchisor does not authorize and will not be bound by any representation of any nature other than those expressed in this Agreement and in the most recent franchise disclosure document provided to the Franchisee by the Franchisor or its representatives. The Franchisee further acknowledges and agrees that no representations have been made to it by the Franchisor regarding projected sales volumes, market potential, revenues, profits of the Franchisee’s ROCKY MOUNTAIN CHOCOLATE FACTORY Store, or operational assistance other than as stated in this Agreement or in the most recent franchise disclosure document provided to the Franchisee by the Franchisor or its representatives.

**22.5 Delegation by the Franchisor.** From time to time, the Franchisor shall have the right to delegate the performance of any portion or all of its obligations and duties hereunder to third parties, whether the same are agents of the Franchisor or independent contractors which the Franchisor has contracted with to provide such services. The Franchisee agrees in advance to any such delegation by the Franchisor of any portion or all of its obligations and duties hereunder. The Franchisee acknowledges and agrees that any delegation by the Franchisor of its duties or obligations does not assign or confer any rights under this Agreement to third parties and that there are no third-party beneficiaries of this Agreement.

**22.6 Effective Date.** This Agreement shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. The effective date of this Agreement may be adjusted to an earlier date if the parties are signing it as a successor to an earlier franchise agreement in order to avoid giving the Franchisee a longer term under the successor franchise agreement if the term of the prior agreement was extended until the successor agreement became effective.

**22.7 Review of Agreement.** The Franchisee acknowledges that it had a copy of this Agreement in its possession for a period of time not fewer than 10 full business days, or 14 calendar days, whichever is applicable, during which time the Franchisee has had the opportunity to submit same for professional review and advice of the Franchisee's choosing prior to freely executing this Agreement.

**22.8 Attorneys' Fees.** In the event of any dispute between the parties to this Agreement, including any dispute involving an officer, director, employee or managing agent of a party to this Agreement, in addition to all other remedies, the non-prevailing party will pay the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in any legal action, arbitration or other proceeding as a result of such dispute.

**22.9 Injunctive Relief.** Nothing herein shall prevent the Franchisor or the Franchisee from seeking injunctive relief to prevent irreparable harm, in addition to all other remedies. If the Franchisor seeks an injunction, the Franchisor will not be required to post a bond in excess of \$500.

**22.10 No Waiver.** No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by the Franchisor or the Franchisee shall be considered to imply or constitute a further waiver by the Franchisor or the Franchisee of the same or any other condition, covenant, right, or remedy.

**22.11 No Right to Set Off.** The Franchisee shall not be allowed to set off amounts owed to the Franchisor for Royalties, fees or other amounts due hereunder, against any monies owed to Franchisee, nor shall the Franchisee in any event withhold such amounts due to any alleged nonperformance by the Franchisor hereunder, which right of set off is hereby expressly waived by the Franchisee.

**22.12 Invalidity.** If any provision of this Agreement is held invalid by any tribunal in a final decision from which no appeal is or can be taken, such provision shall be deemed modified to eliminate the invalid element and, as so modified, such provision shall be deemed a part of this Agreement as though originally included. The remaining provisions of this Agreement shall not be affected by such modification.

**22.13 Notices.** All written notices required to be given under this Agreement shall be given in writing, by electronic mail, by certified mail, return receipt requested, or by an overnight delivery service providing documentation of receipt, at the address set forth in the preamble to this Agreement or at such other addresses as the Franchisor or the Franchisee may designate from time to time. Notices shall be deemed delivered one business day after transmission by electronic mail; one business day after being placed in the hands of a commercial courier service for overnight delivery; or three business days after

being deposited in the United States Mail, 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.

**22.14 Authorization to Communicate Electronically; Prompt Response Required.** By executing this Agreement, the Franchisee authorizes the Franchisor and its affiliates and approved suppliers, to communicate with the Franchisee electronically, including via electronic mail or text message, and unless a written communication is required, to communicate with the Franchisee via telephone, notwithstanding whether any or all of the Franchisee's telephone numbers appear on a state or federal do-not-call registry. The Franchisee acknowledges and agrees that it is critical to the efficient and successful administration of the franchise relationship that the Franchisee promptly responds to all communications from the Franchisor. Accordingly, the Franchisee agrees to respond within five business days to each communication from the Franchisor.

**22.15 Force Majeure.** "Force Majeure" means an event that prevents a party to this Agreement from performing that is not the fault of or within the reasonable control of the party claiming Force Majeure. Force Majeure includes acts of god, fires, strikes, war, terrorism, riot, governmental laws or restrictions, or any other similar event or cause rendering performance of the contract impossible. Except with respect to payment obligations, neither party shall be deemed to be in breach of this Agreement if a party's failure to perform its obligations results from Force Majeure and any delay resulting from Force Majeure will extend performance accordingly or excuse performance in whole or in part as may be reasonable. Force Majeure does not include the Franchisee's financial inability to perform, inability to obtain financing, inability to obtain permits or licenses or any other similar events unique to the Franchisee or to general economic downturn or conditions. If the Franchisee is affected by an event of Force Majeure, it shall provide a prompt written request for relief to the Franchisor describing and setting forth the nature of the Force Majeure, an estimate as to its duration, and a plan for resuming full compliance with this Agreement. The Franchisor will have full discretion whether to grant or deny any request for relief. If the Franchisee fails to provide the required notice it shall be liable for failure to give such timely notice only to the extent of damage actually caused.

**22.16 Electronic Signature.** The parties hereby acknowledge and agree that electronic signatures, in such form and manner as the Franchisor may prescribe from time to time, shall be legal and binding and shall have the same full force and effect as if an original of this Agreement had been signed and delivered by hand. The Franchisor and the Franchisee both (i) intend to be bound by the signatures (whether original or electronic) on any document sent or signed electronically, (ii) are aware that the other party will rely on such signatures, and (iii) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature.

**22.17 Payment of Taxes.** The Franchisee shall reimburse the Franchisor, or its affiliates and designees, promptly and when due, the amount of all sales taxes, use taxes, personal property taxes and similar taxes imposed upon, required to be collected or paid by the Franchisor, or its affiliates or designees, on account of services or goods furnished by the Franchisor, its affiliates or designees, to the Franchisee through sale, lease or otherwise, or on account of collection by the Franchisor, its affiliates or designees, of the initial franchise fee, Royalties, Marketing and Promotion Fees or any other payments made by the Franchisee to the Franchisor required under the terms of this Agreement.

**22.18 Anti-Terrorism Representation.** The Franchisee represents to the Franchisor that it and all persons or entities holding any legal or beneficial interest whatsoever in the Franchisee are not included in, owned by, controlled by, acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the persons or entities referred to or described

in Executive Order 13224-Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended.

**22.19 No Class or Consolidated Actions.** ALL CLAIMS, CONTROVERSIES AND DISPUTES MAY ONLY BE BROUGHT BY FRANCHISEE ON AN INDIVIDUAL BASIS AND MAY NOT BE CONSOLIDATED WITH ANY CLAIM, CONTROVERSY OR DISPUTE FOR OR ON BEHALF OF ANY OTHER FRANCHISEE OR BE PURSUED AS PART OF A CLASS ACTION.

**22.20 Acknowledgement.** BEFORE SIGNING THIS AGREEMENT, THE FRANCHISEE SHOULD READ IT CAREFULLY WITH THE ASSISTANCE OF LEGAL COUNSEL. THE FRANCHISEE ACKNOWLEDGES THAT:

(A) THE SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED HEREIN INVOLVES SUBSTANTIAL RISKS AND DEPENDS UPON THE FRANCHISEE'S ABILITY AS AN INDEPENDENT BUSINESSPERSON AND ITS ACTIVE PARTICIPATION IN THE DAILY AFFAIRS OF THE BUSINESS; AND

(B) NO ASSURANCE OR WARRANTY, EXPRESS OR IMPLIED, HAS BEEN GIVEN AS TO THE POTENTIAL SUCCESS OF SUCH BUSINESS VENTURE OR THE EARNINGS LIKELY TO BE ACHIEVED; AND

(C) NO STATEMENT, REPRESENTATION OR OTHER ACT, EVENT OR COMMUNICATION, EXCEPT AS SET FORTH IN THIS AGREEMENT, AND IN THE MOST RECENT FRANCHISE DISCLOSURE DOCUMENT SUPPLIED TO THE FRANCHISEE, IS BINDING ON THE FRANCHISOR IN CONNECTION WITH THE SUBJECT MATTER OF THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above set forth.

**ROCKY MOUNTAIN CHOCOLATE FACTORY,  
INC.**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

Date: \_\_\_\_\_

\_\_\_\_\_  
, Individually

Date: \_\_\_\_\_

\_\_\_\_\_  
, Individually

**AND:**

Date: \_\_\_\_\_

Name of Entity  
\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT I  
TO FRANCHISE AGREEMENT**

**ADDENDUM TO ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT**

1. Franchised Location. The Franchised Location, set forth in Section 3.1 of the Agreement shall be:

\_\_\_\_\_  
\_\_\_\_\_  
and the Store configuration shall be: \_\_\_\_\_.

2. Initial Franchise Fee. The amount of the initial franchise fee, set forth in Section 4.1 of the Agreement, shall be: \$\_\_\_\_\_.

Fully executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ROCKY MOUNTAIN CHOCOLATE FACTORY,  
INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
, Individually

\_\_\_\_\_  
, Individually

AND:

Name of Entity

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT II  
TO FRANCHISE AGREEMENT**

**GUARANTY AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS**

In consideration of, and as an inducement to, the execution of the above Franchise Agreement (the “**Agreement**”) by Rocky Mountain Chocolate Factory, Inc. (the “**Franchisor**”), each of the undersigned guarantors hereby personally and unconditionally:

Guarantees to the Franchisor and its successors and assigns, for the term of the Agreement, including renewals thereof, that the franchisee, as that term is defined in the Agreement (“**Franchisee**”), shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement; and

Agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement.

Each of the undersigned waives the following:

1. Acceptance and notice of acceptance by the Franchisor of the foregoing undertaking;
2. Notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed;
3. Protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed;
4. Any right he or she may have to require that any action be brought against Franchisee or any other person as a condition of liability; and
5. Any and all other notices and legal or equitable defenses to which he or she may be entitled.

Each of the undersigned consents and agrees that:

1. His or her direct and immediate liability under this guaranty shall be joint and several;
2. He or she shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so;
3. Such liability shall not be contingent or conditioned upon pursuit by the Franchisor of any remedies against Franchisee or any other person; and
4. Such liability shall not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which the Franchisor may from time to time grant to Franchisee or to any other person, including without limitation the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which shall in any way modify or amend this guaranty, which shall be continuing and irrevocable during the term of the Agreement, including renewals thereof.
5. His or her obligation and liability hereunder shall not be affected by any amendment or modification of the Agreement and he or she has no right to approve or consent to any such amendment or modification.

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6. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§1051 et seq.) or other federal law, this guaranty shall be interpreted under the laws of the state of Colorado and any disputes between the Franchisor and any party hereto shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisor and all guarantors agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County and federal courts located in Colorado. The Franchisor and each guarantor waive their rights to a trial by jury.

IN WITNESS WHEREOF, each of the undersigned has affixed his or her signature effective on the same day and year as the Agreement was executed.

**GUARANTOR(S)**

\_\_\_\_\_

Date

\_\_\_\_\_

\_\_\_\_\_

Date

\_\_\_\_\_

**EXHIBIT III  
TO FRANCHISE AGREEMENT**

**STATEMENT OF OWNERSHIP**

Franchisee: \_\_\_\_\_

Trade Name (if different from above): \_\_\_\_\_

Form of Ownership  
(Check One)

\_\_\_\_\_ Individual    \_\_\_\_\_ Partnership    \_\_\_\_\_ Corporation    \_\_\_\_\_ Limited Liability Company

If a Partnership, provide name and address of each partner showing percentage owned, whether active in management, and indicate the state in which the partnership was formed.

If a Limited Liability Company, provide name and address of each member and each manager showing percentage owned and indicate the state in which the Limited Liability Company was formed.

If a Corporation, give the state and date of incorporation, the names and addresses of each officer and director, and list the names and addresses of every shareholder showing what percentage of stock is owned by each.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Franchisee acknowledges that this Statement of Ownership applies to the ROCKY MOUNTAIN CHOCOLATE FACTORY Store authorized under the Franchise Agreement.

Use additional sheets if necessary. Any and all changes to the above information must be reported to the Franchisor in writing.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**EXHIBIT IV  
TO FRANCHISE AGREEMENT**

**ADDENDUM TO  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT**

**AUTHORIZATION AGREEMENT  
FOR ELECTRONIC FUNDS TRANSFERS**

The undersigned depositor (“**Depositor**”) hereby (1) authorizes Rocky Mountain Chocolate Factory, Inc. (“**Company**”) to initiate debit entries and/or credit correction entries to the undersigned’s checking and/or savings account indicated below and (2) authorizes the depository designated below (“**Depository**”) to debit such account pursuant to Company’s instructions. Debit entries shall be limited to past due amounts owed by Depositor to Company arising from or related to the Franchise Agreement between Depositor and Company dated \_\_\_\_\_, 20\_\_.

Depository	Branch	
City	State	Zip Code
Bank Transit/ABA Number	Account Number	

This authority is to remain in full force and effect until Depository has received joint written notification from Company and Depositor of the Depositor’s termination of such authority in such time and in such manner as to afford Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, Depository shall provide Company and Depositor with 30 days’ prior written notice of the termination of this authority. If an erroneous debit entry is initiated to Depositor’s account, Depositor shall have the right to have the amount of such entry credited to such account by Depository, if (a) within 15 calendar days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to such entry or (b) 45 days after posting, whichever occurs first, Depositor shall have sent to Depository a written notice identifying such entry, stating that such entry was in error and requesting Depository to credit the amount thereof to such account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

\_\_\_\_\_  
DEPOSITOR (Print Name)

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT V  
TO THE FRANCHISE AGREEMENT**

**PERMIT, LICENSE AND CONSTRUCTION CERTIFICATE**

Franchisor and Franchisee are parties to a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ for the development and operation of ROCKY MOUNTAIN CHOCOLATE FACTORY Store located at \_\_\_\_\_ (the “**Franchised Location**”). In accordance with Section 5.6 of the Franchise Agreement, Franchisee certifies to Franchisor that the Franchised Location complies with all applicable federal, state and local laws, statutes, codes, rules, regulations and standards including, but not limited to, the federal Americans with Disabilities Act and any similar state or local laws. The Franchisee has obtained all such permits and certifications as may be required for the lawful construction and operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store, together with all certifications from government authorities having jurisdiction over the site that all requirements for construction and operation have been met, including without limitation, zoning, access, sign, health, safety requirements, building and other required construction permits, licenses to do business, sales tax permits, health and sanitation permits and ratings and fire clearances. The Franchisee has obtained all customary contractors’ sworn statements and partial and final lien waivers for construction, remodeling, decorating and installation of equipment at the Franchised Location. The Franchisee acknowledges that it is an independent contractor and that the requirement of this certification does not constitute ownership, control, leasing or operation of the Store or the Franchised Location by the Franchisor, but rather provides notice to Franchisor that the Franchisee has complied with all applicable laws. The Franchisee asserts that Franchisor may justifiably rely on the information contained in this certificate.

**FRANCHISEE:**

\_\_\_\_\_  
, Individually

\_\_\_\_\_  
, Individually

AND:

Name of Entity

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT VI  
TO FRANCHISE AGREEMENT**

**CONFIDENTIALITY AND NONCOMPETITION AGREEMENT**

**AGREEMENT**, dated \_\_\_\_\_, 20\_\_\_\_, by and between Rocky Mountain Chocolate Factory, Inc. (“**Franchisor**”) and \_\_\_\_\_, a(n) [directors, officer, partner, principal, employee, agent or stockholder] of \_\_\_\_\_ (the “**Franchisee**”). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Franchise Agreement, defined below.

The Franchisor has granted to the Franchisee, pursuant to that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_, (the “**Franchise Agreement**”), the right to operate a ROCKY MOUNTAIN CHOCOLATE FACTORY Store. The undersigned, in consideration of the receipt and/or use of the Operations Manual and other information proprietary to the Franchisor, including but not limited to methods, strategies and techniques developed by the Franchisor relating to operations, marketing, training, advertising, trade secrets, recipes and other confidential data (collectively referred to as “**Proprietary Information**”), agrees with the Franchisor as follows:

(1) The undersigned acknowledges that the Operations Manual and other Proprietary Information now or hereafter provided to Franchisee by the Franchisor is proprietary to the Franchisor and must be held in the utmost and strictest confidence.

(2) The undersigned represents and agrees that the undersigned will not, without the prior written consent of the Franchisor, either:

(i) Duplicate or otherwise reproduce the Operations Manual or other Proprietary Information;

(ii) Deliver or make available the Operations Manual or other Proprietary Information to any person other than an authorized representative of the Franchisor;

(iii) Discuss or otherwise disclose the contents of the Operations Manual or other Proprietary Information to any person other than an authorized representative of the Franchisor; or

(iv) Use the Operations Manual or other Proprietary Information to his, her or its commercial advantage other than in connection with the operation of the franchise created and granted by the Franchise Agreement.

(3) While the Franchise Agreement is in effect, neither the undersigned, nor any member of his or her immediate family, shall engage in, or participate as an owner, officer, partner, director, agent, employee, shareholder, member, manager, or otherwise in any other Competitive Business without having first obtained the Franchisor’s written consent. For the purposes of this Agreement, “Competitive Business” shall mean any business operating, or granting franchises or licenses to others to operate, a retail, wholesale, distribution or manufacturing business with either of the following attributes: (i) a business deriving a total of 10% or more of its gross receipts from the sale, processing or manufacturing of one or a combination of any of the following: boxed chocolate candies; or products which are the same as or substantially similar to products offered for sale in ROCKY MOUNTAIN CHOCOLATE FACTORY Stores; or products made with recipes, or processes, included in the Operations Manual; or (ii) a business

(10/22/21)

devoting a total of 10% or more of its retail display space to one or a combination of the following: boxed chocolate candies; or products which are the same as or substantially similar to products offered for sale in ROCKY MOUNTAIN CHOCOLATE FACTORY Stores; or products made with recipes, or processes, included in the Operations Manual.

(4) The undersigned has acquired from the Franchisor confidential information regarding Franchisor's trade secrets and franchised methods which, in the event of a termination of the Franchise Agreement, could be used to injure the Franchisor. As a result, neither the undersigned, nor any member of his or her immediate family, shall, for a period of 2 years from the date of termination, transfer or expiration of the Franchise Agreement, or the date on which the Franchisee ceases to conduct business, whichever is later, without having first obtained the Franchisor's written consent, engage in or participate as an owner, officer, partner, director, agent, employee, shareholder, member, manager, or otherwise in any Competitive Business which is located or operating, as of the date of such termination, transfer or expiration, within a 25-mile radius of the Franchisee's former Franchised Location as defined in the Franchise Agreement, or within a 25-mile radius of any other franchised or company-owned ROCKY MOUNTAIN CHOCOLATE FACTORY Store, unless such right is granted pursuant to a separate agreement with the Franchisor.

(5) The undersigned agrees that during the term of the Franchise Agreement, and for a period of 2 years thereafter, it shall in no way divert or attempt to divert the business of customers, or interfere with the business relationship established with customers of the Franchisee's ROCKY MOUNTAIN CHOCOLATE FACTORY Store or of any Competitive Business.

(6) The undersigned agrees that all copyrightable works created by the undersigned, the Franchisee or any of its owners, officers or employees in connection with the Store shall be the sole property of the Franchisor. The Franchisee has assigned all proprietary rights, including copyrights, in these works to the Franchisor without additional consideration. The undersigned and the Franchisee hereby assign and will execute such additional assignments or documentation to effectuate the assignment of all intellectual property, inventions, copyrights and trade secrets developed in part or in whole in relation to the Store, during the term of the Agreement, as the Franchisor may deem necessary in order to enable it, at its expense, to apply for, prosecute and obtain copyrights, patents or other proprietary rights in the United States and in foreign countries or in order to transfer to the Franchisor all right, title and interest in said property. The undersigned and the Franchisee shall promptly disclose to the Franchisor all inventions, discoveries, improvements, recipes, creations, patents, copyrights, trademarks and confidential information relating to the Store which it or any of its owners, officers or employees has made or may make solely, jointly or commonly with others and shall promptly create a written record of the same. In addition to the foregoing, the undersigned and the Franchisee acknowledge and agree that any improvements or modifications, whether or not copyrightable, directly or indirectly related to the Store, shall be deemed to be a part of the Licensed Methods and shall inure to the benefit of the Franchisor.

(7) The undersigned agrees that it shall not take any action or make any statements to any third parties that would constitute a criticism, denigration or disparagement of the Franchisor or its Licensed Methods or would tend to be injurious to the reputation or goodwill of the Franchisor or its Marks, or which in any manner may interfere with the business affairs or business relations of the Franchisor.

**IN WITNESS WHEREOF**, this Agreement has been executed by the undersigned as of the date set forth above.

**AGREED TO BY:**

\_\_\_\_\_  
, Individually

\_\_\_\_\_  
, Individually

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

Franchisee Name: \_\_\_\_\_

Store Location: \_\_\_\_\_

**EXHIBIT C  
(TO FRANCHISE DISCLOSURE DOCUMENT)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY  
LIST OF FRANCHISEES  
As of February 28, 2021**

NAME	ADDRESS	CONTACT INFO
<b>ARIZONA</b>		
G & J Stitt Corporation Jenna & Gavin Stitt	7700 W. Arrowhead Town Center, Space 1238 Glendale, AZ 85308	504-613-7721
J.J. Linaberger Corp. Justin Linaberger & Ruth Briggs	4250 Anthem Way, Suite 485 Phoenix, AZ 85027	480-659-0256
Frozen Geckos, Inc. Michael & Melinda Hockett	2510 W Happy Valley Rd., #1251 Phoenix, AZ 85085	602-942-6266
Scottsdale Chocolates LLC Jaime Quinn	7014 Camelback Road, Suite 2200 Scottsdale, AZ 85251	602-757-2505
Honey Bee Production LLC Fred & Dona Willis	9500 E. Via de Ventura, Suite 12-201 Scottsdale, AZ 85256	480-473-0229
RM Sedona LLC Alexandra & Nick Vudrag	270 N State Route 89A, Suite 2 Sedona, AZ 86336	480-821-4503
E & S Kim Enterprises, Inc. Sean & Elise Kim	5000 Arizona Mills Circle #454 Tempe, AZ 85282	480-342-9993
J.J. Linaberger Corporation Justin Linaberger	2000 E. Rio Salado Parkway Tempe, AZ 85281	480-659-0256
<b>ARKANSAS</b>		
Zierka LLC Mary Jacobs	2203 Promenade Blvd., Ste 8108 Rogers, AR 72758	479-899-6700
<b>CALIFORNIA</b>		
Chad & Kara Felberg	5001 Willows Rd., Suite 301 Alpine, CA 91901	904-742-3543
B & H Factory, Inc. Peter & Anita Farzin	1065 Brea Mall, Ste 1044A Brea, CA 92821	949-215-8966
Jeffrey Craig & Christine McKnight	2485 Sand Creek Road, Ste 136 Brentwood, CA 94513	925-726-9284
CRAKIM, Inc. Kim Turner	740 Ventura Blvd., Ste. 506 Camarillo, CA 93010	509-763-2753
Chad & Kara Felberg	2015 Birch Rd. #909 Chula Vista, CA 91915	619-659-8104
Ken & Kim Beckett	100 Citadel Drive, Suite 442 Commerce, CA 90040	949-581-8241
JVP Group LLC Janvi Prakash Tolani & Satya Bikkina	278 Sun Valley Mall, Space D-135 Concord, CA 94520	408-887-6629
JWR Enterprises, Inc. Jerry & Cathy Ramirez	2785 Cabot Dr. #105 Corona, CA 92883	714-891-5814
Shree Siddhivinayak LLC Harshad & Jignasa Panchal	13000 Folsom Blvd., Suite 809 Folsom, CA 95630	562-522-7711
LaTricia's Gourmet Chocolates LLC LaTricia Adkins	175 Paseo Del Centro Fresno, CA 93720	816-308-3167
LaTricia's Gourmet Chocolates LLC LaTricia Adkins	639 E. Shaw Ave., Ste 167 Fresno, CA 93710	816-308-3167



RM-HB Chocolate LLC Timothy Schimming	7777 Edinger Ave., Suite C-178 Huntington Beach, CA 92648	714-901-3107
Daniel Capital Corporation Steve & Maxine Daniel	200 Main St., Suite 106 Huntington Beach, CA 92648	714-969-1795
East Valley Tourist Development Authority Fantasy Springs Resort and Casino	84245 Indio Springs Parkway Indio, CA 92203	760-238-5607
Al Hendizadeh	617 Spectrum Drive Irvine, CA 92618	949-833-2224
Sweet and Delightful RA, LLC Randa Basily	248 South Coast HWY Laguna Beach, CA 92651	949-496-4457
The Jessel Co. Bruce & Neva Jessel	28200 Hwy. 189, Suite C-200 Lake Arrowhead, CA 92352	909-337-7571
Bria Family, Inc. Stephen & Jeanne Bria	115 South School St, Ste 4 Lodi, CA 95240	209-339-0212
Daniel Capital Corporation Steve & Maxine Daniel	419 Shoreline Village Dr., Suite F Long Beach, CA 90802	714-969-1795
Tom & Susan Addis	6201 Minaret Rd., Space #213 Mammoth, CA 93546	951-769-6576
Tom & Susan Addis	46043 Old Mammoth Road Mammoth Lakes, CA 93546	951-769-6576
Vinnie & Anne Bhan	303 E. Yosemite Manteca, CA 95336	209-823-9638
JVP Group LLC Janvi Prakash Tolani & Satya Bikkina	170 Great Mall Drive Milpitas, CA 95035	503-391-8373
Noah's Arq, Inc. Jim & Celeste Kelber	2118 Montclair Plaza Lane Montclair, CA 91763	ckelber@hotmail.com
Heinemann Group, Inc. Hal & Vicki Heinemann	647 Cannery Row Monterey, CA 93940	805-466-4080
P A P Enterprises, Inc. Jim & Celeste Kelber	One Mills Circle, Ste. 809 Ontario, CA 91764	ckelber@hotmail.com
A & P Factory, Inc. Peter & Anita Farzin	20 City Blvd. West Bldg. A Orange, CA 92868	949-981-1482
NLN Chocolates LLC Nathan Nold	2200 Petaluma Blvd., Ste 410 Petaluma, CA 94952	816-273-4806
Heinemann Group, Inc. Hal & Vicki Heinemann	333 Five Cities Dr. Pismo Beach, CA 93449	805-466-4080
P A P Enterprises, Inc. Jim & Celeste Kelber	12545 N Main St. Rancho Cucamonga, CA 91739	ckelber@hotmail.com
R & K Delfiandra Partnership Raymond, Diane & Kevin Delfiandra	71-800 HWY 111, Sp. A-142 Rancho Mirage, CA 92270	760-342-5347
T & B LLC Felix & Stephanie Torres & Gina Borden	10060 Alabama St. Suite C Redlands, CA 92374	909-335-9735
L & R Chocolates, Inc. Ronald & Lisa Rudolph	1815 Hawthorne Blvd., #210 Redondo Beach, CA 90278	310-793-7691
Jerry & Cynthia Haws	1039 2nd Street Sacramento, CA 95814	530-891-4662
RM Chocolates Lake Elsinore LLC Robert & Danelle Schimming	101 W Avenida Vista Hermosa, Bldg #1-Ste 612 San Clemente, CA 92672	816-752-6542

Heinnmann Group, Inc. Hal & Vicki Heinemann	848 Higuera St. San Luis Obispo, CA 93401-3601	805-466-4080
Kesari Corp. Jinia Malhotra	Main Place Mall 2800 N. Main St., Ste 668 Santa Ana, CA 92705	714-875-0900
Heinnmann Group, Inc. Hal & Vicki Heinemann	1655 Copenhagen Drive Solvang, CA 93463	805-466-4080
Bria Family, Inc. Stephen & Jeanne Bria	1001 Heavenly Village Way, Unit 30B South Lake Tahoe, CA 96150	209-339-0212
Greenfelt LLC Raymond, Diane & Mallori Delfiandra	40820 Winchester Rd., Suite 2270 Temecula, CA 92591	951-926-6468
Dan & Teri Honsowetz	1413 Retherford St. #D163 Tulare, CA 93274	559-859-6297
Mike & Regina Burlison	131 Nut Tree Road, Suite D Vacaville, CA 95687	907-414-4161
Danisa LLC Daniel & Isabel Rocha	14400 Bear Valley Rd., Suite 801 Victorville, CA 92392	760-508-9822
Candy Ribbon, Inc. Ryan & Rachael Sproles	1030 Plaza Drive West Covina, CA 91790	562-342-9718
<b>COLORADO</b>		
Norman & Drew Carcasson	14200 E. Alameda, Space VC-09 Aurora, CO 80012	303-494-0741
Andrew & Tabatha Carcasson	6240 S. Main St., Ste 102 Aurora, CO 80016	303-783-0927
JC & Co. Inc. Tom & Jessica Cho	1300 Pearl Street Boulder, CO 80302	303-524-9799
Four Chocolatiers, Inc. Todd, Cristina, Brad & Bridee Maxwell Beyond Properties, LLC	226 S. Main St. G4 Reliance Pl. Breckenridge, CO 80424	303-269-1441
CJ Broomfield, LLC Tom Cho	1 W. Flatiron Circle, #1074 Broomfield, CO 80021	303-524-9799
CR Café LLC Jacob & Brianna Blaylock	5050 Factory Shops Blvd., Space 820 Castle Rock, CO 80108	816-273-3635
RKIC #2, Inc. Lola Mae Baalman & Kevin Baalman	1605 Briargate Pkwy, Suite 111 Colorado Springs, CO 80920	303-885-1449
RK Investment Company Lola Mae Baalman & Kevin Baalman	1710 Briargate Blvd., Space 185 Colorado Springs, CO 80920	303-885-1449
RK Investment Company Lola Mae Baalman & Kevin Baalman	750 Citadel Drive E., Space #1016 Colorado Springs, CO 80909	303-885-1449
RK Investment Company Lola Mae Baalman & Kevin Baalman,	2431 W. Colorado Ave. Colorado Springs, CO 80904	303-885-1449
Chocolate of the Rockies, Inc. Nancy Riemer & Kraig Henry	314 Elk Ave. Crested Butte, CO 81224	970-349-0233
Concessions International	8900 Pena Blvd. Concourse B-52 Denver, CO 80249	404-681-0300
Williams LLC Marissa & Eric Williams	1512 Larimer St., Space #44-R Denver, CO 80202	303-347-1679
Williams LLC Marissa & Eric Williams	500 16th Street, Ste 118 Denver, CO 80202	303-347-1679

Moose Creek Trading Company, Inc. Joan & Eric Adams	517 Big Thompson Ave. Estes Park, CO 80517	970-586-3463
Sweet Sensations I Inc. Kerri Reiger-Cole	215 E. Foothills Pkwy, Ste 525 Ft. Collins, CO 80525	970-663-5599
Sugarshak Enterprises LLC David & Melissa Stamler	408 S. Teller St. Lakewood, CO 80226	720-384-7799
Redstone Chocolates Anthony Higgins & Yang Ping	8501 W. Bowles Ave., Sp. 2B-125 Littleton, CO 80123	Anthony.4301@yahoo.com
Sweet Sensations II Inc. Kerri Reiger-Cole	5669 McWhinney Blvd. Loveland, CO 80538	970-663-5599
DAM Ventures LLC David & Meredith Smith	247 Rainbow Drive, G-250 Silverthorne, CO 80498	970-402-9634
Steamboat Chocolate, Inc. Michael & Beth Gagnebin	624 Lincoln Avenue Steamboat Springs, CO 80487	970-879-2987
Four Chocolatiers, Inc. Todd, Cristina, Brad & Bridee Maxwell	158 Gore Creek Drive Vail, CO 81657	303-269-1441
Sweet Cravings LLC Robert & Jane Burrell	14647 Delaware St. #1200 Westminster, CO 80020	303-543-0120
<b>FLORIDA</b>		
HaSiLa LLC Marissa & Eric Williams	10562 Hwy. 98 West, #117 Miramar Beach, FL 32550	303-347-1679
Chocolate Almon Corporation Bryan Almon	500 Prime Outlets Blvd., Space #290 St. Augustine, FL 32084-0397	407-465-1002
<b>IDAHO</b>		
Magic Pumpkin Properties LLC Sharon Fullmer	236 South, 2 <sup>nd</sup> East Rexburg, ID 83440	208-356-8069
<b>ILLINOIS</b>		
Jevon Martin	1650 Premium Outlets Blvd., Sp. 1279 Aurora, IL 60502	630-585-0025
The Grove Inc.	Terminal 1, Gate B-14 Chicago, IL 60666	708-531-1694
The Grove Inc.	Terminal 3, Upper Level, Space #T3H.U.33.B, Gate H-5 Chicago, IL 60666,	708-531-1694
Wand's Sweet Enterprises, Inc. Tim & Amanda Wand	207 South Main, St. Galena, IL 61036	815-275-8855
Cruse Creations, Inc. Lisa & Ron Cruse	1308 Commons Drive, Ste 5020 Geneva, IL 60134	cruseinc@gmail.com
La Grange Candy, Inc. Tyson Minnick & Erica Ricker	50-B La Grange Road La Grange, IL 60525	312-613-4965
Pamela & Thomas Lockowitz	541 N Milwaukee Avenue Libertyville, IL 60048	847-362-9288
HHM Corporation Kenneth, Scott-& Heather Mansholt	2835 Showplace Dr., Ste 111 Naperville, IL 60564	630-347-1785
Sugar Girls, Inc. Kim Smith	300 Happ Rd., Ste 114 Northfield, IL 60093	847-680-8271
<b>IOWA</b>		
Williamsburg Confections LLC Scott & Diane Wahe	1991 Tanger Drive, Suite 102A Williamsburg, IA 52361	319-668-2931
<b>KANSAS</b>		
Parra Group LLC Kathleen & Geovanny Parra	1837 Village West Pkwy, Ste 127 Kansas City, KS 66111	913-258-5692

<b>LOUISIANA</b>		
LA Chocolatiers LLC Cody Crail & Reed Peterman	711 Horseshoe Blvd. Bossier City, LA 71111	208-869-6673
<b>MICHIGAN</b>		
H & N Sweets LLC Hassan & Nadine Gomah	3116 Fairlane Drive, Allen Park, MI 48101,	313-274-4085
A.A. Gnyv Ventures LLC Andy & Alene Gnyv	4350 Baldwin Road, Space 712 Auburn Hills, MI 48326	615-300-7085
Birch Run's Ultimate Chocolate Shop LLC Rick Jackson & Jim Aman	8825 Marketplace Dr., Suite 425 Birch Run, MI 48415	740-272-1742
Mezzar Enterprizes LLC Andy & Alene Gnyv & Gary Krapfl	17420 Hall Road, Space 196 Clinton Township, MI 48038	615-300-7085
Elsa Enterprises, Inc. Alan Rosen	2800 W. Big Beaver Rd., Space N-124 Troy, MI 48084-1454	248-661-4885
<b>MINNESOTA</b>		
A Bridge to Market, Inc. Laure Holden	128 E Broadway Bloomington, MN 55425	952-444-2852
Debbie & Michael Bolen, Inc. Michael & Debbie Bolen	395 S. Lake Ave., Suite 4 Duluth, MN 55802	debbiebolen36@gmail.com
Debbie & Michael Bolen, Inc. Michael & Debbie Bolen	1600 Miller Trunk HWY Space K-100 Duluth, MN 55811	debbiebolen36@gmail.com
GolDen Chances, Inc. Gail Stein	4300 Glumack Dr. LT-2360 St. Paul, MN 55111	gjspringerstein@aol.com
<b>MISSISSIPPI</b>		
Oxford Sweets LLC Gail Miller	2305 W. Jackson, Suite 204 Oxford, MS 38655	662-236-2982
Legacy Catchings LLC Renata Ousby	1065 Highland Colony Park, Suite G Ridgeland, MS 39157	renataousby@gmail.com
RMCF – Vicksburg LLC Brady Ellis	4000 S. Frontage Road, Suite 112C Vicksburg, MS 39180	bradyellis.mwsu@gmail.com
<b>MISSOURI</b>		
Masters Foods LLC Michael & Kerri Daniels	403 Branson Landing Blvd Branson, MO 65616	785-893-0000
Momma's Making Chocolate LLC Mary Brady	30 W. Pershing, Suite 130 Kansas City, MO 64108	mbgeehan@aol.com
L & L Chocolates LLC Lloyd & Melinda Healy	4540 Hwy 54, M7 Osage Beach, MO 65065-2380	217-556-3424
RMCF St. Joe LLC Steve Craig	3715 Frederick Ave., Unit B St. Joseph, MO 64506-3018	949-224-4100
<b>NEVADA</b>		
Ol-Mar III, LLC Susan O'Leary	20 Via Bel Canto, #100 Henderson, NV 89011	candyoleary@aol.com
Two Chocolatiers LLC Cody Crail & Reed Peterman	4500 West Tropicana Ave. Las Vegas, NV 89103	208-869-6673
Cyril Chocolates, Inc. Cassandra Cyril	200 E. Fremont Street Las Vegas, NV 89101	816-929-5470
RMCF Laughlin LLC Cassandra Cyril	1955 South Casino Dr., Suite 338 Laughlin, NV 89029	816-929-5470
Zrinyi & Ingstad Investments, Inc. Greg Zrinyi & Brita Ingstad	5100 Mae Anne Ave, Ste 101 Reno, NV 89523	775-742-6888

<b>NEW HAMPSHIRE</b>		
Tilton Chocolate Shop, Inc. Jim Aman	120 Laconia Road, Suite 200 Tilton, NH 03276	740-272-1742
<b>NEW JERSEY</b>		
Pier Chocolates LLC Nada Koenigsberg	56 Centennial Drive Long Branch, NJ 07740	nkberg@comcast.net
<b>NEW MEXICO</b>		
ABQ Chocolate LLC Ross Theesen	6600 Menaul Blvd. NE, Suite D1 Albuquerque, NM 87110	816-244-6697
Cottonwood Chocolates LLC Ross Theesen	10000 Coors Blvd., Suite B5 Albuquerque, NM 87114	816-244-6697
GentryCorp LLC Steve Gentry	4601 East Main St. Farmington, NM 87402	970-749-4487
Taos Retail Company Chris Ellis	112 S. Plaza Taos, NM 87571	boweellis@gmail.com
<b>NORTH CAROLINA</b>		
Amesbury Lane, LLC Amanda Bostian	302 Colonades Way #203 Cary, NC 27518	abbostia@yahoo.com
Yong Koo & Ju Hee Han	6801 Northlake Mall Drive, Suite 185 Charlotte, NC 28216	704-540-5233
McCosh Chocolates, Inc. Jay McCosh & Cathy Thompson McCosh	Charlotte Douglas International Airport 5501 Josh Birmingham Pkwy Baggage Claim Zone D Charlotte, NC 28219	704-879-4629
McCosh Chocolates, Inc. Jay McCosh & Cathy Thompson McCosh	Charlotte Douglas International Airport, 5501 Josh Birmingham Pkwy Charlotte, NC 28208	704-879-4629
Alex Paul, Inc. Tae Min Kim and Hojin Yang	8111 Concord Mills Blvd., Suite 424 Concord, NC 28027	704-806-7571
Kim's Gone Cocoa LLC Kimberly Henderson	921 Park Center Drive Matthews, NC 28105	rmcf.sp.kim@gmail.com
Nived Ventures LLC Suren Eda Naarayana Kulothungan	8521 Brier Creek Parkway, Suite 103 Raleigh, NC 27616	919-806-8992
Innovative Retail Enterprises, LLC Jared Downs and Rudy Cook	3320 Silas Creek Parkway, Space AU572 Winston-Salem, NC 27103	980-825-8003
<b>OHIO</b>		
Brian A. Hinebaugh Enterprises LLC Brian & Amy Hinebaugh	1500 Polaris Pkwy, Suite 2022 Columbus, OH 43240	brianhinebaugh@yahoo.com
BRH Enterprises LLC Brian & Amy Hinebaugh	8205 Factory Shops Blvd. Jeffersonville, OH 43128	brianhinebaugh@yahoo.com
Brian A. Hinebaugh Enterprises LLC Brian & Amy Hinebaugh	25369 Cedar Road Lyndhurst, OH 44124	brianhinebaugh@yahoo.com
LIPE Corp. Peter & Lisa Vinocur	204 Crocker Park Blvd. Westlake, OH 44145	216-378-0382
<b>OKLAHOMA</b>		
John & Janna Boyer	714 S. Main Street Stillwater, OK 74074	405-624-1891
Lighthouse Custard LLC Susan & Ryan McAdams	10114 S Sheridan Road Tulsa, OK 74133	918-231-4022
<b>OREGON</b>		
Sola Fide, Inc. Michael & Rhonda Smith	33 E. Main St. Ashland, OR 97520	805-878-7157

CH Sweets, Inc. Ralph & Maria Holt & Gabriel Cooley & Anne Holt	261 Valley River Center Eugene, OR 97401	541-686-1571
Sweet Addictions, Inc. Carrie Lanig, R&C LeBeau & R & H Little	401 Center Street NE, Suite 285 Salem, OR 97301	503-391-8373
RMCF Troutdale LLC Erika Ricker & Steve Mitnick	450 NW 257th Ave., Space 336 Troutdale, OR 97060	816-294-9505
RMCF Woodburn LLC Amanda Keeling	1001 Arney Road, Suite 409 Woodburn, OR 97071	amanda.m.keeling@gmail.com
<b>PENNSYLVANIA</b>		
Subedi Brothers LLC Nandu Subedi, Mukti Subedi & Devi Subedi	5800 Peach Street, Space 275 Erie, PA 16565	814-602-0209
BBA Enterprises LLC Brian & Amy Hinebaugh	1911 Leesburg -Grove City Road, Suite 750 Grove City, PA 16127	brianhinebaugh@yahoo.com
<b>SOUTH DAKOTA</b>		
GKG LLC Kendra & Gary Larson, Gena & Merle Karen	507 6 <sup>th</sup> Street Rapid City, SD 57701	605-341-4827
<b>TENNESSEE</b>		
Nashville Chocolate, Inc. Andy & Alene Gnyp	348 Opry Mills Drive Nashville, TN 37214	615-300-7085
<b>TEXAS</b>		
The Slingerland Group, Inc. Philip & Joy Slingerland	820 W. Stacy Road, Unit 252 Allen, TX 75013	817-225-2304
Pink Tulips, Inc. Lorena Fourzan	7051 S. Desert Blvd, E 505 Canutillo, TX 79835	915-533-9839
G&V Sweet Treats Gabriel & Piedad Alvarado	5488 S. Padre Island Drive, Ste 1056 Corpus Christie, TX 78411	Gab2771@gmail.com
Sweet Like Sugar, LLC Sergio & Renee Flores	8889 Gateway Blvd., West Suite #1302 El Paso, TX 79925	915-239-5009
Kay Whilden	2809 Preston Road, Suite 1250 Frisco, TX 75034	972-424-5089
Caravageli Ventures, Inc. Demastines, Demas-& Jennifer Caravageli	2225 Strand, Ste 103 Galveston, TX 77550	caravegeli@msn.com
The Slingerland Group, Inc. Philip & Joy Slingerland	3000 Grapevine Mills Pkwy, Ste. 258 Grapevine, TX 76051	817-225-2304
Hill Country Chocolatier LLC David & Iluminda Ott	303 Memorial City, Ste 850 Houston, TX 77024	830-964-2339

Cediel Concession Management, LLC Mario Cediel	George Bush Intercontinental Airport 3100 Terminal Rd, Terminal B Houston, TX 77032	mario@cedielconcessions.com
Cediel Concession Management, LLC Mario Cediel	George Bush Intercontinental Airport 3100 Terminal Rd, Terminal 13 Houston, TX 77032	mario@cedielconcessions.com
Cediel Concession Management, LLC Mario Cediel	Houston Hobby International Airport 7800 Airport Blvd. Houston, TX 77061 346-600-5163	mario@cedielconcessions.com

RGV Chocolate LLC Veronica & Patricia Barerra	La Plaza Mall 2200 S. 10th St., Ste C-75 Mc Allen, TX 78503	956-973-9659
VLB LLC Veronica & Patricia Barerra	3300 E Expressway 83, Ste 170 Mc Allen, TX 78501	956-973-9659
PVB LLC Veronica, Patricia, & Mirta Barrera	5001 E Expressway 83, Ste 331 Mercedes, TX 78570	956-973-9659
Sum'r Sweets LLC George & Martha Eason	2091 Summer Lee Drive, Ste 103 Rockwall, TX 75032	meason6@msn.com
Hill Country Chocolatier III LLC David & Iluminda Ott	4401 N. Hwy 35 #743 Round Rock, TX 78664	830-964-2339
Lazy M, Inc. Jim & Susan Manns	522 River Walk St San Antonio, TX 78205	830-980-2624
Hill Country Chocolatier LLC David & Iluminda Ott	4015 S Interstate 35, Suite 835 San Marcos, TX 78666	830-964-2339
KMCJ Enterprises LLC Marshall & Kristie Morton	301 Tanger Dr., Suite 201 Terrell, TX 75160	972-285-5539
<b>UTAH</b>		
RMCF Traverse Mountain LLC Steven Craig	3700 N. Cabelas Boulevard, Space 252 Lehi, UT 84043	949-224-4100
Happy Valley Chocolate, Inc. Dan & Sarah Ray	6117 S. State Street, Space D80 Murray, UT 84107	801-562-8543
Wasatch Back Chocolates LLC Chip & Kathy Pederson	510 Main Street Park City, UT 84060	kipinpc@aol.com
Wasatch Back Chocolates LLC Chip & Kathy Pederson	1385 Lowell Ave. Park City, UT 84060	kipinpc@aol.com
Chocolate Profit LLC Joilyn & Eric Anderson	4801 N. University Ave., Space 740 Provo, UT 84604	801-583-0624
Aspen Creek Enterprises Bill & Shaunna Durante	250 Red Cliffs Drive, Space 20 St. George, UT 84790	rmcf@bajabb.com
Happy Valley Chocolate, Inc. Dan & Sarah Ray	50 S. Main Street, Space 115A Salt Lake City, UT 84101	801-562-8543
Sweet Ventures, Inc. Iris S., Susy-Bonar	776 N Terminal Dr. Space 1 Salt Lake City, UT 84116	970-481-4866
Sweet Chocolate, Inc. Iris S, Susy-Bonar	776 N. Terminal Dr., Terminal 2, D5 Kiosk Salt Lake City, UT 84116	970-481-4866
Wasatch Front Chocolate, Inc. Chip & Kathy Pederson	158 So. Rio Grand St., MB 111 Salt Lake City, UT 84101	kipinpc@aol.com
<b>WASHINGTON</b>		
AW & MB Enterprises LLC Angela Walden & Monique Banta	444 Fashion Way Burlington, WA 98233	360-854-9138
Bavarian Village Chocolate LLC Kenneth & Morey Grosse	636 Front Street Leavenworth, WA 98826	509-763-2753
MacSpikj Chocolates LLC Tim & Pamela McWilliams	561 S. Fork Ave. SW, Ste. H North Bend, WA 98045	mcwilliams@reagan.com
Chocolate Enterprises Northwest LLC Ken & Sandy Fein, Ian Halcott & Carolyn Fein	1419 First Ave. Seattle, WA 98101	509-830-1413
ARCB LLC Aaron, Rachelle, Bruce & Candice Blackmer	808 West Main Spokane, WA 99201	509-924-4852

JJAB, LLC Angela & Brandon Whitley	10600 Quil Ceda Blvd., Ste 622 Tulalip, WA 98271	452-322-4215
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**EXHIBIT D  
(TO DISCLOSURE DOCUMENT)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISED STORES THAT HAVE CLOSED, TRANSFERRED, BEEN TERMINATED  
OR OTHERWISE LEFT THE SYSTEM DURING FISCAL YEAR 2021**

**From March 1, 2020 to February 28, 2021**

<b>NAME</b>	<b>ADDRESS</b>	<b>CONTACT INFO</b>
<b>ALASKA</b>		
FW Alaska Concession, Inc. Lorne Horning	146 Churchill Drive Saskatoon, SK, Canada S7K 3Y7	lornehorning@gmail.com
FW Alaska Concession, Inc. Andy Widjaya	Jl raya lembang no 193, Lembang jawa barat 40391 Indonesia	fwalaska@gmail.com
<b>CALIFORNIA</b>		
Chocolate Heaven LLC Gouya Ghadiri and Babak Pourmanafzadehardabilz	248 South Coast Hwy Laguna Beach, CA 92651	415-359-3590 <sup>(2)</sup>
Tee Cee LLC Todd Reed	854 Pine Avenue Novato, CA 94947	925-516-4065
Sweet and Delightful RA, LLC Randa Basily	27006 Pacific Terrace Drive Mission Viejo, CA 92692	315-560-9400 <sup>(1,2)</sup>
<b>FLORIDA</b>		
Chocolate Mike's, Inc. Mike Davis	6347 Old Divide Trail Parker, CO 80134	970-646-6318
Chocolate Mike's, Inc. John Davis	410 Parkview Lane Estes Park, CO 80517 33316	970-586-5474
<b>MISSOURI</b>		
Branson Confections LLC Karlye & Kevin Atwood	24232 W. 121 <sup>st</sup> Terrace Olathe, KS 66061	913-660-4315 <sup>(2)</sup>
<b>NEW JERSEY</b>		
Ava Karas Enterprises LLC Ihab Samuel	3710 Route 9, Suite F210 Freehold, NJ 07728	732-409-7623
<b>NEW MEXICO</b>		
LWSS LLC Bill & Monda Hafley	P.O. Box 69, Red River, NM 87558	575-754-2232
<b>WASHINGTON</b>		
ARCB LLC Aaron, Rachelle, Bruce & Candice Blackmer	1330 N. Argonne Road Suite C Spokane Valley, WA 99212	509-924-4852 <sup>(1)</sup>
<b>WISCONSIN</b>		
HMS Chocolates of Delafield WI Harry & Mary Schaff	W243 N2728 Creekside Drive Pewaukee, WI 53072	262-695-2453

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

<sup>(1)</sup> Denotes they currently own one or more additional stores.

<sup>(2)</sup> Denotes a transfer of store ownership.

**EXHIBIT E  
(TO DISCLOSURE DOCUMENT)**

**FINANCIAL STATEMENTS**

**GUARANTEE OF PERFORMANCE**

**and**

**AUDITED FINANCIAL STATEMENTS OF  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
FOR THE PERIODS ENDED  
FEBRUARY 28, 2021, FEBRUARY 29, 2020 AND FEBRUARY 28, 2019**

**and**


**UNAUDITED FINANCIAL STATEMENTS OF  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES FOR THE PERIOD  
ENDED AUGUST 31, 2021**

THESE FINANCIAL STATEMENTS WERE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED AN OPINION WITH REGARD TO THEIR CONTENT OR FORM.

## GUARANTEE OF PERFORMANCE

For value received, Rocky Mountain Chocolate Factory, Inc., a Delaware corporation (the "Guarantor"), located at 265 Turner Drive, Durango, Colorado 81303, absolutely and unconditionally guarantees to assume the duties and obligations of Rocky Mountain Chocolate Factory, Inc., a Colorado corporation, located at 265 Turner Drive, Durango, Colorado 81303 (the "Franchisor"), 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 obligations of the Franchisor under the franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor executes this guarantee at Durango, Colorado, on the 26<sup>th</sup> day of July, 2021

A handwritten signature in black ink, appearing to read "Bryan J. Merryman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bryan J. Merryman, CEO  
Rocky Mountain Chocolate Factory, Inc.

## Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors  
Rocky Mountain Chocolate Factory, Inc.

### ***Opinion on the Financial Statements***

We have audited the accompanying consolidated balance sheets of Rocky Mountain Chocolate Factory, Inc. (the "Company") as of February 28, 2021 and February 29, 2020; the related consolidated statements of income, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended February 28, 2021; and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of February 28, 2021 and February 29, 2020 and the results of its operations and its cash flows for each of the years in the three-year period ended February 28, 2021 in conformity with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

The Company's management is responsible for these financial statements. 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 the 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 included 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 Matters***

The critical audit matters communicated below are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that (1) relate 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 matters below, providing separate opinion on the critical audit matters or on the accounts or disclosures to which they relate.

To the Stockholders and Board of Directors  
Rocky Mountain Chocolate Factory, Inc.

### ***Accounts Receivable and Related Reserves***

As described in Note 1 to the consolidated financial statements, in the normal course of business, the Company extends credit to customers, primarily franchisees, that satisfy pre-defined credit criteria. An allowance for doubtful accounts is determined through analysis of the aging of accounts receivable, assessments of collectibility based on historical trends, and an evaluation of the impact of current and projected economic conditions. Estimates with regard to the collectibility of accounts receivable are reasonably likely to change in the future. The Company may experience the failure of its wholesale customers and franchisees, to whom it extends credit to pay amounts owed on time, or at all, particularly if such customers are significantly impacted by COVID-19.

We identified the Company's valuation of accounts receivable reserve as a critical audit matter. The principal considerations for our determination include management's analysis of determining the reserve for customer and franchisee accounts receivable is complex and highly subjective and the Company has significant balances that age significantly longer than normal payment terms. Further, the Company's customers and franchisees may be significantly impacted by COVID-19, making the estimates especially challenging as a result of market conditions.

The primary procedures we performed to audit this critical audit matter included the following:

- We obtained an understanding of the Company's accounting and control procedures for accounts receivable reserves within both IT and manual systems by which those transactions are initiated, authorized, recorded, processed, corrected as necessary, transferred to the general ledger, and reported in the financial statements.
- We performed a retrospective review of the prior year allowance for doubtful accounts to determine whether management judgments and assumptions relating to the estimates indicate possible bias on the part of management.
- We confirmed year-end account balances directly with a sample of customers. We also reviewed year-end account balances for which subsequent cash receipts were not received through fieldwork dates. For those balances, we inquired of management regarding any collectibility issues of any uncollected accounts receivable outside the normal payment cycle.
- We obtained the accounts receivable aging and compared the balances to the general ledger. We performed analytical procedures on the accounts receivable aging and evaluated the reserve for bad debts. We also performed other analytical procedures related to bad debt expense and the allowance for accounts receivable.
- We inquired of the client regarding any receivables with collectibility concerns and concluded on whether such circumstances have been taken into account in the recorded receivables balance.

### ***Intangible Asset and Goodwill Impairments***

As described in Notes 1 and 8 to the consolidated financial statements, the Company reviews its amortized intangible assets whenever events or changes in circumstances indicate the carrying amount of such assets may not be recoverable. The Company performs a goodwill impairment test on an annual basis or more frequently when events or circumstances indicate that the carrying value of a reporting unit more likely than not exceeds its fair value. The Company assessed the changes in circumstances related to COVID-19 during the Company's first quarter to determine if an impairment occurred, and if so, the amount of impairment necessary.

To the Stockholders and Board of Directors  
Rocky Mountain Chocolate Factory, Inc.

We identified the Company's impairment assessment of intangible assets and goodwill as a critical audit matter. The principal considerations for our determination include the high degree of auditor judgment and subjectivity in applying procedures relating to the assessment and impairment of the Company's intangible assets and goodwill. This was driven by significant management judgment when determining fair value, including (1) the fair value approaches, (2) the future cash flows used in the impairment tests, and (3) other inputs used in the valuation including comparable company multiples, discount rates, and return on equity. In addition, the audit effort involved the use of fair value specialists to assist in performing audit procedures over these assumptions and evaluating the audit evidence obtained.

The primary procedures we performed to audit this critical audit matter included the following:

- We obtained an understanding of management's accounting and control procedures over the impairment tests, including validation of the assumptions included in the impairment analysis for both the intangible assets and goodwill and the evaluation of the methodology used in determining the magnitude of impairment charges.
- We evaluated the inputs used in the intangible assets and goodwill impairment tests, including cash flow projections, scenario analysis, discount rates, a multi-period excess earning model, a relief from royalty method, return on equity assumptions, and comparable company multiples.
- We compared the undiscounted cash flows used in the intangible assets impairment test to the carrying value of the assets to evaluate whether an impairment existed. Further, we recalculated the difference between the carrying value and the fair value to validate the amount of computed impairment.
- With the assistance of our fair value specialists, we evaluated the reasonableness of the calculated amount of fair value of the intangible assets and goodwill.
- We evaluated the reasonableness of the fair value calculated under the combination of income and market approaches.
- We evaluated the Company's disclosures related to the impairment charges.

*Plante & Moran, PLLC*

We have served as the Company's auditor since 2004.

Boulder, Colorado  
June 1, 2021

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS

FOR THE YEARS ENDED FEBRUARY 28 OR 29,  
2021                      2020                      2019

<b>Revenues</b>			
Sales	\$ 19,179,447	\$ 24,718,968	\$ 27,563,794
Franchise and royalty fees	4,301,258	7,130,828	6,981,653
<b>Total Revenue</b>	<b>23,480,705</b>	<b>31,849,796</b>	<b>34,545,447</b>
<b>Costs and Expenses</b>			
Cost of sales	16,118,625	18,214,896	20,599,551
Franchise costs	1,715,588	1,882,185	1,980,781
Sales and marketing	1,712,834	1,922,650	2,210,800
General and administrative	5,258,035	5,735,971	3,432,618
Retail operating	1,381,754	1,791,689	1,934,891
Depreciation and amortization, exclusive of depreciation and amortization expense of \$625,526, \$597,430, and \$555,926, respectively, included in cost of sales	710,656	895,395	1,153,873
Costs associated with Company-owned store closures	57,100	15,400	226,981
<b>Total costs and expenses</b>	<b>26,954,592</b>	<b>30,458,186</b>	<b>31,539,495</b>
<b>Income (Loss) from Operations</b>	<b>(3,473,887)</b>	<b>1,391,610</b>	<b>3,005,952</b>
<b>Other Income (Expense)</b>			
Interest expense	(94,506)	(19,016)	(70,787)
Interest income	17,662	29,738	20,496
Gain on insurance recovery	210,464	-	-
Paycheck Protection Program	1,548,576	-	-
Other income (expense), net	1,682,196	10,722	(50,291)
<b>Income Before Income Taxes</b>	<b>(1,791,691)</b>	<b>1,402,332</b>	<b>2,955,661</b>
<b>Income Tax Provision</b>	<b>(891,914)</b>	<b>368,500</b>	<b>716,862</b>
<b>Consolidated Net Income (Loss)</b>	<b>\$ (899,777)</b>	<b>\$ 1,033,832</b>	<b>\$ 2,238,799</b>
<b>Basic Earnings per Common Share</b>	<b>\$ (0.15)</b>	<b>\$ 0.17</b>	<b>\$ 0.38</b>
<b>Diluted Earnings per Common Share</b>	<b>\$ (0.15)</b>	<b>\$ 0.17</b>	<b>\$ 0.37</b>
<b>Weighted Average Common Shares</b>			
<b>Outstanding - Basic</b>	<b>6,067,461</b>	<b>5,986,371</b>	<b>5,931,431</b>
<b>Dilutive Effect of Employee</b>			
<b>Stock Awards</b>	<b>-</b>	<b>268,972</b>	<b>51,207</b>
<b>Weighted Average Common Shares</b>			
<b>Outstanding - Diluted</b>	<b>6,067,461</b>	<b>6,255,343</b>	<b>5,982,638</b>

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS

	AS OF FEBRUARY 28 OR 29,	
	2021	2020
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 5,633,279	\$ 4,822,071
Accounts receivable, less allowance for doubtful accounts of \$1,341,853 and \$638,907, respectively	2,007,502	4,049,959
Notes receivable, current portion, less current portion of the valuation allowance of \$32,571 and \$0, respectively	84,819	160,700
Refundable income taxes	774,527	418,319
Inventories	4,062,885	3,750,978
Other	213,811	409,703
<b>Total current assets</b>	<b>12,776,823</b>	<b>13,611,730</b>
<b>Property and Equipment, Net</b>	<b>5,152,015</b>	<b>5,938,013</b>
<b>Other Assets</b>		
Notes receivable, less current portion and valuation allowance of \$79,716 and \$0, respectively	42,525	289,515
Goodwill, net	729,701	1,046,944
Franchise rights, net	2,519,764	3,047,688
Intangible assets, net	395,946	498,393
Deferred income taxes	1,144,764	630,078
Lease right of use asset	1,925,591	2,698,765
Other	264,023	56,262
<b>Total other assets</b>	<b>7,022,314</b>	<b>8,267,645</b>
<b>Total Assets</b>	<b>\$ 24,951,152</b>	<b>\$ 27,817,388</b>
<b>Liabilities and Stockholders' Equity</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 1,297,211	\$ 2,241,506
Accrued salaries and wages	735,241	716,860
Gift card liabilities	617,438	609,842
Other accrued expenses	253,345	316,751
Dividend payable	-	722,344
Contract liabilities	194,737	195,658
Lease liability	682,348	803,861
<b>Total current liabilities</b>	<b>3,780,320</b>	<b>5,606,822</b>
<b>Lease Liability, Less Current Portion</b>	<b>1,278,354</b>	<b>1,894,904</b>
<b>Contract Liabilities, Less Current Portion</b>	<b>924,909</b>	<b>960,151</b>
<b>Commitments and Contingencies</b>		
<b>Stockholders' Equity</b>		
Preferred stock, \$.001 par value per share; 250,000 authorized; -0- shares issued and outstanding		
Series A Junior Participating Preferred Stock; 50,000 authorized; -0- shares issued and outstanding	-	-
Undesignated series; 200,000 shares authorized; -0- shares issued and outstanding	-	-
Common stock, \$.001 par value, 46,000,000 shares authorized, 6,074,293 shares and 6,019,532 shares issued and outstanding, respectively	6,074	6,020
Additional paid-in capital	7,971,712	7,459,931
Retained earnings	10,989,783	11,889,560
<b>Total stockholders' equity</b>	<b>18,967,569</b>	<b>19,355,511</b>
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$ 24,951,152</b>	<b>\$ 27,817,388</b>

The accompanying notes are an integral part of these consolidated financial statements.



ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY

	FOR THE YEARS ENDED FEBRUARY 28 OR 29,		
	2021	2020	2019
<b>Common Stock</b>			
Balance at beginning of year	\$ 6,020	\$ 5,958	\$ 5,903
Issuance of common stock	-	23	6
Equity compensation, restricted stock units	54	39	49
Balance at end of year	6,074	6,020	5,958
<b>Additional Paid-In Capital</b>			
Balance at beginning of year	7,459,931	6,650,864	6,131,147
Issuance of common stock	-	210,951	55,971
Equity compensation, restricted stock units	511,781	598,116	463,746
Balance at end of year	7,971,712	7,459,931	6,650,864
<b>Retained Earnings</b>			
Balance at beginning of year	11,889,560	13,733,010	13,419,553
Net (loss) income attributable to RMCF stockholders	(899,777)	1,033,832	2,238,799
Cash dividends declared	-	(2,877,282)	(2,851,271)
Adoption of ASC 606 <sup>1</sup>	-	-	925,929
Balance at end of year	10,989,783	11,889,560	13,733,010
<b>Total Stockholders' Equity</b>	<b>18,967,569</b>	<b>19,355,511</b>	<b>20,389,832</b>
<b>Common Shares</b>			
Balance at beginning of year	6,019,532	5,957,827	5,903,436
Issuance of common stock	-	22,870	5,333
Equity compensation, restricted stock units	54,761	38,835	49,058
Balance at end of year	6,074,293	6,019,532	5,957,827

<sup>1</sup> Refer to Note 3 for information on the adoption of ASC 606.

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS

FOR THE YEARS ENDED FEBRUARY 28 OR 29,  
2021                      2020                      2019

**Cash Flows From Operating Activities**

Net (Loss) Income	\$	(899,777)	\$	1,033,832	\$	2,238,799
Adjustments to reconcile net income (loss) to net cash provided by operating activities:						
Depreciation and amortization		1,336,182		1,492,825		1,709,799
Provision for obsolete inventory		262,156		360,614		325,478
Provision for loss on accounts and notes receivable		1,257,010		197,830		155,600
Asset impairment and store closure losses		532,602		15,400		67,822
(Gain) Loss on sale or disposal of property and equipment		(197,037)		11,174		36,024
Forgiveness of Paycheck Protection Program		(1,537,200)		-		-
Expense recorded for stock compensation		511,835		809,129		519,772
Deferred income taxes		(514,685)		(22,657)		(78,934)
Changes in operating assets and liabilities:						
Accounts receivable		1,022,975		(453,816)		(390,663)
Refundable income taxes		(356,209)		(228,118)		157,544
Inventories		(617,268)		297,306		41,310
Other current assets		195,891		(91,577)		(8,225)
Accounts payable		(901,090)		1,205,891		(545,588)
Accrued liabilities		(2,318)		(47,783)		(84,191)
Contract liabilities		(25,721)		(184,232)		(129,527)
Net cash provided by operating activities		67,346		4,395,818		4,015,020

**Cash Flows from Investing Activities**

Proceeds received on notes receivable	85,345	146,455	102,256
Purchase of intangible assets	(99,048)	(75,000)	-
Proceeds from insurance recovery	304,962	-	-
Proceeds from the sale or distribution of assets	-	763	13,498
Purchases of property and equipment	(154,492)	(983,941)	(613,786)
(Increase) decrease in other assets	(207,761)	314	(8,140)
Net cash used in investing activities	(70,994)	(911,409)	(506,172)

**Cash Flows from Financing Activities**

Payments on long-term debt	-	(1,176,488)	(1,352,821)
Proceeds from Paycheck Protection Program	1,537,200	-	-
Dividends paid	(722,344)	(2,869,877)	(2,844,984)
Net cash provided by (used in) financing activities	814,856	(4,046,365)	(4,197,805)

**Net Increase (Decrease) in Cash and Cash Equivalents**

811,208                      (561,956)                      (688,957)

**Cash and Cash Equivalents, Beginning of Period**

4,822,071                      5,384,027                      6,072,984

**Cash and Cash Equivalents, End of Period**

\$ 5,633,279                      \$ 4,822,071                      \$ 5,384,027

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Operations

The accompanying consolidated financial statements include the accounts of Rocky Mountain Chocolate Factory, Inc., a Delaware corporation, its wholly-owned subsidiaries, Rocky Mountain Chocolate Factory, Inc. (a Colorado corporation), Aspen Leaf Yogurt, LLC ("ALY"), and U-Swirl International, Inc. ("U-Swirl"), and its 46%-owned subsidiary, U-Swirl, Inc. ("SWRL") (collectively, the "Company").

The Company is an international franchisor, confectionery manufacturer and retail operator. Founded in 1981, the Company is headquartered in Durango, Colorado and manufactures an extensive line of premium chocolate candies and other confectionery products. U-Swirl franchises and operates self-serve frozen yogurt cafés. The Company also sells its candy in select locations outside of its system of retail stores and licenses the use of its brand with certain consumer products.

U-Swirl operates self-serve frozen yogurt cafés under the names "U-Swirl," "Yogurtini," "CherryBerry," "Yogli Mogli Frozen Yogurt," "Fuzzy Peach Frozen Yogurt," "Let's Yo!" and "Aspen Leaf Yogurt."

The Company's revenues are currently derived from three principal sources: sales to franchisees and others of chocolates and other confectionery products manufactured by the Company; the collection of initial franchise fees and royalties from franchisees' sales; and sales at Company-owned stores of chocolates, frozen yogurt, and other confectionery products.

In FY 2020 and early FY 2021 we entered into a long-term strategic alliance and ecommerce agreements, respectively, with Edible Arrangements®, LLC and its affiliates ("Edible"), whereby it is intended that we would become the exclusive provider of certain branded chocolate products to Edible, its affiliates and its franchisees. Under the strategic alliance, Rocky Mountain Chocolate Factory branded products are intended to be available for purchase both on Edible's website as well as through over 1,000 franchised Edible locations nationwide. In addition, due to Edible's significant e-commerce expertise and scale, we have also executed an ecommerce licensing agreement with Edible, whereby Edible is expected to sell a wide variety of chocolates, candies and other confectionery products produced by the Company or its franchisees through Edible's websites. There is no assurance that the strategic alliance and ecommerce agreements will be deployed into our operations and to our satisfaction, or that we will achieve the expected full benefits from these agreements.

The following table summarizes the number of stores operating under the Rocky Mountain Chocolate Factory brand and its subsidiaries at February 28, 2021:

	Sold, Not Yet Open	Open	Total
Rocky Mountain Chocolate Factory			
Company-owned stores	-	2	2
Franchise stores - Domestic stores and kiosks	3	158	161
International license stores	1	53	54
Cold Stone Creamery - co-branded	5	96	101
U-Swirl (Including all associated brands)			
Company-owned stores - co-branded	-	3	3
Franchise stores - Domestic stores	1	65	66
Franchise stores - Domestic - co-branded	-	6	6
International license stores	-	1	1
<b>Total</b>	<b>10</b>	<b>384</b>	<b>394</b>

*Consolidation*

Management accounts for the activities of the Company and its subsidiaries, and the accompanying consolidated financial statements include the accounts of the Company and its subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

*Cash Equivalents*

The Company considers all highly liquid instruments purchased with an original maturity of three months or less to be cash equivalents. The Company continually monitors its positions with, and the credit quality of, the financial institutions with which it invests. As of the balance sheet date, and periodically throughout the year, the Company has maintained balances in various operating accounts in excess of federally insured limits. This amount was approximately \$5.1 million at February 28, 2021.

### *Accounts and Notes Receivable*

In the normal course of business, the Company extends credit to customers, primarily franchisees that satisfy pre-defined credit criteria. The Company believes that it has limited concentration of credit risk primarily because its receivables are secured by the assets of the franchisees to which the Company ordinarily extends credit, including, but not limited to, their franchise rights and inventories. An allowance for doubtful accounts is determined through analysis of the aging of accounts receivable, assessments of collectability based on historical trends, and an evaluation of the impact of current and projected economic conditions. The process by which the Company performs its analysis is conducted on a customer by customer, or franchisee by franchisee, basis and takes into account, among other relevant factors, sales history, outstanding receivables, customer financial strength, as well as customer specific and geographic market factors relevant to projected performance. The Company monitors the collectability of its accounts receivable on an ongoing basis by assessing the credit worthiness of its customers and evaluating the impact of reasonably likely changes in economic conditions that may impact credit risks. Estimates with regard to the collectability of accounts receivable are reasonably likely to change in the future. At February 28, 2021, the Company had \$239,631 of notes receivable outstanding and an allowance for doubtful accounts of \$112,287 associated with these notes, compared to \$450,215 of notes receivable outstanding and an allowance for doubtful accounts of \$0 at February 29, 2020. The notes require monthly payments and bear interest rates ranging from 4.5% to 6%. The notes mature through November 2023 and approximately \$135,000 of notes receivable are secured by the assets financed. The Company may experience the failure of its wholesale customers, including its franchisees, to whom it extends credit to pay amounts owed to the Company on time, or at all, particularly if such customers are significantly impacted by COVID-19. As of March 1, 2020 and 2019 the Company had \$4,049,959 and \$3,993,262, respectively, of accounts receivable.

### *Inventories*

Inventories are stated at the lower of cost or net realizable value, which is adjusted for obsolete, damaged and excess inventories to the lower of cost or net realizable value based on actual differences. The inventory value is determined through analysis of items held in inventory, and, if the recorded value is higher than the market value, the Company records an expense to reduce inventory to its actual market value. The process by which the Company performs its analysis is conducted on an item by item basis and takes into account, among other relevant factors, market value, sales history and future sales potential. Cost is determined using the first-in, first-out method.

### *Property and Equipment and Other Assets*

Property and equipment are recorded at cost. Depreciation and amortization are computed using the straight-line method based upon the estimated useful life of the asset, which range from five to thirty-nine years. Leasehold improvements are amortized on the straight-line method over the lives of the respective leases or the service lives of the improvements, whichever is shorter.

The Company reviews its long-lived assets through analysis of estimated fair value, including identifiable intangible assets, whenever events or changes indicate the carrying amount of such assets may not be recoverable.

### *Income Taxes*

The Company provides for income taxes pursuant to the liability method. The liability method requires recognition of deferred income taxes based on temporary differences between financial reporting and income tax basis of assets and liabilities, using current enacted income tax rates and regulations. These differences will result in taxable income or deductions in future years when the reported amount of the asset or liability is recovered or settled, respectively. Considerable judgment is required in determining when these events may occur and whether recovery of an asset, including the utilization of a net operating loss or other carryforward prior to its expiration, is more likely than not. Due to historical U-Swirl losses, prior to FY 2016 the Company established a full valuation allowance on the Company's deferred tax assets. During FY 2016 the Company took possession of the outstanding equity in U-Swirl. As a result of the Company's ownership increasing to 100%, the Company began filing consolidated income tax returns in FY 2017. Because of this change, the Company has recognized the full value of deferred tax assets that had full valuation allowances prior to FY 2016. During the fourth quarter of FY 2017 the Company further evaluated the value of deferred tax assets and determined that the assets are restricted due to a limitation on the deductibility of future losses in accordance with Section 382 of the Internal Revenue Code as a result of the foreclosure transaction. The Company's temporary differences are listed in Note 14.

### *Gift Card Breakage*

The Company and its franchisees sell gift cards that are redeemable for product in stores. The Company manages the gift card program, and therefore collects all funds from the activation of gift cards and reimburses franchisees for the redemption of gift cards in their stores. A liability for unredeemed gift cards is included current liabilities in the balance sheets.

There are no expiration dates on the Company's gift cards, and the Company does not charge any service fees. While the Company's franchisees continue to honor all gift cards presented for payment, the Company may determine the likelihood of redemption to be remote for certain cards due to long periods of inactivity. The Company has historically accumulated gift card liabilities and has not recognized breakage associated with the gift card liability. The adoption of ASU 2014-09, "REVENUE FROM CONTRACTS WITH

CUSTOMERS" ("ASC 606") during FY 2019 requires the use of the "proportionate" method for recognizing breakage, which the Company has not historically utilized. Upon adoption of ASC 606 the Company began recognizing breakage from gift cards when the gift card is redeemed by the customer or the Company determines the likelihood of the gift card being redeemed by the customer is remote ("gift card breakage"). The determination of the gift card breakage rate is based upon Company-specific historical redemption patterns. Accrued gift card liability was \$617,438 and \$609,842 at February 28, 2021 and February 29, 2020, respectively. The Company recognized breakage of \$53,160 and \$168,090 during FY 2021 and FY 2020, respectively. See Note 3 to the financial statements for a complete description of the adjustments recorded upon the adoption of ASC 606.

#### *Goodwill*

Goodwill arose primarily from two transaction types. The first type was the purchase of various retail stores, either individually or as a group, for which the purchase price was in excess of the fair value of the assets acquired. The second type was from business acquisitions, where the fair value of the consideration given for acquisition exceeded the fair value of the identified assets net of liabilities.

The Company performs a goodwill impairment test on an annual basis or more frequently when events or circumstances indicate that the carrying value of a reporting unit more likely than not exceeds its fair value. During FY 2021, as a result of the impact of the COVID-19 pandemic, the impairment test was completed during the three months ended May 31, 2020 (the first quarter). Recoverability of goodwill is evaluated through comparison of the fair value of each of the Company's reporting units with its carrying value. To the extent that a reporting unit's carrying value exceeds the implied fair value of its goodwill, an impairment loss is recognized. The Company's goodwill is further described in Note 7 to the financial statements.

#### *Franchise Rights*

Franchise rights arose from the entry into agreements to acquire substantially all of the franchise rights of Yogurtini, CherryBerry, Fuzzy Peach, Let's Yo! and Yogli Mogli. Franchise rights are amortized over a period of 20 years.

#### *Insurance and Self-Insurance Reserves*

The Company uses a combination of insurance and self-insurance plans to provide for the potential liabilities for workers' compensation, general liability, property insurance, director and officers' liability insurance, vehicle liability and employee health care benefits. Liabilities associated with the risks that are retained by the Company are estimated, in part, by considering historical claims experience, demographic factors, severity factors and other assumptions. While the Company believes that its assumptions are appropriate, the estimated accruals for these liabilities could be significantly affected if future occurrences and claims differ from these assumptions and historical trends.

#### *Sales*

The Company has performance obligations to sell products to franchisees and other customers, and revenue is recognized at a point in time. Control is transferred when the order has been shipped to a customer, utilizing a third party, or at the time of delivery when shipped on the Company's trucks. Revenue is measured based on the amount of consideration that is expected to be received by the Company for providing goods or services under a contract with a customer. Sales of products to franchisees and other customers are made at standard prices, without any bargain sales of equipment or supplies. Sales of products at retail stores are recognized at the time of sale.

#### *Rebates*

Rebates received from purveyors that supply products to the Company's franchisees are included in franchise royalties and fees. Product rebates are recognized in the period in which they are earned. Rebates related to Company-owned locations are offset against operating costs.

#### *Shipping Fees*

Shipping fees charged to customers by the Company's trucking department are reported as sales. Shipping costs incurred by the Company for inventory are reported as cost of sales or inventory.

#### *Franchise and Royalty Fees*

Beginning in FY 2019, upon adoption of ASC 606, the Company began recognizing franchise fees over the term of the associated franchise agreement, which is generally a period of 10 to 15 years. Prior to FY 2019, franchise fee revenue was recognized upon opening of the franchise store. In addition to the initial franchise fee, the Company also recognizes a marketing and promotion fee of one percent (1%) of franchised stores' gross retail sales and a royalty fee based on gross retail sales. The Company recognizes no royalty on franchised stores' retail sales of products purchased from the Company and recognizes a ten percent (10%) royalty on all other sales of product sold at franchise locations. Royalty fees for U-Swirl cafés are based on the rate defined in the acquired contracts for the franchise rights and range from 2.5% to 6% of gross retail sales.

### *Use of Estimates*

In preparing consolidated financial statements in conformity with accounting principles generally accepted in the United States of America, management is required to make estimates and assumptions that affect the reported amounts of assets, liabilities, the disclosure of contingent assets and liabilities, at the date of the consolidated financial statements, and revenues and expenses during the reporting period. Actual results could differ from those estimates.

### *Vulnerability Due to Certain Concentrations*

In June 2019, the Company's largest customer, FTD Companies, Inc. and its domestic subsidiaries ("FTD"), filed for Chapter 11 bankruptcy proceedings. As a part of such bankruptcy proceedings, divisions of FTD's business and certain related assets, including the divisions that the Company has historically sold product to, were sold through an auction to multiple buyers.

Revenue from FTD represented approximately \$243,000 or 1% of our total revenues during the year ended February 28, 2021, approximately \$1.5 million or 5% of our total revenues during the year ended February 29, 2020 and revenue of approximately \$3.1 million or 9% of our total revenues during the year ended February 28, 2019. Our future results may be adversely impacted by further decreases in the purchases of this customer or the loss of this customer entirely.

As described above, In FY 2020, we entered into a long-term strategic alliance whereby we intend to become the exclusive provider of certain branded chocolate products to Edible. Also in FY 2020, the founder of Edible was elected to the Company's Board of Directors, but subsequently resigned his position on the Board of Directors in January 2021. During the year ended February 28, 2021, the Company recognized approximately \$3.5 million or 15% of our total revenue from revenue related to purchases by Edible. Subsequent to February 28, 2021, certain disagreements arose between RMCF and Edible related to the strategic alliance and ecommerce agreements resulting in continuing discussions, the result of which are not currently determinable. There can be no assurance historical revenue levels will be indicative of future revenues.

### *Stock-Based Compensation*

At February 28, 2021, the Company had one stock-based compensation plan, the Company's 2007 Equity Incentive Plan (as amended and restated), for employees and non-employee directors which authorized the granting of equity awards.

The Company recognized \$511,835, \$866,177, and \$519,772 related to equity-based compensation expense during the years ended February 28 or 29, 2021, 2020 and 2019, respectively. Compensation costs related to share-based compensation are generally recognized over the vesting period.

During FY 2021, the Company did not grant any restricted stock units to employees or non-employee directors. During FY 2020, the Company granted 280,000 restricted stock units to employees and non-employee directors. There were no stock options granted to employees during FY 2021 or FY 2020. The restricted stock unit grants generally vest 17 to 20% annually, or 5% per quarter over a period of five to six years. The Company recognized \$511,835 of consolidated stock-based compensation expense related to restricted stock unit grants during FY 2021 compared with \$598,155 in FY 2020 and \$463,795 in FY 2019. Total unrecognized stock-based compensation expense of non-vested, non-forfeited shares granted, as of February 28, 2021 was \$1,614,140, which is expected to be recognized over the weighted average period of 3.7 years.

The Company did not issue any fully vested, unrestricted shares of stock to non-employee directors during the year ended February 28, 2021 compared to 14,078 shares issued during the year ended February 29, 2020 and 2,000 shares issued during the year ended February 28, 2019. In connection with these non-employee director stock issuances, the Company recognized \$0, \$130,172 and \$24,480 of stock-based compensation expense during year ended February 28 or 29, 2021, 2020 and 2019, respectively.

The Company issued 15,000 fully vested, unrestricted shares of stock as bonus compensation to its Chief Executive Officer during the year ended February 29, 2020 in consideration of the entry into a strategic alliance with Edible, as discussed below. Associated with this unrestricted stock award, the Company recognized \$137,850 in stock-based compensation expense during the year ended February 29, 2020.

### *Earnings Per Share*

Basic earnings per share is computed as net earnings divided by the weighted average number of common shares outstanding during each year. Diluted earnings per share reflects the potential dilution that could occur from common shares issuable through stock options and restricted stock units. Following the expiration of all outstanding options, during FY 2017, no stock options were excluded from diluted shares.

The weighted-average number of shares outstanding used in the computation of diluted earnings per share does not include outstanding common shares issuable if their effect would be anti-dilutive. During the year ended February 28, 2021, 960,677 shares of common stock warrants and 217,103 shares of unvested restricted stock units were excluded from the computation of diluted earnings per share because their effect would have been anti-dilutive.

### *Advertising and Promotional Expenses*

The Company expenses advertising costs as incurred. Total advertising expense for RMCF amounted to \$265,285, \$276,602, and \$275,441 for the fiscal years ended February 28 or 29, 2021, 2020 and 2019, respectively. Total advertising expense for U-Swirl and its brands amounted to \$95,215, \$203,004, and \$168,000 for the fiscal years ended February 28 or 29, 2021, 2020 and 2019, respectively.

### *Fair Value of Financial Instruments*

The Company's financial instruments consist of cash and cash equivalents, trade receivables, payables, notes payable and notes receivable. The fair value of all instruments approximates the carrying value, because of the relatively short maturity of these instruments.

### *Recent Accounting Pronouncements*

Except for the recent accounting pronouncements described below, other recent accounting pronouncements are not expected to have a material impact on our consolidated financial statements.

In June 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2016-13, Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments. ASU 2016-13 significantly changes the impairment model for most financial assets and certain other instruments. ASU 2016-13 will require immediate recognition of estimated credit losses expected to occur over the remaining life of many financial assets, which will generally result in earlier recognition of allowances for credit losses on loans and other financial instruments. ASU 2016-13 is effective for the Company's fiscal year beginning March 1, 2023 and subsequent interim periods. The Company is currently evaluating the impact the adoption of ASU 2016-13 will have on the Company's consolidated 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 manner in which an entity is required to test goodwill for impairment by eliminating Step 2 from the goodwill impairment test. Under the amendments in ASU 2017-04, an entity should (1) perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount, and (2) recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value, with the understanding that the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, ASU 2017-04 requires any reporting unit with a zero or negative carrying amount to perform Step 2 of the goodwill impairment test. We adopted ASU 2017-04 effective March 1, 2020 (the first quarter of our 2021 fiscal year). The adoption of ASU 2017-04 contributed to the impairment calculations contained within Note 8.

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes, which simplifies the accounting for income taxes. This guidance will be effective for entities for the fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020 on a prospective basis, with early adoption permitted. We will adopt ASU 2019-12 effective March 1, 2021 and do not expect the adoption of this guidance to have a material impact on our consolidated financial statements.

### *Related Party Transactions*

As described above, in FY 2020 and early FY 2021, the Company entered into a long-term strategic alliance and commerce agreement, respectively, with Edible whereby the Company is intended to become the exclusive provider of certain branded chocolate products to Edible. Also in FY 2020 the founder of Edible was elected to the Company's Board of Directors, but subsequently resigned his position on the Board of Directors in January 2021. During the year ended February 28, 2021, the Company recognized approximately \$3.5 million of revenue related to purchases from Edible, its affiliates and its franchisees.

### NOTE 2 - SUPPLEMENTAL CASH FLOW INFORMATION

For the three years ended February 28 or 29:

Cash paid (received) for:	2021	2020	2019
Interest	\$ 76,803	\$ 20,610	\$ 72,619
Income taxes	(21,021)	619,276	638,252
Non-cash Operating Activities			
Accrued Inventory	148,254	191,459	52,918
Non-cash Financing Activities			
Dividend payable	\$ -	\$ 722,344	\$ 714,939

### NOTE 3 –REVENUE FROM CONTRACTS WITH CUSTOMERS

Effective March 1, 2018, the Company adopted ASC 606. ASC 606 provides that revenues are to be 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. This new standard does not impact the Company's recognition of revenue from sales of confectionary items to the Company's franchisees and others, or in its Company-owned stores as those sales are recognized at the time of the underlying sale and are presented net of sales taxes and discounts. The standard also does not change the recognition of royalties and marketing fees from franchised or licensed locations, which are based on a percent of sales and recognized at the time the sales occur. The standard does change the timing in which the Company recognizes initial fees from franchisees and licensees for new franchise locations and renewals that affect the term of the franchise agreement. The Company generally receives a fee associated with the Franchise Agreement or License Agreement (collectively "Customer Contracts") at the time that the Customer Contract is entered. These Customer Contracts have a term of up to 20 years, however the majority of Customer Contracts have a term of 10 years. During the term of the Customer Contract the Company is obligated to many performance obligations that the Company has not determined are distinct. The resulting treatment of revenue from Customer Contracts is that the revenue is recognized proportionately over the life of the Customer Contract.

#### *Initial Franchise Fees, License Fees, Transfer Fees and Renewal Fees*

The Company's policy for recognizing initial franchise and renewal fees through February 28, 2018 was to recognize initial franchise fees upon new store openings and renewals that impact the term of the franchise agreement upon renewal. In accordance with the new guidance, the initial franchise services are not distinct from the continuing rights or services offered during the term of the franchise agreement, and will be treated as a single performance obligation. Beginning March 1, 2018, initial franchise fees are being recognized as the Company satisfies the performance obligation over the term of the franchise agreement, which is generally 10-15 years.

The following table summarizes contract liabilities as of February 28, 2021 and February 29, 2020:

	Twelve Months Ended	
	February 29 or 28:	
	2021	2020
Contract liabilities at the beginning of the year:	\$ 1,155,809	\$ 1,352,572
Revenue recognized	(226,720)	(324,982)
Contract fees received	201,000	140,750
Amortized gain on the financed sale of equipment	(10,443)	(12,531)
Contract liabilities at the end of the year:	\$ 1,119,646	\$ 1,155,809

At February 28, 2021, annual revenue expected to be recognized in the future, related to performance obligations that are not yet fully satisfied, are estimated to be the following:

2022	\$ 194,737
2023	184,224
2024	151,856
2025	136,780
2026	124,489
Thereafter	327,560
Total	\$ 1,119,646

#### *Gift Cards*

The Company's franchisees sell gift cards, which do not have expiration dates or non-usage fees. The proceeds from the sale of gift cards by the franchisees are accumulated by the Company and paid out to the franchisees upon customer redemption. The Company has historically accumulated gift card liabilities and has not recognized breakage associated with the gift card liability. The adoption of ASC 606 requires the use of the "proportionate" method for recognizing breakage, which the Company has not historically utilized. Upon adoption of ASC 606 the Company began recognizing breakage from gift cards when the gift card is redeemed by the customer or the Company determines the likelihood of the gift card being redeemed by the customer is remote ("gift card breakage"). The determination of the gift card breakage rate is based upon Company-specific historical redemption patterns.



NOTE 4 – DISAGGREGATION OF REVENUE

The following table presents disaggregated revenue by the method of recognition and segment:  
For the Year Ended February 28, 2021

Revenues recognized over time under ASC 606:						
	Franchising	Manufacturing	Retail		U-Swirl	Total
Franchise fees	\$ 178,042	\$ -	\$ -		\$ 48,678	\$ 226,720
Revenues recognized at a point in time:						
	Franchising	Manufacturing	Retail		U-Swirl	Total
Factory sales	-	17,321,001	-		-	17,321,001
Retail sales	-	-	896,793		961,653	1,858,446
Royalty and marketing fees	3,367,345	-	-		707,193	4,074,538
Total	\$ 3,545,387	\$ 17,321,001	\$ 896,793		\$ 1,717,524	\$ 23,480,705

For the Year Ended February 29, 2020

Revenues recognized over time under ASC 606:						
	Franchising	Manufacturing	Retail		U-Swirl	Total
Revenues recognized over time under ASC 606:						
Franchise fees	\$ 230,543	\$ -	\$ -		\$ 94,439	\$ 324,982
Revenues recognized at a point in time:						
	Franchising	Manufacturing	Retail		U-Swirl	Total
Factory sales	-	21,516,530	-		-	21,516,530
Retail sales	-	-	1,104,171		2,098,267	3,202,438
Royalty and marketing fees	5,300,089	-	-		1,505,757	6,805,846
Total	\$ 5,530,632	\$ 21,516,530	\$ 1,104,171		\$ 3,698,463	\$ 31,849,796

NOTE 5 - INVENTORIES

Inventories consist of the following at February 28 or 29:

	2021	2020
Ingredients and supplies	\$ 2,464,123	\$ 2,186,652
Finished candy	1,888,818	1,827,767
U-Swirl food and packaging	39,518	56,708
Reserve for slow moving inventory	(329,574)	(320,149)
Total inventories	\$ 4,062,885	\$ 3,750,978

NOTE 6 - PROPERTY AND EQUIPMENT, NET

Property and equipment consists of the following at February 28 or 29:

	2021	2020
Land	\$ 513,618	\$ 513,618
Building	4,827,807	5,031,395
Machinery and equipment	10,129,508	10,664,396
Furniture and fixtures	797,303	852,557
Leasehold improvements	985,407	1,154,396
Transportation equipment	429,789	440,989
	17,683,432	18,657,351
Less accumulated depreciation	(12,531,417)	(12,719,338)
Property and equipment, net	\$ 5,152,015	\$ 5,938,013

Depreciation expense related to property and equipment totaled \$765,764, \$786,648, and \$865,479 during the fiscal years ended February 28 or 29, 2021, 2020 and 2019, respectively.

NOTE 7 – GOODWILL AND INTANGIBLE ASSETS

Intangible assets consist of the following at February 28 or 29:

	Amortization Period	2021		2020	
		Gross Carrying Value	Accumulated Amortization	Gross Carrying Value	Accumulated Amortization
Intangible assets subject to amortization					
Store design	10 Years	\$ 394,826	\$ 221,504	\$ 295,779	\$ 215,653
Packaging licenses	3-5 Years	120,830	120,830	120,830	120,830
Packaging design	10 Years	430,973	430,973	430,973	430,973
Trademark/Non-competition agreements	5-20 Years	556,339	333,715	715,339	297,072
Franchise rights	20 Years	5,979,637	3,459,873	5,979,637	2,931,949
Total		7,482,605	4,566,895	7,542,558	3,996,477
Intangible assets not subject to amortization					
Franchising segment-					
Company stores goodwill		\$ 515,065		\$ 832,308	
Franchising goodwill		97,318		97,318	
Manufacturing segment-goodwill		97,318		97,318	
Trademark		20,000		20,000	
Total goodwill		729,701		1,046,944	
Total Intangible Assets		\$ 8,212,306	\$ 4,566,895	\$ 8,589,502	\$ 3,996,477

Amortization expense related to intangible assets totaled \$570,418, \$706,177, and \$844,320 during the fiscal years ended February 28 or 29, 2021, 2020 and 2019, respectively.

At February 28, 2021, annual amortization of intangible assets, based upon the Company's existing intangible assets and current useful lives, is estimated to be the following:

2022	\$ 483,959
2023	409,393
2024	346,672
2025	294,427
2026	251,342
Thereafter	1,129,917
Total	\$ 2,915,710

During FY 2020, the Company initiated a store design project. The initiative added approximately \$174,000 of intangible assets during FY 2021. This project will be amortized over a life of 10 years.

#### NOTE 8 – IMPAIRMENT OF LONG-LIVED AND INTANGIBLE ASSETS

We assess the potential impairment of our long-lived assets on an annual basis or whenever events or changes in circumstances indicate the carrying value of the assets or asset group may not be recoverable. Due to the significant impact of the COVID-19 pandemic on our operations, we determined it was necessary to perform an interim test of our long-lived assets during the three months ended May 31, 2020 as we believe that the COVID-19 pandemic was a triggering event. For the remainder of FY 2021, the Company does not believe there were any triggering events. Based on the results of these assessments, we recorded \$476,243 of goodwill and intangible impairment expense. This expense is presented within general and administrative expense on the Consolidated Statements of Operations. No additional tests for impairment were determined to be necessary during FY 2021.

The assessment of our goodwill, trademark and long-lived asset fair values includes many assumptions that are subject to risk and uncertainties. The primary assumptions, which are all Level 3 inputs of the fair value hierarchy (inputs to the valuation methodology that are unobservable and significant to the fair value measurement), used in our impairment testing consist of:

- Expected future cash flows from operation of our Company-owned units.
- Forecasted future royalty revenue, marketing revenue and associated expenses.
- Projected rate of royalty savings on trademarks.
- Our cost of capital.

As of February 28, 2021, costs associated with the impairment of long-lived and intangible assets consist of the following:

Company store goodwill impairment	\$317,243
Trademark intangible asset impairment	159,000
Company-owned store impairment of long-lived assets	57,100
Total	\$533,343

Certain interim tests conducted during the three months ended May 31, 2020 did not indicate a need for impairment. Franchise rights, store design, manufacturing segment goodwill and franchising goodwill tests succeeded during the interim period. We believe we have made reasonable estimates and judgements, however, further COVID-19-related impacts could cause interim testing to be performed in future periods and further impairments recorded if testing of impairments are not successful in future periods. Following the three months ended May 31, 2020 there have been no further events that would trigger subsequent testing for impairment.

#### NOTE 9 –NOTES PAYABLE

##### *Paycheck Protection Program*

During FY 2021 the Company received promissory notes pursuant to the Paycheck Protection Program (“PPP”), under the recently enacted Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) administered by the U.S. Small Business Administration (the “SBA Loans”). The Company received total proceeds of \$1.5 million from SBA Loans. During the three months ended November 30, 2020, approximately \$108,000 of the original loan proceeds was forgiven by the SBA and during the three months ended February 28, 2021 the remaining approximately \$1.4 million of the original loan proceeds was forgiven.

The amount of loan proceeds eligible for forgiveness was based on a formula based on a number of factors, including the amount of loan proceeds used by the Company during the period after the loan origination for certain purposes, including payroll costs, interest on certain mortgage obligations, rent payments on certain leases, and certain qualified utility payments, provided that, among other things, at least 60-75% of the loan amount is used for eligible payroll costs, the employer maintaining or rehiring employees and maintaining salaries at a certain level. In accordance with the requirements of the CARES Act and the PPP, the Company believes it has used the proceeds from the SBA Loans for qualifying expenses.

##### *Revolving Credit Line*

The Company has a \$5.0 million credit line for general corporate and working capital purposes, of which \$5.0 million was available for borrowing (subject to certain borrowing base limitations) as of February 28, 2021. The credit line is secured by substantially all of the Company’s assets, except retail store assets. Interest on borrowings is at LIBOR plus 2.25% (2.4% at February 28, 2021). Additionally, the

line of credit is subject to various financial ratio and leverage covenants. At February 28, 2021, the Company was in compliance with all such covenants. The credit line is subject to renewal in September 2021.

#### NOTE 10 - STOCK COMPENSATION PLANS

In FY 2021, stockholders approved an amendment and restatement of the 2007 Equity Incentive Plan (as amended and restated, the "2007 Plan"). The 2007 Plan allows awards of stock options, stock appreciation rights, stock awards, restricted stock and stock units, performance shares and performance units, and other stock- or cash-based awards.

The following table summarizes stock awards under the 2007 Plan as of February 28, 2021:

Original share authorization:	300,000
Prior plan shares authorized and incorporated in the 2007 Plan:	85,340
Additional shares authorized through 2007 Plan amendments:	600,000
Available for award:	985,340
Cancelled/forfeited:	201,815
Shares awarded as unrestricted shares, stock options or restricted stock units:	(866,487)
Shares available for award:	320,668

Information with respect to restricted stock unit awards outstanding under the 2007 Plan at February 28, 2021, and changes for the three years then ended was as follows:

	Twelve Months Ended		
	February 28 or 29:		
	2021	2020	2019
Outstanding non-vested restricted stock units at beginning of year:	265,555	25,002	77,594
Granted	-	280,000	-
Vested	(54,761)	(38,835)	(49,058)
Cancelled/forfeited	(1,344)	(612)	(3,534)
Outstanding non-vested restricted stock units as of February 28:	209,450	265,555	25,002
Weighted average grant date fair value	\$ 9.40	\$ 9.39	\$ 12.05
Weighted average remaining vesting period (in years)	3.68	4.56	0.38

The Company has no outstanding stock options as of February 28, 2021, February 29, 2020, or February 28, 2019.

#### NOTE 11 – LEASING ARRANGEMENTS

The Company conducts its retail operations in facilities leased under non-cancelable operating leases of up to ten years. Certain leases contain renewal options for between five and ten additional years at increased monthly rentals. Some of the leases provide for contingent rentals based on sales in excess of predetermined base levels.

The Company acts as primary lessee of some franchised store premises, which the Company then subleases to franchisees, but the majority of existing franchised locations are leased by the franchisee directly.

In some instances, the Company has leased space for its Company-owned locations that are now occupied by franchisees. When the Company-owned location was sold or transferred, the store was subleased to the franchisee who is responsible for the monthly rent and other obligations under the lease.

The following is a schedule of lease expense for all retail operating leases for the three years ended February 28 or 29:

	2021	2020	2019
Minimum rentals	\$ 428,421	\$ 733,190	\$ 1,030,536
Less sublease rentals	(113,515)	(318,000)	(572,000)
Contingent rentals	27,803	21,600	22,800
	\$ 342,708	\$ 436,790	\$ 481,336

The Company also leases trucking equipment and warehouse space in support of its manufacturing operations. Expense associated with trucking and warehouse leases is included in cost of sales on the consolidated statements of operations.

The following is a schedule of lease expense for trucking equipment operating leases for the three years ended February 28 or 29:

2021	2020	2019
340,731	342,297	325,229

ASU 2016-02 allows, as a practical expedient, the retention of the classification of existing leases as operating or financing. All of the Company's leases are classified as operating leases and that classification has been retained upon adoption. The Company does not believe the utilization of this practical expedient has a material impact on lease classifications.

The amount of the 'Right of Use Asset' and 'Lease Liability' recorded in the Consolidated Balance Sheets upon the adoption of ASU 2016-02 was \$3.3 million. The lease liability reflects the present value of the Company's estimated future minimum lease payments over the life of its leases. This includes known escalations and renewal option periods reasonably assured of being exercised. Typically, renewal options are considered reasonably assured of being exercised if the sales performance of the location remains strong. Therefore, the 'Right of Use Asset' and 'Lease Liability' include an assumption on renewal options that have not yet been exercised by the Company, and are not currently a future obligation. The Company has separated non-lease components from lease components in the recognition of the 'Right of Use Asset' and 'Lease Liability' except in instances where such costs were not practical to separate. To the extent that occupancy costs, such as site maintenance, are included in the 'Right of Use Asset' and 'Lease Liability,' the impact is immaterial. For franchised locations, the related occupancy costs including property taxes, insurance and site maintenance are generally required to be paid by the franchisees as part of the franchise arrangement. In addition, the Company is the lessee under non-store related leases such as storage facilities and trucking equipment. For leases where the implicit rate is not readily determinable, the Company uses an incremental borrowing rate to calculate the lease liability that represents an estimate of the interest rate the Company would incur to borrow on a collateralized basis over the term of a lease. The weighted average discount rate used for operating leases was 3.4% as of February 28, 2021. The total estimated future minimum lease payments is \$2.2 million.

As of February 28, 2021, maturities of lease liabilities for the Company's operating leases were as follows:

FYE 22	\$	694,755
FYE 23		437,445
FYE 24		315,962
FYE 25		164,223
FYE 26		63,727
Thereafter		489,090
Total	\$	2,165,202
Less: Imputed interest		(204,500)
Present value of lease liabilities:	\$	1,960,702

Weighted average lease term 6.9

The Company did not have any leases categorized as finance leases as of February 28, 2021.

#### NOTE 12 – COMMITMENTS AND CONTINGENCIES

##### *Purchase contracts*

The Company frequently enters into purchase contracts of between six to eighteen months for chocolate and certain nuts. These contracts permit the Company to purchase the specified commodity at a fixed price on an as-needed basis during the term of the contract. Because prices for these products may fluctuate, the Company may benefit if prices rise during the terms of these contracts, but it may be required to pay above-market prices if prices fall and it is unable to renegotiate the terms of the contract. As of February 28, 2021, the Company was contracted for approximately \$377,000 of raw materials under such agreements. The Company has designated these contracts as normal under the normal purchase and sale exception under the accounting standards for derivatives. These contracts are not entered into for speculative purposes.

##### *Litigation*

From time to time, the Company is involved in litigation relating to claims arising out of its operations. The Company records accruals for outstanding legal matters when it believes it is probable that a loss will be incurred and the amount can be reasonably estimated. At February 28, 2021, the Company was not a party to any legal proceedings that were expected, individually or in the aggregate, to have a material adverse effect on our business, financial condition or operating results.

#### NOTE 13 – STOCKHOLDERS’ EQUITY

##### Cash Dividend

The Company paid a quarterly cash dividend of \$0.12 per common share on March 13, 2020 to stockholders of record on February 28, 2020.

Future declarations of dividends will depend on, among other things, the Company's results of operations, financial condition, capital requirements, and on such other factors as the Company's Board of Directors may in its discretion consider relevant and in the best long-term interest of the Company's stockholders.

As previously announced in May 2020, the Board of Directors suspended the Company's first quarter cash dividend payment to preserve cash and provide additional flexibility in the current environment as a result of the economic impact of COVID-19. Furthermore, the Board of Directors has suspended future quarterly dividends until the significant uncertainty of the current public health crisis and global economic climate has passed, and the Board of Directors determines that resumption of dividend payments is in the best interest of the Company and its stockholders.

##### Stock Repurchases

On July 15, 2014, the Company publicly announced a plan to repurchase up to \$3.0 million of its common stock in the open market or in private transactions, whenever deemed appropriate by management. As of February 28, 2021, approximately \$638,000 remains available under the repurchase plan for further stock repurchases.

##### Warrants

In consideration of Edible entering into the exclusive supplier agreement and the performance of its obligations therein, on December 20, 2019, the Company issued Edible a warrant (the "Warrant") to purchase up to 960,677 shares of the Company's common stock (the "Warrant Shares") at an exercise price of \$8.76 per share. The Warrant Shares vest in annual tranches in varying amounts following each contract year under the exclusive supplier agreement, subject to, and only upon, Edible's achievement of certain revenue thresholds on an annual or cumulative five-year basis in connection with its performance under the exclusive supplier agreement. The Warrant expires six months after the final and conclusive determination of revenue thresholds for the fifth contract year and the cumulative revenue determination in accordance with the terms of the Warrant.

The Company determined that the grant date fair value of the warrants was de minimis and did not record any amount in consideration of the warrants. The Company utilized a Monte Carlo model for purposes of determining the grant date fair value.

#### NOTE 14 - INCOME TAXES

Income tax expense (benefit) is comprised of the following for the years ended February 28 or 29:

	2021	2020	2019
Current			
Federal	\$ (398,303)	\$ 306,000	\$ 653,226
State	21,074	85,157	142,570
Total Current	(377,229)	391,157	795,796
Deferred			
Federal	(441,734)	(19,350)	(67,410)
State	(72,951)	(3,307)	(11,524)
Total Deferred	(514,685)	(22,657)	(78,934)
Total	\$ (891,914)	\$ 368,500	\$ 716,862

A reconciliation of the statutory federal income tax rate and the effective rate as a percentage of pretax income is as follows for the years ended February 28 or 29:

	2021	2020	2019
Statutory rate	21.0%	21.0%	21.0%
State income taxes, net of federal benefit	4.0%	4.6%	3.4%
Paycheck Protection Program debt forgiveness	18.0%	0.0%	0.0%
Work opportunity tax credits	0.2%	(1.1)%	(0.7)%
Equity compensation tax expense	(1.7)%	1.4%	0.0%
Other	0.1%	0.4%	0.5%
Impact of CARES act	8.2%	0.0%	0.0%
Effective tax rate	49.8%	26.3%	24.2%

During FY 2021 the Company's effective tax rate resulted in recognition of an income tax benefit as a result of a pretax loss being recognized for the year, compared with income tax expense being recognized on pretax income during FY 2020 and FY 2019.

The components of deferred income taxes at February 28 or 29 are as follows:

	2021	2020
Deferred Tax Assets		
Allowance for doubtful accounts and notes	\$ 357,573	\$ 157,107
Inventories	81,042	78,724
Accrued compensation	140,702	137,786
Loss provisions and deferred income	389,858	397,535
Self-insurance accrual	31,721	37,623
Amortization	396,195	299,373
Restructuring charges	98,693	98,693
Accumulated net losses	445,414	401,699
Valuation allowance	(98,693)	(98,693)
Net deferred tax assets	\$ 1,842,505	\$ 1,509,847
Deferred Tax Liabilities		
Depreciation and amortization	(653,798)	(779,023)
Prepaid expenses	(43,943)	(100,746)
Deferred Tax Liabilities	(697,741)	(879,769)
Net deferred tax assets	\$ 1,144,764	\$ 630,078

The following table summarizes deferred income tax valuation allowances as of February 28 or 29:

	2021	2020
Valuation allowance at beginning of period	\$ 98,693	\$ 98,693
Tax expense (benefits) realized by valuation allowance	-	-
Tax benefits released from valuation allowance	-	-
Impact of tax reform	-	-
Valuation allowance at end of period	\$ 98,693	\$ 98,693

The effective income tax rate for the year ended February 28, 2021 increased from the years ended February 29, 2020 and February 28, 2019, primarily as a result of debt forgiveness income being realized with no associated income tax expense and the revaluation of a portion of deferred tax assets as a result of the Company realizing a taxable loss during FY 2021 that can be carried back to prior periods with a higher effective income tax rate.

Under the recently enacted CARES Act a net operating loss ("NOL") arising during the Company's fiscal year 2021 can be carried back for five years to offset the Company's taxable income for fiscal years 2016-2020. This five-year period spans Federal effective tax rates for the Company ranging from 21% to 34%, the result of the Tax Cuts and Jobs Act enacted during the Company's fiscal year ended February 28, 2018.

The Company's deferred tax assets are valued at the current federally enacted rate of 21%. The loss carryback provisions of the CARES Act will enable the Company to offset taxable income from prior years when federally enacted tax rates were higher than 21%. As a result, the Company incurred a gain associated with the revaluation of the Company's deferred tax assets in the amount of \$148,000 during FY 2021.

In December 2020 the Consolidated Appropriations Act, 2021 (bill) inclusive of additional coronavirus aid was signed into law. Among the many provisions of the bill, expenses related to the receipt of paychecks protection program funds ("PPP) that were previously determined to be non-deductible by the Internal Revenue Service ("IRS") may now be deducted for federal income tax purposes. As a result, the Company realized debt forgiveness income of \$1.5 million during FY 2021 with no associated income taxes.

The Company files income tax returns in the U.S. federal and various state taxing jurisdictions. With few exceptions, the Company is no longer subject to U.S. federal and state tax examinations in its major tax jurisdictions for periods before FY 2016. The Company's federal income tax returns have been examined for the years ended February 28 or 29, 2017, 2016, 2015 and 2014 and the examinations did not result in any changes to the income tax returns filed for these years.

Realization of the Company's deferred tax assets is dependent upon the Company generating sufficient taxable income, in the appropriate tax jurisdictions, in future years to obtain benefit from the reversal of net deductible temporary differences. The amount of deferred tax assets considered realizable is subject to adjustment in future periods if estimates of future taxable income are changed. Management believes that, with the exception of the deferred tax asset related to restructuring charges, it is more likely than not that RMCF will realize the benefits of its deferred tax assets as of February 28, 2021.

The Company accounts for uncertainty in income taxes by recognizing the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The Company measures the tax benefits recognized in the consolidated financial statements from such a position based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate resolution. The application of income tax law is inherently complex. As such, the Company is required to make judgments regarding income tax exposures. Interpretations of and guidance surrounding income tax law and regulations change over time and may result in changes to the Company's judgments which can materially affect amounts recognized in the balance sheets and statements of operations. The result of the assessment of the Company's tax positions did not have an impact on the consolidated financial statements for the years ended February 28 or 29, 2021 or 2020. The Company does not have any significant unrecognized tax benefits and does not anticipate a significant increase or decrease in unrecognized tax benefits within the next twelve months. Amounts are recognized for income tax related interest and penalties as a component of general and administrative expense in the statement of income and are immaterial for years ended February 28 or 29, 2021 and 2020.

As of February 29, 2016, the Company foreclosed on the outstanding equity of U-Swirl and U-Swirl was consolidated for income tax purposes. SWRL, along with U-Swirl had historically filed its own consolidated federal income tax return and reported its own Federal net operating loss carry forward. In accordance with Section 382 of the Internal Revenue Code, deductibility of SWRL's and U-Swirl's Federal net operating loss carryovers may be subject to annual limitation in the event of a change in control. The Company has performed a preliminary evaluation as to whether a change in control has taken place, and have concluded that there was a change of control with respect to the net operating losses of U-Swirl when the Company acquired its controlling ownership interest in January 2013 and again in February 2016 when the Company foreclosed on the stock of U-Swirl. The initial limitations will continue to limit deductibility of SWRL's and U-Swirl's net operating loss carryovers, but the annual loss limitation will be deductible to RMCF and U-Swirl International Inc. upon the filing of joint tax returns in FY 2017 and future years.

The Company estimates that the potential future tax deductions of U-Swirl's Federal net operating losses, limited by section 382, to be approximately \$1,811,000 with a resulting deferred tax asset of approximately \$445,000. U-Swirl's Federal net operating loss carryovers will expire at various dates beginning in 2026.

#### NOTE 15 - EMPLOYEE BENEFIT PLAN

The Company has a 401(k) plan called the Rocky Mountain Chocolate Factory, Inc. 401(k) Plan. Eligible participants are permitted to make contributions up to statutory limits. The Company makes a matching contribution, which vests ratably over a 3-year period, and is 25% of the employee's contribution up to a maximum of 1.5% of the employee's compensation. During the years ended February 28 or 29, 2021, 2020 and 2019, the Company's contribution was approximately \$62,000, \$61,000, and \$70,000, respectively, to the plan.



## NOTE 16 - OPERATING SEGMENTS

The Company classifies its business interests into five reportable segments: Rocky Mountain Chocolate Factory, Inc. Franchising, Manufacturing, Retail Stores, U-Swirl operations and Other, which is the basis upon which the Company's chief operating decision maker evaluates the Company's performance. The accounting policies of the segments are the same as those described in the summary of significant accounting policies in Note 1 to these consolidated financial statements. The Company evaluates performance and allocates resources based on operating contribution, which excludes unallocated corporate general and administrative costs and income tax expense or benefit. The Company's reportable segments are strategic businesses that utilize common merchandising, distribution, and marketing functions, as well as common information systems and corporate administration. All inter-segment sales prices are market based. Each segment is managed separately because of the differences in required infrastructure and the differences in products and services:

FY 2021	Franchising	Manufacturing	Retail	U-Swirl	Other	Total
Total revenues	\$ 3,549,055	\$ 18,316,165	\$ 896,793	\$ 1,717,524	\$ -	\$ 24,479,537
Intersegment revenues	(3,668)	(995,164)	-	-	-	(998,832)
Revenue from external customers	3,545,387	17,321,001	896,793	1,717,524	-	23,480,705
Segment profit (loss)	846,039	1,422,491	(309,799)	(636,474)	(3,113,948)	(1,791,691)
Total assets	1,338,990	9,330,194	634,124	4,907,029	8,740,815	24,951,152
Capital expenditures	150	103,003	4,505	4,975	41,859	154,492
Total depreciation & amortization	\$ 42,579	\$ 642,806	\$ 14,150	\$ 557,735	\$ 78,912	\$ 1,336,182
FY 2020	Franchising	Manufacturing	Retail	U-Swirl	Other	Total
Total revenues	\$ 5,535,564	\$ 22,570,723	\$ 1,104,171	\$ 3,698,463	\$ -	\$ 32,908,921
Intersegment revenues	(4,932)	(1,054,193)	-	-	-	(1,059,125)
Revenue from external customers	5,530,632	21,516,530	1,104,171	3,698,463	-	31,849,796
Segment profit (loss)	2,530,449	4,009,282	42,433	485,185	(5,665,017)	1,402,332
Total assets	1,221,975	11,796,822	1,006,320	6,026,394	7,765,877	27,817,388
Capital expenditures	24,422	840,459	28,443	3,997	86,620	983,941
Total depreciation & amortization	\$ 44,166	\$ 615,162	\$ 12,983	\$ 726,615	\$ 93,899	\$ 1,492,825
FY 2019	Franchising	Manufacturing	Retail	U-Swirl	Other	Total
Total revenues	\$ 5,361,528	\$ 25,324,024	\$ 1,272,009	\$ 3,737,606	\$ -	\$ 35,695,167
Intersegment revenues	(5,236)	(1,144,484)	-	-	-	(1,149,720)
Revenue from external customers	5,356,292	24,179,540	1,272,009	3,737,606	-	34,545,447
Segment profit (loss)	2,288,871	4,310,722	(52,009)	(32,391)	(3,559,532)	2,955,661
Total assets	1,182,355	12,267,458	1,001,419	5,264,989	6,505,920	26,222,141
Capital expenditures	3,548	526,402	9,617	16,512	57,707	613,786
Total depreciation & amortization	\$ 46,369	\$ 573,846	\$ 32,762	\$ 952,178	\$ 104,644	\$ 1,709,799

NOTE 17 – SUMMARIZED QUARTERLY DATA (UNAUDITED)

Following is a summary of the quarterly results of operations for the fiscal years ended February 28 or 29, 2021 and 2020:

2021	Fiscal Quarter					Total
	First	Second	Third	Fourth		
Total revenue	\$ 2,702,437	\$ 5,327,402	\$ 7,228,867	\$ 8,221,999	\$ 23,480,705	
Gross margin	(561,005)	940,589	1,413,765	1,267,473	3,060,822	
Net (loss) income	(3,667,397)	76,132	523,695	2,167,793	(899,777)	
Basic earnings per share	(0.61)	0.01	0.09	0.36	(0.15)	
Diluted earnings per share	\$ (0.61)	\$ 0.01	\$ 0.08	\$ 0.35	(0.15)	

2020	Fiscal Quarter					Total
	First	Second	Third	Fourth		
Total revenue	\$ 8,425,999	\$ 7,385,270	\$ 7,913,252	\$ 8,125,275	\$ 31,849,796	
Gross margin	1,845,867	1,645,605	1,534,424	1,478,176	6,504,072	
Net (loss) income	711,609	918,088	(71,637)	(524,228)	1,033,832	
Basic earnings per share	0.12	0.15	(0.01)	(0.09)	0.17	
Diluted earnings per share	\$ 0.11	\$ 0.15	\$ (0.01)	\$ (0.08)	0.17	

NOTE 18 – COSTS ASSOCIATED WITH COMPANY-OWNED STORE CLOSURES

Costs associated with Company-owned store closures at February 28 or 29, 2021, 2020 and 2019 were comprised of the following:

	2021	2020	2019
Loss on distribution of assets	\$ 57,100	\$ 15,400	\$ 81,981
Lease settlement costs	-	-	145,000
Total	\$ 57,100	\$ 15,400	\$ 226,981

**PART I. FINANCIAL INFORMATION**

**Item 1. Financial Statements**

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(unaudited)

	Three Months Ended August 31,		Six Months Ended August 31,	
	2021	2020	2021	2020
<b>Revenues</b>				
Sales	\$ 5,944,027	\$ 3,994,152	\$ 11,774,225	\$ 6,316,363
Franchise and royalty fees	1,982,050	1,333,250	3,745,563	1,713,476
Total Revenue	7,926,077	5,327,402	15,519,788	8,029,839
<b>Costs and Expenses</b>				
Cost of sales	4,072,082	3,053,563	8,618,679	5,936,779
Franchise costs	737,180	451,003	1,288,830	872,248
Sales and marketing	405,935	408,919	818,592	883,009
General and administrative	1,864,304	788,543	2,709,125	3,968,018
Retail operating	440,173	329,367	884,240	648,578
Depreciation and amortization, exclusive of depreciation and amortization expense of \$157,698, \$158,203, \$309,597 and \$315,712, respectively, included in cost of sales	148,578	176,650	296,593	362,255
Costs associated with Company-owned store closures	-	-	-	68,558
Total costs and expenses	7,668,252	5,208,045	14,616,059	12,739,445
<b>Income (Loss) from Operations</b>	<b>257,825</b>	<b>119,357</b>	<b>903,729</b>	<b>(4,709,606)</b>
<b>Other Income (Expense)</b>				
Interest Expense	-	(23,989)	-	(47,551)
Interest Income	2,582	5,365	7,153	11,165
Gain on insurance recovery	-	-	167,123	-
Other income (expense), net	2,582	(18,624)	174,276	(36,386)
<b>Income (Loss) Before Income Taxes</b>	<b>260,407</b>	<b>100,733</b>	<b>1,078,005</b>	<b>(4,745,992)</b>
<b>Income Tax Provision (Benefit)</b>	<b>63,474</b>	<b>24,601</b>	<b>301,267</b>	<b>(1,154,727)</b>
<b>Consolidated Net Income (Loss)</b>	<b>\$ 196,933</b>	<b>\$ 76,132</b>	<b>\$ 776,738</b>	<b>\$ (3,591,265)</b>
<b>Basic Earnings (Loss) per Common Share</b>	<b>\$ 0.03</b>	<b>\$ 0.01</b>	<b>\$ 0.13</b>	<b>\$ (0.59)</b>
<b>Diluted Earnings (Loss) per Common Share</b>	<b>\$ 0.03</b>	<b>\$ 0.01</b>	<b>\$ 0.12</b>	<b>\$ (0.59)</b>
<b>Weighted Average Common Shares</b>				
Outstanding - Basic	6,123,861	6,066,034	6,121,147	6,062,443
Dilutive Effect of Employee Stock Awards	167,591	219,043	169,434	-
<b>Weighted Average Common Shares Outstanding - Diluted</b>	<b>6,291,452</b>	<b>6,285,077</b>	<b>6,290,581</b>	<b>6,062,443</b>

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS

	August 31, 2021 (unaudited)	February 28, 2021
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 6,731,330	\$ 5,633,279
Accounts receivable, less allowance for doubtful accounts of \$1,470,328 and \$1,341,853, respectively	2,270,062	2,007,502
Notes receivable, current portion, less current portion of the valuation allowance of \$32,579 and \$32,571,	67,351	84,819
Refundable income taxes	626,650	774,527
Inventories, net	5,188,433	4,062,885
Other	321,049	213,811
<b>Total current assets</b>	<b>15,204,875</b>	<b>12,776,823</b>
<b>Property and Equipment, Net</b>	<b>5,496,526</b>	<b>5,152,015</b>
<b>Other Assets</b>		
Notes receivable, less current portion and valuation allowance of \$79,708 and \$79,716, respectively	14,869	42,525
Goodwill, net	729,701	729,701
Franchise rights, net	2,298,916	2,519,764
Intangible assets, net	374,582	395,946
Deferred income taxes	1,202,450	1,144,764
Lease right of use asset	2,033,525	1,925,591
Other	62,148	264,023
<b>Total other assets</b>	<b>6,716,191</b>	<b>7,022,314</b>
<b>Total Assets</b>	<b>\$ 27,417,592</b>	<b>\$ 24,951,152</b>
<b>Liabilities and Stockholders' Equity</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 2,520,643	1,297,211
Accrued salaries and wages	754,057	735,241
Gift card liabilities	542,992	617,438
Other accrued expenses	388,843	253,345
Contract liabilities	200,876	194,737
Lease liability	615,136	682,348
<b>Total current liabilities</b>	<b>5,022,547</b>	<b>3,780,320</b>
<b>Lease Liability, Less Current Portion</b>	<b>1,456,862</b>	<b>1,278,354</b>
<b>Contract Liabilities, Less Current Portion</b>	<b>924,252</b>	<b>924,909</b>
<b>Commitments and Contingencies</b>		
<b>Stockholders' Equity</b>		
Preferred stock, \$.001 par value per share; 250,000 authorized; -0- shares issued and outstanding	-	-
Series A Junior Participating Preferred Stock, authorized 50,000 shares	-	-
Undesignated series, authorized 200,000 shares	-	-
Common stock, \$.001 par value, 46,000,000 shares authorized, 6,124,288 shares and 6,074,293 shares issued and outstanding, respectively	6,124	6,074
Additional paid-in capital	8,241,286	7,971,712
Retained earnings	11,766,521	10,989,783
<b>Total stockholders' equity</b>	<b>20,013,931</b>	<b>18,967,569</b>
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$ 27,417,592</b>	<b>\$ 24,951,152</b>

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(unaudited)

	Six Months Ended August 31,	
	2021	2020
<b>Cash Flows From Operating Activities</b>		
Net (loss) Income	\$ 776,738	\$ (3,591,265)
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	606,190	677,967
Provision for obsolete inventory	99,819	24,729
Provision for loss on accounts and notes receivable	-	1,468,815
Asset impairment and store closure losses	-	544,060
Loss (gain) on sale or disposal of property and equipment	(142,466)	7,823
Expense recorded for stock compensation	269,624	287,437
Deferred income taxes	(57,686)	(1,154,728)
Changes in operating assets and liabilities:		
Accounts receivable	(262,560)	(141,690)
Refundable income taxes	147,877	(71)
Inventories	(1,199,304)	(1,808,397)
Other current assets	(107,238)	19,445
Accounts payable	1,201,485	580,966
Accrued liabilities	83,230	103,564
Contract liabilities	11,747	(75,135)
Net cash (used in) provided by operating activities	1,427,456	(3,056,480)
<b>Cash Flows from Investing Activities</b>		
Proceeds received on notes receivable	45,121	44,995
Purchase of intangible assets	-	(99,047)
Proceeds from sale or distribution of assets	206,336	-
Purchases of property and equipment	(570,862)	(50,853)
Increase in other assets	(10,000)	-
Net cash used in investing activities	(329,405)	(104,905)
<b>Cash Flows from Financing Activities</b>		
Proceeds from long-term debt	-	1,537,200
Proceeds from the line of credit	-	3,448,165
Dividends paid	-	(722,344)
Net cash provided by (used in) financing activities	-	4,263,021
<b>Net Increase (Decrease) in Cash and Cash Equivalents</b>	<b>1,098,051</b>	<b>1,101,636</b>
<b>Cash and Cash Equivalents, Beginning of Period</b>	<b>5,633,279</b>	<b>4,822,071</b>
<b>Cash and Cash Equivalents, End of Period</b>	<b>\$ 6,731,330</b>	<b>\$ 5,923,707</b>

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY  
(unaudited)

	Common Stock		Additional	Retained	Total
	Shares	Amount	Paid-in Capital	Earnings	
<b>Balance as of May 31, 2020</b>	6,060,663	\$ 6,061	\$ 7,603,608	\$ 8,222,163	\$ 15,831,832
Consolidated net (loss) income				76,132	76,132
Issuance of common stock, vesting of restricted stock units and other	6,798	7	(7)		-
Equity compensation, restricted stock units			143,719		143,719
<b>Balance as of August 31, 2020</b>	6,067,461	\$ 6,068	\$ 7,747,320	\$ 8,298,295	\$ 16,051,683
<b>Balance as of February 29, 2020</b>	6,019,532	6,020	\$ 7,459,931	\$ 11,889,560	\$ 19,355,511
Consolidated net (loss) income				(3,591,265)	(3,591,265)
Issuance of common stock, vesting of restricted stock units and other	47,929	48	(48)		-
Equity compensation, restricted stock units			287,437		287,437
<b>Balance as of August 31, 2020</b>	6,067,461	\$ 6,068	\$ 7,747,320	\$ 8,298,295	\$ 16,051,683
<b>Balance as of May 31, 2021</b>	6,118,995	\$ 6,119	\$ 8,117,824	\$ 11,569,588	\$ 19,693,531
Consolidated net (loss) income				196,933	196,933
Issuance of common stock, vesting of restricted stock units and other	5,293	5	(5)		-
Equity compensation, restricted stock units			123,467		123,467
<b>Balance as of August 31, 2021</b>	6,124,288	\$ 6,124	\$ 8,241,286	\$ 11,766,521	\$ 20,013,931
<b>Balance as of February 28, 2021</b>	6,074,293	6,074	\$ 7,971,712	\$ 10,989,783	\$ 18,967,569
Consolidated net (loss) income				776,738	776,738
Issuance of common stock, vesting of restricted stock units and other	49,995	50	(50)		-
Equity compensation, restricted stock units			269,624		269,624
<b>Balance as of August 31, 2021</b>	6,124,288	\$ 6,124	\$ 8,241,286	\$ 11,766,521	\$ 20,013,931

The accompanying notes are an integral part of these consolidated financial statements.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 – NATURE OF OPERATIONS AND BASIS OF PRESENTATION

Nature of Operations

The accompanying consolidated financial statements include the accounts of Rocky Mountain Chocolate Factory, Inc., a Delaware corporation, its wholly-owned subsidiaries, Rocky Mountain Chocolate Factory, Inc. (a Colorado corporation), Aspen Leaf Yogurt, LLC (“ALY”), and U-Swirl International, Inc. (“U-Swirl”), and its 46%-owned subsidiary, U-Swirl, Inc. (“SWRL”) (collectively, the “Company,” “we,” “us” or “our”).

The Company is an international franchisor, confectionery manufacturer and retail operator. Founded in 1981, the Company is headquartered in Durango, Colorado and manufactures an extensive line of premium chocolate candies and other confectionery products. U-Swirl franchises and operates self-serve frozen yogurt cafés. The Company also sells its candy in selected locations outside of its system of retail stores and through ecommerce channels, and licenses the use of its brand with certain consumer products.

U-Swirl operates self-serve frozen yogurt cafés under the names “U-Swirl,” “Yogurtini,” “CherryBerry,” “Yogli Mogli Frozen Yogurt,” “Fuzzy Peach Frozen Yogurt,” “Let’s Yo!” and “Aspen Leaf Yogurt.”

The Company’s revenues are currently derived from three principal sources: sales to franchisees and others of chocolates and other confectionery products manufactured by the Company; the collection of initial franchise fees and royalties from franchisees’ sales; and sales at Company-owned stores of chocolates, frozen yogurt, and other confectionery products.

In FY 2020 and early FY 2021 we entered into a long-term strategic alliance and ecommerce agreements, respectively, with Edible Arrangements®, LLC and its affiliates (“Edible”), whereby it is intended that we would become the exclusive provider of certain branded chocolate products to Edible, its affiliates and its franchisees. Under the strategic alliance, Rocky Mountain Chocolate Factory branded products are intended to be available for purchase both on Edible’s website as well as through over 1,000 franchised Edible locations nationwide. In addition, due to Edible’s significant e-commerce expertise and scale, we have also executed an ecommerce licensing agreement with Edible, whereby Edible is expected to sell a wide variety of chocolates, candies and other confectionery products produced by the Company or its franchisees through Edible’s websites. There is no assurance that the strategic alliance and ecommerce agreements will be deployed into our operations and to our satisfaction, or that we will achieve the expected full benefits from these agreements. During the six months ended August 31, 2021, certain disagreements arose between RMCF and Edible related to the strategic alliance and ecommerce agreements resulting in continuing discussions, the result of which are not currently determinable. Purchases by Edible during the six months ended August 31, 2021 were approximately \$797,000, or 5.1% of the Company’s revenues, compared to \$949,000, or 11.8% of the Company’s revenues during the six months ended August 31, 2020. There can be no assurance historical revenue levels will be indicative of future revenues.

The following table summarizes the number of stores operating under the Rocky Mountain Chocolate Factory brand and frozen yogurt cafés as of August 31, 2021:

	Sold, Not Yet		
	Open	Open	Total
Rocky Mountain Chocolate Factory			
Company-owned stores	-	2	2
Franchise stores - Domestic stores and kiosks	5	157	162
International license stores	1	5	6
Cold Stone Creamery - co-branded	5	96	101
U-Swirl (Including all associated brands)			
Company-owned stores - co-branded	-	3	3
Franchise stores - Domestic stores	1	61	62
Franchise stores - Domestic - co-branded	-	6	6
International license stores	-	1	1
<b>Total</b>	<b>12</b>	<b>331</b>	<b>343</b>

During FY 2021 the Company initiated formal legal proceedings against Immaculate Confections (“IC”), the operator of RMCF locations in Canada. In its complaint, the Company alleged, among other things, that IC has utilized the Company’s trademarks and other intellectual property without authority to do so and that IC has been unjustly enriched by their use of the Company’s trademarks and intellectual property.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

In June 2021 a court order was issued declaring the original 1991 Development Agreement for Canada between RMCF and IC had expired. In September 2021 (subsequent to the date of these financial statements), the Company and IC reached a Settlement Agreement (the "IC Agreement") whereby the parties agreed to a six months negotiation period to explore alternative solutions. During the six-month period, IC will continue to operate locations as Rocky Mountain Chocolate Factory. The IC Agreement contains provisions that would require IC to de-identify its locations if a solution is not reached. As of the date of this filing, IC operates 49 locations in Canada. During the six months ended August 31, 2020 and 2021 the Company did not recognize any revenue from locations operated by IC in Canada.

#### Basis of Presentation

The accompanying consolidated financial statements have been prepared by the Company, without audit, and reflect all adjustments which are, in the opinion of management, necessary for a fair statement of the results for the interim periods presented. The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial reporting and Securities and Exchange Commission (the "SEC") regulations. Certain information and footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to such rules and regulations. In the opinion of management, the consolidated financial statements reflect all adjustments (of a normal and recurring nature) which are necessary for a fair presentation of the financial position, results of operations and cash flows for the interim periods presented. The results of operations for the six months ended August 31, 2021 are not necessarily indicative of the results to be expected for the entire fiscal year.

These consolidated financial statements should be read in conjunction with the audited financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the fiscal year ended February 28, 2021, as amended by Amendment No. 1 on Form 10-K/A filed on June 28, 2021. The year-end balance sheet data was derived from audited financial statements, but does not include all disclosures required by accounting principles generally accepted in the United States of America.

#### Subsequent Events

In September 2021, subsequent to the date of these consolidated financial statements, we were notified by one of our primary yogurt distributors that they were discontinuing distribution services of the primary yogurt components purchased by nine locations, approximately 13%, of our franchised frozen yogurt cafés. As of the date of these financial statements, we are working to mitigate this supply chain constraint. As a result of supply chain challenges, the result of the impacts of COVID-19 upon many of our supply chain partners, we may realize additional supply chain constraints that are outside of our control and have an impact on our financial results. For a detailed discussion of the risks and uncertainties related to our supply chain that may affect our future results, please see the section entitled "Risks Related to Our Supply Chain" in "Risk Factors" contained in Item 1A. of our Annual Report on Form 10-K for the fiscal year ended February 28, 2021, as amended by Amendment No. 1 on Form 10-K/A filed on June 28, 2021.

Management evaluated all activity of the Company through the issue date of the financial statements and concluded that no subsequent events, except for those described above, have occurred that would require recognition or disclosure in the financial statements.

#### COVID-19 Update

As discussed in more detail throughout this Quarterly Report on Form 10-Q for the six months ended August 31, 2021 (this "Quarterly Report"), we have experienced significant business disruptions resulting from efforts to contain the rapid spread of the novel coronavirus ("COVID-19"), including the vast mandated self-quarantines of customers and closures of non-essential business throughout the United States and internationally. During the year ended February 28, 2021 nearly all of the Company-owned and franchise stores were directly and negatively impacted by public health measures taken in response to COVID-19, with nearly all locations experiencing reduced operations as a result of, among other things, modified business hours and store and mall closures. As a result, franchisees and licensees are not ordering products for their stores in line with historical amounts. This trend has negatively impacted, and may continue to negatively impact, among other things, factory sales, retail sales and royalty and marketing fees. Beginning in May 2020, most stores previously closed for much of March 2020 and April 2020 in response to the COVID-19 pandemic, began to re-open. During the year ended February 28, 2021, approximately 53 stores closed and have not re-opened and the future of these locations is uncertain. That is a closure rate significantly higher than historical levels. As of the date of this report, many stores have met or exceeded pre-COVID-19 sales levels, however, many retail environments have continued to be adversely impacted by changes to consumer behavior as a result of COVID-19. Most stores re-opened subject to various local health restrictions and often with reduced operations. It is unclear when or if store operations will return to pre-COVID-19 levels.

In addition, as previously announced on May 11, 2020, the Board of Directors has suspended future quarterly dividends until the significant uncertainty of the current public health crisis and economic climate has passed, and the Board of Directors determines that resumption of dividend payments is in the best interest of the Company and our stockholders.



ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

Recent Accounting Pronouncements

Except for the recent accounting pronouncements described below, other recent accounting pronouncements are not expected to have a material impact on our consolidated financial statements.

In June 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2016-13, Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments. ASU 2016-13 significantly changes the impairment model for most financial assets and certain other instruments. ASU 2016-13 will require immediate recognition of estimated credit losses expected to occur over the remaining life of many financial assets, which will generally result in earlier recognition of allowances for credit losses on loans and other financial instruments. ASU 2016-13 is effective for the Company’s fiscal year beginning March 1, 2023 and subsequent interim periods. The Company is currently evaluating the impact the adoption of ASU 2016-13 will have on the Company’s consolidated financial statements.

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes, which simplifies the accounting for income taxes. This guidance will be effective for entities for the fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020 on a prospective basis, with early adoption permitted. We adopted this ASU effective March 1, 2021 (the first quarter of our 2022 fiscal year). The adoption of the ASU did not have a material impact on our consolidated financial statements.

NOTE 2 – SUPPLEMENTAL CASH FLOW INFORMATION

	Six Months Ended	
	August 31,	
Cash paid for:	2021	2020
Interest	\$ -	\$ 46,441
Income taxes	211,076	71
Non-cash Operating Activities		
Accrued Inventory	174,317	394,697

NOTE 3 – REVENUE FROM CONTRACTS WITH CUSTOMERS

The Company recognizes revenue from contracts with its customers in accordance with ASC 606, which provides that revenues are to be 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. This standard does not affect the Company’s recognition of revenue from sales of confectionary items to the Company’s franchisees and others, or in its Company-owned stores as those sales are recognized at the time of the underlying sale and are presented net of sales taxes and discounts. The standard also does not affect the recognition of royalties and marketing fees from franchised or licensed locations, which are based on a percent of sales and recognized at the time the sales occur. The standard does affect the timing in which the Company recognizes initial fees from franchisees and licensees for new franchise locations and renewals that affect the term of the franchise agreement. The Company generally receives a fee associated with the Franchise Agreement or License Agreement (collectively “Customer Contracts”) at the time that the Customer Contract is entered. These Customer Contracts have a term of up to 20 years, however the majority of Customer Contracts have a term of 10 years. During the term of the Customer Contract, the Company is obligated to many performance obligations that the Company has not determined are distinct. The resulting treatment of revenue from Customer Contracts is that the revenue is recognized proportionately over the life of the Customer Contract.

*Initial Franchise Fees, License Fees, Transfer Fees and Renewal Fees*

In accordance with ASC 606, the initial franchise services are not distinct from the continuing rights or services offered during the term of the franchise agreement, and are treated as a single performance obligation. Initial franchise fees are being recognized as the Company satisfies the performance obligation over the term of the franchise agreement, which is generally 10-15 years.

The following table summarizes contract liabilities as of August 31, 2021 and August 31, 2020:

	Six Months Ended	
	August 31:	
	2021	2020
Contract liabilities at the beginning of the year:	\$ 1,119,646	\$ 1,155,809
Revenue recognized	(103,253)	(128,636)
Contract fees received	115,000	53,500
Amortized gain on the financed sale of equipment	(6,265)	(4,176)
Contract liabilities at the end of the period:	\$ 1,125,128	\$ 1,076,497

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

At August 31, 2021, annual revenue expected to be recognized in the future, related to performance obligations that are not yet fully satisfied, are estimated to be the following:

FY 22	\$ 100,907
FY 23	194,474
FY 24	162,106
FY 25	147,030
FY 26	134,739
Thereafter	385,872
Total	\$ 1,125,128

*Gift Cards*

The Company's franchisees sell gift cards, which do not have expiration dates or non-usage fees. The proceeds from the sale of gift cards by the franchisees are accumulated by the Company and paid out to the franchisees upon customer redemption. ASC 606 requires the use of the "proportionate" method for recognizing breakage. Under the guidance of ASC 606 the Company recognizes breakage from gift cards when the gift card is redeemed by the customer or the Company determines the likelihood of the gift card being redeemed by the customer is remote ("gift card breakage"). The determination of the gift card breakage rate is based upon Company-specific historical redemption patterns.

NOTE 4 – DISAGGREGATION OF REVENUE

The following table presents disaggregated revenue by method of recognition and segment:  
Three Months Ended August 31, 2021

Revenues recognized over time under ASC 606:						
	Franchising	Manufacturing	Retail	U-Swirl	Total	
Franchise fees	\$ 41,718	\$ -	\$ -	\$ 5,322	\$ 47,040	
Revenues recognized at a point in time:						
	Franchising	Manufacturing	Retail	U-Swirl	Total	
Factory sales	-	5,161,445	-	-	5,161,445	
Retail sales	-	-	271,034	511,548	782,582	
Royalty and marketing fees	1,559,277	-	-	375,733	1,935,010	
Total	\$ 1,600,995	\$ 5,161,445	\$ 271,034	\$ 892,603	\$ 7,926,077	

Three Months Ended August 31, 2020

Revenues recognized over time under ASC 606:						
	Franchising	Manufacturing	Retail	U-Swirl	Total	
Franchise fees	\$ 49,130	\$ -	\$ -	\$ 24,490	\$ 73,620	
Revenues recognized at a point in time:						
	Franchising	Manufacturing	Retail	U-Swirl	Total	
Factory sales	-	3,498,752	-	-	3,498,752	
Retail sales	-	-	193,702	301,698	495,400	
Royalty and marketing fees	991,006	-	-	268,624	1,259,630	
Total	\$ 1,040,136	\$ 3,498,752	\$ 193,702	\$ 594,812	\$ 5,327,402	

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

Six Months Ended August 31, 2021

Revenues recognized over time under ASC 606:

	Franchising	Manufacturing	Retail	U-Swirl	Total
Franchise fees	\$ 82,963	\$ -	\$ -	\$ 20,290	\$ 103,253

Revenues recognized at a point in time:

	Franchising	Manufacturing	Retail	U-Swirl	Total
Factory sales	-	10,202,168	-	-	10,202,168
Retail sales	-	-	554,012	1,018,045	1,572,057
Royalty and marketing fees	2,951,759	-	-	690,551	3,642,310
Total	\$ 3,034,722	\$ 10,202,168	\$ 554,012	\$ 1,728,886	\$ 15,519,788

Six Months Ended August 31, 2020

Revenues recognized over time under ASC 606:

	Franchising	Manufacturing	Retail	U-Swirl	Total
Franchise fees	\$ 90,832	\$ -	\$ -	\$ 37,804	\$ 128,636

Revenues recognized at a point in time:

	Franchising	Manufacturing	Retail	U-Swirl	Total
Factory sales	-	5,633,367	-	-	5,633,367
Retail sales	-	-	253,683	429,313	682,996
Royalty and marketing fees	1,203,098	-	-	381,742	1,584,840
Total	\$ 1,293,930	\$ 5,633,367	\$ 253,683	\$ 848,859	\$ 8,029,839

NOTE 5 – INVENTORIES

	August 31, 2021	February 28, 2021
Ingredients and supplies	\$ 2,921,878	\$ 2,464,123
Finished candy	2,571,652	1,888,818
U-Swirl food and packaging	49,728	39,518
Reserve for slow moving inventory	(354,825)	(329,574)
Total inventories	\$ 5,188,433	\$ 4,062,885

Inventories consist of the following:

NOTE 6 – PROPERTY AND EQUIPMENT, NET

Property and equipment consists of the following:

	August 31, 2021	February 28, 2021
Land	\$ 513,618	\$ 513,618
Building	5,133,854	4,827,807
Machinery and equipment	9,865,913	10,129,508
Furniture and fixtures	785,310	797,303
Leasehold improvements	982,468	985,407
Transportation equipment	483,085	429,789
	17,764,248	17,683,432
Less accumulated depreciation	(12,267,722)	(12,531,417)
Property and equipment, net	\$ 5,496,526	\$ 5,152,015

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

Depreciation expense related to property and equipment totaled \$185,404 and \$363,978 during the three and six months ended August 31, 2021 compared to \$192,049 and \$386,606 during the three and six months ended August 31, 2020, respectively.

NOTE 7 – GOODWILL AND INTANGIBLE ASSETS

Intangible assets consist of the following:

		August 31, 2021		February 28, 2021	
	Amortization Period	Gross Carrying Value	Accumulated Amortization	Gross Carrying Value	Accumulated Amortization
Intangible assets subject to amortization					
Store design	10 Years	\$ 394,826	\$ 230,956	\$ 394,826	\$ 221,504
Packaging licenses	3-5 Years	120,830	120,830	120,830	120,830
Packaging design	10 Years	430,973	430,973	430,973	430,973
Trademark/Non-competition agreements	5-20 Years	556,339	345,627	556,339	333,715
Franchise rights	20 Years	5,979,637	3,680,721	5,979,637	3,459,873
Total		\$ 7,482,605	\$ 4,809,107	\$ 7,482,605	\$ 4,566,895
Intangible assets not subject to amortization					
Franchising segment-					
Company stores goodwill		\$ 515,065		\$ 515,065	
Franchising goodwill		97,318		97,318	
Manufacturing segment-goodwill		97,318		97,318	
Trademark		20,000		20,000	
Total goodwill		729,701		729,701	
Total Intangible Assets		\$ 8,212,306	\$ 4,809,107	\$ 8,212,306	\$ 4,566,895

Amortization expense related to intangible assets totaled \$120,872 and \$242,212 during the three and six months ended August 31, 2021 compared to \$142,804 and \$291,361 during the three and six months ended August 31, 2020, respectively.

At August 31, 2021, annual amortization of intangible assets, based upon the Company's existing intangible assets and current useful lives, is estimated to be the following:

2022	241,746
2023	409,393
2024	346,672
2025	294,427
2026	251,342
Thereafter	1,129,918
Total	\$ 2,673,498

NOTE 8 – IMPAIRMENT OF LONG-LIVED AND INTANGIBLE ASSETS

We assess the potential impairment of our long-lived assets on an annual basis or whenever events or changes in circumstances indicate the carrying value of the assets or asset group may not be recoverable. Due to the significant impact of the COVID-19 pandemic on our operations, we determined it was necessary to perform an interim test of our long-lived assets during the three months ended May 31, 2020. Based on the results of these assessments, we recorded \$545,000 of expense. This expense is presented within general and administrative expense on the Consolidated Statements of Operations.

The assessment of our goodwill, trademark and long-lived asset fair values includes many assumptions that are subject to risk and uncertainties. The primary assumptions, which are all Level 3 inputs of the fair value hierarchy (inputs to the valuation methodology that are unobservable and significant to the fair value measurement), used in our impairment testing consist of:

- Expected future cash flows from operation of our Company-owned units.
- Forecasted future royalty revenue, marketing revenue and associated expenses.

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- Projected rate of royalty savings on trademarks.
- Our cost of capital.

At May 31, 2020 costs associated with the impairment of long-lived and intangible assets consisted of the following:

Company store goodwill impairment	\$317,243
Trademark intangible asset impairment	159,000
Company-owned store impairment of long-lived assets and inventory	68,558
<b>Total</b>	<b>\$544,801</b>

Certain interim tests did not indicate a need for impairment during the three months ended May 31, 2020. Franchise rights, store design, manufacturing segment goodwill and franchising goodwill tests succeeded during the interim period. We believe we have made reasonable estimates and judgements, however, further COVID-19 related impacts could cause interim testing to be performed in future periods and further impairments recorded if testing of impairment is not successful in future periods.

During the six months ended August 31, 2021 the Company did not identify any triggering events and there were no costs associated with the impairment of long-lived assets during the six months ended August 31, 2021.

#### NOTE 9 – LINE OF CREDIT AND LONG-TERM DEBT

##### *Paycheck Protection Program*

During the year ended February 28, 2021 the Company received promissory notes pursuant to the Paycheck Protection Program (“PPP”), under the recently enacted Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) administered by the U.S. Small Business Administration (the “SBA Loans”). The Company received total proceeds of \$1.5 million from SBA Loans. During the three months ended November 30, 2020, approximately \$108,000 of the original loan proceeds was forgiven by the SBA and during the three months ended February 28, 2021 the remaining approximately \$1.4 million of the original loan proceeds was forgiven.

##### *Revolving Credit Line*

The Company has a \$5.0 million credit line for general corporate and working capital purposes, of which \$5.0 million was available for borrowing (subject to certain borrowing base limitations) as of August 31, 2021. The credit line is secured by substantially all of the Company’s assets, except retail store assets. Interest on borrowings is at LIBOR plus 2.25% (2.3% at August 31, 2021). Additionally, the line of credit is subject to various financial ratio and leverage covenants. At August 31, 2021, the Company was in compliance with all such covenants. The credit line is subject to renewal in September 2021.

#### NOTE 10 – STOCKHOLDERS’ EQUITY

##### *Cash Dividend*

The Company paid a quarterly cash dividend of \$0.12 per share of common stock on March 13, 2020 to stockholders of record on February 28, 2020.

As previously announced on May 11, 2020, the Board of Directors suspended the Company’s fiscal year 21 first quarter cash dividend payment to preserve cash and provide additional flexibility in the current environment as a result of the economic impact of COVID-19. Furthermore, the Board of Directors has suspended future quarterly dividends until the significant uncertainty of the current public health crisis and global economic climate has passed, and the Board of Directors determines that resumption of dividend payments is in the best interest of the Company and its stockholders.

Future declarations of dividends will depend on, among other things, the Company's results of operations, financial condition, capital requirements, and on such other factors as the Company's Board of Directors may in its discretion consider relevant and in the best long-term interest of the Company’s stockholders.

##### *Stock Repurchases*

On July 15, 2014, the Company publicly announced a plan to repurchase up to \$3.0 million of its common stock in the open market or in private transactions, whenever deemed appropriate by management. As of August 31, 2021, approximately \$638,000 remains available under the repurchase plan for further stock repurchases.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

*Warrants*

In consideration of Edible entering into the exclusive supplier agreement and the performance of its obligations therein, on December 20, 2019, the Company issued Edible a warrant (the “Warrant”) to purchase up to 960,677 shares of the Company’s common stock (the “Warrant Shares”) at an exercise price of \$8.76 per share. The Warrant Shares vest in annual tranches in varying amounts following each contract year under the exclusive supplier agreement, subject to, and only upon, Edible’s achievement of certain revenue thresholds on an annual or cumulative five-year basis in connection with its performance under the exclusive supplier agreement. The Warrant expires six months after the final and conclusive determination of revenue thresholds for the fifth contract year and the cumulative revenue determination in accordance with the terms of the Warrant.

The Company determined that the grant date fair value of the warrants was de minimis and did not record any amount in consideration of the warrants. The Company utilized a Monte Carlo model for purposes of determining the grant date fair value.

*Stock-Based Compensation*

Under the Company’s 2007 Equity Incentive Plan (as amended and restated) (the “2007 Plan”), the Company may authorize and grant stock awards to employees, non-employee directors and certain other eligible participants, including stock options, restricted stock and restricted stock units.

The Company recognized \$123,467 and \$269,624 of stock-based compensation expense during the three- and six-month periods ended August 31, 2021, respectively, compared to \$143,719 and \$287,437 during the three- and six-month periods ended August 31, 2020, respectively. Compensation costs related to stock-based compensation are generally amortized over the vesting period of the stock awards.

The following table summarizes restricted stock unit activity during the six months ended August 31, 2021 and 2020:

	Six Months Ended	
	August 31,	
	2021	2020
Outstanding non-vested restricted stock units as of February 28 or 29:	209,450	265,555
Granted	-	-
Vested	(40,995)	(47,929)
Cancelled/forfeited	(900)	-
Outstanding non-vested restricted stock units as of August 31:	167,555	217,626
Weighted average grant date fair value	\$ 9.40	\$ 9.40
Weighted average remaining vesting period (in years)	3.18	4.15

The Company issued 2,000 unrestricted shares of stock to non-employee directors during the three months ended August 31, 2021 and issued 9,000 unrestricted shares to non-employee directors during the six months ended August 31, 2021 compared to no shares issued during the three and six months ended August 31, 2020. In connection with these non-employee director stock issuances, the Company recognized \$11,960 and \$46,610 during the three and six months ended August 31, 2021, respectively, compared to \$0 of stock-based compensation expense during the three and six months ended August 31, 2020.

During the three- and six-month periods ended August 31, 2021, the Company recognized \$111,507 and \$223,014, respectively, of stock-based compensation expense related to restricted stock unit grants. The restricted stock unit grants generally vest in equal annual or quarterly installments over a period of five to six years. During the six-month periods ended August 31, 2021 and 2020, 40,995 and 47,929 restricted stock units vested and were issued as common stock, respectively. Total unrecognized compensation expense of non-vested, non-forfeited restricted stock units granted as of August 31, 2021 was \$1,382,819, which is expected to be recognized over the weighted-average period of 3.18 years.

The Company has no outstanding stock options as of August 31, 2021.

**NOTE 11 – EARNINGS PER SHARE**

Basic earnings per share is calculated using the weighted-average number of common shares outstanding. Diluted earnings per share reflects the potential dilution that could occur from common shares issuable through the settlement of restricted stock units. Restricted stock units become dilutive within the period granted and remain dilutive until the units vest and are issued as common stock.

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

The weighted-average number of shares outstanding used in the computation of diluted earnings per share does not include outstanding common shares issuable if their effect would be anti-dilutive. During the six months ended August 31, 2021, 960,677 shares of common stock warrants were excluded from the computation of diluted earnings per share because their effect would have been anti-dilutive. During the six months ended August 31, 2020, 960,677 shares of common stock warrants and 222,634 shares of issuable common stock were excluded from the computation of diluted earnings per share because their effect would have been anti-dilutive.

**NOTE 12 – LEASING ARRANGEMENTS**

The Company conducts its retail operations in facilities leased under non-cancelable operating leases of up to ten years. Certain leases contain renewal options for between five and ten additional years at increased monthly rentals. Some of the leases provide for contingent rentals based on sales in excess of predetermined base levels.

The Company acts as primary lessee of some franchised store premises, which the Company then subleases to franchisees, but the majority of existing locations are leased by the franchisee directly. Currently, there are not indications that the Company will be required to make any payments on behalf of franchisees.

In some instances, the Company has leased space for its Company-owned locations that are now occupied by franchisees. When the Company-owned location was sold or transferred, the store was subleased to the franchisee who is responsible for the monthly rent and other obligations under the lease.

The Company also leases trucking equipment and warehouse space in support of its manufacturing operations. Expense associated with trucking and warehouse leases is included in cost of sales on the consolidated statements of operations.

ASU 2016-02 allows, as a practical expedient, the retention of the classification of existing leases as operating or financing. All of the Company's leases are classified as operating leases and that classification has been retained upon adoption. The Company does not believe the utilization of this practical expedient has a material impact on lease classifications.

The Company accounts for payments related to lease liabilities on a straight-line basis over the lease term. During the six months ended August 31, 2021 and 2020, lease expense recognized in the Consolidated Statements of Income was \$409,897 and \$440,121, respectively.

The lease liability reflects the present value of the Company's estimated future minimum lease payments over the life of its leases. This includes known escalations and renewal option periods reasonably assured of being exercised. Typically, renewal options are considered reasonably assured of being exercised if the sales performance of the location remains strong. Therefore, the Right of Use Asset and Lease Liability include an assumption on renewal options that have not yet been exercised by the Company, and are not currently a future obligation. The Company has separated non-lease components from lease components in the recognition of the Asset and Liability except in instances where such costs were not practical to separate. To the extent that occupancy costs, such as site maintenance, are included in the Asset and Liability, the impact is immaterial. For franchised locations, the related occupancy costs including property taxes, insurance and site maintenance are generally required to be paid by the franchisees as part of the franchise arrangement. In addition, the Company is the lessee under non-store related leases such as storage facilities and trucking equipment. For leases where the implicit rate is not readily determinable, the Company uses an incremental borrowing rate to calculate the lease liability that represents an estimate of the interest rate the Company would incur to borrow on a collateralized basis over the term of a lease. The weighted average discount rate used for operating leases was 3.2% as of August 31, 2021. The total estimated future minimum lease payments is \$2.3 million.

As of August 31, 2021, maturities of lease liabilities for the Company's operating leases were as follows:

FY 22	\$	356,538
FY 23		536,712
FY 24		417,930
FY 25		268,966
FY 26		171,324
Thereafter		521,138
Total	\$	2,272,608
Less: imputed interest		(200,610)
Present value of lease liabilities:	\$	2,071,998
Weighted average lease term		6.7 years

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

During the six months ended August 31, 2021, the Company entered into lease amendments to extend the terms of leases for certain Company-owned locations. These lease amendments resulted in the Company recognizing a present value of future lease liability of \$475,908 based upon a total lease liability of \$504,946.

NOTE 13 – COMMITMENTS AND CONTINGENCIES

*Contested Solicitation of Proxies*

During the three months ended August 31, 2021, the Company incurred substantial costs associated with a stockholder's contested solicitation of proxies in connection with our 2021 annual meeting of stockholders. During the three months ended August 31, 2021, the Company incurred approximately \$907,000 of costs associated with the contested solicitation of proxies, compared with no comparable costs incurred in the three months ended August 31, 2020. These costs are recognized as general and administrative expense in the Consolidated Statement of Operations. The Company is likely to continue to realize material increased costs associated with the contested solicitation of proxies for the near future. The total possible costs are contingent upon the outcome of the contested proxy solicitation and negotiations with the contesting party.

*Employment Agreement Payments upon a Change in Control*

We have entered into employment agreements with certain of our executives which contain, among other things, "change in control" severance provisions. The employment agreements generally provide that, if the Company or the executive terminates the executive's employment under circumstances constituting a "triggering termination," the executive will be entitled to receive, among other benefits, 2.99 times the sum of (i) the executive's annual salary and (ii) the lesser of (a) two times the bonus that would be payable to the executive for the bonus period in which the change in control occurred or (b) 25% of the executive's annual salary. The executive will also receive an additional payment of \$18,000, which represents the estimated cost to the executive of obtaining accident, health, dental, disability and life insurance coverage for the 18-month period following the expiration of COBRA coverage. Additionally, all of the named executive officer's unvested restricted stock units ("RSU") will immediately vest and become exercisable and payable.

A "change in control," as used in these employment agreements, generally means a change in the control of the Company following any number of events, but specifically a proxy contest in which our Board of Directors prior to the transaction constitutes less than a majority of our Board of Directors after the transaction or the members of our Board of Directors during any consecutive two-year period who at the beginning of such period constituted the Board of Directors cease to be the majority of the Board of Directors at the conclusion of that period. We have determined that a change in control has taken place. A "triggering termination" generally occurs when an executive is terminated during a specified period preceding a change in control of us, or if the executive or the Company terminates the executive's employment under circumstances constituting a triggering termination during a specified period after a change in control. A triggering termination may also include a voluntary termination under certain scenarios.

As a result of the changes in our Board of Directors, as described above, the Company may be liable to each executive for change in control payments contingent upon a triggering termination event. As of August 31, 2021 the amount of the cash severance payments and benefits contingent upon a triggering termination event are estimated to be approximately \$2.2 million and the acceleration of unvested RSU with an unrecognized expense of approximately \$690,000. The Company may further be liable for certain tax consequences associated with severance payments, benefits payments and stock awards and the taxes may have a material impact on the liability of the Company upon a triggering termination.

*Purchase Contracts*

The Company frequently enters into purchase contracts of between six to eighteen months for chocolate and certain nuts. These contracts permit the Company to purchase the specified commodity at a fixed price on an as-needed basis during the term of the contract. Because prices for these products may fluctuate, the Company may benefit if prices rise during the terms of these contracts, but it may be required to pay above-market prices if prices fall and it is unable to renegotiate the terms of the contract. As of August 31, 2021, the Company was contracted for approximately \$90,000 of raw materials under such agreements. The Company has designated these contracts as normal under the normal purchase and sale exception under the accounting standards for derivatives. These contracts are not entered into for speculative purposes.



ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

NOTE 14 – OPERATING SEGMENTS

The Company classifies its business interests into five reportable segments: Franchising, Manufacturing, Retail Stores, U-Swirl operations and Other. The accounting policies of the segments are the same as those described in the summary of significant accounting policies in Note 1 to these consolidated financial statements and Note 1 to the Company's consolidated financial statements included in the Company's Annual Report on Form 10-K for the fiscal year ended February 28, 2021, as amended by Amendment No. 1 on Form 10-K/A filed on June 28, 2021. The Company evaluates performance and allocates resources based on operating contribution, which excludes unallocated corporate general and administrative costs and income tax expense or benefit. The Company's reportable segments are strategic businesses that utilize common merchandising, distribution and marketing functions, as well as common information systems and corporate administration. All inter-segment sales prices are market based. Each segment is managed separately because of the differences in required infrastructure and the difference in products and services:

Three Months Ended

August 31, 2021	Franchising	Manufacturing	Retail	U-Swirl	Other	Total
Total revenues	\$ 1,602,369	\$ 5,464,121	\$ 271,034	\$ 892,603	\$ -	\$ 8,230,127
Intersegment revenues	(1,374)	(302,676)	-	-	-	(304,050)
Revenue from external customers	1,600,995	5,161,445	271,034	892,603	-	7,926,077
Segment profit (loss)	643,606	1,247,593	26,058	173,450	(1,830,300)	260,407
Total assets	1,486,476	10,763,803	625,179	4,922,875	9,619,259	27,417,592
Capital expenditures	-	101,537	-	-	11,890	113,427
Total depreciation & amortization	\$ 9,174	\$ 159,246	\$ 1,397	\$ 116,669	\$ 19,790	\$ 306,276

Three Months Ended

August 31, 2020	Franchising	Manufacturing	Retail	U-Swirl	Other	Total
Total revenues	\$ 1,040,863	\$ 3,768,416	\$ 193,702	\$ 594,812	\$ -	\$ 5,597,793
Intersegment revenues	(727)	(269,664)	-	-	-	(270,391)
Revenue from external customers	1,040,136	3,498,752	193,702	594,812	-	5,327,402
Segment profit (loss)	366,535	489,668	21,924	11,903	(789,297)	100,733
Total assets	1,387,005	12,241,965	618,323	5,526,772	9,413,374	29,187,439
Capital expenditures	150	11,343	72	-	16,799	28,364
Total depreciation & amortization	\$ 10,095	\$ 162,523	\$ 1,391	\$ 140,823	\$ 20,021	\$ 334,853

Six Months Ended

August 31, 2021	Franchising	Manufacturing	Retail	U-Swirl	Other	Total
Total revenues	\$ 3,037,735	\$ 10,749,226	\$ 554,012	\$ 1,728,886	\$ -	\$ 16,069,859
Intersegment revenues	(3,013)	(547,058)	-	-	-	(550,071)
Revenue from external customers	3,034,722	10,202,168	554,012	1,728,886	-	15,519,788
Segment profit (loss)	1,288,472	1,915,618	44,324	318,992	(2,489,401)	1,078,005
Total assets	1,486,476	10,763,803	625,179	4,922,875	9,619,259	27,417,592
Capital expenditures	1,182	533,948	1,068	1,399	33,265	570,862
Total depreciation & amortization	\$ 18,672	\$ 312,866	\$ 2,798	\$ 233,399	\$ 38,455	\$ 606,190

ROCKY MOUNTAIN CHOCOLATE FACTORY, INC. AND SUBSIDIARIES  
NOTES TO INTERIM (UNAUDITED) CONSOLIDATED FINANCIAL STATEMENTS

Six Months Ended							
August 31, 2020	Franchising	Manufacturing	Retail	U-Swirl	Other		Total
Total revenues	\$ 1,295,339	\$ 6,061,508	\$ 253,683	\$ 848,859	\$ -	\$	8,459,389
Intersegment revenues	(1,409)	(428,141)	-	-	-		(429,550)
Revenue from external customers	1,293,930	5,633,367	253,683	848,859	-		8,029,839
Segment profit (loss)	(84,784)	(293,801)	(455,902)	(445,815)	(3,465,690)		(4,745,992)
Total assets	1,387,005	12,241,965	618,323	5,526,772	9,413,374		29,187,439
Capital expenditures	150	25,197	72	1,712	23,722		50,853
Total depreciation & amortization	\$ 20,233	\$ 324,353	\$ 4,794	\$ 287,772	\$ 40,815	\$	677,967

**EXHIBIT F  
(TO DISCLOSURE DOCUMENT)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY  
OPERATIONS MANUAL**

**ROCKY MOUNTAIN CHOCOLATE FACTORY  
OPERATIONS MANUAL**

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**EXHIBIT G-1  
(TO DISCLOSURE DOCUMENT)**

**ADDENDUM TO  
FRANCHISE AGREEMENT --  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
SATELLITE STORE**

THIS ADDENDUM (“**Addendum**”) to the Franchise Agreement dated of even date herewith (“**Agreement**”) is between Rocky Mountain Chocolate Factory, Inc. (“**Franchisor**”) and the undersigned “**Franchisee**.” The following amends and shall be incorporated into the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum shall control. All capitalized terms not defined in this Addendum shall have the respective meanings set forth in the Agreement. The Franchisor and the Franchisee agree as follows:

**1. Application of Satellite Store to Agreement.** All references in the Agreement to the “Store,” as defined in Section 1.1 of the Agreement, are deleted and the reference “Satellite Store” is inserted in place thereof. Notwithstanding anything contained in the preceding sentence to the contrary, all references in the Agreement to “Stores” under Section 20.2 of the Agreement shall not be replaced by the words “Satellite Store,” but shall instead be supplemented by adding the words “or Satellite Stores” directly after the word “Store(s).” Except as may be otherwise noted herein or in the Agreement, all applicable terms, conditions and requirements set forth in the Agreement applicable to the Stores shall apply to the Satellite Stores. The Franchisor’s approval of the development and operation of a Satellite Store, as required pursuant to Section 3.2 of the Agreement, is hereby granted. The terms of the Agreement and of this Addendum apply only to the operation of and products offered and sold from or through the Satellite Store and not to any other non-competing businesses of the Franchisee, located in the Host Facility (defined below), if any, except as specifically set forth herein.

**2. Definition of Satellite Store.** The Franchisor and the Franchisee agree that the Franchisee’s “Satellite Store” shall be defined as a ROCKY MOUNTAIN CHOCOLATE FACTORY Store which is open for business for a total of between 31 and 180 days in any calendar year and/or has a lease lasting more than one but fewer than 12 months and/or is located at, in or adjacent to a Host Facility, as defined in Section 4 below. If applicable, the Satellite Store will be open during the following months or for the following events each year: \_\_\_\_\_

**3. Traditional Store.** All references in this Addendum to the Franchisee’s “Traditional Store(s)” shall refer to the traditional Store(s) operated under duly executed and validly existing franchise agreement(s) dated \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ between the Franchisor and the Franchisee or, if the Franchisee is a partnership, corporation, limited liability company or any other entity, owned in part or in whole by those individuals or entities owning 50% or more of the ownership interests in the Franchisee entity (“**Affiliates**”), which agreements shall hereinafter be referred to as “**Traditional Agreement(s)**.” The Franchisee acknowledges that the Franchisor only grants rights to develop and operate Satellite Stores to its franchisees or their Affiliates who own and operate a traditional ROCKY MOUNTAIN CHOCOLATE FACTORY Store under a valid and existing franchise agreement with the Franchisor. The Franchisee’s or its Affiliates’ Traditional Store(s) is/are located at \_\_\_\_\_

**4. Franchised Location.** The Franchised Location for the Satellite Store shall be, which, if applicable, is located at, within or adjacent to the following facility (also referred to as the “**Host Facility**”): \_\_\_\_\_

The Franchisee acknowledges and agrees that the Franchised Location for its Satellite Store shall not be located within any protected territories of other franchisees of the Franchisor.

**5. Approval of Franchised Location.** The Franchisor hereby approves the above-stated location as the Franchised Location. The Franchisee acknowledges and warrants that (1) the Franchisor's approval does not constitute a guarantee, recommendation or endorsement of the Franchised Location and that the success of the Satellite Store is dependent upon the Franchisee's abilities as an independent businessperson; and (2) the Franchisor has complied with its obligations under the Agreement to assist the Franchisee with respect to criteria for the Franchised Location and determination of fulfillment of the requisite criteria for the Franchised Location, such determination based on information provided by the Franchisee.

**6. Initial Franchise Fee.** Section 4.1 of the Agreement shall be deleted in its entirety and replaced with the following:

The parties acknowledge the receipt and sufficiency of adequate consideration for entering into this Agreement.

**7. Approval of Lease.** The following sentence shall be added to the end of Section 5.1 of the Agreement:

If the placement and operation of the Satellite Store in or in connection with the Host Facility requires the consent of the owner, franchisor or licensor of the Host Facility, the Franchisee hereby represents and warrants that such consent has been obtained in writing, and such representation is a condition precedent to the grant of the Franchisee's right to establish and operate the Satellite Store.

**8. Conversion and Design; Signs; Equipment.** Sections 5.2, 5.3 and 5.4 of the Agreement are amended by adding the following sentence to the end of each Section:

The Franchisee agrees to comply with any policies, procedures, standards and specifications contained in the Franchisor's Operations Manual pertaining to Satellite Stores.

**9. Relocation.** The following shall be added as a new Section 5.9 of the Agreement:

**5.9 Relocation.** Effective during the 90 day period beginning six months after the opening of the Satellite Store, the Franchisee shall have the option to relocate the Satellite Store to another site, subject to the Franchisor's approval of such site in accordance with the terms of this Agreement, if the Franchisee reasonably determines that the Satellite Store has not been profitable during the six month period after the opening of the Satellite Store and if the Franchisee provides 30 days advance written notice to the Franchisor of its determination of nonprofitability and intent to relocate, which notice shall include documentation supporting the Franchisee's determination of nonprofitability and a proposed site for relocation.

**10. Initial Training Program.** Sections 6.1 and 6.2 of the Agreement shall be deleted and replaced with the following:

At all times, the Satellite Store shall be managed by a person who has successfully completed the Franchisor's initial training program. The Franchisor shall waive the

requirement that the Franchisee or its employees successfully complete the initial training program, provided that the Franchisee agrees to designate a person or persons to assume primary responsibility for the management of the ROCKY MOUNTAIN CHOCOLATE FACTORY Satellite Store (“**General Manager**”) who shall have already successfully completed the Franchisor’s initial training program. If the Franchisee wishes to appoint a General Manager for the ROCKY MOUNTAIN CHOCOLATE FACTORY Satellite Store who has not already successfully completed the Franchisor’s initial training program, the Franchisee may pay the then current published fee for such training program and the Franchisee shall be responsible for all travel and living expenses incurred by its personnel during the training program. The Franchisee acknowledges that the availability of the training program shall be subject to space considerations and prior commitments to new ROCKY MOUNTAIN CHOCOLATE FACTORY franchisees.

**11. Franchisor’s Development Assistance.** Subsections 7.1.a, .b and .f of the Agreement shall be deleted in their entirety.

**12. Satellite Store Operations.** The third sentence of Section 10.1.e of the Agreement shall be deleted and replaced with the following sentence:

The Franchisee shall offer all types of products and services as from time to time may be prescribed by the Franchisor for Satellite Stores and shall refrain from offering any other types of products or services, or operating or engaging in any other type of business or profession, from or through the ROCKY MOUNTAIN CHOCOLATE FACTORY Satellite Store, including, without limitation, filling “Wholesale Orders,” defined below, selling Factory Candy, Store Candy, Items or other authorized products through the internet, catering or other off-premises sales, without the prior written consent of the Franchisor.

and, the following shall be added to the end of Section 10.1.e of the Agreement:

The Franchisor and the Franchisee acknowledge and agree that the products and services offered for sale from or through the Satellite Store, and the standards and specifications of the Franchisor related thereto, may differ from that of a traditional ROCKY MOUNTAIN CHOCOLATE FACTORY Store and may be subject to alternative standards and specifications as may be developed and made available by the Franchisor from time to time.

and, Section 10.1.h of the Agreement shall be deleted and replaced with the following:

The Franchisor recommends that the Franchisee subscribe for and maintain three separate telephone numbers for its ROCKY MOUNTAIN CHOCOLATE FACTORY Satellite Store at the Franchised Location, two of which, the telephone and facsimile machine numbers, shall be listed and identified exclusively with the Satellite Store and shall be separate and distinct from all other telephone numbers subscribed for by the Franchisee. If applicable, one number shall be used exclusively for voice communication, the second shall be used exclusively for a facsimile machine and the third shall be used exclusively for the modem that is included in the System.

**13. Monthly Royalty.** The following shall be added at the end of Section 11.1 of the Agreement:

Further, the Franchisee agrees to report all Gross Retail Sales, defined in Section 11.2 below, generated from or through its Satellite Store separate and apart from reports of its Gross Retail Sales generated from or through its Traditional Store(s).

**14. Local Advertising; Marketing and Promotion Fee.** Section 12.2 of the Agreement shall be deleted in its entirety. The following will be added at the end of Section 12.3 of the Agreement:

Notwithstanding the references in this Section 12.3 to local advertising expenditures, the Franchisee will not be required to spend any amounts on local advertising of its Satellite Store.

**15. Regional Advertising Programs.** Section 12.4 of the Agreement shall be revised as follows:

Notwithstanding the provisions of this Section 12.4, the Franchisee's Satellite Store will not be required to participate in either a regional advertising program or a regional advertising cooperative established by the Franchisor from time to time.

**16. Marks.** The following shall be added to the end of the second sentence of Section 14.1 of the Agreement:

and, if applicable, except for the right to use such Marks in the operation of Traditional Stores pursuant to duly executed and validly existing Traditional Agreements with the Franchisor.

**17. Franchisee Reports.** The following sentence shall be added to the end of Section 15.1 of the Agreement:

The Franchisee agrees to keep the bookkeeping and accounting records for the Satellite Store separate from the bookkeeping and accounting records of all Traditional Store(s) owned by the Franchisee or its Affiliate(s). The Franchisee further agrees to keep separate bookkeeping and accounting records to differentiate all sales and operations of the Satellite Store from all sales and operations of the Host Facility, if any.

**18. Transfer by Franchisee.** Section 16.2.b. of the Agreement shall be deleted and replaced by the following:

The proposed transferee agrees to operate the Satellite Store as a ROCKY MOUNTAIN CHOCOLATE FACTORY Satellite Store and agrees to satisfactorily complete the initial training program described in the then current form of franchise agreement, which training must be completed by the transferee prior to the effectiveness of the transfer;

and the following shall be added as a new Section 16.2.j:

j. One or more of the Franchisee's Traditional Agreements for the Franchisee's or its Affiliates' Traditional Store(s) is or are being transferred to the same proposed transferee of the Satellite Store simultaneously with and as part of the same transaction as the transfer of the Satellite Store.

**19. Term.** Section 17.1 of the Agreement shall be deleted and replaced with the following:

The initial term of this Agreement shall expire on the same date the Traditional Agreement governing the Franchisee's or its Affiliates' Traditional Store expires. If the Franchisee together with its Affiliates, operates more than one Traditional Store, then this Agreement shall expire on the first expiration date to occur taking into account the expiration dates of all of the applicable Traditional Agreements.

**20. Rights Upon Expiration.** The following shall be added to the Agreement as new Sections 17.3.f and 17.3.g, respectively:

f. Has complied with all provisions of the Franchisee's or its Affiliates' Traditional Agreement(s) for the Franchisee's or its Affiliates' Traditional Store(s) during the current term of this Agreement, including the payment on a timely basis of all Royalties and other fees due under the Traditional Agreement(s); and

g. All amounts due and owing pursuant to this Agreement and pursuant to all Traditional Agreement(s) by the Franchisee to the Franchisor or its affiliates or to third parties whose debts or obligations the Franchisor has guaranteed on behalf of the Franchisee, if any, are paid in full.

**21. Termination by Franchisor - Effective Upon Notice.** The following shall be added to the Agreement as new Sections 18.1.j, 18.1.k and 18.1.l, respectively:

j. Termination of Traditional Agreement. If any of the Traditional Agreement(s) between the Franchisor and the Franchisee or its Affiliates for any of the Traditional Store(s) expires without being renewed or is terminated for any reason.

k. Loss of Right to Operate at Host Facility. If the Satellite Store is operated at a Host Facility, if the Franchisee loses the right for whatever reason to operate the Satellite Store at the Host Facility.

l. Transfer of Franchisee's Traditional Store Without Transfer of Satellite Store. If any of the Franchisee's or its Affiliates' Traditional Store(s) or Traditional Agreement(s), is/are transferred in any manner pursuant to a transaction where the Satellite Store licensed under this Agreement is not transferred in full simultaneously therewith to the identical transferee, without the Franchisor's prior written consent.

**22. Termination by Franchisor - Thirty Days Notice.** The following shall be added to the end of the first sentence in Section 18.2.e of the Agreement:

, except for the breach and termination of any of the Traditional Agreement(s) for Traditional Store(s) owned by the Franchisee or its Affiliates, to which Section 18.1.j of this Agreement shall apply.

**23. Non-Competition During Term.** The following phrase shall be added to the end of Section 20.1 of the Agreement:

, and further provided that the term "**Competitive Business**" shall not include any Traditional Stores operated by the Franchisee or its Affiliates pursuant to duly executed and validly existing Franchise Agreements with the Franchisor.

24. **Notice.** The business address for any notices mailed pursuant to Section 22.13 of the Agreement shall be as follows: \_\_\_\_\_  
\_\_\_\_\_.

25. **Franchisee Representation.** The person(s) or entity(ies) executing this Addendum as the Franchisee is (are) identical to or are Affiliates of the person(s) or entity(ies) who executed the Agreement.

26. **Ratification.** Except as modified in this Addendum, all terms, conditions and obligations set forth in the Agreement are hereby ratified and confirmed by this Addendum.

**IN WITNESS WHEREOF**, the parties have executed this Addendum effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**FRANCHISOR:**

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT G-2  
(TO DISCLOSURE DOCUMENT)**

**ADDENDUM TO  
FRANCHISE AGREEMENT --  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
TEMPORARY STORE**

THIS ADDENDUM (“**Addendum**”) to the Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_, (“**Agreement**”) is made effective as of \_\_\_\_\_, 20\_\_\_\_, between Rocky Mountain Chocolate Factory, Inc. (“**Franchisor**”) and the undersigned “**Franchisee.**” The following amends and shall be incorporated into the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum shall control. All capitalized terms not defined in this Addendum shall have the respective meanings set forth in the Agreement. The Franchisor and the Franchisee agree as follows:

**1. Addition of Temporary Store to Agreement.** All references in the Agreement to the “Store(s),” as defined in Section 1.1 of the Agreement, shall be changed to add the words “and Temporary Store” immediately after each such reference. Notwithstanding anything contained in the preceding sentence to the contrary, all references to “Stores” in Section 20.2 of the Agreement shall remain unchanged as originally stated. Article 17 of the Agreement will not apply to the Temporary Store. Except as may be otherwise noted herein or in the Agreement, all applicable terms, conditions and requirements set forth in the Agreement applicable to Stores shall apply to Temporary Stores. The Franchisor’s approval of the operation of a Temporary Store, as required pursuant to Section 3.2 of the Agreement, is hereby granted.

**2. Definition of Temporary Store/Term/Franchised Location.** The Franchisor and the Franchisee agree that the Franchisee’s “Temporary Store” shall be defined as a ROCKY MOUNTAIN CHOCOLATE FACTORY Store which is open for business for not more than 30 consecutive days at the same Franchised Location. The Temporary Store will be open on the following date(s) at the Franchised Location(s) listed next to the date(s): \_\_\_\_\_

\_\_\_\_\_. The term of this Addendum shall expire on the last date set forth in the immediately preceding sentence, unless the Agreement is terminated earlier as provided therein. In no event will the term of this Addendum extend beyond the term of the Agreement. If the Agreement is in effect and no events of default have occurred, then this Addendum may be renewed in a writing signed by all parties which specifies the Franchised Location(s) and dates the Temporary Store will be operating. If applicable, the Franchised Location(s) is/are located at, in or adjacent to the following facility (“**Host Facility**”): \_\_\_\_\_

The Franchisee acknowledges and agrees that the Franchised Location(s) of its Temporary Store shall not be located within any protected territories of other franchisees of the Franchisor.

**3. Waiver of Some Fees.** The parties acknowledge that no initial franchise fee shall be charged for entering into this Addendum and that the Franchisee will not be required to spend any amounts on local advertising of the Temporary Store or participate in any regional advertising programs or cooperatives with respect to the Temporary Store. The Franchisee will be required to pay the Marketing and Promotion Fee with respect to Gross Retail Sales generated by the Temporary Store, however, pursuant to the terms of the Agreement.

**4. Approval of Lease.** The parties confirm that the provisions of Section 5.1 of the Agreement requiring the Franchisor’s prior written approval of a lease will apply to the Franchised Location

of the Temporary Store. If the placement and operation of the Temporary Store in or in connection with a Host Facility requires the consent of the owner, franchisor or licensor of the Host Facility, the Franchisee hereby represents and warrants that such consent has been obtained in writing, and such representation is a condition precedent to the grant of the Franchisee's right to establish and operate the Temporary Store.

**5. Initial Training Program.** Statements in Sections 5.8, 6.1 and 6.2 of the Agreement related to the completion of the initial training program shall not be applicable to the Temporary Store insofar as no additional personnel of the Franchisee will be required to attend the Franchisor's initial training program as a condition precedent to the grant of the Franchisee's right to operate the Temporary Store, but the person designated by the Franchisee to assume primary responsibility for the management of the Temporary Store will be required to have successfully completed the initial training program.

**6. Development and Operations.** Sections 7.1.a, .b and .f and Section 10.1.h of the Agreement shall not apply to the Temporary Store. The Franchisee agrees to comply with all of the Franchisor's standards and specifications for Temporary Stores as they exist from time to time, including standards and specifications for carts.

**7. Royalty.** The following shall be added at the end of Section 11.1 of the Agreement:

Further, the Franchisee agrees to report all Gross Retail Sales, defined in Section 11.2 below, generated from or through its Temporary Store separate and apart from reports of its Gross Retail Sales generated from or through its traditional Store(s).

**8. Franchisee Reports.** The following sentence shall be added to the end of Section 15.1 of the Agreement:

The Franchisee agrees to keep the bookkeeping and accounting records for the Temporary Store separate from the bookkeeping and accounting records of all other Store(s) owned by the Franchisee. The Franchisee further agrees to keep separate bookkeeping and accounting records to differentiate all sales and operations of the Temporary Store from all sales and operations of the Host Facility, if any.

**9. Pre-Conditions to Franchisee's Transfer.** The following shall be added as a new Section 16.2.j:

j. The Franchisee's traditional Store and Temporary Store are being transferred to the same proposed transferee simultaneously and as part of the same transaction.

**10. Termination by Franchisor - Effective Upon Notice.** The following shall be added to the Agreement as new Sections 18.1.j and 18.1.k, respectively:

j. **Loss of Right to Operate at Host Facility.** If the Temporary Store is operated at a Host Facility, if the Franchisee loses the right for whatever reason to operate the Temporary Store at the Host Facility.

k. **Transfer of Franchisee's Traditional Store Without Transfer of Temporary Store.** If the traditional Store governed by this Agreement is transferred in any manner pursuant to a transaction where the Temporary Store licensed under the Addendum to this Agreement is not transferred in full simultaneously therewith to the identical transferee.



11. **Insurance Coverage.** The Franchisee shall not be required to obtain all-risk personal property insurance for the Temporary Store and accordingly, Section 21.1(iv) shall be deleted.

12. **Franchisee Representation.** The person(s) or entity(ies) executing this Addendum as the Franchisee is (are) identical to or are Affiliates of the person(s) or entity(ies) who executed the Agreement.

13. **Ratification.** Except as modified in this Addendum, all terms, conditions and obligations set forth in the Agreement are hereby ratified and confirmed by this Addendum.

IN WITNESS WHEREOF, the parties have executed this Addendum effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_

Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT G-3  
(TO DISCLOSURE DOCUMENT)**

**ADDENDUM TO  
FRANCHISE AGREEMENT --  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
CO-BRANDED STORES**

THIS ADDENDUM TO FRANCHISE AGREEMENT (this “**Addendum**”) is made among \_\_\_\_\_, a \_\_\_\_\_ corporation (“**Franchisor**”), \_\_\_\_\_, a \_\_\_\_\_ (“**Franchisee**”), and \_\_\_\_\_ (“**Controlling Principal**” or “**Owner**”), to be effective as of the date of that certain Franchise Agreement (the “**Franchise Agreement**”), dated as of \_\_\_\_\_, 20\_\_, by and between Franchisor and Franchisee.

1. This Addendum supplements, modifies and amends the Franchise Agreement as set forth herein. Initial capitalized terms used herein, which are not separately defined herein, shall have the meaning ascribed to such terms in the Franchise Agreement. In the event of a conflict between the terms of this Addendum and the terms of the Franchise Agreement, the terms of this Addendum shall control. Except as specifically set forth herein, the Franchise Agreement shall not be modified by this Addendum in any respect. This Addendum may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument. Delivery of an executed signature page to this Addendum by facsimile or other electronic transmission shall be effective as delivery of a manually signed counterpart of this Addendum.

2. This Addendum is being executed in connection with Franchisee’s desire to own and operate a \_\_\_\_\_ (“**Other Concept**”) within the same integrated rental space as the Café or Store, but with two distinctly branded areas (together, a “**Leveraged Concept**”). This Addendum does not grant Franchisee any rights with respect to the Other Concept, and is entered into solely for the purpose of modifying the Franchise Agreement to reflect Franchisee’s desire to operate the Café or Store as part of a Leveraged Concept.

3. Franchisee acknowledges and understands that any rights necessary to operate the Other Concept must be secured by Franchisee from the owner of the Other Concept (“**Other Concept Owner**”), over whom Franchisor has no control. Franchisee is solely responsible for securing the rights to operate the Other Concept, including any rights necessary to do so as part of the Leveraged Concept. The rights which Franchisee is responsible for securing include, without limitation, any franchise or licensing rights related to the Other Concept, and any rights that must be obtained from the landlord.

4. Franchisee represents that, in making the decision to secure the rights to operate the Other Concept, Franchisee has not relied on any representations or assurances by Franchisor that are not expressly set forth in this Addendum or the Franchise Disclosure Document that Franchisor provided to Franchisee most recently before entering into this Addendum with Franchisee. Franchisee further acknowledges and agrees that Franchisor has not authorized Other Concept Owner or any other third party from whom Franchisee must secure rights to operate the Other Concept, or any other third party, to make any representations, promises, or commitments on behalf of Franchisor in any way related to the Other Concept, the Leveraged Concept or this Addendum.

5. Franchisee acknowledges that Franchisor has not in any way engaged in any selling activity with respect to the license or franchise for the Other Concept. Franchisee covenants not to assert any claims, demands or causes of action against Franchisor in connection with Franchisee’s acquisition of the rights to

operate the Other Concept, or otherwise in connection with the Other Concept in any manner. Neither Franchisor nor Other Concept Owner has the authority to bind the other, or act as agent for the other.

6. Franchisee hereby elects to construct and operate the Café or Store as part of a Leveraged Concept. Franchisee must sign or have signed a separate franchise agreement (“**Other Concept Franchise Agreement**”) with Other Concept Owner.

7. So long as the Café or Store is operated as part of a Leveraged Concept, Gross Sales shall exclude the selling price of all products upon which Franchisor and Other Concept Owner agree shall be allocated to the Other Concept. Franchisor and Other Concept Owner may, at any time, change the sales allocation of products between the Café or Store and the Other Concept, and Franchisee shall comply with any such change in sales allocation.

8. Franchisee shall be solely responsible for ensuring that the electronic cash register system utilized by Franchisee is properly programmed to reflect the allocation of products between the Café or Store and Other Concept as agreed to by Franchisor and Other Concept Owner. Franchisee is solely responsible for separately obtaining any modification of any obligation in favor of Other Concept Owner that might otherwise require Franchisee to pay any amount to Other Concept Owner in connection with a product offering with respect to which Franchisee is obligated to pay any amounts to Franchisor.

9. Franchisee shall comply with all requirements in the Manual related to the construction and operation of the Café or Store as part of a Leveraged Concept. Franchisee understands and acknowledges that the Leveraged Concept must have two distinctly branded and separated areas, one for the Other Concept and one for the Café or Store, and that products offered from the Café or Store shall not be offered from the Other Concept or located on the Other Concept area, and vice versa, and that all signage and marketing and similar materials relating to the Café or Store shall be separated from the signage and marketing and similar materials relating to the Other Concept.

10. If Franchisee utilizes the gift card processing system utilized by the Other Concept, then the Franchisee shall be responsible for all gift card transaction fees related to the Café or Store.

11. If Franchisee fails to comply with any of the requirements imposed by the Other Concept Franchise Agreement, and does not cure such default within the cure period, if any, specified in the Other Concept Franchise Agreement, then such default shall constitute a default under the terms of the Franchise Agreement.

12. Franchisor shall have no responsibility or liability for any obligation of Other Concept Owner under the Other Concept Franchise Agreement or related to the Other Concept, and Franchisee shall look solely to Other Concept Owner for the satisfaction of such obligations. Franchisor’s permission for Franchisee to construct and operate the Café or Store as part of a Leveraged Concept is not a recommendation for Franchisee to construct and operate the Café or Store as part of a Leveraged Concept. Franchisee acknowledges that it has conducted an independent investigation of constructing and operating a Leveraged Concept and recognizes that the success of a Leveraged Concept involves substantial business risks and will largely depend upon the Franchisee’s ability. Franchisor expressly disclaims making, and Franchisee acknowledges that it has not received or relied on, any warranty or guaranty, express or implied, as to the potential volume, profits or success of a Leveraged Concept.

13. All inspection rights of Franchisor under the Franchise Agreement shall apply to the Leveraged Concept, and Franchisor shall be entitled to review, audit, examine and copy all books and records relating to the Leveraged Concept.

14. Franchisor shall have the absolute right to decline consent to any proposed transfer that would result in the ownership or operation of the Café or Store being different than the ownership or operation of the Other Concept. Neither Franchisee nor any Controlling Principal or Owner, as the case may be, shall sell, assign, or transfer any interest in the Other Concept separate and apart from a sale, assignment, or transfer of an interest in this Agreement, the Café or Store, or Franchisee under the terms of the Franchise Agreement. The transfer fee payable by Franchisee in the event of a transfer will be \$15,000, one-half payable to Franchisor and one-half payable to the Other Concept.

15. Franchisee and Controlling Principal or Owner acknowledge and agree that all food and beverage items, supplies, materials, and other products used or offered for sale at the Café or Store may not be used by Franchisee or Controlling Principal or Owner at any other location or in connection with any other business, including, without limitation, any Other Concept owned by Franchisee, Controlling Principal, Owner, or their affiliates.

16. Franchisee agrees to pay the initial franchise fee charged by Franchisor and an initial franchise fee of \$15,000 to the Other Concept Owner upon execution of the Franchise Agreement with the Other Concept.

17. Franchisee agrees to purchase and maintain such insurance policies as the Franchisor and the Other Concept have agreed to require of all franchisees operating a Leveraged Concept. These insurance policies must name Franchisor and the Other Concept Owner as additional insureds.

**IN WITNESS WHEREOF**, the parties have executed this Addendum effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_

\_\_\_\_\_

Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_

Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTROLLING PRINCIPAL:**

\_\_\_\_\_

[NAME OF CONTROLLING PRINCIPAL]

**EXHIBIT H-1  
(TO DISCLOSURE DOCUMENT)**

**AMENDMENT TO  
ROCKY MOUNTAIN CHOCOLATE FACTORY FRANCHISE AGREEMENT  
(RENEWAL)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.** (“Franchisor”) and \_\_\_\_\_ (“Franchisee”) are signing a Rocky Mountain Chocolate Factory Franchise Agreement (“**Agreement**”) contemporaneously herewith and desire to supplement and amend certain terms and conditions of such Agreement by this Amendment to Rocky Mountain Chocolate Factory Franchise Agreement (“**Amendment**”). Initial capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Agreement. The parties therefore agree as follows:

1. **Initial Fees.** Section 4.1 is deleted in its entirety.
2. **Approval of Lease.** Section 5.1 shall apply according to its terms to all lease renewals and purchase agreements for the Franchised Location which are executed during the term of the Agreement.
3. **Commencement of Operations.** Section 5.7 is deleted in its entirety.
4. **Training.** Sections 6.1 and 6.2 are deleted in their entirety.
5. **Development Assistance.** Article 7 is deleted in its entirety.
6. **Upgrading and Remodeling.** In accordance with Section 10.1.k of the Agreement, Franchisee is required to remodel the Franchisee’s Store to current design specifications which includes the following changes to be completed no later than 6 months from date of receipt of the Agreement and this Amendment for signature:

\_\_\_\_\_ Franchisee acknowledges and agrees that a nonrefundable design fee of \$2,500 may be due to the Franchisor if the remodeling is extensive enough to require the Franchisor’s designated design firm to produce plans for the Franchisee’s Store.

7. **Release.** Franchisee for itself, its successors, assigns, agents, representatives, employees, officers and directors, hereby fully and forever unconditionally releases and discharges Franchisor and its successors, assigns, agents, representatives, employees, officers and directors (collectively referred to as “**Franchisor’s Affiliates**”) from any and all claims, demands, obligations, actions, liabilities and damages of every kind and nature whatsoever, in law or in equity, whether known or unknown to it, which it may now have against Franchisor or Franchisor’s Affiliates, or which may hereafter be discovered, in connection with, as a result of, or in any way arising from, any relationship or transaction with Franchisor or Franchisor’s Affiliates, however characterized or described, which relates in any way to the previous franchise agreement dated \_\_\_\_\_, between Franchisee and Franchisor or the former franchise relationship, from the beginning of time until the date of this Agreement.
8. **Successor Fee.** Franchisor acknowledges receipt of \$\_\_\_\_\_ from Franchisee in payment of the successor franchise fee.

9. **Inconsistent Terms.** The terms and conditions of this Amendment are in addition to or in explanation of the existing terms and conditions of the Agreement and shall prevail over and supersede any inconsistent terms and conditions thereof.

Fully executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ROCKY MOUNTAIN CHOCOLATE FACTORY,  
INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_, Individually

\_\_\_\_\_, Individually

**AND:**

Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT H-2  
(TO DISCLOSURE DOCUMENT)**

**AMENDMENT TO  
ROCKY MOUNTAIN CHOCOLATE FACTORY FRANCHISE AGREEMENT  
(TRANSFER)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.** (“Franchisor”) and \_\_\_\_\_ (“Franchisee”) are signing a Rocky Mountain Chocolate Factory Franchise Agreement (“**Agreement**”) contemporaneously herewith and desire to supplement and amend certain terms and conditions of such Agreement by this Amendment to Rocky Mountain Chocolate Factory Franchise Agreement (“**Amendment**”). Initial capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Agreement. The parties therefore agree as follows:

1. **Initial Fees.** Section 4.1 is deleted in its entirety.
2. **Approval of Lease.** Section 5.1 shall apply according to its terms to all lease renewals and purchase agreements for the Franchised Location which are executed during the term of the Agreement.
3. **Commencement of Operations.** Section 5.8 is deleted in its entirety and replaced with the following:

Franchisee agrees that there will be no interruption in the day-to-day operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store due to the change in ownership of the Store from its previous owner to Franchisee.

4. **Training.** The last sentence in Section 6.1 is deleted and replaced with the following:

At least one individual must successfully complete the initial training program before the Franchisee begins operating the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. If Franchisor does not have a training program scheduled prior to transfer so Franchisee can attend timely, at least one individual must successfully complete the first scheduled initial training program after the Franchisee begins operating the ROCKY MOUNTAIN CHOCOLATE FACTORY Store.

5. **Development Assistance.** Article 7 is deleted in its entirety.
6. **Upgrading and Remodeling.** In accordance with Section 10.1.k of the Agreement, Franchisee is required to remodel the Franchisee’s Store to current design specifications which includes the following items to be completed no later than 6 months from the date of transfer: \_\_\_\_\_

Franchisee acknowledges and agrees that a nonrefundable design fee of \$2,500 may be due to the Franchisor if the remodeling is extensive enough to require the Franchisor’s designated design firm to produce plans for the Franchisee’s Store.

7. **Transfer Fee.** Franchisor acknowledges receipt of \$5,000 from Franchisee or from the seller on behalf of Franchisee, in payment of the transfer fee required to be paid in Section 16.2 of the Agreement.



8. **Term.** The term of the Agreement shall begin on the date this Amendment is fully executed and shall end ten years later, unless sooner terminated as provided according to the terms of the Agreement. This provision shall replace Section 17.1 of the Agreement.
9. **Inconsistent Terms.** The terms and conditions of this Amendment are in addition to or in explanation of the existing terms and conditions of the Agreement and shall prevail over and supersede any inconsistent terms and conditions thereof.

Fully executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**ROCKY MOUNTAIN CHOCOLATE FACTORY,  
INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
\_\_\_\_\_, Individually

\_\_\_\_\_  
\_\_\_\_\_, Individually

**AND:**

Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT H-3  
(TO DISCLOSURE DOCUMENT)**

**AMENDMENT TO  
ROCKY MOUNTAIN CHOCOLATE FACTORY FRANCHISE AGREEMENT  
(RELOCATION)**

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.** (“Franchisor”) and \_\_\_\_\_ (“Franchisee”) are amending the Rocky Mountain Chocolate Factory Franchise Agreement dated \_\_\_\_\_, \_\_\_\_\_ between them (“Agreement”) to amend certain terms and conditions of such Agreement by this Amendment to Rocky Mountain Chocolate Factory Franchise Agreement (“Amendment”) dated as of the date it is fully executed below. Initial capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Agreement. The parties therefore agree as follows:

1. **Franchised Location.** The address of the Franchised Location as set forth in Exhibit I to the Agreement, shall be changed to the following address: \_\_\_\_\_, and the Store configuration shall be: \_\_\_\_\_.
2. **Limitation on Franchise Rights; Relocation.** In compliance with Section 3.2 of the Agreement, the Franchisee represents that it has operated its ROCKY MOUNTAIN CHOCOLATE FACTORY Store at its former Franchised Location for at least 12 months and desires to relocate the Store to an alternative site. Further, the Franchisee promises that it will open a ROCKY MOUNTAIN CHOCOLATE FACTORY Store at the new Franchised Location set forth in this Amendment within 12 months after the Store closes at its former Franchised Location. In addition, the Franchisee is paying a nonrefundable design fee of \$2,500 to the Franchisor concurrently with the execution of this Amendment in consideration for the Franchisor’s assistance in designing the new Store’s interior.
3. **Approval of Lease.** Section 5.1 shall apply to all leases and purchase agreements which are executed for the new Franchised Location.
4. **Conversion and Design; Signs; Equipment and Permits and Licenses.** The Franchisee agrees that all of the Franchisor’s standards and specifications set forth in the Agreement for the conversion and design of the new Franchised Location, signs located at the new Franchised Location, equipment and permits and licenses necessary to operate the Store at the new Franchised Location will all apply to the new Franchised Location. The Franchisee shall be allowed to transfer its existing computer hardware and software from the former Franchised Location to the new Franchised Location at this time, but the Franchisor reserves the right to require the Franchisee to upgrade computer hardware and software in conjunction with any system-wide upgrades in the future.
5. **Commencement of Operations.** Section 5.8 is deleted in its entirety and replaced with the following:

Unless otherwise agreed in writing by the Franchisor and the Franchisee, the Franchisee has 12 months from the date of this Amendment within which to develop the new Franchised Location and commence operation of the ROCKY MOUNTAIN CHOCOLATE FACTORY Store. Failure to commence operations within this time frame shall constitute grounds for termination under Article 18 of the Agreement. If the Agreement is terminated by the Franchisor for failure to

commence operation of the Store within this time frame, no refunds of any fees will be available to the Franchisee.

- 6. **Franchisor's Development Assistance.** The Franchisee acknowledges and agrees that it has already been provided with the development assistance set forth in Section 7.1 of the Agreement and that it is not entitled to additional assistance at the new Franchised Location, unless the Franchisor agrees to provide such assistance in advance in writing and the Franchisee pays a fee for all such assistance.
- 7. **Term.** The parties agree that the term of the Agreement will end 10 years after the date it was fully executed, despite the relocation of the Store as set forth in this Amendment. The length of time between the closure of the Store at the former Franchised Location and the opening of the Store at the new Franchised Location will not serve to extend the term of the Agreement.
- 8. **Inconsistent Terms.** The terms and conditions of this Amendment are in addition to or in explanation of the existing terms and conditions of the Agreement and shall prevail over and supersede any inconsistent terms and conditions thereof.

Fully executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.**

Date	By: _____ Greg Pope, Sr. VP Franchise Development
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**FRANCHISEE:**

Date	_____, Individually
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Date	_____, Individually
------	---------------------

**AND:**

Company Name

Date	By: _____
	Title: _____

**EXHIBIT I  
(TO DISCLOSURE DOCUMENT)**

**GENERAL RELEASE**

**THIS GENERAL RELEASE (“Release”)** is made effective as of the \_\_\_ day of \_\_\_\_\_ 20\_\_ by \_\_\_\_\_, individually and \_\_\_\_\_, a \_\_\_\_\_ [corporation/limited liability company] (collectively, “**Franchisee**”) in favor of Rocky Mountain Chocolate Factory, Inc., a Colorado corporation (“**Franchisor**”) (collectively referred to as “**Parties**”), who, on the basis of the following agreements, agree as follows:

A. The Parties have entered into that certain Franchise Agreement dated \_\_\_\_\_, 20\_\_ (“**Franchise Agreement**”), which governs the development and operation of a ROCKY MOUNTAIN CHOCOLATE FACTORY Store (“**ROCKY MOUNTAIN CHOCOLATE FACTORY Store**” or “**Store**”) (to the extent not otherwise defined herein, all initial-capitalized references shall have the same meaning as set forth in the Franchise Agreement);

B. The Franchisee desires to transfer the Franchise Agreement, the ownership of the Franchisee, or the ROCKY MOUNTAIN CHOCOLATE FACTORY Store or some or all of the assets of the Store;

**OR**

B. The Franchisee desires to enter into a successor to the Franchise Agreement;

C. The Franchisor desires to consent to the Franchisee’s request subject to the Franchisee’s compliance with the terms and conditions set forth in the Franchise Agreement including, without limitation, the execution and delivery by the Franchisee to the Franchisor of this Release.

1. **Release.** The Franchisee, for itself and its affiliates, and their respective current and former successors, assigns, officers, shareholders, directors, members, managers, agents, heirs and personal representatives (“**Franchisee Affiliates**”), hereby fully and forever unconditionally releases and discharges the Franchisor and its affiliates, and their respective successors, assigns, agents, representatives, employees, officers, shareholders, directors, members, managers and insurers (collectively referred to as “**Franchisor Affiliates**”) from any and all claims, demands, obligations, actions, liabilities and damages of every kind and nature whatsoever (“**Released Claims**”), in law or in equity, whether known or unknown, which the Franchisee or the Franchisee Affiliates may now have against the Franchisor or Franchisor Affiliates or which may hereafter be discovered. Without limiting the foregoing, Released Claims includes, but is not limited to, all claims, demands, obligations, actions, liabilities and damages, known or unknown, in any way arising from or relating to: (i) any relationship or transaction with the Franchisor or Franchisor Affiliates, (ii) the Franchise Agreement or any related agreements, and (iii) the franchise relationship, from the beginning of time until the date of this Release.

**[APPLIES ONLY IN CALIFORNIA]** 1.(a) Release of Unknown Claims and Waiver of California Law. The Franchisee and the Franchisee Affiliates acknowledge that they are aware and informed that the laws of California may purport to limit or reduce the effect of a general release with respect to claims not known or suspected by them at the time of execution of the Release, such as Section 1542 of the Civil Code of the State of California, 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.”

The Franchisee and the Franchisee Affiliates waive and relinquish every right or benefit which they have, or may have, under Section 1542 of the Civil Code of the State of California, and under any similar provisions of any other law (as may be applicable to this Release), to the fullest extent that the Franchisee and the Franchisee Affiliates may lawfully waive such right or benefit pertaining to the subject matter of this Release. In connection with such waiver and relinquishment, with respect to the Released Claims, the Franchisee and the Franchisee Affiliates acknowledge that they are aware and informed that they may hereafter discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this Release, but that it is the Franchisee's and the Franchisee Affiliates' intention to settle and release fully, and finally and forever, all Released Claims, disputes and differences, known or unknown, suspected or unsuspected, which now exist, may exist or heretofore existed, and in furtherance of such intention, the Release given herein shall be and remain in effect as a full and complete release, notwithstanding the discovery or existence of any such additional or different facts that would have affected the release of all Released Claims. The Franchisee and the Franchisee Affiliates agree to defend, indemnify and hold harmless the Franchisor and the Franchisor Affiliates from any and all Released Claims arising out of, directly or indirectly, the assertion by the Franchisee and the Franchisee Affiliates (or any person or entity by, through, or on their behalf) of any Released Claims, positions, defenses, or arguments contrary to this Section 1(a) of this Release.

**[APPLIES ONLY IN SOUTH DAKOTA]** 1.(b) Release of Unknown Claims and Waiver of South Dakota Law. The Franchisee and the Franchisee Affiliates acknowledge that they are aware and informed that the laws of South Dakota may purport to limit or reduce the effect of a general release with respect to claims not known or suspected by them at the time of execution of this Release, such as South Dakota Codified Laws § 20-7-11, 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 his settlement with the debtor.”

The Franchisee and the Franchisee Affiliates waive and relinquish every right or benefit which they have, or may have, under § 20-7-11 of the South Dakota Codified Laws, and under any similar provisions of any other law (as may be applicable to this Agreement), to the fullest extent that they may lawfully waive such right or benefit pertaining to the subject matter of this Release. In connection with such waiver and relinquishment, with respect to the Released Claims, the Franchisee and the Franchisee Affiliates acknowledge that they are aware and informed that they may hereafter discover facts in addition to or different from those that the Franchisee and the Franchisee Affiliates now know or believe to be true with respect to the subject matter of this Release, but that it is their intention to settle and release fully, and finally and forever, all Released Claims, disputes and differences, known or unknown, suspected or unsuspected, which now exist, may exist or heretofore existed, and in furtherance of such intention, the Release given herein shall be and remain in effect as a full and complete release, notwithstanding the discovery or existence of any such additional or different facts that would have affected the release of all Released Claims. The Franchisee and the Franchisee Affiliates agree to defend, indemnify and hold harmless the Franchisor and the Franchisor Affiliates from any and all Released Claims arising out of, directly or indirectly, the assertion by the Franchisee and the Franchisee Affiliates (or any person or entity by, through, or on their behalf) of any Released Claims, positions, defenses, or arguments contrary to this Section 1.(b) of this Release.

2. **General.** This Release shall be construed and enforced in accordance with, and governed by, the laws of the State of Colorado. This Release embodies the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings relating to the subject matter hereof: and this Release may not be modified or amended or any term hereof waived or discharged except in writing signed by the party against whom such amendment, modification, waiver or discharge is sought to be enforced. Nothing in this Release is intended to disclaim any representations made by the Franchisor in the most recent franchise disclosure document provided by the Franchisor or its representatives to the Franchisee in connection with any successor to the Franchise Agreement. The headings are for convenience in reference only and shall not limit or otherwise affect the meaning hereof. This Release may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. If any provision of this Release shall be held by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed modified to eliminate the invalid or unenforceable element and, as so modified, such provision shall be deemed a part of this Release as though originally included. The remaining provisions of this Release shall not be affected by such modification. All provisions of this Release are binding and shall inure to the benefit of the Parties and their respective delegates, successors and assigns.

**IN WITNESS WHEREOF**, the Parties have caused this Release to be made effective on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

Date: \_\_\_\_\_

\_\_\_\_\_

Individually

Date: \_\_\_\_\_

\_\_\_\_\_

Individually

AND:  
(if a corporation, limited liability company or  
partnership)

Date: \_\_\_\_\_

\_\_\_\_\_

Company

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT J  
(TO DISCLOSURE DOCUMENT)**

**STATE ADDENDA AND RIDERS TO THE FRANCHISE DISCLOSURE DOCUMENT,  
FRANCHISE AGREEMENT AND OTHER AGREEMENTS**

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF CALIFORNIA**

THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

OUR WEBSITE ([www.rmcf.com](http://www.rmcf.com)) HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [Ffwww.dfpi.ca.gov](http://www.dfpi.ca.gov).

1. The following paragraphs are added to the end of Item 17:

The California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or nonrenewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

Neither the Franchisor, any person in Item 2 of the Disclosure Document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

The Franchise Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the Franchise. This provision may not be enforceable under California law.

You must sign a general release if you renew or transfer your franchise. California Corporations Code §31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§31000 through 31516). Business and Professions Code §20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§20000 through 20043).

Section 31125 of the Franchise Investment Law requires us to give to you a disclosure document approved by the Commissioner of Financial Protection and Innovation before we ask you to consider a material modification of your Franchise Agreement.

The Franchise Agreement requires application of the laws of the State of Colorado. This provision may not be enforceable under California law.

The Franchise Agreement requires non-binding arbitration. The arbitration will occur in Denver, Colorado with the costs being borne equally by both parties.



**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION  
FOR THE STATE OF CALIFORNIA**

**THIS RIDER (“Rider”)** to the Franchise Agreement (“Agreement”) dated \_\_\_\_\_, 20\_\_ is made effective on \_\_\_\_\_, 20\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “**Franchisor**”) and \_\_\_\_\_ (the “**Franchisee**”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

**1. Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION**

**Section A.**     Non-Binding Arbitration.

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “**Franchisor Affiliates**”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “**Franchisee Affiliates**”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“**AAA**”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B.**     Scope of Non-Binding Arbitration.

Although the arbitrator has the right to award or include in the award any relief which he deems proper in the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, and attorneys’ fees and costs, provided that the arbitrator shall not have the authority under Rule 43 of the Commercial Arbitration Rules of the AAA to award exemplary or punitive damages, the award and decision of the arbitrator shall not be conclusive or binding upon the parties hereto. The Franchisor and the Franchisee agree that, in connection with any such non-binding arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates. This provision shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. The Franchisor and the Franchisee

agree that non-binding arbitration shall be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      Governing Law/Consent to Venue and Jurisdiction.

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in any legal proceeding in court involving the Franchisee or the Franchisee Affiliates and the Franchisor or the Franchisor Affiliates, all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County, Colorado and federal courts located in Colorado. THE FRANCHISOR, THE FRANCHISOR AFFILIATES, THE FRANCHISEE AND THE FRANCHISEE AFFILIATES EACH WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

**Section D.**      Injunctive Relief.

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to obtain injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond or bonds totaling no more than \$500, but upon due notice, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

**2.      Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN  
CHOCOLATE FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF HAWAII**

THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OR A FINDING BY THE COMMISSIONER OF SECURITIES THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

The Franchisor's registered agent in the state authorized to receive service of process is:

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

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

A. This proposed registration is effective in the following states: California, Illinois, Indiana, Maryland, Michigan, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

B. This proposed registration is or will shortly be on file in the following states: Hawaii and Minnesota.

C. States which have refused, by order or otherwise, to register these franchises are: None.

D. States which have revoked or suspended the right to offer the franchises are: None.

E. States in which the proposed registration of these franchises has been withdrawn are: None.

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION FOR THE STATE OF IDAHO**

**THIS RIDER (“Rider”)** to the Franchise Agreement (“**Agreement**”) dated \_\_\_\_\_, 20\_\_\_\_ is made effective on \_\_\_\_\_, 20\_\_\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “**Franchisor**”) and \_\_\_\_\_ (the “**Franchisee**”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

**1. Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION  
NON- BINDING ARBITRATION/LITIGATION**

**Section A.**     Non-Binding Arbitration.

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “**Franchisor Affiliates**”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “**Franchisee Affiliates**”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“**AAA**”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B.**     Scope of Non-Binding Arbitration.

Although the arbitrator has the right to award or include in the award any relief which he deems proper in the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, and attorneys’ fees and costs, provided that the arbitrator shall not have the authority under Rule 43 of the Commercial Arbitration Rules of the AAA to award exemplary or punitive damages, the award and decision of the arbitrator shall not be conclusive or binding upon the parties hereto. The Franchisor and the Franchisee agree that, in connection with any such non-binding arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates. This provision shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. The Franchisor and the Franchisee

agree that non-binding arbitration shall be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      **Governing Law/Consent to Venue and Jurisdiction.**

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in any legal proceeding in court involving the Franchisee or the Franchisee Affiliates and the Franchisor or the Franchisor Affiliates, all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County, Colorado and federal courts located in Colorado. THE FRANCHISOR, THE FRANCHISOR AFFILIATES, THE FRANCHISEE AND THE FRANCHISEE AFFILIATES EACH WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

**Section D.**      **Injunctive Relief.**

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to obtain injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond or bonds totaling no more than \$500, but upon due notice, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

**2.      Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF**, the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN  
CHOCOLATE FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF ILLINOIS**

Illinois law governs the Franchise Agreement.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

Your rights upon Termination and Non-Renewal are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act **or any other law of Illinois** is void.



**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF ILLINOIS**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_\_\_.

1. Section 22.15 is deleted in its entirety and the following is substituted in its place:

**22.15 Acknowledgement.** BEFORE SIGNING THIS AGREEMENT, THE FRANCHISEE SHOULD READ IT CAREFULLY WITH THE ASSISTANCE OF LEGAL COUNSEL. THE FRANCHISEE ACKNOWLEDGES THAT THE SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED HEREIN INVOLVES SUBSTANTIAL RISKS AND DEPENDS UPON THE FRANCHISEE'S ABILITY AS AN INDEPENDENT BUSINESSPERSON AND ITS ACTIVE PARTICIPATION IN THE DAILY AFFAIRS OF THE BUSINESS.

2. In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act **or any other law of Illinois** is void.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Illinois Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION FOR THE STATE OF ILLINOIS**

THIS RIDER (“Rider”) to the Franchise Agreement (“Agreement”) dated \_\_\_\_\_, 20\_\_\_\_ is made effective on \_\_\_\_\_, 20\_\_\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “Franchisor”) and \_\_\_\_\_ (the “Franchisee”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

**1. Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION**

**Section A. Non-Binding Arbitration.**

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “Franchisor Affiliates”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “Franchisee Affiliates”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“AAA”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B. Scope of Non-Binding Arbitration.**

Although the arbitrator has the right to award or include in the award any relief which he deems proper in the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, and attorneys’ fees and costs, provided that the arbitrator shall not have the authority under Rule 43 of the Commercial Arbitration Rules of the AAA to award exemplary or punitive damages, the award and decision of the arbitrator shall not be conclusive or binding upon the parties hereto. The Franchisor and the Franchisee agree that, in connection with any such non-binding arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates. This provision shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. The Franchisor and the Franchisee agree that non-binding arbitration shall be conducted on an individual, not a class-wide, basis and that

an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      Governing Law/Consent to Venue and Jurisdiction.

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, all matters regarding this Agreement shall be governed by Illinois law.

**Section D.**      Injunctive Relief.

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to obtain injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond or bonds totaling no more than \$500, but upon due notice, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

**2.      Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF,** the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN  
CHOCOLATE FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
CLOSING ACKNOWLEDGEMENT  
FOR THE STATE OF ILLINOIS**

In order to ensure that your decision to purchase a Rocky Mountain Chocolate Factory, Inc. (“**RMCF**”) franchise is based upon your own independent investigation and judgment, please complete and sign this Acknowledgement. All terms not defined herein shall have their respective meanings as set forth in the Franchise Agreement dated of even date herewith between the undersigned Franchisee and RMCF.

1. I have made my own independent determination that I have adequate working capital to develop, open and operate my **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store.

2. I acknowledge that RMCF will provide guidelines for a suitable site for my **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store, but I understand that I am responsible for the final decision regarding the selection of a suitable site.

3. I am not relying on any promises of RMCF which are not contained in the **ROCKY MOUNTAIN CHOCOLATE FACTORY** Franchise Agreement.

4. I acknowledge that the terms of the **ROCKY MOUNTAIN CHOCOLATE FACTORY** Franchise Agreement are not negotiable.

5. I understand that my investment in a **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store contains substantial business risks and that there is no guarantee that it will be profitable.

6. I acknowledge that RMCF reserves the right to distribute, and may presently be distributing, the same products and services which my **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store will offer and sell, through alternative channels of distribution using the Marks and the Licensed Methods, at any location.

7. I have been advised by RMCF and its representatives to seek professional legal and financial advice in all matters concerning the purchase of my **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store.

8. I acknowledge that the success of my **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store depends in large part upon my ability as an independent business person and my active participation, or the active participation of my General Manager, in the day to day operation of the Store.

9. The name(s) of the person(s) with whom I dealt in the purchase of my **ROCKY MOUNTAIN CHOCOLATE FACTORY** Store is/are \_\_\_\_\_. The name(s) of the person(s) listed above have been listed on the Disclosure Document receipt that I signed and sent to the Franchisor.

Dated: \_\_\_\_\_, 20\_\_\_\_  
**FRANCHISEE**

**FRANCHISEE**

\_\_\_\_\_  
(Print Name) (if a corporation or partnership)

(Print Name) Individually

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
(Print Name) Individually

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF INDIANA**

Indiana law prohibits us from establishing a company-owned Store within a reasonable area of your Franchised Location which would compete unfairly with you.

In Items 17(c), 17(i) and 17(m), any releases you sign will not apply to any claims that may arise under the Indiana Franchise Disclosure Law and the Indiana Deceptive Practices Act.

Item 17(r) may not be enforceable under the Indiana Deceptive Practices Act.

Item 17(w) Indiana franchise laws apply even though Colorado law applies generally.

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION FOR THE STATE OF IOWA**

THIS RIDER (“Rider”) to the Franchise Agreement (“Agreement”) dated \_\_\_\_\_, 20\_\_\_\_ is made effective on \_\_\_\_\_, 20\_\_\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “Franchisor”) and \_\_\_\_\_ (the “Franchisee”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

1. **Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION  
NON-BINDING ARBITRATION/LITIGATION**

**Section A.** Non-Binding Arbitration.

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “Franchisor Affiliates”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “Franchisee Affiliates”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“AAA”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B.** Scope of Non-Binding Arbitration.

Although the arbitrator has the right to award or include in the award any relief which he deems proper in the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, and attorneys’ fees and costs, provided that the arbitrator shall not have the authority under Rule 43 of the Commercial Arbitration Rules of the AAA to award exemplary or punitive damages, the award and decision of the arbitrator shall not be conclusive or binding upon the parties hereto. The Franchisor and the Franchisee agree that, in connection with any such non-binding arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates. This provision shall continue in full force and effect subsequent to and

notwithstanding the expiration or termination of this Agreement. The Franchisor and the Franchisee agree that non-binding arbitration shall be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      **Governing Law/Consent to Venue and Jurisdiction.**

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in any legal proceeding in court involving the Franchisee or the Franchisee Affiliates and the Franchisor or the Franchisor Affiliates, all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County, Colorado and federal courts located in Colorado. THE FRANCHISOR, THE FRANCHISOR AFFILIATES, THE FRANCHISEE AND THE FRANCHISEE AFFILIATES EACH WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

**Section D.**      **Injunctive Relief.**

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to obtain injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond or bonds totaling no more than \$500, but upon due notice, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

2.      **Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN  
CHOCOLATE FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_



**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF MARYLAND**

The following provisions apply to all Franchises offered and sold to residents of the State of Maryland or to be located in the State of Maryland:

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. §§ 101 et seq.).

Under Maryland law, the general release required as a condition of renewal and/or assignment/transfer shall not apply to any claims that may arise under the Maryland Franchise Registration and Disclosure Law.

You may bring any cause of action against us in any court of competent jurisdiction, including the state or federal courts of Maryland. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF MARYLAND**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_.

1. The following shall be added at the end of Sections 16.2.f (“**Pre-Conditions to Franchisee’s Transfer**”) and 17.3.d (“**Rights Upon Expiration**”):

Any release executed in connection herewith will not apply to any claims that may arise under the Maryland Franchise Registration and Disclosure Law.

2. The following sentence is added to the end of Section 22.1 (“**Governing Law/Consent to Venue and Jurisdiction**”):

The Franchisee may commence any cause of action against the Franchisor in the state or federal courts of Maryland or Colorado. Any claims arising under the Maryland Franchise Registration and Disclosure Laws must be brought within three years after the grant of the franchise.

3. The following sentence is added to the end of Sections 22.3 (“**Modification**”), 22.4 (“**Entire Agreement**”) and 22.20 (“**Acknowledgement**”):

Provided, however, that this provision is not limited to, nor shall it act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Laws.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Maryland Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
GENERAL RELEASE  
FOR THE STATE OF MARYLAND**

This Rider to the General Release by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_\_\_.

1. The following shall be added at the end of Recital C:

; provided however, that this Release shall not apply to any liability incurred under the Maryland Franchise Registration and Disclosure Law;

2. The following sentence is added to the end of Section 1:

Notwithstanding the foregoing, this Release shall not apply to any liability incurred under the Maryland Franchise Registration and Disclosure Law.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Maryland Rider concurrently with the execution of the General Release on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE** (Print Name)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
CLOSING ACKNOWLEDGEMENT  
FOR THE STATE OF MARYLAND**

The following statement is added as the last paragraph of the Closing Acknowledgement:

The representations made in this Closing Acknowledgement are not intended to, nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

**FRANCHISEE:**

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(If a corporation, must be signed by each person owning any share(s) of any class of stock of the corporation; if a limited liability company, must be signed by each person having an ownership interest; if a partnership, must be signed by each partner.)

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF MINNESOTA**

We are contractually obligated by the Franchise Agreement to protect you against claims of infringement or unfair competition with respect to your use of the Marks, when your rights granted therein warrant protection.

Minnesota law provides a Franchisee with certain termination and nonrenewal rights. Minn. Stat. Sec. 80C.14 Subd. 3, 4 and 5 require, 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 nonrenewal of the applicable agreement.

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

In Items 17(c), 17(i) and 17(m) any releases you sign will not apply to any claims that may arise under the Minnesota Franchise Act.

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF MINNESOTA**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_\_\_.

1. The following paragraph is added to Section 14.5 of the Franchise Agreement:

The Franchisor agrees to protect the Franchisee against claims of infringement or unfair competition with respect to the Franchisee's authorized use of the Trademarks, when the Franchisee's rights granted therein warrant protection.

2. The following paragraph is added to Section 18 of the Franchise Agreement:

Minnesota law provides a Franchisee with certain termination and nonrenewal rights. Minn. Stat. Sec. 80C.14 Subd. 3, 4 and 5 require, except in certain specified cases, that Franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for nonrenewal of this Agreement.

3. Section 18.3.b. of the Franchise Agreement is deleted in its entirety.

4. The last sentence of Section 22.1 of the Franchise Agreement is deleted and the following language is added:

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

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Minnesota Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION  
FOR THE STATE OF MINNESOTA**

THIS RIDER (“Rider”) to the Franchise Agreement (“Agreement”) dated \_\_\_\_\_, 20\_\_ is made effective on \_\_\_\_\_, 20\_\_\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “Franchisor”) and \_\_\_\_\_ (the “Franchisee”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

1. **Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION**

**Section A.**     Non-Binding Arbitration.

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “Franchisor Affiliates”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “Franchisee Affiliates”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“AAA”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B.**     Scope of Non-Binding Arbitration.

Although the arbitrator has the right to award or include in the award any relief which he deems proper in the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, and attorneys’ fees and costs, provided that the arbitrator shall not have the authority under Rule 43 of the Commercial Arbitration Rules of the AAA to award exemplary or punitive damages, the award and decision of the arbitrator shall not be conclusive or binding upon the parties hereto. The Franchisor and the Franchisee agree that, in connection with any such non-binding arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates. This provision shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. The Franchisor and the Franchisee

agree that non-binding arbitration shall be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      **Governing Law/Consent to Venue and Jurisdiction.**

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in any legal proceeding in court involving the Franchisee or the Franchisee Affiliates and the Franchisor or the Franchisor Affiliates, all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County, Colorado and federal courts located in Colorado.

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

**Section D.**      **Injunctive Relief.**

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to seek injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may seek such injunctive relief, without posting a bond or bonds, as determined by a court of competent jurisdiction, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

2.      **Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**



IN WITNESS WHEREOF, the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN  
CHOCOLATE FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF NEW YORK**

1. The following paragraphs are added to the state cover page:

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 15<sup>TH</sup> FLOOR, NEW YORK, NEW YORK 10005.

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE PROSPECTUS. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS PROSPECTUS.

2. The Franchisor's registered agent in the state authorized to receive service of process is:

New York Department of State  
One Commerce Plaza  
99 Washington Avenue, 6<sup>th</sup> Floor  
Albany, New York 12231-0001  
(518) 473-2492

3. The following Risk Factor is added to the state cover page:

THE FRANCHISE AGREEMENT PROVIDES THAT VENUE IS TO BE IN THE STATE OF COLORADO. THIS MEANS THAT IF YOU PURCHASE A FRANCHISE AND A DISPUTE ARISES, YOU WILL HAVE TO DEFEND OR MAINTAIN THE PROCEEDINGS IN THE STATE OF COLORADO.

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

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

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

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

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

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

5. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

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

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

7. The following is added to the end of the “Summary” sections of Item 17(c), titled “**Requirements for franchisee to renew or extend**,” Item 17(i), titled “**Franchisee’s obligations on termination/nonrenewal**,” and Item 17(m), titled “**Conditions for franchisor approval of transfer**”:

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

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

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

9. The following is added to the end of the “Summary” section of Item 17(j), titled **“Assignment of contract by franchisor”**:

However, no assignment will be made except to an assignee who in good faith and judgment of the Franchisor, is willing and financially able to assume the Franchisor’s obligations under the Franchise Agreement.

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

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

11. THE FRANCHISOR REPRESENTS THAT IT HAS NOT KNOWINGLY OMITTED FROM THE PROSPECTUS ANY MATERIAL FACT, NOR DOES THE PROSPECTUS CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF NEW YORK**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_\_\_.

1. The following shall be added at the end of Section 16.2.f and 17.3.d:

“..., provided however, that all rights enjoyed by the Franchisee and any causes of action arising in its favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of GBL 687.4 and 687.5 be satisfied.”

2. The following shall be added to Article 18:

The Franchisee may terminate this Agreement upon any grounds available by law.

3. The following shall be added at the end of Section 22.1:

The foregoing choice of law shall not be considered a waiver of any right conferred upon the Franchisee by the provisions of Article 33 of the General Business Law of the State of New York.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this New York Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF NORTH DAKOTA**

1. The following statement is added at the end of Items 17(c), 17(i) and 17(m):

(Any release executed in connection herewith shall not apply to any claims that may arise under the North Dakota Franchise Investment Law).

2. The following statement is added at the end of Item 17(r):

Covenants not to compete such as those mentioned above are generally considered unenforceable in the state of North Dakota.

3. Item 17(v) is deleted in its entirety.

4. Item 17(w) is deleted in its entirety.

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF NORTH DAKOTA**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_.

1. The following statement is added to the following sections: Section 16.2.i, Section 20.1; and Section 20.2:

(Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota.)

2. Section 16.2.f and Section 17.3.d are deleted in their entirety.

3. The second, third and fourth sentences of Section 16.4.c. are deleted and the following are substituted in their place:

If the parties cannot agree within a reasonable time on the cash consideration, each party shall designate an appraiser and the two appraisers chosen shall select a third appraiser. The determination of the appraisers shall be binding upon the parties. All expenses of the appraisers shall be paid for equally between the Franchisor and the Franchisee.

4. Section 22.1 is deleted in its entirety and the following is substituted in its place:

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, all matters regarding this Agreement arising out of the North Dakota Franchise Investment Law shall be governed thereby and all other matters regarding this Agreement shall be governed by the laws of the State of North Dakota.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this North Dakota Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY,  
INC. DISCLOSURE DOCUMENT  
FOR THE STATE OF RHODE ISLAND**

1. The following paragraph is added at the end of Item 17:

Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”



**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION  
FOR THE STATE OF RHODE ISLAND**

THIS RIDER (“Rider”) to the Franchise Agreement (“Agreement”) dated \_\_\_\_\_, 20\_\_ is made effective on \_\_\_\_\_, 20\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “Franchisor”) and \_\_\_\_\_ (the “Franchisee”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

**1. Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION**

**Section A.**     Non-Binding Arbitration.

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “Franchisor Affiliates”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “Franchisee Affiliates”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“AAA”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B.**     Scope of Non-Binding Arbitration.

Although the arbitrator has the right to award or include in the award any relief which he deems proper in the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, and attorneys’ fees and costs, provided that the arbitrator shall not have the authority under Rule 43 of the Commercial Arbitration Rules of the AAA to award exemplary or punitive damages, the award and decision of the arbitrator shall not be conclusive or binding upon the parties hereto. The Franchisor and the Franchisee agree that, in connection with any such non-binding arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates. This provision shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. The Franchisor and the Franchisee agree that non-binding arbitration

shall be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      **Governing Law/Consent to Venue and Jurisdiction.**

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in any legal proceeding in court involving the Franchisee or the Franchisee Affiliates and the Franchisor or the Franchisor Affiliates, all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County, Colorado and federal courts located in Colorado. THE FRANCHISOR, THE FRANCHISOR AFFILIATES, THE FRANCHISEE AND THE FRANCHISEE AFFILIATES EACH WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”

**Section D.**      **Injunctive Relief.**

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to obtain injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond or bonds totaling no more than \$500, but upon due notice, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

**2.      Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
DISPUTE RESOLUTION  
FOR THE STATE OF SOUTH DAKOTA**

**THIS RIDER** (“**Rider**”) to the Franchise Agreement (“**Agreement**”) dated \_\_\_\_\_, 20\_\_\_\_ is made effective on \_\_\_\_\_, 20\_\_\_\_, between Rocky Mountain Chocolate Factory, Inc. (the “**Franchisor**”) and \_\_\_\_\_ (the “**Franchisee**”). This Rider shall amend and be incorporated into the Agreement. All capitalized terms not defined in this Rider shall have the respective meanings set forth in the Agreement. In the event of any conflict between the terms of this Rider and the terms of the Agreement, the terms of this Rider shall control.

**1. Dispute Resolution.** Sections 22.1 and 22.10 of the Agreement shall be deleted in their entirety. The Franchisor and the Franchisee agree to resolve all disputes in accordance with the following provisions:

**NOTICE AND DISPUTE RESOLUTION  
NON-BINDING ARBITRATION/LITIGATION**

**Section A.**     Non-Binding Arbitration.

Except as provided in Section C with regard to bringing a civil action related to or based on the Marks, any lease of real estate or enforcement of the covenant not to compete and in Section D with regard to injunctive relief, as a condition precedent to bringing a civil action, all controversies, disputes or claims between the Franchisor, its affiliates, subsidiaries, officers, directors or employees (collectively, the “**Franchisor Affiliates**”) and the Franchisee, the Franchisee’s parent, subsidiary or affiliates and their respective officers, directors, shareholders, members, managers, partners, employees, independent contractors, agents, sales people and attorneys (collectively, the “**Franchisee Affiliates**”) arising out of or related to: (1) this Agreement or any other agreement between the parties or any provision of such agreements; (2) the relationship of the parties hereto; (3) the validity of this Agreement or any other agreement between the parties or any provision of such agreements; or (4) the Licensed Methods, shall be submitted for non-binding arbitration to the American Arbitration Association (“**AAA**”) on demand of either party. Such non-binding arbitration proceedings shall be conducted in Denver, Colorado, and shall be heard by one arbitrator in accordance with the then current Commercial Arbitration Rules of the AAA. If the parties are unable to resolve the controversy, dispute or claims at the conclusion of the non-binding arbitration proceeding, then either party shall be entitled to pursue a civil action against the other to resolve the dispute.

**Section B.**     Scope of Non-Binding Arbitration.

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agree that non-binding arbitration shall be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between the Franchisor and the Franchisee shall not be consolidated with any other arbitration proceeding involving the Franchisor and any other person, corporation or partnership.

**Section C.**      **Governing Law/Consent to Venue and Jurisdiction.**

All disputes to be arbitrated by the Franchisor and the Franchisee shall be governed by the Federal Arbitration Act (the “FAA”) and no procedural arbitration issues are to be resolved pursuant to any state statutes, regulations or common law. Except to the extent governed by the FAA and the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051 et seq.) or other federal law, this Agreement shall be interpreted under the laws of the state of Colorado and any dispute between the parties shall be governed by and determined in accordance with the substantive laws of the state of Colorado, which laws shall prevail in the event of any conflict of law. The Franchisee and the Franchisor have negotiated regarding a forum in which to resolve any disputes that may arise between them and have agreed to select a forum in order to promote stability in their relationship. Therefore, if a claim is asserted in any legal proceeding in court involving the Franchisee or the Franchisee Affiliates and the Franchisor or the Franchisor Affiliates, all parties agree that the exclusive venue for disputes between them shall be in the state courts in La Plata County, Colorado and federal courts located in Colorado and each waive any objections they may have to the personal jurisdiction of or venue in the state courts in La Plata County, Colorado and federal courts located in Colorado. THE FRANCHISOR, THE FRANCHISOR AFFILIATES, THE FRANCHISEE AND THE FRANCHISEE AFFILIATES EACH WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

**Section D.**      **Injunctive Relief.**

Notwithstanding the above provision for arbitration, the Franchisor and the Franchisee shall each have the right in the proper case to obtain injunctive relief from a court of competent jurisdiction. The Franchisee agrees that the Franchisor may obtain such injunctive relief, without posting a bond or bonds totaling no more than \$500, but upon due notice, and the Franchisee’s sole remedy in the event of the entry of such injunctive relief shall be the dissolution of such injunctive relief, if warranted, upon hearing duly had; provided, however, that all claims for damages by reason of the wrongful issuance of any such injunction are hereby expressly waived by the Franchisee.

**2.      Effectiveness.** This Rider shall not be effective until accepted by the Franchisor as evidenced by dating and signing by an officer of the Franchisor. To the extent not amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this Rider as of the date first written above.

**ROCKY MOUNTAIN  
CHOCOLATE FACTORY, INC.**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

**FRANCHISEE:**

\_\_\_\_\_  
Individually

AND:

(if a corporation or partnership)

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF VIRGINIA**

1. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Disclosure Document for use in the Commonwealth of Virginia shall 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 franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT FOR  
THE STATE OF WASHINGTON**

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

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

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

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

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

2. Item 17(d) is hereby deleted in its entirety and replaced with the following:

Provision	Section in Franchise Agreement	Summary
(d) Termination by franchisee	Section 18.1	You may terminate the Agreement upon any grounds available by law.



3. Item 17(q) is hereby deleted in its entirety and replaced with the following:

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
(q) Non-competition covenants during the term of the franchise	Section 20.1	No involvement in competing business (subject to applicable state law).

4. Item 17(r) is hereby deleted in its entirety and replaced with the following:

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
(r) Non-competition covenants after the franchise is terminated or expires	Section 20.2	No involvement in competing business (subject to applicable state law).

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF WASHINGTON**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is date \_\_\_\_\_, 20\_\_\_\_.

1. The following statement shall be added at the end of Section 18.1:

The Franchisee may terminate the Agreement upon any grounds available by law.

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

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

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

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

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Washington Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
DISCLOSURE DOCUMENT  
FOR THE STATE OF WISCONSIN**

**REGISTRATION OF THIS FRANCHISE IN WISCONSIN DOES NOT MEAN THAT  
THE STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS  
DISCLOSURE DOCUMENT.**

The conditions under which the Franchise Agreement can be terminated or not renewed may be affected by the Wisconsin Fair Dealership Law, Wisconsin Statutes 1981-82, Title XIV-A, Chapter 135.

**RIDER TO THE  
ROCKY MOUNTAIN CHOCOLATE FACTORY, INC.  
FRANCHISE AGREEMENT  
FOR THE STATE OF WISCONSIN**

This Rider to the Franchise Agreement by and between Rocky Mountain Chocolate Factory, Inc. and Franchisee is dated \_\_\_\_\_, 20\_\_.

1. The following paragraph is added to Section 18.6:

The conditions under which the Franchise Agreement can be terminated or not renewed may be affected by the Wisconsin Fair Dealership Law, Wisconsin Statutes 1981-82, Title XIV-A, Chapter 135.

**IN WITNESS WHEREOF**, the parties hereto have duly executed and delivered this Wisconsin Rider concurrently with the execution of the Franchise Agreement on the day and year first above written.

**ROCKY MOUNTAIN CHOCOLATE  
FACTORY, INC.**

**FRANCHISEE:**

By: \_\_\_\_\_  
Greg Pope, Sr. VP Franchise Development

\_\_\_\_\_  
**FRANCHISEE (Print Name)**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT K  
(TO DISCLOSURE DOCUMENT)**

**CLOSING ACKNOWLEDGEMENT**

In order to ensure that your decision to purchase a Rocky Mountain Chocolate Factory, Inc. (“**RMCF**”) franchise is based upon your own independent investigation and judgment, please complete and sign this Acknowledgement. All terms not defined herein shall have their respective meanings as set forth in the Franchise Agreement dated of even date herewith between the undersigned Franchisee and RMCF.

1. I have not received any information, either oral or written, regarding the sales, revenues, earnings, income or profits of ROCKY MOUNTAIN CHOCOLATE FACTORY Stores from any officer, employee, agent or sales representative of RMCF, except as may be set forth in Item 19 of the Franchise Disclosure Document.

2. I have not received any assurances, promises or predictions of how well my ROCKY MOUNTAIN CHOCOLATE FACTORY Store will perform financially from any officer, employee, agent or sales representative of RMCF.

3. I have made my own independent determination that I have adequate working capital to develop, open and operate my ROCKY MOUNTAIN CHOCOLATE FACTORY Store.

4. I acknowledge that RMCF will provide guidelines for a suitable site for my ROCKY MOUNTAIN CHOCOLATE FACTORY Store, but I understand that I am responsible for the final decision regarding the selection of a suitable site.

5. I am not relying on any promises of RMCF which are not contained in the ROCKY MOUNTAIN CHOCOLATE FACTORY Franchise Agreement or in the most recent Franchise Disclosure Document furnished by RMCF or its authorized representative.

6. I acknowledge that the terms of the ROCKY MOUNTAIN CHOCOLATE FACTORY Franchise Agreement are not negotiable.

7. I understand that my investment in a ROCKY MOUNTAIN CHOCOLATE FACTORY Store contains substantial business risks and that there is no guarantee that it will be profitable.

8. I acknowledge that RMCF reserves the right to distribute, and may presently be distributing, the same products and services which my ROCKY MOUNTAIN CHOCOLATE FACTORY Store will offer and sell, through co-branded stores and through alternative channels of distribution using the Marks and the Licensed Methods, at any location.

9. I have been advised by RMCF and its representatives to seek professional legal and financial advice in all matters concerning the purchase of my ROCKY MOUNTAIN CHOCOLATE FACTORY Store.

10. I acknowledge that the success of my ROCKY MOUNTAIN CHOCOLATE FACTORY Store depends in large part upon my ability as an independent business person and my active participation, or the active participation of my General Manager, in the day to day operation of the Store.

11. The name(s) of the person(s) with whom I dealt in the purchase of my ROCKY MOUNTAIN CHOCOLATE FACTORY Store is/are \_\_\_\_\_. The name(s) of the person(s) listed

above have also been listed on the Franchise Disclosure Document receipt that I signed and provided to RMCF.

**FRANCHISEE:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity

By: \_\_\_\_\_

Title: \_\_\_\_\_

**FRANCHISEE:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Individually

\_\_\_\_\_  
Date

\_\_\_\_\_  
Individually

### State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

California: <u>Exemption</u>	New York: <u>Exemption</u>
Hawaii: <u>Pending</u>	North Dakota: <u>Pending</u>
Illinois: <u>Pending</u>	Rhode Island: <u>Pending</u>
Indiana: <u>Exemption</u>	South Dakota: <u>Pending</u>
Maryland: <u>Pending</u>	Virginia: <u>Pending</u>
Michigan: <u>Exemption</u>	Washington: <u>Pending</u>
Minnesota: <u>Pending</u>	Wisconsin: <u>Pending</u>

Other states may require registration, filing or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.



**EXHIBIT L**  
**(TO DISCLOSURE DOCUMENT)**

**RECEIPT**

(Keep this copy for your records.)

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 Rocky Mountain Chocolate Factory, Inc. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan requires that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Rocky Mountain Chocolate Factory, Inc. 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington D.C. 20580 and the state agency listed on Exhibit A.

The franchisor is Rocky Mountain Chocolate Factory, Inc., located at 265 Turner Drive, Durango, Colorado 81303, Telephone: (970) 259-0554.

Issuance date: October 22, 2021

The franchise seller(s) for this offering are \_\_\_\_\_ located at 265 Turner Drive, Durango, Colorado 81303, Telephone (970) 259-0554, and/or \_\_\_\_\_, located at \_\_\_\_\_.

Rocky Mountain Chocolate Factory, Inc. authorizes the respective agents identified on Exhibit A to receive service of process for it in the particular state.

I received a Disclosure Document dated October 22, 2021, and effective in the franchise registration states on the dates noted on the page following the State Cover Page, that included the following Exhibits:

- |  |   |
|--|---|
| A List of State Agencies/Agents for Service of Process | G-3 Addendum to Franchise Agreement – Co-Branded Stores                                   |
| B Franchise Agreement                                  | H-1 Amendment to Franchise Agreement – Renewal  |
| C List of Franchisees                                  | H-2 Amendment to Franchise Agreement – Transfer   |
| D Franchisees Who Have Left the System                 | H-3 Amendment to Franchise Agreement – Relocation   |
| E Financial Statements                                 | I General Release   |
| F Operations Manual Table of Contents                  | J State Addenda and Riders to Disclosure Document, Franchise Agreement and Other Exhibits |
| G-1 Addendum to Franchise Agreement – Satellite Stores | K Closing Acknowledgement   |
| G-2 Addendum to Franchise Agreement – Temporary Stores |   |

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

**RECEIPT**

(Return this copy to us)

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 Rocky Mountain Chocolate Factory, Inc. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan requires that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Rocky Mountain Chocolate Factory, Inc. 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 and state law may have occurred and should be reported to the Federal Trade Commission, Washington D.C. 20580 and the state agency listed on Exhibit A.

The franchisor is Rocky Mountain Chocolate Factory, Inc., located at 265 Turner Drive, Durango, Colorado 81303, Telephone: (970) 259-0554.

Issuance date: October 22, 2021.

The franchise seller(s) for this offering are \_\_\_\_\_ located at 265 Turner Drive, Durango, Colorado 81303, Telephone (970) 259-0554, and/or \_\_\_\_\_, located at \_\_\_\_\_.

Rocky Mountain Chocolate Factory, Inc. authorizes the respective agents identified on Exhibit A to receive service of process for it in the particular state.

I received a Disclosure Document dated October 22, 2021, and effective in the franchise registration states on the dates noted on the page following the State Cover Page, that included the following Exhibits:

- A List of State Agencies/Agents for Service of Process
- B Franchise Agreement
- C List of Franchisees
- D Franchisees Who Have Left the System
- E Financial Statements
- F Operations Manual Table of Contents
- G-1 Addendum to Franchise Agreement – Satellite Stores
- G-2 Addendum to Franchise Agreement – Temporary Stores
- G-3 Addendum to Franchise Agreement – Co-Branded Stores
- H-1 Amendment to Franchise Agreement – Renewal
- H-2 Amendment to Franchise Agreement – Transfer
- H-3 Amendment to Franchise Agreement – Relocation
- I General Release
- J State Addenda and Riders to Disclosure Document, Franchise Agreement and Other Exhibits
- K Closing Acknowledgement

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

\_\_\_\_\_  
Print Name

You may return the signed receipt either by signing, dating and mailing it to 265 Turner Drive, Durango, Colorado 81303, or by faxing a copy of the signed and dated receipt to Rocky Mountain Chocolate Factory, Inc. at (970) 259-5895.