

including but not limited to the sharing of login information or credentials. Customer will take all reasonable measures to ensure appropriate safeguards and protections for such credentials, and will be solely responsible for any acts or omissions of an unauthorized third party resulting from such third party's access to the Licensed Applications. Olo will have the right to revoke Customer's access to the Licensed Applications at any time and at its sole discretion if Olo reasonably suspects Customer of violating this Section 5.

#### B. Olo Responsibilities

1. Olo will collect, use, disclose and otherwise process End User PII to provide the Services.
2. Olo will maintain an End User-viewable Privacy Policy which shall detail to End Users how End User PII is handled in connection with the Services and End Users' responsibilities with respect to the Services. Customer agrees that Olo will require End Users to accept responsibility for safeguarding End Users' account credentials, including their passwords, and for any activity performed using the End User's account credentials. Olo shall not be liable to Customer or any End User for any activity in End Users' accounts that is authenticated by login credentials established by the End User to whom the account pertains.
3. Olo has in place a comprehensive, written information security program designed to protect the information under its custody, management or control, including all PII, from unauthorized access, use, disclosure, and loss and theft, using industry standard security practices and technologies. Olo's information security program includes the following safeguards: (a) secure business facilities, data centers, servers, and back-up systems and disaster recovery; (b) network, device application, database and platform security; (c) secure transmission, storage and disposal; (d) encryption of PII placed on any electronic notebook, portable hard drive or removable electronic media with information storage capability, such as compact discs, USB drives, flash drives, tapes; (e) encryption of PII in transit over public networks; (f) segregating PII from information of other clients of Olo; and (g) personnel security and integrity including, but not limited to, background checks consistent with applicable law and the requirements of this Agreement.
4. Olo will regularly, but in no event less than annually, evaluate the effectiveness of its information security program and shall promptly adjust and/or update such programs as reasonably warranted by the results of such evaluation.
5. Olo will take reasonable steps to ensure the reliability, integrity and trustworthiness of persons that process PII on Olo's behalf (such as employees), including obtaining appropriate background checks on its employees with access to Personal Data. All Olo personnel with access to PII are provided appropriate information security and privacy training regarding Olo's obligations and restrictions under this Agreement and compliance with applicable laws and Olo's information security program.

#### C. Breaches of Security

1. **"Breach of Security" means any loss, misuse, disclosure of, or unauthorized access to PII under Olo's custody, management or control that materially compromises the privacy, security, integrity or availability of the PII.**
2. Olo will promptly notify Customer of any Breach of Security by email to the Customer designee listed in the Order Form. The notification will include an explanation of any actions Olo determines it must take in response to a Breach of Security.
3. Customer shall promptly notify Olo by email at Security@olo.com of any suspicious activity in connection with the Services, which Customer detects or of which Customer becomes aware, that may indicate an actual or suspected Breach of Security is occurring or has occurred. The notification should include an explanation of any actions Customer determines it must take in response to such actual or suspected Breach of Security.

4. Olo will reasonably cooperate with Customer to mitigate any harm caused by a Breach of Security, and will take all steps that Olo determines are reasonably necessary or appropriate to isolate, investigate, and remediate the effects of such occurrence, ensure the protection of those End Users that are affected or likely to be affected by such occurrence, prevent the recurrence of any such Breach of Security, and comply with applicable laws.
5. Olo may determine that responding to a Breach of Security requires Olo to suspend the Services. When this occurs, Olo will notify Customer of such suspension as soon as reasonably practicable. Any suspension under this Section 5 shall not be considered Downtime as defined under the Digital Ordering **Terms & Conditions Addendum, if applicable to Customer's use of the Services.**
6. Olo may determine that responding to a Breach of Security requires Olo to communicate directly with End Users by email, in-app or in-site messages, or other means, regarding actions that End Users must take to enable Olo to respond to a Breach of Security, including without **limitation, resetting End Users'** login credentials. Olo will undertake such actions in its sole discretion.
7. Olo will provide reasonable additional assistance under this Section 7 as reasonably requested by **Customer, at Customer's expense.**
8. Customer shall be responsible for determining whether any notification to End Users, regulators, law enforcement authorities, or other third parties is required in response to any Breach of Security, and for providing any such notifications. Customer may request that Olo notify affected End Users of a Breach of Security, in which case Olo will provide such notice to End Users solely using the contact information which End Users have provided in connection with the Services.
9. To the extent a Breach of Security does not result directly from **Customer's** action or omission, Olo will promptly reimburse Customer for all reasonable and documented costs actually incurred by Customer in responding to and mitigating such a Breach of Security, including the cost of notifying affected End Users and providing credit monitoring to End Users to the extent that notification and/or credit monitoring are required by applicable law or the parties agree in good faith that notification and/or credit monitoring is appropriate under the circumstances.

#### D. PCI-DSS

1. At all times during the duration of the Agreement, Olo shall be fully compliant with the Payment Card Industry Data Security Standards ("PCI DSS").
2. At all times during the duration of the Agreement, Olo shall comply with all applicable rules and guidelines regarding service providers, third-party agents and processors as issued by the Card Associations (the "Card Rules"), as updated from time to time, and including Card Rules applicable to U.S. credit card transactions. The term "Card Associations" means MasterCard, VISA, American Express, Discover, or any other credit card brand or payment card network for or through which Olo processes payment card transactions on behalf of Customer.
3. Olo shall validate its PCI DSS compliance as required by the applicable Card Rules. As of the date set forth below, Olo has complied with all applicable requirements to be considered compliant with PCI-DSS, and has performed all necessary steps to validate its compliance with the PCI-DSS. Without limiting the foregoing, Olo represents and warrants that it (i) undergoes yearly On-Site PCI Data Security Assessments ("Annual Assessment") by a qualified security assessor ("QSA") and pursuant to its most recent Annual Assessment, it is currently certified as compliant with the current version of PCI DSS by the QSA; (ii) undergoes a quarterly network scan ("Scan") by an approved scanning vendor and that it is has passed its most recent Scan.
4. Olo shall notify Customer within seven (7) days if it (i) receives a non-compliant Annual Assessment from a QSA, (ii) fails to complete any Annual Assessment prior to the expiration of the previous year's Annual Assessment, or (iii) is no longer in compliance with PCI DSS; provided that Olo shall first have a remediation period of thirty (30) days ("the Cure Period") to come into compliance with PCI DSS after

determining it is noncompliant, and if Olo cures such noncompliance within the Cure Period, Olo shall not be required to notify Customer hereunder.

5. Olo agrees to supply evidence of its most recent Annual Assessment prior to or upon execution of this **Agreement. Thereafter, Olo, upon Customer's reasonable request, shall supply to Customer evidence of** Olo's successful completion of its Annual Assessment.
6. For the avoidance of doubt, and notwithstanding the foregoing, Customer shall be solely responsible for ensuring compliance with PCI DSS (a) of its custom built front end websites, mobile applications, or other web properties, or (b) to the extent Customer has incorporated any custom, non-standard software **code into Olo's standard white label front end website offering. Olo shall have no obligation to monitor** such custom web properties for compliance with PCI DSS or to notify Customer of any noncompliance.

#### E. Security Vulnerabilities

If you believe you have found a security vulnerability in one of our products or our services, or if you have found sensitive Olo data outside of our systems, you may reach the Olo security team at [security@olo.com](mailto:security@olo.com). The Olo security team can provide various methods to encrypt sensitive communications.



**Order Form #1**

<b>Prepared by:</b> Lauren Esposito, Sales Director Lauren.esposito@olo.com	<b>Date Prepared:</b> 09/26/2023
	<b>Order Form Effective Date:</b> 09/28/2023
<b>Reference:</b> Dairy Queen + updated ordering and delivery management program for American Dairy Queen company under existing DQ channel	

**1. Customer**

American Dairy Queen Corporation	
8331 Norman Center Drive, Suite 700 Bloomington, MN 55437 US	

**2. Service(s) Description, Scope & Deployment**

Description of Services and integrations:

Olo to provide Ordering (API), Rails, and Dispatch (the “Services”) in the United States and Canada for the American Dairy Queen company under the existing Dairy Queen channel including integrations with Brink POS, Punchh Loyalty, Fiserv for payments, third-party delivery marketplaces (e.g. DoorDash, Uber Eats, GrubHub), and Radar for geofencing. WillowTree to support custom UX for web and app.

As of the Order Form Effective Date, Customer anticipates that the following locations will use the Services specified in this Section 2 (such locations, the “Estimated Locations”):

Company-owned locations:	0
Authorized Operator locations:	3,255
Total locations:	3,255

The parties will support deployment for the Services at the Estimated Locations as described below and use commercially reasonable efforts to support the activation of all locations as soon as is practicable:

Service(s)	# Authorized Operator Locations	Customer Initials
Ordering	3,200	<u>KB</u> KB
Rails	3,255	<u>KB</u> KB

Dispatch	3,200	<u>KB</u> KB
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During the Term, Customer may, in its sole discretion, decide to use the Services described in this Section 2 for locations in addition to the Estimated Locations by providing written notice (email sufficient) to Olo (such locations, the “Additional Locations”). Olo shall provide additional customer support services when Customer is prepared to launch Additional Locations.

The deployment period hereunder (“Deployment Period”) shall be a 180-day period beginning on April 1, 2024.

For clarity, Olo reserves the right to activate any contracted Service at any contracted location hereunder, each as specified in this Section 2, once the Service or location is ready to be activated as determined in Olo’s sole discretion, and Customer approves Olo activating such location. “Active” shall mean Olo is actively billing a location for at least one Service.

**3. Term**

The Term defined herein will be established as the “Initial Term”. The Initial Term shall begin on April 1, 2024 and shall remain in force for 48 months. The Initial Term shall be automatically renewed for successive 12-month periods (each a “Renewal Term” and collectively with the Initial Term, the “Term”) unless, at least 90 days prior to any Renewal Term, either party gives the other party written notice that this Order Form shall not be renewed.

**4. Fees and Charges; Payment Terms**

- a. Fees and Charges. Commencing as of April 1, 2024, Olo shall charge Customer or the applicable Authorized Operators, as specified below, the fees set forth below in accordance with the Payment Terms set forth in subsection 4(b). Billing begins upon the activation of each location.

Program Deployment Fee	One-time fee to cover implementation and deployment if at least 2,090 locations have not implemented Dispatch by the end of the Deployment Period.  This fee will be charged to the Customer at the end of the Deployment Period, if applicable.
	\$25,000
Post-Activation Monthly Order Packages and Transaction Fee	This transaction fee will apply to each order processed by Digital Ordering, Rails and Dispatch, based on the total number of systemwide Active locations and the pricing tiers set forth below.  Olo will assess Active location count as of the first day of each month to determine which pricing tier will apply to the system. If the Active location count dictates a systemwide change in pricing tier, then there will be a temporary pause in the ability to adjust location level Order Packages within a specific tier during such month and the new pricing tier rates will go into effect as of the first day of such month. Moving up to a tier with more Active locations and lower pricing will occur

the month immediately following the month during which the Active location count reaches the lowest required number of Active locations. Moving down to a tier with less Active locations and higher pricing will occur only once the number of Active locations is more than fifty (50) locations below the threshold number.

For example, on January 1, Olo will assess the number of Active locations. If the total number of Active locations is 3,800 and that moves the system up into a new pricing tier, then during the month of January Olo will not be able to accommodate location-level changes in Order Packages and the new pricing tier will go into effect as of January 1, as reflected in the January invoices. If on February 1, the total number of Active locations is 3,690, the system tier will not be moved down and will remain the same until the first of such month when the total number of Active locations is either reduced to at most 3,648 or increased to at least 4,200.

Order Packages are selected and billed in arrears on a per location basis and separate packages are needed for each unique channel or menu. Each package includes a monthly quantity of orders and establishes the cost of any additional orders processed beyond the package amount during the month. Except during any month in which an Order Package Pricing Tier is changing, Order Packages within a specific tier may be updated at any time; provided, that to the extent a selected Order Package is upgraded or downgraded at least 5 days prior to the end of a calendar month, the change in fee will be **reflected in the subsequent month's charges, otherwise, the change in fee will be reflected in the charges of the month following the subsequent month.** For the avoidance of doubt, billing will not be prorated if activation occurs mid-month and Order Package changes will not become effective mid-month.

This fee will be charged to each individual location.

**Order Package Pricing Tiers**

Less than 3,200 Active locations systemwide:

Package	XS	S	M	L	XL
Monthly Fee	\$27.23	\$47.85	\$61.88	\$69.30	\$74.80
Included Orders (Monthly)	150	300	450	600	800
Cost Per Included Order	\$0.182	\$0.160	\$0.138	\$0.116	\$0.094
Cost Per Additional Order	\$0.182	\$0.160	\$0.138	\$0.116	\$0.094

3,200 – 3,699 Active locations systemwide:

Package	XS	S	M	L	XL
Monthly Fee	\$24.75	\$43.50	\$56.25	\$63.00	\$68.00

Included Orders (Monthly)	150	300	450	600	800
Cost Per Included Order	\$0.165	\$0.145	\$0.125	\$0.105	\$0.085
Cost Per Additional Order	\$0.165	\$0.145	\$0.125	\$0.105	\$0.085

3,700 – 4,199 Active locations systemwide:

Package	XS	S	M	L	XL
Monthly Fee	\$23.51	\$41.33	\$53.44	\$59.85	\$64.60
Included Orders (Monthly)	150	300	450	600	800
Cost Per Included Order	\$0.157	\$0.138	\$0.119	\$0.100	\$0.081
Cost Per Additional Order	\$0.157	\$0.138	\$0.119	\$0.100	\$0.081

4,200 or more Active locations systemwide:

Package	XS	S	M	L	XL
Monthly Fee	\$22.89	\$40.24	\$52.03	\$58.28	\$62.90
Included Orders (Monthly)	150	300	450	600	800
Cost Per Included Order	\$0.153	\$0.134	\$0.116	\$0.097	\$0.079
Cost Per Additional Order	\$0.153	\$0.134	\$0.116	\$0.097	\$0.079

Location Transfer Fee	Applied when the original Authorized Operator is replaced by a new Authorized Operator.  This fee will be charged to the new Authorized Operator.  \$50 per location
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b. Payment Terms.

- (i) All dollar amounts in this Order Form are expressed in US Dollars. All Olo fees are subject to applicable sales tax. In addition, the self-assessment and remittance of federal, state and local taxes on End User orders (including without limitation any sales or value added tax) is the sole responsibility of the Customer and/or Authorized Operator. Customer shall, upon request **by Olo, provide a Multiple Point Use (“MPU”) certificate** or equivalent certification for compliance purposes.
- (ii) All amounts due under this Order Form (including charges with respect to locations owned by Authorized Operators) shall be charged to and payable by the Customer; provided, that, if an Authorized Operator assumes payment obligations with respect to locations owned or operated by such Authorized Operator under this Order Form, for any fees charged on a per location or per transaction/order/unit basis, (1) the Customer shall be responsible for such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned by the Customer, and (2) an Authorized Operator shall be responsible for

such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned or operated by such Authorized Operator.

- (iii) All one-time and recurring program fees will payable as specified below:
1. With respect to all corporate-owned locations in the United States and Canada that elect to pay via ACH, during the first five (5) business days of each month, Olo will invoice all fees for the month just ended (e.g., July service fees will be invoiced during the first five (5) business days of August). Customer shall pay the invoiced amount via ACH within five (5) business days following the invoice date.
  2. With respect to all Authorized Operator locations in the US and any corporate-owned locations in the US that elect to pay via EFT, during the first five (5) business days of each month, Olo will invoice all fees and initiate EFT payment for the month just ended (e.g., July service fees will be invoiced during the first five (5) business days of August). The fees will be withdrawn within three (3) business days following the invoice date.
  3. With respect to Authorized Operator locations in Canada and any corporate-owned locations in Canada that elect to pay via credit card, during the first five (5) business days of each month, Olo will invoice all fees for the month just ended and initiate credit card payment (e.g., July service fees will be invoiced during the first five (5) business days of August). The fees will be charged within three (3) business days following the invoice date.
  4. During the period between invoicing and the EFT withdrawal or payment date, as applicable, the Customer and Authorized Operators may review the proposed charges.
    - A. If they have questions or want to dispute the invoice, they may contact [billingsupport@olo.com](mailto:billingsupport@olo.com).
    - B. If the invoice contains material inaccuracies (e.g., extra zeros) and Olo is notified of such misstatements, Olo may halt the planned EFT withdrawal.
    - C. **Non-material adjustments will be made on the following month's invoice.**
  5. Olo reserves the right to invoice each location for Dispatch Delivery Fees (and Tips) on a periodic basis throughout the month. Olo will invoice and initiate the EFT payment (or, for Canadian locations, collect these fees **through the location's GoCardless account**) on the 11th and 21st of each month. The fees will be withdrawn or paid, as applicable, within three (3) business days following the invoice date. A true-up amount for the month will appear on the monthly invoice.

## 5. Terms & Conditions

- a. This document and any attachments or an online order completed by Customer comprise an Order Form which is incorporated by reference into that certain Master Services Agreement dated September 28, 2023 (**the "Agreement"**) **between Olo and Customer, and is entered into as of the Order Form Effective Date**. By entering into this Order Form or completing an online order, Customer agrees to be bound by the applicable terms of the Agreement.
- b. Capitalized terms used but not defined in this Order Form shall have the meanings given to them in the Agreement. To the extent that the terms of this Order Form conflict with the terms of the Agreement or any prior Order Form executed between Customer and Olo, the terms of this Order Form take precedence.
- c. Upon signature by Customer and submission to Olo, this Order Form shall become legally binding and governed by the Agreement and the applicable product specific terms between Olo and Customer.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective duly authorized officers.

American Dairy Queen Corporation
By <u><i>Kevin Baartman</i></u> <small>Kevin Baartman (Sep 29, 2023 11:35 CDT)</small>
Name <u>Kevin Baartman</u>
Title <u>E.V.P. - Information Technology</u>

Olo Inc.
By <u><i>NG</i></u> <small>Noah Glass (Sep 29, 2023 12:37 EDT)</small>
Name <u>Noah Glass</u>
Title <u>Founder &amp; CEO</u>

# ADQ\_Olo\_MSA\_FINAL 09.28.2023

Final Audit Report

2023-09-29

Created:	2023-09-28
By:	Lauren Esposito (lauren.esposito@olo.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAxroox6YjzGcFz7Q6VmccvJQp0b55X6Cn

## "ADQ\_Olo\_MSA\_FINAL 09.28.2023" History

-  Document created by Lauren Esposito (lauren.esposito@olo.com)  
2023-09-28 - 6:50:35 PM GMT - IP address: 146.113.155.23
-  Document emailed to kevin.baartman@idq.com for signature  
2023-09-28 - 6:57:17 PM GMT
-  Email viewed by kevin.baartman@idq.com  
2023-09-28 - 7:42:36 PM GMT - IP address: 152.117.114.199
-  Signer kevin.baartman@idq.com entered name at signing as Kevin Baartman  
2023-09-29 - 4:35:08 PM GMT - IP address: 23.30.226.6
-  Document e-signed by Kevin Baartman (kevin.baartman@idq.com)  
Signature Date: 2023-09-29 - 4:35:10 PM GMT - Time Source: server- IP address: 23.30.226.6
-  Document emailed to Noah Glass (noah@olo.com) for signature  
2023-09-29 - 4:35:12 PM GMT
-  Email viewed by Noah Glass (noah@olo.com)  
2023-09-29 - 4:36:42 PM GMT - IP address: 66.249.83.76
-  Document e-signed by Noah Glass (noah@olo.com)  
Signature Date: 2023-09-29 - 4:37:01 PM GMT - Time Source: server- IP address: 67.243.134.135
-  Agreement completed.  
2023-09-29 - 4:37:01 PM GMT



1. Customer Information

American Dairy Queen Corporation	
8331 Norman Center Drive, Suite 700 Bloomington, MN 55437 USA	

Brand Name: Dairy Queen		
	New	Existing
Company		Dairy Queen
Channel		Dairy Queen

Term	
Order Form Effective Date	The Order Form Effective Date is the date of the last signature below.
Initial Term Expiration Date	The Initial Term shall begin on the Order Form Effective Date and shall remain in force through March 31, 2028 (the "Initial Term").
Renewal Term	The Initial Term for "Phase 2 Products" and "Payments" shall be automatically renewed for successive 12-month periods (each a "Renewal Term" and collectively with the initial Term, the "Term") unless, at least 90 days prior to the end of the Initial Term or any Renewal Term, either party gives the other party written notice that this Order Form shall not be renewed

## 2. Services and Products Purchased

Phase 1- Products								
Product	Fee Type	Billing Frequency	Billing Type	Billing Start Date	Term (Months)	Monthly Fee	Contracted Locations*	Monthly Platform Price
Order Platform	Subscription	Monthly	Location	4/1/2024	12	\$50	3,250	\$162,500
<i>Order Platform includes: Ordering, Dispatch, Rails</i>								
<b>Total Monthly Subscription Price</b>								<b>\$162,500</b>

\*Note: Olo will not enforce the Contracted Location commitment until 10/1/2024.

Phase 2- Products								
Product	Fee Type	Billing Frequency	Billing Type	Billing Start Date	Term (Months)	Monthly Fee	Contracted Locations	Monthly Platform Price
Order Platform	Subscription	Monthly	Location	4/1/2025	36	\$60	3,250	\$195,000
<i>Order Platform includes: Ordering, Dispatch, Rails</i>								
<b>Total Monthly Subscription Price</b>								<b>\$195,000</b>

Payments							
Product / Services	Fee Type	Billing Type	Start Date	Term (Months)	Applicable Locations	Total Transaction Value Fee	Transaction Fee
Payment Gateway (if applicable)	Transaction	Location	4/1/2024	48	All active	0.25%	N/A

Olo will not charge the Subscription Fees before the applicable Billing Start Date, even if a location launches the Product prior to this date. Commencing on October 1, 2024 and any future applicable Billing Start Date, Olo will charge the Customer the Subscription Fee for all Contracted Locations that have not launched a Product prior to the applicable Billing Start Date. Thereafter, once a Contracted Location is live with the Product, the Subscription Fee will no longer be charged to the Customer and will instead be charged to such location. For the avoidance of doubt, if a Contracted Location goes live with the Product mid-month, the Subscription Fee will be charged to the Customer and the location on a proportionate basis for the month in which the Contracted Location launches. The Subscription Fee for any Additional Locations (defined below) will be charged to each location and prorated if an Additional Location launches mid-month. For the avoidance of doubt, each location may select the Products they wish to activate from the list of included Products above, but the Monthly Fee will not change based on the Products being used.

For the avoidance of doubt, each location is required to use either Olo Pay or the Payment Gateway for all payment processing transactions. The Payment Gateway Fees identified above are not applicable to Rails transactions, but are applicable to transactions processed by Ordering and Dispatch. The Olo Pay Platform Fee will be charged to each location using the Olo Pay Platform. The Payment Gateway Fee will be charged to each location using the Payment Gateway.

Olo reserves the right, at its sole discretion, to increase all fees charged hereunder by up to 5% during any Renewal Term, including following an automatic renewal. Customer acknowledges that as of the Billing Start Date Olo will **be deemed to have performed all deployment obligations required to enable Customer’s** use of the Products (including but not limited to any necessary technical integrations and the provision of required documentation) whereby locations can go live and the subscription can commence. Notwithstanding the foregoing, Olo shall provide additional customer support services when Customer is prepared to launch Additional Locations.

### 3. Locations

The following locations (the “Contracted Locations”) will use the Services specified in Section 2:

Type of Locations	Amount
Company-Owned	2
Authorized Operator	3,248
Total	3,250

During the Term, Customer may, in its sole discretion, decide to use the Products described in Section 2 for locations in addition to the Contracted Locations by providing written notice (email sufficient) to Olo (such locations, the “Additional Locations”); provided that all Additional Locations will be subject to a Location Activation Fee, as described in Section 4.

### 4. Additional Fees

Type		Fee
<b>Location Transfer Fee</b>	Applied when the original corporate or Authorized Operator location owner is replaced by a new corporate or Authorized Operator location owner.  This fee will be charged to the new corporate or Authorized Operator location owner.	\$50 per location

### 5. Payment Terms

- (a) All dollar amounts in this Order Form are expressed in US Dollars. All Olo fees are subject to applicable sales tax. In addition, the self-assessment and remittance of federal, state and local taxes on End User orders (including without limitation any sales or value added tax) is the sole responsibility of the Customer and/or

**Authorized Operator. Customer shall, upon request by Olo, provide a Multiple Point Use (“MPU”) certificate or equivalent certification for compliance purposes.**

- (b) All amounts due under this Order Form (including charges with respect to locations owned by Authorized Operators) shall be charged to and payable by the Customer; provided, that, if an Authorized Operator assumes payment obligations with respect to locations owned or operated by such Authorized Operator under this Order Form, for any fees charged on a per location or per transaction/order/unit basis, (1) the Customer shall be responsible for such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned by the Customer, and (2) an Authorized Operator shall be responsible for such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned or operated by such Authorized Operator.
- (c) All one-time and recurring program fees will payable as specified below:
  - (i) With respect to all corporate-owned locations in the United States that elect to pay via ACH, during the first five (5) business days of each month, Olo will invoice all fees for the month just ended (e.g., July service fees will be invoiced during the first five (5) business days of August). Customer shall pay the invoiced amount via ACH within five (5) business days following the invoice date.
  - (ii) With respect to all Authorized Operator locations in the US, and any corporate-owned locations in the US that elect to pay via EFT, during the first five (5) business days of each month, Olo will invoice all fees and initiate EFT payment for the month just ended (e.g., July service fees will be invoiced during the first five (5) business days of August). The fees will be withdrawn within three (3) business days following the invoice date.
  - (iii) With respect to Authorized Operator locations in Canada, and any corporate-owned locations in Canada that elect to pay via credit card, during the first five (5) business days of each month, Olo will invoice all fees for the month just ended and initiate credit card payment (e.g., July service fees will be invoiced during the first five (5) business days of August). The fees will be charged within three (3) business days following the invoice date.
  - (iv) During the period between invoicing and the EFT withdrawal or payment date, as applicable, the Customer and Authorized Operators may review the proposed charges.
    - (1) If they have questions or want to dispute the invoice, they may contact [billingsupport@olo.com](mailto:billingsupport@olo.com).
    - (2) If the invoice contains material inaccuracies (e.g., extra zeros) and Olo is notified of such misstatements, Olo may halt the planned EFT withdrawal.
    - (3) Non-material adjustments will be made on the following month’s invoice.
  - (v) Olo reserves the right to invoice each location for Dispatch Delivery Fees (and Tips) on a periodic basis throughout the month. Olo will invoice and initiate the EFT payment (or, for Canadian locations, collect these fees through the location’s GoCardless account) on the 11th and 21st of each month. The fees will be withdrawn or paid, as applicable, within three (3) business days following the invoice date. A true-up amount for the month will appear on the monthly invoice.

## 6. Terms & Conditions

- (a) This document and any attachments or an online order completed by Customer comprise an Order Form which is incorporated by reference into that certain Master Services Agreement dated September 28, 2023 (the “Agreement”) between Olo and Customer, and is entered into as of the Order Form Effective Date. By entering into this Order Form or completing an online order, Customer agrees to be bound by the applicable terms of the Agreement.
- (b) Capitalized terms used but not defined in this Order Form shall have the meanings given to them in the Agreement. To the extent that the terms of this Order Form conflict with the terms of the Agreement or

any prior Order Form executed between Customer and Olo, the terms of this Order Form take precedence.

- (c) Upon signature by Customer and submission to Olo, this Order Form shall become legally binding and governed by the Agreement and the applicable product specific terms between Olo and Customer.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective duly authorized officers.

American Dairy Queen Corporation	Olo Inc.
By: <u>Kevin Baartman</u> <small>Kevin Baartman (Feb 7, 2024 21:31 CST)</small>	By: <u></u> <small>Noah Glass (Feb 7, 2024 22:36 EST)</small>
Name: <b>Kevin Baartman</b>	Name: <b>Noah Glass</b>
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Date: <b>02/07/2024</b>	Date: <b>02/07/2024</b>

**EXHIBIT O**

**PUNCHH PARTICIPATION AGREEMENT (DQ REWARDS)**

#### MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (THE "**AGREEMENT**"), INCLUDING THE TERMS AND CONDITIONS BELOW ("**TERMS AND CONDITIONS**") IS ENTERED INTO AND EFFECTIVE AS OF APRIL 1, 2024 (THE "**MSA EFFECTIVE DATE**") BETWEEN PUNCHH INC. ("**PUNCHH**"), AND THE ENTITIES LISTED ON THE SIGNATURE PAGE, WITH THEIR PRINCIPAL BUSINESS LOCATIONS PROVIDED BELOW (COLLECTIVELY, "**CUSTOMER**").

WHEREAS, as of the date of this Agreement, Punchh provides a loyalty offering to some of Customer's Franchisees via an indirect relationship with a third party; and

WHEREAS, Customer desires to begin contracting directly with Punchh for the Punchh Services as set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

#### TERMS AND CONDITIONS

##### 1. DEFINITIONS.

- 1.1 "**Affiliate**" means any person or entity, that now or hereafter, that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Party specified.
- 1.2 "**Applicable Laws**" means all applicable present laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders of any governmental or judicial authorities.
- 1.3 "**Authorized Users**" means Customer, Customer employees or contractors, and all other third parties acting on Customer's behalf including its Affiliates who have been designated by Customer (excluding Punchh employees or contractors), on notice to Punchh, to receive unique login credentials permitting access to the Services.
- 1.4 "**Confidential Information**" has the meaning set forth in Section 10 hereof.
- 1.5 "**Documentation**" means any documentation made available to Customer by Punchh for use with the Services.
- 1.6 "**Fees**" means the fees payable by Customer to Punchh hereunder, as set forth on the Order or as may be otherwise agreed to by the Parties in writing.
- 1.7 "**Force Majeure**" has the meaning set forth in Section 17.7 hereof.
- 1.8 "**Franchisee**" means independently owned and operated franchise locations within the Dairy Queen® system.
- 1.9 "**including**" means "including without limitation."
- 1.10 "**Initial Term**" has the meaning set forth in Section 11.1 hereof.
- 1.11 "**Intellectual Property Rights**" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now or hereafter exist, and all applications therefor and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.
- 1.12 "**Order**" means any order form executed by Punchh and Customer which is subject to these Terms and Conditions, and any other order form subsequently entered by the Parties that expressly references and incorporates these Terms and Conditions, all under this Agreement. Punchh and Customer have entered into (and/or may in the future enter into) one or more written Orders and corresponding statements of work ("SOWs") specifying certain Services and Professional Services.

- 1.13 **"Participating Location"** means any franchised location within the Dairy Queen® franchise system that has signed the relevant Participation Agreement set forth as Exhibit C hereto.
- 1.14 **"Party"** means either Punchh or Customer, and **"Parties"** means both Punchh and Customer.
- 1.15 **"Personal Data"** is defined in the data processing agreement attached as Exhibit B.
- 1.16 **"Platform"** means Punchh's online platform through which the Customer makes use of the Services.
- 1.17 **"Professional Services"** means implementation, mobile application development, consulting or other professional services performed by Punchh for the Customer, as may be set forth in a separate SOW signed by the parties.
- 1.18 **"Promotional Programs"** means various customer acquisition, customer retention, and/or customer marketing programs, including loyalty programs facilitated by Punchh.
- 1.19 **"Punchh Technology"** means i) the ideas, know-how, inventions, methods, or techniques developed or conceived as a result of providing the Services hereunder, including any derivative works, modifications, additions, improvements, enhancements and/or extensions made from or to the Services; ii) the Platform and the databases, software, hardware, and other technology used by or on behalf of Punchh to provide the Platform; and iii) any other Punchh property related to the Services or the Platform.
- 1.20 **"Services"** means Punchh's proprietary software as a service (SaaS) solution, available by means of the Platform, which permits Customer to design, execute, manage, and analyze Promotional Programs. Services do not include the Professional Services provided by Punchh to the Customer.
- 1.21 **"Transition Assistance Period"** is defined as the period of twelve (12) months for the orderly transition of Services to Customer or another supplier of Customer, beginning upon the expiration or termination of the Agreement.
- 1.22 **"Transition Assistance Services"** means Services and Professional Services provided to Customer and Participating Locations under the Transition Assistance Plan that is mutually agreed upon by the Parties as set forth in Section 11.5 .
- 1.23 **"Term"** has the meaning set forth in Section 11.1 hereof.
- 1.24 **"Upgrades"** means, with respect to the Services, fixes, updates, enhancements, or upgrades thereto; provided, however, that "Upgrades" shall not include additional modules for the Services, or new products or services, that Punchh may make available from time to time.

**2. SERVICES.** SUBJECT TO CUSTOMER'S COMPLIANCE WITH THIS AGREEMENT, PUNCHH AGREES TO PROVIDE CUSTOMER WITH THE RIGHT, DURING THE TERM, FOR ITS AUTHORIZED USERS TO ACCESS AND USE THE SERVICES SOLELY FOR CUSTOMER'S INTERNAL BUSINESS PURPOSES. SERVICES ARE PROVIDED UNDER THIS AGREEMENT ONLY IF SPECIFIED IN AN APPLICABLE ORDER. CUSTOMER MAY OBTAIN ADDITIONAL SERVICES BY ENTERING INTO ADDITIONAL ORDERS. PUNCHH RESERVES ALL RIGHTS NOT EXPRESSLY GRANTED UNDER THIS AGREEMENT. PUNCHH SHALL USE COMMERCIALY REASONABLE EFFORTS: (I) TO MAINTAIN THE AVAILABILITY OF THE SERVICE, SUBJECT TO DOWNTIME BY REASON OF FORCE MAJEURE OR FOR THE PURPOSE OF PERFORMING MAINTENANCE OR IMPLEMENTING UPGRADES OR MODIFICATIONS (SEE EXHIBIT A SERVICE LEVEL AGREEMENT FOR FULL DESCRIPTION OF AVAILABILITY OF THE SERVICE); AND (II) TO RESPOND WITHIN A REASONABLE TIME TO CUSTOMER'S REASONABLE REQUESTS FOR SUPPORT OR CUSTOMER'S IDENTIFICATION OF ANY MATERIAL ERRORS OR DEFECTS IN THE SERVICE.

**2.1 PROFESSIONAL SERVICES.** CUSTOMER MAY ELECT TO PURCHASE PROFESSIONAL SERVICES FROM PUNCHH. THE PROVISION OF SUCH PROFESSIONAL SERVICES WILL BE SUBJECT TO ADDITIONAL FEES AND WILL BE GOVERNED BY TERMS AND CONDITIONS AGREED TO UNDER A SEPARATE SOW, WHICH WILL REFER TO AND BE INCLUDED AS PART OF THIS AGREEMENT.

**3. PURPOSE AND PRIMARY ACTIVITIES.**

**3.1 Punchh Endorsement.** Customer shall endorse Punchh as the preferred provider of the Customer's loyalty program in the United States and Canada and permit Punchh to participate in approved marketing activities to promote the Services to its franchise system.

**3.2 Franchisees and this Agreement.** Punchh will bill Customer at a system-wide level and not at a franchisee level, for all Participating Locations that participate in Customer's National Marketing program. However, Punchh will enter into applicable Participation Agreements with participating franchisee locations that participate in Customer's National Marketing program whereby the Participating Location shall be responsible for compliance with the applicable provision under the terms and conditions set forth therein. For clarity, except for Customer-owned locations, Customer is not liable or responsible for any actions by Participating Locations, but only for directly billing such Participating Locations that participate in Customer's National Marketing program and remitting the undisputed fees to Punchh. Punchh agrees to take all commercially reasonable efforts to provide complete invoices to Customer at the time payment is due, and may not be able to seek recovery for unbilled fees that Punchh, due to Punchh's own fault, failed to bill in a timely manner (as set forth in each Order). Punchh will bill Participating Locations that do not participate in Customer's National Marketing program directly. Punchh will enter into applicable Participation Agreements with (a) Participating Locations that do not participate in Customer's National Marketing program (a schedule of which will be updated from time to time in writing by Customer and provided to Punchh), which require payment directly to Punchh, in addition to compliance with the applicable provision under the terms and conditions set forth therein, and (b) Franchisees that are Participating in the National Marketing program but to ensure contractual privity between Customer's Franchisees and Punchh in the event of a Franchisee's breach of this Agreement. For clarity, Customer is not liable or responsible for any actions by the Participating Locations that do not participate in Customer's National Marketing program, including but not limited to such Participating Location's failure to pay Punchh for the Services. Customer will provide Punchh with an updated list of stores that do not participate in Customer's National Marketing program on an annual basis, and Punchh will bill those stores directly as of the beginning of the next calendar year. In the event that the number of Participating Locations that are Non-National Marketing program participants increases by more than 25% year-over-year, Punchh reserves the right, in its sole discretion, to charge reasonable administrative fees to manage the direct billing obligations of Punchh that may be passed through to the Participating Locations utilizing the services.

#### **4. PLATFORM.**

**4.1 Access.** All access to the Platform by Customer will be as specified in the Order(s) and SOW(s). All access to the Platform is solely for Customer's own internal business purposes, in accordance with the Terms and Conditions and Documentation.

**4.2 Accounts.** Customer may establish accounts for Authorized Users (each, an "Account"). Each Account may be used only by the Authorized Users for whom the Account is created. Customer remains responsible for the security of the username and password for each Account and for all use of the Services through each Account. Customer will notify Punchh immediately of any unauthorized uses of any Account or any other breaches of security.

**4.3 Restrictions.** Punchh Technology, as well as the Punchh Analytics (as defined below), constitute valuable trade secrets of Punchh. Customer will not, and will not permit any third party to: (1) access or attempt to access the Punchh Technology or Punchh Analytics, except as expressly provided in this Agreement; (2) use the Punchh Technology or Punchh Analytics in any unlawful manner or take any action that could damage, disable, overburden or impair the Punchh Technology; (3) use automated scripts to collect information from or otherwise interact with the Punchh Technology or Punchh Analytics; (4) alter, modify, reproduce, create derivative works of the Punchh Technology or Punchh Analytics; (5) distribute, sell, resell, lend, loan, lease, license, sublicense or transfer any of rights to access or use the Punchh Technology or Punchh Analytics or otherwise make the Punchh Technology or Punchh Analytics available to any third party; (6) reverse engineer, disassemble, decompile, or otherwise attempt to derive the method of operation of the

Punchh Technology or the methods through which the Punchh Analytics is provided; (7) attempt to circumvent or overcome any technological protection measures intended to restrict access to any portion of the Punchh Technology or Punchh Analytics; (8) interfere with the operation or hosting of the Punchh Technology or Punchh Analytics; (9) alter, obscure or remove any copyright notice, copyright management information or proprietary legend contained in or on the Punchh Technology or Punchh Analytics; or (10) use or access the Punchh Technology or Punchh Analytics for any prohibited end uses under Applicable Laws.

## 5. LICENSES.

**5.1 Customer Content.** Except as set forth in Section 5.2 hereunder, Customer grants to Punchh a non-exclusive, non-transferable, royalty-free, worldwide license (including authorization to issue the App on the applicable app stores in order to perform the Services, but without the right to sublicense), to reproduce, digitize, adapt, modify, transmit, distribute, perform, publicly display, create derivative works of, and otherwise use all information, data, text, visuals, graphics, artwork, animation, video content, and other content or materials identified or made available by Customer or its Authorized Users for use in connection solely with Punchh performing the Services or Professional Services ("**Customer Content**").

**5.2 Customer Marks.** During the Term, Customer grants to Punchh a non-exclusive, non-transferable, royalty-free, worldwide license to use the trademarks, service marks, fonts, logos and trade names of Customer specified in writing by Customer ("**Customer Marks**") in connection with performing the Services under this Agreement. All use of the Customer Marks will be in accordance with this Agreement and any additional trademark guidelines provided by Customer. Punchh will reasonably cooperate with Customer in facilitating the monitoring and control of the nature and quality of the use of the Customer Marks. All goodwill associated with the Customer Marks and any use thereof by Punchh will inure to the benefit of Customer. The parties agree to issue a mutually agreed upon press release within thirty (30) days following the execution of this Agreement.

**6. THIRD-PARTY AGREEMENTS.** PUNCHH MAY RELY ON THIRD-PARTY PROVIDERS TO PROVIDE CERTAIN SERVICES. ALL SUCH SERVICES ARE PROVIDED UNDER THE TERMS OF THIS AGREEMENT UNLESS PUNCHH PROVIDES THE CUSTOMER WITH A SEPARATE AGREEMENT APPLICABLE TO SUCH SERVICES (A "**THIRD PARTY AGREEMENT**"). THE TERMS OF ANY APPLICABLE THIRD-PARTY AGREEMENT WILL APPLY TO THE SERVICES COVERED BY THAT THIRD-PARTY AGREEMENT INDEPENDENT OF THE TERMS OF THIS AGREEMENT. THE CUSTOMER WILL BE SOLELY LIABLE TO ANY THIRD-PARTY PROVIDER PARTY FOR ANY THIRD-PARTY AGREEMENT THAT CUSTOMER OR ITS AUTHORIZED USERS BREACH. PURSUANT TO SCHEDULE B, PUNCHH REMAINS LIABLE FOR ANY ACTIONS OF ITS SUBCONTRACTORS, AND FOR FURTHER CLARITY, CUSTOMER SHALL NOT BE LIABLE TO FOR ANY PUNCHH-AUTHORIZED THIRD-PARTY PROVIDER UTILIZED BY PUNCHH IN PERFORMING THE SERVICES OR PROFESSIONAL SERVICES WHICH CUSTOMER HAS NOT ENTERED INTO A THIRD PARTY AGREEMENT WITH.

## 7. FEES AND PAYMENT.

**7.1 Fees.** Customer, or Customer's Franchisee(s) as applicable, shall pay Punchh the applicable Fees for the Services specified in each Order. If Customer elects to add features to an Order, additional fees may apply. Any discounts applied to an Order are specific to such Order.

**7.2 Payment.** All Fees specified in each Order are due and payable upon signing of such Order unless otherwise specified in such Order. The Customer agrees to pay the fees via ACH direct debit in accordance with the terms set out in the applicable Order and will occur upon Customer's receipt of the invoice ("**Payment Period**"), unless otherwise specified on such invoice. Customer will notify Punchh of any disputes in writing within sixty (60) days after the due date of such invoice and provide reasonable detail of the basis for such dispute within the Payment Period. Punchh may not backbill or make similar billing adjustments for Services that it failed, due to Punchh's oversight more than sixty (60) days after issuing the invoice in which such amounts should have been included. Delinquent payments for undisputed Fees on invoices that require no further revision, and that remain past due are subject, in Punchh's sole discretion, to late payment fees of 1.5% of the overdue balance per month (or the maximum amount permitted by law, whichever is lower) starting sixty (60) days after a payment's due date. All Fees paid are irrevocable and non-refundable, except as provided herein.

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If Customer's account is past due sixty (60) days or more after Customer receives notice thereof (except with respect to, and only applicable to the disputed amount, Fees for which there is a reasonable and good faith dispute that is being addressed pursuant to this Section 6.2), Punchh may suspend the Services upon written notice (email communication is acceptable) without liability until such amounts are paid in full, in addition to all of its other rights or remedies available under the Agreement, at law or in equity.

**7.3 Taxes.** Fees are exclusive of all taxes, levies, tariffs, and duties imposed by taxing authorities, and Customer is responsible for all such taxes, including sales, uses, excise, import, export or any similar tax or fee to comply with any applicable government imposed environmental regulations, excluding withholding or taxes based solely on Punchh's income.

**8. OWNERSHIP.**

**8.1 Customer Content.** Punchh acknowledges that Customer or its licensors will remain the sole owners of all Customer Content and all Intellectual Property Rights therein. Punchh will not acquire any rights in the Customer Content by virtue of this Agreement, except as set forth in this Agreement or an applicable Order or under this Agreement.

**8.2 Customer Marks.** Punchh acknowledges that Customer or its licensors will remain the sole owners of all Customer Marks and all Intellectual Property Rights therein. Punchh will not acquire any rights in the Customer Marks by virtue of this Agreement, except as may be expressly set forth in an Order or under this Agreement.

**8.3 Punchh Technology.** Customer acknowledges that Punchh or its licensors will remain the sole owners of all Punchh Technology, Punchh Analytics and all Intellectual Property Rights therein. Punchh does not provide customer with any license to any of the Punchh Technology, Punchh Analytics or any Intellectual Property Rights therein, except for the limited rights provided under this Agreement. Customer will not acquire any rights in or to the Punchh Technology or Punchh Analytics by virtue of this Agreement or otherwise.

**9. DATA.**

**9.1 Personal Data.** Customer may provide to Punchh, or Punchh may collect, certain Personal Data from Data Subjects in the course of Punchh providing Services or Professional Services to Customer, including Personal Data from Data Subjects who participate in the Promotional Programs. For any Personal Data provided to or collected by Punchh on Customer's behalf, Punchh comply with the Data Processing Agreement ("DPA") attached as Exhibit B. Customer remains responsible for any errors or omissions in Personal Data. As between Punchh and Customer, all Personal Data will be owned by Customer. Subject to the foregoing and as permitted by Applicable Laws and Exhibit B, Customer will obtain for Punchh the right to use the Personal Data as permitted in this Agreement and as necessary for the Services. Punchh will not otherwise use or share any Consumer Data other than as expressly permitted herein and in the Privacy Policy.

**9.2 Non-personally Identifiable Data.** To the extent permitted under Applicable Laws, Punchh may collect and use Deidentified Data (as defined in the DPA) regarding Data Subjects for any lawful business purpose.

**9.3 Punchh Analytics.** Punchh will provide and make available to Customer certain data, analytics or information through the Platform and Services ("**Punchh Analytics**"). All Punchh Analytics are provided and made available subject to the terms of this Agreement. As between Punchh and Customer, all Punchh Analytics (to the extent such Punchh Analytics do not include Customer Data) will be owned by Punchh. During the Term of this Agreement and subject to the provisions thereof, Punchh grants Customer and Authorized Users the right to access the Punchh Analytics on the Platform and use those Punchh Analytics solely for Customer's own internal business purposes in connection with the Promotional Programs with which the Punchh Analytics is provided. Customer is not granted any other rights in the Punchh Analytics and will not otherwise use or share any Punchh Analytics other than as expressly permitted herein.

**9.4 Privacy Policy.** If Punchh is collecting Personal Data directly from Data Subjects on Customer's behalf, Customer must provide Punchh a privacy policy that Punchh can provide to the Data Subject at or before the point of collection (the "**Privacy Policy**"). Customer represents and warrants that the Privacy Policy will comply with all Applicable Law and sufficiently describes Punchh's processing of Personal Data herein and as

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otherwise required for the Services.

**10. CONFIDENTIAL INFORMATION.** EACH PARTY (EACH, A "RECEIVING PARTY") SHALL RETAIN IN CONFIDENCE THE TERMS OF THIS AGREEMENT AND ALL NON-PUBLIC INFORMATION AND KNOW-HOW OF THE OTHER PARTY (THE "DISCLOSING PARTY") DISCLOSED TO OR ACQUIRED BY THE RECEIVING PARTY IN CONNECTION WITH THIS AGREEMENT WHICH IS EITHER DESIGNATED AS CONFIDENTIAL OR PROPRIETARY OR WHICH SHOULD REASONABLY BE CONSIDERED CONFIDENTIAL OR PROPRIETARY GIVEN THE NATURE OF THE INFORMATION AND THE CIRCUMSTANCE OF DISCLOSURE, INCLUDING WITHOUT LIMITATION, PRICING AND COST INFORMATION, BUSINESS PLANS AND SALES INFORMATION ("CONFIDENTIAL INFORMATION"). WITHOUT LIMITING THE FOREGOING, THE PUNCHH TECHNOLOGY, DOCUMENTATION, PLATFORM AND PUNCHH ANALYTICS SHALL BE CONSIDERED THE CONFIDENTIAL INFORMATION OF PUNCHH AND THIS AGREEMENT SHALL BE CONSIDERED THE CONFIDENTIAL INFORMATION OF EACH PARTY. THE RECEIVING PARTY MAY DISCLOSE THE CONFIDENTIAL INFORMATION OF THE DISCLOSING PARTY ONLY TO THOSE OF ITS AFFILIATES, EMPLOYEES AND CONTRACTORS WHO HAVE A NEED TO KNOW SUCH INFORMATION FOR PURPOSES OF PERFORMING THEIR OBLIGATIONS RELATED TO THE SERVICES OR PROFESSIONAL SERVICES OF THIS AGREEMENT AND WHO ARE LEGALLY BOUND (BY AGREEMENT OR OPERATION OF LAW) BY AN OBLIGATION TO MAINTAIN THE CONFIDENTIAL NATURE OF SUCH CONFIDENTIAL INFORMATION AT LEAST AS PROTECTIVE AS THE TERMS OF THIS AGREEMENT (COLLECTIVELY, THE "OTHER THIRD PARTIES" UNDER THIS SECTION 9). THE RECEIVING PARTY FURTHER AGREES TO HOLD, AND TO CAUSE ITS AFFILIATES, EMPLOYEES AND CONTRACTORS TO HOLD, ALL SUCH CONFIDENTIAL INFORMATION OF THE DISCLOSING PARTY IN STRICT CONFIDENCE, AND TO PROTECT THE CONFIDENTIAL INFORMATION OF THE DISCLOSING PARTY FROM UNAUTHORIZED DISCLOSURE USING PRECAUTIONS AT LEAST AS PROTECTIVE AS THOSE TAKEN TO PROTECT THE RECEIVING PARTY'S OWN CONFIDENTIAL INFORMATION OF A SIMILAR NATURE BUT IN NO CASE LESS THAN REASONABLE PRECAUTIONS. NOTWITHSTANDING THE FOREGOING, CONFIDENTIAL INFORMATION SHALL NOT INCLUDE ANY INFORMATION THAT: (I) WAS KNOWN BY THE RECEIVING PARTY PRIOR TO DISCLOSURE THEREOF BY THE DISCLOSING PARTY; (II) BECOMES GENERALLY KNOWN TO THE PUBLIC THROUGH NO FAULT OF THE RECEIVING PARTY AND NOT IN VIOLATION OF THIS AGREEMENT; (III) IS DISCLOSED TO THE RECEIVING PARTY BY A THIRD PARTY LEGALLY ENTITLED TO MAKE SUCH DISCLOSURE WITHOUT VIOLATION OF ANY OBLIGATION OF CONFIDENTIALITY; OR (IV) IS INDEPENDENTLY DEVELOPED BY THE RECEIVING PARTY WITHOUT REFERENCE TO ANY CONFIDENTIAL INFORMATION OF THE DISCLOSING PARTY. THE RECEIVING PARTY IS ENTITLED TO DISCLOSE CONFIDENTIAL INFORMATION AS COMPELLED TO DO SO BY COURT ORDER, SUBPOENA, OR SIMILAR INSTRUMENT LEGALLY COMPELLING DISCLOSURE OR AS OTHERWISE REQUIRED BY APPLICABLE LAWS, PROVIDED THAT THE RECEIVING PARTY SHALL (TO THE EXTENT LEGALLY PERMITTED) PROVIDE PROMPT WRITTEN NOTICE OF SUCH REQUIRED DISCLOSURE TO THE DISCLOSING PARTY AND ALLOW THE DISCLOSING PARTY THE OPPORTUNITY TO SEEK A PROTECTIVE ORDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY, CUSTOMER MAY DISCLOSE PUNCHH'S CONFIDENTIAL INFORMATION TO ITS FRANCHISEES OR OTHER THIRD PARTIES; (I) AS NECESSARY IN USING THE SERVICES AND PROFESSIONAL SERVICES IN CONJUNCTION WITH CUSTOMER'S INTEGRATED TECHNOLOGY PLATFORM; AND (II) AS NECESSARY IN PROMOTING AND/OR INFORMING CUSTOMER'S FRANCHISEES OF CUSTOMER'S INTEGRATED TECHNOLOGY. CUSTOMER WILL NOT BE LIABLE OR RESPONSIBLE IN ANY MANNER FOR THE FRANCHISEES' OR OTHER THIRD PARTIES' FAILURE TO KEEP SUCH INFORMATION CONFIDENTIAL IN CONJUNCTION WITH THE PRECEDING SENTENCES DISCLOSURE ALLOWANCES.

**11. TERM AND TERMINATION.**

**11.1 Term.** The term of this Agreement ("Term"), shall begin on the MSA Effective Date and shall remain in effect for thirty six (36) months, or for so long as any Order(s) remain in effect unless earlier terminated in accordance with the provisions of this Section 11 (the "Initial Term"), and unless otherwise stated in the Order Form, shall automatically renew for 12 months. In addition, immediately following the eleventh (11<sup>th</sup>) month from the MSA Effective Date and once every 12 months thereafter, and only for a period of thirty (30) days in each instance (the "Termination Period"), Customer shall have a limited option to terminate this Agreement (and any associated Order) for any reason by providing written notice to Punchh of its intent to terminate, to be effective sixty (60) days from the date of such notice (the "Termination Notice"). If Punchh does not receive a Termination Notice by the conclusion of the applicable Termination Period during

the applicable year of the Term, then such ability to terminate for convenience shall expire and the Term shall continue in full force and effect until the next Termination Period. Unless otherwise specified in the Order, the term of the Initial Order shall commence on its effective date, and any other Order will be as set forth in the Order.

**11.2 Early Termination.** Either party may terminate this Agreement in writing upon 30 days' prior notice to the other party if the other party is in material breach of any of its obligations under this Agreement and such party fails to remedy the breach within such 30-day period.

**11.3 Effect of Termination or Expiration.** Any termination or expiration of this Agreement will terminate all Orders and Participation Agreements. Upon any termination or expiration of the Agreement: (a) all undisputed Fees for Services or Professional Services performed through the date of termination or expiration, which have not yet been previously paid, will become immediately due and payable; (b) upon early termination by Punchh or Customer, for reasons other than Customer's breach, Punchh will refund Customer or its Franchisee(s) as applicable for any Platform Fees (as defined in the applicable Order Form) or Professional Services which have been prepaid but unused on a pro-rata basis based on the date of the termination of the applicable Services or Professional Services; (c) all rights and licenses granted to Customer and its Authorized Users hereunder will end; (d) Punchh may cease providing Services; (e) Customer will cease all access to and use of the Platform and Services; (f) each party will return to the other party or destroy (at the other party's option) all Confidential Information and other property of the other party in such party's possession or control; (g) all final reports are to be promptly provided to Customer.

**11.4 Survival.** Sections 4.3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 18 shall survive any expiration or termination of this Agreement.

**11.5 Transition Assistance.** In connection with the expiration or termination of this Agreement or any Order hereunder for any reason, and notwithstanding any dispute between the Parties, Punchh will provide to Customer and Participating Locations transition assistance services for the Transition Assistance Period (as defined herein) or as otherwise agreed upon in writing between the Parties as follows:

11.5.i. Applicable Requirements and Access. Punchh will provide to Customer any applicable requirements, training material, and other documentation relating to the Punchh Platform and Services as is generally available to other Punchh customers under this Agreement and the Punchh Platform, subject to Customer's confidentiality obligations herein (and if provided to any third party subject to an applicable confidentiality agreement), and answer all reasonable and pertinent verbal or written questions from Customer regarding the Punchh Platform and the Services on an "as needed" basis.

11.5.ii. Development of Transition Assistance Plan. If requested by Customer, Punchh will assist Customer and/or a third-party service provider designated by Customer in developing a transition assistance plan, methodology and timeline.

11.5.iii. Comparable Prices. Punchh will provide the Services during the Transition Assistance Period at prices no worse to Customer (and Participating Locations) than those for comparable Services prior to termination, or if comparable Services were not performed for Customer (or Participating Locations) prior to termination or expiration, then at prices no worse than the fair market value for such services.

11.5.iv. Transition Assistance Services. At Customer's request, Punchh will provide additional Professional Services during the Transition Assistance Period, which services and the cost, if any, shall be mutually agreed upon by the Parties in a SOW. Such additional Professional Services provided in conjunction with the Transition Assistance Services may be paid directly by Customer or by each Participating Location (as mutually agreed).