

ITEM 5
INITIAL FEES

Franchise Agreement

You must pay us an initial franchise fee (the “**Initial Franchise Fee**”) of \$50,000 when you sign each Franchise Agreement. The Initial Franchise Fee for your second and each subsequent 85°C Bakery Cafes will be discounted to \$40,000. The Initial Franchise Fee is due in lump sum at the time you sign the Franchise Agreement. The Initial Franchise Fee is fully earned by us when paid and is non-refundable to you under any circumstances.

Initial Inventory

You must purchase frozen dough, semi-finished items, coffee beans, premix, prepacked items, packaging materials and small wares from our affiliates as part of your initial inventory. The amount of this portion of your initial inventory purchased prior to opening is \$50,000 to \$100,000. This amount is not refundable when paid.

Background Check and Asset Verification

As part of your application process, we will require to conduct a background check and asset verification for each of your owners. We estimate the background check and asset verification fee to be approximately \$125 to \$500 for each person. This amount is not refundable when paid.

All fees and expenses described in this Item 5 are nonrefundable.

ITEM 6
OTHER FEES*

TYPE OF FEE	AMOUNT	DUE DATE	REMARKS
Continuing Royalties**	6.5% of Gross Sales***	Wednesdays for the Monday through Sunday period of the preceding week	
Marketing Fee**	1% of Gross Sales***	Wednesdays for the Monday through Sunday period of the preceding week	We reserve the right to increase the Marketing Fee up to and including 2% of Gross Sales.
Software Subscription and Information Technology (IT) Support Fee**	\$1,300 per month (Note 1)	Payable Monthly	These fees include the POS system software subscription fee and the fee for IT support provided by us.
Supplemental Guidance	Based upon actual costs incurred by us in providing guidance and assistance	Payable as incurred	Payable only if you request supplemental guidance and we agree to provide supplemental guidance.
Additional Site Evaluation Costs	Our reasonable costs and expenses incurred, including	Payable as incurred	We provide up to 3 on-site visits in connection with the opening of each Franchised

	travel, lodging and out-of-pocket expenses.		Restaurant without you incurring any additional costs. This will include up to 2 visits for construction review purposes and 1 visit for site evaluation purposes. If we provide any additional on-site visits, you must also reimburse us for our reasonable costs and expenses incurred, including travel, lodging and out-of-pocket expenses.
IT Installation On-Site	The then-current fee. Currently \$760 per day per IT personnel, plus reimbursement of reasonable costs of travel, lodging, and other out-of-pocket expenses for our trainers. (Note 1)	On demand.	Payable only if you request that we perform the initial on-site installation of IT equipment.
Late Fee	Lesser of (i) 1.5% per month or (ii) the maximum lawful rate. (Note 1)	On demand	We may charge late fees and any bank charges without notice on all overdue amounts. Late fees accrue from the original due date until paid in full.
Insufficient Funds Fee	The then-current fee. Currently \$100 per occurrence. (Note 1)	On demand.	We may charge you a \$100 fee per occurrence for all returned checks or insufficient funds in any electronic funds transfer account.
Additional Training & Support Fee	The then-current fee. Currently, the fee is \$360 per day per trainer (maximum 8 hours per day), plus reimbursement of reasonable costs of travel, lodging, and other out-of-pocket expenses for our trainers. (Note 1)	Before additional training	An estimate of our trainers' travel costs will be provided once training is scheduled. You must also pay the payroll costs for your personnel attending the training, and travel, lodging and other out-of-pocket expenses if the training location is not your Franchised Restaurant.

Remedial Training Fee	The then-current fee. Currently, the fee is \$360 per day per trainer, plus costs of travel, lodging, and other out-of-pocket expenses. (Note 1)	Before remedial training	You may be required to attend the remedial training if you fail a quality control inspection. If you ask and/or if we determine it is necessary in our sole discretion, we will provide trainers to conduct remedial training on-site at your Franchised Restaurant. An estimate of our trainers' travel costs will be provided once training is scheduled. You must also pay the payroll costs for your personnel attending the training.
Transfer Fee	50% of the then-current Initial Franchise Fee. Currently, the fee is \$25,000. \$25,000	Upon the approval of transfer request	Payable when you sell your franchise rights, the Franchised Restaurant, or any ownership interests.
Successor Term Franchise Fee	50% of the then-current Initial Franchise Fee. Currently, the fee is \$25,000. \$25,000	Upon execution of Successor Term Franchise Agreement	To enter into a Successor Term, you must execute the then standard form of Franchise Agreement.
Relocation Fee	25% of the then-current Initial Franchise Fee, plus the costs and expenses associated with the relocation. Currently, the fee is \$12,500. \$12,500	Payable as incurred	
Management Fee	Our then-current fee (currently 10% of weekly Gross Sales***, plus expenses)	Upon demand	Payable if we or our affiliates manage your Franchised Restaurant because of your breach of the Franchise Agreement.
Audits	Cost of audit, including but not	15 days after receipt of audit report	Payable only if audit shows an understatement of more

	limited to travel expenses, room and board and compensation of employees and/or agents		than 2% of Gross Sales for any four-week period.
Enforcement Costs	Will vary	Payable as incurred	You must pay our costs of enforcement if you do not comply with, or if you have breach, the Franchise Agreement.
Liquidated Damages	<p>(1) \$300 per day;</p> <p>(2) \$25,000 per incident; or</p> <p>(3) An amount equals to the monthly average Continuing Royalties and Marketing Fee owed to us during the 12 months of operation preceding the effective date of termination multiplied by (a) 24 (being the number of months in 2 full years), or (b) the number of months remaining in the term of the Franchise Agreement had it not being terminated, whichever is less.</p>	<p>(1) Upon demand.</p> <p>(2) Upon demand</p> <p>(3) Within 15 days after the effective date of termination</p>	<p>(1) Payable for each day you fail to open for business by the opening deadline set forth in the Franchise Agreement or comply with System standards</p> <p>(2) Payable when you violate the non-competition provisions in the Franchise Agreement.</p> <p>(3) If we terminate your Franchise Agreement for cause, or if you terminate it without cause.</p>
Compliance Audit	The then-current fee. Currently, the fee is \$360 per day plus costs of travel, lodging, and other out-of-pocket	Upon demand	

	expenses for our personnel conduction the reinspection. (Note 1)		
Indemnification	Will vary under circumstances	As incurred	You must reimburse us if we are held liable for claims under the Franchise Agreement.
Product Purchases	Price List	Upon demand	Payment must include cost of goods, taxes, shipping and handling. You must purchase certain food items for your Franchised Restaurant from us or our affiliates. The price and terms and conditions for these purchases are contained on the price list that we or our affiliates will supply to you from time to time (" Price List "). We reserve the right, for ourselves and our affiliates, to update the Price List and change the terms and conditions for these purchases at any time on 30 days' notice.
Supplier Evaluation	Our costs	As incurred	Payable if you request to utilize a supplier that is not already approved by us.

* All fees are uniformly imposed on all franchisees.

** All fees are imposed by and are payable to us and will be automatically debited from the bank account designated on the ACH Authorization Agreement which you will sign and provide to us when you execute the Franchise Agreement. All fees payable to us or our affiliates are non-refundable.

*** "**Gross Sales**" are broadly defined in the Franchise Agreement to include the retail price of all sales from all business conducted at or in connection with the restaurant location established pursuant to the Franchise Agreement, excluding sales taxes.

[\(1\) Franchisor reserves the right to periodically increase such fee; provided, however, that no such fee shall increase by more than fifteen percent \(15%\) in any given twelve \(12\) month period.](#)

~~(1)~~[\(2\)](#) The highest interest rate allowed by law in California for late payments is 10% annually.

7. Conduct market research at your Franchised Restaurant for reasons including, but not limited to, understanding customer demographics, customer psychographics, purchasing behavior, new product acceptance, and other similar purposes.
8. Implement multi-area marketing programs which may allow us or others to solicit or sell to customers anywhere. We reserve the right to issues mandatory policies to coordinate such multi-area marketing programs.

ITEM 13
TRADEMARKS

The Franchise Agreement grants you the nonexclusive right to use the Proprietary Marks and various designs and logo types associated with our products and services. You may also use our other current or future Proprietary Marks as we may designate to operate your Franchised Restaurant. You must indicate, as required in the Franchise Agreement and specified in the Manual, that you are an independent operator of the Franchised Restaurant and you shall use only the appropriate and authorized Proprietary Marks as indicated by us.

The Proprietary Marks are owned by our affiliate, Comestibles, and are licensed exclusively to us and our affiliates in the United States. Comestibles, through Prime Scope, has granted us a license (“**Trademark License**”) to use the Proprietary Marks for purposes of franchising the System in the United States. The Trademark License provides that in the event the License Agreement is terminated for any reason, Comestibles or Prime Scope will license the use of the Proprietary Marks directly to our franchisees until such time as each Franchise Agreement expires or is otherwise terminated.

Comestibles has registered the following principal Proprietary Marks with the United States Patent and Trademark Office (“**USPTO**”) on the Principal Register. We grant you the right to operate your Franchised Restaurant under the Proprietary Marks. The principal Proprietary Marks are:

Mark	Registration Date	Registration Number
85	June 27, 2017 (Class 32) September 1, 2015 (Class 43) September 1, 2015 (Class 35) September 1, 2015 (Class 30)	5232896 (Class 32) 4804932 (Class 43) 4804931 (Class 35) 4804930 (Class 30)
85°	March 31, 2015 (Class 29) September 2, 2014 (Class 43) September 2, 2014 (Class 32) September 2, 2014 (Class 30)	4711804 (Class 29) 4596631 (Class 43) 4596630 (Class 32) 4596629 (Class 30)
85°C	March 27, 2007 (Classes 30, 32 and 43)	3223413 (Classes 30, 32 and 43)

All required affidavits for the principal Proprietary Marks have been filed with the USPTO, and all registrations for the principal Proprietary Marks have been renewed.

You must follow our rules and directions when you use any of our Proprietary Marks. You may not use any of our Proprietary Marks as part of a legal entity name or domain name. You also may not use any

k. "Transfer" by franchisee - defined	§ 12.03	Includes transfer of ownership of franchisee by owners, merger, issuance of additional ownership interest in franchisee, sale of interests in franchisee by private or public sale, transfer of ownership in franchise, the franchise or the Franchised Restaurant under a court order or otherwise by operation of law, death of franchisee or owner of franchisee by death, will or intestate succession.
l. Franchisor approval of transfer by franchisee	§ 12.04	We have the right to approve transfers but will not unreasonably withhold approval.
m. Conditions for franchisor approval of transfer	§ 12.04	New franchisee qualifies completes training program, signs franchise agreement obtains landlord consent, you sign release and non-competition covenant, pay all amounts due us, and pay the transfer fee.
n. Franchisor's right of first refusal to acquire franchisee's business	§ 16.05	We can match any offer for the franchisee's business.
o. Franchisor's option to purchase franchisee's business	§ 16.05	We have the right to purchase your Franchised Restaurant if termination occurs under Section 14 or Section 15.
p. Death or disability of franchisee	§ 12.06	Any transfer by your estate to a third party must be accomplished within 12 months.
q. Noncompetition covenants during the term of the franchise	§ 7.04	No involvement in any competing business wherever located, subject to applicable state law .
r. Noncompetition covenant after the franchise is terminated or expires	§§ 7.04 and 12.04	No competing business for three years within 10 miles of Exclusive Area or any Franchised Restaurant, subject to applicable state law . If you transfer Franchised Restaurant, no competing business for three years after transfer date, subject to applicable state law .
s. Modification of the agreement	§ 19.07	Modify only by written agreement signed by you and us.

**MINNESOTA ADDENDUM
TO WINSTAR 85 LLC
FRANCHISE DISCLOSURE DOCUMENT AND FRANCHISE AGREEMENT**

THESE FRANCHISES HAVE BEEN REGISTERED UNDER THE MINNESOTA FRANCHISE ACT. REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF COMMERCE OF MINNESOTA OR A FINDING BY THE COMMISSIONER THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

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

To the extent the Minnesota Franchise Act, Minn. Stat. §§80C.01 – 80C.22 applies, the terms of this Addendum apply.

State Cover Page and Item 17, Additional Disclosures:

Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside of Minnesota, requiring waiver of a jury trial or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document shall abrogate or reduce any of your rights as provided for in Minn. Stat. Sec. 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

Franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. A court will determine if a bond is required.

Item 6, Additional Disclosure:

NSF checks are governed by Minn. Stat. 604.113, which puts a cap of \$30 on service charges.

Item 13, Additional Disclosures:

The Minnesota Department of Commerce requires that a franchisor indemnify Minnesota Franchisees against liability to third parties resulting from claims by third parties that the franchisee's use of the franchisor's trademark infringes upon the trademark rights of the third party. The franchisor does not indemnify against the consequences of a franchisee's use of a franchisor's trademark except in accordance with the requirements of the franchise agreement, and as the condition to an indemnification, the franchisee must provide notice to the franchisor of any such claim immediately and tender the defense of the claim to the franchisor. If the franchisor accepts tender of defense, the franchisor has the right to manage the defense of the claim, including the right to compromise, settle or otherwise resolve the claim, or to determine whether to appeal a final determination of the claim.

Item 17, Additional Disclosures:

Any condition, stipulation or provision, including any choice of law provision, purporting to bind any