

## FRANCHISE DISCLOSURE DOCUMENT



Dumont Creamery and Café, LLC  
6600 Paige Rd, Suite 223  
The Colony, Texas 75056  
Phone: (937) 708-9589  
Email: [franchises@dumont.us](mailto:franchises@dumont.us)  
[www.dumont.us](http://www.dumont.us)

As a franchisee, you will operate a coffee, tea, and ice cream café under the name “Dumont Creamery and Café” and using the franchisor’s proprietary methods, techniques, trade dress, trademarks and logos.

The total investment necessary to begin operation of a Dumont Creamery and Café franchised business is from \$271,200 to \$572,500. This includes between \$105,000 and \$165,000 that must be paid to the franchisor.

The total investment necessary to begin operation of a franchise operating up to two Dumont Creamery and Cafés (“Multi-2” or “Multi-2 Franchise”) is between \$537,400 and \$1,140,000. This includes \$55,000 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of a franchise operating up to three Cafés (“Multi-3” or “Multi-3 Franchise”) is between \$803,600 and \$1,707,500. This includes \$80,000 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of a franchise operating up to four Cafés (“Multi-4” or “Multi-4 Franchise”) is between \$1,069,800 and \$2,275,000. This includes \$105,000 that must be paid to the franchisor or its affiliate(s). The total investment necessary to begin operation of a franchise operating up to five Cafés (“Multi-5” or “Multi-Five Franchise”) is between \$1,336,000 and \$2,842,500. This includes \$130,000 that must be paid to the franchisor or its affiliate(s).

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 government 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 Ajay Govada, CEO, at 6600 Paige Rd., Suite 222, The Colony, Texas 75056, (937) 708-9589.

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

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “*A Consumer’s Guide to Buying a Franchise*”, which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 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: November 29, 2024

## 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 or Exhibit F.
<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 support to my business?</b>	Item 21 or Exhibit E includes 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 Dumont Creamery and Café 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 Dumont Creamery and Café franchisee?</b>	Item 20 or Exhibit F 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 franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit B.

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

## Special Risks to Consider About *This Franchise*

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Texas. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Texas than in your own state.
2. **Short Operating History.** The franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise in a system with a longer operating history.
3. **Unregistered Trademark.** The primary trademark that you will use in your business is not federally registered. If the franchisor's right to use this trademark in your area is challenged, you may have to identify your business and its products or services with a name that differs from that used by other franchisees or the franchisor. This change can be expensive and may reduce brand recognition of the products or services you offer.

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

**(THE FOLLOWING APPLIES TO TRANSACTIONS GOVERNED BY  
THE MICHIGAN FRANCHISE INVESTMENT LAW ONLY)**

**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 protection 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 sub-franchisor.
- (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.

If the franchisor's most recent financial statements are unaudited and show a net worth of less than \$100,000, the franchisee may request the franchisor to arrange for the escrow of initial investment and other funds paid by the franchisee until the obligations, if any, of the franchisor to provide real estate, improvements, equipment, inventory, training, or other items included in the franchise offering are fulfilled. At the option of the franchisor, a surety bond may be provided in place of escrow.

**The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.**

Any questions regarding this notice should be directed to:

State of Michigan Department of Attorney General  
G. Mennen Williams Building, 7th Floor  
525 W. Ottawa Street  
Lansing, Michigan 48909  
Telephone Number: (517) 373 7117

## TABLE OF CONTENTS

1.	The Franchisor, and any Parents, Predecessors and Affiliates _____	Page 1
2.	Business Experience _____	Page 3
3.	Litigation _____	Page 3
4.	Bankruptcy _____	Page 3
5.	Initial Fees _____	Page 4
6.	Other Fees _____	Page 4
7.	Estimated Initial Investment _____	Page 9
8.	Restrictions on Sources of Products and Services _____	Page 12
9.	Franchisee's Obligations _____	Page 14
10.	Financing _____	Page 16
11.	Franchisor's Assistance, Advertising, Computer Systems, and Training _____	Page 16
12.	Territory _____	Page 23
13.	Trademarks _____	Page 24
14.	Patents, Copyrights and Proprietary Information _____	Page 26
15.	Obligation to Participate in the Actual Operation of the Franchise Business _____	Page 27
16.	Restrictions on What the Franchisee May Sell _____	Page 27
17.	Renewal, Termination, Transfer and Dispute Resolution _____	Page 28
18.	Public Figures _____	Page 33
19.	Financial Performance Representations _____	Page 34
20.	Outlets and Franchisee Information _____	Page 34
21.	Financial Statements _____	Page 36
22.	Contracts _____	Page 37
23.	Receipts _____	Page 37

## EXHIBITS

- A. State Addendum to Disclosure Document
- B. State Administrators and Agents for Service of Process
- C. Café Franchise Agreement
- D. Multi-Unit Development Agreement
- E. Financial Statements
- F. List of Franchisees
- G. Confidential Operations Manual Table of Contents
- H. Area Representative Disclosures
- I. Disclosure Document Receipts

## ITEM I

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

To simplify the language in this Disclosure Document, the terms “we”, “us”, the “Company”, or “our” means Dumont Creamery and Café, LLC, the franchisor. The term “you”, means the person buying the franchise. If you are a corporation, partnership, or other business entity, “you” includes your principals unless otherwise stated. As used in this Disclosure Document, the term “principals” means your spouse, if you are an individual, and your owners, if you are a corporation, partnership, limited liability company or other legal entity. If any owner is a corporation, partnership, Limited Liability Company, or other legal entity, then the term “principals” also includes all owners of that entity. We refer to the Dumont Creamery and Café business that you will operate as the “Franchised Business” or the “Café”.

#### The Franchisor

We are a Texas limited liability company. We were formed on August 27, 2024. Our principal business address is 6600 Paige Rd., Suite 223, The Colony, Texas 75056. Our telephone number is (937) 708-9589. We do business under the names “Dumont Creamery and Café<sup>TM</sup>,” and other trademarks we designate (the “Marks”). We have offered Dumont Creamery and Café franchises since October 2024. We have one operating Café as of the date of this Franchise Disclosure Document. We may open additional Cafés directly or through affiliated companies. We have never offered franchises in any other line of business.

Our agent for service of process in Texas is Ajay Govada, 6600 Paige Rd, Suite 222, The Colony Texas 75056. We list our agents for service of process for other states in in Exhibit B to this Disclosure Document.

#### Our Parent, Predecessor and Affiliates

Our affiliate is Dessert Delight Foods, LLC (“Dessert Delight”), a Texas liability company that was formed on August 4, 2023. Dessert Delight’s principal business address is 6600 Paige Rd., Suite 222, The Colony, Texas 75056. Dessert Delight will sell you certain food and other items that you will use in your Café. Dessert Delight has never offered franchises in any line of business.

We do not have any predecessors or parent. Other than as stated above, we do not have any affiliates that offer franchises in any line of business or provide products or services to our franchisees.

#### The Franchise

We license to you a unique concept and system for the establishment and operation of a Café (the “Cafés”) which offers ice cream, bubble tea and coffee beverages (the “System”). The System includes distinctive signage, interior and exterior design, décor and color scheme; special recipes and menu items including proprietary products and ingredients; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; inventory, management and financial control procedures (including point of sale and tracking systems); training and assistance; and advertising and promotional programs; all of which we may change, improve, and further develop, in our discretion. Certain aspects of the System are more fully described in this Disclosure Document and the Confidential Operations Manuals, which you should expect to evolve over time, that are provided to you as a franchisee.

Each Café will typically be conducted through a retail location that is within a shopping center, multi-use development, lifestyle center or urban and suburban location. Cafés will typically be approximately 1,500 to 2,000 square feet in size.

You must operate your Café following our standard business operating practices and sign our standard franchise agreement (“Franchise Agreement”), which is Exhibit “C” to this Disclosure Document. Your Café must offer the products and services we authorize and require you to offer. We reserve the right to add, modify, or delete any services or products that you must offer or sell at your Café at any time upon written notice to you in our sole discretion. You must also obtain all necessary permits, licenses and approvals to operate your Café.

Under the Franchise Agreement, certain parties are characterized as your Principals. The Franchise Agreement is signed by us, by you, and by those of your Principals whom we designate as Controlling Principals. In most instances, we will designate your principal equity owners and executive officers, and certain affiliated entities as Controlling Principals. By signing the Franchise Agreement, your Controlling Principals agree to be individually bound by certain obligations in the Franchise Agreement, including covenants concerning confidentiality and non-competition, and to personally guarantee your performance under the Franchise Agreement. Depending on the type of business activities in which your Principals may be involved, we may require you or your Principals to sign additional confidentiality and non-competition agreements.

You must also designate a “General Manager” who will be the main individual responsible for operating your Café. We recommend that you act as the General Manager.

#### Multi-Unit Development Agreement

We also offer a Multi-Unit Development Agreement. Under this program, we identify and assign a development territory (the “Development Area”). The Development Area may be 1 city, 1 or more counties, or some other geographically-defined area. You would sign a Multi-Unit Development Agreement (“MUDA”) (Exhibit D), which will describe your Development Area and your Development Obligation. You will be required under the MUDA to develop between 2 and 5 Cafés.

For each Café you open under a MUDA, promptly after we accept the site for the Café, you will sign a separate Franchise Agreement on our then-current form. Each then-current franchise agreement may contain materially different terms from the franchise agreement included in this offering. Any Café you develop at a Non-Traditional Site will not count towards your Development Obligation.

#### Area Representatives

We also offer area representative franchises. Area representatives help us grow our franchise system by soliciting, recruiting, screening, coaching, developing, and supporting third-party franchisees within a designated territory. Area representatives participate in these activities subject to our instruction, direction, and the requirements of our System. The area representative franchise opportunity is offered under a separate Franchise Disclosure Document. If you purchase a franchise within an area representative’s territory, the area representative may provide you with certain initial and ongoing support. The area representative agreement is not part of this offering and is offered under a separate franchise disclosure document. The area representative offering may not be offered in a franchise registration state unless it is registered there. We will begin offering area representative franchises in December 2024.

## **Market and Competition**

The sale of ice cream, bubble tea, and coffee beverages is well developed and is highly competitive. Sales are generally not seasonal; however, sales of ice cream may be affected by colder weather. You should assume that other coffee and ice cream stores will provide you with significant competition. You will serve the general public and will compete with a variety of businesses, including locally owned to regional, national and chain businesses, some of which may be franchise systems. We or our affiliates may establish Cafés in your market area outside of your Territory (if permitted under the Franchise Agreement) and/or sell or license others to sell products in your area. Also, we may sell products through the internet, toll-free telephone numbers, catalogs, supermarkets, convenience stores, and other similar means of distribution to customers at any location, which may be located in your area.

## **Industry-Specific Regulations**

The food industry is heavily regulated. Many of the laws, rules and regulations that apply to business generally have particular applicability to Cafés. All Cafés must comply with federal, state, and local laws applicable to the operation and licensing of a Café business, including obtaining all applicable health permits and/or inspections and approvals by municipal, county or state health departments that regulate food and liquor service operations. If applicable to your Café the Americans with Disability Act of 1990 requires readily accessible accommodation for disabled persons and therefore may affect your building construction, site elements, entrance ramps, doors, bathrooms, drinking facilities, etc. You should consider these laws and regulations when evaluating your purchase of a franchise.

Among the licenses and permits that you may need are Zoning or Land Use Approvals, Sunday Sale Permits, Sales and Use Tax Permits, Special Tax Stamps, Fire Department Permits, Food Establishment Permits, Health Permits, Retail Sales Licenses, and others. There may be other laws, rules or regulations which affect your Café, including minimum wage and labor laws along with ADA, OSHA, and EPA considerations. We recommend that you consult with your attorney concerning those laws.

The U.S. Food and Drug Administration, the U.S. Department of Agriculture and state and local health departments administer and enforce regulations that govern food preparation and service and Café sanitary conditions. State and local agencies inspect Cafés to ensure that they comply with these laws and regulations. Some local governments have ordinances and regulations that regulate indoor and outdoor smoking. The Clean Air Act and state implementing laws may also require certain geographic areas to attain and maintain certain air quality standards for ozone, carbon monoxide and particulate matters. As a result, businesses involved in commercial food preparation may be subject to caps on emissions.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **Ajay Govada – Chief Executive Officer**

Mr. Govada has been our Chief Executive Officer since our formation in August 2024. Mr. Govada is also the Chief Executive Officer of our affiliate, Dessert Delight, and has been since its formation in August 2023. From March 2022 through the present, Mr. Govada was CEO of First Infra LLC in The Colony, Texas. From May 2020 to February 2022, Mr. Govada was Head of BI at MedeAnalytics in Richardson, Texas. From July 2010 to January 2020, Mr. Govada was Senior Director of Healthcare Service Corporation in Richardson, Texas.

Rohith Reddy Rallagudem – Chief Operations Officer

Mr. Rallagudem has been our Chief Operations Officer since our formation in August 2024. Mr. Rallagudem is also the Chief Operations Officer of our affiliate, Dessert Delight, and has been since its formation in August 2023. From June 2022 to the present, he also serves as Chief Engineer with Thermofisher Scientific, Inc. in Dallas Texas. Mr. Rallagudem was employed as BI Analytics Manager with The Hackett Group from November 2017 until May 2021, in Dallas, Texas.

Surendranath Duggirala – Chief Franchise Officer

Mr. Duggirala has been our Chief Franchise Officer since our formation in August 2024. Mr. Duggirala is also the Chief Franchise Officer of our affiliate, Dessert Delight, and has been since its formation in August 2023. From July 2012 to the present, he has served as Senior Engineer with Bank of America, in Plano, Texas.

Dhanunjaya Noothi – Chief Marketing Officer

Mr. Noothi has been our Chief Marketing Officer since our formation in August 2024. From September 2019 to the present, Mr. Noothi has been Principal Engineer with Dell Technology in Austin, Texas.

Area Representatives

Our area representatives assist us in selling and supporting franchise locations. If you buy a franchise located in the territory of an area representative, the area representative may provide you with initial and ongoing support and guidance. A list of our current area representatives, including their litigation and bankruptcy history for Items 3 and 4, is included as Exhibit H.

**ITEM 3**

**LITIGATION**

No litigation is required to be disclosed in this Disclosure Document.

**ITEM 4**

**BANKRUPTCY**

No bankruptcies are required to be disclosed in this Item.

**ITEM 5**

**INITIAL FEES**

Initial Franchise Fee

You will pay us an initial franchise fee of \$30,000 (the “Initial Franchise Fee”). You must pay the entire Initial Franchise Fee when you sign the Franchise Agreement and deliver it to us. Although the Initial Franchise Fee is uniform for all franchises, in the Disclosure Document we reserve the right to change the franchise fee in the future. We may also discount the Initial Franchise Fee for franchisees that purchase

multiple franchises or multiple territories. During the 12 months prior to the issuance date of this Disclosure Document, we have not discounted the Initial Franchise Fee.

#### Multi-Unit Development Agreement

We offer a Multi-Unit Development Agreement (the “Multi-Unit Development Agreement”) for the development of multiple Cafés with a defined development area (the “Development Area”). Our form of Multi-Unit Development Agreement is attached as Exhibit D to this Disclosure Document. You will be required to open each Café in accordance with a Development Schedule. The Franchise Agreement for each Café developed under the Multi-Unit Development Agreement will be the form of Franchise Agreement being offered by us generally at the time each Franchise Agreement is executed which may have terms that are different from the terms in our current offering. You will sign the Franchise Agreement for your first Café at the same time you sign the Multi-Unit Development Agreement.

The development fee (“Development Fee”) will be paid to us if you qualify to develop multiple Cafés and depends on the number of Cafés you will be opening and is in lieu of an individual Initial Franchise Fee. The schedule is as follows:

- 2 Cafés – Development Fee - \$55,000
- 3 Cafés – Development Fee- \$80,000
- 4 Cafés -Development Fee - \$105,000
- 5 Cafés – Development Fee - \$130,000

#### Fixtures, Furniture, and Equipment

You are required to purchase an equipment, fixtures, and furniture for your Café that conforms to our specifications and to the specifications of your landlord including signage, menu boards, freezers, refrigerators, prep station and blenders. We will obtain these items for you from our approved suppliers, and you will pay us for them directly. Our suppliers will send the items directly to your Café. Your costs for equipment will range between \$60,000 and \$110,000, depending on the size of your Café the condition of the equipment, your location, whether it was previously used as a foodservice business, whether the space has existing furniture, fixtures or equipment, and other factors. You will pay us these amounts between 2 and 3 months before you plan to open your Café.

#### Initial Supplies and Inventory

You must purchase from us (or our affiliate) an initial order of food inventory for your Café. These items will include the opening food inventory for your Café. We anticipate that the cost of these items will range between \$15,000 and \$25,000.

These fees are fully earned by us on signing the Franchise Agreement or Multi Unit Development Agreement and are not refundable under any circumstances.

[This Area Intentionally Left Blank]

**ITEM 6**

**OTHER FEES**

<b>TYPE OF FEE</b>	<b>AMOUNT</b>	<b>DUE DATE</b>	<b>REMARKS</b>
Royalty Fee	6% of your prior week's Gross Revenue <sup>1, 2</sup>	Weekly on or before Tuesday for the preceding week	Royalty fee is due from the first day you are open for business.
Brand Fund Contribution <sup>3</sup>	2% of Gross Revenue	The Brand Fund payment will be due weekly on or before Tuesday for the preceding week.	The Brand Fund Contribution is paid to the Fund. Contributions are not refundable unless we dissolve the Fund.
Technology Fee	Currently none	Monthly	We reserve the right to charge a commercially reasonable fee for software and other technology products and services we provide. The technology fee will not necessarily be a pass-through of our exact costs. We may add, remove, or alter the software or technology products or services that we provide.
Successor Franchise Fee	\$5,000	Upon signing your successor franchise agreement.	Payable if you wish to obtain the right to continue operating as our franchisee after the end of your initial franchise term, subject to state law. <sup>4</sup>
Transfer Fee	50% of then-current initial franchise fee	At time of transfer of the franchise. Includes cost of Initial Training for transferee	Due upon transfer of more than a 50% interest in you. No fee charged to an individual or partnership franchisee that transfers its rights, one time only, to a corporate entity controlled by the same interest holders.
Transfer Fee (Multi-Unit Development Agreement)	\$10,000 per undeveloped Café on Development Schedule	Prior to completing the transfer	Our consent is required for any transfer of the MUDA.
Management Fee	\$500 per day	Within 10 days of the date we invoice you	If you die or become disabled and your successor is unable to operate the Franchised Business, we may operate it until a suitable successor is found. Subject to Inflation Adjustment. <sup>4</sup>
Relocation Fee	\$5,000	Half due when we have agreed to work with you to relocate your business and the remainder due when we have accepted a relocation request	Payable if you ask us to consider relocating your business. You cannot relocate your business to new premises without our approval. We have no obligation to approve of any relocation request.
Audit	Actual cost of audit fees, plus the underreported fees, late charges on those fees, and interest on the fees you did not pay at 1.5% per month.	As incurred.	Payable only if the audit shows an understatement greater than 2% of reported amounts

TYPE OF FEE	AMOUNT	DUE DATE	REMARKS
Additional Training & Assistance	Currently \$500 per day per person plus per diem for trainer	When we invoice you	We charge a daily fee plus expenses for special assistance we provide you at your request, if we require you to attend a training program.
Interest on Late Payments	18% per annum or the maximum rate allowed by law	When we invoice you	Interest begins from the date of non-payment and applies to all overdue amounts
Annual Conference, if any <sup>5</sup>	You are solely responsible for all travel, room, and board and salary expense. We may charge a fee to cover speakers, meals, and activities up to \$1,000 per franchise (charged regardless of attendance).	Upon receipt of our invoice	The \$1,000 per franchise/territory is due regardless of attendance. This fee covers the attendance of 2 people (per Franchise). In the event you wish to send additional people, we will publish and charge a separate fee per extra person, also due upon receipt of our invoice.
Indemnification	Varies under circumstances of claim	As incurred	You must reimburse us for damages, claims, lawsuits related to your franchise
Attorney's Fees	Varies under circumstances	As incurred	You must pay attorneys' fees and costs if you fail to comply with your obligations under the Franchise Agreement
On-Site Inspection Fee	Varies under the circumstances	Upon our invoice	If the inspection is due to your failure to provide required reports or the inspection reveals material deficiencies, we have the right to impose a fee of up to \$5,000.
Prohibited Product or Service Fine	\$250 per day of use of unauthorized products or services.	If incurred	In addition to other remedies available to us
Gift Cards	Will vary under the circumstances	As billed by our approved supplier	You must participate in any Gift Card program we institute, which will allow a Gift Card to be purchased and redeemed at any Café.
Supplier Approval Fee	\$500	When we invoice you	We will charge you this fee if you ask us to review a proposed alternative supplier.
Liquidated Damages	Average weekly Royalty Fee contribution that you were required to pay during the 52-week period immediately prior to termination times 24 months. If the store was not open for continuous operation for a period of 52 weeks prior to the termination of the Franchise Agreement, we will use the	Upon our demand	Due only if we terminate the Franchise Agreement before the end of the term because of your material breach, or you terminate the Franchise Agreement without legal cause.

TYPE OF FEE	AMOUNT	DUE DATE	REMARKS
	geographically closest location with 52 weeks of data to calculate liquidated damages.		

Notes:

1. The table above provides recurring or isolated fees or payments that you must pay us or our affiliates or that we or our Affiliates impose or collect in whole or in part on behalf of a third-party or that you are required to spend by the Franchise Agreement. All fees paid to us are uniform and non-refundable under any circumstances once paid. Fees paid to vendors or other suppliers may or may not be refundable depending on the vendors and suppliers. Except as otherwise indicated in the chart above, we uniformly impose all fees and expenses listed and they are payable to us and are fully earned upon receipt by us. Except as specifically stated above, the amounts given may be subject to increases based on changes in market conditions, our cost of providing services and future policy changes. We will collect the weekly fees by automatic bank drafts. To facilitate the automatic bank draft, you must execute the documentation that we or your bank require. The Royalty Fee is based upon Gross Revenue from the Café for the prior Monday through Sunday.

2. “Gross Revenue” means the aggregate of all sales made and revenue and income that you derive from operating the Café, including from all sales of food, beverages or other goods, merchandise or services, whether payment is in cash, by credit card, gift cards, or other generally accepted form of payment, and whether the transaction is for dine-in, delivery by you or third-party delivery service, or catering services. Gross Revenue includes (a) the full sale price to the consumer for items sold through third-party delivery services, with no discount for the delivery service’s fee or commission; (b) all proceeds from any business interruption insurance, (c) revenue from the sale of menu items to employees, and (d) the value of products and services bought by customers by redeeming authorized gift cards. Excluded from Gross Revenue are: (i) sales taxes and other taxes separately stated that you collect from customers and pay to taxing authorities; (ii) refunds and credits made in good faith to arms’ length customers; (iii) the amount of any checks dishonored or returned and the amount of any charge backs or reversals of credit card transactions with customers; (iv) proceeds from the sale of gift cards; (v) proceeds from isolated sales of trade fixtures having no material effect on ongoing operations; (vi) employee tips; and (vii) the value of menu items that you furnish to employees at no cost to the employee.

3. We have established a separate fund for the purpose of enhancing the goodwill and public image of the System through promoting and protecting the brand (the “Brand Fund”). We require that you contribute to the Brand Fund (the “Brand Fund Contribution”) of 2% of your Gross Revenue.

4. The term “Inflation Adjustment” refers to our right to increase a fee based upon an increase in the Consumer Price Index: All Items/U.S. Cities Average – All Urban Consumers (1982-1984 = 100), published by the Bureau of Labor Statistics, U.S. Department of Labor, or a comparative index we select if the foregoing index is no longer published.

5. We may conduct a national or regional meeting for Dumont Creamery and Café franchisees. If we host a national or regional meeting, we may charge you up to \$1,000 to cover expenses associated with the conference whether you attend or do not attend the conference. You may bring your employees to the conference, with our prior written consent. If you bring additional employees, you will be responsible to pay for all travel, room, board and wages for you and your employees relating to the convention.

**ITEM 7**

**ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>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	\$30,000 - \$30,000	Check or wire transfer	Upon signing the franchise agreement	Us
Rent (one month) <sup>1</sup>	\$2,500 - \$12,000	As Incurred	As Agreed	Landlord
Lease Security Deposit	\$2,500 - \$12,000	As Incurred	As Agreed	Landlord
Utilities	\$500 - \$1,000	As Incurred	As Agreed	Utility providers
Leasehold Improvements <sup>2</sup>	\$110,000 - \$290,000	As Incurred	As Agreed	Contractors
Cleaning Services	\$500 - \$1,000	As Incurred	As Agreed	Suppliers
Market Introduction Program <sup>3</sup>	\$5,000 - \$10,000	As Incurred	As Agreed	Vendors and suppliers
Furniture, Fixtures, and Equipment <sup>4</sup>	\$60,000 - \$110,000	As Incurred	As Agreed	Us
Computer / Point of Sale System	\$5,000 - \$10,000	As Incurred	As Agreed	Vendors and suppliers
Signage <sup>5</sup>	\$5,000 - \$10,000	As Incurred	As Agreed	Vendor
Office Expenses	\$200 - \$500	As Incurred	As Agreed	Vendors
Inventory	\$15,000 - \$25,000	As Incurred	As Agreed	Us or our affiliates
Insurance	\$500 - \$1,000	As Incurred	As Agreed	Insurance company
Licenses and Permits <sup>6</sup>	\$1,000 - \$3,000	As Incurred	As Agreed	Government
Professional Fees (lawyer, accountant, etc.) <sup>7</sup>	\$1,500 - \$3,000	As Incurred	As Agreed	Professional service firms
Travel, lodging and meals for initial training <sup>8</sup>	\$2,000 - \$4,000	As Incurred	As Agreed	Airlines, hotels, and Cafés
Additional funds (for first 3 months) <sup>9</sup>	\$30,000 - \$50,000	As Incurred	As Incurred	Employees, suppliers, utilities
<b>Total</b>	<b>\$271,200 - \$572,500</b>			

Type of expenditure	Amount	Method of payment	When due	To whom payment is to be made
<b>Multi-Unit Development Agreement</b>	<p>If you purchase a Multi-2 Franchise under the MUDA, you will incur all of the costs listed above for each Café you open except that the Initial Franchise Fee will total \$55,000 and allow you to open up to two Cafés. If you were to open a Multi-2 Franchise to operate two Cafés, using the same estimated initial expenses above, we estimate this total cost to range between \$537,400 and \$1,140,000. If you purchase a Multi-3 Franchise under the MUDA, you will incur all of the costs listed above for each Café you open except that the Initial Franchise Fee will total \$80,000 and allow you to open up to three Cafés. If you were to open a Multi-3 Franchise to operate three Cafés, using the same estimated initial expenses above, we estimate this total cost to range between \$803,600 and \$1,707,500. If you purchase a Multi-4 Franchise under the MUDA, you will incur all of the costs listed above for each Café you open except that the Initial Franchise Fee will total \$105,000 and allow you to open up to four Cafés. If you were to open a Multi-4 Franchise to operate four Cafés, using the same estimated initial expenses above, we estimate this total cost to range between \$1,069,800 and \$2,275,000. If you purchase a Multi 5 Franchise under the MUDA, you will incur all of the costs listed above for each Café you open except that the Initial Franchise Fee will total \$130,000 and allow you to open up to five Cafés. If you were to open a Multi-5 Franchise to operate five Cafés, using the same estimated initial expenses above, we estimate this total cost to range between \$1,336,000 and \$2,842,500.</p>			

These estimated initial expenses are our best estimate of the costs you may incur in establishing and operating your Café. We do not offer financing directly or indirectly for any part of the initial investment. The availability and terms of financing from third parties depend on many factors, including the availability of financing generally, your creditworthiness and collateral, and the lending policies of financial institutions from which you request a loan. Payments you make to us and our affiliates are not refundable under any circumstances. We do not know whether any of the money you pay to third parties will be refundable.

**Notes:**

1. This estimate does include tenant improvement allowance and any free rent that you may receive from the landlord for your Café. These costs could be substantially higher in certain markets, depending on the square footage of the space; the city or town in which it is located; condition of the space; population density; and the types of common area or other charges that will be allocated to you. You should carefully investigate all of these costs in the area where you wish to establish your Café. Your Franchised Café will be approximately 1,500 to 2,000 square feet and will typically be located in a strip center. The rent for the premises will vary according to the location. We must approve any site you propose to locate your Café.

2. These amounts include the expected expenses for building out your Café. These amounts are our best estimate of the range of costs of leasehold improvements, based on our experience and our affiliate’s experience in constructing a Dumont Creamery and Café™ Café in Texas, and will likely vary substantially based on local conditions, including the availability and prices of labor and materials (estimate is based upon non-union labor); the site’s condition, configuration, location, and size; the demand for the site among prospective lessees; the site’s previous use; county or city building application and inspection fees; county, city, or state codes; the cost to access existing plumbing; and any construction or other allowances the landlord grants. They do not include capitalized costs of rent or other occupancy costs, over either the life of the lease or the life of your investment. These estimates assume that the landlord will provide a “vanilla shell” space that, at a minimum, includes concrete floors, demised exterior walls, HVAC, roof, and utilities stubbed to the premises sufficient for a Café. The lower figure assumes that you remodel an existing restaurant space. These amounts do not reflect costs for the construction of a free-standing Café, which also would result in a significantly greater initial investment. All construction costs and contracts will be negotiated directly between the contractor, other contractors and yourself.

3. You must spend between \$5,000 and \$10,000 for a Grand Opening marketing program to commence 30 days prior to opening.
4. Your costs for equipment will vary, depending on the size of your Café the condition of the equipment, your location and other factors. You will need to purchase from us equipment including signage, menu boards, freezers, refrigerators, prep station and blenders for your Café that conforms to our specifications and to the specifications of your landlord.
5. You must obtain our prior approval of your signage. The amount that you will spend depends on such factors as signage restrictions imposed by your landlord, local sign ordinances, and the physical configuration of the interior of your Café.
6. Licensing laws and permit requirements, including fees, may vary depending on the county, state, or municipality. You must comply with these laws.
7. This amount includes expenses you will incur to obtain legal counsel to review the Franchise Agreement and this Disclosure Document and to form your business entity and obtain an accountant to set up your accounting systems.
8. Our cost of our Initial Training for up to 2 people is included in your Initial Franchise Fee. You must pay for the expense of attendance, including lodging, meals, transportation, and wages of your employees that attend.
9. This category covers the initial expenses you will likely incur while you establish your business. Your expenditures will depend on factors such as your business skills and experience, general and local economic conditions, competition, the prevailing wage rate, the number of services you provide during the initial period, how well your business is performing, and the number of hours you are willing to invest in your business. These expenses do not include any draw or salary for the owners of the business, but they do include employee salaries. This is only an estimate, and we cannot guarantee that the amounts specified will be adequate. You may need additional funds during the first 3 months of initial operations or afterwards. We do not furnish or authorize our salespersons or any other persons or entities to furnish estimates as to the capital or other reserve funds necessary to reach “break-even” or any other financial position, nor should you rely on any such estimates. The 3-month period from beginning the business covers the time by which most Franchisees are fully in operation but does not necessarily mean that you will have reached “break-even”, “positive cash flow”, or any other financial position. In addition, the estimates presented relate only to costs associated with the Franchised Business, reflect minimal employee wages and do not cover any personal, “living”, unrelated business or other expenses you may have, such as royalty payments, Advertising Fund Contributions, debt service on any loans. Although we make no estimates regarding the financial performance of Dumont Creamery and Cafés, we recommend that, in addition to the additional funds shown, you have sufficient personal savings and/or income so that you will be self-sufficient and need not draw funds from your Café for at least 3 months after the initial period of operation. The high/low amounts are based on one franchise and will vary based on the Territory you purchase.

## **ITEM 8**

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

We and our franchisees have an interest in protecting the quality and integrity of the Dumont Creamery and Café System. To protect our common interest, we place certain restrictions on the products,

equipment, services, and supplies you purchase; the food, beverage, merchandise, and miscellaneous items you offer; and the sources from which you purchase them.

The System includes certain products, equipment, services, and supplies that we or our affiliates have developed, or may develop in the future, that have proprietary properties or that we keep secret. We refer to these products, equipment, services and supplies as our “Proprietary Products.” You may purchase these Proprietary Products only from us, from suppliers we designate (which may be affiliates of ours) from suppliers you select, and we approve, or in accordance with our written specifications.

We will list the Proprietary Products, our approved suppliers, and our specifications in the Confidential Operations Manual or in other written directives. Proprietary Products may include ice cream, toppings, coffee, and branded products. We or our affiliates may be the sole source of supply of Proprietary Products and non-Proprietary Products. We will offer the Proprietary Products to you at substantially the same prices and terms as we offer them to similarly situated franchisees. We warrant that any Proprietary Products you purchase from us will meet our specifications. We may expand our offering of Proprietary Products in the future to include additional products and services and other products, equipment, services, and supplies, or we may reduce our offering to remove certain products and services and other goods and services. We anticipate that we will be the sole supplier of most of the items you purchase for the Café, including the fixtures, furniture, equipment, ice cream, sauces and toppings, coffee, baked goods, paper goods, branded apparel, smallwares, and other ingredients for the coffee and bubble tea beverages.

In order to deliver a consistent, high-quality product to your customers, we require that you purchase food products for sale in your Franchised Café that meet our specifications, and from vendors that we approve, which may be us or an affiliate. There may be certain items that you may purchase from suppliers you select without our approval. We will list these products and our specifications in our Confidential Operations Manual or in other written directives. The food products that we designate that you must purchase and sell in your Café are an integral part of the System. We may enter into purchasing arrangements with certain suppliers for the benefit of all Dumont Creamery and Café franchisees, but we are not required to do so. If we enter into such arrangements, you may be required to purchase from those suppliers.

**Approval of Suppliers.** We may also designate approved suppliers of Non-Proprietary products. You may request that we approve certain suppliers that we have not previously approved and the goods and services they offer. If you want us to give this approval: (i) you must submit a written request to us for approval, together with such samples, specifications, photographs, delivery terms and other information as we deem reasonably necessary; (ii) the proposed supplier must demonstrate to our reasonable satisfaction that it is able to supply such goods and services to you in compliance with our specifications; and (iii) the proposed supplier must demonstrate to our reasonable satisfaction that it is in good standing in its relevant business community with respect to its financial soundness and integrity, and the reliability of the goods and services it offers. We reserve the right to test, at your expense, the goods, and services of any supplier that you ask that we approve, regardless of whether we approve or reject the supplier or the goods or services it offers. We will give you written notice of our approval or disapproval within thirty (30) days after you supply us with all of the information that we need to evaluate the supplier and its goods or services. If we revoke approval of any supplier or the goods or services it offers, we will give you written notice of the revocation. We have the right to charge a fee of up to \$500 to evaluate a supplier.

We will base our specifications for suppliers and their goods and services on our experience and best judgment as to how to enhance the profits of the System and its franchisees. We evaluate the suppliers we approve for quality, reputation in the industry and standards by which they conduct business. We may modify the list of our designated and approved suppliers and our specifications at any time. We reserve the

right to modify our specifications for what we deem to be in the best interest of the system. We do not have a published list of our supplier approval criteria that we make available to you.

If you are in default of under the Franchise Agreement or any other agreement between you and us, our obligation to sell you any Proprietary Products, and your right to purchase Proprietary Products and Non-Proprietary Products or any affiliate of ours will stop while you are in default. If that occurs, you will not have any claim against us or the right to assert any defense in any action that we commence based upon your non-receipt of the Proprietary and/or Non-Proprietary Products.

We and our affiliates may derive revenue or other material consideration from required purchases or leases by franchisees from approved suppliers and your purchases from us or our affiliates. During the last fiscal year, we did not derive any revenue from the sale of products to franchisees. We estimate that rebates paid to us by vendors based on Franchisee purchases will be between 5% and 10% of the price paid by Franchisees. We will have the right to retain those rebates.

Our officers own an equity interest in us (the franchisor) and our affiliates, and we or our affiliates may be approved suppliers. During the fiscal year ending December 31, 2023, our affiliate Desert Delight Foods LLC made sales to our franchisees totaling \$42,500, or 100% of its revenue for 2023.

We estimate that your purchases and leases from us or our designated sources will be approximately 30% to 50% of your total initial investment (not including initial franchise fee) and approximately 30% to 40% of your ongoing expenses (not including royalties) in the operation of the franchised business; however, the initial amount will vary.

There currently are not purchasing or distribution cooperatives in existence with respect to the franchised system. We may periodically negotiate purchase arrangements for suppliers for the benefit of our franchisees, and we anticipate establishing regional or national buying accounts with vendors who products meet our specifications. We do not provide you any material benefits (such as renewal rights or the right to acquire additional franchises) based on your purchases from approved or designated suppliers.

**Insurance.** You must maintain certain insurance policies we specify; with coverage we specify. Insurance policies we specify will include comprehensive general liability insurance, fire and extended coverage insurance and automobile liable insurance. You must also maintain any insurance required by law such as worker's compensation insurance. Under the Franchise Agreement you must obtain and maintain the following insurance: (1) general liability in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate limit; (2) "all risks" coverage for the full cost of replacement of the Café premises and all other property in which we may have an interest with no coinsurance clause; (3) business interruption insurance in a sufficient amount to cover profit margins, maintenance of competent and desirable personnel and fixed expenses for a period of at least 90 days including payment of Royalties otherwise due to us; (4) workers' compensation insurance in amounts provided by applicable law (but no less than \$500,000 per occurrence) or, if permissible under applicable law, any legally appropriate alternative providing substantially similar compensation to injured workers, subject to the conditions set forth in the Franchise Agreement; (5) cyber-liability insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate limit.; (6) employment practices insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate limit; (7) builder's risks/installation insurance in forms and amounts, and written by a responsible, duly licensed carrier or carriers, reasonably satisfactory to us; and (8) other insurance required by state or local law where the Café is located. Your cost for the required insurance will depend on the location of your territory, the charges imposed by the insurance carriers, your insurance history, and the amount of any deductible. Your insurance policies must provide that your insurers will give us thirty (30) days prior written notice of

termination, expiration or cancellation of any of the insurance. You must name us as an additional insured party on any required insurance policy.

**Modifications to the System.** Changes in the market, business conditions and/or demands of customers may occur during the term of your Franchise Agreement. As the result of those changes, we may make changes to the System which may include modifications to the Proprietary Products, Non-Proprietary Products, required insurance policies and coverage, suppliers, specifications, and other aspects of the Dumont Creamery and Café System. You must comply with all of the changes that we make.

You are also required to participate in any our customer loyalty card program that we may develop for our System.

**Refurbishment and Remodeling.** You shall, upon our request remodel and/or redecorate the Café premises, equipment (including point of sale or computer hardware and software systems), signage, interior and exterior décor items, fixtures, furnishings, supplies and other products and materials required for the operation of the Café to our then-current system wide standards and specifications. You will not be required to remodel or refurbish the Café more than once every five (5) years during the term of the Franchise Agreement, except if the Café is transferred, in which case we may require that the transferee remodel and/or redecorate the Café.

## 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 the franchise disclosure document.**

Obligation	Section in Franchise Agreement	Section in MUDA	Disclosure document item
a. Site selection and acquisition/lease	3.1; 5.1; 5.2; 5.5	7.1; 7.2	Item 11
b. Pre-opening purchase/leases	5.3; 7.2; 7.15	7.2	Items 5, 7, 8 and 11
c. Site development and other pre-opening requirements	5.5; 5.6	Article 6	Items 5, 7, 8 and 11
d. Initial and ongoing training	6.1(i); 6.2	None	Items 5, 6, 8 and 11
e. Opening	5.5; 7.2	Article 6	Items 7, 8 and 11
f. Fees	Article 4	Article 5	Items 5, 6 and 7
g. Compliance with standards and policies/operating manual	7.6; Article 8*	None	Items 8, 11 and 14
h. Trademarks and proprietary information	Article 9; 18.4	Article 8	Items 13 and 14
i. Restrictions on products/services offered	7.6(i); 7.6(iii); 7.6(iv)	None	Items 8, 11 and 16
j. Warranty and customer service requirements	7.8	None	Item 8

Obligation	Section in Franchise Agreement	Section in MUDA	Disclosure document item
k. Territorial development and sales quotas	None	Article 6	Item 12
l. Ongoing product/service purchases	None	None	Items 6 and 8
m. Maintenance, appearance, and remodeling requirements	5.6	None	Items 6, 7 and 8
n. Insurance	Article 13	None	Items 6, 7 and 8
o. Advertising	Article 10	None	Items 6, 7, 8 and 11
p. Indemnification	22.1	None	Items 6 and 8
q. Owner's participation/management/staffing	7.5; 7.7	None	Items 15
r. Records and reports	12.1	None	Item 11
s. Inspections and audits	12.2	None	Items 6 and 11
t. Transfer	Article 15	Article 9	Items 6 and 17
u. Renewal	Article 2	None	Item 17
v. Post-termination obligations	Article 17	None	Item 17
w. Non-competition covenants	18.5	None	Item 17
x. Dispute resolution	Article 19	Article 18	Items 6 and 17
y. Other: Personal Guaranty Liquidated Damages	17.6; 20.2 17.8	Article 12	Item 15 Item 6

**ITEM 10.**

**FINANCING.**

We do not offer direct or indirect financing. We do not guarantee any notes, 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 Obligations**

**Franchise Agreement:** Before you open your Franchised Business, we will:

1. Loan to you a copy of our Confidential Operations Manual or provide you access to the electronic version of the Confidential Operations Manual (Franchise Agreement – Section 6.1 (i)).

2. Review your proposed location for the Café and grant approval if the proposed location meets our approval. We must approve your site. Factors considered in selection and approval of a site include traffic count, visibility, demographics, competition in the area and occupancy cost. (Franchise Agreement - Section 6.1(ii)).
2. Provide to you sample plans for the construction of a typical Dumont Creamery and Café (Franchise Agreement - Section 6.1 (iii)).
3. Provide you with written specifications for the operation and management of the franchised business (Franchise Agreement – Section 6.1(v)).
4. Provide pre-opening support at your Café (Franchise Agreement – Section 6.1 (iv)).
5. Provide you with our mandatory specifications for the equipment, initial inventory and supplies you will need to operate your Café (Franchise Agreement – Section 6.1 (v)).
6. Provide to you (if you are an individual) and a Manager or at least one principal (if you are a corporation or other legal entity) our initial training program. We will not charge tuition for you, if you are an individual, or up to two (2) individuals (if you are a corporation or a legal entity) attending the initial training program. You are responsible for all training related expenses, including meals, lodging, travel, and wages. (Franchise Agreement - Section 6.1 (vi)).
7. Establish a presence for your Café on the internet (Franchise Agreement – Section 6.1 (vii)).
8. Advise you on the implementation of a Grand Opening advertising program for the Café (Franchise Agreement – Section 6.1 (viii)).
9. Provide you a list of our approved suppliers, which is subject to change during the term of the Franchise Agreement (Franchise Agreement – Section 6.1 (ix)).

### **Post-Opening Obligations**

During the operation of the Franchised Business, we will:

1. Provide such general advisory assistance and field support as we deem helpful to you, in our discretion, in the ongoing operation, advertising and promotion of the franchise business (Franchise Agreement - Section 6.2 (i))
2. Make goods and services available to you either directly or through approved suppliers (Franchise Agreement – Section 6.2 (iii)).
3. Periodically revise the Confidential Operations Manual to incorporate new developments and changes in the System and provide You with a hard copy or electronic copy of all changes (Franchise Agreement – Section 6.2 (iii)).
4. Continue our efforts to establish and maintain standards of quality, cleanliness, safety, customer satisfaction and service (Franchise Agreement - Section 6.2 (viii)).

During the operation of the Franchised Business, we may:

5. Hold statewide, regional, or national conferences to discuss promotional techniques, performance standards, and other topics. You are required to attend those conferences. We may charge a fee for these conferences; you must pay for all of your travel and lodging expenses. (Franchise Agreement – Section 6.2 (iv)).

5. Conduct periodic inspections of the Café and periodic evaluation of the products and services rendered by the Franchisee (Franchise Agreement – Section 6.2 (v)).

6. Provide you with access to advertising and promotional materials that we have developed for the promotion of all Cafés in the System. You will be required to purchase the advertising materials and all costs of shipping them to you. (Franchise Agreement - Section 6.2 (vi)).

7. Provide additional mandatory and optional training on an as-needed for replacement Managers and on new products and services that we introduce into the System (Franchise Agreement – Section 6.2 (vii)).

**Training**

The following is an outline of our Initial Training Program. Additional training programs and/or refresher courses may be required.

The schedule for the Initial Training is as follows:

**TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The-Job Training</b>	<b>Location</b>
ICE CREAM	1	8	Coppell, Texas
MILKSHAKES	1	8	Coppell, Texas
BOBA TEA	12	40	Coppell, Texas
COFFEE	12	40	Coppell, Texas
SPECIALITY DRINKS (NOT COFFEE/MILKSHAKES)	2	8	Coppell, Texas
FOOD	1	8	Coppell, Texas
<b>TOTALS:</b>	<b>29</b>	<b>112</b>	

All franchisees or their designated manager must successfully complete training. Additional persons may attend initial training upon payment of a fee. You may send 3 persons to training at no cost. Two opportunities to pass the testing will be given. You are responsible for making sure that your personnel are properly trained to our standards and requirements. Failure to complete the Initial Training to our satisfaction may in our option, result in: (i) the termination of the Franchise Agreement; or (ii) the

requirement for you to designate a replacement Manager within 30 days, who must successfully complete the Initial Training to our satisfaction.

We will also provide you, either directly or through a representative, with 3 days of pre-opening on-site assistance at your Café.

The Initial Training will be conducted primarily by Rohith Reddy Rallagudem, our Chief Operations Officer. He has 8 years of experience in our industry and 2 years of experience with us. Other trainers may include employees of our affiliates who have direct Café operational experience. The training materials for the classroom component will consist primarily of the Confidential Operations Manual.

The Initial Training must be completed 2 weeks prior to the opening of the Café. We anticipate that the Initial Training Program will be conducted monthly, or on an “as-needed” basis, based on the number of new franchisees requiring training. The times allotted to each subject above chart are approximations and we may spend more or less time on any subject based on the prior experience of the trainees.

We may offer additional training programs and/or refresher courses to you, or your Manager or employees as we deem appropriate. As of the date of this Disclosure Document, we are not able to state or estimate the location, duration, or frequency of any additional training programs. The programs will vary, depending on your needs, the needs of other franchisees and the System at the time the program is offered. We currently do not anticipate offering more than 2 additional training programs during a calendar year and we currently anticipate that each training program will last approximately 2 days. We may require you and your employees’ attendance at these programs. You must pay for you and your employees’ travel, meal, lodging and payroll expenses while attending our additional training programs. We have the right to charge a fee for the additional training programs, up to our current fee of \$500 per day per person. We also have the right to charge you a per diem rate for our employees to conduct any training at your Café (after the initial training is completed).

We may hold an Annual Convention at a location to be selected by us. We will determine the topics and agenda for the conference to serve the purpose among other things, of updating franchisees on new developments affecting franchisees, exchanging information between franchisees and our personnel regarding business operations, and recognizing franchisees for their achievements. You are required to attend or send a Manager to attend the Annual Convention and to pay our then-current registration fee. If we charge a registration fee for the Annual Convention, you must pay the fee regardless of whether you attend. All expenses, including you and your employees’ transportation to and from the Annual Convention, and lodging, meals, and salaries during the Annual Convention, are your responsibility.

## **Advertising**

### **Grand Opening**

You must pay a conduct a Grand Opening Marketing program for the Café. We must approve your proposed Grand Opening marketing plan. You are required to spend between \$5,000 and \$10,000 for your Grand Opening marketing program, depending on the market in which your Café is located. The Grand Opening marketing must commence 30 days prior to the opening of the Café and continue for 60 days after opening.

### **Brand Fund**

We have a fund for marketing the System, the Marks, and Cafés (the “Brand Fund”). We require you to pay two percent (2%) of your Gross Revenue for the Brand Fund per month. The fee is payable

monthly or at other times that we designate in the Brand Standards Manual. The advertising requirements are uniform to all franchisees. The fees you pay to the Brand Fund are not refundable.

Your contribution to the Brand Fund will be in addition to all other advertising requirements set out in this Item 11. Each franchisee will be required to contribute to the Brand Fund but certain franchisees may contribute on a different basis depending on when they signed their Franchise Agreement or similar factors. Cafés owned by us will not be required to contribute to the Brand Fund on the same basis as franchisees.

The Brand Fund will be administered by us, or our affiliate or designees, at our discretion, and we may use a professional advertising agency or media buyer to assist us. The Brand Fund will be commingled with our operating account and will not be in a separate bank account, commercial account or savings account.

We have complete discretion on how the Brand Fund will be utilized, except that we must use the money in the Brand Fund for local, regional or national marketing, advertising, sales promotion and promotional materials, public and consumer relations, website development and search engine optimization, the development of technology for the System and any other purpose to promote the Marks. We may use any media for disseminating Brand Fund advertisements, including direct mail, print ads, the Internet, radio, billboards, and television. We may reimburse ourselves, our authorized representatives, or our affiliates from the Brand Fund for administrative costs, independent audits, reasonable accounting, bookkeeping, reporting and legal expenses, taxes and all other direct or indirect expenses associated with the programs funded by the Brand Fund. We do not guarantee that advertising expenditures from the Brand Fund will benefit you or any other franchisee directly, on a pro rata basis, or at all. We are not obligated to spend any amount on advertising in the geographical area where you are or will be located. We will not use the Brand Fund contributions for advertising that is principally a solicitation for the sale of franchises, but we reserve the right to include a notation in any advertisement or website indicating “Franchises Available” or similar phrasing. A portion of the Brand Fund may be used to create and maintain one or more pages on our website devoted to advertising franchise opportunities and identifying and screening inquiries submitted by franchise candidates.

We assume no fiduciary duty to you or other direct or indirect liability or obligation to collect amounts due to the Brand Fund or to maintain, direct or administer the Brand Fund. We may at any time defer or reduce the Brand Fund contributions of a Dumont Creamery and Café business and, upon thirty (30) days’ prior written notice, reduce or suspend Brand Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Brand Fund. If we terminate the Brand Fund, we will distribute all unspent monies to all Dumont Creamery and Café businesses (whether franchised or operated by us or our affiliates) in proportion to their respective Brand Fund contributions during the preceding twelve (12) month period. We reserve the right to contribute or loan additional funds to the Brand Fund on any terms we deem reasonable.

The Brand Fund is not audited. Upon your written request (which must be at least 90 days after the end of the previous fiscal year), we will provide to you an annual accounting for the Brand Fund that shows how the Brand Fund proceeds were spent during the previous year. In 2023, we did not collect or disburse any money from the Brand Fund. (Franchise Agreement, Section 10.2)

### Local Advertising

We recommend, but do not require, you to spend monthly up to four percent (4%) of your Gross Revenue on your local advertising and marketing efforts. All your advertising, promotion, and marketing must be completely clear, factual, and not misleading, and must conform to both the highest standards of ethical advertising and marketing and the advertising and marketing policies that we periodically require. Before you use them, you must send us or our designated agency, for review, samples of all advertising, promotional, and marketing materials that we have not prepared or previously approved. We will have 10 days to approve or disapprove the use of our materials in the media you propose. If we have not approved the use of the materials within 10 days, they are deemed not approved. You may not use any advertising, promotional, or marketing materials that we have not approved or that we have disapproved. (Franchise Agreement, Sections 10.2 and 10.4)

### Advertising Cooperatives; Advertising Council

There currently are no advertising cooperatives for the System, and we do not require you to contribute to or participate in an advertising cooperative.

We do not currently have a franchise advisory council that advises us on advertising policies, but we reserve the right to create one.

### Internet Activities

We will establish and maintain a website that provides information about the System, and we will have sole discretion and control over it. We also have the sole right to create interior pages on our website(s) that contain information about your business and other franchised and company owned locations.

You may not establish or maintain a separate website, splash page or other presence on the Internet through any internet or social networking site in connection with the operation of your Business, including social media or networking sites, that uses any variation of the Marks or references the System only in accordance with our System standards and with our prior approval. We will have sole control over the establishment and maintenance of any social networking sites for your Franchised Business. You are not permitted to use any Mark in any domain name that is not provided or pre-approved by us.

### **Computer and Cash Register Requirements**

You must acquire and use all computer systems that we prescribe for use by our franchisees and may not use any computer system or components or software applications that do not conform to the Standards or that we have not approved in writing. Requirements may include, among other things, hook up to remote service, off-site electronic depositories, and Internet connections. We may require you to update or upgrade computer hardware components and/or software applications as we deem necessary, but not more than three (3) times per calendar year. You must enter into all software license agreements and software maintenance agreements, in the form and manner we prescribe, and pay all fees charged by third-party software and software service providers. At our request, you must sign or consent to a “terms of use” agreement with respect to all software applications that we designate. There are no limitations on our right to independently access from a remote location, at any time, all information in put to and compiled by your computer system or an off-site server, including information concerning sales, purchase orders, inventory and expenditures.

We do not currently require you to use proprietary software unrelated to the POS System. We require you to purchase or lease a POS System from our designated software provider, which currently charges \$135 per month for one terminal. If you choose to add an ordering kiosk, our supplier's current monthly charges for a kiosk are \$120 per month for each kiosk. Our supplier also charges processing fees and transaction charges on a per-transaction basis. You are also required to have a high-speed internet connection.

Except for the POS system described in this Item, you may purchase all software and hardware from the vendor of your choice, but we reserve the right to require you to deal only with vendors approved by us, which may be limited to us and/or our affiliates.

There are no contractual limitations on the frequency and cost of upgrades and/or updates to the systems or programs other than those described in Item 8 above. We estimate that the cost of any optional or required maintenance, updating, upgrading or support contracts for the computer system will not exceed \$750 per year. We or any of our affiliates are not required to provide ongoing maintenance, repairs, upgrades, or updates to your computer system.

You must establish and maintain at your own expense a sales accounting, record keeping and records retention system conforming to the requirements set by us. We require that each transaction relating to your Café be processed on a computer system specified by, and fully accessible to us.

### **Site Selection and Opening**

You must locate a site for the Café within 90 days from the date of the Franchise Agreement. We will review your proposed site and either approve or disapprove it within 15 days of the time you submit to us all information concerning the proposed site that we require. You must submit to us a form of the lease to be executed in order to obtain our written approval of the proposed site. The criteria that we use to evaluate the selected site include available parking, visibility, demographics, and local competition. A typical length of time between the signing of a Franchise Agreement and the opening of the franchise business is 6 to 9 months. Factors affecting this range include site availability, lease or purchase negotiations and construction time. We can terminate the Franchise Agreement if: (1) you and we cannot agree on a mutually acceptable location for the Café within six (6) months of the Effective Date of this Agreement; or (2) you fail to open the store for business within 12 months from the date you sign the Franchise Agreement. (Franchise Agreement – Section 5.5).

We will not directly assist you in selecting your site. We must approve your proposed site. Our approval of your selected site is not a representation or warranty that you will be successful in the location that we have approved. You must provide us with such information as we may request concerning your proposed site. (Franchise Agreement – Section 5.2).

Your lease must provide, in a form satisfactory to us, that the lessor will: (i) provide to us written notice of any of your defaults relating to the lease; (ii) grant us a thirty (30) day right to cure your default after we receive notice; (iii) permit us to exercise an option to assume your obligations under the lease or to place another franchisee or other party as we may designate in the premises and assume your obligations as lessee under the lease (Franchise Agreement – Section 5.3; Schedule I to Franchise Agreement).

You may not open your Café for business until you have fully complied with your obligations under the Confidential Operations Manual and we have certified that you are ready to open (Franchise Agreement – Section 5.5).

## **Upgrades and Renovations to the Café**

You must maintain your Café in a clean, up to date manner in order to promote the goodwill associated with the Marks and other Cafés. We have the right to require you to upgrade the appearance and equipment in your Café on a periodic basis as outlined in the Confidential Operations Manual. In addition to renovations, you are required to always maintain and operate your Café in compliance with our standards as set forth in the Franchise Agreement and the Manual.

You will not be required to renovate your Café more than once every 5 years. You must, however, renovate as may be required as a condition of our approval to renew or transfer the Franchise. (Franchise Agreement – Section 5.6 (ii)).

All renovations to your Café will be at your expense. You must submit to us in advance of beginning any renovations to your Café detailed plans, and specifications for our approval. You must use a licensed and insured contractor to make the renovations, and you must obtain and furnish to us, all lien waivers related to the construction.

## **ITEM 12.**

### **TERRITORY**

#### **Franchise Agreement**

The Franchise Agreement specifies that we will not establish, nor license another party to establish, another Café under the Marks within the area identified on Addendum 1 to your Franchise Agreement (the “Territory”). This proximity protection will remain for the initial franchise term. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets we own, or from other channels of distribution or competitive brands that we control.

Your Territory will be at least three miles, measured from the front door your Café, unless your Café is located at a Non-Traditional Site, in which case you will not be given a Territory. There is no minimum area for your Territory. In determining the total population within your Territory, we generally consult the United States Census estimate, available via the Internet website located at [quickfacts.census.gov](http://quickfacts.census.gov).

We must approve all proposed franchise locations even if the locations are identified by us in advance. We will enter the location we approve (the “Approved Location”) on Addendum 1 to the Franchise Agreement. After we approve your Approved Location, we will designate your Territory by describing it on Addendum 1. You may not conduct business at any other site other than the Approved Location.

You will operate your Café from one location and must receive our permission before relocating. We will charge you a relocation fee of \$5,000 in connection with our review of your relocation request. If you seek to relocate to a location that is outside of your Territory, we reserve the right not to approve any such relocation, and we will not consent to your relocation if it is within another franchisee’s Territory.

You are not permitted to distribute advertising items (i.e., coupons, circular advertising, or other forms of advertising that we permit) outside of your Territory. Other Cafés will not be permitted to conduct permitted advertising within your Territory. You may, however, accept orders from outside your Territory

for so long as you fill them only from your Approved Location. You do not have the right to use other channels of distribution, such as the Internet, catalog sales, telemarketing, or other direct marketing, to make sales outside of your Territory

You may use, reference or promote your Café in connection with social media networks or platforms, but only with our approval and in compliance with our applicable policies. You are not permitted to have an individual website for your Café, but we (so long as you are in compliance with the Franchise Agreement) will list your Café on our System Internet web site, and we may provide you the opportunity to add some content to that site.

Your Territory will not be altered during the initial term of the Agreement if there is a population increase or decrease. We have the right to terminate our grant, or reduce the size, of your Territory if you default under the Franchise Agreement for, among other things, failing to maintain our standards or failing to pay the royalty and other fees when they become due.

On renewal, acquiring a successor franchise, or transferring your franchise, your Territory may be modified. Depending on the then-current demographics of the Territory, and on our then-current standards for territories, if the Territory is larger than our then-current standard territory, we may require you or the transferee to accept a successor franchise territory or a transfer territory smaller than the Territory. There are no other circumstances under which we will modify your territorial rights.

#### Multi-Unit Development Agreement

Under the MUDA, we grant you the right to open and operate a minimum of two and a maximum of five Cafés at locations in a specified Development Area, subject to our approval. The Development Area may be 1 or more cities, counties, states, or some other defined area. During the term of the MUDA, we will not operate or grant a license or franchise to any other person to operate a Café at any location within your Development Area except as stated below.

Until the termination or expiration of the MUDA, you will retain your territorial protections afforded under the MUDA within the specified Development Area if you comply with your Development Obligation and other obligations under the MUDA. Any Café you develop at a Non-Traditional Site will not count towards your Development Obligation.

If you fail to meet any of your obligations under the MUDA, including the Café opening obligations, or commit a material breach of any agreement between you and us, we may terminate your right to further open and operate new Cafés in the Development Area. The termination for this reason of the right to develop your Development Area will not terminate any rights granted under the Franchise Agreements then in effect between you and us, absent a breach of the Franchise Agreement itself. After the expiration of the term of your MUDA, we may own, operate, franchise or license others to operate additional Cafés anywhere, without restriction, including in your Development Area, subject to the rights granted to you in the Territory established under any then-existing Franchise Agreement.

Under the MUDA, the protections afforded to you in accordance with the MUDA within your Development Area is dependent upon your compliance with your Development Obligation and other obligations under the MUDA, as described above.

## Limitations on Territorial Rights Under Franchise and Multi-Unit Development Agreements

Except as stated above, we and our affiliates retain all rights in the Territory and Development Area for engaging in any activities we deem appropriate whenever and wherever we desire, including, but not limited to the following rights:

- (1) The right to establish or operate or license any other person or entity to establish other facilities, businesses, kiosks, outlets, or Internet websites under trademarks or names other than the Marks, which are not Dumont Creamery and Café™ businesses, inside or outside of your Territory or Development Area. These businesses may offer services similar to those you offer at your Café, but will not be operated under the Marks.
- (2) The right to provide, offer and sell and to grant others the right to provide, offer and sell goods that are identical, similar to, and/or competitive with those provided at Cafés, whether identified by the Marks or other trademarks or service marks, through dissimilar channels of distribution (including retail stores, grocery stores, the Internet, and electronic media) both inside and outside your Territory or Development Area and on any terms and conditions we deem appropriate.
- (3) The right to operate, and to grant others the right to operate, Cafés located at any Non-Traditional Site anywhere, regardless of whether it is inside or outside of your Territory or Development Area. A “Non-Traditional Site” is a transportation facility, sporting facility, travel plaza, institutional feeding facility, government institution or facility, shopping mall, educational facility, casino, amusement park, or military facility.
- (4) The right to sell products and services using the Marks to customers located within your Territory or Development Area, for so long as they are not sold at or provided from locations within your Territory or Development Area.
- (5) The right to operate, and to grant others the right to operate Cafés located anywhere outside your Territory or Development Area under any terms and conditions we deem appropriate and regardless of proximity to your Territory or Development Area.
- (6) The right to acquire the assets or ownership interests of one or more businesses providing products and services similar to those provided at Cafés, and franchising, licensing or creating similar arrangements with respect to these businesses once acquired, wherever these businesses (or the franchisees or licenses of these businesses) are located or operating (including in your Territory or Development Area.). We will not, however, permit any such business located within your Territory or Development Area to operate under our Marks.
- (7) The right to be acquired (whether through acquisition of assets, ownership interests or otherwise, regardless of the form of transaction), by a business providing products and services similar to those provided at Cafés, or by another business, even if such business operates, franchises, and/or licenses competitive businesses within your Territory or Development Area. We will not, however, permit any such business located within your Territory or Development Area to operate under our Marks.

We are not required to pay you if we exercise any of the rights specified above within your Territory or Development Area.

Right of First Refusal

You will not have the right of first refusal to acquire additional franchises within your Territory. You will not have the right of first refusal to acquire additional franchises within your Development Area (if you have one) except as stipulated under your Development Obligation, and then only to that extent. We do not customarily grant to franchise owners options, rights of first refusal or similar rights to acquire additional franchises outside of their respective protected areas or multi-unit territories.


Other Franchise Systems

We and our affiliates have the right to operate other restaurant concepts, but as of the date of this Franchise Disclosure Document, neither we nor our affiliates have operated or franchised other businesses selling or leasing similar products or services under different trademarks. If we or our affiliates develop, purchase, merge, acquire, are acquired by or affiliate with an existing competitive franchise network, chain or any other business, then we or our affiliates will have the right to operate, franchise or license those businesses and/or facilities under marks different than the Marks in your Territory or Development Area.

**ITEM 13.**

**TRADEMARKS**

We grant you a license to operate your franchise business under the mark “DUMONT CREAMERY” and to use other marks and logos that we designate under the System (the “Marks”). We will grant to you a license to use the Marks we designate, and you will use them in compliance with the requirements of the System. We will grant a license to you to use the following Mark:

MARK	APPLICATION NO.	REGISTRATION DATE
DUMONT CREAMERY  (Word Mark)	Not applicable (Common Law Mark)	
  (Logo Mark)	Not applicable (Common Law Mark)	

We do not have a federal registration for our principal trademark. Therefore, our trademark does not have many legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

There are currently no 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, that materially limits your rights to use the Marks. There is currently no pending interference, opposition or cancellation proceeding, nor any pending material litigation, involving the Marks that is relevant to their use anywhere in the United States.

There are currently no pending agreements in effect that affect or limit our use or our ability to license others to use the marks in any manner or material to your franchise business.

You must use the Marks in full compliance with the provisions of the Franchise Agreement and according to the rules we periodically prescribe. You may not use any Mark as a part of your corporate name or with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos licensed by us to you). You may not use any name or mark associated with the sale of any unauthorized product or services in any other manner not explicitly authorized in writing by us. You may not establish or maintain a website or other presence on the Internet that reflects any of the Marks or our copyrighted works, or that include the Mark, or the term “DUMONT CREAMERY” as part of any URL or domain name, or that otherwise states or suggests your affiliation with us or the System.

If there is any infringement of, or challenge to, your use of any name, mark or symbol, you must immediately notify us, and you may take any such action that we deem appropriate, in our sole discretion.

The Franchise Agreement does not require us to take affirmative action if notified of the claim. We or our affiliates have the right to control all administrative proceedings or litigation involving your use of the Marks. The Franchise Agreement also does not require us to participate in your defense or to indemnify you for expenses or damages if you are a party to any administrative or judicial proceeding based on your use of the Marks, or if the proceeding is resolved unfavorably to you. If it becomes advisable at any time, in our sole discretion, to modify the use or discontinue the use of any name or mark and/or use one or more additional or substitute names or marks, you must pay for the tangible cost (such as replacing signs and materials) associated with such change.

Under the Franchise Agreement you agree not to contest, directly or indirectly, our ownership, title, right or interest in the name or Marks, trade secrets, methods, procedures, and advertising techniques which are part of the System, or contest our sole right to register, use or license others to use such names, marks, trade secrets, methods, procedures, or techniques.

We have the right at any time, on notice to you, to make additions to, deletions from, and changes in the Marks at our absolute discretion. You must adopt and use any and all such additions, deletions, and changes as we may direct at your sole cost and expense.

You will have the right to use all of our Marks in the operation of your Café. However, you must use the Marks only for the operation of your Café and in the manner authorized by us. You cannot use the names or Marks as part of a corporate name or with modifying words, designs or symbols except for those which we license to you. You may not use our Marks in connection with the sale of unauthorized goods or services, or in a manner not authorized in writing by us.

To the best of our knowledge, there are presently no rights superior to ours in the Marks and there are no infringing uses that could materially affect your use of the Marks in any state.

#### **ITEM 14.**

#### **PATENTS, COPYRIGHTS AND PROPRIETRY INFORMATION**

There are no patents or registered copyrights material to the franchise, but we claim copyright protection in many elements of the System including the Confidential Operating Manual and the design elements of the Marks and the content and design of our website (the “Copyrighted Works”).

You and your principals and employees also must maintain the confidentiality of all trade secrets, the Standards, and other elements of the System; all customer information; all information contained in the manuals; our proprietary recipes and techniques for product preparation; and any other information that we designate as “Confidential Information.” Any of your principals who do not sign the Guaranty Agreement attached to the Franchise Agreement as Schedule “D” and all employees with access to Confidential Information must sign a Confidentiality and Non-Compete Agreement substantially in the form that we designate.

You must promptly notify us of any apparent infringement of, or challenge to, your use of any of the Copyrighted Works or Confidential Information. The Franchise Agreement does not require us to take affirmative action when notified of a claim, or to participate in your defense or indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving any of the Copyrighted Works or Confidential Information, or if the proceeding was resolved unfavorably to you, but will take whatever action we determine to be appropriate under the circumstances. If we or an affiliate undertake the defense or prosecution of any litigation pertaining to any of the Copyrighted Works or Confidential Information, you must sign all documents and perform such acts as may in the opinion of our counsel, be necessary to carry out the defense or prosecution.

We will have the right at any time, on notice, to make additions to, deletions from, and changes in any item in which we claim common law copyright or registered copyright protection. You must adopt and use all additions, deletions, and changes as we direct at your expense.

#### **ITEM 15.**

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

You (or, if you are an entity, your Operating Principal) must personally participate in the operation of your Café. The Operating Principal must be an equity owner in the Franchised Business (in an amount of at least 10%) and have the authority to bind you in all operational decisions regarding the franchise. We will have the right to rely on any statement, agreement or representation made by the Operating Principal. You may not change the Operating Principal without our prior written approval.

You will need a full-time General Manager to be responsible for the direct on-premises supervision of the Café at all times during the hours of operation as required by us. However, you are still responsible for the operations of your Café. At all times, you will keep us advised of the identity of your General Manager. If your General Manager’s employment terminates for any reason, you must engage a suitable replacement as soon as possible, but in no event more than 60 days from the date of termination and you must provide suitable coverage in the interim. Your General Manager need not have any equity interest in the Franchised Business. You will disclose to your General Manager only the information needed to operate your Café and the General Manager will be advised that any confidential information is our trade secret.

Both the franchisee (in the case of an individual), your Operating Principal (in the case of an entity) and the General Manager must attend and satisfactorily complete our initial training program. You will inform us in writing as to the identity of the Café managers you seek to employ. Each of your managers must successfully complete our initial training. All of your employees and independent contractors that have access to the Confidential Operations Manual and our proprietary information must sign the Confidentiality Agreement attached as Schedule “E” to the Franchise Agreement.

If you are a corporation or other legal entity, all shareholders, or holders of equity in the entity must personally guarantee your obligations under the Franchise Agreement on the Guaranty Agreement attached as Schedule “D” to the Franchise Agreement.

**ITEM 16.**

**RESTRICTION ON WHAT THE FRANCHISEE MAY SELL**

You may only offer or sell products and services that are approved by us and must offer for sale certain products and services as designated by us. We may add, delete, or alter approved products or services that you are required or allowed to offer in our sole discretion. There are no limits on our right to do so. You must discontinue selling and offering any products, services, or items that we, in our sole discretion, disapprove in writing at any time. You may not conduct any other business or activity at the Café without our written permission. You are not permitted to rent out your Café or host any events at your Café which are not affiliated with Taste Buds and approved by us. You may only sell products at retail and may not engage in the wholesale or distribution of any product.

On a case-by-case basis, we may allow you or other franchisees to offer additional services, products or programs that are not otherwise part of the franchise System. We will decide which franchisees can offer additional services and products based on test marketing, the franchisees’ qualifications and operational history, differences in regional or local markets and other factors.

You may not create unapproved rewards or loyalty programs. You cannot offer free products or services unless approved by us in connection with an “Open House” at your Café. We may regulate procedures for online/electronic orders and registration, and we have the right to set restrictions on the pricing and sizes of all products that are sold or distributed.

We require you to limit your business to the operation of the Café. If you are an entity, you must be a single purpose entity and you cannot operate any other business or sell any products or services, other than those approved in connection with your Café, using your entity name.

[This Section is Intentionally Left Blank]

**ITEM 17.**

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

**THE FRANCHISE RELATIONSHIP**

**This table lists certain important provisions of the Franchise Agreement and related agreements. You should read these provisions in the agreement in Exhibit C in this disclosure document.**

<b>PROVISION</b>	<b>SECTION OF FRANCHISE AGREEMENT</b>	<b>SUMMARY</b>
(a) Term of the franchise	2.1	10 years from the date of the Franchise Agreement unless terminated earlier.
(b) Renewal or extension of the term	2.2	If we are still franchising and you are in good standing, you may renew your franchise for one (1) additional ten (10) year term. Upon the grant of a renewal franchise, you will sign our then current franchise agreement, which may be materially different.
(c) Requirements for you to renew or extend	2.2 (i) – (viii)	Give us timely notice, sign new agreement, release, and other documents we use to grant franchises, and pay fee.
(d) Termination by you	16.1	You may terminate the Franchise Agreement after giving us 60 days’ notice of our default if we have not cured the default.
(e) Termination by us without cause	Not applicable	We may not terminate you without cause.
(f) Termination by us with cause	16.2; 16.3	Each of your obligations under the Franchise Agreement are material, the breach of which may result in termination.
(g) “Cause” defined – defaults	16.2; 16.3	We may terminate you for cause if you fail to cure certain defaults, including: if you or any of your affiliates fail to pay any monies owed to us, or our affiliates or vendors, and do not cure within 5 days after notice (or longer period required), fail to obtain signed confidentiality and non-competition covenants within 5 days of our request, fail to procure required insurance, if you are in default of your lease or sublease; lose possession of your Café; if you fail to open your Café within 12 months of the execution of the Franchise Agreement; if you breach or fail to perform any covenant, warranty, agreement or obligation of the Franchise Agreement that is not a non-curable default; non-submission of reports, failure to obtain our approval of any matter required by the Franchise Agreement; and the failure to operate the Business in accordance with the Confidential Operations Manual.
(h) “Cause” defined – defaults which cannot be cured	16.2	Non-curable defaults include misrepresentation of material facts to us concerning your application; knowingly maintaining false books and records; failure to submit reports; failure to pay fees; 2 or more failing scores on health, quality, or safety inspections by us or governmental authorities within 12 months; if you sell unauthorized products or services; if you abandon the Café; conviction of a felony; abandonment; trademark misuse; violation of covenants;

PROVISION	SECTION OF FRANCHISE AGREEMENT	SUMMARY
		unapproved transfers, failure to complete initial training to our satisfaction, and repeated defaults (even if cured); committing fraud concerning the business; bankruptcy or insolvency. In addition, a default under one agreement with us may result in a termination of all your other agreements with us.
(i) Your obligations on termination/non-renewal	Article 17; Article 18	Obligations include paying outstanding amounts; complete de-identification, returning confidential information, canceling any assumed name registrations, cease to use any of our advertising materials, comply with all post-termination covenants, (see also (r) below). If you or we terminate the Franchise Agreement before the expiration of the Franchise Agreement, you must pay us Liquidated Damages.
(j) Assignment of contract by us	15.1	No restriction on our right to assign. We may assign without your approval. No assignment will be granted except to an assignee who, in our good-faith judgment is able to assume our obligations.
(k) "Transfer" by you-definition	15.2	Includes sale, assignment, conveyance, pledge, mortgage, or other encumbrance of any interest in the Franchise Agreement or the Café's assets.
(l) Our approval of transfer	15.4	No transfer without our prior written consent which we may not unreasonably withhold.
(m) Conditions for our approval of transfer	15.4	New franchisee qualifies, you pay us and third party vendors all amounts due and submit all reports, new franchise owner (and its owners and affiliates) are not in a competitive business, training completed, transferee signs our then current franchise agreement and other documents, transfer fee paid, transferee pays us training fee, you sign release, owners of transferee sign guaranty, you agree to a non-compete restriction.
(n) Our right of first refusal to acquire your business	None	Not Applicable
(o) Our option to purchase your business	None	Not Applicable
(p) Your death or disability	15.3	Upon your death or disability, your representative must transfer your interest to an approved party within six (6) months. Such a transfer is subject to the same terms and conditions as any other transfer.
(q) Non-competition covenants during the term of the franchise	18.5 (i)	No involvement in a competing business anywhere in the U.S. The term " <b>Competitive Business</b> " means any business that sells ice cream, boba tea coffee and other food items that are similar to the items sold at a Dumont Creamery and Café, or any business which grants franchises or licenses to others to operate such a business, other than a Franchised Business operated under a Franchise Agreement with us. You must not divert any business from your Café or from us.
(r) Non-competition covenants after the franchise is terminated or expires	18.5 (ii)	No direct or indirect ownership interest in, or performing services for, Competitive Business for 2 years within the Territory or within any Territory where a Dumont Creamery and Café Business is located when you sign the Franchise Agreement, or within 20 miles of your location at the time of termination or expiration (same restrictions apply after transfer).

PROVISION	SECTION OF FRANCHISE AGREEMENT	SUMMARY
(s) Modification of the Agreement	23.3	All modifications must be in writing and signed by all parties, but we may change Confidential Operations Manual and System Standards.
(t) Integration/merger clause	Article 27	Only terms of the franchise agreement are binding (subject to state law). Nothing in the agreement or in any related agreement is intended to disclaim the representations franchisor made in the franchise disclosure document. Any representations or promises outside of the disclosure document and franchise agreement may not be enforceable.
(u) Dispute resolution by arbitration or mediation	Article 19	Except for actions brought by us for monies owed, injunctive or extraordinary relief, or actions involving real estate, all disputes must be mediated and arbitrated in Texas in the judicial district where our headquarters is located and will be subject to the Commercial Arbitration Rules of the Judicial Arbitration and Mediation Service (“JAMS”), subject to applicable state law.
(v) Choice of forum	19.7	Arbitration must be in our home county and state, subject to applicable state law.
(w) Choice of law	Article 25	Except for federal law, Texas Law governs, subject to applicable state law.

### THE MULTI-UNIT DEVELOPER RELATIONSHIP

Provision	Section of the Multi-Unit Development Agreement	Summary
(a) Term of the franchise	3	Length of Development Schedule
(b) Renewal or extension of the term	None	Not Applicable
(c) Requirements for you to renew or extend	None	Not Applicable
(d) Termination by you	None	You may seek to terminate on any grounds permitted by law.
(e) Termination by us without cause	None	We may not terminate you without cause.
(f) Termination by us with cause	9.1	We may terminate if you default or commit any one of several violations.
(g) “Cause” defined – defaults which can be cured	9.2	If you use the Marks or System without our consent; participating in a Competitive Business; failure to pay money to us when due; you begin developing a Café business before all of your pre-development obligations are met; failure to obtain our consent when required; you open any Café business before a Franchise Agreement for that Business has been signed.
(h) “Cause” defined – defaults which cannot be cured	9.2	Failure to meet your Development Schedule; failure to comply with applicable laws; if all your Franchised Businesses stop operating; misrepresentation of material facts to us; conviction by you or your owners of a felony; bankruptcy or insolvency; if a Franchise Agreement with us is terminated.
(i) Your obligations on termination/non-renewal	Article 10	You must stop selecting sites for Cafés and you may not open further franchises.
(j) Assignment of contract by us	8.1	No restriction on our right to assign. We may assign without your approval.
(k) “Transfer” by you-definition	8.2	Includes transfer of any interest in the Multi-Unit Development Agreement.

<b>Provision</b>	<b>Section of the Multi-Unit Development Agreement</b>	<b>Summary</b>
(l) Our approval of transfer	8.4	No transfer without our prior written consent which we may not unreasonably withhold.
(m) Conditions for our approval of transfer	8.4	Conditions for approval of transfer include being current in your Development Schedule, you are in good standing, the buyer meets our criteria for multi-unit developers; payment of transfer fee; buyer signs guaranty.
(n) Our right of first refusal to acquire your business	None	Not Applicable
(o) Our option to purchase your business	None	Not Applicable
(p) Your death or disability	8.3	Upon your death or disability, your representative must transfer your interest to an approved party within six (6) months. Such a transfer is subject to the same terms and conditions as any other transfer.
(q) Non-competition covenants during the term of the franchise	None	Not Applicable – Franchise Agreement governs.
(r) Non-competition covenants after the franchise is terminated or expires	None	Not Applicable – Franchise Agreement governs.
(s) Modification of the Agreement	Article 14	All modifications must be in writing and signed by all parties.
(t) Integration/merger clause	Article 14	Only terms of the Multi-Unit Development Agreement are binding (subject to state law). Nothing in the agreement or in any related agreement is intended to disclaim the representations franchisor made in the franchise disclosure document. Any representations or promises outside of the disclosure document and Multi-Unit Development Agreement may not be enforceable.
(u) Dispute resolution by arbitration or mediation	Article 17	Except for actions brought by us for monies owed, injunctive or extraordinary relief, or actions involving real estate, all disputes must be mediated and arbitrated in Dallas, Texas and will be subject to the Commercial Arbitration Rules of the Judicial Arbitration and Mediation Services (“JAMS”), subject to applicable state law.
(v) Choice of forum	Article 17	Arbitration must be in our home county and state, subject to applicable state law. See any state-specific addendum attached in Exhibit A.
(w) Choice of law	Article 17	Federal trademark law, and other federal laws govern where applicable. Except for federal law, Texas Law governs, except where individual state laws supersede, as reflected in any state-specific attachment to the Franchise Agreement, 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 franchises and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to our management by contacting Ajay Govada, CEO, 6600 Paige Rd., Suite 222, The Colony, Texas 75056, (937) 708-9589, the Federal Trade Commission and any appropriate state regulatory agencies.

**ITEM 20.**

**OUTLETS AND FRANCHISEE INFORMATION**

**TABLE NO. 1  
SYSTEMWIDE OUTLET SUMMARY FOR YEARS 2021 TO 2023**

<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	2021	0	0	0
	2022	0	0	0
	2023	0	1	+1
Company-Owned	2021	0	0	0
	2022	0	0	0
	2023	0	0	0
Total Outlets	2021	0	0	0
	2022	0	0	0
	2023	0	1	+1

**TABLE NO. 2  
TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS (OTHER THAN THE FRANCHISOR) FOR YEARS 2021 TO 2023**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
All States	2021	0
	2022	0
	2023	0
TOTAL	2021	0
	2022	0
	2023	0

TABLE NO. 3  
STATUS OF FRANCHISED OUTLETS FOR YEARS 2021 TO 2023

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations -Other Reasons	Outlets at End of Year
Texas	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
TOTAL	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	1

TABLE NO. 4  
STATUS OF COMPANY-OWNED OUTLETS FOR YEARS 2021 TO 2023

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
Texas	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
TOTAL	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0

TABLE NO. 5  
**PROJECTED OPENINGS  
AS OF DECEMBER 31, 2023**

State	Franchise Agreements Signed But Outlets Not Opened	Projected New Franchised Outlets in the Current Fiscal Year (2024)	Projected New Company-Owned Outlets in the Current Fiscal Year (2024)
CA	0	1	0
TX	0	9	0
<b>TOTALS</b>	0	10	0

Exhibit F lists the names of all of our franchisees and the addresses and telephone numbers of their Cafés as of December 31, 2023. Exhibit F-1 lists the franchisee that has left the System after December 31, 2023, but prior to the effective date of this Disclosure Document. There have been no franchisees who have not communicated with us within 10 weeks of the issuance date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last 3 fiscal years, we have not signed any confidentiality clauses with current or former franchisees which would restrict them from speaking openly with you about their experience with us.

**ITEM 21.**

**FINANCIAL STATEMENTS**

Attached as Exhibit “E” is our audited balance sheet as of November 25, 2024 Our fiscal year ends on December 31. We have not been franchising for three years or more and cannot provide all financial statements as required by this item.

**ITEM 22.**

**CONTRACTS**

The following agreements for the Franchise Offering described in this Disclosure document are as follows:

- Exhibit “C”- Franchise Agreement
  - Schedule A - Initial Franchise Fee, Territory, Ownership and Related Matters
  - Schedule B - State Law Addendum
  - Schedule C - Authorization for Electronic Funds Transfer
  - Schedule D - Personal Guaranty
  - Schedule E - Confidentiality, Non-Use, and Non-Competition Agreement
  - Schedule F - Confidentiality and Non-Solicitation Agreement for Employees
  - Schedule G - Assignment of Telephone and Internet Listings and Advertisements
  - Schedule H - Form of Release
  - Schedule I - Lease Addendum
- Exhibit “D” Multi-Unit Development Agreement

**ITEM 23.**

**RECEIPTS**

The last two (2) pages of this Disclosure Document (Exhibit “I”) are detachable documents acknowledging your receipt of this Disclosure Document. You must sign each receipt and return one to us.

## EXHIBIT "A"

### STATE-SPECIFIC ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT, AND MULTI-UNIT AGREEMENT

The following modifications are to the Franchise Disclosure Document between Dumont Creamery and Café, LLC ("Franchisor," "we," "us," or "our") and may supersede, to the extent then required by valid applicable state law, certain portions of the Franchise Agreement and Multi-Unit Development Agreement between Franchisor and you ("you," "you," or "your" dated \_\_\_\_\_, 20\_\_.

The state-specific amendments of this State Law Addendum to Franchise Disclosure Document, Franchise Agreement, and Multi-unit Agreement ("**State Addendum**") supersede the related provisions of those agreements, and apply only to those persons residing or operating Cafés in the following states:

#### **FOR THE STATE OF CALIFORNIA:**

**The registration of this franchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**

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 FRANCHISE DISCLOSURE DOCUMENT AT LEAST 14 DAYS PRIOR TO EXECUTION OF AN AGREEMENT.

**OUR WEBSITE [www.dumont.us](http://www.dumont.us) 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 [www.dfpi.ca.gov](http://www.dfpi.ca.gov).**

#### **The Franchise Disclosure Document is hereby amended as follows:**

The franchisor, any person or franchise broker in Item 2 of the FDD is not 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.

California Business and Professions Code 20000 through 20043 provide rights to the franchisee concerning termination, transfer, or non-renewal of a franchise. If the Franchise Agreement or Multi-Unit Development Agreement contains a provision that is inconsistent with the law, the law will control.

The Franchise Agreement and Multi-Unit Development Agreement provide for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).

The Franchise Agreement and Multi-Unit Development Agreement contain a covenant not to compete, which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

The Franchise Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

The Franchise Agreement and Multi-Unit Development Agreement require application of the laws of the State of Nevada. This provision may not be enforceable under California law.

Section 31125 of the California Corporations Code requires us to give you a disclosure document, in a form containing the information that the commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise.

You must sign a general release of claims if you renew or transfer your franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 Voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

Pursuant to California Corporations Code Section 31512, Franchise Agreement Provisions Void as Contrary to Public Policy:

Any provision of a franchise agreement, franchise disclosure document, acknowledgement, questionnaire, or other writing, including any exhibit thereto, disclaiming or denying any of the following shall be deemed contrary to public policy and shall be void and unenforceable:

- (a) Representations made by the franchisor or its personnel or agents to a prospective franchisee.
- (b) Reliance by a franchisee on any representations made by the franchisor or its personnel or agents.
- (c) Reliance by a franchisee on the franchise disclosure document, including any exhibit thereto.
- (d) Violations of any provision of this division.

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

**Pursuant to Cal. Code Regs. Tit. 10, § 310.114.1, the Franchise Agreement and Multi-Unit Development Agreement are hereby amended as follows:**

Despite anything to the contrary in the Franchise Agreement and Multi-Unit Development Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of California:

1. Any condition, stipulation, or provision in the Franchise Agreement and Multi-Unit Development Agreement which would result in your waiver of compliance with any provision of the California Franchise Relations Act is void to the extent that such provision violates such act.
2. California Business and Professions Code 20000 through 20043 provide rights to a franchisee concerning termination or non-renewal of a franchise. If the Franchise Agreement or Multi-Unit Development Agreement contain a provision that is inconsistent with the law, the law will control.

For the purposes of Cal. Bus. & Prof. Code Section 20022, the parties agree as follows:

The parties agree that they will use the declining-balance depreciation method to calculate the value of Franchisee's inventory, supplies, equipment, fixtures, and furnishings (the "Assets") for the purposes of a purchase by us under Section 20022. The purchase price by us for the Assets will not include the cost of removal and transportation of those assets, which will be your responsibility.

The parties agree that for the purposes of Section 20022, you are not able to provide to us "clear title and possession" to your Assets if those Assets are subject to liens or encumbrances including: a) purchase money security interest; b) blanket security interest; c) right of first refusal; d) lien by franchisee's landlord; or e) tax lien.

The parties agree that for the purposes of Section 20022(h), our right of offset will include the following amounts owed by you to us or our Affiliates: a) Royalty Fees; b) Liquidated Damages; c) Transfer Fees; and d) any other type of fee owed by you to us or our Affiliates.

For the purposes of Cal. Bus. & Prof. Code Section 20035, the parties agree as follows:

"Fair market value of the franchise assets" means the value of your Assets, valued according to the declining-balance method of depreciation. The purchase price by us for the Assets will not include the cost of removal and transportation of those assets, which will be your responsibility.

"Fair market value of the franchised business" means the "fair market value of the franchise assets" as defined above, plus goodwill. The parties agree that the value of goodwill is the amount of Royalty Fees paid by you to us within the 12-month period immediately before our termination or failure to renew you in violation of the California Franchise Relations Act.

No disclaimer, questionnaire, clause, or statement signed by a franchisee in connection with the commencement of the franchise relationship shall be construed or interpreted as waiving any claim of fraud in the inducement, whether common law or statutory, or as disclaiming reliance on or the right to rely upon any statement made or information provided by any franchisor, broker or other person acting on behalf of the franchisor that was a material inducement to a franchisee's investment. This provision supersedes any other or inconsistent term of any document executed in connection with the franchise.

**FOR THE STATE OF CONNECTICUT:**

The following statement is added to the cover page of the Franchise Disclosure Document:

**The State of Connecticut does not approve, recommend, endorse or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract or agreement.**

The following statement is added to Item 3 of the Franchise Disclosure Document:

There are no pending or completed actions against us relating to Securities Laws; Business Opportunity Laws; Actions Brought by Present or Former Purchaser-Investors Involving Franchise; or Business Opportunity Relationships that are required to be disclosed in this Disclosure Document.

The FDD, Franchise Agreement, and Multi-Unit Development Agreement are hereby modified to state that, if we require you to purchase products, equipment or supplies from us but fail to provide those products, equipment or supplies or fails to render the services necessary to begin substantial operation of the business

within 45 days of the required opening date stated in your contract, you may notify us in writing and demand that the contract be canceled.

**FOR THE STATE OF HAWAII:**

The following is added to the Cover Page:

THIS FRANCHISE WILL BE/HAS BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO YOU OR SUBFRANCHISOR AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY YOU OR SUBFRANCHISOR OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY YOU, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE 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 AND MULTI-UNIT AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH US AND YOU.

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

**FOR THE STATE OF ILLINOIS:**

Sections 4 and 41 and Rule 608 of the Illinois Franchise Disclosure Act states that court litigation must take place before Illinois federal or state courts and all dispute resolution arising from the terms of this Agreement or the relationship of the parties and conducted through arbitration or litigation shall be subject to Illinois law. The Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement are amended accordingly.

The governing law or choice of law clause described in the Franchise Disclosure Document and contained in the Franchise Agreement and Multi-Unit Development Agreement may not be enforceable under Illinois law. This governing law clause shall not be construed to negate the application of the Illinois Franchise Disclosure Act in all situations to which it is applicable. Section 41 of the Illinois Franchise Disclosure Act states that “any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void.”

To the extent that the Franchise Agreement and Multi-Unit Development Agreement would otherwise violate Illinois law, the agreements are amended by providing that all litigation by or between you and us, arising directly or indirectly from the franchise relationship, will be commenced and maintained in the state courts of

Illinois or, at our election, the United States District Court for Illinois, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements, and Illinois law will pertain to any claims arising under the Illinois Franchise Disclosure Act.

17(v), Choice of Forum, of the Franchise Disclosure Document is revised to include the following: “provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act”.

17(w), Choice of Law, of the Franchise Disclosure Document is revised to include the following: “provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act”.

The termination and non-renewal provisions in the Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement may not be enforceable under Sections 19 and 20 of the Illinois Franchise Disclosure Act.

Under Section 705/27 of the Illinois Franchise Disclosure Act, no action for liability under the Illinois Franchise Disclosure Act can be maintained unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of 1 year after you become aware of facts or circumstances reasonably indicating that you may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to you of a written notice disclosing the violation, whichever shall first expire. To the extent that the Franchise Agreement and Multi-Unit Development Agreement are inconsistent with the Illinois Franchise Disclosure Act, Illinois law will control and supersede those provisions.

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

**FOR THE STATE OF INDIANA:**

Item 8 of the Franchise Disclosure Document is amended to add the following:

Under Indiana Code Section 23-2-2.7-1(4), we will not accept any rebates from any person with whom you do business or associate in relation to transactions between you and the other person, other than for compensation for services rendered by us, unless the rebate is properly accounted for and submitted to you.

Item 17 of the Franchise Disclosure Document is amended to add the following:

17(e) is amended subject to Indiana Code 23-2-2.7-1(7), which makes it unlawful for us to unilaterally terminate your franchise agreement unless there is a material violation of the Franchise Agreement and Multi-Unit Development Agreement and termination is not in bad faith.

17(m) is amended subject to Indiana Code 23-2-2.7-1(5), which prohibits us to require you to agree to a prospective general release of claims subject to the Indiana Deceptive Franchise Practices Act.

17(r) is amended subject to Indiana Code 23-2-2.7-1(9) to provide that the post-term non-competition covenant will have a geographical limitation of the Territory granted to you.

17(v) is amended to provide that you will be permitted to begin litigation in Indiana for a cause of action under Indiana law.

17 (w) is amended to provide that if there is a conflict of law, Indiana Law governs any cause of action which arises under the Indiana Disclosure Law or Indiana Deceptive Franchise Practices Act.

Despite anything to the contrary in the Franchise Agreement and Multi-Unit Development Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Indiana:

1. The laws of the State of Indiana supersede any provisions of the Franchise Disclosure Document, the Franchise Agreement and Multi-Unit Development Agreement, or Nevada law, if such provisions are in conflict with Indiana law.
2. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the franchise without good cause or in bad faith, good cause being defined under law as including any material breach of the Franchise Agreement or Multi-Unit Development Agreement, will supersede the provisions of the Agreement to the extent the Agreement may be inconsistent with such prohibition.
3. Any provision in the Franchise Agreement or Multi-Unit Development Agreement which would require you to prospectively assent to a release, or, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Indiana Deceptive Franchise Practices Law is void to the extent that such provision violates such law.
4. The Franchise Agreement and Multi-Unit Development Agreement will be modified to the extent necessary to comply with Indiana Code 23-2-2.7-1 (9).
5. The following provision will be added to the Franchise Agreement and Multi-Unit Development Agreement:

No Limitation on Litigation. Any provision in the Agreement which limits in any manner whatsoever litigation brought for breach of the Agreement will be void to the extent that any such contractual provision violates the Indiana Deceptive Franchise Practices Law.

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

### **FOR THE STATE OF IOWA**

Any provision in the Franchise Agreement or Compliance Questionnaire which would require you to prospectively assent to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by the Iowa Business Opportunity Promotions Law (Iowa Code Ch. 551A) is void to the extent that such provision violates such law.

The following language will be added to the Franchise Agreement:

**NOTICE OF CANCELLATION**

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence or business address, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do not agree to return the goods to the seller or if the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to Ajay Govada, CEO, at 6600 Paige Rd., Suite 222, The Colony, Texas 75056, (937) 708-9589, not later than midnight of the third business day after the Effective Date.

I hereby cancel this transaction.

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

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

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

Its: \_\_\_\_\_  
\_\_\_\_\_

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

**FOR THE STATE OF MARYLAND**

The Franchise Disclosure Document, Franchise Agreement, Multi-Unit Development Agreement, and Compliance Questionnaire are amended as stated below.

Item 17 of the Franchise Disclosure Document and sections of the Franchise Agreement and Multi-Unit Development Agreement requiring that you sign a general release, estoppel or waiver as a condition of renewal and or assignment, will not apply to liability under the Maryland Franchise Registration and Disclosure Law.

Item 17 of the Franchise Disclosure Document and sections of the Franchise Agreement and Multi-Unit Development Agreement are amended to state that you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration & Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

The Franchise Agreement and Multi-Unit Development Agreement provide for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law (11 U.S.C.A Sec. 101 *et seq.*).

The Franchise Agreement, Multi-Unit Development Agreement and Compliance Questionnaire are amended to state: “[a]ll representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.”

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

### **FOR THE STATE OF MICHIGAN**

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.

**The state of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in these franchise documents, the provisions are void and cannot be enforced against you:**

**A prohibition on the right of a franchisee to join an association of franchisees.**

**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 will not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.**

**A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause will 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 of the failure and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.**

**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 our intent not to renew the franchise.**

**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.**

**A provision requiring that arbitration or litigation be conducted outside this state. This will not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.**

**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 will include, but is not limited to:**

- (i) The failure of the proposed transferee to meet our 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.*

**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)**

**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 this notice should be directed to:

State of Michigan Department of Attorney General  
Consumer Protection Division  
Attn: Franchise  
670 Law Building  
Lansing, Michigan 48913  
Telephone Number: (517) 373-7117

- 9 -

## **FOR THE STATE OF MINNESOTA:**

Despite anything to the contrary in the Franchise Agreement and Multi-Unit Development Agreement, the following provisions will supersede and apply to all franchises offered and sold in the State of Minnesota:

1. Any provision in the Franchise Agreement and Multi-Unit Development Agreement that would require you to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22 will be void to the extent that such contractual provision violates such law.
2. Minnesota Statute Section 80C.21 and Minnesota Rule 2860.4400J prohibit the franchisor from requiring litigation to be conducted outside of Minnesota. In addition, nothing in the Franchise Disclosure Document or Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of Minnesota.
3. Minn. Rule Part 2860.4400J prohibits a franchisee from waiving his rights to a jury trial or waiving his rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes. Any provision in the Agreement which would require you to waive your rights to any procedure, forum or remedies provided for by the laws of the State of Minnesota is deleted from any Agreement relating to franchises offered and sold in the State of Minnesota; provided, however, that this paragraph will not affect the obligation in the Agreement relating to arbitration.
4. With respect to franchises governed by Minnesota law, we will comply with Minnesota Statute Section 80C.14, Subds. 3, 4 and 5, which require, except in certain specified cases, that you be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the Agreement; and that consent to the transfer of the franchise will not be unreasonably withheld.
5. Item 13 of the FDD is hereby amended to state that we will protect your rights under this Agreement to use the Marks, or indemnify you from any loss, costs, or expenses arising out of any third-party claim, suit or demand regarding your use of the Marks, if your use of the Marks is in compliance with the provisions of the Agreement and our System standards. Notwithstanding anything to the contrary in the Franchise Agreement and Multi-Unit Development Agreement, we will protect your rights under this Agreement to use the Marks, or indemnify you from any loss, costs, or expenses arising out of any third-party claim, suit or demand regarding your use of the Marks, if your use of the Marks is in compliance with the provisions of the Franchise Agreement and Multi-Unit Development Agreement and our System standards.
6. Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release. As a result, the provisions of the Franchise Agreement and Multi-Unit Development Agreement that require you to sign a general release prior to renewing or transferring your franchise are hereby deleted from the Franchise Agreement and Multi-Unit Development Agreement.
7. The following language will be added to the Franchise Agreement and Multi-Unit Development Agreement:

No Abrogation. Pursuant to Minnesota Statutes, Section 80C.21, nothing in this Agreement will in any way abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80.C.

9. Minnesota Statute Section 80C.17 states that no action for a violation of Minnesota Statutes, Sections 80C.01 to 80C.22 may be commenced more than three years after the cause of action accrues.

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

**FOR THE STATE OF NEW YORK:**

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

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT 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 FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, INVESTOR PROTECTION BUREAU, 28 LIBERTY ST. 21<sup>ST</sup> FLOOR, NEW YORK, NY 10005. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. 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 FRANCHISE DISCLOSURE DOCUMENT.**

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

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

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

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

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

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law,

resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Except as provided above, 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.

4. 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.

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

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

6. 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.

7. 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.

8. 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.

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

**FOR THE STATE OF NORTH DAKOTA:**

Sections of the Franchise Disclosure Document, Franchise Agreement and Multi-Unit Development Agreement requiring that you sign a general release, estoppel or waiver as a condition of renewal and/or assignment may not be enforceable as they relate to releases of the North Dakota Franchise Investment Law.

The Franchise Agreement and Multi-Unit Development Agreement and Confidentiality / Non-Competition Agreement contain a covenant not to compete which may not be enforceable under North Dakota law.

Sections of the Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement requiring resolution of disputes to be outside North Dakota may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Sections of the Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement relating to choice of law may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Sections of the Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement requiring you to consent to liquidated damages and/or termination penalties may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Sections of the Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement requiring you to consent to a waiver of trial by jury may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Section of the Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement requiring you to consent to a waiver of exemplary and punitive damages may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

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

**FOR THE STATE OF OHIO:**

The following language will be added to the Franchise Agreement and Multi-Unit Development Agreement:

You, the purchaser, may cancel this transaction at any time prior to midnight of the fifth business day after the date you sign this agreement. See the attached notice of cancellation for an explanation of this right.

---

**NOTICE OF CANCELLATION**

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within five business days from the above date. If you cancel, any payments made by you under the agreement, and any negotiable instrument executed by you will be returned within ten business days following the seller's receipt of your cancellation notice, and any security interest arising out of the transaction will be cancelled. If you cancel, you must make available to the seller at your business address all goods delivered to you under this agreement; or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or dispose of them without further obligation. If you fail to make the goods available to the seller, or if you agree to return them to the seller and fail to do so, then you remain liable for the performance of all obligations under this agreement. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to Ajay Govada, CEO, at 6600 Paige Rd., Suite 222, The Colony, Texas 75056, (937) 708-9589, not later than midnight of the fifth business day after the Effective Date.

I hereby cancel this transaction.

you: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

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

**FOR THE STATE OF RHODE ISLAND:**

§ 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.” The Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement are amended accordingly to the extent required by law.

The above language has been included in this Franchise Disclosure Document as a condition to registration. The Franchisor and you do not agree with the above language and believe that each of the provisions of the Franchise Agreement and Multi-Unit Development Agreement, including all choice of law provisions, are fully enforceable. The Franchisor and you intend to fully enforce all of the provisions of the Franchise Agreement and Multi-Unit Development Agreement and all other documents signed by them, including but

not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

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

**FOR THE STATE OF SOUTH CAROLINA**

DISCLOSURES REQUIRED BY SOUTH CAROLINA LAW

The State of South Carolina has not reviewed, and does not approve, recommend, endorse, or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract or agreement.

**FOR THE STATE OF VIRGINIA:**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure. The following statements are added to Item 17(h) of the Disclosure Document. 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 and Multi-Unit Development 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.

The following is added to the cover page of the Disclosure Document:

Please consider the following RISK FACTORS before you buy this franchise:

THIS IS A DEVELOPMENT STAGE COMPANY WHICH MAY ENTAIL ADDITIONAL RISK OF FINANCIAL LOSS.

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

**FOR THE STATE OF WASHINGTON:**

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. Item 6 of the Franchise Disclosure Document is hereby amended to state that transfer fees are "subject to state law."

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.

The form of general release (Exhibit F to the Franchise Disclosure Document) is amended to state "This Release does not apply to claims that arise under the Washington Franchise Investment Protection Act, chapter 19.100 RCW, or the rules adopted thereunder in accordance with RCW 19.100.220."

The Multi-Unit Development Agreement and Item 17.d of the Franchise Disclosure Document are amended to state that you will have the right to terminate the Multi-Unit Development Agreement if we fail to perform our obligations under the Multi-Unit Development Agreement, or under any grounds permitted by law.

The Multi-Unit Development Agreement and Item 17.p of the Franchise Disclosure Document are amended to state that you will have six (6) months after the death or legal incapacity of an Owner directly or indirectly owning 20% or more of the Equity or voting power of you to seek and obtain our consent to the Assignment of such Equity to the Heirs or to another person or persons acceptable to us.

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

The following risk factor is added to the “Special Risks to Consider About *This Franchise*” page:

**Use of Franchise Brokers.** The franchisor may use the services of franchise brokers to assist it in selling franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. Do not rely only on the information provided by a franchise broker about a franchise. Do your own investigation by contacting the franchisor’s current and former franchisees to ask them about their experience with the franchisor.

**FOR THE STATE OF WISCONSIN**

The Wisconsin Fair Dealership Law, Chapter 135 of the Wisconsin Statutes supersedes any provision of the Franchise Agreement and Multi-Unit Development Agreement if such provision is in conflict with that law. The Franchise Disclosure Document and Franchise Agreement and Multi-Unit Development Agreement are amended accordingly.

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

**ACKNOWLEDGMENT:**

It is agreed that the applicable foregoing State-Specific Addendum, if any, supersedes any inconsistent portion of the Franchise Agreement and Multi-Unit Development Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and of the Franchise Disclosure Document, but only to the extent they are then valid requirements of an applicable and enforceable state law, and for only so long as such state law remains in effect, and the parties further acknowledge and agree that this State-Specific Addendum is applicable only to those persons specifically subject to the protections of the state laws referenced in this State-Specific Addendum.

IN WITNESS WHEREOF, the parties hereto have duly executed this State Law Addendum as of the Effective Date of the Franchise Agreement and Multi-Unit Development Agreement between the parties.

**Dumont Creamery and Café, LLC**

you: \_\_\_\_\_

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

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

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

**EXHIBIT “B”**

**LIST OF STATE ADMINISTRATORS AND  
AGENTS FOR SERVICE OF PROCESS**

Listed here are the names, addresses and telephone numbers of the state agencies having responsibility for franchising disclosure/registration laws and for service of process. We may not yet be registered to sell franchises in any or all of these states.

If a state is not listed, we have not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed below in which we have appointed an agent for service of process. There may also be additional agents appointed in some of the states listed.

State	Agents for Service of Process	Administrators
California	<p>California Commissioner of Financial Protection and Innovation:</p> <p><u>Los Angeles:</u> 320 West 4<sup>th</sup> Street, Suite 750 Los Angeles, CA 90012-2344</p> <p><u>San Diego:</u> 1455 Frazee Road, Suite 315 San Diego, CA 92108</p> <p><u>San Francisco:</u> One Sansome Street, #600 San Francisco, CA 94104</p>	<p>Commissioner Department of Financial Protection and Innovation One Sansome Street, #600 San Francisco, CA 94104 (866) 275-2677</p>
Connecticut	<p>Connecticut Department of Banking 260 Constitution Plaza Hartford, CT 06103-1800 (860) 240-8230</p>	<p>Banking Commissioner 260 Constitution Plaza Hartford, CT 06103-1800 (860) 240-8230</p>
Florida	<p>Division of Consumer Services Attn: Business Opportunities Florida Department of Agriculture and Consumer Affairs Mayo Building Tallahassee, FL 32399-0800</p>	<p>Senior Consumer Complaint Analyst Florida Department of Agriculture and Consumer Affairs Mayo Building, Second Floor Tallahassee, FL 32399-0800 (850) 922-2966 or (850) 488-2221</p>
Georgia	<p>Office of the Governor Office of Consumer Affairs 2 Martin Luther King Jr. Drive SE Plaza Level – East Tower Atlanta, GA 30334</p>	<p>Office of Consumer Affairs 2 Martin Luther King Jr. Drive SE Plaza Level – East Tower Atlanta, GA 30334</p>
Hawaii	<p>Department of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 (808)-586-2722</p>	<p>Commissioner of Securities 335 Merchant Street, Room 203 Honolulu, HI 96813 (808)-586-2722</p>
Illinois	<p>Illinois Attorney General Attorney General’s Office 500 South Second Street Springfield, IL 62706</p>	<p>Chief, Franchise Bureau Illinois Attorney General 500 South Second Street Springfield, IL 62706 (217) 782-4465</p>

State	Agents for Service of Process	Administrators
Indiana	Secretary of State Administrative Offices of the Secretary of State 201 State House Indianapolis, IN 46204	Chief Deputy Commissioner Securities Divisions 302 West Washington Street Room E-111 Indianapolis, Indiana 46204 (317) 232-6681
Iowa	Securities Division Lucas State Office Building Des Moines IA 50319	Director of Regulated Industries Unit Iowa Securities Bureau 340 East Maple Des Moines, IA 50319-0066 (515) 281-4441
Kentucky	Attorney General's Office Consumer Protection Division Capital Building Frankfort, KY 40601-01875	Attorney General's Office Consumer Protection Division Capital Building Frankfort, KY 40601-01875
Louisiana	[Not applicable]	Department of Justice Consumer Protection Office P.O. Box 94095 Baton Rouge, LA 70804-9095
Maine	[Not applicable]	Securities Division State House – Station 121 Augusta, ME 04333
Maryland	Maryland Securities Commissioner Securities Division 200 Saint Paul Place Baltimore, MD 21202-2020 (410) 576-6360	Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202 (410) 576-6360
Michigan	Michigan Department of Commerce Corporations and Securities Bureau 6546 Mercantile Way Lansing, MI 48909	Consumer Protection Division Antitrust and Franchising Unit Michigan Department of Attorney General 670 Law Building Lansing, MI 48913
Minnesota	Minnesota Commissioner of Commerce 85 7 <sup>th</sup> Place East, Suite 500 St. Paul, MN 55101-2198 (651) 296-6328	Deputy Commissioner Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 500 St. Paul, MN 55101-2198 (651) 296-6328
Nebraska	[Not applicable]	Staff Attorney Department of Banking and Finance 1200 N. Street., Suite 311 PO Box 95006 Lincoln, NE 68509-5006 (402) 471-3445
New Hampshire	[Not applicable]	Office of the Attorney General Consumer Protection and Antitrust Bureau 25 Capitol Street State House Annex Concord, NH 03301
New York	New York Department of State	NYS Department of Law

State	Agents for Service of Process	Administrators
	One Commerce Plaza 99 Washington Ave. Albany, NY 12231	Investor Protection Bureau 28 Liberty Street, 21st Floor New York, NY 10005 (212) 416-8285
North Carolina	Securities Division Room 302 300 North Salisbury Street Raleigh, NC 27611	
North Dakota	North Dakota Securities Commissioner 5 <sup>th</sup> Floor 600 East Boulevard Bismarck, ND 58505 (701) 328-4712	Franchise Examiner Office of Securities Commissioner 600 East Boulevard 5 <sup>th</sup> Floor Bismarck, ND 58505 (701) 328-4712
Oklahoma	[Not applicable]	Oklahoma Department of Securities The Journal Record Building 621 N. Robinson Street Suite 400 Oklahoma City, OK 73102
Oregon	Director of Oregon Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, OR 97310 (503) 378-4387	Department of Consumer and Business Services Division of Finance and Corporate Securities Labor and Industries Building Salem, OR 97310 (503) 378-4387
Rhode Island	State of Rhode Island and Providence Plantations Department of Business Regulation 1511 Pontiac Avenue, Bldg. 69-1 Cranston, Rhode Island 02920	State of Rhode Island and Providence Plantations Department of Business Regulation 1511 Pontiac Avenue, Bldg. 69-1 Cranston, Rhode Island 02920
South Carolina	Secretary of State Capitol Complex Brown Building 1205 Pendleton Street Room 510 Columbia, SC 29210	[Not applicable]
South Dakota	Division of Insurance Securities Regulation 124 S. Euclid Suite 104 Pierre, SD 57501 (605) 773-3563	Department of Labor and Regulation Division of Securities 124 South Euclid, Suite 104 Pierre, SD 57501 (605) 773-4823
Texas	[Not applicable]	Secretary of State Statutory Document Section P.O. Box 12887 Austin, TX 78711 (512) 475-1769
Utah	[Not applicable]	Consumer Protection Division Utah Department of Commerce 160 East 300 South P.O. Box 48504 Salt Lake City, UT 84145-0804 (801) 530-6601
Virginia	Clerk of the State Corporation Commission	State Corporation Commission Division of Securities and Retail Franchising

State	Agents for Service of Process	Administrators
	1300 E. Main Street, 1st Floor Richmond, VA 23219 (804) 371-9733	1300 Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219
Washington	Administrator Department of Financial Institutions Securities Division P.O. Box 41200 Olympia, WA 98504-1200 (360) 902-8760	Administrator Department of Financial Institutions Securities Division P.O. Box 41200 Olympia, WA 98504-1200 (360) 902-8760
Wisconsin	Commissioner of Securities 345 W. Washington Street, 4 <sup>th</sup> Floor Madison, WI 53703	Division of Securities Department of Financial Institutions P.O. Box 1768 Madison, WI 53701
Federal Trade Commission		Franchise Rule Coordinator Division of Marketing Practices Bureau of Consumer Protection Pennsylvania Avenue at 6 <sup>th</sup> Street NW Washington, DC 20580 (202) 326-3128

**EXHIBIT “C”**

**DUMONT CREAMERY AND CAFE, LLC**

**FRANCHISE AGREEMENT**

**FOR A**

**DUMONT CREAMERY AND CAFÉ**

## TABLE OF CONTENTS

<b><u>ARTICLE</u></b>	<b><u>PAGE</u></b>
1. GRANT OF FRANCHISE .....	1
2. TERM AND RENEWAL .....	2
3. LOCATION OF FRANCHISED CAFE AND TERRITORY .....	3
4. FEES .....	5
5. DEVELOPMENT AND OPENING OF THE CAFE.....	7
6. OPERATING ASSISTANCE.....	9
7. DUTIES OF THE FRANCHISEE.....	11
8. CONFIDENTIAL OPERATIONS MANUAL.....	18
9. PROPRIETARY MARKS.....	19
10. ADVERTISING AND MARKETING.....	20
11. MODIFICATIONS .....	24
12. ACCOUNTING AND RECORDS.....	24
13. INSURANCE.....	26
14. DEBTS AND TAXES .....	28
15. ASSIGNMENT.....	29
16. DEFAULT AND TERMINATION.....	31
17. OBLIGATIONS UPON TERMINATION OR EXPIRATION .....	33
18. COVENANTS .....	36
19. DISPUTE RESOLUTION AND CORRESPONDING PROCEDURES.....	39
20. FRANCHISEE’S OWNERSHIP AND ORGANIZATION.....	41
21. TAXES, PERMITS AND INDEBTEDNESS .....	42
22. INDEMNIFICATION AND INDEPENDENT CONTRACTOR.....	42
23. WRITTEN APPROVALS, WAIVERS, AND AMENDMENT .....	43
24. NOTICES.....	44
25. GOVERNING LAW.....	44
26. SEVERABILITY AND CONSTRUCTION .....	44
27. ENTIRE AGREEMENT.....	45
28. FORCE MAJEURE .....	46
29. ACKNOWLEDGMENTS .....	46
30. NO IMPLIED COVENANT.....	47
31. SUBMISSION OF AGREEMENT .....	47

**SCHEDULES:**

Schedule A - Initial Franchise Fee, Territory, Approved Location, and Franchisee Ownership

Schedule B - State Law Addendum

Schedule C - Electronic Funds Authorization

Schedule D - Personal Guaranty of Franchisee's Principal Owners

Schedule E - Confidentiality, Non-Use and Non-Competition Agreement

Schedule F - Confidentiality, Non-Use and Non-Competition Agreement Form

Schedule G - Assignment of Telephone and Internet Listings and Advertisements

Schedule H - Form of General Release

Schedule I - Lease Addendum

# DUMONT CREAMERY AND CAFÉ, LLC

## FRANCHISE AGREEMENT

**THIS FRANCHISE AGREEMENT** (the “Agreement”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ (the “Effective Date”), by and between DUMONT CREAMERY AND CAFÉ, LLC, a Texas limited liability company (“we,” “us,” “our,” or “Dumont”), and \_\_\_\_\_, whose place of organization, form, and principal business address are set forth on **Schedule “A”** attached to this Agreement (“Franchisee”, “you” or “your”).

### RECITALS

**WHEREAS**, Dumont has the right to license: (i) the trademark “DUMONT CREAMERY,” “DUMONT CREAMERY AND CAFÉ” and certain trademarks, trade names, service marks, logotypes, and other commercial symbols related thereto (collectively, the “Marks”); and (ii) a unique concept and system for the establishment and operation of ice cream, bubble tea and coffee cafes (each, a “Café”) with Dumont’s proprietary recipes (collectively, the “Concept”), which Concept includes, without limitation, the Marks and distinctive trade dress, designs, business formats, methods, procedures, recipes, standards, and specifications; and

**WHEREAS**, Franchisee desires to enter into an agreement with Dumont to obtain the rights to operate a Dumont Creamery and Café business (the “Franchised Business” or “Café”) using the system developed by Dumont or its affiliates, including standardized methods and procedures for the operation of a Café offering features ice cream, bubble tea and coffee for on-premises and off-premises consumption, as are currently offered or as may be developed by Dumont in the future, distinctive specifications for equipment; sales techniques, marketing, advertising, and procedures for operation and management of a Café in the manner set forth in this Agreement and in the Operations Manual provided by Dumont and modified from time to time (the “System”); and

**WHEREAS**, you have applied to us for a franchise to use the System, and we desire to grant you a franchise to use the System, all subject to the terms and conditions of this Agreement and such application has been approved in reliance upon all of the representations made therein; and

**NOW, THEREFORE**, the parties in consideration of the undertakings and commitments of each party to the other party set forth herein, hereby mutually agree as follows:

#### **1. GRANT OF FRANCHISE**

During the term of this Agreement, Dumont hereby grants to Franchisee, upon the terms and conditions in this Agreement, the non-exclusive right and license, and Franchisee hereby accepts the right and obligation to operate a Café under the Marks and the System in accordance with this Agreement only at the approved location. You have represented to us that you have entered into this Agreement with the intention to comply fully with the obligations to operate a Café hereunder and not for the purpose of reselling rights to develop the Café hereunder.

Franchisee understands and acknowledges that Dumont has granted such rights in reliance on the business skill, financial capacity, personal character of and expectations of performance hereunder by Franchisee.

## **2. TERM AND RENEWAL**

2.1 Initial Term. Unless previously terminated pursuant to this Franchise Agreement the term of this Franchise Agreement shall commence on the date hereof and shall expire on the day preceding of the tenth (10th) anniversary thereof (the “Initial Term”).

2.2 Successor Term. If Franchisee wishes this Franchise Agreement to be renewed by Dumont for one (1) additional term of ten (10) years (the “Successor Term”) Franchisee shall provide Dumont written notice of this request for renewal not less than nine (9) months nor more than twelve (12) months prior to the end of the term of this Franchise Agreement. Dumont shall not unreasonably withhold its approval of such request for renewal provided, however that in order to be considered for renewal Franchisee agrees to comply with the following conditions:

(i) The Franchisee is not, when the request for renewal is made, or at the end of the Initial Term in default of any provision of this Franchise Agreement any amendment hereof or successor hereto or any other agreement between Franchisee and Dumont or its Affiliates or Franchisee’s landlord (“Landlord”), and Franchisee has complied with the terms and conditions of all such agreements during the term of this Franchise Agreement;

(ii) All obligations owed by Franchisee to Dumont and to Landlord have been satisfied prior to renewal and timely met throughout the term of this Franchise Agreement;

(iii) The Franchisee executes Dumont’s then-current franchise agreement (the “Successor Franchise Agreement”), in use with respect to new franchisees, which may contain terms and conditions materially different from those set forth herein, including, without limitation, the then-current rate for royalties, advertising and other payments as such Successor Franchise Agreement may provide; provided, however, that Franchisee shall not be required to pay any additional initial franchise fee as may be set forth in the Successor Franchise Agreement.

(iv) Franchisee shall pay a renewal fee of \$5,000, which sum is subject to an upward adjustment based upon increases on the Consumer Price Index.

(v) The Franchisee and its principal owners shall execute a general release under seal, in a form satisfactory to Dumont, of any and all claims it may have against Dumont and its officers, directors, shareholders and employees, in their corporate and individual capacities, including without limitation, all claims arising under any federal, state, or local law, rule or ordinance. If this franchise is situated in a state whose law, at the time of renewal, prohibits the giving of a general release as a condition for the renewal of a franchise, then this sub-paragraph shall not, in such event, be a condition to renewal of this franchise, unless a release of some, but not all, claims is permitted, in which instance Franchisee shall give a release to the extent permitted.

(vi) The Franchisee agrees, at its sole cost and expense, to reimage, renovate, refurbish and modernize the Café, within the time frame required by Dumont, including the building design, landscaping, equipment, signs, interior and exterior décor items, fixtures,

furnishings, trade dress, color scheme, presentation of trademarks and service marks, supplies and other products and materials to meet Dumont's then current standards, specifications and design criteria for the Café, as contained in the then-current Franchise Agreement, Manual, or otherwise in writing, including, without limitation, such structural changes, remodeling and redecoration and such modifications to existing improvements as may be necessary to do so.

(vii) The Franchisee completes any additional education or training programs that Dumont may then require for franchisees upon renewal.

(viii) Franchisee provides Dumont with evidence that Franchisee has the right to remain in possession of the premises where the Café is located or to secure an acceptable alternative site for the renewal term.

2.3 Interim Term. If Franchisee does not sign the Successor Franchise Agreement prior to the expiration of this Agreement and continues to accept the benefits of this Agreement after it expires, then at Franchisor's option, this Agreement may be treated either as: (i) expired as of the date of expiration with Franchisee then operating without a franchise to do so; or (ii) continued on a month-to-month basis ("Interim Term") until one party provides the other with written notice of such party's intent to terminate the Interim Term, in which case the Interim Term will terminate thirty (30) days after the date of the notice to terminate the Interim Term. In the latter case, all of Franchisee's obligations will remain in full force and effect during the Interim Term as if this Agreement had not expired (except that Franchisee will no longer have the right to obtain a Successor Franchise Agreement pursuant to Section 2.2), and all obligations and restrictions imposed on Franchisee upon expiration of this Agreement will be deemed to take effect upon termination of the Interim Term. In this Agreement, all references to the Term will include any Interim Term.

### 3. LOCATION OF FRANCHISED CAFE AND TERRITORY

3.1 Franchised Site. The rights granted to Franchisee hereunder shall be non-exclusive and shall be restricted to the operation of a single Café at a location set forth in **Schedule "A"** (the "Franchised Site"). During the term of this Agreement, the Franchised Site shall be used exclusively to operate a Café. In connection with the execution of any lease or sublease for the Franchised Site, Franchisee must execute and cause the Landlord to execute the Lease Addendum attached to this Agreement as **Schedule "I"**. The rights granted to Franchisee are for the specific Franchised Site and cannot be transferred to any other location without Dumont's prior written consent.

3.2 Territorial Protection. Subject to the terms and conditions of this Agreement (including Section 3.3) and provided you are not in material default of this Agreement and/or any other agreement between Dumont (or any of its Affiliates), which default remains uncured after the expiration of an applicable cure period (if any), Dumont will not itself establish for itself or grant a franchise to any other party to establish a Café within the territory specified on **Schedule "A"** attached (the "Territory"). Notwithstanding anything herein to the contrary, if any disagreement arises regarding the area comprising the Territory, then Dumont's decision as to the definition of the Territory shall be final and binding. Except as expressly provided in the first sentence of this Section 3.2, Franchisee acknowledges that the franchise granted under this

Agreement is non-exclusive and Franchisee has no right to exclude, control or impose conditions on the location or development of other or future franchises under the Marks, or on any sales or distribution of products under the marks or other business activities of Dumont or any other party licensed to use the Marks.

3.3 Rights Reserved by Dumont. Dumont and its affiliates retain all rights within your Territory (if we grant one to you). For example, these rights include (but are not limited to) the rights to:

(i) Use, and to franchise or license other persons to use, the Marks and System for the operation of Cafés or any other businesses that are similar or dissimilar to your Café at any location outside of the Territory.

(ii) Use, franchise and license other third parties to use, the Marks and System for the operation of Cafés at any Non-Traditional Site, even if it or they are inside of the Territory.

(iii) Sell products or provide services to customers located within your Territory, for so long as they are not sold at or provided from Café locations within your Territory.

(iv) Use, license and franchise the use of trademarks other than the Marks, whether in alternative channels of distribution or otherwise, at any location including a location or locations inside of the Territory, in association with operations that are similar to, the same as, or different from Cafés.

(v) Offer or sell products or provide services, or grant others the right to offer and sell products or provide services, whether using the Marks or other trademarks or service marks, through alternative channels of distribution, including, without limitation, wholesalers, retail outlets, or by Internet commerce (e-commerce), mail order or otherwise, regardless of whether it is inside or outside of the Territory.

(vi) Maintain any websites or social media sites utilizing domain names or identifiers incorporating the Marks or derivatives of them. We retain the sole right to advertise and market on the Internet and use the Marks on the Internet, including all use of websites, domain names, URLs, directory addresses, metatags, linking, advertising, and co-branding and other arrangements.

(vii) Acquire, merge, combine with, or be acquired by businesses that are the same as or similar to your Café and operate such businesses regardless of where such businesses are located, including inside the Territory, and to be acquired by any third party which operates businesses that are the same as, or similar to, your Café, regardless of where such businesses are located, including inside the Territory. We will not, however, re-brand any such businesses located inside the Territory by allowing them to use the Marks.

3.4 Limitations on Operating Outside of Your Territory. You may not advertise in or solicit orders from areas outside of the Territory. You may, however, fill orders for customers that are located anywhere so long as you do so only from the Approved Location. You may not use telemarketing or internet-based marketing of any services or products except as permitted in writing by us, in the Brand Standards Manual or otherwise.

#### 4. FEES

4.1 Initial Franchise Fee. Prior to the execution of this Franchise Agreement, Franchisee shall pay to Dumont an Initial Franchise Fee of Thirty Thousand (\$30,000.00) Dollars, or such different amount as may be shown in **Schedule “A”**, which is attached hereto, which fee shall be deemed fully earned upon execution of this Franchise Agreement by Dumont as consideration for Dumont’s services to that time, including, without limitation, screening of Franchisee candidate, counseling and consultation.

4.2 Continuing Royalty Fee. The Franchisee shall pay to Dumont, a continuing weekly royalty fee (the “Royalty Fee”) during the term of this Franchise Agreement in the amount of six (6%) percent of Franchisee’s Gross Revenue. The Continuing Royalty Fee will be payable by the fifth (5th) day of each month based on Gross Revenue of the Café in the immediately prior month.

4.3 Definition of Gross Revenue. “Gross Revenue” means the aggregate of all sales made and revenue and income that you derive from operating the Café, including from all sales of food, beverages or other goods, merchandise or services, whether payment is in cash, by credit card, gift cards, or other generally accepted form of payment, and whether the transaction is for dine-in, delivery by you or third-party delivery service, or catering services. Gross Revenue includes (a) the full sale price to the consumer for items sold through third-party delivery services, with no discount for the delivery service’s fee or commission; (b) all proceeds from any business interruption insurance, (c) revenue from the sale of menu items to employees, and (d) the value of products and services bought by customers by redeeming authorized gift cards. Excluded from Gross Revenue are: (i) sales taxes and other taxes separately stated that you collect from customers and pay to taxing authorities; (ii) refunds and credits made in good faith to arms’ length customers; (iii) the amount of any checks dishonored or returned and the amount of any charge backs or reversals of credit card transactions with customers; (iv) proceeds from the sale of gift cards; (v) proceeds from isolated sales of trade fixtures having no material effect on ongoing operations; (vi) employee tips; and (vii) the value of menu items that you furnish to employees at no cost to the employee.

4.4 Brand Fund Contribution. We have established a fund for the purpose of conducting advertising, marketing and promotional programs as well as for using “Social Media Platforms” (web platforms such as Facebook, Twitter, Instagram, LinkedIn, blogs and other networking and sharing sites) using “Social Media Materials” (any material on any Social Media Platform that makes use of Dumont’s Trademarks, name, brand, products, services or the Franchised Business whether created by Dumont, Franchisee, or any third-party) to enhance, promote and protect the goodwill and public image of the System (“Brand Fund”). Franchisee shall pay to the Brand Fund, a minimum monthly continuing contribution (“Brand Fund Contribution”) in the amount of two percent (2%) of Gross Revenue.

4.5 Supplier Evaluation Service Fee. Dumont’s current supplier evaluation service fee payable in connection with requested approval by Franchisee of a then non-approved supplier is Five Hundred (\$500) Dollars. This service fee is nonrefundable and is due at the time request of approval is submitted to Dumont. Dumont reserves the right to modify this service fee at any time upon notice to Franchisee.

4.6 Other Charges and Service Fees. Franchisee understands and agrees that the System is developing and that there may be other charges and service fees that will be agreed upon between Franchisee and Dumont and assessed to Franchisee either by Dumont or vendors in connection with existing components of the System or the addition of modified or new components to the System. Franchisee agrees to pay all such other charges and service fees in a timely manner.

4.7 Annual Increase in Fixed Fees or Fixed Payments. Dumont reserves the right to increase the amount of any fixed fee or fixed payment, e.g., the Renewal Fee, due Dumont under this Agreement, or a related agreement (“Annual Increase”). An Annual Increase to each particular fixed fee or fixed payment may occur only once during any calendar year and may not exceed the corresponding cumulative increase in the Index since the date of this Agreement or, as the case may be, the date that the last Annual Increase became effective for the particular fixed fee or fixed payment being increased. Any and all Annual Increases will be made at the same time during the calendar year. “Index” refers to the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for all Items (1982 - 1984 100), not seasonally adjusted, as published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of this Agreement, such other governmental index or computation with which it is replaced must be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4.8 Method of Payment and Electronic Funds Transfer. Unless otherwise agreed between Dumont and Franchisee, all fees and other amounts paid to Dumont or any affiliate must be made in the form of an ACH, electronic or similar funds transfer in the appropriate amount(s) from Franchisee’s designated bank account. Dumont reserves the right to require Franchisee to pay any fees due under this agreement at any intervals Dumont may designate and by such means as Dumont may specify from time to time. Franchisee agrees to execute and deliver to its bank and to Dumont those documents necessary to authorize such withdrawals and to make payment or deposit as directed by Dumont. A form of authorization for electronic transfer of funds is attached hereto as Schedule “C”. Franchisee further agrees that it will not thereafter terminate such authorization so long as the Franchise Agreement is in effect. Franchisee agrees that it will not close such bank account without prior notice to Dumont and the establishment of a substitute bank account permitting such withdrawals. Franchisee also agrees that in the event that a direct electronic funds transfer, or other withdrawal program is not available at the bank at which it currently does its business, it will take all reasonable and necessary steps to establish an account at a bank which does have such a program.

4.9 Interest on Late Payments. If any fee or other amount due under this Agreement is not paid when it is due, Franchisee will pay interest on any balance due from the date due until such amount is paid in full at the highest then-applicable legal rate for open account business credit not to exceed one and one-half percent (1.5%) per month. This charge will accrue whether or not Dumont or Franchisee exercise their respective rights to terminate this Agreement pursuant to Article 14 hereof.

4.10 Application of Payments. All payments by Franchisee pursuant to this Article 4 will be applied in such order as Dumont may designate from time to time. Franchisee agrees that it may not designate an order for application of any fees different from that designated by Dumont and expressly acknowledges and agrees that Dumont may accept fees paid pursuant to different

instructions without any obligation to follow such instructions, even if such payment is made by its terms conditional on such instructions being followed. This provision may be waived only by written agreement signed by Dumont, which written agreement must be separate from the check or other document or medium constituting or transmitting payment.

4.11 Taxes on Payments and Currency. In the event that any taxing authority, wherever located, imposes any future tax, levy, or assessment on any payment Franchisee makes to Dumont, (excluding income tax) Franchisee must, in addition to all payments due to Dumont, pay such tax, levy, or assessment. All fees and other amounts due Dumont, or any affiliate thereof, under this Agreement, or any other agreement related to Franchisee's ownership or operation of the Franchised Business, are stated in United States dollars, and must be paid in United States dollars.

## **5. DEVELOPMENT AND OPENING OF THE CAFE**

5.1 Location of the Café. Following the Effective Date of this Agreement, you must identify, submit to us for approval, and obtain our approval of the location of the Franchised Site within ninety (90) days of the date of this Agreement. We will not unreasonably withhold our consent to your proposed location. If we cannot agree on a mutually acceptable location for the Café within six (6) months of the Effective Date of this Agreement, we may terminate the Agreement. We will, however, consider granting reasonable extensions of time if we reasonably believe you are acting diligently to secure an acceptable site for the Café. Franchisee agrees to use the Franchised Site solely for the operation of the Café in the manner and pursuant to the standards prescribed herein, in the Operations Manual or otherwise in writing, and to refrain from using or permitting the use of the Franchised Site for any other purpose or activity at any time.

5.2 Evaluation and Approval of the Franchised Site. We will evaluate your proposed location within 15 days of your submission to us of a complete site approval package. We may assist you in selecting a site for your Café, but we will not be obligated to do so. Our approval of any site that you propose shall not be construed as a representation or warranty by us that your Café will be successful at the approved site. You acknowledge that we will have no liability to you relating to the approved site. In approving a site that you have proposed, we will take into consideration such factors as demographics, traffic patterns, competition, and any other factors that we deem relevant.

5.3 Lease of the Premises. Franchisee must deliver copies of the proposed lease agreement and related documents to Dumont prior to signing them. You agree not to sign any lease agreement or related documents (or any renewal of it) unless we have previously approved them. Our approval, which will not be unreasonably withheld, will be limited to ensuring that the lease is consistent with this Agreement. If we approve the lease, you agree to deliver a copy of the signed lease to us within five (5) days of its execution along with the Lease Addendum. You will give the landlord our form of the Lease Addendum (Schedule I) when you begin discussions with the prospective landlord. You agree not to sign any lease or renewal of a lease unless you have also obtained the Lease Addendum signed by the landlord.

5.4 Relocation of the Café. You will not relocate your Café without our prior written consent. If we approve your request for relocation, you will bear all expenses associated with the relocation of the Café and pay a Relocation Fee of \$5,000 to compensate us for our expenses in evaluating the proposed site.

5.5 Café Development and Opening. You are responsible for developing your Café. We will provide you with assistance and guidance on the design of the store, including décor and layout, ordering of equipment and your initial inventory of supplies. You are obligated to have prepared all required construction plans and specifications to suit the shape and dimensions of the Premises and to ensure that such plans and specifications comply with applicable ordinances, building codes and permit requirements and with lease requirements and restrictions. We may require that an architect designated by us oversee the finished plans before construction begins. You may not open for business until we have certified that you are in full compliance with System Standards. You must open your Café within twelve (12) months of the execution of this Agreement, or we have the right to terminate this Agreement.

5.6 Leasehold Improvements.

(i) You will make the leasehold improvements and install the furniture, fixtures, equipment, appurtenances, and signage at the Café which are required to comply with our current standards and specifications. We will consult with you regarding the construction, remodeling, equipping, and decorating of the Café; provided, however, it will be your sole responsibility to design, construct, equip, decorate, and open the Café in compliance with this Agreement and our Confidential Operations Manual. We may provide you with a sample layout for the interior of a standard Café and with a set of standard preliminary plans and specifications. You will employ architects, designers, engineers, and others as may be necessary to complete, adapt, or modify the plans and specifications for the Café. You will submit to us a complete set of final plans and specifications you propose using before you commence any construction of the Café. We will review the proposed final plans promptly and will approve or provide comments regarding such plans to you. You may not commence construction of the Café until we have approved the final plans in writing. All leasehold improvements related to your Café will be at your sole cost and expense. We will provide all sample plans, if any, and will review, provide comments to, and approve, the proposed final plans, at no additional cost to you. All costs associated with the completion, adaptation, modification, or replacement of any sample plans; all preparation, adaptation, modification, or replacement of the final plans will be your sole responsibility.

(ii) Renovation of Your Café. You acknowledge and agree that it is in your best interests, and in the best interests of our other franchisees and the System, that each System Café, including your Café, be clean, up-to-date, well-maintained, and well-appointed. Therefore, you acknowledge and agree that you will, at our request, redesign, refurbish, and remodel (collectively, “Renovate”) your Café from time to time to conform to: (i) our then-current specifications; (ii) the requirements set forth in our Confidential Operations Manuals; and (iii) our judgment as to the condition, state of repair, and general appearance of your Café compared to the condition, state of repair; and general appearance that we consider desirable. You and we acknowledge and agree that the Renovations are intended to be periodic refurbishing and remodeling of your Café, and that nothing contained in this Section 5.6 of this Agreement will affect our right to require you to maintain your Café in compliance with this Agreement and our

Confidential Operations Manuals, or your obligation to do so. Notwithstanding the foregoing, we will not require you to Renovate your Café more than once every five (5) years, except for Renovations you must make on your renewal of this Agreement.

(iii) Construction, Inspection, and Opening. We have the right to require you to use a licensed general contractor to perform all construction, at the Café, and for all remodeling, and Renovation at the Café. If we so require, you will immediately furnish to us, before you commence such construction, remodeling, or Renovation and from time to time thereafter on our request: (i) the names and addresses of any or all subcontractors or vendors involved in any construction, remodeling, or Renovations; (ii) copies of all permits, licenses, contractors' liability insurance certificates, and other items required for the lawful construction, equipping, and operation of your Café; and (iii) copies of all construction contracts, documents, and lien waivers, related to such construction, remodeling, or Renovation of your Café.

(iv) Signage. All signage related to the Café must conform to such standards and specifications as we may prescribe as to type, color, size, design, and location. You must obtain our prior written approval before you install or display any such signage.

## **6. OPERATING ASSISTANCE**

6.1 Assistance Prior to Opening. Prior to Franchisee's Opening Date, Dumont will provide Franchisee with the following assistance, on the same basis as it will from time to time make available to other Dumont Creamery and Café franchisees:

(i) Loan Franchisee or provide Franchisee with access to the electronic version of one copy of the Operations Manual. Dumont may modify the Operations Manual by written or on-line supplements of which Franchisee will receive copies or receive links to print document.

(ii) Review Franchisee's proposed location for the Café and grant approval to the proposed location if it meets Dumont's standards.

(iii) Provide to you sample plans for the construction of a typical Café.

(iv) Dumont will provide on-site pre-opening support.

(v) Provide you with our mandatory specifications for the equipment, initial inventory and supplies you will need to operate your Café.

(vi) Dumont will provide initial training (the "Initial Training Program") at Dumont's headquarters or other location in or near Dallas, Texas, for Franchisee and its Manager.

(vii) Dumont will establish a presence for the Franchised Business on the internet.

(viii) Dumont will advise Franchisee on implementing a grand opening advertising program for the Franchised Business.

(ix) Dumont will advise Franchisee concerning approved suppliers of equipment, signs, fixtures, opening inventory and supplies.

6.2 Ongoing Assistance. After Franchisee's Opening Date, Dumont or its designee will make the following assistance available to Franchisee:

(i) Regular consultation and advice in response to Franchisee's inquiries. Dumont may decide how best to communicate such consultation and advice to Franchisee, whether by telephone, in writing, electronically or in person. The method chosen by Dumont may be different than the methods used by Dumont for other franchisees.

(ii) Make goods and services available to Franchisee either directly or through approved suppliers.

(iii) Periodically revise the Operations Manual to incorporate new developments and changes in the System and provide Franchisee with a hard copy or electronic copy of all updates.

(iv) We may also hold statewide, regional, or national conferences to discuss promotional techniques, performance standards, advertising programs and general topics. You are required to attend those conferences. We may charge a fee for these conferences; you must pay for all of your travel and lodging expenses.

(v) Provide such general advisory assistance and field support as we deem helpful to you, in our discretion, in the ongoing operation, advertising and promotion of your Café.

(vi) We will conduct periodic inspections of the Café and periodic evaluation of the products and services rendered by Franchisee.

(vii) Provide Franchisee with access to advertising and promotional items and materials that Dumont may develop for promotion of the System. Dumont is not however, required to develop any advertising or promotional items or materials. Franchisee will be required to purchase the advertising materials if Dumont so directs and if Franchisee desires to use them, including all costs of shipping.

(viii) Use our reasonable efforts to maintain high standards of quality, appearance and professionalism and service of the Café.

(ix) We will, at your request, examine information or samples provided by you about products or services which are not approved by us but which you would like to offer from your Café. We will decide based on the information supplied by you and by information we might obtain somewhere else, whether or not to approve the product or service you have presented to us. We will provide you with our approval or disapproval within 90 days of receiving your written request. You must pay all of our expenses in connection with any examination, testing or inspection.

(x) Provide additional mandatory and optional training. We currently do not anticipate offering more than 2 additional training programs during a calendar year and we currently anticipate that each training program will last approximately 2 days. We may require you and your employees' attendance at these programs. You must pay for you and your employees' travel, meal, lodging and payroll expenses while attending our additional training programs. We

have the right to charge a fee for the additional training programs, plus a per diem rate for our trainers if they conduct such training at your Café.

(xi) Dumont shall provide at its own expense during the first week of the operation of the Café, one (1) representative who will be present at Franchisee's Café during normal business hours for at least three (3) days, to provide opening assistance and support in the operation of the Café.

(xii) With respect to the sale of all menu items, products, merchandise, or services, Franchisee must be solely responsible for determining the prices of products offered at the Café; however, Franchisee is required to comply with any maximum or minimum resale pricing restrictions Dumont may implement so long as such pricing does not violate applicable law. Franchisee agrees to participate in any system-wide or regional promotion that Dumont may run, and which promotion may impose temporary price or portion requirements on Franchisee. Franchisee further agrees to participate in any customer loyalty card or gift card programs required by Dumont.

## **7. DUTIES OF THE FRANCHISEE**

7.1 Fictitious Name. You will file for and maintain a Fictitious Name registration for the Business as required by the state, county, city, or community where your Café is located, and will operate your Café, using the name "DUMONT CREAMERY" as your Café's principal name. You will, at your sole cost and expense, perform all filings and procure all required or necessary governmental approvals, permits, or registrations required to do business under such fictitious name, and you agree that you and your Café will be identified as a franchisee of ours, but not as our agent. You may not use the Marks, or any words or symbol confusingly similar thereto, as part of your entity name.

7.2 Opening of Café. You will open your Café within twelve (12) months after the date of the execution of this Agreement. You will not open the Café until we have certified that you are in full compliance with the requirements of the Confidential Operations Manuals, this Agreement, and any and all other agreements related to the Franchised Business.

7.3 Approved Products and Suppliers. You understand the importance of consistency between Cafés and recognize that to maintain such consistency, each Café must obtain certain products and services from suppliers that meet our quality standards. You further acknowledge that we or our affiliates may be the only approved suppliers of certain or all of the items for your Café. Considering this, you agree:

(i) You must advertise and sell only products and services that meet our quality standards and that have been approved by us. You must discontinue selling any products or services we disapprove, even if we have previously approved them. Except as specifically authorized by us, you may not sell any authorized products or services outside of the Café or to any customer for resale. You may not enter into strategic alliances or product supply agreements without our prior written permission. You agree to comply with all mandatory specifications, standards, and operating procedures related to the appearance, function, cleanliness, or operation of the Café.

(ii) You must use only the types, suppliers, models, and brands of required fixtures, furnishings, food items, products, materials, equipment, signs, supplies, and paper goods that we approve. We may modify the list of approved types, brands, models, or suppliers, and you may not reorder from any supplier that is no longer approved. You must purchase any or all authorized products sold at or from the Café from us or our affiliates and maintain sufficient supply of all designated products, materials, supplies, ingredients, equipment, and items.

(iii) We make no warranty and expressly disclaim all warranties, including warranties of merchantability and fitness for any particular purpose, with respect to inventory, services, products, equipment, supplies, fixtures, furnishings, or other approved items. We disclaim any liability arising out of or in connection with the services rendered or products furnished by any supplier approved by us. Our approval or consent to any services, goods, suppliers, or any other item will not create any liability to or by us.

7.4 Maintenance and Repair. You will, at all times during the Term, at your sole cost and expense, maintain the interior and exterior of your Café, and all furniture, fixtures, equipment, décor, and signage in or at the Café, in the highest degree of cleanliness, maintenance, condition, and repair.

7.5 Compliance with Laws. You will operate your Franchised Business in strict compliance with all applicable federal, state, and local statutes, regulations, rules, and ordinances. You will: (i) strictly comply with all applicable wage, hour, anti-discrimination, and anti-harassment Laws, and the Americans with Disabilities Act, as amended from time to time; and the successor legislation to any and all of them; (ii) duly file all tax returns you are required to file; (iii) duly pay all taxes you are obligated to pay; and (iv) obtain and maintain in good standing all necessary licenses, permits, and other required forms of governmental approval required of you in order to operate your Franchised Business including, without limitation, all licenses required for preparation and serving of food and beverages, and all health permits.

7.6 Your Participation in the Operation of Your Café: Manager.

(i) You (or, if you are an entity, your Operating Principal) must personally participate in the operation of your Café. The Operating Principal must be an equity owner in the Franchised Business (in an amount of at least 10%) and have the authority to bind you in all operational decisions regarding the franchise. We will have the right to rely on any statement, agreement or representation made by the Operating Principal. You may not change the Operating Principal without our prior written approval.

(ii) You must designate a full-time manager to be responsible for the direct on-premises supervision of the Café at all times during the hours of operation as required by us (the “General Manager”). We will have the right to approve the General Manager. Your General Manager must: (i) have day-to-day management responsibility for your Café (ii) exercise on-premises supervision of your Café; and (iii) personally participate in the direct operation of the Café. You will inform us in writing as to the identity of the General Manager, including all additions to and successors of them or any of them. Each General Manager you employ will successfully complete the training we require. If your General Manager’s employment terminates for any reason, you must engage a suitable replacement as soon as possible, but in no event more

than 60 days from the date of termination and you must provide suitable coverage in the interim. Your General Manager need not have any equity interest in the Franchised Business. You will disclose to your General Manager only the information needed to operate your Café and the General Manager will be advised that any confidential information is our trade secret.

7.7 Requirements Related to Café Operations. You expressly covenant, warrant, and agree that:

(i) You will cause all of the activities and operations of the Café to be conducted, and you will conduct yourself, at all times, in compliance with the System, including without limitation all rules, guidelines, standards, specifications, plans, programs, methods, techniques, and procedures we may, from time to time establish, as though all such rules, guidelines, standards, specifications, plans, programs, methods, techniques, and procedures were specifically set forth in this Agreement.

(ii) You will not conduct; permit the conduct of any business other than the business contemplated by this Agreement at or from the Café or the Café premises without our prior written consent, which consent we may withhold in our sole and absolute discretion.

(iii) You must sell only products and services that meet our quality standards. Disapproved items must be discontinued. Sales outside your Café or for resale require our permission. You must comply with all specifications and standards for Café operations, including design, maintenance, and inventory levels. Purchases must be from approved suppliers, and we disclaim all warranties and liabilities for these products and services. If you use unauthorized products or services, we may impose a fine of \$250 per day for each day the unauthorized products or services are used. This fine is in addition to any other remedies available to us under this Agreement or applicable law. The fine will be invoiced to you upon determination of the violation.

(iv) You must follow our requirements for design, layout, decor, appearance, lighting, maintenance, cleaning, pest control, and sanitation; use of signs, emblems, lettering, and logos. Your signs must conform to our specifications and approved design plans, subject to legal or lease restrictions.

(v) You must sell only items we approve and comply with any modifications. Disapproved items must be discontinued within 30 days of notice. You must use specified recipes, ingredients, and supplies from Approved Suppliers. We may authorize test marketing of new products or services.

(vi) You will not offer for sale, sell, or deliver food, beverages, merchandise, or miscellaneous items by means of catalog, mail order, or the internet.

(vii) You will comply with our rules, guidelines, standards, specifications, plans, programs, methods, techniques, and procedures related to the nature, quality of food and beverages to be served at and from the Café.

(viii) You will keep the Café open for business and in normal operation during the days and hours we specify. We may modify such hours of operation from time to time on notice to you.

(ix) You will deal fairly and honestly with all customers, suppliers, vendors, render prompt, courteous, and willing service; properly respond to all complaints and take such other steps as may be required to enhance the goodwill associated with the System and the Marks.

(x) You will pay promptly when due all debts you owe us or any of our affiliates as well as other suppliers and all taxes and other obligations you owe in relation to your Café; including, without limitation, all federal, state, and local taxes, and all accounts payable of any nature.

(xi) You will participate in any client satisfaction or “Mystery Shopper” programs as Dumont may require.

(xii) Franchisee must meet and maintain the highest health standards and ratings applicable to the operation of the Café. Franchisee must participate in any food safety and brand standard audit program specified by Dumont and the Café must undergo the then current number of audits per year as required by Dumont, which will be at Franchisee’s expense. Franchisee must furnish to Dumont, within five (5) days after receipt thereof, a copy of all inspection reports, warnings, citations, certificates, and/or ratings resulting from inspections conducted by federal, state, or municipal agency with jurisdiction over the Café. Without limiting the foregoing, Franchisee and all required personnel must obtain and maintain all necessary and required licenses and certificates for food service and food handling as may be required by applicable local rules and regulations and/or the Manual.

#### 7.8 Hiring and Supervision.

(i) Franchisee must hire and at all times maintain a sufficient number of qualified, competent personnel, in order to offer prompt, courteous and efficient service to the public, and otherwise operate the Café in compliance with the System. All employees, engaged in the operation of the Café during working hours must dress conforming to Dumont’s standards, must present a neat and clean appearance (wearing Dumont’s uniforms) in conformance with Dumont’s reasonable standards and must render competent service to the customers of Franchisee’s business.

(ii) The Café must be under the supervision of Franchisee (or, if Franchisee is a business entity, Franchisee’s designated and fully trained Manager) who will devote his or her full time and energy to the operation of the Café.

(iii) Franchisee must keep Dumont informed as to the identity of its designated Manager. All management or supervisory employees of Franchisee must execute the Confidentiality and Non-Competition Agreement attached hereto as **Schedule “E”**.

(iv) Franchisee is solely responsible for the day-to-day operation of the Café and its employees. Franchisee is solely responsible for recruiting and hiring the persons employed to operate the Franchised Business. Franchisee is responsible for their training, wages, taxes, benefits, safety, schedules, work conditions, assignments, discipline, and termination. At no point will you or your employees be deemed to be employees of Dumont.

(v) Franchisee shall obtain from each of its personnel an acknowledgement signed by such personnel providing that such individual understands, acknowledges, and agrees that he or she is an employee of Franchisee and not Dumont and that such individual shall look solely to Franchisee for his or her compensation and for all other matters related to their relationship with Franchisee.

(vi) Franchisee shall post a notice on an employee bulletin board clearly visible to employees at the Franchised Business notifying all employees of their employer and clearly stating that neither Dumont nor its affiliates are an employer of the employees.

(vii) We and you are not joint employers of your employees and other personnel. We do not and will not share or codetermine any of your employees' essential terms and conditions of employment. More specifically, in no case do we have any authority to determine or set your employees': (1) wages, benefits, and other compensation; (2) hours of work and scheduling; (3) the assignment of duties to be performed; (4) the supervision of the performance of duties; (5) work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline; (6) the tenure of employment, including hiring and discharge; and/or (7) working conditions related to the safety and health of employees. You alone have sole authority to determine any or all of your employees' essential terms and conditions of employment.

7.9 Customer Complaints. Franchisee must respond promptly to customer complaints and take such other steps as may be specified by Dumont in the Operations Manual or otherwise to ensure positive client relations.

7.10 Third Party Actions. Franchisee must notify Dumont in writing within five (5) days of any written threat or the actual commencement of any action, suit or proceeding, or of the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality which may adversely affect the operation or financial condition of the Café.

7.11 Inspection of the Business Premises. Franchisee hereby grants to Dumont and its agents the right to enter upon the Premises, without notice, at any reasonable time for the purpose of conducting inspections of the Premises, Franchisee's books, records, computer hardware and software, and other business equipment and vehicles, and Franchisee agrees to render such assistance as may reasonably be requested and to take such steps as may be necessary immediately to correct any deficiencies detected during such an inspection upon the request of Dumont or its agents.

7.12 Possible Variation in Certain Standards. Because complete and detailed uniformity under many varying conditions may not be possible or practical, Dumont specifically reserves the right and privilege to vary standards for any franchisee based upon the peculiarities of a particular site or circumstance, density of population, business potential, population of trade area, licensing requirements, existing business practices or any other conditions which Dumont deems to be of importance to the successful operation of such franchisee's business. Franchisee will have no recourse against Dumont on account of any variation from standard specifications and practices granted to any franchisee and will not be entitled to require Dumont to grant Franchisee a like or similar variation hereunder.

7.13 Attendance at Annual Convention. Dumont may hold an annual conference (the “Convention”) at a location we select. We will determine the topics and agenda for the Convention to serve the purpose among other things, of updating franchisees on new developments affecting franchisees, exchanging information between franchisees and our personnel regarding business operations, and recognizing franchisees for their achievements. Franchisee or Franchisee’s representative must attend the Convention and to pay our then-current registration fee. If we charge a registration fee for the Annual Convention, you must pay the fee regardless of whether you attend. All expenses, including Franchisee and Franchisee’s employees’ transportation to and from the Annual Convention, and lodging, meals, and salaries during the Annual Convention, are the responsibility of Franchisee.

7.14 Intellectual Property Belongs to Dumont. If Franchisee, Franchisee’s employees, or principals develop any new concept, process or improvement in the operation or promotion of the Café or the System, Franchisee will promptly notify Dumont and provide Dumont with all necessary related information, without compensation. Any such concept, process, or improvement will become Dumont’s sole property and Dumont will be the sole owner of all patents, patent applications, trademarks, copyrights, and other intellectual property rights related thereto. Franchisee and Franchisee’s principals hereby assign to Dumont any rights Franchisee may have or acquire therein, including the right to modify such concept, process, or improvement, and otherwise waive and/or release all rights of restraint and moral rights therein and thereto. Franchisee and Franchisee’s principals agree to assist Dumont in obtaining and enforcing the intellectual property rights to any such concept, process, or improvement in any and all countries and further agree to execute and provide Dumont with all necessary documentation for obtaining and enforcing such rights. Franchisee and Franchisee’s principals hereby irrevocably designate and appoint Dumont as Franchisee’s agent and attorney-in-fact to execute and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property rights related to any such concept, process, or improvement. In the event that the foregoing provisions of this Section 7.13 are found to be invalid or otherwise unenforceable, Franchisee and Franchisee’s principals hereby grant to Dumont a worldwide, perpetual, non-exclusive, fully paid license to use and sublicense the use of the concept, process or improvement to the extent such use or sublicense would, absent this Agreement, directly or indirectly infringe Franchisee’s rights therein.

7.15 Step In Rights. In addition to Dumont’s right to terminate this Agreement, and not in lieu of such right, or any other rights Dumont may have against Franchisee, upon a failure to meet any of the requirements of this Article 7 or cure any default within the applicable time period (if any), Dumont has the right, but not the obligation, to enter upon the premises of the Café and exercise complete authority with respect to the operation of the Café until such time as Dumont determines that the default has been cured, and Franchisee is otherwise in compliance with this Agreement. In the event Dumont exercises the rights described in this Section, Franchisee must reimburse Dumont for all reasonable costs and overhead, if any, incurred in connection with its operation of Franchisee’s business including, without limitation, costs of personnel for supervising and staffing the Franchised Business and their travel and lodging accommodations, plus a fee not to exceed \$500 per day. If Dumont undertakes to operate the Café pursuant to this Section, Franchisee agrees to indemnify and hold Dumont (and Dumont’s representative(s) and employees) harmless from and against any fines, claims, suits or proceedings which may arise out of Dumont’s operation of the Franchised Business.

7.16 Computer and Electronic Cash Register Systems. Before you open your Café, you will obtain and install at your Café, at your sole cost and expense, all computer and electronic cash register hardware and software we require. You will use such computer and electronic cash register systems and software to record all your sales transactions, for your accounting and bookkeeping functions, for inventory control, for scheduling, for Internet communication and email, for extranet programs, and as we may otherwise specify. You must make all improvements to the system in the manner, and when, specified by us in writing, even if such improvements require you to spend additional money on the system. There are no limitations on this obligation. You must: (a) promptly enter into the system and maintain all information that we require you to enter and maintain; (b) provide to us such reports as we may reasonably request from the data so collected and maintained, and (c) permit us to access your system at all times and any time by any commercially available means we specify from time to time. You must cooperate with us to permit us access your system and all of its data.

7.17 Ownership of Customer Information and Goodwill. You acknowledge that we own all information and other business records (“Customer Information”) with respect to the customers of your Café, including all customer-related contact names, addresses, telephone numbers, e-mail addresses, date of birth, demographic data, behavioral data, correspondence, customer purchase records, and similar information and documents, and that Customer Information will include all information generated or recorded as a result of your efforts while using the Marks. You agree to use reasonable efforts to obtain and capture Customer Information, with customer permission, consistent with any customer tracking or loyalty program(s) we may establish from time-to-time. You agree to input Customer Information into the system, or other system or method of retention specified in the Confidential Operations Manual, if we direct you to do so. You must not export Customer Information from the system or software. We have the right to use the Customer Information in any way we choose. You also agree that any goodwill resulting from your activities under this Agreement is our sole property.

7.18 Personal Guaranty of Your Principal Owners. You covenant, warrant, and agree that when you sign this Agreement, and at all times thereafter, you will cause each of your Principals Owners, and each successor to any or all of them, to execute and deliver, in his or her individual capacity, the form of Personal Guaranty attached to this Agreement as Schedule “D”.

7.19 Telephone Listing Agreement. When you sign this Agreement, you will execute and deliver to us the Internet and Telephone Listing Agreement attached to this Agreement as Schedule “G”.

7.20 On-Site Inspection Fee. If Dumont conducts an on-site inspection due to Franchisee’s failure to provide required reports or if the inspection reveals material deficiencies, Dumont has the right to impose a fee of up to \$5,000. The amount of the fee will vary depending on the circumstances and will be invoiced to Franchisee upon completion of the inspection.

7.21 Patriot Act Compliance. Franchisee hereby covenants, warrants, agrees, represents, and certifies to Dumont that neither Franchisee nor any of Franchisee’s directors, officers, shareholders, partners, members, employees, or agents, nor any of Franchisee’s affiliates, or their directors, officers, shareholders, partners, members, employees, or agents, nor any other direct or indirect interest holders of any of the foregoing: (i) are or have been listed on any Governmental

Lists (as defined in Paragraph 7.18 (i) of this Agreement): (ii) are or have been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order No.13224 (Sept. 23, 2001), or any other similar prohibitions contained in the rules and regulations of OFAC (as defined in Paragraph 7.18(ii) of this Agreement) or in any enabling legislation or other Presidential Executive Orders in respect thereof; (iii) have been indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any offenses under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the “USA Patriot Act”); (iv) are or have been under investigation by any Governmental Authority (as defined in Paragraph 7.21.3 of this Agreement) for alleged criminal activity; or (v) have or have had a reputation in the community for criminal or unethical behavior. As used in this Paragraph 7.18 of this Agreement, the following definitions apply:

(i) “Governmental Lists” means any of the following lists: (i) the “Specially Designated Nationals and Blocked Persons List” maintained by OFAC; (ii) any other list of terrorists, terrorist organizations, or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC; or (iii) any similar list maintained by the United States Department of State, the United States Department of Commerce, or any other Governmental Authority, or pursuant to any Executive Order of the President of the United States.

(ii) “OFAC” means the Office of Foreign Assets Control, United States Department of the Treasury, or any other office, agency, or department that succeeds to the duties of OFAC.

(iii) “Government Authority” means all federal, state, local, foreign, or other governmental or regulatory agencies, authorities (including self-regulating authorities), instrumentalities, commissions, boards, and bodies.

## **8. CONFIDENTIAL OPERATIONS MANUAL**

8.1 The Franchisee will conduct the Franchised Business under this Franchise Agreement in accordance with Dumont’s Confidential Operations Manual (“Manual”), which Franchisee acknowledges having received, or been granted electronic access to, on loan from Dumont for Franchisee’s use during the term of this Franchise Agreement.

8.2 The Franchisee will at all times treat the Manual, any other manuals created or approved for use in the operation of the Franchised Business herein, and the information contained therein as confidential, proprietary information of Dumont disclosed to Franchisee under an agreement of confidentiality and shall use all reasonable efforts to maintain such information secret and confidential. The Franchisee will not at any time, without Dumont’s prior written consent, copy, duplicate, record or otherwise reproduce the Manual, or any part thereof, or any other operating instructions, standards or procedures disclosed to Franchisee by Dumont. The Franchisee shall not allow any person who is an employee, agent, or representative of Franchisee to duplicate or copy any such material and shall obligate such employees to abide by the terms of this provision and keep and maintain such information secret and confidential, and refrain from the use thereof in any other business or activity except that which is licensed herein.

8.3 The Manual shall at all times remain the sole property of Dumont. Dumont may from time to time revise the content of the Manual without the consent of Franchisee, and Franchisee will observe and comply with the Manual in its amended form. The Franchisee will always ensure that its copy of the Manual is kept current. In the event of any dispute as to the contents of the Manual, the terms of the master copy thereof maintained by Dumont at its home office shall be controlling.

## **9. PROPRIETARY MARKS**

9.1 The parties agree that this license to use the Marks applies only to their use in connection with the operation of the Café, and that all such business shall be conducted at the Café premises, and that the license includes only such Marks as are now or may hereafter be designated by Dumont in writing for use with the System. No other Marks of Dumont now existing or yet to be developed or acquired by Dumont are included or will be included in this license.

9.2 Dumont has the exclusive right to license the Marks and of the identification schemes, standards, specifications, operating procedures, and other concepts embodied in the System. Any unauthorized use of the System and the Marks is and shall be deemed an infringement of Dumont's rights and a breach of this Franchise Agreement. Except as expressly granted by this Franchise Agreement, Franchisee acquires no right, title, or interest in the System or in the Marks. Any and all goodwill associated with the System or the Marks shall inure exclusively to Dumont's ownership and benefit. Upon the expiration and termination of this Franchise Agreement, Franchisee shall not be entitled to any compensation attributable to any goodwill associated with Franchisee's use of the System or of the Marks.

9.3 The Franchisee shall promptly notify Dumont of any attempt by any person or entity other than Dumont or another of its licensees, to use the Marks or any variation thereof, or any other name, mark, or symbol in which Dumont claims a proprietary interest, or which is confusingly similar thereto. The Franchisee will notify Dumont promptly of any litigation involving the Marks that is instituted by any person or firm against Franchisee. Dumont is not obligated to defend Franchisee against the claims of any third party that Franchisee's operation of the licensed business or the Franchisee's use of the Marks infringes any right of such third party, nor shall Dumont be obligated to protect, indemnify, or hold harmless Franchisee from the consequences of any such claim or litigation. Notwithstanding the lack of an obligation on the part of Dumont to assume responsibility or control of any such litigation, Franchisee shall, immediately upon receiving notice thereof, tender such litigation to Dumont to defend. Upon such tender, Dumont will within ten (10) days of receipt thereof, notify Franchisee of its election to defend and assume control of such litigation or to decline to defend or assume control of such litigation. In the event Dumont elects to defend and control such litigation, Dumont may, without the consent of Franchisee, settle or compromise any such claims on such terms as Dumont, in its sole discretion may deem appropriate provided that any monetary settlement entered into without the consent of Franchisee will be paid by Dumont. In the event Dumont does not elect to defend and assume control of such litigation Franchisee will not settle or otherwise compromise any such claim on any terms which are not first approved by Dumont.

9.4 The Franchisee shall not use the Marks or any part or form thereof as part of Franchisee's corporate or other legal name, or hold out or otherwise employ the Marks to perform

any activity, or to incur any obligation or indebtedness, in such a manner that could reasonably result in making Dumont responsible or liable therefore. The Franchisee shall display at the Café premises a prominently visible sign stating that Franchisee's business is independently owned by Franchisee (stating the name of Franchisee) and that the business is operated pursuant to a Franchise Agreement with Dumont.

9.5 In addition to all other obligations of Franchisee with respect to the Marks licensed herein Franchisee agrees:

(i) To refrain from using any of the Marks, or any part or form thereof, in conjunction with any other word or symbol without Dumont's prior written consent.

(ii) To feature and use the Marks solely in the manner prescribed by Dumont and not use the Marks on the Internet except as approved in writing by Dumont.

(iii) To observe all such requirements with respect to service mark, trademark and copyright notices, fictitious name registrations, and the display of the legal name or other identification of Franchisee as Dumont may direct in writing from time to time.

(iv) To use, promote and offer for sale under the Marks only those products and services which meet Dumont's prescribed standards and specifications, as they may be revised and amended by Dumont from time to time.

(v) To execute all documents requested by Dumont or its counsel that are necessary to obtain protection for the Marks or to maintain their continued validity and enforceability, and to take no action that would jeopardize the validity or enforceability of such marks. In the event Franchisee fails to execute and deliver such documents within ten (10) days from receipt of the request for such execution, Franchisee hereby irrevocably appoints Dumont as its attorney-in-fact to execute any and all such documents.

## **10. ADVERTISING AND MARKETING**

10.1 Grand Opening Marketing. You must spend between Five Thousand (\$5,000) Dollars and Ten Thousand Dollars (\$10,000) (depending on the market area where your Café is located) for a Grand Opening marketing program for your Café. The grand opening advertising campaign shall be conducted in the sixty (60) day period comprising thirty (30) days prior to and thirty (30) days following the Café's opening. All advertisements proposed to be used in the grand opening advertising campaign are subject to our review and approval in the manner set forth in this Article 10.

### 10.2 Brand Fund.

(i) Dumont has established a separate fund for the purpose of enhancing the goodwill and public image of the System through promoting and protecting the Brand ("Brand Fund"). All franchisees will be required to make Brand Fund Contributions in an amount of up to Two (2%) percent of Gross Revenue per month. Cafés owned by us or our affiliates may, but are not required to, contribute to the Brand Fund.

(ii) The Brand Fund will be administered by Dumont or its designee. Any unused funds in any fiscal year will be applied to the following fiscal year's Brand Fund. Dumont reserves the right to contribute or loan additional funds to the Brand Fund on any terms Dumont deems reasonable. Since the Brand Fund is not audited, Dumont will not make audited financial statements available to Franchisee. Upon Franchisee's written request, within one hundred twenty (120) days after the fiscal year end, Dumont will provide an un-audited accounting from the Brand Fund that shows how the Brand Fund proceeds have been spent for the previous year. Dumont shall not be required to provide such accounting more than one time per fiscal year, nor will Dumont be required to provide any other periodic accounting of the Brand Fund.

(iii) Dumont or its designee will administer the Brand Fund with sole discretion over all operational and advertising decisions including: (i) the creative concepts, materials, endorsements and media used in connection with such programs (which may include television, radio, internet and print advertising, maintenance of a website and use of Social Media Platforms as funds permit); (ii) the source of the advertising, marketing, lead generation and/or promotional efforts (which may be in-house or through an outside agency located locally, regionally or nationally); (iii) the placement and allocation of such programs (which will be local or regional); and (iv) the composition of all geographic territories and market areas for the development and implementation of such programs.

(iv) The Brand Fund will not be used primarily by Dumont to advertise and promote the sale of franchises. Dumont intends the Brand Fund to maximize recognition of the Principal Trademarks and patronage of the System in any manner Dumont determines will be effective, including but not limited to expenditures related to the development and maintenance of the Websites, and direct mail programs. Dumont may structure the organization and administration of the Brand Fund in any way it determines best benefits the System in its sole discretion. Dumont will attempt to spend Brand Fund expenditures in such a way as to provide benefits to all participating franchisees but makes no guarantees that Franchisee will benefit pro rata or at all from its Brand Fund Contributions. Dumont need not ensure that Brand Fund expenditures in or affecting any geographic area, are proportionate or equivalent to Brand Fund Contributions by Dumont Creamery and Café franchisees operating in that geographic area. The Brand Fund will not be used to advertise and promote any individual franchised business, except to benefit the System as determined by Dumont in its sole discretion.

(v) Franchisee further acknowledges and agrees that Dumont may use Brand Fund Contributions to duplicate, print and purchase logo items including but not limited to any sales, advertising and point of purchase materials to be resold to Dumont Creamery and Café franchisees and any profits from such sales shall be paid to the Brand Fund.

(vi) Franchisee further acknowledges and agrees that Dumont may use Brand Fund Contributions to pay for expenses incurred in connection with meetings between Dumont and Dumont Creamery and Café franchisees, including the Convention.

(vii) Dumont will account for the Brand Fund separately from its other funds and not use the Brand Fund for any of its general operating expenses. However, Dumont may use the Brand Fund to pay the reasonable salaries and benefits of personnel who manage and administer the Brand Fund, the Brand Fund's other administrative costs, travel expenses of personnel while

they are on Brand Fund business, meeting costs, overhead relating to the Brand Fund business, costs relating to maintaining the Dumont Creamery and Café Websites and Business Center, and other expenses that Dumont incurs in activities reasonably related to administering or directing the Brand Fund and its programs, including, without limitation, conducting market research, public relations, preparing Advertising Materials, Social Media Materials, and collecting and accounting for Brand Fund Contributions.

(viii) The Brand Fund will not be Dumont's asset. Although the Brand Fund is not a trust, Dumont will hold all Brand Fund contributions for the benefit of the contributors and use contributions only for the purposes described in this Section. Dumont does not owe any fiduciary obligation to Franchisee for administering the Brand Fund or for any other reason. The Brand Fund may spend in any fiscal year more or less than the total Brand Fund Contributions in that year, borrow from Dumont or others (paying reasonable interest) to cover deficits, or invest any surplus for future use. The Brand Fund will use all interest earned on Brand Fund Contributions to pay costs before using the Brand Fund's other assets. Dumont reserves the right to establish an advisory council or subcommittee for advertising, which if established, would only have advisory responsibilities and authority.

(ix) Dumont may at any time defer or reduce Franchisee's Brand Fund Contribution rate. Dumont may upon thirty (30) days' prior notice to Franchisee, reduce or suspend Brand Fund operations and contributions for one or more periods of any length and terminate (and, if terminated, reinstate) the Brand Fund. If Dumont terminates the Brand Fund, Dumont will distribute all unspent monies to its franchisees and Affiliates in proportion to their respective Brand Fund Contributions during the preceding twelve (12) month period.

(x) Dumont has the right but not the obligation to use collection agents and institute legal proceedings to collect Brand Fund Contributions at the Brand Fund's expense. Dumont may also forgive, waive, settle, and compromise all claims by or against the brand Fund. Except as expressly provided in this Subsection, Dumont assumes no direct or indirect liability or obligation to Franchisee for collecting amounts due to, maintaining, direct or administering the Brand Fund.

10.3 Internet/World Wide Web/Websites. As used in this Agreement, the term "Website" means an interactive electronic document, series of symbols, or otherwise, that is contained in a network of computers linked by communications software. The term Website includes, but is not limited to, Internet and World Wide Web home pages. No advertising or promotion by Franchisee shall be conducted on or through the Internet/world wide web or other electronic transmission via computer without express prior written approval by Dumont, including all social media sites. Franchisee shall monitor and control its employees, so they make no social media postings using the Marks without obtaining Dumont's prior written approval. In connection with any Website, you agree to the following:

(i) We shall have the right, but not the obligation, to establish and maintain a Website, which may, without limitation, promote the System and any or all of the products offered at Cafés. We shall have the sole right to control all aspects of the Website, including without limitation its design, content, functionality, links to the websites of third parties, legal notices, and policies and terms of usage; we shall also have the right to discontinue operation of the Website.

(ii) We shall have the right, but not the obligation, to designate one or more web page(s) to describe you and/or the Café, with such web page(s) to be located within our Website. You shall comply with our policies with respect to the creation, maintenance, and content of any such web pages; and we shall have the right to refuse to post and/or discontinue posting any content and/or the operation of any web page.

(iii) You shall not establish a separate Website related to the Marks or the System without our prior written approval (which we shall not be obligated to provide). If approved to establish such a Website, you shall comply with our policies, standards, and specifications with respect to the creation, maintenance, and content of any such Website. You specifically acknowledge and agree that any such Website owned or maintained by you or for your benefit shall be deemed “advertising” under this Agreement and will be subject to (among other things) our approval under this Article 10. You must provide us with full, administrator-level rights to access and administer all social media accounts that relate to your Café.

(iv) We shall have the right to modify the provisions of this Section 10.3 relating to Websites as we shall solely determine is necessary or appropriate.

(v) You understand and agree that you may not promote your Café or use any Proprietary Mark in any manner on social and/or networking websites without our prior written consent.

(vi) Franchisee acknowledges that Dumont is the lawful, rightful, and sole owner of the Internet domain name www.dumont.us and other Internet domain names registered by Dumont, and unconditionally disclaims any ownership interest in those or any similar Internet domain name. Franchisee agrees not to register any Internet domain name in any class or category that contains words used in or similar to any brand name owned by Dumont or Dumont’s affiliates or any abbreviation, acronym, phonetic variation, or visual variation of those words.

10.4 Dumont’s Control Over Advertising Materials. Dumont recommends but does not require that Franchisee spend four percent (4%) of your Gross Revenue on local advertising and marketing in Franchisee’s local market area to promote the Café. Franchisee must use only advertising and marketing materials that Dumont has provided to Franchisee or that Dumont has approved in advance. In the event Franchisee desires to use advertising and marketing materials that Dumont has provided to Franchisee; Franchisee must submit to Dumont a description of the media in which Franchisee proposes to use them for Dumont’s consent prior to such use. Dumont will have ten (10) days in which to approve or disapprove the use of such materials in the media proposed. If Dumont does not approve the use of such materials within ten (10) days after Dumont receives them from Franchisee, they will be deemed not approved. In the event Franchisee desires to use advertising and marketing materials that Dumont has not provided, Franchisee must submit such advertising and promotional materials, together with a description of the media in which Franchisee proposes to use them, to Dumont for Dumont’s review prior to such use. Dumont will have ten (10) days in which to approve or disapprove such materials and their use in the media proposed. If Dumont does not approve the use of such materials or media within ten (10) days after we receive them from you, they will be deemed not approved. All advertising must prominently display the Marks and must comply with any standards for use of the Marks Dumont establishes as set forth in the Operations Manual or otherwise in writing. Dumont may require Franchisee to

discontinue the use of any advertising or marketing material, within time frames prescribed by Dumont, at Franchisee's sole cost and expense. Franchisee acknowledges and agrees that all advertising materials provided by Dumont on behalf of the System are protected by copyright and are Dumont's exclusive property.

## **11. MODIFICATIONS**

11.1 Modifications to the System. Franchisee agrees that Dumont may modify all or any part of the System to adapt to changes in the marketplace, economic conditions, business conditions, the law, the demands of consumers, Dumont's business needs, and the needs of the System. Franchisee further agrees that such modifications may include additions to, deletions from, or modifications to the products and services Franchisee offers for sale or delivers through the Café; modifications to any or all of the rules, guidelines, standards, specifications, plans, programs, methods, techniques, and procedures related to the Café; and additions, deletions, from, and modifications of the Marks. Franchisee agrees that it expects Dumont to change the System and warrants, covenants, and agrees to comply with all rules, guidelines, standards, specifications, plans, programs, methods, techniques, procedures, and Confidential Operations Manuals, related to the System, as we add to, delete from, and modify any or all of them from time to time, and with this Agreement. Dumont agrees that such additions to, deletions from, and modifications of such rules, guidelines, standards, specifications, plans, programs, methods, techniques, procedures, and Confidential Operations Manuals, will not materially and unreasonably increase Franchisee's obligations set forth in this Agreement. Dumont reserves the right to change or modify the Marks. Dumont may adopt and use new or modified trade names, trademarks, service marks, logos, equipment, software, products, techniques, or concepts. Dumont may add new and different services and products and withdraw services or products or change their names or image; redesign the trade dress, software programs and equipment or fixture standards; or discontinue them as Dumont considers appropriate. Franchisee must accept and use the changes as if they were part of this Agreement. If changes are related to the Marks, then Franchisee will have one hundred twenty (120) days from the date of notice to implement any such changes under this Section 11.1.

11.2 Test Marketing. If Dumont permits Franchisee to participate in any new service or product concept test, Franchisee agrees to do so in compliance with Dumont's standards and requirements.

## **12. ACCOUNTING AND RECORDS**

12.1 Reports. In addition to the reports otherwise required herein, you shall comply with the following reporting obligations:

(i) You shall, at your expense, submit to us, in the form prescribed by us, a profit and loss statement for each month (which may be unaudited) for you within fifteen (15) days after the end of each month during the term hereof. Each such statement shall be signed by your treasurer or chief financial officer or comparable officer attesting that it is true, complete, and correct;

(ii) You shall, at your expense, provide to us a complete annual financial statement (which shall be reviewed) for you prepared by an independent certified public

accountant, within ninety (90) days after the end of each fiscal year during the term hereof, showing the results of operations of you during such fiscal year; we reserve the right to require such financial statements to be audited by an independent certified public accountant satisfactory to us at your cost and expense if an inspection discloses an understatement of payments due to us of two percent (2%) or more in any report, pursuant to Section 12.2; and

(iii) You shall also submit to us, for review or auditing, such other forms, reports, records, information, and data as we may reasonably designate, and which pertain to the Café, in the form and at the times and places reasonably required by us, upon request and as specified from time to time in writing.

#### 12.2 Inspections; Audits.

We or our designees shall have the right, during normal business hours, to review, audit, examine and copy any or all of your books and records as we may require at the Café. You shall make such books and records available to us or our designee immediately upon request. If any required royalty or other payments due to us are delinquent, or if an inspection should reveal that such payments have been understated in any report to us, then you shall immediately pay to us the amount overdue or understated upon demand with interest determined in accordance with the provisions of Section 4.8. If an inspection discloses an understatement in any report of two percent (2%) or more, you shall, in addition, reimburse us for all costs and expenses connected with the inspection (including, without limitation, reasonable accounting and attorneys' fees). These remedies shall be in addition to any other remedies we may have at law or in equity.

#### 12.3 Correction of Errors.

You understand and agree that our receipt or acceptance of any of the statements furnished or royalties paid to us (or the cashing of any royalty checks or processing of any Electronic Payment) shall not preclude us from questioning the correctness thereof at any time and, in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified by you and the appropriate payment shall be made by you.

#### 12.4 Authorization of Us.

You hereby authorize (and agree to execute any other documents deemed necessary to affect such authorization) all banks, financial institutions, businesses, suppliers, manufacturers, contractors, vendors and other persons or entities with which you do business to disclose to us any requested financial information in their possession relating to you or the Café. You authorize us to disclose data from your reports, if we determine, in our sole and absolute discretion, that such disclosure is necessary or advisable, which disclosure may include disclosure to prospective or existing franchisees or other third parties.

#### 12.5 We are Attorney-in-Fact.

You hereby appoint us as your true and lawful attorney-in-fact with full power and authority, for the sole purpose of obtaining any and all returns and reports filed by you with any state and/or federal taxing authority pertaining to the Franchised Business. This power of attorney shall survive the expiration or termination of this Agreement.

### 13. INSURANCE

13.1 You shall procure, upon execution of this Agreement, and shall maintain in full force and effect at all times during the term of this Agreement (and for such period thereafter as is necessary to provide the coverages required hereunder for events having occurred during the term of this Agreement) at your expense, an insurance policy or policies protecting you and us, our successors and assigns, our officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of each of them against any demand or claim with respect to personal injury, death or property damage, or any loss, liability or expense whatsoever arising or occurring upon or in connection with the Café.

13.2 Such policy or policies shall be written by a responsible, duly licensed carrier or carriers reasonably acceptable to us and shall include, at a minimum (except as additional coverages and higher policy limits may reasonably be specified by us from time to time), in accordance with standards and specifications set forth in writing, the following:

(i) General and professional liability in the amount of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate limit.

(ii) “All Risks” coverage for the full cost of replacement of the Café premises and all other property in which Dumont may have an interest with no coinsurance clause for the premises.

(iii) Business Interruption insurance in a sufficient amount to cover profit margins, maintenance of competent and desirable personnel and fixed expenses for a period of at least ninety (90) days.

(iv) Worker’s compensation insurance in amounts provided by applicable law (but not less than Five Hundred Thousand Dollars (\$500,000) per occurrence) or, if permissible under applicable law, a legally appropriate alternative providing substantially similar compensation for injured workers reasonably satisfactory to us.

(v) Cyber-liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate limit.

(vi) Employment practices insurance in the amount of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate limit.

(vii) Such other insurance as may be required by the state or locality in which the Café is located and operated or as may be required by the terms of the lease for the Café.

(viii) You may, with our prior written consent, which consent may be withheld or denied, elect to have reasonable deductibles in connection with the coverages required herein. Such policies shall also include a waiver of subrogation in favor of us, our affiliates, and our respective officers, directors, shareholders, partners, agents, representatives, independent contractors, servants, and employees.

(ix) In connection with any construction, renovation, refurbishment, or remodeling of the Café, you shall maintain Builder's Risks/installation insurance in forms and amounts, and written by a responsible, duly licensed carrier or carriers, reasonably satisfactory to us.

(x) Your obligation to obtain and maintain the foregoing policy or policies in the amounts specified shall not be limited in any way by reason of any insurance which may be maintained by us, nor shall your performance of that obligation relieve you of liability under the indemnity provisions set forth in Article 12 of this Agreement.

(xi) All general liability and property damage policies shall contain a provision that we, our affiliates and the officers, directors, shareholders, partners, agents, representatives, independent contractors, servants, and employees of each of them, although named as insureds, shall nevertheless be entitled to recover under such policies on any loss occasioned to us or our servants, agents or employees by reason of the negligence of you or your servants, agents or employees.

(xii) Not later than thirty (30) days before the Café initially opens for business, and thereafter thirty (30) days prior to the expiration of any such policy, you shall deliver to us Certificates of Insurance evidencing the existence and continuation of proper coverage with limits not less than those required hereunder. In addition, if requested by us, you shall deliver to us a copy of the insurance policy or policies required hereunder. All insurance policies required hereunder, with the exception of workers' compensation, shall name us, our affiliates and the officers, directors, shareholders, partners, agents, representatives, independent contractors, servants, and employees of each of them, as additional named insureds, and shall expressly provide that any interest of same therein shall not be affected by any breach by you of any policy provisions. Further, all insurance policies required hereunder shall expressly provide that no less than thirty (30) days' prior written notice shall be given to us in the event of a material alteration to or cancellation of the policies.

13.3 Should you, for any reason, fail to procure or maintain the insurance required by this Agreement, as such requirements may be revised from time to time by us in writing, we shall have the right and authority (without, however, any obligation to do so) immediately to procure such insurance and to charge same to you, which charges shall be payable by you immediately upon notice. The foregoing remedies shall be in addition to any other remedies we may have at law or in equity.

13.4 Upon written request by us, you shall procure from your insurance carrier or carriers a report of claims made and reserves set against your insurance policies.

13.5 We reserve the right to modify the types of insurance coverages and amounts of coverage that you are required to maintain for the Café, and you agree to comply with any such changes, at your expense.

## 14. DEBTS AND TAXES

### 14.1 Taxes.

You shall promptly pay when due all Taxes (as defined below), levied or assessed, and all accounts and other indebtedness of every kind incurred by you in the conduct of the Franchised Business under this Agreement. You shall be solely liable for the payment of all Taxes and shall indemnify us for the full amount of all such Taxes and for any liability (including penalties, interest, and expenses) arising from or concerning the payment of Taxes, whether such Taxes were correctly or legally asserted or not. You shall submit a copy of all tax filings sent to federal, state, and local tax authorities to us within ten (10) business days after such filing has been made with the appropriate taxing authority.

The term “Taxes” means any present or future taxes, levies, imposts, duties, or other charges of whatever nature, including any interest or penalties thereon, imposed by any government or political subdivision of such government on or relating to the operation of the Franchised Business, the payment of monies, or the exercise of rights granted pursuant to this Agreement.

### 14.2 Payments to Us.

Each payment to be made to us hereunder shall be made free and clear and without deduction for any Taxes.

### 14.3 Tax Disputes.

In the event of any bona fide dispute as to your liability for taxes assessed or other indebtedness, you may contest the validity or the amount of the tax or indebtedness in accordance with the procedures of the taxing authority or applicable law. However, in no event shall you permit a tax sale or seizure by levy of execution or similar writ or warrant or attachment by a creditor to occur against the premises of the Café or any improvements thereon.

### 14.4 Compliance with Laws.

You shall comply with all federal, state, and local laws, rules and regulations and shall timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of the Franchised Business, including, without limitation, licenses to do business, fictitious name registrations, sales tax permits, fire clearances, health permits, certificates of occupancy and any permits, certificates or licenses required by any environmental law, rule or regulation.

### 14.5 Notification of Action or Proceeding.

You shall notify and deliver to us, in writing within five (5) days of the commencement of any action, suit or proceeding and of the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, which may adversely affect the operation or financial condition of the Franchised Business.

## 15. ASSIGNMENT

15.1 Assignment by Dumont. This Agreement shall inure to the benefit of any assignee(s) or other legal successor(s) to Dumont's interest in this Agreement. Dumont may also delegate some or all of Dumont's obligations under this Agreement to one or more designees without assigning this Agreement. This Agreement is fully assignable by Dumont (without prior notice to Franchisee) and shall inure to the benefit of any assignee(s) or other legal successor(s) to Dumont's interest in this Agreement; provided that Dumont shall, subsequent to any such assignment, remain liable for the performance of Dumont's obligations under this Agreement up to the effective date of the assignment. Dumont may also delegate some or all of Dumont's obligations under this Agreement to one or more designees without assigning this Agreement. Dumont may change Dumont's ownership or form and/or assign this Agreement and any other agreement to a third party without restriction. After Dumont's assignment of this Agreement to a third party who expressly assumes the obligations under this Agreement, Dumont no longer will have any performance or other obligations under this Agreement.

15.2 Assignment by Franchisee. Franchisee shall not subfranchise, sell, assign, transfer, merge, convey or encumber (each, a "Transfer"), the Café, the Franchised Site, this Agreement or any of its rights or obligations hereunder or suffer or permit any such Transfer of the Café, the Franchised Site, this Agreement or its rights or obligations hereunder to occur by operation of law or otherwise without the prior express written consent of Dumont. In addition, if Franchisee is a corporation, limited liability company, partnership, business trust, or similar association or entity, the shareholders, members, partners, beneficiaries, investors, or other equity holders, as the case may be, may not Transfer their equity interests in such corporation, limited liability company, partnership, business trust, or similar association or entity, without the prior written consent of Dumont. Furthermore, in the event that any shareholder, member, partner, investor, or other equity holder of Franchisee (the "Equity Holder") is a corporation, limited liability company, partnership, business trust, or similar association or entity, the interests of the shareholders, members, partners, beneficiaries, investors or other equity holders, as the case may be, in such Equity Holder, may not be Transferred, without the prior written consent of Dumont. Dumont will not unreasonably withhold consent to a Transfer provided the requirements of Section 15.4 have been satisfied. Any Transfer in violation of this Section shall be void and of no force and effect. In the event Franchisee or an Equity Holder is a corporation, limited liability company, partnership, business trust, or similar association or entity with certificated equity interests, all stock or equity certificates of Franchisee or Equity Holder, as the case may be, shall have conspicuously endorsed upon them a legend in substantially the following form:

"A transfer of this stock is subject to the terms and conditions of, DUMONT CREAMERY FRANCHISE, LLC FRANCHISE AGREEMENT dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_"

15.3 Death or Disability of Franchisee. Upon Franchisee's death or Disability (as such term is hereinafter defined), this Agreement or the ownership interest of any deceased or disabled shareholder, partner, member or other equity holder of Franchisee or an Equity Holder must be transferred to a party approved by Dumont. Any Transfer, including, without limitation, transfers by devise or inheritance or trust provisions, shall be subject to the same conditions for Transfers set forth in Section 15.4. Dumont shall not unreasonably withhold its consent to the Transfer of this

Agreement or any ownership interest to the deceased or disabled Franchisee's or Equity Holder's spouse, heirs, or members of his or her immediate family, provided all requirements of Section 15.4 have been complied with (except payment of the transfer fee, which shall not apply to such Transfers). A "Disability" shall have occurred with respect to Franchisee if Franchisee, or, if Franchisee is a corporation, partnership or limited liability company, its controlling shareholder, partner, member or other equity holder, is unable to actively participate in its activities as Franchisee hereunder for any reason for a continuous period of six months. As used in this Section 15.3, "Franchisee" may include a disabled or deceased controlling shareholder, partner, or member where the context so requires.

15.4 Approval of Assignment. Dumont's approval of any Transfer is, in all cases, contingent upon the following:

(i) the purchaser and/or the controlling persons of the purchaser having a satisfactory credit rating, being of good moral character, having business qualifications satisfactory to Dumont, being willing to comply with Dumont's training requirements and being willing to enter into an agreement in writing to assume and perform all of Franchisee's duties and obligations hereunder and/or enter into a new Franchise Agreement, if so requested by Dumont, and agreeing to enter into any and all agreements with Dumont that are being required of all new franchisees, including a guaranty agreement, or any other agreement which may require payment of different or increased fees from those paid under this Agreement;

(ii) the terms and conditions of the proposed transfer (including, without limitation, the purchase price) being satisfactory to Dumont;

(iii) all monetary obligations (whether hereunder or not) of Franchisee to Dumont or Dumont's affiliates or subsidiaries being paid in full;

(iv) Franchisee not being in default hereunder or any other agreement between Franchisee and Dumont;

(v) Franchisee and its owners executing a general release of any and all claims against Dumont and its affiliates, subsidiaries, members, managers, officers, directors, employees and agents, in a form satisfactory to Dumont;

(vi) Franchisee paying to Dumont a transfer fee equal to one-half of the then current Franchise Fee plus reimbursement for all legal, training and other expenses incurred by Dumont in connection with the Transfer;

(vii) at Dumont's request, the proposed transferee or assignee refurbishes the Café in the manner and subject to the provisions described in Section 2.2(v) hereof.

15.5 Removal of General Partner. If Franchisee is a limited partnership, Franchisee may not remove or appoint, or permit the limited partners to remove or appoint, a new or successor general partner without the prior written consent of Dumont (even if such appointment is due to the resignation, death, or disability of the General Partner).

## 16. DEFAULT AND TERMINATION

16.1 Termination By You. You have the right to terminate this Agreement after sixty (60) days' notice to us to cure such default and our failure to cure the default within such time, on notice of such termination to us, except that if such cure requires a longer time to complete, you shall not have the right to terminate this Agreement provided we have commenced to cure the default within the sixty (60) day period following such notice and we diligently continue to prosecute such cure until it is fully effected.

16.2 Termination by Us: No Opportunity to Cure. You will be in material breach of this Agreement, and we will have the right to terminate this Agreement without affording you any opportunity to cure the default effective on delivery of notice of termination to you:

(i) If you misrepresent any material fact in any information you furnish to us related to our decision to enter into this Agreement.

(ii) If you knowingly maintain false books or records, conceal revenues from us, or submit any material, false statement in any report we require, or in any income tax return required by applicable Law.

(iii) If you fail to submit to us any report we require, and you do not correct such failure within five (5) days after notice from us.

(iv) If you fail to pay to us or any affiliate of ours any monies you are obligated to pay us or such affiliate, and you do not correct such failure within five (5) days after notice from us or such affiliate.

(v) If you have understated your Gross Revenue by three percent (3%) or more on any report we require, or on any federal, state, or local income tax return you are required to file.

(vi) If you deny us or any of our authorized representatives access, after our providing three (3) days written notice to you, during normal business hours or any other hours that your Café is required to be or is in fact open for business, to all premises of your Franchised Business.

(vii) If you receive two (2) or more failing scores on any health or quality inspection we conduct within any twelve (12) consecutive month period.

(viii) If you receive two (2) or more failing scores on any health inspection any governmental agency conducts within any twelve (12) consecutive month period.

(ix) If you misuse, or use in an unauthorized manner, the Marks, any of Dumont's trade names, or copyrighted materials, or materially impair the goodwill associated therewith or Dumont's rights therein.

(x) If you copy or permit others to copy any portion of the Confidential Operations Manuals, except for items included in them for the express purpose of copying or fail

to take all necessary precautions to ensure that the Confidential Operations Manuals are kept free from theft, unauthorized copying, or other acts that may jeopardize the confidentiality of the Manual.

(xi) If you fail to comply with all applicable laws related to the operation of the Café.

(xii) If you fail to open for business for a period of (5) consecutive days.

(xiii) If you commit fraud related to the Café or engage in conduct that materially impairs the goodwill related to your Café or the System.

(xiv) If you or any of your shareholders or on-site Managers are convicted of or pleads no contest to a felony or a crime involving fraud or moral turpitude or engages in other conduct that is reasonably likely to reflect materially and unfavorably on the goodwill or reputation of your Café, the Marks, or the System.

(xv) If you: (i) become insolvent, by reason of an inability to pay debts as they come due; (ii) are adjudicated bankrupt; (iii) file a petition for bankruptcy protection; (iv) are the debtor in an involuntary bankruptcy petition that is not dismissed within sixty (60) days; (v) are the debtor in an assignment for the benefit of creditors that is not dismissed within sixty (60) days; (vi) are the subject of a voluntary or involuntary petition for reorganization or similar proceeding that is not dismissed within sixty (60) days; (vii) are the subject of a petition for appointment of a receiver, permanent or temporary, that is not dismissed within sixty (60) days; (viii) are the judgment debtor in any final judgment in the amount of \$100,000 or more and such judgment remains unsatisfied of record for more than sixty (60) days; (ix) have your bank accounts, property, or receivables attached and such attachment proceedings are not dismissed within, sixty (60) days; (x) have an execution levied against your business or property and such execution is not dismissed within sixty (60) days; or (xi) are the subject of any suit to foreclose any lien or mortgage related to your Franchised Business, and such suit is not dismissed within sixty (60) days.

(xvi) If we deliver two (2) or more notices of default to you within any twelve (12) consecutive month period, regardless of whether you cured such defaults, and regardless of whether such notices are for the same or different defaults.

(xvii) Either: (a) you and we cannot agree on a mutually acceptable location for the Café within six (6) months of the Effective Date of this Agreement; or (b) you fail to open the Café for business within 12 months from the Effective Date.

16.3 Termination by Us: Opportunity to Cure. You will be in material breach of this Agreement, and we will have the right to terminate this Agreement after ten (10) days' written notice to you to cure the default and your failure to cure such default within such time, without further notice or opportunity to cure:

(i) If you: (a) default under any lease or sublease of your Café; or (b) lose the right to possession of such location for any reason unless such loss of possession is the result of governmental exercise of eminent domain.

(ii) If you or your owners are unable to complete the Initial Training Program to our satisfaction

(iii) If you fail to open your Café within twelve (12) months of the execution of this Agreement.

(iv) If you breach or fail to perform any covenant, warranty, agreement, promise, term, provision, or obligation of yours contained in this Agreement, where such breach or failure is not specifically set forth in Paragraph 16.2 of this Agreement. In the event of your default and until the default has been cured, Dumont and all affiliates have the right to suspend the provision of all services and products to you.

16.4 Cross Default. Any default under or breach by you of any other agreement to which you and us or any of our affiliates are parties, will be deemed a default under this Agreement.

16.5 Our Right to Cure Your Defaults. We may, without prejudice to any other right or remedy contained in this Agreement or provided by law or equity, take action to cure any default of yours by performing any functions we deem necessary to cure the default. All such actions will be at your sole cost and expense, and you will reimburse us for all costs and expenses we incur related to such cure. We will have no obligation to cure such defaults, and any attempt by us to cure such defaults will not limit our right to seek any other remedies to which we may be entitled.

16.6 Our Right to Withhold Services and Products. In the event of your default and continuing until the default has been cured, Dumont and its Affiliates have the right to suspend the provision of support, services, and Proprietary Products to you.

16.7 Notice Required By Law. If the law of any state which may control this Agreement limits our rights of termination under this Agreement or requires longer notice or cure periods than those set forth herein, this Agreement will be deemed amended to conform to the minimum notice, cure periods, or restrictions on termination required by such Laws; provided, however, we will not be precluded from contesting the validity, enforceability, or application of such laws or regulations to this Agreement or the termination, expiration, or non-renewal of this Agreement.

## **17. OBLIGATIONS UPON TERMINATION OR EXPIRATION**

17.1 Upon termination or expiration of this Franchise Agreement, Franchisee shall immediately cease to operate the Café, and shall not thereafter, directly, or indirectly, represent to the public or hold itself out as a present or former Franchisee of Dumont.

17.2 Upon termination or expiration of this Franchise Agreement, Franchisee shall immediately cease to use, by advertising or any other manner whatsoever, the name DUMONT CREAMERY, or any other Marks of Dumont or any mark or name similar thereto, or any aspect of the trade dress of the franchise System. Upon expiration or termination of this Franchise Agreement Franchisee shall cease using any methods, procedures, techniques, systems or other material of any kind or nature whatsoever which at the time of the termination or expiration of this Franchise Agreement is a trade secret of Dumont.

17.3 Upon expiration or termination of this Franchise Agreement, Franchisee shall immediately surrender to Dumont all proprietary products, customer lists, manuals, records, files, instructions, correspondence and any and all other materials relating to the operation of the Café in Franchisee's possession or control, and all copies thereof, all of which are hereby acknowledged by Franchisee to be Dumont's property, and shall retain no copy or record of the foregoing, accepting only Franchisee's copy of this Franchise Agreement and of any correspondence between the parties, and any other documents which Franchisee reasonably needs to comply with any provision of law. Upon the termination or expiration of this Franchise Agreement Franchisee shall not remove from the Café premises any inventory or equipment which is the subject of any security interest of Dumont or of any other party. Upon the expiration or termination of this Franchise Agreement, Franchisee shall not remove from the Café premises any inventory or equipment so long as there remains obligations of Franchisee to Dumont. In such event, Franchisee will, upon the expiration or termination of this Franchise Agreement, present to Dumont a statement of inventory and equipment including the value thereof. Such inventory and equipment shall, to the extent that it does not infringe upon the security rights of others, be credited to the obligations of Franchisee to Dumont. If the unencumbered inventory and equipment exceeds the amount owed by Franchisee to Dumont on the date of expiration or termination, Dumont may select that inventory and equipment which it wishes to apply to the outstanding debt of Franchisee to Dumont and return the balance of unencumbered inventory and equipment to Franchisee. Upon expiration or termination of this Agreement, Franchisee shall forthwith surrender possession of the Café premises to Dumont which may, but shall not be obligated to, assume possession, occupancy, and control thereof. The assumption of possession, occupancy or control of the premises by Dumont shall not relieve Franchisee of any obligations which may have accrued to the date of assumption of control by Dumont, but which have been unpaid by Franchisee. All such obligations shall remain the obligations of Franchisee. If Dumont elects not to assume possession or control of the Café premises Franchisee shall at Franchisee's expense, make such modifications or alterations thereto immediately upon termination or expiration of this Franchise Agreement as Dumont may demand to prevent the operation of any business therein by Franchisee being confused with or thought of by the public as a business affiliated with Dumont for any purpose.

17.4 The Franchisee hereby irrevocably appoints Dumont as the agent and attorney-in-fact of Franchisee effective immediately upon the termination or expiration of this Agreement to perfect the transfer and assignment to Dumont of each telephone number and telephone directory listing then or theretofore used in connection with the operation of the franchised business. Franchisee shall execute the Telephone Listings Agreement attached hereto as **Schedule "G"**. The transfer of telephone numbers and telephone directory listing to Dumont shall not relieve Franchisee of any obligation with respect thereto which arose or accrued prior to the date of such transfer. Dumont shall not be obligated to assume any such prior obligation as a condition of the transfer of telephone numbers or of directory listings.

17.5 Immediately upon termination or expiration of this Franchise Agreement, Franchisee shall pay all sums owing to Dumont or affiliates and to suppliers and vendors, including the outstanding principal amounts and accrued interest on any notes or evidence of indebtedness of Franchisee payable to the order of Dumont. The payment to Dumont of all principal amounts owing shall be accelerated on all debt items including debt items which theretofore had been the subject of payment schedules, even if payment was then being made promptly according to the agreed schedule. All debts of Franchisee to Dumont, regardless of kind, amount, or method of

payment agreed upon shall accelerate and be due and payable in full upon the expiration or termination of this Franchise Agreement. The Franchisee hereby grants to Dumont a lien and security interest against any and all personal property, equipment and fixtures owned by Franchisee and used in connection with the Café as security for the payment of all such obligations.

17.6 Upon the expiration or termination of this Franchise Agreement, if Franchisee shall fail or refuse to perform any obligation of Franchisee incident to termination or expiration hereof and Dumont shall be put to enforcing such obligations, Franchisee shall pay all damages, costs, interest, and expense of suit, including actual attorney fees and expenses related to prosecution of collection. Any security interest granted to Dumont by Franchisee herein shall remain in full force and effect until all such obligations are fully paid including the cost of enforcement thereof.

17.7 Upon the expiration or termination of this Franchise Agreement, Dumont shall have, in addition to any other rights or remedies available to it, the right (but not the obligation), without liability for trespass, tort, criminal act, or otherwise, to:

(i) Enter and inspect and take control of the Café premises in which the business licensed under this Franchise Agreement was or is being operated.

(ii) Remove from the Café premises all articles, equipment, supplies and other materials of any kind or nature whatsoever bearing the proprietary marks of Dumont or which are to be removed to prevent the Premises from appearing thereafter to be a business premises affiliated with Dumont or the System. The cost of all such removal and modification shall be borne by Franchisee.

(iii) Upon the expiration or termination of this Franchise Agreement, Franchisee shall immediately begin compliance with the post-term covenants contained in Article 18.

(iv) The Franchisee acknowledges and agrees that any failure to comply with the requirements of this Article 17 will cause Dumont irreparable injury, and Franchisee hereby consents to the entry of an *ex parte* order by any court of competent jurisdiction for injunctive or other legal or equitable relief including an order authorizing Dumont, its designee or agents, to enter the Café premises and to take such action as may be necessary or appropriate to protect Dumont's rights hereunder.

(v) Immediately upon the expiration or termination of this Franchise Agreement, Franchisee shall cancel all assumed names, corporate names, business names or styles, or other registrations using any name, style, symbol or mark included within the Marks or similar thereto which are owned, or which have been taken out or filed by Franchisee. The Franchisee hereby irrevocably appoints the Company as its agent and attorney-in-fact to obtain all such cancellations.

17.8 Liquidated Damages. Upon the termination of this Agreement prior to the expiration of the Initial Term you will pay us, as liquidated damages for the loss of the benefit of the bargain we are entitled to receive as a result of such termination, a lump-sum payment equal to the average weekly Royalty payments you were obligated to pay during the fifty-two (52) week period immediately preceding such termination, times twenty-four (24) months or the number of months remaining in the term, whichever is less. In the event you did not operate your Café

continuously for 52 weeks prior to termination of this Agreement, we will calculate the monthly Royalty payment for the geographically closest Café in the System and multiply that by the lesser of twenty-four (24) months or the number of months remaining in the term. You will pay the Liquidated Damages amount to us within ten (10) days after our demand. You acknowledge and agree, and you direct any party construing this Agreement to conclusively presume, that the Liquidated Damages: (i) are true liquidated damages; (ii) are intended to compensate us for the harm we will suffer; (iii) are not a penalty for breaching this Agreement or for any other reason; (iv) are a reasonable estimate of our probable loss resulting from your defaults; and (v) will be in addition to all other rights we have to legal or equitable relief.

## **18. COVENANTS**

18.1 “Confidential Information” means any information related to the System that we disclose to you that we designate as confidential; or that, by its nature, would reasonably be expected to be held in confidence or kept secret. Without limiting the definition of “Confidential Information,” all the following shall be conclusively presumed to be Confidential Information whether or not we designate them as such: (i) the Confidential Operations Manuals; (ii) our training materials; and (iii) other information we give to you in confidence, except where such information is a Trade Secret.

18.2 “Trade Secret” means information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Without limiting the definition of Trade Secrets, all the following shall be conclusively presumed to be Trade Secrets whether or not we designate them as such: (i) our advertising and marketing strategies; (ii) our marketing analyses; and (iii) the ingredients, components, and recipes of any of our products and services.

18.3 The terms “Confidential Information” and “Trade Secret” do not include, regardless of the means of disclosure: (i) information generally known to the trade or the public at the time we disclose it to you; (ii) information that becomes known to the trade or the public after we disclose it to you, unless it becomes known due to your breach of this Agreement; or (iii) information you can prove was known to you at the time we disclosed it to you.

18.4 Protection of Confidential Information and Trade Secrets. You acknowledge and agree that the Confidential Information and Trade Secrets are not, by definition, generally known in the trade; that they are beyond your present skill and experience; and that for you to develop such Confidential Information and Trade Secrets on your own would be expensive, time-consuming, and difficult. You further acknowledge and agree that the Confidential Information and Trade Secrets provide you with a competitive advantage, that they will be economically valuable to you in the development of your Franchised Business, and that gaining access to such Confidential Information and Trade Secrets is therefore a primary reason why you are entering into this Agreement. Accordingly, in consideration of our disclosure of the Confidential Information and Trade Secrets, you covenant, warrant, and agree that:

(i) You will not, during the Term of this Agreement: (i) appropriate or use any Confidential Information or Trade Secret for any purpose other than the operation of your

Franchised Business under the System; (ii) disclose or reveal any portion of the Confidential Information or Trade Secrets to any person, other than to your directors, officers, Principal Owners, management employees, or others who have a legitimate business need to know of them in order to operate your Franchised Business; or (iii) divulge or use any Confidential Information or Trade Secrets for the benefit of any other person or entity except as we expressly authorize.

(ii) You will not, for two (2) years after the termination or expiration of this Agreement for any reason: (i) appropriate or use any Confidential Information for any purpose; or (ii) divulge or use any Confidential Information for the benefit of any other person or entity.

(iii) You will not, at any time after the termination or expiration of this Agreement for any reason: (i) appropriate or use any Trade Secret for any purpose or (ii) divulge or use any Trade Secret for the benefit of any other person or entity.

(iv) You will not copy, duplicate record, or otherwise reproduce any of the Confidential Information or Trade Secrets, in whole or in part; store such Confidential Information or Trade Secrets in a computer retrieval or database; or otherwise make such Confidential Information or Trade Secrets available to any third party, except as we authorize in this Agreement.

(v) You will make all reasonable efforts and take all reasonable precautions required to prevent unauthorized copying or disclosure of any Confidential Information or Trade Secrets; which precautions will include, but will not be limited to, restricting access to the Confidential Information and Trade Secrets on a “need to know” basis.

#### 18.5 Restrictive Covenants.

(i) In-Term Covenant. During the Term of this Agreement, neither you nor any person or entity controlling, controlled by, or under common control with you or them, will individually or jointly with others, directly or indirectly, by, through on behalf of, or in conjunction with, any person or entity: (i) own, maintain, operate, engage in, or have any interest in, any business that offers for sale, sells, or delivers ice cream, boba tea and coffee beverages, and other food items that are similar to the items sold at a Café, as such products and services are modified from time to time, or any product or service confusingly similar thereto (a “Competitive Business”), other than the Franchised Business or another business you or they operate pursuant to an agreement with us, without our prior written consent, except that any such person may purchase or hold less than five percent (5%) of the shares of any publicly-traded business engaged in a Competitive Business; (ii) act as a director, officer, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate or assist in the establishment or operation of, directly or indirectly, any business engaged in a Competitive Business; or (iii) divert or attempt to divert any business from the Café or us.

(ii) Post-Termination Covenant. Beginning at the expiration or termination of this Agreement and for two (2) years thereafter, within fifty (50) miles of your Café or any other Café in the System, neither you nor any person or entity controlling, controlled by, or under common control with you or them, will individually or jointly with others, directly or indirectly, by, through on behalf of, or in conjunction with, any person or entity: (i) own, maintain, operate, engage in, or have any interest in, any business engaged in a Competitive Business, without our

prior written consent, except pursuant to another agreement with us, and further except that any such person may purchase or hold less than five percent (5%) of the shares of any publicly traded business engaged in a Competing Activity; (ii) act as a director, officer, partner, member, employee, independent contractor, consultant, principal, agent, or proprietor, or participate in the establishment or operation of, directly or indirectly, any business engaged in a Competitive Business; or (iii) divert or attempt to divert any business from the Franchised Business or us.

(iii) In the event of any arbitration or litigation related to this Paragraph 18.5 of this Agreement you, hereby direct any third party construing this Agreement, including without limitation any court, arbitrator, mediator, jury, or other party acting as a trier of fact or law:

(a) To conclusively presume that the restrictions set forth in this Paragraph 18.5 are reasonable and necessary in order to protect: (i) our legitimate interests, including our other franchisees and the integrity of the System; (ii) the confidentiality of our Confidential Information and Trade Secrets; (iii) our investment in the System; and (iv) the goodwill associated with the System.

(b) To conclusively presume that this Paragraph 18.5 was made freely and voluntarily by and between you and us, as two independent businesses, to whom we delivered good and adequate consideration, in an arms-length commercial transaction between skilled and experienced business operators.

(c) To conclusively presume that the restrictions set forth in this Paragraph 18.5 will not prevent you from earning a livelihood, whether during the Term of this Agreement or in the event of the termination or expiration of this Agreement.

(d) To construe this Paragraph 18.5 of this Agreement under laws governing distribution contracts between commercial entities in an arms-length business transaction and not under laws governing contracts of employment.

18.6 Remedies. This Article 18 is and has been a primary inducement to us to enter into this Agreement, and in the event of any breach of this Section 18 you acknowledge and agree that we would be irreparably injured and without adequate remedy at law. Therefore, in the event of a breach or a threatened or attempted breach of any provision of this Article 18, you agree that we are entitled, in addition to any other remedies we may have under this Agreement or at law or in equity, including the right to terminate this Agreement, to a preliminary and permanent injunction and a decree for specific performance of the terms of this Article 18 without the necessity of showing actual or threatened damage and without being required to furnish a bond or other security.

#### 18.7 Construction, Modification, Choice of Law.

(i) In the event that this Article 18 of this Agreement is construed by a court, arbitrator, or other party acting as a trier of fact or law, you hereby direct such court, arbitrator, or other party to strictly construe all provisions contained in this Section 18 in favor of enforcement.

(ii) In the event that the covenants in this Article 18 of this Agreement is found to be invalid or unenforceable for any reason, you hereby direct such court, arbitrator, or other party to modify such provision to the minimum extent necessary to make it valid and enforceable,

and you agree that such modification shall be deemed to have been a part of this Agreement as of the date of execution of this Agreement.

18.8 Covenants of Principals of Franchisee Entity. If you are a corporation, partnership, limited liability company, or other business entity, you will, simultaneously with your execution of this Agreement, cause all owners of equity in Franchisee entity, and any persons who will serve as Managers of your Café, including all replacement Managers, to execute the Covenants attached to this Agreement as **Schedule “E”**. All transferees must execute the Covenants as a condition to transfer or assignment of this Agreement.

## **19. DISPUTE RESOLUTION AND CORRESPONDING PROCEDURES**

19.1 Mediation. All claims or disputes between Franchisee and Dumont or their respective affiliates arising under, out of, in connection with or in relation to this Agreement, the parties’ relationship, the Franchised Business, or any of the parties’ respective rights and obligations arising out of this Agreement, must be submitted first to mediation prior to a hearing in binding arbitration (except as noted in Section 19.3 below). Such mediation will take place in Greenville, Texas (or Dumont’s then-current headquarters) under the auspices of the Judicial Arbitration and Mediation Services (“JAMS”), in accordance with the JAM’s Commercial Mediation Rules then in effect. Franchisee may not commence any action against Dumont or its affiliates with respect to any such claim or dispute in any court unless mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by Dumont. Each party will bear their own costs of mediation and share equally the filing fee imposed by JAMS and the mediator’s fees. We reserve the right to specifically enforce Dumont’s right to mediation. Prior to mediation, and before commencing any legal action against Dumont or its affiliates with respect to any such claim or dispute, Franchisee must submit a notice to Dumont, which specifies in detail, the precise nature and grounds of such claim or dispute.

19.2 Arbitration. If not resolved by mediation and except as qualified below, any dispute between Franchisee and Dumont or their respective affiliates arising under, out of, in connection with or in relation to this Agreement, the parties’ relationship, or the Franchised Business must be submitted to binding arbitration in Greenville, Texas (or Dumont’s then-current headquarters) in accordance with the Federal Arbitration Act and the Commercial Arbitration Rules of the Judicial Arbitration and Mediation Services (“JAMS”) then in effect. Any arbitration must be on an individual basis and the parties and the arbitrator will have no authority or power to proceed with any claim as a class action or otherwise to join or consolidate any claim with any other claim or any proceedings involving their parties. In the event a court determines that this limitation on joinder of or class action certification of claims is unenforceable, then this entire commitment to arbitrate will become null and void and the parties must submit all claims to the jurisdiction of the courts. The Federal Arbitration Act, as amended, will govern the rights and duties of the parties to this Agreement to resolve any disputes by arbitration. The following will supplement and, in the event of a conflict, govern any arbitration: The matter will be heard before a single arbitrator from the JAM’s list of arbitrators. The arbitrator must follow the law and not disregard the terms of this Agreement. The arbitrator must have at least 5 years of significant experience in franchise law. Each party must bear its own costs of arbitration; provided, however, that the neutral or the single arbitrator’s fee will be shared equally by the parties.

The arbitrator's award must be rendered within seven (7) days of the close of the hearing and will include all fees, costs, and attorneys' fees for Dumont if Dumont is the prevailing party. The arbitrator will have no authority to determine class action claims and will have no authority to amend or modify the terms of the Agreement. To the extent permitted by applicable law, no issue of fact or law may be given preclusive or collateral estoppel effect in any arbitration, except to the extent such issue may have been determined in another proceeding between the parties.

Judgment upon the award of the arbitrator must be submitted for confirmation to a court of general jurisdiction in Greenville County, Texas (or a court of general jurisdiction in the county of Dumont's then- current headquarters), and, if confirmed, may be subsequently entered in any court having competent jurisdiction. The decision of the arbitrator(s) will be final and binding on all parties to the dispute; however, the arbitrator(s) may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; (2) assess punitive or exemplary damages, or (3) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business. This agreement to arbitrate will survive any termination or expiration of this Agreement.

19.3 Exceptions to Arbitration. Notwithstanding Section 19.2, the parties agree that the following claims will not be subject to arbitration:

(i) any action for declaratory or equitable relief, including, without limitation, seeking preliminary or permanent injunctive relief, specific performance, other relief in the nature of equity to enjoin any harm or threat of harm to such party's tangible or intangible property, brought at any time, including, without limitation, prior to or during the pendency of any arbitration proceedings initiated hereunder.

(ii) any claim of Dumont of non-payment by Franchisee of any fee or other sum due by Franchisee to Dumont.

19.4 Prior Notice of Claims. As a condition precedent to commencing an action for damages or for violation or breach of this Agreement, Franchisee must notify Dumont within thirty (30) days after the discovery of the violation or breach and grant Dumont reasonable opportunity to cure any alleged default. Failure to timely give such notice will preclude any claim for damages.

19.5 Third Party Beneficiaries. Dumont's officers, directors, shareholders, agents and/or employees are express third-party beneficiaries of this Agreement, each having authority to specifically enforce the right to mediate/arbitrate claims asserted against such person(s) by Franchisee.

19.6 No Right to Offset. Franchisee may not withhold all or any part of any payment to Dumont or any of its affiliates on the grounds of Dumont's alleged nonperformance or as an offset against any amount Dumont or any of Dumont's affiliates allegedly may owe Franchisee under this Agreement or any related agreements.

19.7 Venue. Nothing contained in this Agreement will prevent Dumont or Franchisee from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other emergency relief available to safeguard such party's interests. In the event of any litigation arising out of this Agreement or based upon

the relationship between the parties, venue for any such litigation shall be any court of general jurisdiction in Greenville County, Texas or the United States District Court sitting in Greenville, Texas. Franchisee hereby accepts and submits to, generally and unconditionally, for itself and with respect to its property, the jurisdiction of any such courts in any such action or proceeding and hereby waives, to the greatest extent permitted by applicable law defenses based on jurisdiction, venue, or *forum non conveniens*. The provisions of this Section 19.7 shall be self-executing and shall remain in full force and effect after the termination or expiration of this Agreement. Franchisee acknowledges that this Agreement has been entered into in the State of Texas, and that Franchisee is to receive valuable and continuing services emanating from Dumont's headquarters in Greenville, Texas, including but not limited to assistance, support and the development of the System.

19.8 Limitation on Actions. The parties further agree that no cause of action arising out of or under this Agreement may be maintained by either party against the other unless brought before the expiration of one (1) year after the act, transaction or occurrence upon which such action is based or the expiration of one (1) year after the complaining party becomes aware of facts or circumstances reasonably indicating that such party may have a claim against the other party hereunder, whichever occurs sooner, and that any action not brought within this period will be barred as a claim, counterclaim, defense or set-off.

19.9 Franchisee hereby waives the right to obtain any remedy based on the alleged fraud, misrepresentation, or deceit by Dumont, including, without limitation, rescission of this Agreement, in any arbitration, judicial, or other adjudicatory proceeding arising hereunder, except upon a ground expressly provided in this Agreement, or pursuant to any right expressly granted by any applicable statute expressly regulating the sale of franchises, or any regulation or rules promulgated thereunder.

19.10 Waiver of Punitive Damages. Franchisee hereby waives to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) against Dumont arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agrees that in the event of a dispute, Franchisee's recovery is limited to actual damages. If any other term of this Agreement is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions will continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

19.11 Jury Trial Waiver. With respect to any proceeding not subject to arbitration, the parties hereby agree to waive trial by jury in any action, proceeding or counterclaim, whether at law or equity, regardless of which party brings suit. This waiver will apply to any matter whatsoever between the parties hereto which arises out of or is related in any way to this Agreement, the performance of either party, and/or Franchisee's purchase from Dumont of the franchise and/or any goods or services.

## 20. FRANCHISEE'S OWNERSHIP AND ORGANIZATION

20.1 Disclosure of Ownership Interests. Franchisee and each of its Owners represents, warrants and agrees that **Schedule "A"** is current, complete and accurate. Franchisee agrees that

updates to **Schedule “A”** attached hereto will be furnished promptly to Dumont, so that **Schedule “A”** (as so revised and signed by Franchisee) is at all times current, complete, and accurate. Each Owner must be an individual acting in his or her individual capacity unless Dumont waives this requirement.

20.2 Organizational Documents. If Franchisee is, or at any time becomes, a business corporation, partnership, limited liability company or other legal entity, Franchisee and each of its Owners represents, warrants and agrees that: (a) Franchisee is duly organized and validly existing under the laws of the state of its organization; (b) Franchisee has the authority to execute and deliver the Franchise Agreement and all related agreements and to perform its obligations under all such agreements; (c) the articles of incorporation, partnership agreement or other organizational documents recite that the issuance, transfer or pledge of any direct or indirect legal or beneficial ownership interest in Franchisee is restricted by the terms of the Franchise Agreement; and (d) all certificates representing direct or indirect legal or beneficial ownership interests now or hereafter issued bear a legend in conformity with applicable law reciting or referring to such restrictions.

## **21. TAXES, PERMITS AND INDEBTEDNESS**

21.1 Taxes. Franchisee must promptly pay when due any and all federal, state, and local taxes including, without limitation, unemployment and sales taxes, levied or assessed with respect to any services or products furnished, used or licensed pursuant to this Agreement and all accounts or other indebtedness of every kind incurred by Franchisee in the operation of the business licensed hereunder.

21.2 Permits. Franchisee must comply with all federal, state and local laws, rules and regulations and timely obtain any and all permits, certificates and licenses for the full and proper conduct of the business licensed hereunder.

21.3 Full and Sole Responsibility for Debts and Obligations. Franchisee hereby expressly covenants and agrees to accept full and sole responsibility for any and all debts and obligations incurred in the operation of the Franchised Business.

## **22. INDEMNIFICATION AND INDEPENDENT CONTRACTOR**

22.1 Indemnification. Franchisee and Franchisee’s Owners waive all claims against Dumont for damages to property or injuries to persons arising out of the operation of the Franchised Business. Franchisee must fully protect, indemnify and hold Dumont and its owners, directors, officers, successors and assigns and its affiliates harmless from and against any and all claims, demands, damages and liabilities of any nature whatsoever arising in any manner, directly or indirectly, out of or in connection with or incidental to the operation of the Franchised Business (regardless of cause or any concurrent or contributing fault or negligence of Dumont or its affiliates) or any breach by Franchisee or Franchisee’s failure to comply with the terms and conditions of this Agreement. Franchisee shall indemnify Dumont for any liability arising from labor or employment law violations, including from Franchisee’s acts and omissions and the acts and omissions of Franchisee’s employees. Dumont also reserves the right to select its own legal counsel to represent its interests, and Franchisee must reimburse Dumont for its costs and attorneys’ fees immediately upon Dumont’s request as they are incurred.

Dumont waives all claims against Franchisee for damages to property or injuries to persons arising out of the operation of Dumont's or affiliate owned businesses. Dumont must fully protect, indemnify and defend Franchisee and its affiliates and hold Franchisee harmless from and against any and all claims, demands, damages and liabilities of any nature whatsoever arising in any manner, directly or indirectly, out of or in connection with or incidental to the operation of Dumont's company or affiliate owned franchises (regardless of cause or any concurrent or contributing fault or negligence of Franchisee) or any breach by Dumont or Dumont's failure to comply with the terms and conditions of this Agreement.

22.2 Cost of Enforcement or Defense. If Dumont is required to hire an attorney or spend any money to enforce this Agreement or to defend against any claim because Franchisee has not performed its obligations under this Agreement, Dumont will be entitled to recover reasonable attorneys' fees and other expenses in enforcing the obligation or in defending against the claim.

22.3 No Fiduciary Relationship; Independent Contractor Status. In all dealings with third parties including, without limitation, franchisees, employees, suppliers, and clients, Franchisee must disclose in an appropriate manner acceptable to Dumont that it is an independent entity licensed by Dumont. Nothing in this Agreement is intended by the parties neither to create a fiduciary relationship between them nor to constitute Franchisee as a subsidiary, joint venture, partner, agent, or employee of Dumont for any purpose whatsoever. It is understood and agreed that Franchisee is an independent contractor and is in no way authorized to make any warranty or representation on behalf of Dumont other than those contained in any disclosure document prepared by Dumont for use by Franchisee, nor is Franchisee authorized to create any obligation or enter into any contract binding on Dumont.

## **23. WRITTEN APPROVALS, WAIVERS, AND AMENDMENT**

23.1 Approval Process. Whenever this Agreement requires Dumont's prior approval, Franchisee must make a timely written request. Unless a different time period is specified in this Agreement, Dumont will respond with its approval or disapproval within thirty (30) calendar days. In addition, Dumont's approval will not be unreasonably withheld unless a different degree of discretion is specified in this Agreement.

23.2 No Waiver. No failure of Dumont to exercise any power reserved to it by this Agreement and no custom or practice of the parties at variance with the terms hereof will constitute a waiver of Dumont's right to demand exact compliance with any of the terms herein. A waiver or approval by Dumont of any particular default by Franchisee will not be considered a waiver or approval by Dumont of any preceding or subsequent breach by Franchisee of any term, covenant or condition of this Agreement.

23.3 Amendments. No amendment change, or variance from this Agreement will be binding upon Dumont or Franchisee except by mutual written agreement. If an amendment of this Agreement is executed at Franchisee's request, any legal fees or preparation cost in connection therewith must be paid by Franchisee.

23.4 Non-uniform Agreements. No warranty or representation is made by Dumont that all other agreements with Dumont Creamery and Café franchisees heretofore or hereafter issued

by Dumont do or will contain terms substantially similar to those contained in this Agreement. Further, Franchisee recognizes and agrees that Dumont may, due to local business conditions or otherwise, waive or modify comparable provisions of other franchise agreements granted to other Dumont Creamery and Café franchisees in a non-uniform manner, subject, however, to those provisions of this Agreement which require Dumont to act toward its franchisees and franchise owners on a reasonably nondiscriminatory basis.

## 24. NOTICES

Except as otherwise expressly provided herein, all written notices and reports permitted or required to be delivered by the parties will be deemed so delivered: at the time delivered, if by hand; one (1) business day after transmission, if by overnight delivery service; one (1) business day after transmission, if by facsimile or other electronic system expressly approved in the Manual as appropriate for delivery of notices under this Agreement (with confirmation copy sent by regular U.S. mail); or three (3) business days after placement in the United States Mail by Certified Mail, Return Receipt Requested, postage prepaid. Information for notices is as follows, and Franchisee will immediately notify Dumont of any changes to the following contact information:

If to Dumont:

Dumont Creamery and Café, LLC  
6600 Paige Rd, Suite 223  
The Colony, Texas 75056

If to Franchisee:

The address listed in **Addendum 1**

## 25. GOVERNING LAW

All matters relating to arbitration will be governed by the Federal Arbitration Act (9 U.S.C. Sections 1, *et seq.*). Except to the extent governed by the Federal Arbitration Act, the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051, *et seq.*) or other federal law, this Agreement, the franchise, and all claims arising from the relationship between Dumont and Franchisee (and/or any of our affiliates) and Franchisee will be governed by the laws of the State of Texas, without regard to its conflicts of laws rule. This Agreement will become a valid and enforceable contract when we accept it and sign it in Greenville, Texas. Franchisee and Dumont expressly agree that this Agreement has been made in the State of Texas, that substantially all performance of the obligations hereunder has been and will be rendered in the State of Texas, and that there is a regular stream of business activity between Franchisee and franchisor from and into the State of Texas.

## 26. SEVERABILITY AND CONSTRUCTION

26.1 Severability. Should any provision of this Agreement be for any reason held invalid, illegal, or unenforceable, such provision will be deemed restricted in application to the extent required to render it valid, and the remainder of this Agreement will in no way be affected and will remain valid and enforceable for all purposes, both parties hereto declaring that they would have executed this Agreement without inclusion of such provision. In the event such total or partial invalidity or unenforceability of any provision of this Agreement exists only with respect to the laws of a particular jurisdiction, this Article 26 will operate upon such provision only to the extent

that the laws of such jurisdiction are applicable to such provision. Each party agrees to execute and deliver to the other any further documents which may be reasonably required to effectuate fully the provisions hereof. Franchisee understands and acknowledges that Dumont will have the right to reduce the scope of any covenant of this Agreement binding upon Franchisee, or any portion hereof, without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice thereof, and Franchisee agrees that it will comply forthwith with any covenant as so modified, which will be fully enforceable.

26.2 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, but such counterparts together will constitute one and the same instrument.

26.3 Headings and Captions. The headings and captions contained herein are for the purposes of convenience and reference only and are not to be construed as part of this Agreement. All terms and words used herein will be construed to include the number and gender as the context of this Agreement may require. The parties agree that each section of this Agreement will be construed independently of any other section or provision of this Agreement.

26.4 Interpretation of Rights and Obligations. The following provisions apply to and govern the interpretation of this Agreement, the parties' rights under this Agreement, and the relationship between the parties.

26.5 Dumont's Rights. Whenever this Agreement provides that Dumont has a certain right, that right is absolute, and the parties intend that Dumont's exercise of that right will not be subject to any limitation or review. Dumont has the right to operate, administrate, develop, and change the System in any manner that is not specifically precluded by the provisions of this Agreement, although this right does not modify any express limitations set forth in this Agreement.

26.6 Dumont's Reasonable Business Judgment. Whenever Dumont reserves discretion in a particular area or where Dumont agrees to exercise its rights reasonably or in good faith, Dumont will satisfy its obligations whenever it exercises Reasonable Business Judgment in making a decision or exercising a right. Dumont's decisions or actions will be deemed to be the result of Reasonable Business Judgment, even if other reasonable or even arguably preferable alternatives are available, if Dumont's decisions or actions are intended, in whole or significant part, to promote or benefit the System generally even if the decision or action also promotes Dumont's financial or other individual interests. Examples of items that will promote or benefit the System include, without limitation, enhancing the value of the Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing, or encouraging modernization and improving the competitive position of the System.

## **27. ENTIRE AGREEMENT**

This Agreement, the Addenda attached to it, and any other agreements executed by Franchisee and Dumont concurrently with the execution of this Agreement represent the entire fully integrated agreement between Franchisee and Dumont, and supersede all other negotiations, agreements, representations, and covenants, oral or written. Notwithstanding the foregoing, nothing in this Agreement will disclaim or require Franchisee to waive reliance on any

representation that Dumont made in the Franchise Disclosure Document (including its exhibits and amendments) that was delivered to Franchisee in connection with this franchise offering. Except for those changes permitted to be made unilaterally by Dumont, no amendment, change, or variance from this Agreement will be binding on either party unless mutually agreed to in writing by Franchisee and Dumont, and executed by their authorized officers or agents.

## **28. FORCE MAJEURE**

In the event of an act of God, terror, war, insurrection, civil commotion, strike, lockout, or embargo; or lack of materials or telephone transmissions specified or reasonably necessary in connection with the operation of your Franchised Business or the System; or fire, unavoidable casualties, and any other occurrence, event, or condition beyond the reasonable control of Franchisee or Dumont, whichever is applicable (a “Force Majeure”), Dumont or Franchisee, as applicable, will be relieved of their respective obligations to the extent that Franchisee or Dumont are necessarily prevented, or materially hindered or delayed, in such performance during the period of such Force Majeure. The party whose performance is affected by a Force Majeure shall give prompt written notice to the other party of such Force Majeure.

## **29. ACKNOWLEDGMENTS**

**29.1 The Franchisee acknowledges and agrees that: (i) all obligations of Dumont under this Agreement are owed by Dumont alone; and (ii) no other entity, including without limitation Dumont’s and our affiliates’ directors, officers, shareholders, partners, members, employees, agents, or attorneys shall be subject to liability under this Agreement.**

**29.2 The Franchisee acknowledges that it and each of its owners has received, fully read, and understood, and all questions have been answered regarding, a copy of Dumont’s Franchise Disclosure Document with all exhibits at least fourteen (14) calendar days prior to signing any binding documents or paying any sums.**

**29.3 Franchisee represents and warrants that Franchisee is not a party to or subject to any order or decree of any court or government agency which would limit or interfere in any way with the performance by Franchisee of the obligations under this Franchisee Agreement.**

**29.4 Franchisee represents and warrants that neither Franchisee nor any person or firm cooperating, assisting or acting with Franchisee in connection with the opening of this franchise, or upon whom or which he may be relying for any assistance in this matter, direct or indirect, financial or otherwise, is a party to any contract, agreement or arrangement which limits, prohibits or purports to limit or prohibit Franchisee’s entering into this Franchise Agreement or performing Franchisee’s obligations hereunder;**

**29.5 Franchisee acknowledges and agrees that: i) Dumont may from time to time approve exceptions or changes to the standards and specifications of the System (including without limitation the amount and payment terms of any fee) that Dumont deems necessary or desirable under particular circumstances (the “Variances”); Franchisee will have no right to require Dumont to disclose any Variances to Franchisee or grant Franchisee the same or similar Variances; and (iii) other franchisees, whether existing now or in the future, may**

**operate under different forms of agreement, and that as a result their rights and obligations may differ materially from yours.**

**Franchisee acknowledges that Franchisee has read and completed the Compliance Questionnaire attached to the Franchise Disclosure Document as Exhibit H.**

### **30. NO IMPLIED COVENANT**

Franchisee and Dumont have negotiated the terms of this Agreement and agree that neither party shall claim the existence of an implied covenant of good faith and fair dealing to contravene or limit any express written term or provision of this Agreement.

### **31. RELEASE FOR PRIOR AGREEMENTS**

If Franchisee or any of Franchisee's affiliates, Owners, managers, directors, officers, agents, servants, and employees, have before the date of this Agreement signed any other agreement with Dumont or any of Dumont's affiliates, Franchisee hereby releases, acquits and forever discharges Dumont and Dumont's parents, subsidiaries, affiliates, and successors in interest, and each of their respective directors, officers, agents, servants, employees, whether specifically mentioned herein or not, of and from any and all liability, actions, causes of action, claims, debts, demands, damages and liabilities to person(s) or property, costs, expenses and compensation of every nature, kind and character whatsoever, whether known or unknown, foreseen or unforeseen, direct, indirect, contingent or actual, liquidated or unliquidated, whether statutory, contract, or in tort on account of or in any way connected with or related to Dumont's, or Dumont's affiliate's, offer, sale, grant of, construction, subleasing, operation of, assistance with operation of, or development of franchises or franchise rights in any and all franchise locations awarded at any time to the undersigned and from the inception of any contact with Dumont to the Effective Date. It is Franchisee's express intention that this release be as broad as permitted by law.

### **32. SUBMISSION OF AGREEMENT**

Submission of this Agreement to Franchisee does not constitute an offer to enter into a contract. This Agreement will become effective only on its execution by Franchisee and Dumont and will not be binding on Dumont unless and until it is signed by Dumont's authorized officer and delivered to you.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the parties hereto, intending to be legally bound hereby, have duly executed and delivered this Agreement, which may be executed in duplicate the day and year first above written.

Dumont:

DUMONT CREAMERY AND CAFE, LLC

By: \_\_\_\_\_  
Ajay Govada

Its: Chief Executive Officer

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

Franchisee:

\_\_\_\_\_

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

Its: \_\_\_\_\_

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

**FRANCHISE AGREEMENT**

**SCHEDULE "A"**

**INITIAL FRANCHISE FEE, TERRITORY, APPROVED LOCATION,  
AND FRANCHISEE OWNERSHIP**

1. Initial Franchise Fee:
2. Description of Territory:
3. Franchisee's Principal Business Address, Telephone Number, and Facsimile Number:

\_\_\_\_\_  
\_\_\_\_\_  
Tel.: \_\_\_\_\_  
Fax: \_\_\_\_\_

4. Address of Approved Location:
5. Name and Address of Each Owner of Franchisee and Percentage of Ownership:

\_\_\_\_\_ %  
\_\_\_\_\_ %

6. Form of Franchisee (check applicable entity):

\_\_\_\_ Corporation;  
\_\_\_\_ Partnership;  
\_\_\_\_ Limited Partnership;  
\_\_\_\_ Limited Liability Company;  
\_\_\_\_ Sole Proprietorship;

Other (Specify) \_\_\_\_\_

Organized Under the Laws of the State or Commonwealth of: \_\_\_\_\_

# FRANCHISE AGREEMENT

## SCHEDULE "B"

### ADDENDUM TO THE FRANCHISE AGREEMENT REQUIRED FOR ILLINOIS FRANCHISEES

This Addendum to Franchise Agreement ("Franchise Agreement") dated \_\_\_\_\_ between Dumont Creamery and Café, LLC ("Dumont") and \_\_\_\_\_ ("Franchisee") is entered into simultaneously with the execution of the Franchise Agreement.

1. This Agreement shall be governed by Illinois law.
2. Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.
3. Section 41 of the Illinois Franchise Disclosure Act provides that 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.
4. Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.
5. Section 4.1 of the Franchise Agreement is amended to add the following: "The payment of the Initial Franchise Fee is deferred until franchisor has satisfied its pre-opening obligations to Franchisee and Franchisee has commenced doing business. The Illinois Attorney General's Office imposed this deferral requirement due to Dumont's financial condition."
6. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
7. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on behalf of Dumont. This provision supersedes any other term of any document executed in connection with the franchise.
8. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

*[Signature Page Follows]*

**FRANCHISOR:**

DUMONT CREAMERY AND CAFÉ, LLC

By: \_\_\_\_\_  
Ajay Govada

Its: Chief Executive Officer

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

**FRANCHISEE:**

\_\_\_\_\_

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

Its: \_\_\_\_\_

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

**ADDENDUM TO THE FRANCHISE AGREEMENT  
REQUIRED FOR MARYLAND FRANCHISEES**

This Addendum to Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of and are incorporated into the Franchise Agreement. This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of Maryland; (b) Franchisee is a resident of the State of Maryland; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of Maryland.
2. The following sentence is added to the end of Section 1:

Representations in the Franchise Agreement are not intended to, nor shall they act as a release, estoppels, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.
3. The following sentence is added to the end of Sections 2.2.6 and 13.3.9:

The general release required as a condition of renewal, sale or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
4. The following sentence is added to the end of Section 16.7:

Franchisee may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law, provided that the Franchise Agreement may provide for arbitration in a forum outside of Maryland.
5. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.
6. All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.
7. The Franchise Agreement provides that disputes are resolved through arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.
8. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of:

(i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on behalf of Dumont. This provision supersedes any other term of any document executed in connection with the franchise.

- 9. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
- 10. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**FRANCHISOR:**

**FRANCHISEE:**

DUMONT CREAMERY AND CAFÉ, LLC

\_\_\_\_\_

By: Ajay Govada

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

Its: Chief Executive Officer

Its: \_\_\_\_\_

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

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

**ADDENDUM TO THE FRANCHISE AGREEMENT  
REQUIRED FOR MINNESOTA FRANCHISEES**

This Addendum to Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of and are incorporated into the Franchise Agreement. This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of Minnesota; (b) Franchisee is a resident of the State of Minnesota; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of Minnesota.

2. The following sentence is added to the end of Section 2.3 and Article 13:

With respect to franchises governed by Minnesota law, Dumont will comply with Minnesota Statute § 80C.14, subdivisions 3,4,and 5 which require, except in certain cases, that Franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for non-renewal of the Franchise Agreement.

3. The following sentence is added to the end of Section 2.2.6 and 13.3.9:

Notwithstanding the foregoing, Franchisee will not be required to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§ 80C.01 – 80c.22.

4. The following sentences are added to the end of Sections 16.3 and 16.8:

Minnesota Statute § 80C.21 and Minnesota Rule 2860.4400J prohibit Dumont from requiring arbitration or litigation to be conducted outside Minnesota. In addition, nothing in the Disclosure Document or the Franchise Agreement 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.

5. Section 4.16 is amended to state the following: NSF Checks are governed by Minnesota Statute 604.113, which puts a cap of \$30 on service charges.

6. Section 12.6.1 is amended to provide that the franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rule 2860.4400J. A court will determine if a bond is required.

7. Section 16.8 is amended to provide that any limitations on claims must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

8. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on behalf of Dumont. This provision supersedes any other term of any document executed in connection with the franchise.
9. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
10. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**FRANCHISOR:**

**FRANCHISEE:**

DUMONT CREAMERY AND CAFÉ, LLC

\_\_\_\_\_

By: Ajay Govada

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

Its: Chief Executive Officer

Its: \_\_\_\_\_

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

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

**ADDENDUM TO THE FRANCHISE AGREEMENT  
REQUIRED FOR NEW YORK FRANCHISEES**

This Addendum to the Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of and are incorporated into the Franchise Agreement. This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of New York; (b) Franchisee is a resident of the State of New York; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of New York.
2. Any provision in the Franchise Agreement that is inconsistent with the New York General Business Law, Article 33, Section 680 - 695 may not be enforceable.
3. The following sentence is added to the end of Sections 2.2.6 and 13.3.9:

Any provision in the Franchise Agreement requiring Franchisee to sign a general release of claims against Dumont does not release any claim Franchisee may have under New York General Business Law, Article 33, Sections 680-695.
4. The following sentence is added at the end of Section 13.1:

Dumont will not assign its rights under the Franchise Agreement except to an assignee who in Dumont’s good faith and judgment is willing and able to assume Dumont’s obligations under the Franchise Agreement.
5. The following sentence is added to the end of Section 23:

Notwithstanding the foregoing, the New York Franchises Law shall govern any claim arising under that law.
6. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
7. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on behalf of Dumont. This provision supersedes any other term of any document executed in connection with the franchise.
8. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

***[Signature Page Follows]***

**FRANCHISOR:**

DUMONT CREAMERY AND CAFÉ, LLC

By: \_\_\_\_\_  
Ajay Govada

Its: Chief Executive Officer

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

**FRANCHISEE:**

\_\_\_\_\_

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

Its: \_\_\_\_\_

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

**ADDENDUM TO THE FRANCHISE AGREEMENT  
REQUIRED FOR NORTH DAKOTA FRANCHISEES**

This Addendum to the Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Franchise Agreement. This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of North Dakota; (b) Franchisee is a resident of the State of North Dakota; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of North Dakota.
2. The following sentence is added at the end of Sections 2.2.6 and 13.3.9:

Notwithstanding the foregoing, any general release Franchisee is required to assent to shall not apply to any liability Dumont may have under the North Dakota Franchise Investment Law.
3. The following sentence is added at the end of Article 12:

Covenants not to compete are generally considered unenforceable in the State of North Dakota.
4. The following sentence is added at the end of Sections 16.7:

Under the North Dakota Franchise Investment Law, any provision requiring franchisees to consent to the jurisdiction of courts outside North Dakota or to consent to the application of laws of a State other than North Dakota is void, provided that the Franchise Agreement may provide for arbitration in a forum outside of North Dakota.
5. Section 16.10 of the Franchise Agreement is deleted without further force or effect.
6. The following is added at the end of Section 20.2

In any legal action or arbitration involving a franchise purchased in the state of North Dakota, the prevailing party is entitled to recover all costs and expenses, including attorney’s fees. This section shall not in any way abrogate or reduce any rights of Franchisee as provided for in the North Dakota Franchise Investment Law, including the right to a trial by jury and the right to submit matters to the jurisdiction of the Courts of North Dakota.
7. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of:
  - (i) waiving any claims under any applicable state franchise law, including fraud in the

inducement, or (ii) disclaiming reliance on behalf of Dumont. This provision supersedes any other term of any document executed in connection with the franchise.

- 8. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
- 9. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**FRANCHISOR:**

**FRANCHISEE:**

DUMONT CREAMERY AND CAFÉ, LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Ajay Govada

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

Its: Chief Executive Officer \_\_\_\_\_

Its: \_\_\_\_\_

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

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

**ADDENDUM TO THE FRANCHISE AGREEMENT  
REQUIRED FOR RHODE ISLAND FRANCHISEES**

This Addendum to the Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of and are incorporated into the Franchise Agreement. This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of Rhode Island; (b) Franchisee is a resident of the State of Rhode Island; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of Rhode Island.

2. The following sentence is added to the end of Sections 16.3. and 16.7:

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.”

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

Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**FRANCHISOR:**

**FRANCHISEE:**

DUMONT CREAMERY AND CAFÉ, LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Ajay Govada

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

Its: Chief Executive Officer

Its: \_\_\_\_\_

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

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

**ADDENDUM TO THE FRANCHISE AGREEMENT  
REQUIRED FOR SOUTH DAKOTA FRANCHISEES**

This Addendum to the Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of and are incorporated into the Franchise Agreement. This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of South Dakota; (b) Franchisee is a resident of the State of South Dakota; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of South Dakota.

2. The following sentence is added at the end of Sections 2.2 and 13.5:

Notwithstanding the foregoing, any general release Franchisee is required to assent to shall not apply to any liability Dumont may have under the South Dakota Franchise Investment Law.

3. The following sentence is added at the end of Section 12.4:

Covenants not to compete are generally considered unenforceable in the State of South Dakota.

4. The following sentence is added at the end of Article 23:

Under the South Dakota Franchise Investment Law, any provision requiring franchisees to consent to the jurisdiction of courts outside South Dakota or to consent to the application of laws of a State other than South Dakota is void, provided that the Franchise Agreement may provide for arbitration in a forum outside of South Dakota.

5. Section 16.10 of the Franchise Agreement is deleted without further force or effect.

6. The following is added at the end of Article 23:

In any legal action or arbitration involving a franchise purchased in the state of South Dakota, the prevailing party is entitled to recover all costs and expenses, including attorneys’ fees. This section shall not in any way abrogate or reduce any rights of Franchisee as provided for in the South Dakota Franchise Investment Law, including the right to a trial by jury and the right to submit matters to the jurisdiction of the Courts of South Dakota.

7. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of:  
(i) waiving any claims under any applicable state franchise law, including fraud in the

inducement, or (ii) disclaiming reliance on behalf of Dumont. This provision supersedes any other term of any document executed in connection with the franchise.

Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.

- 8. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**FRANCHISOR:**

DUMONT CREAMERY AND CAFÉ, LLC

By: \_\_\_\_\_  
Ajay Govada

Its: Chief Executive Officer

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

**FRANCHISEE:**

\_\_\_\_\_

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

Its: \_\_\_\_\_

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

## **ADDENDUM TO THE FRANCHISE AGREEMENT REQUIRED FOR WASHINGTON FRANCHISEES**

This Addendum to the Franchise Agreement (“Franchise Agreement”) dated \_\_\_\_\_ between Dumont Creamery and Café, LLC (“Dumont”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of the Franchise Agreement.

1. The provisions of this Addendum form an integral part of, and are incorporated into the Franchise Agreement, This Addendum is being signed because: (a) the offer or sale of the franchise to Franchisee was made in the State of Washington; (b) Franchisee is a resident of the State of Washington; and/or (c) the Dumont Creamery and Café Franchised Business will be located or operated in the State of Washington.
2. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
3. 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.
4. 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.
5. 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.
6. Transfer fees are collectable to the extent that they reflect the franchisor’s reasonable estimated or actual costs in effecting a transfer.
7. 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.

8. 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.
9. No statement, questionnaire or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on behalf of the Dumont. This provision supersedes any other term of any document executed in connection with the franchise.
10. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Franchise Agreement.
11. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified and in full force and effect.

**FRANCHISOR:**

DUMONT CREAMERY AND CAFÉ, LLC

By: \_\_\_\_\_  
Ajay Govada

Its: Chief Executive Officer

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

**FRANCHISEE:**

\_\_\_\_\_

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

Its: \_\_\_\_\_

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

## FRANCHISE AGREEMENT

### SCHEDULE "C"

#### ELECTRONIC FUNDS AUTHORIZATION

- a) As of the effective date of the Franchise Agreement (the "Agreement") and throughout the term of the Agreement, Franchisee agrees to establish and maintain a segregated bank account at a bank or other financial institution which Dumont approves (the "Bank Account"). Franchisee may, in Dumont's discretion, be required to establish and maintain an electronic funds transfer account ("EFT Account") and Dumont or any affiliate may withdraw funds from the EFT Account in the amount of the Royalty, Brand Fund Contribution, and any other amounts due to Dumont or any affiliates of Dumont. Withdrawals may be made on the first business day the Royalty, Brand Fund Contribution, or any other amounts defined in the Agreement become due or on any succeeding day thereafter and if applicable, the amount of the withdrawal will be based on Gross Revenue, as indicated in the Royalty Report. The Bank Account must be established and maintained solely for the purposes set forth in the Agreement and the Operating Manual.
- b) All Gross Revenue, as defined in the Agreement, shall be deposited into the Bank Account. Check stubs, bank statements and other records must be available for review in the event of an audit. Franchisee may use the DUMONT CREAMERY logo on trust or bank account checks, but only as part of the trade name and a statement that the Franchised Business is an "independently owned and operated Dumont Creamery and Café business" must appear on the face of all such checks.
- c) If Dumont so requires, Franchisee agrees to instruct the institution holding the Bank Account to allow Dumont or its affiliates access to the Bank Account for collection of Royalties and all other fees and payments provided for in the Agreement, as well as access to any and all records Dumont deems necessary to review. The Bank Account must have the capacity to make payments and receive credits through electronic debiting. Franchisee hereby grants to Dumont or its affiliates the right upon Dumont's election to debit the Bank Account (electronically or otherwise) for Royalties, Brand Fund Contributions or any other amounts due and any and all amounts Franchisee owes Dumont or its affiliates under the Agreement and Franchisee agrees to execute whatever documents the institution holding the Bank Account and Dumont's financial institutions may require for this purpose. Under no circumstances will Dumont's access to the Bank Account be deemed Dumont's control or the joint control of the Bank Account. Franchisee shall execute and/or provide any documents or information necessary to fulfill these requirements.
- d) Franchisee agrees to continuously maintain a minimum balance in the Bank Account adequate to cover Franchisee's obligations under the Agreement or some higher continuous minimum balance as Dumont deems reasonably necessary. Franchisee agrees to reimburse Dumont for all costs Dumont incurs in collecting or attempting to collect funds due to Dumont and/or its affiliates from the Bank Account (for example and without limitation, charges for insufficient funds, uncollected funds or other discrepancies in deposits or maintenance of the Bank Account balance as required by the terms of the Agreement).

- e) Dumont will notify Franchisee of the date and amount of each debit Dumont makes from Franchisee's Bank Account at the time and in the manner specified in the Confidential Operating Manual.
- f) The Bank Account must be established so that Dumont can audit it at any time upon notice to Franchisee. If an electronic funds transfer system enabling Dumont to electronically debit Franchisee's Bank Account is not functioning at any time for any reason, Franchisee agrees to ensure that Dumont and/or its affiliates otherwise receive payment for any and all amounts due Dumont and/or its affiliates and by the date due, in the form of a check, money order or any other form acceptable to Dumont.
- g) Upon the termination or expiration of the Agreement, Franchisee agrees to keep the Bank Account open and to continue Dumont's ability to debit the Bank Account until Franchisee has satisfied all financial obligations to Dumont and its affiliates.

Franchisee:

\_\_\_\_\_

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

DUMONT CREAMERY AND CAFÉ, LLC

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

Ajay Govada

Its: Chief Executive Officer

**FRANCHISE AGREEMENT**

**SCHEDULE "D"**

**PERSONAL GUARANTY OF FRANCHISEE'S PRINCIPAL OWNERS**

THIS GUARANTY is given this \_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

By (list each guarantor): \_\_\_\_\_  
\_\_\_\_\_.

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement (the "Agreement") on this date by Dumont Creamery and Café, LLC ("us," "we," or "our"), each of the undersigned personally and unconditionally (a) guarantees to us and our successors and assigns, for the term of the Agreement (including any extensions, renewals and modifications thereof) and afterward as provided in the Agreement, that ("Franchisee") will punctually pay and perform each and every undertaking, agreement, and covenant set forth in the Agreement (including any amendments or modifications of the Agreement) and (b) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement (including any amendments or modifications of the Agreement), both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities, including the non-competition, confidentiality, transfer, and arbitration requirements.

Each of the undersigned consents and agrees that: (i) his or her direct and immediate liability under this Guaranty will be joint and several, both with Franchisee and among other guarantors; (ii) he or she will render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (iii) this liability will not be contingent or conditioned upon our pursuit of any remedies against Franchisee or any other person; (iv) this liability will not be diminished, relieved, or otherwise affected by any extension of time, credit, or other indulgence which we may from time to time granted 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 (including the release of other guarantors), none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable during the term of the Agreement (including extensions), for so long as any performance is or might be owed under the Agreement by Franchisee or its owners, and for so long as we have any cause of action against Franchisee or its owners; and (v) this Guaranty will continue in full force and effect for (and as to) any extension or modification of the Agreement and despite the transfer of any interest in the Agreement or Franchisee, and each of the undersigned waives notice of any and all renewals, extensions, modifications, amendments, or transfers.

Each of the undersigned waives: (i) all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Franchisee arising as a result of the undersigned's execution of and performance under this Guaranty; and (ii) acceptance and notice of acceptance by us of his or her undertakings under this Guaranty, notice of demand for payment of any indebtedness or non-performance of any obligations hereby guaranteed, protest and notice

of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed, and any other notices to which he or she may be entitled.

If we are required to enforce this Guaranty in a judicial or arbitration proceeding, and prevail in such proceeding, we shall be entitled to reimbursement of our costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants', arbitrators', and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any such proceeding. If we are required to engage legal counsel in connection with any failure by the undersigned to comply with this Guaranty, the undersigned shall reimburse us for any of the above- listed costs and expenses we incur.

Subject to the arbitration obligations and the provisions below, each of the undersigned agrees that all actions arising under this Guaranty or the Agreement, or otherwise as a result of the relationship between us and the undersigned, must be commenced in the state or federal court of general jurisdiction in whose district our headquarters is then located and each of the undersigned irrevocably submits to the jurisdiction of those courts and waives any objection he or she might have to either the jurisdiction of or venue in those courts. Nonetheless, each of the undersigned agrees that we may enforce this Guaranty and any arbitration orders and awards in the courts of the state or states in which he or she is domiciled.

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

<b>SIGNATURES OF EACH GUARANTOR</b>	<b>Percentage of Ownership IN FRANCHISEE</b>
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**FRANCHISE AGREEMENT**

**SCHEDULE “E”**

**CONFIDENTIALITY, NON-USE AND NON-COMPETITION AGREEMENT**

**THIS CONFIDENTIALITY, NON-USE AND NON-COMPETITION AGREEMENT** (“Agreement”), dated this \_\_\_ day of \_\_\_\_\_, by and between DUMONT CREAMERY AND CAFÉ, LLC (“Dumont”) and \_\_\_\_\_ having an address at \_\_\_\_\_ (“Franchisee”); and \_\_\_\_\_ Franchisee’s owners, having an address at \_\_\_\_\_ (“Owners”).

**WITNESSETH:**

**WHEREAS**, Dumont is principally engaged in the business of developing and selling franchised Café businesses that sells ice cream, boba tea and coffee beverages, and other food items that are similar to the items sold at a Café under the name Dumont Creamery and Café; and

**WHEREAS**, Franchisee is an individual or enterprise which has entered into a Franchise Agreement with Dumont (“Franchise Agreement”) for the operation of a DUMONT CREAMERY Café business (“Franchised Business”);

**WHEREAS**, if Franchisee is an enterprise, Franchisee’s Owners agree to be bound by the terms and conditions of this Agreement; and

**WHEREAS**, during the course of the relationship between Dumont and Franchisee certain information may be provided to and received by Franchisee and its Owners relating to Dumont, including without limitation certain information, knowledge, know-how, methods and procedures some of which constitutes trade secrets under applicable law regarding Dumont and its affiliates, and the development, management and operation of DUMONT CREAMERY businesses, which Dumont and its affiliates consider proprietary, (collectively the “Confidential Information”), including without limitation:

- (a) Site selection criteria;
- (b) The Confidential Operations Manual and other training and operations materials and manuals;
- (c) Methods, formats, specifications, standards, systems, procedures, sales and marketing techniques, knowledge, and experience used in developing and operating the DUMONT CREAMERY business;
- (d) Advertising, marketing and promotional programs for the System, including Advertising Materials, Social Media Materials and use of Social Media Platforms;
- (e) Knowledge of specifications for and Suppliers of Operating Assets, products, supplies, any computer software and similar technology which is proprietary to Dumont or its

Affiliates including without limitation, digital passwords and identifications and any source code as well as data, reports and other printed materials;

(f) Knowledge of the operating results and financial performance of DUMONT CREAMERY businesses other than the Franchised Business; and

(g) Graphic designs and related intellectual property.

**NOW, THEREFORE**, for One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged the parties hereto agree as follows:

1. Acknowledgments.

(a) Franchisee and its Owners acknowledge that Franchisee and its Owners have been and/or will be given access to Confidential Information during the course of the relationship between Franchisee and Dumont.

(b) Franchisee and its Owners acknowledge that (i) Dumont and its affiliates own all right, title and interest in and to the System; (ii) the System consists of trade secrets, Confidential Information and know-how that gives Dumont and its affiliates a competitive advantage; (iii) Dumont and its affiliates have taken all measures necessary to protect the trade secrets, Confidential Information and know-how comprising the System; (iv) all Confidential Information now or hereafter provided or disclosed to Franchisee and its Owners regarding the System is disclosed in confidence; (v) Franchisee and its Owners have no right to disclose any Confidential Information to anyone who is not an employee, agent or independent contractor of Franchisee; (vi) Franchisee and its Owners will not acquire any ownership interest in the System; and (vii) the use or duplication of the System or any part of the System by Franchisee and its Owners in any other business would constitute an unfair method of competition, for which Dumont would be entitled to all legal and equitable remedies, including injunctive relief without posting a bond.

2. Non-Disclosure and Return of Confidential Information.

(a) Franchisee and its Owners pledge and agree that for a period commencing on the date of this Agreement and continuing thereafter, in the absence of prior written consent by Dumont they: (i) will keep all Confidential Information in strict confidence; (ii) will not communicate or disclose Confidential Information to any individual or entity; (iii) will not use the Confidential Information for any purpose other than as directed by and needed for Dumont's use; (iv) will not reproduce or use the Confidential Information; and (v) will have a system in place to ensure that all recipients who require access to any of the Confidential Information, execute the Confidentiality, Non-use and Non-Competition Agreement Form in the form attached to the Franchise Agreement as **Schedule "F"** thereto.

(b) Confidential Information provided by Dumont and/or its Affiliates to Franchisee and its Owners in the course of the parties' relationship shall be returned promptly to Dumont upon termination of the Franchise Agreement. Franchisee and its Owners shall not retain any book, record, report, design, plan, material, copy, note, abstract, compilation, summary, extract or other reproduction, whether in paper or electronic form, of the Confidential Information, except as the parties hereto may agree in writing.

3. Covenants.

(a) Franchisee and its Owners acknowledge and agree that Dumont has granted it the franchise in consideration of and reliance upon the agreement by Franchisee and its Owners to, among other things, to: (i) deal exclusively with Dumont; (ii) maintain the confidentiality of all of the Confidential Information; (iii) ensure that all recipients with access to the Confidential Information execute the Confidentiality, Non-Use and Non-Competition Agreement in the Form attached hereto as **Schedule “F”**; (iv) refrain from using any Confidential Information in any manner not permitted by Dumont in accordance with Section 2 above; and (v) protect and preserve the goodwill of Dumont.

(b) Franchisee and its Owners further acknowledge and agree that (i) pursuant to the Franchise Agreement, they will have access from Dumont and its affiliates to valuable trade secrets, specialized training and Confidential Information regarding the development, operation, management, purchasing, sales and marketing methods and techniques of the System; (ii) the System and the opportunities, associations, and experience established by Dumont and acquired by Franchisee and its Owners under the Franchise Agreement are of substantial and material value; (iii) in developing the System, Dumont and its affiliates have made and continue to make substantial investments of time, technical and commercial research and money; (iv) Dumont would be unable to adequately protect the System and its trade secrets and Confidential Information against unauthorized use or disclosure and would be unable to adequately encourage a free exchange of ideas and information about Dumont Creamery and Café franchises if franchisees were permitted to hold interests in Competitive Businesses; and (v) restrictions on the right of Franchisee and its Owners to hold interests in or perform services for, Competitive Businesses will not unreasonably or unnecessarily hinder the activities of Franchisee and its Owners.

(c) Accordingly, Franchisee and its Owners covenant and agree that during the term of this Agreement and for an uninterrupted period of two (2) years after the later of: (i) the termination (regardless of the cause for termination) or expiration of the Franchise Agreement; or (ii) a Transfer, as defined in the Franchise Agreement, Franchisee and each of its Owners shall not directly or indirectly for itself or through on behalf of or in conjunction with any person, firm, partnership corporation or other entity in any manner whatsoever:

(i) Divert or attempt to divert any actual or potential business or customer of the Franchised Business to any competitor;

(ii) Take any action injurious or prejudicial to the goodwill associated with the Principal Trademarks and the System;

(iii) Employ, recruit or seek to employ any person who is then employed or who was employed within the immediately preceding twenty-four (24) months, by Dumont, its Affiliates or any Dumont Creamery and Café franchisee or develop, or otherwise directly or indirectly induce such person to leave his or her employment without obtaining the employer's prior written permission;

(iv) Solicit, encourage or assist anyone else to solicit or encourage any independent contractor providing services to Dumont to terminate or diminish their relationship with Dumont; or

(v) Own, maintain, develop, operate, engage in, franchise or license, make loans or gifts to or have any direct or indirect interest in or render services as a director, officer, manager, employee, consultant, representative, or agent or give advice to any Competitive Business (as defined below).

(vi) During the term of the Franchise Agreement, there is no geographical limitation on these restrictions, meaning that Franchisee and each of its Owners shall not engage in the conduct referred to in subsection 3(c) at any location. During the two year period following the later of: (i) the termination (regardless of the cause for termination) or expiration of the Franchise Agreement; or (ii) a Transfer, as defined in the Franchise Agreement, these restrictions shall apply:

(a) at the location of the Franchised Business;

(b) within the Territory assigned to the Franchised Business and within ten (10) miles of the outer boundaries of the Territory assigned to the Franchised Business;

(c) within ten (10) miles of the location of any Dumont Creamery and Café business;

(d) within the territory assigned to any DUMONT CREAMERY business and within twenty (20) miles of the outer boundaries of the territory assigned to any DUMONT CREAMERY business; owned, in operation, under development or to be developed (i) as of the date of the Franchise Agreement; (ii) as of the date of termination (regardless of the cause for termination) or expiration of the Franchise Agreement or a Transfer, as defined in the Franchise Agreement.

(e) Franchisee and its Owners further covenant and agree that for a period of two (2) years following the expiration or termination (regardless of the cause for termination) of the Franchise Agreement, or a Transfer, as defined in the Franchise Agreement, Franchisee and its Owners will not either directly or indirectly for itself or through, on behalf of or in conjunction with any person, firm, partnership, corporation or other entity, sell, assign, lease or transfer the location of the Franchised Business to any person, firm, partnership corporation or other entity that Franchisee or its Owners know or has reason to know intends to operate a Competitive Business at the location of the Franchised Business.

(f) Franchisee and its Owners covenant not to engage in any activity which might injure the goodwill of the Principal Trademarks or the System at any time. This provision shall survive termination of the Franchise Agreement.

(g) Franchisee and its Owners expressly acknowledge that they possess skills and abilities of a general nature and have other opportunities for exploiting these skills. Consequently, Dumont's enforcing the covenants made in this Section 3 will not deprive Franchisee or its Owners of their personal goodwill or ability to earn a living.

(h) Franchisee and its Owners agree and acknowledge that each of the covenants contained herein are reasonable limitations as to time, geographical area and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the know-how, reputation, goodwill and other legitimate business interests of Dumont and its affiliates. Franchisee and its Owners also agree and acknowledge that Dumont's legitimate business interests include but are not limited to: (i) maintaining the confidential nature of the Confidential Information; (ii) preserving Dumont's ability to develop franchises at or near Franchisee's former Franchised Business location, within the Territory assigned to Franchisee's Franchised Business and within the territorial boundaries of the restrictive covenant described above in subsection 3(d); (iii) preventing potential customer confusion; (iv) protecting other franchisees from competition from Franchisee and its Owners; and (v) protecting the System as a whole including the franchisee network. If any provision of this Section 3 (including any sentences, clauses, or any part thereof) shall be held contrary to law or incomplete or unenforceable in any respect, the remaining provisions shall not be affected but shall remain in full force and effect; any invalidated provisions shall be severed, and this Agreement modified to the extent necessary to render it valid and enforceable.

(i) Dumont shall have the right to reduce the scope of any covenant contained in this Section 3 effective immediately upon the receipt by Franchisee and its Owners of written notice and Franchisee and its Owners agree to comply forthwith with any covenants as so modified which will be enforceable notwithstanding the provisions of Section 6.

4. Enforcement. Franchisee and its Owners acknowledge that violation of the provisions of this Agreement would result in immediate and irreparable injury to Dumont and its affiliates for which no adequate remedy at law will be available. Accordingly, Franchisee and its Owners hereby consent to the entry of an injunction procured by Dumont and/or its Affiliates prohibiting any conduct by Franchisee and its Owners in violation of the terms, covenants and/or restrictions on the use of Confidential Information set forth in this Agreement without the need of a bond. Franchisee and its Owners expressly agree that it may conclusively be presumed in any legal action that any violation of the terms, covenants and/or restrictions of this Agreement was accomplished by and through the unlawful utilization of the Confidential Information. Further, Franchisee and its Owners expressly agree that any claims Franchisee may have against Dumont and its affiliates, whether or not arising from this Agreement, will not constitute a defense to the enforcement of the terms, covenants and/or restrictions set forth in this Agreement by Dumont and/or its Affiliates. Franchisee and its Owners agree to pay all costs and expenses (including attorneys' fees, experts' fees, court costs and all other expenses obligation) incurred by Dumont and/or its Affiliates in connection with the enforcement of the terms, covenants and/or restrictions of this Agreement.

5. Definitions.

(a) The term "affiliates" (with respect to Franchisee) means any and all corporations, limited liability companies, partnerships, trusts or other entities controlling, controlled by or under common control with Franchisee, including but not limited to subsidiaries, parents and sibling entities.

(b) The term “control” shall mean the control or ownership of ten percent (10%) or more of the beneficial interest in the person or entity referred to.

(c) The term “Competitive Business” means (1) any business that sells ice cream, boba tea and coffee beverages, and other food items that are similar to the items sold at a Café, or any business which grants franchises or licenses to others to operate such a business, other than a Franchised Business operated under a Franchise Agreement with us.

(d) The term “Owners” shall mean any individual or entity (including all spouses, partners, members or shareholders of such individual or entity) that has any direct or indirect ownership interest of over ten percent (10%) in Franchisee, (or at such later time as they assume such status) whether or not such interest is of record, beneficially or otherwise. The term “Owners” shall also include individuals, partners, members and shareholders and (spouses of such individuals, partners, members and shareholders) with an ownership interest of over ten percent (10%) in any partnership, corporation or limited liability company that holds a controlling interest in Franchisee entity.

(e) Any capitalized term that is not defined in this Agreement shall have the meaning given to it in the Franchise Agreement.

6. Miscellaneous.

(a) Dumont makes no representations or warranties as to the accuracy or completeness of the Confidential Information provided to Franchisee and its Owners and shall not be liable, directly or indirectly, to Franchisee, its Owners or any of Franchisee’s affiliates as a result of any use of the Confidential Information by or on behalf of Franchisee, its Owners and/or its affiliates. Franchisee and its Owners specifically waive any and all claims for any loss or damage suffered by them due to their use of the Confidential Information and agree to indemnify and hold Dumont and its affiliates harmless for any claims made against Dumont based upon the provision by Franchisee or its Owners of the Confidential Information to third parties.

(b) If all or any portion of the covenants not to compete set forth in this Agreement are held unreasonable, void, vague or illegal by any court or agency with competent jurisdiction over the parties and subject matter, the court, arbitrator or agency will be empowered to revise and/or construe the covenants to fall within permissible legal limits and should not by necessity invalidate the entire covenants. Franchisee and its Owners acknowledge and agree to be bound by any lesser covenant subsumed within the terms of this Agreement as if the resulting covenants were separately stated in and made a part of this Agreement.

(c) This Agreement shall be binding upon and shall inure to the benefit of Franchisee, its Owners, Dumont and their respective affiliates, successors and assigns.

(d) This Agreement shall be governed by the laws of the State of Texas without recourse to Texas (or any other) choice of law or conflict of law principles.

(e) This Agreement contains the complete understanding of Franchisee and its Owners and Dumont with respect to the Confidential Information and this Confidentiality, Non-Use and Non-Competition Agreement shall not be amended without the prior written consent of the parties.

(f) This Agreement may be executed in counterparts and each copy so executed and delivered shall be deemed an original.

7. Dispute Resolution and Choice of Law and Venue.

(a) Except as provided in subsection 7(b) below, the parties agree to submit any claim and/or controversy arising out of or relating to this Agreement (and any related document), the relationship created by this Agreement, and any and all disputes between Franchisee and Dumont or Dumont's affiliates, whether sounding in contract, statute, tort, or otherwise, to arbitration to be held in Dallas, Texas, before and in accordance with the Commercial Rules of Arbitration of the Judicial Arbitration and Mediation Services ("JAMS").

(i) Any arbitration under this subsection 7(a) shall be conducted by a single arbitrator mutually agreed to by the parties. If within thirty (30) days after a demand for arbitration is made, the parties are unable to agree on a single arbitrator, an arbitrator shall be selected in the following manner: Dumont and Franchisee shall obtain an identical list of arbitrators from JAMS, containing an odd number of arbitrators, and shall take alternating turns striking the name of an arbitrator off the list until one name remains. Franchisee shall strike the first name off the list.

(ii) In no event shall the arbitrator be entitled to award punitive, incidental, special or consequential damages against Dumont.

(iii) Any award rendered in connection with an arbitration pursuant to this subsection 7(a) shall be final and binding. The parties may initiate litigation in any court of competent jurisdiction to confirm, enter and enforce such arbitration award.

(iv) Dumont and Franchisee agree that arbitration will be conducted only on an individual, not a class-wide, basis, and that an arbitration proceeding between Dumont (including its subsidiaries, affiliates, shareholders, officers, directors, managers, representatives and employees) and Franchisee (including its Owners, principals and guarantors, if applicable) may not be consolidated with any other arbitration proceeding between them and any other person or legal entity. No findings, conclusions, orders or awards emanating from any arbitration proceeding conducted hereunder may be introduced, referred to or used in any subsequent or other proceeding as a precedent, to collaterally estop any party from advancing any claim or defense or from raising any like or similar issues, or for any other purpose whatsoever. The parties agree that the principles of collateral estoppel shall not apply in any arbitration proceeding conducted under this Section.

(v) Dumont and Franchisee hereby agree and acknowledge that this subsection 7(a) shall bind Franchisee's guarantors, whether or not such guarantors were named parties to the mediation, arbitration and/or litigation.

(b) Notwithstanding anything to the contrary above, Dumont may institute litigation (without first proceeding with arbitration) exclusively in a court of competent jurisdiction: (1) to protect the Principal Trademarks, any intellectual property and Confidential Information; (2) to determine the validity of termination of the Franchise Agreement and/or any other related agreement; (3) to enforce the termination of the Franchise Agreement and/or any other related agreement; (4) to enforce this Agreement and any other agreement executed by Franchisee; (5) to

confirm, enter and enforce an arbitrator's award; (6) for monies owed; and (7) to enjoin or restrain Franchisee from otherwise causing immediate and irreparable harm to Dumont and/or its affiliates.

(c) The parties agree that for purposes of Subsection 7(b), a court of competent jurisdiction shall mean any court of competent jurisdiction, wherever situated, that Dumont selects, including but not limited to a Texas state court in Greenville County or the United States District Court for the Northern District of Texas in Dallas, Texas. Franchisee agrees that any dispute as to the venue for any litigation Dumont institutes will be submitted to and resolved exclusively by the court of competent jurisdiction in which Dumont commenced the litigation. Franchisee hereby waives and covenants never to assert or claim that this venue is for any reason improper, inconvenient, prejudicial, or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of *forum non conveniens*). Franchisee further agrees that all depositions in connection with any litigation between the parties shall occur in the jurisdiction and venue described above at Dumont's option.

(d) This Agreement is to be exclusively construed in accordance with and/or governed by the laws of the State of Texas without recourse to Texas (or any other) choice of law or conflicts of law principles. If, however, any provision of this Agreement would not be enforceable under the laws of Texas, and if the Franchised Business is located outside of Texas and the provision would be enforceable under the laws of the state in which the Franchised Business is located, then that provision (and only that provision) will be interpreted and construed under the laws of that state. Nothing in this Agreement is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant," unfair competition, fiduciary or any other doctrine of law of the State of Texas or any other state, which would not otherwise apply.

(e) Franchisee explicitly affirms and recognizes the unique value and secondary meaning attached to the System, the Principal Trademarks, any intellectual property, and the Confidential Information. Accordingly, Franchisee agrees that any non-compliance by Franchisee with the terms of this Agreement and/or the terms of any Confidentiality, Non-Use and Noncompetition Agreement, Franchisee's operation of the franchise post-termination or any unauthorized or improper use of the System, the Principal Trademarks, any intellectual property, or Confidential Information by Franchisee, will cause irreparable damage to Dumont, its affiliates, and other Dumont Creamery and Café franchisees. Franchisee therefore agrees that if it engages in any non-compliant, post-termination operation of the franchise or unauthorized and/or improper use of the System, Principal Trademarks or Confidential Information during or after the period of this Agreement, Dumont will be entitled to a declaration, temporary injunctive relief and permanent injunctive relief, without the need of a bond, against Franchisee from any court of competent jurisdiction, wherever situated, as Dumont may select, in addition to all other remedies which Dumont may have at law.

(f) The provisions of this Section are intended to benefit and bind certain third-party non-signatories (including without limitation Franchisee's Owners and guarantors) and will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first above written.

ATTEST:

\_\_\_\_\_  
(Franchisee)

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

Its: \_\_\_\_\_

DUMONT CREAMERY AND CAFÉ, LLC

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

Ajay Govada

Its: Chief Executive Officer

**FRANCHISE AGREEMENT**

**SCHEDULE “F”**

**CONFIDENTIALITY, NON-USE AND NON-COMPETITION AGREEMENT FORM**

**THIS CONFIDENTIALITY, NON-USE AND NON-COMPETITION AGREEMENT** (“Agreement”), dated this \_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ (“Franchisee”) having an address at \_\_\_\_\_ and having an address at \_\_\_\_\_ (“Recipient”),

**W I T N E S S E T H:**

**WHEREAS**, Franchisee is principally engaged in the business of operating a Café business that sells ice cream, boba tea and coffee beverages, and other food items under the trademark, DUMONT CREAMERY (the “Franchised Business”) pursuant to a franchise agreement with Dumont Creamery and Café, LLC (“Franchise Agreement”);

**WHEREAS**, Recipient is an individual or enterprise who is about to be employed by Franchisee, has entered into some form of contractual relationship with Franchisee or is considering the same; and

**WHEREAS**, during the course of the relationship between Franchisee and Recipient certain information knowledge, know-how, methods and procedures some of which constitutes trade secrets under applicable law has been and/or will be provided to and received by Recipient regarding Dumont and its affiliates and the development, management and operation of DUMONT CREAMERY franchised businesses, which Dumont and its affiliates consider proprietary (collectively “Confidential Information”), including without limitation:

- (a) Site selection criteria;
- (b) The Confidential Operating Manual and other training and operations materials and manuals;
- (c) Methods, formats, specifications, standards, systems, procedures, sales and marketing techniques, knowledge, and experience used in developing and operating the DUMONT CREAMERY franchised businesses;
- (d) Advertising, marketing and promotional programs for the System, Advertising Materials, Social Media Materials, and use of Social Media Platforms;
- (e) Knowledge of specifications for and Suppliers of Operating Assets, products, supplies, any computer software, and similar technology which is proprietary to Dumont or its Affiliates including without limitation, digital passwords and identifications and any source code as well as data, reports and other printed materials;
- (f) Knowledge of the operating results and financial performance of DUMONT CREAMERY businesses other than the Franchised Business; and

- (g) Graphic designs and related intellectual property.

**NOW, THEREFORE**, for One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged the parties hereto agree as follows:

1. Acknowledgments.

(a) Recipient acknowledges that Recipient has been and/or will be given access to the Confidential Information during the course of the relationship between Franchisee and Recipient.

(b) Franchisee acknowledges that (i) Dumont and its affiliates own all right, title and interest in and to the System; (ii) the System consists of trade secrets, Confidential Information and know-how that gives Dumont and its affiliates a competitive advantage; (iii) Dumont and its affiliates have taken all measures necessary to protect the trade secrets, Confidential Information and know-how comprising the System; (iv) all Confidential Information now or hereafter provided or disclosed to Recipient regarding the System is disclosed in confidence; (v) Franchisee has no right to disclose any Confidential Information to anyone who is not an employee, agent or independent contractor of Franchisee; (vi) Franchisee will not acquire any ownership interest in the System; and (vii) Franchisee's use or duplication of the System or any part of the System in any other business would constitute an unfair method of competition, for which Dumont would be entitled to all legal and equitable remedies, including injunctive relief without posting a bond.

2. Non-Disclosure and Return of Confidential Information.

(a) Recipient pledges and agrees that for a period commencing on the date of this Agreement and continuing thereafter, in the absence of prior written consent by Franchisee: (i) will keep all Confidential Information in strict confidence; (ii) will not communicate or disclose Confidential Information to any individual or entity; (iii) will not use the Confidential Information for any purpose other than as directed by and needed for Franchisee's use; and (iv) will not reproduce the Confidential Information.

(b) Confidential Information provided by Dumont, its Affiliates and/or Franchisee to Recipient in the course of the parties' relationship shall be delivered promptly to Franchisee upon termination of Recipient's relationship with Franchisee. Recipient shall not retain any book, record, report, design, plan, material, copy, note, abstract, compilation, summary, extract, or other reproduction, whether in paper or electronic form, of the Confidential Information, except as the parties hereto may agree in writing.

3. Covenants.

(a) Recipient acknowledges that Franchisee has entered into the relationship described above in consideration of and reliance upon, among other things, Recipient's agreement to: deal with Franchisee; maintain the confidentiality of all of the Confidential Information; refrain from using any Confidential Information in any manner not permitted by Dumont, its Affiliates and/or Franchisee in accordance with Section 2 above; and protect and preserve the goodwill of Dumont.

(b) Recipient further acknowledges and agrees that (i) pursuant to this Agreement, it will have access from Dumont, its Affiliates and/or Franchisee to valuable trade secrets,

specialized training and Confidential Information regarding the development, operation, management, purchasing, sales and marketing methods and techniques of the System; (ii) the System and the opportunities, associations, and experience established by Dumont, its Affiliates and/or Franchisee and acquired by Recipient under this Agreement are of substantial and material value; (iii) in developing the System, Dumont and its affiliates have made and continue to make substantial investments of time, technical and commercial research and money; (iv) Dumont would be unable to adequately protect the System and its trade secrets and Confidential Information against unauthorized use or disclosure and would be unable to adequately encourage a free exchange of ideas and information about DUMONT CREAMERY franchises if recipients were permitted to hold interests in Competitive Businesses; and (v) restrictions on Recipient's right to hold interest in or perform services for, Competitive Businesses will not unreasonably or unnecessarily hinder Recipient's activities.

(c) Accordingly, Franchisee covenants and agrees that during the term of this Agreement and for an uninterrupted period of two (2) years after the termination (regardless of the cause for termination) or expiration of Recipient's relationship with Franchisee, Recipient shall not directly or indirectly for itself or through on behalf of or in conjunction with any person, firm, partnership corporation or other entity in any manner whatsoever:

(i) Divert or attempt to divert any actual or potential business or customer of the Franchised Business to any competitor;

(ii) Take any action injurious or prejudicial to the goodwill associated with the Principal Trademarks and the System;

(iii) Employ, recruit, or seek to employ any person who is then employed or who was employed within the immediately preceding twenty-four (24) months, by Dumont, its Affiliates, Franchisee or any other DUMONT CREAMERY franchisee or develop, or otherwise directly or indirectly induce such person to leave his or her employment without obtaining the employer's prior written permission;

(iv) Solicit, encourage, or assist anyone else to solicit or encourage any independent contractor providing services to Dumont to terminate or diminish their relationship with Dumont or Franchisee; or

(v) Own, maintain, develop, operate, engage in, franchise or license, make loans or gifts to or have any direct or indirect interest in or render services as a director, officer, manager, employee, consultant, representative, or agent or give advice to any Competitive Business (except that equity ownership of less than five percent (5%) of a Competitive Business whose stock or other forms of ownership interest are publicly traded on a recognized United States stock exchange will not be deemed to violate this subsection).

(d) During the term of the Recipient's relationship with Franchisee, there is no geographical limitation on these restrictions, meaning that Recipient shall not engage in the conduct referred to in subsection 3(c) at any location. During the two-year period following the termination (regardless of the cause for termination) or expiration of Recipient's relationship with Franchisee these restrictions shall apply:

- (i) from the location of Franchisee's Franchised Business;
  - (ii) within the Territory assigned to Franchisee's Franchised Business and within ten (10) miles of the outer boundaries of the Territory assigned to Franchisee's Franchised Business;
  - (iii) within ten (10) miles of the location of any other DUMONT CREAMERY business; and
  - (iv) within the territory assigned to any other DUMONT CREAMERY business and within ten (10) miles of the outer boundaries of any territory assigned to any DUMONT CREAMERY business; owned, in operation, under development or to be developed (1) as of the date of this Agreement; or (2) as of the date of termination (regardless of the cause for termination) or expiration or Recipient's employment or contractual relationship with Franchisee.
- (e) Recipient further covenants and agrees that for a period of two years following the expiration or termination of Recipient's relationship with Franchisee, Recipient will not either directly or indirectly for itself or through, on behalf of or in conjunction with any person, firm, partnership, corporation or other entity, sell, assign, lease or transfer Franchisee's Franchised Business location to any person, firm, partnership corporation or other entity that Recipient knows or has reason to know intends to operate a Competitive Business at Franchisee's Franchised Business location.
- (f) Recipient covenants not to engage in any activity which might injure the goodwill of the Principal Trademarks or the System at any time. This provision shall survive termination of Recipient's relationship with Franchisee.
- (g) Recipient expressly acknowledge that his or her skills and abilities are of a general nature and Recipient has other opportunities for exploiting these skills. Consequently, enforcement of the covenants made in this Section 3 will not deprive Recipient of his or her personal goodwill or ability to earn a living.
- (h) Recipient agrees and acknowledges that each of the covenants contained herein are reasonable limitations as to time, geographical area and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the know-how, reputation, goodwill and other legitimate business interests of Dumont and its affiliates. Recipient also agrees and acknowledges that the reputation, goodwill and foregoing are legitimate business interests of Dumont and its affiliates, and they require the protection of the covenants contained herein. The legitimate business interests of Dumont and its affiliates also include but not limited to: (i) maintaining the confidential nature of the Confidential Information; (ii) preserving Dumont's ability to develop franchises at or near Franchisee's Franchised Business location, within the Territory assigned to Franchisee's Franchised Business and within the territorial boundaries of the restrictive covenant described in this Section 3; (iii) preventing potential customer confusion; (iv) protecting Franchisee and other franchisees from competition from Recipient; and (v) protecting the System as a whole including the franchisee network. If any provision of this Confidentiality, Non-Use and Non-Competition Agreement Form (including any sentences, clauses, or any part thereof) shall be held contrary to law or incomplete or unenforceable in any respect, the remaining

provisions shall not be affected but shall remain in full force and effect; any invalidated provisions shall be severed, and this Agreement modified to the extent necessary to render it valid and enforceable.

(i) Dumont, its Affiliates and Franchisee shall have the right to reduce the scope of any covenant contained in this Section 3 effective immediately upon Recipient's receipt of written notice and Recipient agrees to comply forthwith with any covenants as so modified which will be enforceable notwithstanding the provisions of Section 6.

4. Enforcement. Recipient acknowledge that violation of the provisions of this Agreement would result in immediate and irreparable injury to Franchisee, Dumont and its affiliates for which no adequate remedy at law will be available. Accordingly, Recipient hereby consents to the entry of an injunction procured by Franchisee, Dumont and/or its Affiliates prohibiting any conduct by Recipient in violation of the terms, covenants and/or restrictions on the use of Confidential Information set forth in this Agreement without the need of a bond. Recipient expressly agrees that it may conclusively be presumed in any legal action that any violation of the terms, covenants and/or restrictions of this Agreement was accomplished by and through the unlawful utilization of the Confidential Information. Further, Recipient expressly agrees that any claims Recipient may have against Franchisee, Dumont and its affiliates, whether or not arising from this Agreement, will not constitute a defense to the enforcement of the terms, covenants and/or restrictions set forth in this Agreement by Franchisee, Dumont and/or its Affiliates. Recipient further agrees to pay all costs and expenses (including attorneys' fees, experts' fees, court costs and all other expenses of litigation) incurred by Franchisee, Dumont and/or its Affiliates in connection with the enforcement of the terms, covenants and/or restrictions of this Agreement.

5. Definitions.

(a) The term "affiliates" (with respect to Recipient) means any and all corporations, limited liability companies, partnerships, trusts or other entities controlling, controlled by or under common control with Recipient, including but not limited to subsidiaries, parents and sibling entities.

(b) The term "control" shall mean the control or ownership of ten percent (10%) or more of the beneficial interest in the person or entity referred to.

(c) The term "Competitive Business" means (1) any business that sells ice cream, boba tea and coffee beverages, and other food items that are similar to the items sold at a Dumont Creamery and Café, or any business which grants franchises or licenses to others to operate such a business, other than a Franchised Business operated under a Franchise Agreement with Dumont.

(d) The term "Owners" shall mean any individual or entity (including all spouses, partners, members or shareholders of such individual or entity) that has any direct or indirect ownership interest of over ten percent (10%) in Recipient, (or at such later time as they assume such status) whether or not such interest is of record, beneficially or otherwise. The term "Owners" shall also include individuals, partners, members and shareholders and (spouses of such individuals, partners, members and shareholders) with an ownership interest of over five percent

(5%) in any partnership, corporation or limited liability company that holds a controlling interest in the Recipient entity.

(e) Any capitalized term that is not defined in this Agreement shall have the meaning given to it in the Franchise Agreement.

6. Miscellaneous.

(a) Franchisee makes no representations or warranties as to the accuracy or completeness of the Confidential Information provided to Recipient and shall not be liable, directly or indirectly, to Recipient or any of Recipient's affiliates as a result of any use of the Confidential Information by or on behalf of Recipient and/or its affiliates. Recipient specifically waives any and all claims for any loss or damage suffered by it due to its use of the Confidential Information and agrees to indemnify and hold Franchisee harmless for any claims made against Franchisee based upon Recipient's provision of the Confidential Information to third parties.

(b) If all or any portion of the covenants not to compete set forth in this Agreement are held unreasonable, void, vague or illegal by any court or agency with competent jurisdiction over the parties and subject matter, the court, arbitrator or agency will be empowered to revise and/or construe the covenants to fall within permissible legal limits and should not by necessity invalidate the entire covenants. Recipient acknowledges and agrees to be bound by any lesser covenant subsumed within the terms of this Agreement as if the resulting covenants were separately stated in and made a part of this Agreement.

(c) This Agreement shall be binding upon and shall inure to the benefit of Franchisee and Recipient and their respective affiliates, successors and assigns.

(d) This Agreement shall be governed by the laws of the State of Texas without recourse to Texas (or any other) choice of law or conflicts of law principles.

(e) This Agreement contains the complete understanding of Recipient and Franchisee with respect to the Confidential Information and this Agreement shall not be amended without the prior written consent of the parties.

(f) Recipient acknowledges that Dumont Creamery and Café Franchise, LLC, its Affiliates, successors and assigns are third-party beneficiaries under this Agreement and may enforce this Agreement. Recipient further acknowledges that: (i) a copy of this Agreement is being delivered to Dumont; (ii) Dumont is relying on the parties' compliance with this Agreement; and (iii) this Agreement may not be amended or terminated nor any rights or obligations of Recipient waived hereunder without the prior written consent of Dumont.

(g) This Agreement may be executed in counterparts and each copy so executed and delivered shall be deemed an original.

7. Choice of Law and Venue.

(1) This Agreement is to be exclusively construed in accordance with and/or governed by the laws of the State of Texas without recourse to Texas (or any other) choice of law or conflicts of law principles. If, however, any provision of this Agreement would not be enforceable under the laws of Texas, and if the Franchised Business is located outside of Texas and the provision would be enforceable under the laws of the state in which the Franchised Business is located, then that provision (and only that provision) will be interpreted and construed under the laws of that state. Nothing in this Agreement is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant," unfair competition, fiduciary or any other doctrine of law of the State of Texas or any other state, which would not otherwise apply.

(2) Recipient and Franchisee agree to institute any litigation that the undersigned may commence arising out of or related to this Agreement or the Franchise Agreement; any breach of the Franchise Agreement; the relations between the parties; and any and all disputes between the parties, whether sounding in contract, tort, or otherwise, exclusively in a court of competent jurisdiction in a Texas state court in Greenville County or the United States District Court for the District of Texas in Greenville, Texas. The undersigned hereby waive and covenant never to assert or claim that this venue is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of *forum non conveniens*). The undersigned further agree that Dumont may institute any litigation that it commences arising out of or related to this Agreement or the Franchise Agreement; any breach of this Agreement or the Franchise Agreement; the relations between the parties; and any and all disputes between the parties, whether sounding in contract, tort, or otherwise, in any court of competent jurisdiction, wherever situated, that Dumont selects. The undersigned agree that any dispute as to the venue for the litigation Dumont institutes will be submitted to and resolved exclusively by the court of competent jurisdiction in which Dumont commenced the litigation. The undersigned hereby waive and covenant never to assert or claim that this venue is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of *forum non conveniens*). All depositions in connection with any litigation between the parties shall be held in the jurisdiction and venue where such litigation is commenced.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first above written.

Recipient:

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

Franchisee:

\_\_\_\_\_

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

**FRANCHISE AGREEMENT**

**SCHEDULE “G”**

**ASSIGNMENT OF TELEPHONE AND INTERNET LISTINGS AND ADVERTISEMENTS**

Pursuant to its obligations under a certain franchise agreement dated \_\_\_\_\_ by and among DUMONT CREAMERY AND CAFÉ, LLC as “Dumont” and \_\_\_\_\_ as Franchisee (the “Franchise Agreement”), for good and valuable consideration the receipt and sufficiency is hereby acknowledged, does hereby assign, sell, transfer and convey to Dumont all of Franchisee’s right, title and interest as of the date hereof in and to all telephone, facsimile and other numbers, telephone directory listings, email addresses, domain names, website addresses, URLs, Internet and website directory listings, web based platform and program accounts, including but not limited to Social Media Platform (as defined in the Franchise Agreement) accounts and other media in which the Franchised Business is listed or the Principal Trademarks displayed (collectively “Telephone and Internet Listings and Advertisements”) in existence as of the date of the expiration or termination of the Franchise Agreement.

Without limitation, the Telephone and Internet Listings and Advertisements include the following:

Telephone, facsimile and other numbers:

---

---

Telephone directory listings:

---

---

Email addresses:

---

---

Domain names:

---

---

Website addresses:

---

---

URLs:

---

---

Internet and website directory listings:

---

---

Web based platform and program accounts, including but not limited to Social Media Platform accounts:

---

---

Other Media referencing the Franchised Business:

---

---

Upon the expiration or termination of the Franchise Agreement, Dumont shall have the right but not the obligation, and is hereby authorized to take possession of the Telephone and Internet Listings and Advertisements and assume all of the rights, title and interest of Franchisee in the Telephone and Internet Listings and Advertisements.

Franchisee represents and warrants to Dumont that it is the lawful owner of the Telephone and Internet Listings and Advertisements, and that Franchisee has the right to assign the Telephone and Internet Listings and Advertisements free and clear of any interest therein.

Franchisee hereby appoints Dumont and/or its successors and assigns as attorney-in-fact for Franchisee to execute such documents as are necessary or desirable to affect the assignment of the Telephone and Internet Listings and Advertisements to Dumont. Franchisee authorizes Dumont and/or its successors and assigns as attorney-in-fact to insert references to those Telephone and Internet Listings and Advertisements in existence as of the date of the expiration or termination of the Franchise Agreement where applicable above at such times as Dumont may determine, including but not limited to upon the expiration or termination of the Franchise Agreement. Franchisee will, at any time and from time to time after the date hereof, upon the reasonable request of Dumont, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged or delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney or assurances as may be required for transferring, assigning, conveying and confirming to Dumont, or for aiding and assisting in reducing to possession by Dumont, any of the Telephone and Internet Listings and Advertisements or rights being assigned hereunder, or to vest in Dumont good, valid and marketable rights to such Telephone and Internet Listings and Advertisements.

This Assignment of Telephone and Internet Listings and Advertisements shall inure to the benefit of Dumont and shall be binding upon Franchisee and its successors and assigns.

**IN WITNESS WHEREOF**, Franchisee has caused this Assignment of Telephone and Internet Listings and Advertisements to be duly executed this \_\_\_\_ day of \_\_\_\_\_.

ASSIGNOR:

\_\_\_\_\_

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

**FRANCHISE AGREEMENT**

**SCHEDULE "H"**

**FORM OF GENERAL RELEASE**

To all to whom these Presents shall come or may Concern, Know That \_\_\_\_\_ [a corporation organized under the laws of the State of \_\_\_\_\_ [an individual domiciled in the State of \_\_\_\_\_ ("Franchisee"), its Owners (as defined in the Franchise Agreement) and officers collectively as RELEASOR, in consideration of the consent of DUMONT CREAMERY AND CAFE, LLC to the Assignment or Renewal of the Franchise created pursuant to the franchise agreement between Franchisee and DUMONT CREAMERY AND CAFE, LLC (the "Franchise Agreement"), any Transfer of any interest in the Franchise or the assets of Franchisee or the Franchised Business; or any relocation of the Franchised Business location, and for other good and valuable consideration, RELEASOR hereby releases and discharges DUMONT CREAMERY AND CAFE, LLC as RELEASEE, RELEASEE'S corporate parents, subsidiaries and affiliates and the respective officers, directors, shareholders, agents, attorneys, contractors and employees of each of the foregoing entities (in their corporate and individual capacities), and RELEASEE'S heirs, executors, administrators, successors and assigns (the "Released Parties"), from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law, admiralty or equity, which against the Released Parties RELEASOR ever had, now have or hereafter can, shall or may have, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this RELEASE, including, without limitation, claims arising under federal, state and local laws, rules and ordinances; provided, however, that all liabilities arising under rights enjoyed by RELEASOR under said Franchise Agreement and any causes of action arising in his, her or its favor from the laws of the State of Texas without recourse to Texas (or any other) choice of law or conflicts of laws principle and any regulations issued by the State of Texas shall remain in force; it being the intent of this proviso that any non-waiver provision of the laws of the State of Texas shall be satisfied. Additionally, any liabilities arising under any other applicable state law that may not be released in this context shall not be released and shall be excluded from this release without otherwise offering the validity of the Release.

Whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

This RELEASE may not be changed orally.

***[Signature Page Follows]***

**IN WITNESS WHEREOF**, the RELEASOR (if an individual) has executed this RELEASE, and if a corporation) has caused this RELEASE to be executed by a duly authorized officer and its corporate seal to be hereunto affixed on \_\_\_\_\_.

RELEASOR

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

[SEAL]

**ACKNOWLEDGMENT FOR CORPORATE RELEASOR**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me \_\_\_\_\_ personally came \_\_\_\_\_, to me known, who, by me duly sworn, did depose and say that deponent resides at \_\_\_\_\_, that deponent is the \_\_\_\_\_ of \_\_\_\_\_ the corporation described in the foregoing RELEASE, and which executed said RELEASE, that deponent knows the seal of the corporation, that the seal affixed to the RELEASE is the corporate seal, that it was affixed by order of the board of directors of the corporation; and that deponent signed deponent's name by like order.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

(NOTARY SEAL)

**ACKNOWLEDGMENT FOR LIMITED LIABILITY COMPANY RELEASOR**

STATE OF \_\_\_\_\_

ss:

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me personally came \_\_\_\_\_, to me known, who by me duly sworn, did depose and say that deponent resides at \_\_\_\_\_, that \_\_\_\_\_ did depose and say that deponent resides at \_\_\_\_\_, that deponent is the \_\_\_\_\_ of \_\_\_\_\_ the limited liability company described in the foregoing RELEASE, and which executed said RELEASE, that this RELEASE was approved by the members of the limited liability company in accordance with their operating agreement, articles of organization or other governing documents; and that deponent signed deponent's name by like order.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

(NOTARY SEAL)

**ACKNOWLEDGMENT FOR INDIVIDUAL RELEASOR**

STATE OF \_\_\_\_\_

ss:

COUNTY OF \_\_\_\_\_

On this day of , before me (Name of Notary) the undersigned officer, personally appeared , to me personally known, and known to me to be the same person whose name is signed to the foregoing RELEASE and acknowledged the execution thereof for the uses and purposes therein set forth.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

Notary Public

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

# FRANCHISE AGREEMENT

## SCHEDULE "I"

### LEASE ADDENDUM

**THIS ADDENDUM TO LEASE**, dated \_\_\_\_\_, 202\_\_, is entered into by and between \_\_\_\_\_ ("Lessor"), and \_\_\_\_\_ ("Lessee").

A. The parties hereto have entered into a certain Lease Agreement, dated \_\_\_\_\_, 202\_\_, and pertaining to the premises located at \_\_\_\_\_ ("Lease").

B. Lessor acknowledges that Lessee intends to operate a Dumont Creamery and Café from the leased premises ("Premises") pursuant to a Franchise Agreement ("Franchise Agreement") with Dumont Creamery and Café, LLC ("Dumont") under the name "DUMONT CREAMERY" or other name designated by Dumont (herein referred to as "Franchised Business" or "Franchise Business").

C. The parties now desire to amend the Lease in accordance with the terms and conditions contained herein.

**NOW, THEREFORE**, it is hereby mutually covenanted and agreed between Lessor and Lessee as follows:

1. Assignment. Lessee shall have the right to assign all of its right, title and interest in the Lease to Dumont or its parent, subsidiary, or affiliate (including another franchisee) at any time during the term of the Lease, including any extensions or renewals thereof, without first obtaining Lessor's consent. However, no assignment shall be effective until the time as Dumont or its designated affiliate gives Lessor written notice of its acceptance of the assignment, and nothing contained herein or in any other document shall constitute Dumont or its designated subsidiary or affiliate a party to the Lease, or guarantor thereof, and shall not create any liability or obligation of Dumont or its parent unless and until the Lease is assigned to, and accepted in writing by, Dumont or its parent, subsidiary or affiliate. In the event of any assignment, Lessee shall remain liable under the terms of the Lease. Dumont shall have the right to reassign the Lease to another franchisee without the Landlord's consent in accordance with Section 3(a).

2. Default and Notice.

(a) In the event there is a default or violation by Lessee under the terms of the Lease, Lessor shall give Lessee and Dumont written notice of the default or violation within a reasonable time after Lessor receives knowledge of its occurrence. If Lessor gives Lessee a default notice, Lessor shall contemporaneously give Dumont a copy of the notice. Dumont shall have the right, but not the obligation, to cure the default. Dumont will notify Lessor whether it intends to cure the default and take an automatic assignment of Lessee's interest as provided in Paragraph 1. Dumont will have an additional 15 days from the expiration of Lessee's cure period in which it may exercise the option, but it is not obligated to cure the default or violation.

(b) All notices to Dumont shall be sent by registered or certified mail, postage prepaid, to the following address:

Dumont Creamery and Café, LLC  
6600 Paige Rd  
Suite 223  
The Colony, Texas 75056  
Attn: Ajay Govada, CEO

Dumont may change its address for receiving notices by giving Lessor written notice of the new address. Lessor agrees that it will notify both Lessee and Dumont of any change in Lessor's mailing address to which notices should be sent.

(c) Following Dumont's approval of the Lease, Lessee agrees not to terminate, or in any way alter or amend the same during the Term of the Franchise Agreement or any renewal thereof without Dumont's prior written consent, and any attempted termination, alteration or amendment shall be null and void and have no effect as to Dumont's interests thereunder; and a clause to the effect shall be included in the Lease.

3. Termination or Expiration.

(a) Upon Lessee's default and failure to cure the default within the applicable cure period, if any, under either the Lease or the Franchise Agreement, Dumont will, at its option, have the right, but not the obligation, to take an automatic assignment of Lessee's interest and at any time thereafter to re-assign the Lease to a new franchisee without Landlord's consent and to be fully released from any and all liability to Landlord upon the reassignment, provided the franchisee agrees to assume Lessee's obligations and the Lease.

(b) Upon the expiration or termination of either the Lease or the Franchise Agreement, Landlord will cooperate with and assist Dumont in securing possession of the Premises and if Dumont does not elect to take an assignment of the Lessee's interest, Lessor will allow Dumont to enter the Premises, without being guilty of trespass and without incurring any liability to Lessor, to remove all signs, awnings, and all other items identifying the Premises as a Franchised Business and to make other modifications (such as repainting) as are reasonably necessary to protect the DUMONT CREAMERY trademarks and system, and to distinguish the Premises from a Franchised Business. In the event Dumont exercises its option to purchase assets of Lessee, Lessor shall permit Dumont to remove all the assets being purchased by Dumont.

4. Consideration; No Liability.

(a) Lessor hereby acknowledges that the provisions of this Addendum to Lease are required pursuant to the Franchise Agreement under which Lessee plans to operate its Franchised Business and Lessee would not lease the Premises without this Addendum.

(b) Lessor further acknowledges that Lessee is not an agent or employee of Dumont and Lessee has no authority or power to act for, or to create any liability on behalf of, or to in any way bind Dumont or any affiliate of Dumont, and that Lessor has entered into this

Addendum to Lease with full understanding that it creates no duties, obligations, or liabilities of or against Dumont or any affiliate of Dumont.

5. Amendments. No amendment or variation of the terms of the Lease or this Addendum to the Lease shall be valid unless made in writing and signed by the parties hereto.

6. Reaffirmation of Lease. Except as amended or modified herein, all of the terms, conditions and covenants of the Lease shall remain in full force and effect and are incorporated herein by reference and made a part of this Agreement as though copies herein in full.

7. Beneficiary. Lessor and Lessee expressly agree that Dumont is a third party beneficiary of this Addendum.

**IN TESTIMONY WHEREOF**, witness the signatures of the parties hereto as of the day, month and year first written above.

\_\_\_\_\_

\_\_\_\_\_

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT “D”**

**DUMONT CREAMERY**

**Multi-Unit Development Agreement**

**MULTI-UNIT DEVELOPMENT AGREEMENT**

**TABLE OF CONTENTS**

1.	GRANT OF DEVELOPMENT RIGHTS.....	1
2.	TERRITORIAL PROTECTION AND RESERVATION OF RIGHTS .....	2
3.	TERM .....	2
4.	FRANCHISE AGREEMENT.....	3
5.	DEVELOPMENT FEE.....	3
6.	DEVELOPMENT SCHEDULE .....	3
7.	NO RIGHT TO OPERATE OR USE TRADEMARKS .....	4
8.	TRANSFER OR ASSIGNMENT OF DEVELOPMENT RIGHTS.....	4
9.	DEFAULT AND TERMINATION.....	5
10.	RIGHTS AND DUTIES OF PARTIES UPON TERMINATION OR EXPIRATION.....	6
11.	OWNERSHIP OF DEVELOPER.....	6
12.	COST OF ENFORCEMENT.....	6
13.	NO WAIVER.....	6
14.	ENTIRE AGREEMENT.....	7
15.	SEVERABILITY .....	7
16.	GOVERNING LAW.....	7
17.	DISPUTE RESOLUTION.....	7
18.	NOTICES.....	7
19.	ACKNOWLEDGEMENTS.....	8

**SCHEDULES:**

- A - Development Area and Development Fee
- B - Development Schedule
- C - Legal Organization of Developer

# DUMONT CREAMERY

## MULTI-UNIT DEVELOPMENT AGREEMENT

**THIS MULTI-UNIT DEVELOPMENT AGREEMENT** (this “Agreement”) is entered into between DUMONT CREAMERY AND CAFÉ, LLC, a Texas Limited Liability Company (“Dumont”, “us” or “we”), and \_\_\_\_\_, a \_\_\_\_\_ (“Developer”, or “You”) on the date set forth below (the “Effective Date”).

### RECITALS:

A. Dumont offers franchises for the operation ice cream, bubble tea and coffee Dumont Creamery and Cafés (each, a “Café”) under the trademark “DUMONT CREAMERY,” “DUMONT CREAMERY AND CAFÉ” and certain trademarks, trade names, service marks, logotypes, and other commercial symbols related thereto (collectively, the “Marks”);

B. Cafés are operated using Dumont’s proprietary recipes through a system and business format including standardized methods and procedures of operation offering ice cream, bubble tea and coffee for on-premises and off-premises consumption, as are currently offered or as may be developed by Dumont in the future, distinctive specifications for equipment; sales techniques, marketing, advertising, and procedures for operation and management of Cafés in the manner set forth in this Agreement and in the Operations Manual provided by Dumont and modified from time to time (the “System”); and

C. Developer has applied to Dumont for, and Dumont desires to grant to Developer, the right to establish and operate a specified number of Cafés within a specified geographic territory (the “Development Area”) and in accordance with a specified schedule (the “Development Schedule”), all in accordance with the terms and conditions contained herein.

**NOW, THEREFORE**, for and in consideration of the covenants and agreements hereinafter set forth, it is mutually understood, agreed and covenanted as follows:

### 1. GRANT OF DEVELOPMENT RIGHTS

During the term of this Agreement, Dumont grants to Developer, subject to the terms and conditions contained herein, the right to establish and operate the number of Cafés in the Development Area identified in **Schedule “A”** according to the Development Schedule attached as **Schedule “B”**. The operation of any Café established pursuant to this Agreement shall be governed by an individual franchise agreement on Dumont’s then-current form to be entered into between Dumont and Developer in accordance with Section 4 herein (each, a “Franchise Agreement”).

## **2. TERRITORIAL PROTECTION AND RESERVATION OF RIGHTS**

2.1 Territorial Protection. Developer may establish the Cafés required to be developed hereunder at any location within the Development Area. Each Café must be operated according to the terms of an individual Franchise Agreement. Nothing in this Agreement permits Developer to own or operate a Café, except under a (separate) valid Franchise Agreement with Dumont. Developer must not use the Marks in any manner or for any purpose (including in connection with any offering of securities or any request for credit) without Dumont's prior express written approval.

2.2 Dumont's Reservation of Rights. Dumont reserves all other rights, including but not limited to the exclusive, unrestricted right, in its discretion, directly and indirectly, through its employees, Affiliates, representatives, licensees, franchisees, assigns, agents and others to: (i) use, and to franchise or license other persons to use, the Marks and System for the operation of Cafés or any other businesses that are similar or dissimilar to Developer's Cafés anywhere outside of the Development Area; (ii) use, franchise and license other third parties to use, the Marks and System for the operation of Cafés at any Non-Traditional Site, even if it or they are inside of the Development Area; (iii) use, license and franchise the use of trademarks other than the Marks, whether in alternative channels of distribution or otherwise, anywhere inside of the Development Area, in association with operations that are similar to or different from Cafés; (iv) offer or sell products or services, or grant others the right to offer products or services, whether using the Marks or other trademarks or service marks, through channels of distribution that are different from Cafés, including, without limitation, wholesalers, grocery stores, retail outlets, or by Internet commerce (e-commerce), mail order or otherwise, regardless of whether it is inside or outside of the Development Area; (v) maintain any websites utilizing a domain name incorporating the Marks or derivatives (Dumont retains the sole right to advertise and market on the Internet and use the Marks on the Internet, including all use of websites, domain names, URLs, directory addresses, metatags, linking, advertising, and co-branding and other arrangements); (vi) acquire, merge, combine with or be acquired by businesses that are the same as or similar to Cafés and operate such businesses regardless of where such businesses are located, including inside the Development Area, and to be acquired by any third party which operates businesses that are the same as, or similar to, Cafés, regardless of where such businesses are located, including inside the Development Area. Dumont will not, however, re-brand any such businesses that are located inside the Development Area by allowing them to use the Marks.

## **3. TERM**

Unless earlier terminated in accordance with the terms and conditions set forth herein, this Agreement shall commence as of the Effective Date and shall automatically expire, without any action on the part of either party being necessary, on the earlier of: (i) the last date for the opening of the final Café to be developed hereunder in accordance with the Development Schedule; or (ii) the date you execute the Franchise Agreement granting you the right to open the last Café necessary for you to fully satisfy the Development Schedule.

#### **4. FRANCHISE AGREEMENT**

Contemporaneous with the execution of this Agreement, Developer shall execute the Franchise Agreement for the first Café to be developed pursuant to this Agreement. At Developer's request, Dumont will deliver to Developer a copy of Dumont's Then-current Franchise Disclosure Document (the "Franchise Disclosure Document" or "FDD") as may be required by applicable law and two (2) copies of Dumont's then-current Franchise Agreement. Developer must return to Dumont a signed copy of the FDD receipt page immediately. Developer understands that the new Franchise Agreement may vary substantially from Dumont's current Franchise Agreement. If Dumont is not legally able to deliver a required FDD to Developer, Dumont may delay delivery until Dumont is legally able to do so. Developer may not execute any lease or purchase agreement for any Café until after Dumont has delivered to Developer a fully-executed Franchise Agreement. Developer's obligations to locate, lease, and construct the Café will be governed by the timelines stated in that Franchise Agreement, except that the deadline for opening and commencing operation of the Café will be the last applicable day under the Development Schedule, and not the one listed in that Franchise Agreement.

#### **5. DEVELOPMENT FEE**

Developer shall pay to Dumont a development fee in an amount set forth on **Schedule "A"** (the "Development Fee"). The Development Fee shall be paid in full at the time of the execution of this Agreement. Developer acknowledges and agrees that the Development Fee is paid as consideration for Dumont granting Developer the right to open and operate the number of Cafés set forth in the Development Schedule, and that the Development Fee is fully earned by Dumont at the time this agreement is signed and shall not be refundable for any reason. The Development Fee shall be payment in full for all the Cafés to be developed by Developer pursuant to this Agreement. No additional Initial Franchise Fees shall be due and payable by Developer for the Cafés to be developed pursuant to this Agreement. If for any reason this Agreement terminates before all Cafés have been developed, Dumont will retain the Development Fee previously paid by Developer.

#### **6. DEVELOPMENT SCHEDULE**

Developer must (i) establish and open the specified minimum number of Cafés on or before each of the dates specified on the Development Schedule; and (ii) maintain the specified minimum number of Cafés in continuous operation as specified on the Development Schedule. Developer's failure to comply with the foregoing requirements shall constitute a material default under this Agreement. Developer understands that time is of the essence with respect to its obligations to comply with the Development Schedule. Developer acknowledges and understands that this Agreement requires it to open Cafés in the future pursuant to the Development Schedule. Developer further acknowledges and understands that the estimated investment requirement set forth in Dumont's current Disclosure Document are subject to increase and change over time and that future Cafés developed hereunder will most likely require a greater initial investment and increased operating capital than those detailed in the Disclosure Document provided to Developer in connection with the execution of this Agreement.

## 7. NO RIGHT TO OPERATE OR USE TRADEMARKS

Developer acknowledges and agrees that (i) until a Franchise Agreement has been entered into for a specific Café, Developer shall not have, nor be entitled to exercise, any of the rights, powers and privileges granted by the Franchise Agreement, including, without limitation, the right to use the Marks or the System; (ii) the execution of this Agreement shall not be deemed to grant any such rights, powers or privileges to Developer; and (iii) Developer may not under any circumstances commence operations of any Café prior to Dumont's execution of a Franchise Agreement for that particular Café.

## 8. TRANSFER OR ASSIGNMENT OF DEVELOPMENT RIGHTS

8.1 Assignment by Dumont. This Agreement shall inure to the benefit of any assignee(s) or other legal successor(s) to Dumont's interest in this Agreement. Dumont may also delegate some or all of Dumont's obligations under this Agreement to one or more designees without assigning this Agreement. This Agreement is fully assignable by Dumont (without prior notice to Developer) and shall inure to the benefit of any assignee(s) or other legal successor(s) to Dumont's interest in this Agreement; provided that Dumont shall, subsequent to any such assignment, remain liable for the performance of Dumont's obligations under this Agreement up to the effective date of the assignment. Dumont may also delegate some or all of Dumont's obligations under this Agreement to one or more designees without assigning this Agreement. Dumont may change Dumont's ownership or form and/or assign this Agreement and any other agreement to a third party without restriction. After Dumont's assignment of this Agreement to a third party who expressly assumes the obligations under this Agreement, Dumont no longer will have any performance or other obligations under this Agreement.

8.2 Assignment by Developer. Developer shall not subfranchise, sell, assign, transfer, merge, convey or encumber (each, a "Transfer") this Agreement or any of its rights or obligations hereunder, or suffer or permit any such Transfer of this Agreement or its rights or obligations hereunder to occur by operation of law or otherwise without the prior express written consent of Dumont. In addition, if Developer is a corporation, limited liability company, partnership, business trust, or similar association or entity, the shareholders, members, partners, beneficiaries, investors or other equity holders may not Transfer their equity interests in such corporation, limited liability company, partnership, business trust, or similar association or entity, without the prior written consent of Dumont. Furthermore, in the event that any shareholder, member, partner, investor or other equity holder of Developer (the "Equity Holder") is a corporation, limited liability company, partnership, business trust, or similar association or entity, the interests of the shareholders, members, partners, beneficiaries, investors or other equity holders, as the case may be, in such Equity Holder, may not be Transferred, without the prior written consent of Dumont. Notwithstanding anything to the contrary in this Agreement, Dumont shall have the right to approve or disapprove a Transfer under this Section 8.2 in its sole discretion. Any Transfer in violation of this Section shall be void and of no force and effect.

8.3 Death or Disability of Developer. Upon Developer's death or Disability (as such term is hereinafter defined), this Agreement or the ownership interest of any deceased or disabled shareholder, partner, member or other equity holder of the Developer or an Equity Holder must be Transferred to a party approved by Dumont. Any Transfer, including, without limitation, transfers

by devise or inheritance or trust provisions, shall be subject to the same conditions for Transfers set forth in Section 8.4 below. Dumont shall not unreasonably withhold its consent to the Transfer of this Agreement or any ownership interest to the deceased or disabled Developer's or Equity Holder's spouse, heirs or members of his or her immediate family, provided all requirements of Section 8.4 have been complied with (except payment of the transfer fee, which shall not apply to such Transfers). A "Disability" shall have occurred with respect to Developer if Developer, or, if Developer is a corporation, partnership or limited liability company, its controlling shareholder, partner, member or other equity holder, is unable to actively participate in its activities as Developer hereunder for any reason for a continuous period of six months. As used in this Section 8.3, "Developer" may include a disabled or deceased controlling shareholder, partner or member where the context so requires.

8.4 Approval of Assignment. Dumont's approval of any Transfer is, in all cases, contingent upon the following: (i) the purchaser and/or the controlling persons of the purchaser having a satisfactory credit rating, being of good moral character, having business qualifications satisfactory to Dumont, and being willing to enter into an agreement in writing to assume and perform all of Developer's duties and obligations hereunder and/or enter into a new Development Agreement for the Development Area, if so requested by Dumont, and agreeing to enter into any and all agreements with Dumont that are being required of all new developers, including a guarantee provision or agreement and any other agreement which may require payment of different or increased fees from those paid under this Agreement; (ii) the terms and conditions of the proposed transfer (including, without limitation, the purchase price) being satisfactory to Dumont; (iii) all monetary obligations (whether hereunder or not) of Developer to Dumont or Dumont's affiliates or subsidiaries being paid in full; Developer not being in default hereunder or any other agreement between Developer and Dumont, including any Franchise Agreement; (v) Developer and its owners executing a general release of any and all claims against Dumont and its affiliates, subsidiaries, members, managers, officers, directors, employees and agents, in a form satisfactory to Dumont; (vi) Developer paying to Dumont a transfer fee of \$10,000 per undeveloped Café, plus reimbursement for all legal, training and other expenses incurred by Dumont in connection with the Transfer.

## 9. **DEFAULT AND TERMINATION**

9.1 You will be deemed in default under this Agreement if you breach any of the terms of this Agreement or if you or any "Affiliate" of yours breaches any of the terms of any Franchise Agreement or any other agreement that you or your affiliates have with us or our affiliates. For purposes of this Agreement, an "Affiliate" of any person or entity will be any person or entity that controls that person or entity, is under the control of that person or entity, or is under common control with that person entity.

9.2 All rights granted in this Agreement immediately terminate upon written notice without opportunity to cure if: (i) you become insolvent, commit any affirmative action of insolvency or file any action or petition of insolvency, (ii) a receiver (permanent or temporary) of your property is appointed by a court of competent authority, (iii) you make a general assignment or other similar arrangement for the benefit of your creditors, (iv) a final judgment against you remains unsatisfied of record for thirty (30) days or longer, (v) execution is levied against your business or property, or the business or property of any of your affiliates that have entered into

Franchise Agreements with us, (vi) suit to foreclose any lien or mortgage against premises or equipment is instituted against you and not dismissed within thirty (30) days, or is not in the process of being dismissed, (vii) you fail to meet your development obligations set forth in the Development Schedule, (viii) you fail to comply with any other material provision of this Agreement (or any other agreement you or any of your Affiliates have with Dumont or any of its Affiliates) and do not correct the failure within thirty (30) days after written notice of that failure is delivered to you, (ix) Dumont or any of its Affiliates terminate any agreement with you or any of your Affiliates), or (x) we have delivered to you or any of your affiliates a notice of termination of a Franchise Agreement in accordance with its terms and conditions.

#### **10. RIGHTS AND DUTIES OF PARTIES UPON TERMINATION OR EXPIRATION**

Upon termination or expiration of this Agreement, all rights granted to you will automatically terminate and all remaining rights granted to you to develop Cafés under this Agreement will automatically be revoked and will be null and void. You will not be entitled to any refund of any fees.

#### **11. OWNERSHIP OF DEVELOPER**

Attached as **Schedule “C”** is a description of the legal organization of Developer (whether a corporation, limited liability company, partnership or otherwise), the names and addresses of each person or entity owning an interest in Developer, and the percentage of such interest owned by such person or entity. Developer agrees to notify Dumont in writing whenever there is any change in the organizational structure or ownership interest of Developer.

#### **12. COST OF ENFORCEMENT**

If either party institutes or prevails entirely or in part in any action at law or in equity against the other party based entirely or in part on the terms of this Agreement, the prevailing party will be entitled to recover from the losing party, in addition to any judgment, reasonable attorney’s fees, court costs and all the prevailing party’s expenses in connection with any action at law.

#### **13. NO WAIVER**

No failure, forbearance, neglect, or delay of any kind on the part of Dumont for with the enforcement or exercise of any rights under this Agreement will affect or diminish Dumont’s right to strictly enforce and take full benefit of each provision of this Agreement at any time, whether at law for damages, in equity for injunctive relief or specific performance, or otherwise. No custom, usage or practice with regard to this Agreement by you, Dumont or other Developers will preclude the strict enforcement of this Agreement in accordance with its literal terms. No waiver by Dumont of performance of any provision of this Agreement will constitute or be implied as a waiver of Dumont’s right to enforce that provision at any future time.

#### **14. ENTIRE AGREEMENT**

This Agreement and all Schedules constitute the entire understanding and agreement between you and Dumont related to the subject matter hereof, and supersedes all prior understandings, whether oral or written, pertaining to this Agreement. No interpretation, change, termination, or waiver of any provision of this Agreement, and no consent or approval under this Agreement, will be effective or binding upon you or Dumont unless in writing signed by you and Dumont, except that a waiver needs to be signed only by the party waiving. Nothing in this Agreement or in any related agreement, however, is intended to disclaim the representations we made in the Franchise Disclosure Document that we furnished to you.

#### **15. SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any person, property or circumstances will to any extent be invalid or unenforceable, the remainder of this Agreement will be unaffected and will remain in full force and effect and each term and provision will be valid and enforced as fully extent permitted by law.

#### **16. GOVERNING LAW**

All matters relating to arbitration will be governed by the Federal Arbitration Act (9 U.S.C. Sections 1, *et seq.*). Except to the extent governed by the Federal Arbitration Act, the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sections 1051, *et seq.*) or other federal law, this Agreement, the franchise, and all claims arising from the relationship between Dumont and Developer (and/or any of our affiliates) and Developer will be governed by the laws of the State of Texas, without regard to its conflicts of laws rule. This Agreement will become a valid and enforceable contract when we accept it and sign it in Texas. Developer and Dumont expressly agree that this Agreement has been made in the State of Texas, that substantially all performance of the obligations hereunder has been and will be rendered in the State of Texas, and that there is a regular stream of business activity between Developer and Dumont from and into the State of Texas.

#### **17. DISPUTE RESOLUTION**

The dispute resolution provisions and procedures of the first Franchise Agreement Developer signs with Dumont, for the first Café Developer develops under Developer's Development Obligation, will control any and all disputes between Developer and Dumont under this Agreement. For the avoidance of doubt, the parties recognize that the dispute resolution provisions and procedures are contained in Article 19 of the first Franchise Agreement between Developer and Dumont. The terms of Articles 12, 16, and 17 of this Agreement will survive termination, expiration, or cancellation of this Agreement.

#### **18. NOTICES**

All notices and other communications provided for in this Agreement must be in writing and will be delivered in person or mailed by certified mail, or by Federal Express or U.S. Express Mail for overnight delivery if to you, at your address or, if to Dumont at our address, 6600 Paige Rd., Suite 222, The Colony, Texas 75056, Attention: Ajay Govada, CEO. Dumont or you may

change, by providing notice thereof in writing, the address to which future notices will be sent. Notices delivered in person will be deemed given when delivered and mailed notices will be deemed given three (3) days after mailing if by certified or other receipted mail, or one (1) day after mailing if by Federal Express or U.S. Express Mail. If you are a corporation, some other legal entity, or more than one (1) individual, then you will authorize one (1) natural person as correspondent with authority to bind you.

## **19. ACKNOWLEDGEMENTS**

### **19.1 FRANCHISOR MAKES NO WARRANTY AS TO DEVELOPER'S ABILITY TO DEVELOP THE REQUIRED NUMBER OF BUSINESSES AS REQUIRED BY THIS AGREEMENT IN THE DEVELOPMENT AREA.**

19.2 You acknowledge that you have read and completed the Compliance Questionnaire attached to the Franchise Disclosure Document as **Exhibit H**, unless you live or plan to operate your franchise in the states of California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, or Wisconsin. If you are in one of the listed states, we will not ask you to complete Exhibit H and we will disregard any answers from you.

19.3 You affirm that all information set forth in any and all applications, financial statements and submissions to us are true, complete and accurate in all respects, and you expressly acknowledge that we are relying upon the truthfulness, completeness and accuracy of that information.

This entire Agreement, including corrections, changes and all attachments and addendums, will only be binding upon Dumont when executed or initialed by a member, director or officer of Dumont.

*[Signature Page Follows]*

**WHEREFORE,** Developer and Dumont, intending to be legally bound, have duly executed, sealed and delivered this Agreement in duplicate.

DEVELOPER:

\_\_\_\_\_

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

Its: \_\_\_\_\_

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

FRANCHISOR:

DUMONT CREAMERY AND CAFÉ, LLC

By: \_\_\_\_\_  
Ajay Govada

Its: Chief Executive Officer

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

**SCHEDULE "A"**

**DEVELOPMENT AREA AND DEVELOPMENT FEE**

**SCHEDULE "B"**

**DEVELOPMENT SCHEDULE**

There shall be open for business to the general public and operating the indicated number of Cafés within the Development Area by the dates indicated below:

<b>Year</b> (12 Months Commencing on Date of Agreement)	<b>Franchises Open by End of Year</b>	<b>Cumulative Number of Cafés to be Open and Operating</b>
<b>1</b>		
<b>2</b>		
<b>3</b>		
<b>4</b>		
<b>5</b>		

**FRANCHISOR:**

**DEVELOPER:**

DUMONT CREAMERY AND CAFÉ, LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Ajay Govada

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

Its: Chief Executive Officer

Its: \_\_\_\_\_

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

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

**SCHEDULE "C"**

**LEGAL ORGANIZATION OF DEVELOPER**

**EXHIBIT “E”**

**FINANCIAL STATEMENTS**

# FINANCIAL STATEMENTS

## **DUMONT CREAMERY AND CAFE LLC** **Financial Statements**

**For the Period October through November 25, 2024**

**(Along with the Independent Auditor's Report)**

**Krishnan Subramanian, CPA**

Certified Public Accountant

7423 Las Colinas Blvd Unit 102,

Irving, TX 75063

Ph No: 970-290-0206

# **DUMONT CREAMERY AND CAFE LLC**

## **Financial Statements**

**For the Period October through November 25, 2024**

### **TABLE OF CONTENTS**

<b>PARTICULARS</b>	<b>PAGE NO.</b>
<b>Independent Auditor's Report</b>	<b>3-4</b>
<b>FINANCIAL STATEMENTS</b>	
Balance Sheet	<b>7</b>
Statement of Income from Operations	<b>8</b>

**KRISHNAN SUBRAMANIAN**

Certified Public Accountant

---

**INDEPENDENT AUDITOR’S REPORT**

To,  
Board of Directors  
Dumont Creamery and Cafe LLC  
300 Warwick Blvd  
Lewisville, TX 75056

**OPINION**

We have audited the accompanying financial statements Dumont Creamery and Cafe LLC. (“an TX LLC”), which comprise the balance sheets as of November 25, 2024, the related statements of income from operations, changes in stockholders’ equity and cash flows for the years then ended and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Dumont Creamery and Cafe LLC. as of November 25, 2024 and the results of its operations and its cash flows with accounting principles generally accepted in the United States of America.

**BASIS FOR OPINION**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. We are required to be independent of Dumont Creamery and Cafe LLC. and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**RESPONSIBILITIES OF MANAGEMENT FOR THE FINANCIAL STATEMENTS**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Dumont Creamery and Cafe LLC.’s ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

**Auditor’s Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error and to issue an auditor’s report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional

**KRISHNAN SUBRAMANIAN**

Certified Public Accountant


---

omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Dumont Creamery and Cafe LLC.'s internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Dumont Creamery and Cafe LLC.'s ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings and certain internal control-related matters that we identified during the audit.

Signed by:  
  
E03086F3449B492...

For Krishnan Subramanian, CPA  
Krishnan Subramanian  
Certified Public Accountant  
CPA License Number: 080536

Place: Irving, TX

Date: November 26, 2024

**KRISHNAN SUBRAMANIAN**  
Certified Public Accountant

---

(Page intentionally left blank)

**KRISHNAN SUBRAMANIAN**  
Certified Public Accountant

---

# **FINANCIAL STATEMENTS**

## DUMONT CREAMERY AND CAFE LLC Balance Sheet

Cash Basis

As of November 25, 2024

	<b>Nov 25, 24</b>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
Bank of America 4659	1,000.00
<b>Total Checking/Savings</b>	1,000.00
<b>Total Current Assets</b>	1,000.00
<b>TOTAL ASSETS</b>	<b>1,000.00</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Equity</b>	
Capital Contribution	1,000.00
<b>Total Equity</b>	1,000.00
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>1,000.00</b>

## DUMONT CREAMERY AND CAFE LLC Profit & Loss

Cash Basis

October through November 2024

	Oct - Nov 24
Ordinary Income/Expense	
Income	
Income	0.00
Total Income	0.00
Gross Profit	0.00
Expense	
Expenses	0.00
Total Expense	0.00
Net Ordinary Income	0.00
Net Income	0.00

**EXHIBIT “F”**

**LIST OF CURRENT AND FORMER FRANCHISEES AS OF 12/31/2023**  
**Current Franchisees**

Aero Capital LLC.  
1951 FM 423, Ste 800  
Frisco, TX 75034  
Ph: (214) 308-9001

**The following franchisees signed a Franchise Agreement in 2023 but have not yet opened:**

**None**

THERE ARE NO FRANCHISEES WHO HAVE HAD AN OUTLET TERMINATED, CANCELED, NOT RENEWED, OR OTHERWISE VALUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT IN 2023 OR WHO HAVE NOT COMMUNICATED WITH THE FRANCHISOR WITHIN 10 WEEKS OF THE DATE OF THIS FRANCHISE DISCLOSURE DOCUMENT.

IF YOU BUY THIS FRANCHISE, YOUR CONTACT INFORMATION MAY BE DISCLOSED TO OTHER BUYERS WHEN YOU LEAVE THE FRANCHISE SYSTEM.

**EXHIBIT “G”**  
**OPERATIONS MANUAL TABLE OF CONTENTS**



**Table of Contents**

- 1. PRODUCT SOPS ..... 2**
  - 1.1. ALLERGEN CHECKLIST: .....2
  - 1.2. PRODUCT DESCRIPTIONS: .....5
  - 1.3. PRINTED SOP SHEETS: [CLICK HERE](#) .....9
  - 1.4. FALOODA SOPs: .....9
  - 1.5. CONDIMENTS TO BUY: .....10
- 2. STORE SOPS ..... 20**
  - 2.1 DAILY OPENING CHECKLIST: .....20
  - 2.2 DAILY CLOSING CHECKLIST: .....22
  - 2.3 STORE OPS HOURLY: .....23
  - 2.4 STORE OPS HOURLY: .....24
- 3. QC PROCESSES| ..... 24**
  - 3.1 QC SCHEDULE: .....24
  - 3.2 HYGIENE SCORE: [CLICK HERE](#) .....24
  - 3.3 SKILL SCORE: .....25
  - 3.4 CLEANLINESS CHECKLIST: .....25
  - 3.5 10-POINT INSPECTION: .....26
  - 3.6 CRM SCHEDULE: .....26

## EXHIBIT H

### COMPLIANCE QUESTIONNAIRE

As you know, Dumont Creamery and Café, LLC (“we” or “us”), and you are preparing to enter into a Franchise Agreement and, if applicable, Multi-Unit Development Agreement for the operation of one or more Dumont Creamery and Café™ Cafés. The purpose of this questionnaire is to determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate, or misleading, to be certain that you have been properly represented in this transaction, and to be certain that you understand the limitations on claims you may make by reason of the purchase and operation of your franchise. **You cannot sign or date this questionnaire the same day as the Receipt for the Franchise Disclosure Document, but you must sign and date it the same day you sign the Franchise Agreement and, if applicable, Multi-Unit Development Agreement.** Please review each of the following questions carefully and provide honest responses to each question. If you answer “No” to any of the questions below, please explain your answer in the table provided below.

**We will not ask you to complete this form, and we will disregard any answers from you, if you live or plan to operate your franchise in the states of California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, Wisconsin.**

1.      Yes\_\_ No\_\_      Have you received and personally reviewed the Franchise Agreement and, if applicable, Multi-Unit Development Agreement, and each attachment or exhibit attached to them that we provided?
  
2.      Yes\_\_ No\_\_      Have you received and personally reviewed the Franchise Disclosure Document and each attachment or exhibit attached to it that we provided?
  
3.      Yes\_\_ No\_\_      Did you sign a receipt for the Franchise Disclosure Document indicating the date you received it?
  
4.      Yes\_\_ No\_\_      Do you understand all the information contained in the Franchise Disclosure Document and Franchise Agreement and, if applicable, Multi-Unit Development Agreement?
  
5.      Yes\_\_ No\_\_      Have you reviewed the Franchise Disclosure Document and Franchise Agreement and, if applicable, Multi-Unit Development Agreement with a lawyer, accountant, or other professional advisor, or have you had the opportunity for such review and chosen not to engage such professionals?
  
6.      Yes\_\_ No\_\_      Have you had the opportunity to discuss the benefits and risks of developing and operating a Dumont Creamery and Café™ Café with an existing Dumont Creamery and Café™ franchisee?
  
7.      Yes\_\_ No\_\_      Do you understand the risks of developing and operating a Dumont Creamery and Café™ Café?

8. Yes\_\_ No\_\_ Do you understand the success or failure of your Dumont Creamery and Café™ Café will depend in large part upon your skills, abilities, and efforts, and those of the persons you employ, as well as many factors beyond your control such as competition, interest rates, the economy, inflation, labor and supply costs, and other relevant factors?
9. Yes\_\_ No\_\_ Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement and, if applicable, Multi-Unit Development Agreement must be arbitrated in Texas, if not resolved informally or by mediation?
10. Yes\_\_ No\_\_ Do you understand that you must satisfactorily complete the initial training program before we will allow your Dumont Creamery and Café™ Café to open or consent to a transfer of the Dumont Creamery and Café™ Café to you?
11. Yes\_\_ No\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a Dumont Creamery and Café™ Café that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
12. Yes\_\_ No\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise or agreement, other than those matters addressed in your Franchise Agreement and, if applicable, Multi-Unit Development Agreement and any addendum, concerning advertising, marketing, media support, marketing penetration, training, support service, or assistance that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
13. Yes\_\_ No\_\_ Do you agree that no employee or other person speaking on our behalf made any statement or promise regarding the actual, average or projected profits or earnings, the likelihood of success, the amount of money you may earn, or the total amount of revenue a Dumont Creamery and Café™ Café will generate that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document?
14. Yes\_\_ No\_\_ Do you understand that the Franchise Agreement and, if applicable, Multi-Unit Development Agreement, including each attachment or exhibit to the Franchise Agreement (and, if applicable, Multi-Unit Development Agreement), contains the entire agreement between us and you concerning the Dumont Creamery and Café™ Café, meaning any prior oral or written statements not set out in the Franchise Agreement (and, if applicable, Multi-Unit Development Agreement) or the attachments or exhibits to the Franchise Agreement or Multi-Unit Development Agreement will not be binding?

15. Yes\_\_ No\_\_ Do you understand that we are relying on your answers to this questionnaire to ensure that the franchise sale was made in compliance of state and federal laws?

YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS QUESTIONNAIRE, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS.

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXPLANATION OF ANY NEGATIVE RESPONSES (REFER TO QUESTION NUMBER):

Question Number	Explanation of Negative Response

**EXHIBIT “H”**  
**AREA REPRESENTATIVE DISCLOSURES**

Our current area representatives, and their respective territories, are listed below. We also list their additional disclosures for Items 2, 3, and 4 of the Franchise Disclosure Document.

None.

**EXHIBIT “I”  
RECEIPT**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Dumont Creamery and Café, LLC 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. Under Iowa or New York law, if applicable, Dumont Creamery and Café, LLC must provide this disclosure document to you at your 1<sup>st</sup> 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 Dumont Creamery and Café, LLC to 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 Dumont Creamery and Café, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on Exhibit A.

The name, principal business address and telephone number of each franchise seller offering the franchise: Ajay Govada, Vivek Inampudi, Venkatesh Ravishanker, Dhanunjaya Noothi, 6600 Paige Rd., Suite 223, The Colony, Texas 75056, (937) 708-9589. We have inserted the name and address of any other franchise seller below (we attach additional pages if necessary):

---

Issuance Date: November 29, 2024

See Exhibit A for Dumont Creamery and Café, LLC’s registered agents authorized to receive service of process.

I have received a disclosure document dated November 29, 2024 that included the following Exhibits:

A. State Addendum to Disclosure Document	F. List of Franchisees
B. State Administrators and Agents for Service of Process	G. Confidential Operations Manual Table of Contents
C. Dumont Creamery and Café Franchise Agreement	H. Area Representative Disclosures
D. Multi-Unit Development Agreement	I. Disclosure Document Receipts
E. Financial Statements	

Date	Signature	Printed Name
Date	Signature	Printed Name
Date	Signature	Printed Name
Date	Signature	Printed Name
Date	Signature	Printed Name

Please sign both copies of the receipt and date your signature. Please retain one copy for your records, and return the other copy to Ajay Govada, 6600 Paige Rd., Suite 222, The Colony, Texas 75056.

Dumont Creamery/FDD 2024v1

**RECEIPT**

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Dumont Creamery and Café, LLC 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. Under Iowa or New York law, if applicable, Dumont Creamery and Café, LLC must provide this disclosure document to you at your 1<sup>st</sup> 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 Dumont Creamery and Café, LLC to 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 Dumont Creamery and Café, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on Exhibit A.

The name, principal business address and telephone number of each franchise seller offering the franchise: Ajay Govada, Vivek Inampudi, Venkatesh Ravishanker, Dhanunjaya Noothi, 6600 Paige Rd., Suite 223, The Colony, Texas 75056, (937) 708-9589. We have inserted the name and address of any other franchise seller below (we attach additional pages if necessary):

---

Issuance Date: November 29, 2024

See Exhibit A for Dumont Creamery and Café, LLC’s registered agents authorized to receive service of process.

I have received a disclosure document dated November 29, 2024 that included the following Exhibits:

A. State Addendum to Disclosure Document	F. List of Franchisees
B. State Administrators and Agents for Service of Process	G. Confidential Operations Manual Table of Contents
C. Dumont Creamery and Café Franchise Agreement	H. Area Representative Disclosures
D. Multi-Unit Development Agreement	I. Disclosure Document Receipts
E. Financial Statements	

Date	Signature	Printed Name
Date	Signature	Printed Name
Date	Signature	Printed Name
Date	Signature	Printed Name
Date	Signature	Printed Name

Please sign both copies of the receipt and date your signature. Please retain one copy for your records, and return the other copy to Ajay Govada, 6600 Paige Rd., Suite 222, The Colony, Texas 75056.