# FRANCHISE DISCLOSURE DOCUMENT

**TERRITORY OPERATOR:**
Dairy Queen of Virginia, Inc.
A Virginia Corporation
12020 Wyndham Lake Drive
Glen Allen, VA 23059-7041
(804) 364-3006
matt.dunham@dq-va.com

**HEAD FRANCHISOR:**
American Dairy Queen Corporation
a Delaware Corporation
8000 Tower, Suite 700
8331 Norman Center Drive
Bloomington, MN 55437
(952) 830-0200
development@idq.com
www.dq.com

As a subfranchisee, you will operate: a DQ® Treat store with indoor seating (and outdoor seating, in certain locations) offering a full menu of approved soft-serve treat and beverage items, and a limited menu of approved food items; or a DQ Grill & Chill® restaurant with indoor seating (and outdoor seating, in certain locations) offering a full menu of approved soft-serve treat, beverage and food items.

The total investment necessary to begin operation of a new DQ Treat store ranges from $585,100 to $1,642,600 (not including land and non-standard improvement costs). The total investment necessary to begin operation of a new DQ Grill & Chill restaurant ranges from $1,545,400 to $2,567,800 (not including land and non-standard improvement costs). This includes $45,000 that you must pay to us, and $3,800 to $53,900 that you must pay to the head franchisor.

If you are converting a unit under our Conversion Program, you will not pay an initial franchise fee, but you will pay some additional fees for goods and services provided by us and by ADQ and its affiliates. If you are opening an additional unit under our ARD Program, we may reduce the initial franchise fee to an amount less than $45,000, down to $0.

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, franchisor or an affiliate in connection with the proposed franchise sale or grant. **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 to you. To discuss the availability of disclosures in different formats, contact Chris Lofgren, 12020 Wyndham Lake Drive, Glen Allen, Virginia 23059, (804) 364-3006, chris.lofgren@dq-va.com.

The terms of your contract will 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 for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: June 18, 2025

## How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

| QUESTION | WHERE TO FIND INFORMATION |
|---|---|
| **How much can I earn?** | Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibits F-I. |
| **How much will I need to invest?** | Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open, and Item 8 describes the suppliers you must use. |
| **Does the franchisor have the financial ability to provide support to my business?** | Item 21 or Exhibits J-K include financial statements. Review these statements carefully. |
| **Is the franchise system stable, growing, or shrinking?** | Item 20 summarizes the recent history of the number of company-owned and franchised outlets. |
| **Will my business be the only DQ Treat store and/or DQ Grill & Chill restaurant in my area?** | Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you. |
| **Does the franchisor have a troubled legal history?** | Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings. |
| **What's it like to be a DQ Treat store and/or DQ Grill & Chill restaurant franchisee?** | Item 20 or Exhibits F-I list current and former franchisees. You can contact them to ask about their experiences. |
| **What else should I know?** | These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents. |

## What You Need To Know About Franchising *Generally*

**Continuing responsibility to pay fees**. You may have to pay royalties and other fees even if you are losing money.

**Business Model Can Change**. The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

**Supplier restriction**. 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, access to customers, what you sell, how you market, and your hours of operation.

**Competition from franchisor**. Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

**Renewal**. Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

**When your franchise ends.** The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

## Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit A.

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by arbitration and/or litigation only in Virginia. Out-of-state arbitration or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to arbitrate or litigate with the franchisor in Virginia than in your own state.

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

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STATE ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT

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## Item 1

## TERRITORY OPERATOR, ADQ, AND ANY PARENTS, PREDECESSORS AND AFFILIATES

To simplify the language in this disclosure document "we," "our" or "us" means Dairy Queen of Virginia, Inc., the territory operator. "ADQ" means American Dairy Queen Corporation, the head franchisor. "You" means the person who buys the subfranchise, the subfranchisee. If you are a legal entity, "you" also may mean your owners. Certain provisions of the operating agreement will apply to your owners and will be noted in this disclosure document.

Franchise Relationships

We are a Virginia corporation incorporated on January 30, 1956. Our principal business address is 12020 Wyndham Lake Drive, Glen Allen, Virginia 23059, (804) 364-3006. We are authorized to issue DQ Treat and DQ Grill & Chill subfranchises in the Commonwealth of Virginia (the "Territory") under territory subfranchising rights that ADQ has granted to us. We conduct business under our corporate name. We do not do business or intend to do business under any other name.

ADQ is a Delaware corporation incorporated in 1962. ADQ's principal business address is 8000 Tower, Suite 700, 8331 Norman Center Drive, Bloomington, MN 55437. ADQ has not had any predecessors during the 10-year period immediately before the close of its most recent fiscal year. ADQ does business under its corporate name and the trade names "Dairy Queen" and "DQ."

MANY ITEMS OF INFORMATION IN THIS DISCLOSURE DOCUMENT ARE STATED TWICE WHERE NECESSARY, FOR US AND FOR ADQ. WE MUST MAKE THIS DUPLICATE DISCLOSURE, BUT WE ARE AN INDEPENDENT BUSINESS FROM ADQ. WE OPERATE UNDER A TERRITORIAL SUBFRANCHISING CONTRACT WITH ADQ THAT OBLIGATES US TO ADHERE TO ADQ'S REQUIREMENTS. ADQ DOES NOT GUARANTEE THE PERFORMANCE OF OUR OBLIGATIONS TO YOU. WE ARE RESPONSIBLE FOR SUPPORTING OUR SUBFRANCHISEES AND ADQ IS RESPONSIBLE FOR SUPPORTING ITS FRANCHISEES. YOUR OPERATING AGREEMENT IS A CONTRACT BETWEEN YOU AND US.

Territory Operator

Our Business. Our business includes the offer and sale of DQ Treat and DQ Grill & Chill subfranchises. A copy of the Operating Agreement is included as Exhibit B. Our business also includes the ongoing administration of our subfranchise system. (See Item 11.)

We offered Dairy Queen subfranchises from 1959 to 2015 and Dairy Queen/Brazier and Dairy Queen/Limited Brazier subfranchises from 1971 to 2015. We have offered DQ Grill & Chill subfranchises since 2006 and DQ treat subfranchises since 2012. We do not offer franchises in other lines of business. We operate no other business.

Our agent for service of process is disclosed in Exhibit A.

Our Parents, Predecessors and Affiliates. We have no parents, predecessors or affiliates.

The Subfranchise. The DQ Treat subfranchise is for a street location ("DQ/Dairy Queen") that generally is located in a freestanding building, streetscape or strip center, or for a captive-

venue location ("DQ/Orange Julius") that generally is located in a shopping mall or center (enclosed or open air, such as a "lifestyle center") with a minimum of 500,000 square feet of gross leasable area. The DQ Treat subfranchise is for a quick service food establishment with indoor seating (and outdoor seating, in certain locations) that offers a full menu of approved soft-serve treat and beverage items, and a limited menu of approved food items. The DQ Grill & Chill subfranchise is for a quick service food restaurant with indoor seating (and outdoor seating, in certain locations) offering a full menu of approved soft-serve treat, beverage and food items. The Operating Agreement included as Exhibit B (the "operating agreement") is identical for a DQ/Dairy Queen store, a DQ/Orange Julius store or a DQ Grill & Chill restaurant, except that there are different prescribed menus, subfranchised trademarks and continuing license fees. If you are a transferee, you must sign the then-current operating agreement, and a modernization addendum, if required.

ADQ and its affiliates own and have registered the DQ Grill & Chill, Dairy Queen and Orange Julius trademarks (see Item 13). However, we (not ADQ) offer and sell DQ Treat and DQ Grill & Chill subfranchises in the Territory. Although we have the right to develop, and to subfranchise others to develop, DQ Treat stores and DQ Grill & Chill restaurants in the Territory, we may elect to authorize ADQ to develop, or to license others to develop, DQ Treat stores and DQ Grill & Chill restaurants at specific locations in the Territory.

Unless used or stated otherwise in this disclosure document, the terms "Dairy Queen" and "DQ" are used interchangeably throughout this disclosure document, and the term "DQ system" applies comprehensively to the DQ/Dairy Queen, DQ/Orange Julius and DQ Grill & Chill brands; the term "restaurant" sometimes applies comprehensively to a DQ/Dairy Queen store, a DQ/Orange Julius store or a DQ Grill & Chill restaurant; and the terms "DQ stores or restaurants," "DQ franchisees or subfranchisees," and "DQ businesses" apply comprehensively to DQ/Dairy Queen, DQ/Orange Julius and DQ Grill & Chill stores, restaurants, franchisees, subfranchisees or businesses. Also, in this disclosure document, a franchisee who is converting an existing DQ store or restaurant to a DQ Grill & Chill restaurant is sometimes referred to as a "conversion subfranchisee."

Your operating agreement is a contract between you and us. You are a part of the national and international franchise system of DQ franchisees and subfranchisees, and you must adhere to various standards, designs, specifications, menu items, recipes, techniques, procedures, methods, requirements, formats and management systems relating to uniformity and quality (sometimes referenced collectively in this disclosure document and the operating agreement as "standards") that we and ADQ establish and modify periodically.

You will use ADQ's nationally recognized trademarks and service marks that are approved for your concept; have access to the distinctive operational and management attributes of the DQ system; participate in ADQ's national and regional sales promotion programs; and receive the benefits of association with a nationally recognized franchise system, including various forms of training, opening and operational assistance (see Item 11).

Market. DQ/Dairy Queen, DQ/Orange Julius and DQ Grill & Chill products appeal to the general public, although some products are targeted for particular customers. DQ/Dairy Queen, DQ/Orange Julius and DQ Grill & Chill product sales may be more seasonal in areas of the United States with cooler climates. You will compete with other quick service and fast casual food restaurants and specialty ice cream treat outlets, specialty fruit beverage (primarily smoothies), snack food or treat establishments, including units of other regional and national chains and

franchise systems. The quick service food, specialty ice cream treat and specialty fruit beverage markets are well developed and highly competitive.

Laws and Regulations. DQ stores and restaurants are subject to federal, state and local government laws and regulations that apply to businesses generally, including federal laws such as the Fair Labor Standards Act, National Labor Relations Act and Americans with Disabilities Act, and laws and regulations governing matters such as zoning, site location, construction, business licensing, privacy and data security, safety, minimum wages, overtime, working conditions, workers' compensation insurance, unemployment insurance, consumer protection, trade regulation, environmental protection, and taxation.

In addition, DQ stores and restaurants are subject to various federal, state and local government laws and regulations that apply more particularly to restaurants, such as laws and regulations regulating food storage, food and menu labeling, the preparation and sale of food and beverage products (including packaging requirements, and certain ingredient restrictions such as those relating to transfat), the handling of dairy and meat products, and health and sanitation food service practices.

We strongly encourage you to investigate these laws and regulations before you purchase a subfranchise.

Our Conversion Program. We offer a program (the "Conversion Program") to qualifying DQ subfranchisees within the Territory. The Conversion Program allows qualifying DQ subfranchisees to "convert" their existing DQ stores or restaurants to DQ Grill & Chill restaurants by signing a new operating agreement and a Conversion Addendum (see Exhibit B). Unless otherwise noted, the term "convert" means not only facility conversion, but also modernization, replacement and relocation. Whether an existing DQ store or restaurant qualifies for the Conversion Program depends on a number of factors, including: the location, type, age and condition of the facility, the type of operating agreement governing the facility, the subfranchisee's economics, and the subfranchisee's operation and compliance history.

Head Franchisor

ADQ's Parents, Predecessors and Affiliates. ADQ is a wholly-owned subsidiary of its parent corporation, International Dairy Queen ("IDQ"), whose principal business address is the same as ADQ's. IDQ is a wholly-owned subsidiary of its parent corporation, Berkshire Hathaway, Inc., whose principal business address is 1440 Blackstone, Omaha, Nebraska 68131. ADQ has not had any predecessors during the 10-year period immediately before the close of its most recent fiscal year.

ADQ's affiliates that offer franchises in any line of business or provide products or services to franchisees are: Unified Supply Chain, Inc. ("USCI"); DQF, Inc. ("DQF"); DQGC, Inc. ("DQGC") and federal Canadian corporation Dairy Queen Canada Inc. ("DQC"). In addition, the following ADQ affiliate owns and operates DQ Grill & Chill restaurants: DQ Training Restaurants, LLC ("DQTR"). The principal business address for USCI, DQF, DQGC and DQTR is the same as ADQ. The principal business address for DQC is 1111 International Boulevard, Suite 601, Burlington, Ontario, Canada L7L 6W1.

ADQ's agents for service of process are disclosed in Exhibit A.

Due to the existence of various programs designed to increase unification in the DQ system, there will be DQ stores and restaurants that do not look similar to your store or restaurant and may not have the same design requirements. However, except for unique circumstances, DQ stores and restaurants generally will use the same trademarks, DQ menu and business system as your store or restaurant.

Business of ADQ. ADQ's business includes administering its franchise system, establishing and conducting sales promotion programs for DQ products, and providing various services to its franchisees (see Items 8 and 11). In addition, since ADQ's incorporation, ADQ has operated DQ stores and restaurants on an interim basis. ADQ does not operate any company-owned DQ Grill & Chill restaurants as of the date of this disclosure document, although, as explained further below, ADQ's affiliate, DQTR, owns and operates 2 DQ Grill & Chill restaurants.

ADQ also offers single and multi-unit franchises for the operation of DQ Treat stores under the trade name DQ/Dairy Queen in street locations and DQ/Orange Julius in captive-venue locations. DQ Treat stores sell DQ soft-serve treat and beverage items and a limited number of approved food items. Due to historical factors unique to Texas, ADQ offers DQ single and multi-unit franchises in Texas for DQ restaurants with a food menu different than the DQ Grill & Chill food menu, which is called "Texas Country Food."

In November 2021, ADQ's affiliate, Orange Julius of America (OJA), transferred and assigned all of its right, title and interest in and to its Orange Julius and other trademarks, as well as all of its right, title and interest in and to the Orange Julius franchise system and existing Orange Julius® franchise agreements, to ADQ. Since that time, ADQ's business has included administering the Orange Julius franchise system, establishing and conducting sales promotion programs for Orange Julius products, and providing various services to Orange Julius franchisees. ADQ is not offering or issuing any new Orange Julius franchises. OJA was dissolved in December 2021.

In the past, ADQ issued standard and urban territory franchises in the United States, which are both territory franchises that allow the territory operator to develop the Dairy Queen/Brazier (and now DQ Grill & Chill) and Dairy Queen/Limited Brazier businesses within a defined geographical area ("territory") through subfranchising to 3rd parties. ADQ occasionally acquires a territory operator's interest in various restaurant and store operating agreements through negotiated acquisitions of territorial subfranchising rights. Also in the past, ADQ issued DQ soft-serve-only franchises (for stores featuring approved soft-serve treat items which may or may not sell non-system food), Dairy Queen/Limited Brazier franchises (for stores featuring approved soft-serve treat items and a limited number of approved food items), Dairy Queen/Brazier franchises (for restaurants featuring approved soft-serve treat items and a full menu of Brazier food items), and Dairy Queen/Fuel Center franchises (for locations operated in conjunction with or adjacent to a fuel dispensing or travel businesses). For these franchises that ADQ no longer offers, there may be existing franchisees and subfranchisees that were granted licenses under these franchise programs (including territory operators who continue to subfranchise).

Business of ADQ's Affiliates. IDQ's business includes the limited sale of products to the various franchise systems that its subsidiaries operate. DQF provides various services to direct-licensed franchisees. USCI acts as the "supply chain entity" and sources certain products and equipment to the various franchise systems that IDQ's subsidiaries operate. (See Item 8 for additional information). DQGC provides gift card administrative services to franchisees and

subfranchisees. IDQ, DQF, USCI and DQGC do not and have not issued franchises or conducted a company-operated DQ Grill & Chill restaurant.

DQTR owns and operates 2 DQ Grill & Chill restaurants in Minnesota, 1 of which serves as a training facility for ADQ personnel and franchisees. DQTR has conducted the DQ business since June 2003. DQTR has entered into agreements with ADQ substantially similar to the form operating agreement in place at the time for other franchised locations. These affiliate-owned restaurants are disclosed in Item 20. DQTR does not and has not issued franchises in any line of business.

ADQ has offered a number of international franchise programs over the years under the DQ, Dairy Queen, and DQ Grill & Chill trademarks, including an international territory program, an international multi-unit development program and an international store program.

DQC has conducted the DQ business and issued various DQ franchises in Canada since 1953. DQC holds exclusive area franchising rights in Canada through licensing agreements with ADQ, under which DQC exercises exclusive rights to license the registered trade name and DQ trademark and certain other trademarks owned by ADQ. DQC issues franchises for DQ Treat stores and DQ Grill & Chill restaurants. While DQC no longer offers Dairy Queen/Brazier, Dairy Queen/Limited Brazier and DQ soft-serve-only franchises, there may be existing franchised locations of these types.

The following table summarizes the franchises issued by ADQ and its affiliates that were operating as of December 31, 2024. Taking into account all the various franchise programs, the DQ system includes over 7,700 DQ stores and restaurants on a global basis.

| Company | Franchise Program | Period Franchises Offered | Number of Franchises operating as of 12/31/24 |
|---|---|---|---|
| ADQ | DQ Grill & Chill | 1962 – Present | 1,971[(1)] |
| | DQ Treat | 1962 – Present | 727[(2)] |
| | Dairy Queen /Fuel Center | 1990 – 1998 | 1 |
| | Brazier Food Service Addendum | 1982 – Present | 15[(3)] |
| | Texas DQ Restaurant | 1980 – Present | 568 |
| | Standard Territory | 1962 – 1981 | 10[(4)] |
| | Urban Territory | 1984 – 1993 | 1[(4)] |
| | International Franchise Locations (outside the U.S. and Canada) | 1971 – Present | 2,853 |
| | Orange Julius | 1963 – Present | 11 |
| DQC | DQ Grill & Chill | 1963 – Present | 510[(5)] |
| | DQ Treat | 1973 – Present | 184[(6)] |

| Company | Franchise Program | Period Franchises Offered | Number of Franchises operating as of 12/31/24 |
|---|---|---|---|
| | Orange Julius | 1977 – Present | 12 |

(1) The total for DQ Grill & Chill includes some restaurants originally franchised under the Dairy Queen/Brazier restaurant concept. As the systems, menus and products for these concepts have evolved, the distinctions between them have diminished.

(2) The total for DQ Treat includes stores that sell the Dairy Queen soft serve menu along with a limited food menu, and stores that sell only the Dairy Queen soft serve menu. As the systems, menus and products for these concepts have evolved, the distinctions between them have diminished.

(3) Territory operators that have a signed Brazier food service addendum to their territory agreements are authorized to offer approved food products under the Brazier, DQ Grill & Chill and other related trademarks.

(4) In addition to territory operators who were granted standard territory or urban territory franchises, other territory operators conduct the Dairy Queen, Dairy Queen/Brazier or DQ Grill & Chill business under older forms of franchise agreement, many of which were issued more than 30 years ago.

(5) The total for DQ Grill & Chill includes some restaurants originally franchised under the Dairy Queen/Brazier restaurant concept. As the systems, menus and products for these concepts have evolved, the distinctions between them have diminished.

(6) The total for DQ Treat includes stores that sell the Dairy Queen soft serve menu along with a limited food menu, and some stores that sell only the Dairy Queen soft serve menu. As the systems, menus and products for these concepts have evolved, the distinctions between them have diminished.

## Item 2

## BUSINESS EXPERIENCE

Our Business Experience

**President, General Manager and Director: Mark P. Dunham**

Mark Dunham has been a director since 1972, our General Manager since 1975, and our President since 1998.

**Vice President and Director: Matthew L. Dunham**

Matthew Dunham has been a director since 1997 and our Vice President since 1998.

**Corporate Secretary: Janice M. Dunham**

Janice Dunham has been our Corporate Secretary since February 2002. She was our Assistant Corporate Secretary from 1980 to January 2002.

**Assistant Corporate Secretary: S. Michelle L. Dunham**

Michelle Dunham has been our Assistant Corporate Secretary since March 2014. Before that time, Ms. Dunham was not employed outside the home.

**Contract & Development Coordinator: Christopher S. Lofgren**

Christopher Lofgren has been our Contract & Development Coordinator since June 2016. He was our Business Consultant from July 2004 to June 2016.

ADQ's Business Experience

The following are the directors, principal officers, and other individuals who have management responsibility relating to the sale or operation of the franchises offered under this disclosure document, and their principal positions and employers, during the last 5 years.

**Director, Chief Executive Officer and President: Troy A. Bader**

Troy Bader has been a Director since March 2008 and has been Chief Executive Officer and President of ADQ since January 1, 2018. He served as Chief Operating Officer – U.S. & Canada from January 2016 to December 2017 and Chief Operating Officer – U.S. from November 2011 to December 2015. ADQ and its affiliates have employed Mr. Bader in various other management positions since 2001, including as Chief Development and Legal Officer from January 2008 to October 2011.

**Director, Executive Vice President, General Counsel, and Secretary: Shelly O'Callaghan**

Shelly O'Callaghan has been a Director, Executive Vice President, General Counsel, and Secretary since November 2011. ADQ has employed Ms. O'Callaghan in various management positions since 2010, including as Vice President and Assistant General Counsel from January 2010 to October 2011.

**Director, Chief Operating Officer U.S. and Canada: Arthur P. D'Elia**

Arthur D'Elia has been a Director and Chief Operating Officer since March 2025. Mr. D'Elia served as Domino's Executive Vice President, International from May 2022 to October 2024. He also served on the Board of Directors of DPC Dash Ltd. from May 2023 to November 2024. Mr. D'Elia served as Domino's Executive Vice President, Chief Marketing Officer from July 2020 to April 2022, and as Senior Vice President, Chief Marketing Officer from February 2020 to June 2020. Mr. D'Elia joined Domino's in January 2018 as Senior Vice President, Chief Brand and Innovation Officer.

**Chief Supply Chain and Development Officer, US and Canada: Daniel J. Kropp**

Daniel Kropp has been a Chief Supply Chain and Development Officer since March 2025. He served as Director and Chief Operating Officer, U.S. and Canada, from August 2020 to March 2025. Mr. Kropp served as Director and Chief Operating Officer, U.S., from January 2018 to July 2020. From November 2011 to December 2017, Mr. Kropp served as Executive Vice President - U.S. Operations. Mr. Kropp has served in various positions since 1996, including as Executive Vice President - Franchise Operations (East) from January 2010 to October 2011.

**Executive Vice President, Marketing, U.S. and Canada: Maria Hokanson**

Maria Hokanson has been Executive Vice President, Marketing, U.S. and Canada since August 2020. She served as Executive Vice President, Marketing, U.S. from August 2017 to July 2020.

From November 2004 to July 2017, Ms. Hokanson held several roles within the marketing department including Vice President of Product and Brand Marketing (2015-17), Sr. Director of Product & Brand Marketing (2013-2014), Director of Marketing (2010-2013), Sr. Manager (2008-2013) and Manager (2004-2008).

**Executive Vice President, Research & Development: Jane Friedrich**

Jane Friedrich has served as Executive Vice President, Research & Development since April 2024. Ms. Friedrich served in various positions at Cargill including Vice President, Cargill Animal Nutrition, R&D and Innovation Leader; Vice President, Global Core R&D Leader; and Assistant Vice President, Group R&D Leader Proteína Latinoamérica Group & Protein Asia Europe Group from March 2019 to April 2024.

**Executive Vice President of USCI: W. Scott Muyres**

Scott Muyres has been Executive Vice President of USCI since January 2015. USCI or IDQ have employed Mr. Muyres in various positions since 1998, including as Vice President – Purchasing of USCI from May 2010 to December 2014.

**Executive Vice President, Finance, and Accounting: Jeff Grund**

Jeff Grund has been Executive Vice President, Finance, and Accounting since March 2023. He served as Vice President, Corporate Controller from September 2019 to February 2023. Before joining ADQ, Mr. Grund served as the Chief Financial Officer for Omni Workspace from October 2018 to September 2019; as an independent consultant from May 2018 to September 2018; and as North American Controller for Pentair from 2009 to 2018.

**Vice President, Franchise Development: Gregg Benvenuto**

Gregg Benvenuto has been Vice President, Franchise Development since April 2024. From January 2023 to April 2024, he was our Vice President, Franchise Development. Mr. Benvenuto was the Vice President of Development & Franchising of The Coffee Bean & Tea Leaf from September 2021 to January 2023. He worked for Dine Brands Global (IHOP) as Vice President U.S. Development from February 2017 to September 2021, and as Executive Director U.S. Franchising from May 2011 to February 2017.

**Executive Vice President, Information Technology: Kevin Baartman**

Kevin Baartman has been Executive Vice President, Information Technology since July 2020. He served as Vice President - Information Technology from April 2019 to July 2020. From September 2001 to April 2019, he worked for Lund Food Holdings, Inc. as the Vice President, Information Services, leading the Information Technology team and e-commerce operations.

**Vice President of Concept Support Services: Jolynn Fielder**

Jolynn Fielder has been Vice President of Concept Support Services since May 2021. She served as Vice President of U.S. Franchise Operations, West from February 2017 to April 2021. ADQ has employed Ms. Fielder in various other positions since 1997, including as Area Vice President for the East Great Lakes area from July 2013 to February 2017, and as Director of PRIDE Check Consulting from February 2007 to June 2013.

**Vice President of U.S. Franchise Operations, West: Roger C. Brewin**

Roger Brewin has been Vice President of U.S. Franchise Operations, West since May 2021. He served as Vice President of U.S. Franchise Operations, East from July 2018 to April 2021 and Vice

President of Concept Support Services from October 2015 to June 2018. ADQ has employed Mr. Brewin in various other positions since 2005, including as Area Vice President of Operations – Western Hemisphere from January 2012 to September 2015; Director of Concept Support Services from March 2007 to December 2011; and Business Consultant from June 2005 to February 2007.

**Vice President of U.S. Franchise Operations, East: David Giacone**

David Giacone has been Vice President of U.S. Franchise Operations, East since May 2021. He served as Vice President of Concept Support Services from July 2018 to April 2021. Mr. Giacone was employed as Director of Operations for the Texas Region from February 2017 to June 2018, and Director of Development Operations from 2013 to 2017. From 2011 to 2013, Mr. Giacone was Director of Operations for Fourteen Foods, Inc., a multi-unit franchisee of ADQ. From 2000 to 2011, Mr. Giacone held various field operation positions with ADQ.

**Vice President, Restaurant Training and Curriculum, U.S. and Canada: Angie Ballinger**

Angie Ballinger has served as Vice President, Restaurant Training & Curriculum since April 2024. From January 2011 to October 2023, she served as Global Lead, Learning & Development at Cargill, Inc.

## Item 3

## LITIGATION

Our Litigation

We have no litigation that is required to be disclosed in this Item.

ADQ's Litigation

### Pending Cases

State of Rhode Island Office of the General Treasurer, individually and on behalf of all similarly situated persons v. Domino's Pizza, Inc., Russell J. Weiner, Sandeep Reddy, Joseph H. Jordan, and Arthur P. D'Elia (Case No. 2:24-CV-12477-LVP-APP, United States District Court, Eastern District of Michigan). On September 20, 2024, plaintiff Scott Bender filed a putative federal securities class action against Domino's, its Chief Executive Officer, Russell Weiner, and its Chief Financial Officer, Sandeep Reddy (together with Domino's and Mr. Weiner, collectively, "Defendants") on behalf of a class consisting of all persons and entities that purchased or otherwise acquired Domino's securities between December 7, 2023 and July 17, 2024. Bender alleges that, throughout the putative class period, Defendants made materially false and/or misleading statements and/or failed to disclose materially adverse facts concerning the likelihood of Domino's meeting its previously issued long-term guidance for annual global net store growth. Bender further alleges that, following the news of downwardly revised net store growth guidance and the decline in the market value of Domino's securities, the members of the purported class suffered losses and damages. The complaint asserts the following causes of action: (i) violations of Section 10(b) of the U.S. Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b5 promulgated under the Exchange Act, against all Defendants; and (ii) violations of Section 20(a) of the Exchange Act, against Mr. Weiner and Mr. Reddy. On February 10, 2025, following competing motions to be named as lead plaintiff, the Court issued an order naming the State of

Rhode Island Office of the General Treasurer as the lead plaintiff in this action, and naming Rhode Island's counsel as lead plaintiffs' counsel. On April 11, 2025, plaintiffs filed an amended class action complaint naming two additional individual defendants, including Arthur D'Elia who now serves as ADQ's Chief Operating Officer, US and Canada. Mr. D'Elia served as Domino's Executive Vice President, International from May 2022 until he resigned from the position in October 2024. Plaintiffs allege that Mr. D'Elia also made false and/or misleading statements about the global net store growth of Domino's during the putative class period, and includes Mr. D'Elia in its assertions of violations of Section 10(b), Rule 10b5, and Section 20(a) of the Exchange Act. This matter is currently in the pleading phase. Mr. D'Elia and the other defendants intend to vigorously defend these claims.

2-MNA, LLC vs. American Dairy Queen Corporation (State of Minnesota Fourth Judicial District Court, Hennepin County, No. 27-CV-24-12897, filed August 30, 2024). Plaintiff, a DQ franchisee, initiated this litigation seeking a temporary restraining order preventing ADQ from terminating Plaintiff's franchise agreement for the use and/or storage of rerun (defined as the use and/or storage of soft-serve mix that has been run through a soft serve machine), which is a public health and safety zero-tolerance violation of the franchise agreement. Plaintiff alleged breach of contract, breach of the implied covenant of good faith and fair dealing, and violation of the Minnesota Franchise Act. Additionally, Plaintiff is seeking temporary and permanent injunctive relief, compensatory damages, attorneys' fees, and costs. ADQ opposed Plaintiff's motion for a temporary injunction. On February 13, 2025, the Court denied the temporary injunction motion, and the restaurant closed on February 14, 2025. ADQ will continue to vigorously defend itself.

American Dairy Queen Corporation vs. UAM, LLC (United States District Court, Western District of Texas, San Antonio Division, No. 5:24-cv-1209, filed October 23, 2024). American Dairy Queen Corporation ("ADQ") initiated this litigation seeking an order declaring that Defendant, a DQ franchisee, breached its obligations under the franchise agreement by failing to use soft serve mix, supplies, and fresh milk as approved by ADQ, which is a public health and safety zero-tolerance violation of the franchise agreement. ADQ alleges breach of contract, trademark infringement, unfair competition in violation of the Lanham Act, and common law unfair competition. ADQ is seeking temporary and permanent injunctive relief, compensatory damages, attorneys' fees, and costs. On November 15, 2024, the Defendant filed a counterclaim alleging wrongful termination of the franchise agreement and breach of contract. Defendant is seeking a declaratory judgment reinstating Defendant's franchise agreement, compensatory damages, attorneys' fees, and costs. The court granted ADQ's request for preliminary injunction at a November 22, 2024 hearing. A jury trial is set for May 19, 2025. ADQ will continue to vigorously pursue its claims and defend itself against the counterclaims.

Project Lonestar, Inc. vs. American Dairy Quen Corporation (United States District Court, Northern District of Texas, Dallas Division, #3:25-cv-00339-L, filed February 11, 2025). Project Lonestar, Inc. initiated a lawsuit against American Dairy Queen Corporation seeking injunctive relief and damages. On April 9, 2025, Plaintiff filed an amended complaint alleging breach of contract, interference with contract and/or interference with prospective business relationship by ADQ, and fraud related to the transfer process for several of their franchised restaurants. ADQ

denies the claims and has asserted counterclaims against Project Lonestar, Inc., Elite Restaurant Group Inc. and Elite Ltd. for unpaid license, advertising, and termination fees.

**Concluded Cases**

Rodney Johnson and Food Ventures, Inc. vs. American Dairy Queen Corporation (American Arbitration Association, No. 01-16-0005-3571, filed December 9, 2016). Claimants, a DQ Grill & Chill franchisee and its owner, initiated this arbitration claiming that ADQ unlawfully encroached upon their franchise by franchising another DQ Grill & Chill restaurant in what they allege is too close a proximity to their restaurant. Claimants alleged that the encroachment caused a decline in their restaurant's sales and profitability. They claimed that ADQ's actions violated the Washington Franchise Investment Protection Act and the Washington Consumer Protection Act and alleged breach of contract, breach of the implied covenant of good faith and tortious interference with business expectancy. On August 5, 2017, the parties entered into a settlement agreement under which claimants are allowed to pay ADQ a reduced royalty fee and advertising fee for set periods and avoid the modernization requirement for the next transfer of the franchise since the restaurant recently had been remodeled to current image. ADQ also paid claimants $25,000.

American Dairy Queen Corporation. vs. Universal Investment Corporation *f/k/a Neos Corporation* (United States District Court, Western District of Wisconsin, No. 16-cv-323, filed May 16, 2016). ADQ commenced this action against the defendant franchisee seeking a declaratory judgment that ADQ properly terminated defendant's franchise agreement after defendant failed to comply with numerous contractual requirements and then failed to timely cure its defaults of the franchise agreement after notice from ADQ. ADQ also sought injunctive relief and damages under the Lanham Act for defendant's infringement of ADQ's trademarks. Defendant counterclaimed against ADQ alleging claims for violation of the Wisconsin Fair Dealership Law, tortious interference with contract, and several counts of intentional breach of contract. On August 25, 2017, the court granted ADQ's motion for partial summary judgment and dismissed defendants claim for tortious interference. The parties settled the remaining claims on December 11, 2017 with defendant agreeing to relinquish any remaining rights he may have to use ADQ's trademarks and systems under, and to the termination of, his franchise agreement and the territory agreements for four territories in Iowa in exchange for a mutual release of claims and a payment of $425,000 from ADQ.

M & M Petroleum Too, Inc. vs. American Dairy Queen Corporation (American Arbitration Association, No. 01-19-0003-3181, filed October 18, 2019). ADQ terminated Petitioner's franchise rights effective October 21, 2019 for failure to submit accounts receivable balances, store monthly reports and fees and other documents contractually required under the operating agreement to be submitted to ADQ. Petitioner alleged wrongful termination and requested a stay of the termination pending a determination of Petitioner's rights under the operating agreement. Petitioner also claimed damages for breach of contract and attorneys' fees. ADQ denied Petitioner's claims and counterclaimed for breaches of the operating agreement. The parties reached a settlement on March 12, 2020 under which they agreed to terminate the operating agreement effective April 15, 2020 and both parties agreed to waive their claims for damages, including ADQ's claims for any unpaid fees owed by Petitioner.

White Enterprise, Inc. vs. American Dairy Queen Corporation (American Arbitration Association, No. 01-20-0000-3584, filed January 30, 2020). Claimant commenced this action January 30, 2020 alleging a breach of contract and implied covenant of good faith and fair dealing. In addition, Claimant seeks a declaratory judgment requiring ADQ to provide Claimant with the full benefits of ADQ's sales promotion program including point-of-sale and other store-level materials without the requirement of pledging to the higher national marketing fund commitment level. The parties reached a settlement on May 15, 2020 under which they agreed that, effective January 1, 2021, Claimant shall pay to ADQ a sales promotion fee of 2.5% of gross sales and ADQ shall provide Claimant with the full benefits available under the National Marketing Fund ("NMF") or any equivalent marketing program ADQ may make available to U.S. franchisees in the future.

**Actions Involving the Franchise Relationship**

In 2024, neither ADQ nor its affiliates initiated any actions involving the franchise relationship.

Other than the actions described above, no litigation is required to be disclosed in this Item.

## Item 4

## BANKRUPTCY

Our Bankruptcies

No bankruptcy information is required to be disclosed in this Item.

ADQ's Bankruptcies

No bankruptcy information is required to be disclosed in this Item.

## Item 5

## INITIAL FEES

Initial Franchise Fee.

You must pay us a $45,000 initial franchise fee when you sign an operating agreement

We will return the initial franchise fee to you in full without interest if we do not approve your application or you submit written notification to us to cancel your application before our final approval of the application. The initial franchise fee is fully earned when the operating agreement is signed. However, we may declare the operating agreement null and void, and may refund the initial franchise fee to you, less a cancellation fee of $10,000: (i) if you request the withdrawal of your application after we have approved it; (ii) if your trainees, as specified in Items 11 and 15, fail to successfully complete ADQ's training program to ADQ's or our reasonable satisfaction; (iii) if you do not designate and we do not approve a site for the store or restaurant within 90 days from the date we approve your application; or (iv) if you have not begun construction within 180 days from the date we approve your authorized location. In the instances described in (i) – (iv), we have the right to cancel any agreements that you have signed with us, without opportunity to cure We estimate that our and ADQ's expenses will range from $1,000 to $5,000.

The initial franchise fee is uniform, except that we issue subfranchises to certain qualified persons, for no initial franchise fee or for an initial franchise fee of less than the $45,000, under our additional restaurant development program ("ARD Program"). These circumstances ordinarily are confined to existing subfranchisees who desire to open additional DQ stores or restaurants. We must approve the additional location, and the existing subfranchisee cannot be in default of his/her current operating agreement. We may refuse to approve an additional subfranchise or may refuse to offer an additional subfranchise for no initial franchise fee or for a reduced initial franchise fee.

We also have a Conversion Program. If you participate in our Conversion Program, you will not pay an initial franchise fee, but you will pay some fees for goods and services provided by us and by ADQ and its affiliates before you convert, as further described in more detail in this Item and Items 1, 7, 8 and 11. These goods and services may include, among other items, building plans, equipment, advertising materials, training and training inventory.

In our fiscal year ended February 28, 2025, no subfranchisee opened additional units under our ARD Program and paid no initial franchise fee, and no subfranchisee converted a unit to a DQ Grill & Chill restaurant under the Conversion Program.

Your license to use the DQ Grill & Chill, Dairy Queen, DQ or Orange Julius trademarks does not become effective, and you may not open and operate your store or restaurant, until we notify you that you have satisfied all of the pre-opening conditions in the operating agreement and approve the opening of the store or restaurant.

Building Plans. We must approve the building plans for your store or restaurant before you begin construction or conversion. The final building plans for your store or restaurant must be full architectural, structural, mechanical, electrical, plumbing, final site and grading plans and food service drawings, showing equipment layout, manufacturer and model numbers and bearing the seal of a registered architect in the state where your store or restaurant will be located. We recommend that you submit preliminary designs to us for our review before the preparation and submission to us of your final building plans. We must approve in writing any proposed alterations to previously approved building plans.

ADQ will provide you with prototypical design intent building plans for a freestanding DQ store or restaurant for $3,000. This fee is uniform and nonrefundable. ADQ does not provide building plans for converting non-DQ buildings to DQ Treat stores or DQ Grill & Chill restaurants. ADQ's intent building plans are designed to meet Minnesota Building Code requirements. You must, at your expense, conform the plans to local, state and federal laws and building code requirements, including the Americans With Disabilities Act. If your local architect makes revisions to ADQ's prototypical design intent building plans or any design criteria information, those revisions will become the property of ADQ. ADQ and its affiliates may use those revisions in any manner in the future.

Training

ADQ charges a $3,600 initial training fee for each trainee who attends ADQ's initial training program. You must send at least 2 trainees to the initial training program for a new DQ Treat store and at least 3 trainees to the initial training program for a new DQ Grill & Chill restaurant. Your initial franchise fee covers the attendance of 1 trainee at the initial training program. You must pay ADQ a $3,600 fee for each additional trainee who attends.

ADQ collects a $200 fee per trainee for the management training readiness assessment ("MTRA"), and pays the fee to a 3rd party. You must send at least 2 trainees to the MTRA for a new DQ Treat store and at least 3 trainees to the MTRA for a new DQ Grill & Chill restaurant. Your initial franchise fee covers the attendance of 1 trainee at the MTRA. See Items 7 and 11 for more information on the MTRA.

You must pay these fees before training begins. These fees are uniform and nonrefundable. In addition to these fees, you must pay all of your trainees' travel and living expenses. See Items 6, 7, 8 and 11 for more information.

On-Site Pre-Opening and Opening Assistance. If you are opening your 1st store or restaurant, or your 1st DQ Grill & Chill restaurant, we will provide you with on-site opening assistance for a period of time we consider necessary, for personnel training and store opening. The cost of this assistance is included in any initial franchise fee you pay.

At your request and in some limited instances, ADQ may be able to provide you with on-site pre-opening and opening assistance, subject to staff availability and its then-current policies, for an additional fee in an amount determined by ADQ based on the services you request. ADQ does not have a standard agreement for this type of assistance, and negotiates each situation individually. The fee is nonrefundable.

Training and Opening Inventory. Before opening or converting, you must purchase the training inventory that you and your personnel will use at your store or restaurant during our on-site opening assistance. You may pay ADQ for some of the training inventory. We estimate that the cost of the training inventory will range from $2,000 to $6,000 for a DQ Treat store or $6,000 to $17,000 for a DQ Grill & Chill restaurant. You also must purchase the inventory that you will use to open your store or restaurant, which we and ADQ estimate will range from $5,000 to $12,000 for a DQ Treat store or $16,000 to $40,000 for a DQ Grill & Chill restaurant. See Items 6 and 7 for additional information.

## Item 6

## OTHER FEES

| Type of Fee | Amount (See Note 1) | Due Date | Remarks |
|---|---|---|---|
| Continuing License Fee | Currently:<br>4% of Gross Sales (DQ Grill & Chill restaurant)<br>5% of Gross Sales (DQ Treat store)<br>6% of Gross Sales (DQ soft-serve-only)<br>Minimum fee payable during any period of business interruption (See Note 19) | On or before the 10th day of the month following the month for which the fee is due, unless we require payment on a weekly basis. | See Notes 2, 13, 14, and 19 |
| Sales Promotion Program Fee | 3% to 6% of Gross Sales<br>Minimum fee payable during any period of business interruption (See Note 19) | On or before the 10th day of the month following the month for which the fee is due, unless we require payment on a weekly basis. | See Notes 2, 3, 13, 14, 15, and 19 |
| Transfer Fee | Currently $6,000 - $9,000 | When you submit transfer application | See Note 4 |
| Additional Restaurant Development Fee Discount Reimbursement Charge (applies only to our ARD Program) | $12,000 to $24,000 | When you submit transfer application | See Note 4 |
| Renewal Fee | $2,500 | On renewal | See Note 5 |
| Audit and Record-keeping | Your contractual percentage continuing license fees and percentage sales promotion program fees times the amount of understated Gross Sales, plus any other amounts owed to us. | When incurred | See Note 6 |

| Type of Fee | Amount (See Note 1) | Due Date | Remarks |
|---|---|---|---|
| Termination Fee | **One of the following:**<br>1) 2 times the continuing license fee due for the last 12 months of active operations;<br>(2) If the location did not operate for a full 12 months, 24 times the average monthly continuing license fee when the location was open; or<br>(3) If less than 24 months remain on the operating agreement, the number of months remaining times the average monthly continuing license fees due for the last 12 months of active operations. | On termination | See Note 7 |
| Interest and Late Fees | Will vary under circumstances | When incurred | See Note 8 |
| Modernization Expenses | $0 to $101,100 or more each time you modernize, plus $9,500 to $34,000 or more for signage | When incurred | See Note 9 |
| EPOS Software Support Program | About $1,200 to $1,600 annually | When incurred | See Note 10 |
| Gift Card Program | Currently, 3% of total gift card redemption | When incurred | See Note 10 |
| Costs and Attorneys' Fees | Will vary under circumstances | When incurred | See Note 11 |
| Management Skills and Professional Development Course | Currently $200 per trainee | Before training | See Note 12 |
| Training Materials | $150 to $500 | When incurred | See Note 16 |
| Training Cancellation or Substitution Fee | $150 or $1,000 | On cancellation or substitution | See Note 17 |
| Additional Training Fees | Will vary under circumstances | Before training | If your Designated Manager or assistant manager leaves, you must replace them with new personnel who have completed ADQ's training requirements |
| Internet Connection | $10 to $80 per month | When incurred | See Note 18 |

Notes:

(1) Except where otherwise noted, all fees are payable to us, ADQ or 1 of ADQ's affiliates and are uniformly imposed and nonrefundable.

(2) "Gross Sales" include the total revenue and receipts from the sale of all products sold by your store or restaurant, including sales of all products under any of ADQ's trademarks as well as sales of other products, services and merchandise, whether or not identified by other brand names, and excluding sales taxes and revenue and receipts arising directly from the sale of gift cards. Periodically, we may

reduce the continuing license fee for other situations in specialty captive-venue locations that charge admission or require a ticket for entrance, such as airports and sports stadiums.

If you are a conversion subfranchisee who signs a Conversion Addendum to convert your existing DQ store or restaurant to a DQ Grill & Chill restaurant, you will carry over your continuing license fee for soft-serve treat items and pay the continuing license fee described in the Conversion Addendum for all other products. If you are a transferee purchasing an existing DQ store offering only soft-serve treat and beverage items, your royalty rate will be 6%. This type of DQ store is no longer offered new, and is only available through a transfer.

(3) You must pay us a sales promotion program fee based on your Gross Sales. We collect this fee, remit a portion of the fee to ADQ for national advertising and promotional programs, and deposit the balance of the fee in an advertising account or subaccount for your designated market area (DMA). You and the other DQ store or restaurant operators in your DMA will determine which advertising and promotional programs you will use in your DMA. Also see Item 11. Periodically, we may reduce the sales promotion fee for other situations in specialty captive-venue locations that charge admission or require a ticket for entrance, such as airports and sports stadiums.

(4) The basic transfer fee is currently $6,000. If you are transferring a store or restaurant to a person located in a state or Canadian province where we are not registered to offer and sell franchises and we must register under or otherwise comply with any state or provincial law, you must pay us an additional transfer compliance fee of $3,000, before we seek to register under or otherwise comply with any state or provincial law, as reimbursement for our registration or compliance costs. On January 1, 2030, and on each 5-year anniversary thereafter, the basic transfer fee will increase by $1,000, and the additional transfer compliance fee will increase by $500. We will return the basic transfer fee, less any actual expenditures or disbursements that we incur in processing the proposed transfer, if we do not consent to your proposed transfer or if we exercise our right of 1st refusal. If you attempt to transfer in violation of the operating agreement, your transfer is void and we may either terminate the subfranchise or collect from you a transfer fee of 2 times the then-current basic transfer fee (See Item 17).

For stores or restaurants opened under our ARD program, in connection with a transfer, in addition to the basic transfer fee and any additional transfer compliance fee specified above, at our election, you must pay an additional restaurant development fee discount reimbursement charge, based on the following formula:

| | |
|---|---|
| Transfer and assignment within 1 year of opening - | $24,000 |
| 1st year to 2nd year - | $20,800 |
| 2nd year to 3rd year - | $16,800 |
| 3rd year to 4th year - | $12,000 |

(5) The license renewal fee is $2,500.

(6) You must keep records for your store or restaurant. The records include detailed daily sales, cost of sales, profit and loss statements, balance sheets and other relevant records or information, maintained in a format and methodology that we and ADQ approve. Once collected, you must give us and/or ADQ these records according to reporting formats, methodologies and time schedules that we and ADQ establish periodically. We or ADQ may, at our or its own expense, evaluate, copy and audit your books. If the evaluation or audit reveals any understatement of your Gross Sales of 3% or more, you must pay all professional fees, travel, room and board, and expenses for the evaluation or audit and we and/ or ADQ may conduct additional evaluations or audits of your books as we or ADQ consider reasonably necessary for up to 2 more years. You also must pay all professional fees, travel, room and board, and expenses for the additional evaluations or audits.

(7) If we terminate the subfranchise because of your defaults, you must pay to us a fee in an amount equal to 2 times the continuing license fees due for the last 12 months of your store's or restaurant's active operations. If the location did not operate for a full 12 months, 24 times the average monthly continuing license fee when the location was open; or if less than 24 months remain on the operating agreement, the number of months remaining times the average monthly continuing license fees due for the last 12 months of active operations. This fee does not apply if termination occurs before your store or restaurant opens. See Item 17.

(8) You must pay all business debts, liens and taxes promptly when due. If you fail to do so, we may pay the same and then be entitled to immediate reimbursement from you. Unpaid debts owed to us or our affiliates bear interest from the date of accrual at the lesser of 18% or the highest rate allowed by Virginia law. We may require you to pay to us a late fee of up to $50 for each late report or payment. A payment is late if the payment is not received by us on or before the date due, the payment is not honored by your bank, or there are insufficient funds in your account to collect the payment by a transfer of funds authorization on or after the date due.

(9) You must modernize your building, premises, equipment, signage and grounds when you transfer any interest in the subfranchise, convert an existing unit to another type of DQ store or restaurant in the DQ system, or when you renew your subfranchise, and no less than every 10 years or shorter period, if any, required by any lease for the premises. The modernization must conform to the standards that we and/or ADQ prescribe at that time for similarly situated new DQ stores or restaurants. As described in Item 1, the DQ Treat building designs are now the approved building standards for all DQ stores offering a full menu of approved soft-serve treat and beverage items, and a limited menu of approved food items, and the DQ Grill & Chill building designs are now the approved building standards for all DQ restaurants offering a full menu of approved soft-serve treat, beverage and food items. If the modernization requirement is triggered within 3 years before the expiration of a nonrenewable lease, you will not be required to modernize, unless the landlord of the store or restaurant premises requires you to modernize under the terms of the lease. Because the scope of a required modernization may vary based on existing sales volume and may range from replacing restaurant signage to complete refurbishing or re-imaging of the store or restaurant, including replacing finishes, furniture, fixtures and counter area, and upgrading or replacing your computer restaurant management systems, your costs to modernize may vary, depending on your particular circumstances. You may make these payments in whole or in part to 3rd parties. Before the time you modernize your store or restaurant, you must submit your modernization plans to us for our approval.

The estimated expenses provided for signage range from basic storefront signage and shared monument sign needed for a strip center location on the low end, to signage for a freestanding location on the high end (dual building signage, 1 pylon, a reader board, the Grill & Chill bowtie, and directional signage).

(10) During the 1st year you own the EPOS system, you must purchase an approved software support program. Although the software support program is not required after the 1st year, it is strongly recommended. See Items 8 and 11 for additional information on the software support program for the EPOS system. Gift card program fees are allocated based on a shared cost model between subfranchisees, franchisees and the national marketing fund ("NMF"). Currently, DQ franchisees and subfranchisees pay fees equaling 3% of total gift card redemptions, which ADQ estimates will be about $200 per year per location. NMF covers the balance of the gift card program's costs. In the future, the percentage allocation of costs between franchisees and subfranchisees and NMF may change.

(11) You must pay us our costs and attorneys' fees in obtaining injunctive or other relief against you under the operating agreement.

(12) ADQ periodically offers optional management skills and professional development courses for existing managers, franchisees and subfranchisees as refresher or supplemental management training

programs. The tuition is currently $200 per trainee. The courses are offered regionally, at centrally-located hotels. You must pay your trainees' wages and any travel and living expenses.

(13) We may, at our sole option, collect continuing license and sales promotion program fees from you through a surcharge method of pre-collection. Under this method, you must pay to suppliers of mix, meat, and other products and ingredients used in the subfranchised business a surcharge on all the products you purchase. We establish the surcharge at a reasonable rate so as to approximate the amount of continuing license fee and sales promotion program fee that you will be required to pay. We will perform a reconciliation of fees paid versus fees due either on a monthly or quarterly basis.

As an alternative to the surcharge method of collection program, we may collect estimated continuing license and sales promotion program fees from you through a weekly payment program. Under this program, we will establish a specific amount that you will prepay to us each week as an estimate of the continuing license and sales promotion program fees that will be due at the end of the month. We will perform a reconciliation of fees paid versus fees due either on a monthly or quarterly basis.

(14) We may require you to sign an electronic transfer of funds authorization for your business bank account. A copy of our current draft authorization form is included as Exhibit D of this disclosure document. The authorization permits us or ADQ or ADQ's affiliates to collect from your account actual and estimated (in the case of the weekly payment program described in Note 13 above) amounts due and payable to us, ADQ or ADQ's affiliates for goods or services, including continuing license and sales promotion program fees. As an alternative, we may require you to sign an authorization to allow for some other method of payment.

(15) Some franchisees or subfranchisees in your trade area may pay (or account for) higher, lower or no sales promotion fees. Any company-operated DQ Treat stores or DQ Grill & Chill restaurants in your trade area will pay (or account for) at least the same sales promotion fee as you do.

(16) We or ADQ may produce and require you to purchase certain restaurant training materials for use with your personnel. These may include DVDs, CDs, written publications, and other items.

(17) You must pay a cancellation fee to ADQ if any trainee cancels training once scheduled. If a trainee cancels Phases 1 and 2 of training more than 14 days before the start of the training class, you must pay a cancellation fee of $150. If a trainee cancels Phases 1 and 2 training 14 days or less before the start of the training class, you must pay a cancellation fee of $750. If a trainee cancels Phase 3 of training 14 days or less before the start of the training class, you must pay a cancellation fee of $1,000. You must pay a substitution fee of $100 if you substitute a new individual to attend a training class less than 14 days before the class starts.

(18) This amount is paid to your Internet service provider, and will vary based on a number of factors, such as the type of Internet service provided and local market conditions. See Item 11 for further information about Internet connection requirements.

(19) During any period of business interruption, whether caused by a Force Majeure event (see Section 15.12 of the operating agreement), Voluntary Abandonment (see Section 6.9(B) of the operating agreement), damage or destruction of the Restaurant (see Section 6.9(C) of the operating agreement), or any other cause within or not within your control, you must pay minimum continuing license fees, and sales promotion program fees for each month or part of a month equal to the fees that were payable for the prior year's same month or comparable part of the same month (i.e., if there is a business interruption during all or part of December 2026, the minimum fees would be due based on the fees that were payable for all of December 2025 or the comparable part of December 2025).

## Item 7

## ESTIMATED INITIAL INVESTMENT

## YOUR ESTIMATED INITIAL INVESTMENT

| Type of Expenditure | Amount (1) | Method of Payment | When Due | To Whom Payment Is To Be Made (1) |
|---|---|---|---|---|
| Initial franchise fee (See Note 2) | $45,000 | Lump sum | When you sign the operating agreement | Us |
| Initial training program (See Note 3) | $3,600 - $10,800, for 2 to 4 trainees | Lump sum | Before training | ADQ (training for 1 trainee is included in the initial franchise fee) |
| Management Training Readiness Assessment training (See Note 3) | $200 - $600, for 2 to 4 trainees | Lump sum | Before training | ADQ (ADQ pays this fee to 3rd party; training for 1 trainee is included in the initial franchise fee) |
| SERVSAFE course (See Note 3) | $400 - $1,600, for 2 to 4 trainees | Lump sum | Before training | 3rd party |
| Travel and living expenses (See Note 4) | $5,200 - $14,100, for 2 – 3 DQ Treat store trainees<br><br>$16,000 - $50,800, for 2 to 4 DQ Grill & Chill trainees | Lump sum | As incurred | 3rd parties |
| Building construction and leasehold improvements (See Notes 5, 6) | $235,000 - $470,000, for DQ Treat store in captive-venue location<br><br>$390,000 - $870,000, for DQ Treat store with street location, excluding cost of land<br><br>$800,000 - $1,400,000, for DQ Grill & Chill restaurant, excluding cost of land | Note 5 | Note 5 | ADQ ($0-$7,500 for construction consultation services); 3rd parties |
| Prepaid rent and security deposit (See Note 7) | $2,500 - $5,500, for DQ Treat store | Lump sum | Before opening | Landlord |
| Building plans, design intent plans and architectural seal (See Notes 8) | $10,000 - $50,000, for DQ Treat store<br><br>$15,000 - $60,000, for DQ Grill & Chill restaurant | Lump sum | As incurred | ADQ ($0-$3,000 for prototypical design intent building plans); local architect |

| Type of Expenditure | Amount (1) | Method of Payment | When Due | To Whom Payment Is To Be Made (1) |
|---|---|---|---|---|
| Equipment and fixtures (including signs and EPOS system) (See Note 9) | $220,000 - $360,000, for DQ Treat store in captive-venue location<br><br>$360,000 - $420,000, for DQ Treat store with street location<br><br>$575,000 - $700,000, for DQ Grill & Chill restaurant | Lump sum or, down payment with balance financed | When you place order | 3rd parties |
| Credit card processing fees (See Note 10) | $200 - $2,000 | As arranged | When incurred | 3rd parties |
| Training inventory (See Note 11) | $4,000 - $8,000, for DQ Treat store<br><br>$6,000 - $12,000, for DQ Grill & Chill restaurant | Lump sum | Before opening | ADQ ($0-$8,000, for DQ Treat store; $0-$12,000, for DQ Grill & Chill restaurant); 3rd parties |
| Opening inventory (See Note 11) | $5,000 - $15,000, for DQ Treat store<br><br>$20,000 - $40,000, for DQ Grill & Chill restaurant | Lump sum | Before opening | 3rd parties |
| Utility deposits, business licenses and government charges (See Note 12) | $4,000 - $17,000 | Lump sum | Before opening | 3rd parties |
| Insurance (See Note 13) | $6,000 - $20,000 | As arranged | As agreed | ADQ ($0-$20,000); 3rd parties |
| Attorneys' fees (See Note 14) | $4,000 - $8,000 | Lump sum | As incurred | Attorney |
| Additional funds (3 to 9 months) (See Note 15) | $40,000 - $155,000, for DQ Treat store<br><br>$50,000 - $200,000, for DQ Grill & Chill restaurant | As incurred | Before opening and as incurred | 3rd parties |
| TOTAL (See Notes 16 and 17) | **$585,100 - $1,642,600 for new DQ Treat store (does not include land and non-standard improvement costs; does not reflect lower or waived initial franchise fee for store opened under our Conversion Program or our ARD Program; low estimate assumes 2 trainees at initial training; high estimate assumes 3 or 4 trainees at initial training)**<br><br>**$1,545,400 - $2,567,800 for new DQ Grill & Chill restaurant (does not include land and non-standard improvement costs; does not reflect lower or waived initial franchise fee for restaurant opened under our Conversion Program or our ARD Program; low estimate assumes 2 trainees at initial training; high estimate assumes 4 trainees at initial training)** | | | |

Notes:

(1) Except where otherwise noted, all fees that you pay to us, ADQ, or our or ADQ's affiliates are nonrefundable. 3rd party lessors, contractors, and suppliers will decide if payments to them are refundable.

(2) If you are new to the DQ system, your initial franchise fee will be $45,000. If you are a qualified existing subfranchisee and are opening an additional unit, the initial franchise fee may be reduced to $0. We may refuse to approve your opening of an additional unit, or may refuse to offer or grant you an additional subfranchise for no initial franchise fee or for a reduced initial franchise fee. See Item 5 for conditions under which the initial franchise fee is refundable.

(3) The estimates in the table assume 3 trainees for a new DQ Treat store (2 trainees are required) or 4 trainees for a new DQ Grill & Chill restaurant (3 trainees are required). ADQ charges a $3,600 initial training fee for each trainee who attends all 3 phases of ADQ's initial training program. If you are a current franchisee that already has at least one existing DQ store or restaurant open and operating for a minimum of 2 years and you are developing an additional store or restaurant under our ARD Program, you may be permitted to have training candidates with a certain level of experience and operational approval test out of Product and Equipment Training (phase 1), in which case the cost of the remaining phases of ADQ's training program is $2,300/person, or test out of both Product and Equipment Training, and Service, Management and Financial Basics Training (phases 1 and 2), in which case the cost of the remaining phase of ADQ's training program is $1,000/person. If any person required to attend training does not pass People, PRIDE, and Profit Training (phase 3) within 6 months after phase 2 completion, you must pay an additional $1,000/person for phase 3 completion.

Before attending ADQ's training program, trainees must take and pass a management training readiness assessment ("MTRA"), which ADQ estimates will cost $200 per trainee, and an additional $200 for each retake or repeat of the assessment. Any fee for MTRA is collected by ADQ, is paid by ADQ to a 3rd party, and is nonrefundable. If a trainee cancels a scheduled MTRA more than 1 business day before the scheduled MTRA, the fee will be applied to the next scheduled MTRA for that trainee. If a trainee fails to cancel at least 1 business day before the scheduled MTRA or fails to appear at the testing facility, the fee will be forfeited.

Trainees also must successfully complete a SERVSAFE course and have current SERVSAFE certifications before attending ADQ's training program. ADQ estimates that the cost for your trainees to attend a SERVSAFE course will range from $200 to $400 per person. This cost is payable to a 3rd party.

The $3,600 initial training fee for 1 trainee and the $200 fee for the MTRA for 1 trainee, but not the fee for the SERVSAFE course, are covered by your initial franchise fee, if paid. You must pay ADQ a non-refundable $3,600 initial training fee and a non-refundable $200 fee for the MTRA, for each additional trainee after the 1st trainee.

**Conversion subfranchisee training**: If you are a conversion subfranchisee, ADQ will provide a training program that is customized to address your individual training needs. Unless currently certified, each of your trainees must also successfully pass a SERVSAFE certification exam and have current SERVSAFE certifications (see Item 11) before attending the training program.

ADQ conducts its initial training program at a certified restaurant location. The actual training location will depend on a number of factors, including availability of certified restaurant locations near your store or restaurant and ADQ's training calendar. Further, your actual travel and living expenses will depend on a number of factors, such as the length and location of training (See Item 11), and the number of trainees taking the pre-screening test and attending the SERVSAFE course.

ADQ's training programs, the MTRA and the SERVSAFE course are further described in Item 11.

(4) The total amount of travel and living expenses will vary depending on the training completed by your trainees. See Item 11 for further information regarding your training requirements. You may pay travel and living expenses of about $2,600 to $8,000 per person for a DQ Treat store, or about $8,000 to $12,000 per person for a DQ Grill & Chill restaurant, for all 3 phases of ADQ's training program. In addition, you may pay travel and living expenses of about $0 to $300 per person for the MTRA (the MTRA is generally available at locations reasonably close to prospective subfranchisees), and about $0 to $400 per person for the SERVSAFE course.

**Conversion subfranchisee travel and living expenses**: If you are a conversion subfranchisee, you must send at least 3 persons to ADQ's customized training program. ADQ generally administers the training program at an existing DQ Grill & Chill restaurant or at another location that ADQ designates. ADQ estimates that the travel and living expenses for your trainees will fall within the range provided in the Item 7 table.

(5) This estimate is for building construction, site work and leasehold improvements, but excludes the cost of land. The cost of your building construction, site work and leasehold improvements will depend in large part on the size of the building you select and other factors. Currently, there are 2 prototypical freestanding building models for DQ Grill & Chill restaurants: the Next Gen Core 34 and the Next Gen Core 46. The Next Gen Core 34 is 1,938 square feet, seats about 34, and requires a minimum lot size of 25,830 square feet. The Next Gen Core 46 is 2,208 square feet, seats about 46, and requires a minimum lot size of 32,026 square feet. The actual cost for building construction, site work and leasehold improvements depends on many variables, including restaurant location and lot size; site improvement costs; soil and environmental conditions; federal, state and local building codes and fees; health department requirements; local labor costs; union labor requirements; materials; interest costs; inflation and other factors. You also may choose to add approved options to your restaurant that are not required, such as adding rear storage. Acquisition costs may be beyond the ranges identified above in certain cases or localities. Down payment requirements and initial financing or commitment expenses are negotiated individually and vary too widely to be realistically predicted.

If you purchase land, your investment for land generally will range from $250,000 to $800,000, depending on many variables, including the size of the property and land prices in your geographic market.

If you lease the land and/or building for your store or restaurant, the initial cost of leasehold improvements to a leased building may be more than the estimate, depending on many independent variables, including restaurant size, condition of existing space, demolition and landscaping, building code requirements and fees, as well as those factors listed in the paragraph above. The rental payments you make over the term of the lease, however, will likely total an amount equal to or greater than the total investment you would have made if you had purchased the land and building for your store or restaurant.

Payments for real property, leaseholds and construction ordinarily are not refundable, except possibly security deposits made with lessors. Investment obligations beyond the initial cash outlay requirements will be necessary and you may finance these and other obligations at your discretion. Market forces will determine loan repayment totals, interest rates and payments on borrowings at the time of any transaction.

(6) You must pay for any additional costs due to deviations or escalations in any construction or leasehold improvement costs, including any additional costs to comply with all federal, state or local requirements.

(7) You usually will be required to pay one month's base rent as a security deposit to the landlord and may be required to pay an additional security deposit under a sublease. ADQ estimates that: base rent for 750 square feet will be $3,500 to $7,000 or more per month, plus about 8% to 12% of gross sales in excess of a specified amount to which base rent is credited; and that actual rent will vary based on store

size, geographic location, costs assumed by the landlord, and other economic factors. Leases also usually impose an obligation toward common area maintenance costs, insurance charges, real estate taxes and special assessments, HVAC charges, utility charges, water and sewer charges, security charges, trash removal charges, mall charges, promotional and marketing charges, food court charges and improvements, and charges for membership in a merchants association.

(8) We and ADQ must approve the building plans for your store or restaurant before you begin construction. The building plans must be full architectural, structural, mechanical, electrical, plumbing, final site and grading plan and food service drawings showing equipment layout, manufacturer and model numbers and bearing the seal of a registered architect in the state where your store or restaurant will be located. ADQ recommends that you submit preliminary designs for review before you prepare and submit your final building plans.

As stated in Item 5, you may purchase ADQ's prototypical design intent building plans for a freestanding DQ store or restaurant from ADQ for $3,000. ADQ's standard design intent plans meet Minnesota Building Code requirements. You must conform the plans at your expense to local, state and federal requirements, including the Americans With Disabilities Act. You must, at your expense, obtain an architectural seal. These plans are valid for 6 months after date of issuance.

Architectural costs to conform your building plans to local, state and federal requirements will range from about $7,000 to $35,000 for a DQ Treat store, or from about $15,000 to $45,000 for a DQ Grill & Chill restaurant, including the cost of an architectural seal. We (but not ADQ) also provide layout drawings for the conversion of an existing building to a DQ store or restaurant, or the development of leasehold space, as part of the initial franchise fee. We and ADQ must approve any building plans for these types of development. We and ADQ must approve in writing any proposed alterations to our or ADQ's standard design intent building plans or previously approved building plans. You must obtain any local building plan approval in addition to our and ADQ's building plan approval. Further, if your local architect makes additional revisions to ADQ's prototypical design intent plans and/or any design criteria information, those revisions will become the property of ADQ. ADQ and its affiliates may use those plans in any manner in the future.

(9) Your investment in equipment and fixtures is highly variable for your store or restaurant. The investment costs depend to a great extent on the size of the building and whether you lease or own. The equipment costs for a DQ Treat store generally range from $220,000 to $360,000 for a captive-venue location, or $360,000 to $420,000 for a street location. The equipment costs for a Next Gen Core 34 building generally range from $575,000 to $625,000, and for a Next Gen Core 46 building generally range from $625,000 to $700,000 (see descriptions in Note 5 above). The investment costs also depend on the location of your store or restaurant, the anticipated traffic through the store or restaurant, local labor costs, current prices charged by equipment suppliers, discretionary expenditures, inflation, financing costs, and similar factors beyond our, ADQ's or your control. You also may choose to add some approved options to your store or restaurant that are not required, such as additional seating packages. These investment costs are subject to change.

Equipment payments generally are not refundable. Investment obligations beyond the initial cash outlay requirements will be necessary and you may finance at your discretion. Market forces will determine loan repayment totals and interest on borrowings at the time of any financing transaction.

(10) Credit card processing service providers require compliance with the Payment Card Industry ("PCI") Data Security Standard assembled by the PCI Security Standards Council. The initial cost to hire a 3rd party contractor to ensure compliance with the PCI Data Security Standard may range from $200 to $2,000.

(11) You must purchase the training and opening inventory used by you and your personnel at your store or restaurant during our or ADQ's on-site opening assistance.

(12) This amount includes utility and security deposits and business licenses. Deposits are generally refundable, but license fees are not. You may be required to submit an impact study to a local government agency to receive necessary local permits and approvals for your store or restaurant. These estimates may be significantly higher in some unique jurisdictions, where local authorities may require fees in excess of $100,000 for electrical, sewer/water and/or other miscellaneous connections.

(13) You must purchase and maintain, at your sole expense, general liability insurance at a minimum limit of liability that we and/or ADQ designate periodically as may be necessary to reflect inflation, risk levels or other factors that we and/or ADQ consider important, but not less than $2,000,000 per occurrence, combined single limit (CSL), or any higher amount that a lessor of the premises may require; and business interruption insurance covering "actual losses sustained" during any period of not less than 12 months or during the maximum period permitted by law if less than 24 months. The general liability insurance coverage must insure you, us, our affiliates, ADQ, ADQ's affiliates and any other person that we and/or ADQ designate by name from liability for any and all damage or injury. In addition to general liability insurance and business interruption insurance, you also must purchase and maintain any other insurance required by law or any agreement related to the subfranchised business. Examples are fire or extended coverage insurance and workers' compensation insurance. All insurance coverage must be written with a company rated no less than "A" by AM Best Insurance Rating. ADQ has made arrangements with a 3rd party insurer to make available to qualifying subfranchisees certain insurance (see Item 8). Costs for insurance vary widely depending on the value of the property, state laws governing insurance, type of structure in which the subfranchised business is located, and amounts of insurance required. You may make these insurance payments in whole or in part to 3rd parties. If you do not purchase and maintain the required insurance coverage, we may procure insurance coverage for you and charge the same to you, together with a reasonable fee for the expenses we incur in doing so, payable by you immediately on notice. You must keep current certificates of insurance on file with us at all times.

(14) This amount is an estimate for attorneys' and other professional fees in connection with your purchase of the subfranchise and purchase or lease of the subfranchised premises.

(15) The "Additional Funds" amount listed in this Table is an estimate, and we cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as how much you follow our and ADQ's systems and procedures your management skills and experience, your business acumen, local economic conditions, the local market for DQ/Dairy Queen, DQ/Orange Julius and DQ Grill & Chill products, your competition, the compensation you pay your personnel, the number of personnel you hire or engage, and the sales level reached during the initial period. This estimate includes managerial salaries, rent, debt service, local advertising, taxes, freight, office supplies and security and authorized music systems. It does not include hourly labor costs or food costs beyond the opening inventory costs identified in the Table. For determining your initial cash position, you should anticipate that local lending institutions might require you to have at least a 20% equity position on all leasehold improvements and 25% on all equipment.

(16) This total is an estimate of your initial investment and is based on our estimate of average costs and market conditions prevailing as of the date of this disclosure document and our over 50 years of experience in the business. You should review this amount carefully with a business advisor before making any decision to purchase the subfranchise.

(17) The estimates in this table are for the development of a new DQ store or restaurant. If you are converting an existing building for use as a DQ store or restaurant, you may not incur all of the expenses listed. Conversion costs may vary significantly, depending on the type and condition of the facility, the prior use of the building, and other costs that might be incurred to rectify deferred maintenance issues and/or to make other facility upgrades that are not directly related to the conversion, but that are completed at the same time.

## Item 8

## RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Required Purchases

You must maintain and comply with our and ADQ's quality standards to protect the uniformity and quality of products and services throughout the DQ system.

While you are not required to purchase or lease real estate from us, ADQ or its affiliates, we must approve the location of your store or restaurant (see Item 11), and we have the right but not the obligation to approve the lease for the store or restaurant premises before execution. You must construct and equip your store or restaurant according to our and ADQ's then-current designs, specifications and standards. You must ensure that your building plans comply with the Americans With Disabilities Act and all other federal, state and local laws and regulations.

You may only use or purchase products approved by us and ADQ that meet our and ADQ's specifications. For purposes of this Item 8, "products" include products, services, ingredients, supplies, signage, fixtures, furnishings, advertising and sales promotion materials, and equipment (including hardware and software for a computerized electronic point-of-sale ("EPOS") system and/or other computer systems, communications equipment, or electronic services providers). Approved products generally must meet our and ADQ's specifications, and are manufactured, provided or prepared by ADQ approved manufacturers, suppliers or distributors. We and ADQ periodically identify approved products for use in DQ locations, and have the right to periodically change the list of approved products, and to update and alter the specifications for approved products.

ADQ always has the right to designate a single approved manufacturer, supplier or distributor for the following products: (1) soft drinks; (2) 3rd party branded products; (3) products relating to limited time offers and special promotions; (4) equipment, including EPOS equipment and all related point-of-sale and web based software and back-office hardware and software; (5) any product you purchase where ADQ does not receive a fee or payment from the manufacturer with respect to the sale of that product, other than payments from suppliers for marketing; and (6) the Orange Julius proprietary powders and frozen orange juice concentrate (if Orange Julius products are permitted to be sold at your store or restaurant).

For other products not listed in (1) - (6) above, as long as there is not in place an agreement for a "unified purchasing program," a franchisee or subfranchisee may make written request for approval of a specific product, service or piece of equipment of an additional, qualified manufacturer, supplier or alternate distributor, pursuant to ADQ's then-current policies and procedures. ADQ has received and offered proposals to create a unified purchasing program as a joint effort between ADQ and a cooperative association of DQ restaurant and store operators, to benefit the entire DQ system in the United States. For any period during which there is an agreement for a unified purchasing program: (1) ADQ will designate as approved the manufacturers, suppliers or distributors properly selected within the structure of that program; and (2) ADQ has the right to designate a single approved manufacturer, supplier and/or distributor of any approved products.

ADQ has designated ParTech, Inc. as the sole supplier of the required EPOS system hardware and software that you must purchase for your store or restaurant. You must sign an agreement with ParTech for the purchase of the equipment, software subscription services, and

installation and other services ("ParTech Participation Agreement"), when you sign your operating agreement. ADQ also has designated: (a) ParTech, Inc. Data Central as the sole supplier of the back office software you must purchase for reporting and labor and inventory management; (b) Fiserv (formerly, FirstData Merchant Services) as the sole supplier of payment card processing and related services you must purchase; (c) Verifone as the sole supplier of certain payment card data encryption services that you must purchase; (d) ValueLink, LLC as the sole supplier of the gift cards and related services you must purchase; (e) Olo as the sole supplier of the DQ Mobile Ordering system; (f) Punchh Inc. as the sole supplier of the DQ Mobile Loyalty platform that you must purchase; (g) Acumera as the sole supplier of managed firewall services you must purchase; and (h) Cineplex Digital Media Inc. as the sole supplier of the digital menu boards you must purchase. Copies of the third-party participation agreements, if any, that you must sign with ParTech, Fiserv, Verifone, ValueLink, Olo, Punchh, Acumera, and Cineplex are included in Exhibit E in this disclosure document. When you sign your operating agreement, you must also sign the then-current participation agreements offered by the third-party suppliers listed above. ADQ has the right to designate suppliers in place of or in addition to these suppliers.

The operating agreement requires you to purchase and maintain, at your expense, general liability insurance and business interruption insurance, as described in Item 6. The operating agreement permits us periodically to require the same types of insurance with increased coverage minimums, and to require different or additional types of insurance, to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances. You also must purchase and maintain any other insurance required by law or any agreement related to the subfranchised business. You must furnish copies of all insurance certificates to us. ADQ has arranged with a 3rd party insurer to make certain insurance, including general liability insurance, available to qualifying franchisees and subfranchisees.

We or ADQ may require you to periodically purchase restaurant training materials from ADQ. See Items 6 and 11 for more information.

ADQ estimates that the purchase or lease of equipment (including computer and EPOS system hardware and software), signage, fixtures, furnishings, products, ingredients, supplies, advertising and sales promotion materials (see Item 11 for information on advertising and sales promotion materials), and services which meet ADQ's specifications represent about 65% to 85% of the cost to establish the subfranchised business (excluding land) and 30% to 50% of the cost to operate the subfranchised business.

We and ADQ provide no material benefit (such as renewal or granting additional subfranchise or franchise rights) based on your purchase of particular products or services or use of particular suppliers, but your operating agreement obligates you to use products and services approved by us and ADQ. We consider a number of factors when determining whether you might qualify for an additional subfranchise, including compliance with your operating agreement and support of our and ADQ's programs and policies.

Approval of Alternate Suppliers

ADQ has the right to approve the manufacturer, supplier or distributor of any approved products you purchase. If there is no agreement in place for a unified purchasing program, you may request approval in writing of a specific product from an alternate manufacturer, supplier or distributor of products other than those listed in (1) - (6) in the "Required Purchases" section above

in this Item 8. ADQ only approves alternate manufacturers for products if doing so will not create an inordinate number of manufacturers of the product, and the manufacturer meets ADQ's then-current requirements. We and ADQ will not make product specifications available to you, but on request will provide summary specifications to you to provide to a manufacturer to determine if there is an interest in producing the product. ADQ will provide a manufacturer with detailed written specifications for the product, or, if detailed written specifications are not available, ADQ will provide the manufacturer with a parameter specification or information about a comparison product for purposes of obtaining approval of the alternate manufacturer. ADQ may require you and the manufacturer to sign a non-disclosure agreement before providing information on specifications.

ADQ uses the following criteria, which ADQ may change periodically, when evaluating an alternate product or manufacturer:

- Compliance with ADQ's specifications
- Ability to supply a large number of DQ stores and restaurants or geographic areas
- Ability of facility to meet ADQ's requirements and accessibility for periodic evaluations
- Completion of a successful facility inspection by ADQ and/or a designated 3rd party auditor that, depending on the product, may need to be certified by a Global Food Safety Initiative (GFSI) recognized scheme
- Acceptable food defense plan, supplier specification, HACCP plan, product recall process, 24 hour contact information, and allergen control program
- Manufacturer attendance at meeting with ADQ's Research & Development staff to review specifications and related procedures
- Compliance with other requirements as may be periodically implemented

ADQ (or a 3rd-party product evaluator) may charge the evaluation cost to you or the manufacturer. ADQ also may charge the manufacturer for the cost of periodic reviews of existing products and manufacturing facilities, and may require the manufacturer to submit products and make payments to 3rd-party product or facility evaluators. Fees charged are based on a schedule of fees as may be established periodically by ADQ or the 3rd-party evaluator.

The manufacturer must provide samples (ultimately from a production run), product labels, and packaging for the alternate product. ADQ or a 3rd-party product evaluator will conduct an evaluation of 1 or more samples to determine if the manufacturer's product conforms to ADQ's specifications. The evaluation may take from 90 to 180 days or significantly more, depending on the complexity of the product, the specifications, the comparison product, and the manufacturing process, as well as the manufacturer's ability to provide samples and any required modifications on a timely basis. Before final approval, ADQ may require that a product successfully complete a field and distribution test where the product moves through a warehouse and is used in DQ stores and restaurants, which may take an additional 30 to 60 days or more. ADQ will notify you and the manufacturer of the approval or rejection of the manufacturer or product. If the manufacturer or product is not approved, ADQ or a 3rd-party product evaluator will notify you and the manufacturer of the basis for the decision.

The manufacturer will be required to sign an approved products contract with ADQ that may be terminated on 90 days' notice, or that ADQ may terminate sooner if the manufacturer is in violation of any of the terms of the contract or if the product is discontinued for use in the DQ system.

Supply Chain

IDQ is involved in the purchasing and distribution business through its wholly-owned subsidiary, Unified Supply Chain, Inc. ("USCI"). In 2004, IDQ made the commitment to reduce its average margins over an 11-year period, culminating with a maximum average margin (as defined below) of 2.5%. In 2015, IDQ made an additional commitment that in 2016 it would permanently eliminate supply chain margin service fees received from manufacturers and distributors of equipment and smallwares, and that it would further reduce its maximum average supply chain margin to 1.5% by 2025. The 2004 and 2015 commitments are together referred to as the "margin commitment." This margin commitment refers to amounts received after deducting costs associated with developing and supplying products (such as tooling depreciation and rentals), technology tools, obsolete inventory and expedited freight. IDQ/ADQ made this margin commitment on a permanent basis to benefit all existing and future franchisees and subfranchisees. Under the margin commitment, USCI has received margins between 0% and 8.5%, and under the new commitment the margins will be between 0% and 6.5%. In 2025, the maximum average margin is 1.5%. In addition, IDQ/ADQ made a commitment that should IDQ ever divest USCI, the buyer will be obligated to honor the margin commitment, unless the buyer, as a franchisee cooperative, chooses to establish a different margin structure supported by a majority of its members.

"Margin," for purposes of this Item, means the management service fee payments that USCI receives from suppliers based on the warehouse landed cost of products within the scope of the margin commitment, in place of the margin that IDQ/USCI historically realized when IDQ/USCI was in the buy-sell (inventory ownership) position with respect to products used in the operations of DQ stores and restaurants.

The scope of what is included in the margin commitment is food, paper, packaging, decorated cakes, Orange Julius proprietary powders, and other products managed through the USCI authorized warehouse system in the U.S., but does not include IDQ supply products, uniforms, and items not used in the operation of a restaurant. Manufactured frozen novelties have been excluded from the scope, and instead are under a separate margin schedule. In 2025, service fee payments relating to manufactured frozen novelties will not exceed an average of 1.5%. The 2015 margin commitment will systematically reduce the margin on these items further and fully include them in the scope by 2025. National payments from suppliers for marketing will flow through NMF and are not in the scope of the margin commitment.

USCI manages all of the components of the supply chain process, but is no longer in the purchase order process between distributors and suppliers related to most purchases in the U.S. distribution system. ADQ, USCI or its affiliates negotiate purchase and sale arrangements (including price terms) with suppliers and distributors that benefit the DQ system, which may include national account programs for products and services. However, ADQ and its affiliates do not negotiate on behalf of individual DQ franchisees or subfranchisees.

USCI obtains commitments from strategically located, independently owned warehouses to carry approved products, and to make them available to DQ stores and restaurants within a

particular area. USCI may require its authorized warehouses to carry a full line of products sourced by USCI, and may require that the warehouses sell to DQ franchisees and subfranchisees only those products that are sourced by USCI. Some products sourced and managed in the supply chain by USCI are the only approved products of their type because of a lack of subfranchisee and franchisee requests for approval of an alternate supplier, the lack of incentives for others to engage in the supply or distribution of the product, or for other similar reasons.

An independent accounting firm annually reviews certain performance measures of USCI and USCI shares this information with its advisory council made up of elected DQ franchisees and subfranchisees, the Supply Chain Advisory Council ("SCAC"), which is further described in Item 20. The SCAC is given access to financial information of USCI to allow them to give valuable input to the management of USCI.

ADQ or its affiliates may sell advertising and sales promotion materials, and other food and non-food products to DQ franchisees and subfranchisees, to authorized warehouses, or otherwise for use in the DQ system.

There are 1 or more purchasing or distribution cooperatives in the DQ system that may be involved in the distribution of certain products used in the subfranchised business.

Revenue Derived from Suppliers

In our fiscal year ended February 28, 2025, we had no revenue from subfranchisees' required purchases and leases from us, or from ADQ.

IDQ and its affiliates receive fees or payments from some 3rd party suppliers that may or may not be reasonably related to services IDQ or its affiliates provide to the suppliers. Some arrangements with 3rd party suppliers require IDQ or its affiliates to perform services, such as administrative, technical, quality assurance, advisory, data collection, customer service, or promotion forecasting services. As of the date of this disclosure document, IDQ and its affiliates received fees and payments from 3rd party suppliers ranging from 0% to 10% of the suppliers' sales to franchisees, or of sales to warehouses in the U.S. of the following types of items used in the operation of DQ stores and restaurants: products, ingredients, supplies, equipment, uniforms, signage, fixtures, furnishings, advertising, and sales promotion materials. These fees and payments are calculated and paid to us as a percentage or as a flat fee amount. The fees and payments, and the amounts listed below, may be adjusted in the future. Also, USCI authorized warehouses to pay a fee to USCI equal to up to 0.5% of their gross sales of products moving through the DQ system.

IDQ and its affiliates may receive fees and payments from 3rd party suppliers in greater amounts with respect to items not used in the operation of DQ stores and restaurants, such as items sold under merchandise licensing programs or other similar arrangements. For example, ADQ may grant a license to a manufacturer to allow it to place ADQ's trademarks on sportswear or advertising specialty products.

In 2024, IDQ derived revenue of $40,325,880 from the net sale of products, marketing kits, real estate finance and rental fees, insurance, and supplier service fees. This amount equaled about 16% of IDQ's total revenue of $257,640,594, based on IDQ's consolidated and audited statement of income for the fiscal year ended December 31, 2024.

Although not considered revenue, ADQ and its affiliates received payments in 2024 from 3rd party suppliers that were accounted for as DQ national or DMA advertising fund receipts

totaling about $3,082,197, which included $1,337,998 from various 3rd party suppliers, and $1,744,199 from soft drink suppliers. As of the date of this disclosure document, ADQ anticipates that ADQ and its affiliates will receive similar amounts from 3rd party suppliers in 2025. These payments may be percentage payments based on sales to franchisees, lump sums, reimbursements, or similar types of payments. ADQ or its affiliates also may receive payments in connection with conferences hosted by ADQ or its affiliates, or in connection with other unique activities or initiatives, and these payments may, in consultation with the franchisee SCAC, be used in various ways to benefit the DQ system.

Fee and payment arrangements in foreign countries may differ from arrangements in the U.S.

Ownership Interest in Suppliers.

As of February 28, 2025, there was no approved supplier in which any of our officers owned an interest.

As of December 31, 2024, some ADQ officers owned interests in the following companies that supply products or services to ADQ's franchisees: Analytics/Firebase, Azure, CDW Corporation, Clorox Sales Company, Coca Cola, Ecolab, Google Microsoft, Olo, Pepsico, Sherwin Williams, Uber Technologies Inc., US Foods, Verizon Wireless, and Wells Fargo. As noted in Item 1, ADQ's parent company is IDQ, which is a wholly-owned subsidiary of Berkshire Hathaway, Inc. ("Berkshire"), a holding company owning a large number of subsidiaries engaged in diverse businesses. ADQ officers may own shares of Berkshire, although officers do not own interests in the individual subsidiaries. Depending on Berkshire's portfolio, certain subsidiaries may supply products or services to the DQ system.

Lease Addendum. If you enter into a direct lease for your store or restaurant premises, we have the right to approve the lease before execution. The lease must contain the Lease Addendum, a copy of which is included as an addendum to the operating agreement. If we are the prime lessee of the subfranchised premises, we may sublease the premises to you.

Additional Subfranchise. We consider a number of factors when determining whether you might qualify for an additional subfranchise. Under our ARD Program, we consider your compliance with your operating agreement, support of our programs and compliance with our policies, such as the requirements described in this Item 8.

## Item 9

## SUBFRANCHISEE'S OBLIGATIONS

**This table lists your principal obligations under the operating agreement and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.**

| Obligation | | Section in Operating or Other Agreement | Disclosure Document Item |
|---|---|---|---|
| a. | Site selection and acquisition/lease | 2, 5, 6.1-6.5, 6.15, Lease Addendum | 5, 7 & 11 |
| b. | Pre-opening purchases/lease | 2.2, 5.1, Design Services Addendum | 5, 7 & 8 |

| Obligation | | Section in Operating or Other Agreement | Disclosure Document Item |
|---|---|---|---|
| c. | Site development and other pre-opening requirements | 5.1 | 5, 7 & 11 |
| d. | Initial and ongoing training | 2.2, 7 & 11.3 | 5 & 11 |
| e. | Opening | 2.2 & 7 | 5 & 11 |
| f. | Fees | 7.8, 8.1 & 9 | 5, 6 & 7 |
| g. | Compliance with standards/policies/Operating Manual | 5 & 6 | 11 & 16 |
| h. | Trademarks and proprietary information | 2.3(C), 3, 6.3, 6.12 | 13 & 14 |
| i. | Restrictions on products/services offered | 6 | 8, 11 & 16 |
| j. | Warranty and customer service requirements | Not applicable | Not applicable |
| k. | Territorial development and sales quotas | Not applicable | Not applicable |
| l. | Ongoing product/service purchases | 6.1 - 6.5 | 8 & 11 |
| m. | Maintenance/appearance/remodeling requirements | 5.1 - 5.5 | 6 & 11 |
| n. | Insurance | 10.3 | 5, 6 & 8 |
| o. | Advertising | 8 & 9.3 | 5, 6, 7 & 11 |
| p. | Indemnification | 10.2 | Not applicable |
| q. | Owner's participation/management/staffing | 7.1 - 7.7 | 11 & 15 |
| r. | Records/reports | 9.5, 9.9, 9.11 | 6 |
| s. | Inspections/audits | 6.8, 9.12 | 6 |
| t. | Transfer | 11 | 6 & 17 |
| u. | Renewal | 4.3 | 17 |
| v. | Post-termination obligations | 14 | 17 |
| w. | Non-competition covenants | 10.5 & 14.6 | 17 |
| x. | Dispute resolution | 3.5, 12, 15.8 -15.10 | 17 |

## Item 10

## FINANCING

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

ADQ does not offer direct or indirect financing. ADQ does not guarantee your note, lease or obligation.

ADQ periodically arranges with 3rd party finance companies or banks to make financing programs available to you. These arrangements ordinarily involve no more than putting you in contact with sources of available financing. There is no assurance that financing will be offered to you in any particular instance. If financing is offered, the financial institution independently establishes the amount, terms, interest rate and duration. Neither ADQ nor any of its affiliates receive any payments in exchange for these referrals or the placement of any financing.

## Item 11

## TERRITORY OPERATOR'S AND ADQ'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING

**Except as listed below, neither we nor ADQ are required to provide any assistance to you.**

Pre-Opening Assistance

Before you open your store or restaurant:

(1) We or ADQ will make available to you, through the ADQ web site or otherwise, ADQ's confidential restaurant management resource guides and product preparation materials. You must keep these items confidential and return them on termination of the operating agreement (Sections 6.11, 6.12 and 14.7 of operating agreement).

(2) We or ADQ will make available to you, through the ADQ web site or otherwise, confidential lists of approved equipment, signage, fixtures and furnishings (Sections 5.1 and 6 of operating agreement).

(3) ADQ will provide the mandatory training program described below (Sections 7.1 and 7.2 of operating agreement).

(4) If you are opening your 1st store or restaurant, or if you are opening your 1st DQ Grill & Chill restaurant, we will provide you with on-site opening assistance for a length of time we consider necessary (Section 7.9 of operating agreement).

Ongoing Assistance. During the operation of your store or restaurant:

(1) We or ADQ will periodically furnish or make available to you, through the ADQ web site or otherwise, updated and revised material for your copy of ADQ's confidential restaurant management resource guides (Sections 6.10 and 6.11 of operating agreement).

(2) We or ADQ will periodically furnish or make available to you, through the ADQ web site or otherwise, updated confidential lists of approved supplies, ingredients, equipment, signage, and services periodically and a confidential list of approved products of approved manufacturers or distributors to assist you in purchasing approved products (Section 6 of operating agreement).

(3) We or ADQ will periodically furnish or make available to you, through the ADQ web site or otherwise, various in-restaurant training materials for training your personnel (Section 7.4 of operating agreement).

(4) We or ADQ will periodically hold or sponsor various meetings for you and other subfranchisees (Section 7.7 of operating agreement).

(5) We or ADQ will periodically establish and conduct various advertising and sales promotion programs using revenue from the sales promotion program fee (Section 8.1 of operating agreement).

Advertising and Marketing

ADQ establishes and conducts sales promotion activities generally for the promotion of the DQ system, brand and products. ADQ also establishes and conducts sales promotion activities primarily for the promotion of the Orange Julius system, brand and products. ADQ establishes sales promotion activities for the promotion of DQ/Orange Julius products, all of which may be entirely different from the activities relating to other DQ stores and restaurants. ADQ does not have any fiduciary obligations to franchisees and subfranchisees with respect to the sales promotion program fees. Nor does ADQ have any obligation to spend any amount on sales promotion in the area or territory where your store or restaurant is located, for a particular

component or type of DQ business, or for any individual DQ store or restaurant. ADQ has the sole right to determine how the sales promotion program fees will be spent, and the sales promotion program fees are not held by ADQ in trust.

Fees. ADQ's sales promotion activities are funded by the sales promotion program fees you and other DQ franchisees and subfranchisees must pay. Depending on your sales promotion program fee rate, all or a portion of the sales promotion program fees you pay may go to the national marketing fund ("NMF"), and a portion may go to regional or designated TV market area ("DMA") level sales promotion activities, "pooled" accounts for the benefit of a certain type of DQ store or restaurant, or toward activities at an individual store level. ADQ has the right to establish and periodically change how the sales promotion program fees are allocated and spent without notice to you.

You must pay a sales promotion program fee of 3% to 6% of Gross Sales as described in Item 6. Other subfranchisees pay greater, lesser or no sales promotion program fees. Company-operated DQ stores and restaurants will pay the sales promotion program fee on the same basis as similar subfranchisees for the DMA in which those stores and restaurants are located.

ADQ receives a portion of the sales promotion program fee payments made by franchisees and subfranchisees to compensate ADQ for the sales promotion, marketing and administrative services that ADQ provides (the "management fee"). Currently, the management fee is computed as 7% of the sales promotion program fees received from franchisees and subfranchisees who must pay sales promotion program fees. ADQ does not take a management fee on sales promotion program fees above 3% of gross sales. For subfranchisees that pay sales promotion program fees to territory operators, territory operators may remit all or some of those fees to ADQ, and may retain a portion of the management fee, depending on the arrangements the territory operators have with their subfranchisees. We retain a portion of the management fee. In addition, ADQ retains as a management fee 7% of all 3rd-party supplier payments received based on agreements negotiated by ADQ. As a voluntary corporate contribution, 1/7 of ADQ's total management fees are currently credited on an annual basis to the DQ national marketing program budget for use as ADQ designates.

Sales Promotion Activities-ADQ. Sales promotion activities may be national, regional or local in scope. ADQ's marketing department is responsible for the development of the sales promotion activities for all DQ brands, including system marketing calendars ("SMCs").The SMCs, and the creative and/or sales promotion materials created in support of the SMCs, are designed to increase consumer awareness of DQ products and promotions, build the customer base, increase customer visit frequency, and/or build the DQ brand overall. The SMCs consist of promotions and events designed to allow the DQ system, on a market by market and/or national basis as determined by ADQ, to convey a uniform marketing message. The SMCs are used as the foundation for media plans in the DQ system. Other sales promotion activities include creative materials, tie-in promotions, new product introductions, and system promotions. ADQ uses various forms of media to promote the DQ system, brand and products, which may include broadcast or cable television, radio, glossy newspaper inserts, ads in newspapers/shoppers, magazines, billboards, various in-restaurant materials, exterior merchandising, various local restaurant marketing materials, online communication, social media, electronic or mobile media and new forms of media depending on the objectives. ADQ currently uses various national, regional and local advertising and public relations agencies to assist it in the strategic development,

production and placement of many of the national and earned media activities and other sales promotion activities.

ADQ also currently uses regional advertising agencies in connection with regional and local media placement and other sales promotion activities. Currently, ADQ's regional sales promotion activities are carried out based on a DMA concept. A DMA is a geographic area of counties in which consumers within the area view a majority of their TV viewing via the home market stations also within that geographic area. There are currently 210 DMAs in the U.S. The DMA is determined by an independent research and ratings service called Nielsen Media Research, which conducts research on consumer TV viewing patterns in each county in the United States. All of the counties (and therefore all of the DQ stores and restaurants within these counties) that share the same TV influence are grouped into the same DMA. ADQ has the right to discontinue use of the DMA system for determining regional boundaries, or may determine that 2 or more DMAs will be grouped together for purposes of regional sales promotion activities.

ADQ also may spend sales promotion program fees by component or type of Dairy Queen restaurant Currently, ADQ's regional sales promotion activities are carried out based on a DMA concept. A DMA is a geographic area of counties in which consumers within the area view a majority of their TV viewing via the home market stations also within that geographic area. There are currently 210 DMAs in the U.S. The DMA is determined by an independent research and ratings service called Nielsen Media Research, which conducts research on consumer TV viewing patterns in each county in the United States. All of the counties (and therefore all of the DQ stores and restaurants within these counties) that share the same TV influence are grouped into the same DMA. ADQ has the right to discontinue use of the DMA system for determining regional boundaries, or may determine that 2 or more DMAs will be grouped together for purposes of regional sales promotion activities.

You may use only the sales promotion or other advertising materials that we and ADQ furnish or make available to you, or other materials that we and ADQ approve for use in your sales promotion activities. Examples of sales promotion and other advertising materials that we and ADQ must approve before you use them include menu board transparencies, counter mats, counter mat inserts, posters, billboard paper or vinyl, newspaper inserts, lawn signs, banners, menu board or register toppers, window clings, cake freezer merchandising, stanchions/display point-of-purchase, TV and radio creative, online communication, social media, electronic or mobile media, loyalty programs, and direct mail. We and ADQ will not unreasonably withhold approval of any sales promotion or other advertising materials that you propose to use, as long as your materials are factually accurate, current, in good condition, in good taste and of like quality to and not in conflict with sales promotion and other advertising materials we and ADQ furnish or make available to you, and as long as your materials accurately depict the DQ products and ADQ's trademarks. Any social media advertising or mobile marketing you do must comply with our and ADQ's social media policies. ADQ owns, can use and permit others to use any sales promotion or other advertising materials, ideas, concepts or programs that you develop. As of the date of this disclosure document, ADQ does not require you to participate in any formal local or regional advertising cooperative.

Sales Promotion Activities – Territory Operator. You must pay us a sales promotion program fee of 3 to 6% of Gross Sales, as described in Item 6. As of the issuance date of this disclosure document, our subfranchisees were paying a 3.5% fee. We may change this percentage, and will let you know at least 90 days in advance of any increase in the percentage within the 3 to

6% range. We currently remit a portion of the fee to ADQ. We deposit the balance of the fee in an advertising account or subaccount for your DMA. You and other DQ store or restaurant operators in your DMA will determine which advertising and promotional programs you will use in your DMA. Currently, ADQ uses the portion of the fee that we remit to it to support its national advertising and promotional programs. We or ADQ may change these practices in the future at our or ADQ's option.

We do not use any portion of the sales promotion program fee for advertising principally directed at the sale of subfranchises.

National Marketing Funds. ADQ administers national sales promotion activities (including point of purchase materials) through a dedicated NMF. Sales promotion program fees are used at the national level through the NMF to develop and pay for the production of creative and other materials to support the SMCs, and also fund national media and various other sales promotion activities, including, at ADQ's discretion, consumer loyalty programs, consumer feedback programs, online or mobile ordering or delivery programs, and similar activities at the national level, as well as other activities within the overall DQ system. The NMF is funded principally from an allocation of the sales promotion program fees paid by participating stores and restaurants. The percentage allocated to the NMF may vary between stores and restaurants and between markets. ADQ has the right to establish and periodically change the amount of sales promotion program fees that are allocated to the NMF without notice to you.

Sales promotion and other advertising and merchandising materials produced by the NMFs are, by design, licensed only to current NMF participating stores and restaurants, and may not be transferred to or used in any way by or in non-NMF participating stores and restaurants. This means that if a subfranchisee owns both participating-NMF and non-participating-NMF stores and restaurants, NMF materials may only be displayed in the subfranchisee's participating-NMF stores and restaurants.

Franchise Advisory Council. The franchise advisory council ("FAC") advises ADQ on marketing, advertising and other matters, but solely in an advisory capacity. As of the date of this disclosure document, the FAC is comprised of members that are chosen or elected in the following manner: (1) DMA chairpersons (elected by franchisees) from each of 10 U.S. regions elect 1 DMA chairperson to serve as the region's representative on the FAC; (2) the Canadian Franchise Advisory Council ("CFAC"), elected by Canadian franchisees, selects 2 representatives from the CFAC to represent the east and west regions of Canada; and (3) the DQ Territory Operators Organization ("DQTOO") or the DQTOO board, elected by territory operators, chooses 2 territory operator representatives. ADQ reserves the right to appoint 2 "at large" franchisee members to the FAC. Further, ADQ reserves the right to form committees that will work with the FAC at any time on any matter. ADQ has the power to form, change, or dissolve the FAC or any of its committees, and has the right to change how franchisee membership on the FAC or any committee is determined.

Use of Funds. The accounting for the funds used for DQ national and DMA activities and materials is reviewed by an independent national accounting firm on an annual basis. This review consists principally of applying analytical procedures to the financial data and of making inquiries of persons responsible for financial and accounting matters. ADQ currently makes available to DQ franchisees copies of the annually prepared statements of contributions, expenditures and balance for the national (NMF), the consolidated DMA, and the individual DMAs in which the DQ

franchisees' stores or restaurants are located, along with the Independent Accountants' Review Report. In addition, each DMA can request that an audit of its DMA activities be conducted at the expense of that DMA. Currently, Orange Julius sales promotion program fees are accounted for by ADQ on an annual basis, and a statement of contributions, expenditures and balance is prepared by ADQ and available for review. Currently, ADQ annually convenes a committee from the FAC to conduct its own review of the accounting for the marketing funds applicable to each system.

Use of the combined sales promotion payments from all types of DQ businesses in the 2024 fiscal year is as follows:

| | | |
|---|---|---|
| Percentage spent on Production | 19.7 | % |
| Percentage spent on Media Placement | 66.8 | % |
| Percentage spent on Administrative Expenses | 4.3 | % |
| Percentage spent on Other(1) | 9.1 | % |
| TOTAL | 100.0 | % |

Use of the payments made to Orange Julius sales promotion programs in the 2024 fiscal year is as follows:

| | | |
|---|---|---|
| Percentage spent on Production | 46.1 | % |
| Percentage spent on Media Placement | 26.2 | % |
| Percentage spent on Administrative Expenses | 27.1 | % |
| Percentage spent on Other | 0.6 | % |
| TOTAL | 100.0 | % |

The above amounts include amounts spent on audits, the Children's Miracle Network, certain point-of-sale items, research, and FAC.

The above percentages vary if you calculate the allocations at the individual restaurant level, by area or group of restaurants, or by type of DQ or Orange Julius business.

Except as described in this paragraph, sales promotion program fees that are not spent in any fiscal year will be carried over for future use. In addition to its other programs, ADQ has the right to offer a local reimbursement or online credit program to certain franchisees or subfranchisees if ADQ determines that the reimbursement is warranted for a particular store or restaurant. The availability of this program for a store or restaurant may be for a variable period of time and a variable amount of money, depending on the individual circumstances. If ADQ establishes such a program for your store or restaurant, you may request reimbursement (or online credit, depending on the system available) of all eligible types of local media, promotions and promotional items you purchase up to the amount that has been determined by ADQ for your store or restaurant. Unreimbursed funds at the end of the applicable period will not be carried over for future use by the particular store or restaurant, but will be used for other sales promotion activities in the DQ system as determined by ADQ.

Electronic Point-of-Sale System and Other Computer Systems

You must purchase, install and maintain an electronic point-of-sale ("EPOS") system at your DQ store or restaurant, as designated by us and ADQ. The EPOS system includes designated hardware, software, peripherals, back office workstation, a managed firewall and installation. If you are opening a new DQ store or restaurant, you must purchase all of the components of the EPOS system from our and ADQ's designated suppliers (see Item 8). The estimated initial cost to purchase the EPOS system hardware and installation from ADQ's designated supplier ParTech, Inc., hardware for the Acumera managed firewall, and the launch fee for the Data Central back office software, will range from about $20,800 to $25,700 for a DQ Treat store, or about $25,500 to $33,000 for a DQ Grill & Chill restaurant.

The EPOS system is an electronic cash and credit management system, which provides an interface for processing customer orders, collecting and managing information about the nature of sales transactions, providing financial records of those transactions, managing product inventory, and providing time and attendance functionality for your employees. The EPOS system will collect and report to us and ADQ a variety of information including overall sales, sales levels by item, item menu pricing, product movement statistics, individual unit and category sales data (including by flavor and size), various financial information to prepare store of restaurant reports, and other information.

The EPOS system may contain components that support personnel-related functions, such as employee timekeeping, employee scheduling and payroll processing. Your use of those components is non-mandatory. You are permitted to use those non-mandatory components on terms we specify, or you have the right to use alternate software of your choosing to handle personnel-related functions in any other manner that you choose.

Neither we, nor ADQ, nor any of our or ADQ's affiliates, is obligated to provide any ongoing maintenance, repairs, upgrades or updates to you. You must pay ADQ's designated supplier for ongoing hardware warranty services for the EPOS system, which cost about $46 to $118 per month for a DQ Treat store, or about $72 to $150 per month for a DQ Grill & Chill restaurant, depending on the warranty package you choose. In addition, as part of the ongoing software fees you will pay to some of the designated suppliers, the suppliers are obligated to provide certain maintenance and repair services for their software. You must make periodic upgrades and updates to the EPOS system, and there are no contractual limitations on the frequency and cost of this requirement.

To enable us and ADQ to access the EPOS system, you must install one DSL or cable/broadband Internet connection, or other necessary communication access device, that is exclusively designated and permanently connected to the EPOS system. There are no contractual limitations on our and ADQ's right to access the information generated by the EPOS system, although we or ADQ may choose not to poll information from all stores and restaurants.

In addition to paying initial costs for the EPOS system, you must pay monthly service fees for the ParBrink, Data Central, Olo and Punchh software for the EPOS system, back office systems, and mobile app ranging from $408 to $481 per month for a DQ Grill & Chill restaurant, or from $370 to $413 per month for a DQ Treat store. You also must pay Olo a per transaction fee of 0.25% for each order processed by Olo. Help desk and software support costs are included in these monthly service fees. Copies of the participation agreements that you must sign with these vendors are included in Exhibit E in this disclosure document.

You must have access at all times to the Internet, must maintain and regularly use an active email account or other form of electronic communication that we and ADQ designate, and must keep us and ADQ informed of your contact information.

You must purchase and maintain a monthly subscription service for credit card processing, which includes the TransArmor solution encryption, from ADQ's designated supplier Fiserv (formerly, First Data). The cost for credit card processing is about 2% - 5% of the total amount of each sale made using an approved credit card, and the cost for the TransArmor Solution is $19.95 per month. You also must purchase and pay for Verifone payment card data encryption services at a cost of about $10 per terminal per month, and for a Verifone payment device warranty at a cost of about $80 per device per 3-year warranty. You also must purchase and maintain a managed firewall service from ADQ's designated suppler Acumera. The cost for this service is about $51 per month. Also, you must comply with Payment Card Industry (PCI) Data Security Standards: https://www.pcisecuritystandards.org/. While you are not required to engage a 3rd party supplier to ensure compliance with PCI Data Security Standards (unless otherwise required to do so by your card processor), we and ADQ recommend that you do so, and ADQ estimates the initial cost of this to be $200 - $2,000, with an ongoing monthly fee of up to $100.

You must participate in the system-wide gift card program administered by ValueLink, LLC and DQGC, and must sign the gift card participation agreement included in Exhibit E in this disclosure document. Gift card program fees are allocated based on a shared cost model between subfranchisees, franchisees and the NMF. Currently, DQ franchisees and subfranchisees pay fees equaling 3% of total gift card redemptions, which ADQ estimates will be about $200 per year per location. The NMF covers the balance of the gift card program's costs. In the future, the percentage allocation of costs between subfranchisees, franchisees and the NMF may change. These costs are in addition to any costs incurred by you in purchasing gift cards.

All of the fees referenced in this section are to subject to change from time to time.

Site Selection

You must locate and obtain a site for your store or restaurant that meets our standards, and that is acceptable to us, within 90 days after the date you sign the operating agreement. If you already have a potential site for a DQ store or restaurant, you may propose the location to us. We may consent to the site after we have evaluated it. If you do not have a proposed site, we will furnish you with general site selection and evaluation criteria.

Each proposed site must receive our written consent. This is true even if we or ADQ identify a site (as described below). The general site selection and evaluation criteria that you should consider include the quality of the trade area and strategic fit of the site within the trade area, residential and daytime employment, attributes of the trade area that generate potential traffic patterns, ease of ingress and egress, physical attractiveness of the real estate, demographic information and consumer behavior information, competition, signage, site and building design requirements or restrictions, end-cap with drive-thru capability on shopping centers, local marketing support and similar factors. You must obtain our and ADQ's approval of the building plans and location before beginning construction of the store or restaurant. In certain circumstances, we or ADQ may identify a site for a DQ store or restaurant and may assist in purchase or lease negotiations. You are under no obligation to accept the proposed site. Our or ADQ's identification of, consent to or acceptance of a site for a DQ store or restaurant does not constitute a guarantee, recommendation, assurance or endorsement as to the success of the site or

your store or restaurant. Our or ADQ's consent indicates only that we or ADQ believe that the particular site falls within our or ADQ's criteria as of the time period encompassing the evaluation. Application of site criteria that have been effective for other sites does not predict the potential success of any specific site.

From the time you submit a site to us for our approval, we will generally respond within 60 days, or less, depending on the status of negotiations to secure the site, the level of our or ADQ's involvement in the identification of the site, and other factors. If we are unable to agree to a site within 90 days of the date you sign the operating agreement, we have the right to declare the operating agreement null and void and to refund your deposit, including your initial franchise fee, less a cancellation fee of $10,000.

Development Time

If you are developing a DQ store or restaurant through new construction, the typical length of time between our acceptance of the operating agreement and the opening of your business varies from 6 to 12 months. This period can be longer or shorter depending on the time of year, how quickly your site is identified and secured, availability of and securing financing, preparation of full building plans for permitting, municipality approval process, local construction delays, how soon your managers are selected and attend training or other factors.

You must then open your business within 270 days after you designate and we approve the location for the business, unless we authorize in writing an extension of time.

If you are a conversion subfranchisee, the length of time necessary for the conversion of your DQ store or restaurant to a DQ Grill & Chill restaurant will vary depending on the location, type of facility, the amount of work required for the conversion, how soon you can be scheduled for training and other factors. We estimate that it will typically take 2 to 6 months to complete a conversion.

You should not expend funds or make any other commitment in connection with the subfranchise and should not resign from existing employment, relocate or take any similar action until our final acceptance of your application and written approval of the subfranchise.

Training

There are currently 3 required components to initial training: (1) the MTRA; (2) SERVSAFE certification; and (3) ADQ's training program, which is made up of 3 phases. At least 2 people for each DQ Treat store you develop, including your Designated Manager and 1 assistant manager, or at least 3 people for each DQ Grill & Chill restaurant you develop, including your Designated Manager and 2 assistant managers (defined in Item 15 and referred to as your "trainees"), must attend all training components.

ADQ's initial training programs are summarized in the tables below. ADQ has the right to periodically alter the initial training programs.

## ADQ's DQ GRILL & CHILL RESTAURANT TRAINING PROGRAM

| Subject[1] | Hours of Classroom Training | Hours of On-The-Job Training | Location[2] |
|---|---|---|---|
| **Product & Equipment Training (Phase 1)[3]** | | | |
| Restaurant Operations (product preparation, equipment, shift positions work experience) | 0 | 116 | At an approved certified DQ location |
| Customer Service | 0 | 3 | |
| Sanitation | 0 | 2 | |
| Safety | 0 | 2 | |
| **Service, Management, and Financial Basics Training (Phase 2)[4]** | 0 | 0 | |
| Restaurant Operations (shift positions, customer service, managing shifts, management function modules) | 0 | 104 | At an approved certified DQ location |
| Financial Management (recordkeeping, controllables, cash management) | 0 | 8 | |
| Marketing | 0 | 2 | |
| Register/Back Office System | 0 | 8 | |
| **People, PRIDE and Profit Training (Phase 3)[5]** | 0 | 0 | |
| Facility Management (service profit chain, DQ Capability Model function) | 3 | 0 | Classroom in Minneapolis, MN, or other location ADQ designates |
| Human Resource Management (training, supervising, retaining, coaching, evaluating) | 7 | 0 | |
| Customer Service/PRIDE/Speed of Service/Local Marketing | 4 | 0 | |
| Situational Leadership | 8 | 0 | |
| Goals/Change Management/ Time Management | 4 | 0 | |
| Profitability Management (cost of goods sold, recordkeeping, labor cash management, controllables) | 6 | 0 | |
| Total: | 32 | 245 | |

Notes:

(1) The instructional materials used are reference material packets, workbooks, hands-on demonstrations and practice in the training location, reviews, lectures, exams, classroom discussions, product knowledge tests, and skill assessments. Phases 1 and 2 are taught by restaurant training specialists, and Phase 3 is taught by a field training consultant. Students are required to bring laptop computers or tablets capable of internet access to in-store training.

(2) Phases 1 and 2 occur in DQ locations certified and designated by ADQ and owned by either franchisees or ADQ's affiliates. Phase 3 occurs in ADQ's franchisee support center or another location designated

by ADQ. We and ADQ may, but are not required to, conduct Phase 3 training online or virtually if circumstances warrant

(3) Product & Equipment Training (Phase 1) is scheduled as close to the projected date of your opening as is reasonably possible, and lasts about 2 ½ weeks. If a trainee has at least 12 months prior experience as a manager of another DQ store or restaurant, that individual may be given the opportunity to test out of some or all of Phases 1 and Phase 2; see Item 7 for further details.

(4) Service, Management and Financial Basics Training (Phase 2) typically begins shortly after your required trainees complete Phase 1, must be completed within the 6-month period before your opening, and lasts about 2 1/2 weeks. If a trainee has at least 12 months prior experience as a manager of another DQ store or restaurant, that individual may be given the opportunity to test out of some or all of Phase 2.

(5) People, PRIDE and Profit Training (Phase 3) lasts 4 days and must be completed before opening.

## ADQ's DQ TREAT STORE TRAINING PROGRAM

| Subject[1] | Hours of Classroom Training | Hours of On-The-Job Training | Location[2] |
|---|---|---|---|
| **Product & Equipment Training, and Service, Management, and Financial Basics Training (Phases 1 and 2)[3]** | | | |
| Store Operations (product preparation, equipment, shift positions work experience) | 0 | 32 | At a DQ location |
| Customer Service | 0 | 2 | |
| Store Operations (shift positions, managing shifts, management function modules) | 0 | 92 | |
| Sanitation | 0 | 2 | |
| Safety | 0 | 2 | |
| Marketing | 0 | 2 | |
| Financial Management (cash management, recordkeeping) | 0 | 2 | |
| Register/Back Office System | 0 | 8 | |
| **People, PRIDE, and Profit Training (Phase 3)[4]** | | | |
| Facility Management (service profit chain, DQ Capability Model function) | 3 | 0 | Classroom in Minneapolis, MN, or other location ADQ designates |
| Human Resource Management (training, supervising, retaining, coaching, evaluating) | 7 | 0 | |
| Customer Service/PRIDE/Speed of Service/Local Marketing | 4 | 0 | |
| Situational Leadership | 8 | 0 | |
| Goals/Change Management/ Time Management | 4 | 0 | |
| Financial Management (cost of goods sold, recordkeeping, labor cash management, controllables) | 6 | 0 | |
| Total: | 32 | 142 | |

Notes:

(1) The instructional materials used are reference material packets, workbooks, hands-on demonstrations and practice in the training location, reviews, lectures, exams, classroom discussions, product knowledge tests, and skill assessments. Phases 1 and 2 are taught by restaurant training specialists, and Phase 3 is taught by a field training consultant. Students are required to bring a laptop computer or tablet capable with internet access to in-store training.

(2) Phases 1 and 2 occur in DQ locations certified and designated by ADQ and owned by either franchisees or ADQ's affiliates. Phase 3 occurs in ADQ's franchisee support center or another location designated by ADQ. We and ADQ may, but are not required to, conduct training online or virtually if circumstances warrant.

(3) Product & Equipment Training and Service, Management, and Financial Basics Training (Phases 1 and 2) is scheduled as close to the projected date of your opening as is reasonably possible, must be completed within the 6-month period before your opening, and lasts about 2 1/2 weeks. For ARD locations, if a training attendee has at least 12 months prior experience as a manager of another DQ store or restaurant, that individual may be given the opportunity to test out of some or all of Phases 1 and Phase 2 (see Item 7 for costs

(4) People, PRIDE and Profit Training (Phase 3) lasts 4 days and must be completed before opening.

Your trainees must successfully complete each phase of ADQ's training program to ADQ's satisfaction. ADQ will evaluate your trainees based on attendance, participation, presentations, progress in the training program, leadership, and other similar factors. Trainees who fail to fulfill these standards, or who violate ADQ's code of conduct for the training program, may be prohibited from completing ADQ's training program. You will not be allowed to open and operate your store or restaurant until all required trainees complete all components of ADQ's required training program.

Angie Ballinger oversees all of ADQ's training programs and has done so in her capacity as Vice President, Restaurant Training & Curriculum since April 2024. As of the date of this disclosure document, in addition to Ms. Ballinger, ADQ's training department consists of a Director of Training and 7 field training consultants, who have experience ranging from 8 to 40 years, and 20 to 40 restaurant training specialists who may be employed by ADQ or a franchisee. Although experience varies among restaurant training specialists, all are required to successfully complete ADQ's certified trainer training program.

Before attending ADQ's training program, your trainees must pass the MTRA, which is administered by a 3rd party at a location designated by ADQ. The MTRA measures leadership, customer service, decision-making, prioritizing and business math, and may be modified by ADQ at any time. If a trainee fails the MTRA, the test may be repeated after 30 days; if the trainee fails the MTRA on the 2nd attempt, the test may be repeated after 1 year. No trainee may repeat the MTRA more than 3 times.

Your trainees must also have current SERVSAFE certifications, at the manager level, which will only be recognized by ADQ if received through a course that is part of or equivalent to the National Restaurant Association's SERVSAFE program. SERVSAFE courses are offered online, and at various universities, vocational schools and community colleges.

You must pay any ADQ or other training fees before sending any trainees to the training programs. You also must pay any costs, travel expenses, living expenses, wages, benefits and other expenses associated with sending your trainees to ADQ's training program, the MTRA, and a SERVSAFE course. See Item 7 for cost estimates.

ADQ evaluates trainees in ADQ's various training programs based on attendance, participation, presentations, progress in the training program, leadership, and other similar factors. Trainees who fail to fulfill these standards, or who violate ADQ's code of conduct for the training program, may not be allowed to complete training.

If you receive a default notice and the default relates, in whole or in part, to your failure to meet any operational standards, we have the right to require you to comply with additional training requirements at your expense and at the then-current training fees as a condition of curing the default.

Your Controlling Owner (as defined in the operating agreement), at your expense, must attend all meetings we and/or ADQ hold or sponsor in your area or region, including all DMA or other marketing area meetings, and all meetings relating to new products or product preparation procedures, new DQ system programs, new operational procedures or programs, training, store or restaurant management, financial management, sales or sales promotion, or similar topics.

Operations Manuals

We and ADQ will furnish or make available to you, through the ADQ website or otherwise, ADQ's operations materials, which include manuals, resource guides, system bulletins, handbooks, product preparation materials, brand guidelines and other written materials relating to the development and operation of DQ stores and restaurants (referenced collectively in this disclosure document as "operations manuals"). The operations manuals contain both mandatory standards, designs, specifications, menu items, recipes, techniques, procedures, methods, requirements, formats and management systems (sometimes referenced collectively in this disclosure document and the operating agreement as "standards"), and non-mandatory guidelines and recommendations. The operations manuals contain proprietary information, and you must keep this information confidential as stated in Item 14 of this disclosure document. The tables of contents of the operations manuals as of December 31, 2024 (225 pages for a DQ Treat store, and 469 pages for a DQ Grill & Chill restaurant) are disclosed in Exhibit L.

## Item 12

## TERRITORY

Rights under Operating Agreement

You are granted the right to operate a single store or restaurant at an authorized location that we have consented to in writing. You are not granted any minimum area or territory. If condemnation of the subfranchised premises or the exercise of a relocation right by your landlord requires you to relocate your store or restaurant, you are free to relocate within a radius of 500 meters of your authorized location, provided that the new DQ store or restaurant does not infringe on the rights of any other franchisee or subfranchisee and is under construction within 30 days if a captive-venue location or 180 days if a street location, after you discontinue operating. After construction begins, the new DQ store or restaurant must be open and operating within 90 days if in a captive-venue location or 120 days if in a street location, all subject to our prior written consent

and the other relocation standards contained in the operating agreement and any applicable lease (see Item 9).

You do not have any options, rights of first refusal or similar rights to acquire additional subfranchises within any particular territory. However, at the time of this disclosure document, we have an ARD Program described in Items 1 and 5. To be considered for our ARD Program, an existing subfranchisee must, among other things: (a) meet certain ownership and financial requirements; (b) not be in default or have a pattern of defaults or non-compliance; (c) be current with all training requirements; (d) keep the existing restaurant(s) or store(s) in a high state of cleanliness and have a record that demonstrates meeting or surpassing our and ADQ's standards; and (e) have demonstrated a commitment to system initiatives and programs, including adherence to approved and required menu items. Except where specifically indicated, the information contained in this disclosure document applies to all aspects of a location developed under our ARD Program, including, but not limited, to the construction and operation of the store or restaurant. We have the absolute right to approve or deny any application for an existing subfranchisee's participation in our ARD Program. Full details of our ARD Program are published periodically to existing subfranchisees and are available at all times on reasonable request.

You will not receive an exclusive territory. You may face competition from other subfranchisees, us, ADQ, our or ADQ's respective affiliates, or from other channels of distribution or brands that we or ADQ control.

You must operate a store or restaurant at an authorized location only, which we have approved in writing. You should have no expectation that the economic and demographic factors that exist at the location at the time you open your store or restaurant will remain constant. You are not granted a protected territory within which we agree not to issue franchises or subfranchises or operate competing businesses, or within which you have any right to exclude, control or impose conditions on the location or development of future stores or restaurants at any time. In addition, you are not granted any right to sell products and menu items identified by the DQ Grill & Chill, Dairy Queen, DQ or Orange Julius trademarks (i) at any location other than your store or restaurant, or (ii) through any other distribution channels or methods, including the internet (or any other existing or future form of electronic commerce, such as social media, mobile applications, third party platforms, and the metaverse), catalog sales, telemarketing or other direct marketing, or pre-packaged retail sales. There is no minimum sales quota that you must achieve.

Our, ADQ's and its Affiliates' Rights

We and/or ADQ and its affiliates may issue competing subfranchises and franchises or operate competing company-owned businesses under the DQ/Dairy Queen, DQ/Orange Julius, DQ Grill & Chill, and/or other trademarks of ADQ or its affiliates, or any other trademarks, for or at any type of location, as determined by us, ADQ or its affiliates, near your authorized location. You do not have any right to exclude, control or impose conditions on the location or development of future DQ stores or restaurants franchised by others, or owned and operated by us, ADQ or its affiliates. For example, if your authorized location is located adjacent to a shopping mall or center, we or ADQ can operate or franchise another location within the shopping mall or center (similarly, if your authorized location is in a shopping mall or center, we or ADQ can operate or franchise a location adjacent to the shopping mall or center). Sales and customer patterns for a DQ store or restaurant at any particular time are subject to change for many reasons, including our and ADQ's on-going development of DQ stores and restaurants, and these patterns do not represent any continuing franchisee or subfranchisee entitlement or expectation. Without limiting the above,

ADQ may issue a franchise or operate a company-owned store or restaurant outside the Territory defined in Item 1 but still near your authorized location.

We are periodically called on to decide whether to grant a license for a new DQ store or restaurant in proximity to an existing DQ store or restaurant. Except for certain rights granted in older operating agreements, we do not as a rule grant protected territories to any subfranchisee. Instead, we grant to a subfranchisee under each operating agreement the right to operate a DQ store or restaurant at a particular location only, and make no commitment that we will not establish new DQ stores or restaurants in proximity to existing DQ stores or restaurants. Nevertheless, there may be circumstances under which we, acting within our exclusive and absolute right, may choose not to establish a new DQ store or restaurant in proximity to an existing DQ store or restaurant. Some of the factors that we may consider when deciding whether to establish a new DQ store or restaurant in proximity to an existing DQ store or restaurant are as follows:

1. The desirability of maintaining a competitive environment in a particular area with other fast food systems.

2. The benefits to existing subfranchisees in a particular area attendant to growth of the DQ system.

3. The existence of other fast foods operations, other retail businesses, and the like within about ½ mile of the proposed new DQ store or restaurant which indicates separate markets or a competitive store pattern distinct from that of the existing DQ store or restaurant.

4. The population and demographic characteristics of a particular area, including any growth or decline in the population, employment rates and trends within the area, and concentrations of population within the area.

5. The distance between the proposed new DQ store or restaurant and any existing DQ store or restaurant in the area, as well as the configuration of roadways between a proposed new DQ store or restaurant and any existing DQ store or restaurant, the time to travel between a proposed new DQ store or restaurant and any existing DQ store or restaurant, and any natural barriers that would exist between a proposed new DQ store or restaurant and any existing DQ store or restaurant.

6. The extent, nature and permanency of the investment made or to be made by the proposed new subfranchisee, as well as any existing subfranchisee in proximity to the proposed new DQ store or restaurant that provides this information to us.

7. The possible effect, if any, that establishing the proposed new DQ store or restaurant will have on any existing DQ stores or restaurants in the area.

8. Whether existing DQ stores or restaurants are providing adequate market penetration and representation for "Dairy Queen" products.

9. The quality of service and management of existing DQ stores or restaurants in the area.

10. The potential positive effect on DQ stores or restaurants within the area resulting from increased public exposure to the DQ marks and system.

11. The increase in advertising dollars available to the DMA (formerly ADI) or other marketing area as determined by us or ADQ, by reason of the addition of a new DQ store or restaurant in the area.

12. The types of DQ stores and restaurants in the area, such as DQ/Dairy Queen stores, DQ/Orange Julius stores, DQ Grill & Chill restaurants, and so forth.

13. Comments of existing restaurant and store operators in the area.

ADQ has its own development and site clearance policy for franchises that it issues, which policy may contain different guidelines or factors than our policy. In addition, certain DQ franchisees and subfranchisees who have older operating agreements with protected territories and certain other territory operators who may operate DQ stores and restaurants for their own account and to subfranchise 3rd parties to operate DQ stores and restaurants in their territories also may have their own development and site clearance programs for developing new DQ stores or restaurants in proximity to existing DQ stores and restaurants that may contain different guidelines or factors than our guidelines and factors.

We, ADQ, and our and ADQ's respective affiliates, also have the right to sell or distribute, themselves or through designees, products and services through any distribution channels and methods, including the internet (or any other existing or future form of electronic commerce, such as social media, mobile applications, 3rd party platforms, and the metaverse), catalog sales, telemarketing or other direct marketing, and pre-packaged retail sales, using the DQ Grill & Chill, Dairy Queen, DQ, Orange Julius and/or other ADQ or its affiliates' trademarks, or any other trademarks, without any compensation to franchisees or subfranchisees.

We, ADQ, and our and ADQ's respective affiliates, have the right to issue franchises or subfranchises or operate competing company-owned businesses under any new or different trademarks, service marks, trade names and commercial symbols other than the DQ Grill & Chill, Dairy Queen, DQ, Orange Julius or any other trademarks for or at any locations.

There are no territorial or customer restrictions on your sales from your store or restaurant, and you are not required to compensate other DQ franchisees or subfranchisees, nor are you entitled to receive compensation from other DQ franchisees or subfranchisees, from us or ADQ based on sales from a DQ store or restaurant.

As described in Item 1, ADQ and its affiliates offer franchises under different trademarks that sell some, but not all, products similar to those you will offer in your store or restaurant.

- **DQ Treat.** ADQ offers single-unit and multi-unit DQ Treat franchises under the DQ/Dairy Queen and DQ/Orange Julius trademarks, which sell substantially the same soft-serve treat and beverage items, with a limited number of substantially similar food items, and certain additional treat and snack products.

- **DQ Grill & Chill.** ADQ offers single and multi-unit franchises under the DQ Grill & Chill trademarks, which sell substantially the same soft-serve treat items, but with a full food and beverage menu containing certain similar food products

- **Texas DQ Restaurants.** ADQ offers single and multi-unit DQ restaurant franchises in Texas under the DQ trademark, which sell substantially the same soft-serve treat items, but with a different food menu.

Neither ADQ nor its affiliates own or operate any DQ Treat stores, Texas DQ restaurants, or Orange Julius stores. ADQ's affiliate, DQTR, owns and operates DQ Grill & Chill restaurants, as described in Item 1. The DQ Grill & Chill, DQ Treat, Texas DQ Restaurant, and Orange Julius franchises are all site-only franchises with no territory rights granted to franchisees (although certain multi-unit DQ Grill & Chill®, DQ Treat or Texas DQ restaurant franchisees may have a development or trade area under a MultiTRA or other multi-unit agreement). However, there are no territorial or customer restrictions on these franchisees' sales from their DQ stores or restaurants. The principal business address for ADQ is 8000 Tower, Suite 700, 8331 Norman Center Drive, Bloomington, MN 55437, and the companies have their combined training facilities and offices at that address.

Although we currently offer our existing subfranchisees our Conversion Program and our ARD Program, we may change or discontinue these programs in the future. You are not granted an exclusive or protected territory, and you do not have any options, rights of first refusal or similar rights to acquire additional subfranchises in any particular territory.

## Item 13

## TRADEMARKS

The operating agreement licenses you the non-exclusive right to use the DQ, Dairy Queen, DQ Grill & Chill and other ADQ trademarks (the "Trademarks"). The chart below lists the principal trademarks that you are licensed to use, all of which are listed on the Principal Register of the United States Patent & Trademark Office ("PTO"). ADQ also claims common law trademark rights for all of the Trademarks. ADQ has filed or intends to file all required affidavits and renewals for the trademarks listed on the chart below.

| Principal Trademarks | U.S. Reg. No. | Principal/ Supplemental Register | Date of Registration |
|---|---|---|---|
| DAIRY QUEEN | 728,894 | Principal | 03/20/62 |
| DQ GRILL & CHILL | 2,592,944 | Principal | 07/09/02 |
| GRILL & CHILL | 2,592,943 | Principal | 07/09/02 |
| | 3,046,169 | Principal | 01/17/06 |
| DQ | 3,211,469 | Principal | 02/20/07 |
| ORANGE JULIUS | 3,247,123 | Principal | 05/29/07 |
| | 3,624,481 | Principal | 05/19/09 |

We and ADQ identify the Trademarks that you are licensed to use in the operations manuals or otherwise in writing. ADQ has the right to change the Trademarks you are licensed to use periodically through changes to the operations manuals, through system bulletins, or otherwise in writing, any of which may be communicated electronically. Your use of the trademarks and any goodwill is to ADQ's exclusive benefit and you retain no rights in the trademarks other than a license to use the trademarks during the term of your operating agreement. You retain no rights in the trademarks on termination of your operating agreement. You are not permitted to make any changes or substitutions of any kind in or to the use of the trademarks unless ADQ directs in writing.

There are no currently effective material determinations by the PTO, any Trademark Trial and Appeal Board, or any state trademark administrator, nor are there any pending interference,

infringement, opposition or cancellation proceedings or material litigation, involving any of the principal trademarks in any manner that is material to the subfranchised business. There are no decided infringement, cancellation or opposition proceedings in which we or ADQ unsuccessfully fought to prevent registration of another trademark to protect the trademarks.

There are currently no effective agreements that significantly limit the rights of us or ADQ to use or license the use of any trademarks in any manner material to the subfranchised business. Neither we nor ADQ know of any superior rights or infringing uses that could materially affect your use of the principal trademarks.

Neither we nor ADQ are obligated to protect your right to use the trademarks listed in this Item or to protect you against infringement or unfair competition claims arising out of your use of the trademarks, or to participate in your defense or indemnify you. ADQ may control any litigation related to the trademarks and has the right to decide to pursue or settle any infringement actions related to the trademarks. You must promptly notify us and ADQ if you become aware of any infringement or unauthorized use of the trademarks. You must cooperate with any action that we or ADQ undertake; however, we and ADQ are not required by the operating agreement to take affirmative action when notified of such uses. If ADQ determines that a claim by a party that its rights to use the trademarks are superior and requires changes or substitutions to the trademarks, you must immediately make the changes or substitutions required by ADQ at your expense. You do not have any rights under the operating agreement if ADQ requires you to modify or discontinue using a trademark.

## Item 14

## PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

There are no patents or copyrights currently registered or pending patent applications that are material to the subfranchises offered by us, although ADQ claims copyright ownership and protection for the operations manuals, and for various sales promotional and other materials published periodically.

There are no currently effective determinations of the Copyright Office (Library of Congress), PTO, Board of Patent Appeals and Interferences, or any court, or any pending infringement, opposition or cancellation proceeding or any pending material litigation involving any patents or copyrights. There are currently no agreements in effect that significantly limit ADQ's rights to use or license the use of any such patents or copyrights in any manner material to the subfranchise. There are no infringing uses actually known to us or ADQ that could materially affect your use of the patents or copyrights.

Neither we nor ADQ is obligated to protect you against infringement or unfair competition claims arising out of your use of any patents or copyrights, or to participate in your defense or indemnify you. ADQ may control any litigation related to any patents and copyrights and may decide to pursue or settle any infringement actions related to the patents or copyrights. You must notify us and ADQ promptly of any infringement or unauthorized use of the patents and copyrights of which you become aware and cooperate with any action that ADQ undertakes; however we and ADQ are not required by the operating agreement to take affirmative action when notified of such uses. You do not have any rights under the operating agreement if ADQ requires you to modify or discontinue using any subject matter covered by a patent or copyright.

You must keep all proprietary information confidential during and after the term of the operating agreement, including the operations manuals and product preparation materials. You must not duplicate or disseminate any proprietary information to any party other than your personnel who need to know this proprietary information, and you must comply with all changes to the operations manuals at your cost. On termination of your operating agreement, you must return all proprietary information to us or ADQ, including all copies of the operations manuals and the product preparation materials then in your possession or control or previously disseminated to your personnel, and all other copyright material. You must notify us and ADQ immediately if you learn about an unauthorized use of proprietary information; however we and ADQ are not required by the operating agreement to take any action, and have the right to determine the appropriate response to any unauthorized use of proprietary information.

## Item 15

## OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE SUBFRANCHISED BUSINESS

If you are an individual, we do not require, but strongly encourage, you to participate personally in the on-premises operation of the subfranchised store or restaurant. However, you must have a manager ("designated manager"), and 1 assistant manager for a DQ Treat store or 2 assistant managers for a DQ Grill & Chill restaurant (as those terms are defined in Section 16 of the operating agreement) who personally invest their full time and attention and devote their best efforts to the on-premises general management of the day-to-day operations of the restaurant, and meet our restaurant or retail management experience requirements. Neither your Designated Manager nor any of your assistant managers may participate in the active operation or management of any business other than the restaurant.

You must also designate at least 1 person who is responsible for actively directing your business affairs regarding the store or restaurant and overseeing the general management of the day-to-day operation of the store or restaurant ("Controlling Owner"). Unless you notify us otherwise in writing, a Controlling Owner who does not have an ownership interest shall have authority to sign on your behalf on all contracts and commercial documents for the store or restaurant. You must identify your Controlling Owner and your Designated Manager in the Ownership and Management Addendum attached to the operating agreement, and thereafter notify us in writing of any change in the Controlling Owner or designated manager. A control person and Designated Manager may be the same individual, provided the individual fulfills both roles. Your control person(s), Designated Manager and assistant managers must attend and successfully complete all required training, described in Item 11.

Any new or replacement Designated Manager must meet our then-current prior restaurant or retail management experience requirements.

If you are a legal entity, each individual who owns an interest in you must sign the personal undertaking and guarantee attached to the operating agreement. You must identify your owner(s) in the Ownership and Management Addendum, and thereafter must notify us in writing of any change in the owner(s). These people agree to discharge all obligations of the subfranchisee under the operating agreement and are bound by all its terms and conditions, including maintaining confidentiality of proprietary information described in Item 14 and abiding by the noncompete covenants described in Item 17.

## Item 16

## RESTRICTIONS ON WHAT THE SUBFRANCHISEE MAY SELL

You must offer and sell only those goods and services that we and ADQ have approved for your store or restaurant (see Items 8 and 9). In addition, you may offer and sell these approved goods and services only from your store or restaurant (see Item 12). Your failure to comply with these requirements may result in termination of your subfranchise (see Item 17).

You must offer the required menu items that we and ADQ designate for your business. We and ADQ may determine the authorized menu for your store or restaurant, based on our or ADQ's evaluation of various factors, including customs or circumstances of a particular site or location, density of population, population of trade area, existing business practices, lease restrictions, and any other condition that we and ADQ consider important to the operation of your store or restaurant or to the DQ system. There are no limits on our or ADQ's right to make modifications to the approved menu and ingredients periodically through the operations manuals, by system bulletins or otherwise in writing, any of which may be communicated electronically. We or ADQ may require you to be certified for specialized training and equipment or pledge additional funds if you want to carry optional menu items. Other DQ stores and restaurants may carry different menu items than you carry in your store or restaurant.

You must not sell, offer for sale or otherwise handle alcoholic or intoxicating beverages or controlled substances on the store or restaurant premises. You must not have or use or permit the presence or use of ATMs, video game machines, vending machines, coin-operated or electronic devices or machines on the store or restaurant premises. You must not offer, sell, use or participate in any lottery or gambling device of any nature at or from the store or restaurant premises. Your store or restaurant must be smoke-free for all customers and personnel, and you must post signs on all doors and throughout the store or restaurant that announce the smoke-free policy.

You must be open for business each week for minimum hours and days as stated in the operations manuals.

## Item 17

## RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

## THE FRANCHISE RELATIONSHIP

**This table lists important provisions of the operating and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

| | Provision | Section in Operating Agreement | Summary |
|---|---|---|---|
| a. | Length of the subfranchise term | 4.1 | Term is 20 years or the term of the lease of the store or restaurant premises, whichever is shorter |
| b. | Renewal or extension of the term | 4.3 | Renewal for 1 additional term of 10 years or the term of the renewed lease, whichever is shorter |

| | Provision | Section in Operating Agreement | Summary |
|---|---|---|---|
| c. | Requirements for you to renew or extend | 4.3 | Your lease has been renewed; you give us written notice of your decision to renew at least 3 months but not more than 6 months before the end of the initial term; you sign our then-current form of renewal operating agreement, except that the sales promotion program fee will be not less than 3% nor more than 6% of Gross Sales; you have complied with Section 5.5 regarding your store or restaurant facility; you are in good standing with us; if leasing, you have written proof of your ability to remain in possession of the store or restaurant premises throughout the renewal period; you pay us a renewal fee; you and your Principal Owners sign a release; and we approve your location (see Item 6)<br><br>If you seek to renew your subfranchise at the expiration of the initial term or any renewal term, you may be asked to sign a new operating agreement that contains terms and conditions materially different from those in your previous operating agreement. |
| d. | Termination by you | 13.3 | You may terminate the subfranchise only for a material breach by us, provided you give us written notice of the breach and allow us 30 days to cure the breach and, if not cured, wait 60 days from the original notice of breach before terminating the subfranchise |
| e. | Termination by us without cause | Not applicable | |
| f. | Termination by us with cause | 13.1 & 13.2 | We can terminate the subfranchise only if you default |
| g. | "Cause" defined – curable defaults | 13.1 & 13.2 | You have 10 days (24 hours if the issue deals with health or safety) to cure the making and submission of false reports, failure to submit the lease before execution (if applicable), non-submission of reports, non-payment of amounts due and owing. You have 30 days to cure a failure to abide by our or ADQ's standards in connection with the operation of your store or restaurant, the filing of voluntary or involuntary bankruptcy by or against you, a failure to meet any standards established by us or by ADQ, and any other default not listed in h below. |

| | Provision | Section in Operating Agreement | Summary |
|---|---|---|---|
| h. | "Cause" defined – non-curable defaults | 13.1 & 13.2 | Non-curable defaults: ADQ does not consent to the operating agreement; you do not select and/or we do not approve a site within 90 days of our approval of your application; you do not begin construction within 180 days of our approval of your location; your trainees fail to comply with training requirements; abandonment, insolvency, unapproved assignments or transfers, conviction of offense directly related to subfranchised business, intentionally understating or underreporting Gross Sales or other fees, 3 defaults within a 12-month period even if cured, and failure to cure within 24 hours of notice thereof a default which materially impairs the goodwill associated with any of ADQ's trademarks, you are named a specially designated national or blocked person by the U.S. Department of the Treasury's Office of Foreign Assets Control. |
| i. | Your obligations on termination/ non-renewal | 13.2(D) & 14 | Obligations include complete de-identification and payment of amounts due and, in the case of a termination of the subfranchise, payment of a termination fee (also see r below). |
| j. | Assignment of contract by us | 11.6 | No restriction on our right to assign. |
| k. | "Transfer" by you - definition | 11.2 | Includes any transfer of your interest in the operating agreement or in the business conducted thereunder or any ownership change thereof listed in Section 11.2 |
| l. | Our approval of transfer by subfranchisee | 11.1 | We must approve all transfers, but will not unreasonably withhold approval. |
| m. | Conditions for our approval of transfer | 11.3 | Transferee meets all of our then-current requirements for transferees, transfer fee paid, all amounts owed by prior subfranchisee paid, required facility improvements made, training arranged, required guarantees signed, necessary financial reports and other data on subfranchised business is prepared, release signed by you, and current operating agreement signed by new subfranchisee (also see r below). |
| n. | Our right of 1st refusal to acquire your business | 11.3(B) | We (or, at our option, a qualified 3rd party designated by us) can match any offer for your subfranchise and business assets (including any leasehold interests) and, in the case of a proposed stock sale, we (or, at our option, a qualified 3rd party designated by us) can purchase your subfranchise and business assets at a price determined by an appraiser, unless you and we (or our designated buyer) agree otherwise. Appraiser fees and expenses will be shared equally by both parties. |

| | Provision | Section in Operating Agreement | Summary |
|---|---|---|---|
| o. | Our option to purchase your business | 14.5 | On termination, we may purchase or designate a 3rd party that will purchase all or any portion of the assets of your store or restaurant, including the land, building, equipment, fixtures, signs, furnishings, supplies, leasehold improvements and inventory of your store or restaurant. Qualified appraiser will determine price which will be the reasonable fair market value of the assets based on their continuing use in, as, and for the operation of a DQ store or restaurant. Appraiser fees and expenses will be shared equally by both parties. |
| p. | Your death or disability | 11.7 | You can transfer your subfranchise to your heir or successor in interest under Section 11, and if assignee is your spouse or child, no transfer fee is required. |
| q. | Non-competition covenants during the term of the franchise | 10.5 | No direct or indirect involvement in the operation of any quick service restaurant that serves hamburgers but does not serve alcohol, or any restaurant or business that generates more than 10% of its revenue from sales of ice cream, yogurt, frozen custard, soft serve or other frozen treats, other than one authorized in operating agreement |
| r. | Non-competition covenants after the franchise is terminated or expires | 14.6 | No direct or indirect involvement in a competing business for 1 year within 500 meters of the prior authorized location. |
| s. | Modification of the agreement | 6.1, 6.11, 15.2, 15.4 | No modifications generally, but we and ADQ may change the operations manuals, authorized trademarks and menu items. |
| t. | Integration/merger clause | 15.2 | Only the terms of the operating agreement and its addenda are binding (subject to state law). Any representations or promises outside of this disclosure document and the operating agreement may not be enforceable. |
| u. | Dispute resolution by arbitration or mediation | 12 | All disputes must be arbitrated in Richmond, Virginia or other place that is mutually agreeable to the parties. |
| v. | Choice of forum | 12.1(D) | Arbitration will take place in Richmond, Virginia, or other place that is mutually agreeable to the parties. |
| w. | Choice of law | 15.8(A) | Applicable law is that of the state where authorized location is located. |

## Item 18

## PUBLIC FIGURES

Neither we nor ADQ use any public figure to promote the subfranchise. No public figure is involved in the actual management or control of us or of ADQ.

## Item 19

## FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides 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.

**2024 Historical Gross Sales Information**. The table below contains the following historical Gross Sales information: the high, low, average and median 2024 Gross Sales of 41 subfranchised free-standing DQ Grill & Chill restaurants that operated in Virginia during the entire 2024 calendar year.

As of December 31, 2024 (and as of February 28, 2025, our last fiscal year end), another 42 subfranchised DQ stores or restaurants were operating in Virginia. Of those 42 other DQ stores and restaurants, 31 were located in strip centers, 2 were located in malls, and 9 were free-standing stores with limited menus. The Gross Sales of those other locations were not used in preparing this financial performance representation, because we currently focus exclusively on offering franchises for new free-standing DQ Grill & Chill restaurants, and because this financial performance representation is based only on locations open 12 months or longer. We only occasionally, in special circumstances, may grant franchises for new locations in strip centers, convenience stores or malls, or for new free-standing locations with limited menus. We do not grant franchises for treat-only locations.

In 2024, 2 subfranchised DQ Grill & Chill restaurant in Virginia ceased operations due to mutual termination, no DQ store or restaurant in Virginia ceased operations due to non-renewal, no DQ Grill & Chill store or restaurant in Virginia ceased operations for other reasons, and no subfranchised DQ store or restaurant in Virginia both began and ceased operations.

**High, Low, Average and Median Gross Sales of 41 Subfranchised Free-Standing DQ Grill & Chill Restaurants That Operated in Virginia in 2024**

| | |
|---|---|
| **HIGH GROSS SALES** | **$3,039,340** |
| **LOW GROSS SALES** | **$709,549** |
| **AVERAGE GROSS SALES** | **$1,641,667** |
| **MEDIAN GROSS SALES** | **$1,655,439** |

Notes to Table:

1. "Gross Sales" include the total revenue and receipts from the sale of all products sold by the restaurant, including sales of all products under any of ADQ's trademarks as well as sales of other products, services and merchandise, whether or not identified by other brand names, and excluding sales taxes and revenue and receipts arising directly from the sale of gift cards.

2 An "average" is calculated by adding the numerical values of all data points in a set and dividing by the number of data points in the set. Of the 41 subfranchised free-standing DQ Grill & Chill restaurants that operated in Virginia during the entire 2024 calendar year, 21, or 51%, exceeded the average.

3. A "median" is the numerical value of the data point in the middle of all data points in a set. If a set contains an even number of data points, the median is calculated by identifying the 2 data points in the middle of the set, adding their numerical values, and dividing by 2.

**2023 Historical Gross Sales Information**. The table below contains the following historical Gross Sales information: the high, low, average and median 2023 Gross Sales of 38 subfranchised free-standing DQ Grill & Chill restaurants that operated in Virginia during the entire 2023 calendar year.

As of December 31, 2023 (and as of February 29, 2024, our next fiscal year end), another 47 subfranchised DQ stores or restaurants were operating in Virginia. Of those 47 other DQ stores and restaurants, 33 were located in strip centers or convenience stores, 2 were located in malls, 9 were free-standing stores with limited menus, and 3 had operated for less than 12 months. The Gross Sales of those other locations were not used in preparing this financial performance representation, because we currently focus exclusively on offering franchises for new free-standing DQ Grill & Chill restaurants, and because this financial performance representation is based only on locations open 12 months or longer. We only occasionally, in special circumstances,

may grant franchises for new locations in strip centers, convenience stores or malls, or for new free-standing locations with limited menus. We do not grant franchises for treat-only locations.

In 2023, 1 subfranchised DQ Grill & Chill restaurant in Virginia ceased operations due to termination, no DQ store or restaurant in Virginia ceased operations due to non-renewal, 6 DQ Grill & Chill restaurants in Virginia ceased operations for other reasons, and no subfranchised DQ store or restaurant in Virginia both began and ceased operations.

**High, Low, Average and Median Gross Sales of 38 Subfranchised Free-Standing DQ Grill & Chill Restaurants That Operated in Virginia in 2023**

| | |
|---|---|
| **HIGH GROSS SALES** | **$3,037,262** |
| **LOW GROSS SALES** | **$690,531** |
| **AVERAGE GROSS SALES** | **$1,620,324** |
| **MEDIAN GROSS SALES** | **$1,575,530** |

Notes to Table:

1. "Gross Sales" include the total revenue and receipts from the sale of all products sold by the restaurant, including sales of all products under any of ADQ's trademarks as well as sales of other products, services and merchandise, whether or not identified by other brand names, and excluding sales taxes and revenue and receipts arising directly from the sale of gift cards.

2 An "average" is calculated by adding the numerical values of all data points in a set and dividing by the number of data points in the set. Of the 38 subfranchised free-standing DQ Grill & Chill restaurants that operated in Virginia during the entire 2023 calendar year, 17, or 45%, exceeded the average.

3. A "median" is the numerical value of the data point in the middle of all data points in a set. If a set contains an even number of data points, the median is calculated by identifying the 2 data points in the middle of the set, adding their numerical values, and dividing by 2.

General:

The Gross Sales information shown in the tables above for subfranchised DQ Grill & Chill restaurants is compiled from information submitted to us by the franchisees in their 2024 and 2023 unaudited sales reports. The reports submitted to us were not audited, and we have not undertaken to independently verify the accuracy of the information in the reports or determine whether the

reports were prepared in accordance with generally accepted accounting principles. However, we are not aware of any instance in which any subfranchised DQ Grill & Chill restaurant overstated Gross Sales in any report.

Of the subfranchised free-standing DQ Grill & Chill restaurants operating in 2024 and 2023, some were converted rather than newly built, and all had layouts and production cores that varied somewhat depending on their sites and the prototypes used when they were converted or newly built. Otherwise, we are not aware of any material differences between the subfranchised DQ Grill & Chill restaurants for which information is shown in this Item 19, and the subfranchised DQ Grill & Chill restaurants described in this disclosure document.

Written substantiation for the financial performance representation will be made available to you on reasonable request. We urge you to consult with your financial, business and legal advisors in connection with the Gross Sales information shown in this Item 19.

**Some restaurants have sold this amount. Your individual results may differ. There is no assurance that you'll sell as much.**

Other than the preceding financial performance representation, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing 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 Matt Dunham, 12020 Wyndham Lake Drive, Glen Allen, Virginia 23059, (804) 364-3006, the Federal Trade Commission, and any appropriate state regulatory agencies.

## Item 20

## OUTLETS AND FRANCHISEE INFORMATION

## TERRITORY OPERATOR

## TABLE NO. 1

**Systemwide Outlet Summary ***
**For Fiscal Years Ended**
**February 28, 2023, February 29, 2024 and February 28, 2025**

| Outlet Type | Year | Outlets At Start of Year | Outlets At End of Year | Net Change |
|---|---|---|---|---|
| Subfranchised | 2023 | 91 | 89 | -2 |
| | 2024 | 89 | 85 | -4 |
| | 2025 | 85 | 83 | -2 |
| Company-Owned | 2023 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 |
| | 2025 | 0 | 0 | 0 |
| **Total Outlets** | **2023** | **91** | **89** | **-2** |
| | **2024** | **89** | **85** | **-4** |
| | **2025** | **85** | **83** | **-2** |

* Some of our shareholders have ownership interests in some subfranchised outlets.

## TABLE NO. 2

**Transfers of Outlets From Subfranchisees To New Owners**
**(Other Than Territory Operator or an Affiliate)**
**For Fiscal Years Ended**
**February 28, 2023, February 29, 2024 and February 28, 2025**

| State | Year | Number of Transfers |
|---|---|---|
| VA | 2023 | 4 |
| | 2024 | 0 |
| | 2025 | 0 |
| **Totals** | **2023** | **4** |
| | **2024** | **0** |
| | **2025** | **0** |

## TABLE NO. 3

**Status of Subfranchised Outlets**
**For Fiscal Years Ended**
**February 28, 2023, February 29, 2024 and February 28, 2025**

| State | Year | Outlets At Start of Year | Outlets Opened | Termina-tions | Non-Renewals | Reacquired By Territory Operator | Ceased Operations – Other Reasons | Outlets At End of Year |
|---|---|---|---|---|---|---|---|---|
| VA | 2023 | 91 | 0 | 0 | 0 | 0 | 2 | 89 |
| | 2024 | 89 | 3 | 1 | 0 | 0 | 6 | 85 |
| | 2025 | 85 | 0 | 0 | 0 | 0 | 2 | 83 |
| **Totals** | **2023** | **91** | 0 | 0 | 0 | 0 | 2 | 89 |
| | **2024** | **89** | **3** | **1** | **0** | **0** | **6** | **85** |
| | **2025** | **85** | **0** | **0** | **0** | **0** | **2** | **83** |

## TABLE NO. 4

**Status of Territory Operator-Owned Outlets**
**For Fiscal Years Ended**
**February 28, 2023, February 29, 2024 and February 28, 2025**

| State | Year | Outlets At Start Of Year | Outlets Opened | Outlets Re-Acquired From Subfranchisees | Outlets Closed | Outlets Sold To Subfranchisees | Outlets At End Of Year |
|---|---|---|---|---|---|---|---|
| VA | 2023 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2025 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Totals** | **2023** | **0** | **0** | **0** | **0** | **0** | **0** |
| | **2024** | **0** | **0** | **0** | **0** | **0** | **0** |
| | **2025** | **0** | **0** | **0** | **0** | **0** | **0** |

## TABLE NO. 5

### Projected Openings as of February 28, 2025

| State | Franchise Agreements Signed But Outlets Not Open as of 2/28/2025 | Projected New Subfranchised Outlets As of 2/28/2025 (in FYE 2/28/2026) | Projected New Territory Operator-Owned Outlets As Of 2/28/2025 (in FYE 2/28/2026) |
|---|---|---|---|
| VA | 3 | 3 | 0 |
| **TOTALS** | **3** | **3** | **0** |

Exhibit F contains the names of our subfranchisees, and the addresses and telephone numbers of their outlets, as of February 28, 2025.

Exhibit G contains the name, city and state, and the current business telephone number (or, if unknown, the last known home telephone number) of each of our subfranchisees: who transferred (0), had a subfranchise terminated (0), cancelled (0) or not renewed (0), or otherwise voluntarily or involuntarily ceased to do business (2), in our fiscal year ended February 28, 2025; or who had not communicated with us within 10 weeks of the date of this disclosure document (0).

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

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

## HEAD FRANCHISOR

**Note: The numbers in the following tables are given to us by ADQ and we have not independently verified these numbers.**

Included in this Item are tables for the following concepts: direct-licensed and subfranchised DQ Grill & Chill restaurants, direct-licensed and subfranchised Dairy Queen/Brazier restaurants, Texas DQ restaurants, direct-licensed and subfranchised DQ Treat, DQ soft-serve-only and Dairy Queen/Limited Brazier stores.

### DQ Grill & Chill & Dairy Queen/Brazier Direct-Licensed Outlets Systemwide Outlet Summary For Years 2022 to 2024[(1)]

| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
|---|---|---|---|---|
| Franchised | 2022 | 1952 | 1965 | +13 |
| | 2023 | 1965 | 1967 | +2 |
| | 2024 | 1967 | 1969 | +2 |

| | | | | |
|---|---|---|---|---|
| Company-Owned | 2022 | 2 | 2 | 0 |
| | 2023 | 2 | 2 | 0 |
| | 2024 | 2 | 2 | 0 |
| Total Outlets | 2022 | 1954 | 1967 | +13 |
| | 2023 | 1967 | 1969 | +2 |
| | 2024 | 1969 | 1971 | +2 |

(1) The totals do not include Texas DQ restaurants, subfranchised outlets operating under agreements with territory operators ("subfranchised restaurants"), or outlets for other franchise programs described in Item 1.

**DQ Grill & Chill & Dairy Queen/Brazier Direct Licensed Outlets**
**Transfer of Outlets from Franchisees to New Owners (other than the Franchisor)**
**For Years 2022 to 2024**

| State | Year | Number of Transfers |
|---|---|---|
| Alabama | 2022 | 6 |
| | 2023 | 0 |
| | 2024 | 9 |
| Arizona | 2022 | 1 |
| | 2023 | 2 |
| | 2024 | 0 |
| Arkansas | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 0 |
| California | 2022 | 1 |
| | 2023 | 4 |
| | 2024 | 0 |
| Florida | 2022 | 4 |
| | 2023 | 3 |
| | 2024 | 9 |
| Georgia | 2022 | 8 |
| | 2023 | 6 |
| | 2024 | 8 |
| Idaho | 2022 | 10 |
| | 2023 | 0 |
| | 2024 | 0 |
| Illinois | 2022 | 9 |
| | 2023 | 9 |
| | 2024 | 8 |
| Indiana | 2022 | 13 |
| | 2023 | 10 |
| | 2024 | 15 |
| Iowa | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 2 |
| Kansas | 2022 | 3 |
| | 2023 | 9 |
| | 2024 | 3 |

| State | Year | Number of Transfers |
|---|---|---|
| Kentucky | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 5 |
| Louisiana | 2022 | 0 |
| | 2023 | 2 |
| | 2024 | 1 |
| Maine | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 1 |
| Maryland | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 0 |
| Massachusetts | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 1 |
| Michigan | 2022 | 2 |
| | 2023 | 3 |
| | 2024 | 2 |
| Minnesota | 2022 | 7 |
| | 2023 | 5 |
| | 2024 | 9 |
| Mississippi | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 1 |
| Missouri | 2022 | 5 |
| | 2023 | 8 |
| | 2024 | 7 |
| Nebraska | 2022 | 3 |
| | 2023 | 1 |
| | 2024 | 2 |
| Nevada | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 2 |
| New Hampshire | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 2 |
| New Mexico | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 0 |
| New York | 2022 | 0 |
| | 2023 | 2 |
| | 2024 | 0 |
| North Carolina | 2022 | 2 |
| | 2023 | 4 |
| | 2024 | 1 |
| Ohio | 2022 | 5 |
| | 2023 | 7 |
| | 2024 | 7 |
| Oklahoma | 2022 | 1 |

| State | Year | Number of Transfers |
|---|---|---|
| | 2023 | 2 |
| | 2024 | 0 |
| Oregon | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 1 |
| Pennsylvania | 2022 | 1 |
| | 2023 | 3 |
| | 2024 | 2 |
| Rhode Island | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 0 |
| South Carolina | 2022 | 0 |
| | 2023 | 2 |
| | 2024 | 0 |
| Tennessee | 2022 | 1 |
| | 2023 | 5 |
| | 2024 | 4 |
| Washington | 2022 | 7 |
| | 2023 | 0 |
| | 2024 | 1 |
| West Virginia | 2022 | 5 |
| | 2023 | 6 |
| | 2024 | 0 |
| Wisconsin | 2022 | 6 |
| | 2023 | 3 |
| | 2024 | 10 |
| Wyoming | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 0 |
| Total | 2022 | 108 |
| | 2023 | 101 |
| | 2024 | 113 |

## DQ Grill & Chill & Dairy Queen/Brazier Direct-Licensed Outlets
## Status of Franchised Outlets
## For Years 2022 to 2024

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Alabama | 2022 | 65 | 1 | | | | | 66 |
| | 2023 | 66 | | 2 | | | | 64 |
| | 2024 | 64 | | | | | | 64 |
| Alaska | 2022 | 5 | | | | | | 5 |
| | 2023 | 5 | | | | | | 5 |
| | 2024 | 5 | | | | | | 5 |
| Arizona | 2022 | 34 | | | | | | 34 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| | 2023 | 34 | 1 | | | | | 35 |
| | 2024 | 35 | 2 | 2 | | | | 35 |
| Arkansas | 2022 | 31 | 2 | 1 | | | | 32 |
| | 2023 | 32 | 3 | 2 | | | | 33 |
| | 2024 | 33 | | | | | | 33 |
| California | 2022 | 38 | 1 | 2 | | | | 37 |
| | 2023 | 37 | 1 | 1 | | | | 37 |
| | 2024 | 37 | 1 | | | | | 38 |
| Colorado | 2022 | 32 | | | | | | 32 |
| | 2023 | 32 | | 2 | | | | 30 |
| | 2024 | 30 | | 1 | | | | 29 |
| Connecticut | 2022 | 12 | 1 | | | | | 13 |
| | 2023 | 13 | | | | | | 13 |
| | 2024 | 13 | 1 | | | | | 14 |
| Delaware | 2022 | 10 | | | | | | 10 |
| | 2023 | 10 | 1 | | | | | 11 |
| | 2024 | 11 | 1 | | | | | 12 |
| Florida | 2022 | 91 | 3 | | | | | 94 |
| | 2023 | 94 | 5 | 3 | | | | 96 |
| | 2024 | 96 | | 2 | | | | 94 |
| Georgia | 2022 | 199 | 5 | 2 | | | | 202 |
| | 2023 | 202 | 2 | 2 | | | | 202 |
| | 2024 | 202 | 1 | 3 | | | | 200 |
| Idaho | 2022 | 20 | 3 | | | | | 23 |
| | 2023 | 23 | | | | | | 23 |
| | 2024 | 23 | 1 | | | | | 24 |
| Illinois | 2022 | 136 | | | | | | 136 |
| | 2023 | 136 | 2 | 4 | | | | 134 |
| | 2024 | 134 | 2 | 2 | | | | 134 |
| Indiana | 2022 | 163 | | 4 | | | | 159 |
| | 2023 | 159 | 1 | 4 | | | | 156 |
| | 2024 | 156 | 1 | 2 | | | | 155 |
| Iowa | 2022 | 26 | | | | | | 26 |
| | 2023 | 26 | 1 | 1 | | | | 26 |
| | 2024 | 26 | | | | | | 26 |
| Kansas | 2022 | 46 | | 1 | | | | 45 |
| | 2023 | 45 | 2 | 1 | | | | 46 |
| | 2024 | 46 | | 2 | | | | 44 |
| Kentucky | 2022 | 129 | 2 | | | | | 131 |
| | 2023 | 131 | 2 | 1 | | | | 132 |
| | 2024 | 132 | 1 | 2 | | | | 131 |
| Louisiana | 2022 | 32 | | | | | | 32 |
| | 2023 | 32 | | | | | | 32 |
| | 2024 | 32 | | 1 | | | | 31 |
| Maine | 2022 | 9 | | | | | | 9 |
| | 2023 | 9 | | | | | | 9 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| | 2024 | 9 | | | | | | 9 |
| Maryland | 2022 | 13 | 2 | | | | | 15 |
| | 2023 | 15 | 3 | | | | | 18 |
| | 2024 | 18 | 1 | | | | | 19 |
| Massachusetts | 2022 | 12 | | | | | | 12 |
| | 2023 | 12 | | 1 | | | | 11 |
| | 2024 | 11 | | | | | | 11 |
| Michigan | 2022 | 43 | 3 | | | | | 46 |
| | 2023 | 46 | 3 | 1 | | | | 48 |
| | 2024 | 48 | 4 | | | | | 52 |
| Minnesota | 2022 | 140 | 2 | 7 | | | | 135 |
| | 2023 | 135 | 2 | 3 | | | | 134 |
| | 2024 | 134 | 1 | 5 | | | | 130 |
| Mississippi | 2022 | 26 | | | | | | 26 |
| | 2023 | 26 | 1 | | | | | 27 |
| | 2024 | 27 | | 1 | | | | 26 |
| Missouri | 2022 | 96 | 2 | 1 | | | | 97 |
| | 2023 | 97 | 1 | 1 | | | | 97 |
| | 2024 | 97 | 1 | 1 | | | | 97 |
| Nebraska | 2022 | 40 | | | | | | 40 |
| | 2023 | 40 | | | | | | 40 |
| | 2024 | 40 | 1 | | | | | 41 |
| Nevada | 2022 | 5 | | | | | | 5 |
| | 2023 | 5 | | | | | | 5 |
| | 2024 | 5 | 1 | | | | | 6 |
| New Hampshire | 2022 | 6 | | | | | | 6 |
| | 2023 | 6 | | | | | | 6 |
| | 2024 | 6 | | | | | | 6 |
| New Jersey | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| New Mexico | 2022 | 27 | 1 | 1 | | | | 27 |
| | 2023 | 27 | | | | | | 27 |
| | 2024 | 27 | | | | | | 27 |
| New York | 2022 | 23 | | | | | | 23 |
| | 2023 | 23 | 2 | 3 | | | | 22 |
| | 2024 | 22 | | | | | | 22 |
| North Carolina | 2022 | 40 | | 1 | | | | 39 |
| | 2023 | 39 | 1 | 3 | | | | 37 |
| | 2024 | 37 | | | | | | 37 |
| Ohio | 2022 | 74 | 3 | | | | | 77 |
| | 2023 | 77 | 7 | 1 | | | | 83 |
| | 2024 | 83 | 4 | 1 | | | | 86 |
| Oklahoma | 2022 | 13 | | 1 | | | | 12 |
| | 2023 | 12 | | | | | | 12 |
| | 2024 | 12 | 1 | | | | | 13 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Oregon | 2022 | 4 | | | | | | 4 |
| | 2023 | 4 | | | | | | 4 |
| | 2024 | 4 | | | | | | 4 |
| Pennsylvania | 2022 | 30 | 1 | | | | | 31 |
| | 2023 | 31 | | 1 | | | | 30 |
| | 2024 | 30 | | | | | | 30 |
| Rhode Island | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| South Carolina | 2022 | 19 | 1 | 1 | | | | 19 |
| | 2023 | 19 | | | | | | 19 |
| | 2024 | 19 | | 1 | | | | 18 |
| South Dakota | 2022 | 5 | 2 | | | | | 7 |
| | 2023 | 7 | | | | | | 7 |
| | 2024 | 7 | 1 | | | | | 8 |
| Tennessee | 2022 | 75 | 3 | 1 | | | | 77 |
| | 2023 | 77 | | | | | | 77 |
| | 2024 | 77 | 2 | 1 | | | | 78 |
| Washington | 2022 | 33 | | | | | | 33 |
| | 2023 | 33 | | | | | | 33 |
| | 2024 | 33 | | | | | | 33 |
| West Virginia | 2022 | 50 | | | | | | 50 |
| | 2023 | 50 | | | | | | 50 |
| | 2024 | 50 | | | | | | 50 |
| Wisconsin | 2022 | 90 | | 2 | | | | 88 |
| | 2023 | 88 | | 2 | | | | 86 |
| | 2024 | 86 | 2 | 1 | | | | 87 |
| Wyoming | 2022 | 8 | | | | | | 8 |
| | 2023 | 8 | | | | | | 8 |
| | 2024 | 8 | | | | | | 8 |
| Totals | 2022 | 1952 | 38 | 25 | 0 | 0 | 0 | 1965 |
| | 2023 | 1965 | 41 | 39 | 0 | 0 | 0 | 1967 |
| | 2024 | 1967 | 30 | 28 | 0 | 0 | 0 | 1969 |

The following openings were conversions from another DQ concept, acquisitions of a territory operator's rights in the store franchise agreements, or conversion of company-owned to a direct-license outlet: 1 in 2022, 4 in 2023 and 3 in 2024.

## DQ Grill & Chill & Dairy Queen/Brazier Direct-Licensed Outlets
## Status of Company-Owned Outlets
## For Years 2022 to 2024

| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|
| Minnesota | 2022 | 2 | 0 | 0 | 0 | 0 | 2 |
| | 2023 | 2 | 0 | 0 | 0 | 0 | 2 |
| | 2024 | 2 | 0 | 0 | 0 | 0 | 2 |
| Totals | 2022 | 2 | 0 | 0 | 0 | 0 | 2 |
| | 2023 | 2 | 0 | 0 | 0 | 0 | 2 |
| | 2024 | 2 | 0 | 0 | 0 | 0 | 2 |

## DQ Grill & Chill & Dairy Queen/Brazier Direct-Licensed Outlets
## Projected Openings (1)
## As Of December 31, 2024

| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets In The Next Fiscal Year |
|---|---|---|---|
| Alabama | 0 | 2 | 0 |
| Arizona | 1 | 0 | 0 |
| Colorado | 2 | 0 | 0 |
| Delaware | 0 | 1 | 0 |
| Florida | 2 | 7 | 0 |
| Georgia | 0 | 5 | 0 |
| Illinois | 3 | 0 | 0 |
| Kansas | 0 | 2 | 0 |
| Kentucky | 0 | 2 | 0 |
| Louisiana | 0 | 1 | 0 |
| Maryland | 1 | 1 | 0 |
| Massachusetts | 0 | 1 | 0 |
| Michigan | 0 | 1 | 0 |
| Minnesota | 0 | 1 | 0 |
| Nebraska | 0 | 1 | 0 |
| North Carolina | 0 | 3 | 0 |
| Ohio | 4 | 0 | 0 |
| Pennsylvania | 1 | 0 | 0 |
| South Carolina | 2 | 0 | 0 |
| Tennessee | 2 | 3 | 0 |
| Texas | 6 | 6 | 0 |
| Washington | 1 | 0 | 0 |
| West Virginia | 1 | 0 | 0 |
| Wyoming | 0 | 1 | 0 |

| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets In The Next Fiscal Year |
|---|---|---|---|
| Total | 26 | 38 | 0 |

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The information provided below regarding subfranchised outlets is provided by territory operators and is not independently verified by ADQ.

**DQ Grill & Chill & Dairy Queen/Brazier Subfranchised Territory Operator Outlets**
**Systemwide Outlet Summary**
**For Years 2022 to 2024**

| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
|---|---|---|---|---|
| Franchised | 2022 | 569 | 572 | 3 |
| | 2023 | 572 | 566 | -6 |
| | 2024 | 566 | 567 | 1 |
| Company-Owned | 2022 | 0 | 0 | +0 |
| | 2023 | 0 | 0 | +0 |
| | 2024 | 0 | 0 | +0 |
| Total Outlets | 2022 | 569 | 572 | 3 |
| | 2023 | 572 | 566 | -6 |
| | 2024 | 566 | 567 | 1 |

**DQ Grill & Chill & Dairy Queen/Brazier Subfranchised Territory Operator Outlets**
**Transfer of Outlets from Franchisees to New Owners (other than the Franchisor)**
**For Years 2022 to 2024**

| State | Year | Number of Transfers |
|---|---|---|
| Iowa | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 2 |
| Montana | 2022 | 4 |
| | 2023 | 2 |
| | 2024 | 4 |
| Nebraska | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 0 |
| Nevada | 2022 | 4 |
| | 2023 | 1 |
| | 2024 | 0 |
| New Jersey | 2022 | 0 |
| | 2023 | 2 |
| | 2024 | 1 |
| North Dakota | 2022 | 1 |
| | 2023 | 2 |
| | 2024 | 1 |
| Ohio | 2022 | 4 |

| State | Year | Number of Transfers |
|---|---|---|
| | 2023 | 0 |
| | 2024 | 5 |
| Oregon | 2022 | 3 |
| | 2023 | 5 |
| | 2024 | 2 |
| Pennsylvania | 2022 | 1 |
| | 2023 | 2 |
| | 2024 | 6 |
| South Dakota | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 0 |
| Utah | 2022 | 1 |
| | 2023 | 3 |
| | 2024 | 3 |
| Virginia | 2022 | 6 |
| | 2023 | 1 |
| | 2024 | 0 |
| Washington | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 2 |
| Wisconsin | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 0 |
| Total | 2023 | 27 |
| | 2023 | 20 |
| | 2024 | 26 |

## DQ Grill & Chill & Dairy Queen/Brazier Subfranchised Territory Operator Outlets
## Status of Franchised Outlets
## For Years 2022 to 2024

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Arizona | 2022 | 17 | | | | | | 17 |
| | 2023 | 17 | | 1 | | | | 16 |
| | 2024 | 16 | | 1 | | | | 15 |
| Colorado | 2022 | 3 | | | | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | | | | | 3 |
| Delaware | 2022 | -1 | | | | | | -1 |
| | 2023 | -1 | | | | | | -1 |
| | 2024 | -1 | | | | | | -1 |
| Florida | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| Illinois | 2022 | 2 | | | | | | 2 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | 1 | | | | | 3 |
| Indiana | 2022 | 1 | 1 | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Iowa | 2022 | 22 | | 1 | | | | 21 |
| | 2023 | 21 | | | | | | 21 |
| | 2024 | 21 | | 1 | | | | 20 |
| Kansas | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Kentucky | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Montana | 2022 | 32 | | | | | | 32 |
| | 2023 | 32 | | | | | | 32 |
| | 2024 | 32 | | | | | | 32 |
| Nebraska | 2022 | 7 | | | | | | 7 |
| | 2023 | 7 | | 1 | | | | 6 |
| | 2024 | 6 | | | | | | 6 |
| Nevada | 2022 | 14 | | 1 | | | | 13 |
| | 2023 | 13 | | 1 | | | | 12 |
| | 2024 | 12 | | | | | | 12 |
| New Jersey | 2022 | 7 | | | | | | 7 |
| | 2023 | 7 | | | | | | 7 |
| | 2024 | 7 | | | | | | 7 |
| North Carolina | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| North Dakota | 2022 | 30 | 2 | | | | | 32 |
| | 2023 | 32 | 2 | 1 | | | | 33 |
| | 2024 | 33 | 1 | | | | | 34 |
| Ohio | 2022 | 94 | 2 | 2 | | | | 94 |
| | 2023 | 94 | | 1 | | | | 93 |
| | 2024 | 93 | | | | | | 93 |
| Oregon | 2022 | 88 | 1 | | | | | 89 |
| | 2023 | 89 | | 1 | | | | 88 |
| | 2024 | 88 | | | | | | 88 |
| Pennsylvania | 2022 | 70 | 1 | 1 | | | | 70 |
| | 2023 | 70 | 2 | 3 | | | | 69 |
| | 2024 | 69 | 1 | 1 | | | | 69 |
| South Dakota | 2022 | 31 | | | | | | 31 |
| | 2023 | 31 | 1 | | | | | 32 |
| | 2024 | 32 | 1 | | | | | 33 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Tennessee | 2022 | 0 | | | | | | 0 |
| | 2023 | 0 | | | | | | 0 |
| | 2024 | 0 | | | | | | 0 |
| Utah | 2022 | 21 | 2 | | | | | 23 |
| | 2023 | 23 | | 2 | | | | 21 |
| | 2024 | 21 | 1 | | | | | 22 |
| Virginia | 2022 | 63 | | 2 | | | | 61 |
| | 2023 | 61 | 3 | 4 | | | | 60 |
| | 2024 | 60 | | 1 | | | | 59 |
| Washington | 2022 | 60 | 1 | | | | | 61 |
| | 2023 | 61 | 1 | | | | | 62 |
| | 2024 | 62 | | | | | | 62 |
| Wisconsin | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| Totals | 2022 | 569 | 10 | 7 | 0 | 0 | 0 | 572 |
| | 2023 | 572 | 9 | 15 | 0 | 0 | 0 | 566 |
| | 2024 | 566 | 5 | 4 | 0 | 0 | 0 | 567 |

(1) The following openings were conversions from another DQ concept: 1 in 2022, 1 in 2023 and 2 in 2024.

(2) The following closings were conversions to another DQ concept or acquisitions of a territory operator's rights in the store franchise agreements: 0 in 2022, 0 in 2023 and 0 in 2024.

**DQ Grill & Chill & Dairy Queen/Brazier Subfranchised Territory Operator Outlets**
**Status of Company-Owned Outlets**
**For Years 2022 to 2024**

| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|
| Totals | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2023 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 | 0 | 0 | 0 |

**DQ Grill & Chill & Dairy Queen/Brazier Subfranchised Territory Operator Outlets**
**Projected Openings**
**As Of December 31, 2024[1]**

| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets In The Next Fiscal Year |
|---|---|---|---|
| Totals | -- | -- | -- |

(1) Territory operators are not contractually required to provide ADQ with information for their projected openings. Therefore, we are unable to provide this information.

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**Texas DQ Restaurant Direct-Licensed Outlets**
**Systemwide Outlet Summary**
**For Years 2022 to 2024[(1)]**

| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
|---|---|---|---|---|
| Franchised | 2022 | 586 | 585 | -1 |
| | 2023 | 585 | 579 | -6 |
| | 2024 | 579 | 568 | -11 |
| Company-Owned | 2022 | 0 | 0 | +0 |
| | 2023 | 0 | 0 | +0 |
| | 2024 | 0 | 0 | +0 |
| Total Outlets | 2022 | 586 | 585 | -1 |
| | 2023 | 585 | 579 | -6 |
| | 2024 | 579 | 568 | -11 |

(1) In 1980, ADQ acquired the Texas territory operator's subfranchisor rights in over 900 subfranchised Dairy Queen restaurants, none of which carry the Dairy Queen/Brazier or DQ Grill & Chill food lines because of various arrangements. The majority of the Texas DQ restaurants have a non-system food called "Texas Country Food."

**Texas DQ Restaurant Direct-Licensed Outlets**
**Transfer of Outlets from Franchisees to New Owners (other than the Franchisor)**
**For Years 2022 to 2024**

| State | Year | Number of Transfers |
|---|---|---|
| Texas | 2022 | 8 |
| | 2023 | 11 |
| | 2024 | 25 |
| Total | 2022 | 8 |
| | 2023 | 11 |
| | 2024 | 25 |

**Texas DQ Restaurant Direct-Licensed Outlets**
**Status of Franchised Outlets**
**For Years 2022 to 2024**

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Texas | 2022 | 586 | 6 | 7 | 0 | 0 | 0 | 585 |
| | 2023 | 585 | 3 | 9 | 0 | 0 | 0 | 579 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2024 | 579 | 3 | 14 | 0 | 0 | 0 | 568 |
| Totals | 2022 | 586 | 6 | 7 | 0 | 0 | 0 | 585 |
| | 2023 | 585 | 3 | 9 | 0 | 0 | 0 | 579 |
| | 2024 | 579 | 3 | 14 | 0 | 0 | 0 | 568 |

**Texas DQ Restaurant Direct-Licensed Outlets**
**Status of Company-Owned Outlets**
**For Years 2022 to 2024**

| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|
| Totals | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2023 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 | 0 | 0 | 0 |

**Texas DQ Restaurant Direct-Licensed Outlets**
**Projected Openings**
**As Of December 31, 2024**

| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets In The Next Fiscal Year |
|---|---|---|---|
| Texas | 6 | 6 | 0 |
| Totals | 6 | 6 | 0 |

**Dairy Queen®/Limited Brazier, DQ Treat & DQ Soft-Serve Only Direct-Licensed Outlets**
**Systemwide Outlet Summary**
**For Years 2022 to 2024[(1)]**

| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
|---|---|---|---|---|
| Franchised | 2022 | 828 | 789 | -39 |
| | 2023 | 789 | 751 | -38 |
| | 2024 | 751 | 727 | -24 |
| Company-Owned | 2022 | 0 | 0 | 0 |
| | 2023 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 |
| Total Outlets | 2022 | 828 | 789 | -39 |
| | 2023 | 789 | 751 | -38 |
| | 2024 | 751 | 727 | -24 |

(1) The totals include DQ Treat, Dairy Queen/Limited Brazier and Dairy Queen soft-serve only locations, which may have non-system food. The totals do not include

subfranchised outlets operating under agreements with territory operators or outlets for any other franchise programs described in Item 1.

**Dairy Queen /Limited Brazier, DQ Treat & DQ Soft-Serve Only Direct-Licensed Outlets**
**Transfer of Outlets from Franchisees to New Owners (other than the Franchisor)**
**For Years 2022 to 2024**

| State | Year | Number of Transfers |
|---|---|---|
| Arizona | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 0 |
| California | 2022 | 3 |
| | 2023 | 2 |
| | 2024 | 3 |
| Colorado | 2022 | 7 |
| | 2023 | 3 |
| | 2024 | 2 |
| Connecticut | 2022 | 2 |
| | 2023 | 1 |
| | 2024 | 3 |
| Florida | 2022 | 5 |
| | 2023 | 4 |
| | 2024 | 6 |
| Illinois | 2022 | 2 |
| | 2023 | 3 |
| | 2024 | 1 |
| Indiana | 2022 | 2 |
| | 2023 | 6 |
| | 2024 | 3 |
| Iowa | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 1 |
| Kansas | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 1 |
| Maine | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 2 |
| Maryland | 2022 | 0 |
| | 2023 | 1 |
| | 2024 | 1 |
| Massachusetts | 2022 | 0 |
| | 2023 | 2 |
| | 2024 | 1 |
| Michigan | 2022 | 2 |
| | 2023 | 4 |
| | 2024 | 5 |
| Minnesota | 2022 | 2 |
| | 2023 | 1 |

| State | Year | Number of Transfers |
|---|---|---|
| | 2024 | 6 |
| Missouri | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 0 |
| Nevada | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 1 |
| New Hampshire | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 1 |
| New Mexico | 2022 | 1 |
| | 2023 | 1 |
| | 2024 | 0 |
| New York | 2022 | 2 |
| | 2023 | 2 |
| | 2024 | 0 |
| North Carolina | 2022 | 2 |
| | 2023 | 0 |
| | 2024 | 0 |
| Ohio | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 6 |
| Oklahoma | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 0 |
| Pennsylvania | 2022 | 4 |
| | 2023 | 2 |
| | 2024 | 2 |
| West Virginia | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 1 |
| Wisconsin | 2022 | 2 |
| | 2023 | 6 |
| | 2024 | 1 |
| Total | 2022 | 43 |
| | 2023 | 39 |
| | 2024 | 47 |

## Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Direct-Licensed Outlets
## Status of Franchised Outlets
## For Years 2022 to 2024

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Arizona | 2022 | 20 | | | | | | 20 |
| | 2023 | 20 | | | | | | 20 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| | 2024 | 20 | | | | | | 20 |
| Arkansas | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| California | 2022 | 37 | | 1 | 2 | | | 34 |
| | 2023 | 34 | | | 1 | | | 33 |
| | 2024 | 33 | | 1 | 1 | | | 31 |
| Colorado | 2022 | 47 | | | | | | 47 |
| | 2023 | 47 | | 1 | 1 | | | 45 |
| | 2024 | 45 | | 2 | 1 | | | 42 |
| Connecticut | 2022 | 26 | | | | | | 26 |
| | 2023 | 26 | | | | | | 26 |
| | 2024 | 26 | | | 1 | | | 25 |
| Delaware | 2022 | 3 | | 1 | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Florida | 2022 | 43 | | | | | | 43 |
| | 2023 | 43 | | 6 | | | | 37 |
| | 2024 | 37 | | | | | | 37 |
| Georgia | 2022 | 9 | | 2 | 1 | | | 6 |
| | 2023 | 6 | | 1 | | | | 5 |
| | 2024 | 5 | | | | | | 5 |
| Hawaii | 2022 | 7 | | | 1 | | | 6 |
| | 2023 | 6 | | | | | | 6 |
| | 2024 | 6 | | | | | | 6 |
| Idaho | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| Illinois | 2022 | 41 | | 2 | 1 | | | 38 |
| | 2023 | 38 | | 2 | | | | 36 |
| | 2024 | 36 | | 1 | | | | 35 |
| Indiana | 2022 | 46 | | 2 | | | | 44 |
| | 2023 | 44 | | 1 | | | | 43 |
| | 2024 | 43 | | | | | | 43 |
| Iowa | 2022 | 30 | | | | | | 30 |
| | 2023 | 30 | | 2 | | | | 28 |
| | 2024 | 28 | | | 1 | | | 27 |
| Kansas | 2022 | 15 | | | | | | 15 |
| | 2023 | 15 | | | | | | 15 |
| | 2024 | 15 | | | | | | 15 |
| Kentucky | 2022 | 5 | | | | | | 5 |
| | 2023 | 5 | | | | | | 5 |
| | 2024 | 5 | | | | | | 5 |
| Louisiana | 2022 | 3 | | 1 | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Maine | 2022 | 13 | | | | | | 13 |
| | 2023 | 13 | | | | | | 13 |
| | 2024 | 13 | | | | | | 13 |
| Maryland | 2022 | 16 | | 2 | 3 | | | 11 |
| | 2023 | 11 | | 1 | | | | 10 |
| | 2024 | 10 | | 1 | | | | 9 |
| Massachusetts | 2022 | 18 | | | | | | 18 |
| | 2023 | 18 | | | | | | 18 |
| | 2024 | 18 | | | | | | 18 |
| Michigan | 2022 | 110 | | 2 | | | | 108 |
| | 2023 | 108 | | 1 | 1 | | | 106 |
| | 2024 | 106 | | 2 | | | | 104 |
| Minnesota | 2022 | 68 | | 1 | | | | 67 |
| | 2023 | 67 | 1 | 2 | 2 | | | 64 |
| | 2024 | 64 | | 3 | | | | 61 |
| Missouri | 2022 | 9 | | | | | | 9 |
| | 2023 | 9 | | | 1 | | | 8 |
| | 2024 | 8 | | 1 | | | | 7 |
| Nebraska | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Nevada | 2022 | 4 | | 1 | | | | 3 |
| | 2023 | 3 | | 1 | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| New Hampshire | 2022 | 6 | | | | | | 6 |
| | 2023 | 6 | | | | | | 6 |
| | 2024 | 6 | | | | | | 6 |
| New Mexico | 2022 | 5 | | | | | | 5 |
| | 2023 | 5 | 1 | | | | | 6 |
| | 2024 | 6 | | | | | | 6 |
| New York | 2022 | 17 | | | | | | 17 |
| | 2023 | 17 | | 1 | | | | 16 |
| | 2024 | 16 | | | | | | 16 |
| North Carolina | 2022 | 39 | | | | | | 39 |
| | 2023 | 39 | | 2 | | | | 37 |
| | 2024 | 37 | | 1 | | | | 36 |
| North Dakota | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Ohio | 2022 | 53 | | 4 | 1 | | | 48 |
| | 2023 | 48 | | 1 | | | 4 | 43 |
| | 2024 | 43 | | 2 | | | | 41 |
| Oklahoma | 2022 | 7 | | | | | | 7 |
| | 2023 | 7 | | | | | | 7 |
| | 2024 | 7 | | | | | | 7 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Oregon | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| Pennsylvania | 2022 | 40 | | 3 | 1 | | | 36 |
| | 2023 | 36 | | 1 | | | | 35 |
| | 2024 | 35 | | | 1 | | | 34 |
| Rhode Island | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| South Carolina | 2022 | 11 | | 5 | | | | 6 |
| | 2023 | 6 | | 4 | | | | 2 |
| | 2024 | 2 | | 1 | | | | 1 |
| South Dakota | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Tennessee | 2022 | 6 | | 1 | | | | 5 |
| | 2023 | 5 | | | | | | 5 |
| | 2024 | 5 | | | | | 1 | 4 |
| Texas | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | 1 | | | 0 |
| | 2024 | 0 | | | | | | 0 |
| Utah | 2022 | 4 | | | 1 | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | | | | | 3 |
| Washington | 2022 | 4 | | | 1 | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | | | | | 3 |
| West Virginia | 2022 | 19 | | 1 | | | | 18 |
| | 2023 | 18 | | 1 | | | | 17 |
| | 2024 | 17 | | | | | | 17 |
| Wisconsin | 2022 | 35 | | 2 | | | | 33 |
| | 2023 | 33 | | | | | | 33 |
| | 2024 | 33 | | | | | | 33 |
| Wyoming | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| Totals | 2022 | 828 | 0 | 31 | 12 | 0 | 0 | 785 |
| | 2023 | 785 | 2 | 28 | 7 | 0 | 4 | 748 |
| | 2024 | 748 | 0 | 15 | 5 | 0 | 1 | 727 |

(1) The following openings were conversions from another DQ concept or acquisitions of a territory operator's rights in the store franchise agreements: 0 in 2022, 0 in 2023, and 3 in 2024.

(2) The following closings were conversions to another DQ concept or acquisitions by a territory operator of the store franchise agreements: 0 in 2022, 4 in 2023, and 2 in 2024.

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Direct-Licensed Outlets**
**Status of Company-Owned Outlets**
**For Years 2022 to 2024**

| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|
| Totals | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2023 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 | 0 | 0 | 0 |

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Direct-Licensed Outlets**
**Projected Openings**
**As of December 31, 2024**

| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets In The Next Fiscal Year |
|---|---|---|---|
| New Mexico | 1 | 0 | 0 |
| Total | 1 | 0 | 0 |

The information provided below regarding subfranchised outlets is provided by territory operators and is not independently verified by ADQ.

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Subfranchised Territory Operator Outlets**
**Systemwide Outlet Summary**
**For Years 2022 to 2024**

| Outlet Type | Year | Outlets at the Start of the Year | Outlets at the End of the Year | Net Change |
|---|---|---|---|---|
| Franchised | 2022 | 289 | 376 | 87 |
| | 2023 | 376 | 371 | -5 |
| | 2024 | 371 | 358 | -13 |
| Company-Owned | 2022 | 0 | 0 | 0 |
| | 2023 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 |
| Total Outlets | 2022 | 289 | 376 | 87 |
| | 2023 | 376 | 371 | -5 |
| | 2024 | 371 | 358 | -13 |

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Subfranchised Territory Operator Outlets**
**Transfer of Outlets from Franchisees to New Owners (other than the Franchisor)**
**For Years 2022 to 2024**

| State | Year | Number of Transfers |
|---|---|---|
| Arizona | 2022 | 1 |
| | 2023 | 5 |
| | 2024 | 1 |
| Florida | 2022 | 0 |
| | 2023 | 3 |
| | 2024 | 2 |
| Illinois | 2022 | 5 |
| | 2023 | 4 |
| | 2024 | 8 |
| Iowa | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 1 |
| Minnesota | 2022 | 1 |
| | 2023 | 0 |
| | 2024 | 0 |
| Montana | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 2 |
| Nevada | 2022 | 1 |
| | 2023 | 1 |
| | 2024 | 1 |
| New Jersey | 2022 | 6 |
| | 2023 | 2 |
| | 2024 | 8 |
| Ohio | 2022 | 0 |
| | 2023 | 0 |
| | 2024 | 1 |
| Pennsylvania | 2022 | 3 |
| | 2023 | 6 |
| | 2024 | 3 |
| Total | 2022 | 18 |
| | 2023 | 21 |
| | 2024 | 27 |

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Subfranchised Territory**
**Operator Outlets**
**Status of Franchised Outlets**
**For Years 2022 to 2024**

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| Arizona | 2022 | 38 | 1 | | | | | 39 |
| | 2023 | 39 | 1 | 1 | | | | 39 |
| | 2024 | 39 | | | | | | 39 |
| Colorado | 2022 | 1 | | | | | | 1 |
| | 2023 | 1 | | | | | | 1 |
| | 2024 | 1 | | | | | | 1 |
| Florida | 2022 | 14 | | 1 | | | | 13 |
| | 2023 | 13 | | | | | | 13 |
| | 2024 | 13 | | | | | | 13 |
| Illinois | 2022 | 78 | | 1 | | | | 77 |
| | 2023 | 77 | | | | | | 77 |
| | 2024 | 77 | | 1 | | 4 | | 72 |
| Indiana | 2022 | 0 | | | | | | 0 |
| | 2023 | 0 | | | | | | 0 |
| | 2024 | 0 | | | | | | 0 |
| Iowa | 2022 | 26 | | | | | | 26 |
| | 2023 | 26 | | | | | | 26 |
| | 2024 | 26 | | 1 | | | | 25 |
| Massachusetts | 2022 | 3 | | | | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | 1 | | | | 2 |
| Minnesota | 2022 | 14 | | 1 | | | | 13 |
| | 2023 | 13 | | | | | | 13 |
| | 2024 | 13 | | | | | | 13 |
| Montana | 2022 | 3 | | | | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | | | | | 3 |
| Nebraska | 2022 | 4 | | 1 | | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | | | | | 3 |
| Nevada | 2022 | 13 | | | | | 2 | 11 |
| | 2023 | 11 | | | 1 | | | 10 |
| | 2024 | 10 | 1 | | | | | 11 |
| New Jersey | 2022 | 66 | | 2 | | | | 64 |
| | 2023 | 64 | 1 | | | | | 65 |
| | 2024 | 65 | 1 | 2 | | | | 64 |
| North Carolina | 2022 | 9 | | | | | | 9 |
| | 2023 | 9 | | 1 | | | | 8 |
| | 2024 | 8 | | | | | | 8 |

| State | Year | Outlets at Start of Year | Outlets Opened | Termi-nations | Non-Renewals | Reacquired by Franchisor | Ceased Operations - Other Reasons | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|---|
| North Dakota | 2022 | 5 | | | | | | 5 |
| | 2023 | 5 | | | | | | 5 |
| | 2024 | 5 | | | | | | 5 |
| Ohio | 2022 | 35 | | | | | 2 | 33 |
| | 2023 | 33 | | 1 | | 1 | | 31 |
| | 2024 | 31 | | 1 | | | | 30 |
| Pennsylvania | 2022 | 46 | | 2 | | | 1 | 43 |
| | 2023 | 43 | | | | | 1 | 42 |
| | 2024 | 42 | | 2 | | | | 40 |
| South Dakota | 2022 | 2 | | | | | | 2 |
| | 2023 | 2 | | | | | | 2 |
| | 2024 | 2 | | | | | | 2 |
| Virginia | 2022 | 29 | | 1 | | | | 28 |
| | 2023 | 28 | | 1 | | | | 27 |
| | 2024 | 27 | | 2 | 1 | | | 24 |
| Wisconsin | 2022 | 3 | | | | | | 3 |
| | 2023 | 3 | | | | | | 3 |
| | 2024 | 3 | | | | | | 3 |
| Totals | 2022 | 389 | 1 | 9 | 0 | 0 | 5 | 376 |
| | 2023 | 376 | 2 | 4 | 1 | 1 | 1 | 371 |
| | 2024 | 371 | 2 | 10 | 1 | 4 | 0 | 358 |

(1) The following openings were conversions from another DQ concept or acquisitions by a territory operator of the store franchise agreements: 0 in 2022, 0 in 2023, and 0 in 2024.

(2) The following closings were conversions to another DQ concept or acquisitions of a territory operator's rights in the store franchise agreements: 1 in 2022, 1 in 2023, and 0 in 2024.

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Subfranchised Territory Operator Outlets**
**Status of Company-Owned Outlets**
**For Years 2022 to 2024**

| State | Year | Outlets at Start of Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|---|---|---|---|---|---|---|---|
| Totals | 2022 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2023 | 0 | 0 | 0 | 0 | 0 | 0 |
| | 2024 | 0 | 0 | 0 | 0 | 0 | 0 |

**Dairy Queen/Limited Brazier, DQ Treat & DQ Soft-Serve Only Subfranchised Territory Operator Outlets**
**Projected Openings**
**As Of December 31, 2024[1]**

| State | Franchise Agreements Signed But Outlet Not Opened | Projected New Franchised Outlets In The Next Fiscal Year | Projected New Company-Owned Outlets In The Next Fiscal Year |
|---|---|---|---|
| Totals | -- | -- | -- |

(1) Territory operators are not contractually required to provide ADQ with information for their projected openings. Therefore, we are unable to provide this information.

States not listed in the tables above had no activity of the kind described. Except as noted in this Item, neither ADQ nor any of its affiliates operate any company-owned outlets substantially similar to that offered under this disclosure document. In addition, no person listed in Item 2, their immediate families or any business entities owned by them operate any company-owned outlets.

Exhibit H is a list of all operational DQ Grill & Chill, Dairy Queen/Brazier, DQ Treat and DQ soft-serve-only outlets in North Carolina, as of December 31, 2024, that were licensed by ADQ or subfranchised by other territory operators.

Exhibit I is a list of all DQ Grill & Chill, Dairy Queen/Brazier, DQ Treat and DQ soft-serve-only licensees of ADQ and subfranchisees of territory operators: who had franchises terminated, canceled or not renewed in 2024; who otherwise voluntarily or involuntarily ceased to do business in 2024; or who had not communicated with ADQ or their territory operators within 10 weeks of the issuance date of this disclosure document. Exhibit I does not include licensees who closed their seasonal stores or restaurants in 2024, licensees who went from subfranchised to direct-licensed by ADQ in 2024, or licensees with old operating agreements who were not required to pay fees or submit reports to ADQ in 2024.

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

In some instances, during the last 3 fiscal years, current and former franchisees have signed provisions restricting their ability to speak openly about their experience with ADQ. You may want to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you about certain aspects of a dispute or their experience with ADQ.

The Franchise Advisory Council ("FAC") is sponsored by ADQ. You can reach the organization at 8000 Tower, Suite 700, 8331 Norman Center Drive, Bloomington, MN 55437, ADQ contact: Maria Hokanson, (952) 830-0200, maria.hokanson@idq.com (no website dedicated to council). ADQ also sponsors the Supply Chain Advisory Council ("SCAC"), currently with all members elected by franchisees, although ADQ may appoint an "at large" member. The business address for the SCAC is the same as for the FAC, and the ADQ contact is Scott Muyres, (952) 830-0200, scott.muyres@idq.com (no website dedicated to council).

The following independent franchisee organizations have asked to be included in this disclosure document: Dairy Queen Operators' Association, Inc., 1719 Lake Drive West, Chanhassen, MN 55317, 952-556-5511, dqoa@dqoa-dqoc.com, website: www.dqoa-dqoc.com; Dairy Queen Operators' Cooperative, 1719 Lake Drive West, Chanhassen, MN 55317, 952-556-5511, dqoa@dqoa-dqoc.com, website: www.dqoa-dqoc.com; and Texas Dairy Queen Operators' Council, 2120 Forum Parkway, Bedford, TX 76021, 817-283-2619, lromanus@dqtexas.com; website: www.dqtexas.com; DQ Territory Operators Organization, 606 Wills Road, Connellsville, Pennsylvania 15425, (724) 628-3252, blizzard@zoominternet.net.

## Item 21

## FINANCIAL STATEMENTS

We and ADQ are independent business organizations and neither is responsible for the financial condition or financial statements of the other. Neither ADQ nor IDQ guarantees our performance to you.

Included as Exhibit J are our audited financial statements for the fiscal years ended February 28, 2023, February 29, 2024, and February 28, 2025. Our fiscal year end is the last day of February.

Exhibit K includes IDQ's audited financial statements for the fiscal years ended December 31, 2022, 2023 and 2024. IDQ's audited financial statements are the consolidated financial statements of IDQ, the parent corporation of ADQ and its other subsidiaries. ADQ's separate financial statements are not included in this disclosure document.

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## Item 22

## CONTRACTS

This disclosure document includes a sample of the following contracts:

Exhibit B – Operating Agreement and Addenda

Exhibit C – Design Services Agreement

Exhibit D – Draft Authorization Form

Exhibit E – Third-Party Participation Agreements

## Item 23

## RECEIPTS

Exhibit N includes detachable documents acknowledging your receipt of this disclosure document.

## STATE ADDENDUM TO DISCLOSURE DOCUMENT FOR VIRGINIA

The franchise agreement and any document signed in connection with the franchise are supplemented with the following language:

> 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 by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

# EXHIBIT A

## AGENCIES/AGENTS FOR SERVICE OF PROCESS

## AGENCIES/AGENTS
## FOR SERVICE OF PROCESS

This list includes the names, addresses and telephone numbers of state agencies having responsibility for enforcing franchise disclosure/registration laws, and state agencies serving as our agents for service of process if we are registered under the franchise disclosure/registration laws of their states.

In states and territories not listed, we do not have agents for service of process under franchise disclosure/registration laws, but we may have agents for service of process for other purposes.

| State | State Agency | Agent for Service of Process |
|---|---|---|
| CALIFORNIA | Commissioner of Department of Financial Protection and Innovation<br>320 West 4th Street, Suite 750<br>Los Angeles, CA 90013<br>(213) 576-7505<br>Toll-free (866-275-2677) | Commissioner of Department of Financial Protection and Innovation |
| HAWAII | Business Registration Division<br>Department of Commerce and Consumer Affairs<br>335 Merchant Street, Room 203<br>Honolulu, HI 96813<br>(808) 586-2722 | Commissioner of Securities of the State of Hawaii |
| ILLINOIS | Office of Attorney General<br>Franchise Division<br>500 South Second Street<br>Springfield, IL 62706<br>(217) 782-4465 | Illinois Attorney General |
| INDIANA | Indiana Secretary of State<br>Securities Division<br>302 West Washington Street<br>Room E-111<br>Indianapolis, IN 46204<br>(317) 232-6681 | Indiana Secretary of State<br>201 State House<br>Indianapolis, IN 46204 |
| MARYLAND | Office of the Attorney General<br>Division of Securities<br>200 St. Paul Place<br>Baltimore, MD 21202-2020<br>(410) 576-6360 | Maryland Securities Commissioner<br>200 St. Paul Place<br>Baltimore, MD 21202-2020<br>(410) 576-6360 |
| MICHIGAN | Michigan Department of Attorney General<br>Consumer Protection Division<br>Antitrust and Franchise Unit<br>670 Law Building<br>Lansing, MI 48913<br>(517) 373-7117 | Michigan Department of Commerce, Corporations and Securities Bureau |

| State | State Agency | Agent for Service of Process |
|---|---|---|
| MINNESOTA | Minnesota Department of Commerce<br>85 7th Place East, Suite 280<br>St. Paul, MN 55101-2198<br>(651) 539-1500 | Minnesota Commissioner of Commerce |
| NEW YORK | NYS Department of Law<br>Investor Protection Bureau<br>28 Liberty Street, 21st Floor<br>New York, NY 10005<br>(212) 416-8222 | Attn: New York Secretary of State<br>New York Department of State<br>One Commerce Plaza,<br>99 Washington Avenue, 6th Floor<br>Albany, NY 11231-0001<br>(518) 473-2492 |
| NORTH DAKOTA | North Dakota Securities Department<br>600 East Boulevard, Fourteenth Floor, Dept. 414<br>Bismarck, ND 58505-0510<br>(701) 328-4712 | North Dakota Securities Commissioner |
| RHODE ISLAND | Department of Business Regulation<br>Division of Securities<br>1511 Pontiac Avenue, Building 69-1<br>Cranston, RI 02920<br>(401) 462-9585 | Director of Rhode Island Department of Business Regulation |
| SOUTH DAKOTA | Department of Labor and Regulation<br>Division of Insurance<br>124 South Euclid, Suite 104<br>Pierre, SD 57501-3185<br>(605) 773-3563 | Director of the Division of Insurance-Securities Regulation |
| VIRGINIA | State Corporation Commission<br>Division of Securities and Retail Franchising<br>1300 East Main Street, 9th Floor<br>Richmond, VA 23219<br>(804) 371-9051 | Clerk of State Corporation Commission<br>1300 East Main Street, 1st Floor<br>Richmond, VA 23219<br>(804) 371-9051<br>and<br>Matt Dunham<br>c/o Dairy Queen of VA., Inc.<br>12020 Wyndham Lake Drive<br>Glen Allen, VA. 23059-7041 |
| WASHINGTON | Department of Financial Institutions<br>Securities Division<br>P.O. Box 41200<br>Olympia, WA 98504-1200 | Director of Department of Financial Institutions<br>Securities Division<br>150 Israel Road SW<br>Tumwater, WA 98501<br>(360) 902-8760 |
| WISCONSIN | Wisconsin Securities Commissioner<br>Securities and Franchise Registration<br>345 W. Washington Avenue<br>Madison, WI 53703<br>(608) 266-8559 | Commissioner of Securities of Wisconsin |

# EXHIBIT B

## Operating Agreement and Addenda

# OPERATING AGREEMENT

Store #

Authorized Location:

_____

Street

_____

City State Zip Code

_____

Type of Store or Restaurant

Licensee:

_____

("Licensee")

Effective Date:

_____

(to be completed by Territory Operator)

Expiration Date:

_____

(to be completed by Territory Operator)

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OPERATING AGREEMENT


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Conversion Addendum
SBA Addendum

OPERATING AGREEMENT

This Operating Agreement ("Agreement") is entered into this _____ day of _____, _____, between Dairy Queen of Virginia, Inc., at 12020 Wyndham Lake Drive, Glen Allen, Virginia 23059-7041 (herein referred to as "Territory Operator"), and _____ _____ of the city of _____, county of _____ and state of _____ (the "Licensee," as listed on the cover page to this Agreement), as of the Effective Date.

Background

American Dairy Queen Corporation (herein referred to as "Company") and its predecessors and affiliates have expended considerable time, effort, skill and financial resources in developing the "System" (as defined in Section 16); and,

Company owns or licenses from its affiliates the "Trademarks" (as defined in Section 16), including the DQ Grill & Chill, DQ, and Dairy Queen trademarks and other trademarks used in connection with the System; and,

Territory Operator is a licensee of Company in certain geographical areas, including the territory which includes the Authorized Location and is authorized to enter into sublicense agreements pursuant to that certain Dairy Queen® Territory Agreement (herein referred to as "Territory Agreement") and other agreements entered into by and between Territory Operator and Company; and,

Territory Operator's sublicense rights include the right to sublicense others, in accordance with the terms of the Territory Agreement, to use certain of the Trademarks in connection with the System; and

Licensee desires to obtain the right to develop and operate one "Restaurant" (as defined in Section 16) using the System; and

Territory Operator is willing to grant Licensee the authority to develop and operate a Restaurant at the Authorized Location, but solely under the terms and conditions set forth herein which Territory Operator and Company believe necessary in order to protect the valuable Trademarks; and

Licensee acknowledges that such terms and conditions are necessary and/or appropriate in order to protect the Trademarks and the goodwill associated therewith, and Licensee is willing to operate a Restaurant pursuant to such terms and conditions.

THEREFORE, the parties agree as follows:

Terms and Conditions

1. CAPITALIZED TERMS. Capitalized terms have the definitions given them in Section 16.

2. GRANT OF LICENSE.

2.1 Authorized Location. Subject to the terms and conditions of this Agreement, Territory Operator grants to Licensee the right and license to establish and operate a retail Restaurant identified by the Trademarks authorized for use by Licensee under this Agreement at the Authorized Location. In the event Licensee requests the withdrawal of Licensee's franchise application after Territory Operator has approved the application, or in the event an Authorized Location is not designated on the date Licensee signs this Agreement and is not designated by Licensee and approved by Territory Operator within 90 days after the date Territory Operator approves Licensee's franchise application, or in the event Licensee does not cause the Restaurant to be under construction within 180 days after the date the Authorized Location is designated, Territory Operator has the right to declare this Agreement and any other agreements Licensee has signed with Territory Operator null and void without giving Licensee an opportunity to cure, and to return to Licensee all deposits, including the initial franchise fee, less a cancellation fee of $10,000. Licensee accepts this license and agrees to operate the Restaurant in compliance with the System, this Agreement and Territory Operator's and Company's standards. Licensee further agrees that Licensee shall cause the Restaurant to be open and operating within 270 days after the date the Authorized Location is designated, unless an extension of time is authorized in writing by Territory Operator, and thereafter to be maintained and operated at the Authorized Location under Licensee's active and continuous supervision and management in accordance with Territory Operator's and Company's standards.

2.2 Pre-Opening Requirements. While this Agreement becomes effective in accordance with Section 15.16 hereof, Licensee acknowledges and agrees that the license to use the Trademarks that is granted under this Agreement is not effective and Licensee does not have the right to, and shall not, open or commence operation of the Restaurant at the Authorized Location until Territory Operator notifies Licensee that Company has consented to the Agreement and Licensee has satisfied all of the pre-opening requirements in this Agreement. Neither Territory Operator nor Company shall be liable for any damages arising out of Licensee's failure to open the Restaurant by a particular date.

2.3 Limited License. The license granted by this Agreement is limited to the right to operate one Restaurant at the Authorized Location, and does not include:

(A) An exclusive area or protected territory within which Territory Operator, Company or their affiliates agree not to issue competing franchises or subfranchises, or operate competing businesses,

(B) Any right to sell or distribute products and menu items identified by the Trademarks at any location other than the Authorized Location, or through any other distribution channels or methods, including the internet (or any other existing or future form of electronic commerce, such as social media, mobile applications, third party platforms, and the metaverse), catalog sales, telemarketing or other direct marketing, or pre-packaged retail sales,

(C) Any right to sell or distribute products and menu items identified by the Trademarks to any person or entity for resale or further distribution, or

(D) Any right to sublicense, exclude, control or impose conditions on the location or development of future DQ stores or restaurants.

2.4 Reservation of Rights. Territory Operator reserves all rights not expressly granted to Licensee under this Agreement. Territory Operator and its affiliates and Company and its affiliates, with Territory Operator's prior approval, have the right to operate and grant others the right to issue competing franchises or subfranchises, or operate competing businesses at any location but the Authorized Location, as determined by Territory Operator, Company or their affiliates. These locations may include freestanding buildings and facilities, strip centers, shopping malls and shopping centers, and other similar locations. These locations also may include office buildings, transportation terminals, sports facilities, parks and recreation areas, airports, hotels, hospitals, campus facilities, and other non-traditional locations. For example, if Licensee's Authorized Location is located adjacent to a shopping mall or shopping center, these locations include the shopping mall or shopping center. If Licensee's Authorized Location is located within a shopping mall or shopping center, these locations include sites adjacent to the shopping mall or shopping center. In addition, Territory Operator and its affiliates and Company and its affiliates with Territory Operator's prior approval, have the right to sell or distribute, for themselves or through designees, products and services identified by the Trademarks, or any other trademarks, service marks, trade names and commercial symbols, through any distribution channels or methods, including the internet (or any other existing or future form of electronic commerce, such as social media, mobile applications, third party platforms, and the metaverse), catalog sales, telemarketing or other direct marketing, and pre-packaged retail sales.

3. TRADEMARK STANDARDS AND REQUIREMENTS. The Trademarks are the exclusive property of Company or its affiliates and Licensee's right to use the Trademarks is conditioned on the following terms:

3.1 Trademark Ownership. Territory Operator is the licensee of the right to use certain of the Trademarks in the territory that includes the Authorized Location. The Trademarks are valuable property owned or licensed by Company, and Company or its affiliates are the exclusive owners of all right, title and interest in and to the Trademarks. Licensee's use of the Trademarks inures to the benefit of Company or its affiliates. Licensee disclaims all right, title and interest in or to the goodwill and the Trademarks and agrees that the goodwill and Trademarks are the exclusive property of Company or its affiliates. Licensee will not, during or after the term of this Agreement, engage in any direct or indirect conduct that would infringe upon, harm or contest the rights of Company or its affiliates in any of the Trademarks or the goodwill associated with the Trademarks.

3.2 Trademark Use. Licensee only may use the Trademarks in connection with the Restaurant, and must not use or permit the use of any other trademarks, trade names or service marks. Licensee must use the Trademarks, in the form and manner prescribed by Company in writing, only in connection with the products and services specified or approved periodically by Company that meet Company's standards of quality, mode and condition of storage, production and sale, and portion and packaging. Licensee must comply with all trademark, trade name and service mark notice marking requirements. Licensee acknowledges the value of System uniformity and agrees that Licensee's failure to comply with the System will adversely affect the value of the Trademarks.

3.3 Restaurant Identification.

(A) Licensee must not use any of the Trademarks as part of its business entity name.

(B) Licensee must prominently identify the Restaurant with 1 or more of the Trademarks as specified by Territory Operator or Company, and with no other mark or words as the trade name of the Restaurant, unless Territory Operator or Company otherwise directs.

(C) Licensee cannot use any additional words with the Trademarks without Territory Operator's and Company's prior written consent.

(D) Licensee may use the Trademarks on various materials, such as business cards, stationery and checks, on the condition that Licensee:

(1) Accurately depicts the Trademarks on the materials;

(2) Includes a statement on the materials indicating that the business is independently owned and operated by Licensee; and

(3) Makes available to Territory Operator or Company, upon request, a copy of any materials depicting the Trademarks.

(E) Licensee must post a prominent sign in the Restaurant identifying Licensee as a franchisee of Company in a format reasonably acceptable to Territory Operator and Company, which includes an acknowledgment that the Restaurant is independently owned and operated by Licensee and the Trademarks are owned by Company or its affiliates and used by Licensee under a license issued by Territory Operator.

3.4 Restrictions on Internet and Website Use. Territory Operator and Company retain the sole right to advertise the System on the internet and to create, operate, maintain and modify, or discontinue the use of, websites using the Trademarks. Licensee has the right to access Territory Operator's and Company's websites. Except as Territory Operator or Company may authorize in writing, however, Licensee will not: (1) link or frame Territory Operator's or Company's websites; (2) conduct any business or offer to sell or advertise any products or services on the internet (or any other existing or future form of electronic communication); and (3) create or register any internet domain name in connection with the Restaurant. Licensee will not register, as internet domain names, any of the Trademarks now or hereafter owned by Company or any abbreviation, acronym or variation of the Trademarks, or any other name that could be deemed confusingly similar.

3.5 Trademark Litigation. In the event any person or entity improperly uses or infringes the Trademarks, Company or its affiliates who own the Trademarks will control all litigation and determine whether to institute, prosecute or settle a suit, the terms of settlement, and whether to take any other action. Licensee must promptly notify Territory Operator and Company of any improper use or infringement of which Licensee is aware, promptly inform Territory Operator and Company of any claim arising out of Licensee's use of any Trademark and cooperate with any action undertaken by Company in response.

3.6 Substitutions. If a party claims superior rights to use any of the Trademarks, and if Territory Operator and Company determine that the claim is legally meritorious, then upon receiving written notice from Territory Operator and/or Company, Licensee will, at its expense, immediately make such changes and use such substitutions to the Trademarks as Territory Operator and Company require.

4. TERM AND RENEWAL.

4.1 Term. The term of this Agreement starts on the earlier of: (i) the Effective Date of this Agreement, or (ii) the date Licensee opens or commences operation of the Restaurant. Unless earlier terminated under Section 13, the term of this Agreement runs 20 years, or the term of the lease of the Restaurant premises, whichever is shorter. Licensee acknowledges and agrees, however, that Territory Operator may modify the commencement and expiration dates of the term of this Agreement by means of the Commencement and Expiration Dates Addendum in order to take into account any time between the Effective Date and the opening of the Restaurant or the commencement and expiration dates of any lease for the Restaurant premises.

4.2 Expiration Date. Territory Operator will designate the expiration date of this Agreement on the cover page.

4.3 Renewal. If the following conditions are met, Licensee may renew its license for one additional renewal term, which will be the shorter of 10 years, the initial term of the renewed lease or the period that Licensee has the right to maintain possession of the Restaurant premises, provided that:

(A) Licensee gives Territory Operator written notice of its intent to renew between 3 and 6 months before the expiration of the term;

(B) Licensee signs Territory Operator's then-current form of operating agreement (which will be modified to reflect that it is for a renewal term with no additional renewal rights). The terms of the then-current operating agreement may differ materially from this Agreement, including higher or additional fees, except that the sales promotion program fee will be not less than 3% nor more than 6% of Gross Sales;

(C) Licensee has complied with the modernization and replacement provisions of Section 5.5;

(D) Licensee is in good standing, including without limitation, that Licensee has satisfied all monetary obligations on a timely basis, and does not have a history of substantial noncompliance with the System or this Agreement;

(E) Licensee has the right to maintain possession of the Restaurant premises, and has provided written proof of its ability to remain in possession of the premises throughout the renewal period if leasing or subleasing;

(F) Licensee pays to Territory Operator a non-refundable license renewal fee in the amount of $2,500;

(G) Licensee and each Principal Owner sign a general release, in a form acceptable to Territory Operator, of all claims against Territory Operator, Company, and their respective affiliates, officers, directors, employees and agents; and

(H) Territory Operator approves the location where the Restaurant will be operated during the renewal period.

5. FACILITY STANDARDS AND MAINTENANCE. Territory Operator and Company may periodically establish quality standards regarding the business operations of DQ stores and

restaurants to protect the distinction, goodwill, uniformity and quality symbolized by the Trademarks and System. Accordingly, Licensee must maintain and comply with Territory Operator's and Company's quality standards and abide by the following conditions:

5.1 Restaurant Facility. The Restaurant must be constructed and equipped in accordance with Territory Operator's and Company's then-current specifications and standards pertaining to equipment, inventory, signage, fixtures, location, accessory features and design and layout of the Restaurant. Licensee must not commence construction of the Restaurant, or purchase or lease a location for the development of the Restaurant, until Territory Operator has given written consent to Licensee's building plans and the location. Licensee must complete the construction of the Restaurant in accordance with the approved building plans and otherwise satisfy all building plan and site work requirements without any unauthorized alterations. If Licensee enters into a lease for the Restaurant premises, Licensee's lease must contain the Lease Addendum. Licensee must provide the lease and all lease exhibits to Territory Operator and receive Territory Operator's prior approval of the lease before Licensee executes it. Licensee must provide the executed lease and all lease exhibits to Territory Operator within 5 days of its execution. Licensee must obtain all necessary permits, licenses and architectural seals, and in all other respects comply with applicable legal requirements relating to the building, signs, equipment and premises, including the Americans With Disabilities Act. Territory Operator and Company's consent to building plans or a site does not guarantee compliance with any legal requirements or the Restaurant's success at that site. Licensee will be furnished with lists of required and approved equipment, signage, fixtures and furnishings. Licensee must not use the Restaurant premises or Authorized Location for any purpose other than the operation of the Restaurant during the term of this Agreement. After the expiration or termination of this Agreement, Licensee must not use the Restaurant premises or Authorized Location in violation of Section 14.6.

5.2 Future Alteration. Any replacement, reconstruction, addition or modification in the building, premises, interior or exterior decor or image, equipment or signage of the Restaurant to be made after Territory Operator's consent is granted for initial plans, whether at the request of Licensee or of Territory Operator or Company, must be made in accordance with Territory Operator's and Company's then-current standards. Licensee must not commence any replacement, reconstruction, addition or modification until Licensee has received Territory Operator's written consent to Licensee's revised building plans. Company owns any alterations or improvements made by or on behalf of Licensee to the building plans.

5.3 Maintenance. Licensee must maintain the building, premises, grounds, equipment and signage used in the operation of the Restaurant in good condition and in accordance with requirements established periodically by Territory Operator and/or Company, and any reasonable schedules prepared by Territory Operator based upon periodic evaluations of the premises by Territory Operator's representatives. Within 90 days after the receipt of a report based on an evaluation, Licensee must effect the items of maintenance designated in the report, including the repair of defective items or the replacement of irreparable or obsolete items of equipment and signage.

5.4 Relocation. If it becomes necessary to replace or relocate the Restaurant because of the condemnation of the Authorized Location, the exercise of a replacement or relocation right by Licensee's landlord, or for some other reason approved by Territory Operator, then Territory Operator will grant Licensee authority to replace or relocate upon the following conditions:

(A) The new location must be:

(1) Acceptable to Territory Operator;

(2) Reasonably suited for a Restaurant;

(3) In a location that is consistent with Territory Operator's current site selection guidelines; and

(4) If the Restaurant is a Captive-Venue Location, within the same building or venue as the Authorized Location, or if the Restaurant is a Street Location, within a 500 meter radius of the Authorized Location.

(B) After Licensee discontinues operation of the Restaurant at the Authorized Location, the new Restaurant must be under construction within 30 days if a Captive-Venue Location, or 180 days if a Street Location.

(C) After construction commences, the new Restaurant must be open and operating within 90 days if a Captive-Venue Location, or 120 days if a Street Location.

(D) The new Restaurant must be constructed and equipped in accordance with Territory Operator's and Company's then-current standards.

5.5 Modernization or Replacement. Licensee must modernize, refurbish or replace the building, premises, equipment, signage and grounds as is necessary to reasonably conform them to Territory Operator's and Company's then-current standards for similarly situated new DQ stores or restaurants of the type developed under this Agreement, upon renewal of this Agreement, upon transfer of this Agreement under the circumstances described in Section 11, and every 10 years or any shorter period required by the lease for the premises. The requirements of this Section 5.5 are reasonable and necessary to ensure continued public acceptance and patronage of DQ stores and restaurants and to avoid deterioration or obsolescence in connection with the operation of the business.

5.6 Lease. To the extent that Territory Operator or Company assists Licensee with any lease negotiations, Licensee acknowledges that Territory Operator, Company or an affiliate:

(A) has not made any representations or warranties to Licensee with respect to whether Territory Operator's, Company's or their respective affiliate's negotiation with the landlord will be successful, whether the lease terms or site are adequate or appropriate, nor that the Authorized Location will be ready for occupancy or opening by any specified date; and

(B) is not responsible or liable to Licensee for damages arising out of any failure by Territory Operator, Company, or their respective affiliates, to obtain the landlord's agreement to enter into a lease, the landlord's failure to enter into a lease with Licensee, or for the failure of the Authorized Location to be ready for occupancy or opening by any specified date.

## 6. PRODUCTS AND OPERATIONS STANDARDS AND REQUIREMENTS.

6.1 Menu. The Restaurant is limited to the preparation and sale of products periodically designated and approved by Company for sale by Licensee's type of Restaurant. Licensee must

offer for sale from the Restaurant all items listed on the Menu and no other items. To the fullest extent the law allows, Territory Operator or Company may require Licensee to offer items on the Menu at maximum, minimum or other prices Territory Operator or Company specifies from time to time. Company may periodically make modifications to the Menu, including the addition of breakfast items if agreed to by Territory Operator, and Licensee must comply with any modifications. Licensee must not offer or sell any other product or service at the Restaurant without the prior written consent of Territory Operator and Company.

6.2 Authorized Ingredients and Supplies. Licensee must use in the operation of the Restaurant and in the preparation of products only the ingredients, recipes, formulas and supplies specified by Company. Licensee must prepare products in the portions, sizes, appearance and packaging as specified by Company in the Operations Manuals or otherwise communicated in writing. Licensee must secure, at its expense, all necessary permits or approvals for the use and sale of all products, supplies and ingredients in and from the Restaurant. All supplies, including cones, cups, containers, eating utensils, and napkins, and all other customer service materials of all descriptions and types must meet the reasonable standards of uniformity and quality standards as now or hereafter are set by Company.

6.3 Powders. The Powders are secret formulas. Their composition or formula will not be, and is not required to be, disclosed to Licensee. Licensee must not resell (at retail or otherwise), make, manufacture, alter, adulterate or dilute the Powders, or any substitute for the Powders, or similar products and must maintain in secrecy any information it acquires about the Powders. Company may refer to the Powders by other terms, including compounds. Licensee must purchase exclusively from Company's designated supplier (which may be Company or an affiliate) the Powders and frozen orange juice concentrate used in Orange Julius® products.

6.4 Approved Products, Services and Equipment.

(A) Company periodically will publish lists of approved products (including ingredients of approved products), approved services and approved equipment (including an approved menu board system (dine in and drive-thru, if applicable)). Licensee must use only the approved products, approved services and approved equipment in the Restaurant described in the approved products, services and equipment lists, as they may be modified periodically by Company. Licensee may not test, offer, or sell any new or unapproved products without Territory Operator's and Company's prior written consent.

(B) **Although they may be approved by Company, Territory Operator and Company make no warranties and expressly disclaim all warranties, including warranties of merchantability and fitness for a particular purpose, with respect to products (including ingredients), services, equipment (including the EPOS System), any required Computer Systems, and any menu board system, supplies, fixtures, furnishing, or other approved items.**

(C) Company has the right to approve the manufacturer, supplier and/or distributor of any approved products (or the ingredients of any approved products), approved services and any approved equipment. Under all circumstances, Company has the right to designate a single approved manufacturer, supplier and/or distributor of:

(1) Soft drink products;

(2) Third-party branded products for use in Licensee's Restaurant;

(3) Products relating to limited time offers and special promotions;

(4) Equipment, including the EPOS System and the Computer Systems and all related software and back-office hardware and software;

(5) Any product, ingredient, service or equipment where Company does not receive any fee or payment with respect to the sale of that product, ingredient, service or equipment, other than payments from suppliers for marketing; and

(6) The Powders and frozen orange juice concentrate.

(D) Company has the right to designate a single approved manufacturer, supplier and/or distributor of any other approved products (or the ingredients of any approved products), approved services and any approved equipment but for products, services and equipment not described in Sections 6.4(C) (1) – (6), and as long as there is not in place an agreement for a unified purchasing program between Company and a cooperative association of DQ® restaurant and store operators to benefit the entire Franchise System in the United States, Licensee may make written request for approval of a specific product, service or piece of equipment of an additional, qualified manufacturer, supplier or alternate distributor, pursuant to Company's then-current policies and procedures.

6.5 EPOS System, Computer Systems and Internet.

(A) EPOS System and Computer System. Licensee must purchase, install and maintain, at its own expense, an EPOS System and Computer Systems from a source or sources designated by Company. Company may designate a single source from whom Licensee must purchase the EPOS System or Computer Systems, and any components thereof or associated service. As part of the EPOS System or Computer Systems, Licensee may be required to license software from Company, an affiliate or a third party, and Licensee also may be required to enter into license agreements related to Licensee's use of components of the EPOS System or Computer Systems. Licensee will be required to use and, at Company's discretion, pay for all future updates, supplements and modifications to the EPOS System or Computer Systems. Licensee must allow Territory Operator and Company access to Licensee's EPOS System and the Computer Systems, and the data and information they collect and store, at such times and in such a manner as Territory Operator or Company periodically designates. Licensee must keep all financial information and customer data produced by or otherwise located on Licensee's EPOS System or Computer Systems secure at all times. To the extent that the EPOS System or Computer Systems contain components for personnel-related functions, such as employee timekeeping, employee scheduling or payroll processing, Licensee has the option to use those components, to use alternate software to handle those functions or to handle those functions in any other manner that Licensee chooses.

(B) Internet Access. Licensee must have access at all times to the internet (or future form of electronic communication) at the Restaurant through an established service provider. Licensee must purchase, install and maintain a minimum of one DSL or cable/broadband internet connection and (if required by Territory Operator or Company) one additional phone line or other future required communication access device that are exclusively designated and permanently connected to the EPOS System and any required Computer Systems. If the Restaurant is in an area without DSL or cable/broadband internet access, Territory Operator or Company may require Licensee to install either a satellite connection, up to three additional phone lines, or any other communication access device or devices necessary to enable Territory Operator or Company to communicate with the Restaurant on the same basis as with other newly built locations. Territory Operator or Company may designate the specifications of any future required communication access device or method.

(C) Electronic Communication. Licensee must maintain and regularly use an active email account or other form of electronic communication designated by Territory Operator or Company and keep Territory Operator and Company informed of Licensee's contact information.

6.6 Vending, Gaming, Alcohol and Smoking. Licensee must not permit the following on the Restaurant premises:

(A) Video game machines, vending machines or any similar coin-operated or electronic device or machine;

(B) The sale, distribution or use of lottery or gambling devices of any nature, alcoholic or intoxicating beverages or controlled substances.

(C) Smoking, and Licensee must post signs on all doors and throughout the Restaurant to announce the smoke-free policy.

6.7 Health and Sanitation. The Restaurant must be operated and maintained at all times in compliance with all applicable health and sanitation standards prescribed by governmental authority. Licensee also must comply with any higher standards that Territory Operator or Company prescribes. In addition, if the Restaurant is subject to any sanitation, health or safety inspection by any governmental agency under which it may be rated in one or more classifications, it must be maintained and operated so as to be rated in the highest available health and sanitation classification by the inspecting governmental agency. If Licensee fails to be rated in the highest classification or receives any notice that it is not in compliance with all applicable health and sanitation standards, it must immediately notify Territory Operator of the failure or noncompliance and resolve all non-compliant issues.

6.8 Evaluations. Territory Operator, Company or an authorized representative of either may enter the Restaurant at any time during the business day to:

(A) Make periodic evaluations and to ascertain compliance with this Agreement;

(B) Inspect and evaluate Licensee's Restaurant, building, land and equipment;

(C) Test, sample, inspect and evaluate Licensee's supplies, ingredients and products, and the storage, preparation and formulation of these items; and

(D) Inspect and evaluate the conditions of sanitation and cleanliness in the storage, production, handling and serving of Licensee's supplies, ingredients and products.

Any feedback, coaching or recommendations given by Territory Operator, Company or an authorized representative of either to any personnel of the Restaurant during any evaluation will be informational and non-mandatory, but Licensee acknowledges that it may be required to communicate with, give instructions to, train or retrain those personnel during or after the inspection in order to bring the operation of the Restaurant into compliance with the System.

6.9 Period of Operation.

(A) Open to the Public. Subject to any contrary requirements of local law, the Restaurant must be open to the public and operated at least 12 hours each day of the year; with the exception of New Year's Day, Easter Day, Thanksgiving Day and Christmas Day. Any variance must be authorized in writing by Territory Operator. However, if the Restaurant is in a Captive-Venue Location that sets operating hours, then the Restaurant must only be open during the required operating hours of that Captive-Venue Location. If Territory Operator and Company have required Licensee to offer breakfast items at the Restaurant (as described in Section 6.1) then, subject to any contrary requirements of local law, Territory Operator may require the Restaurant to be open to the public and operated for more than 12 hours each day of the year to accommodate the offer and sale of the breakfast items.

(B) Voluntary Abandonment. If Licensee voluntarily abandons the franchise, in addition to the other remedies provided for in this Agreement, Territory Operator may terminate this Agreement under Section 13.2(C). The following events constitute voluntary abandonment:

(1) The Restaurant is closed for 5 consecutive days or more without Territory Operator's prior written consent.

(2) Failure to commence construction of the Restaurant within 180 days after the Effective Date. If Territory Operator terminates the Agreement under this subsection, then all deposits, including the initial franchise fee, will be returned to Licensee, less a cancellation fee of $10,000.

(3) Failure to open and operate the Restaurant within 270 days after the Effective Date, unless an extension of time is authorized in writing by Territory Operator.

(C) Damage or Destruction. If the Restaurant is damaged or destroyed, Licensee must rebuild or repair the damaged or destroyed Restaurant at the Authorized Location in accordance with Territory Operator's and Company's then-current standards and specifications. If the Restaurant is closed during rebuilding or repair, then the rebuilt or repaired Restaurant must open within 120 days (if a Captive-Venue

Location) or 270 days (if a Street Location) of the date of occurrence of its damage or destruction.

6.10 Operating Procedures. Licensee must comply with Territory Operator's and Company's mandatory standards, designs, specifications, menu items, recipes, techniques, procedures, methods, requirements, formats and management systems (sometimes collectively referenced in this Agreement as "standards") in the Operations Manuals relating to the development and operation of the Restaurant, including standards relating to functions such as product preparation, storage, uniforms, financial management, equipment, facility maintenance and sanitation. Licensee must promptly notify Territory Operator of any claim or litigation in which Licensee is involved that arises from the development or operation of the Restaurant.

6.11 Operations Manuals. Territory Operator and Company will provide on loan to Licensee, during the term of this Agreement, a hard copy or electronic or online access to the Operations Manuals. The Operations Manuals contain the standards, non-mandatory guidelines and recommendations from Territory Operator and Company, and other information relating to the development and operation of DQ stores and restaurants. The standards exist for the purpose of protecting Territory Operator's and Company's interests in the System and the Trademarks, and creating a uniform and quality customer experience, and not for the purpose of establishing any control or duty to take control over those matters that are reserved to Licensee. Territory Operator and Company may add to, and otherwise modify, the Operations Manuals to reflect changes in the standards. Territory Operator will provide Licensee with notification of any additions and modifications to the Operations Manuals. The master copies of the Operations Manuals that Territory Operator maintains at its principal office or on its website will control if there is a dispute involving the contents of the Operations Manuals.

6.12 Proprietary or Confidential Information.

(A) Use and Restrictions. Licensee does not acquire any interest in Confidential Information, other than the right to use it in developing and operating the Restaurant under this Agreement. The use or duplication of the Confidential Information in any other business constitutes an unfair method of competition. The Confidential Information is proprietary and is Company's trade secret. Licensee will:

(1) not use the Confidential Information in any other business or capacity;

(2) maintain the absolute confidentiality of the Confidential Information during and after the term of this Agreement;

(3) not make unauthorized copies of any Confidential Information disclosed in written form nor input or use any Confidential Information in any open source artificial intelligence program;

(4) adopt and implement all reasonable procedures Territory Operator and Company direct to prevent unauthorized use or disclosure of the Confidential Information, including restrictions on disclosure to Restaurant personnel;

(5) not reverse engineer, decompile or disassemble any of Company's proprietary products, formulas, ingredients, or software; and

(6) ensure that all Owners, the Designated Manager, the Assistant Managers and any other personnel with access to Confidential Information abide by the confidentiality obligations in this Agreement.

(B) Compelled Disclosure. The restrictions on Licensee's disclosure and use of the Confidential Information will not apply to disclosure of Confidential Information in judicial or administrative proceedings to the extent Licensee is legally compelled to disclose this information, if Licensee uses its best efforts to maintain the confidential treatment of the Confidential Information, and provides Territory Operator and/or Company the opportunity to obtain an appropriate protective order or other assurance satisfactory to Territory Operator and Company of confidential treatment for the information required to be disclosed.

6.13 Improvements. If Licensee, its Owners, or Licensee's personnel or agents, conceive or develop any ideas, concepts, products, recipes, process methods, techniques, improvements or additions relating to the development or operation of a DQ store or restaurant or the System, or any new trade names, service marks or other commercial symbols, or associated logos relating to the operation of the Restaurant, then:

(A) Licensee must fully and promptly disclose these to Territory Operator and Company;

(B) they are Company's property, and Licensee, its Owners, and Licensee's personnel and agents, must sign all documents necessary to evidence the assignment of these items to Company without compensation;

(C) Company has the perpetual right to use and authorize others to use these items without any obligation to Licensee for royalties or other fees; and

(D) Licensee must not introduce into the Restaurant any of these additions or modifications to the System without Company's prior written consent.

6.14 Web Site and Other Online Communication. Territory Operator and Company may require Licensee, at Licensee's expense, to participate in web sites or other online communication methods (collectively "online communication") that Territory Operator or Company sponsors or that are branded with any of the Trademarks. Territory Operator and Company will determine the content and use of online communication and will establish the rules under which licensees generally, or Licensees in particular, must participate. Territory Operator and Company retain all rights relating to any online communication and may alter or terminate any online communication at any time. Licensee's general conduct on any online communication is subject to this Agreement. Licensee's access codes, identification codes and information Licensee receives through access to Territory Operator's and Company's web sites are considered Confidential Information. Licensee's right to participate in online communication or otherwise use the Trademarks or the System on the internet, terminates when this Agreement expires or terminates.

6.15 Payment Methods. Licensee must allow its customers to pay for products by credit card, gift card, or other means or method of payment (electronic or otherwise) that Company periodically designates. Licensee must purchase and maintain, at its own expense, a subscription or other service contracts necessary to facilitate payment by any means or method of payment designated by Company and/or Territory Operator. Company has designated a single supplier to

administer and support all aspects of the Company's gift card program. Licensee must sign the form of gift card participation agreement designated periodically by Company.

6.16 Data Security. Licensee must comply with the Payment Card Industry (PCI) Data Security Standards and all other applicable data security standards.

7. PERSONNEL AND SUPERVISION STANDARDS.

7.1 Pre-Opening Training. Licensee, at its own expense, must comply with all of Territory Operator's and Company's pre-opening training requirements for the Restaurant within 6 months prior to the Restaurant opening. If Licensee fails to comply with Territory Operator's and Company's pre-opening training requirements to Territory Operator's and Company's reasonable satisfaction, Licensee cannot open or operate the Restaurant.

7.2 Ongoing Training. Licensee and its personnel must meet Territory Operator's and Company's ongoing training requirements at Licensee's expense.

7.3 Training Upon Default. If Licensee is in default regarding any standard in the Operations Manuals, Licensee may be required to comply with additional training requirements prescribed by Territory Operator and/or Company at Licensee's expense, as a condition of curing the default.

7.4 In-Restaurant Training Program. Territory Operator or Company may periodically make available, or provide electronic or other form of access, to Licensee an in-restaurant or in-store training program at Licensee's expense. Licensee may purchase Territory Operator's or Company's in-restaurant or in-store training program and any updates for training employees.

7.5 Supervision. Licensee must maintain and operate the Restaurant at the Authorized Location under Licensee's active and continuous supervision in compliance with the System, on the terms of this Agreement. Licensee must have a Designated Manager for the Restaurant at all times. If Licensee operates a DQ Treat store, in addition to the Designated Manager, Licensee must have at least two Assistant Managers, or one Assistant Manager and one other employee for the Restaurant, at all times who have successfully completed all training required by Territory Operator prior to starting any management duties. If Licensee operates a DQ Grill & Chill restaurant, Licensee must have at least two Assistant Managers for the Restaurant at all times who have successfully completed all training required by Territory Operator prior to starting any management duties. Any new or replacement Designated Manager or Assistant Manager must meet Territory Operator's then-current training requirements.

7.6 Staffing. Licensee must require all Restaurant personnel to work in clean uniforms approved by Territory Operator and Company, at Licensee's or at the employee's, independent contractor's or agent's cost, at Licensee's election. No employee or agent of Licensee will be deemed an employee or agent of Territory Operator or Company for any purpose whatsoever. Licensee has sole responsibility for recruiting, interviewing and hiring all Restaurant employees, and for making all decisions respecting Restaurant employees, including all decisions affecting terms of employment, compensation, scheduling, benefits, disciplining and firing, without any influence or advice from Territory Operator or Company. Licensee agrees to implement training programs for Restaurant personnel in compliance with Territory Operator's and Company's requirements. Licensee agrees to maintain at all times a staff of trained personnel sufficient to operate the Restaurant in compliance with Territory Operator's and Company's standards.

7.7 Attendance at Meetings. The Controlling Owner must, at Licensee's expense, attend all meetings Territory Operator or Company holds or sponsors in Licensee's area or region including, all Designated Market Area or other marketing area meetings for the marketing area in which the Restaurant is located, and all meetings related to new products or product preparation procedures, new System programs, new operational procedures or programs, training, store or restaurant management, financial management, sales or sales promotion, or similar topics. If the Controlling Owner is unable to attend a meeting, Licensee must notify Territory Operator and Company prior to the meeting and cause a substitute person from Licensee's operations acceptable to Territory Operator and Company to attend and represent Licensee at the meeting. Territory Operator strongly recommends that key personnel of Licensee also attend the meetings described in this section.

7.8 Cost of Training and Meetings. Licensee is responsible for any applicable tuition or fee, the salaries, wages, benefits, travel and living expenses, and other related costs for all individuals affiliated with Licensee and the Restaurant who attend any initial training, ongoing training, other training and meetings described in this Section 7.

7.9 Opening Assistance. If this Agreement relates to the opening of Licensee's first Restaurant or first Grill & Chill® Restaurant (although not Licensee's first Restaurant), Territory Operator will provide Licensee with on-site opening assistance for a length of time deemed necessary by Territory Operator, subject to staff availability. The cost of such assistance will be included as part of any initial franchise fee paid by Licensee.

## 8. SALES PROMOTION ACTIVITIES.

Licensee will actively promote the Restaurant, abide by Territory Operator's and Company's advertising requirements, and comply with the following provisions:

8.1 Sales Promotion Activities and Fees. Territory Operator and Company may periodically establish, organize, and prescribe sales promotion activities, and Licensee must pay to Territory Operator for partial or full remittance to Company or Company's designee the sales promotion program fee in Section 9.3 regardless of whether other Territory Operator or Company licensees pay greater, lesser, or no sales promotion program fees. Territory Operator and Company have the sole right to determine how the sales promotion program fees will be spent, including the selection of promotional materials and activities. Territory Operator, Company, and their respective affiliates, have no fiduciary obligation to DQ licensees with respect to the sales promotion activities or expenditures of sales promotion program fees. The sales promotion program fees are not held by Territory Operator or Company in trust. Territory Operator and Company will make a good faith effort to expend the fees in the general best interests of the DQ® brand or the System (or one or more components thereof). Territory Operator and/or Company will make available upon request the sales promotion activities receipts and expenditures from the fees collected. Neither Territory Operator nor Company is required to audit the sales promotion receipts and expenditures.

8.2 Administrative Expenses. Territory Operator and Company may use a portion of the sales promotion program fees to compensate themselves or their affiliates for the expense of administering and promoting sales promotion activities.

8.3 Approved Materials. Licensee must only use the sales promotion or other advertising materials that Territory Operator or Company furnishes or makes available to Licensee, or that Territory Operator and Company approve for use in Licensee's sales promotion activities.

(A) Territory Operator and Company Provided Materials.

(1) Territory Operator and/or Company may periodically make available sales promotion or other advertising materials to Licensee at a reasonable cost. Licensee must purchase these materials; however, Company may at its option periodically include the cost of these materials in the sales promotion program fee paid under Section 9.3.

(2) Licensee cannot transfer sales promotion or advertising materials that Territory Operator or Company furnish or make available to Licensee to any third party or allow a third party to use them. Sales promotion and other advertising materials produced by the national marketing fund ("NMF") administered by Company are licensed only to current NMF participating DQ stores and restaurants, and may not be transferred to or used in any way by or in non-NMF participating DQ stores and restaurants.

(B) Licensee Developed Materials. Licensee must submit all sales promotion or other advertising materials developed by Licensee to Territory Operator and/or Company for Territory Operator's and/or Company's written approval prior to use.

(1) Examples of sales promotion or advertising materials that Territory Operator and/or Company must approve include menu board transparencies, counter mats, counter mat inserts, posters, billboard paper or vinyl, newspaper inserts, lawn signs, banners, menu board or register toppers, window clings, cake freezer merchandising, stanchions/display point-of-purchase, TV and radio creative, online communication, electronic or mobile media, loyalty programs, and direct mail.

(2) Territory Operator and Company will not unreasonably withhold approval of any sales promotion or other advertising materials that Licensee proposes to use, as long as Licensee's materials are factually accurate, current, in good condition, in good taste, of like quality to and not in conflict with sales promotion and other advertising materials Territory Operator and Company furnish or make available to Licensee, and accurately depict the products and Trademarks.

(3) Company owns and can use and permit others to use any sales promotion or other advertising materials, ideas, concepts or programs developed by Licensee.

9. FEES, REPORTING AND AUDIT.

9.1 Initial Franchise Fee. Licensee must pay $45,000 to Territory Operator as an initial franchise fee prior to or upon the date of execution of this Agreement. A portion of said fee may be remitted to Company for Company's expenses and services in connection with Licensee. For a

Restaurant opening under the Additional Restaurant Development Program (see the Additional Restaurant Development Program Addendum attached hereto).

9.2 Continuing License Fee. Licensee must pay to Territory Operator monthly a continuing license fee ranging from 4% to 6%, currently in an amount equal to 4% of Gross Sales for a DQ Grill & Chill Restaurant, 5% of Gross Sales for a DQ/Dairy Queen or DQ/Orange Julius stores, or 6% for a DQ soft-serve-only store. A portion of said fee may be remitted to Company for Company's expenses and services in connection with Licensee.

9.3 Sales Promotion Program Fee; Lease-Required Sales Promotion Fees. Licensee must pay to Territory Operator monthly a sales promotion program fee. A portion of said fee may be remitted to Company. The fee is not held by Territory Operator or by Company (if remitted to Company) in trust, and becomes the property of Territory Operator or of Company (if remitted to Company) to be spent in accordance with Section 8 of this Agreement. The sales promotion program fee shall be an amount equal to not less than 3% nor more than 6% of Gross Sales without regard to the amount that any other licensee of Territory Operator or Company may pay. Territory Operator will let Licensee know at least 90 days in advance of imposing any requirement that Licensee pay a higher percentage within the 3% to 6% range. .

9.4 Minimum Fees Payable During Any Period of Business Interruption. During any period of business interruption, whether caused by a Force Majeure event (see Section 15.12), Voluntary Abandonment (see Section 6.9(B)), damage or destruction of the Restaurant (see Section 6.9(C)), or any other cause within or not within Licensee's control, Licensee must pay minimum continuing license fees and sales promotion program fees for each month or part of a month equal to the fees that were payable for the prior year's same month or comparable part of the same month (i.e., if there is a business interruption during all or part of December 2026, the minimum fees would be due based on the fees that were payable for all of December 2025 or the comparable part of December 2025).

9.5 Computations and Remittances.

(A) Subject to Section 9.6, all amounts due under this Agreement, except the initial franchise fee, must be computed at the end of each month's operation and paid as described in Section 9.7 to Territory Operator within 10 days after the end of the month, accompanied by the reports required by Section 9.9 of this Agreement. Licensee must certify the computation in the manner and form specified by Territory Operator, and Licensee must supply to Territory Operator supporting or supplementary materials as Territory Operator may reasonably require to verify the accuracy of Licensee's remittances.

(B) Licensee waives all existing and future claims to offset against amounts due under this Agreement, which amounts must be paid when due. Territory Operator and Company may apply or cause to be applied against amounts due to either of them, or to any of their respective affiliates, any amounts which are held by either of them, or any of their respective affiliates, on Licensee's behalf, or owed to Licensee by Territory Operator, Company, or their respective affiliates. Notwithstanding the foregoing, Territory Operator has the right to require Licensee to compute and remit to Territory Operator and its affiliates all amounts due and owing hereunder, except the initial franchise fee, on a weekly basis. Licensee acknowledges and agrees that

Territory Operator has the right to impose the weekly fee requirement described in this section on Licensee regardless of whether Territory Operator or Company imposes the same requirement on other licensees or sublicensees.

9.6 Weekly Payment Program. Territory Operator may require Licensee to prepay continuing license and sales promotion program fees on a weekly basis pursuant to a payment program. If Territory Operator requires weekly payment, then:

(A) Territory Operator will establish a reasonable estimate of the amount of continuing license and sales promotion program fees that Licensee must pay to Territory Operator each month. Based on this estimate, Territory Operator will establish the specific amount that Licensee must pay to Territory Operator each week.

(B) Territory Operator will credit all payment amounts it receives from Licensee against the continuing license and sales promotion program fees actually due from Licensee to Territory Operator at the end of each month's operations.

(C) Territory Operator will submit to Licensee, on a monthly or quarterly basis as selected by Territory Operator, a reconciliation of Licensee's continuing license and sales promotion program fees account showing the credits to Licensee's account from amounts collected by Territory Operator through the weekly payments. If Licensee fails to submit reports under Section 9.9, then Territory Operator may make the reconciliation in conformance with Territory Operator's determination as to amounts due. Unless Licensee provides evidence in a form satisfactory to Territory Operator of the correct amounts due within 14 days after Territory Operator provides notice to Licensee, then Territory Operator's reconciliation will be conclusive as to the amounts due Territory Operator from Licensee. Licensee must pay any amounts due immediately at the end of the 14 days. If Territory Operator determines that Licensee has overpaid continuing license or sales promotion program fees, Territory Operator will remit or credit to Licensee an amount equal to the excess fees collected at the time the monthly or quarterly reconciliation is provided to Licensee.

(D) Territory Operator will collect, through any method of collection designated by Territory Operator, all weekly payments and any amounts due to Territory Operator after Territory Operator's reconciliation.

(E) Territory Operator periodically may revise the amount that Licensee is required to prepay to Territory Operator each week if Territory Operator determines that the amount is too low or high as compared to the actual continuing license and sales promotion program fees due to Territory Operator from Licensee each month.

9.7 Electronic Transfer of Funds. Licensee must sign an electronic transfer of funds authorization, and/or other documents that Territory Operator designates periodically, to authorize and direct Licensee's bank or financial institution to transfer either electronically or through some other method of payment Territory Operator designates, directly to the account of Territory Operator or its affiliates and to charge to the account of Licensee all amounts due to Territory Operator and/or its affiliates from Licensee. Licensee's authorizations permit Territory Operator and/or its affiliates to designate the amount to be transferred from Licensee's account. Licensee

must maintain a balance in its account sufficient to allow Territory Operator and its affiliates to collect the amounts owed to them when due. Licensee is responsible for any penalties, fines or other similar expenses associated with the transfer of funds described in this section. Territory Operator may require Licensee to pay as described in this section, regardless of whether Territory Operator imposes the same requirement on other licensees or sublicensees.

9.8 Interest; Late Fees. All amounts owed by Licensee to Territory Operator or its affiliates under this Agreement will bear interest at the lesser of 18% per annum or the maximum rate of interest permitted by governing law, from and after the date of accrual thereof. In addition, Territory Operator also may charge Licensee a $50 fee for each late report or payment owed to Territory Operator under this Agreement. This fee is not interest or a penalty, but compensates Territory Operator for increased administrative and management costs due to late payment. A payment is late if:

(A) It is not received by Territory Operator on or before the due date;

(B) The payment is received by Territory Operator on or before the due date, but is not honored by Licensee's bank or financial institution; or

(C) There are insufficient funds in Licensee's bank account on or after the due date to collect a payment by the method of payment designated by Territory Operator.

9.9 Reports.

(A) Monthly Report. Licensee must electronically (or using another method periodically required by Territory Operator) complete and submit to Territory Operator monthly reports with information from the previous calendar month on Territory Operator's then-current form and with the content, as Territory Operator or Company periodically prescribes. The report must include the following information:

(1) Amount of gross receipts of the Restaurant;

(2) Amount of sales tax;

(3) Gross Sales and the computation of the continuing license fee, sales promotion program fee; and any other applicable fees listed in Section 9;

(4) Total volume of mix, weight of meat and other commodities that Territory Operator or Company may designate, and the sources from which each were obtained; and

(5) Other information about the Restaurant requested by Territory Operator.

(B) Profit and Loss Statements. Licensee must submit to Territory Operator monthly and annual profit and loss statements for the Restaurant, in formats designated by Territory Operator or Company (which will include items such as a summary of cost of goods, utilities, labor, rent and other material cost items), by the 20th day of the following month for monthly statements and by the 90th day after year-end for annual statements.

(C) Sales Tax and Other Information. If requested by Territory Operator to verify Licensee's Gross Sales, Licensee must submit copies of its most recent sales tax return and all Business Records required by Territory Operator under Territory Operator's or Company's then-current audit policies.

(D) Right to Use Information. Licensee must allow Territory Operator electronic and manual access to all Business records and Licensee hereby consents to Territory Operator's use, in any manner permitted by law, of the Business Records and other information relating to the Restaurant that Licensee submits to Territory Operator, or that Territory Operator obtains through review of Licensee's Business Records or by accessing Licensee's EPOS System or Computer Systems. Territory Operatory may share this information with third parties, including Company, consultants, and existing and potential sublicensees.

9.10 Surcharge Method of Collection Program. Territory Operator may require Licensee to pay at the time of purchase to suppliers of mix, meat and/or other products and ingredients used in the conduct of the business of the Restaurant a surcharge on all units of such commodities purchased by Licensee. Said surcharge will be established by Territory Operator at a reasonable rate so as to approximate the amount of continuing license and sales promotion program fees which will be payable by Licensee and/or any past due amounts owed by Licensee to Territory Operator. Said surcharge will be paid to said supplier or suppliers for the account of Territory Operator and be regarded by the parties as a method of collection of said continuing license and sales promotion program fees and past due amounts. The amounts so collected will be credited at the end of each month's operations by Territory Operator against the continuing license and sales promotion program fees due from Licensee to Territory Operator, and the past due amounts owed by Licensee to Territory Operator. Territory Operator will submit to Licensee, on a monthly or quarterly basis as selected by Territory Operator, a reconciliation of Licensee's continuing license and sales promotion program fees account and other accounts setting forth the credits to Licensee's accounts from amounts collected for Territory Operator by suppliers through the aforesaid surcharge method of collection program. Should Licensee fail to submit reports in accordance with Section 9.9 Territory Operator may make said reconciliation in conformance with Territory Operator's determination as to amounts due, and Territory Operator's reconciliation will be conclusive as to the amounts due Territory Operator from Licensee unless within a period of 14 days after mailing of said reconciliation to Licensee by Territory Operator, Licensee provides evidence in a form satisfactory to Territory Operator of the correct amounts due. Licensee must pay within 10 days after mailing of notice to Licensee by Territory Operator such amounts, if any, determined to be owed pursuant to Territory Operator's reconciliation. If Territory Operator determines that Licensee has overpaid continuing license or sales promotion program fees or past due amounts on the surcharge basis, Territory Operator shall remit to Licensee an amount equal to the excess fees and past due amounts collected at the time the monthly or quarterly reconciliation is provided Licensee.

9.11 Financial Books and Records. Licensee must employ sound financial management and planning practices in connection with the Restaurant, and keep accurate Business Records in an electronic format using a methodology approved by Territory Operator.

(A) Licensee must keep its Business Records, and the information, data and statistics that are the basis for the Business Records, for at least 5 full calendar years from the date of preparation or any longer period required by applicable law.

(B) Business Records must be compiled, kept and submitted to Territory Operator on the forms, in the manner (electronically or another format), and using the methods of bookkeeping and accounting that Territory Operator or Company periodically prescribes. Licensee must provide this information to Territory Operator according to reporting formats, methodologies and time schedules periodically established by Territory Operator or Company. Upon Territory Operator's request, Licensee must submit tax returns relating to the Restaurant to Territory Operator.

9.12 Audit.

(A) On-site Audit. Territory Operator and Company or their authorized representatives may at all times during the business day enter the premises where Licensee keeps its Business Records, and evaluate, copy and audit the Business Records.

(B) Off-site Audit. In addition to or instead of an on-site audit, Territory Operator and Company each may require Licensee give to Territory Operator or Company, at Licensee's expense, copies of the Business Records requested by Territory Operator or Company.

(C) Understatement of Gross Sales. In addition to any other rights Territory Operator or Company may have, if any audit reveals that the Restaurant's Gross Sales have been understated by 3% or more, Licensee must reimburse Territory Operator and/or Company for all costs of the audit, including wages, outside accountant fees, outside attorneys' fees, copying costs, postage, travel, meals and lodging ("audit costs"), and for all audit costs incurred in connection with any additional periodic on-site or off-site audits of the Business Records that Territory Operator or Company reasonably deems necessary for up to 2 years after the initial audit. Upon Territory Operator's or Company's request, Licensee must submit tax returns for all Owners to Territory Operator or Company. If Licensee intentionally understates or underreports Gross Sales, continuing license fees or sales promotion program fees, or if an additional audit conducted within the 2-year period reveals an understatement or variance of 3% or more, in addition to any other remedies provided for in this Agreement, at law or in equity, Territory Operator may terminate this Agreement immediately in accordance with Section 13.2(C).

(D) Sales Reconstruction. In order to verify the information supplied by Licensee in the Business Records, Territory Operator may reconstruct Licensee's sales through the inventory extension method or any other reasonable method of analyzing and reconstructing sales. Licensee will accept a reconstruction of sales unless Licensee provides evidence in a form satisfactory to Territory Operator of Licensee's sales within 14 days from the date that Territory Operator provides notice to Licensee of the understatement. Any amounts payable to Territory Operator because of the understatement are due immediately at the end of the 14 days.

10. LICENSEE'S OTHER OBLIGATIONS.

10.1 Payment of Debts.

(A) Licensee must pay promptly when due all:

(1) Payments, obligations, assessments and taxes due and payable to Territory Operator, Company, and Territory Operator's and ADQ's respective affiliates, suppliers, lessors, federal, state or local governments, or creditors, in connection with the Restaurant;

(2) Liens and encumbrances of every kind and character created or placed upon or against any of the property owned by the Restaurant; and

(3) Accounts and other indebtedness incurred by Licensee relating to the Restaurant.

(B) If Licensee defaults on any payment listed in Section 10.1(A), Territory Operator may pay it on Licensee's behalf and Licensee must promptly reimburse Territory Operator on demand for the payment.

10.2 Liability and Indemnification. Licensee waives all claims against Territory Operator, Company, and their respective affiliates, for damages to property or injuries to persons arising out of the operation of the Restaurant. Licensee must fully protect, indemnify and defend Territory Operator, Company, and their respective affiliates, and hold them 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 Restaurant (regardless of cause or any concurrent or contributing fault or negligence of Territory Operator, Company, or their respective affiliates) or any breach or failure to comply with this Agreement. Licensee specifically acknowledges that: (i) Territory Operator and Company do not have any reserved or general right to exercise control over, and do not exercise any direct or indirect control over, the day-to-day operation of the Restaurant (including operations-related functions such as safety and security, the use of equipment and motor vehicles, and the delivery of services and products to customers, and personnel-related functions such as recruiting, interviewing, hiring, timekeeping, scheduling, payroll processing, supervising, disciplining and firing), (ii) all liability arising out of the operation of the Restaurant is therefore Licensee's responsibility, and (iii) Licensee's indemnification obligation under this Section 10.2 covers any "joint employer," "agency," "ostensible agency" or similar claims by third parties based on the establishment or operation of the Restaurant. Licensee's indemnification obligation under this Section 10.2 shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

10.3 Insurance.

(A) Licensee must purchase and maintain, at its own expense, general liability insurance at a minimum limit of liability designated periodically by Territory Operator and Company, but not less than $2,000,000 per occurrence, or a higher amount that Territory Operator and Company may in the future require of similarly situated licensees or sublicensees or that a lessor of the Restaurant premises may require. The insurance coverage must start on the earlier of the date Licensee takes possession of the Authorized Location or the date Licensee begins operating the Restaurant, and must continue through the later of the Expiration Date or the date

the Restaurant closes. Licensee must annually, or any shorter period of time at Territory Operator's request, deliver to Territory Operator a certificate of insurance and other endorsements showing compliance with this Section 10.3. The insurance coverage must:

(1) Insure Licensee, Territory Operator, Company, and their respective affiliates, and any other person or entity designated by Territory Operator or Company by name, from liability for any and all such damage and injury;

(2) Name Territory Operator, International Dairy Queen, Inc., and their respective affiliates, as additional insureds; and

(3) Provide that Territory Operator will be given 30 days' prior written notice of material change in or termination or cancellation of the policy.

(B) Licensee must purchase and maintain, at its own expense, business interruption insurance covering "actual losses sustained" during any period of not less than 12 months or during the maximum period permitted by law if less than 12 months.

(C) Licensee must purchase and maintain, at its own expense, any additional insurance that Territory Operator periodically may require, such as the same types of insurance with increased coverage minimums, or different or additional types of insurance, to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances.

(D) Licensee must purchase and maintain, at its own expense, workers' compensation insurance and all additional insurance that may be required by law or other agreement related to the Restaurant.

(E) All insurance maintained by Licensee must be written with a company rated no less than "A" by AM Best Insurance Rating.

(F) If Licensee does not procure and maintain the required insurance coverage, Territory Operator may procure insurance coverage for Licensee and charge the cost to Licensee, together with a reasonable fee for Territory Operator's expenses in doing so, payable by Licensee immediately upon notice.

(G) Licensee's obligation to obtain and maintain insurance in the amounts specified is not limited in any way by reason of any insurance that Territory Operator or Company may maintain, nor does Licensee's procurement of required insurance relieve Licensee of liability under the indemnity obligations described in Section 10.2 of this Agreement. Licensee's insurance procurement obligations under this Section are separate and independent of Licensee's indemnity obligations.

(H) Territory Operator and Company do not warrant or represent that any insurance that Licensee is required to purchase will provide adequate coverage for Licensee. The requirements of insurance specified in this Agreement are for Territory Operator's and Company's protection. Licensee should consult with its own insurance agents, brokers, attorneys and other insurance advisors to determine the level of insurance

protection it needs and desires, in addition to the coverage and limits required by Company

10.4 Compliance with Laws and Policies. Licensee must at all times maintain the Restaurant premises and conduct the Restaurant in compliance with all applicable laws, regulations, codes and ordinances, including labor and employment laws. In addition, Licensee must comply with all privacy policies and all data protection security and breach response policies that Territory Operator and Company may establish. Licensee must notify Territory Operator and Company immediately of any suspected data breach at or in connection with the Restaurant. Licensee agrees to obtain legal advice regarding, and to comply with, all applicable legal requirements that prohibit unfair, fraudulent or corrupt business practices, including U.S. and other legal requirements that are designed to combat terrorism and terrorist activities. Licensee represents that neither Licensee nor any Owner is named as a "specially designated national" or "blocked person" as designated by the United States Department of the Treasury's Office of Foreign Assets Control.

10.5 In-Term Noncompete. During the term of this Agreement, Licensee, the Designated Manager, a Principal Owner, or an officer or director of a Principal Owner owning a 20% or greater interest in Licensee cannot, without Territory Operator's and Company's prior written consent, directly or indirectly operate, permit to be operated, or hold any interest in any Competitive Business.

11. TRANSFER OF FRANCHISE.

11.1 Consent Required. Territory Operator enters this Agreement with specific reliance upon the financial qualifications, personal experience, skills and managerial and financial qualifications of Licensee and its Owners. Because of this, no transfer may be made in whole or in part, whether in one or more transactions, without Territory Operator's consent.

11.2 Definition of a Transfer. A "transfer" is defined as a sale (including installment sale), lease, pledge, contract for deed, option agreement, assignment, bequest, gift, transfer of interest upon death or disability, management agreement (or any other arrangement pursuant to which Licensee or an Owner turns over all or part of the daily operation of the Restaurant to a person or entity who shares in the losses or profits of the Restaurant in a manner other than as an employee, independent contractor or agent of Licensee), or disposal of the Restaurant, any assets, revenue or profits of the Restaurant (except in the ordinary course of business), or any direct or indirect ownership interest in this Agreement, the Restaurant, the Licensee, or an Owner to any person or entity (a "transferee").

11.3 Requirements of a Transfer. The following requirements must be satisfied before Territory Operator will consent to any direct or indirect transfer or proposed transfer of this Agreement, the Restaurant, or any ownership interest in this Agreement, the Restaurant, the Licensee or an Owner:

(A) Application. Licensee must immediately notify Territory Operator of a proposed transfer, promptly submit to Territory Operator a transfer request and release of information form and provide Territory Operator with a complete application for consent to transfer at least 90 days before the effective date of the transfer. The transfer request and release of information form and application must be completed

on Territory Operator's then-current forms and accompanied by all other documents required by Territory Operator.

(B) Right of First Refusal.

(1) Offer. In the event of a bona fide offer from a third party to purchase or assume any interest in this Agreement, the Restaurant, the Licensee or any Owner, Licensee must give Territory Operator a copy of the purchase agreement or other written statement with the terms of the offer, signed by both the offeror and Licensee, along with such additional information concerning the transaction as Territory Operator may reasonably require, which may include a copy of the lease, financial information, tax returns and other documents typically provided to a buyer. Territory Operator has the right (at its option, upon written notice to Licensee) to assign Territory Operator's right of first refusal to a third party.

(2) Insolvency. If the proposed transfer results from Licensee's insolvency or the filing of any petition by or against Licensee under a bankruptcy or insolvency law ("bankruptcy"), Licensee must first offer to sell to Territory Operator Licensee's interest in this Agreement and the land, building, equipment, furniture and fixtures, and leasehold interest used in the operation of Licensee's Restaurant ("bankruptcy assets"). The purchase price of the bankruptcy assets will be established by a qualified appraiser selected by the parties. If the parties cannot agree upon an appraiser, upon petition of either party, one will be appointed by a judge of the United States District Court in the Authorized Location's state. Licensee or Licensee's legal representative must deliver to Territory Operator a written statement incorporating the appraiser's report. The transaction documents will be prepared by Territory Operator, and will be as customary for this type of transaction.

(3) Acceptance and Closing. Territory Operator has 30 days from Territory Operator's receipt of the statement setting forth the third-party offer and such other information requested by Territory Operator, or the appraiser's report, to accept the offer by delivering written notice of acceptance to Licensee. Territory Operator's acceptance will be on the same price and terms set forth in the statement, except that Territory Operator may substitute equivalent cash for any noncash consideration, and except that the terms will include the customary representations and warranties as to: ownership, condition of and title to assets; loans and encumbrances on the assets; the validity of contracts and agreements; and contingent and other liabilities afforded the assets. Territory Operator has 30 days after accepting the offer to close on the sale.

(4) Failure to Accept. If Territory Operator fails to accept the offer within the 30 day period, Licensee has 60 days to effect the disposition described in the statement delivered under Section 11.3(B)(1) or 11.3(B)(2) to Territory Operator if the transfer is otherwise in compliance with Section 11. Licensee cannot effect any other transfer of Licensee, this Agreement or the

Restaurant without first complying with the right of first refusal requirements.

(C) Security Interest. Neither Licensee nor an Owner may retain a security or other financial interest in the property to be transferred without Territory Operator's prior written consent and except upon conditions acceptable to Territory Operator. Licensee must inform Territory Operator if Licensee or an Owner proposes to retain a security or other financial interest.

(D) Transfer Requirements. The transferee must meet Territory Operator's then-current requirements for transferees, including those relating to financial position and management and operational experience.

(E) Transfer Fee.

(1) Amount. Licensee must pay Territory Operator a basic transfer fee of $6,000, which is due when Licensee submits the application for consent of the transfer. If Licensee is transferring a store or restaurant to a person located in a state or Canadian province where Territory Operator is not registered to offer and sell franchises and Territory Operator must register under or otherwise comply with any state or provincial law, Licensee must pay Territory Operator an additional transfer compliance fee of $3,000, before Territory Operator seeks to register under or otherwise comply with any state or provincial law, as reimbursement for Territory Operator's registration or compliance costs. On January 1, 2030, and on each 5-year anniversary thereafter, the basic transfer fee will increase by $1,000, and the additional transfer compliance fee will increase by $500.

(2) Refund. If Territory Operator exercises its right of first refusal, or does not consent to a proposed transfer, Territory Operator will refund the basic transfer fee to Licensee, minus any out-of-pocket costs incurred by Territory Operator in direct connection with evaluating or processing the proposed transfer, together with an itemized statement of those costs. The basic transfer fee and additional transfer compliance fee are not refundable in whole or in part except as expressly stated in this Agreement.

(F) Payment of Amounts Owed All amounts owed by Licensee to Territory Operator, Company, Territory Operator's or Company's respective affiliates, Licensee's suppliers, or any landlord for the Restaurant premises and Authorized Location, or upon which Territory Operator, Company, or any of their respective affiliates have any contingent liability, must be paid in full.

(G) Compliance with Agreement. Licensee must be in full compliance with the terms of this Agreement, including providing Territory Operator with all reports or records required in Sections 9.9 and 9.10 through the effective date of the transfer.

(H) Guarantee. All Owners of transferee must sign Territory Operator's then-current form of undertaking and guarantee. In addition, if Territory Operator allows Licensee or an Owner to retain a security or other financial interest in this Agreement or the Restaurant after the transfer, then Licensee and the Owner must

guarantee the performance of this Agreement until the security or other interest terminates.

(I) General Release. Licensee, each Owner, and each guarantor must sign a general release of all claims arising out of or relating to this Agreement, Licensee's Restaurant, or the parties' business relationship, in the form designated by Territory Operator or Company, releasing Territory Operator, Company, and their respective affiliates.

(J) Training. The transferee must, at Licensee's or transferee's expense, comply with Territory Operator's and Company's then-current training requirements for the type of Restaurant being transferred.

(K) Financial Reports and Data. Territory Operator may require Licensee to prepare and furnish to transferee and/or Territory Operator such financial reports and other data relating to the Restaurant and its operations as Territory Operator deems reasonably necessary or appropriate for transferee and/or Territory Operator to evaluate the Restaurant and the proposed transfer. Territory Operator may confer with proposed transferees and furnish them with information concerning the Restaurant and proposed transfer without being held liable to Licensee, except for intentional misstatements made to a proposed transferee. Any information furnished by Territory Operator to proposed transferees is for the sole purpose of permitting transferees to evaluate the Restaurant and proposed transfer.

(L) Then-Current Operating Agreement. Transferee must sign Territory Operator's then-current form of operating agreement, which may have materially different terms and conditions, including higher or additional fees.

(M) Facility Items and Modernization. Licensee must complete the repairs, maintenance, and other similar items at the Restaurant that Territory Operator specifies in writing. In addition, if Licensee has not completed a modernization under Section 5.5 in the past 10 years, then Licensee must complete the modernization prior to the effective date of the transfer. If Licensee has completed a modernization under Section 5.5 in the past 10 years, then transferee will be required to complete the next modernization by the date Licensee would have been required to modernize under this Agreement.

(N) Transfer Agreement. Licensee (and each Owner) must sign an agreement, in form satisfactory to Territory Operator, in which Licensee and each Owner covenant to observe the post-termination covenant not to compete and all other applicable post-termination obligations described in this Agreement.

(O) Other Conditions. Territory Operator may expand on, and provide more details related to the consent described in this Section 11.3, and Licensee and each transferee must comply with any other conditions that Territory Operator reasonably requires periodically as part of its transfer procedures.

(P) Insurance. Transferee must deliver to Territory Operator a proper certificate of insurance evidencing the existence of the insurance coverage required under Section 10.3 of this Agreement.

11.4 Consent Not Unreasonably Withheld. As long as Licensee and transferee meet Territory Operator's applicable requirements for a transfer, Territory Operator will not unreasonably withhold consent for the transfer.

11.5 Transfer Void. Any attempted transfer by Licensee without Territory Operator's prior written consent or otherwise not in compliance with the terms of this Agreement is void and gives Territory Operator the right at its option to either default and terminate this Agreement or to consent to the transfer and collect from Licensee and the guarantors, a transfer fee equal to two times the basic transfer fee provided for in Section 11.3(E)(1).

11.6 Transfer by Territory Operator. Territory Operator can transfer, in whole or in part, its interest in this Agreement without Licensee's consent. Following the effective date of any transfer, Licensee will look solely to the transferee, and not to Territory Operator, for the performance of all obligations under this Agreement.

11.7 Death, Disability or Incapacity. If any individual who is an Owner of Licensee dies or becomes disabled or incapacitated and the transferee of the decedent or disabled or incapacitated person is the spouse or child of such person, no transfer fee shall be payable to Territory Operator, but the proposed transferee must satisfy all other conditions and requirements in this Section 11.

12. DISPUTE RESOLUTION.

12.1 Arbitration. Subject to Section 12.2, any dispute between Licensee and Territory Operator, Company or any of their affiliates arising under, out of, in connection with or in relation to this Agreement, any lease or sublease for the Restaurant or Authorized Location, the parties' relationship or the Restaurant must be submitted to binding arbitration under the authority of the Federal Arbitration Act ("FAA"). Any state laws attempting to prohibit arbitration or void out of state forums for arbitration are preempted by the FAA. The dispute must be arbitrated in accordance with the then-current rules and procedures and under the auspices of the American Arbitration Association ("AAA"), except to the extent the rules and procedures are modified below.

(A) The then-current AAA Large, Commercial Case Rules apply where the matter in controversy in the arbitration proceeding is at least $500,000. The matter in controversy is defined not only by the amount of the demand, but also by the value of the matter to the parties to the arbitration. The AAA will decide on the amount of the matter in controversy, subject to a challenge of the AAA decision by either party to the arbitrator(s).

(B) The arbitrator(s) has the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim. The arbitrator(s) has the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause will be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator(s) that the contract is null and void will not for that reason alone render invalid the arbitration clause.

(C) Multiparty arbitration is specifically prohibited, and any arbitration will be on an individual basis alone; the arbitration may not be consolidated or otherwise joined

with any other proceeding. The arbitrator will have no authority or power to proceed with any claim as a multiparty proceeding or a class action or to otherwise join or consolidate any claim with any other claim or any other proceeding involving third parties.

(D) The arbitration must take place in the capital of the state in which the Authorized Location of Licensee is located, or at such other place as may be mutually agreeable to the parties.

(E) Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration under this Section 12.1 without the prior written consent of both parties.

(F) Except for the appeal process described in Section 12.1(G), the decision of the arbitrator(s) will be final and binding on all parties to the dispute; however, the arbitrator(s) will have no authority or power to: (i) stay the effectiveness of any pending termination of this Agreement; (ii) assess punitive or exemplary damages; or (iii) make any award that extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance set by Territory Operator or Company. The arbitrator(s) must also follow the applicable law and may not disregard the law based on principles of justice or equity which are not a specific part of the applicable law. A judgment may be entered upon the arbitration award by any state or federal court in the state of the Authorized Location or in Minnesota.

(G) Any award rendered by the arbitrator(s) may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules in effect as of the Effective Date of this Agreement ("Appellate Rules"). Any award will, at a minimum, be a reasoned award. The award will not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within 30 days of receipt of an award, as defined by Rule A-3 of the existing Appellate Rules, by filing a notice of appeal with any AAA office. The appeal tribunal may affirm, reverse, or modify the award of the arbitrator(s), or return the matter to the arbitrator(s) for further action. A final award may be entered once the appeal process is complete or the time for filing an appeal has expired, and a judgment may be entered upon the arbitration award in accordance with the procedures identified in Section 12.1(F).

12.2 Injunctive Relief. The Restaurant is one of a large number of DQ stores and restaurants identified by the Trademarks selling similar products to the public. The failure on the part of a single licensee or sublicensee to comply with the terms of its agreement could cause irreparable damage to Territory Operator, Company and/or some or all of the other licensees of Territory Operator or Company. Therefore, in the event of a breach or threatened breach of any of the terms of this Agreement by a party, the other party is entitled to an injunction from a court of law restraining the breach or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining the equitable relief, until a final and binding determination is made by the arbitrators. The arbitrator(s) has no authority to award interim, injunctive, or other equitable relief pending conclusion of the arbitration proceeding. Any equitable remedies are in addition to, not in lieu of,

all other remedies or rights which the parties might otherwise have by virtue of any breach of this Agreement by the other party. Territory Operator, Company, and their respective affiliates, have the right to commence a civil action in any court of competent jurisdiction against Licensee or take other appropriate action to obtain injunctive relief (whether temporary, preliminary or permanent) to compel Licensee's compliance with trademark standards and requirements to protect the goodwill of the Trademarks (including enforcement of the noncompete provisions in Sections 10.5 and 14.6) without having to file an arbitration demand.

12.3 Attorneys' Fees. The prevailing party in any action or proceeding arising under, out of, in connection with, or in relation to this Agreement, any lease or sublease for the Restaurant or Authorized Location, the parties' relationship, or the Restaurant is entitled to recover its reasonable attorneys' fees and costs.

12.4 Jury Trial. The parties irrevocably waive any right they may have to a jury trial.

13. DEFAULT AND TERMINATION.

13.1 Default. Licensee is in default of this Agreement if Territory Operator determines that Licensee or any Owner or guarantor has breached any of the terms of this Agreement, any lease or sublease for the Restaurant premises, or any other agreement between Licensee and Territory Operator or its affiliates, which includes:

(A) Making any false report to Territory Operator or Company;

(B) Failure to submit to Territory Operator the lease (if applicable) for the Authorized Location before execution;

(C) Failure to submit any required report when due;

(D) Intentionally understating or underreporting, or failure to pay when due any amounts required to be paid to Territory Operator, Company, or any of their respective affiliates, whether under this Agreement, any lease or sublease for the Restaurant premises, or otherwise or to any third party as required by this Agreement;

(E) Conviction of Licensee, an Owner, or a guarantor of any felony or misdemeanor which brings or tends to bring any of the Trademarks into disrepute or impairs or tends to impair the goodwill of any of the Trademarks;

(F) Failing an evaluation under Section 6.8, or failing to abide by any of Territory Operator's or Company's standards in connection with the development or operation of the Restaurant;

(G) Violation of the Licensee's confidentiality obligations under this Agreement;

(H) Filing of tax or other liens which may affect this Agreement; voluntary or involuntary bankruptcy by or against Licensee or any Principal Owner or guarantor; insolvency; making an assignment for the benefit of creditors or any similar voluntary or involuntary arrangement for the disposition of assets for the benefit of creditors;

(I) Failure to meet any requirements or specifications established by Territory Operator or Company with respect to product quality, physical property, conditions of equipment or materials used, products manufactured, Menu, or use of approved products, packaging or promotional materials.

13.2 Termination. Territory Operator can terminate this Agreement in accordance with the following provisions:

(A) Opportunity to Cure. Except as set out in Sections 13.2(B) and (C), Licensee has (i) 10 days from the date of a written notice of default to cure a default for failure to submit any required report when due or to pay when due any amounts required to be paid to Territory Operator or Company or any of their affiliates; and (ii) 30 days from the date of a written notice of default to cure any other default under this Agreement. Licensee's failure to cure a default within the 10-day period will provide Territory Operator with good cause to terminate this Agreement; and the termination will be accomplished by mailing or delivering to Licensee written notice of termination that will identify the grounds for the termination.

(B) Twenty-Four Hours to Cure. If a default under this Agreement materially impairs the goodwill associated with any of the Trademarks or the operation, maintenance, or construction of the Restaurant results in a threat or danger to the public health or safety (for example, violating any of Territory Operator's or Company's zero tolerance policies or food safety requirements), then Licensee will have 24 hours after Territory Operator provides written notice of the default to cure the default. Territory Operator has the right to require Licensee to close the Restaurant immediately upon notice and keep it closed until such time as the default is cured. If the default is not cured within 24 hours or Licensee fails or refuses to close the Restaurant upon notice from Territory Operator, the termination will be effective immediately upon Territory Operator's issuance of written notice of termination. Notwithstanding any notice provisions under this Agreement, notices under this section are deemed received when, as shown in Territory Operator's or Company's records, actual notice was given to the Controlling Owner, a Principal Owner, the Designated Manager, or the person designated to receive notices under Section 15.3(B), whether delivered personally, by phone, email or reputable overnight service.

(C) Immediate Termination. Licensee has no right to cure the following defaults and this Agreement terminates immediately on Territory Operator's issuance of written notice of termination:

(1) Licensee's loss of the right to occupy the Restaurant premises;

(2) If the Restaurant is destroyed or damaged, Licensee's failure to repair and reopen for operation the Restaurant at the Authorized Location within 270 days of the date of occurrence of the destruction or damage (as described in Section 6.9(C);

(3) Licensee's failure to relocate and reopen in accordance with and within the time periods and conditions set forth in Section 5.4;

(4) Voluntary abandonment as defined in Section 6.9(B);

(5) Insolvency of Licensee or a Principal Owner or guarantor, or Licensee's or a Principal Owner's or guarantor's making an assignment or entering into any similar arrangement for the benefit of creditors;

(6) Conviction of Licensee or any Owner, the Designated Manager or guarantor of an offense directly related to the Restaurant;

(7) Intentionally understating or underreporting Gross Sales, continuing license fees or sales promotion program fees in any reports submitted to Territory Operator or Company);

(8) Any default by Licensee which is the third default within any consecutive 12-month period; or

(9) Licensee or an Owner is named as a specially designated national or blocked person as designated by the United States Department of the Treasury's Office of Foreign Assets Control.

(D) Termination Fee. Upon Territory Operator's termination of this Agreement for any reason under Section 13.2, Licensee must pay to Territory Operator within 30 days of the date of the termination, a termination fee as calculated below to compensate Territory Operator for anticipated and reasonably estimated lost profits. This section is not applicable to any termination or cancellation of an operating agreement for an Authorized Location that did not open. The termination fee will be calculated as follows:

(1) 2 times the continuing license fees payable to Territory Operator for the last 12 months of the Restaurant's active operations;

(2) If the Restaurant opened but did not operate for a full 12 months before the date of termination, 24 multiplied by the average monthly continuing license fees payable to Territory Operator from the date of opening through the date of termination; or

(3) If there are less than 24 months remaining on the term, the number of months remaining on the term multiplied by the average monthly continuing license fees payable to Territory Operator for the last 12 months of the Restaurant's active operations.

(E) Effect of Other Laws. Any valid, applicable law or regulation establishing permissible grounds, cure rights or minimum periods of notice for termination of this franchise supersedes any provision of this Agreement less favorable to Licensee than the law or regulation.

(F) Disclaimer. Territory Operator disclaims any right under this Section 13.2 to terminate this Agreement based on any decision or action by Licensee regarding recruiting, interviewing, hiring, keeping the time of, scheduling, processing the payroll of, supervising, disciplining or firing its personnel.

13.3 Termination by Licensee. Licensee may terminate this Agreement as a result of a breach by Territory Operator of a material provision of this Agreement after Licensee provides Territory Operator with written notice of the breach that identifies the grounds for the breach, and Territory Operator fails to cure the breach within 30 days after Licensee provides written notice to Territory Operator. The termination will be effective 60 days after Licensee provides written notice of the breach to Territory Operator. Licensee's termination of this Agreement under this Section 13.3 does not release or modify Licensee's post-term obligations under Section 14.

14. POST-TERM OBLIGATIONS.

Upon the expiration or termination of this Agreement:

14.1 Reversion of Rights. All rights of Licensee to use the Trademarks and all other rights and licenses granted under this Agreement, and the right and license to conduct business under the Trademarks at the Authorized Location revert to Territory Operator without further act or deed of any party. All right, title and interest of Licensee in, to and under this Agreement and any operational goodwill become the property of Territory Operator.

14.2 Stop Using Trademarks.

(A) Licensee must immediately stop using and displaying the Trademarks and any point-of-sale materials and other sales promotion and advertising materials furnished, made available or approved by Territory Operator or Company, and must stop using Territory Operator's and Company's Confidential Information (including the Operations Manual). Licensee must immediately return to Territory Operator all copies of the Operations Manual and any other Confidential Information in Licensee's possession or control, or previously disseminated to Licensee's employees.

(B) Subject to Section 14.5, Licensee must, within 20 days, at Licensee's expense, remove or obliterate all Restaurant signage, displays, photos and other materials in Licensee's possession at the Authorized Location or elsewhere that bear any of the Trademarks or names or material confusingly similar to the Trademarks. Licensee also must, within 20 days, alter the appearance of the Restaurant, including, removal or substantial modification of any trade dress, so as to differentiate the Restaurant unmistakably from duly licensed stores and restaurants identified by the Trademarks.

(C) If Licensee does not comply with this Section 14.2 within 20 days, Territory Operator or Company may enter the Authorized Location and remove all Restaurant signage, displays, photos or any other materials in Licensee's possession at the Authorized Location or elsewhere that bear any of the Trademarks or names or material confusingly similar to the Trademarks, and Licensee must reimburse Territory Operator or Company for Territory Operator's or Company's costs incurred in connection with this removal.

(D) If, despite not being permitted to do so, Licensee owns or controls any domain name registrations in connection with the Restaurant or that include any of the Trademarks, Licensee agrees to promptly transfer ownership of such domain names to Territory Operator or Company and execute any documents the domain name

registry requires in connection with the transfer of these domain name registrations to Territory Operator or Company.

14.3 Liable for Obligations. Licensee remains liable for its obligations under any applicable lease or sublease for the Restaurant premises and Authorized Location, and its other applicable obligations under this Agreement or any other agreement between Licensee and Territory Operator, Company, or their respective affiliates.

14.4 Amounts Owed. Licensee must pay all sums due Territory Operator, Company, or their respective affiliates or designees, or that Licensee owes to third parties which have been guaranteed by Territory Operator, Company, or any of their respective affiliates, within 10 days of the termination or expiration of this Agreement.

14.5 Purchase Option. Territory Operator may purchase or designate a third party to purchase all of the assets of the Restaurant that are owned by Licensee or any of Licensee's affiliates including, the land, building, equipment, fixtures, signage, furnishings, supplies, leasehold, leasehold improvements, and inventory of the Restaurant, upon the following conditions:

(A) Territory Operator must give Licensee written notice of its intent to exercise its purchase rights under this Section 14.5 within 30 days after the date of the expiration or termination of this Agreement.

(B) The purchase price will be at a price determined by a qualified appraiser paid for by Territory Operator and selected with the consent of both parties. The price determined by the appraiser will be the reasonable fair market value of the assets based on their continuing use in, as, and for the operation of a DQ Grill & Chill or DQ store or restaurant and the appraiser will designate a price for each category of asset (e.g., land, building, equipment, fixtures, etc., but not goodwill). If the parties cannot agree upon an appraiser, either party may petition a judge of the United States District Court for the District in which the Authorized Location is located to appoint an appraiser.

(C) Within 45 days after Territory Operator's receipt of the appraisal report, Territory Operator must inform Licensee if Territory Operator or its designee intends to purchase any or all of the assets at the price in the appraisal report. Territory Operator or its designated purchaser and Licensee must complete and close the purchase of the designated assets in a commercially reasonable time and manner. Territory Operator may reduce the price paid for the assets by any unpaid portion of the termination fee due under Section 13.2(D) of this Agreement.

(D) Upon Territory Operator's or its designated purchaser's exercise of the purchase option and tender of payment, Licensee agrees to sell and deliver, and cause its affiliates to sell and deliver, the purchased assets to Territory Operator or its designated purchaser, free and clear of all encumbrances, and to execute and deliver, and cause its affiliates to execute and deliver, to Territory Operator or its designated purchaser a bill of sale for the assets or any other documents as may be commercially reasonable and customary to effectuate the sale and transfer of the assets being purchased.

14.6 Post-Term Noncompete. Licensee and the Principal Owners cannot directly or indirectly (including acting as a lessor, lessee, officer, director, partner, employee, consultant, shareholder or lender) own, operate, lease, engage in, conduct, have any interest in, or assist any other person or entity to engage in, any Competitive Business for 1 year after the date of expiration or termination by either party with or without cause (i) within 500 meters of the Authorized Location if the Authorized Location of the Restaurant is a Street Location, or (ii) within the building or venue that the Authorized Location was in if the Restaurant is a Captive-Venue Location.

14.7 Confidentiality. Licensee and its Owners shall comply with the confidentiality provisions of Section 6.12 of this Agreement.

14.8 Time Period for Bringing Claims. Claims by Territory Operator for underreporting Gross Sales, for indemnification, or for claims related to Territory Operator's or Company's rights under the Trademarks are subject only to the applicable state or federal statute of limitations. Any other claim arising out of or relating to this Agreement, the relationship of the parties, Territory Operator's operation of its business, Company's operations relating to the Franchise System, or Licensee's operation of the Restaurant will be barred unless filed before the expiration of the earlier of:

(A) The time period for bringing an action under any applicable state or federal statute of limitations;

(B) 1 year after the date upon which a party discovered, or should have discovered, the facts giving rise to an alleged claim; or

(C) 2 years after the first act or omission giving rise to an alleged claim.

15. GENERAL PROVISIONS.

15.1 Severability. Should one or more clauses of this Agreement be held to be void or unenforceable for any reason by any court of competent jurisdiction, such clause or clauses are deemed to be separable in such jurisdiction and the remainder of this Agreement is deemed valid and in full force and effect and the terms of this Agreement will be equitably adjusted so as to compensate the appropriate party for any consideration lost because of the elimination of such clause or clauses. It is the intent and expectation of each of the parties that each provision of this Agreement will be honored, carried out and enforced as written. Consequently, each of the parties agrees that any provision of this Agreement sought to be enforced in any proceeding hereunder shall, at the election of the party seeking enforcement and notwithstanding the availability of an adequate remedy at law, be enforced by specific performance or any other equitable remedy.

15.2 Waiver/Integration. No waiver by Territory Operator of any breach by Licensee, nor any delay or failure by Territory Operator to enforce any provision of this Agreement, will be deemed to be a waiver of any other or subsequent breach or be deemed an estoppel to enforce Territory Operator's rights with respect to that or any other or subsequent breach. Subject to Territory Operator's and Company's rights to modify their standards in the Operations Manuals, and except as otherwise provided in this Agreement, this Agreement cannot be waived, altered or rescinded, in whole or in part, except by a writing signed by Licensee and Territory Operator and consented to by Company. This Agreement (including its addenda) is the sole agreement between the parties with respect to the entire subject matter of this Agreement, and embodies all prior

agreements and negotiations with respect to the Restaurant. Nothing in this Agreement (including its addenda), or in any related agreement, is intended to disclaim the representations Territory Operator or Company made in the franchise disclosure document.

15.3 Notices. Except as otherwise provided in this Agreement, any notice, demand or communication provided for in this Agreement must be in writing and signed by the party serving it and delivered personally, by a reputable overnight service or deposited in the United States mail (by registered or certified mail if it is a notice of default), service or postage prepaid, or, if notice is to a Licensee, via the email account or other form of electronic communication maintained by Licensee pursuant to Section 6.5(C) of this Agreement, to the extent permitted by law, or as otherwise provided in the Operations Manuals. A notice delivered by an overnight service is deemed received the day after it is given to the overnight service; a notice delivered by regular, registered or certified mail is deemed received 4 days after it is given to the United States Postal Service, or any shorter period in which the notice was actually delivered. A notice delivered by email or other form of electronic communication is deemed received on the date the notice was actually delivered. Notices will be addressed as follows:

(A) If intended for Territory Operator, shall be addressed to Territory Operator at the address hereinabove designated;

(B) If intended for Licensee, addressed to Licensee at the Authorized Location designated on the cover page. If Licensee is an entity or consists of more than one individual, then notices may be addressed to any single individual or Owner identified on the Ownership and Management Addendum attached to this Agreement. Legal notices sent to the individual or Owner will be deemed received by the Licensee;

(C) If intended for Company, shall be addressed to the President, American Dairy Queen Corporation, 8000 Tower, Suite 700, 8331 Norman Center Drive, Bloomington, MN 55437; or,

(D) To another address as designated by written notice to the other party.

15.4 Authority. Any modification, consent, approval, authorization or waiver granted under this Agreement that is required to be effective by signature will be valid only if in writing and executed by an authorized signatory of Licensee on behalf of Licensee, or if on behalf of Territory Operator, an authorized signatory of Territory Operator, or, if on behalf of Company, in writing executed by its President or one of its Vice Presidents.

15.5 References. If Licensee consists of 2 or more individuals, the individuals are jointly and severally liable, and references to Licensee in this Agreement include all individuals. Headings and captions in this Agreement are for convenience of reference and should not be taken into account in construing or interpreting this Agreement.

15.6 Guarantee. If Licensee is a corporation, partnership, limited liability company or other entity, then all Owners must sign the undertaking and guarantee at the end of this Agreement. Any person or entity that becomes an Owner after the date of this Agreement must sign the form of undertaking and guarantee at the end of this Agreement.

15.7 Successors/Assigns. Subject to the terms of Section 11, this Agreement is binding upon and inures to the benefit of the administrators, executors, heirs, successors and assigns of the parties.

15.8 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:

(A) Applicable Law and Waiver. Subject to Company's rights under federal trademark laws and the parties' rights under the FAA in accordance with Section 12 of this Agreement, the parties' rights under this Agreement, and the relationship between the parties is governed by, and will be interpreted in accordance with, the laws (statutory and otherwise) of the state in which the Authorized Location is located. Licensee waives, to the fullest extent permitted by law, the rights and protections that might be provided through the laws of any state relating to franchises or business opportunities, other than those of the state in which the Authorized Location is located.

(B) Exercise of Rights. Whenever this Agreement provides that Territory Operator and/or Company have a certain right, that right is absolute and the parties intend that Territory Operator's and/or Company's exercise of that right will not be subject to any limitation or review. Territory Operator and/or Company have the right to operate, administrate, develop, and change the System in any manner that is not specifically precluded by the provisions of this Agreement, subject to any limitations on their rights in the Territory Agreement.

(C) Reasonable Business Judgment. Whenever Territory Operator and/or Company reserve or are deemed to have reserved discretion in a particular area or where Territory Operator and/or Company agree or are deemed to be required to exercise their rights reasonably or in good faith, Territory Operator and/or Company will satisfy their obligations whenever they exercise Reasonable Business Judgment (as defined below) in making their decision or exercising their rights. A decision or action by Territory Operator and/or Company will be deemed to be the result of "Reasonable Business Judgment," even if other reasonable or even arguably preferable alternatives are available, if Territory Operator's and/or Company's decision or action is intended, in whole or significant part, to promote or benefit the Franchise System (or one or more components of it) generally even if the decision or action also promotes a financial or other individual interest of Territory Operator and/or Company. Examples of items that will promote or benefit the Franchise System include enhancing the value of the Trademarks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the Franchise System (or one or more components of it). Neither Licensee nor any third party (including, without limitation, a trier of fact) will substitute its judgment for Territory Operator's or Company's Reasonable Business Judgment.

15.9 Venue. Any cause of action, claim, suit or demand allegedly arising from or related to the terms of this Agreement or the relationship of the parties that is not subject to arbitration under Section 12, must be brought in the capital of the state in which the Authorized Location of

Licensee is located, or at such other place as may be mutually agreeable to the parties. Both parties hereto irrevocably submit themselves to, and consent to, the jurisdiction of said courts. The provisions of this Section 15.9 survive the termination of this Agreement. Licensee is aware of the business purposes and needs underlying the language of this Section 15.9, and agrees to be bound in the manner set forth.

15.10 Waiver of Punitive Damages. Licensee, Territory Operator and Company and their affiliates waive, to the fullest extent permitted by law, the right to or claim for any punitive or exemplary damages against the other and agree that in the event of any dispute between them, each shall be limited to the recovery of actual damages sustained by it.

15.11 Relationship of the Parties.

(A) Independent Contractor Relationship. Under this Agreement, Licensee is an independent contractor with entire control and direction of the Restaurant, subject only to the terms of this Agreement. This Agreement is not intended to, and does not create a fiduciary relationship, a relationship of special trust or confidence, or any other special relationship between the parties, or make any party a principal, agent, legal representative, parent, affiliate, subsidiary, joint venturer, partner, employer, joint employer, employee or servant of any other party for any purpose. In that regard:

(1) Territory Operator and Company have no right or duty to operate the Restaurant, and disclaim any liability under this Agreement for any damages arising out of the operation of the Restaurant.

(2) Licensee is solely responsible for recruiting, interviewing, hiring, timekeeping, scheduling, payroll processing, supervising, disciplining and firing its personnel, and its personnel are not employees, independent contractors or agents of Territory Operator or Company. Neither Territory Operator nor Company has the power, responsibility or liability in respect to these or related matters, or the right or duty to supervise, or to exercise control over, Licensee's personnel in the operation of the Restaurant. Territory Operator and Company disclaim any rights or responsibilities as to Licensee's personnel. Licensee is solely responsible for consulting with its own third party human resources ("HR") service provider and/or legal counsel concerning compliance with personnel laws and regulations that are applicable to the operation of the Restaurant, and for complying with those laws and regulations.

(3) Except as provided in this Agreement, Licensee is solely responsible for training its personnel. To the extent that Territory Operator or Company provides Licensee with guidelines, recommendations, materials or other resources related to training its management and non-management personnel, unless Licensee is required by this Agreement to use those training resources, Licensee may use those training resources, or may choose to use alternate training resources, so long as Licensee's personnel are trained to operate the Restaurant in a System-compliant, legal and safe manner.

(4) Licensee is solely responsible for establishing and enforcing its own policies related to personnel practices and labor relations. To the extent that Territory Operator or Company provides Licensee with guidelines, recommendations, materials or other resources related to personnel practices and labor relations, Licensee may use those resources, or may choose to use alternate resources. Licensee is solely responsible for consulting with its own third party HR service provider and/or legal counsel concerning compliance with personnel and labor relations laws and regulations that are applicable to the operation of the Restaurant, and for complying with those laws and regulations.

(B) Notices to Public, Etc. During the term of this Agreement, Licensee agrees to hold itself out, to the public, public officials, its suppliers, its independent contractors and others, as an independent contractor operating the Restaurant pursuant to rights granted by Territory Operator and Company, but not jointly with Territory Operator and Company. Licensee agrees to take any reasonable actions that Territory Operator and Company consider necessary to that end, including exhibiting notices of the parties' relationship in a conspicuous manner at the Restaurant, and on websites, letterhead, forms, business cards, electronic communications, advertisements, and other materials Territory Operator and Company designate. Territory Operator and Company reserve the right to specify and change the content and form of these notices.

(C) Statements to and Acknowledgements by Employees. During the term of this Agreement, Licensee must hold itself out to its prospective employees, and to its employees, as an independent contractor operating the Restaurant pursuant to rights granted by Territory Operator and Company, but not jointly with Territory Operator and Company. Licensee must take any reasonable actions that Territory Operator and Company consider necessary to that end, including (i) stating conspicuously on each employment application that the prospective employee is applying to be Licensee's employee and not an employee of Territory Operator or Company, (ii) stating Licensee's entire business name, rather than just using Company's brand name and/or logo, on Licensee's payroll checks and/or payroll-related communications to employees, and (iii) requiring employees to sign acknowledgements that they are not employees of Territory Operator or Company, even though they are selling products and services identified by Company's brand name and/or logo, are receiving payroll checks and other communications that contain Company's brand name and/or logo, may have applied for jobs through Territory Operator's or Company's website(s), or may communicate with or receive non-mandatory feedback, coaching or recommendations from representatives of Territory Operator and Company in emails or other electronic or written communications, or during telephone calls, meetings or inspections. Territory Operator and Company reserve the right to specify and change the content and form of these statements and acknowledgements.

(D) Contracts, Etc. Nothing in this Agreement authorizes Licensee to make any contract, agreement, warranty or representation on Territory Operator's or Company's behalf; to incur any obligation, debt or expense in Territory Operator's or Company's name; or to make any representation to any third party tending to indicate a business relationship with Territory Operator or Company beyond that created under this Agreement. Territory Operator and Company disclaim any liability for, and will not be

liable under this Agreement for any claim or judgment arising as a result of, any such action. Under this Agreement, no party is responsible for any obligations, debts or expenses of any other party.

15.12 Force Majeure. A failure of performance of this Agreement by any party will not be deemed a breach of this Agreement if it arose from a cause beyond the control of and without the negligence of the party, provided that the party uses reasonable best efforts to perform the obligations as soon as possible under the circumstances. Such causes include acts of God, lockouts, strikes, wars, riots, and acts of government.

15.13 Adaptations and Variances. Complete and detailed uniformity under many varying conditions may not always be possible, practical, or in the best interest of the Franchise System. Accordingly, Territory Operator and Company may vary the Menu, and other standards, specifications, and requirements, for any licensed store or restaurant, licensee or sublicensee, based upon the customs or circumstances of a particular franchise or operating agreement, site or location, population density, business potential, trade area population, existing business practice, competitive circumstance, or any other condition that Territory Operator and/or Company deem to be of importance to the operation of such store or restaurant, Licensee's business, or one or more components of the Franchise System. Neither Territory Operator nor Company is required to grant to Licensee a like or other variation as a result of any variation from any standard, specification or requirement granted to any other store or restaurant, or licensee or sublicensee. Licensee acknowledge that it is aware that other licensees and sublicensees of Territory Operator and Company operate under a number of different forms of franchise or operating agreement that were entered into at different times and that, consequently, the obligations and rights of the parties to such other agreements may differ materially in certain instances from Licensee's rights and obligations under this Agreement. Territory Operator and/or Company may periodically modify or rescind any standard, specification or requirement prescribed by Territory Operator and/or Company under this Agreement to adapt the Franchise System to changing conditions, competitive circumstances, business strategies, business practice innovations, and technological changes as Territory Operator and/or Company deem appropriate.

15.14 Notice of Potential Profit. Territory Operator, Company and/or the affiliates of either may make available goods, products, or services to Licensee for use in the Restaurant and may make a profit on the sale of these items. Territory Operator, Company and/or the affiliates of either may receive and retain consideration from suppliers or manufacturers for services rendered, license rights, or sales of goods, products, or services to Licensee. The consideration may or may not be related to services performed and Territory Operator, Company and/or the affiliates of either are entitled to these profits or consideration.

15.15 Licensed Restaurants. Each reference herein to a licensee or a licensed store or restaurant shall be deemed to refer equally to any store or restaurant operated hereunder by Territory Operator for Territory Operator's own account.

15.16 Effective Date. This Agreement shall be effective on the date it is signed by Territory Operator. However, as described in Section 2.2 hereof, the license to use the Trademarks is not effective and Licensee does not have the right to, and shall not, open and commence operation of a Restaurant at the Authorized Location until Territory Operator notifies Licensee that Company has consented to this Agreement, and Territory Operator notifies Licensee that Licensee has satisfied all of the pre-opening conditions set forth in this Agreement. If Company

does not consent to this Agreement, Territory Operator will declare the Agreement null and void, and Territory Operator and Company will return to Licensee all deposits, including the initial franchise fee, less a cancellation fee of $10,000.

15.17 Including. Unless the context requires otherwise, the term "including" means "including but not limited to."

16. DEFINITIONS.

16.1 Assistant Manager. Assistant Manager means an individual who lives in close proximity to the Restaurant, personally invests his or her full time and attention and devotes his or her best efforts to the on-premises general management of the day-to-day operations of the Restaurant under the supervision of the Designated Manager, meets Territory Operator's and Company's prior restaurant or retail management experience requirements, and does not participate in the active operation or management of any business other than the Restaurant.

16.2 Authorized Location. Authorized Location is the location of the Restaurant designated on the cover page to this Agreement.

16.3 Business Records. Business Records means Licensee's books and records relating to the Restaurant, and includes balance sheets, profit and loss statements, records of prices and special sales, check registers, purchase records, sales summaries, inventories, and other detailed information about daily sales, cost of sales, and other relevant records or information.

16.4 Captive-Venue Location. Captive-Venue Location means a location in a shopping mall (enclosed or open air, such as a lifestyle center) with a minimum of 500,000 square feet of gross leasable area, transportation terminals, hospitals, college and university facilities, parks and recreation areas, office buildings and other locations that cater to high volume walking traffic.

16.5 Competitive Business. Competitive Business means a quick service restaurant that serves hamburgers but does not serve alcohol, or a restaurant or business that generates more than 10% of its revenue from sales of ice cream, yogurt, frozen custard, fruit-based beverages, soft serve or other frozen treats.

16.6 Computer Systems. Computer Systems means the computer systems, including hardware and software, or other existing or future communication, data storage or security systems that may be designated by Company, which meet Company's standards and specifications as periodically modified in response to business, operations and marketing conditions.

16.7 Confidential Information. Confidential Information includes the standards, guidelines and recommendations, and other information in the Operations Manuals, costs, and knowledge of and experience in the development and operation of DQ stores and restaurants that Territory Operator and/or Company communicate to Licensee, or that Licensee otherwise acquires in operating the Restaurant under the System. Confidential Information does not include information, processes or techniques that are generally known to the public, other than through disclosure (whether deliberate or inadvertent) by Licensee or other individuals under an obligation to keep the information confidential.

16.8 Controlling Owner. Controlling Owner means the Owner who actively directs Licensee's business affairs relating to the Restaurant and is responsible for overseeing the general

management of the day-to-day operations of the Restaurant. Licensee must identify its Controlling Owner on the Ownership and Management Addendum attached to this Agreement.

16.9 Designated Manager. Designated Manager means an individual who lives in close proximity to the Restaurant, personally invests his or her full time and attention and devotes his or her best efforts to the on-premises general management of the day-to-day operations of the Restaurant, meets Territory Operator's and Company's prior restaurant or retail management experience requirements, and does not participate in the active operation or management of any business other than the Restaurant. Licensee must identify its Designated Manager on the Ownership and Management Addendum attached to this Agreement.

16.10 EPOS System. EPOS System means an electronic point-of-sale system, including hardware, software, payment processing and security components, that meets the standards and specifications established by Territory Operator and Company, as modified periodically in response to business, operations and marketing conditions.

16.11 Franchise System. Franchise System means the franchised network of DQ stores and restaurants, regardless of the concept or type of location, which operate under one or more of the Trademarks.

16.12 Gross Sales. Gross Sales means the total revenue and receipts from the sale of all products sold by the Restaurant, whether paid for by cash, credit (not adjusted for credit card fees) or gift card, barter, or otherwise, including sales of all products under any of the Trademarks as well as sales of other products, services and merchandise, whether or not identified by other brand names, and excluding sales taxes and revenue and receipts arising directly from Licensee’s sale of gift cards.

16.13 Menu. Menu means the menus designated by Company in the Operations Manual or otherwise in writing.

16.14 Operations Manuals. Operations Manuals means Company’s most current operations materials, which include manuals, resource guides, system bulletins, handbooks, product preparation materials, brand guidelines, and other written materials relating to the Restaurant, the System, or the Franchise System.

16.15 Owner. Owner means any person or entity who directly or indirectly owns an interest in Licensee. An Owner includes each shareholder, member, or owner of a corporation, limited liability company or other entity, each general partner of a partnership and, if a general partner is an entity, each owner of an interest in the general partner. If the Licensee is more than one individual, each individual is an Owner. The Owners are identified on the Ownership and Management Addendum attached to this Agreement.

16.16 Powders. Powders means the Orange Julius Flavor Enhancer powder and all other proprietary powders and products used in the preparation of Orange Julius trademarked drinks.

16.17 Principal Owner. Principal Owner means any Owner who directly or indirectly owns a 10% or greater interest in Licensee.

16.18 Restaurant. Restaurant means Licensee’s DQ store or restaurant developed and operated under this Agreement at the Authorized Location using the System and the Trademarks.

16.19 Street Location. Street Location means a location in a freestanding building, streetscape location, or strip mall with less than 500,000 square feet of gross leasable area.

16.20 System. System means the DQ system which consists of the sale of distinctive dairy products, beverages, food products and other products and services under the Trademarks using distinctive facilities, equipment (including the EPOS System and Computer Systems), supplies, ingredients, secret and proprietary formulas, standards, designs, menu items, recipes, techniques, procedures, methods, requirements, formats, management systems, Operations Manuals, and sales promotion programs, as they may be modified and improved periodically by Territory Operator and Company.

16.21 Trademarks. Trademarks means the trademarks, trade names and commercial symbols designated by Company in the Operations Manuals or otherwise in writing, which may be modified periodically by Company. Licensee acknowledges and agrees that Licensee is authorized to use only the Trademarks for the type of Restaurant that is authorized to be operated under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates written below.

LICENSEE: (For an Entity) LICENSEE: (For an Individual)

Date: _____

_____,
a _____
(Please type or print name and type of entity)

By:_____
(Signature of person signing on behalf of entity)

_____
(Please type or print name of person signing on behalf of entity)

Its:_____
(Please type or print title of person signing on behalf of entity)

Date:_____

Name:_____
(Please type or print)

Signature:_____

Date:_____

Name:_____
(Please type or print)

Signature:_____

TERRITORY OPERATOR:

_____

By:_____
Its:_____

Date:_____

CONSENT:

AMERICAN DAIRY QUEEN CORPORATION

_____

By:_____
Its:_____

Date:_____

## RIDER TO FRANCHISE AGREEMENT FOR USE IN VIRGINIA

The franchise agreement and any document signed in connection with the franchise are supplemented with the following language:

> 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 by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Each of the undersigned agrees to the terms of this Rider.

LICENSEE: (For an Entity)

Date: _____

_____,
a _____
(Please type or print name and type of entity)

By:_____
(Signature of person signing on behalf of entity)

_____
(Please type or print name of person signing on behalf of entity)

Its:_____
(Please type or print title of person signing on behalf of entity)

LICENSEE: (For an Individual)

Date:_____

Name:_____
(Please type or print)

Signature:_____

Date:_____

Name:_____
(Please type or print)

Signature:_____

TERRITORY OPERATOR:

_____

By:_____
Its:_____

Date:_____

**UNDERTAKING AND GUARANTEE ADDENDUM TO OPERATING AGREEMENT**

NOTE: IF LICENSEE IS A CORPORATION OR OTHER ENTITY, EACH OF ITS OWNERS MUST EXECUTE THE FOLLOWING UNDERTAKING AND GUARANTEE AS AN INDIVIDUAL AND NOT AS AN OWNER OR OFFICER OF THE CORPORATION OR OTHER ENTITY:

In consideration of the execution of the foregoing Operating Agreement ("Operating Agreement") by Territory Operator and Company, and for other good and valuable consideration, each and all of the Owners of Licensee, for themselves, their heirs, legal representatives, successors and assigns (referred to collectively as the "Guarantors") do hereby jointly, individually and severally guarantee the full and timely performance by Licensee of each and every obligation of Licensee arising under the Operating Agreement, including without limitation the payment of all amounts and the performance of all covenants, terms and conditions required under the Operating Agreement.

Further, the Guarantors, individually, jointly and severally, hereby agree to be personally bound by each and every condition and term contained in the Operating Agreement as though each of the Guarantors had executed an operating agreement containing the identical terms and conditions of the Operating Agreement, including without limitation the dispute resolution provisions, and any amendments, extensions, or other modifications to the Operating Agreement.

Each of the Guarantors waives: (i) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (ii) protest and notice of default to any party respecting the indebtedness or nonperformance of any obligations hereby guaranteed; or (iii) any right that the Guarantors may have to require Territory Operator or Company, as a condition of liability or otherwise, to proceed against any other person or to proceed against or exhaust any security held by Territory Operator Company or at any time or to pursue any right of action accruing to Territory Operator or Company under the Operating Agreement. Territory Operator or Company has the right to either proceed against the Guarantors and Licensee, jointly and severally, or proceed against any of the Guarantors without having commenced any action, or having obtained any arbitration award or judgment, against Licensee.

The Guarantors individually, jointly and severally agree to pay all attorneys' fees and costs and other expenses incurred in connection with the enforcement of this Guarantee or with any negotiations related to such enforcement.

The Guarantors individually and collectively agree that each and every provision, covenant, and condition of this Guarantee shall inure to the benefit of Territory Operator's and Company's successors and assigns and that any liability or obligations arising under this Guarantee shall not be diminished or relieved by the insolvency, bankruptcy, or reorganization of Licensee or of Licensee's successors and assigns.

Signatures on next page

Name:_____
(Please type or print)

Signature:_____

Address:_____

_____

Telephone:_____

Name:_____
(Please type or print)

Signature:_____

Address:_____

_____

Telephone:_____

Name:_____
(Please type or print)

Signature:_____

Address:_____

_____

Telephone:_____

Name:_____
(Please type or print)

Signature:_____

Address:_____

_____

Telephone:_____

Name:_____
(Please type or print)

Signature:_____

Address:_____

_____

Telephone:_____

Name:_____
(Please type or print)

Signature:_____

Address:_____

_____

Telephone:_____

**OWNERSHIP AND MANAGEMENT ADDENDUM**
**TO OPERATING AGREEMENT**

1. Controlling Owner. Licensee represents and warrants to Territory Operator that the following person, and only the following person, shall be the Controlling Owner of Licensee:

| NAME | TITLE | ADDRESS |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

2. Designated Manager. Licensee represents and warrants to Territory Operator that the following person, and only the following person, shall be the Designated Manager of Licensee:

| NAME | TITLE | ADDRESS |
|---|---|---|
| | | |
| | | |

3. Owner(s). Licensee represents and warrants to Territory Operator that the following persons and entities, and only the following persons and entities, shall be the Owners of Licensee:

| NAME | HOME ADDRESS | PERCENTAGE OF INTEREST |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

4. Change. Licensee shall immediately notify Territory Operator in writing of any change in the information contained in this Addendum and, at Territory Operator's request, prepare and sign a new Addendum containing the correct information.

5. Effective Date. This Addendum is effective as of this _____ day of _____, 20___.

_____ _____

Licensee's Initials Territory Operator's Initials

**COMMENCEMENT AND EXPIRATION DATES ADDENDUM TO OPERATING AGREEMENT**

In accordance with Section 4 of the Operating Agreement by and between _____ ("Territory Operator") and _____ ("Licensee"), dated _____, 20 ___ (the "Agreement"), the term of the Agreement shall commence on _____, 20___ and expire on _____, 20__. The foregoing dates shall supersede the dates noted in Section 4 of the Agreement. Otherwise, the Agreement shall be in full force and effect as written.

_____
{TERRITORY OPERATOR}

Date: _____

By:_____

Its: _____

**ADDITIONAL RESTAURANT DEVELOPMENT PROGRAM ADDENDUM TO OPERATING AGREEMENT**

Addendum to Operating Agreement (the "Agreement") between Dairy Queen of Virginia, Inc. ("Territory Operator") and _____ ("Licensee"), dated _____, 20_____.

Notwithstanding any provision of the foregoing Agreement to the contrary, Territory Operator and Licensee agree as follows:

1. Initial Franchise Fee. Section 9.1. of the Agreement shall be deleted in its entirety. Licensee shall not be required to pay to Territory Operator any initial franchise fee.

2. Transfer Fee. Section 11.3(E)(1) of the Agreement shall be amended in its entirety to provide as follows:

(i) Together with the application for consent of the transfer, as defined in Section 11.3(A), Licensee shall pay to Territory Operator a basic transfer fee of $6,000 as a fee for the evaluation of the proposed transferee, furnishing one copy of the Operations Manual, and for any and all other expenses incurred and services rendered by Territory Operator in effecting the transfer. If Licensee is transferring a store or restaurant to a person located in a state or Canadian province where Territory Operator is not registered to offer and sell franchises, and if Territory Operator must register or otherwise comply with state or provincial laws, Licensee shall pay to Territory Operator the additional transfer compliance fee of $3,000, before Territory Operator seeks to register under or otherwise comply with any state or provincial law, as reimbursement for Territory Operator's registration or compliance costs. On January 1, 2030, and on each 5-year anniversary thereafter, the basic transfer fee will increase by $1,000, and the additional transfer compliance fee will increase by $500. If Territory Operator exercises Territory Operator's right of first refusal or declines to give its consent to a proposed transfer, Territory Operator shall refund to Licensee the basic transfer fee, less any out-of-pocket costs incurred by Territory Operator in direct connection with evaluating or processing the proposed transfer, together with an itemized statement of those costs. The basic transfer fee and additional transfer compliance fee are not refundable in whole or in part under any circumstances except as expressly stated in this Agreement. Territory Operator shall waive the basic transfer fee set forth in this section in the event of a transfer as set forth in Section 11.

(ii) In the event of any transfer of Licensee's license, as defined in Section 11.2, which requires the prior approval of Territory Operator and which takes place within 4 years of the commencement of the store or restaurant's operation, Territory Operator may, at its election, require Licensee to pay, in addition to the basic transfer fee and any additional transfer compliance fee specified above, an additional restaurant development fee discount reimbursement charge, based on the following formula:

| | |
|---|---|
| Transfer and assignment within 1 year of opening - | $24,000 |
| 1st year to 2nd year - | $20,800 |
| 2nd year to 3rd year - | $16,800 |
| 3rd year to 4th year - | $12,000 |

This additional restaurant development fee discount reimbursement charge reimburses Territory Operator for the loss of the initial franchise fee in respect to a DQ store or restaurant operation, which was waived. Territory Operator shall waive the transfer fee set forth in this section in the event of a transfer as set forth in Section 11.7.

3. Affirmation. Except as specifically amended by this Addendum, the Agreement shall be in full force and effect as written.

4. Effective Date. This Addendum shall be effective as of the date of the Agreement and shall terminate upon the transfer of the Agreement or the termination of the Agreement, whichever shall first occur.

LICENSEE:

_____

WITNESS:

_____ _____

_____ _____

ATTEST: TERRITORY OPERATOR

_____

_____ By_____

_____ Its_____

# LEASE ADDENDUM
# TO OPERATING AGREEMENT

This Lease Addendum ("Addendum"), dated _____, 20___, is entered into between _____ ("Lessor"), and _____ _____ ("Lessee").

RECITALS

A. The parties have entered into a Lease Agreement, dated _____, 20__, (the "Lease") for the premises located at _____ (the "Premises").

B. Lessee, as a licensee of Territory Operator (as defined below), has agreed to use the Premises only for the operation of a restaurant from the Premises pursuant to an Operating Agreement (the "Operating Agreement") with _____ ("Territory Operator") under the name "DQ/Dairy Queen," "DQ/Orange Julius," "DQ Grill & Chill," or other name Territory Operator designates (the "Restaurant").

C. The parties desire to amend the Lease in accordance with the terms and conditions contained in this Addendum.

AGREEMENT

Lessor and Lessee agree as follows:

1. Remodeling and Decor. Lessor agrees to allow Lessee to remodel, equip, paint and decorate the interior of the Premises and to display such proprietary marks and signs on the interior and exterior of the Premises pursuant to the Operating Agreement and any successor Operating Agreement under which Lessee may operate the Restaurant on the Premises.

2. Assignment. Lessee has the right to assign all of its right, title and interest in the Lease to Territory Operator, at any time during the term of the Lease, including any extensions or renewals, without first obtaining Lessor's consent. No assignment will be effective, however, until Territory Operator or its designated affiliate gives Lessor written notice of its acceptance of the assignment. If Territory Operator elects to assume the lease under this subparagraph or unilaterally assumes the lease as provided for in subparagraphs 3(c) or 4(a), Lessor and Lessee agree that (i) Lessee will remain liable for the responsibilities and obligations, including amounts owed to Lessor, arising prior to the date of assignment, and (ii) Territory Operator will have the right to sublease or assign the Lease to another licensee, provided the licensee agrees to operate the Restaurant as a DQ Grill & Chill®, DQ®/Orange Julius® or DQ/ Dairy Queen® restaurant pursuant to an Operating Agreement with Territory Operator. Territory Operator will be responsible for the lease obligations incurred after the effective date of the assignment.

3. Default and Notice.

   (a) In the event there is a default or violation by Lessee under the terms of the Lease, Lessor agrees to give Lessee and Territory Operator written notice of such default or violation within a reasonable time after Lessor knows of its occurrence. Lessor agrees to provide Territory Operator the written notice of default as written and on the same day Lessor gives it to Lessee. Although Territory Operator is under no obligation to cure the default, Territory Operator will notify Lessor if it intends to cure the default if Lessee does not, and to unilaterally assume Lessee's interest in the lease as provided in Paragraph 3(c). Territory Operator will have an additional

15 days from the expiration of Lessee's cure period in which to cure the default or violation.

(b) All notices to Territory Operator must be sent by registered or certified mail, postage prepaid, to the following address:

_____
_____
_____
Attention: _____

Territory Operator may change its address for receiving notices by giving Lessor written notice of the new address. Lessor agrees to notify both Lessee and Territory Operator of any change in Lessor's mailing address to which notices should be sent.

(c) Upon Lessee's default and failure to cure a default under either the Lease or the Operating Agreement, Territory Operator has the right (but not the obligation) upon curing Lessee's default, to unilaterally assume Lessee's interest in the Lease.

4. Termination or Expiration.

(a) Lessor acknowledges that, upon the expiration or termination of the Operating Agreement, Territory Operator has the right (but not the obligation) to unilaterally assume Lessee's interest in the Lease and agrees that, if Territory Operator does so, Lessor will look to Territory Operator as the lessee under the Lease for and after such date, provided Lessor receives written notice of the assumption from Territory Operator.

(b) Upon the expiration or termination of the Lease, Lessor agrees to cooperate and allow Territory Operator to enter the Premises, without cost and 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 DQ store or restaurant , and to make such other modifications as are reasonably necessary to protect the DQ system, and to distinguish the Premises from DQ stores and restaurants. In the event Territory Operator exercises its option to purchase assets of Lessee, Lessor agrees to permit Territory Operator to remove all such assets being purchased by Territory Operator.

5. Consideration; No Liability.

(a) Lessor acknowledges that the provisions of this Addendum are required pursuant to the Operating Agreement and that Lessee may not operate a Restaurant on the Premises without this Addendum.

(b) Lessor acknowledges that Lessee is not an agent or employee of Territory Operator and Lessee has no authority or power to act for, or to create any liability on behalf of, or to in any way bind Territory Operator, any affiliate of Territory Operator or its parent corporation and that Lessor has entered into this Addendum with full understanding that it creates no duties, obligations or liabilities of or against Territory Operator, any affiliate of Territory Operator or its parent corporation, except as expressly set forth herein.

(c) Nothing contained in this Addendum makes Territory Operator, its affiliates or its parent corporation a party or guarantor to the Lease, and does not create any

liability or obligation of Territory Operator, its affiliates or its parent corporation, except as expressly set forth herein.

6. Modification. No amendment or variation of the terms of this Addendum is valid unless made in writing and signed by the parties and the parties have obtained Territory Operator's written consent.

7. Reaffirmation of Lease. Except as amended or modified in this Addendum, all of the terms, conditions and covenants of the Lease remain in full force and effect and are incorporated by reference and made a part of this Addendum.

8. Miscellaneous.

   (a) Territory Operator is a third party beneficiary of this Addendum.

   (b) References to the Lease and to the Operating Agreement include all amendments, addenda, extensions and renewals to the documents.

   (c) References to Lessor, Lessee and Territory Operator include the successors and assigns of each of the parties.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date written above.

| LESSEE: | LESSOR: |
| --- | --- |
| _____ | _____ |
| By: _____ | By: _____ |
| Title: _____ | Title: _____ |

Store #: _____

Authorized Location: _____

_____

**CONVERSION ADDENDUM TO OPERATING AGREEMENT**

(For use with Dairy Queen®/Limited Brazier® to DQ Grill & Chill® conversion)

Addendum to operating agreement ("Agreement") between Dairy Queen of Virginia, Inc. ("Territory Operator") and _____ ("Licensee") ("Addendum").

Territory Operator is a licensee of American Dairy Queen Corporation ("Company") in certain geographical areas, and is authorized to sublicense certain DQ® rights.

Territory Operator and Licensee are entering into the Agreement on the same date as this Addendum and want to modify the Agreement as follows:

1. **Initial Franchise Fee**. Section 9.1 of the Agreement is deleted. Licensee is not required to pay an initial franchise fee to Territory Operator.

2. **Continuing License Fee**. Section 9.2 of the Agreement is deleted and replaced with the following:

   Licensee must pay to Territory Operator monthly a continuing license fee of:

   (A) for DQ® soft-serve treat products, _____ ***{Complete with Licensee's contractual language from the Dairy Queen®/Limited Brazier® operating agreement}***; and

   (B) for all other products, ___ % of Gross Sales ***{Complete with percentage charged for Grill & Chill}***.

3. **Term**. Subsection 4.1 of the Agreement is deleted and replaced with the following:

   ***{Complete with Licensee's contractual language from the Dairy Queen®/Limited Brazier® operating agreement}***

4. **Defined Terms**. All defined terms used in this Addendum but not defined have the same meaning given them in the Agreement.

5. **Construction**. In all other respects, the terms and conditions of the Agreement remain in effect as written.

6. **Effective Date**. This Addendum is effective on the Effective Date of the Agreement and terminates upon the earlier of the transfer or termination of the Agreement.

**LICENSEE:**

Signature:_____
Print Name:_____
Title:_____
Date:_____

**TERRITORY OPERATOR:**
DAIRY QUEEN OF VIRGINIA, INC.

Signature:_____
Print Name:_____
Title:_____
Date:_____

Store #: _____

Authorized Location: _____

_____

**SBA ADDENDUM TO OPERATING AGREEMENT**

(For use only if Licensee may be seeking SBA-guaranteed financing)

This SBA Addendum to Operating Agreement ("Addendum") is entered into as of _____ ("Effective Date") by Dairy Queen of Virginia, Inc. (“Territory Operator”) and _____ (“Licensee”).

WHEREAS, the parties have entered into an operating agreement dated as of _____ ("Agreement") for the operation of the licensed business identified therein ("Restaurant").

WHEREAS, Licensee may apply for an SBA-guaranteed loan ("SBA Loan"), and the parties wish to amend the Agreement to reflect SBA-mandated requirements if an SBA Loan is granted.

NOW, THEREFORE, in consideration of the recitals above and the terms below, the parties acknowledge and agree:

1. Territory Operator may exercise any option to purchase or right of first refusal (ROFR) with respect to a partial interest in the Restaurant, only if the proposed transferee is not a current owner or family member of a current owner of Licensee.

2. If Territory Operator's consent is required for any transfer (full or partial) of the Restaurant, Territory Operator will not unreasonably withhold such consent.

3. If Licensee owns the real estate where the Restaurant is operating, Licensee will not be required to sell the real estate upon default or termination of the Agreement, but Licensee may be required to lease the real estate for the remainder of the license term (excluding additional renewals) for fair market value.

4. If Licensee owns the real estate where the Restaurant is operating, Territory Operator has not and will not during the term of the Agreement record against the real estate any restrictions on the use of the property, including any restrictive covenants, branding covenants, or environmental indemnification, control or use restrictions. If any such restrictions are currently recorded against Licensee’s real estate, they must be removed in order for Licensee to obtain SBA financial assistance.

5. If Licensee owns the real estate where the Restaurant is operating, the right of Territory Operator to assume Licensee’s lease has not and will not during the term of the Agreement be recorded against the real estate and may not include any attornment language unless it is subordinated to any SBA financial assistance.

6. For other than regularly scheduled payments and payments otherwise authorized in the Agreement, Territory Operator does not have the authority to unilaterally share, commingle, or withdraw funds from Licensee's bank account.

7. The Agreement does not prevent Licensee from having meaningful oversight over the operations of the Restaurant by requiring Licensee to comply with quality, marketing, and operations standards that govern Licensee's use of Territory Operator's system of operations. Meaningful oversight includes the authority to:

i. Approve the annual budget;

ii. Have control over the bank accounts; AND

iii. Have oversight over the employees of Licensee operating the Restaurant (who must be employees of Licensee).

8. If Territory Operator's brand is removed from the SBA Franchise Directory, Licensee acknowledges that it will not be eligible to apply for SBA financial assistance after such removal. Any such removal will not affect the validity of any SBA financial assistance to Licensee already funded.

9. This Addendum is effective and incorporated into the Agreement only if Licensee obtains an SBA Loan for the Restaurant. If Licensee does not obtain an SBA Loan for the Restaurant, this Addendum is of no force or effect.

10. Miscellaneous.

(a) If any provision of this Addendum conflicts with the Agreement or any related agreement, this Addendum controls, but only to the extent necessary to establish SBA financial assistance eligibility.

(b) Except as expressly amended by this Addendum, all terms and conditions of the Agreement remain unchanged and in full force and effect.

(c) This Addendum may be executed in counterparts, including by electronic signature, each of which is an original and all of which together constitute one instrument.

| **LICENSEE:** | **TERRITORY OPERATOR:**<br>DAIRY QUEEN OF VIRGINIA, INC. |
|---|---|
| Signature:_____ | Signature:_____ |
| Print Name:_____ | Print Name:_____ |
| Title:_____ | Title:_____ |
| Date:_____ | Date:_____ |

# EXHIBIT C

## Design Services Agreement

# AMERICAN DAIRY QUEEN CORPORATION
# DESIGN SERVICES AGREEMENT

LICENSEE: _____

ADDRESS: _____ DATE: _____

CITY/STATE: _____ STORE #: _____

PHONE: (C) _____ (H) _____

For a base fee of **$3,000**, American Dairy Queen Corporation ("ADQ") shall provide for use by Licensee **FREESTANDING NEW RESTAURANT/PROTOTYPICAL DESIGN INTENT PLANS** in the form of electronically transferred plan files ("Plans"), which are to be used by the Licensee's consultants to prepare construction documents for bidding and construction use for a DQ Grill & Chill® restaurant or DQ® Treat store located at the following Authorized Location:

**STREET:** _____

**CITY/STATE:** _____

**IMPORTANT: All Plans are and shall remain the property of ADQ. Plans are issued for use at the above address only. Any reproduction, use, or disclosure thereof to unauthorized persons or for any location other than that listed above is prohibited without the written consent of ADQ and subsequent purchase of plans for the proposed new location. Licensee (or its assigns) agrees to pay ADQ $10,000 for each unauthorized use of the Plans.**

Licensee must include the following language in any agreement with any contractor, architect, or other individuals doing work on the above-indicated store:

> "The Prototypical Design Intent Plans" provided are the property of ADQ. Use of the plans and specifications is limited to the restaurant/store for which work is being contracted. The undersigned and its assigns agree to pay ADQ $10,000 for each reproduction, use or disclosure thereof to unauthorized persons."

## 1. BUILDING DATA

| A. Development Type | B. Building Type (check all applicable) | |
|---|---|---|
| NRD | GC Core 34 (Food) | Breakfast (Food) |
| ARD | GC Core 46 (Food) | Mirror |
| Relocation | DQ/OJ Core 34 (Treat) | Texas (Food) |
| Replacement | | |
| Development Right | | |
| Territory Operator | | |

C. Send electronic HUB File download information to:

E-Mail Address: _____

2. CODE COMPLIANCE

A. All Plans provided by ADQ are subject to final review and approval by the developer and/or landlord as well as the local building officials for Licensee's restaurant/store location.

B. The Plans provided by ADQ are per Minnesota code and may not comply with specific state and local requirements throughout the country. IT IS THE LICENSEE'S RESPONSIBILITY TO VERIFY THE COMPLIANCE OF THESE PLANS WITH LOCAL, STATE AND FEDERAL LAWS AND BUILDING CODE REQUIREMENTS AND TO REVISE THE PLANS ACCORDINGLY. THE COST TO REVISE SUCH PLANS IS TO BE BORNE BY THE LICENSEE.

C. Under the Americans with Disabilities Act ("Act"), certain handicap accessibility requirements are placed on any "person" who owns, leases, leases to, or operates a place of public accommodation. As an owner, lessor, or operator of a restaurant, ADQ Licensees are liable for failures to accommodate disabled people as provided for in the Act. While ADQ employs its best efforts to see that all plans prepared by it comply with the ADA Accessibility Guidelines, it is not an insurer of and does not guarantee compliance, and cannot be responsible for failures by Licensees, their architects, or their contractors to construct buildings that comply with the Act. Consequently, you are advised to seek your own legal counsel in regard to ADA Accessibility Compliance and to ensure that the contractors with whom you work are aware, knowledgeable about, and committed to producing buildings in compliance with the Act.

3. The purpose of the Plans is to establish the design and construction standards for the prototype building. These Plans identify the brand image, design components and DQ® standards required and include:

A. Site design/Photometrics
B. Equipment layout and specifications
C. Exterior and interior building finishes
D. Exterior and interior details
E. Exterior Signage
F. Structural drawings to be utilized for establishing structural component sizes and spans.
G. Mechanical design
H. Electrical design
I. Plumbing design

4. It is the responsibility of the Licensee and its licensed professionals to determine the most appropriate building structural system for the selected site. The Plans specify wood

construction, however, an alternative system may be utilized that does not alter the building image and brand identity.

5. OWNERSHIP AND MODIFICATIONS TO THE PLANS--If the Plans are modified by anyone other than ADQ, Licensee shall submit a copy of the modified plans to ADQ for review and written approval. Construction of a modified building shall not commence without plan approval from ADQ. ADQ must approve in writing any proposed alteration to previously approved building plans, including those ADQ or designee prepares. Further, if your local architect makes revisions to ADQ Plans, these revisions shall become the property of ADQ, and ADQ has the right to use those plans in any manner in the future.

6. EXPIRATION OF PLANS--Plans provided by ADQ are valid for six months from the date of issuance. After the six-month time period, Plans will no longer be valid unless Licensee has obtained a written extension from ADQ.

7. ACKNOWLEDGMENT OF LICENSEE'S CONSTRUCTION RESPONSIBILITIES--See attached Exhibit "A."

8. TO PROCEED, you must first sign this Agreement and send the attached Non-Disclosure Letter, and send them to:

   AMERICAN DAIRY QUEEN CORPORATION
   Attn: Architecture/Construction Dept.
   8000 Tower, Suite 700
   8331 Norman Center Drive
   Bloomington, Minnesota 55437

   Unless your store is a new ARD or NRD restaurant for which you paid the full, applicable initial franchise fee, you must include a check made payable to "American Dairy Queen Corporation" for payment of the base fee of $3,000 indicated above.

9. LIABILITY AND INDEMNIFICATION--Licensee waives all claims against ADQ for damages to property or injuries to persons arising out of the design and/or construction of Licensee’s building pursuant to this Agreement or in any way relating to the Plans or this Agreement. Licensee must fully protect, indemnify and defend ADQ and its affiliates and hold them 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, in connection with, or incident to the Plans, the franchised location, this Agreement (regardless of cause or any concurrent or contributing fault or negligence of ADQ) or any breach or failure to comply with this Agreement.

10. INSURANCE--Licensee must purchase and maintain, at its own expense, liability insurance in an amount equal to the greater of (a) $2,000,000 per occurrence or a higher amount that ADQ may in the future require of similarly situated Licensees, (b) the amount the lessor of

the Restaurant premises may require or (c) the amount required under Licensee's operating agreement for the location. The insurance coverage must start no later than the date Licensee begins construction. Licensee must deliver to ADQ a certificate of insurance and additional insured and other endorsements showing compliance with this section. The insurance coverage must:

A. Insure Licensee, ADQ, ADQ's affiliates and any other person or entity designated by ADQ by name from liability for any and all such damage and injury;

B. Be written with a company rated no less than "A" by AM Best Insurance Rating;

C. Name ADQ and its affiliates as an additional insured; and

D. Provide that ADQ will be given 30 days' prior written notice of material change in or termination or cancellation of the policy.

ADQ does not represent or warrant that any insurance that Licensee is required to purchase will provide adequate coverage for Licensee. The requirements of insurance specified in this Agreement are for ADQ's protection. Licensee should consult with its own insurance agents, brokers, attorneys and other insurance advisors to determine the level of insurance protection it needs and desires, in addition to the coverage and limits required by ADQ.

11. DISCLAIMER--ADQ makes no warranty or representation regarding the Plans or any services or workmanship undertaken pursuant to those Plans. It is essential that Licensee performs its own due diligence to determine whether architects, contractors, and others are qualified and right for the needs of the project. It is Licensee's sole responsibility to ensure that it complies with all applicable federal, state, and local laws, codes and regulations.

**LICENSEE**

**BY:**

_____ Date _____

**AMERICAN DAIRY QUEEN CORPORATION**

**BY**:

_____ Date _____

EXHIBIT "A"

ACKNOWLEDGMENT OF
LICENSEE'S CONSTRUCTION RESPONSIBILITIES

GENERAL

1. ENVIRONMENTAL SURVEYS/SOILS TESTING--It is the sole responsibility of Licensee to perform all environmental surveys of the property, including soils tests, and ADQ expressly disclaims any responsibility or liability for the environmental surveys. Soils tests shall include recommendations on building footings, foundation, and parking lot construction. It is STRONGLY recommended by ADQ that a qualified expert perform any tests prior to the purchase or lease of any property.

2. SITE INFORMATION--If a site feasibility drawing was prepared by ADQ for the location, its intent is to show, on a preliminary basis only, the relationship of the building and parking lot within the site. It is not a construction document but rather a guide for a civil engineer. Licensee should contract with a civil engineer to prepare drawings for the location. These drawings should include, but are not limited to:

   A. Topography and boundary survey
   B. Drainage/water retention plan
   C. Final site and grading plan setting building floor slab elevation
   D. Utilities connections from the building to sources off site
   E. Site details (i.e., curb detail, parking lot section, culvert/ drain details, etc.)

BIDDING THE PROJECT

1. It is recommended that Licensee secure at least three bids from qualified, licensed contractors for the project. The contractors should submit an A.I.A. document A305-Contractor's Qualification Statement with their bid. This will provide background information on the contractor.

2. Items required by the contractors to bid the project include the drawings, specifications, owner supplied civil drawings, and a copy of the soils report.

3. It is ADQ’s recommendation that Licensee require the bidding contractors to include in their bids to Licensee a performance bond equal in price to that of the proposed contract sum. This requirement should be made known to the bidding contractors at the time of letting the project out for bid.

SITE WORK

1. A provision has been made within the drawings for landscaping. It is recommended that Licensee contract with a local landscape architect to prepare the drawings and incorporate them into the site drawings. This should be a part of the general contractor's price, and Licensee should ensure contractors provide bids for this work.

2. Site lighting is indicated on the site feasibility plan. Refer to the plan electrical sheets for exact specifications of light fixtures. Verify local code requirements for specific lighting regulations.

3. The trash enclosure matches the aesthetics of the building. Licensee should inform the site engineer so that a detail can be provided within the site documents.

4. If Licensee is contemplating an underground sprinkler system in the future, a 4" PVC pipe should be laid underneath the drive aisles adjacent to landscape areas to facilitate waterlines without trenching the new paving.

BUILDING PLANS

1. No provision has been made for a floor safe. If one is desired by Licensee, he/she needs to inform the contractors at bid letting.

2. The footing and foundation depths on the drawings are illustrative only. Foundation requirements are to be made on a site specific basis and are dependent on local codes, ordinances and soils test results.

3. If a washer and dryer will be used in the building, electrical and plumbing connections need to be provided. Licensee should communicate this requirement to contractors prior to bidding.

4. The HVAC units on the roof are sized based on design load calculations and an average yearly temperature in the state of Minnesota. Heat loss/heat gain calculations need to be made by a mechanical engineer taking into consideration design load at the store location. The size of the unit may have to be adjusted. The need for a heat loss/gain calculation should be brought to the attention of the bidding contractors.

5. If a fireplace for the interior or exterior is to be installed (upon approval by ADQ) all specifications must comply with governing codes and regulations including safety protections from heat.

LICENSEE SUPPLIED ITEMS

1. There are several building components Licensee is to provide to the general contractor, which Licensee can purchase through N. Wasserstrom & Sons or its designee. Because of long lead time requirements, it is essential that Licensee order these items prior to ground break so as to not impede construction. These items may include:

   A. D.T. window
   B. Walk-in cooler/freezer
   C. Soft serve machines
   D. Magnetic loop drive-thru detection system
   E. Fryers
   F. Clamshell Grill

2. If Licensee is to supply any other items related to the construction of the store, these items should be identified prior to requesting bids in order to avoid double bidding. These items may include but are not limited to the following:

   A. Mood/Muzak (music system)
   B. Integrated Technology Platform
   C. Soft Drink System
   D. Linen Supply (toilet accessories, hand washing supplies)
   E. Menu Boards
   F. Signage
   G. Grease Retrieval
   H. Exhaust Hoods
   I. Décor Items

RECOMMENDED MINIMUM REQUIREMENTS FOR LAND TITLE SURVEYS
WITH TOPOGRAPHIC & PUBLIC UTILITY DATA

All surveys must meet the following minimum requirements:

Physical Requirements

1. Survey shall be prepared at minimum of 1″ = 20'.

2. Topography is to be shown on a 25' grid and shall include an area 100' outside of the described property.

3. A location vicinity map shall be provided.

4. A north arrow shall be shown.

5. The street address as it will appear in the records of the local municipality.

6. A complete and accurate, metes-and-bounds description to supplement lot, block, and tract number type information, but describes only the land surveyed.

7. Property lines with bearings, distances, arc length, chord, angle and radii, corner monuments identified; show P.O.B. of description and true P.O.B.; locate all easements of record and common usage. Note if calls are of record and/or as measured.

8. The area of the tract shall be shown in either square footage or acreage to the nearest one thousandth of an acre.

9. All existing trees, adjacent roadways, utility locations, power poles, building lines and easements recorded or apparent unrecorded are to be shown.

10. All existing improvements on or within 50' of the described property are to be shown and identified as to type and general condition.

11. Flow line elevations at sanitary and storm sewers are to be shown.

12. The condition of existing sidewalks, curb, gutters and adjacent streets shall be indicated.

13. Utilities--Locate all public and private utility lines adjoining or that will serve the property. Show size, type, manhole invert and rim elevation, direction of flow, utility pole identification numbers, valves, fire hydrants, traffic signal and street light poles, catch basins, drainage structures, etc. Include sanitary and storm sewers, natural gas, electrical, water, and telephone numbers.

14. Street--Right-of-way lines and proposed future dedications. Public roadways or rights-of-way adjacent to the surveyed property. Street median or other left turn barriers. Note ownership, jurisdiction, name and identification number of streets and highways.

15. Off-Site Improvements--Provide design standards for curb cuts, driveway approaches, new curb and gutters, sidewalks, curb and gutter elevations.

16. Show all monuments, stakes, or marks found or placed and note which were found and which were placed. Interior parcel lines must clearly indicate contiguity, gores and/or overlaps.

17. Show the locations, dimensions and type of all buildings on the surveyed property. Show their location by the shortest dimension of the exterior boundaries and their relationship to any known setback lines.

18. As a result of having viewed the property with reasonable diligence, show any physical evidence of possible easements such as roads, rights-of-way, railroads, drains, telephone, television cable service, telegraph or electric lines, water, sewer, oil or gas pipelines, driveways, billboards, etc. if they are on or run across the surveyed property and appear to serve the public or adjoining property owners. If there are any surface indications of underground easements such as manholes, pipeline markers, sewer or drain outlets, disturbed earth, etc. on (or near, if pertinent) the surveyed property, show them.

19. Show the existence of any lakes, ditches, streams, drainage basins or rivers running through or bordering on the premises being surveyed.

20. All field measurements must be balanced both as to angles and distances so as to provide a mathematical closure. Show the basis of bearings, assumed or otherwise. The plat of survey shall show the following information for any curve: length of arc, radius, central angle and bearing to the radius point from the beginning and end points of the curve.

21. Each survey shall be dated as to month, day and year on which property was surveyed.

22. Each survey shall be signed and sealed by the registered surveyor by whom, or under whose direction, such survey was made.

# EXHIBIT D

## Draft Authorization Form

# ELECTRONIC TRANSFER OF FUNDS AUTHORIZATION

| NEW | CHANGE |
|---|---|
| | |

Restaurant/Store #_____
Location _____
Date: _____

Attention: Bookkeeping Department

The undersigned hereby authorizes Dairy Queen of Virginia, Inc., or any subsidiary corporation, to initiate ACH debit entries against the account of the undersigned with you in payment of amounts which become payable for goods and services by the undersigned to any of the above.

You are hereby directed to honor any such ACH debit entry initiated by any or all of the corporations referred to above subject to the provisions of this authorization.

This authorization will be binding and remain in full force and effect until 90 days prior written notice has been given to you by the undersigned. The undersigned will be responsible for, and will pay on demand, all costs or changes relating to the handling of ACH debit entries pursuant to this authorization.

Please honor ACH debit entries initiated in accordance with the terms of this authorization, subject to there being sufficient funds in the undersigned's account to cover such ACH debit entries.

Sincerely yours,

***We also need a VOIDED Check***

_____
Account Name

_____
Street Address

_____
City State Zip Code

By_____

Its_____

Date_____

_____
Bank Name

_____
Street Address

_____
City State Zip Code

_____
Bank's Account Number

_____
Customer's Account Number

# EXHIBIT E

## Third-Party Participation Agreements

**PURCHASE OF EQUIPMENT, SUBSCRIPTION SOFTWARE SERVICES, INSTALLATION AND OTHER SERVICES**

**PARTICIPATION AGREEMENT**

By executing this PARTICIPATION AGREEMENT ("Participation Agreement"), effective _____ ("Effective Date"), the undersigned Participating Location and ParTech, Inc. ("PAR") hereby agrees to the following:

1. **PAR Equipment Terms and Conditions of Sale, Subscription Software Services Terms and Conditions and PARPay Terms and Conditions**. Participating Location and PAR acknowledges and agrees to be bound by the Terms and Conditions of Sale attached to this Agreement as Schedule A (including the terms and conditions of the Installation Services set forth on Schedule A-1) and incorporated into and made a part of this Agreement (the "Equipment T&C of Sale"), the Subscription Software Services Terms and Conditions attached to this Agreement as Schedule B and incorporated into and made a part of this Agreement (the "SaaS T&C"), and the PARPay Service Terms and Conditions attached to this Agreement as Schedule C and incorporated into and made a part of this Agreement ("PARPay Service T&C").

2. **PAR Sales Order for Equipment, Subscription Software Services and Services**. Participating Location and PAR acknowledges and agrees to be bound by the final executed Sales Order for Equipment, Subscription Software Services and Services, which is incorporated into and made a part of this Agreement by reference (the "Sales Order"). A copy of a sample Sales Order is attached to this Agreement as Schedule D, along with Schedule D-1 Standard Dairy Queen Configurations for Participating Location's reference.

3. **Master Hardware and Software Agreement with Dairy Queen**. Participating Location acknowledges that: PAR and American Dairy Queen Corporation ("Dairy Queen") have negotiated a Master Hardware and Software Agreement (the "Master Agreement") to cover the acquisition and use of PAR Equipment, delivering of Services, and the license of Subscription Software Services by Dairy Queen and its franchisees, including Participating Location. Upon expiration of the Master Agreement or termination of the Master Agreement for convenience by Dairy Queen, at Participating Location's option, this Participation Agreement will terminate (subject to payment of all remaining payments for Equipment and Installation Services purchased under any financing agreement, or payable under any Conversion Letter, if applicable) or continue until the expiration of the current term of this Participation Agreement, as applicable, subject to a Transition Period agreed to by PAR and Dairy Queen. Upon termination of the Master Agreement for any reason other than for convenience, this Participation Agreement will terminate, subject to a twelve (12) month Transition Period agreed to by PAR and Dairy Queen and payment of all remaining payments for Equipment and Installation Services under any financing agreement or payable under any Conversion Letter, if applicable.

4. **Term**. The initial term of this Participation Agreement shall begin when executed by Participating Location and continue for a period of five (5) years from the date of Activation of the Subscription Software Services at Participating Location, unless earlier terminated by either PAR or Participating Location pursuant to the terms set forth in this Participation Agreement (the "Initial Term"). For purposes of this Participation Agreement, Activation shall be the date that the Participating Location is able to access the Subscription Software Services to process a sales transaction for a customer. Thereafter, this Participation Agreement shall automatically renew at the end of the Initial Term for additional successive periods of one (1) year (the "Renewal Term(s)"). The Initial Term and the Renewal Term(s) shall be referred to herein collectively as the "Term". Participating Location may terminate this Participation Agreement for convenience, at any time, for any reason upon thirty (30) days' notice to PAR (subject to payment of all remaining payments for Equipment and Installation Services purchased under any financing agreement or payable under any Conversion Letter, if applicable).

5. **Installation Commitment**. By executing this Participation Agreement, Participating Location understands and agrees to the following:

    a. PAR will provide Participating Location with notification when PAR will be performing Installation Services within Participating Location's area ("Area Installation") at least 8 weeks in advance of such timeframe. In order for Participating Location to be eligible to be installed during the Area Installation, Participating Location agrees to the following:

        i. If not yet completed, Participating Location will complete the Customer Information Form within 4 days of receiving notification of the install time frame.

        ii. Participating Location agrees to schedule a Site Survey at a time directed by PAR, which will take place at Participating Location approximately 6 weeks prior to the install timeframe.

        iii. Participating Location agrees to return a signed Sales Order to PAR within 5 days of receipt of the Sales Order by Participating Location.

        iv. Participating Location will ensure it has completed the Pre-Installation Checklist prior to its installation date (scheduled and coordinated by PAR) as provided upon completion of Participating Location's Pre-Installation Site Survey. PAR will provide Participating Location with its specific installation date approximately 2 weeks prior to the performance of the installation services, and Participating Location agrees to install the PAR Solution on the specified date.

    b. if PAR is unable to perform the Installation Services due to Participating Location's failure to meet any of its obligations above in Section 5.a., the cost for the Installation Services may be increased; and

    c. if Participating Location does not install the PAR Solution within nine (9) months of PAR's notification to Participating Location of the Area Installation as set forth in Section 5.a., Participating Location will be in breach of this Participation Agreement.

Participating Location address: _____

_____

_____

IN WITNESS WHEREOF, Participating Location through its authorized representative has executed this Participation Agreement as of the date of signature below.

**Participating Location: _____**

By: _____

Name: _____

Title: _____

Date: _____

**ParTech, Inc:**

By: _____

Name: _____

Title: _____

Date: _____

**SCHEDULE A**
**to Participation Agreement**

**TERMS & CONDITIONS OF SALE**

**1. Terms and Conditions**. These Terms and Conditions of Sale ("Terms") shall apply to the sale by PAR of the Equipment, Installation Services, Advance Exchange Services and On-Site Remedial Maintenance Services to Participating Location. These Terms constitute the agreement between PAR and Participating Location with respect to Participating Location's purchase and PAR's sale of the Equipment, Installation Services, Advance Exchange Services and On-Site Remedial Maintenance Services, to the exclusion of any pre-printed or contrary terms of any purchase order (or similar document) and supersedes and cancels any prior discussions, understandings, or representations between PAR and Participating Location. No addition to or modification of these Terms shall be binding upon either party unless expressly agreed to by PAR and Participating Location in writing, and, if these Terms are deemed an offer, acceptance is expressly limited to these Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Section 8(g) below.

**2. Sales Order/Purchase Orders**. Participating Location will purchase the Equipment, Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services from PAR by submitting PAR's Sales Order ("Sales Order") or a written purchase order ("Purchase Order") to PAR. These Terms will apply to the Sales Order or any Purchase Order and supersedes any different or additional terms on Participating Location's Purchase Order(s). Purchase Orders issued by Participating Location to PAR are solely for the purpose of identifying the Equipment, Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services to be purchased, requesting delivery dates and quantities, specifying the ship-to and bill-to addresses, and specifying the applicable price for the Equipment, Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services; all other terms on such Participating Location Purchase Order(s) shall have no force or effect. Sales Orders/Purchase Orders are subject to acceptance by PAR (which acceptance may be evidenced by PAR's shipment of the Equipment or performance of the services). All Sales Orders/Purchase Orders are non-cancellable by Customer. Notwithstanding the foregoing, if PAR agrees to cancel any Sales Order/Purchase Order, PAR may condition such cancellation on Customer paying a 10% restocking fee for any Equipment or other items returned to PAR.

**3. Purchase & Sale of Equipment**.
**(a) Sale of Equipment**. PAR will sell Participating Location the Equipment described in the Sales Order/Purchase order (the "Equipment").
**(b) Equipment Purchase Price**. The purchase price for the Equipment shall be the purchase price set forth in the Sales Order/Purchase Order (the "Purchase Price").
**(c) Shipping**. PAR shall ship the Equipment to the location identified on the Sales Order/Purchase Order. PAR shall have the option of selecting the carrier, the route and method of shipment.
**(d) Title and Risk of Loss**. The Equipment is delivered D.D.P. Participating Location (Participating Location's applicable address) per IncoTerms 2010. Title to and risk of loss of the Equipment shall pass to Participating Location at delivery, and delivery shall mean at the time the Equipment is unloaded by carrier at applicable Participating Location's ship-to address and signed for by an authorized representative of Participating Location. Delivery will be made with instruction for inside delivery only with signature required by an authorized representative of Participating Location; provided however, if a Participating

Location has limited hours of operation when an authorized representative may not be present to sign for the delivery, the Participating Location should inform PAR of such limited hours when placing its order with PAR. If there is no representative at the Participating Location to accept and sign for the delivery, then the carrier will take the Equipment back and attempt to make delivery two (2) more times to the Participating Location. After the third attempt, the Equipment will be returned to PAR by the carrier and the Participating Location will be required to pay to PAR any additional shipping charge or other charges, including any rescheduling fees, prior to any further attempt at delivery of the Equipment.

(e) **Taxes and Other Fees**. Participating Location shall be responsible for the payment of all taxes, withholding, duties and other governmental assessments upon or with respect to the sale, purchase, use, receipt or shipment of the Equipment (other than taxes based solely on PAR's net income), including, without limitation, sales or use tax or similar taxes, provided that PAR will not invoice Participating Location for taxes to the extent Participating Location has provided PAR with evidence that Participating Location is exempt from paying and/or PAR is exempt from collecting such tax.

(f) **Payment and Invoice**. All amounts for the Purchase Price of the Equipment; cost(s) (if any) of Installation Services, Advance Exchange Services, and On-Site Remedial Maintenance Services (only the first month of such equipment support services, as applicable) set forth in the Sales Order/Purchase Order, shipment (as contemplated by subsection (c) above) and taxes and other fees (as contemplated by subsection (e) above) shall be-pre-paid by Participating Location via ACH. No earlier than the date of installation of the Equipment, PAR will issue its invoice indicating pre-payment of all amounts due under these Terms. Any abort, reschedule or cancellation fees will be invoiced separately or refunded to Participation Location as applicable. Ongoing monthly payments for Advance Exchange Services and/or On-Site Remedial Maintenance Services must be made by ACH. All sums not paid when due will accrue interest daily at the lesser of an annual rate of 18% (1.5% per month), or the highest rate permissible by law on the unpaid balance until paid in full.

**4. Equipment and Equipment Installation Services**.

**(a) Embedded Operating System**. If the Equipment contains an embedded operating system from Microsoft the terms and conditions of the end user license agreement ("Microsoft EULA") is located at https://support.partech.com/terminals.php and is incorporated into and made a part of these Terms and shall be applicable to Participating Location, and Participating Location hereby accepts such Microsoft EULA and the terms thereof.

**(b) Installation Services**. PAR will provide the Installation Services set forth in the Sales Order/Purchase Order (the "Installation Services") as follows: the Equipment will be installed by PAR or by an installation subcontractor(s) certified by PAR at the location identified on the Sales Order/Purchase Order. Installation of the Equipment shall be deemed to be complete when PAR or its installation subcontractor notifies Participating Location that the Equipment has been properly installed and is ready for use. PAR will use commercially reasonable efforts to perform the Installation Services in accordance with the time schedule set forth in the Sales Order/Purchase Order.

**(c) Participating Location Responsibilities**. If the Sales Order/Purchase Order includes Installation Services, the Participating Location agrees that Participating Location is responsible for the preparation of the space in which the Equipment will be installed, including confirming the space satisfies PAR's specifications as to environment, power, HVAC, and other requirements as described in PAR's pre-installation guide (the "Pre-Installation Checklist"). Site preparation, in accordance with the Pre-Installation Checklist, must be completed prior to installation. If PAR or its certified installation subcontractor(s) arrives at the Participating Location at which the Equipment is to be installed and the Participating Location is not prepared for installation in accordance with the Pre-Installation Checklist, the Participating Location

will be charged an abort fee; or if PAR fails to arrive at the Participating Location or does not complete the installation due to the fault of PAR, then Participating Location will receive a credit as set forth on the Sales Order. Additionally, Participating Location shall be responsible for the payment of all fees for electrical work that must be performed by a licensed electrician, required by law in connection with the Installation Services, or any fees to comply with applicable government imposed environmental regulations including but not limited to elimination of certain chemical content and recycling fees.

**5. Advance Exchange Services.**

**(a) Advance Exchange Services**. PAR will provide the advance exchange services as to the Equipment ("AE Equipment") identified and set forth in the Sales Order/Purchase Order (the "Advance Exchange Services") as follows: PAR will provide 24/7 support, tracking and dispatch services and fully operational replacement Equipment for the AE Equipment, in accordance with this Section 5. The Advance Exchange Services include parts, labor, and materials to maintain, repair and replace the AE Equipment under normal use and service, and is provided for AE Equipment during the Advance Exchange Warranty Period (defined in Section 7(b)(i) below), except New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day and Christmas Day.

**(b) Request for Advance Exchange Services**. To request Advance Exchange Services and fully operational replacement Equipment, Participating Location must submit a request in accordance with Section 7(e) below and, in addition to the information required to be provided to PAR pursuant to Section 7(e), Participating Location must provide PAR with: (i) all configuration requirements for the replacement Equipment, (ii) the failed AE Equipment's model and serial number, and (iii) the address that the replacement Equipment is to be shipped ("ship-to address").

**(c) Shipment of Replacement Equipment**. PAR will ship replacement Equipment to Participating Location's ship-to address, freight prepaid, with next day delivery within the United States for requests received prior to 4:00 p.m. (Eastern Time), Monday through Friday and 12:00 p.m. (Eastern Time), Saturday. Replacement Equipment will be shipped by a premium air freight carrier when PAR determines such method of shipment is appropriate. Participating Location must acknowledge receipt of replacement Equipment by signing the freight carrier air bill or similar shipping/delivery documentation accompanying the replacement Equipment.

**(d) Return of Defective AE Equipment**. PAR will provide Participating Location with a pre-paid shipping label and packaging instructions for the return of the defective AE Equipment to PAR. Participating Location will return the defective AE Equipment to PAR using the corresponding replacement Equipment packaging (PAR will ship replacement Equipment in reusable packaging). Participating Location should be prepared to return ship the defective AE Equipment within two (2) business days of Participating Location's receipt of the replacement Equipment; however, the defective AE Equipment must be returned to PAR no later than 14 days of Participating Location's receipt of the replacement Equipment. If Participating Location fails to return the defective AE Equipment within such 14-day period, PAR will notify Participating Location that it has not received the return of the defective AE Equipment, and if Participating Location does not return such defective AE Equipment within 14 days after such notification, Participating Location will be required to purchase the replacement Equipment and pay a 10% restocking fee; and, if Participating Location fails to pay the invoice for such replacement Equipment, then the Equipment Warranty on the replacement Equipment will be ineffective until Participating Location's account is current. PAR reserves the right to charge Participating Location PAR's then-current time-and-materials rates for Advance Exchange Services provided to Participating Location when PAR determines that the root cause of the defective AE Equipment was as a result of events or circumstances described in Section 7(b)(ii)) below. If PAR determines that more than 50% of the AE Equipment returned by Participating Location in any consecutive six (6) month period was not defective, Participating Location will be invoiced diagnostic and handling fees for each subsequent defective AE Equipment returned where no defect is found.

**6. On-Site Remedial Maintenance Services (If Applicable)**

**(a) On-Site Remedial Maintenance Services**. PAR will provide on-site remedial maintenance services for the Equipment ("RMS Equipment") identified and set forth in the Sales Order/Purchase Order (the "RMS Service" and/or "On-Site Maintenance Services") as follows:

**(b) Principle Periods of Maintenance**. PAR will provide RMS Service availability during the Principal Period of Maintenance ("PPM") set forth below:

| Call Priority | PPM (all times are Local Site Time) |
|---|---|
| P1 | 8 a.m. – 12 midnight - 7 Days/week |
| P2 | 8 a.m. - 12 midnight - Monday thru Saturday only, excluding PAR Holidays |

i. **Help Desk Support**. PAR will provide a toll-free number and the availability of support personnel 24 hours a day, 7 days a week, for Participating Location's non-exclusive use to notify PAR of all service requests for diagnostic support.

ii. **Remedial Maintenance**. PAR will provide RMS Service as required during the PPM, following notification by the Participating Location and PAR's technical assistance confirmation that RMS Equipment is inoperative or malfunctioning. Maintenance will consist of the repair or replacement of parts deemed necessary by PAR to return RMS Equipment to good operating condition. PAR reserves the right to refuse to perform RMS Services when, in PAR's judgment, conditions at the Participating Location present a hazard to the safety or health of PAR's employees. Maintenance materials, tools, documentation, replaced parts, diagnostic and test equipment provided by PAR shall remain PAR's property.

iii. **Call Priorities and Response/Restoration Times**.

a. **Call Priority**. Requests for RMS Service will be prioritized as follows:

| Call Priority | Definition |
|---|---|
| P1 | • 50% of front counter terminals are down.<br>• 50% of drive-thru terminals are down.<br>• 50% of KVS monitors are down. |
| P2 | Equipment failures outside of the P1 definition – store operations are not materially affected |

b. **Response Time**. Upon confirmation of a request for RMS Service, PAR will use commercially reasonable efforts to respond on-site at the Participating Location and restore the RMS Equipment within the response/restoration times as follows:

| Call Priority | RMS Response | RMS Restoration | Service Level for Restoration |
|---|---|---|---|
| P1 | 4 Contract Hours | 8 Contract Hours | 90% |
| P2 | Next Contract Day | Next Contract Day by 6:00pm local time | 90% |

**"Contract Hour"** is that or those hours falling within the applicable PPM, as defined above.

Additional time shall be permitted for response to P1 calls based upon the Customer's location's geographical distance from a PAR field service location, as follows:

| Distance From PAR Field Service Location | P1 Added (Hours) |
|---|---|
| >0 ≤ 75 miles | 0 |
| >75 < 100 miles | 0.5 |
| >100 < 125 miles | 1 |
| >125 < 150 miles | 1.5 |
| >150 < 175 miles | 2.0 |
| >175 Miles | Out of Scope |

**(c) Participating Location Responsibilities**. Participating Location agrees to:

i. Designate a knowledgeable resource to accurately communicate and collaborate with the PAR Help Desk employee.

ii. Be prepared to provide all information needed including error codes, process or procedures leading up to the error and any other information that may be relevant and might help to expedite the resolution. If the knowledgeable resource designated by Participating Location refuses to troubleshoot over the telephone prior to RMS Service dispatch, the Call Priority will be designated a P2 priority and Participating Location will be invoiced for the field service visit at then applicable time and material rates if the field service technician determines, upon arrival, that the problem could have been remedied through Help Desk Support Services.

iii. Perform regularly scheduled system and database backups and ensure that they are available when required.

iv. Provide PAR field service technicians with unencumbered and immediate access to RMS Equipment upon their arrival at the site.

v. Provide PAR's field service technician with operating supplies, consumables, and such other items as the Participating Location would use during normal operation.

vi. Provide working space, heat, light, ventilation, phone access, electrical power and outlets for use by PAR's field service technician.

vii. Remain current on all payments due to PAR under this Participation Agreement.

viii. Provide PAR with at least thirty (30) days prior written notice of any relocation of the RMS Equipment covered under RMS Service to a location other than the Participating Location.

**7. General Terms**.

**(a) New or Equivalent**. The Equipment, replacement Equipment provided through Advance Exchange Services, and any parts PAR furnishes may not be newly manufactured and may contain used components; the foregoing does not impact the Equipment Warranty. Equipment that has been replaced (or parts thereof) shall be PAR property.

**(b) Limited Warranty; Limitation of Liability**. (i) PAR warrants to Participating Location that (A) (1) for a period of five (5) years from date of Activation of the SSS in such location (the "Advance Exchange Warranty Period") and (2) for a period of one (1) year from date of Activation of the SSS in such location for Equipment that is not AE Equipment (the "Depot Warranty Period", and collectively with the Advance Exchange Warranty Period, the "Equipment Warranty Period") the Equipment will be free of defects in materials and workmanship normal use and service (the "Equipment Warranty"), and (B) for a period of 30 days from the completion of installation (the "Installation Warranty Period"), the installation was performed in accordance with PAR's then current installation procedures and will be free from defect in workmanship normal use and service (the "Installation Warranty"). EXCEPT AS EXPRESSLY SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, PAR DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF

THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES WHATSOEVER INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF BUSINESS, LOST PROFITS, DAMAGE TO GOODWILL OR REPUTATION, BUSINESS INTERRUPTION, OTHER INDIRECT PECUNIARY LOSS OR OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE, FAILURE TO WARN OR STRICT LIABILITY), CONTRIBUTION, INDEMNITY, SUBROGATION OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES.

(ii) Without limiting the foregoing, (A) the Equipment Warranty shall be rendered null and void or the Equipment will not be covered under AE Service or RMS Service and Participating Location will be subject to all labor, material and expenses, if: (1) the Equipment (including AE Equipment or RMS Equipment) is placed in an operating environment, which differs from the operating environment in which the Installation Services were performed and is not in compliance with the requirements specified by PAR or the original equipment manufacturer (unless such Installation Services were performed at a Participating Location that was not in compliance with the Pre-Installation Checklist and such services were authorized by PAR); (2) the Equipment (including the AE Equipment or RMS Equipment) or any component part is installed or repaired by a third party not certified or authorized by PAR and such installation or repair directly causes the Equipment failure; provided however, this will not apply to installations of AE Equipment by Participating Location or installations or repairs performed by a Participating Location or an authorized third party that is certified by PAR; (3) the Equipment (including the AE Equipment or RMS Equipment) was not used under normal operating conditions or in accordance with any labels, instructions or specifications of PAR or the original equipment manufacturer; or (4) use of any equipment in connection with the Equipment without PAR's consent that directly causes an Equipment failure; (5) any software loaded onto the Equipment without PAR's consent that directly causes an Equipment failure; (6) changes made by the Participating Location to the Equipment or the Equipment's software without PAR's consent that directly causes an Equipment failure; and (7) the Equipment (including the AE Equipment) is subject to dropping, striking (including harsh blows from either persons or objects), misuse, neglect, negligence, accident or vandalism, or deliberate act that directly cause an Equipment failure, including but not limited to: (w) issues as a result of Participating Location's store environment (e.g. foreign objects or substances on or leaking into the Equipment, steam) which can be resolved by relocating the Equipment without materially disrupting Participating Location's operations or environment; (x) improper handling or storage of the Equipment (including the AE Equipment) after acceptance of delivery and prior to installation; or (y) casualty, which shall include but not be limited to, fire, water, wind, flood, lightning, civil disturbance, war, terrorism or other catastrophes or similar causes; (B) PAR shall not be liable for any damage resulting from the failure of the Equipment (including AE Equipment) to comply with local laws or regulations; and (C) Participating Location will be responsible for the cost of a return visit for RMS Service if prompt and safe access to the RMS Equipment is not allowed or is materially hampered by the Participating Location upon the field service technician's arrival at the Participating Location.

**(c) EACH PARTY'S MAXIMUM ANNUAL LIABILITY TO THE OTHER PARTY.**

NEITHER PARTY'S AGGREGATE ANNUAL CALENDAR YEAR (JANUARY 1 TO DECEMBER 31) LIABILITY TO THE OTHER PARTY IN CONNECTION WITH THIS PARTICIPATION AGREEMENT INCLUSIVE OF ALL SCHEDULES HERETO (INCLUDING ALL DIRECT, CONSEQUENTIAL OR INDIRECT DAMAGES WHATSOEVER) WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE, FAILURE TO WARN OR STRICT LIABILITY) OR OTHERWISE, SHALL EXCEED $50,000. THE LIMITATIONS IN SECTION (b) ABOVE AND THIS SECTION (c) DO NOT APPLY TO EITHER PARTY'S LIABILITY FOR ITS (OR ITS RESPECTIVE AGENTS AND/OR SUBCONTRACTORS) GROSS NEGLIGENCE OR WILFULL MISCONDUCT, WILFUL FAILURE TO COMPLY WITH LAW, FRAUD, INTELLECTUAL PROPERTY INFRINGEMENT, BODILY INJURY

(INCLUDING DEATH) OR DAMAGE TO OR LOSS OF ANY TANGIBLE PROPERTY.

**(d) Exclusive Remedy**. Participating Location's exclusive remedies and PAR's sole liability with respect to the Equipment, including, without limitation, for breach of the limited warranty set forth in subsection (b) above, is expressly limited to repair or replacement of the Equipment. These exclusive remedies shall not be deemed to have failed in their essential purpose so long as PAR is willing to repair or replace the defective Equipment. These exclusive remedies are not limited to defects in hardware, software and/or services, but "defects" includes defects/mistakes in firmware, preset data programmed by PAR, and defects in documentation. PARTICIPATING LOCATION ACKNOWLEDGES AND AGREES THAT THE REMEDIES HEREUNDER ARE PARTICIPATING LOCATION'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO ANY CLAIM BY PARTICIPATING LOCATION IN CONNECTION WITH OR RELATING TO THE EQUIPMENT PROVIDED HEREUNDER. THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO PAR'S LIABILITY FOR ITS (OR ITS RESPECTIVE AGENTS AND/OR SUBCONTRACTORS) GROSS NEGLIGENCE OR WILFULL MISCONDUCT, VIOLATION OF LAW, FRAUD, INTELLECTUAL PROPERTY INFRINGEMENT, BODILY INJURY (INCLUDING DEATH) OR DAMAGE TO OR LOSS OF ANY TANGIBLE PROPERTY.

**(e) Warranty Claims**. To make a claim for a breach of Warranty (a "Warranty Claim"), Participating Location must notify PAR of a defect or breach during the applicable Warranty Period by calling 1-800-458-6898. No return of the Equipment (including AE Equipment) will be accepted without a Return Material Authorization ("RMA") number provided by PAR's Sales Administration Department (at 800-448-6505). If the defect or breach is not discovered and the Warranty Claim made within the applicable Warranty Period, the Warranty Claim shall be waived. The required notice of defect or breach must specify the facts constituting the defect or breach and the existence of the defect or breach must be verified by PAR. Participating Location agrees to return any allegedly defective Equipment to PAR, and PAR will, at its option and expense (including shipment via ground transportation), either replace the defective Equipment or repair the defective Equipment at PAR's facility (depot repair). Participating Location agrees to be responsible for the proper packing of any Equipment returned to PAR for repairs and to assume the entire risk of loss or damages during return of any allegedly defective or defective Equipment to PAR directly caused by the improper packing of any Equipment returned to PAR. Any replacement Equipment supplied by PAR in connection with the Equipment Warranty is subject to the same warranty for the remaining original Equipment Warranty Period.

**(f) Force Majeure**. PAR and Participating Location shall not be liable for, and shall not be deemed to have breached these Terms in the event of, any failure or delay in performance when such failure or delay is caused by conditions beyond PAR or Participating Location's reasonable control, including without limitation war, strike, labor dispute, fire, flood, earthquake, tornado, hurricane, government action or intervention, embargo or blockade, explosion, terrorist threats or acts, civil unrest, shortage of raw materials, breakdown, shortage or non-availability of transportation facilities or equipment or any other national or regional emergency or act of God. If PAR declares a force majeure event hereunder, the Sales Order/Purchase Order shall continue in effect for a period of 60 days from such declaration. After the expiration of such 60-day period, PAR may cancel any unperformed portion of the Sales Order/Purchase Order upon written notice to Participating Location without liability to Participating Location.

**(g) Default and Indemnification**. If Participating Location (i) fails to tender any payment when due in accordance with these Terms and the terms of the applicable invoice, (ii) fails or refuses to accept the Equipment properly tendered (iii) fails in any other respect to perform its obligations in accordance with these Terms, or (iv) becomes insolvent or, if any bankruptcy, insolvency, reorganization, or liquidation proceeding or other proceeding or relief under any bankruptcy law or any law for the relief of debtors is instituted by Participating Location for relief thereunder, or is instituted against Participating Location, the occurrence of any of the events specified in clauses (i) – (iv) above being deemed to constitute a material breach hereof, PAR may, in addition to any other remedies PAR may have at law or in equity, (y) with or without demand or notice to Participating Location declare the entire amount unpaid immediately due and

payable and/or (z) enter upon the premises where the Equipment may be found and remove it and resell any of the Equipment, the Purchase Price of which has not been fully paid or which has been shipped and which Participating Location has wrongfully failed or refused to accept, and receive from Participating Location the difference between the Purchase Price with respect to any such Equipment and the price obtained on resale (if less), as well as any incidental costs and expenses incurred by PAR. All rights and remedies of PAR shall be cumulative and not exclusive of any other rights or remedies which PAR would otherwise have at law or in equity. Participating Location shall cooperate with PAR in PAR's enforcement of its rights and remedies hereunder, including granting PAR access to Participating Location's facilities for the purpose of retaking possession of the Equipment, and shall indemnify PAR for all costs and expenses incurred by PAR in connection with the repossession, transport and/or disposal of the Equipment that is damaged or otherwise is unsalable as a direct or indirect result of Participating Location's default hereunder. In addition, PAR may terminate, without liability to Participating Location, any other agreement between Participating Location and PAR. PAR will defend and indemnify Participating Location, its affiliates and their respective officers, directors, employees, agents, successors, and assigns from and against any and all damages, losses, fines, penalties, costs, expenses, liabilities and other amounts (including reasonable attorney fees and expenses) ("Losses") suffered or otherwise incurred by any of them arising from or in connection with or otherwise relating to: (i) bodily injury (including death) or damage to or loss of any tangible property caused by any Equipment or the negligent acts or omissions of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns; (ii) gross negligence or willful misconduct of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns in providing the Equipment, Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services, (iii) an allegation that any Equipment, Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services infringes on any third party Intellectual Property Rights, and (iv) any violation of Law by PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns or any of their respective employees, officers, directors, agents or representatives in providing the Equipment, or in the performance of the Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services. With respect to subsection (iii) above, PAR may modify or replace the Equipment or Services so as to be non-infringing and materially equivalent, or PAR may procure a license for Participating Location's continued use of the Equipment or Services. If PAR is unable to modify or replace the Equipment or Services or procure a license, despite its commercially reasonable efforts, then PAR shall refund any applicable price or fees paid by Participating Location in the case of Equipment less a depreciated amount of the price or fees paid by Participating Location for said Equipment based on a five (5) year straight line depreciation or in the case of Services, refund any pro-rata amount of any pre-paid fees made by Participating Location for such Services. Notwithstanding the foregoing, PAR is not liable to defend, indemnify or hold harmless Participating Location for any Losses to the extent such Losses arise from: (x) the negligent or willful misconduct of the Participating Location or (y) with respect to subsection (iii) above, the modification of the Equipment or Services by Participating Location or a third party at Participating Location's request; the use of the Equipment or Services in conjunction with equipment or software not provided or approved by PAR; or use of the Equipment or Services inconsistent with its intended purpose or which is not in conformance with PAR's reasonable instructions. THE FOREGOING STATES THE ENTIRE LIABILITY OF PAR TO PARTICIPATING LOCATION CONCERNING WARRANTIES OF INTELLECTUAL PROPERTY RIGHTS AND INDEMNIFICATION OF INTELLECTUAL PROPERTY INFRINGEMENT, INCLUDING, BUT NOT LIMITED TO, PATENT, COPYRIGHT, TRADEMARK, TRADE DRESS AND TRADE SECRETS.

**(h) Release and Indemnity**

If a Participating Location: (i) chooses not to replace existing equipment and requests that PAR use existing equipment or components (e.g. mounting brackets, cabling, etc.); or (ii) install (except with respect to AE

Equipment), relocate or repair Equipment itself or through a third party on its behalf, then Participating Location hereby waives, releases and forever discharges PAR, its parent, subsidiaries, affiliates and subcontractors, together with their officers, directors, employees, agents, predecessors, successors and assigns thereof, from any and all actions, claims, demands and causes of action (including reasonable attorneys' fees and costs actually incurred), and punitive damages, of any nature whatsoever, known or unknown, which the Participating Location may have had, has or may have against PAR, in whole or in part, for any claims for death, personal injury, damage to, or destruction or loss, consequential or otherwise, to or of any and all property, real and personal ("Property"), including, without limitation, Property of any person or persons, to the extent such claim directly arises from Participating Location's use of the existing equipment or components or its installation (except with respect to AE Equipment), relocation or repair Equipment itself or through a third party on its behalf. The Participating Location understands and agrees that it is waiving and releasing any and all claims that it may ever have against PAR relating to its use of the existing equipment or components, regardless of their nature or origin related to personal injury, death or property damage that may arise from the use of the existing equipment or components, and that the fact that such claim is not listed in this paragraph does not mean that such claims are not intended to be included in this release of liability.

Further, the Participating Location hereby agrees to indemnify, defend and hold harmless PAR, its parent, subsidiaries, affiliates and subcontractors, together with their respective officers, directors, employees, agents, predecessors, successors and assigns, from any and all liability, claims, demands, actions, damages, or other liabilities of whatsoever kind or nature, including reasonable attorney's fees and expenses for any claims for death, personal injury, damage to, or destruction or loss, consequential or otherwise, to or of any and all Property, including, without limitation, Property of any person or persons, to the extent such personal injury, death and/or Property damage, destruction and/or loss arises, directly, in whole or in part, from Participating Location's (i) use of the existing equipment or components; (ii) installation (except with respect to AE Equipment), relocation or repair of the Equipment itself or through a third party on its behalf; or (iii) negligence or the negligence of its employees or subcontractors.

**THIS RELEASE AND INDEMNITY SHALL NOT LIMIT PAR'S LIABILITY FOR CLAIMS IN CONNECTION WITH THE SERVICES PROVIDED HEREUNDER THAT ARE DIRECTLY CAUSED BY PAR'S (OR ITS RESPECTIVE AGENTS AND/OR SUBCONTRACTORS) GROSS NEGLIGENCE, WILFULL MISCONDUCT, VIOLATION OF LAW OR FRAUD .**

**(i) Intellectual Property Rights**. All Intellectual Property of either Participating Location or PAR, and all modifications thereto, shall at all times be and remain the sole and exclusive property of such party, and neither these Terms nor any Sales Order/Purchase Order submitted by Participating Location hereunder shall constitute a license to either Participating Location or PAR to use or display the Intellectual Property of the other party, except as expressly provided in Section 4(a) above.

**(j) Export Laws**. Participating Location acknowledges that the sale of the Equipment may be subject to export and import control laws, restrictions and regulations imposed by the United States or other jurisdictions. Participating Location shall comply with all applicable export laws, restrictions and regulations of the United States, the European Union or other foreign agency or authority, and Participating Location agrees not to import, export or re-export, or allow the import, export, or re-export of, any Equipment in violation of any such laws, restrictions, or regulations. Participating Location certifies to PAR that it is not on any U.S. government restricted parties list or similar list, and Participating Location shall be solely responsible for obtaining any and all necessary licenses in connection with the import, export or re-export of the Equipment.

**8. Miscellaneous**.

(a) **Survival.** Notwithstanding the expiration or termination of these Terms, any rights, and obligations which by their nature extend beyond such expiration or termination shall survive such expiration or termination, including but not limited to the Warranty provisions, indemnification provisions, and the provisions of Sections 7(b), 7(c), 7(f), 7(g), 7(h), 8(b) and this subsection 8(a).

**(b) Applicable Law and Interpretation**. These Terms and the Sales Order/Purchase Order will be construed in accordance with, and all disputes will be governed by, the laws of the State of Delaware, United States of America, without regard to its conflict of laws principles or rules. The English language version of these Terms and the Sales Order/Purchase Order shall govern and control any translation of these Terms and the Sale Order into any other language. The parties specifically waive application of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The word "including" shall mean including without limitation.

**(c) Notice**. Notices shall be deemed given upon receipt. Any notices required to be given shall be in writing and in the case of notice to Participating Location, shall be sent to the billing address or fax number on the Sales Order/Purchase Order. In the case of notice to PAR, such notice shall be sent via postage prepaid certified mail or by overnight courier to: ParTech, Inc. (Attn: Legal Department); ParTech Technology Park; 8383 Seneca Turnpike; New Hartford, NY 13413-4991.

**(d) Severability**. If any court of competent jurisdiction holds that any provision of these Terms or of any Sales Order/Purchase Order is illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining provisions of these Terms and/or of the Sales Order/Purchase Order will not be affected or impaired, and all remaining terms hereof or of the Sales Order/Purchase Order shall remain in full force and effect, provided that this provision shall not be applied to defeat the intent of the parties.

**(e) Prior Dealings**. No course of dealing or failure by Participating Location or PAR to strictly enforce any term, right or condition of these Terms or a Sales Order/Purchase Order will be construed as a waiver thereof. Any purported waiver by Participating Location or PAR will only be enforceable if in writing signed by such party and will not be deemed to waive any later breach of the same or any other term, right or condition. These Terms and the Sales Order/Purchase Order may not be amended except by written agreement of Participating Location and PAR expressly referring thereto.

**(f) Assignment**. Neither Participating Location or PAR may assign or transfer the Sales Order/Purchase Order and/or Terms or any interest therein to a third party, without prior written consent of the other party, which shall not be unreasonably withheld; provided, however, the Sales Order/Purchase Order and/or Terms may be assigned as part of a merger, or sale of all or substantially all of the business or assets, of a party.

**(g) Definitions**. All capitalized terms used in these Terms, to the extent not defined elsewhere in these Terms, shall have the following meanings: "**Participating Location**" means the location within the Dairy Queen or Orange Julius franchise systems which chooses to purchase Equipment and license and receive access to software through the PAR Solution by signing the Participation Agreement. "**IncoTerms**" means the International Commercial Terms. "**Intellectual Property Rights**" are all patents, patent applications, trademarks, inventions (whether or not patentable), know-how, designs, mask works, processes, methodologies, service marks, copyrights and copyrightable works, trade secrets, data, designs, manuals, training materials and documentation, formulas, knowledge of processes, methods, products and product specifications and all other intellectual property rights as these terms are understood under Law, including any modifications, adaptations, adjustments, enhancements, updates, improvements, alterations and corrections thereto and other derivative works thereof. "**Law**" means any federal, state, county or local law, ordinance, statute, rule, or regulation to the extent it applies to either party, its property, or its obligations in connection with this Participation Agreement. "**PAR**" means ParTech, Inc., a New York corporation. "**Warranty**" means collectively, the Equipment Warranty and the Installation Warranty. "**Warranty Period**" means, collectively the Advance Exchange Warranty Period, the Depot Repair Warranty Period and the Installation Warranty Period.

**(h) Subsequent Purchases**. These Terms shall apply to subsequent purchases of Equipment, Installation Services, Advance Exchange Services and/or On-Site Remedial Maintenance Services unless expressly superseded by a document of later date that has been expressly agreed to in writing by PAR and Participating Location.

**(i) Independent Contractors**. The parties are independent contractors with respect to each other.

## SCHEDULE A-1

## INSTALLATION SERVICES

Services to be provided by PAR to each Participating Location:

1.1. **Pre-Installation Site Survey**

PAR will perform a Pre-Installation Site Survey at existing Participating Locations in advance of the POS solution installation. Refer to the Dairy Queen PAR Site Survey Form as set forth in the Installation Guide. Pre-Installation Site Survey services include the following:

1.1.1. Schedule the site survey with a representative of the Participating Location, at the Participating Location, to occur at least 6 weeks before the POS installation date.

1.1.2. Visually inspect and certify existing Participating Location network cabling as necessary.

1.1.3. Capture images of existing equipment placement.

1.1.4. Collect store measurements pertinent to future equipment that will be installed during POS installation.

1.1.5. Validate required quantity and placement of permanent electrical outlets available for the PAR POS system installation.

1.1.6. Record the kitchen display station each menu item group will route to as specified in the Dairy Queen PAR Site Survey Form as set forth in the Installation Guide.

1.1.6.1. Review the survey results and Dairy Queen Site Readiness Checklist as set forth in the Installation Guide with the Participating Location at the completion of the survey process.

1.1.7. Within approximately three business days of completing the Pre-Installation Site Survey, provide:

1.1.7.1. an electronic copy of the completed Dairy Queen PAR Site Survey Form to the Participating Location, including a list of any necessary work or modifications that are outside of the scope of PAR's Installation Services, and dates by which such work or modifications must be completed to meet the anticipated installation date; and

1.1.7.2. a detailed estimate of the anticipated charges for any and all Installation Services PAR anticipates performing, customized for that Participating Location, and clearly defining which of those services the Participating Location may perform themselves or contract to another provider.

1.1.8. Perform surveys on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays as PAR technician availability dictates.

1.2. **POS Go-live Support Services**

PAR will provide technical and operational support for the PAR Solution via a dedicated support phone line, from the time the Equipment arrives onsite through the first forty-eight (48) hours following system installation "Go-Live". POS Go-live Support Services to include the following:

1.2.1. Provide guidance on accessing information for Go-Live.

1.2.2. Answer questions related to pre-Go-Live responsibilities including where to obtain login credentials, completing Participating Location readiness requirements, and setting prices.

1.2.3. Answer questions related to POS operation, technical POS issues, and POS configuration.

1.2.4. Refer Participating Location to other support entities for technical issues with Brink POS integrations.

1.2.5. Direct Participating Location to available Brink POS training material as necessary.

1.2.6. Answer questions related to setting up the Participating Location's primary register

identified as "training terminal" before POS installation.

1.2.7. Contact Participating Location approximately 7 days prior to Go-Live to review Participating Location readiness requirements.

1.2.8. Contact the Participating Location approximately 3 business days prior to the installation date to review the installation scope and confirm Participating Location's readiness requirements have been completed.

1.2.9. Contact Participating Location during Go-Live and review Dairy Queen Day of Go-Live Checklist as set forth in the Installation Guide.

1.3. **POS Training Services**

PAR will provide POS training documentation and materials to each Participating Location prior to installation. POS Training Services to include the following:

1.3.1. Provide a Dairy Queen branded Brink POS user guide including reference materials such as how to perform cashier functions, manager functions, set menu prices and taxes, run Brink reports, and general system use. Refer to the Brink POS Manager/Owner Training Guide as set forth in the Installation Guide.

1.4. **POS System Staging and Delivery Services**

PAR will load the PAR terminals and kitchen controllers with the Licensed Software and approved Microsoft Windows Operating System. PAR will configure the system in accordance with the Dairy Queen System Configuration Procedure as set forth in the Installation Guide. POS System Staging Services to include the following:

1.4.1. PAR will configure kitchen video controllers, POS terminals, and specified peripherals as defined in the Dairy Queen System Configuration Procedure to minimize installation efforts and promote consistency across installations.

1.4.2. Maintain POS image for PAR terminals and kitchen controllers including operating system, device drivers and settings, and Licensed Software "DQ POS Image".

1.4.3. Activate the Participating Location with store specific location ID.

1.4.4. Ship the Equipment set forth on Participating Location Sales Order to the destination provided, to arrive approximately seven (7) calendar days prior to the scheduled installation date for existing locations or approximately three (3) calendar days prior to the scheduled installation date for new construction or remodeled locations. Shipping costs will be invoiced to the Participating Location. Any expedited shipping requests must be pre-approved by the Participating Location and PAR and Participating Location will be required to pay to PAR any additional shipping charges.

1.4.5. Deliver Equipment with instruction for inside delivery only with signature required by an authorized representative of Participating Location upon delivery; provided however, if a Participating Location has limited hours of operation when an authorized representative may not be present to sign for the delivery, the Participating Location should inform PAR of such limited hours when placing its order with PAR. If there is no representative at the Participating Location to accept and sign for the delivery, then the carrier will take the Equipment back and attempt to make delivery two (2) more times to the Participating Location. After the third attempt, the Equipment will be returned to PAR by the carrier and the Participating Location will be required to pay to PAR any additional shipping charges or other charges, including any Rescheduling Fees, prior to any further attempt at delivery of the Equipment.

1.5. **POS Installation Services**

PAR will provide Installation Services to the Participating Location for all Equipment set forth on

Participating Location Sales Order and included in the PAR Solution. Refer to the Installation Guide for in scope Equipment. PAR Installation Services will include the following after Participating Location's execution of the Participation Agreement and Sales Order, and in accordance with the market installation schedule as determined by PAR and Dairy Queen, for a Participating Location:

1.5.1. PAR will make available or provide via email a welcome packet including contact information and site readiness information to Participating Location designated point of contact. Refer to the Dairy Queen PAR Brink POS Welcome Information as set forth in the Installation Guide.

1.5.2. Provide a date and time to perform the Installation Services at the Participating Location after execution of the Participation Agreement and Sales Order, and in accordance with the Area Installation schedule as determined by PAR and Dairy Queen. If the Participating Location's designated point of contact cannot be reached within three (3) business days, Dairy Queen will be notified to assist with the scheduling communications.

1.5.3. Confirm Participating Location's readiness to install the PAR Solution approximately three (3) business days prior to the scheduled POS installation as defined in the Site Readiness Checklist and identified in the Pre-Installation Site Survey. Refer to Dairy Queen Site-Readiness Checklist and the Dairy Queen PAR Site Survey Form the Installation Guide.

1.5.4. Upon arrival at the Dairy Queen Participating Location on the scheduled installation date, PAR will review the Pre-Installation Site Survey as specified in the Dairy Queen Site-Readiness Checklist as set forth in the Installation Guide, prior to the removal of any existing equipment.

1.5.5. Remove existing equipment to be replaced, including: point of sale terminals, cash drawers, kitchen display equipment, receipt printers, kitchen printers and other system peripherals.

1.5.6. Install the Equipment set forth on the Participating Location Sales Order and connect all cables required in accordance with the PAR Dairy Queen Installation Manual, found in the Installation Guide.

1.5.7. PAR will test system with Participating Location designated point of contact and record any open issues in the post-installation reporting.

1.5.8. PAR will make post-installation reporting available to Dairy Queen including photographic images captured during the installation and the Dairy Queen Manager Post Installation Checklist as set forth in the Installation Guide.

1.6. **Network Cabling Services**

PAR will provide network cabling services set forth on Participating Location Sales Order. Network Cabling Services include the following:

1.6.1. Obtain the appropriate licenses and permits required to perform work at the Participating Location. Low voltage permit and/or jurisdictional licensing fees as well as the cost to obtain these will be invoiced to the Participating Location. Requests for network cabling must be made at least 45 calendar days prior to the scheduled installation date.

1.6.2. Remove existing cabling where required to complete the installation of new cabling.

1.6.3. Install cabling required for installation of the Equipment as set forth on the sales order.

1.6.4. Certify all cables installed and provide certifications in post-installation reporting.

1.6.5. If a Participating Location installs network cabling, a Customer Acknowledgement of Low Voltage Cabling Self-Install as set forth in the Installation Guide form must be completed and submitted to PAR.

**2.0 Participating Location Responsibilities**

2.1 Execute Participation Agreement and Sales Order at least 5 weeks in advance of Installation Services in accordance with the market installation schedule as determined by PAR and Dairy Queen

2.2 Provide a designated representative with decision making capability and appropriate access to facilities to be present at Participating Location for duration of all onsite services including but not limited to Pre-Installation Site Survey and POS Installation Services.

2.3 Provide a designated representative with decision making capability to work with PAR throughout the duration of the Installation Services. If the Participating Location's designated point of contact cannot be reached within three (3) business days, Dairy Queen will be notified to assist with the communications and specified installation timelines are subject to change.

2.4 Provide OSHA compliant, 6-foot ladder, of appropriate size for ceiling access where required, for use by the PAR installer during the installation at the Participating Location.

2.5 Accept complete order shipments and storage in a location to prevent damage prior to Installation Services.

2.6 Provide PAR with reasonable access to the Participating Location and systems as needed to complete the Installation Services, including, normal and customary utilities and office support services suitable for the performance of the Installation Services.

2.7 Ensure required quantity of functioning power outlets are available for system as specified in site readiness material or the site survey. Refer to Dairy Queen PAR Site Survey Form as set forth in the Installation Guide.

2.8 Ensure internet service is active and functioning for the POS at the at the time of the installation.

2.9 Ensure that the Participating Location's firewall is configured according to the Firewall White List for Brink POS Software and in accordance with the IP scheme in the Dairy Queen System Configuration Procedure, both as set forth in the Installation Guide.

2.10 Supply Dairy Queen approved payment devices for installation (unless such devices are included in the sales order for Participating Location). These devices must be injected and properly configured to integrate with Brink Software prior to the Installation Services.

2.11 Notify PAR of any installation cancellations or reschedules. Installations cancelled or rescheduled are subject to fees. Refer to Participating Location's Sales Order and the Installation and Abort Scenarios as set forth in the Installation Guide. To cancel services, contact the PAR Installation Planner via telephone or email. PAR business hours for rescheduling are 7:30 AM to 5:00 PM ET.

2.12 Pay the cost of all extra materials, tools, labor and other costs or expenses, if any, for PAR to revisit a Participating Location to correct a previous installation if such correction is a result of PAR following Dairy Queen's or Participating Location's installation instructions.

2.13 Provide written customer authorization of acceptance of work following onsite service delivery to include any open issues or concerns from service provided.

2.14 Ensure all site readiness requirements as defined in the Site Readiness Checklist and identified in the Pre-Installation Site Survey are complete and the Participating Location is ready for Installation Services at the time of the scheduled installation date.

2.15 If the Site Survey determines the Participating Location will require kitchen display ceiling mounts, the Participating Location will be responsible for installing any additional support structures required to mount the kitchen displays.

**3.0 Assumptions**

3.1 PAR will not drill holes in counter tops.

3.2 PAR will not provide carpentry work.

3.3 Upon completion of the Pre-installation Site Survey, Participating location will be invoiced for the Site Survey Services. Participating Location agrees to pay for Pre-installation Site Survey in full even if the Participating Location does not purchase the PAR Brink POS System and POS Installation Services.

3.4 Only PAR-provided equipment (including their related cables, subcomponents, etc.,) will be installed.

**SCHEDULE B**
**to Participation Agreement**

**SUBSCRIPTION SOFTWARE SERVICES**
**TERMS AND CONDITIONS**

1. **RESTAURANT POINT OF SALE SOFTWARE SERVICE.**
   a. These Subscription Software Services ("**SSS**") Terms and Conditions ("**SSS Terms**") provides Participating Location with a license and right to use and access PAR's proprietary web-based restaurant point of sale software service.
   b. PAR will provide the Subscription Software Services or SSS through a hosted server environment and through a licensed desktop software client (**"Licensed Software"**) that will act as the interface to the SSS. PAR hereby grants Participating Location a personal, non-transferable, and non-exclusive right and limited license to use the Licensed Software and all digital and printed documentation, training material, and other documentation and material provided by PAR to Participating Location ("**Documentation**") in connection with the SSS solely for the purpose of managing Participating Location's internal business.

2. **USE OF SSS.**
   a. **Participating Location Support.** PAR shall provide Participating Location with Level 1 and Level 2 Help Desk Support Services for the SSS as set forth in Exhibit A to this Schedule B.
   b. **Employee and Contractor Access and Use.** Participating Location may allow its employees and contractors to access the SSS in compliance with the terms of these SSS Terms, which access must be for the sole benefit of Participating Location. Participating Location is responsible for its employees and contractors' compliance with these SSS Terms.
   c. **Participating Location Responsibilities.** Participating Location: (i) is solely responsible for the accuracy and completeness of the Participating Location Data (defined below) and all activity in its account in the SSS; (ii) must use commercially reasonable efforts to prevent unauthorized access to its account in the SSS and notify PAR promptly of any such unauthorized access; and (iii) may use the SSS only in accordance with the Documentation and applicable Law.
   d. **Restrictions**: Participating Location may not: (i) directly or indirectly access or use the Licensed Software or the SSS to process data or information for any person or entity other than Participating Location, and neither Participating Location nor its authorized users shall use or permit the SSS to be used as a service bureau, (ii) sell, resell, sublicense, loan, rent or lease the Licensed Software or the SSS, (iii) use the SSS to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights, (iv) interfere with or disrupt the integrity or performance of the SSS, or (iv) attempt to gain unauthorized access to the SSS or their related systems or networks.

3. **SERVICE LEVEL AGREEMENT, DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.**
   a. **SSS Availability Warranty.** PAR warrants to Participating Location, (i) PAR will maintain the online availability of the SSS for a minimum of availability in any given month as provided in the Transaction Availability Warranty and the General Availability Warranty charts below

("**Availability Warranties**"), and (ii) that the functionality or features of the SSS may change but will not materially decrease during the Term.

For purposes of Section 3 a. (i) above, the SSS shall be considered unavailable and covered by the Availability Warranty set forth in the charts below when Participating Location is unable to:

(iii) process a point of sale transaction (e.g. open and close an order in-store), excluding any outages and downtime set forth in Section 4) b) below ("**Transaction Availability Warranty**"); or

(v) use the administrative portal to make and publish menu changes; or (iv) communicate with the Service through an application programming interface ("API"), excluding any outages and downtime set forth in Section b) below ("**General Availability Warranty**").

b. **Outages and Downtime**. The following outages and downtime shall be excluded from the Availability Warranty: (i) requested by Participating Location; (ii) caused by Participating Location or Participating Location's contractors and agents; (iii) scheduled maintenance and upgrade purposes; (iv) caused by Participating Location's computer system, web browser, hardware or software applications, including third party integrations, not provided by PAR; (v) power failures; (vi) service failures caused by a service provider other than PAR or PAR's agents; (vii) damage to telecommunication facilities outside of PAR's control, other than acts taken by or caused by PAR personnel; (viii) outages and downtime that arises as a result of Participating Location's failure to upgrade or refresh required hardware and Equipment where such non-compliance was communicated by PAR to Participating Location with adequate advance notice and where compliance is consistent with good business practices; and (ix) outages and downtime that arise from excessive load (more than 20 requests per second on the API) by Participating Location or agents acting on Participating Location's behalf or at Participating Location's direction. PAR will provide Participating Location with one (1) week notice of any scheduled maintenance or upgrades, which shall occur after business hours local time. PAR shall only use occurrences exceeding 60 seconds to calculate downtime.

c. **Service Level Credits**. PAR shall issue a credit equal to the pro-rated portion of the monthly SSS Service Fees for the downtime period attributable to PAR below the applicable threshold per month in accordance with the Availability Warranties as set forth in the charts below ("Availability Warranty Credit"):

| **Transaction Availability** | **Service Level Credit/Refund** |
|---|---|
| Above 99.0% to 99.9% | 10% of location's monthly SSS Service Fee |
| Above 98.0% to 99.0% | 20% of location's monthly SSS Service Fee |
| Above 95.0% to 98.0% | 30% of location's monthly SSS Service Fee |
| Above 90.0% to 95.0% | 60% of location's monthly SSS Service Fee |
| 90% or less | 100% of location's monthly SSS Service Fee |

| **General Availability** | **Service Level Credit/Refund** |
|---|---|
| Above 98 to 99.5% | 10% of location's monthly SSS Service Fee |
| Above 95 to 98% | 25% of location's monthly SSS Service Fee |
| Above 90% to 94.99% | 50% of location's monthly SSS Service Fee |

| | |
|---|---|
| 90% or less | 100% of location's monthly SSS Service Fee |

All Availability Warranties set forth in this Section will be measured on a monthly basis over a twenty-four (24) hour period for each day of the applicable month in the aggregate for the SSS provided to Participating Location.

d. **Service Level Reporting and Service Level Credit Application**. PAR will provide monthly reporting to Dairy Queen of PAR's performance with respect to the Availability Warranties listed herein. Any Availability Warranty failures that result in Service Level Credits will be aggregated and cumulatively applied to the Participating Location(s) following month's SSS Service Fees.

e. **DISCLAIMER OF WARRANTIES.** EXCEPT FOR THE WARRANTIES SET FORTH ABOVE IN THIS SECTION 3, PAR MAKES NO WARRANTY AS TO THE SSS, THE LICENSED SOFTWARE OR THE RESULTS TO BE OBTAINED FROM PARTICIPATING LOCATION'S USE OF THE SSS OR THE LICENSED SOFTWARE. THE SSS AND THE USE OF THE LICENSED SOFTWARE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PARTICIPATING LOCATION ASSUMES FULL RESPONSIBILITY AND RISK FOR USE OF THE SSS, THE LICENSED SOFTWARE AND THE INTERNET. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PAR DOES NOT WARRANT THAT THE SSS WILL BE UNINTERRUPTED, ERROR-FREE OR THAT UNAUTHORIZED ACCESS TO THE SSS BY THIRD PARTIES ("HACKING") CAN BE PREVENTED. THE EXPRESS WARRANTIES SPECIFIED IN THESE SSS TERMS OR FURNISHED WITH THE SSS BY PAR ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PAR DISCLAIMS AND EXCLUDES ANY AND ALL OTHER WARRANTIES.

f. **NOTIFICATION OF OUTAGE BY PARTICIPATING LOCATION.** PARTICIPATING LOCATION MUST NOTIFY PAR IF THE PARTICIPATING LOCATION IS UNABLE TO TRANSACT AN ORDER OR USE THE SSS BY CONTACTING THE PAR HELP DESK. IF PAR HAS NO RECORD OF THE PARTICIPATING LOCATION CONTACTING THE PAR HELP DESK REGARDING SUCH OUTAGE WITHIN 60 DAYS OF THE END OF THE MONTH IN WHICH THE PARTICIPATING LOCATION EXPERIENCED THE OUTAGE, THEN PARTICIPATING LOCATION WILL BE DEEMED TO HAVE WAIVED ANY CREDITS THAT MAY HAVE BEEN AVAILABLE FOR SUCH OUTAGE. NOTWITHSTANDING THE FOREGOING IF PAR BECOMES AWARE OF A SYSTEM WIDE OUTAGE, PAR AND/OR DAIRY QUEEN MAY NOTIFY PARTICIPATING LOCATIONS OF SUCH OUTAGE AND IN SUCH INSTANCE PARTICIPATING LOCATION WILL NOT BE REQUIRED TO NOTIFY PAR IN ORDER TO OBTAIN A CREDIT.

g. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING WITHOUT LIMITATION TORT, CONTRACT, OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL,

COVER, RELIANCE OR CONSEQUENTIAL DAMAGES, (INCLUDING WITHOUT LIMITATION LOSS OF BUSINESS PROFITS, LOSS OF SERVICE, BUSINESS INTERRUPTION, LOSS OF OR INCORRECT BUSINESS INFORMATION/DATA AND THE LIKE) SUFFERED OR INCURRED BY EITHER PARTY EVEN IF SUCH PARTY SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT THAT, NOTWITHSTANDING THE FOREGOING, EITHER PARTY IS FOUND LIABLE TO THE OTHER PARTY FOR DAMAGES FROM ANY CAUSE WHATSOEVER, SUCH PARTY'S AGGREGATE ANNUAL CALENDAR YEAR (JANUARY 1 TO DECEMBER 31) LIABILITY TO THE OTHER PARTY IN CONNECTION WITH THIS PARTICIPATION AGREEMENT INCLUSIVE OF ALL SCHEDULES HERETO WILL BE LIMITED TO $50,000 AND WITH RESPECT TO PAR'S LIABILITY TO PARTICIPATING LOCATION, LESS ANY AMOUNTS RECEIVED BY PARTICIPATING LOCATION AS SERVICE CREDITS FOR PAR'S FAILURE TO MEET ANY AVAILABILITY WARRANTY AS SET FORTH HEREIN. THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO EITHER PARTY'S LIABILITY FOR ITS (OR ITS RESPECTIVE AGENTS AND/OR SUBCONTRACTORS) GROSS NEGLIGENCE OR WILFULL MISCONDUCT, WILFUL FAILURE TO COMPLY WITH LAW, FRAUD, INTELLECTUAL PROPERTY INFRINGEMENT, BODILY INJURY (INCLUDING DEATH) OR DAMAGE TO OR LOSS OF ANY TANGIBLE PROPERTY.

4. **MUTUAL CONFIDENTIALITY.**
   a. **Definition of Confidential Information**. Confidential Information means all confidential information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). PAR's Confidential Information includes without limitation PAR's pricing, the SSS, the Licensed Software, Documentation, and any part of the foregoing. Notwithstanding the foregoing, Recipient may disclose PAR's pricing to other franchisees within the Dairy Queen system.
   b. **Protection of Confidential Information**. The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information, but in no event less than reasonable care, or the level of care required by Law, not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of these SSS Terms. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with these SSS Terms, and in the case of PAR, who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of these SSS Terms or who are directed to comply with the provisions of these SSS Terms.
   c. **Exclusions**. Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information.
   d. **Disclosure Required by Law**. The Recipient may disclose Confidential Information to the extent required by law or court order but will provide Discloser with advance notice to seek a protective order. Recipient will only disclose the limited information required to be disclosed by law or the court order.

5. **PROPRIETARY RIGHTS.**

a. **Reservation of Rights by PAR**. The software, workflow processes, user interface, designs, know-how, Licensed Software and Documentation, and other technologies provided by PAR as part of the SSS are the proprietary property of PAR and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with PAR. PAR reserves all rights therein unless expressly granted in theses SSS Terms. PAR shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the SSS any suggestions, enhancement requests, recommendations or other feedback provided by Participating Location or its users relating to the operation of the SSS.

b. **Participating Location Restrictions.** Participating Location *may not*:

i. Use the SSS or the Licensed Software and Documentation beyond its internal operations;

ii. Reverse engineer the SSS or the Licensed Documentation;

iii. Remove or modify any proprietary marking or restrictive legends in the SSS or Licensed Software and Documentation; or

iv. Access the SSS or use the Licensed Software and Documentation to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

c. **Participating Location Owned Data.** All data uploaded by Participating Location remains the sole property of Participating Location, as between PAR and Participating Location ("**Participating Location Data**"), subject to the other terms of these SSS Terms. Participating Location grants PAR the right to use the Participating Location Data solely to the extent necessary to perform its obligations under these SSS Terms. Participating Location grants PAR the right to use non-identifiable aggregate Participating Location Data for purposes of reviewing and auditing performance of the SSS and improving the platform. Upon request, PAR will provide comma-separated files containing TLD (as defined below) data and Participating Location records.

d. **Consent to Release Data to Dairy Queen.**

i. Participating Location hereby authorizes PAR to disclose, release and transmit any and all data collected by PAR from the point of sale (POS) systems in each of Participating Location's sites to Dairy Queen, its subsidiaries and affiliates, including without limitation sales, labor, inventory, product mix, and data compiled or derived from such data. This authorization does not extend to any data that constitutes personally identifiable information about franchisee's employees, customers, representatives, agents, suppliers or vendors.

ii. In addition, notwithstanding anything to the contrary in any agreement between Participating Location and PAR, Participating Location acknowledges that the disclosures and transmissions to Dairy Queen, its subsidiaries and affiliates authorized in the previous paragraph shall not constitute a breach of the confidentiality obligation, or any other obligation (whether express or implied) of PAR under any such agreement, whether such agreement was entered into before, on or after the Effective Date of this Participation Agreement. PAR may rely on this authorization in making such disclosures and transmissions to Dairy Queen, its subsidiaries and affiliates.

6. **TERM, TERMINATION, SUSPENSION OF SSS AND RETURN OF DATA.**

a. **Term**. The Initial Term of these SSS Terms shall begin upon Activation of the SSS in such location, and unless earlier terminated by either Participating Location or PAR pursuant to the terms set forth in these SSS Terms or this Participation Agreement shall be for a period of five (5) years. These SSS Terms shall automatically renew at the end of the Initial Term for additional successive periods of one (1) year (the "Renewal Term(s)"). The Initial Term and the Renewal Term(s) shall be referred to herein collectively as the "Term".

b. **Mutual Termination for Material Breach.** Except as otherwise provided herein, if either Participating Location or PAR is in breach of any material term of these SSS Terms, the other party may terminate these SSS Terms at the end of a written 30-day notice/cure period, if the breach has not been cured.
   i. Actions upon Termination for Material Breach.
      (a) *Upon any termination as provided in 6.b. above by Participating Location,* PAR must refund any prepaid and unused SSS Service Fees under these SSS Terms through the date of termination.
      (b) *Upon any termination as provided in 6.b. above by PAR,* Participating Location must pay any unpaid and owed SSS Service Fees under these SSS Terms through the date of termination. The SSS will also be terminated.

c. **Termination for Convenience by Participating Location.** Participating Location may terminate these SSS Terms for convenience, at any time, for any reason upon thirty (30) days' notice to PAR.
   i. Actions upon Termination for Convenience.
      (a) *Upon any termination as provided in 6.c. above by Participating Location,* PAR must refund any prepaid and unused SSS Service Fees under these SSS Terms through the date of termination.

d. **Termination by Dairy Queen of Master Agreement.** If Dairy Queen terminates the Master Agreement for convenience and Participating Location elects to continue this Participation Agreement until the end of its then current Term, then Participating Location will need to contract directly with PAR for the continuation of menu maintenance services at PAR's then current rate for such services.

e. **Upon Termination or Expiration (for any reason).** Upon termination or expiration of these SSS Terms (for any reason), Participating Location must destroy the Licensed Software and return all Documentation and all other property of PAR. Participating Location will confirm its compliance with this requirement in writing upon request of PAR.

f. **Return of Participating Location Data.**
   i. *Within 90-days after termination,* upon request by Participating Location, PAR will make the Participating Location Data available for no charge, in the format specified in Section 5.c.
   ii. *After such 90-day period,* PAR has no obligation to maintain the Participating Location Data and may destroy it.

7. **FEES, INVOICES AND LATE PAYMENTS.**

a. **SSS Service Fees.** To subscribe to the SSS, Participating Location shall pay the software subscription fees on a monthly basis ("**SSS Service Fees**"). For any Participating Locations that operate their business on a "seasonal basis" they will pay SSS Service Fees for 8 months a year starting each calendar year on April 1 through November 30. The SSS Service Fees shall be non-refundable, except as otherwise provided herein. In addition, Participating Location shall pay any monthly fees for Support Services for each month Participating Location is open and conducting business ("**Support Services Fees**").

b. **Payment.** Participating Location's account will be automatically debited monthly through ACH for the SSS Service Fees and the Support Service Fees, during the Term of these SSS Terms, which payment will commence upon-the Activation of the SSS at Participating Location's participating location. An interest charge of 1.5% per month, or the maximum applicable under State law, shall be paid on all overdue accounts to the extent permitted by law.

8. **Governing Law**. These SSS Terms shall be construed and interpreted in accordance with the laws of the State of Delaware, without regard to its conflict of laws principles or rules. The English language version of these SSS Terms shall govern and control any translation of these SSS Terms into any other language. The word "including" shall mean including without limitation.

9. **Indemnity**.

   a. **By PAR for Intellectual Property Infringement Claims**. If a third-party alleges that Participating Location's use of the Licensed Software or the SSS (other than related to the Participating Location Data) infringes, misappropriates or otherwise violates that party's patent, copyright or other intellectual property or proprietary right, PAR shall defend and indemnify Participating Location against that claim at PAR' expense and pay all costs, damages, and attorney's fees, that a court finally awards or that are included in a settlement approved by PAR, provided that Participating Location:
      i. promptly notifies PAR in writing of the claim; provided however, failure to provide prompt notice shall not relieve PAR of its indemnification obligations, unless such delay results in material prejudice to PAR; and
      ii. allows PAR to control, and cooperates with PAR in, the defense and any related settlement.

   If such a claim is made, PAR could continue to enable Participating Location to use the Licensed Software or SSS or to modify it. If PAR determines that these alternatives are not reasonably available, PAR may terminate the SSS (without any liability to Participating Location except with respect to PAR's indemnification obligations herein) upon prior notice to Participating Location and with the return of any prepaid and unused SSS Service Fees. Notwithstanding the foregoing, PAR will not have any indemnification obligations hereunder to the extent such infringement is caused by: the modification of the SSS by Participating Location or a third party at Participating Location's request; the use of the SSS in conjunction with equipment or software not provided or approved by PAR; or use of the SSS inconsistent with its intended purpose or which is not in conformance with PAR's reasonable instructions. THE FOREGOING STATES THE ENTIRE LIABILITY OF PAR TO PARTICIPATING LOCATION CONCERNING WARRANTIES OF INTELLECTUAL PROPERTY RIGHTS AND INDEMNIFICATION OF INTELLECTUAL PROPERTY INFRINGEMENT, INCLUDING, BUT NOT LIMITED TO, PATENT, COPYRIGHT, TRADEMARK, TRADE DRESS AND TRADE SECRETS.

   b. **By PAR in General.** PAR will defend and indemnify Participating Location, its affiliates and their respective officers, directors, employees, agents, successors, and assigns from and against any and all damages, losses, fines, penalties, costs, expenses, liabilities and other amounts (including reasonable attorney fees and expenses) ("Losses") suffered or otherwise incurred by any of them arising from or in connection with or otherwise relating to: (i) bodily injury (including death) or damage to or loss of any tangible property caused by the negligent acts or omissions of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns in providing the SSS or Help Desk Support Services; (ii) gross negligence or willful misconduct of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns in providing the SSS and/or Help Desk Support Services, and (iii) any violation of Law by PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns or any of their respective employees, officers, directors, agents or representatives in providing the SSS and/or Help Desk Support Services. Notwithstanding the foregoing, PAR is not liable to defend, indemnify or hold harmless

Participating Location for any Losses directly arising from: (y) the negligent or willful misconduct of the Participating Location; or (z) any violation of Law by Participating Location or its sub-contractors and their respective officers, directors, employees, agents, suppliers, successors and assigns or any of their respective employees, officers, directors, agents or representatives.

c. **By Participating Location.** If a third-party alleges that the Participating Location Data infringes or violates a right of that third-party, Participating Location shall defend PAR against that claim at Participating Location's expense and pay all costs, damages, and attorney's fees, that a court finally awards or that are included in a settlement approved by Participating Location, provided that PAR:
   i. promptly notifies Participating Location in writing of the claim; and
   ii. allows Participating Location to control, and cooperates with Participating Location in, the defense and any related settlement.

**10. MISCELLANEOUS OTHER TERMS.**

a. **Money Damages Insufficient**. Any breach by Participating Location or PAR of these SSS Terms or violation of the other party's Intellectual Property Rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

b. **Force Majeure**. PAR and Participating Location shall not be liable for any delay in performance under these SSS Terms resulting from any cause beyond PAR or Participating Location's reasonable control, including without limitation, any act of God, fires, storms, floods, explosions, strikes, work stoppages or slowdowns, or other industrial disputes, legal action, failure or delay of supplies from ordinary sources, accidents, riots, war or civil disturbances, or acts of civil or military authorities.

c. **Entire Agreement and Changes.** These SSS Terms and the order constitute the entire agreement between the parties, and supersede all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. The sole terms and conditions governing the purchase of the SSS from PAR are contained in these SSS Terms and any terms or conditions contained on the face or back of any Participating Location purchase order or other document shall be without effect. No modification or waiver of any term of these SSS Terms is effective unless both parties sign it.

d. **No Assignment**. Neither Participating Location or PAR may assign or transfer these SSS Terms or an order to a third party, without prior written consent of the other party, which shall not be unreasonably withheld; provided, however, these SSS Terms with all orders may be assigned as part of a merger, or sale of all or substantially all of the business or assets, of a party.

e. **Independent Contractors**. The parties are independent contractors with respect to each other.

f. **Enforceability**. If any term of these SSS Terms is invalid or unenforceable, the other terms remain in effect.

g. **Survival**. Any terms that by their nature survive termination or expiration of these SSS Terms, will survive including but not limited to Sections 3, 4, 5, 6, 8, 9 and 10.

h. **CISG Not Apply**. The Convention on Contracts for the International Sale of Goods does not apply.

i. **Notices**. Notices shall be deemed given upon receipt. Any notices required to be given shall be in writing and in the case of notice to Participating Location, shall be sent to the billing address or fax number on the SSS order. In the case of notice to PAR, such notice shall be sent via postage prepaid certified mail or by overnight courier to: ParTech, Inc. (Attn: Legal Department); ParTech Technology Park; 8383 Seneca Turnpike; New Hartford, NY 13413-4991.

j. **Consumer Mobile/On-line Ordering, Payment Processing & Restaurant Reservation**. (Applicable to use within the U.S. only). PAR currently has a license agreement with Ameranth, Inc. Participating Location's use of the Licensed Software or SSS to process mobile/on-line ordering for food/beverage orders, payment processing, restaurant reservations and the processing of such transactions on a wireless handheld computing device and on internet web pages is covered by PAR's license agreement with Ameranth, as long as Participating Location is using the Licensed Software or SSS to process these transactions, and Participating Location is paying PAR a transaction processing fee. If Participating Location is using its own proprietary software or third-party software integrated to the Licensed Software or SSS to process these transactions, Participating Location's use is not covered by PAR's license agreement with Ameranth, and Participating Location would need a separate license agreement (or other authorization) from Ameranth to Participating Location or a third party that Participating Location licenses from to process such transactions. If Participating Location has questions about the application of the Ameranth patents to Participating Location's own proprietary software or any third-party software, Participating Location should obtain legal advice before Participating Location develops any integration.

k. **Definitions**. All capitalized terms used in these Terms, to the extent not defined elsewhere in these Terms, shall have the following meanings: "**Participating Location**" means the location within the Dairy Queen or Orange Julius franchise systems which chooses to purchase Equipment and license and receive access to software through the PAR Solution by signing the Participation Agreement. "**Intellectual Property Rights**" are all patents, patent applications, trademarks, inventions (whether or not patentable), know-how, designs, mask works, processes, methodologies, service marks, copyrights and copyrightable works, trade secrets, data, designs, manuals, training materials and documentation, formulas, knowledge of processes, methods, products and product specifications and all other intellectual property rights as these terms are understood under Law, including any modifications, adaptations, adjustments, enhancements, updates, improvements, alterations and corrections thereto and other derivative works thereof. "**Law**" means any federal, state, county or local law, ordinance, statute, rule, or regulation to the extent it applies to either party, its property, or its obligations in connection with this Participation Agreement. "**PAR**" means ParTech, Inc., a New York corporation.

**EXHIBIT A TO SCHEDULE B**

**LEVEL 1 & LEVEL 2**

**HELP DESK SUPPORT SERVICES**

1. **DEFINTIONS**
   a. "**Communication Cadence Time**" shall mean the periodic updates that shall be given to a Participating Location based on the severity of the Issue as set forth in Section 3.
   b. "**External Case Referral**" shall mean PAR's referral of a Help Desk Case to Dairy Queen (EPOS) or to a third party, including, but not limited to NetSurion (firewall), Verifone (payment device), credit card processor\bank or back office provider after PAR has determined that the issue is not related to the PAR Solution.
   c. "**Issue**" shall mean an Urgent (PI), Medium (P2) or Low (P3) as defined in the chart below in Section 3 and excludes training on the PAR Solution that exceeds more than 15 minutes.
   d. "**Resolution Times**" shall mean the amount of time from which an Issue is reported by Dairy Queen or a Participating Location to PAR and PAR provides a fix, workaround, escalation to development or a referral of the Issue.
   e. "**Response Times**" shall mean the time by which the PAR Help Desk responds to an incoming Help Desk Support Case from a Participating Location for Help Desk Support Services.
   f. "**Help Desk Support Case**" shall mean a case from a Participating Location that relates to assistance with the use of, or an interruption in the operability of the Equipment, Licensed Software, PARPay Services or Subscription Software Services.

2. **HELP DESK SUPPORT SERVICES**
   a. PAR will provide a toll-free number and trained technical staff, available 24 hours a day, 7 days a week, 365 days a year to respond to Participating Location's requests for support.
   b. PAR will provide hardware diagnostic and operational/procedural support to assist Participating Locations with questions and in identifying and resolving problems with the Equipment, Licensed Software, PARPay Services Subscription Software Services
   c. Help Desk Support covers the following types of requests:
      - Resolution or explanation of Licensed Software or Subscription Software Services generated error messages.
      - Assistance with user or operational problems that occur during system operations.
      - Guidance with procedural and system functionality or capability questions.
      - Research, identification and escalation of defects in the Equipment, Licensed Software, PARPay Services and the Subscription Software Services.
      - Assistance with the identification of programming issues or changes necessary to correct functionality or reporting issues.
      - Recommendations for proper system maintenance.
      - Root cause analysis of crashes and/or problems of the Equipment, Licensed Software, PARPay Services and Subscription Software Services.
      - Resolution of supported printer or other peripheral problems directly related to Equipment, Licensed Software, PARPay Services or the Subscription Software Services.
      - Referral to third parties after the Equipment, Licensed Software, PARPay Services and the Subscription Software Services is ruled out as the possible cause of the problem.
      - General information concerning system requirements to the Licensed Software and capability.
   d. PAR will attempt to resolve all Help Desk Cases utilizing the appropriate resource for any given Issue.

### 3. HELP DESK SUPPORT SERVICES SERVICE LEVELS

Help Desk Support Cases will be held open and PAR will continue the Communication Cadence with the Participating Location until final resolution is confirmed by the Participating Location regardless of whether PAR has made an External Case Referral. If PAR follows up with the Participating Location more than three (3) times attempting to confirm resolution without a response, then PAR will close the case noting that PAR did not receive a response.

All Service Levels set forth in this Section will be measured on a monthly basis cumulative of all Help Desk Support Services provided to all Participating Locations in the Dairy Queen system.

PAR will use commercially reasonable efforts to respond to all Participating Location(s) requests for Help Desk Support Services within the (a) Response Times, (b) Resolution Times and (b) Communication Cadence Times set forth in the chart below.

| **Severity of Issue** | **Description** | **Response Time** | **Resolution Time** | **Communication Cadence Times** |
|---|---|---|---|---|
| Urgent (P1)* | Issue with the Equipment, Licensed Software or Subscription Software Services that causes a loss of material functionality of any of the following:<br>• a terminal<br>• one or more kitchen production area monitor<br>• 50% or more of printers<br>• payment processing and/or one or more payment processing devices | 90% responded to within 15 minutes of receipt of call by PAR's Help Desk | 95% resolved within 60 minutes | Hourly |
| Medium (P2) | • Issue with the Equipment, Licensed Software or Subscription Software Services that requires circumvention or workaround of documented functionality, but the overall material functionality of the affected item is still maintained.<br>• Issue with the Equipment, Licensed Software or Subscription Software Services that impacts reporting accuracy. | 90% responded to within 30 minutes of receipt of call by PAR's Help Desk | 90% resolved within 3 hours | Daily |
| Low (P3) | Issue is operational/procedural and can be readily worked around. For example, the issue occurs sporadically (equal to or less than 2 times per day) and does not impact the ability to process an order. | 90% within 120 minutes of receipt of call by PAR's Help Desk<br><br>---<br>Any e-support ticket is responded to by next | 90% resolved within 5 business days | Weekly |

| Severity of Issue | Description | Response Time | Resolution Time | Communication Cadence Times |
|---|---|---|---|---|
| | | business day, during business hours. | | |
| After Hours support 8pm to 6 am Mountain Time | All P1 after hours support requests dispatched to Level 1 PAR Help Desk team<br>---<br>All P2 and P3 after hours support requests, dispatched to Level 1 PAR Help Desk team for next business day | 90% responded to within 30 minutes of receipt of call by PAR's Help Desk.<br>---<br>Response within 120 minutes of business start at 6am Mountain Time | Same as above | Same as above |

If a P1 call is placed to the Help Desk prior to 3 PM eastern time (Monday through Friday) or prior to 10 AM eastern time (Saturday), the progress of the Resolution Time will be closely tracked by the Help Desk with an awareness of the deadline to ship out replacement Equipment in accordance with Advance Exchange Services to ensure that if the issue is an Equipment issue and it cannot be resolved by the Help Desk, replacement Equipment can be delivered for next day arrival.

4. **PARTICIPATING LOCATION RESPONSIBILITIES**. Participating Location agrees to:
   - Designate a knowledgeable resource to accurately communicate and collaborate with the Help Desk.
   - Perform regularly scheduled system and database backups and ensure that they are available when required.
   - Maintain a working phone line or broadband connection and remote connection method that allows for remote diagnosis of the PAR Solution.
   - Maintain and manage adequate firewall and virus protection.
   - Maintain access to all required software, including operating system installation media, PAR application software and applicable service pack, system specific driver files and any applicable license or key codes.
   - Assist with the resolution of all system related problems. Participating Locations can expect to be required to dedicate some time to assist PAR in resolving problems.
   - Be prepared to provide all information needed including error codes, process or procedures leading up to the error and any other information that may be relevant and might help to expedite the resolution.

5. **EXCLUSIONS FROM COVERAGE.** The following items are excluded from the Help Desk Support Services:
   - In-depth training that requires more than 15 minutes of time.
   - Assistance with configuration, installation or addition of new hardware or peripherals, where the operation requires a certified PAR installation or professional services specialist, unless such assistance is in support of AE Equipment provided under the Advance Exchange Service pursuant to the Equipment Terms and Conditions of Sale.
   - Resolution of problems related to third party applications or equipment not sold by PAR.
   - Issues related to the installation, administration and use of technologies that may be connected to the PAR Solution but were not certified as PAR supported products.

- Resolution of problems or issues related to Participating Location's installed and maintained network, including any wireless network solution. External Case Referral will be made by PAR.
- Resolution of problems or issues related to virus or firewall management. External Case Referral will be made by PAR.
- Reinstallation of operating system from scratch, assisting with loading of operating system upgrades, patches or release supplements or restoration of files. This is handled as part of the Advance Exchange Service.
- Performing system administration tasks including but not limited to adding users, maintaining file system or database integrity, monitoring system resource, performing backup and storing software.
- Performing system configuration changes as a result of the Participating Location's decision to change internet or credit card processing providers.
- Performing system configuration changes as a result of the Participating Location's responsibilities to maintain compliance with PCI-DSS.
- Configuration or testing of third-party interfaces not approved by PAR. Help Desk Support will be limited to troubleshooting third-party interfaces approved by PAR (e.g. Restaurant Magic).
- Programming of new reports or reprinting of reports and journals from archive.
- Audit accounting or balancing of transactional detail. Issues related to cash or credit imbalances are not covered under any support agreement and are the responsibility of the customer. While technical advice regarding a specific report may be given, it is not the responsibility of PAR to determine whether a cash or credit imbalance exists or to determine the cause of the alleged imbalance. PAR agents will refrain from any manipulation of statistics or investigation of deposits or other financial transaction details, including reposting of any sales totals or transactions, including credit card sales or transactions, related to the Participating Location's request.
- Assistance with or correction of issues, including, rebuilding of database tables, totals files, reposting of totals or any manual manipulation of database files when the root cause of the issue is determined to be the Participating Location's user environment. If PAR personnel conclude that a problem being reported by a Participating Location is due to defects in the Participating Location's user environment, PAR will notify the Participating Location. Examples of defects in the user environment would include: electrical disturbance due to sub-standard electrical system installation or poor electrical supply, software failures that result from the installation of other third-party software, viruses contracted via the internet, incorrectly installed equipment which creates electrical disturbance, or natural disasters created by fire, flood or any other "acts of god".

**SCHEDULE C**

## PARPay™ SERVICE TERMS & CONDITIONS

These PARPay™ Service Terms and Conditions for are only applicable if Participating Location is purchasing/licensing PARPay™ Service ("PARPay Services"), along with an approved Device (all as defined below).

**Terms and Conditions**. These Terms and Conditions ("PARPay Terms") provides Participating Location with a license and right to use and access the PARPay Services. These PARPay Terms constitute the agreement between PAR and Participating Location with respect to Participating Location's use of the PARPay Services and supersedes and cancels any prior discussions, understandings, or representations between PAR and Participating Location. No addition to or modification of these PARPay Terms shall be binding upon either party unless expressly agreed to by PAR and Participating Location in writing, and, if these PARPay Terms are deemed an offer, acceptance is expressly limited to these Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Section A.1 below or elsewhere in the Participation Agreement.

**SECTION A: PARPAY SERVICES**

**1. DEFINITIONS APPLICABLE TO PARPAY SERVICES.**

**a. "Authorized Users"** means any of Participating Location's employees or agents authorized by Participating Location to access and use the PARPay Services.

**b. "Corporate Network"** this includes all the hardware and the software configuration on the network devices including switches and firewalls in Participating Location's corporate datacenter, if applicable, or in the store and at Participating Location's corporate office.

**c. "Device"** means approved credit card terminals or pin-pads listed in Schedule C-1 loaded with approved software and security keys.

**d. "Device Management Services"** means services provided to manage Participating Location's inventory of devices, including tracking the number of Devices, location, serial number, features enabled on each Device and alerts set on each Device.

**e. "Device Software"** means the software which resides on a Device, communicates with the PARPay Service and enables Participating Location's access to the PARPay Service.

**f. "Gift/Credit/Debit Card Masked Data"** means the last four (4) digits of the card number.

**g. "Gift/Credit/Debit Card Number"** means the number encoded on the magnetic stripe, the Europay Mastercard and Visa ("EMV") chip, or embossed/printed on the face of the Gift/Credit/Debit Card that identifies the Gift/Credit/Debit Card.

**h. "Gift/Credit/Debit Card Unmasked Data"** means all data associated with a Gift/Credit/Debit Card necessary or appropriate to permit the Gift/Credit/Debit Cards to operate under the Services and in

compliance with all applicable laws, including the cardholder name, primary account number, expiration date, card security code (CSC) or service code.

**i. "Gift/Credit/Debit Card"** means a plastic card with encoded card number used as a token for the transaction.

**j. "Gift/Credit/Debit Card Data"** means all the data derived from EMV chip on a Gift/Credit/Debit Card, Near Field Communication ("NFC"), Apple® Pay and magnetic stripe reader ("MSR") technology that Participating Location's customer may use to swipe/insert/tap on the Device.

**k. "Participating Location PARPay Data"** means information derived from the Gift/Debit/Credit card and additional prompts enabled on the Device platform as part of a Gift/Credit/Debit Card transaction submitted by Participating Location electronically through the Service including Transaction Data and Settlement Data.

**l. "Participating Location Tokens"** means a derived alphanumeric value that is linked with a Gift/Debit/Credit card. This token cannot be used to process a payment transaction but is only used within Participating Location's database of Participating Location PARPay Data to uniquely identify a customer.

**m. "PARPay Service"** means the PARPay services made available to Participating Location by PAR for the PARPay Service Fees (as defined herein) paid by Participating Location, which allow Participating Location to issue Gift Cards to customers and/or accept Credit and Debit Cards from customers using the platform to enable (i) Participating Location to register and monitor sales and usage of each Gift /Credit/Debit Card only via Participating Location Tokens, (ii) customers to use Gift/Credit/Debit Cards to purchase goods and services at Participating Location's locations (iii) for Participating Location to access, read, and confirm all customer Gift/Credit/Debit Card Data only via Participating Location Tokens and to create reports in various formats regarding sale and related transactions.

**n.** "**State Management Services**" means services provided to remotely diagnose and troubleshoot issues with the Devices, including providing bug fixes and Device Software updates in accordance with Section A.6. below.

**o. "Store Network"** this includes the hardware and the software configuration on the network devices including switches and firewalls in Participating Location's location.

**p. "Store Place Portal"** means the web-based portal backend business intelligence reporting and analysis tool that can be accessed anywhere via the internet or wirelessly from a mobile phone or computer available to Participating Locations as part of the PARPay Service.

**q. "Transaction Data"** means Gift/Credit/Debit Card Masked Data, sale amount, date, store number, transaction type, transaction status, transaction time, customer name and transaction amount.

**r. "User Documentation"** means the technical information or materials developed by us and provided to Participating Location in connection with the use of the PARPay Service.

**2. PAYMENT PROCESSING SERVICE.** Payment processing enables Participating Location to provide credit, debit card processing and private card processing via the internet or wirelessly. The PARPay Service provides EMV, NFC, Apple® Pay and MSR compliant transaction management linking to international acquirers. The PARPay Service is subject to change or may be updated at any time at PAR's discretion. We will notify Participating Location within fifteen (15) days of any changes. The PARPay Service includes point to

point encryption (P2PE v2.0), transport layer security (TLS v.1.2) and tokenization technology to process payments. Certified and supported payment processors are set forth on Schedule C-2.

**3. DEVICE MANAGEMENT & STATE MANAGEMENT SERVICES.** Device Management and State Management Services are provided to Participating Location, at its option, as part of the PARPay Services at no additional charge.

**4. STOREPLACE PORTAL.** PAR will provide the StorePlace Portal which allows Participating Location to view credit card transactions and settlement details, analyze payment trends, reconcile payments and manage chargebacks across all Participating Location's locations. At a minimum, the StorePlace Portal shall include the following:

- Transaction Data.
- Settlement data which includes all Transaction Data plus the date and time of settlement and batch number from payment processor ("Settlement Data").
- Consolidated Transaction Data and charts by card type (Visa, MCI, Amex)
- Sort and filter Transaction Data fields
- Corporate administrator rights to perform settlement adjustments (refund\void\sale)
- Statistics and charts to determine for customer spend by transaction, average spend by customer visit, number of transactions
- Ability to export transaction and settlement reports into Microsoft® Excel.
- Automatic settlement on a nightly basis from the Store Place Portal. Settlement time is determined by Participating Location at time of set up of the PARPay Service.

**5. OPTIONAL PARPAY SERVICES**. The availability of these optional services is subject to the Device selected; point of sale integration; and/or payment processor integration. The optional PARPay Services are included in the monthly PARPay Service Fees. One-time set-up fees may apply. Participating Location can contact PAR for further information on these Optional PARPay Services.

a. **Media Content:** either static or video on the DEVICE (set up fees apply)

b. **Standard Reward Programs:**

Type of Rewards Program
- Cumulative spending
- Purchase frequency
- Peak/Non-Peak
- SKU level rewards

Reward Redemption Options
- $$ -Dollars
- % Percentage

- SKU

**c.** CRM Surveys provided on DEVICE (set up fees apply)

**d.** Charity/Donations provided on DEVICE (set up fees apply)

**e.** SKU displays on DEVICE

**f.** Tip/Gratuity entry on DEVICE

**g.** AVS Security

**h.** Paperless receipt - Text or Email

**i.** Split Tender display on DEVICE

**j.** Signature Capture

**k.** Store and Forward

**l.** ApplePay

**m.** SamSung Pay

**n.** Internationalization on DEVICE – (option to change DEVICE language: i.e. English to Spanish)

**6. UPDATES TO THE DEVICE SOFTWARE/PARPAY SERVICE**. Participating Location will receive updates and upgrades to the Device Software and PARPay Services generally made available to PAR's other customers as part of Participating Location's monthly PARPay Service Fees. Updates, fixes and minor enhancements will be made at PAR's discretion to improve the performance and features of the Device Software and PARPay Service. Any updates will be made between 2:00 am and 5:00 am EST. Updates and fixes may need to be made to the Device Software and PARPay Service on an emergency basis during business hours. If such emergency updates are needed, PAR will coordinate with Participating Location to determine when such updates can be made.

**SECTION B: AVAILABILITY OF PARPAY SERVICE AND DATA.**

**1. Transaction Availability Warranty**. PAR warrants that the PARPay Service shall be capable of being accessed by Participating Location and by Participating Location's Authorized Users at least 99.9% of the time measured on a monthly basis, excluding outages and downtime set forth in Section B.2. below (the "PARPay Transaction Availability Warranty").

**2. Outages and Downtime**. The following outages and downtime shall be excluded from the Availability Warranty: (i) requested by Participating Location; (ii) caused by Participating Location or Participating Location's contractors and agents; (iii) scheduled maintenance and upgrade purposes; (iv) caused by Participating Location's computer system, web browser, hardware or software applications, including third party integrations, not authorized by PAR; (v) power failures; (vi) service failures caused by a service provider other than PAR or PAR's agents; (vii) damage to telecommunication facilities outside of PAR's control, other than acts taken by or caused by PAR personnel; (viii) outages and downtime that arises as a result of Participating Location's failure to upgrade or refresh required software or hardware where such non-compliance was communicated by PAR to Participating Location with adequate advance notice and where compliance is consistent with good business practices. PAR will provide Participating Location with one (1) week notice of any scheduled maintenance or upgrades, which shall occur after business hours local time. PAR shall only use

occurrences exceeding 60 seconds to calculate downtime.

**3. PARPay Service Level Credits**. PAR shall issue a credit equal to the pro-rated portion of the monthly PARPay Service Fees for the downtime period attributable to PAR below the applicable threshold per month in accordance with the PARPay Transaction Availability Warranty set forth in the charts below ("Availability Warranty Credit"):

| PARPay Transaction Availability Warranty | Service Level Credit/Refund |
|---|---|
| Above 99.0%-99.9% | 30% of location's monthly PARPay Service Fee |
| Above 98.0% to 99.0% | 45% of location's monthly PARPay Service Fee |
| Above 95.0% to 98.0% | 60% of locations' monthly PARPay Service Fee |
| Above 90.0% to 95.0% | 80% of location's monthly PARPay Service Fee |
| 90% or less | 100% of location's monthly PARPay Service Fee |

All Availability Warranties set forth in this Section will be measured on a monthly basis over a twenty-four (24) hour period for each day of the applicable month in the aggregate for the PARPay Service Fees provided to Participating Location.

**4. PARPay Service Level Reporting and PARPay Service Level Credit Application**. PAR will provide monthly reporting to Dairy Queen of PAR's performance with respect to the PARPay Transaction Availability Warranty listed herein. Any PARPay Transaction Availability Warranty failures that result in PARPay Service Level Credits will be aggregated and cumulatively applied to the Participating Location(s) following month's PARPay Service Fees.

**SECTION C: USE OF DEVICE SOFTWARE/PARPAY SERVICE.**

**1. LICENSE AND RIGHT TO USE THE DEVICE SOFTWARE AND PARPAY SERVICE.** Subject to the terms and conditions of these PARPay Terms, PAR grants Participating Location and Participating Location hereby accepts: (a) a personal, non-transferable, and non-exclusive right and limited license to use the payment application software ("Device Software") on an approved payment application device; and (b) a personal, non-transferable, and non-exclusive right and limited license to use the PARPay Service implemented by the Device Software, as well as technical information or materials developed by PAR and provided to Participating Location in connection with the use of the PARPay Service ("User Documentation"), all solely for the purpose of processing credit/debit/gift card transactions for Participating Location's business ("Purpose"). The use of any third party software shall also be subject to the terms and conditions of any end user license agreement provided for such software.

**2. USAGE RESTRICTIONS** - Participating Location shall not directly or indirectly access or use the Device Software or the PARPay Service to process data or information for any person or entity other than Participating Location, and neither Participating Location nor Participating Location's Authorized Users shall use or permit the Device Software or PARPay Service to be used as a service bureau. These PARPay Terms do not give Participating Location's customers any right to use the Device Software or PARPay Service. Participating Location may not resell or transfer Participating Location's right to use the Device Software or PARPay Service to any third party, including without limitation any resellers or distributors. Participating

Location may not loan, lease, rent, disclose, sell, transfer, sublicense, or otherwise use, copy, or distribute copies of the Device Software or PARPay Service, in whole or in part, including without limitation any screens, content, graphics, or output of the Device Software or PARPay Service, except that Participating Location may print out reports and comparisons in connection with the Purpose and not for any other use, except as expressly permitted by these PARPay Terms. Participating Location also may not use the Device Software or PARPay Service to create any tables, files, databases, derivative works, or other compendiums or works, except as expressly permitted by these PARPay Terms. The PARPay Service does not include an Internet access service; Participating Location must separately arrange for and pay for access to the Internet in order to access and use the Service.

**3. AUTHORIZATION -** As long as Participating Location remains in good standing, Participating Location and those of Participating Location's employees who have been duly registered as an Authorized User and whose registration is current are authorized to access the PARPay Service only through the use of both (1) the unique username issued to Participating Location for each Participating Location Authorized User enrolled in the PARPay Service, and (2) the corresponding unique password created by each of Participating Location's Authorized Users in connection with their username**.** PAR reserves the right to inactivate or "timeout" a session after a reasonable amount of time of inactivity by an Authorized User. Participating Location shall be solely responsible for the manner in which Participating Location and Participating Location's Authorized Users use the PARPay Services. Participating Location shall ensure that only Authorized Users have access to any user identifications or passwords for use in connection with the PARPay Services and shall not disclose such identifications or passwords to any other individual. Participating Location acknowledges and agrees that Participating Location is solely responsible for strictly maintaining the confidentiality and integrity of such identifications and passwords and Participating Location shall indemnify and hold PAR harmless from and against any liability, damages, or costs arising from Participating Location's failure to comply with this obligation including, but not limited to, improper or unauthorized account access using Participating Location's user identifications or passwords, provided such identifications or passwords were not improperly disseminated by PAR, its third party provider or any of their representatives. Participating Location shall notify PAR immediately in writing if the security or integrity of an identification or password has been compromised.

**SECTION D: PARPAY SERVICE TERM, SERIVCE FEES AND TERMINATION.**

**1. TERM** – The Initial Term of these PARPay Terms shall begin upon the date the PARPay Services are first used to process a transaction in Participating Location, and unless earlier terminated by either Participating Location or PAR pursuant to the terms set forth in these PARPay Terms or this Participation Agreement shall be for a period of five (5) years. These PARPay Terms shall automatically renew at the end of the Initial Term for additional successive periods of one (1) year (the "Renewal Term(s)"). The Initial Term and the Renewal Term(s) shall be referred to herein collectively as the "Term".

**2. MUTUAL TERMINATION FOR MATERIAL BREACH**. Except as otherwise provided herein, if either Participating Location or PAR is in breach of any material term of these PARPay Terms, the other party may terminate these PARPay Terms at the end of a written 30-day notice/cure period, if the breach has not been cured.

i. Actions upon Termination for Material Breach.

a. *Upon any termination as provided in D.2. above by Participating Location,* PAR must refund any prepaid and unused PARPay Service Fees under these PARPay Terms through the date of termination.

b. *Upon any termination as provided in D.2 above by PAR,* Participating Location must pay any unpaid and owed PARPay Service Fees under these PARPay Terms through the date of termination. The PARPay Services will also be terminated.

**3. TERMINATION FOR CONVENIENCE BY PARTICIPATING LOCATION**. Participating Location may terminate these PARPay Terms for convenience, at any time, for any reason upon thirty (30) days' notice to PAR.

i. Actions upon Termination for Convenience.

a. *Upon any termination as provided in D.3 above by Participating Location,* PAR must refund any prepaid and unused PARPay Service Fees under these PARPay Terms through the date of termination.

**4. UPON TERMINATION OR EXPIRATION (FOR ANY REASON)**. Upon termination or expiration of these PARPay Terms (for any reason), Participating Location must no longer use the Device Software and return all User Documentation and all other property of PAR. Participating Location will confirm its compliance with this requirement in writing upon request of PAR.

**5. SERVICE FEES AND PAYMENT** - To subscribe to the PARPay Service, Participating Location shall pay a one-time set-up/activation fee and the monthly subscription fees as set forth on the PAR Sales Order submitted by Participating Location (collectively, "PARPay Service Fees"). The PARPay Service Fees shall be paid monthly via automatic debit from Participating Location's checking account and are non-refundable, except as otherwise provided herein. For any Participating Locations that operate their business on a "seasonal basis" they will pay PARPay Service Fees for 8 months a year starting each calendar year on April 1 through November 30. If the date Participating Location first uses the PARPay Services to process a transaction in Participating Location occurs before the 15th of the month, Participating Location will be charged Service Fees for that entire calendar month. If the date Participating Location first uses the PARPay Services to process a transaction in Participating Location of the PARPay Services occurs after the 15th of the month, Participating Location Service Fees will not commence until the first day of the following calendar month.

**6. RETURN OF DATA**. Upon any termination, and upon Participating Location's written request, PAR will make available to Participating Location, electronic copies of Participating Location PARPay Data then available on the PARPay Services, provided Participating Location is current on any PARPay Service Fees then owing. Participating Location PARPay Data shall be provided in Delimited File or XML only at no charge. PAR reserves the right (but are not obligated to) destroy or discard any Participating Location Data after ninety (90) days following termination. Upon written request by Participating Location, PAR will discard all Participating Location PARPay Data, provided PAR shall not be required to destroy or alter any computer archival and backup media or archival and backup files, but such archival and backup materials shall be kept confidential in accordance with the terms of these PARPay Terms.

**SECTION E: TRANSACTION DATA AND PARICIPATING LOCATION DATA.**

**1.** Participating Location will at all times own all right, title and interest in and to the Participating Location PARPay Data, including but not limited to "Gift/Credit/Debit Card Masked and Unmasked Data" generated through the Service. By submitting Participating Location PARPay Data to us for use on the Service, Participating Location grants PAR a worldwide, royalty-free, and non-exclusive license to use, reproduce, modify and publish on the PARPay Service. Participating Location represents and warrants to PAR that Participating Location has the right to use, and to permit PAR to use Participating Location PARPay Data in order to provide the PARPay Services. Participating Location

acknowledges that PAR shall have the right as the PARPay Service provider to take such commercially reasonable actions to preserve or enhance the operation of the PARPay Service which may include, without limitation, reducing fragmentation of Participating Location PARPay Data and routine maintenance and upgrading of the PARPay Service. PAR will use best efforts to conduct such activity at such times so as to minimize any interference with Participating Location's use of the PARPay Service or limitation of Participating Location's access to Participating Location PARPay Data.

2. PAR agrees to maintain Participating Location PARPay Data extracted to the data center for a period of twenty-four (24) months and PAR will back up Participating Location's consolidated Participating Location PARPay Data at regular nightly intervals. Weekly backups of Participating Location's consolidated Participating Location PARPay Data will be stored off site. If Participating Location wants PAR to maintain Participating Location's consolidated Participating Location PARPay Data for a longer period of time, this is considered a customization of the PARPay Service and shall be subject to a separate addendum or statement of work mutually agreed upon by the parties outlining the work to be performed, the applicable fees, and the payment terms.

**SECTION F: PARTICIPATING LOCATION RESPONSIBILITIES.**

1. In connection with Participating Location's use of the PARPay Services, Participating Location will be responsible for the following:

**b.** all Participating Location PARPay Data that is "Gift Credit/Debit Card Masked data";

**c.** implementing, monitoring, and managing Participating Location's Store Network and Participating Location's Corporate Network, including all Payment Card Industry Data Security Standards (PCI-DSS) related controls and activities for these networks;

**d.** not storing/recording "Gift/Credit/Debit Card Unmasked Data;"

**e.** bearing all risk related to the loss or theft of, alteration or damage to, or fraudulent, improper or unauthorized use of any Gift/Credit/Debit Card, Gift/Credit/Debit Card Number or personal identification number in the case of Gift/Credit/Debit Cards by an employee, agent or sub-contractor of Participating Location;

**f.** maintain Participating Location's own equipment, managed networks, and managed systems and systems interfaces to appropriate minimum standards;

**g.** within ten (10) days of activation of the PARPay Services, access the PARPay Services using Participating Location's office computer with Participating Location's typical network configuration in order to review the PARPay Services; confirm that Participating Location PARPay Data was satisfactorily delivered via the internet, Participating Location's firewall, routing system and office network;

**h.** abide by the security procedures specified by PAR and perform reasonable and customary security practices to preclude attempts to circumvent any security procedures or utilize any unauthorized systems in an attempt to access data other than Participating Location's own data;

**i.** make all reasonable efforts to assist us in identifying, isolating and replicating issues found in the PARPay Services; and

**j.** using the PARPay Services and the Device Software in a manner consistent with these PARPay Terms and with all applicable laws and regulations, including without limitation, copyright, trademark, and

export control laws, and laws prohibiting the use of telecommunications facilities to transmit illegal, obscene, harmful to minors, threatening, harassing, or other offensive information or messages. PAR reserves the right to implement and require Participating Location's compliance with a commercially reasonable user conduct policy which may be updated from time to time, upon at least fifteen (15) days advance written notice to Participating Location.

**SECTION G: CONFIDENTIALITY**

PAR will protect and keep confidential Participating Location PARPay Data. Participating Location acknowledges that no violation of the provisions of this paragraph shall result from the allowing of access to or copying of Participating Location PARPay Data, or any part thereof, to Participating Location's payment provider or in compliance with an order or subpoena from any court or governmental or law enforcement agency. Participating Location agrees to permit only Participating Location's duly registered Authorized Users to use the PARPay Services, or to view any related materials. Except as otherwise provided in these PARPay Terms, Participating Location shall not sell, transfer, publish, disclose, display, or otherwise make available any portion of the PARPay Services or the Device Software to others. Participating Location agrees to provide reasonable cooperation to PAR and reasonable assistance to PAR in identifying and preventing any unauthorized use, copying, or disclosure of the PARPay Services, and/or the Device Software, in whole or in part. The foregoing confidentiality obligations shall not apply to any information generally available to the public, independently developed or obtained without reliance on the other party's information or approved for release by the other party without restriction.

**SECTION H: OWNERSHIP**

1. **DEVICE SOFTWARE** - PAR, or the third party licensor where applicable, retain title to the Device Software and the PARPay Service, including, without limitation, all copies and audiovisual aspects of the PARPay Service, and all rights to patents, copyrights, trademarks, trade secrets, and other intellectual property rights inherent in and appurtenant to the Device Software and the PARPay Service, including any derivative works developed by Participating Location or PAR either jointly or individually. Participating Location shall not, by virtue of these PARPay Terms or otherwise, acquire any proprietary rights whatsoever in the Device Software or the PARPay Service, which shall be PAR's confidential information and the sole and exclusive property of PAR, or the third party licensor where applicable. Any right not expressly granted to Participating Location by these PARPay Terms is expressly reserved by PAR. To the fullest extent permissible under applicable law Participating Location may not (and may not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in, or otherwise transfer any right in the Device Software or the PARPay Service. Participating Location may not modify, rent, lease, loan, sell, distribute or create derivative works based on the PARPay Service or the Device Software.
2. **TRADEMARKS AND TRADE NAMES** - Any and all trademarks, service marks, and trade names that PAR uses in connection with the Device Software or the PARPay Services are and shall remain PAR's exclusive property. Nothing contained in these PARPay Terms shall be deemed to give Participating Location any right, title, or interest in any of PAR's trademarks, service marks, or trade names, including, but not limited to, any right to use any of PAR's trademarks, service marks, or trade names.

**SECTION I: DISCLAIMER OF WARRANTY AND LIMITATION OF REMEDIES.**

Participating Location understands and agree as follows:

a. **DISCLAIMER OF WARRANTIES.** EXCEPT FOR THE WARRANTIES SET FORTH ABOVE IN SECTION B.1., PAR MAKES NO WARRANTY AS TO THE PARPAY SERVICE, THE DEVICE SOFTWARE OR THE RESULTS TO BE OBTAINED FROM PARTICIPATING LOCATION'S USE OF THE PARPAY SERVICES OR THE DEVICE SOFTWARE. THE PARPAY SERVICES AND THE USE

OF THE DEVICE SOFTWARE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PARTICIPATING LOCATION ASSUMES FULL RESPONSIBILITY AND RISK FOR USE OF THE PARPAY SERVICE, THE DEVICE SOFTWARE AND THE INTERNET. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PAR DOES NOT WARRANT THAT THE PARPAY SERVICES OR THE DEVICE SOFTWARE WILL BE UNINTERRUPTED, ERROR-FREE OR THAT UNAUTHORIZED ACCESS TO THE PARPAY SERVICES BY THIRD PARTIES ("HACKING") CAN BE PREVENTED. THE EXPRESS WARRANTIES SPECIFIED IN THESE PARPAY TERMS OR FURNISHED WITH THE PARPAY SERVICES BY PAR ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PAR DISCLAIMS AND EXCLUDES ANY AND ALL OTHER WARRANTIES.

b. **NOTIFICATION OF OUTAGE BY PARTICIPATING LOCATION.** PARTICIPATING LOCATION MUST NOTIFY PAR IF THE PARTICIPATING LOCATION IS UNABLE TO TRANSACT AN ORDER OR USE THE PARPAY SERVICES BY CONTACTING THE PAR HELP DESK. IF PAR HAS NO RECORD OF THE PARTICIPATING LOCATION CONTACTING THE PAR HELP DESK REGARDING SUCH OUTAGE WITHIN 60 DAYS OF THE END OF THE MONTH IN WHICH THE PARTICIPATING LOCATION EXPERIENCED THE OUTAGE, THEN PARTICIPATING LOCATION WILL BE DEEMED TO HAVE WAIVED ANY CREDITS THAT MAY HAVE BEEN AVAILABLE FOR SUCH OUTAGE. NOTWITHSTANDING THE FOREGOING IF PAR BECOMES AWARE OF A SYSTEM WIDE OUTAGE, PAR AND/OR DAIRY QUEEN MAY NOTIFY PARTICIPATING LOCATIONS OF SUCH OUTAGE AND IN SUCH INSTANCE PARTICIPATING LOCATION WILL NOT BE REQUIRED TO NOTIFY PAR IN ORDER TO OBTAIN A CREDIT.

c. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING WITHOUT LIMITATION TORT, CONTRACT, OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, COVER, RELIANCE OR CONSEQUENTIAL DAMAGES, (INCLUDING WITHOUT LIMITATION LOSS OF BUSINESS PROFITS, LOSS OF SERVICE, BUSINESS INTERRUPTION, LOSS OF OR INCORRECT BUSINESS INFORMATION/DATA AND THE LIKE) SUFFERED OR INCURRED BY EITHER PARTY EVEN IF SUCH PARTY SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT THAT, NOTWITHSTANDING THE FOREGOING, EITHER PARTY IS FOUND LIABLE TO THE OTHER PARTY FOR DAMAGES FROM ANY CAUSE WHATSOEVER, SUCH PARTY'S AGGREGATE ANNUAL CALENDAR YEAR (JANUARY 1 TO DECEMBER 31) LIABILITY TO THE OTHER PARTY UNDER THIS PARTICIPATION AGREEMENT INCLUSIVE OF ALL SCHEDULES HERETO WILL BE $50,000 AND WITH RESPECT TO PAR'S LIABILITY TO PARTICIPATING LOCATION, LESS ANY AMOUNTS RECEIVED BY PARTICIPATING LOCATION AS SERVICE CREDITS FOR PAR'S FAILURE TO MEET ANY AVAILABILITY WARRANTY AS SET FORTH HEREIN. THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO EITHER PARTY'S LIABILITY FOR ITS (OR ITS RESPECTIVE AGENTS AND/OR SUBCONTRACTORS) GROSS NEGLIGENCE OR WILFULL MISCONDUCT, WILFUL FAILURE TO COMPLY WITH LAW, FRAUD, INTELLECTUAL PROPERTY INFRINGEMENT, BODILY INJURY (INCLUDING DEATH) OR DAMAGE TO OR LOSS OF ANY TANGIBLE PROPERTY.

**SECTION J: INDEMNIFICATION.**

**1. BY PARTICIPATING LOCATION**. Participating Location agrees to indemnify, defend, and hold PAR, and PAR's parent companies, subsidiaries, and affiliates, and their respective directors, officers, agents, co-branders or other partners, representatives, contractors, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Participating Location PARPay Data being illegal or infringing on a third party's Intellectual Property Rights, Participating Location's use or Participating Location's Authorized Users' use of the PARPay Service, Participating Location's connection to the PARPay Service, Participating Location's violation or the violation by any of Participating Location's Authorized Users of the PARPay Terms, the violation of any rights of another by Participating Location or any of Participating Location's Authorized Users, or any act or omission of Participating Location or Participating Location's directors, officers, agents, representatives, contractors, Authorized Users, or employees.

**2. BY PAR FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.** PAR agrees to defend any action brought against Participating Location based on a claim that the Device Software, State Management Services, Device Management Service and/or the PARPay Service infringes upon a United States copyright, trademark or patent, and/or violates the trade secret rights of a third party and we will pay those costs and damages finally awarded against Participating Location on the condition that (i) Participating Location notify PAR promptly in writing of any such claim or action; (ii) PAR shall have the sole control of the defense and final settlement thereof; and (iii) if the Device Software or the PARPay Service, or any part thereof, in PAR's sole opinion is likely to become the subject of a claim of infringement, then Participating Location shall permit PAR, at PAR's sole option and expense (a) to replace or modify the Device Software or the PARPay Service to become non-infringing, or (b) if (a) is not reasonably available as an option, then Participating Location's sole and exclusive remedy shall be a refund of the PARPay Service Fees for the then current month's PARPay Service or any PARPay Service Fees for the remainder of the Term if such PARPay Service Fees were paid in advance. We shall have no liability to Participating Location for any such claim of infringement of a third party's proprietary rights that are caused by use of the Device Software or PARPay Service in a manner that is in violation of these PARPay Terms.

**3. BY PAR IN GENERAL.** PAR will defend and indemnify Participating Location, its affiliates and their respective officers, directors, employees, agents, successors, and assigns from and against any and all damages, losses, fines, penalties, costs, expenses, liabilities and other amounts (including reasonable attorney fees and expenses) ("Losses") suffered or otherwise incurred by any of them arising from or in connection with or otherwise relating to: (i) bodily injury (including death) or damage to or loss of any tangible property caused by the PARPay Services or the negligent acts or omissions of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns; (ii) (i) bodily injury (including death) or damage to or loss of any tangible property caused by the negligent acts or omissions of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns in providing the PARPay Services, State Management Services, Device Management Service and/or Device Software; (ii) gross negligence or willful misconduct of PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns in providing the PARPay Services, State Management Services, Device Management Service and/or Device Software, and (iii) any violation of Law by PAR or its sub-contractors and their respective officers, directors, employees, agents, suppliers, sub-suppliers, successors and assigns or any of their respective employees, officers, directors, agents or representatives in providing the PARPay Services, State Management Services, Device Management Service, and/or Device Software. Notwithstanding the foregoing, PAR is not liable to defend, indemnify or hold harmless Participating Location for any Losses directly arising from: (y) the

negligent or willful misconduct of the Participating Location; or (z) any violation of Lawby Participating Location or its sub-contractors and their respective officers, directors, employees, agents, suppliers, successors and assigns or any of their respective employees, officers, directors, agents or representatives.

**SECTION K: GENERAL TERMS AND CONDITIONS**

a. **Money Damages Insufficient**. Any breach by Participating Location or PAR of these PARPay Terms or violation of the other party's Intellectual Property Rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

b. **Governing Law**. These PARPay Terms shall be construed and interpreted in accordance with the laws of the State of Delaware.

c. **Force Majeure**. PAR and Participating Location shall not be liable for any delay in performance under these PARPay Terms resulting from any cause beyond PAR or Participating Location's reasonable control, including without limitation, any act of God, fires, storms, floods, explosions, strikes, work stoppages or slowdowns, or other industrial disputes, legal action, failure or delay of supplies from ordinary sources, accidents, riots, war or civil disturbances, or acts of civil or military authorities.

d. **Entire Agreement and Changes.** These PARPay Terms and the Sales Order constitute the entire agreement between the parties with respect to PARPay Services and Device Software, and supersede all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. The sole terms and conditions governing the purchase of the PARPay Services from PAR are contained in these PARPay Terms and any terms or conditions contained on the face or back of any Participating Location purchase order or other document shall be without effect. No modification or waiver of any term of these PARPay Terms is effective unless both parties sign it.

e. **No Assignment**. Neither Participating Location or PAR may assign or transfer these PARPay Terms or an order to a third party, without prior written consent of the other party, which shall not be unreasonably withheld; provided, however, these PARPay Terms with all orders may be assigned as part of a merger, or sale of all or substantially all of the business or assets, of a party and PAR may use a subcontractor to perform all or part of the PARPay Services provided hereunder. PAR shall remain responsible for the performance of each subcontractor and its employees and for their compliance with these PARPay Terms.

f. **Independent Contractors**. The parties are independent contractors with respect to each other.

g. **Enforceability**. If any term of these PARPay Terms is invalid or unenforceable, the other terms remain in effect.

h. **Survival**. Any terms that by their nature survive termination or expiration of these PARPay Terms, will survive including but not limited to indemnification, choice of law, and confidentiality.

i. **CISG Not Apply**. The Convention on Contracts for the International Sale of Goods does not apply.

j. **Notices**. Notices shall be deemed given upon receipt. Any notices required to be given shall be in writing and in the case of notice to Participating Location, shall be sent to the billing address or fax number on the Sales Order. In the case of notice to PAR, such notice shall be sent via postage prepaid certified mail or by overnight courier to: ParTech, Inc. (Attn: Legal Department); ParTech Technology Park; 8383 Seneca Turnpike; New Hartford, NY 13413-4991.

**SCHEDULE C-1**

**APPROVED DEVICES**

The Devices below are approved for use with the Device Platform. The list of Devices is subject to change. Devices will eventually become obsolete and require replacement. The selection of Devices may also impact the ability to utilize features and functionality of the PARPay Service as described above. Participating Location should verify with us in advance of placing an order directly from a Device supplier or manufacturer if such Device is still approved for use with the PARPay Service.

| EMV Payment Devices Supported by PAR Pay |
|---|
| Verifone Mx915, Mx925, Vx805, Vx820, Vx520, Coming Soon – M400 |
| Ingenico IPP-350, ISC-250, ISC-480, Coming Soon - Move 5000 |
| *Devices not listed will require certification testing and additional fees prior to implementation* |

**SCHEDULE C-2**

**CERTIFIED AND SUPPORTED PAYMENT PROCESSORS**

| Credit and Debit Processors |
|---|
| First Data |
| WorldPay |
| Vantiv |
| Worldpay |
| Mercury |
| Chase Paymentech |
| Tsys |
| Global Payments Heartland |
| Elavon |
| Moneris |
| *Other processors may be available but would need to be certified and tested prior to deployment. Please contact Customer Sales or a Customer Support Representative to inquire about other processors.* |

| Gift Card Processors |
|---|
| Valuelink |
| Vantiv |
| SVS |
| Valuetec |
| Heartland Gift |
| Mercury |
| Worldpay |
| Aurus Gift |
| Chase - Givex |
| Coming Soon – GiftePay |
| Coming Soon – Synergy Gift |

**SCHEDULE D**
**to Participation Agreement**

**SALES ORDER FOR EQUIPMENT, SUBSCRIPTION SOFTWARE SERVICES AND SERVICES**

**Sample Sales Order**

**Prepared for:** Participating Location Name and Address **Ship to:** Participating Location Name and Address

**Bill to:** Participating Location Name and Address

**Hardware**

| Qty | Part Number | Description | Unit Price | Sales Price |
|---|---|---|---|---|

**Software and Support**

| Qty | Part Number | Description | Unit Price | Sales Price |
|---|---|---|---|---|

**Installation Services**

| Qty | Part Number | Description | Unit Price | Sales Price |
|---|---|---|---|---|

**Hardware Maintenance Services**

| Qty | Part Number | Description | Unit Price | Sales Price |
|---|---|---|---|---|

**Grand Total (Does not include Tax and Shipping)** **$$**
**Down Payment**
**Balance Due**

**Special Instructions:**

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This Sales Order is made and entered into by and between ParTech, Inc., ("PAR") and the Participating Location executing this Sales Order. Participating Location hereby agrees to purchase from PAR, and PAR by its acceptance of this Sales Order agrees to sell to Participating Location, the Equipment, Installation Services, Subscription Software Services, PARPay Services, Advance Exchange Services, and On-Site Remedial Maintenance Service, as applicable, as listed above in accordance with the terms and conditions of this Sales Order and the Participation Agreement executed by Participating Location and PAR. All Sales Orders are non-cancellable by Customer. Notwithstanding the foregoing, if PAR agrees to cancel any Sales Order, PAR may condition such cancellation on Customer paying a 10% restocking fee for any Equipment or other items returned to PAR.

**Price Increases:** Beginning on the calendar year starting January 1, 2021 pricing is subject to an annual increase based on an amount equal to the lesser of 2% or the amount of Consumer Price Index ("CPI") increase calculated based on the immediately preceding unadjusted 12 months (10/01 through 9/30), derived from the U.S. Department of Labor, Bureau of Labor Statistics web site, https://www.bls.gov/news.release/cpi.nr0.htm. Price increases will take effect February 1 of the then current calendar year. PAR will communicate prices increases to Participating Location in writing via email by January 15th.

**Exchange Rate for Participating Locations in Canada.** Participating Locations in Canada who are purchasing Equipment and Installation Services via an upfront payment may elect to pay for all Equipment and Services in USD or CAD. Participating Locations in Canada who are financing Equipment and Installation Services must pay in CAD for all Equipment and Services subject to the following. The exchange rate for Participating Locations in Canada whom elect to pay in CAD will be set for the spot rate of USD/CAD by the Wall Street Journal as reported by http://www.wsj.com/public/page/news-currency-currencies-trading.html on the Effective Date of the Master Hardware and Software Agreement between ParTech, Inc. and American Dairy Queen Corporation. The exchange rate will be maintained by PAR for a period of one (1) year from February 1, 2019 and then revised annually thereafter. On January 1 (or the next business day) of each year thereafter, the new exchange rate shall be determined based on an

average of the spot rate over the prior calendar year (January 1 – December 31) of USD/CAD by the Wall Street Journal as reported by on http://www.wsj.com/public/page/news-currency-currencies-trading.html and communicated to Participating Location in writing via email within five (5) days of such determination. The new exchange rate will be calculated on an annual basis for the remainder of the Term of your Participation Agreement. The annually calculated new exchange rate will take effect February 1 of the then current calendar year, and will apply to purchases of Equipment, Installation Services, existing and new purchases of Subscription Software Services, existing and new purchases of PARPay Services, existing and new purchases of Advance Exchange Services, and existing and new purchases of On-Site Remedial Maintenance Services.

The Equipment sold under this Sales Order has a limited useful life. As Subscription Software Services advance, improve, and change, Equipment sold under this Sales Order may no longer be able to meet the minimum operating requirements required to run the Subscription Software Services. In the future it will be necessary to purchase new Equipment as the PAR Solution evolves. The exact timing as to when the Equipment sold under this Sales Order will no longer effectively operate the Subscription Software Services and will therefore need to be replaced has not yet been determined. The average life cycle of today's typical Equipment configurations sold by PAR is 5-7 years.

See below for additional fees that may be incurred by Participating Location in connection with the Installation Services with regards to permits, installation delays, rescheduling, aborts, revisits, or out of scope activities and may be separately invoiced by PAR to Participating Location.

| | |
|---|---|
| PERMIT RESEARCH FEE: | $40 per Permit |
| COST OF PERMIT +COST TO OBTAIN PERMIT: | Actual |
| RESCHEDULE FEE: | $135 per Participating Location |
| ABORT FEE: | $750 per Participating Location |
| INSTALLATION DELAY FEE: | $175 per hour (billed in 30-minute increments) |
| REVISIT FEES: | $175 per hour (billed in 30-minute increments) |
| OUT OF SCOPE HOURLY RATE: | $175 per hour (billed in 30-minute increments) |

RESCHEDULE FEE: If a Participating Location is scheduled for Service and the Participating Location reschedules the Service within 48 hours of the scheduled installation date, PAR will invoice the Participating Location for Reschedule Fee as set forth above. If a Participating Location is scheduled for Service and PAR reschedules the Service within 48 hours of the scheduled Service date, PAR will provide the Participating Location with a refund to their Installation Services costs in the amount of a Reschedule Fee.

ABORT FEE: If a Participating Location is scheduled for Service and the Participating Location cancels the installation within 24 hours or the PAR technician arrives at the Participating Location to perform Services, and Services cannot be performed on the scheduled installation date for reasons not attributable to PAR, then PAR will invoice the Participating Location an Abort Fee as set forth above. If a Participating Location is scheduled for Service and PAR reschedules the Service within 24 hours of the scheduled Service date, PAR will provide the Participating Location with a refund to their Installation Services costs in the amount of an Abort Fee.

INSTALLATION DELAY FEES: If an issue within the control of the Participating Location related issue causes: (a) the PAR technician to delay the installation for 30 minutes or more at any time during the performance of the Services, PAR may invoice the Participating Location at PAR's standard hourly rate of $175.00/hour in 30-minute increments. If an issue within PAR's or the PAR technician's control causes the PAR technician to delay the installation for 30 minutes or more at any time during the performance of the Services, PAR will credit the Participating Location at PAR's standard hourly rate of $175.00/hour in 30-minute increments.

REVISIT FEE: The Participating Location is responsible for revisits to a Participating Location after completion of the Installation Services due to issues outside of PAR's control and attributable to the Participating Location's acts or omissions. Such revisits will be invoiced at PAR's standard hourly rate of $175.00/hour in 30-minute increments. The Participating Location will not be invoiced for revisits due to issues within PAR's control.

OUT OF SCOPE SERVICE FEES: PAR Approved out of scope services will be invoiced at $175 per hour in 30-minute increments.

INSTALLATION DELAY AND ABORT SCENARIOS: Refer to the Installation and Abort Scenarios as set forth in the Dairy Queen Installation Guide.

**Hardware Maintenance Services.** Participating Location may elect from two (2) different Equipment coverage options (Tier A or Tier B) based on the type of Equipment that the Participating Location wants to cover under the hardware maintenance services. The options are:

**Tier A**: As defined in Schedule D-1 of the Participation Agreement
**Tier B**: As defined in Schedule D-1 of the Participation Agreement

Once Participating Location elects either Tier A or Tier B, then the Participating Location must choose either Advance Exchange Services or On-Site Remedial Maintenance Services for such Equipment.

Participating Location may later elect to switch from Tier A to Tier B, or Tier B to Tier A. Participating Location may also later elect to switch from Advance Exchange Services to On-Site Remedial Maintenance Services, or from On-Site Remedial Maintenance Services to Advance Exchange Services. If Participating Location wants to make any such change, they must notify PAR via email at contractadmin@partech.com or via telephone at 1-800-448-6505, extension 6274. If a Participating Location elects to switch from Tier A to Tier B, then the Equipment not covered under Tier A must be certified by PAR to be in proper operating condition prior to becoming eligible for Tier B. Such certification and any resulting repairs or adjustments to bring the Equipment not covered under Tier A into proper operating condition shall be at a rate of $300 plus the agreed upon time and material rates for any necessary repairs. If the Equipment not covered under Tier A needs repair, at Participating Location's option, Participating Location may either have the Equipment repaired or purchase new Equipment. Once the Equipment is accepted by PAR and becomes eligible for hardware maintenance services, the Equipment will be covered under Tier B Advance Exchange and/or On-Site Remedial Maintenance Services as selected by the Participating Location. Additionally, if a Participating Location's hardware maintenance services have lapsed for more than three (3) months, then Participating Location's Equipment must be certified by PAR as set forth herein before becoming eligible for hardware maintenance services. If Participating Location elects to change hardware maintenance service Tiers and/or switch from Advance Exchange Services to On-Site Remedial Maintenance Services such election will become effective on the first day of the calendar month after 60 days from its notification to PAR of such election (so long as in the case of switching from Tier A to Tier B, all Equipment which was not previously covered by hardware maintenance services has been certified as eligible for hardware maintenance services by PAR).

_____
Participating Location

_____
Authorized Signature of Participating Location

_____
Print Name

_____
Print Title

_____
Quote #

_____
Primary Contact Telephone
(May be used for order or payment inquiries)

_____
Primary Contact Email Address:
(May be used for order or payment inquiries)

**SCHEDULE D-1**

**STANDARD DAIRY QUEEN CONFIGURATIONS**

**Standard Dairy Queen Configurations**

Participating Location will sign a separate Sales Order specific to Participating Location's store configuration and Equipment needs based upon the results of a Site Survey.* Participating Location will have the option to upgrade the KVS to 27" monitors if requested (will increase cost). Listed below are standard configurations for an existing Grill and Chill, an existing Treat Store, and a new Grill and Chill. Participating Location acknowledges that it will sign a Sales Order which will include similar hardware, software, and services based on the standard configurations below. (Depending upon the site survey, additional items may be required that are not listed below. (e.g. USB Extenders, ceiling mounts, etc.)

* New construction stores will follow the "New Store Grill and Chill" standard below and will not typically have a Site Survey.

| Hardware and Installation price ranges reflect variation in cabling cost. These prices have been rounded. |
|---|

**Standard Grill and Chill Location**

**Hardware Configuration:**
2 Front Counter Terminals, 2 Drive Thru Terminals, 4 Fingerprint Readers, 2 Mobile Printers, 3 Receipt Printers, 3 Cash Drawers, 3 Additional Cash Drawer Inserts, 3 Scanners (for Mobile) 6 KVS systems (20" Monitor, KVS Controller, KVS Bump Bar), 4 UPS Units, 1 24 Port Switch, Network Rack and Patch Panel, 3 Verifone P400 Units w/stands, 3 KVS Surge Protectors, 6 USB Sound Bars,

**Monthly Finance Option**

| | |
|---|---|
| • Hardware | $325.65 to $336.05 |
| • Install | $105.08 to $140.45 |
| • Software | $295.47 |
| • AE (Tier B) | $101. 96 |

**Purchase Option**

| | |
|---|---|
| • Hardware | $16,671.37 to $17,167.64 |
| • Install | $5,364.30 |
| • Average Cabling Cost | $1,798.85 |
| • Software | $295.47 per month |
| • AE (Tier B) | $101. 96 per month |

**Small Format Treat Centric Location**
**Hardware Configuration:**
2 Front Counter Terminals, 2 Fingerprint Readers, 1 Mobile Printers, 1 Receipt Printers, 2 Cash Drawers, 2 Additional Cash Drawer Inserts, 2 Scanners (for Mobile) 2 KVS systems (20" Monitor, KVS Controller, KVS Bump Bar), 2 UPS Units, 1 24 Port Switch, Network Rack and Patch Panel, 2 Verifone P400 Units w/stands, 1 KVS Surge Protectors, 2 USB Sound Bars,

**Monthly Finance Option**

- Hardware $167.50 to $170.63
- Install $78.03 to $93.64
- Software $227.85
- AE (Tier B) $47.86

**Purchase Option**

- Hardware $8,557.29 to $8,779.94
- Install $3,979.53
- Average Cabling Cost $769.90
- Software $227.85 per month
- AE (Tier B) $47.86 per month

**Typical Treat Centric Location**
**Hardware Configuration:**
2 Front Counter Terminals, 1 Drive Thru Terminals, 3 Fingerprint Readers, 2 Mobile Printers, 3 Receipt Printers, 3 Cash Drawers, 3 Additional Cash Drawer Inserts, 3 Scanners (for Mobile) 3 KVS systems (20" Monitor, KVS Controller, KVS Bump Bar), 3 UPS Units, 1 24 Port Switch, Network Rack and Patch Panel, 3 Verifone P400 Units w/stands, 3 KVS Surge Protectors, 3 USB Sound Bars.

**Monthly Finance Option**

- Hardware $251.78 to $256.98
- Install $99.88 to $130.05
- Software $265.30
- AE (Tier B) $74.91

**Purchase Option**

- Hardware $12,740.74 to $13,039.33
- Install $4,032.59 to $5,206.16
- Software $265.30 per month
- AE (Tier B) $74.91 per month

**New Construction Standard Grill and Chill**
**Hardware Configuration:**
2 Front Counter Terminals, 2 Drive Thru Terminals, 4 Fingerprint Readers, 2 Mobile Printers, 3 Receipt Printers, 3 Cash Drawers, 3 Additional Cash Drawer Inserts, 3 Scanners (for Mobile) 6 KVS systems (20" Monitor, KVS Controller, KVS Bump Bar), 4 UPS Units, 1 24 Port Switch, Network Rack and Patch Panel, 3 Verifone P400 Units w/stands, 4 KVS Surge Protectors, 6 USB Sound Bars, 3 Cash Drawer Mounting Brackets, 6 KVS Wall Mount Brackets, 9 Power Supply Brackets Network Cabling and Cabling Installation.

**Monthly Finance Option**

- Hardware $350.61
- Install $179.98
- Software $295.47
- AE (Tier B) $101. 96

**Purchase Option**

- Hardware $17,812.69
- Install $7,163.15
- Software $295.47 per month
- AE (Tier B) $101. 96 per month

Additionally, Participating Location will select a hardware maintenance services option. Listed below are the two tiers from which Participating Location will elect the type of coverage.

| HARDWARE MAINTENANCE SERVICES | | | | |
|---|---|---|---|---|
| | | | | |
| **Tier A** | **Equipment to be covered** | | **Monthly Price Per Unit** | |
| | **Product ID** | **Description** | **Advance Exchange (AE) Service** | **On-Site Remedial Maintenance Service (RMS Service)** |
| | Tier A | POS Workstation 7" Display (Front Counter Terminals) | $9.08 | $18.16 |
| | Tier A | POS Workstation No Display (Drive Thru Terminals) | $7.74 | $15.48 |
| | Tier A | KVS Controller | $2.52 | $3.48 |
| | | | | |
| **Tier B** | **Equipment to be covered** | | **Monthly Price Per Unit** | |
| | **Product ID** | **Description** | **Advance Exchange (AE) Service** | **On-Site Remedial Maintenance Service (RMS Service)** |
| | Tier B | POS Workstation 7" Display (Front Counter Terminals) | $9.08 | $18.16 |
| | Tier B | POS Workstation No Display (Drive Thru Terminals) | $7.74 | $15.48 |
| | Tier B | KVS Controller | $2.52 | $3.48 |
| | Tier B | Fingerprint Reader | $4.06 | NA |
| | Tier B | 10" Tablet | $5.30 | NA |
| | Tier B | Epson TM-T88V Ethernet Printer (Expediter Printers) | $2.43 | NA |
| | Tier B<br>Tier B | Epson TM-T88V Serial Printer (Receipt Printers) | $2.43 | NA |
| | Tier B | APG Cash Drawer Kit includes Dual Media Slot, Drawer, Cable and Insert | $2.44 | NA |
| | Tier B | APG Cash Drawer 16" with Cable and Insert | $3.07 | NA |
| | Tier B | Motorola DS9208 SR USB Bar Code Reader | $2.21 | NA |
| | Tier B | KVS Bump bar | $1.09 | NA |
| | Tier B | 21" Monitor | $2.36 | NA |
| | Tier B | 27" Monitor | $3.07 | NA |
| | Tier B | Monoprice 24-Port Switch 10/100/1000 – Rack Mountable, with 5' Network Cable (One per Store) | $1.60 | NA |

**Order Form with Franchisee Joinder**

Franchisee Company Name: Effective Date: _____

Name:

Address:

City, State, Zip:

Telephone:

Billing Contact:

Billing Contact Email:

Franchisee/Owner Email: (*if different than Billing Contact Email:* _____This Order Form with Franchisee Joinder ("Joinder") is made and entered into by the above-identified "Franchisee" effective as of the above-identified **"Effective Date"** under and pursuant to the Terms of Use dated December 1, 2018 ("TOU") by and between AccSys, LLC., a Delaware limited liability company, formerly known as AccSys, Inc. d\b\a Restaurant Magic, with its principal place of business at 4010 West Boy Scout Boulevard, Suite 300, Tampa, Florida 33607 ("ACCSYS") and American Dairy Queen Corporation ("Franchisor").

**Number of Stores Renewing Data Central**: _____

**Store Number(s):**

_____

**Subscription Start Date**: The date of the first POS data import for new Franchisees subscribing to the Service and upon signature for Franchisees already subscribed to the Service ("Existing Subscriber"), unless such Existing Subscriber elects a different Data Central Available Package, in which case, the Subscription Start Date shall be the first day of the month following Franchisee's signature below.

**Subscription End Date**: December 16, 2028. Franchisee's subscription shall continue under the Franchisor's TOU and the Initial Order Form until the expiration or earlier termination thereof.

**Auto Renewal**: If Franchisor and AccSys agree in writing to extend the Term of Franchisor's TOU under a Renewal Order Form, Franchisee's subscription shall automatically renew upon the Subscription End Date for an additional period as agreed to by Franchisor and AccSys under the Franchisor's TOU and any Renewal Order Form until the expiration or earlier termination thereof.

**Termination**: Franchisee may terminate this Order Form at any time, for any reason, for convenience upon 30 days' notice to AccSys.

**Data Central Available Packages**: Selection of Data Central Management Suite, Data Central Reporting and Labor Management Only, or Data Central Reporting and Inventory Management Only as specified in Addendum A to Franchisor's Initial Order Form, as the same may be amended by agreement of AccSys and Franchisor from time to time.

**Data Central Optional Features**: As made available by AccSys, approved by Franchisor, and selected by Franchisee from time to time: None

**Franchisee Store Type**: Franchisees must specify to AccSys if their store is a non-seasonal or seasonal location.

**Subscription Fees**: As specified in Appendix A to Franchisor's Initial Order Form, as the same may be amended by agreement of AccSys and Franchisor from time to time.

**Subscription Payments**:

1. On the first of the month following the subscription start date, an invoice for the amount of prorated days for the previous month through to the end of the month for monthly and through to the end of the subscription year for annual, depending on option chosen.
2. Thereafter, the monthly subscription is due the first day of the month for the previous month. Annual will be due the first of the month of the subscription year.
3. On Day 61 of service, unless terminated for convenience: $199.00 launch fee payable within thirty (30) days of invoice date.

**Payment Terms**: On the first day of the month following the subscription month via ACH, if monthly. Annually in advance, if annual. If advanced, annual invoicing is elected, Franchisee will receive a 5% discount which will be automatically applied to the invoice.

| **Check box ☐ if Franchisee prefers to receive monthly invoicing.** |
|---|

| **Check box ☐ if Franchisee prefers to receive advanced, annual invoicing.** |
|---|

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties further agree as follows:

1. AccSys acknowledges and agrees that Franchisee may access and use the Service at the above-identified Store(s) upon the terms and subject to the conditions contained in its TOU with Franchisor.

2. Franchisee will be solely and entirely responsible for its access and use of the Service under the TOU. Franchisee acknowledges that it has reviewed a copy of the TOU and accepts the rights and agrees to be bound by and comply with the obligations under the TOU, to the extent that the TOU applies to the above-identified Store(s), as if it were the "Customer" under the TOU.

3. Franchisee will be solely and entirely responsible for all fees incurred under this Joinder, and for any services requested directly by Franchisee.

4. Franchisor shall not have any liability (whether in contract, tort, common or statutory law, equity, or otherwise) for any claims, obligations, liabilities, or causes of action arising out of, or relating in any manner to this Joinder.

IN WITNESS WHEREOF, the parties' authorized signatories have duly executed this Joinder as of the Effective Date.

| **ACCSYS, LLC** | **FRANCHISEE** |
|---|---|
| By: _____ | By: _____ |
| Print Name: Oliver Ostertag | Print Name: _____ |
| Title: General Manager, Operator Cloud | Title: _____ |
| Date: _____ | Date: _____ |

**Addendum A – Pricing and Term**

**Subscription Fees:**

Options:

1. Full Data Central Management Suite: (Reporting, Labor Management (Scheduling), Inventory Management and QuickBooks data feeds)
   - $127.35 per Store per month

2. Reporting and Labor Management (Scheduling) Only:
   - $83.83 per Store per month

3. Reporting and Labor Management (Scheduling) + QuickBooks sales and invoice data feeds:
   - $99.76 per Store per month

4. Reporting and Inventory Management Only:
   - $83.83 per Store per month

5. Reporting and Inventory Management + QuickBooks sales and invoice data feeds:
   - $105.06 per Store per month

**Price Increases:**

Beginning on the calendar year starting January 1, 2026, pricing in this Initial Order Form is subject to an annual increase based on an amount equal to the lesser of 2% or the Consumer Price Index ("CPI") change during a measure period for the prior calendar year (the "CPI Price Increase") Any such CPI Price Increase will take effect on February 1 of the then current calendar year. The CPI will be derived from the U.S. Department of Labor, Bureau of Labor Statistics web site, https://www.bls.gov/news.release/cpi.nr0.htm. The CPI change amount will be calculated in October prior to the new calendar year. The CPI change amount will be calculated based on the immediately preceding unadjusted 12 months (10/01 through 9/30) to develop the CPI change amount for the next calendar year. The CPI rate which will be used for the immediately following calendar year will be provided to Dairy Queen by AccSys in November prior to the new calendar year that the increase will go into effect. In the event that the CPI rate change as calculated for a given calendar year is negative, pricing in this Initial Order Form will remain unchanged for the following calendar year. For the purposes of clarity, in November of 2025 AccSys will provide Dairy Queen with the CPI change amount from October 1, 2024, through September 30, 2025. Based on an amount equal to the lesser of 2% or the CPI change amount calculated, AccSys will provide Dairy Queen with an amended Initial Order Form reflecting the price increase for the Services which will take effect February 1, 2026. Thereafter, this same process will continue on an annual basis going forward throughout the remainder of the Term.

- Seasonal Stores: Stores which are not open every month throughout the year will not be invoiced for the months they are closed.

- Canadian Stores: The prices for the Products are stated in United States Dollars and shall remain in effect for all sales made in the United States as stated herein. The prices for Products sold in Canada shall be determined by multiplying the then-current United States price by a fixed annual exchange rate. The initial fixed annual exchange rate for Participating Locations in Canada who elect to pay in Canadian dollars will be effective February 1, 2025 and will be 1.38 based on an average of the monthly spot rate of USD/CAD by the Wallstreet journal as reported by http://www.wsj.com/public/page/news-currency-currencies-trading.html over the 2024 calendar year. The exchange rate will be maintained by AccSys for a period of

one (1) year from February 1, 2025, and then revised annually thereafter. On January 1 (or the next business day) of each year of the Term, the new exchange rate shall be determined based on an average of the monthly spot rate over the prior calendar year (January 1 – December 31) of USD/CAD by the Wallstreet journal as reported by on http://www.wsj.com/public/page/news-currency-currencies-trading.html and communicated to Dairy Queen in writing within five (5) days of such determination. The new exchange rate will be calculated on an annual basis for the remainder of the Term. The annually calculated new exchange rate will take effect February 1 of the then current calendar year and will apply to purchases of Data Central Services by Customer Franchisees.

**Launch Fee:** $199.00 per Store

**Subscription End Date**: December 16, 2028, unless earlier terminated.

PAR Data Central®

**INITIAL ORDER FORM**

**Service Level Addendum**

AccSys will be responsible for the provision of Level 1 Support ("L1") to Users as follows:

1. **Definitions.**
   a. "Issue" shall mean a Priority Level 1 (PI) issue, Priority Level 2 (P2) issue, Priority Level (P3) issue or Priority Level 4 issue as defined in the chart below.
   b. "Resolution Times" shall mean the amount of time from which an Issue is reported by Dairy Queen or a Store to AccSys and AccSys provides a fix, work-around or escalation to development.
   c. "Response Times" shall mean the time by which the Help Desk responds to an incoming Help Desk Support Case from Dairy Queen or a Store for Help Desk Support Services.
   d. "Help Desk Support Case" shall mean a case from a Store that relates to assistance with the use of, or an interruption in the operability of the Service.

2. "Level 1 Support (L1)" means the provision of direct technical assistance and troubleshooting of Issues to Users at a Store. It includes the following encountered in the use of the covered Edition and Optional Features as defined in Customer's Initial Order Form for the Service:
   a. Resolution or explanation of Service generated error messages.
   b. Assistance with User or operational problems that occur during operation of the Service.
   c. Guidance with procedural and system functionality or capability questions.
   d. Research, identification and escalation of defects in the Service.
   e. Assistance with the identification of programming issues or changes necessary to correct functionality or reportingissues.
   f. Recommendations for proper system maintenance.
   g. Root cause analysis of crashes and/or problems of the Service.
   h. General information concerning system requirements to the Service.

   L1 is not intended as supplemental training, and Customer must continue to meet its responsibilities defined in Section 6.3 of the TOU. Any exclusions set forth in Section 6.1 of the TOU for L2 Support also apply to L1 Support.

3. L1 will be provided during the hours listed in Section 6.5 of the TOU. AccSys will use its best efforts to respond and resolve L1 issues at the Response Times and Resolution Times in the chart below.

4. AccSys will attempt to resolve all Help Desk Support Cases utilizing the appropriate resource for any given Issue. If an Issue is being worked by a L1 support technician, and such support technician determines they do not have the requisite knowledge or training to resolve the Issue in a timely manner, or such L1 support technician has been unable to resolve such Issue within 1 hour of time spent on it, such Issue will be escalated to a Level 2 Support ("L2") technician or other appropriate resource to resolve the Issue.

| Priority Level of the Issue | Description | Response Time | Resolution Time |
|---|---|---|---|
| Priority Level 1 | Issues that result in a total malfunction, and which cannot be circumvented (an AccSys infrastructure interruption occurs, or a critical function is missing or causes an error, making it infeasible to be used in any productive fashion) | 90% responded to within 15 minutes of receipt of call by AccSys' Help Desk | 95% resolved within 60 minutes |
| Priority Level 2 | Issues that result in the loss of some level of functionality in a major feature, but other features are still accessible by Customer (this type of problem makes it difficult but not impossible to perform most daily business functions). | 90% responded to within 30 minutes of receipt of call by AccSys' Help Desk | 90% resolved within 3 hours |
| Priority Level 3 and Priority Level 4 | (P3) Issues that result in the loss of some functionality in a minor feature, but the Service is still accessible by Customer, and the problem has a minor impact on its operation (this type of problem is an annoyance to Customer but does not significantly impact Customer's ability to perform daily business functions).<br><br>(P4) Issues where the Service has complete functionality and is still accessibleby Customer, but a bug or defect exists (these problems include Service cosmetic problems and minor Service problems). | 90% within 120 minutes of receipt of call by AccSys' Help Desk<br>---<br>Any e-support ticket is responded to by next business day, during business hours. | 90% resolved within 5 business days |
| After Hours support 8pm to 6 am Mountain Time | All P1 after hours support requests dispatched to Level 1 AccSys Help Desk<br>---<br>All P2, P3 and P4 after hours support requests, dispatched to AccSys' Level 1 Help Desk team for next business day | 90% responded to within30 minutes of receipt of call by AccSys' Help Desk.<br>---<br>Response within 120 minutes of business start at 8am Eastern Time | Same as above |

## TERMS OF USE FOR AMERICAN DAIRY QUEEN STORES

**Effective Date:** 12/1/2018

These Terms of Use ("**TOU**") are made and entered into effective as of the above-identified "**Effective Date**" by and between AccSys, Inc., a Florida corporation d/b/a Restaurant Magic Software with its principal place of business at 4010 West Boy Scout Blvd, Suite 300, Tampa, FL 33607 ("**RM**") and the above-identified "**Customer**."

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** As used herein, the following terms shall have the respective meanings set forth below: "**Service**"

means the back office restaurant service, including associated offline components, provided by RM.

"**Order Forms**" means the ordering documents representing the initial and subsequent purchases of the Service under this TOU, which are included or hereafter incorporated from time to time and specify, among other things, the number of subscriptions ordered, the subscription term, and the applicable fees.

"**Initial Order Form**" means the Initial Order Form executed by Customer effective as of the Effective Date.

"**Subsequent Order Forms**" means any later Order Forms executed by Customer or any franchisee of Customer.

"**Store**" means an isolated revenue and/or expense data source owned and/or operated and/or franchised and/or licensed by Customer for which Customer has purchased a subscription in an Order Form and from and/or for which Customer accesses the Service.

"**Customer Data**" means all electronic data or information submitted by Customer to the Service.

"**Users**" means Customer's employees, contractors, agents, representatives, and franchisees (who have signed a franchisee joinder and) who are authorized to use the Service and have been supplied user identifications, shared log-ins, and passwords by Customer (or by RM at Customer's request).

**"Data Central Resource"** Data Central Resource ("DCR") means the individual(s) designated by Customer, and trained by RM, to be responsible for ongoing configuration and linking, addition of users, items and recipes, and other application administration required for optimal use of the Service. DCR also represents the first line of support for Customer's Users. Each DCR must complete training as defined and provided by RM.

**"IP Rights"** means all intellectual property rights, including, but not limited to, copyrights, patent rights, trade secret rights, trademark rights, and other similar property rights.

2. **Service.**

2.1 **Provision of Service.** Subject to the terms, conditions, and restrictions set forth in this TOU (including, but not limited to, the restrictions in Sections 2.2 and 2.3 and Customer's obligation to pay for the rights granted in this TOU in Section 4), RM hereby grants to Customer, for the term of this TOU, under any and all IP Rights owned or otherwise assertable by RM, a non-exclusive, non-transferable, limited right and license to access and

use the Service for Customer's internal business purposes in operating its restaurant business from and for the Stores identified in Customer's Order Forms under this TOU. RM will provide Customer with one or more unique identifications and passwords so that Customer's Users will be able to access and use the Service as provided in this TOU. Customer will be responsible for maintaining the confidentiality of its identifications, shared log-ins,and passwords and for all activities and charges resulting from their use, including, but not limited to, unauthorized use.

**2.2 No Implied License.** Customer acknowledges and agrees that this TOU shall in no way be construed to provide to Customer any express or implied license:

(i) to copy, reproduce, modify, change, alter, translate, improve, prepare derivative works based on, decompile, disassemble, reverse engineer, sell, rent, lease, distribute, sublicense, or otherwise transfer its right to access and use the Service; or

(ii) to use the Service in any outsourcing, time sharing, service bureau, or other similar enterprise; or

(iii) to use the Service from or for any Store not identified in an Order Form or to use the Service provided under a single subscription from or for more than one Store; or

(iv) to use the Service other than as expressly set forth in Section 2.1;

and Customer expressly agrees not to take any of the foregoing actions. All rights not expressly granted under this TOU are reserved to RM.

**2.3 Restrictions on Use of Service.** Customer agrees to use the Service only for lawful purposes. Customer will not engage in any conduct involving the Service that would constitute a criminal offense or give rise to civil liability under any United States or foreign federal, state, local, or other law, rule, regulation, treaty, or convention, or that would in any way compromise the national security of the United States or any other nation. Customer will be responsible for any wrongful or unlawful acts or omissions of its employees, contractors, agents, and representatives with respect to the Service, and shall have sole responsibility for notifying its employees, agents, contractors, and representatives of the terms, conditions, and restrictions contained in this TOU and for securing their agreement to be bound by the same.

**3. Provision and Use of the Service.**

**3.1 Quality of the Service.** During the term of this TOU the functionality of the Service will not be materially decreased from that available as of the Effective Date.

**3.2 RM Responsibilities.** RM shall: (i) in addition to its confidentiality obligations under Section 7, not use, edit, or disclose to any party other than Customer the Customer Data, unless Customer and RM agree to participate in a shared data reporting service, in connection with any distribution system to which Customer is a party, or unless otherwise authorized under this TOU; (ii) ensure the security, integrity, and confidentiality of the Service and the Customer Data against destruction, loss, alteration, unauthorized access or disclosure to third parties while in the possession or under the control of RM or RM agents; (iii) provide telephone and/or online support to Customer's DCR as provided in Section 6; and (iv) use commercially reasonable efforts to make the Service generally available 24 hours a day, 7 days a week, except for: (a) planned downtime of which RM shall give at least 24 hours notice via e-mail to Customer's designated contact, which may be changed by Customer by written notice to RM, and which RM shall schedule to the extent reasonably practicable during non- peak hours as determinedby RM; and (b) any unavailability caused by circumstances beyond RM's control, including, but not limited to, acts of God, acts of government, flood, fire, earthquake, weather, civil unrest, acts of terror, strikes or other labor problems, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software, or power systems not within RM's possession or control, and network intrusions or denial of service attacks.

**3.3 Customer Responsibilities.** In addition to those responsibilities in Section 6.3 and elsewhere, Customer will be responsible for procuring and maintaining, at its own expense, all hardware, software, communication

equipment, access service, access lines, and Internet connectivity necessary for Customer to access and use the Service. Customer is responsible for all activities that occur under Customer's User accounts. Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Service; (iii) at Customer's expense, comply with RM's optimization, data loading, data retrieval, web service, utilization, and other system usage requirements; and (iv) comply with all applicable United States or foreign federal, state, local, or other laws, rules, regulations, treaties, and conventions in connection with its use of the Service.

**3.4 Use Guidelines.** Customer shall use the Service solely for its internal business purposes as contemplated by this TOU and shall not: (i) knowingly send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (i) knowingly send or store material containing software viruses, worms, Trojan horses, or other harmful computer code, files, scripts, agents, or programs; (iii) intentionally interfere with or disrupt the integrity or performance of the Service or the data contained therein; (iv) attempt to gain unauthorized access to the Service or its related systems or networks; or (v) if using the Documents Central service, publish any document for which Customer does not have rights under applicable copyright law.

**3.5 Third-Party Providers.** Certain third-party providers, some of which may be listed on pages within RM's website, offer products and services related to the Service, that work in conjunction with the Service, such as by exchanging data with the Service or by offering additional functionality within the user interface of the Service through use of the Service's application programming interface, and in addition to the Service. RM does not warrant any such third-party providers or any of their products or services, whether or not such products or services are designated by RM as "certified," "validated," or otherwise. Any exchange of data or other interaction between Customer and a third-party provider, and any purchase by Customer of any product or service offered by such third-party provider, is solely between Customer and such third-party provider. In addition, from time to time, certain additional functionality (not defined as part of the Service) may be offered by RM to Customer, for an additional fee, on a pass-through or OEM basis pursuant to terms specified by the licensor and agreed to by Customer in connection with a separate purchase by Customer of such additional functionality. Customer's use of any such additional functionality shall be governed by such terms, which shall prevail in the event of any inconsistency with the terms of this TOU. RM will not offer third-party products or services or additional functionality that is not a part of the Service to Customer's franchisees without Customer's prior review and approval, which approval shall not be unreasonably withheld, delayed, or conditioned.

**4. Fees & Payment.**

**4.1 Subscription Fees.** Customer shall pay all fees specified in all of its Order Forms under this TOU. Except as otherwise provided in this TOU, all fees are quoted in United States Dollars and are non-refundable, tothe extent earned. The number of subscriptions purchased may be decreased during the relevant subscription term stated on the Order Forms only in the event of a Unit closing or transfer. All fees due for partial payment periods will be prorated on a daily basis.

**4.2 Professional Services.** In addition to fees under Section 4.1, Customer may, from time to time, request professional services from RM. These services will be billed by RM to Customer at RM's then prevailing rates and terms.

**4.3 Invoicing & Payment.** Fees for the Service and other professional services will be invoiced in advance and otherwise in accordance with the terms set forth in the relevant Order Form. Unless otherwise stated in the Order Form, charges are due net thirty (30) days from the invoice date. Unless otherwise stated in the Order Form, all payments made under this TOU shall be in United States Dollars.

**4.4 Overdue Payments.** Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at RM's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

**4.5 Suspension of Service.** If Customer's account is thirty (30) days or more overdue (except with respect to charges then under reasonable and good faith dispute) and such default has not been cured within ten (10) business days after written notice from RM to Customer, in addition to any of its other rights or remedies, RM reserves the right to suspend the Service provided to Customer, without liability to Customer, until such amountsare paid in full.

**4.6 Taxes.** Unless otherwise stated, RM's fees do not include any local, state, federal, or foreign taxes, levies, or duties of any nature ("**Taxes**"). Customer is responsible for paying all Taxes, excluding only taxes based on RM's income. If RM has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, the appropriate amount shall be invoiced to and paid by Customer unless Customer provides RM with a valid tax exemption certificate authorized by the appropriate taxing authority.

**4.7 Billing and Contact Information.** Customer shall maintain complete and accurate billing and contact information for the Service at all times.

**5. Proprietary Rights.**

**5.1 Reservation of Rights.** Customer acknowledges that in providing the Service, RM utilizes (i) the Restaurant Magic Software name, the Restaurant Magic Software logo, the Restaurant Magic Software domain name, the product and service names associated with the Service, and other trademarks and service marks;
(ii) certain audio and visual information, documents, software, and other works of authorship; and (iii) other technology, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, invention, and other tangible or intangible technical material or information (collectively, "**RM Technology**") and that the RM Technology is covered by IP Rights owned or licensed by RM (collectively, "**RM IP Rights**"). Customer acknowledges and agrees that the RM IP Rights belong to RM and that other than as expressly set forth in this TOU, no license or other rights in or to the RM Technology or RM IP Rights are granted to Customer, and all such licenses and rights are hereby expressly reserved. Upon expiration or earlier termination of this TOU, Customer shall retain no rights of any nature with respect to the Service, the RM Technology, or the RM IP Rights.

**5.2 Customer Data.** As between RM and Customer, all Customer Data is owned exclusively by Customer. Customer Data shall be considered Confidential Information subject to the terms of this TOU. RM may access Customer's User accounts, including Customer Data, solely to respond to service or technical problems, at Customer's request, for training purposes, in accordance with a shared data reporting service agreement, or in connection with any distribution, franchise, or license system to which Customer is a party.

**5.3 Consent to release Customer Data to Dairy Queen.** Customer hereby authorizes RM to disclose, release and transmit any, and all, Customer Data collected by RM in connection with providing the Service under this TOU to American Dairy Queen Corporation, its subsidiaries and affiliates (collectively "Dairy Queen"), including without limitation sales, labor, inventory, product mix, and data compiled or derived from such Customer Data. This authorization does not extend to any data that constitutes personally identifiable information about Customer's employees, customers, representatives, agents, suppliers or vendors. In addition, notwithstanding anything to the contrary in this TOU, Customer acknowledges that the disclosure and transmissions of Customer Data to Dairy Queen shall not constitute a breach of the confidentiality obligations in this TOU or any other agreement to which Customer and RM are a party.

**5.4 Suggestions**. Throughout the term of this TOU, Customer shall communicate to RM in writing any modifications, changes, or improvements to the Service deemed important to Customer, and all significant errors or incompatibilities experienced by Customer while using the Service. Customer agrees that any and all information, inventions, discoveries, or other matters communicated to RM under this Section 5.3 shall be deemed to be the property of RM, and Customer agrees to execute and deliver to RM, at RM's request, any further documentation necessary to effectuate ownership of such information, inventions, discoveries, or other matters by RM.

**6. Support, Maintenance and Enhancement.**

**6.1 Level 2 Support.** Level 2 Support (L2) is included as a component of Customer's Subscription. L2 includes answers to questions, guidance, and other assistance provided via telephone for the correction of technical problems encountered in the use of the covered Edition and Optional Features as defined in Customer's Order Form(s). L2 is provided directly to Customer's DCR(s). L2 does not include assistance with any version of the Service not currently offered by RM; any on-site services; remote or on-site training or configuration services for which RM generally charges a Professional Services fee; or, scripting, programming, consultation, interfacing with third party applications whether acquired by Customer or made available through the Service.

**6.2 RM Responsibilities.** RM will resolve problems in a timely, professional manner. RM will maintain a knowledgeable staff available during the hours described herein. RM will provide a venue for Customer to report bugs and deficiencies, and RM will make commercially reasonable efforts to resolve issues reported according to venue guidelines. RM will provide a venue for Customer to make requests, and RM will consider these requests asit continues to improve and enhance the Service. RM will provide a "Wiki" styled help tool to assist Users.

**6.3 Customer Responsibilities.** Customer will provide that all Users maintain a working knowledge of their use of the Service. Customer will maintain a DCR level sufficient for the successful use of and support of the Service. Customer will meet the Device and Service Requirements published at http://www.restaurantmagic.com/Requirements.aspx or elsewhere, which may be updated from time to time.

**6.4 Priority Levels.** At RM's sole determination, all problems with the Service will be assigned a priority Level as follows:

(ii) Priority Level 1 Problems are events that result in a total malfunction, and which cannot be circumvented (an RM infrastructure interruption occurs, or a critical function is missing or causes an error, making it infeasible to be used in any productive fashion);

(iii) Priority Level 2 Problems are events that result in the loss of some level of functionality in a major feature, but other features are still accessible by Customer (this type of problem makes it difficult but not impossibleto perform most daily business functions);

(iv) Priority Level 3 Problems are events that result in the loss of some functionality in a minor feature, but the Service is still accessible by Customer, and the problem has a minor impact on its operation (this type of problem is an annoyance to Customer but does not significantly impact Customer's ability to perform daily business functions.);

(v) Priority Level 4 Problems are events where the Service has complete functionality and is still accessible by Customer, but a bug or defect exists (these problems include Service cosmetic problems and minor Service problems.)

**6.5 Problem Response.** RM will respond to problems as follows: Attended Phone L2 is provided Monday through Thursday 8:00 AM ET – 9:00 PM ET, and Friday 8:00 AM ET – 6:00 PM ET. L2 is provided via the Voice Mail System Monday through Thursday, 9:00 PM ET – 8:00 AM ET, Weekends from Friday 6:00 PM ET – Monday 8:00 AM ET, and on the following Public Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. A Self Service Portal, which bypasses the phone system, is included as a component of Customer's Subscription. This system is available 24/7/365 for reporting issues, tracking problem resolution, and receiving updates.

(i) Priority Level 1 Problem Response: RM will respond within 1 hour during Attended Phone Service hours. RM will respond within 4 hours during L2 Voice Mail System hours.

(ii) Priority Level 2 Problem Response: RM will respond within 6 hours during Attended Phone Service hours. RM will respond within 8 hours during L2 Voice Mail System hours.

(iii) Priority Level 3 and 4 Problem Response: RM will respond within 2 Business Days.

**6.6 Maintenance.** Maintenance is included as a component of Customer's Subscription. Maintenance consists of commercially reasonable program coding after initial deployment to correct coding errors and perfect the functioning the Service.

**6.7 Enhancement.** Enhancement of Customer's Edition of the Service and Optional Features as defined in Customer's Order Form(s) is included as a component of Customer's Subscription. Enhancements do not include any new products, features, or functions made available by RM from time to time, for which RM generally charges an additional fee.

**7. Confidentiality.**

**7.1 Definition of Confidential Information.** As used herein, "**Confidential Information**" means all confidential and proprietary information of a party ("**Disclosing Party**") disclosed to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, the Customer Data, the Service, the RM Technology, software source code and specifications, business and marketing plans, technology, and technical information, product designs, and business processes. Confidential Information (except for Customer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) is known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) is independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

**7.2 Confidentiality.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this TOU without the Disclosing Party's prior written permission.

**7.3 Protection.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall either party exercise less than reasonable care in protecting such Confidential Information, or the level of care required by any applicable United States or foreign federal, state, local, or other laws,rules, regulations, treaties, and conventions.

**7.4 Compelled Disclosure**. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

**7.5 Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in violation of this Section 7, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek preliminary and permanent injunctive relief, without bond, to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies at law are inadequate.

**7.6 Publicity.** Either party may include the name and logo of the other party in its lists of customers or vendors with the other party's prior permission.

**8. Warranties & Disclaimers.**

**8.1 Warranties.** Each party represents and warrants that it has the legal power to enter into this TOU. RM represents and warrants that (i) it owns or otherwise has sufficient rights to permit Customer to access and use the Service; (ii) the Service and RM Technology do not infringe the IP rights of any third party; and (iii) its and its agents'

actions and performance of the Service are and will be in full compliance with all United States or foreign federal, state, local, or other laws, rules, regulations, treaties, and conventions; and (iv) no programs containing malicious or detrimental hidden files, illicit code, viruses, malware, or any other malicious computer program, such as containing any hardware-limiting, software-limiting, or services-limiting function not part of standard configuration or containing any automatically replicating, transmitting, or activating computer program that is not planned or expected by one of the parties has been or will be coded or introduced into Customer's systems, software, hardware, tools, equipment, or any similar item.

**8.2 Disclaimer.** The representations and warranties made by RM in this TOU are made solely to Customer. Except as otherwise provided in this TOU, RM provides, and Customer accepts, the Service in "AS-IS" CONDITION AND "WITH ALL FAULTS"; AND RM DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (STATUTORY, EXPRESS, OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE SERVICE OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, ACCURACY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT RM KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING.

RM DOES NOT WARRANT THAT THE SERVICE, ANY THIRD PARTY SOFTWARE OR HARDWARE RECOMMENDED TO BE USED IN CONJUNCTION WITH THE SERVICE, OR ANY OTHER PRODUCTS OR SERVICES FURNISHED BY RM UNDER THIS TOU WILL MEET CUSTOMER'S REQUIREMENTS, THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE.

RM EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN CUSTOMER AND CUSTOMER'S FRANCHISEES THAT EXECUTE A FRANCHISEE JOINDER WITH RESPECT TO THE SERVICE.

SOME STATES OR COUNTRIES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO CERTAIN OF THE ABOVE EXCLUSIONS MAY NOT APPLY.

**9. Mutual Indemnification.**

**9.1 Indemnification by RM.** Subject to this TOU, RM shall indemnify, defend, and hold Customer harmless against any loss or damage (including reasonable attorneys' fees and costs) incurred in connection with claims, demands, suits, or proceedings ("**Claims**") made or brought against Customer by a third party alleging that the use of the Service as contemplated in this TOU infringes the IP rights of such third party; provided, that Customer (a) promptly gives written notice of the Claim to RM; (b) gives RM sole control of the defense and settlement of the Claim (provided that RM may not settle or defend any Claim unless it unconditionally releases Customer of all liability); and (c) provides to RM, at RM's cost, all reasonable assistance. In the event that a final injunction shall be obtained against Customer's use of the Service in any action for which RM must indemnify Customer under this Section 9.1, RM may, at its option and expense and without being considered in default in the performance of its obligations under this TOU, and as Customer's sole remedy against RM for such infringement, either (i) procure for Customer the right to continue using the Service; or (ii) replace the Service with non-infringing service of like quality and capabilities; or (iii) modify the Service so that it becomes non-infringing; or (iv) terminate this TOU and refund to Customer all unearned fees paid, prorated on a daily basis for the period for which fees have been paid.

**9.2 Indemnification by Customer.** Subject to this TOU, Customer shall indemnify, defend, and hold RM harmless against any loss or damage (including reasonable attorneys' fees and costs) incurred in connection with Claims made or brought against RM by a third party alleging that the Customer Data or Customer's use of the Service (as opposed to the Service itself) infringes the IP rights of, or has otherwise harmed, a third party; provided, that RM (a) promptly gives written notice of the Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle or defend any Claim unless it unconditionally releases RM of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance.

**10. Limitation of Liability.**

**10.1 Limitation of Liability.** EXCEPT WITH RESPECT TO EITHER PARTY'S (OR ITS RESPECTIVE AGENTS') (I) INDEMNIFICATION OBLIGATIONS; (II) BREACH OF ANY CONFIDENTIALITY, DATA SECURITY, OR PRIVACY OBLIGATIONS HEREUNDER; (III) WILLFUL MISCONDUCT; OR (IV) FRAUD OR VIOLATION OF LAW, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS TOU, WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE LESSER OF $500,000 OR THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CUSTOMER AND CUSTOMER'S FRANCHISEES UNDER THIS TOU.

**10.2 Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOSS OF DATA, LOSS OF USE, BUSINESS INTERRUPTION, LOST PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY OF THE INDEMNIFIED PARTY'S INDIRECT, SPECIAL, INCIDENTAL,PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

**10.3 Limitation of Action.** Except for actions for non-payment or breach of either party's IP rights, no action (regardless of form) arising out of this TOU may be commenced by either party more than two (2) years after the cause of action has accrued.

**11. Term & Termination.**

**11.1 Term of TOU.** The term of this TOU commences on the Effective Date and continues in effect until the earlier of (i) the Subscription End Date of the Initial Order Form, as the same may be extended by agreement of RM and Customer from time to time, or (ii) the earlier termination of this TOU pursuant to Section 11.3.

**11.2 Term of Store Subscriptions.** Store subscriptions commence on the Subscription Start Date specified in the relevant Order Form and continue for the subscription term specified therein, as the same may be extended by agreement of RM and Customer from time to time. Thereafter, Store subscriptions shall terminate unless RM and Customer otherwise agree.

**11.3 Termination.** Either party may terminate this TOU for cause: (i) upon no less than thirty (30) days written notice of a material breach to the other if such breach remains uncured at the expiration of such period; or (ii) if the other becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

**11.4 Effect of Expiration or Termination.** Upon expiration or earlier termination of this TOU for any reason, Users' right to access and use the Service shall terminate, and RM will disable all identifications, shared logins, and passwords provided pursuant to this TOU. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to RM prior to the effective date of termination. Within thirty (30) days after expiration or earlier termination, RM shall refund to Customer all unearned Professional Services and subscription fees paid (except with respect to charges then under reasonable and good faith dispute), prorated on a daily basis for the period for which such fees have been paid.

**11.5 Availability of Customer Data.** Provided Customer has paid RM all fees and other amounts due under this TOU, RM will extend Customer's access to the Service for a period of thirty (30) days beyond the expiration or early termination date. During such period, customer may extract any data in appropriately available formats. This extraction right is limited to Customer's data and does grant Customer any rights to RM's data structure, data alignment, or other intellectual property. Any assistance required by Customer to execute such data extraction will be provided by RM in a cooperative fashion as professional services, billed at prevailing rates and payable in advance. After such thirty (30) day period, RM shall have no obligation to maintain or provide any access by

Customer to Customer Data and will thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

**11.6 Surviving Provisions.** The following provisions shall survive the expiration or earlier termination of this TOU: Sections 1, 4, 5, 7, 8, 9, 10, 11, and 12.

**12. General Provisions.**

**12.1 Relationship of the Parties.** The parties shall at all times act as independent contractors and licensor/licensee. Nothing contained in this TOU shall be deemed to constitute a partnership or joint venture between the parties, nor shall any party be deemed the employee, agent, or representative of the other. Neither party shall have any authority whatsoever, whether express or implied, to assume, create, or incur any obligation or liability whatsoever on behalf or in the name of the other, or to bind the other in any manner whatsoever. Neither party shall hold itself out contrary to the provisions of this Section.

**12.2 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this TOU. The Service, results of the Service or use of the Service, and any information furnished to or procured by Customer by or through the Service is solely for the benefit of Customer, and no third party is entitled to rely on the same.

**12.3 Notices.** Any notice or other communication which is required or permitted under this TOU shall be in writing and shall be deemed to have been given, delivered, or made, as the case may be (notwithstanding lack of actual receipt by the addressee), (i) on the date sent if delivered personally or by e-mail, cable, telecopy, telegram, telex, or facsimile (which is confirmed), or (ii) three (3) business days after having been deposited in the United States mail, certified or registered, return receipt requested, sufficient postage affixed and prepaid, or (iii) one (1) business day after having been deposited with a nationally recognized overnight courier service (such as by way of example, but not limitation, U.S. Express Mail, Federal Express, or Airborne), to the parties at the addresses in the Initial Order Form (or at such other address for a party as shall be specified by like notice).

**12.4 Waiver.** No failure or delay on the part of either party in exercising any right or remedy with respect to a breach of this TOU by the other party shall operate as a waiver thereof or of any prior or subsequent breach of this TOU by the breaching party, nor shall the exercise of any such right or remedy preclude any other or future exercise thereof or exercise of any other right or remedy in connection with this TOU. Any waiver must be in writing and signed by the waiving party.

**12.5 Severability.** If any section, subsection, or provision or the application of such section, subsection, or provision of this TOU is held invalid, illegal, or unenforceable, the remainder of this TOU and the obligation of such section, subsection, or provision to persons or circumstances other than those to which it is held invalid, illegal, or unenforceable shall not be affected by such invalidity, illegality, or unenforceability.

**12.6 Assignment.** Neither party may assign any of its rights or delegate any of its duties under this TOU, directly or indirectly by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, this TOU may be assigned by either party, together with a delegation of all duties of that party, and without the consent of the other party, in connection with a sale of all of the stock of the assigning party or a sale of all or substantially all of the assets of the assigning party in a single transaction or series of related transactions that would be considered to be part and parcel of a single transaction. Any attempted assignment in violation of this Section shall be void. This TOU shall inure to the benefit of and be binding upon the parties to this TOU, and their respective legal representatives, trustees, successors, and permitted assigns.

**12.7 Applicable Law; Attorneys' Fees to Prevailing Party.** This TOU shall be governed in its construction, interpretation, and performance by the laws of the State of New York and the United States, as applicable, without reference to law pertaining to choice of laws or conflict of laws. In the event of any litigation arising out of or relating to this TOU or the breach, termination, validity, or enforcement of this TOU, venue shall be in the Supreme Court in and for New York County, New York, or the Manhattan Division of the United States District Court for the Southern District of New York, as applicable. In the event of any litigation arising out of or relating to this TOU or the breach, termination, validity, or enforcement of this TOU, the prevailing party shall be

entitled to recover all costs and reasonable attorneys' fees incurred, including, without limitation, costs andattorneys' fees incurred in any investigations, trials, bankruptcies, and appeals.

**12.8 Dispute Resolution.**

**12.8.1** In the event of any dispute, controversy, or claim arising out of or related to this TOU or to a breach hereof, whether based in contract, tort, or statute, including its interpretation, scope, formation, performance, or termination ("Dispute"), the parties hereto shall attempt to settle such Dispute by amicable discussions between two senior executives of RM and Customer having the specific authority to settle the Dispute within fifteen (15)days after one party giving notice to the other of existence of the Dispute.

**12.8.2** If no settlement is reached by this meeting of the parties, the parties shall attempt in good faith to resolve the dispute through mediation in Tampa, Florida, or such other place as the parties may otherwise agree, with the assistance of a mutually agreeable mediator. Such mediation will take place within ninety (90) days after notice of the Dispute.

**12.8.3** If no settlement is reached at mediation, then either party shall be free to commence litigation pursuant to the terms of this TOU. The provisions of Sections 12.8.1 and 12.8.2 shall not apply to breaches of Sections 2.2,2.3, 5.1, and 7, for which the non-breaching party may proceed immediately to seek temporary and/or preliminary injunctive relief.

**12.9 Construction.** This TOU shall not be construed more strictly against any party regardless of who is responsible for its drafting. Unless the context of this TOU otherwise clearly requires, references to the plural include the singular and the singular include the plural. Wherever the context so requires, the masculine shall refer to the feminine, the feminine shall refer to the masculine, the masculine or the feminine shall refer to the neuter, and the neuter shall refer to the masculine or the feminine. The captions of this TOU are for convenience and ease of reference only and in no way define, describe, extend, or limit the scope or intent of this TOU or the intent of any of its provisions.

**12.10 Entire Agreement.** This TOU, including all exhibits and addenda hereto and all Order Forms executed hereunder, constitutes the entire agreement between the parties relating to the subject matter hereof. All prior understandings and agreements between the parties relating to the subject matter hereof are merged in this TOU, which alone and completely expresses their understanding. This TOU may not be altered, amended, or changed except by written instrument signed by and on behalf of each of the parties hereto. In the event of any conflict between the provisions in this TOU and any exhibit or addendum hereto, or Order Form executed hereunder, the terms of such exhibit, addendum, or Order Form shall prevail to the extent of any inconsistency. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Order Forms) shall be incorporated into or form any part of this TOU, and all such terms or conditions shall be null and void.

**12.11 Counterparts.** This TOU may be executed in two or more counterparts, each of which shall be deemed anoriginal instrument, but all of which counterparts together shall constitute one and the same instrument.

[Not for Signature]

PAR Data Central®

# We Are Excited to Welcome You!

## Who We Are

AccSys, LLC is our legal entity and we are a subsidiary of ParTech, Inc. Data Central is our product.

## What We Do

We are the back-office software for your restaurant. These are some of the benefits you can expect:

- Enterprise level reports such as the Daily Financial Recap, the Spot Check report, and the Price Adjustment report
- Labor scheduling tools and the ShiftWorks mobile app, which allows your employees to view and interactwith their schedule, submit schedule availability and request to swap a shift.
- Inventory and purchasing tools that allow you to count inventory, place and receive orders, track varianceon critical items.

## ACH Charges

We will charge your account once your subscription begins on POS Import.
The ACH Authorization Form will populate immediately after you complete this document. The ACH Form must be completed at this time so that we can get your store ready to go live.
Once your subscription starts, charges to your bank account will be labeled either AccSys or Par Tech Inc.

## Your Next Steps: Request Logins and Submit Fiscal Calendar in DQ Hub

You may use the link below to log onto the DQ Hub:

https://dqhub.dairyqueen.net/technology/itp-home/restaurant-magic-user-information-forms

Once you are there:

**Click Step 1** and choose "**User Credentials ONLY**" from the dropdown for your login.
**Click on Step** 2 to submit your Fiscal Calendar.
DQ will assign your store to a launch group and send an email from EPOS Pilot with login credentials.

## Training

## SUPPORT

Phone: 800.458.6895 – Email: dqsupport@restaurantmagic.com

**AUTHORIZED OPERATOR TERMS & CONDITIONS (ADOPTING)**

These Authorized Operator Terms & Conditions ("AO T&Cs") govern the use of the Services by the authorized *DQ*® franchisee that is accessing or using the Services ("Authorized Operator").

On 09/28/2023, Olo, Inc. ("Olo") and American Dairy Queen Corporation ("Customer") entered into a Master Services Agreement (as amended, supplemented or otherwise modified from time to time, the "Master Services Agreement"). Olo and Customer have also entered into one or more Order Forms (as amended, supplemented or otherwise modified from time to time, each an "Order Form" and, collectively with the Master Services Agreement, the "Agreement") in connection with Olo's provision of Services (as defined in the Agreement) to Customer and its Authorized Operators.

Authorized Operator desires to use the Services in accordance with the terms of the Agreement and intends to adopt certain terms of the Agreement, including certain liability provisions, for Olo to bill Authorized Operator directly with respect to fees and charges incurred in connection with Authorized Operator's use of the Services. Authorized Operator's access to and use of the Service is conditioned on its acceptance of and compliance with these AO T&Cs. By accessing or using the Service, Authorized Operator agrees to be bound by these AO T&Cs.

**1.** Adoption and Amendments. Authorized Operator hereby adopts and approves the terms of the Agreement, subject to the amendments specified in this Section 1 below (such amended Agreement, the "Adopted Agreement"), and agrees to be bound by the terms of the Adopted Agreement:

**a.** References to Customer in the Adopted Agreement shall be changed to Authorized Operator. Any capitalized terms used but not defined herein shall have the meanings ascribed to them pursuant to the Adopted Agreement.

**b.** The Adopted Agreement shall be coterminous with the Agreement, unless these AO T&Cs are terminated earlier in accordance with Section 3 below.

**c.** The notice contact information for Authorized Operator under the Adopted Agreement shall be the contact information provided by Authorized Operator to Olo during the onboarding process.

**d.** The Adopted Agreement shall exclude any terms in the Agreement relating to rights or obligations applicable to Customer Data, press releases, Customer Trademarks, obligations with respect to franchisees, or service credits. Any such terms in the Agreement shall be deleted in the Adopted Agreement.

**e.** The Adopted Agreement shall only include any fees or charges under the Agreement that are (i) charged on a per location or per transaction/order/unit basis, and (ii) applicable to the use of the Services by the Authorized Operator or by locations operated by the Authorized Operator (including any fees or charges associated with transactions/orders/units conducted with locations owned or operated by the Authorized Operator). All other fees or charges set forth in the Agreement shall be deemed deleted in the Adopted Agreement.

**f.** Subject to clause (d) of this Section 1, the Adopted Agreement shall automatically incorporate any change, supplement, amendment, amendment and restatement, or other modifications made to the Agreement by Olo and Customer and the Adopted Agreement shall be deemed to have been changed or modified accordingly; provided, that Customer will be solely responsible for notifying Authorized Operator of any modifications to the Agreement (including, for clarity, pricing updates and changes

with respect to Services that are mutually agreed in writing by Customer and Olo). Authorized Operator hereby ratifies such changes or modifications.

2. Representations; Warranties; and Obligations.

   a. Authorized Operator represents and warrants that:

      i. Authorized Operator is a franchisee or licensee of Customer and Customer has authorized the Authorized Operator to use the Services;

      ii. Authorized Operator has received a copy of the Agreement from Olo or Customer and is familiar with the terms and conditions therein;

      iii. Authorized Operator (i) has the legal power and authority to enter into this Agreement; (ii) it will not violate, or use the Services in violation of any applicable Laws, including any applicable privacy laws, or any third party right; and (c) it will use the Services in compliance with its agreements with third parties; and

      iv. these AO T&Cs are a legal, valid and binding obligation on Authorized Operator, Customer and Olo and are enforceable against Authorized Operator, Customer and Olo in accordance with its terms.

   b. Authorized Operator will promptly provide Olo with information Olo reasonably requires in connection with onboarding and deployment of the Services. In connection with its use of the Services under the Adopted Agreement, Authorized Operator agrees to facilitate the timely implementation and deployment of the Services in good faith, including complying with the following implementation requirements:

      i. Update bank account name, routing number and account number through Olo Dashboard Portal for Electronic Funds Transfer (EFT) billing; and

      ii. Activate necessary services with payment processor(s) to ensure stores are paid for orders.

   c. Authorized Operator is responsible for providing complete and accurate billing and contact information to Olo, and notifying Olo promptly of any changes to such information.

3. Termination.

   a. Subject to the termination provision of the Adopted Agreement, these AO T&Cs shall govern Authorized Operator's use of the Services until the earlier of:

      i. the termination of the Agreement,

      ii. the termination of the franchise agreement between Customer and Authorized Operator,

      iii. Authorized Operator no longer owning or operating the franchised location, in which case these AO T&Cs shall terminate as to such franchised location only,

      iv. Olo providing written notice of termination to Authorized Operator following three (3) months of non-payment; or

v. Authorized Operator providing thirty (30) days' prior written notice of termination to Olo.

**b.** Upon termination:

**i.** Authorized Operator's right to use the Services will cease immediately with respect to all Customer franchised locations of Authorized Operator; and

**ii.** neither party will have any further obligations to the other, except for those obligations that either expressly or by their nature survive such termination, including Authorized Operator's payment to Olo of all fees accrued prior to the termination date.

**4.** Notices. All notices and other communications sent under these AO T&Cs must be in writing (including by email) and will be deemed effective when delivered.

**5.** Governing Law. These AO T&Cs are governed by and construed in accordance with the laws of New York, without regard to the conflicts of law rules thereof.

EXECUTION

# UNITED STATES
# GIFT CARD ENROLLMENT PACKET

**Please use the overview and instructions on the following pages as a reference in completing the Gift Card enrollment packet. If you have any questions in completing these forms please contact the Gift Card Franchisee Support Help Desk at 1(866) 874-7901.**

*****Missing information will result in application rejection, required resubmission and set up delays.**

**Enrollment Packet Contents:**

- Enrollment Cover Sheet
- Participation Agreement
- Credit Application
- Prepaid Implementations and Boarding Form

**Section A: Participation Agreement**


Instructions.....Section A- Page 1-2
Participation Agreement.....1-8
Exhibit A (ACH Authorization).....A
Exhibit B (Schedule of Designated Locations).....B
Exhibit C (Program Fees).....C
Addendum #1 (Addendum for FD-150 Terminals).....1-3


**Section B: Credit Application**


Instructions.....Section B- Page 1
Credit Application .....2
Prepaid Implementations and Boarding Form.....3

# COVER SHEET
# GIFT CARD ENROLLMENT

***Please include this cover sheet with your enrollment paperwork.***

1. **Select one *then* fill in date:**

   ☐ I am enrolling a NEW location (has never accepted Gift Cards before)

   *If so*, anticipated date of opening is _____ .

   ☐ I am enrolling an existing location.

   *If so*, what was the date of sale/change in ownership _____ ,
   *or* the anticipated date of sale/change in ownership _____ ?

2. **What is the Dairy Queen Store Number?**

   Store No. _____

3. **Where should we send your initial inventory of DQ/OJ Gift Cards?**

   ☐ Use store location address

   ☐ Other Address

   Business Name: _____
   Street Address: _____
   City/St/Zip: _____
   Attn: _____
   Phone: _____

## SECTION A: PARTICIPATION AGREEMENT

INSTRUCTIONS:

Step 1. **Print 2 copies** of the attached Participation Agreement.

**Participation Agreement - Page 1**

Step 2. On the first line, enter today's date.

Step 3. On the third line, enter the legal entity name of the Operated Location, Participating Franchisee or Sub-Franchisee.

**Participation Agreement - Page 10**

Step 4. On the first line, enter the legal entity name of the Operated Location, Participating Franchisee or Sub-Franchisee.

Step 5. On the remaining lines, sign and enter your name, title, street address, city, state and zip code of the legal entity name, telephone number, fax, email and today's date.

**Participation Agreement, Exhibit A**

Step 6. In **Section 4** of **Exhibit A**, enter the bank name, account number, account title (example: legal entity name of Operated Location, Participating Franchisee or Sub-Franchisee) that account is under and account ABA routing number. Attach a voided check for the account.

Step 7. On the second page of **Exhibit A**, enter the legal entity name of the Operated Location, Participating Franchisee or Sub-Franchisee on the first line. On the remaining lines, sign and enter your name, title, street address, city, state and zip code of the legal entity name, telephone number, fax and email. Also, please enter your Tax ID number.

**Participation Agreement, Exhibit B**

Step 8. List each Dairy Queen or Orange Julius Store Number and address information for each Designated Location that you are signing up for the Program.

**Participation Agreement, Addendum #1 (Addendum for FD-150 Terminals)**
**NOTE: Only use/complete the Addendum #1 if Operated Location, Participating Franchisee, or Sub-Franchisee chooses to rent or purchase a FD-150 terminal for use as a *"Gift Card only"* terminal (*no processing*).**

Step 9. On the first line, enter today's date. On the third line, enter date Participation Agreement was signed (see step #2). These two dates do not need to be the same.

Step 10. On page 2, ***Section 2***, Election, mark your choice (Purchase or Rental). If you select Purchase, we suggest you also select the Equipment Replacement Program to cover your Terminals in case of malfunction.

Step 11. On page 3, enter the legal entity name of the Operated Location, Participating Franchisee or Sub-Franchisee on the first line. On the remaining lines, sign and enter your name, title, street address, city, state and zip code of the legal entity along with the date Addendum #1 is signed.

Step 12. Following page 3, complete and sign the **FD Prepaid Implementation and Boarding Form Version Dq**.

Step 13. Return both completed and signed originals of the Participation Agreement and Credit Application to the following fax number:

**FAX: 1- 402- 916- 8946**

After processing your Participation Agreement, GIFT will return 1 fully executed copy of the Participation Agreement to you. Accompanying your copy of the Agreement will be a cover letter containing your GIFT Merchant ID Number and First Data Net log-on information with password to access your gift card reconciliation reports via the Internet.

# Participation Agreement for

# U.S. Franchisees and Sub-Franchisees of DQ GC Inc.

This "**Participation Agreement**" is between ***First Data Resources, LLC***, successor in interest to Gift Solutions LLC, f/k/a ValueLink, LLC ("**GIFT**") and _____ [*insert full legal name*] ("**Operated Location**," "**Participating Franchisee**" or "**Sub-Franchisee**"), and shall be effective on the latest date that appears in the signature block. Unless otherwise indicated herein, "**party**" or "**parties**" refer to GIFT and/or Participating Franchisee or Sub-Franchisee. "**Processor**" refers to GIFT and its agents. A "**Designated Location**" is a Dairy Queen Restaurant and/or Orange Julius Store owned and operated by Participating Franchisee or Sub-Franchisee.

**Background**

- ***DQ GC Inc.*** ("**Client**") and GIFT entered into that certain Agreement, dated JUNE 14, 2006 (the "**Agreement**"), pursuant to which Client operates a stored value card program ("**Client's Program**" or the "**Program**") and GIFT provides to Client data processing and related services for the Program;

- Operated Location (which are Designated Locations operated by Client), Participating Franchisee or Sub-Franchisee (which collectively are franchisees of Client) desire to participate in the Program and Client has approved Operated Location, Participating Franchisee or Sub- Franchisee to participate in the Program; and

- Operated Location, Participating Franchisee or Sub-Franchisee will engage GIFT to provide, and GIFT has agreed to provide to Operated Locations, Participating Franchisee or Sub-Franchisee, the Services, as defined below, for the Program in accordance with the terms of this Participation Agreement.

The parties agree as follows:

1 **GIFT Responsibilities**. GIFT will provide these services (the "Services"):

1.1 **Database; Reports**. GIFT will maintain a Database of Card Data. "**Card Data**" is the transaction record and current value of each Card recorded in the Database. The "**Database**" is the information repository software owned and operated by GIFT or its suppliers.

1.2 **Authorization**. GIFT will respond to authorization requests and process Card transactions received at GIFT's data processing center in GIFT's designated format ("**Authorization**"). GIFT will reduce the Card balance by the amount authorized. Operated Locations, Participating Franchisee or Sub-Franchisee will obtain payment from the Cardholder for any deficiency between the purchase price and the amount authorized. "**Cardholder**" means any person possessing or using a Card or Card number. Authorizations will be provided in a real time or batch environment, as mutually agreed. Authorizations will be based on the available balance recorded in the Database. GIFT is not responsible for determining whether transactions are fraudulent, improper or otherwise unauthorized.

1.3 **IVR; Help Desk**. GIFT will operate an IVR, 24 hours per day, 7 days per week for the processing of mutually agreed transactions. "**IVR**" means an automated interactive voice response system accessible from the U.S. and Canada through a toll free telephone number. GIFT shall provide the following help desks during the term of this Agreement: (i) a Level I help desk that will be available twenty-four (24) hours per day, seven (7) days per week (Christmas Day excluded), for the processing of transactions pursuant to this Agreement, which shall provide Cardholder and restaurant support from a toll free telephone number; and (ii) a Level II help desk that will be available Monday through Friday, 8:00 am to 8:00 pm ET, which shall provide restaurant support from a toll free telephone number that will be provided to Client.

1.4 **Settlement**. GIFT will, through its Agents, and as Processor, provide certain settlement services to Client and Operated Locations, Participating Franchisee or Sub-Franchisee (the "**ACH Settlement Services**") through debits and credits to the Operated Locations, Participating Franchisee or Sub-Franchisee Account (as defined below) and the designated accounts of Client (the "**Merchant Account**") for the net value of Card Transactions. Operated Locations, Participating Franchisee or Sub-Franchisee must provide Client

with an ACH Authorization in the form of **Exhibit A** hereto, and by executing this Participation Agreement, hereby confirms its authorization of Client and its service providers (including GIFT and Affiliated Processor, acting on behalf of Client) to initiate debit and credit entries to the Operated Locations, Participating Franchisee or Sub-Franchisee Account as necessary or appropriate to effect any Card transaction and all adjustments and corrections thereto, and as necessary or appropriate to effect any other transfer contemplated by this Participation Agreement. Operated Locations, Participating Franchisee or Sub-Franchisee shall comply with and be bound by any applicable law and the rules and regulations of the National Automated ClearingHouse Association as in effect from time to time.

1.5 **Returned Items.** In the event that any debit to Participating Franchisee or Sub- Franchisee Account is returned for any reason, including but not limited to, insufficient funds, Participating Franchisee or Sub-Franchisee authorizes Client and its service providers, acting on behalf of Client, to initiate a debit to the Participating Franchisee or Sub-Franchisee Account as set forth in the form of **Exhibit A** for the original debit amount plus any associated returned item fees (including, but not limited to the "**Returned Item Fee**" set forth on **Exhibit C** hereto). Nothing herein shall be construed to limit Client (as third party beneficiaries under this Participation Agreement) or GIFT's ability to collect any amounts owed under this Participation Agreement, and Client (as third party beneficiaries under this Participation Agreement) and GIFT expressly reserve the right to exercise any and all rights and remedies available under applicable law.

1.6 **License.** GIFT may provide or permit Operated Locations, Participating Franchisee or Sub-Franchisee to access computer software, enhancements thereto and updates, new releases, and copies thereof ("**Software**"). All right, title and interest in and to all Software will remain in GIFT or its suppliers and no title is transferred to Operated Locations, Participating Franchisee or Sub- Franchisee. GIFT grants to Operated Locations, Participating Franchisee or Sub-Franchisee, and Operated Locations, Participating Franchisee or Sub-Franchisee accepts, the nonexclusive, nontransferable right during the term of this Participation Agreement to use the Software solely to perform its obligations. Operated Locations, Participating Franchisee or Sub-Franchisee will not copy, modify, distribute, display, sublicense, rent, reverse engineer, decompile, create derivative works of, or disassemble the Software, nor will Operated Locations, Participating Franchisee or Sub-Franchisee allow anyone else to do so, except to the extent permitted by applicable law. Operated Locations, Participating Franchisee or Sub-Franchisee acknowledges that the Software is proprietary and Confidential Information of GIFT. Operated Locations, Participating Franchisee or Sub-Franchisee will not alter, remove, modify or suppress any notices in the Software.

**2 Operated Location, Participating Franchisee or Sub-Franchisee Responsibilities.**

2.1 **Card Production**. Operated Locations, Participating Franchisee or Sub-Franchisee will obtain all Cards for the Program from Client. A "**Card**" is a Client-issued plastic card with a magnetic stripe that accesses Card Data. Operated Locations, Participating Franchisee or Sub-Franchisee acknowledges that Client is responsible for the control and distribution of Cards to Operated Locations, Participating Franchisee or Sub-Franchisee under the Program.

2.2 **Operated Locations, Franchisee or Sub-Franchisee Account**. Operated Locations, Participating Franchisee or Sub-Franchisee shall establish and maintain a deposit account(s) (the "**Operated Locations, Franchisee or Sub-Franchisee Account**") at an insured depository institution (the "**Depository**") for the settlement of Card transactions and other transactions as authorized from time to time in the Program Procedures (as defined below, and collectively referred to as "**Card Transactions**").

2.3 **Distribution; Card Authorization Equipment**. Operated Locations, Participating Franchisee or Sub-Franchisee will actively promote the Program. Operated Locations, Participating Franchisee or Sub-Franchisee will request an Authorization in advance of each transaction. Operated Locations, Participating Franchisee or Sub-Franchisee will provide and maintain (i) all POS devices, telecommunications facilities and other equipment (collectively, "**Card Authorization Equipment**") required for Operated Locations, Participating Franchisee or Sub-Franchisee to electronically transmit Card transaction data from Designated Locations to GIFT; and (ii) any development, programming or other modifications to the Card Authorization Equipment as necessary to access and use Services and Service modifications. A "**POS**" is a

point of sale terminal, device or system certified to GIFT specifications. The parties will test the Card Authorization Equipment for functionality prior to Program launch.

2.4 **Designated Locations.** Operated Locations, Participating Franchisee or Sub-Franchisee shall participate in the Program in each of its Designated Locations. Information regarding Operated Locations, Participating Franchisee or Sub-Franchisee's Designated Locations is set forth in the Schedule of Designated Locations, attached hereto as **Exhibit B**. During the Term, Operated Locations, Participating Franchisee or Sub-Franchisee shall notify GIFT of any changes necessary to keep **Exhibit B** updated, including, without limitation, any restaurant transfers or closures, and this Participation Agreement shall no longer apply with respect to such Designated Locations and, to the extent that Operated Locations, Participating Franchisee or Sub-Franchisee acquires an additional Designated Location, this Participation Agreement shall apply with respect to such new Designated Location. Each time Card Transactions are authorized at a Designated Location of Operated Locations, Participating Franchisee or Sub-Franchisee, Operated Locations, Participating Franchisee or Sub- Franchisee represents and warrants that **Exhibit B** is a complete list of its Designated Locations, and that the information contained therein is true and correct.

2.5 **Program Procedures.** The processes and procedures by which Operated Locations, Participating Franchisee or Sub-Franchisee sells Cards and enables use of Cards at Designated Locations are also part of the Program, and Operated Locations, Participating Franchisee or Sub-Franchisee shall be solely responsible that such processes and procedures comply with the Program Procedures, as defined below. Client is solely responsible for defining and implementing those processes and procedures, including those relating to the sale of Cards, service fees (if any), Card redemption, merchandise returns or refunds and Cardholder dispute resolution (collectively, "**Program Procedures**"). Operated Locations, Participating Franchisee or Sub-Franchisee understands that GIFT has no obligation to process any transaction for any card other than Cards supported under the Program.

2.6 **Cardholder Fees.** Fees assessed to Cardholders in connection with Cards, including any transaction, maintenance or inactivity fees, shall be as established by Client. Operated Locations, Participating Franchisee or Sub-Franchisee shall not assess any fee or surcharge for purchase, use, activation or any other transaction in respect of a Card unless otherwise defined in the Program Procedures.

2.7 **Terminals.** Each Operated Location's, Participating Franchisee's and Sub-Franchisee's Designated Locations must use a terminal certified to GIFT's specifications (the "**Terminal**") for Card Transactions. In the event an Operated Locations, Participating Franchisee or Sub-Franchisee does not currently own, rent or lease the Terminals, it will need to acquire Terminals in accordance with the pricing indicated on **Addendum #1**, attached hereto. Should an Operated Location's, Participating Franchisee's or Sub-Franchisee's Designated Location currently operate one or more point of sale terminals that support Card Transactions and are certified to GIFT's specifications and Client's Program Procedures, such Designated Location may use such certified terminals for Card Transactions.

**3 Fees and Charges.**

3.1 **Fees.** Participating Franchisee or Sub-Franchisee shall pay, in accordance with **Exhibit C**, the Program fees set forth on **Exhibit C** to this Participation Agreement ("**Program Fees**"). Participating Franchisee or Sub-Franchisee agrees that all Program Fees shall be paid by an ACH debit from the Participating Franchisee or Sub-Franchisee Account as set forth in the form of **Exhibit A**, and Participating Franchisee or Sub-Franchisee authorizes Client and its service providers, including GIFT, to debit and/or credit funds from or to the Participating Franchisee or Sub-Franchisee Account for such purpose, on or about the 15th calendar day of each month, for so long as this Participation Agreement is in effect.

3.2 **Fee Adjustments.** Program Fees are subject to adjustment if necessary to pass through any increases or decreases in costs associated with the Program. Any such adjustment resulting in an increase in cost associated with Program Fees shall become effective upon thirty (30) days notice to Participating Franchisee or Sub-Franchisee.

**4 Term.** The "**Term**" begins when the Participation Agreement is signed by the parties and continues for so long as the Agreement is in effect, provided, however, that to the extent GIFT is required to provide commercially reasonable

support services following a termination of the Agreement, the provisions of this Participation Agreement shall remain in effect, but only to the extent necessary for GIFT to perform such services and for Operated Locations, Participating Franchisee or Sub- Franchisee to fulfill its obligations in connection with such services. Notwithstanding anything herein to the contrary, Participating Franchisee or Sub-Franchisee has the right to terminate this Participation Agreement, without cause and without any penalty fee, upon no less than sixty (60) days' prior written notice to GIFT, with a copy of such notice to Client.

**5 Termination for Cause.**

5.1 Either party has the right to terminate this Participation Agreement immediately in the event that the other party is guilty of a material breach of this Participation Agreement, and such breach remains uncured thirty (30) days following receipt of notice thereof. GIFT will provide a copy of such notice of termination to Client.

5.2 GIFT may terminate this Participation Agreement upon notice to Operated Locations, Participating Franchisee or Sub-Franchisee: (i) if Operated Locations, Participating Franchisee or Sub-Franchisee or the Program causes GIFT to violate any law or regulation and Operated Locations, Participating Franchisee or Sub-Franchisee or Client fails to cure the condition causing such violation within ten (10) business days after notice; (ii) if Operated Locations, Participating Franchisee or Sub-Franchisee fails to pay any amount due within ten (10) days after receipt of notice; (iii) if GIFT determines, in its sole discretion, that a material adverse change has occurred in the financial condition of Operated Locations, Participating Franchisee or Sub-Franchisee; (iv) in whole or in part, in one or more jurisdictions, if the ACH Settlement Services cause GIFT or its Affiliated Processor to violate any law or regulation and Operated Locations, Participating Franchisee or Sub-Franchisee or Client fails to cure the condition causing such violation within ten (10) business days after notice; (v) if GIFT is informed that Operated Locations, Participating Franchisee or Sub-Franchisee no longer operates as a franchisee of Client; or (vi) if Client instructs GIFT in writing to immediately terminate the Participation Agreement. GIFT will provide a copy of such notice of termination to Client. GIFT's obligation to provide the Services will be suspended during the cure periods referenced in clauses (i) and (iv).

5.3 Either party may also terminate this Participation Agreement immediately in the event that the other party shall go into liquidation, suffer the appointment of a receivership of its assets, go into bankruptcy, voluntarily or involuntarily, or otherwise take advantage of any insolvency laws, or upon any voluntary or involuntary sale, transfer, or other disposition of substantially all of the assets of the other party. GIFT will provide a copy of such notice of termination to Client.

**6 Termination of Agreement.** Termination or expiration of the Agreement results in immediate termination of this Participation Agreement with no notice required.

**7 Termination of Franchise Agreement(s).** Termination or expiration of Operated Location's, Participating Franchisee's or Sub-Franchisee's franchisee agreement(s) with Client (**"Franchise Agreement"**) results in immediate termination of this Participation Agreement with respect to the Designated Locations covered by the terminated or expired Franchise Agreement, with no notice required.

**8 Exclusivity.** During the Agreement term: (i) GIFT will be the sole and exclusive provider of the Services to Operated Locations, Participating Franchisee or Sub-Franchisee; and (ii) Operated Locations, Participating Franchisee or Sub-Franchisee will not, directly or indirectly, offer or promote any other proprietary, closed network, online gift card program. Nothing in the foregoing shall restrict or prohibit Operated Locations, Participating Franchisee or Sub-Franchisee from accepting any Visa, MasterCard, American Express, Discover or other universally accepted credit or debit card or from participating in any "open network" gift card program with other merchants. For purposes of clarification, a "closed network" program refers to a program in which a gift card is accepted only by the issuing merchant, and an "open network" program refers to a program in which a single gift card is accepted by more than one unaffiliated merchants. During the Term of this Agreement, Operated Locations, Participating Franchisee or Sub Franchisee shall have the right to accept a mall issued gift card.

**9 Confidentiality.** **"Confidential Information"** includes this Participation Agreement and any information obtained by one party (**"Recipient"**) regarding the other party (**"Discloser"**) or their respective businesses, including all

confidential or proprietary concepts, Software, documentation, reports, data, specifications, Card Data, computer software, source code, object code, flow charts, databases, inventions, know-how, show-how and trade secrets, whether or not patentable or copyrightable. Confidential Information will not include information that: (i) is or becomes in the public domain through no fault of Recipient; (ii) was received from a third party free of any obligation of confidence to Recipient's knowledge; (iii) was in Recipient's possession prior to receipt from Discloser;

(iv) is required to be disclosed by law, regulation or court order after giving Discloser as much advance notice as practical; or (v) is independently developed by Recipient's employees, consultants or agents without use of or reference to the Discloser's Confidential Information. Participation Agreement will be used by Recipient only to exercise its rights and to perform its obligations under this Participation Agreement. Recipient will use reasonable care to safeguard Confidential Information. Recipient will return or destroy Confidential Information within a reasonable period after request, except that GIFT may retain Card Data, subject to this ***Section 9***, to comply with any legal or regulatory requirements or any potential audit requests or requirements. Breach of the restrictions on use or disclosure of Confidential Information will result in immediate and irreparable harm to Discloser and money damages will be inadequate to compensate for that harm. Discloser will be entitled to equitable relief in addition to all other available remedies to redress any breach. Except as expressly provided herein, no license is granted to Recipient under any Discloser patent, trademark, copyright, trade secret or other proprietary right.

**10 Indemnification.**

10.1 **General**. Subject to the limitations set forth in ***Sections 11***, each party will indemnify the other, its Affiliates, and their respective directors, officers, employees, and agents from and against any and all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of its failure to comply with this Participation Agreement. Operated Locations, Participating Franchisee or Sub-Franchisee further agrees to indemnify GIFT, its directors, officers, employees, and agents from and against any and all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of GIFT's compliance with Operated Locations, Participating Franchisee or Sub- Franchisee's instructions, orders or specifications. "**Affiliate**" means, with respect to either party, any entity controlling, controlled by or under common control with such party.

10.2 **Intellectual Property.** GIFT agrees to indemnify Operated Locations, Participating Franchisee or Sub-Franchisee, its directors, officers, employees and agents from and against all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of any allegation that GIFT's Software misappropriate or infringe such third party's U.S. copyright, trademark, patent or other intellectual property right, except to the extent that such allegation arises from (i) Operated Locations, Participating Franchisee or Sub-Franchisee's use of Software other than in compliance with this Agreement and any documentation supplied by GIFT, (ii) Operated Locations, Participating Franchisee or Sub-Franchisee's use of Software in combination with other software, equipment, systems, services, processes, components or elements not provided by GIFT, if the infringement or misappropriation would not have occurred but for such use or combination, or (iii) modifications or development requested by Client or Operated Locations, Participating Franchisee or Sub-Franchisee, using designs, instructions or specifications provided or approved by Client or Operated Locations, Participating Franchisee or Sub-Franchisee. Operated Locations, Participating Franchisee or Sub-Franchisee agrees to indemnify GIFT, its directors, officers, employees and agents from and against all third party claims, losses, liabilities and damages (including reasonable attorneys' fees and costs of settlement) resulting from or arising out of any allegation that materials supplied by Client or Operated Locations, Participating Franchisee or Sub- Franchisee (including trademarks, artwork, designs and specifications) misappropriate or infringe such third party's U.S. copyright, trademark, patent or other intellectual property right, except to the extent that such allegation arises from GIFT's use of such materials other than in compliance with (a) this Agreement or (b) any relevant instructions supplied by Client or Operated Locations, Participating Franchisee or Sub-Franchisee.

**11 Limitation of Liability; Disclaimer of Warranties.**

11.1 **Limitation**. Except for **Section 10.2**. Above, GIFT'S, and its suppliers' and processor's, cumulative aggregate liability to Client and Operated Locations, Participating Franchisee and Sub-Franchisees and all other operated locations, participating franchisee and sub-franchisees under the Agreement this Participation Agreement and all participation agreements will be limited to actual direct damages and, in any event, will not: (i) exceed $3,000,000; or (ii) include any liability for claims arising out of or relating to the cards issued to Participating Franchisees from Client. For example, if Client and two additional Operated Locations, Participating Franchisee and Sub- Franchisees participate in the Program, GIFT'S cumulative aggregate liability to Client and such Operated Locations, Participating Franchisee and Sub-Franchisees for actual direct damages will not exceed $3,000,000 and will not include any liability for claims arising out of or relating to services and/or items supplied by Client or third parties.

11.2 **Exclusion**. In no event will any party to this Participation Agreement, their affiliates, or any of their respective officers, directors, employees, or agents be liable for lost profits, lost business opportunities, lost revenues, exemplary, punitive, special, incidental, indirect or consequential damages or the like, each of which is excluded by agreement of the parties regardless of whether such damages were foreseeable or whether a party has been advised of the possibility thereof.

11.3 **Disclaimer**. This is a service agreement. Except as expressly provided in this Participation Agreement, GIFT disclaims all representations and warranties, express or implied, including any warranties of quality, suitability, merchantability, fitness for a particular purpose or noninfringement.

11.4 **Time Limitation**. Operated Locations, Participating Franchisee or Sub-Franchisee may not assert any cause of action against GIFT under this Participation Agreement that was or reasonably should have been discovered by Operated Locations, Participating Franchisee or Sub- Franchisee more than one year prior to the filing of a suit or the commencement of arbitration proceedings alleging such cause of action.

11.5 **Compliance with Law**. Operated Locations, Participating Franchisee or Sub-Franchisee will comply with all laws and regulations applicable to its business.

**12 Pre-condition to Liability.** Prior to bringing any claim against GIFT under this Participation Agreement, Participating Franchisee or Sub-Franchisee shall provide Client with written notice detailing the claim ("**Notice of Claim**"), and Client shall have the right to pursue such claim on Operated Location's, Participating Franchisee's or Sub-Franchisee's behalf by providing Operated Location, Participating Franchisee or Sub-Franchisee with written notice of the same within ten (10) business days after receiving the Notice of Claim. If Client elects to pursue such claim on Operated Location's, Participating Franchisee's or Sub-Franchisee's behalf, Operated Location, Participating Franchisee or Sub-Franchisee may participate in the claim with Client at Operated Location's, Participating Franchisee's or Sub-Franchisee's election. Any resolution of a claim brought by Client on Operated Location's, Participating Franchisee's or Sub-Franchisee's behalf shall be binding on Operated Location, Participating Franchisee or Sub-Franchisee. If Client elects not to pursue such claim on Operated Location's, Participating Franchisee's or Sub-Franchisee's behalf, Operated Location, Participating Franchisee or Sub-Franchisee may pursue such claim on its own behalf.

**13 Miscellaneous.**

13.1 **Notices**. Notices will be effective upon receipt if they are received in writing, by registered or certified mail, postage prepaid, return receipt requested or by overnight delivery to the President of the other party at its address on the signature page.

13.2 **Independent Contractor; Third Party Beneficiaries**. The parties are independent contractors. Neither party shall have any authority to bind the other. This Participation Agreement is entered into solely for the benefit of GIFT and Operated Locations, Participating Franchisee or Sub- Franchisee, and will not confer any rights upon any person not expressly a party to this Participation Agreement, including Cardholders. GIFT may subcontract with others to provide Services provided that no such use of subcontractors will relieve GIFT of its obligations under this Agreement.

13.3 **Complete Agreement**. This Participation Agreement is the complete and exclusive understanding of the

parties with respect to its subject matter. Except as expressly provided herein, no modification or waiver of this Participation Agreement will be valid unless in writing signed by each party. A party's waiver of a breach of any term will not be a waiver of any subsequent breach of the same or another term.

13.4 **Assignment**. Operated Locations, Participating Franchisee or Sub-Franchisee may not assign its rights or delegate its obligations under this Participation Agreement without GIFT's prior written consent.

**14 Governing Law; Arbitration**. The laws of the State of Delaware, excluding its rules on conflicts of laws, will govern this Participation Agreement. Subject to ***Section 12***, all disputes will be submitted to the American Arbitration Association (the "**AAA**") for resolution before a panel consisting of three arbitrators, one of which will be selected by Participating Franchisee or Sub-Franchisee, one by GIFT and the third selected by mutual agreement of the first two. Arbitration will be conducted in accordance with the Commercial Arbitration Rules of the AAA then in effect. The decision of the arbitrators will be binding upon the parties; except that disputes arising out of ***Section 9*** will not be subject to arbitration, and may be brought to a court for judicial resolution. Judgment upon any arbitration award or decision may be entered in any court having jurisdiction. Arbitration will be held in Denver, Colorado. Each party will pay its own arbitration expenses and one-half of the fee of the arbitrators and the administrative fee of the AAA. The Colorado Rules of Evidence will apply to such arbitration. The arbitrators will be required to render a decision based on the terms of this Participation Agreement and applicable law.

***[Signatures on next page.]***

**EXECUTION**

**Authorized Signatures:**

_____

State of Formation: _____

By: _____

Name: _____

Title: _____

Date: _____

Address for Notices:

_____

_____

_____

Attention: _____

and copy to:

_____

_____

_____

Attention: _____

**First Data Resources, LLC**

By: _____

Name: _____

Title: _____

Date: _____

Address for Notices:

**First Data Resources, LLC**
2900 Westside Parkway
Alpharetta, GA 30004
Attention: Vice President Operations

and copy to:

**First Data Resources, LLC**
6855 Pacific Street
Omaha, Nebraska 68106
Attention: Legal Department

## EXHIBIT A

## ACH (Debit and Credit) Authorization

By providing the information requested below and signing this ACH Authorization, the undersigned Operated Locations, Participating Franchisee or Sub-Franchisee hereby:

1. Authorizes Client and its service providers, acting on behalf of Client, to initiate ACH debit and credit entries to the deposit account indicated below, and to debit and credit the same to such account, as necessary or appropriate to effect any Card transaction and all adjustments and corrections thereto, and as necessary or appropriate to effect any other transfer contemplated by the Participation Agreement, including, without limitation, any Program fees, (including, but not limited to shipping fees, fulfillment fees, merchandising materials and card fees, etc.);

2. In the event that any debit to the deposit account is returned for any reason, Operated Locations, Participating Franchisee or Sub-Franchisee authorizes Client and its service providers, acting on behalf of Client, to initiate a debit to the account for the original debit amount plus any associated returned item fees;

3. Agrees that Operated Locations, Participating Franchisee or Sub-Franchisee will comply with any applicable law and the rules and regulations of the National Automated Clearing House Association as in effect from time to time; and

4. Certifies that the authorized officer indicated below has the authority to bind Operated Locations, Participating Franchisee or Sub-Franchisee, and that this ACH Authorization constitutes a writing signed by Participating Franchisee or Sub-Franchisee.

Bank Name: _____

Account No.: _____

Account Title: _____

ABA Routing No.: _____

**PLEASE ATTACH VOIDED CHECK**

*****NO STARTER CHECKS*** If you only have starter checks, instead please provide a short bank letter instead validating the Business checking account name, account number and routing number.**

**EXECUTION**

Capitalized terms used herein without definition shall have the meaning provided to such terms in the Participation Agreement.

This authorization is to remain in full force and effect until thirty (30) days after the Participation Agreement has been terminated and Client has received written notification from Operated Locations, Participating Franchisee or Sub-Franchisee of this authorization's termination in such time and in such manner as to afford Client and its third party service providers and the Depository a reasonable opportunity to act on it. No such termination shall relieve Operated Locations, Participating Franchisee or Sub-Franchisee of any obligations or liabilities that accrue or relate to events that have occurred prior to such termination.

**Authorization and Agreement:**

**Operated Locations, Participating Franchisee or Sub-Franchisee:**
***(Please type or legibly write legal entity name on line below)***

Legal Entity Name: _____

Signature: _____

Print Name: _____

Title: _____

Street Address: _____

City, State and ZIP: _____

Phone Number: _____

Facsimile (Fax): _____

E-mail: _____

Entity Taxpayer ID #: _____

## EXHIBIT B

### Schedule of Designated Locations - REQUIRED

Please list each Dairy Queen Store Number and address information for each Designated Location that you are signing up for the program.

| Store Number | Street Address | City | State | Zip Code | Telephone Number |
|---|---|---|---|---|---|
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Please attach additional pages as necessary.

## EXHIBIT C

## Program Fees

**Card Transaction Fee**: Participating Franchisee or Sub-Franchisee will pay Client an initial transaction processing fee of **$0.04** on all Card redemption, reload, balance inquiry, time-out reversal and void transactions initiated from Card Authorization Equipment within each of Participating Franchisee or Sub-Franchisee's Designated Locations, subject to adjustment per ***Section 3*** of the Participation Agreement.

**Help Desk Support Fee**: Participating Franchisee or Sub-Franchisee will pay Client a monthly fee of **$3.50** for each Designated Location that Participating Franchisee or Sub-Franchisee signs up for the Program.

**ACH Settlement Services Fee**: Participating Franchisee or Sub-Franchisee will pay Client a fee of **$0.10** for each ACH debit or credit entry initiated to the Participating Franchisee or Sub-Franchisee Account.

**ACH Returned Item Fee**: Participating Franchisee or Sub-Franchisee will pay Client a returned ACH item fee of **$25.00** for each ACH entry submitted against the Franchisee or Sub-Franchisee Account that is returned for any reason, including but not limited to insufficient funds. Fee will not be charged to Participating Franchisee or Sub-Franchisee if returned ACH item is caused by Client's service provider.

**Terminal Reprogramming Fee**: For Participating Franchisee or Sub Franchisee owned FD-150 Terminals that are not provided by GIFT, there is a **$25.00** per Terminal reprogramming fee associated with downloading a GIFT gift card Terminal application via telephone.

EXECUTION

# ADDENDUM #1

## Addendum for FD-150 Terminals

This Terminal Addendum ("**Addendum**"), effective as of the latest date that appears in the signature block, is between ***First Data Resources, LLC***, successor in interest to Gift Solutions LLC, f/k/a ValueLink, LLC ("**GIFT**") and the undersigned ***Operated Location***, ***Participating Franchisee*** and ***Sub-Franchisee***, and supplements the Participation Agreement between them dated _____, 20____ (the "**Agreement**") and sets forth the terms pursuant to which Operated Locations, Operated Location, Participating Franchisee and Sub-Franchisee will purchase or rent Terminals. Capitalized terms not defined herein shall have the meanings assigned in the Agreement.

**1. Purchase and Rental Options.**

1.1. **Purchase.** Participating Franchisee and Sub-Franchisee may purchase Terminals subject to terms set forth below.

1.1.1. **Sale Price; Adjustments.** Operated Locations, Participating Franchisee and Sub- Franchisee may purchase a new Terminal(s) offered by GIFT at a sale price of $245.00 (the "**Sale Price**").

1.1.2. **Deployment Fee.** In addition, Operated Locations, Participating Franchisee and Sub-Franchisee will be charged a one-time deployment fee of $75.00 per Terminal deployment per Designated Location.

1.1.3. **Equipment Replacement Program.** Participating Franchisee and Sub- Franchisee may, but shall not be obligated to, participate in an equipment replacement program for Terminal(s) purchased from GIFT that are out of warranty at a cost of $125.00 per replaced Terminal. Equipment replacement includes, but is not limited to, overnight service on replacement Terminal and call tag pick-up of defective Terminal.

1.2. **Rental.** Participating Franchisee and Sub-Franchisee may rent Terminals subject to the terms set forth below.

1.2.1. **Rental Rates.** Operated Locations, Participating Franchisee and Sub-Franchisee may rent Terminal(s) from GIFT, or another provider designated by GIFT pursuant to GIFT's (or the alternative provider's) standard rental agreement terms at a rate of $25.00 per Terminal with no rental term commitment; $14.00 per Terminal based on a rental term commitment of 36 months and $11.00 per Terminal based on a rental term commitment of 48 months. Rental Terminals deployed by GIFT or its alternative provider may be either new or refurbished.

1.2.2. **Deployment Fee.** In addition, Operated Locations, Participating Franchisee and Sub-Franchisee will be charged a one-time deployment fee of $75.00 per Terminal deployment plus applicable shipping, duties and taxes per Designated Location.

1.2.3. **Purchase Option.** Should Participating Franchisee and Sub-Franchisee choose the Terminal rental option of either a 36 month or 48 month term commitment, Participating Franchisee and Sub-Franchisee shall have the option to purchase any or all of the rented Terminal(s) at $25.00 per Terminal at the end of the Rental Term. Terminals not purchased shall be returned to the Terminal provider.

1.2.4. **Early Termination Fees.** Should Participating Franchisee and Sub-Franchisee choose the Terminal

rental option of either a 36 month or 48 month term commitment and if Terminal(s) are rented for less than the term of the rental commitment, Participating Franchisee or Sub-Franchisee will be subject to an administration fee for each rented Terminal at the cessation of the Rental Term equal to (A) For a 36 month rental term; $10.41 multiplied by the difference between thirty-six (36) and the number of monthly rental payments made by Participating Franchisee or Sub-Franchisee; (B) For a 48 month rental term; $7.81 multiplied by the difference between forty-eight (48) and the number of monthly rental payments made by Participating Franchisee or Sub-Franchisee and (C) a "Restocking Fee" calculated as follows:

a) If less than 20 Rental Payments are Made then the Restocking Fee Per Terminal is $50.00

b) If 20 to 36 Rental Payments are Made then the Restocking Fee Per Terminal is $40.00

c) If 37 to 48 Rental Payments are Made then the Restocking Fee Per Terminal is $30.00

1.2.5. **Equipment Replacement Program**. All Terminals rented shall be included in an equipment replacement program at no additional cost. Equipment replacement includes, but is not limited to, overnight service on replacement Terminal and call tag pick-up of defective Terminal.

**2. Election**.

Operated Locations, Participating Franchisee and Sub-Franchisee hereby selects the following (check all applicable and fill in quantities):

| Terminal Option | Terminal Type | Terminal Quantity | Term (if applicable) | Applicable Price | Total |
|---|---|---|---|---|---|
| ☐ Purchase | First Data 150 terminal (N-FD-150) | | N/A | $245.00 per Terminal * | |
| ☐ Equipment Replacement Program | First Data 150 terminal (N-FD-150) | | N/A | $125.00 per Terminal | **N/A** |
| ☐ Rental | First Data 150 terminal (N-FD-150) | | N/A | $25.00 per Terminal * | |
| ☐ Rental | First Data 150 terminal (N-FD-150) | | 36 months | $14.00 per Terminal * | |
| ☐ Rental | First Data 150 terminal (N-FD-150) | | 48 months | $11.00 per Terminal * | |

* Per Terminal Deployment Fee: $75.00 per terminal:
- Inclusive of all application setup, download, shipping and handling fees.
- Inclusive of one terminal and/or peripherals and/or accessories that accompany one terminal.
- Inclusive of 1-3 business day delivery (3 day guaranteed).

**3. ACH Debit Authorization**. Operated Locations, Participating Franchisee and Sub-Franchisee authorizes GIFT and its service providers, acting on behalf of GIFT, to initiate ACH debit and credit entries to the deposit account indicated on Exhibit A to the Franchisee and Sub-Franchisee Participation Agreement, and to debit and credit the same to such account, as necessary or appropriate to effect any charge, fee or other transfer contemplated by this Addendum and all adjustments and corrections thereto. Operated Locations, Participating Franchisee and Sub-Franchisee shall comply with Applicable Law and the rules and regulations of the National Automated Clearing House Association as in effect from time to time.

4. **Conflict with Agreement**. Except as supplemented or amended by this Addendum, all provisions of the Agreement shall continue in full force and effect, but if there shall be any conflict or inconsistency between the provisions of this Addendum and the Agreement, the provisions of this Addendum shall govern and control.

**Authorized Signatures:**

_____

By: _____

Name: _____

Title: _____

Date: _____

Address for Notices:

_____

_____

_____

Attn: _____

and copy to:

_____

_____

_____

Attn: _____

**First Data Resources, LLC**

By: _____

Name: _____

Title: _____

Date: _____

Address for Notices:

First Data Resources, LLC
2900 Westside Parkway
Alpharetta, GA 30004
Attn: Vice President Operations

and copy to:

First Data Resources, LLC
6855 Pacific Street
Omaha, Nebraska 68106
Attn: Legal Department

## SECTION B: CREDIT APPLICATION

INSTRUCTIONS

Step 1. **Print 1 copy** of the attached Credit Application.

Step 2. An owner, partner, or officer must complete and sign the Credit Application. A Social Security number is required. Complete as indicated.

# Credit Application
## Gift Solutions - Participating Franchisee

All questions must be answered fully in order for this credit application to be processed.

**Participating Franchisee Information ("Franchisee")**

| | | |
|---|---|---|
| **1.** | Legal Name of Operated Location, Participating Franchisee or Sub-Franchisee: | |
| **2.** | Doing Business As (d/b/a): | |
| **3.** | Form of Organization: | ☐ Corporation ☐ Limited Liability ☐ Company ☐ Sole Proprietorship ☐ Partnership ☐ Limited Partnership ☐ Other:_____ |
| **4.** | State of Incorporation / Formation / Registration: | |
| **5.** | Date of Incorporation / Formation / Registration: | |
| **6.** | Federal Tax ID No (FEIN): | |
| **7.** | Mailing Address (Street/City/State/Zip): | |
| **8.** | Time at present address: | |
| **9.** | Time in Business: | |
| **10.** | Telephone Number: | |
| **11.** | Fax Number: | |
| **12.** | Contact Name: | |
| **13.** | Contact Email address: | |
| **14.** | Contact Phone Number: | |
| **15.** | Contact Fax Number: | |

### Terms and Conditions

All statements contained in this application and in the financial statements and other documentation submitted in support of this application are true and correct. Permission and authorization is hereby granted to First Data Resources, LLC, First Data Corporation and its and their affiliates and representatives (collectively "FDC") as well as to prior employers, trade references, Dun & Bradstreet, banks, consumer credit services, consumer reporting agencies and state and federal government representatives, without regard to whether they are listed herein, to verify, receive, exchange, and obtain business and/or personal credit and other information including, without limitation criminal background checks, as part of this application. The undersigned further agree that neither FDC nor anyone who has furnished FDC any information concerning Franchisee or the undersigned owners and/or principals of Franchisee shall be responsible for any losses or damages of Franchisee or the undersigned owners or principals of Franchisee may claim as resulting from said verification, receipt, exchange, or obtaining business and/or personal credit or other business and/or personal information. Under penalty of perjury, the undersigned certify that: (i) the federal taxpayer identification number shown on this application as Franchisee's Federal Tax ID Number is the correct taxpayer identification number of Franchisee (or Franchisee is waiting for a number to be issued to Franchisee), and (ii) Franchisee is not subject to backup withholding because either Franchisee is exempt from backup withholding, or Franchisee has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of failure to report all interest or dividends, or the IRS has notified Franchisee that it is no longer subject to backup withholding.

**Owner/Partner/Officer Information:**

Authorized Signature:_____ Date: _____

Print Name_____ Date of Birth: _____

Home Street Address:_____ Percentage of Ownership: _____

Home Phone Number:_____ Social Security Number:_____

## PREPAID IMPLEMENTATION AND BOARDING FORM—REQUIRED VERSION DQ

| FRANCHISEE / SHIP TO: | | TAX REPORTING REQUIREMENTS: | |
|---|---|---|---|
| Franchise Owner Name: | | Business Tax ID: | |
| Franchise Phone #: | | What Type? (SSN, EIN) | |
| Store Phone #: | | **GIFT Consortium:** | Check one: ☐ US 8448 ☐ Canada 8454 |
| Company DBA Name: | | **GIFT MID (if already accepting GC today):** | |
| Store Location #: | | **GIFT** Alt MID: **(Dairy Queen 5 digit Store #)** | |
| Store Address: | | Channel: (First Data, Wells Fargo) | **First Data** |
| City, State or Province: | | 1099k Address 1 | |
| Zip or Postal Code: | | 1099k Address 2 | |
| Country: | | 1099k City/State/Zip/Country | |
| Franchise Owner Email address: | | Payee Type **(Check one)**:<br>☐ **D** = Main Chain Account<br>☐ **U** = Independently Owned Locations linked or not to a Chain<br>☐ **E** = Not included in IRS Reporting; i.e Corporate locations | |
| **MORE INFORMATION TO ASSIST US WITH YOUR REQUEST:** | | | |
| **Check One:**<br>☐ New business ☐ Existing business adding location. | | If you are setting up a new account for a new business, a Gift Card Merchant ID will be assigned for you. | |
| Do you currently own another store that is operating a DQ giftcard program? | ☐ YES ☐ NO | Current Locations Gift Card Merchant ID Number: | |
| Gift Card Processor: | **First Data** | Who is your Credit/ Debit Processor: (Ex. Citi/First Data, BAMS, etc) | |
| Is this a change of ownership? | ☐ YES ☐ NO | Existing Credit Merchant ID#: *If Applicable* | |
| Ship Method for Gift Cards inventory (Initial Card Shipment): | | ☐ Ground ☐ Priority ☐ Overnight | |
| **BANKING INFORMATION:** | | | |
| Bank Name: | | | |
| Bank Account Name: | | | |
| Bank Account Number: | | | |
| Bank Routing Number: | | | |
| **AUTHORIZATION:** Your signature on this form confirms that all information submitted on this form is accurate | | | |
| **Owner Signature:** | | | |
| **Date** | | | |
| **Comments:** | | | |
| *All Fields on this form are required in order to complete your request. Please print and sign* | | | |
| **Fax Enrollment forms to: 1-402-916-8946** | | | |
| **First Data Use Only:** | | | |
| New Gift MID: | | | |
| FD Net User ID: | | | |
| FD Net Temp Password: | | | |

**MASTER SERVICES AGREEMENT**

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

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

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

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

**TERMS AND CONDITIONS**

**1. DEFINITIONS.**

1.1 **"Affiliate"** means any person or entity, that now or hereafter, that directly, or indirectly through one or more intermediaries, controls, is controlled by, or us under common control with, the Party specified.

1.2 **"Applicable Laws"** means all applicable present laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders of any governmental or judicial authorities.

1.3 **"Authorized Users"** means Customer, Customer employees or contractors, and all other third parties acting on Customer's behalf including its Affiliates who have been designated by Customer (excluding Punchh employees or contractors), on notice to Punchh, to receive unique login credentials permitting access to the Services.

1.4 **"Confidential Information"** has the meaning set forth in Section 10 hereof.

1.5 **"Documentation"** means any documentation made available to Customer by Punchh for use with the Services.

1.6 **"Fees"** means the fees payable by Customer to Punchh hereunder, as set forth on the Order or as may be otherwise agreed to by the Parties in writing.

1.7 **"Force Majeure"** has the meaning set forth in Section 17.7 hereof.

1.8 **"Franchisee"** means independently owned and operated franchise locations within the Dairy Queen® system.

1.9 **"including"** means "including without limitation."

1.10 **"Initial Term"** has the meaning set forth in Section 11.1 hereof.

1.11 **"Intellectual Property Rights"** means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now or hereafter exist, and all applications therefor and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

1.12 **"Order"** means any order form executed by Punchh and Customer which is subject to these Terms and Conditions, and any other order form subsequently entered by the Parties that expressly references and incorporates these Terms and Conditions, all under this Agreement. Punchh and Customer have entered into (and/or may in the future enter into) one or more written Orders and corresponding statements of work ("SOWs") specifying certain Services and Professional Services.

1.13 **"Participating Location"** means any franchised location within the Dairy Queen® franchise system that has signed the relevant Participation Agreement set forth as Exhibit C hereto.

1.14 **"Party"** means either Punchh or Customer, and **"Parties"** means both Punchh and Customer.

1.15 **"Personal Data"** is defined in the data processing agreement attached as Exhibit B.

1.16 **"Platform"** means Punchh's online platform through which the Customer makes use of the Services.

1.17 **"Professional Services"** means implementation, mobile application development, consulting or other professional services performed by Punchh for the Customer, as may be set forth in a separate SOW signed by the parties.

1.18 **"Promotional Programs"** means various customer acquisition, customer retention, and/or customer marketing programs, including loyalty programs facilitated by Punchh.

1.19 **"Punchh Technology"** means i) the ideas, know-how, inventions, methods, or techniques developed or conceived as a result of providing the Services hereunder, including any derivative works, modifications, additions, improvements, enhancements and/or extensions made from or to the Services; ii) the Platform and the databases, software, hardware, and other technology used by or on behalf of Punchh to provide the Platform; and iii) any other Punchh property related to the Services or the Platform.

1.20 **"Services"** means Punchh's proprietary software as a service (SaaS) solution, available by means of the Platform, which permits Customer to design, execute, manage, and analyze Promotional Programs. Services do not include the Professional Services provided by Punchh to the Customer.

1.21 **"Transition Assistance Period"** is defined as the period of twelve (12) months for the orderly transition of Services to Customer or another supplier of Customer, beginning upon the expiration or termination of the Agreement.

1.22 **"Transition Assistance Services"** means Services and Professional Services provided to Customer and Participating Locations under the Transition Assistance Plan that is mutually agreed upon by the Parties as set forth in Section 11.5 .

1.23 **"Term"** has the meaning set forth in Section 11.1 hereof.

1.24 **"Upgrades"** means, with respect to the Services, fixes, updates, enhancements, or upgrades thereto; provided, however, that "Upgrades" shall not include additional modules for the Services, or new products or services, that Punchh may make available from time to time.

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

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

**3. PURPOSE AND PRIMARY ACTIVITIES.**

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

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

**4. PLATFORM.**

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

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

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

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

**5. LICENSES.**

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

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

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

**7. FEES AND PAYMENT.**

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

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

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

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

**8. OWNERSHIP.**

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

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

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

**9. DATA.**

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

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

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

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

otherwise required for the Services.

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

**11. TERM AND TERMINATION.**

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

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

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

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

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

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

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

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

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

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

11.5.v. Absolute Obligation. Punchh agrees that it has an absolute and unconditional obligation to provide Customer (and Participating Locations) with Transition Assistance Services, and unless part of the mutually agreed upon Transition Assistance Plan, both Parties agree to continue to adhere to all requirements of this Agreement.

**12. REPRESENTATIONS AND WARRANTIES.**

**12.1** By Both Parties. Both Parties represent and warrant that by entering into this Agreement, it does not violate the terms of any other material agreement by which such Party is bound.

**12.2 Customer.** Customer further represents and warrants that: (i) it has the necessary rights to grant Punchh the rights and licenses granted hereunder; (ii) Customer has the right and authority to enter into and be bound by this Agreement; (iii) the Customer Content and Customer Marks, and the use thereof by Punchh as contemplated and authorized in this Agreement, do not and will not cause the infringement of Intellectual Property Rights of any third party; (iii) the Customer Content, and the use thereof as contemplated and authorized in this Agreement, does not and will not violate the publicity or privacy right of any third party, or defame any third party; and (iv) all Promotional Programs are in compliance with all Applicable Laws, and Customers has obtained any and all required consents and permissions that are necessary for Punchh to perform its obligations hereunder or for the collection or use of any Personal Data.

**12.3 Punchh.** Punchh further represents and warrants that: (i) the Platform, and the use thereof by Customer and its Authorized Users as contemplated and authorized in this Agreement, does not infringe upon the Intellectual Property Rights of any third party; (ii) Punchh has the right and authority to enter into and be bound by this Agreement; (iii) the Professional Services will be performed in a good and workmanlike manner; (iv) the Services and Professional Services will comply with all Applicable Laws; (v) no malicious or detrimental content will be included in the Services; and (vi) the Services and Professional Services will substantially conform in all material respects to any Documentation provided with the Services or Professional Services, this Agreement, or the applicable Orders. Punchh will have no obligation or other liability with regard to any non-compliance with the Documentation or these representations and warranties that is caused by Customer's or its Authorized User's actions or inactions, including any negligence or the misuse or improper use of the Platform or any Promotional Programs by or on behalf of Customer.

**13. DISCLAIMER.** THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES MADE BY THE PARTIES. EACH PARTY EXPRESSLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE. THE PARTIES AGREE THAT PUNCHH IS NOT INVOLVED IN SELECTING CUSTOMER CONTENT OR THE ELEMENTS OF THE PROMOTIONAL PROGRAMS AND DISCLAIMS ANY AND ALL LIABILITY RELATING THERETO.

**14. INDEMNIFICATION.** EACH PARTY (AN "INDEMNITOR") WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY, ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (TOGETHER, AN "INDEMNITEE") FROM AND AGAINST ANY DAMAGES, LOSSES, FINES, PENALTIES, COSTS, EXPENSES, LIABILITIES, AND OTHER AMOUNTS (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS) (COLLECTIVELY, "CLAIMS") INCURRED OR SUFFERED BY THE INDEMNITEE IN CONNECTION WITH OR OTHERWISE RELATING TO ANY THIRD PARTY CLAIM OR ARISING OUT OF (I) ITS GROSSLY NEGLIGENT ACTS OR OMISSIONS, OR WILLFUL MISCONDUCT IN PERFORMING UNDER THIS AGREEMENT; OR (II) ALLEGATIONS THAT ANY OF PUNCHH'S PLATFORM OR SERVICES OR DOCUMENTATION INFRINGES ANY INTELLECTUAL PROPERTY RIGHT OF A THIRD PARTY IN THE TERRITORY AS FURTHER SUBJECT TO SECTIONS 14.1 AND 14.1.I BELOW; OR (III) ANY INDEMNIFICATION OBLIGATION OF A SUBCONTRACTOR; OR (IV) A DATA BREACH CAUSED BY PUNCHH; OR (V) BREACH OF APPLICABLE LAW. EACH PARTY AGREES TO: (I) PROVIDE THE INDEMNITOR WITH PROMPT NOTICE OF ANY CLAIM FOR INDEMNIFICATION UNDER THIS SECTION; (II) GRANT THE INDEMNITOR CONTROL OVER THE DEFENSE OR SETTLEMENT OF ANY SUCH CLAIM (PROVIDED THAT THE INDEMNITOR MAY NOT AGREE TO ANY SETTLEMENT OTHER THAN MONETARY DAMAGES); AND (III)

COOPERATE FULLY WITH THE INDEMNITOR, AT THE REASONABLE EXPENSE OF THE INDEMNITOR, IN THE DEFENSE OR SETTLEMENT OF ANY SUCH CLAIM.

**14.1** INFRINGEMENT. Punchh shall indemnify, defend, and hold harmless Customer, its affiliates and franchisees, and each of their respective officers, directors, employees, and agents (together, a "Customer Indemnitee") from and against any actions, liabilities, damages, obligations, costs and expenses (including reasonable attorneys' fees and costs) incurred or suffered by a Customer Indemnitee arising out of, related to, or in connection with any Claim by a third-party that the Punchh Platform or any of the Punchh Services and Documentation contemplated under this Agreement infringes or misappropriates such third-party's U.S. or Canadian patent claim, copyright, or trade secret ("Infringement Claim").

**14.1.i.** If the Punchh Platform or Punchh Services, or Documentation (each, an "Infringing Item") is or may become the subject of a claim under Section 14.1 above, Punchh may, at its option, and at no additional cost to Customer, (i) modify or replace the affected parts so the Infringing Item becomes non-infringing, (ii) obtain a license for Customer's continued use so the Infringing Item is no longer infringing, or (iii) terminate this Agreement and refund Customer for any prepaid and unused recurring fees and pay reasonable transition, implementation, and replacement costs incurred by Customer (prorated to consider the remainder of the Term length). Punchh shall have no obligation with respect to any such Claim to the extent caused by (a) Customer's combination of software or hardware from third-parties not provided by Punchh (or not expressly approved in writing by Punchh) that are not intended for or reasonably contemplated to be used by the Customer or with the Customer's environment or application and that combination results in a Claim, or (b) Customer's use of a prior version of the Punchh Services or Documentation if the Claim would have been avoided had such prior version not been used by Customer, subject to and contingent upon, Punchh providing to Customer at least sixty (60) days prior written notice (of as much advance notice as is feasible given the nature of the Claim) of (1) the potential Infringement Claim and (2) an updated, implementation-ready version of the Punchh Services or Documentation, at no additional cost to Customer. Section 14.1 and subsection 14.1.i states the entire liability of Punchh, and Customer's sole and exclusive remedy, for any infringement involving the Punchh Platform, the Punchh Services or the Documentation.

**15. LIMITATION OF LIABILITY.** SUBJECT TO A CLAIM FOR INFRINGEMENT AS SET FORTH IN SECTION 14.1, EXCEPT FOR DAMAGES AS A RESULT OF EITHER PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 9 HEREIN, OR DUE TO THE FRAUD, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF A PARTY (OR THAT CANNOT OTHERWISE BE LIMITED BY APPLICABLE LAW), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR (A) ANY LOST PROFITS OR CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, EVEN IF ONE OR BOTH PARTIES KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) EACH PARTY'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF PAYMENTS ACTUALLY MADE BY CUSTOMER TO PUNCHH UNDER THIS AGREEMENT DURING THE 18 MONTH PERIOD PRECEDING THE TRANSACTION OR EVENT GIVING RISE TO THE CLAIM.

**15.1 MAXIMUM CAP FOR DATA BREACH CLAIMS.** FOR FIRST OR THIRD PARTY CLAIMS ARISING OUT OF A DATA BREACH (AS DEFIEND IN THE DPA) CAUSED BY PUNCHH, PUNCHH'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT (INCLUDING ALL DIRECT, CONSEQUENTIAL, OR INDIRECT DAMAGES WHATSOEVER) SHALL NOT EXCEED TWENTY MILLION DOLLARS ($20,000,000).

**16. CONSUMER COMMUNICATIONS.** FOR INDIVIDUALS PARTICIPATING IN CUSTOMER'S PROMOTIONAL PROGRAMS, CUSTOMER MAY SEND SUCH INDIVIDUALS EMAILS, SMS MESSAGES, PHONE CALLS (WHETHER BY AUTOMATED MEANS OR OTHERWISE), AND OTHER TYPES OF COMMUNICATIONS FOR MARKETING AND OTHER COMMERCIAL PURPOSES (COLLECTIVELY, "**CONSUMER COMMUNICATIONS**") THROUGH THE PLATFORM OR BY OTHERWISE INSTRUCTING PUNCHH. CUSTOMER REPRESENTS, WARRANTS AND COVENANTS THAT IT WILL BE

SOLELY RESPONSIBLE AND LIABLE FOR (I) THE CONTENT OF CONSUMER COMMUNICATIONS, INCLUDING ANY CUSTOMER CONTENT THEREIN, AND (II) OBTAINING ALL CONSENTS REQUIRED BY THE TELEPHONE CONSUMER PROTECTION ACT OF 1991 (47 U.S.C. § 227) AND ANY OTHER APPLICABLE LAWS TO SEND, TRANSMIT OR OTHERWISE DISTRIBUTE ANY CONSUMER COMMUNICATIONS TO INDIVIDUALS (COLLECTIVELY, **"CONSUMER COMMUNICATIONS CONTENT AND CONSENTS"**). REGARDLESS OF ANY CURRENT OR PRIOR ASSISTANCE THAT PUNCHH PROVIDED TO CUSTOMER REGARDING CONSUMER COMMUNICATIONS CONTENT AND CONSENTS, INCLUDING ANY ASSISTANCE RELATED TO ANY "OPT-IN" OR "OPT-OUT" CONSENT MECHANISMS, PUNCHH WILL NOT BE RESPONSIBLE OR LIABLE FOR, AND CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS PUNCHH AND ITS RELATED INDEMNITEES FROM AND AGAINST ANY CLAIMS INCURRED OR SUFFERED BY PUNCHH AND ITS RELATED INDEMNITEES IN CONNECTION WITH, CONSUMER COMMUNICATIONS CONTENT AND CONSENTS.

17. **Insurance.** Punchh must obtain and maintain in effect the insurance coverage specified below, at Punchh's expense. The insurance policies must be placed with an insurance company with an A.M. Best's rating of A VIII or higher. Punchh will provide proof of insurance satisfactory to Customer within 30 days of execution of this Agreement, and at any time during the term of the Agreement at Customer's request. The policies may not be cancelled or non-renewed without 30 days prior written notice to Customer. The general liability and umbrella policies must name Customer, its Affiliates, and Franchisees as additional insured parties with the Additional Insured Vendor Endorsement. The amounts and types of insurance below are the minimum required by Customer and Punchh may obtain insurance with greater limits or broader coverage as Punchh considers appropriate based on a comprehensive risk analysis reviewed at least annually or on substantial business change.

a. **Commercial General Liability.** On an occurrence form containing limits of at least $5,000,000 per occurrence/$5,000,000 general aggregate, protecting against property damage, bodily injury and personal injury claims arising from the exposures of premises or ongoing operations, independent contractors, and contractual liability.

b. **Business Automobile Liability**. With a combined single limit of $1,000,000 insuring against bodily injury and/or property damage arising out of the operation, maintenance, use, loading or unloading of any auto including owned, non-owned, and hired autos.

c. **Workers' Compensation and Employer's Liability**. With limits of not less than $500,000/$500,000/$500,000 and providing statutory benefits imposed by applicable Law such Customer will have no liability to Punchh, its employees or Punchh's agents, and Punchh will satisfy all Workers' compensation obligations imposed by Applicable Law.

d. **Cyber Liability/Supplier Liability (Errors and Omissions) Insurance**. On a claims-made form with a limit of $40,000,000 in the aggregate including coverage for losses arising out of failure of security, unauthorized disclosure of private information, failure to protect private information from misappropriation, damage/loss/theft of or to data, degradation and downtime. Punchh agrees to increase its Cyber Liability/Supplier Liability (Errors and Omissions) Insurance during the Term of the Agreement as the number of Participating Locations purchasing the Services increases as follows:
    a. 3,000 Participating Locations = $50,000,000 in the aggregate
    b. 5,000 Participating Locations = $60,000,000 in the aggregate

18. **GENERAL.**

**18.1 Assignment.** Neither party may assign or transfer this Agreement without the other party's express written consent, and any such consent may not be unreasonably withheld, conditioned or delayed. Any attempt to assign or transfer this Agreement without such consent will be null and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

**18.2 Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of Delaware, excluding conflict of law principles. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the State of Delaware, and the parties hereby irrevocably consent to personal jurisdiction and venue therein.

**18.3 Severability.** If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

**18.4 Waiver.** The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

**18.5 Order of Precedence.** In the event of a conflict between this Agreement and the terms of an Order, this Agreement will control over the subject matter of such conflict.

**18.6 Data Security Audit and Reporting.** At least once per year, Punchh shall conduct site audits of the information technology and information security controls for all facilities used in providing the Services under this Agreement, including obtaining a network-level vulnerability assessment performed by a recognized third-party audit firm based on recognized industry best practices. Upon Customer's request, Punchh shall make available to Customer for review all of the following, as applicable: Punchh's latest current attestation of compliance signed by a Payment Card Industry (PCI) Qualified Security Assessor, and Statement on Standards for Attestation Engagements (SSAE) No. 18 SOC 1, Type II and SOC 2, Type II audit reports for Reporting on Controls at any service organization. Customer shall treat such audit reports as Punchh's Confidential Information under this Agreement. Any exceptions noted on the SSAE report or other audit reports will be promptly addressed with the development and implementation of a corrective action plan by Punchh's management. Repeated instances of the same exception(s) noted on any successive report that have a material impact to Customer as a result of the failure of the exception to be remedied from the prior report, will be considered a material breach of this Agreement.

**18.7 Compliance Audit.** One time per calendar year, at Customer's request, with not less than 10 days' prior written notice to Punchh, Punchh will allow Customer or its designated representatives to enter upon Punchh's premises to audit applicable invoices, books, and records, related to payments made by Customer or Franchisees for the Services under this Agreement, solely to the extent necessary to verify Punchh's compliance with the terms of this Agreement. Punchh will reasonably cooperate with Customer or its designated representatives in connection with such audit. Upon completion of an audit, Customer and Punchh will review the audit report together and work in good faith to agree upon any adjustment of charges, including any reimbursement of overpayment by Customer or Participating Locations, resulting from the audit. Audits will be conducted during Punchh's normal business hours, and Customer will use commercially reasonable efforts to limit the disruption to Punchh's business operations during any audit. Punchh will pay for Customer's reasonable costs and expenses in conducting the audit, in addition to all costs of remediation, if:

**(a)** an error or discrepancy in amounts billed to Participating Locations representing greater than a 5% overcharge is discovered;

**(b)** [intentionally deleted].

**18.8 Notices.** All notices required or permitted under this Agreement will be in writing and delivered by confirmed electronic transmission, by courier or overnight delivery services, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the addresses set forth below or to such other address as may be specified by either party to the other in accordance with this Section.

**18.9 Force Majeure.** Neither Party will be in default for any failure or delay in performing its

obligations under this Agreement (other than payment obligations) due to causes beyond its reasonable control, including labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, war, terrorism, riot, civil commotion, third party internet service interruptions or slowdowns, vandalism or "hacker" attacks, government demands or acts of God.

**18.10 Relationship of Parties.** The Parties are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties. Neither Party will have the power to bind the other Party or to incur any obligations on its behalf without the other Party's prior consent.

**18.11 Entire Agreement.** This Agreement, including these Terms and Conditions, Statements of Work and each Order hereunder, constitutes the complete and exclusive understanding and agreement between the Parties regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter.

*[SIGNATURE PAGE IMMEDIATELY FOLLOWS]*

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement and have rendered it effective as of the MSA Effective Date.

**For Punchh:**

Punchh Inc.
Delaware corporation
8383 Seneca Turnpike
New Hartford, New York 13413

Signature: DocuSigned by: Joe Yetter 03403SAB3A29402...
Name: Joe Yetter
Title: General Manager - Punchh
Date: 2/17/2024

**For Customer:**

**American Dairy Queen Corp.**
**Delaware Corporation**
**8331 Norman Center Drive, Suite 700**
**Bloomington, MN 55437**

Signature: DocuSigned by: 449DEB4ABAFD4D8...
Name: Susie Moschkau
Title: VP of Digital Experience
Date: 2/16/2024

**For Customer:**

**Dairy Queen Canada, Inc.**
**Canada Federal Corporation**
**1111 International Blvd., Suite 601**
**Burlington, ON L7L6W1**

Signature: DocuSigned by: 449DEB4ABAFD4D8...
Name: Susie Moschkau
Title: VP of Digital Experience
Date: 2/16/2024

**EXHIBIT A – SERVICE LEVEL AGREEMENTS**

## 1. Definitions

The following capitalized terms shall be given the meaning set forth below. Capitalized terms not defined below will have the meaning ascribed to them in the Terms.

1.1 "API Average Response Time" is the average response time in milliseconds during a calendar month for a named collection of API methods chosen by Punchh for monitoring purposes, as measured by third party performance and monitoring services contracted by PAR Punchh at its sole discretion (the "Monitoring Service"). Response time measurements that occur during conditions arising from the Exclusions defined in this Schedule may be excluded from the calculation of an API Average Response Time.

1.2 "Emergency Maintenance" means an unplanned and unavoidable period that is necessary for the purposes of maintaining the integrity or operation of the Services and for which there is not enough time to declare Scheduled Maintenance.

1.3 "Monthly Unavailable Percentage" is the percentage of time during a calendar month during which the Services are Unavailable as defined in this Service Level Commitment. This is calculated by dividing the sum of the length of time(s), in minutes, during which the Services were deemed Unavailable by the total number of minutes in the month.

1.4 "Monthly Uptime Percentage" is calculated by subtracting from 100% the "Monthly Unavailable Percentage".

1.5 "Platform Fees" means the recurring fees paid for access to the Punchh Services, which excludes Professional Services fees and fees for non-recurring services.

1.6 "Scheduled Maintenance" means a period used for the purpose of maintaining or improving the Services, occurring within a standard Punchh maintenance window and announced at least 48 hours in advance, or occurring within any period of time approved in advance by Customer.

1.7 "Services" has the same meaning as defined in the Terms for Punchh services.

1.8 "Service Level" is a contractual performance metric. The Service Levels are defined in Section 3 of this Schedule.

1.9 "SLA Violation" means a failure to meet a defined Service Level.

1.10 "Unavailable". The Punchh Services shall be deemed Unavailable if they are not available for use according to third party performance and monitoring services contracted by Punchh at its sole discretion (the "Monitoring Service") for any continuous period of 3 minutes or more. In no case shall the Services be deemed Unavailable during or due to any condition arising from the Exclusions defined in this Schedule.

1.11 "Warrantable Usage Rate" means a metric defining a rate of use of a specific Punchh service or feature, for example campaign messages sent per hour or mobile API requests per second. The Warrantable Usage Rates in this document may be amended at any time by mutual agreement in writing (email acceptable). Unless otherwise agreed, Warrantable Usage Rates are solely used to define usage that constitutes an Exclusion for purposes of calculating SLAs.

## 2. Exclusions

Notwithstanding anything to the contrary, no SLA Violation shall be deemed to have occurred with respect to any Unavailability, suspension or termination of the Services that:

(i) Is caused by factors outside of Punchh's reasonable control, including, without limitation, any force majeure event or internet access or related problems beyond the demarcation point of Punchh or its direct hosting subcontractor (AWS);

(ii) Results from any action or inaction on the part of Customer, including any unpaid amounts due and owing to Punchh for the Punchh Services, or any third party (other than Punchh's subcontractors);

(iii) Results from Punchh's suspension, limitation, or termination of Customer's right to use the Punchh Services in accordance with the Terms;

(iv) Occurs during Scheduled Maintenance;

(v) Occurs during Emergency Maintenance;

(vi) Results from problems or issues related to alpha, beta, preview, test, or otherwise not generally available features;

(vii) Occurs in a portion or portions of the Punchh Services that Customer did not use or attempt to use at least once during the measurement period;

(viii) Results from Punchh taking action to protect its systems and data (e.g., from an attack or other security incident); or

(ix) Occurs while the Customer is exceeding a Warrantable Usage Rate or results from the Customer having exceeded a Warrantable Usage Rate ((i)-(ix) collectively, the "Exclusions").

3. **Service Level Commitment** (on a calendar month basis)

| SERVICE LEVEL | SERVICE CREDITS |
|---|---|
| Consumer Facing App (e.g., mobile app) Availability >=98% and <99.5% | 5% of the monthly Platform Fees |
| Availability >=95% and <98% | 10% of the monthly Platform Fees |
| Availability <95% | 25% of the monthly Platform Fees |
| Mobile API Average Response Time >500ms | 15% of the monthly Platform Fees |
| Gift Card API Average Response Time >1000ms | 15% of the monthly Platform Fees |
| Payment API Average Response Time >1000ms | 15% of the monthly Platform Fees |

4. Warrantable Usage Rates

| Metric | Definition |
|---|---|
| API request rate <= 100 requests/second averaged over a one- | The count of all API Requests in a one-minute (60 second) window divided by 60 to yield average |

| | |
|---|---|
| minute window | requests/second for that window. |
| API request rate <= 4,000 requests/minute averaged over a one-hour window | The count of all API Requests in a one-hour (60 minute) window divided by 60 to yield the average requests/minute for that window. |
| Peak API request rate < 200 requests/second | The instantaneous rate of API Requests measured in requests per second. |
| Campaign messages sent (messages per day) <= 1 million | The total number of messages (email, push, or SMS) sent in a calendar day using Pacific Standard Time for day start and end times. |

5. **Service and Support Process and Expectations**

Punchh has two types of Support for PAR Punchh Services. These are **DevOps** and **Technical Support.**

**A. DevOps:** DevOps' main purpose is to ensure overall Services are available and accessible.

DevOps is responsible for 24/7 Services Monitoring, Maintenance and Triage. DevOps interacts with Customer via an accessible Status page, only when a Service Outage is experienced. It is Customer's responsibility to subscribe to Status page and subsequent notices. The default location for this page is http://status.punchh.com, although this may vary by Customer.

**B. Technical Support:** Technical Support provides a communication path for Customer to submit Problems and/or Questions, and to have a dialog around resolution of said Problems and/or Questions. Support is only available during Support Hours, unless expressly outlined below. A Problem means there is an actual problem with the functionality of the platform OR configuration issue caused by Punchh. A Question means there is a question asked, or there is a configuration issue caused by Customer (or Customer's approved 3rd party).

***Submitting a Ticket.*** Although there are multiple means of submitting a Ticket to Technical Support, only one process allows Customer to designate any level or Priority/Severity. Submissions outside the approved means listed will result in lower Priority, equating to slower Response Times. Response Times are defined as the written or verbal response from Punchh that is NOT an automated reply to a ticket submission. The approved submission method is via the Support Portal at https://support.punchh.com. Technical Support will meet Service Level for a Customer's Contracted Technical Support Service Level Tier as may be attached hereto in a separate table.

Technical Support will meet Service Level for a Customer's Contracted Tier.

**Punchh Support Service Levels – Enterprise Tier**

| Priority Level | Description | Time to Engage | Time to Repair | Success Target |
|---|---|---|---|---|
| Urgent Severity 1 | Live Environment Only<br>Non-Development Issues<br>Problems only (not Questions)<br>Catastrophic failure of the Services or renders the Services inoperable by Customer such that little to no business can be conducted | 2 Business Hours | 24 Business Hours | 95% |
| High Severity 2 | Live Environment Only<br>Non-Development Issues<br>Problems or Questions<br>Severe degradation of Services or loss of some functionality having an impact on Customer business, but where all or most Guests can still use the Private Label App. | 4 Business Hours | 3 Business Days | 95% |
| Normal Severity 3 | Problem or Question<br>Certain elements of usability functionality are impacted but most operations of the Services function normally. | 6 Business Hours | 5 Business Days | 95% |
| Low Severity 4 | Feature Request<br>Problem or Question<br>Little to No Impact on Customer's ability to use Services. Specific Guest Questions. | 48 Business Hours | 10 Business Days | Not Measured |

**Definitions**

Business Hours (North America, South America) – 8am-8pm Central Standard Time, Monday-Friday
Business Hours (EMEA, APAC) – 10am-7pm Indian Standard Time, Monday-Friday

Problem – There is an actual problem with the functionality of the platform, OR configuration issue caused by Punchh
Question – There is a question asked, or there is an configuration issue caused by Customer (or Customer approved 3rd Party)
Time to Engage – Written or Verbal response from Punchh, this is NOT an automated Reply to Ticket Submission
Time to Repair (Urgent & High) – A Fix, a Valid Permanent or Temporary Work-around
Time to Repair (Normal & Low) – A Fix, Workaround, or Final Statement confirming future consideration of Ticket as a low Priority Item

**EXHIBIT B**
**DATA PROCESSING ADDENDUM**

That Data Processing Addendum ("DPA") effectively dated September 23, 2023 referring to Punchh's services and obligations shall apply to the terms of this Agreement and is incorporated into the Agreement. Unless otherwise defined in this DPA, interpretations and defined terms set forth in the Agreement apply to the interpretation of this DPA. To the extent any terms of the Agreement conflict with this DPA, the terms of this DPA will control.

**EXHIBIT C**
**PARTICIPATION AGREEMENT**

This Participation Agreement (this "Participation Agreement") is made effective as of the signature date of the Participating Location (as defined herein) below (the "Participation Agreement Effective Date") and is entered into by and between the undersigned franchisee entity (each, a "Participating Location") and Punchh Inc., with an address of 8383 Seneca Turnpike New Hartford, New York 13413 or Punchh (Canada) Inc. (collectively, "Punchh"); Punchh and Participating Location are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

RECITALS

A. American Dairy Queen Corp. and Dairy Queen Canada, Inc. (collectively, "Customer") and Punchh entered into a certain Master Services Agreement with an effective date of _____, as may be amended from time to time (the "Agreement").

B. The Agreement contemplates the provision of certain products and services by Punchh to Participating Locations, including the execution of this Participation Agreement and the payment of applicable fees by Participating Locations that are not participating in the Dairy Queen® National Marketing Fund, in order to receive Punchh products and services for use of the Dairy Queen® loyalty program.

C. The purpose of this Participation Agreement is to create a direct relationship between Punchh and Participating Locations to establish contractual privity and allow for direct billing, as applicable.

NOW THEREFORE, in consideration of the promises contained in this Participation Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Participating Location and Punchh agree as follows:

1. Incorporation of the Agreement. This Participation Agreement is entered into under the provisions of the Agreement, and except as provided in this Participation Agreement or as specified in the Agreement, all of the terms and conditions of the Agreement, as may be amended in a writing signed by Punchh and Customer (for clarity, Participating Locations are not permitted to request or make amendments to the Agreement) and as specifically referenced in Section 4 below, are incorporated into this Participation Agreement by this reference, as if fully set forth herein. Except as specifically set forth hereunder, Participating Location hereby agrees to be bound by terms and conditions (including obligations of "Customer" therein) of the Agreement, as if Participating Location was a signatory to the Agreement (and as such Punchh shall have all rights against the undersigned as if the undersigned was Customer pursuant to the Agreement). For clarification, while Participating Location agrees to be bound by terms and conditions of the Agreement, a Participating Location is not equivalent to Customer and Customer retains all rights accruing to it in the Agreement, including any ownership rights in Section 7 (Ownership) and Section 8 (Data). In the event of any inconsistency between the terms of this Participation Agreement and the Agreement, the Agreement shall control as to the subject matter of this Participation Agreement. Capitalized terms used in this Participation Agreement, to the extent not otherwise defined in this Participation Agreement, shall have the meanings ascribed in the Agreement.

2. Term. The term of this Participation Agreement will commence on the Participation Agreement Effective Date and will continue thereafter until the expiration or termination of the Agreement

between Punchh and Customer, unless this Participation Agreement is terminated earlier in accordance with the terms of the Agreement itself or pursuant to the termination provisions of the Agreement that are incorporated into this Participation Agreement by reference.

3. Fees for the Participating Locations.

   a. For Participating Locations that **DO** participate in the National Marketing Fund. You will not be direct billed, as Customer will be collecting your respective payment and providing it to Punchh directly and any billing obligations of Customer will not apply to your Participating Locations.

   b. For Participating Locations that **DO NOT** participate in the National Marketing Fund. You are required to complete the ACH Authorization Form and Customer Information Form attached as Schedule A to this Participation Agreement. To clarify, the customer referenced on the ACH Authorization Form and the Customer Information Form is the Participating Location, not "Customer" under the Agreement. The amount of the ACH direct debit to Punchh by the Participating Location shall depend upon the Participating Location's election of which loyalty product was selected by Participating Location in the onboarding process, payable per month for the applicable Loyalty Platform Fees, ***plus*** taxes, and pass-through third-party expenses required to utilize the platform (e.g., SendGrid and Twilio) which will be billed separately per the terms of the Order. Section 6.2 of the Agreement regarding the ability of Punchh to suspend Services in the event your account is 60 days or more overdue following notice shall apply to this Participation Agreement.

4. Applicable Agreement Provisions.
   a. This Participation Agreement shall include the following sections from the Agreement to bind Participating Location as if they were the Customer: Section 1 (Definitions), Section 2 (Services), Section 4 (Platform), Section 6 Fees and Payment), Section 9 (Confidentiality), Section 11 (Representations and Warranties), Section 12 (Disclaimer), Section 14 (Indemnification), Section 15 (Limitation of Liability), Section 16 (Consumer Communications), and Section 18 (General).
   b. Any other Section that is only applicable to or exercisable by Customer due to Customer's rights as the franchisor and to the nature of the franchise relationship shall be further excluded from this Participation Agreement.
   c. Participating Location agrees to complete and provide, on an ongoing basis within three (3) business days of any change in information, the ACH form provided by Punchh.

5. Governing Law. This Participation Agreement will be governed by and construed in accordance with the laws of Delaware, excluding conflict of law principles. Any legal action or proceeding arising under this Participation Agreement will be brought exclusively in the federal or state courts located in the State of Delaware, and the parties hereby irrevocably consent to personal jurisdiction and venue therein.

6. Notices. All notices required or permitted under this Participation Agreement will be in writing and delivered by confirmed electronic transmission, by courier or overnight delivery services, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the addresses set forth in this Participation Agreement or to such other address as may be specified by either party to the other in accordance with this Section. Notices to Punchh shall include a copy to legal@partech.com.

7. Counterparts. This Participation Agreement may be executed in one or more counterparts, all of

which taken together shall constitute one single agreement between the Parties hereto. If any signature is delivered by e-mail delivery of a ".pdf" format data file, such signature will create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page was an original thereof.

8. Miscellaneous. The Parties agree that the Participating Location is individually entering into this Participation Agreement solely on its own behalf and therefore, neither American Dairy Queen Corp., Dairy Queen Canada, Inc. or any other affiliate of American Dairy Queen Corp. or Dairy Queen Canada, Inc. shall be liable to Punchh for any payments due and owing by the Participating Location for products or services provided by Punchh under this Participation Agreement (except as may be specifically agreed in a writing signed by Punchh and Customer) or for any other obligations of the Participating Location under this Participation Agreement.

Franchisee Legal Entity Name: _____

Franchisee Mailing Address: _____

Store Number(s): _____

ACCEPTED AND AGREED:

Signed:

Name:

Title:

Date:

## SCHEDULE A

## ACH FORM FOR NON-NMF LOCATIONS

## ACH DEBIT AUTHORIZATION

Capitalized terms not otherwise defined herein will have the meanings given to such terms in the applicable agreement executed by the Customer with ParTech, Inc., or an affiliate thereof ("PAR"), which may include a Master Products and Services Agreement, Terms of Use, License and Subscription Agreement, Master Services Agreement, or an adoption, joinder or participation agreement thereto (collectively, the "Agreement"). The authorized signatory listed below on behalf of Customer, hereby authorizes PAR or any agent designated by PAR, in connection with Customer's purchase or rental of the products and services set forth in any particular Sales Order or Order Form under the Agreement ("Products\Services"), to initiate ACH debits, and if necessary, adjust any debit entries made in error to Customer's bank account ("Account") described below ("Authorization"). This Authorization is intended by Customer to include all payments due from Customer under the Agreement for all of Customer's locations\units specified in a Sales Order or Order Form (and any additional locations\units added by Customer during the term of the Agreement, including current and past due recurring payments, miscellaneous charges, taxes and late charges. This Authorization shall not be limited or deemed waived, nor shall PAR assume any liability, if for any reason PAR delays debiting Customer's Account for amounts due under the Agreement. FOR ADMINISTRATIVE PURPOSES, ALL DEBIT ENTRIES FOR DATA CENTRAL SERVICES SHALL APPEAR ON THE ACCOUNT AS BEING INITIATED BY "RESTAURANT MAGIC" AND ANY DEBIT ENTRIES FOR BRINK POS SHALL APPEAR ON THE ACCOUNT AS BEING INITIATED BY "BRINK SOFTWARE INC."

### *CUSTOMER INFORMATION*

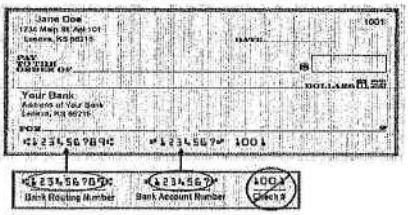
| | | | |
|---|---|---|---|
| *Parent Company:* | | | |
| *Brand(s):* | | | |
| *Company Legal Name(s):* | | | |
| *Name of Authorized Signer:* | | | |
| *Company Address:* | | | |
| *City, State, Zip:* | City: | State: | Zip: |
| *Store Number* | | | |
| *Billing Contact Name:* | | | |
| *Billing Email:* | | | |
| *Billing Phone Number:* | | | |

### *BANK ACCOUNT INFORMATION*

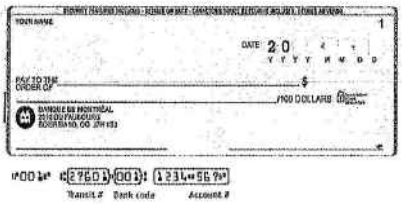
| | | | |
|---|---|---|---|
| *Bank Region:* | | | |
| *Company Name on Account:* | | | |
| *Bank Name:* | | | |
| *Branch:* | | | |
| *Branch Address:* | | | |
| *Branch City, State, Zip:* | City: | State: | Zip: |
| *Bank Account Number:* | | | |
| *Bank Routing Number (9 Digits):* | | | |
| *Transit Number (Canada):* | | | |
| *Bank Code (Canada):* | | | |

Confidential Information

**Sample Check (United States)**




**Sample Check (Canada)**




Customer certifies that all information set forth above is true and correct. Customer agrees to give PAR not less than ten (10) days advance written notice of any termination or change in this Authorization, which shall remain in full force and effect until PAR has received such written notification from Customer.

Customer may revoke this Authorization by giving written notice to PAR or Customer's bank. If Customer revokes this Authorization without making other payment arrangements or by providing an alternate Authorization to PAR for the Products\Services provided under the Agreement and Customer's payment is thirty (30) days or more overdue (except with respect to charges then under reasonable and good faith dispute) and such default has not been cured within ten (10) business days (or such other times as agreed upon by Customer and PAR under the Agreement) after written notice from PAR to Customer, in addition to any of its other rights or remedies under the Agreement, in the case of Services, PAR reserves the right to suspend the Services provided to Customer, without liability to Customer, until such amounts are paid in full.

**CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT THE FINANCIAL ACCOMMODATIONS AND PERIODIC PAYMENTS UNDER THE AGREEMENT HAVE BEEN AGREED TO BY PAR UPON THE CONDITION THAT PAR WILL BE ABLE TO REALIZE COST SAVINGS BY ADMINISTERING THE AGREEMENT USING ACH DEBIT AS AUTHORIZED HEREIN. IF, FOR ANY REASON, THIS AUTHORIZATION IS TERMINATED OR SUSPENDED OR PAR IS UNABLE TO ADMINISTER THE AGREEMENT BY ACH DEBIT ENTRIES AS AUTHORIZED HEREIN, CUSTOMER AGREES THAT THE PERIODIC PAYMENTS UNDER THE AGREEMENT MAY BE INCREASED BY TWO PERCENT (2%) UNTIL PAR' ABILITY TO ADMINISTER THE AGREEMENT BY ACH DEBIT AS AUTHORIZED HEREIN HAS BEEN RESTORED TO THE REASONABLE SATISFACTION OF PAR.**

**THE PERSON SIGNING BELOW AFFIRMS THAT HE/SHE IS A DULY AUTHORIZED CORPORATE OFFICER OR OFFICIAL, PARTNER OR PROPRIETOR OF THE CUSTOMER LISTED ABOVE.**

**CUSTOMER:** _____

Signature: _____

Name: _____

# MATION FORM

Required for customers ordering products or services from ParTech, Inc. and its subsidiaries

| Company Information | | |
|---|---|---|
| Legal Business / Entity Name: | | Federal Tax ID (EIN): |
| Billing Address: | | |
| City: | State: | Zip Code: |
| Business Established: | Total Annual Revenue: | Ownership Structure: |
| Primary Contact Name: | Email Address: | # of Stores Owned: |
| Phone Number | Mobile Number | Fax Number |
| Accounts Payable/Remit to Name | Accounts Payable/Remit Email | Accounts Payable/Phone |

| Company Ownership Information | | |
|---|---|---|
| Name Owner #1: | Title: | % Owned: |
| Name Owner #2: | Title: | % Owned: |
| Name Owner #3: | Title: | % Owned: |

If more than 3 owners, please list on separate page.

**AUTHORIZATION & ACKNOWLEDGEMENT**

By signing below, I, on behalf of the company listed above, certify that (a) the information contained in this form is complete and accurate; (b) I represent a company who is a business seeking to receive products and services for business purposes only, and (c) I am a principal of the company and duly authorized to execute and submit this form. I authorize ParTech, Inc. (its subsidiaries or affiliates) ("PAR") or an agent acting on its behalf to run a credit check and/or request credit and other reports on the company named above and/or verify references supplied herein.
Submission of this form does not entitle company to any products or services and does not create any binding obligations on PAR. Company understands and agrees that PAR shall be under no obligation to provide any products and services until an agreement has been executed by both company and PAR and that the payment terms approved by PAR may be different than those requested by company.

PAR punchh

SIGNATURE: _____ TITLE: _____

PRINT NAME: _____ DATE: _____

**Attn: Accounting Department**

8383 Seneca Turnpike New Hartford, NY 13413
Phone: (800) 448-6505 • Fax: (315) 738-0343 REV 04/20/22

# PARTICIPATION AGREEMENT

This agreement ("Agreement") by and between Acumera Inc, ("Acumera") herein referenced as "Company, located at 3307 Northland Dr Suite 500, Austin, TX 78731 ("Acumera"), and

_____, located at

_____

("Participating Location") is effective on the date that it is acknowledged and agreed to at the end of this Agreement by Acumera ("Effective Date"). Participating Location acknowledges that Acumera and American Dairy Queen Corporation ("Dairy Queen") have negotiated a Master Services Agreement (the "Master Agreement") to cover the acquisition and use of Equipment and delivering of Services.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Definitions.** The following definitions apply to this Agreement:

**1.1.** "Location". Means the physical location or locations from where Participating Location is utilizing the Services.

**1.2.** "Participating Location," "you" or "your" means the firm, corporation, or other entity that utilizes Acumera's Service and Equipment, and that is responsible for the payment of charges under, and for compliance with, this Agreement.

**1.3.** "Participating Location Equipment" refers to equipment that Participating Location acquires from a source other than Acumera and is used in conjunction with the Service.

**1.4.** "Equipment" means equipment at Participating Location's Location(s) that is directly provided and/or maintained by Acumera and used in conjunction with the Services.

**1.5.** "Services" refers to any services provided to Participating Location by Acumera. The current description of the Services is provided at: www.Acumera.com/description-of-services. The Description of Services is subject to change.

1.

**1.6.** "PCI-DSS" refers to the Payment Card Industry Data Security Standard which is an information security standard for organizations that handle credit cards. The PCI-DSS standard is mandated by the card brands and administered by the Payment Card Industry Security Standards Council.

2.

**1.7.** "Party" means a party to this Agreement.

2. **Work Orders and Contract Documents.** Services will be provided to locations as indicated on each Work Order ("Work Order"), SOW, Service Fees and Pricing Exhibit, and/or other applicable contract document. By submitting a Work Order, SOW and/or Service Fees and Pricing Exhibit, Participating Location agrees that the Work Order immediately becomes a part of and is governed by this Agreement. Acumera is not obligated to provide any Services until a completed Work Order or SOW has been submitted by Participating Location and accepted by Acumera. This Agreement, and any Exhibits and addenda together with any applicable Work Order, governs the services provided by Acumera to Participating Location.

3. **Setup.** Participating Location shall be responsible for the installation and setup of Participating Location Equipment including software, operating-system patches, or new or different operating-system versions. Participating Location shall be responsible for keeping scheduled installation appointments or timely rescheduling. Remote setup of the Equipment by Acumera shall take place Monday through Friday, 7:00 a.m. through 7:00 p.m. EST; additional costs may be assessed to Participating Location for evening and weekend setup and for set up delays caused by non- standard or incomplete configuration requests.

4. **Costs at Location.** Participating Location is solely responsible for all costs at its Location(s), including without limitation, personnel, wiring, computer equipment, Internet access, electrical power and the like, necessary for the use of the Acumera Services and Equipment. Participating Location is solely responsible for any third- party fees

not specifically covered under this Agreement or any Work Order, including, but not limited to, fees incurred to facilitate installation, Participating Location's IT or technical assistance, or any other third-party fees expended.

5. **Equipment.** Acumera may provide Equipment to Participating Location to facilitate performance of Services. If any such Equipment fails during the Term of this agreement as a result of misuse, abuse, the fault or negligence of Participating Location or a third party, or due to an Act of God, it will be replaced by Acumera after payment to Acumera by Customer of the replacement cost of the item. Title to any Equipment passes to Customer upon shipment (FOB Origin). If any Equipment is not received by the Participating Location or is damaged in the shipping process, Acumera will replace that Equipment with no additional charge to the Participating Location. If the Equipment fails for reasons other than misuse, abuse, or the fault or negligence of Participating Location or a third party, or an Act of God, it will be replaced by Acumera without additional payment from the Customer.

6. **Maintenance.** In the routine process of managing and maintaining deployed Equipment, Acumera may occasionally perform remote maintenance activities on Equipment, such as a firmware update etc., that may result in the Equipment being reset and unavailable and/or result in a loss of connectivity at a Location for a short period of time. Except in the case of emergency or in the process of troubleshooting a critical service issue, Acumera will perform this type of work during planned maintenance windows which take place each day between 1AM and 5AM local time and for which Acumera will use commercially reasonable efforts to give eight (8) hours or more notice that the maintenance will be performed and Equipment may be unavailable.

7. **Location List**. The locations covered by this Agreement shall be specified in a Work Order or on a Location List which, if applicable, will be attached as an Exhibit hereto. The addition of a new Location to this Agreement will require the submission of an Addendum to the Agreement adding the Location in the form attached as Exhibit "A", New Location Addendum.

8. **Term.** The term of this Agreement is thirty six (36) months plus any partial first month beginning on the date Service commences. ("Initial Term"). The Agreement shall automatically be renewed after the Initial Term on the applicable anniversary of the Effective Date for subsequent one (1) year periods (each, a "Renewal Term"). The Initial Term and all Renewal Terms shall collectively be referred to as the "Term."

9. **Location Term**. The Term for any Location(s) is the same as Paragraph 8 above, except as follows: The Location Term begins on the date Service commences at that Location. The Location Term(s) is independent and does not run coterminous with any other Location Term unless the date of commencement of Service is the same.

10. **Fees and Payment.**

10.1. **Fees and Invoicing.** Participating Location agrees to pay all recurring charges and non-recurring charges, (collectively, the "Fees") as indicated in any Work Order or SOW. Participating Location agrees that recurring charges commence upon installation of the equipment and/or commencement of Services at a Location and non-recurring charges upon shipment of the Equipment to a Location. Acumera will invoice for install/set up fees and shipping and handling charges on the firewall shipping date. The pricing is confidential and may not be disclosed to third parties. Any partial month at the beginning of the Term will be invoiced to Participating Location on a pro-rated basis. Invoicing, which will occur one month in advance, begins upon shipment. Payments shall be made to Acumera via credit card or auto ACH debit and shall be paid fifteen (15) days from invoice date, or if such due date falls on a weekend or holiday, on the first business day after such due date. ACH or credit card payment shall be set up with Participating Location prior to the commencement of Service. Fees are non-refundable. Participating Location may pay on a monthly basis, or on an annual up-front basis according to preference.

10.2. **Additional or Change in Fees.** Acumera may introduce additional services or features during the Term with associated Fees, which Participating Location may elect not to utilize. If Participating Location does not elect to use the additional services or features, then Participating Location will not be charged any additional fees. For Fees related to the Core Services as described in an applicable Work Order, Acumera will use commercially reasonable efforts to maintain the Fees at the price specified in the Work Order for the duration of the Participating Location's term. However, Acumera may increase such Fees once per year as necessary to accommodate unforeseen increases in its costs, subject to a maximum annual increase equal to the lesser of 2% or the amount of Consumer Price Index ("CPI") increase calculated based on the immediately preceding unadjusted 12 months (10/01 through 9/30), derived from the U.S. Department of Labor, Bureau of Labor Statistics web site, https://www.bls.gov/news.release/cpi.nr0.htm.

10.3. **Overdue Payments.** At Acumera's discretion, any undisputed payment not received from Participating Location by the due date may accrue late charges at the rate of one and a half percent (1.5%) of the outstanding balance per month, or at the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

**10.4.** **Suspension of Service.** If Participating Location's account is fifteen (15) days or more overdue, in addition to any of its other rights or remedies, Acumera reserves the right to suspend the Service provided to Participating Location, without liability to Acumera, until such amounts are paid in full; provided, however, that prior to any such suspension, Acumera shall provide Participating Location with at least ten (10) days' prior written notice that payment is overdue and the date upon which Services will be suspended if payment is not received. Acumera may require an activation fee to change or resume a suspended Account.

**10.5.** **Payment of Fees**. In the event of Participating Location's breach of the terms of this Agreement, including without limitation, failure to pay any sum due hereunder, in addition to other remedies and recoveries provided for hereunder (e.g., for early termination), Participating Location shall reimburse Acumera for all attorney's fees, court, collection and other costs incurred by Acumera in the enforcement of Acumera's rights hereunder and Acumera may keep any deposits or other payments made by Participating Location.

**11.** **Billing Disputes.** To dispute an Invoice, or a portion thereof, Participating Location must, within thirty (30) days of the date on the Invoice ("Dispute Due Date"), submit a written claim fully documenting the reasons for the dispute (the "Claim") via certified or overnight mail, return receipt requested, to the address below. After receipt of the Claim, Acumera shall undertake an investigation of the Claim, so long as Participating Location has not waived its rights pursuant to this paragraph to make the Claim. At the conclusion of the investigation, Acumera will notify Participating Location of any amount determined by Acumera to be correctly charged and such amount will become immediately due and owing. If the Claim is not sent by the Dispute Due Date, Participating Location waives all rights to dispute the applicable Charges, unless otherwise provided by law. All billing disputes must be sent to the Billing Department at the address listed in the first paragraph of this Agreement, and to bcreceivables@acumera.com

**12.** **Taxes.** Federal, state, local, county, municipal and other governmental or regulatory agencies may assess taxes, including, without limitation, excise, franchise, sales, value-added, use, personal and real property taxes, surcharges, tariffs or fees (collectively, "Taxes") on Participating Location's purchase or use of the Services or Equipment. These Taxes may change from time-to-time, with or without notice to Participating Location. Participating Location is responsible for the payment of all applicable Taxes now in force or enacted in the future. The Taxes are in addition to the amounts paid for the Services and Equipment. If Participating Location is exempt from any or all Taxes, it must provide Acumera with an original certificate that satisfies applicable legal requirements attesting to its tax-exempt status. Tax exemption shall only apply from and after the date that Acumera receives such valid certificate. If any amounts paid by Participating Location for the Services are refunded by Acumera to the Participating Location, applicable Taxes may not be refundable.

**13.** **Termination.**

**13.1.** **Master Termination.** If Dairy Queen terminates the Master Agreement for an uncured material Breach of Contract, this Agreement will terminate immediately and no further fees will be due for Products or Services under this Agreement. Acumera may, at Acumera's option and expense, require Participating Location to return Products supplied under this Agreement. Termination shall not relieve Participating Location of the obligation to pay any Fees accrued or payable to Acumera prior to the effective date of termination. Should Participating Location elect to continue to use Acumera's Services past the date of termination of the Master Agreement, the portions of this Agreement which do not concern duties of Dairy Queen will remain in full force and effect, and Participating Location is responsible for all fees incurred as long as Services are being used. In no case will this Agreement extend beyond the Initial Term, if the Master Agreement has been terminated prior to the end of the Initial Term, or beyond the end of the current Renewal Term, if the Master Agreement has been terminated after the end of the Initial Term.

**13.2.** **Termination.** Either party may terminate this Agreement for any reason or for no reason at the end of a Term or Location Term by giving written notice to the other party not less than thirty (30) days prior to the end of the then current Term. Participating Location may terminate this Agreement only in accordance with the termination conditions set forth in this Agreement.

**13.3.** **Early Termination.** If Participating Location desires to terminate this Agreement prior to the end of the Initial Term or Initial Location Term ("Early Termination"), Participating Location shall give Acumera notice, pursuant to Section 23, of its intent to terminate early thirty (30) days prior to the desired termination date. Termination shall not relieve Participating Location of the obligation to pay any Fees accrued or payable to Acumera prior to the effective date of termination. Participating Location shall also be responsible for paying an early termination charge according to the following schedule:

| Months Paid Under this Agreement | Termination Fee* |
|---|---|
| 0-12 | $1000 |
| 12 - 24 | $500 |

| | |
|---|---|
| 24 - 36 | $300 |

**13.4.** **Termination for Breach.** Either party may terminate this Agreement at any time by giving thirty (30) days written notice ("Breach Notice") of termination to the other party in the event that the other party: (i) breaches the terms or conditions of this Agreement including, but not limited to, payment of the Monthly Service Fee, and fails to remedy such breach within thirty (30) days of the date of the Breach Notice; or (ii) becomes insolvent, makes an assignment for the benefit of creditors, is adjudged bankrupt, or if a receiver is appointed over such party's assets. In the event Acumera terminates this Agreement due to Breach, Participating Location agrees to pay an early termination charge according to Paragraph 13.3.

**13.5.** **Termination for Change in Service**. In the event Acumera provides Participating Location with written notice pursuant to section 23 herein that it is no longer able to provide a material aspect of its Services, including but not limited to the Data Breach Financial Protection Program located at www.Acumera.com/DBFP, and Acumera is unable to provide suitable alternative Services within thirty (30) days of notice of same, Participating Location shall within thirty (30) days of the date of such notice have the right to terminate this Agreement without penalty or early termination charge. In the event of such termination, Participating Location shall provide notice of termination to Acumera pursuant to section 23 herein.

**14. Self-Service Portal Access/Communication/Participating Location Responsibilities/Data Access.**

**14.1.** In the context of performing the services purchased through each Work Order, Acumera may grant self-service portal access ("Access") to and communicate with only those employees or agents of Participating Location ("Contacts") who are specified in the Account Permissions section of each Work Order or who have been added as Contacts by the person designated in each Work Order as Participating Location's Administrative Contact. The Access of Contacts will be limited by the permissions granted to them by the Administrative Contact.

**14.2.** By Access, Participating Location is responsible for the review, download, and distribution of scans and logs.

**14.3.** With respect to Access, Participating Location agrees to be bound by the Terms of Use and Privacy located at http://www.Acumera.com.

**14.4.** Participating Location authorizes Acumera to share scan results, logs and other data regarding POS, PCI and compliance with Dairy Queen. No personal cardholder data is intentionally seen by Acumera, and no personal data from either Participating Locations or employees will be shared within this process without prior authorization.

**15. Privacy and Confidentiality.** In the course of providing the deliverables, Acumera may be given access to, or be provided with, confidential information about Participating Location's business and/or Participating Location's website ("Business Information"), and personal information about Participating Location, Participating Location's employees, Participating Location's account and/or card holders and/or Participating Location's website ("Personal Information"). Participating Location authorizes such access and disclosure of Participating Location's Business Information to Acumera. Acumera will use reasonable efforts to keep Participating Location's Business Information confidential and will not disclose Participating Location's Business Information to any third party. To the extent that access to Personal Information by Acumera occurs, Participating Location authorizes such access and authorizes Acumera to use such Personal Information for the sole purpose of providing the services contemplated by this Agreement. Acumera will not use any such Personal Information for any other purposes than those specifically related to providing the services contemplated by this Agreement. As a Service Provider as defined under PCI-DSS regulations, Acumera acknowledges it is responsible for the security of cardholder data that it possesses, stores, processes, or transmits on behalf of the Participating Location, or to the extent it impacts the security of the Participating Location's cardholder data environment. Participating Location acknowledges that it is responsible for the security of cardholder data that is in its possessions or that it stores, processes, or transmits while it is in Participating Location's possession or care. Participating Location further acknowledges that it is responsible for complying with any applicable regulations.

**16. Intellectual Property.** The intellectual property associated with any Equipment installed at Participating Location's Location(s) is and remains Acumera's property. By its possession and use, Participating Location acquires no rights or interests of any kind in the intellectual property and hereby expressly covenants that it will not disclose anything about Acumera's intellectual property or allow any physical access to Acumera's intellectual property. If Participating Location is subject to a claim or demand that the Services infringe a third party's property rights, Acumera will: (1) procure for Participating Location the right to continue to use the Services, replace the Services , or modify the Services to avoid infringement; and (2) indemnify Participating Location against damages and costs (including reasonable attorney's fees and legal expenses) incurred in connection with the alleged infringement.

17. **Responsibility for PCI-DSS Compliance and Network Security.** Acumera supplies and manages the firewall and the configuration of that firewall required to provision its services. Acumera establishes firewall configuration and policy based on PCI-DSS recommendations, generally accepted industry best practices and in consultation with Dairy Queen. Participating Location acknowledges that:

**17.1.** Once Dairy Queen and Acumera have established security configurations and policies for the Dairy Queen system, Acumera will not honor Participating Location requests to configure Equipment in ways that are contrary to those established configurations and policies unless and until Acumera receives a Configuration Exception from Dairy Queen.

**17.2.** "Configuration Exception" shall mean a written exception to a configuration policy from Dairy Queen, describing the Participating Location and the requested exception in sufficient detail to allow Acumera to fulfill the request.

**17.3.** Dairy Queen has agreed to respond to the request for a Configuration Exception within 2 business days.

**17.4.** Participating Locations may request information on Dairy Queen's established security configurations and policies from Dairy Queen.

**17.5.** Acumera may honor such approved Participating Location requests to configure the firewall and/or network in ways that may be contrary to Acumera's or PCI-DSS recommendations or may not adhere to generally accepted data security best practices and acknowledges that Acumera has no liability for any issues that may arise due to the fulfilment of these requests.

**17.6.** In accordance with PCI-DSS standards, Acumera recommends segmentation of the card data environment (CDE) to isolate it away from all other segments containing non-CDE network traffic.

**17.7.** Acumera will not entertain requests from Participating Locations to allow non-CDE network traffic within the CDE, unless and until Participating Location receives a Configuration Exception from Dairy Queen and provides it to Acumera.

**17.8.** Acumera does not recommend opening firewall ports to allow traffic or access for non-business related needs, including, by example, the use of insecure remote access tools , and Acumera will not carry out any request by a Participating Location to do so, unless and until Participating Location receives a Configuration Exception from Dairy Queen and provides it to Acumera.

**17.9.** Acumera provides both internal and external vulnerability scanning services administered by the third-party ASV for those Participating Locations subscribing to those services. Acumera provides limited advisory services to assist with the completion of PCI-DSS. Notwithstanding the aforementioned, Acumera does not warrant or assume any legal liability or responsibility concerning Participating Location's compliance with the PCI Data Security Standard. Acumera, is not responsible for the completion of Participating Location's Self-Assessment Questionnaire (SAQ), the filing or refiling of failed external ASV scan exceptions, the failure of scans due to Participating Location premise IP address changes, or any other PCI-DSS requirement that requires Participating Location's action or attestation.

Further, Participating Location acknowledges and agrees that Participating Location's use of Acumera's services does not guarantee PCI compliance or that the implementation of those services alone will make Participating Location's systems secure from unauthorized access. Participating Location is responsible for PCI compliance and notification of any suspected breach of its systems and Acumera is not responsible for any fines, penalties or registration fee imposed by any payment card association or its acquiring bank for Participating Location's failure to be PCI compliant.

18. **Limitation on Liability.**

**18.1.** **Limitation on Direct Damages.** EACH PARTY'S TOTAL AGREEGATE LIABILITY (INCLUDING THE LIABILITY OF ANY AFFILITATE, SUPPLIER, EMPLOYEE OR AGENT), AND THE SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH ANY SERVICES PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY THE OTHER PARTY IN AN AMOUNT NOT TO EXCEED THE FEES PAID BY PARTICIPATING LOCATION TO ACUMERA IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM HEREUNDER. UNDER NO CIRCUMSTANCES IS ACUMERA LIABLE FOR SERVICE FAILURES THAT ARE BEYOND THE REASONABLE CONTROL OF ACUMERA.

**18.2.** **No Indirect Damages**. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, COSTS ASSOCIATED WITH INTEGRATION, INTERRUPTION OF BUSINESS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

**18.3.** THE LIMITATIONS IN THIS SECTION 18 DO NOT APPLY TO EITHER PARTY'S LIABILITY FOR ITS (OR ITS RESPECTIVE AGENT'S AND/OR SUBCONTRACTOR'S) GROSS NEGLIGENCE OR WILFULL MISCONDUCT, WILFUL FAILURE TO COMPLY WITH LAW, FRAUD.

**18.4.** **Managed Firewall/SD-WAN Exclusions** In no event shall Acumera have any liability to Participating Location for any data breach that occurs:

h. during any period in which the Acumera-provided or Acumera-approved firewall or SD-WAN device has yet to be initially connected or is disconnected or has been circumvented;

i. due to the failure to implement a security measure as recommended by PCI-DSS Standards;

j. in any Participating Location environment where POS system data traffic is not configured to be on an isolated network segment through the Acumera firewall;

k. when Participating Location requests that the isolated network segment containing POS data traffic is granted access to any system or service not directly related to processing POS transactions. However, this exclusion will not apply unless Participating Location received a Configuration Exception from Dairy Queen;

l. when Dairy Queen mandates implementation of a configuration, policy or procedure that Acumera recommends against (if Dairy Queen has been notified of the recommendation);

m. through any firewall in use, whether provided by Acumera or otherwise acquired by Participating Location, that has not passed its most recent Approved Scanning Vendor's scan (unless the issue has already been remediated);

n. in a manner that industry-standard firewall technology employed at time of breach is not able to prevent.

**18.5.** In no event shall Acumera have any liability to Participating Location or any third party for Participating Location's VoIP system performance, including, but not limited to phone registration failures, call quality, dropped calls or other issues regardless of whether the VoIP traffic is configured to pass through the Acumera firewall. Participating Location acknowledges that Acumera does not provide and does not manage Participating Location's Internet circuit and is not responsible for the performance of said circuit and assumes no liability for issues with Internet speed or performance related to the Internet circuit. Furthermore, Participating Location's acknowledges that if their Internet connectivity is not a terrestrial (land-based) high-speed always-on cable, broadband, fiber, or dedicated circuit (i.e. T1 or similar), Acumera services may not perform optimally and that under such circumstances Acumera shall have no liability to Participating Location for issues caused by any inadequate or faulty Internet circuit.

**18.6.** **ASV Scan Exclusion.** If applicable to the Services contracted pursuant to this Participation Agreement or any contract document(s), Acumera may agree to launch certain ASV scans and/or file or re-file external ASV scanning exceptions on behalf of the Participating Location following a specific request from Participating Location. In no event shall Acumera have any liability to Participating Location or any third-party related to launching said scan(s) or for filing or re-filing external ASV scanning exceptions on behalf of Participating Location. Participating Location is solely responsible for the validity of the information provided to Acumera in support of the filed exception(s). Participating Location further agrees to defend and indemnify Acumera in the event said information is inaccurate or changes without proper notification to Acumera.

**18.7.** **VoIP Exclusion.** If applicable to the Services contracted pursuant to this Participation Agreement or any contract document(s), in no event shall Acumera have any liability to Participating Location or any third-party for Participating Location's VoIP system performance, including, but not limited to phone registration failures, call quality, dropped calls or other issues regardless of whether the VoIP traffic is configured to pass through the Acumera Equipment. Participating Location acknowledges that Acumera does not

provide and does not manage Participating Location's Internet circuit and is not responsible for the performance of said circuit and assumes no liability for issues with Internet speed or performance related to the Internet circuit. Furthermore, Participating Location acknowledges that if their Internet connectivity is not a terrestrial (land-based) high-speed always-on cable, broadband, fiber, or dedicated circuit (i.e. T1 or similar), Acumera services may not perform optimally and that under such circumstances Acumera shall have no liability to Participating Location for issues caused by any inadequate or faulty Internet circuit. Customer acknowledges that if cellular data services are utilized by Customer, either for backup or primary connectivity, by a third-party, not covered under in this Agreement, Acumera shall not be responsible for any charges, including overage charges, incurred by Participating Location associated with the use of those services, including but not limited to circumstances where the data flows through the Equipment and/or the Equipment is managed or co-managed by Acumera to accommodate failover/failback or restrict the flow of said data.

18.8. **Cellular Usage and Over Charge Fees.** Participating Location understands that there is a probability that an over usage will result when any traffic traverses a cellular backup circuit. Participating Location understands that it is solely responsible for paying any and all overage fees and associated taxes and fees that result from over usage associated with any of their devices, activated or not at the time of invoicing, regardless of the circumstances that caused the over usage to occur.

18.9. The foregoing limitations, exclusions and disclaimers shall apply, regardless of whether the claim for such damages is based in contract, warranty, strict liability, negligence, tort or otherwise. Insofar as applicable law prohibits any limitation herein, the parties agree that such limitation will be automatically modified, but only to the extent so as to make the limitation permitted to the fullest extent possible under such law. The parties agree that the limitations on liabilities set forth herein are agreed allocations or risk constituting in part the consideration for Acumera's provision of Services to Participating Location, and such limitations will apply notwithstanding the failure of essential purpose of any limited remedy and even if a party has been advised of the possibility of such liabilities.

19. **Data Breach Financial Protection Program.** The Data Breach Financial Protection Program ("DBFP") is provided through the North American Data Security Risk Purchasing Group ("NADSRPG") and administered by RGS Limited LLC ("RGS"). The DBFP grants membership in the NADSRPG for merchants whose merchant ID numbers ("MIDS") are provided to the NADSRPG on a monthly basis. General information relating to the DBFP may be found at: www.Acumera.com/DBFP. Full details of the DBFP are set out at www.nadsrpg.com. By entering this Agreement Participating Location confirms he/she has read and agrees to the terms of the Program as set out on the www.nadsrpg.com webpage describing the limitations and requirements relating to coverage and claims (including requirements to be satisfied in order for payments to be made under the DBFP). The DBFP's standard policy provides levels of up to $100,000 per MID/$500,000 per Merchant of coverage per breach occurrence subject to the terms and conditions set out on the webpage. The total liability in relation to the DBFP is limited to the Program's stated amount of coverage. Participating Location hereby acknowledges that Acumera is merely facilitating access to the DBFP by providing MID reporting and payment services for Participating Location in connection with provision of the Services hereunder and Acumera shall in no way be held liable or responsible for any loss or damage of Participating Location or any merchant arising in connection with the Program.

20. **No Benefit to Others.** The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the parties and their respective successors and permitted assigns, and they are not to be construed as conferring any rights on any other persons.

21. **Assignment.** Neither Participating Location nor Acumera may assign or transfer this Agreement to a third party without the prior written consent of the other party, which shall not be unreasonably withheld; provided, however, the Agreement may be assigned as part of a merger, or sale of all or substantially all of the business or assets, of either party.

22. **Integration; Amendment; Headings; Construction; Counterparts.** This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement, oral or written. This Agreement supersedes any prior written or oral agreements between the parties. This Agreement may be amended only if the amendment is in writing and is signed by both parties. The headings used in this Agreement are for convenience of reference only and form no part of this Agreement. This Agreement was negotiated by the parties, and, therefore, it shall not be strictly construed against either party as the drafter. This Agreement may be executed in one or more counterparts; if so, all counterparts constitute one agreement.

23. **Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) upon receipt of overnight mail during business hours or the third business day after mailing using postal service first class mail; (iii) 24 hours after sending by confirmed email; or, for operational issues, to Participating Location at the email address given by Participating Location to Acumera. Notices to Acumera shall be

addressed to the attention of its VP, Customer Service, with a copy to its General Counsel at the address set forth in the first paragraph of this Agreement. Notices to Participating Location are to be addressed to Participating Location at the address set forth in the first paragraph of this Agreement. A party can change the address for receipt of notice by sending written notice to the other party.

24. **Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

25. **Severability.** If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, the provision shall be changed by the court or arbitrator and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect, unless the modification or severance of any provision has a material adverse effect on a party, in which case such party may terminate this Agreement by notice to the other party.

26. **Governance; Venue; Dispute Resolution.** This Agreement is governed by the law of Florida, and venue concerning any disputes arising hereunder is either Broward County, Florida or the county where the Participating Location resides.

27. **Entire Agreement and Construction.** This Agreement (including any exhibits, amendments, Work Orders, and addenda hereto which are incorporated herein by reference) and any confidentiality agreements entered into between the parties constitute the entire agreement between the parties as to the subject matter, and supersede all previous and contemporaneous agreements, proposals or representations, written or oral, concerning the subject matter of this Agreement. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the parties against whom the modification, amendment, or waiver is to be asserted. In the event of any inconsistency between the provisions in this Agreement and any Exhibit, Work Order or incorporated web page, the terms of this Agreement shall prevail to the extent of any inconsistency. Notwithstanding any language to the contrary therein, no terms or conditions orally made to a Participating Location, or in any other Participating Location order documentation, or other written sales material, shall be incorporated into or form any part of this Agreement.

**In witness whereof,** intending to be legally bound, the parties hereto have executed this Agreement on the date(s) adjacent to their respective signatures below.

**Acknowledged and Agreed:**

| **ACUMERA Inc** | **{PARTICIPATING LOCATION}** |
|---|---|
| By: _____ | By: _____ |
| Print Name: _____ | Print Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

## Statement of Work and Pricing

This Statement of Work and Pricing ("SOW") Exhibit is subject to and made a part of the Computer Network Service Agreement (CNSA) or Master Services Agreement (MSA) between _____ ("Customer") and Acumera Rigel LLC ("Acumera"). This SOW together with the CNSA/MSA governs the sale and purchase of the Services described below.

Following is the contractual pricing for services provided to the Customer by Acumera. Items added to the services provided during the initial and any renewal terms of the CNSA/MSA will be subject to the pricing schedule below or any associated Exhibits. By signing this SOW, Customer agrees to the pricing for the services listed below along with the payment options and terms and conditions contained within.

Order Type: New

Service Type: Managed

Location Brand Name: Dairy queen

| Item | SKU | Services | QTY | Monthly Service Fee | One-time Setup Fee |
|---|---|---|---|---|---|
| 1 | 752/757 | BranchSDO CXD 3600 / BranchSDO CXD Orchestrator | 1 | $ 50.00 | $ 399.00 |
| 2 | 758 | BranchSDO CXD Management Pack | 1 | $ 0.00 | $ 0.00 |
| 3 | 759 | BranchSDO CXD PCI Compliance Readiness Pack | 1 | $ 0.00 | $ 0.00 |
| 4 | 760/809 | BranchSDO CXD Cloud NGFW Pack/BranchSDO CXD IVS | 1 | $ 0.00 | $ 0.00 |
| 5 | 823 | BranchSDO Cellular CXD 1Gb Failover Pack | 1 | $ 15.00 | $ 0.00 |
| 6 | 685 | BranchSDO Cellular Additional 1Mb data | | $ 0.025 | $ 0.00 |
| 7 | 917/828 | External AP with Extended Management Pack**** | | $ 12.00 | $ 129.00 |
| 8 | 917/828 | External AP with Extended Management Pack**** | | $ 10.00 | $ 129.00 |
| **Item** | **SKU** | **Add-on Services** | | **Monthly Service Fee** | **One-time Setup Fee** |
| 1 | 918/798 | BranchSDO CXD Switch 8-Port PoE/Switch management | | Included | Included |
| 2 | 448 | On-Site Installation – Indoor and outdoor AP (Business Hours upto 4 Hours)** | | $ 0.00 | $ 420.00 |
| 3 | 448 | On-Site Installation – Outdoor AP ** | | $ 0.00 | $ 379.00 |
| ****Additional charges may apply for extended hours and revisit fees** | | | | | |
| **Item** | **SKU** | **Installation Options (per location)** | | | **One-time Fee** |
| 1 | 834 | Remote Installation – Business Hours | | | Included in Setup Fee |
| 2 | 835 | Remote Installation – Extended Hours – Weekdays (each Hour) | | | $149 |
| 3 | 836 | Remote Installation – Extended Hours – Weekends (each Hour) | | | $179 |
| 4 | 448 | On-Site Installation – Business Hours (Upto to 2 Hours) | | | $329 |
| 5 | 837 | On-Site Installation – Extended Hours - Weekdays (Upto to 2 Hours) | | | $399 |
| 6 | 838 | On-Site Installation – Extended Hours - Weekends (Upto to 2 Hours) | | | $499 |
| 7 | | Expedited Installation Fee | | | $200 |
| 8 | | Equipment Shipment (minimum per shipment. Actual changes may be higher depending on weight or priority) | | | $25 |
| 9 | | Reconfigaration Fee | | | $200 |
| **Item** | **SKU** | **Additional Options and Fees** | | | **One-time Fee** |
| 1 | 842 | Remote Installation Additional Hours (each Hour) | | | $99 |
| 2 | 843 | On-Site Installation Additional Hours – Business Hours (each Hour) | | | $129 |
| 3 | 843 | On-Site Installation Additional Hours – Extended Hours – Weekdays (each Hour) | | | $149 |
| 4 | 843 | On-Site Installation Additional Hours – Extended Hours - Weekends (each Hour) | | | $179 |

| | | | |
|---|---|---|---|
| **One-time Installation/Setup Fees** | $ 399.00 | | |
| **Recurring Payment Options** (Required. Check Only One. If not checked, recurring payments will be quarterly) | | | |
| ☑ **Quarterly Recurring Payments** | $ 195.00 | ☐ **Annual Recurring Payments** | $ 780.00 |

- ****You require **Two** access points if you are using PAR tablets for line busting (one inside store and one outside) for optimal connectivity and performance

All fees are per location and exclude any applicable taxes
One-time fees payable upon shipment of Equipment or execution of SOW for Software items
Billing interval for existing services at location will change to billing interval selected above

**Term.** The Services listed above commence on the day each instance of the Service becomes active. The Term for each instance of the Service is based on the deployment date of that particular instance of the Service, and is not necessarily coterminous with other Services. The Term for each service is in accordance with Section 10 of the MSA or CNSA.

**Software.** Any Software provided is subject to the End User License Agreement ("EULA") located at http://www.acumera.com/eula. The EULA is subject to change and Customer is responsible for review and compliance with current EULA.

**Intrusion Detection/Prevention System (IPS) and Data Throughput.** As is the case with all IPS systems, enabling IPS could have an impact on the speed of data through the firewall/CXD. Net Acumerasurion shall have no liability to Customer for issues or inconvenience caused by slow data throughput through a Acumera provided firewall or other network device.

**Cellular Backup Service, Cellular Data Usage, Pooling and Under/Over Usage.** Cellular services provided to Customer Acumera are provided expressly as a temporary backup circuit to be used at Customer's location only in circumstances where the primary data circuit becomes inoperable. Customer is expressly prohibited from using Acumera Cellular Backup Service as a replacement for or in place of Customer's primary data circuit at any Location. In the event Customer's primary circuit becomes inoperable, it is the Customer's responsibility to engage their primary data circuit provider to repair inoperable circuits and restore connectivity as quickly as possible. When Cellular Backup Service is purchased, Acumera configures deployed CXDs and Firewalls to automatically failover to the backup cellular circuit in circumstances where the primary circuit is detected to be inoperable and to fail back when the primary circuit is restored. Acumera further reserves the right to configure deployed firewalls to limit the throughput of data traffic through the cellular backup circuit to critical functions such as credit card processing and customer should have no expectation that all location connectivity will be available or operate at typically experienced speeds when the backup cellular circuit is in use. Customer is expressly prohibited from using a Acumera deployed cellular gateway if removed from its configured connection to the firewall. Customer acknowledges that they are responsible for all Over Usage.

Customer expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and that Customer is not a third-party beneficiary of any agreement between customer and the underlying carrier. Customer hereby waives any and all claims or demands therefor.

Individual Locations ("IL") that subscribe to a pooled cellular failover plan, are combined with other related Locations associated with the same individual Legal Entity ("LE") to create a "Data Pool." An LE consists of an individual legal entity contracted with Acumera and their subset of associated Locations within that legal entity that subscribe to a Acumera cellular failover plan. Every billing cycle, each IL first uses its plan's included domestic data usage ("Included Usage"). If an IL does not use all its Included Usage, it creates an underage in the amount of the unused MB of data usage ("Under Usage"). If an IL uses more than its Included Usage, it creates an overage in the amount of the excess MB of data usage ("Over Usage"). The Data Pool's Under Usage amounts for each IL and Over Usage amounts for each IL are then aggregated respectively within the LE and the totals are compared. If the aggregate Under Usage amount exceeds the aggregate Over Usage amount for the LE, then those ILs incurring an Over Usage will not be charged an overage fee. Any excess Under Usage will be forfeited. If the aggregate Over Usage amount exceeds the aggregate Under Usage amount for the LE, then each IL incurring Over Usage will be billed an Overage Fee for their individual Over Usage on a per MB basis at the additional cellular data rate defined above. Any partial MBs are rounded up to the next whole MB. CUSTOMER UNDERSTANDS THAT THERE IS A PROBABILITY THAT AN OVER USAGE WILL RESULT WHEN ANY TRAFFIC TRAVERSES THE CELLULAR BACKUP CIRCUIT. CUSTOMER UNDERSTANDS THAT IT IS SOLELY RESPONSIBLE FOR PAYING ANY AND ALL OVERAGE FEES AND ASSOCIATED TAXES AND FEES THAT RESULT FROM OVER USAGE ASSOCIATED WITH ANY OF THEIR DEVICES, ACTIVATED OR NOT AT THE TIME OF INVOICING, REGARDLESS OF THE CIRCUMSTANCES THAT CAUSED THE OVER USAGE TO OCCUR.

Unlimited data plans are excluded from pooling. In the event location(s) within an ownership group have both limited plans for some locations and unlimited plans for others, pooling calculations will be performed using only the data plans for locations subscribed to limited plans.

Unless otherwise specified, all Acumera devices utilize a Cat1 cellular modem and throughput is capped at 10Mbps regardless if the device is connected to a 4G or 5G network.

**SIEM Disclaimer.** IF SIEM SERVICES ARE APPLICABLE TO THE AGREEMENT, ACUMERA MAY PERFORM REMEDIATION ACTIONS BASED ON RESPONSES TO CERTAIN THREAT THRESHOLDS AND CONFIGURATIONS PRE-DETERMINED BY ACUMERA AND CUSTOMER. CUSTOMER RECOGNIZES AND ACKNOWLEDGES THAT THREATS ARE CONSTANTLY EVOLVING AND EMERGING, AND WHILE ACUMERA WILL TAKE COMMERCIALLY REASONABLE ACTIONS TO MODIFY ITS SOFTWARE AS NECESSARY, THIS SERVICE IS NOT A GUARANTEE OR WARRANTY THAT A SYSTEM CANNOT OR WILL NOT BE BREACHED. ACUMERA SERVICES ARE INTENDED TO BE A COMPONENT OF A BROADER NETWORK SECURITY PLATFORM. FURTHER, ACUMERA DOES NOT GUARANTEE OR WARRANTY THAT THERE WILL NOT BE UNINTENDED CONSEQUENCES RELATED TO REMEDIATION ACTIONS, INCLUDING BUT NOT LIMITED TO TERMINATION OF SYSTEMS, APPLICATIONS OR PROCESSES BELIEVED TO BE MALICIOUS ACTIVITIY.

ACUMERA SHALL NOT BE LIABLE FOR CLAIMS BASED ON MODIFICATIONS OR ADAPTATIONS PERFORMED BY ANYONE OTHER THAN ACUMERA OR ITS REPRESENTATIVES. IN ADDITION, ACUMERA SHALL NOT BE LIABLE FOR CLAIMS BASED ON THE FAILURE TO INSTALL, PROPERLY INSTALL, OR RE-INSTALL A SENSOR ON A CUSTOMER ENDPOINT, AS INSTALLATION OF SENSORS IS SOLELY CUSTOMER'S RESPONSIBILITY. FURTHER, ACUMERA SHALL NOT BE LIABLE FOR ANY CLAIMS INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR INFRINGEMENT FOR EQUIPMENT NOT MANUFACTURED BY AND/OR OWNED BY ACUMERA.

**High-Risk Use.** CUSTOMER SHALL NOT USE THE SOFTWARE IN ANY APPLICATION OR SITUATION WHERE A SOFTWARE FAILURE COULD LEAD TO DEATH OR SERIOUS BODILY INJURY OF ANY PERSON, OR TO SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). ACUMERA AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH-RISK ACTIVITIES, AND ACUMERA AND ITS LICENSORS SHALL HAVE NO LIABILITY OF ANY NATURE AS A RESULT OF ANY SUCH USE OF THE SOFTWARE.

The foregoing limitations, exclusions and disclaimers shall apply, regardless of whether the claim for such damages is based in contract, warranty, strict liability, negligence, tort or otherwise. Insofar as applicable law prohibits any limitation herein, the parties agree that such limitation will be automatically modified, but only to the extent so as to make the limitation permitted to the fullest extent possible under such law. The parties agree that the limitations on liabilities set forth herein are agreed allocations or risk constituting in part the consideration for Acumera's provision of Services to Customer, and such limitations will apply notwithstanding the failure of essential purpose of any limited remedy and even if a party has been advised of the possibility of such liabilities.

**Circuit Monitoring and Repair Services.** Acumera will monitor designated end-user data circuits for connectivity. The end-user circuit is defined as the copper or fiber loop from the end user site (excluding any CPE). Upon detecting an outage, Acumera will generate an internal trouble ticket, typically within 6 minutes of detecting the outage. Acumera will provide email notification and attempt to contact the site during normal business hours to conduct local trouble shooting. In general, the process includes verifying power, modem/router light status and power cycling device(s). Note, there are some variables depending on last mile circuit type. If it is determined that there are no issues with the local environment and service has not been restored, Acumera will contact the circuit provider to open a service ticket. The Acumera support group will work with the provider through issue resolution. Certain last mile events will require a provider technician dispatch. When this occurs, it is common for the customer to experience a multi-day outage until the provider can isolate and solve the issue. In the event either party's performance is delayed, prevented, obstructed, or inhibited due to any Act of God, fire, casualty, flood, war, strike, lockout, epidemic, destruction or non-elective shut-down of facilities, riot, insurrection, governmental acts or directives, or any cause beyond either party's reasonable control, Acumera's performance will be excused and there will be no grounds for a declaration of default by either party.

**Installation Appointment Cancellation and Turn-Away Fees.** It is the Customer's responsibility to keep scheduled installation appointments. Remote installation appointment cancellations made less than two (2) business days in advance will result in a $150 rescheduling fee. On-site Installation appointment cancellations made less than two (2) business days in advance will result in a $250 rescheduling fee. On-site installation appointments cancelled on the day scheduled for will result in an additional $75 turn-away fee ($325 total).

**Expedited Installations.** Acumera's standard turn-around to schedule and complete an installation, once all of the necessary documents and signatures have been completed and provided to Acumera by Customer, is ten (10) business days. Expedited turn-arounds are offered and can be completed in as little as three (3) business days subject to an Expedited Installation fee indicated above. Expedited installations cannot be scheduled until all of the necessary documents and signatures have been completed and provided to Acumera by Customer.

**Remote Installations.** Acumera will provide installation services in one (1) hour windows for CXD installs and two (2) hour windows for Firewall installs. Should the installation take longer than the scheduled window, Customer agrees to pay for any additional time needed to complete an installation at the additional hours fees noted in the schedule above. Additional hour fees are per additional hour billed in hourly increments. Business hour remote installations occur Monday through Friday between 7AM and 7PM EST local time. Extended hour remote installations that occur on weeknights occur Monday through Friday between 7PM and 12AM local time. Extended hour remote installations that occur on weekends occur Saturday and Sunday between 7AM and 5PM EST. The prices for access point, cellular gateway and switch installations assume the installation of these devices occurs at the time of firewall or CXD Installation and exclude any cabling required.

**Customer Requirements for Remote Installations:**

- Installations take place during standard business hours (Monday thru Friday 7am to 7pm). Installations outside of standard business hours will be charged the Extended Hours rate indicated above.
- Customer must choose a location for the CXD or Firewall and any other Acumera provided equipment to be installed. Location(s) must be elevated, clean and such that the equipment is unlikely to be damaged due to spills or other misuse. CXD or Firewall location must be in close proximity to the customer's Internet modem/router and other network gear that must be connected to the CXD or Firewall.
- Acumera requests a 2-week lead time from the submission of all required paperwork (CNSAs, SOWs, Work Order, etc.) to ensure proper scheduling and material procurement.
- A list of all business applications must be provided to Acumera prior to installation to ensure the CXD or Firewall is configured properly to allow those applications to function as before.
- Contact information for vendors providing various connected systems (networked) must be provided to Acumera in the event troubleshooting is necessary to restore connectivity or troubleshoot other issues after the firewall installation.
- Customer must provide Acumera installation technician with Login credentials (username and password) for any existing routers, modems or firewalls currently in use at location.
- If a remote installation is to be performed, Customer must have administrative privileges for and access to a PC on the location's existing network.

**Remote Installation Scope of Work:**

- Customer will place/mount the CXD, firewall or other equipment (if applicable) in a suitable location (see requirements below), plug it in and connect appropriate patch cables for the Internet modem/router, POS device(s) and other connected systems to the CXD or firewall and vice versa and to patch panel (if any) as necessary for proper security configuration/segmentation.
- If an external wireless access point(s) is to be installed, customer will locate a suitable location and mount the access point(s). Customer will install PoE injector and connect it to cable running to access point(s).
- If an external cellular gateway is provided, the cellular gateway should be mounted on the wall near the firewall and must NOT be placed to rest directly on top of the firewall or any other electronic equipment as connectivity to the cellular network will be unreliable.
- Acumera installation technician will work remotely with on-site customer contact to configure the CXD or firewall.
- Acumera will work with an on-site contact to have them test each application specified for connectivity and to ensure they are functioning as they were prior to the installation of Acumera Services. Acumera is not responsible if applications are not functioning as they were prior to installation if they are not identified by the on-site contact for testing.

**Remote Installation Out of Scope Work:**

- Any other work not specifically stated in the Managed Services Installation Options detail above.

- Additional time spent configuring the CXD or firewall to accommodate non-standard configurations will be billed at the appropriate T&M rates. Non-standard configurpations include, but are not limited to:
  - Configuring the CXD or firewall to permit access to the cardholder data environment (CDE) by devices that are not dedicated POS terminals.
  - Configuring the CXD or firewall to permit remote access to internal systems such as DVRs, time clocks and other management devices.
  - Configuring or reconfiguring Customer's connected devices such as DVRs, VoIP phones and systems, digital menu boards, printers and other peripherals, etc.
- The set-up of VPNs requested by customer to occur at time of installation. Note: In packages where a site-to-site customer VPN is included, Acumera will set up the VPN at no additional charge, however it typically cannot be done during a standard installation window due to the additional time required and requests to do so will typically result in an additional hour's fee charged.
- Additional time spent due to items outside of Acumera's technician's control will be billed at the appropriate T&M rate.
- Additional time spent where Acumera is required to work with another of Customer's vendors (eg POS provider, ISP, third-party IT company, etc) to troubleshoot or resolve configuration or connectivity issues with other customer equipment or systems.
- All applicable taxes will be added at time of invoicing.

**Acumera will not be responsible for:**

- Circumstances where the installing technician is late but is still able to complete the installation in the allotted timeframe.
- Circumstances where the technician is unable to complete the installation due to issues caused by others (Owner, Operator, Owner/Operator employees or designees, etc.)
- Circumstances where the installing technician is turned away upon arrival or the installation is unable to be completed due to the site's lack of readiness or failure of customer to provide information needed to successfully complete installation.
- Post-install connectivity or access issues associated with Business applications that Acumera was not made aware of prior to installation. Acumera can only configure for and test applications that we are aware of and cannot troubleshoot or resolve issues where contact with another vendor is needed but not provided.

**On-Site Installation.** Acumera provides on-site installation services through partners based on a defined Scope of Work. Acumera charges for these services on a time and materials basis. Acumera will make all commercially reasonable efforts to complete on-site installation work in the duration specified on any Statements of Work. Notwithstanding, Customer acknowledges it may not be possible for Installations to be completed in the time specified or in accordance with Customer expectations due to factors beyond Acumera's control and Customer acknowledges responsibility for paying any and all fees associated with time spent performing on-site installations.

Acumera will provide on-site installation services in one (1) hour windows for CXD installs and two (2) hour windows for Firewall installs. Should the installation take longer than the scheduled window, Customer agrees to pay for any additional time needed to complete an installation at the additional hours fees noted in the schedule above. Additional hour fees are per additional hour billed in hourly increments. Business hour on-site installations occur Monday through Friday between 7AM and 7PM EST. Extended hour on-site installations that occur on weeknights occur Monday through Friday between 7PM and 12AM EST. Extended hour on-site installations that occur on weekends occur Saturday and Sunday between 7AM and 5PM local time EST. The prices for access point, cellular gateway and switch installations assume the installation of these devices occurs at the time of firewall or CXD installation and exclude any cabling required.

**Customer Requirements for On-Site Installations:**

- All requirements listed above for remote installations
- All areas of work to be completed will be accessible to installer with minimal delays.
- On-Site installations take place during standard business hours (Monday thru Friday 7am to 7pm). Installations outside of standard business hours will be charged the Extended Hours On-Site rate indicated above.

**On-Site Installation Scope of Work:**

- On-site technician will work with customer to locate an area in the back office where the Acumera provided equipment (e.g. CXD or firewall) will be placed. Location must be in close proximity to the customer's Internet modem/router and other network gear that must be connected to the CXD or firewall.
- On-site technician will place/mount the CXD or firewall and other equipment, if applicable, in the location determined, plug it in and connect appropriate patch cables for the Internet modem/router, POS device(s) and other connected systems to the CXD or firewall and vice versa and to patch panel (if any) as necessary for proper security configuration/segmentation.
- If an external wireless access point(s) are to be installed, on-site technician will work with customer to locate a suitable location and mount the access point(s). On-site technician will install PoE injector and connect it to cable running to access point.
- On-site technician will work with remote Acumera installation technician to configure the CXD or firewall
- On-site technician does not test business applications following installation. Acumera will work with an on-site location contact to have them test each application specified for connectivity and to ensure they are functioning as they were prior to the CXD or Firewall install. Acumera is not responsible if applications are not functioning as they were prior to installation if they are not identified by the on-site contact for testing.

**On-site Installation Out of Scope Work:** The customer shall negotiate directly with Onsite Engineer/technician for any work that is considered to be out of scope including labor and materials as required. On-site installation work is subject to the conditions noted below:

- Any other work not specifically stated in the On-Site Installation Scope of Work detail above including, but not limited to, cabling services necessary for wireless access points or cellular modems.
- Additional time spent configuring the CXD or firewall to accommodate non-standard configurations will be billed at the appropriate T&M rates. Non-standard configurations include, but are not limited to:
  - Configuring the CXD or firewall to permit access to the cardholder data environment (CDE) by devices that are not dedicated POS terminals.
  - Configuring the CXD or firewall to permit remote access to internal systems such as DVRs, time clocks and other management devices.

- Configuring or reconfiguring Customer's connected devices such as DVRs, VoIP phones and systems, digital menu boards, printers and other peripherals, etc.

- The set-up of VPNs requested by customer to occur at time of installation. Note: In packages where a site-to-site customer VPN is included, Acumera will set up the VPN at no additional charge, however it typically cannot be done during a standard installation window due to the additional time required and requests to do so will typically result in an additional hour's fee charged.
- Cleaning up or rerunning wires beyond the work necessary to connect the CXD or firewall or other Acumera provided equipment to the network and network devices to the CXD or firewall is out of scope and will not be performed.
- Additional time spent where Acumera is required to work with another of Customer's vendors (eg POS provider, ISP, third-party IT company, etc) troubleshoot or resolve configuration or connectivity issues with other customer equipment or systems.
- Any required permit fees will be passed on to the customer at cost plus 20%.
- Delay time due to items outside of Acumera's or Technician's control will be billed at the appropriate T&M rate.
- No physical labor to be completed during the survey visit.
- Any union locations will be billed at the appropriate union T&M rates and marked up 20%.
- Out of scope work / delay time will be handled through a change order process.
- Any required man lifts will be passed on to the customer at cost plus 20%.
- All applicable taxes will be added at time of invoicing.

| **Acumera Inc** | **Customer** |
|---|---|
| **By:** _____ | **By:** _____ |
| **Name:** _____ | **Name:** _____ |
| **Title:** _____ | **Title:** _____ |
| **Date:** _____ | **Date:** _____ |

Reviewed by Orders:

# WORK ORDER

This Work Order provides information on a new location or services to be provisioned on behalf of _____ ("Customer") and is subject to and made a part of the Master Service Agreement ("MSA") between Customer and Acumera Rigel LLC ("Acumera"), dated _____. This Work Order, together with the MSA and any associated Exhibits govern the sale and purchase of the Services described below.

## CUSTOMER INFORMATION

Customer Name (*must match legal entity name on MSA*): _____

Customer Address: _____

## BILLING INFORMATION

Billing Entity Name: _____

Billing Address Same as (check one): ☐ Customer Address ☐ Installation Location Address

Billing Address: _____

Transaction Authorization Agreement Form is (check one): ☐ Attached ☐ On File

## INSTALLATION LOCATION INFORMATION

Common Business Name: _____ Store / Unit Number: _____

Installation Location Phone: _____ Order Type: New

**Merchant ID Number** ***(required for enrollment in Data Breach Financial Protection Program (DBFPP). Locations will not be enrolled in the program if a valid MID number for each is not provided)***: _____

Installation Address is same as: ☐ Customer Address

Installation Address: _____

## SHIPPING INFORMATION *(Required. Where Acumera will ship equipment)*

Ship-To Address Same as (check one): ☐ Customer Address ☐ Billing Address ☐ Installation Location Address

To Attention of: _____ Phone: _____

Alternative Address: _____

Special Instructions: _____

Acumera

# WORK ORDER

## CONTACT INFORMATION

It is imperative that the appropriate people be designated with the permissions necessary to install, support, and authorize changes to Acumera services at this location(s). Due to data security best practices, Acumera is only able to modify or grant permissions if the requestor is an Administrator for the Customer location. Administrators may grant Admin access to others.

- **Password Delivery.** Acumera verifies the identity of users by sending them an authentication code via SMS text to their cell phone and/ or via email to their email address. Acumera also sends a One-time Password ("OTP") to users via SMS text or email when they attempt to log in to a Acumera portal. This OTP needs to be entered on the portal to complete the login.
- **Reseller** indicates that the contact is an employee of or contractor to the company that is selling Acumera services to this location.
- **Employed by Owner** indicates that the contact either owns the business that operates this location or is employed by the owner.
- **Third Party** indicates that this contact is not a Reseller or Owner and has some other affiliation to this location.

### Description of Permissions:

| Role/Permission | Description |
|---|---|
| **Admin** | Grants user permission to authorize all changes to the account and its associated Managed Firewall & Orchestrator portal, hardware, features, and contacts. **THERE MUST BE ONE ADMIN CONTACT PER LOCATION.** |
| **Support** | Enables the user to receive alerts and grants the user permission to 1) be given sensitive network information 2) to authorize the addition of Rogue Devices to the firewall's Baseline and 3) Activates alerts to be emailed to the contact. |
| **Installation Coordinator** | Person authorized to work with Acumera to coordinate the equipment installation. **THERE MUST BE ONE INSTALLATION COORDINATOR PER LOCATION.** |
| **Remote Access** | If you purchased Secure Remote Access, you must select Remote Access permission for each contact that will use this service. Grants user Remote Access to any enabled machines. N/A for BranchSDO SD-Branch |
| **Sensor Download** | If you purchased our Advanced Threat Protection Sensor download service you must designate a contact to receive an email with a link and instructions to install the ATP sensors on the devices for this Location. |
| **Advanced Threat Protection (ATP)** | If you purchased ATP, grant user permissions to receive email reports and alerts and access the Advanced Threat Protection portal and device log files. If you subscribe to SIEM at Edge then you will also receive critical notifications via phone call. |
| **FIM Sensor and Portal** | If you purchased the File Integrity Monitoring (FIM) service, you must designate at least one contact who will receive the email with the link and instructions to install the FIM sensors and have access to the FIM portal. |
| **Primary PCI** | If you purchased a PCI package, you must designate a single contact as the Primary PCI Contact. The Primary PCI Contact will be 1) responsible for managing the Self-Assessment Questionnaire (SAQ) and external vulnerability scanning 2) will receive compliance alerts via email 3) will be granted access to the PCI Compliance Manager Portal to access SAQ tools and scan results. **THERE CAN ONLY BE ONE PCI CONTACT PER LOCATION.** |
| **Read-only PCI** | Will be granted read-only access to the compliance portal to view SAQ and ASV Scan results, but will not be able to edit any items or receive alerts. |
| **Cellular usage alerts** | Enables the user to receive alerts associated with LTE usage for each location (Maximum 2 contacts) |
| **BranchSDO Orchestrator/Portal Access** | |
| **BranchSDO Portal** | Grants user **READ-ONLY** access to BranchSDO Orchestrator portal, for hardware, features, and site visibility. |
| **BranchSDO Alerts** | Enables the user to receive alerts associated with BranchSDO events. |

### CONTACT 1

Name: _____ Title: _____

Email: _____ Office Phone: _____

Cell Phone: _____ Carrier: _____

Affiliation with Location: ☐ Reseller ☐ Owner or Owner Employee ☐ Third Party

Password Delivery: ☐ SMS Text ☐ Email

Permissions/Role (*check all required for contact*):

☐ Admin (*must be one per location*) ☐ Support ☐ Installation Coordinator (must be one per location)

☐ Primary PCI Contact (can only be one per location) ☐ Read-only PCI Contact ☐ Remote Access.

☐ BranchSDO Alerts ☐ Sensor Download ☐ BranchSDO Portal Access

☐ Advanced Threat Protection ☐ FIM Sensor and Portal ☐ Cellular Usage Alerts

☐ Primary WAN Offline ☐ LTE Offline ☐ CXD Offline

☐VPN/NGFW Offline ☐ LTE Usage Threshold Reached Select threshold 75%

Acumera

# WORK ORDER

## CONTACT 2

Name: _____ Title: _____

Email: _____ Office Phone: _____

Cell Phone: _____ Carrier: _____

Affiliation with Location: ☐ Reseller ☐ Owner or Owner Employee ☐ Third Party

Password Delivery: ☐ SMS Text ☐ Email

Permissions/Role (*check all required for contact*):

| | | |
|---|---|---|
| ☐ Admin (*must be one per location*) | ☐ Support | ☐ Installation Coordinator (must be one per location) |
| ☐ Primary PCI Contact (can only be one per location) | ☐ Read-only PCI Contact | ☐ Remote Access. |
| ☐ BranchSDO Alerts | ☐ Sensor Download | ☐ BranchSDO Portal Access |
| ☐ Advanced Threat Protection | ☐ FIM Sensor and Portal | ☐ Cellular Usage Alerts |
| ☐ Primary WAN Offline | ☐ LTE Offline | ☐ CXD Offline |
| ☐VPN/NGFW Offline | ☐ LTE Usage Threshold Reached | Select threshold 75% |

Technical or other notes:

## ACKNOWLEDGEMENT

Customer submits this work order and acknowledges the following terms:

1. Providing the information requested on this Work Order accurately and completely is critical for Acumera to successfully perform the installation and configuration of our services. Information that is inaccurate or missing will likely result in delays installing Acumera services and will likely cause greater business disruption during and after the installation.
2. Customer locations subscribing to a Acumera Service that includes the Data Breach Financial Protection Program (DBFPP) must provide Acumera with a valid merchant ID number ("MID") for each Customer location to facilitate enrollment of that location in the Program. It is the Customer's obligation to provide MID numbers to Acumera for each location and Customer understands that locations will not be enrolled in the program if a valid MID number is not provided. Customer further understands that locations that do not subscribe to a Acumera service that includes the DBFPP are not eligible for enrollment in the Program.
3. It is the Customer's responsibility to keep scheduled installation appointments. Remote installation appointment cancellations made less than two (2) business days in advance WILL result in a $150 rescheduling fee. On-site Installation appointment cancellations made less than two (2) business days in advance WILL result in a $250 rescheduling fee.
4. Acumera will only grant portal access to or communicate with persons specified as authorized contacts or who have been added as a Contact by an authorized Admin Contact. Each Contact will only be allowed the permissions that are designated for them.
5. Customer is responsible for review and download of scans through Acumera self-service portals as needed.
6. Distribution of scans to appropriate parties is the responsibility of the Customer at their discretion.
7. If Internet connectivity is not a terrestrial high-speed always on standard DSL, fiber, broadband, or dedicated circuit (i.e. T1 or similar), Acumera services may not perform optimally. Acumera does not manage your Internet circuit. Unless you subscribe to our "Circuit Monitoring and Resolution" services Acumera is not able to repair or engage your Internet service provider to assist you with repairs.

Signature: _____

Printed Name: _____

Title: _____

Reviewed by Orders team:

**PARTICIPATION AGREEMENT**

This Participation Agreement (the "**Agreement**") is entered into on _____, between the customer named on the signature page of this Agreement ("**Customer**") and Cineplex Digital Media Inc., successor to EK3 Technologies Inc. ("**Vendor**"), pursuant to that certain Master Service Agreement and Software License dated December 16, 2015, as amended (the "**MSA**"), between Vendor and American Dairy Queen Corporation ("**ADQ**"). Pursuant to the MSA, ADQ has engaged Vendor to provide to Participating Sites (as defined in the MSA), certain services relating to the ADQ interior digital menu board signage program (the "**DMB Program**"). All capitalized terms used in this Agreement have the definitions given to them in the MSA unless otherwise defined herein.

In consideration of the mutual covenants herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties covenant and agree as follows:

1. Vendor shall provide the Services to operate the DMB Program at the Customer's Participating Site.

2. Customer shall pay the fees set forth in Schedule A attached hereto in the manner set forth therein. To activate the commencement of the Services, Customer shall deliver an executed copy of this Agreement to Vendor, together with payment of the total fees for Equipment and Installation and one year's worth of monthly Services for the Participating Site, on a pro-rated basis for the remainder of the calendar year. Vendor will then invoice the Customer for the annual Service fees for the following year on our before the start of the next calendar year, or date to be determined by Vendor in its sole discretion, and Customer shall pay such amounts within thirty (30) days of receipt of the invoice. If Vendor changes its billing practice from billing on the anniversary of the Installation Date to a fixed date or other payment cycle, it shall provide Customer with at least sixty (60) days prior written notice. If Customer's total annual fees are greater than $300, and Customer pays the total balance owing in advance of the due date will receive a 2% discount off their total annual fees.

3. Customer acknowledges and agrees that the Service fees are non-refundable in the event the franchise is sold or assigned, and that all paid-up Service fees will be transferred to the new owner once this Agreement has been successfully assigned. Service fees will be refunded on a pro-rata basis in the event that a store closes.

4. For Participating Sites in Canada, CDN will use an US/Canadian exchange rate of 1.21 ($100 USD = $121 CDN). The exchange rate shall be reviewed quarterly against the rate set by the Bank of Canada, and the fees will be adjusted if the rate is five points above or below the exchange rate set out above. CDN will provide thirty (30) days prior written notice of any fee adjustments.

5. This Agreement begins when fully executed by both Customer and Vendor, and continues for a period of five (5) years, unless earlier termination of this Agreement or the expiration or termination of the MSA. Customer may terminate this Agreement for convenience, upon thirty (30) days written notice to CDM. In the event Customer terminates this Agreement for convenience, CDM will refund, on a pro-rated basis, any fees previously paid for services that have not been delivered as of the date of termination of this Participation Agreement. In the event of termination by Customer, Customer shall reimburse Vendor for any warranties that were paid in advance on behalf of Customer on a pro-rated basis from the amount paid by Customer prior to the date of termination (this amount will be provided by Vendor to Customer when notice of termination is given to Vendor).

6. Vendor will use all commercially reasonable efforts to make the Subscription Services available 24/7/365, except for (a) planned maintenance; (b) any unavailability caused by circumstances described in Section 8 below; or (c) any unavailability caused by any failure on the part of ADQ, Customer or any other person (other than Vendor and its contractors). Customer shall make all requests for support or assistance to the Help Desk.

7. In order for Vendor to perform its Help Desk Services in an effective and efficient manner, and to help ensure minimal incidents with the Equipment and Digital Signage Network, Customer is responsible for the following at the Participating Site:

    a) Following the installation of any Equipment, ensuring the proper and ongoing operation of the Equipment on a 24/7 basis, including ensuring Equipment is properly plugged into an appropriate surge protector and power source and that the power is turned on, and ensuring that each Media Player and Display, where applicable, is connected to the Internet and the Media Players are connected to the Display at all times, as well as paying all third party costs associated with such power and connectivity.

    b) Ensuring and/or verifying at the request of a Help Desk service representative that the hardware/appliance components of the equipment interfacing with or connecting to the Subscription Services are turned on and have a functioning power source in a timely manner.

    c) Ensuring and/or verifying that all Customer-provided Internet services at the Participating Location are fully functional, and if not, engaging its Internet Service Provider to resolve the issue.

    d) Power cycling any of the DMB Program equipment upon request by Vendor's Help Desk.

    e) Co-operating with Vendor or its representatives, including Level 1 Help Desk service representatives, on a timely basis to help ensure that the Subscription Services, Equipment and Digital Signage Network are functioning to the best of

their capacity, including the provision of relevant information and completion of rudimentary tasks as reasonably requested by the Level 1 Help Desk service representative. Customer will ensure that any dispatched technician to the Participating Site is provided with immediate access to the equipment interfacing with or connecting to the Subscription Services and is otherwise provided with such assistance or resources as they might reasonably request.

f) Routine cleaning and aesthetic maintenance of all Equipment, including the removal of dust, grime or dirt using a non-abrasive cleaning agent, and the replacement of Media Player filters if and when required.

g) Complying with all operating, maintenance and other instruction or best practices contained in documentation, including any Equipment user manual or otherwise made known to them.

8. Customer will be charged additional fees of one hundred fifty U.S. dollars (US$150) per hour for any work Vendor Support Team performs on non-Eligible Incidents. Customer will be charged additional fees of one hundred fifty U.S. dollars (US$150) per hour for any work Vendor Support Team performs on equipment not purchased through Vendor. Customer will be charged additional fees of one hundred fifty U.S. dollars (US$150) per hour for any work Vendor Support Team performs on equipment purchased through Vendor but whose warranty has expired.

9. Neither Vendor nor its contractors will be liable to Customer for failure or delay in fulfilling any of its obligations if that failure or delay is attributable to circumstances beyond its reasonable control, including any act of God, fire, labour dispute or government measure.

10. The Subscription Services and the software comprised therein constitute Vendor's valuable intellectual property. Customer agrees not to sell, share, distribute, or transfer the Subscription Services or the software comprised therein or any copies thereof to or with any person in any manner. Customer also agrees not to attempt to copy, reverse engineer or decompile the software comprised in Subscription Services in any way.

11. Any non-public information pertaining to Customer or Vendor, which comes into the other's possession will be held in confidence and not used for any purpose unrelated to this Agreement.

12. Vendor will indemnify Customer against any claim by a third party that the Subscription Services or Software infringe the intellectual property rights of that third party and for any damages, costs and expenses (including reasonable attorney fees) attributable to Vendor's gross negligence or willful misconduct in performing services under this Participation Agreement.

13. Customer will indemnify Vendor and its affiliated and subsidiary companies and their respective officers, directors, employees, agents, suppliers, successors and assignees from and against any and all third party claims and the damages, losses, fines, penalties, costs, and other amounts (including reasonable attorneys' fees actually incurred) arising from or in connection with any actual or threatened third party claim, demand, investigation or cause of action (each, a "Claim") arising from or relating to bodily injury (including death) or damage to or loss of any tangible property unless caused by the acts, negligence, or Omissions of the Vendor, its employees, contractors, representatives or those for whom it is responsible at law.

14. Customer shall maintain at its own sole expense throughout the Term of this Participation Agreement a comprehensive general liability insurance policy with minimum coverage of at least one million dollars ($1,000,000) per occurrence and at least two million dollars ($2,000,000) in the aggregate, covering bodily and personal injury, including death, and property damage. Such coverage shall cover Vendor as an additional insured. Customer will provide copies of all insurance policies evidencing such coverage to the Vendor upon request. Customer's failure to maintain the required insurance coverage shall constitute a material breach of this Agreement.

15. If Customer breaches any of the Customer's obligations under this Agreement, Vendor may suspend or terminate the Customer's right to access and use the Subscription Services and software.

16. Customer may not assign any of Customer's rights or obligations under this Agreement to any person without the prior written consent of Vendor.

17. Customer agrees that all terms and conditions described in this Agreement are binding and will therefore abide to its provisions.

The parties have executed this Agreement on the date first written above.

| **CINEPLEX DIGITAL MEDIA INC.**<br>**X** Jessica Larue | | **CUSTOMER NAME:**<br>**X**_____ | |
|---|---|---|---|
| Per: | | Per: | |
| | Name: Jessica Larue | | Name: |
| | Title: Director, Account Services | | Title: |
| Per: | | Per: | |
| | Name:<br>Title: | | Name:<br>Title: |
| I/We have the authority to bind the corporation | | I/We have the authority to bind the corporation | |

**SCHEDULE A**
**TO THE PARTICIPATION AGREEMENT**
***FEES***

| | 2024 FLEX ME USD | 2025 FLEX ME USD | 2026 FLEX ME USD | 2024 FLEX Fusion SOC USD | 2025 FLEX Fusion SOC USD | 2026 FLEX Fusion SOC USD |
|---|---|---|---|---|---|---|
| | 3% Increase | 3% Increase each year | 3% Increase each year | 3% Increase | 3% Increase each year | 3% Increase each year |
| 1 Displays | | | | | | |
| Total Monthly | $ 54.11 | $ 55.73 | $ 57.40 | $ 22.29 | $ 22.96 | $ 23.65 |
| Annual Total | $ 649.27 | $ 668.75 | $ 688.81 | $ 267.47 | $ 275.49 | $ 283.76 |
| 2 Displays | | | | | | |
| Total Monthly | $ 99.29 | $ 102.27 | $ 105.34 | $ 44.58 | $ 45.92 | $ 47.29 |
| Annual Total | $ 1,191.50 | $ 1,227.25 | $ 1,264.07 | $ 534.94 | $ 550.99 | $ 567.52 |
| 3 Displays | | | | | | |
| Total Monthly | $ 102.28 | $ 105.35 | $ 108.51 | $ 66.87 | $ 68.87 | $ 70.94 |
| Annual Total | $ 1,227.35 | $ 1,264.17 | $ 1,302.09 | $ 802.41 | $ 826.48 | $ 851.28 |
| 4 Displays | | | | | | |
| Total Monthly | $ 105.27 | $ 108.42 | $ 111.68 | $ 89.16 | $ 91.83 | $ 94.59 |
| Annual Total | $ 1,263.19 | $ 1,301.09 | $ 1,340.12 | $ 1,069.88 | $ 1,101.98 | $ 1,135.04 |
| 5 Displays | | | | | | |
| Total Monthly | $ 108.20 | $ 111.45 | $ 114.79 | $ 111.45 | $ 114.79 | $ 118.23 |
| Annual Total | $ 1,298.42 | $ 1,337.37 | $ 1,377.49 | $ 1,337.35 | $ 1,377.47 | $ 1,418.80 |
| 6 Displays | | | | | | |
| Total Monthly | $ 111.18 | $ 114.51 | $ 117.95 | $ 133.74 | $ 137.75 | $ 141.88 |
| Annual Total | $ 1,334.14 | $ 1,374.16 | $ 1,415.39 | $ 1,604.82 | $ 1,652.97 | $ 1,702.56 |
| 7 Displays | | | | | | |
| Total Monthly | $ 114.21 | $ 117.63 | $ 121.16 | $ 156.02 | $ 160.71 | $ 165.53 |
| Annual Total | $ 1,370.48 | $ 1,411.59 | $ 1,453.94 | $ 1,872.29 | $ 1,928.46 | $ 1,986.32 |

| | 2024 FLEX ME CAD | 2025 FLEX ME CAD | 2026 FLEX ME CAD | 2024 FLEX Fusion SOC CAD | 2025 FLEX Fusion SOC CAD | 2026 FLEX Fusion SOC CAD |
|---|---|---|---|---|---|---|
| | 3% Increase | 3% Increase each year | 3% Increase each year | 3% Increase | 3% Increase each year | 3% Increase each year |
| 1 Display | | | | | | |
| Total Monthly | $ 68.17 | $ 70.21 | $ 72.32 | $ 31.20 | $ 32.13 | $ 33.10 |
| Annual Total | $ 817.98 | $ 842.52 | $ 867.80 | $ 374.38 | $ 385.62 | $ 397.18 |
| 2 Displays | | | | | | |
| Total Monthly | $ 123.50 | $ 127.20 | $ 131.02 | $ 62.40 | $ 64.27 | $ 66.20 |
| Annual Total | $ 1,481.96 | $ 1,526.42 | $ 1,572.22 | $ 748.77 | $ 771.23 | $ 794.37 |
| 3 Displays | | | | | | |
| Total Monthly | $ 128.02 | $ 131.86 | $ 135.82 | $ 93.60 | $ 96.40 | $ 99.30 |
| Annual Total | $ 1,536.22 | $ 1,582.31 | $ 1,629.78 | $ 1,123.25 | $ 1,156.85 | $ 1,191.55 |
| 4 Displays | | | | | | |
| Total Monthly | $ 131.35 | $ 135.29 | $ 139.34 | $ 124.79 | $ 128.54 | $ 132.39 |
| Annual Total | $ 1,576.15 | $ 1,623.43 | $ 1,672.13 | $ 1,497.54 | $ 1,542.46 | $ 1,588.74 |
| 5 Displays | | | | | | |
| Total Monthly | $ 135.29 | $ 139.35 | $ 143.53 | $ 155.99 | $ 160.67 | $ 165.49 |
| Annual Total | $ 1,623.49 | $ 1,672.19 | $ 1,722.36 | $ 1,871.92 | $ 1,928.08 | $ 1,985.92 |
| 6 Displays | | | | | | |
| Total Monthly | $ 139.11 | $ 143.29 | $ 147.58 | $ 187.19 | $ 192.81 | $ 198.59 |
| Annual Total | $ 1,669.34 | $ 1,719.42 | $ 1,771.00 | $ 2,246.31 | $ 2,313.70 | $ 2,383.11 |
| 7 Displays | | | | | | |
| Total Monthly | $ 143.19 | $ 147.49 | $ 151.91 | $ 218.39 | $ 224.94 | $ 231.69 |
| Annual Total | $ 1,718.29 | $ 1,769.84 | $ 1,822.93 | $ 2,620.69 | $ 2,699.31 | $ 2,780.29 |

# OLO AGREEMENT

# MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement"), effective as of September 28, 2023 (the "Effective Date"), is made by and between Olo Inc., a Delaware corporation with a business address at 99 Hudson Street, Floor 10, New York, NY 10013 ("Olo") and American Dairy Queen Corporation, with a business address at 8331 Norman Center Drive, suite 700, Bloomington, MN 55437 ("Customer"). Customer and Olo may be referred to herein together as the "Parties," or individually as a "Party."

**RECITALS**

WHEREAS, Olo offers e-commerce, delivery enablement, payment solutions, and other associated solutions and services; and

WHEREAS, Customer desires to use, and (to the extent applicable) enable Authorized Operators to use, the Services (as defined below) in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, the parties agree as follows:

1. **Definitions**

"Authorized Operator" means a franchisee or licensee of Customer that uses the Services.

"Borderless" means Olo's account management and checkout facilitation product and service that provides End Users the ability to opt into a secure checkout experience across different Customer brands using Olo products and services by creating an account with Olo and saving certain information on file with the account. Olo will notify Customer when Borderless may be enabled for Customer's End Users.

"Confidential Information" means any information that is directly or indirectly disclosed or made accessible by, or on behalf of, one Party to the other Party in connection with this Agreement, and which is identified as "confidential" or "proprietary" or which, given the nature of the information or circumstances surrounding the disclosure, should reasonably be understood by the receiving Party to be confidential or proprietary, but does not include information that the receiving Party can demonstrate it already rightfully knew or possessed, becomes public through no fault of the receiving Party, is obtained by the receiving Party from a third party with the legal right to disclose it, or can be shown to have been independently developed by the receiving Party without reference to the discloser's Confidential Information.

"Customer Data" means all data transmitted through, or collected by, the Services that concerns Customer's business, including all End User PII that Customer or any Authorized Operator receives, generates, or obtains in connection with Customer's or such Authorized Operator's use of the Services.

"Customer Third Party Provider" means a third party used and/or directed by Customer that interfaces with the Services for the purpose of providing services to Customer or Authorized Operator, including without limitation any payment processor, loyalty program provider or Marketplace.

"End User(s)" means the consumers who access the Services, directly or indirectly, typically in conjunction with placing a digital or in-person order for the Product(s).

"Launch Date" shall have the meaning given to such term in the applicable Order Form(s) or if not defined there, the first calendar day after the end of the applicable deployment period as specified in the applicable Order Form(s).

"Law" means any law, rule, or regulation.

"Licensed Applications" means the products and services that are developed and operated by Olo to provide e-commerce, Marketplace integration, delivery enablement, payment solutions, front of house solutions, engagement solutions, and other associated services to its customers generally (through web, mobile web, mobile applications, voice ordering and call center solutions as applicable), and other related products and services which may be added from time-to-time, including any consumer account management and checkout facilitation products and services (including Borderless), any associated application program interfaces ("API(s)"), and any enhancements or modifications thereto.

"Marketplace" means an entity that offers End Users the ability to order Products (as defined below) from a range of different brands via a unified consumer-facing mobile application, website, storefront, or other means.

"Order Form" means an order form entered into under this Agreement between Customer and Olo setting forth the fees, charges, and any other terms and conditions for Customer and its Authorized Operators' use of the specified Services.

"Personally Identifiable Information" **or "PII" means** (a) any information that identifies or is associated with a specific End User; and (b) any other information made available to Olo by Customer in connection with the Services that constitutes **"personal data," "personal information," or "personally identifiable information" as defined by** applicable data protection law.

"Product" **means the food, beverage and/or any other** good or services provided by the Customer and/or Authorized Operator for order by an End User.

"Services" means the Licensed Application(s) that Olo provides to Customer.

"Transition Assistance Period" **is defined as the** period of time mutually agreed by the Parties, for the orderly transition of the Services to Customer or another vendor of Customer, beginning upon the notice date of termination of the Agreement and ending no later than six (6) months following the date of expiration or termination of this Agreement.

"Transition Assistance Services" **means the** Services that are provided by Olo to Customer during the Transition Assistance Period, along with any new services that Customer may require to transfer the affected Services to Customer or another third party.

## 2. Services

2.1 Use of this Agreement. The Services shall be specified in the applicable Order Form(s). To the extent applicable, Customer shall comply with the terms and conditions specific to each selected Licensed Application and the Services set forth in Addendums attached hereto. The Services shall also include any required, usual, appropriate or acceptable methods to perform activities related to the Services, including without limitation (a) conducting analytics and other product improvement activities, (b) carrying out the Services or the business of which the Services are a part, (c) carrying out any benefits, rights and obligations related to the Services, (d) maintaining records relating to the Services, and (e) complying with any legal or self-regulatory obligations related to the Services. Customer shall (i) use commercially reasonable efforts to facilitate the deployment and activation of the applicable Services at all locations owned or operated by the Customer that are accounted for in the applicable Order Form as soon as practicable (in no event later than the end of the Deployment Period (as defined in the applicable Order Form)); and (ii) provide Olo, on the Effective Date, with contact, tax, and deployment-related information (such as contact name, email, phone number, address, legal name, entity name, and tax ID) and any other similar information reasonably **requested by Olo (such information, the "**Deployment Information**")** for each of its owned or operated locations, provided, that the Deployment Information shall be deemed Confidential Information; and (iii) promptly notify Olo of any changes to the Deployment Information for its owned or operated locations (e.g., changed or additional locations) and provide updates thereto to ensure such Deployment Information is accurate and complete. To the extent any Services permit Customer to communicate with End Users via short message service messaging (the **"**SMS Services**"), Customer will only use the SMS** Services in compliance with the terms of this Agreement, any other applicable terms of the third party services providers for the SMS Services **(including Twilio's Acceptable Use Policy, currently** located at https://www.twilio.com/legal/aup, as may be amended from time to time), and the laws of the jurisdiction from which Customer sends messages, and in which the messages are received.

2.2 Accessibility. Olo will use commercially reasonable efforts to ensure that any public-facing **technology it provides ("**Public-Facing Technology**")** is usable by individuals with disabilities (including those who use screen readers) utilizing WCAG 2.1 AA as a guide. Olo does not represent that Public-Facing Technology will fully conform to WCAG 2.1 AA. Olo shall not be responsible for any content or technology supplied by Customer or third parties that is not usable or accessible to individuals with **disabilities, or that cause Olo's Public**-Facing Technology to be not usable or accessible by individuals with disabilities.

2.3 Custom Services. From time to time during the Term of the Agreement, the parties may mutually determine that additional custom integration services **or other development work (the "**Custom Services**")** may become necessary. Olo shall perform any such Custom Services pursuant to a mutually acceptable professional services agreement.

2.4 Authorized Operators. **Customer's** Authorized Operator(s) may use the Services either (x) in accordance with the terms and conditions of this Agreement; provided, that Olo is under no obligation to invoice or pay any such Authorized Operators directly, or (y) by agreeing to the **"Authorized** Operator Terms & Conditions" substantially in the form attached hereto as **Exhibit A** to adopt the pricing

terms and assume payment obligations under this Agreement and/or the applicable Order Form(s), and Olo will directly invoice and pay such Authorized Operators. In the event Customer enables any of its Authorized Operators to use the Services, Customer shall (i) use commercially reasonable efforts to encourage the deployment and activation of the applicable Services at all locations of its Authorized Operators accounted for in the applicable Order Form as soon as practicable ); and (ii) authorize Olo to contact and engage with its Authorized Operators in connection with the deployment and activation of the applicable Services, provided, that Olo shall use commercially reasonable efforts to keep Customer informed with respect to any communications between Olo and the Authorized Operators. Customer agrees that Olo may disclose the terms of this Agreement and/or any applicable Order Form(s) to **Customer's** Authorized Operators in connection with deployment; provided, that, for the avoidance of doubt, Customer will be solely responsible for notifying its Authorized Operators of any modifications to this Agreement or the applicable Order Form(s) (including, for clarity, pricing updates and changes with respect to Services).

2.5 Borderless. **If Customer (or Customer's** Third Party Service Provider on behalf of Customer) maintains and operates a customized web site or **mobile application (the "**Custom Frontend**") to** interface with End Users for its e-commerce business **and integrates such Custom Frontend with Olo's** Services via Olo API(s), Customer may choose to: (i) implement all Borderless functionality (including Borderless account creation, management and sign-in functions for End Users) in its Custom Frontend in accordance with any documentation or specifications provided by Olo or as the parties may otherwise agree; and (ii) provide any notice to or obtain any **consent from End Users in connection with Olo's** provision of Borderless in a manner specified by Olo in its sole discretion, including any data collection, language, and the display for or of such notice or consent.

## 3. License; Proprietary Rights; Data

3.1. License. Subject to the terms and conditions of the Agreement and the applicable Addendums, Olo hereby grants to Customer, during the Term, a non-exclusive, non-sublicensable (except as permitted hereunder), non-transferable (except pursuant to Section 10.4) license to install (to the extent required), access, and use for itself, its Authorized Operators and its End Users, the Services. Customer shall not (a) assign this Agreement to any third party (it being understood that any such assignment shall be void ab initio); or (b) transfer, sell, or assign the right to use the Services, including for the avoidance of doubt to any Customer Third Party Provider (except pursuant to Section 10.4, and it being understood that Customer may permit its Authorized Operators to access the Services pursuant to the terms hereof solely for the expressed purpose of this Agreement). Olo reserves the right, in its sole discretion, to promulgate commercially reasonable standards that must be adhered to by Customer Third Party Providers **(including, but not limited to, Olo's certification of all** integrations to the Olo APIs), and Customer shall be responsible for any such Customer Third Party **Provider's** installation, access to, and use of the Services to the extent related to such Customer Third **Party Provider's provision of services to Customer** and/or its Authorized Operators. Any Customer Third **Party Provider's** breach or suspected breach of data security or confidentiality, abuse, or malicious or suspected malicious activities, **may (at Olo's sole** discretion) necessitate the immediate suspension, and possible termination, of Customer Third Party Provider's access to the Services. Olo will use commercially reasonable efforts to notify Customer **of any such Customer Third Party Provider's** suspension or termination as soon as reasonably practicable. A breach of the obligations set forth in this Section 3.1 by Customer may constitute a material breach of this Agreement.

3.2. Proprietary Rights. As between Customer and Olo, Customer hereby acknowledges and agrees that Olo owns all right, title and interest, including all copyrights and other intellectual property and proprietary rights, in and to the Licensed Applications, and all custom developed documents, designs, computer programs, computer systems, computer documentation, recommendations, feedback, input, and other work product authored or prepared by Olo upon the request of Customer or otherwise arising out of the Services (collectively, **"**Olo IP**").** If Customer or any of its employees or contractors sends or transmits any communications or materials to Olo by mail, email, telephone, or otherwise, suggesting or recommending changes to the Olo IP, including without limitation, new features or functionality relating thereto, or any comments, **questions, suggestions, or the like ("**Feedback**"), Olo** is free to use such Feedback irrespective of any other obligation or limitation between the parties governing such Feedback. Customer hereby assigns to Olo on

Customer's behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in, and Olo is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Olo is not required to use any Feedback.

3.3. Data.

(a) General. Olo hereby acknowledges and agrees that as between Olo and Customer, Customer owns all Customer Data. Olo and Customer agree to the terms of the Olo Data Processing Addendum **("DPA") set forth at** https://www.olo.com/data-processing-addendum, which are hereby incorporated by reference into this Agreement. If any defined terms used in this Section 3.3 are not defined herein, such terms shall have the meanings ascribed to them in the DPA. Customer grants Olo the right to collect, use and disclose Customer Data (i) that is De-Identified Data **for Olo's business purposes; (ii) to provide,** manage, maintain, enhance, optimize, improve, and add to the Services; (iii) as directed by Customer in writing (email acceptable) in connection with **Customer's use of the Services (including, to** Customer Third Party Providers whose services Customer elects to use) provided that Olo shall have no liability to Customer for the disclosure or misuse of Customer Data by any such Customer Third Party Provider, and Customer shall fully indemnify Olo pursuant to the terms of Section 7.2; and (iv) to **enforce Olo's rights under this Agreement** but only as permitted by applicable data protection Laws. For **any of Olo's subprocessors, Olo** will remain fully liable for any subcontracted services and will enter into a written contract with the subprocessor that **requires it to meet Olo's** data obligations in this Agreement and the DPA. In the event of any conflict between the DPA (including any updated version of the DPA), and the terms of this Agreement, the terms of this Agreement shall prevail.

(b) Borderless. Customer understands that Olo and Customer are independent data controllers with respect to data regarding any End User that opts into **Borderless ("Borderless Customer Data"), including** any information heretofore collected by Olo from or about such End User pursuant to any and all **agreements between Olo and Customer ("Legacy Data") to the extent the** End User expressly directs Olo to combine such Legacy Data with the data Olo **collects in connection with the End User's account** (once Legacy Data is so combined, it becomes Borderless Customer Data for which Olo is an independent data controller), and may use it **for Olo's** business purposes, including without limitation, (i) analytics to provide, manage, maintain, enhance, **optimize, improve and add to Olo's business, the** Services or the Licensed Applications and as may be reasonably required for Olo to provide the Services or Licensed Applications, including to service providers **that enable Olo's provision of the Services or** Licensed Applications; (ii) **in connection with Olo's** demonstration of or efforts to sell additional Licensed Applications or features to Customer; (iii) as elected by Customer in writing (email acceptable) in **connection with Customer's use of the** Services or Licensed Applications (including, to Customer Third Party Providers whose services Customer elects to use) provided that Olo shall have no liability to Customer for the disclosure or misuse of Borderless Customer Data by any such Customer Third Party Provider; and (iv) **to enforce Olo's rights under the** Agreement. Olo must comply with all data protection laws in its processing of Borderless Customer Data, including providing clear notice that the data is being provided to Olo and an Olo privacy notice that complies with all applicable Laws to those End Users opting into Borderless so they understand that the **data collection and processing is governed by Olo's** privacy practices in addition to **Customer's.** Notwithstanding anything to the contrary in the Agreement, Olo shall have the right to use Borderless Customer Data and any other data provided by Customer or Authorized Operators to link or combine user information with other End User PII in order to provide the Services or Licensed Applications. The parties agree that since Olo is an independent data controller of Borderless Customer Data, that Customer is not selling Borderless Customer Data to Olo.

3.4. Trademark License. Each party acknowledges that the ownership, right, title and **interest in and to the other party's trademarks rests** with the other party, and both parties agree that neither will do anything inconsistent with such ownership **or use the other party's Trademarks in any way that would disparage or injure such party's** reputation. Customer may use, and permit **Authorized Operators to use, the slogan "Skip the Line®" in marketing materials and store displays in** reference to the order ahead program utilizing the Licensed Applications; provided however that any such display clearly denotes the slogan as a registered trademark of Olo. Customer shall not publish press announcements or other publicity in respect of the

parties' business relationship without the prior written consent of Olo, which consent shall not be unreasonably withheld or delayed. During the Term, Customer hereby grants to Olo a non-exclusive, non-sub licensable, non-transferable right to use Customer's trademarks, service marks, logos, trade names, trade dress and URLs ("Trademarks") in connection with the Licensed Applications, on customer lists and informational materials, in broad distribution marketing materials for the Services contemplated herein, as part of sales and marketing materials in written form or otherwise, in earnings or press releases or communications with regulatory bodies, and displaying Customer's logo or other Trademarks on Olo.com, any sub-domain thereof, and any social media accounts maintained by Olo. Olo shall abide by any Trademark usage guidelines made available by Customer, provided that Customer shall provide advance notice of any material changes to such Trademark usage guidelines.

## 4. Fees & Payments

4.1. Payments to Olo. Customer agrees to accept the Services and pay to Olo amounts due under the Agreement in accordance with the payment terms and conditions as set forth in the applicable Order Form(s).

## 5. Confidentiality; Security; Privacy

5.1. A Party receiving Confidential Information may only use Confidential Information to exercise its rights and fulfill its obligations under this Agreement and will take reasonable measures to avoid unauthorized disclosure or misuse of the Confidential Information, including, but not necessarily limited to, taking such security precautions as it takes to protect its own Confidential Information. During and after the Term, the receiving Party agrees not to disclose Confidential Information, except (a) to its employees, agents, independent contractors, or professional advisors who have a need to know the same and who are legally bound to keep it confidential; (b) to a potential acquirer of the receiving Party's relevant assets, stock, or business under a strict duty of confidentiality, but only to the extent such potential acquirer has executed a term sheet, letter of intent or other similar agreement to negotiate such acquisition, and (c) as required to be disclosed by applicable Law (including the regulations of any securities exchange), or judicial or other governmental or regulatory order (provided that the disclosing Party must use reasonable efforts to notify the other Party, unless legally prohibited, prior to disclosure in order to afford such other Party the opportunity to at its own expense seek a protective order or otherwise prevent or limit the disclosure). For the avoidance of doubt, the terms of this Agreement are Confidential Information belonging to both parties. Notwithstanding the foregoing, Customer may disclose Olo's Confidential Information to Authorized Operators that use or are interested in using the Services, and Customer will not be responsible or liable, in any manner for such Authorized Operators' failure to keep such information confidential; provided, that Customer may only share Olo Confidential Information with Authorized Operators interested in using the Services to the extent such information is necessary for such Authorized Operators to determine whether to sign up for the Services.

5.2. Security.

(a) The terms of Olo's Security Policy, available at www.olo.com/security-policy, are attached hereto as **Exhibit B** and hereby incorporated by reference.

(b) Customer has the right to terminate this Agreement immediately if Olo has more than one Breach of Security during the Term of this Agreement.

5.3. Privacy. (a) Olo shall not retain, use, or disclose PII other than as permitted under this Agreement, as directed by Customer, or as otherwise permitted or required by applicable Law.

(b) Customer shall (i) ensure that Customer Data acquired by Customer is acquired in accordance with applicable privacy Laws and (ii) not interfere with any independent efforts by Olo to provide notice or obtain End User consent for Borderless Customer Data. Customer will have, and ensure that each of Customer's ordering website, mobile application or other digital property contains, an easily accessible and discoverable privacy policy that complies with all applicable Laws governing notice to End Users and discloses usage of third-party technology to collect and use data in connection with the Services.

## 6. Representations and Warranties

6.1. Each party represents and warrants that (a) it has the legal power and authority to enter into this Agreement; (b) it will not violate, or use or provide the Services (as applicable) in violation of, any

applicable Laws, including any applicable privacy laws, or any third party right; (c) it will use or provide the Services (as applicable) in compliance with its agreements with third parties; and (d) it will comply with the terms of the Olo Security Policy, which are incorporated into this Agreement by reference. Olo further represents and warrants that (i) it will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof, and (ii) its Security Policy will be no less stringent throughout the Term, and for two (2) years following the termination of this Agreement, than is as described at www.olo.com/security-policy. Customer further represents and warrants that, (x) it owns or has obtained, and hereby grants to Olo, all necessary rights and **licenses in and to Customer's** sites and other digital properties used in connection with the Services in order for Olo to provide the Services; (y) it has or otherwise obtained the necessary rights and consents in and relating to the Customer Data for Olo to store, collect, use and disclose such Customer Data in accordance with this Agreement and **Customer's** privacy policy (currently available at https://www.dairyqueen.com/en-us/privacy-statement/, as may be updated by Customer from time to time), including consents required under applicable privacy Laws and if applicable, Laws related to text messaging and email communications; and (z) Customer will be solely responsible for all use of the Services by Customer. Notwithstanding the foregoing, or anything to the contrary under this Agreement, Customer will not be responsible or liable in any manner for the use of the Services, acts and/or omissions of Authorized Operators under this Agreement.

6.2. No Viruses or Malicious Code. Olo uses commercially reasonable efforts to ensure that the Services and the software used by Olo to provide the Services do not contain, and that Olo will maintain industry standard security to prevent infection with, any virus or other software routine designed to erase, disable, or otherwise harm the Licensed Applications **or Customer's, Authorized Operators', or End Users'** equipment, data, or other software.

6.3. OLO MAKES NO REPRESENTATION OR WARRANTY OTHER THAN THOSE SET FORTH IN THIS AGREEMENT. THE WARRANTIES STATED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## 7. Indemnification

7.1. Each Party (in such capacity, the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party and its officers, **directors and employees (each an "**Indemnified Party**") from all** damages finally awarded against the Indemnified Party, costs, expenses, claims and liabilities (**including reasonable outside attorney's** fees) arising out of or relating to the Indemnifying **Party's (i) negligent acts or omissions including the** negligent acts or omissions, or willful misconduct of its employees, subcontractors or representatives and with respect Customer, its Third Party Providers (to the extent related to such Customer Third Party **Provider's provision of services to Customer and/or** its Authorized Operators); (ii) breach of Section 3, 5 or 6; or (iii) infringement or misappropriation of a **third party's trade secret, or** United States patent, trademark or copyright in connection with (a) with respect to Olo, the software or other technology Olo uses to provide the Services to Customer hereunder and (b) with respect to Customer, the technology, data, or other materials Customer provides or uses **with the Services ("**Customer Materials**") (the** indemnification obligation of each Party described in **this clause (iii), the "**IP Infringement Obligation**").** The previous sentence states the sole liability of the Indemnifying Party, and the sole remedy of the Indemnified Party, with respect to any third-party **claim arising out of the Indemnifying Party's** negligent acts or omissions, breach of Section 5 or 6, or misappropriation or infringement of intellectual property.

7.2. Additionally, Customer shall defend, indemnify and hold harmless Olo and its officers, **directors and employees (each, an "**Indemnified Party**") from all third**-party claims and liabilities (**including reasonable outside attorney's fees) arising** out of or relating to (i) any action against Olo arising **out of any Customer Third Party Provider's** disclosure or misuse of Customer Data or related to **Olo's release of such Customer Data, including PII,** if the release of such information was requested in **writing by Customer; (ii) Customer's failure to** properly collect and remit taxes or other government payments or fees associated with its usage of the Services, which shall be the sole responsibility of the Customer and, if applicable, the Authorized Operators; and (iii) any Customer Third Party

Provider's access to or use of the Services to the extent related to such Customer Third Party Provider's provision of services to Customer and/or its Authorized Operators.

7.3. The Indemnified Party must (a) promptly notify the Indemnifying Party in writing of any third-party claim (provided that a failure to promptly notify will not relieve the Indemnifying Party of its indemnification obligations, except to the extent it has been prejudiced by such failure); (b) reasonably cooperate with the Indemnifying Party in the defense of the matter; and (c) give the Indemnifying Party primary control of the defense of the matter and negotiations for its settlement. The Indemnified Party may, at its own expense, join in the defense with counsel of its choice. The Indemnifying Party may not enter into a settlement unless it (i) involves only the payment of monetary damages by the Indemnifying Party, and (ii) includes a complete release of liability in favor of the Indemnified Party; any other settlement will be subject to the written consent of the Indemnified Party (not to be unreasonably withheld).

7.4. Olo's IP Infringement Obligation will not apply to claims to the extent arising from (i) Customer's use of the Licensed Applications or Services in violation of this Agreement, (ii) the Customer Materials' infringement or misappropriation of a third party's trade secret, or U.S. patent, trademark, or copyright, or (iii) to the extent the infringement claim is based on the combination, operation, or use of the Service(s) with any product, service or material not provided by Olo or on Olo's behalf. Customer's IP Infringement Obligation will not apply to claims to the extent arising from (a) Olo's provision of the Service in violation of this Agreement, or (b) Olo's infringement or misappropriation of a third party's trade secret, or U.S. patent, trademark, or copyright. If a Service is, or in Olo's reasonable opinion is likely to be, ruled by a court of competent jurisdiction as infringing upon a third party's intellectual property, Olo will promptly notify Customer and, at Olo's sole option and expense, either: (a) procure the right to continue providing the Service as contemplated by this Agreement, (b) modify the Service to render it non-infringing, or (c) replace the Service with a substantially equivalent, non-infringing service. If none of the foregoing options is commercially practicable, then each Party will have the right to terminate this Agreement with respect to the infringing Service.

## 8. Limitation of Liability

EXCEPT FOR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF CONFIDENTIALITY, (A) IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOST PROFITS OR CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, EVEN IF ONE OR BOTH PARTIES KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) EACH PARTY'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT WILL NOT EXCEED FOUR (4) TIMES THE AGGREGATE AMOUNT OF FEES PAID OR PAYABLE TO OLO BY CUSTOMER AND ALL AUTHORIZED OPERATORS IN CONNECTION WITH OLO'S PROVISION OF THE SERVICES DURING THE TWELVE (12) MONTHS BEFORE THE DATE WHEN THE LIABILITY AROSE. THE PARTIES ACKNOWLEDGE THAT THE TERMS OF THIS SECTION 8 REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF LIABILITY.

## 9. Term and Termination

9.1. Term – Generally. The Term of this Agreement shall begin on the Effective Date and shall remain in force for a period that shall expire once the Order Form(s) have terminated and the Transition Assistance Period is complete. This Agreement may terminate earlier as provided in Section 9.2, Section 2(g) of the Digital Ordering Terms & Conditions Addendum, or as the parties may otherwise agree in writing.

9.2. Termination for Cause; Reasonable Opportunity to Cure Breach. If a party materially breaches any material provision of this Agreement, the non-breaching party may terminate this Agreement by giving thirty (30) days' notice to the other party, except that such a termination shall not

take effect if the breaching party cures the breach before the end of such thirty (30) day period. Material provisions shall include, but not be limited to, breaches of 3.1 (License), 3.2 (Proprietary Rights), 3.4 (Trademark License), and 5 (Confidentiality; Security; Privacy).

9.3. Immediate Termination. Either Party may immediately terminate this Agreement upon written notice to the other Party if:

(a) the other Party (i) files for bankruptcy or its **creditors file for the other Party's involuntary** bankruptcy, and the bankruptcy is not dismissed within ninety (90) days, (ii) is the subject of any proceedings not dismissed within ninety (90) days related to its liquidation, insolvency or the appointment of a receiver or similar officer for the other Party, (iii) makes an assignment for the benefit of all or substantially all of its creditors, (iv) takes any corporate action for its winding-up, dissolution or administration, or (v) is no longer able to pay its debts in the ordinary course of business;

(b) the other Party, or any of its directors or officers, is charged with or convicted of a felony or any administrative, criminal or civil action alleging fraud, unfair or deceptive practices, or comparable allegations, or becomes the subject of any federal or state level governmental action which, in the Party's sole judgment, may inure or bring discredit upon the Party, its trademarks, or the goodwill associated with them;

(c) the other Party has a third default within any twelve (12) month consecutive period; or

(d) the other Party breaches any provision of this Agreement or an Order Form that provides for immediate termination.

9.4. Suspension of Access. Olo reserves the right **to suspend Customer's access to all or any portion of the Services ("Service Suspension") without notice if** (a) Olo reasonably determines that there is a threat or attack on the Service or the Licensed Applications, **(b) Customer's use of the Services or Licensed** Applications disrupts or poses a security risk to the Services or Licensed Applications or to any End User or vendor of Olo, or (c) Customer is using the Services or Licensed Applications for fraudulent or illegal activities. Olo shall use commercially reasonable efforts to inform Customer of any Service Suspension and to provide updates regarding resumption of access to the Services and/or Licensed Applications following any Service Suspension. Olo will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences the Customer or any third party may incur as a result of a Service Suspension.

9.5. Effect of Termination.

(a) The termination or expiration of this Agreement terminates all Statements of Work, Order Forms and the provision of Services to all Authorized Operators.

(b) Notwithstanding termination of this Agreement, any provisions of this Agreement that by their nature are intended to survive, will survive termination (including for the avoidance of doubt the provisions of Section 3.3, 5, 6, 7, 8).

(c) In connection with the expiration or termination of this Agreement, any Statement of Work, and/or any Order Form hereunder for any reason, and notwithstanding any dispute between the Parties, Olo will provide to Customer Transition Assistance Services for the Transition Assistance Period or as otherwise agreed upon between Customer and OLO as follows:

(i) Applicable Requirements and Access. Olo will provide to Customer the applicable requirements, standards, policies, operating procedures or other documentation that Olo, in its sole discretion, deems: (y) reasonably relate to the affected Services, and (z) are required to execute the orderly transition of such Services. Olo will also answer all reasonable and pertinent verbal or written questions from Customer regarding the Services on a commercially reasonable "as needed" basis. Customer will be responsible for **any such information provided to Customer's** designated third-party service provider in accordance with Section 5 of this Agreement;

(ii) Development of Transition Assistance Plan. Olo and Customer will work together to develop a mutually agreed transition assistance plan, methodology and timeline;

(iii) Comparable Prices. Olo will not raise prices for continuing Services during the Transition Assistance Period, and will charge fair market value prices for services that were not performed for Customer prior to termination or expiration of the Agreement; and

(iv) Absolute Obligation. Olo agrees that it has an absolute and unconditional obligation to provide Customer with Transition Assistance Services, and Olo's quality and level of performance during the Transition Assistance Period will continue to adhere to all requirements of this Agreement.

10. **Insurance**

10.1. Required Coverage. At all times during the Term, Olo shall procure and maintain, at its sole cost and expense, insurance coverage in the following types and amounts:

(a) Commercial General Liability, with limits no less than $1,000,000 per occurrence and $2,000,000 in the aggregate, written on a comprehensive form and including coverage for premises and operations, **including coverage for independent contractors'** liability; products and completed operations; personal injury liability; broad form property damage liability; and contractual liability to cover liability assumed under this Agreement.

(b) Professional Cyber Liability / Technology Errors and Omissions with a limit of no less than $10,000,000 in the aggregate and providing coverage for Olo employees, including part time, temporary, leased, and seasonal employees, as well as contractors of Olo, who are acting within their scope of employment. Cyber Liability shall include coverage for loss or damage due to an act, error, omission, or negligence. This policy shall include coverage for tech and professional services wrongful acts, tech product wrongful acts, media wrongful acts, and data and network wrongful acts, breach response costs, regulatory defense and penalties, payment card liabilities and costs, including PCI fines, and, first party data and network loss. Data breach response costs include, but are not limited to, consumer notification, computer forensic investigations, public relations and crisis management firm fees, and credit monitoring, identity monitoring, or other personal fraud or loss prevention solutions for individuals whose Personal Data was potentially impacted by a data breach.

(c) Worker's Compensation and employers' liability insurance with limits no less than the greater of either $1,000,000 or the minimum amount required by applicable Law for each accident and occupational illness claim.

(d) Umbrella Liability coverage with a limit of no less than $5,000,000 in the aggregate, and $5,000,000 per occurrence. Umbrella Liability coverage does not apply to the Professional Cyber Liability / Technology Errors and Omissions policy described above.

10.2. Policy Terms. All insurance policies required pursuant to this Section 10 shall:

(a) be issued by insurance companies with an AM Best's Rating of no less than A-VIII;

(b) name Customer as an Additional Insured on **the Commercial General Liability, Worker's** Compensation, and Umbrella Liability policies;

(c) for policies the Customer is named as an Additional Insured on, Olo shall waive any right of subrogation of the insurers against the Customer, or any of its Affiliates;

(d) for policies the Customer is named as an Additional Insured on, Olo agrees those policies shall be primary insurance and any similar insurance in the name of and/or for the benefit of Customer shall be excess and non-contributory.

10.3. To the extent any insurance coverage required under this Section 10 is purchased on a "claims-made" basis, such insurance shall cover all prior acts of Olo during the Term and any additional periods during which Olo does or is required to perform the Services.

10.4. Olo shall provide Customer with a certificate of insurance for any insurance coverage required by this Section 10 within 30 **days following Olo's receipt** of a written request for such certificate(s) from Customer.

10.5. This Section 10 is not intended to and shall not be construed in any manner as to waive, restrict, or limit the liability of either party for any obligations under this Agreement, including any provisions hereof requiring a party to indemnify, defend, and hold harmless the other party.

11. **Miscellaneous**

11.1. Notices. All notices and other communications sent under this Agreement must be in writing (including by email) and will be deemed effective when delivered. All notices shall be sent to the applicable mailing address or email address set forth on the signature page hereof.

11.2. Governing Law. This Agreement is governed by and construed in accordance with the laws of New York, without regard to the conflicts of law rules thereof. The parties consent to the exclusive jurisdiction and venue of courts in New York County, New York for all disputes hereunder.

11.3. Assignment. Neither party may assign or transfer any part of this Agreement without the prior written consent of the other Party except that this Agreement may be assigned without consent: (a) to a

person or entity who acquires all or substantially all **of the assigning Party's assets, stock or business,** and (b) to any affiliate or subsidiary of a Party; in each case, so long as the assignee accepts the obligations hereunder in writing. Any purported assignment of rights or obligations, except as expressly permitted herein, will be null and void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties and their respective permitted successors and assigns.

11.4. Severability. If any provision of the Agreement is found unenforceable, it and any related provisions will be interpreted to best accomplish the **unenforceable provision's essential purpose.**

11.5. Relationship of Parties. The Parties are independent contractors, and this Agreement does not create an agency, partnership, or joint venture. Each Party to this Agreement acknowledges that such Party has been represented by legal counsel in preparation of this Agreement. No provisions of this Agreement shall be construed against or interpreted to the disadvantage of any Party hereto by any court or other governmental or judicial authority by reason of such Party having or being deemed to have structured or dictated such provision.

11.6. Amendment/Modification. This Agreement may be modified or amended only by a separate writing signed by Olo and Customer expressly so modifying or amending this Agreement.

11.7. Certain Remedies. The parties acknowledge that the breach of Sections 3 and 5 will give rise to irreparable injury to the non-breaching party inadequately compensable in damages. Accordingly, the parties agree that injunctive relief will be an **appropriate remedy to prevent violation of the parties'** respective rights and/or obligations under those two sections. However, nothing in this Section 10.8 shall **limit a party's right to any other remedies in equity or** at law, including the recovery of damages.

11.8. Force Majeure. Neither party will be deemed to be in default of or to have breached any provision of this Agreement as a result of any delay, failure in performance or interruption of service, resulting directly or indirectly from acts of God, acts of civil or military authorities, civil disturbances, wars, fires, cyber terrorism, cyber-attacks or brute force attacks, espionage, sabotage, other catastrophes, and other causes beyond its reasonable control **(a "Force Majeure Event").** If a Force Majeure Event continues for longer than thirty (30) days, either party may terminate the Agreement by providing written notice to the other party.

11.9. Interpretation. If there is an inconsistency between the terms of this Agreement and the terms of an Order Form, the terms of the Order Form shall control.

11.10. Counterparts. This Agreement may be executed in two counterparts, which together shall constitute but one and the same instrument. Executed counterparts transmitted electronically (via email or e-signature software) shall constitute originals for all intents and purposes.

11.11. Waiver. A waiver by either party of any term or condition of this Agreement in one or more instances will not constitute a permanent waiver of the term or condition or any other term or condition of this Agreement or a general waiver.

11.12. Entire Agreement. Each Order Form (each of which is incorporated herein by reference), all terms and conditions which are referenced herein and are available at olo.com, and this Agreement (including each of the applicable Addendums), constitute the entire agreement between the parties and supersedes any prior oral or written agreements between the parties concerning the subject matter hereof.

[*signature page follows*]

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

| American Dairy Queen Corporation | Olo Inc. |
|---|---|
| By Kevin Baartman<br>Kevin Baartman (Sep 29, 2023 11:35 CDT) | By<br>Noah Glass (Sep 29, 2023 12:37 EDT) |
| Name<br>Kevin Baartman | Name<br>Noah Glass |
| Title<br>E.V.P. - Information Technology | Title<br>Founder & CEO |
| Mailing Address for Notices:<br><br>8331 Norman Center Drive, suite 700<br>Bloomington, MN 55437<br>Attn: Legal Dept.<br><br>Email Address for Notices:<br>Elisa.Edlund@idq.com | Mailing Address for Notices:<br><br>99 Hudson Street, Floor 10<br>New York, NY 10013<br>Attn: Olo Legal Dept<br><br>Email Address for Notices:<br>notices@olo.com |

**Digital Ordering Terms & Conditions Addendum**

This Addendum forms a part of the Agreement and is applicable upon execution of an Order Form pursuant to which the Licensed Applications will power Customer's direct **digital ordering solution ("Digital Ordering").** For **avoidance of doubt, Digital Ordering does not include indirect digital orders processed through Olo's Rails** solution. In the event that this Addendum conflicts with the Agreement or there is an inconsistency, this Addendum shall control. Unless otherwise defined herein, capitalized terms have the meanings ascribed to such terms in the Agreement.

1. Exclusivity. **During the Term, Olo shall be Customer's preferred provider of Digital Ordering** applications to the DQ system. Customer and/or Authorized Operators (if applicable) shall have the right to use Marketplaces at their sole discretion.
2. Service Level. During the Term, Digital Ordering will be operational and available to Customer at least 99.9**% of the time in any calendar month (the "SLA"). The SLA th**resholds and applicable service credits are as follows:
    a. If Olo does not meet the SLA, and if Customer meets its obligations under the Agreement and this Addendum, Customer will be eligible to receive the Service Credits described below. This **SLA states Customer's sole and exclusive remedy for any failure by Olo** to meet the SLA.
    b. Definitions. The following definitions shall apply to the SLA:
        i. "Downtime" **means the period of time during which Digital Ordering fails to be** operational and available to End Users to place a digital order (for reasons other than those set forth below) until Digital Ordering again becomes operational and available to End Users.
        ii. "Permitted Downtime" **means the period of time** during which Digital Ordering fails to be operational and available due to software upgrades and scheduled maintenance, conducted on a regular basis between 3:00 a.m. and 6:00 a.m. Eastern Time, of which Olo will use commercially reasonable efforts to give Customer and Authorized Operator a minimum of twenty-four (24) hours advanced notice. Notwithstanding the foregoing, Olo shall be permitted to take up to five (5) minutes of downtime on any day during the calendar year between 4:00 a.m. and 6:00 a.m. Eastern Time without prior notice to Customer.
        iii. "Monthly Uptime Percentage" means the total number of minutes in a calendar month minus the number of minutes of Downtime suffered in a calendar month, divided by the total number of minutes in a calendar month.
        iv. "Service Credit" means the following:

| Monthly Uptime Percentage | Service Credit* |
|---|---|
| 99.9% - 99.5% | 10% reduction in Digital Ordering Monthly Fee (defined below) |
| 99.49% - 98.0% | 20% reduction in Digital Ordering Monthly Fee |
| 97.99% - 96.0% | 30% reduction in Digital Ordering Monthly Fee |
| 95.9% - 93% | 50% reduction in Digital Ordering Monthly Fee |
| <93% | 100% reduction in Digital Ordering Monthly Fee |

*Service Credit shall be calculated using the fixed monthly fee charged to Customer for Digital **Ordering (the "Digital Ordering** Monthly Fee**")** for the month in which Olo does not meet the **SLA, and shall be applied to the following month's invoice.**

c. The aggregate maximum Service Credit to be issued by Olo to Customer for all Downtime (not including Permitted Downtime) that occurs in a single calendar month shall not exceed one hundred percent (100%) reduction **in the next month's fees.**

d. The SLA does not apply to any Downtime to the extent it was caused by: (i) Customer or Authorized Operator environment issues affecting connectivity or interfering with Digital Ordering**, including without limitation, Customer or Authorized Operator's connection to the Internet (i.e., problems with the Customer or Authorized Operator's Internet Service Provider,** modem, cable, DSL or dial-up connection, mobile phone connection or other Customer or Authorized Operator Internet connectivity issues) or any other Customer or Authorized Operator equipment or software (including third party attacks, including without limitation, hacks, intrusions, distributed denial-of-service attacks or any other third party actions intended to cause **harm to or disrupt Customer's Third Party Pro**viders, including without limitation, e-commerce software, payment gateways, Marketplaces, and loyalty or rewards providers, that are integrated **into the Olo APIs), Customer or Authorized Operator's firewall software, hardware or security** settings, Customer **or Authorized Operator's configuration of anti-**virus software or anti-spyware **or malicious software, Customer's use of or placement of Javascript code and/or other tracking or** measurement software or code (including Google Analytics), or operator error of Customer or Authorized Operator; (ii) directly or indirectly integrating any Marketplace orders into the POS; **(iii) Customer or Authorized Operator's Point of Sale (POS) failure(s) or the failure to properly** maintain the POS environment, including updating the POS firmware or version of the software running on the POS as recommended by either Olo, a third party POS reseller or servicer, or the POS provider themselves; (iv) third party outages, verified bugs of any third party software used by Customer, Authorized Operator, or Olo in conjunction with Digital Ordering, or failure of third party professional services not provided by Olo; (v) outages of any third party vendors selected by Customer or Authorized Operator; (vi) force majeure events as described in Section 10.9 of the Master Services Agreement or any other events not foreseeable or preventable by Olo **despite Olo's commercially reasonable efforts**; (vii) issues related to third party domain name system (DNS) errors or failures; (viii) emergency maintenance of the Licensed Applications, including without limitation, suspension of Licensed Applications in response to a Breach of Security, or due to Olo following its incident response plan in response to a suspected Breach of Security, or a voluntary election by Olo to suspend services for a limited period of time to address a serious malfunction, for which Customer or Authorized Operator may not receive advanced notice; (ix) Permitted Downtime; or (x) any Service Suspension.

e. Olo will post notifications publicly to https://status.olo.com of any outages in production systems under its control and that may impact multiple customers for more than one (1) minute in any twenty-four (24) hour period other than as permitted under Section 2(b)(ii) above. Olo may occasionally post notifications of significant outages at third party providers, which may include **Customer Third Party Providers, outside of Olo's control, such as payment, POS, loyalty,** Delivery Service Providers, or Marketplaces. Olo cannot be relied upon for comprehensive **reporting of outages at third party providers and makes no representation that Olo's information is accurate or up to date. Olo's incident response procedures prioritize triaging and** problem resolution over public communication, which may result in delays in posting status updates. Timestamps on status updates may not reflect the actual times of an incident.

f. If Olo does not meet a Monthly Uptime Percentage of 99%, as defined herein, in any three consecutive months during the Term, the Customer has the right to terminate the Agreement with thirty (30) days written notice to Olo.

**Dispatch Services Terms & Conditions Addendum**

This Addendum forms a part of the Master Services Agreement and is applicable upon execution of an Order Form in which the parties have agreed that Olo will provide the Customer with its delivery platform allowing for the scheduling and billing of delivery services ("Dispatch"). In the event that this Addendum conflicts with the Agreement, or there is an inconsistency, this Addendum shall control. Unless otherwise defined herein, capitalized terms have the meanings ascribed to such terms in the Agreement.

**1. Definitions**

**"Available Delivery Service Providers" shall mean the Delivery Service Providers who have been selected and** approved by Olo to create a Profile on the Platform and are available to Customer (to the extent applicable) to make deliveries to End Users in a given Delivery Area on behalf of Customer.

**"Confirmed Delivery Response" shall mean that the Platform has transmitted an End User delivery request to a** Selected Delivery Service Provider(s) that has responded back with an acceptance of that delivery request.

**"Delivery Area" shall mean the area(s) in which a Delivery Service Provider offers delivery service to End Users.**

**"Delivery Fees" shall mean the fees that are quoted by Olo as "delivery service fees" plus a tip (if any) added to** the payment form the End User fills out for the delivery of the Product.

**"Delivery Guidelines" shall mean the rules and responsibilities associated with** the delivery of the Product to the End User, which are located at www.olo.com/delivery-guidelines and which may be updated by Olo from time to time.

**"Delivery Service Providers" shall mean the providers of delivery services, selected by Olo and given access** to the Platform by Olo, that use their own employees or independent delivery drivers.

**"Delivery Requirements" shall mean the requirements established by Customer in the Platform relating to the** selection of the Delivery Service Providers who may be Available Delivery Service Providers for Customer.

**"Platform" means the system operated by Olo that allows Customers to provide Delivery Requirements and place** requests with Olo to deliver Products to End Users and facilitates through those Delivery Service Providers who meet the Delivery Requirements, including any associated application program interfaces and technology and any enhancements or modifications thereto.

**"Profile" means the information provided by a Delivery Service Provider for review by Olo** and as updated by Olo quarterly or upon material changes, in order to allow the Delivery Service Provider to participate on the Platform.

**"Selected Delivery Service Provider" means an Available Delivery Service Provider that is selected by Olo on** behalf of Customer (based on the Delivery Requirements established by Customer) to deliver a given order for Products to End Users on behalf of the Customer in the Delivery Area.

**2. Selection of Delivery Service Providers**

**2.1 Available Delivery Service Providers.** As part of the Platform, Olo allows Delivery Service Providers to sign up for use of the Platform and complete a Profile. Customer may access a list of Available Delivery Service Providers based on the Delivery Requirements.

**2.2 Selection of Available Delivery Service Providers**. Olo will select the Selected Delivery Service Providers based on the Delivery Requirements and the Profiles of Available Delivery Service Providers in each Delivery Area. Notwithstanding the foregoing, to the extent that Customer does not provide any parameters for Olo to choose an Available Delivery Service Provider, one shall be selected automatically by Olo. Customer may change its Delivery Requirements at any time in its sole discretion.

**3. Delivery**

**3.1 Quotes.** Olo provides Customers with access to the Platform in order to request and receive delivery quotes (delivery time and pricing) and Olo will provide such quotes if there is an Available Delivery Service Provider available for a given order.

**3.2 Availability.** The Customer may seek a bid for the delivery to a given End User of the Product(s) ordered by that End User through the Platform. Each Selected Delivery Service Provider who is available to make a delivery in a given Delivery Area may respond to the request for a delivery and the delivery order will be assigned based upon the Delivery Requirements provided by Customer. If a delivery response does not meet that Customer's Delivery Requirements, or any additional filters or criteria which may be applied by Olo from time to time, then delivery may not be available for that End User order.

**4. Additional Obligations**

**4.1 Olo Obligations.** In addition to the other obligations set forth in this Agreement, Olo shall also use commercially reasonable efforts to: (a) require that the Delivery Service Providers maintain an accurate Profile; (b) require that the Delivery Service Providers maintain and enforce strict guidelines for their drivers, including any independent delivery drivers; (c) require that the Delivery Service Providers' use of the End User data is subject to Olo's privacy policy in effect at the time; (d) require that no End User PII is used by Delivery Service Providers to market any additional products or services to those End Users; and (e) require that all End User PII will be secured from unauthorized access, use, disclosure, loss and theft using industry standard security practices and technologies.

**4.2 Customer Obligations.** In addition to the other obligations set forth in this Agreement, Customer and/ Authorized Operators as applicable, shall also use commercially reasonable efforts to: (a) ensure they comply with the Delivery Guidelines; (b) ensure that they promptly respond to all End Users' inquiries; (c) use the Platform to promptly respond to all End User issues, including cancellations and refunds; and (d) use best efforts to create tickets in Dashboard or the Olo API, as applicable, for Selected Delivery Service Providers for issues related to the order or delivery in question. To the extent Customer integrates directly with the Olo API, Customer hereby agrees to any additional terms of service that may be applicable to its Selected Delivery Service Providers. Customer shall not create any obligation of the Delivery Service Provider or Olo to provide any refund other than as specifically set forth in the Delivery Parameters and Refund Matrix located at www.olo.com/delivery-parameters-and-refund-matrix.

**5. Third Party Beneficiaries**

To facilitate direct dispute resolution between Customer and each Selected Delivery Service Provider in connection with Customer's use of delivery services, Customer's Selected Delivery Service Providers are third-party beneficiaries of Customer's obligations as set forth herein, and Customer is a third-party beneficiary of Customer's Selected Delivery Service Providers' obligations as set forth in their agreements with Olo. Olo will indicate to Customer through the Platform which Delivery Service Providers are subject to such third-party beneficiary obligations. Olo's Delivery Service Providers which have contractually committed to such third-party beneficiary obligations have agreed not to assert a defense based on lack of privity against any Customer seeking

to enforce their third-party beneficiary rights hereunder. For avoidance of doubt, this Section 5 shall only apply to the extent Customer does not have a direct contractual relationship with a Delivery Service Provider.

**6. Disclaimer.**

OLO MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OF ANY PROFILE INFORMATION AND OLO MAKES NO INDEPENDENT VERIFICATION OF THE INFORMATION PROVIDED BY A DELIVERY SERVICE PROVIDER (OTHER THAN THE REPRESENTATIONS AND WARRANTIES MADE BY THAT DELIVERY SERVICE PROVIDER AS TO THE ACCURACY OF THE PROFILE INFORMATION). OLO MERELY MAKES A PLATFORM AVAILABLE TO FACILITATE THE INTERACTIONS BETWEEN DELIVERY SERVICE PROVIDERS AND CUSTOMERS. OLO IS NOT RESPONSIBLE FOR THE PERFORMANCE OF DELIVERY SERVICE PROVIDERS. OLO DOES NOT PROVIDE THE DELIVERY SERVICES, AND THEREFORE DOES NOT ASSUME, AND EXPRESSLY **DISCLAIMS, ANY LIABILITY ARISING FROM CUSTOMER'S USE OF THE DELIVERY SERVICES AND THE SELECTED DELIVERY SERVICE PROVIDERS' PROVISION OF THE DELIVERY SERVICES.**

**Rails Terms & Conditions Addendum**

This Addendum forms a part of the Master Services Agreement and is applicable upon execution of an Order Form in which the parties have agreed that Olo will provide Customer with its Marketplace integration and management platform ("Rails"). In the event that this Addendum conflicts with the Agreement, or there is an inconsistency, this Addendum shall control. Unless otherwise defined herein, capitalized terms have the meanings ascribed to such terms in the Agreement.

"Rails" means the service, provided by Olo, and utilized by Customer and/or Authorized Operator (to the extent applicable) at their sole discretion, in which Marketplaces connect to the Olo platform in order to (a) receive Customer Data including, but not limited to, store location data, menu item availability, menu modifier and sub-modifier information, product make times, available capacity, and item pricing; (b) transmit orders made by End Users on Marketplace website or mobile application to the Customer's Point of Sale systems (POS) through the Olo APIs; (c) monitor and report Marketplace activity; and, at Customer's sole discretion, (d) control order flow into the store.

In order for Customer to utilize Rails, Customer consents to allow Olo to transfer, or otherwise provide access to, certain Customer Data, including but not limited to, menu information and general restaurant information to each Marketplace selected by Customer. Olo will not share any PII with the Marketplace. Any Customer Data transferred to the Marketplace may only be used by such Marketplace for the limited purpose outlined above, namely use of Rails. Customer agrees that Olo shall have no liability to Customer for the granting of access to, or the misuse of such data, by any Marketplace, or any other claims arising out of or related to the granting of access to the data.

During the Term, Olo shall be Customer's preferred provider of integration services for Marketplace ordering platforms to the DQ system.

## Support Services Addendum

1. **Definitions**

"Platform Incident" **means a functional issue, performance degradation, or fault of the** Services. See the classification of these Platform Incident Escalations in Section 3.

"Support" **means technical and operational assistance related to the** Services provided by Olo to Customer and Authorized Operators.

2. **Support Resources, Availability & Response Time**

| **Resource** | **Availability** | **Initial Response Time** |
|---|---|---|
| Technical Support Email and Olo.com Help Center Requests | 9:00 AM ET - 12:00 AM ET (7 Days a Week) | 24 Hours |
| Technical Support Phone Requests | 9:00 AM ET - 6:00 PM ET (Weekdays) | Based on availability; 24 Hours |
| Deployment and Customer Success Manager Support Requests | 9:00 AM ET - 6:00 PM ET (Weekdays) | 1 Business Day |
| Platform Status | 24 X 7 via status.olo.com | N/A |

3. **Platform Incident Escalations**

Escalation support matrix. Standard support matrix applies excluding P1, P2 or P3 as detailed below. Support priorities and for all services provided to Customer and its Authorized Operators under the following schedule:

| **Priority** | **P1** | **P2** | **P3** |
|---|---|---|---|
| **Definition** | Critical or Emergency Fault | Non-Escalated Medium Risk Fault | Low Risk Fault |
| **Initial Response Time** | 1 Hour | 2 Hours | Next Business Day |
| **Restoration** | 2 Hours | 24 Hours | Commercially Reasonable Time |
| **Priority Definition Level** | Critical or Emergency Fault shall mean: 1) Services are unavailable, and such | Medium Risk Fault shall mean Olo services are unavailable and key | Low Risk Fault shall mean a fault where performance is not |

| | | | |
|---|---|---|---|
| | unavailability directly contributes to a problem that prohibits End Users from placing a digital order; and/or **2) a problem wherein Olo's** services result in a rapid increase of calls over a short **period to the Customer's third** party helpdesk (10 or more calls in 15 minutes) thus demonstrating a trend. | functionality of the Services are interrupted or unavailable to an End User at a single Customer or Authorized Operator location. In such cases, Olo will direct Authorized Operator to contact their Service Desk. | affected or an issue does not negatively impact End Users. |

**EXHIBIT A**

**AUTHORIZED OPERATOR TERMS & CONDITIONS (ADOPTING)**

These Authorized Operator Terms & Conditions **("AO T&Cs")** govern the use of the Services by the authorized *DQ*® franchisee that is accessing or using the Services **("Authorized Operator")**.

On 09/28/2023, Olo, **Inc. ("Olo") and American Dairy Queen Corporation ("Customer") entered into** a Master **Services Agreement (as amended, supplemented or otherwise modified from time to time, the "Master Services Agreement").** Olo and Customer have also entered into one or more Order Forms (as amended, supplemented or otherwise modified from time to time, each an "Order Form" **and,** collectively with the Master Services Agreement, **the "Agreement") in connection with Olo's provision of Services** (as defined in the Agreement) to Customer and its Authorized Operators.

Authorized Operator desires to use the Services in accordance with the terms of the Agreement and intends to adopt certain terms of the Agreement, including certain liability provisions, for Olo to bill Authorized Operator directly **with respect to fees and charges incurred in connection with Authorized Operator's use of the Services.** Authorized **Operator's access to and use of the Service is conditioned on its acceptance of and compliance with these AO T&Cs.** By accessing or using the Service, Authorized Operator agrees to be bound by these AO T&Cs.

**1.** Adoption and Amendments. Authorized Operator hereby adopts and approves the terms of the Agreement, subject to the amendments specified in this Section 1 below (such amended Agreement, the **"Adopted Agreement"), and agrees to be bound by the terms of the Adopted Agreement:**

**a.** References to Customer in the Adopted Agreement shall be changed to Authorized Operator. Any capitalized terms used but not defined herein shall have the meanings ascribed to them pursuant to the Adopted Agreement.

**b.** The Adopted Agreement shall be coterminous with the Agreement, unless these AO T&Cs are terminated earlier in accordance with Section 3 below.

**c.** The notice contact information for Authorized Operator under the Adopted Agreement shall be the contact information provided by Authorized Operator to Olo during the onboarding process.

**d.** The Adopted Agreement shall exclude any terms in the Agreement relating to rights or obligations applicable to Customer Data, press releases, Customer Trademarks, obligations with respect to franchisees, or service credits. Any such terms in the Agreement shall be deleted in the Adopted Agreement.

**e.** The Adopted Agreement shall only include any fees or charges under the Agreement that are (i) charged on a per location or per transaction/order/unit basis, and (ii) applicable to the use of the Services by the Authorized Operator or by locations operated by the Authorized Operator (including any fees or charges associated with transactions/orders/units conducted with locations owned or operated by the Authorized Operator). All other fees or charges set forth in the Agreement shall be deemed deleted in the Adopted Agreement.

**f.** Subject to clause (d) of this Section 1, the Adopted Agreement shall automatically incorporate any change, supplement, amendment, amendment and restatement, or other modifications made to the Agreement by Olo and Customer and the Adopted Agreement shall be deemed to have been changed or modified accordingly; provided, that Customer will be solely responsible for notifying Authorized Operator of any modifications to the Agreement (including, for clarity, pricing updates and changes with respect to Services that are mutually agreed in writing by Customer and Olo). Authorized Operator hereby ratifies such changes or modifications.

2. Representations; Warranties; and Obligations.

   a. Authorized Operator represents and warrants that:

      i. Authorized Operator is a franchisee or licensee of Customer and Customer has authorized the Authorized Operator to use the Services;

      ii. Authorized Operator has received a copy of the Agreement from Olo or Customer and is familiar with the terms and conditions therein;

      iii. Authorized Operator (i) has the legal power and authority to enter into this Agreement; (ii) it will not violate, or use the Services in violation of any applicable Laws, including any applicable privacy laws, or any third party right; and (c) it will use the Services in compliance with its agreements with third parties; and

      iv. these AO T&Cs are a legal, valid and binding obligation on Authorized Operator, Customer and Olo and are enforceable against Authorized Operator, Customer and Olo in accordance with its terms.

   b. Authorized Operator will promptly provide Olo with information Olo reasonably requires in connection with onboarding and deployment of the Services. In connection with its use of the Services under the Adopted Agreement, Authorized Operator agrees to facilitate the timely implementation and deployment of the Services in good faith, including complying with the following implementation requirements:
      i. Update bank account name, routing number and account number through Olo Dashboard Portal for Electronic Funds Transfer (EFT) billing; and
      ii. Activate necessary services with payment processor(s) to ensure stores are paid for orders.

   c. Authorized Operator is responsible for providing complete and accurate billing and contact information to Olo, and notifying Olo promptly of any changes to such information.

3. Termination.
   a. Subject to the termination provision of the Adopted Agreement, these AO T&Cs shall govern Authorized **Operator's use of the** Services until the earlier of:
      i. the termination of the Agreement,
      ii. the termination of the franchise agreement between Customer and Authorized Operator,
      iii. Authorized Operator no longer owning or operating the franchised location, in which case these AO T&Cs shall terminate as to such franchised location only,
      iv. Olo providing written notice of termination to Authorized Operator following three (3) months of non-payment; or
      v. **Authorized Operator providing thirty (30) days' prior written notice of termination to** Olo.
   b. Upon termination:
      i. **Authorized Operator's** right to use the Services will cease immediately with respect to all Customer franchised locations of Authorized Operator; and
      ii. neither party will have any further obligations to the other, except for those obligations that either **expressly or by their nature survive such termination, including Authorized Operator's payment to Olo** of all fees accrued prior to the termination date.

4. Notices. All notices and other communications sent under these AO T&Cs must be in writing (including by email) and will be deemed effective when delivered.

5. Governing Law. These AO T&Cs are governed by and construed in accordance with the laws of New York, without regard to the conflicts of law rules thereof.

**EXHIBIT B**

**OLO SECURITY POLICY**

The following Security Policy is available at https://www.olo.com/security-policy/. The parties **acknowledge and agree that the information set forth below reflects Olo's Security Policy on the Effective Date,** and the security program terms of the Security Policy may be updated by Olo from time to time during the Term. Olo agrees to provide written notice to Customer of any material updates and that any future updates to the Security Policy shall impose no less stringent security requirements on Olo than those set forth herein.

**Last Updated: September 8, 2020**

Unless otherwise defined herein, capitalized terms have the meanings ascribed to such terms in the Master Services Agreement (MSA).

A. Customer Responsibilities

1. **Customer will, at Customer's discretion, either (a) incorporate the** Olo Privacy Policy into, or link to the Olo Privacy Policy **from, Customer's digital ordering websites and/or applications; or (b) provide on Customer's digital ordering websites and applications Customer's own privacy policy which complies** with applicable legal requirements and regulations and is consistent with the terms of the Olo Policy.
2. **Customer will, at Customer's discretion, either (a) incorporate the Olo Terms of Use into, or link to the Olo Terms of Use from, Customer's digital ord**ering websites and applications; or (b) provide on **Customer's digital ordering websites and applications Customer's own terms of use agreement to End Users, which terms of use shall require** End Users **to accept responsibility for safeguarding** End Users' account **credentials, and for any activity performed using the End User's account credentials (Customer's own user agreement, together with Customer's own privacy policy, the "Customer Policies")** to release Olo from any activity **performed using the End User's** account credentials, and for any actions or inactions of its End Users .
3. Customer Policies shall include provisions at least as protective of Olo as the provisions of the Olo Privacy Policy. Olo will notify Customer of any material changes to the Olo Privacy Policy that are reasonably likely to require a corresponding change in Customer Policies. Customer shall be responsible for any claims arising out of Customer Policies.
4. Customer may request that Olo make Customer Data available to Customer Third Party Providers in accordance with the process set forth in the Master Services Agreement. If Olo receives a request from a Customer Third Party Provider to share certain Customer Data with such Customer Third Party Provider, Olo will notify the Customer representative, as designated in the Order Form. Upon authorization, Olo will provide Customer Third Party Provider with access to such Customer Data.
5. Customer will not, will not attempt to, and will not assist or knowingly permit any third party to: (i) except as otherwise expressly permitted by Olo copy, reproduce, distribute, republish, download, display, modify, disassemble, decompile, reverse engineer, or create derivative works of any Licensed Application (or portion thereof); (ii) breach, break, decrypt, disable, interfere with, or develop or use any workaround for, or otherwise misuse or damage, any Licensed Application; (iii) copy, distribute, sell, resell, or exploit for any commercial purposes any portion of the Licensed Applications; (iv) use any manual or automated software, devices or other processes, including, without limitation, spiders, robots, scrapers, data mining **tools, and the like, to "scrape" or download data from any web pages contained in the Licensed** Applications; (v) use your access to the Licensed Applications to assist you or a third party, including, but not limited to, a Customer Third Party Provider, in building a competing or similar website, application or service; or (vi) provide access to the Licensed Applications to an unauthorized third party by any means,

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

B. Olo Responsibilities

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

C. Breaches of Security

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

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

D. PCI-DSS

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

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

5. Olo agrees to supply evidence of its most recent Annual Assessment prior to or upon execution of this **Agreement. Thereafter, Olo, upon Customer's reasonable request, shall supply to Customer evidence of** Olo's successful completion of its Annual Assessment.

6. For the avoidance of doubt, and notwithstanding the foregoing, Customer shall be solely responsible for ensuring compliance with PCI DSS (a) of its custom built front end websites, mobile applications, or other web properties, or (b) to the extent Customer has incorporated any custom, non-standard software **code into Olo's standard white label front end website offering. Olo shall have no obligation to monitor** such custom web properties for compliance with PCI DSS or to notify Customer of any noncompliance.

E. Security Vulnerabilities

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

**Order Form #1**

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

**1. Customer**

| | |
|---|---|
| American Dairy Queen Corporation | |
| 8331 Norman Center Drive, Suite 700<br>Bloomington, MN 55437<br>US | |

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

Description of Services and integrations:

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

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

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

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

| Service(s) | # Authorized Operator Locations | Customer Initials |
|---|---|---|
| Ordering | 3,200 | KB |
| Rails | 3,255 | KB |

| | | |
|---|---|---|
| Dispatch | 3,200 | KB |

During the Term, Customer may, in its sole discretion, decide to use the Services described in this Section 2 for locations in addition to the Estimated Locations by providing written notice (email sufficient) to Olo **(such locations, the "Additional Locations"). Olo shall provide additional customer support services when** Customer is prepared to launch Additional Locations.

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

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

**3. Term**

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

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

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

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

| | |
|---|---|
| | the month immediately following the month during which the Active location count reaches the lowest required number of Active locations. Moving down to a tier with less Active locations and higher pricing will occur only once the number of Active locations is more than fifty (50) locations below the threshold number.<br><br>For example, on January 1, Olo will assess the number of Active locations. If the total number of Active locations is 3,800 and that moves the system up into a new pricing tier, then during the month of January Olo will not be able to accommodate location-level changes in Order Packages and the new pricing tier will go into effect as of January 1, as reflected in the January invoices. If on February 1, the total number of Active locations is 3,690, the system tier will not be moved down and will remain the same until the first of such month when the total number of Active locations is either reduced to at most 3,648 or increased to at least 4,200.<br><br>Order Packages are selected and billed in arrears on a per location basis and separate packages are needed for each unique channel or menu. Each package includes a monthly quantity of orders and establishes the cost of any additional orders processed beyond the package amount during the month. Except during any month in which an Order Package Pricing Tier is changing, Order Packages within a specific tier may be updated at any time; provided, that to the extent a selected Order Package is upgraded or downgraded at least 5 days prior to the end of a calendar month, the change in fee will be **reflected in the subsequent month's charges, otherwise, the change in** fee will be reflected in the charges of the month following the subsequent month. For the avoidance of doubt, billing will not be prorated if activation occurs mid-month and Order Package changes will not become effective mid-month.<br><br>This fee will be charged to each individual location. |

**Order Package Pricing Tiers**

Less than 3,200 Active locations systemwide:

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

3,200 – 3,699 Active locations systemwide:

| **Package** | **XS** | **S** | **M** | **L** | **XL** |
|---|---|---|---|---|---|
| Monthly Fee | $24.75 | $43.50 | $56.25 | $63.00 | $68.00 |

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

3,700 – 4,199 Active locations systemwide:

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

4,200 or more Active locations systemwide:

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

| | |
|---|---|
| Location Transfer Fee | Applied when the original Authorized Operator is replaced by a new Authorized Operator.<br><br>This fee will be charged to the new Authorized Operator. |
| | $50 per location |

b. Payment Terms.

(i) All dollar amounts in this Order Form are expressed in US Dollars. All Olo fees are subject to applicable sales tax. In addition, the self-assessment and remittance of federal, state and local taxes on End User orders (including without limitation any sales or value added tax) is the sole responsibility of the Customer and/or Authorized Operator. Customer shall, upon request **by Olo, provide a Multiple Point Use ("MPU") certificate or** equivalent certification for compliance purposes.

(ii) All amounts due under this Order Form (including charges with respect to locations owned by Authorized Operators) shall be charged to and payable by the Customer; provided, that, if an Authorized Operator assumes payment obligations with respect to locations owned or operated by such Authorized Operator under this Order Form, for any fees charged on a per location or per transaction/order/unit basis, (1) the Customer shall be responsible for such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned by the Customer, and (2) an Authorized Operator shall be responsible for

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

(iii) All one-time and recurring program fees will payable as specified below:

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

## 5. Terms & Conditions

a. This document and any attachments or an online order completed by Customer comprise an Order Form which is incorporated by reference into that certain Master Services Agreement dated September 28, 2023 **(the "Agreement") between Olo and Customer, and is entered into as of the** Order Form Effective Date. By entering into this Order Form or completing an online order, Customer agrees to be bound by the applicable terms of the Agreement.

b. Capitalized terms used but not defined in this Order Form shall have the meanings given to them in the Agreement. To the extent that the terms of this Order Form conflict with the terms of the Agreement or any prior Order Form executed between Customer and Olo, the terms of this Order Form take precedence.

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

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

| American Dairy Queen Corporation | Olo Inc. |
| --- | --- |
| By Kevin Baartman (Sep 29, 2023 11:35 CDT) | By Noah Glass (Sep 29, 2023 12:37 EDT) |
| Name Kevin Baartman | Name Noah Glass |
| Title E.V.P. - Information Technology | Title Founder & CEO |

# ADQ_Olo_MSA_FINAL 09.28.2023

Final Audit Report 2023-09-29

| | |
|---|---|
| Created: | 2023-09-28 |
| By: | Lauren Esposito (lauren.esposito@olo.com) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAXroox6YjzGcFz7Q6VmccvJQp0b55X6Cn |

## "ADQ_Olo_MSA_FINAL 09.28.2023" History

Document created by Lauren Esposito (lauren.esposito@olo.com)
2023-09-28 - 6:50:35 PM GMT- IP address: 146.113.155.23

Document emailed to kevin.baartman@idq.com for signature
2023-09-28 - 6:57:17 PM GMT

Email viewed by kevin.baartman@idq.com
2023-09-28 - 7:42:36 PM GMT- IP address: 152.117.114.199

Signer kevin.baartman@idq.com entered name at signing as Kevin Baartman
2023-09-29 - 4:35:08 PM GMT- IP address: 23.30.226.6

Document e-signed by Kevin Baartman (kevin.baartman@idq.com)
Signature Date: 2023-09-29 - 4:35:10 PM GMT - Time Source: server- IP address: 23.30.226.6

Document emailed to Noah Glass (noah@olo.com) for signature
2023-09-29 - 4:35:12 PM GMT

Email viewed by Noah Glass (noah@olo.com)
2023-09-29 - 4:36:42 PM GMT- IP address: 66.249.83.76

Document e-signed by Noah Glass (noah@olo.com)
Signature Date: 2023-09-29 - 4:37:01 PM GMT - Time Source: server- IP address: 67.243.134.135

Agreement completed.
2023-09-29 - 4:37:01 PM GMT

Powered by Adobe Acrobat Sign

# Order Form

## 1. Customer Information

| American Dairy Queen Corporation |
|---|
| 8331 Norman Center Drive, Suite 700<br>Bloomington, MN 55437<br>USA |

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

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

## 2. Services and Products Purchased

**Phase 1- Products**

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

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

**Phase 2- Products**

| Product | Fee Type | Billing Frequency | Billing Type | Billing Start Date | Term (Months) | Monthly Fee | Contracted Locations | Monthly Platform Price |
|---|---|---|---|---|---|---|---|---|
| Order Platform | Subscription | Monthly | Location | 4/1/2025 | 36 | $60 | 3,250 | **$195,000** |
| *Order Platform includes: Ordering, Dispatch, Rails* | | | | | | | | |
| **Total Monthly Subscription Price** | | | | | | | | **$195,000** |

**Payments**

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

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

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

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

## 3. Locations

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

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

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

## 4. Additional Fees

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

## 5. Payment Terms

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

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

(b) All amounts due under this Order Form (including charges with respect to locations owned by Authorized Operators) shall be charged to and payable by the Customer; provided, that, if an Authorized Operator assumes payment obligations with respect to locations owned or operated by such Authorized Operator under this Order Form, for any fees charged on a per location or per transaction/order/unit basis, (1) the Customer shall be responsible for such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned by the Customer, and (2) an Authorized Operator shall be responsible for such fees to the extent the amounts are for locations or transactions/orders/units conducted with locations owned or operated by such Authorized Operator.

(c) All one-time and recurring program fees will payable as specified below:

(i) With respect to all corporate-owned locations in the United States that elect to pay via ACH, during the first five (5) business days of each month, Olo will invoice all fees for the month just ended (e.g., July service fees will be invoiced during the first five (5) business days of August). Customer shall pay the invoiced amount via ACH within five (5) business days following the invoice date.

(ii) With respect to all Authorized Operator locations in the US, and any corporate-owned locations in the US that elect to pay via EFT, during the first five (5) business days of each month, Olo will invoice all fees and initiate EFT payment for the month just ended (e.g., July service fees will be invoiced during the first five (5) business days of August). The fees will be withdrawn within three (3) business days following the invoice date.

(iii) With respect to Authorized Operator locations in Canada, and any corporate-owned locations in Canada that elect to pay via credit card, during the first five (5) business days of each month, Olo will invoice all fees for the month just ended and initiate credit card payment (e.g., July service fees will be invoiced during the first five (5) business days of August). The fees will be charged within three (3) business days following the invoice date.

(iv) During the period between invoicing and the EFT withdrawal or payment date, as applicable, the Customer and Authorized Operators may review the proposed charges.

(1) If they have questions or want to dispute the invoice, they may contact billingsupport@olo.com.

(2) If the invoice contains material inaccuracies (e.g., extra zeros) and Olo is notified of such misstatements, Olo may halt the planned EFT withdrawal.

(3) Non-material **adjustments will be made on the following month's invoice.**

(v) Olo reserves the right to invoice each location for Dispatch Delivery Fees (and Tips) on a periodic basis throughout the month. Olo will invoice and initiate the EFT payment (or, for Canadian loca**tions, collect these fees through the location's GoCardless account) on the 11th and 21st of** each month. The fees will be withdrawn or paid, as applicable, within three (3) business days following the invoice date. A true-up amount for the month will appear on the monthly invoice.

## 6. Terms & Conditions

(a) This document and any attachments or an online order completed by Customer comprise an Order Form which is incorporated by reference into that certain Master Services Agreement dated September 28, **2023 (the "Agreement") between Olo and Customer, and is entered into as of the Order Form Effective** Date. By entering into this Order Form or completing an online order, Customer agrees to be bound by the applicable terms of the Agreement.

(b) Capitalized terms used but not defined in this Order Form shall have the meanings given to them in the Agreement. To the extent that the terms of this Order Form conflict with the terms of the Agreement or

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

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

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

| American Dairy Queen Corporation | Olo Inc. |
|---|---|
| By: Kevin Baartman<br>Kevin Baartman (Feb 7, 2024 21:31 CST) | By:<br>Noah Glass (Feb 7, 2024 22:36 EST) |
| Name: Kevin Baartman | Name: Noah Glass |
| Title: E.V.P. - Information Technology | Title: Founder & CEO |
| Date: 02/07/2024 | Date: 02/07/2024 |

# PUNCHH PARTICIPATION AGREEMENT (DQ REWARDS)

**MASTER SERVICES AGREEMENT**

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

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

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

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

**TERMS AND CONDITIONS**

**1. DEFINITIONS.**

1.1 "**Affiliate**" means any person or entity, that now or hereafter, that directly, or indirectly through one or more intermediaries, controls, is controlled by, or us under common control with, the Party specified.

1.2 "**Applicable Laws**" means all applicable present laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders of any governmental or judicial authorities.

1.3 "**Authorized Users**" means Customer, Customer employees or contractors, and all other third parties acting on Customer's behalf including its Affiliates who have been designated by Customer (excluding Punchh employees or contractors), on notice to Punchh, to receive unique login credentials permitting access to the Services.

1.4 "**Confidential Information**" has the meaning set forth in Section 10 hereof.

1.5 "**Documentation**" means any documentation made available to Customer by Punchh for use with the Services.

1.6 "**Fees**" means the fees payable by Customer to Punchh hereunder, as set forth on the Order or as may be otherwise agreed to by the Parties in writing.

1.7 "**Force Majeure**" has the meaning set forth in Section 17.7 hereof.

1.8 "**Franchisee**" means independently owned and operated franchise locations within the Dairy Queen® system.

1.9 "**including**" means "including without limitation."

1.10 "**Initial Term**" has the meaning set forth in Section 11.1 hereof.

1.11 "**Intellectual Property Rights**" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now or hereafter exist, and all applications therefor and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

1.12 "**Order**" means any order form executed by Punchh and Customer which is subject to these Terms and Conditions, and any other order form subsequently entered by the Parties that expressly references and incorporates these Terms and Conditions, all under this Agreement. Punchh and Customer have entered into (and/or may in the future enter into) one or more written Orders and corresponding statements of work ("SOWs") specifying certain Services and Professional Services.

1.13 "**Participating Location**" means any franchised location within the Dairy Queen® franchise system that has signed the relevant Participation Agreement set forth as Exhibit C hereto.

1.14 "**Party**" means either Punchh or Customer, and "**Parties**" means both Punchh and Customer.

1.15 "**Personal Data**" is defined in the data processing agreement attached as Exhibit B.

1.16 "**Platform**" means Punchh's online platform through which the Customer makes use of the Services.

1.17 **"Professional Services"** means implementation, mobile application development, consulting or other professional services performed by Punchh for the Customer, as may be set forth in a separate SOW signed by the parties.

1.18 **"Promotional Programs"** means various customer acquisition, customer retention, and/or customer marketing programs, including loyalty programs facilitated by Punchh.

1.19 **"Punchh Technology"** means i) the ideas, know-how, inventions, methods, or techniques developed or conceived as a result of providing the Services hereunder, including any derivative works, modifications, additions, improvements, enhancements and/or extensions made from or to the Services; ii) the Platform and the databases, software, hardware, and other technology used by or on behalf of Punchh to provide the Platform; and iii) any other Punchh property related to the Services or the Platform.

1.20 "**Services**" means Punchh's proprietary software as a service (SaaS) solution, available by means of the Platform, which permits Customer to design, execute, manage, and analyze Promotional Programs. Services do not include the Professional Services provided by Punchh to the Customer.

1.21 **"Transition Assistance Period"** is defined as the period of twelve (12) months for the orderly transition of Services to Customer or another supplier of Customer, beginning upon the expiration or termination of the Agreement.

1.22 "**Transition Assistance Services**" means Services and Professional Services provided to Customer and Participating Locations under the Transition Assistance Plan that is mutually agreed upon by the Parties as set forth in Section 11.5 .

1.23 "**Term**" has the meaning set forth in Section 11.1 hereof.

1.24 "**Upgrades**" means, with respect to the Services, fixes, updates, enhancements, or upgrades thereto; provided, however, that "Upgrades" shall not include additional modules for the Services, or new products or services, that Punchh may make available from time to time.

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

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

**3. PURPOSE AND PRIMARY ACTIVITIES.**

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

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

**4. PLATFORM.**

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

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

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

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

**5. LICENSES.**

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

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

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

**7. FEES AND PAYMENT.**

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

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

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

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

**8. OWNERSHIP.**

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

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

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

**9. DATA.**

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

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

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

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

otherwise required for the Services.

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

**11. TERM AND TERMINATION.**

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

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

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

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

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

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

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

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

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

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

11.5.v. Absolute Obligation. Punchh agrees that it has an absolute and unconditional obligation to provide Customer (and Participating Locations) with Transition Assistance Services, and unless part of the mutually agreed upon Transition Assistance Plan, both Parties agree to continue to adhere to all requirements of this Agreement.

**12. REPRESENTATIONS AND WARRANTIES.**

**12.1** By Both Parties. Both Parties represent and warrant that by entering into this Agreement, it does not violate the terms of any other material agreement by which such Party is bound.

**12.2 Customer.** Customer further represents and warrants that: (i) it has the necessary rights to grant Punchh the rights and licenses granted hereunder; (ii) Customer has the right and authority to enter into and be bound by this Agreement; (iii) the Customer Content and Customer Marks, and the use thereof by Punchh as contemplated and authorized in this Agreement, do not and will not cause the infringement of Intellectual Property Rights of any third party; (iii) the Customer Content, and the use thereof as contemplated and authorized in this Agreement, does not and will not violate the publicity or privacy right of any third party, or defame any third party; and (iv) all Promotional Programs are in compliance with all Applicable Laws, and Customers has obtained any and all required consents and permissions that are necessary for Punchh to perform its obligations hereunder or for the collection or use of any Personal Data.

**12.3 Punchh.** Punchh further represents and warrants that: (i) the Platform, and the use thereof by Customer and its Authorized Users as contemplated and authorized in this Agreement, does not infringe upon the Intellectual Property Rights of any third party; (ii) Punchh has the right and authority to enter into and be bound by this Agreement; (iii) the Professional Services will be performed in a good and workmanlike manner; (iv) the Services and Professional Services will comply with all Applicable Laws; (v) no malicious or detrimental content will be included in the Services; and (vi) the Services and Professional Services will substantially conform in all material respects to any Documentation provided with the Services or Professional Services, this Agreement, or the applicable Orders. Punchh will have no obligation or other liability with regard to any non-compliance with the Documentation or these representations and warranties that is caused by Customer's or its Authorized User's actions or inactions, including any negligence or the misuse or improper use of the Platform or any Promotional Programs by or on behalf of Customer.

**13. DISCLAIMER.** THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES MADE BY THE PARTIES. EACH PARTY EXPRESSLY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE. THE PARTIES AGREE THAT PUNCHH IS NOT INVOLVED IN SELECTING CUSTOMER CONTENT OR THE ELEMENTS OF THE PROMOTIONAL PROGRAMS AND DISCLAIMS ANY AND ALL LIABILITY RELATING THERETO.

**14. INDEMNIFICATION**. EACH PARTY (AN "INDEMNITOR") WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY, ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (TOGETHER, AN "INDEMNITEE") FROM AND AGAINST ANY DAMAGES, LOSSES, FINES, PENALTIES, COSTS, EXPENSES, LIABILITIES, AND OTHER AMOUNTS (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS) (COLLECTIVELY, "CLAIMS") INCURRED OR SUFFERED BY THE INDEMNITEE IN CONNECTION WITH OR OTHERWISE RELATING TO ANY THIRD PARTY CLAIM OR ARISING OUT OF (I) ITS GROSSLY NEGLIGENT ACTS OR OMISSIONS, OR WILLFUL MISCONDUCT IN PERFORMING UNDER THIS AGREEMENT; OR (II) ALLEGATIONS THAT ANY OF PUNCHH'S PLATFORM OR SERVICES OR DOCUMENTATION INFRINGES ANY INTELLECTUAL PROPERTY RIGHT OF A THIRD PARTY IN THE TERRITORY AS FURTHER SUBJECT TO SECTIONS 14.1 AND 14.1.I BELOW; OR (III) ANY INDEMNIFICATION OBLIGATION OF A SUBCONTRACTOR; OR (IV) A DATA BREACH CAUSED BY PUNCHH; OR (V) BREACH OF APPLICABLE LAW. EACH PARTY AGREES TO: (I) PROVIDE THE INDEMNITOR WITH PROMPT NOTICE OF ANY CLAIM FOR INDEMNIFICATION UNDER THIS SECTION; (II) GRANT THE INDEMNITOR CONTROL OVER THE DEFENSE OR SETTLEMENT OF ANY SUCH CLAIM (PROVIDED THAT THE INDEMNITOR MAY NOT AGREE TO ANY SETTLEMENT OTHER THAN MONETARY DAMAGES); AND (III)

COOPERATE FULLY WITH THE INDEMNITOR, AT THE REASONABLE EXPENSE OF THE INDEMNITOR, IN THE DEFENSE OR SETTLEMENT OF ANY SUCH CLAIM.

**14.1** INFRINGEMENT. Punchh shall indemnify, defend, and hold harmless Customer, its affiliates and franchisees, and each of their respective officers, directors, employees, and agents (together, a "Customer Indemnitee") from and against any actions, liabilities, damages, obligations, costs and expenses (including reasonable attorneys' fees and costs) incurred or suffered by a Customer Indemnitee arising out of, related to, or in connection with any Claim by a third-party that the Punchh Platform or any of the Punchh Services and Documentation contemplated under this Agreement infringes or misappropriates such third-party's U.S. or Canadian patent claim, copyright, or trade secret ("Infringement Claim").

**14.1.i.** If the Punchh Platform or Punchh Services, or Documentation (each, an "Infringing Item") is or may become the subject of a claim under Section 14.1 above, Punchh may, at its option, and at no additional cost to Customer, (i) modify or replace the affected parts so the Infringing Item becomes non-infringing, (ii) obtain a license for Customer's continued use so the Infringing Item is no longer infringing, or (iii) terminate this Agreement and refund Customer for any prepaid and unused recurring fees and pay reasonable transition, implementation, and replacement costs incurred by Customer (prorated to consider the remainder of the Term length). Punchh shall have no obligation with respect to any such Claim to the extent caused by (a) Customer's combination of software or hardware from third-parties not provided by Punchh (or not expressly approved in writing by Punchh) that are not intended for or reasonably contemplated to be used by the Customer or with the Customer's environment or application and that combination results in a Claim, or (b) Customer's use of a prior version of the Punchh Services or Documentation if the Claim would have been avoided had such prior version not been used by Customer, subject to and contingent upon, Punchh providing to Customer at least sixty (60) days prior written notice (of as much advance notice as is feasible given the nature of the Claim) of (1) the potential infringement Claim and (2) an updated, implementation-ready version of the Punchh Services or Documentation, at no additional cost to Customer. Section 14.1 and subsection 14.1.i states the entire liability of Punchh, and Customer's sole and exclusive remedy, for any infringement involving the Punchh Platform, the Punchh Services or the Documentation.

**15. LIMITATION OF LIABILITY.** SUBJECT TO A CLAIM FOR INFRINGEMENT AS SET FORTH IN SECTION 14.1, EXCEPT FOR DAMAGES AS A RESULT OF EITHER PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 9 HEREIN, OR DUE TO THE FRAUD, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF A PARTY (OR THAT CANNOT OTHERWISE BE LIMITED BY APPLICABLE LAW), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR (A) ANY LOST PROFITS OR CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, EVEN IF ONE OR BOTH PARTIES KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) EACH PARTY'S TOTAL CUMULATIVE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF PAYMENTS ACTUALLY MADE BY CUSTOMER TO PUNCHH UNDER THIS AGREEMENT DURING THE 18 MONTH PERIOD PRECEDING THE TRANSACTION OR EVENT GIVING RISE TO THE CLAIM.

**15.1 MAXIMUM CAP FOR DATA BREACH CLAIMS**. FOR FIRST OR THIRD PARTY CLAIMS ARISING OUT OF A DATA BREACH (AS DEFIEND IN THE DPA) CAUSED BY PUNCHH, PUNCHH'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT (INCLUDING ALL DIRECT, CONSEQUENTIAL, OR INDIRECT DAMAGES WHATSOEVER) SHALL NOT EXCEED TWENTY MILLION DOLLARS ($20,000,000).

**16. CONSUMER COMMUNICATIONS.** FOR INDIVIDUALS PARTICIPATING IN CUSTOMER'S PROMOTIONAL PROGRAMS, CUSTOMER MAY SEND SUCH INDIVIDUALS EMAILS, SMS MESSAGES, PHONE CALLS (WHETHER BY AUTOMATED MEANS OR OTHERWISE), AND OTHER TYPES OF COMMUNICATIONS FOR MARKETING AND OTHER COMMERCIAL PURPOSES (COLLECTIVELY. "**CONSUMER COMMUNICATIONS**") THROUGH THE PLATFORM OR BY OTHERWISE INSTRUCTING PUNCHH. CUSTOMER REPRESENTS, WARRANTS AND COVENANTS THAT IT WILL BE

SOLELY RESPONSIBLE AND LIABLE FOR (I) THE CONTENT OF CONSUMER COMMUNICATIONS, INCLUDING ANY CUSTOMER CONTENT THEREIN, AND (II) OBTAINING ALL CONSENTS REQUIRED BY THE TELEPHONE CONSUMER PROTECTION ACT OF 1991 (47 U.S.C. § 227) AND ANY OTHER APPLICABLE LAWS TO SEND, TRANSMIT OR OTHERWISE DISTRIBUTE ANY CONSUMER COMMUNICATIONS TO INDIVIDUALS (COLLECTIVELY, "**CONSUMER COMMUNICATIONS CONTENT AND CONSENTS**"). REGARDLESS OF ANY CURRENT OR PRIOR ASSISTANCE THAT PUNCHH PROVIDED TO CUSTOMER REGARDING CONSUMER COMMUNICATIONS CONTENT AND CONSENTS, INCLUDING ANY ASSISTANCE RELATED TO ANY "OPT-IN" OR "OPT-OUT" CONSENT MECHANISMS, PUNCHH WILL NOT BE RESPONSIBLE OR LIABLE FOR, AND CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS PUNCHH AND ITS RELATED INDEMNITEES FROM AND AGAINST ANY CLAIMS INCURRED OR SUFFERED BY PUNCHH AND ITS RELATED INDEMNITEES IN CONNECTION WITH, CONSUMER COMMUNICATIONS CONTENT AND CONSENTS.

17. **Insurance.** Punchh must obtain and maintain in effect the insurance coverage specified below, at Punchh's expense. The insurance policies must be placed with an insurance company with an A.M. Best's rating of A VIII or higher. Punchh will provide proof of insurance satisfactory to Customer within 30 days of execution of this Agreement, and at any time during the term of the Agreement at Customer's request. The policies may not be cancelled or non-renewed without 30 days prior written notice to Customer. The general liability and umbrella policies must name Customer, its Affiliates, and Franchisees as additional insured parties with the Additional Insured Vendor Endorsement. The amounts and types of insurance below are the minimum required by Customer and Punchh may obtain insurance with greater limits or broader coverage as Punchh considers appropriate based on a comprehensive risk analysis reviewed at least annually or on substantial business change.

a. **Commercial General Liability.** On an occurrence form containing limits of at least $5,000,000 per occurrence/$5,000,000 general aggregate, protecting against property damage, bodily injury and personal injury claims arising from the exposures of premises or ongoing operations, independent contractors, and contractual liability.

b. **Business Automobile Liability**. With a combined single limit of $1,000,000 insuring against bodily injury and/or property damage arising out of the operation, maintenance, use, loading or unloading of any auto including owned, non-owned, and hired autos.

c. **Workers' Compensation and Employer's Liability**. With limits of not less than $500,000/$500,000/$500,000 and providing statutory benefits imposed by applicable Law such Customer will have no liability to Punchh, its employees or Punchh's agents, and Punchh will satisfy all Workers' compensation obligations imposed by Applicable Law.

d. **Cyber Liability/Supplier Liability (Errors and Omissions) Insurance**. On a claims-made form with a limit of $40,000,000 in the aggregate including coverage for losses arising out of failure of security, unauthorized disclosure of private information, failure to protect private information from misappropriation, damage/loss/theft of or to data, degradation and downtime. Punchh agrees to increase its Cyber Liability/Supplier Liability (Errors and Omissions) Insurance during the Term of the Agreement as the number of Participating Locations purchasing the Services increases as follows:
    a. 3,000 Participating Locations = $50,000,000 in the aggregate
    b. 5,000 Participating Locations = $60,000,000 in the aggregate

18. **GENERAL.**

**18.1 Assignment.** Neither party may assign or transfer this Agreement without the other party's express written consent, and any such consent may not be unreasonably withheld, conditioned or delayed. Any attempt to assign or transfer this Agreement without such consent will be null and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

**18.2 Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of Delaware, excluding conflict of law principles. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the State of Delaware, and the parties hereby irrevocably consent to personal jurisdiction and venue therein.

**18.3 Severability.** If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

**18.4 Waiver.** The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

**18.5 Order of Precedence.** In the event of a conflict between this Agreement and the terms of an Order, this Agreement will control over the subject matter of such conflict.

**18.6 Data Security Audit and Reporting.** At least once per year, Punchh shall conduct site audits of the information technology and information security controls for all facilities used in providing the Services under this Agreement, including obtaining a network-level vulnerability assessment performed by a recognized third-party audit firm based on recognized industry best practices. Upon Customer's request, Punchh shall make available to Customer for review all of the following, as applicable: Punchh's latest current attestation of compliance signed by a Payment Card Industry (PCI) Qualified Security Assessor, and Statement on Standards for Attestation Engagements (SSAE) No. 18 SOC 1, Type II and SOC 2, Type II audit reports for Reporting on Controls at any service organization. Customer shall treat such audit reports as Punchh's Confidential Information under this Agreement. Any exceptions noted on the SSAE report or other audit reports will be promptly addressed with the development and implementation of a corrective action plan by Punchh's management. Repeated instances of the same exception(s) noted on any successive report that have a material impact to Customer as a result of the failure of the exception to be remedied from the prior report, will be considered a material breach of this Agreement.

**18.7 Compliance Audit**. One time per calendar year, at Customer's request, with not less than 10 days' prior written notice to Punchh, Punchh will allow Customer or its designated representatives to enter upon Punchh's premises to audit applicable invoices, books, and records, related to payments made by Customer or Franchisees for the Services under this Agreement, solely to the extent necessary to verify Punchh's compliance with the terms of this Agreement. Punchh will reasonably cooperate with Customer or its designated representatives in connection with such audit. Upon completion of an audit, Customer and Punchh will review the audit report together and work in good faith to agree upon any adjustment of charges, including any reimbursement of overpayment by Customer or Participating Locations, resulting from the audit. Audits will be conducted during Punchh's normal business hours, and Customer will use commercially reasonable efforts to limit the disruption to Punchh's business operations during any audit. Punchh will pay for Customer's reasonable costs and expenses in conducting the audit, in addition to all costs of remediation, if:

**(a)** an error or discrepancy in amounts billed to Participating Locations representing greater than a 5% overcharge is discovered;

**(b)** [intentionally deleted].

**18.8 Notices.** All notices required or permitted under this Agreement will be in writing and delivered by confirmed electronic transmission, by courier or overnight delivery services, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the addresses set forth below or to such other address as may be specified by either party to the other in accordance with this Section.

**18.9 Force Majeure.** Neither Party will be in default for any failure or delay in performing its

obligations under this Agreement (other than payment obligations) due to causes beyond its reasonable control, including labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, war, terrorism, riot, civil commotion, third party internet service interruptions or slowdowns, vandalism or "hacker" attacks, government demands or acts of God.

**18.10 Relationship of Parties.** The Parties are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties. Neither Party will have the power to bind the other Party or to incur any obligations on its behalf without the other Party's prior consent.

**18.11 Entire Agreement.** This Agreement, including these Terms and Conditions, Statements of Work and each Order hereunder, constitutes the complete and exclusive understanding and agreement between the Parties regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter.

*[SIGNATURE PAGE IMMEDIATELY FOLLOWS]*

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement and have rendered it effective as of the MSA Effective Date.

**For Punchh:**

Punchh Inc.
Delaware corporation
8383 Seneca Turnpike
New Hartford, New York 13413

DocuSigned by:
Signature: Joe Yetter
CB40G9AB3A20492...
Name: Joe Yetter
Title: General Manager - Punchh
Date: 2/17/2024

**For Customer:**

**American Dairy Queen Corp.**
**Delaware Corporation**
**8331 Norman Center Drive, Suite 700**
**Bloomington, MN 55437**

DocuSigned by:
Signature:
440DEB4ABAFD4D6...
Name: Susie Moschkau
Title: VP of Digital Experience
Date: 2/16/2024

**For Customer:**

**Dairy Queen Canada, Inc.**
**Canada Federal Corporation**
**1111 International Blvd., Suite 601**
**Burlington, ON L7L6W1**

DocuSigned by:
Signature:
440DEB4ABAFD4D6...
Name: Susie Moschkau
Title: VP of Digital Experience
Date: 2/16/2024

**EXHIBIT A – SERVICE LEVEL AGREEMENTS**

## 1. Definitions

The following capitalized terms shall be given the meaning set forth below. Capitalized terms not defined below will have the meaning ascribed to them in the Terms.

1.1 "API Average Response Time" is the average response time in milliseconds during a calendar month for a named collection of API methods chosen by Punchh for monitoring purposes, as measured by third party performance and monitoring services contracted by PAR Punchh at its sole discretion (the "Monitoring Service"). Response time measurements that occur during conditions arising from the Exclusions defined in this Schedule may be excluded from the calculation of an API Average Response Time.

1.2 "Emergency Maintenance" means an unplanned and unavoidable period that is necessary for the purposes of maintaining the integrity or operation of the Services and for which there is not enough time to declare Scheduled Maintenance.

1.3 "Monthly Unavailable Percentage" is the percentage of time during a calendar month during which the Services are Unavailable as defined in this Service Level Commitment. This is calculated by dividing the sum of the length of time(s), in minutes, during which the Services were deemed Unavailable by the total number of minutes in the month.

1.4 "Monthly Uptime Percentage" is calculated by subtracting from 100% the "Monthly Unavailable Percentage".

1.5 "Platform Fees" means the recurring fees paid for access to the Punchh Services, which excludes Professional Services fees and fees for non-recurring services.

1.6 "Scheduled Maintenance" means a period used for the purpose of maintaining or improving the Services, occurring within a standard Punchh maintenance window and announced at least 48 hours in advance, or occurring within any period of time approved in advance by Customer.

1.7 "Services" has the same meaning as defined in the Terms for Punchh services.

1.8 "Service Level" is a contractual performance metric. The Service Levels are defined in Section 3 of this Schedule.

1.9 "SLA Violation" means a failure to meet a defined Service Level.

1.10 "Unavailable". The Punchh Services shall be deemed Unavailable if they are not available for use according to third party performance and monitoring services contracted by Punchh at its sole discretion (the "Monitoring Service") for any continuous period of 3 minutes or more. In no case shall the Services be deemed Unavailable during or due to any condition arising from the Exclusions defined in this Schedule.

1.11 "Warrantable Usage Rate" means a metric defining a rate of use of a specific Punchh service or feature, for example campaign messages sent per hour or mobile API requests per second. The Warrantable Usage Rates in this document may be amended at any time by mutual agreement in writing (email acceptable). Unless otherwise agreed, Warrantable Usage Rates are solely used to define usage that constitutes an Exclusion for purposes of calculating SLAs.

## 2. Exclusions

Notwithstanding anything to the contrary, no SLA Violation shall be deemed to have occurred with respect to any Unavailability, suspension or termination of the Services that:

(i) Is caused by factors outside of Punchh's reasonable control, including, without limitation, any force majeure event or internet access or related problems beyond the demarcation point of Punchh or its direct hosting subcontractor (AWS);

(ii) Results from any action or inaction on the part of Customer, including any unpaid amounts due and owing to Punchh for the Punchh Services, or any third party (other than Punchh's subcontractors);

(iii) Results from Punchh's suspension, limitation, or termination of Customer's right to use the Punchh Services in accordance with the Terms;

(iv) Occurs during Scheduled Maintenance;

(v) Occurs during Emergency Maintenance;

(vi) Results from problems or issues related to alpha, beta, preview, test, or otherwise not generally available features;

(vii) Occurs in a portion or portions of the Punchh Services that Customer did not use or attempt to use at least once during the measurement period;

(viii) Results from Punchh taking action to protect its systems and data (e.g., from an attack or other security incident); or

(ix) Occurs while the Customer is exceeding a Warrantable Usage Rate or results from the Customer having exceeded a Warrantable Usage Rate ((i)-(ix) collectively, the "Exclusions").

3. **Service Level Commitment** (on a calendar month basis)

| SERVICE LEVEL | SERVICE CREDITS |
|---|---|
| Consumer Facing App (e.g., mobile app) Availability >=98% and <99.5% | 5% of the monthly Platform Fees |
| Availability >=95% and <98% | 10% of the monthly Platform Fees |
| Availability <95% | 25% of the monthly Platform Fees |
| Mobile API Average Response Time >500ms | 15% of the monthly Platform Fees |
| Gift Card API Average Response Time >1000ms | 15% of the monthly Platform Fees |
| Payment API Average Response Time >1000ms | 15% of the monthly Platform Fees |

4. Warrantable Usage Rates

| **Metric** | **Definition** |
|---|---|
| API request rate <= 100 requests/second averaged over a one- | The count of all API Requests in a one-minute (60 second) window divided by 60 to yield average |

| | |
|---|---|
| minute window | requests/second for that window. |
| API request rate <= 4,000 requests/minute averaged over a one-hour window | The count of all API Requests in a one-hour (60 minute) window divided by 60 to yield the average requests/minute for that window. |
| Peak API request rate < 200 requests/second | The instantaneous rate of API Requests measured in requests per second. |
| Campaign messages sent (messages per day) <= 1 million | The total number of messages (email, push, or SMS) sent in a calendar day using Pacific Standard Time for day start and end times. |

## 5. Service and Support Process and Expectations

Punchh has two types of Support for PAR Punchh Services. These are **DevOps** and **Technical Support.**

**A. DevOps:** DevOps' main purpose is to ensure overall Services are available and accessible.

DevOps is responsible for 24/7 Services Monitoring, Maintenance and Triage. DevOps interacts with Customer via an accessible Status page, only when a Service Outage is experienced. It is Customer's responsibility to subscribe to Status page and subsequent notices. The default location for this page is http://status.punchh.com, although this may vary by Customer.

**B. Technical Support:** Technical Support provides a communication path for Customer to submit Problems and/or Questions, and to have a dialog around resolution of said Problems and/or Questions. Support is only available during Support Hours, unless expressly outlined below. A Problem means there is an actual problem with the functionality of the platform OR configuration issue caused by Punchh. A Question means there is a question asked, or there is a configuration issue caused by Customer (or Customer's approved 3rd party).

***Submitting a Ticket.*** Although there are multiple means of submitting a Ticket to Technical Support, only one process allows Customer to designate any level or Priority/Severity. Submissions outside the approved means listed will result in lower Priority, equating to slower Response Times. Response Times are defined as the written or verbal response from Punchh that is NOT an automated reply to a ticket submission. The approved submission method is via the Support Portal at https://support.punchh.com. Technical Support will meet Service Level for a Customer's Contracted Technical Support Service Level Tier as may be attached hereto in a separate table.

Technical Support will meet Service Level for a Customer's Contracted Tier.

**Punchh Support Service Levels – Enterprise Tier**

| Priority Level | Description | Time to Engage | Time to Repair | Success Target |
|---|---|---|---|---|
| **Urgent Severity 1** | Live Environment Only<br>Non-Development Issues<br>Problems Only (Not Questions)<br>Catastrophic failure of the Services or renders the Services inoperable by Customer such that little to no business can be conducted. | **2** Business Hours | **24** Business Hours | 95% |
| **High Severity 2** | Live Environment Only<br>Non-Development Issues<br>Problems or Questions<br>Severe degradation of Services or loss of some functionality having an impact on Customer business, but where all or most Guests can still use the Private Label App. | **4** Business Hours | **3** Business **Days** | 95% |
| **Normal Severity 3** | Problem or Question<br>Certain elements of usability functionality are impacted but most operations of the Services function normally. | **6** Business Hours | **5** Business **Days** | 95% |
| **Low Severity 4** | Feature Request<br>Problem or Question<br>Little to No impact on Customer's ability to use Services. Specific Guest Questions. | **48** Business Hours | **10** Business **Days** | Not Measured |

**Definitions**

**Business Hours (North America, South America)** – 8am-8pm Central Standard Time, Monday-Friday
**Business Hours (EMEA, APAC)** – 10am-7pm Indian Standard Time, Monday-Friday

**Problem** – There is an actual problem with the functionality of the platform, OR configuration issue caused by Punchh
**Question** – There is a question asked, or there is an configuration issue caused by Customer (or Customer approved 3rd Party)
**Time to Engage** – Written or verbal response from Punchh, that is NOT an automated Reply to Ticket Submission
**Time to Repair (Urgent & High)** – A Fix, a Valid Permanent or Temporary Work-around
**Time to Repair (Normal & Low)** – A Fix, Workaround, or Final Statement confirming future consideration of Ticket as a Low Priority Item

**EXHIBIT B**
**DATA PROCESSING ADDENDUM**

That Data Processing Addendum ("DPA") effectively dated September 23, 2023 referring to Punchh's services and obligations shall apply to the terms of this Agreement and is incorporated into the Agreement. Unless otherwise defined in this DPA, interpretations and defined terms set forth in the Agreement apply to the interpretation of this DPA. To the extent any terms of the Agreement conflict with this DPA, the terms of this DPA will control.

**EXHIBIT C**
**PARTICIPATION AGREEMENT**

This Participation Agreement (this "Participation Agreement") is made effective as of the signature date of the Participating Location (as defined herein) below (the "Participation Agreement Effective Date") and is entered into by and between the undersigned franchisee entity (each, a "Participating Location") and Punchh Inc., with an address of 8383 Seneca Turnpike New Hartford, New York 13413 or Punchh (Canada) Inc. (collectively, "Punchh"); Punchh and Participating Location are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

RECITALS

A. American Dairy Queen Corp. and Dairy Queen Canada, Inc. (collectively, "Customer") and Punchh entered into a certain Master Services Agreement with an effective date of _____, as may be amended from time to time (the "Agreement").

B. The Agreement contemplates the provision of certain products and services by Punchh to Participating Locations, including the execution of this Participation Agreement and the payment of applicable fees by Participating Locations that are not participating in the Dairy Queen® National Marketing Fund, in order to receive Punchh products and services for use of the Dairy Queen® loyalty program.

C. The purpose of this Participation Agreement is to create a direct relationship between Punchh and Participating Locations to establish contractual privity and allow for direct billing, as applicable.

NOW THEREFORE, in consideration of the promises contained in this Participation Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Participating Location and Punchh agree as follows:

1. Incorporation of the Agreement. This Participation Agreement is entered into under the provisions of the Agreement, and except as provided in this Participation Agreement or as specified in the Agreement, all of the terms and conditions of the Agreement, as may be amended in a writing signed by Punchh and Customer (for clarity, Participating Locations are not permitted to request or make amendments to the Agreement) and as specifically referenced in Section 4 below, are incorporated into this Participation Agreement by this reference, as if fully set forth herein. Except as specifically set forth hereunder, Participating Location hereby agrees to be bound by terms and conditions (including obligations of "Customer" therein) of the Agreement, as if Participating Location was a signatory to the Agreement (and as such Punchh shall have all rights against the undersigned as if the undersigned was Customer pursuant to the Agreement). For clarification, while Participating Location agrees to be bound by terms and conditions of the Agreement, a Participating Location is not equivalent to Customer and Customer retains all rights accruing to it in the Agreement, including any ownership rights in Section 7 (Ownership) and Section 8 (Data). In the event of any inconsistency between the terms of this Participation Agreement and the Agreement, the Agreement shall control as to the subject matter of this Participation Agreement. Capitalized terms used in this Participation Agreement, to the extent not otherwise defined in this Participation Agreement, shall have the meanings ascribed in the Agreement.

2. Term. The term of this Participation Agreement will commence on the Participation Agreement Effective Date and will continue thereafter until the expiration or termination of the Agreement

between Punchh and Customer, unless this Participation Agreement is terminated earlier in accordance with the terms of the Agreement itself or pursuant to the termination provisions of the Agreement that are incorporated into this Participation Agreement by reference.

3. Fees for the Participating Locations.

   a. For Participating Locations that **DO** participate in the National Marketing Fund. You will not be direct billed, as Customer will be collecting your respective payment and providing it to Punchh directly and any billing obligations of Customer will not apply to your Participating Locations.

   b. For Participating Locations that **DO NOT** participate in the National Marketing Fund. You are required to complete the ACH Authorization Form and Customer Information Form attached as Schedule A to this Participation Agreement. To clarify, the customer referenced on the ACH Authorization Form and the Customer Information Form is the Participating Location, not "Customer" under the Agreement. The amount of the ACH direct debit to Punchh by the Participating Location shall depend upon the Participating Location's election of which loyalty product was selected by Participating Location in the onboarding process, payable per month for the applicable Loyalty Platform Fees, ***plus*** taxes, and pass-through third-party expenses required to utilize the platform (e.g., SendGrid and Twilio) which will be billed separately per the terms of the Order. Section 6.2 of the Agreement regarding the ability of Punchh to suspend Services in the event your account is 60 days or more overdue following notice shall apply to this Participation Agreement.

4. Applicable Agreement Provisions.
   a. This Participation Agreement shall include the following sections from the Agreement to bind Participating Location as if they were the Customer: Section 1 (Definitions), Section 2 (Services), Section 4 (Platform), Section 6 Fees and Payment), Section 9 (Confidentiality), Section 11 (Representations and Warranties), Section 12 (Disclaimer), Section 14 (Indemnification), Section 15 (Limitation of Liability), Section 16 (Consumer Communications), and Section 18 (General).
   b. Any other Section that is only applicable to or exercisable by Customer due to Customer's rights as the franchisor and to the nature of the franchise relationship shall be further excluded from this Participation Agreement.
   c. Participating Location agrees to complete and provide, on an ongoing basis within three (3) business days of any change in information, the ACH form provided by Punchh.

5. Governing Law. This Participation Agreement will be governed by and construed in accordance with the laws of Delaware, excluding conflict of law principles. Any legal action or proceeding arising under this Participation Agreement will be brought exclusively in the federal or state courts located in the State of Delaware, and the parties hereby irrevocably consent to personal jurisdiction and venue therein.

6. Notices. All notices required or permitted under this Participation Agreement will be in writing and delivered by confirmed electronic transmission, by courier or overnight delivery services, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the addresses set forth in this Participation Agreement or to such other address as may be specified by either party to the other in accordance with this Section. Notices to Punchh shall include a copy to legal@partech.com.

7. Counterparts. This Participation Agreement may be executed in one or more counterparts, all of

which taken together shall constitute one single agreement between the Parties hereto. If any signature is delivered by e-mail delivery of a ".pdf" format data file, such signature will create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page was an original thereof.

8. Miscellaneous. The Parties agree that the Participating Location is individually entering into this Participation Agreement solely on its own behalf and therefore, neither American Dairy Queen Corp., Dairy Queen Canada, Inc. or any other affiliate of American Dairy Queen Corp. or Dairy Queen Canada, Inc. shall be liable to Punchh for any payments due and owing by the Participating Location for products or services provided by Punchh under this Participation Agreement (except as may be specifically agreed in a writing signed by Punchh and Customer) or for any other obligations of the Participating Location under this Participation Agreement.

Franchisee Legal Entity Name: _____

Franchisee Mailing Address: _____

Store Number(s): _____

ACCEPTED AND AGREED:

Signed:

Name:

Title:

Date:

## SCHEDULE A

## ACH FORM FOR NON-NMF LOCATIONS

## ACH DEBIT AUTHORIZATION

Capitalized terms not otherwise defined herein will have the meanings given to such terms in the applicable agreement executed by the Customer with ParTech, Inc., or an affiliate thereof ("PAR"), which may include a Master Products and Services Agreement, Terms of Use, License and Subscription Agreement, Master Services Agreement, or an adoption, joinder or participation agreement thereto (collectively, the "Agreement"). The authorized signatory listed below on behalf of Customer, hereby authorizes PAR or any agent designated by PAR, in connection with Customer's purchase or rental of the products and services set forth in any particular Sales Order or Order Form under the Agreement ("Products\Services"), to initiate ACH debits, and if necessary, adjust any debit entries made in error to Customer's bank account ("Account") described below ("Authorization"). This Authorization is intended by Customer to include all payments due from Customer under the Agreement for all of Customer's locations\units specified in a Sales Order or Order Form (and any additional locations\units added by Customer during the term of the Agreement, including current and past due recurring payments, miscellaneous changes, taxes and late charges. This Authorization shall not be limited or deemed waived, nor shall PAR assume any liability, if for any reason PAR delays debiting Customer's Account for amounts due under the Agreement. FOR ADMINISTRATIVE PURPOSES, ALL DEBIT ENTRIES FOR DATA CENTRAL SERVICES SHALL APPEAR ON THE ACCOUNT AS BEING INITIATED BY "RESTAURANT MAGIC" AND ANY DEBIT ENTRIES FOR BRINK POS SHALL APPEAR ON THE ACCOUNT AS BEING INITIATED BY "BRINK SOFTWARE INC."

### *CUSTOMER INFORMATION*

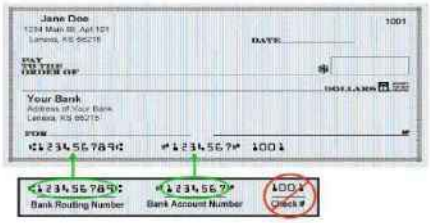
| | | | |
|---|---|---|---|
| *Parent Company:* | | | |
| *Brand(s):* | | | |
| *Company Legal Name(s):* | | | |
| *Name of Authorized Signer:* | | | |
| *Company Address:* | | | |
| *City, State, Zip:* | City: | State: | Zip: |
| *Store Number* | | | |
| *Billing Contact Name:* | | | |
| *Billing Email:* | | | |
| *Billing Phone Number:* | | | |

### *BANK ACCOUNT INFORMATION*

| | | | |
|---|---|---|---|
| *Bank Region:* | | | |
| *Company Name on Account:* | | | |
| *Bank Name:* | | | |
| *Branch:* | | | |
| *Branch Address:* | | | |
| *Branch City, State, Zip:* | City: | State: | Zip: |
| *Bank Account Number:* | | | |
| *Bank Routing Number (9 Digits):* | | | |
| *Transit Number (Canada):* | | | |
| *Bank Code (Canada):* | | | |

Confidential Information

**Sample Check (United States)**




**Sample Check (Canada)**

Customer certifies that all information set forth above is true and correct. Customer agrees to give PAR not less than ten (10) days advance written notice of any termination or change in this Authorization, which shall remain in full force and effect until PAR has received such written notification from Customer.

Customer may revoke this Authorization by giving written notice to PAR or Customer's bank. If Customer revokes this Authorization without making other payment arrangements or by providing an alternate Authorization to PAR for the Products\Services provided under the Agreement and Customer's payment is thirty (30) days or more overdue (except with respect to charges then under reasonable and good faith dispute) and such default has not been cured within ten (10) business days (or such other times as agreed upon by Customer and PAR under the Agreement) after written notice from PAR to Customer, in addition to any of its other rights or remedies under the Agreement, in the case of Services, PAR reserves the right to suspend the Services provided to Customer, without liability to Customer, until such amounts are paid in full.

**CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT THE FINANCIAL ACCOMMODATIONS AND PERIODIC PAYMENTS UNDER THE AGREEMENT HAVE BEEN AGREED TO BY PAR UPON THE CONDITION THAT PAR WILL BE ABLE TO REALIZE COST SAVINGS BY ADMINISTERING THE AGREEMENT USING ACH DEBIT AS AUTHORIZED HEREIN. IF, FOR ANY REASON, THIS AUTHORIZATION IS TERMINATED OR SUSPENDED OR PAR IS UNABLE TO ADMINISTER THE AGREEMENT BY ACH DEBIT ENTRIES AS AUTHORIZED HEREIN, CUSTOMER AGREES THAT THE PERIODIC PAYMENTS UNDER THE AGREEMENT MAY BE INCREASED BY TWO PERCENT (2%) UNTIL PAR' ABILITY TO ADMINISTER THE AGREEMENT BY ACH DEBIT AS AUTHORIZED HEREIN HAS BEEN RESTORED TO THE REASONABLE SATISFACTION OF PAR.**

**THE PERSON SIGNING BELOW AFFIRMS THAT HE/SHE IS A DULY AUTHORIZED CORPORATE OFFICER OR OFFICIAL, PARTNER OR PROPRIETOR OF THE CUSTOMER LISTED ABOVE.**

**CUSTOMER:** _____

Signature: _____

Name: _____

# ℜMATION FORM

Required for customers ordering products or services from ParTech, Inc. and its subsidiaries

| Company Information | | |
|---|---|---|
| Legal Business / Entity Name: | | Federal Tax ID (EIN): |
| Billing Address: | | |
| City: | State: | Zip Code: |
| Business Established: | Total Annual Revenue: | Ownership Structure: |
| Primary Contact Name: | Email Address: | # of Stores Owned: |
| Phone Number | Mobile Number | Fax Number |
| Accounts Payable/Remit to Name | Accounts Payable/Remit Email | Accounts Payable/Phone |

| Company Ownership Information | | |
|---|---|---|
| Name Owner #1: | Title: | % Owned: |
| Name Owner #2: | Title: | % Owned: |
| Name Owner #3: | Title: | % Owned: |

If more than 3 owners, please list on separate page.

**AUTHORIZATION & ACKNOWLEDGEMENT**

By signing below, I, on behalf of the company listed above, certify that (a) the information contained in this form is complete and accurate; (b) I represent a company who is a business seeking to receive products and services for business purposes only, and (c) I am a principal of the company and duly authorized to execute and submit this form. I authorize ParTech, Inc. (its subsidiaries or affiliates) ("PAR") or an agent acting on its behalf to run a credit check and/or request credit and other reports on the company named above and/or verify references supplied herein.
Submission of this form does not entitle company to any products or services and does not create any binding obligations on PAR. Company understands and agrees that PAR shall be under no obligation to provide any products and services until an agreement has been executed by both company and PAR and that the payment terms approved by PAR may be different than those requested by company.

DocuSign Envelope ID: 1F08E8A3-CA52-429A-83FC-34AFFFA0D2DA

SIGNATURE: TITLE:

PRINT NAME: DATE:

**Attn: Accounting Department**

8383 Seneca Turnpike New Hartford, NY 13413
Phone: (800) 448-6505 ● Fax: (315) 738-0343 REV 04/20/22

# STATEMENT OF WORK

This Statement of Work ("SOW") is entered into by and between Punchh Inc., a Delaware corporation, with its principal place of business at 8383 Seneca Turnpike, New Hartford, NY, USA ("Punchh"), and the customer ("Customer") listed below as of the date of the last signature below (the "SOW Effective Date"). This SOW is included by reference and incorporated into the Order of the same date and is governed by the terms and conditions of the Master Services Agreement between Punchh and Customer.

**Parties to this SOW:**

| **Customer:** | **Punchh:** |
|---|---|
| American Dairy Queen Corp.<br>Dairy Queen Canada, Inc. | Punchh Inc. |
| 8331 Norman Center Drive, Suite 700 | 8383 Seneca Turnpike |
| Bloomington, MN 55437 | New Hartford, NY 13413 |
| USA | USA |

## SUMMARY OF FEATURES

Punchh confirms that the delivery of the following services and/or features will be provided in accordance with the Statement of Work ("SOW"). Details about these features are outlined in the designated sections below.

**Section I: Summary of Features:**
Punchh confirms the delivery of the following features will be provided in accordance with most recent Order agreed to by the parties.

| ESSENTIALS LOYALTY |
|---|

| | |
|---|---|
| ESSENTIALS LOYALTY | Program Management (Membership Tiers, Rewards, Expiry Logic, Reporting) |
| | Full Segmentation |
| | Offer Management (Redeemables) |
| | Feedback (Reviews & Ratings) |
| | Referral Marketing |
| | Program and Audience Analytics |
| | Loyalty Fraud Prevention |

| ESSENTIALS CAMPAIGNS | |
|---|---|
| ESSENTIALS CAMPAIGNS | Rich Content Editor & Templatization |
| | Segmentation (Profile, Redemption) |
| | Email Marketing |
| | |
| | Campaign Analytics |
| | Offers Management (Coupons & Promos) |

| CORE PLATFORM | |
|---|---|
| CORE PLATFORM | Customer 360° CRM |
| | Dashboard Analytics |
| | Personalization (Merge Tags) |
| | Data Exports |

## 1. MANAGED SERVICES

SCOPE OF SERVICES – Managed Services

Customer will receive ongoing execution services from a Punchh Managed Services Specialist ("MS"). The MS will execute on marketing activities and other actions as needed related to loyalty programs within the Punchh online platform ("Punchh Dashboard") on behalf of Customer.

| PLATINUM MANAGED SERVICES |
| --- |
| U.S. AND CANADA |
| Weekly Deals (up to 25 campaigns/week) |
| 10 campaigns a month (for non-Weekly Deals) |
| 30 MS activities per month |
| Weekly Campaign Execution Meeting (combined Canada/U.S. meeting) |

Description of Services

Punchh Dashboard Activities

- Punchh will, on behalf of the Customer, execute on Punchh Dashboard actions and activities as defined herein.
- Copy, creative, redeemable details, segment details or custom segment lists, and scheduling (together, the "Campaign Brief") are to be provided in entirety and finality by the Customer to Punchh within the agreed timeframe.
- Creative edits assistance and custom email templates are limited to Punchh standard functionality within the Email Editor. HTML edits are limited to non-code impacting changes. Revisions on creative edit changes (excluding errors by Punchh) are limited to 3 rounds of revisions no sooner than 2 business days prior to the campaign go-live.
- Managed Services are limited to actions or activities then-available in the Punchh Dashboard and the standard functionality therein. Any requests pertaining to actions or activities outside of the Punchh Dashboard including, but not limited to, new creative services, data analyzing, copywriting, marketing strategy or marketing coordination (meaning, for purposes of this SOW, management of or adherence to Customer's marketing calendar pursuant to Punchh's defined process) requested outside of the provided marketing brief, are expressly excluded from this SOW and may only be added upon a separate SOW signed by both parties.

Campaign Execution Meeting

- Weekly campaign execution meetings will be scheduled at a mutually agreed time between the Customer and the MS.

- Managed Services attendance at the Campaign Execution Meeting will consist of any team member assigned to a Customer's campaign.

Other

- Punchh may provide data exports within the Punchh Dashboard.

SERVICE LEVEL AGREEMENT FOR MANAGED SERVICES:

a. Managed Services will be available to Customer during normal operating business hours; not including U.S. Federal Holidays.
b. Punchh will confirm receipt of any request within one (1) business day of ticket submission (see below table for Response Times).
c. Project Plans (prepared separately in writing) require a minimum four (4) business days for Punchh completion/execution by Punchh, excluding Customer Review Period.
d. An additional two (2) business days for response will be added for any activities where a 3rd party tool must be utilized to complete the requested Punchh Dashboard Activity (this includes, but is not limited to, Sendgrid/Twilio and Typeform)
e. Punchh will verify proper operation of the campaign prior to submitting to Customer for Customer review.
f. A "Customer Review Period" is defined as the designated time period for Customer to review, test and provide approval of the proposed Managed Services prior to project execution. The length of time for the Customer Review Period will be mutually agreed upon by the parties.
g. Punchh will accept one (1) change to the Project Plan at least two (2) business days prior to the expected project execution date, excluding during the Customer Review Period.
h. Punchh will not accept any changes to a Project Plan within two (2) business days of expected project execution date, excluding during the Customer Review Period.
i. Once Customer completes the Customer review during the Customer Review Period and provides its approval, Punchh will execute the campaign pursuant to the Project Plan.
j. If Punchh commits Negligent Misconfigurations across a campaign, Customer is entitled up to a maximum of three (3) credits per month, each credit in the amount of a 15% fee reduction applied to the next month's fees (if the subscription has expired, the subscription will be extended). A "Negligent Misconfiguration" is defined as when Punchh Managed Services incorrectly configures a campaign that was submitted correctly from the outlined process listed in Section 3

**ADDITIONAL CONSIDERATIONS**

- This SOW is accompanied by one or more Orders and is subject to the terms therein.
- Any actions or activities requested by Customer not defined in this SOW are considered out of scope and shall be subject to additional fees, as applicable, and will be set forth in a separate SOW. The parties may amend this SOW at any time in a mutual writing signed by both parties.
- Any actions or activities defined in the Project Plan that are not performed or used within the period defined herein will not "roll over" into subsequent periods.

## 2. DATA PIPELINE

**A. Customer's project for Data Pipeline will include following deliverables:**

| Deliverable ID | Description |
|---|---|
| D-01 | **Data Pipeline**<br>The Punchh Data Pipeline option delivers an ongoing feed of data from the Punchh system to a landing location in the Customer's preferred cloud account: (***MUST SELECT ONE***)<br>☐AWS (S3) X Azure (Azure Data Lake Storage) ☐ GCP (Google Cloud Storage)<br><br>The standard offering for the Data Pipeline includes data from approximately 46 tables in the Punchh database, including guest profile, check-ins, redemptions, reward data, and campaign participation. Example tables can be found in the "Data Objects and Volume" section below. Customer may request the configuration of additional tables to the pipeline in writing at any time. The data is delivered to the Customer's object store (either to S3, ADLS or Google Cloud Storage from the above selection) (the "**Destination Location**") in the form of Parquet/ JSON files, with each file including data from one Punchh table for an interval of time, as selected by Customer in the range set forth in the associated Order.<br><br>Each file includes insert, update and delete events from the associated Punchh table for that interval of time. |
| D-02 | **Data Pipeline Schema**<br>Punchh shall publish information describing the contents of the Data Pipeline - its schema in the knowledge base, also known as the documentation platform. The schema may change from time to time as the Punchh system grows and evolves. Schema change details will be communicated one week ahead of time and published in the knowledge base; however, certain types of changes (e.g., emergency production changes) may not allow for one week's notice. |
| D-03 | **Data Pipeline Technical Consulting and Schema Training**<br>Technical consulting will be available to Customer to assist with onboarding questions in the first two (2) weeks of implementation, however, any additional consulting requests shall be purchased at the rates set forth in a separate work order. |

| | |
|---|---|
| D-04 | **Data Pipeline Support**<br>Data Pipeline support will fall under current support SLAs as noted in this SOW below. |

**B. The deliverables listed above and their timely completion depend on the following considerations:**

| Requirement ID | Description |
|---|---|
| R-01 | Customer shall self-configure the data pipeline |
| R-02 | Customer shall make available an Amazon Web Services S3 bucket/ Azure ADLS container SAS token/ Google storage bucket, or other cloud account location authorized by Punchh, configured with permissions allowing Punchh to write files to the destination. |
| R-03 | Parties shall agree upon a pre-defined delivery cadence/ frequency |

## SERVICE LEVELS

### Initial Load Time

When a Data Pipeline is configured to push data for a given database table to the Customer, the first task is to push all historical data through the Data Pipeline to "catch up" to the current time - the "Initial Load." This process may take several days for very large tables, and the speed varies depending on the performance of the Customer's Destination Location. Punchh endeavors to complete the Initial Load as quickly as possible, but cannot offer an Initial Load time SLA. Punchh will continue to attempt to complete the Initial Load in the event of unanticipated failures (e.g., no fault of Customer).

### Re-loading of Historical Data

It may become necessary or expedient to Re-load a table, for example, if Customer decides to move from one data platform to another. If Re-load is necessary, a secondary SOW outlining the scope and effort may be necessary to address the difference with this SOW. "Re-loading" consists of performing the Initial Load process again.

By necessity, tables undergoing their Initial Load or Re-load are excluded from the below calculations, as described in the Exclusions (defined below).

For purposes of this SOW, the following are defined as "Exclusions":

(i) Is caused by factors outside of Punchh's reasonable control, including, without limitation, any force majeure event or internet access or related

problems beyond the demarcation point of Punchh or its direct hosting subcontractor AWS; or

(ii) Results from any action or inaction on the part of Customer or any third party (other than Punchh's subcontractors); or

(iii) Results from Punchh's suspension, limitation, or termination of Customer's right to use the Punchh Services in accordance with the Agreement; or

(iv) Occurs during Scheduled Downtime (as defined in the Agreement); or

(v) Occurs during emergency downtime; or

(vi) Results from problems or issues related to alpha, beta, preview, test, or otherwise not generally available features; or

(vii) Occurs in a portion or portions of the Punchh system that Customer did not use or attempt to use at least once during the measurement period; or

(viii) Results from Punchh taking action to protect its systems and data from an attack or other security incident; or

(ix) Occurs during any period for which Customer has not paid all amounts due under any active Order by the corresponding due date.

**Service Level Agreement (SLA) for Synchronization Latency**

After a given table has completed its Initial Load or a Re-load, it begins "Ongoing Synchronization." In this mode, Punchh periodically delivers to Customer's Destination Location those database rows that have changed since the last delivery. Deliveries happen in near real time or at Customer's chosen intervals as described above. The time required to propagate a data change from its source to Customer's Destination Location also varies depending on the size of the database table, with large tables having higher Synchronization Latency than smaller ones. The time between when an event happens in the Punchh system and when that event is delivered to Customer's Destination Location is the Synchronization Latency metric.

If the Synchronization Latency for a given data table exceeds the SLA below then, barring Exclusions, Punchh considers that to be a "Production Incident." Punchh will treat a Data Pipeline SLA violation as a Production Incident with an impact rating no lower than 2 and an urgency rating no lower than 2 (as set forth in the applicable SLA in the Agreement).

| Pipeline Frequency | Synchronization Latency SLA |
|---|---|
| Near real time | ≤ 12 hours |
| Every 6 hours | ≤ 18 hours |
| Daily | ≤ 36 hours |

| | |
|---|---|
| Weekly | ≤ 48 hours |

**NOTE: The Punchh Data Pipeline delivers various sets of data, each with its own lifecycle. If there are no events that occurred during the most recent load, no data files are generated. The Service Level Agreement (SLA) is defined at the Data Pipeline level. The SLA can be determined by finding the time difference between the maximum "delivery" timestamp and the maximum "updated_at" timestamp across all tables.**

**Data Objects and Volume**

The standard offering of Data Pipeline includes the following tables.

| **Tables included in the standard offering** | | |
|---|---|---|
| accounts | feedbacks | rewards |
| app_downloads | free_punchh_campaigns | subscription_discounts |
| bulk_guest_upload_connections | gift_cards | subscription_discounts |
| business_admin_location_groups | line_item_products | taggings |
| business_admin_locations | line_item_selectors | tags |
| business_migration_users | locations | tips |
| businesses | mass_giftings | user_cards |
| campaign_statistics | qualification_criteria | user_coupon_redemptions |
| campaigns | receipt_details | user_favourite_locations |
| card_designs | receipt_stats | user_incinerates |
| checkin_allocations | redeemables | user_subscriptions |
| checkin_failures | redemption_codes | users |
| checkins | redemptions | |
| conversion_rules | referrals | |
| coupons | reward_archives | |
| feedback_categories | reward_credits | |
| feedback_replies | reward_debits | |

Additional tables may be requested by Customer in writing at any time, and may incur an additional fee (e.g. data not readily available or custom tables). A dedicated Punchh team member will be able to help with the provisioning and will be subject to data availability and Punchh capabilities.

**Volume**

Data transfer volumes will vary depending on number of locations, number of transactions and guest count and the price listed in the Order Form will reflect

anticipated volume. This SOW will allow the transfer of up to one billion rows of data (excluding historical load) stored on the Punchh platform in the initial year from signature for new customers. Any overages in the initial year will serve as a baseline for renewal pricing in the subsequent year. Pricing will be set forth in the associated Order Form.

Punchh Inc. ("Punchh") and the customer named above ("Customer"), collectively referred to as the "Parties" have caused this SOW, executed by their duly authorized representatives, to be effective as of the later of the two signature dates below ("SOW Effective Date"). This SOW is entered into under the terms and conditions of and forms a part of the most recent Punchh Master Services Agreement and Order entered into by the Parties.

AGREED AND ACCEPTED BY

| Customer | Punchh Inc. |
|---|---|
| By: DocuSigned by: 449DEB4ABAFD4D8... (signature) | By: DocuSigned by: Joe Yetter CB49C9AB3A20492... (signature) |
| Printed Name: Susie Moschkau | Printed Name: Joe Yetter |
| Title: VP of Digital Experience | Title: General Manager - Punchh |
| Date: 2/16/2024 | Date: 2/17/2024 |

***Address:*** 8383 Seneca Turnpike, New Hartford, NY 13413, United States ☎: (315) 738-0600

## ORDER

| ***CUSTOMER INFORMATION*** | | | |
|---|---|---|---|
| *Customer Name:* | American Dairy Queen Corp.<br>Dairy Queen Canada, Inc. | *Customer Contact:* | |
| *Address:* | 8331 Norman Center Dr. Suite #700 Bloomington, MN 55437 | | |
| *Phone:* | | *Email:* | |
| *Billing contact (if different):* | | | |
| ***ORDER DETAILS*** | | | |
| *Order Term:* | 36 months | *Offer Expiration Date:* | N/A |
| *Billing Terms:* | X Monthly ☐ Annually ☐ Quarterly, all net 30 | | |

| ***FEES**** | | | |
|---|---|---|---|
| ***PLATFORM FEES*** | | | |
| *Products* | *List Price Per Location / Month* | *Number of Locations* | *Minimum System-Wide Recurring Fee / Month* |
| Loyalty – Treat & Food locations (US and Canada) | $40.50 | Minimum 2500 | $101,250 |
| Loyalty – Treat only locations (US and Canada) | $35.25 | Minimum 475 | $16,743.75 |
| Coupons & Promos (US non-integrated locations only) | $14.30 | No Minimum | [varies] |
| **Monthly Platform Fees** | | | **$117,993.75** |
| ***IMPLEMENTATION & PROFESSIONAL FEES*** | | | |
| | *Price Per Location/Month* | *Number of Locations* | *Recurring Fee/Month* |
| **Enterprise Package (US and Canada)** | | | |
| Managed Services – US (flat fee) | [not per Location] | N/A | $10,800 |
| Managed Services – Canada (flat fee) | [not per Location] | N/A | $10,800 |
| | | | |
| | | | |
| Data Pipeline ongoing- daily data pull | [not per Location] | N/A | $2,280 |
| **Total Monthly Professional Fees** | | | **$23,880** |
| ***OTHER FEES*** | | | |
| | | *One-time Fee* | |

| | |
|---|---|
| Data Pipeline Set-Up | [$7,000] waived |
| **Set-up Fees Total** | **$0** |

***Not Included:** Third Party Fees (See Attachment 1)

Punchh Inc. (**"Punchh"**) and the customer(s) named above (**"Customer"**), collectively referred to as the **"Parties"** have caused this Order, executed by their duly authorized representatives, to be effective as of the later of the two signature dates below (**"Order Effective Date"**). This Order, including the Order Conditions on the following pages, is entered into under the terms and conditions of, and forms a part of, that Master Services Agreement entered into by the Parties as of _____ (the "**Agreement**"). Except as specifically set forth in the Agreement, this Order may not be terminated for convenience.

**AGREED AND ACCEPTED BY**

**American Dairy Queen Corp.**

By: _____ (signature)
DocuSigned by: 440DEB4ABAFD4D6...

Printed Name: Susie Moschkau

Title: VP of Digital Experience

Date: 2/16/2024

**Punchh Inc.**

By: _____ (signature)
DocuSigned by: Joe Yetter CB49C9AB3A20492...

Printed Name: Joe Yetter

Title: General Manager - Punchh

Date: 2/17/2024

**Dairy Queen Canada, Inc.**

By: _____ (signature)
DocuSigned by: 440DEB4ABAFD4D6...

Printed Name: Susie Moschkau

Title: VP of Digital Experience

Date: 2/16/2024

**ORDER CONDITIONS**

Scoping and timelines for delivery of the Punchh Products and Services included in the above Order are outlined in a separate Statement of Work. Any products or services not specifically listed in this Order may be added under a separate Order (or an Add-On Order) and signed by both Parties.

**Billing and Invoicing**

- Except as specifically set forth in the Agreement regarding Non-National Marketing Fund Locations ("**Non-NMF Locations**"), Customer agrees to be invoiced for all Fees specified in this Order on an aggregate, system-wide basis (not per-store or per-franchise).
- All Fees are payable in US dollars.
- All Fees are non-refundable once paid, including for any Location(s) that may close or otherwise be deactivated in the Customer dashboard during a billing cycle. Any changes in ownership of a particular Location will be managed by contacting Punchh and completing a Transfer and Assumption Agreement, including payment of any applicable administrative fee.

**PLATFORM FEES:**

Customer (and the Non-NMF Locations) will be invoiced for the listed Monthly Platform Fees specified in this Order (the "**Platform Fees**") upon the Order Effective Date (the "**Activation Date**"). Platform Fees are recurring, due and payable in advance in the frequency indicated above under Billing Terms.

Platform Fees are to be based on the greater of: (a) the total number of Locations specified in this Order, or (b) the total number of Locations provisioned, meaning listed on the Customer dashboard, on Punchh's Platform at any given time during the applicably billing cycle (the "**Participating Locations**"). Platform Fees for Locations that are added mid-billing cycle will either, in Punchh's sole discretion: (i) result in Punchh issuing an additional mid-cycle invoice for the added Location(s); or (ii) be added (on a prorated basis) to the next billing cycle and paid in arrears. **Participating Locations** that use Coupons and Promos (US non-integrated locations only) would be considered active and billable if they have had 10 or more loyalty check-in a given month.

**IMPLEMENTATION AND PROFESSIONAL FEES:**

The Total Monthly Professional Fees (the "**Professional Services Fees**") specified in this Order are due and payable as specified under Billing Terms after the Order Effective Date as reflected in the applicable invoice(s).

**OTHER FEES (AND EXPENSES):**

If specific modules are being purchased under this Order, Customer will be invoiced for product modules as soon as delivered or made available to Customer, and Customer agrees to pay in accordance with the invoice terms.

Any Third-Party Fees pertaining to the Services (e.g., Sendgrid and Twilio, see Attachment 1), if any, shall be passed on by Punchh to Customer and invoiced separately from this Order.

**Term and Renewal**

The initial term of this Order is specified above under Order Term (the "**Initial Term**") and begins upon the Activation Date. Thereafter, and unless otherwise terminated earlier pursuant to the Agreement, the Order Term will automatically renew for twelve (12) month renewal periods following the Initial Term (each a "**Renewal Period**"), unless one Party notifies the other in writing of its intention not to renew at least ninety (90) days prior to the end of the then-current Renewal Period. Unless otherwise agreed upon in writing between the Parties, for the initial Renewal Period following the Initial Term all listed fees in the Order shall increase by the greater of 6% or the applicable annual percentage increase in the Consumer Price Index ("**CPI**") over the prior 36 month period (the "**Automatic Increase**") (with the CPI amount derived from the all-Urban Consumers All Cities Average, For All Items (1982- 1984=100) published by the Bureau of Labor Statistics, United States Department of Labor web site: https://www.bls.gov/news.release/cpi.nr0.htm); and thereafter fees shall be at Punchh's list price for each Renewal Period.

**AWS Private Instance**

Customer acknowledges that by requesting a private instance, it would be subject to additional Fees.

**ATTACHMENT 1**

**THIRD PARTY FEES**

| **Email Delivery** | | |
|---|---|---|
| **Item** | **Description** | **Fee** |
| **Mandatory IP Server Fee** | *Payment for dedicated Internet Protocol servers which send emails.* | $60 per month for 2 IP's, system-wide (scale up # of IP's based on email volume) |
| **Onboarding Fee for Accounts with More than 200,000 Users** | *Initial setup and IP warm-up for customers with 200K+ users.* | $5,000 one-time |
| **Volume-based Delivery Fees** | Email Volume (Emails Sent)<br>0-100K per month<br>100K-300K per month<br>300K-700K per month<br>700K-1.5M per month<br>Additional 500K per month | System Monthly Fee<br>$79.95 per month<br>$199.95 per month<br>$399.95 per month<br>$699.95 per month<br>$200.00 per month |

| **SMS Delivery (If Applicable)** | | |
|---|---|---|
| **Item** | **Description** | **Fee** |
| **Subscription Fee** | *Recurring pass-through charges for SMS application period and ongoing usage.* | Short Code (Vanity): $1,500 per month<br>Short Code (Random): $1,000 per month |
| **One-Time Setup Fee** | *Punchh and third-party combined one-time setup fee for SMS phone number approval and setup.* | Greater than 200 Locations: $10,000 one-time fee<br>Less than 200 Locations: $5,000 one-time fee |
| **Volume-based Delivery Fees** | Volume<br>First 500k Messages<br>Next 4.5 Million Messages<br>Next 20 Million Messages<br>Next 75 Million Messages<br>Next 100 Million Messages | Cost per Message<br>$ 0.0100<br>$ 0.0075<br>$ 0.0050<br>$ 0.0030<br>$ 0.0020 |
| **Carrier Fees** | | Carrier Fees For Messages<br>$0.0035 per message |

| **Other Fees (If Applicable)** | |
|---|---|
| AWS Private Instance | Based on usage and applicable only if selected. |

**FOOTNOTES**

Subject to change based on service provider pricing changes. Additional on-going or one-time fees may apply. SMS Carrier application fees may be assessed upon short code application submission and are passed directly to Customer. Fees for messages received are extra. Cellular Carrier Messaging Rates are not included. Message rollover not available.

DocuSign

## Certificate Of Completion

Envelope Id: 1F08E8A3CA52429A83FC34AFFFA0D2DA
Status: Completed
Subject: Complete with DocuSign: Punchh IDQ MSA + SOW + ORDER FORM_FINAL_For Sig_021624.pdf
Source Envelope:
Document Pages: 38
Signatures: 8
Certificate Pages: 5
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Envelope Originator:
Holly Gaetano
8383 Seneca-Turnpike Rd
New Hartford, NY 13413
holly_gaetano@partech.com
IP Address: 70.40.85.149

## Record Tracking

Status: Original
2/16/2024 2:01:01 PM
Holder: Holly Gaetano
holly_gaetano@partech.com
Location: DocuSign

| Signer Events | Signature | Timestamp |
|---|---|---|
| Susie Moschkau<br>Susie.Moschkau@idq.com<br>Director Digital Marketing<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br> <br>Signature Adoption: Drawn on Device<br>Using IP Address: 104.28.103.122 | Sent: 2/16/2024 2:29:08 PM<br>Viewed: 2/16/2024 6:19:19 PM<br>Signed: 2/16/2024 6:26:10 PM |
| **Electronic Record and Signature Disclosure:**<br>Accepted: 2/16/2024 6:19:19 PM<br>ID: d3fbf403-b9e3-4e6a-ae35-eb67c077bda8 | | |
| Joe Yetter<br>joseph_yetter@partech.com<br>GM Punchh<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br> <br>Signature Adoption: Pre-selected Style<br>Using IP Address: 74.70.225.251 | Sent: 2/16/2024 6:26:13 PM<br>Viewed: 2/17/2024 11:22:12 AM<br>Signed: 2/17/2024 11:23:35 AM |
| **Electronic Record and Signature Disclosure:**<br>Accepted: 2/17/2024 11:22:12 AM<br>ID: 66022e55-7686-4eee-abb0-925ac2272ae2 | | |

| In Person Signer Events | Signature | Timestamp |
|---|---|---|

| Editor Delivery Events | Status | Timestamp |
|---|---|---|

| Agent Delivery Events | Status | Timestamp |
|---|---|---|

| Intermediary Delivery Events | Status | Timestamp |
|---|---|---|

| Certified Delivery Events | Status | Timestamp |
|---|---|---|

| Carbon Copy Events | Status | Timestamp |
|---|---|---|
| Josh Tuokkola<br>Josh.Tuokkola@partech.com<br>Security Level: Email, Account Authentication (None)<br>**Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | COPIED | Sent: 2/17/2024 11:23:37 AM |

| Carbon Copy Events | Status | Timestamp |
|---|---|---|
| Jenna Schwartzhoff<br>Jenna_schwartzhoff@partech.com<br>Security Level: Email, Account Authentication (None)<br>**Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | COPIED | Sent: 2/17/2024 11:23:38 AM |

| Witness Events | Signature | Timestamp |
|---|---|---|

| Notary Events | Signature | Timestamp |
|---|---|---|

| Envelope Summary Events | Status | Timestamps |
|---|---|---|
| Envelope Sent | Hashed/Encrypted | 2/16/2024 2:29:08 PM |
| Certified Delivered | Security Checked | 2/17/2024 11:22:12 AM |
| Signing Complete | Security Checked | 2/17/2024 11:23:35 AM |
| Completed | Security Checked | 2/17/2024 11:23:38 AM |

| Payment Events | Status | Timestamps |
|---|---|---|

| Electronic Record and Signature Disclosure |
|---|

Electronic Record and Signature Disclosure created on: 4/20/2017 8:45:25 AM
Parties agreed to: Susie Moschkau, Joe Yetter

**CONSUMER DISCLOSURE**

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**Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

**Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign â€˜Withdraw Consentâ€™ form on the signing page of a DocuSign envelope instead of signing it. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

**All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures

electronically from us.

**How to contact PAR Technology Corporation:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: pti_salesadmin@partech.com

**To advise PAR Technology Corporation of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at pti_salesadmin@partech.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

**To request paper copies from PAR Technology Corporation**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to pti_salesadmin@partech.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with PAR Technology Corporation**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an e-mail to pti_salesadmin@partech.com and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

| | |
|---|---|
| Operating Systems: | WindowsÂ® 2000, WindowsÂ® XP, Windows VistaÂ®; Mac OSÂ® X |
| Browsers: | Final release versions of Internet ExplorerÂ® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safariâ„¢ 3.0 or above (Mac only) |
| PDF Reader: | AcrobatÂ® or similar software may be required to view and print PDF files |
| Screen Resolution: | 800 x 600 minimum |
| Enabled Security Settings: | Allow per session cookies |

** These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

**Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the â€˜I agreeâ€™ button below.
By checking the â€˜I agreeâ€™ box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC CONSUMER DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify PAR Technology Corporation as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by PAR Technology Corporation during the course of my relationship with you.

***Address:*** 8383 Seneca Turnpike, New Hartford, NY 13413, United States ☎: (315) 738-0600

## ORDER

| ***CUSTOMER INFORMATION*** | | | |
|---|---|---|---|
| *Customer Name:* | American Dairy Queen Corp.<br>Dairy Queen Canada, Inc. | *Customer Contact:* | |
| *Address:* | 8331 Norman Center Dr. Suite #700 Bloomington, MN 55437 | | |
| *Phone:* | | *Email:* | |
| *Billing contact (if different):* | | | |
| ***ORDER DETAILS*** | | | |
| *Order Term:* | 36 months | *Offer Expiration Date:* | N/A |
| *Billing Terms:* | X Monthly ☐ Annually ☐ Quarterly, all net 30 | | |

| ***FEES**** | | | |
|---|---|---|---|
| ***PLATFORM FEES*** | | | |
| *Products* | *List Price Per Location / Month* | *Number of Locations* | *Minimum System-Wide Recurring Fee / Month* |
| Loyalty – Treat & Food locations (US and Canada) | $40.50 | Minimum 2500 | $101,250 |
| Loyalty – Treat only locations (US and Canada) | $35.25 | Minimum 475 | $16,743.75 |
| Coupons & Promos (US non-integrated locations only) | $14.30 | No Minimum | [varies] |
| **Monthly Platform Fees** | | | **$117,993.75** |
| ***IMPLEMENTATION & PROFESSIONAL FEES*** | | | |
| | *Price Per Location/Month* | *Number of Locations* | *Recurring Fee/Month* |
| **Enterprise Package (US and Canada)** | | | |
| Managed Services – US (flat fee) | [not per Location] | N/A | $10,800 |
| Managed Services – Canada (flat fee) | [not per Location] | N/A | $10,800 |
| | | | |
| | | | |
| Data Pipeline ongoing- daily data pull | [not per Location] | N/A | $2,280 |
| **Total Monthly Professional Fees** | | | **$23,880** |
| ***OTHER FEES*** | | | |
| | | *One-time Fee* | |

| | |
|---|---|
| Data Pipeline Set-Up | [$7,000] waived |
| **Set-up Fees Total** | **$0** |

***Not Included:** Third Party Fees (See Attachment 1)

Punchh Inc. (**"Punchh"**) and the customer(s) named above (**"Customer"**), collectively referred to as the **"Parties"** have caused this Order, executed by their duly authorized representatives, to be effective as of the later of the two signature dates below (**"Order Effective Date"**). This Order, including the Order Conditions on the following pages, is entered into under the terms and conditions of, and forms a part of, that Master Services Agreement entered into by the Parties as of 2/17/24 (the "**Agreement**"). Except as specifically set forth in the Agreement, this Order may not be terminated for convenience.

**AGREED AND ACCEPTED BY**

**American Dairy Queen Corp.**

By: DocuSigned by: 440DEB4ABAFD4D6... (signature)

Printed Name: Susie Moschkau

Title: VP of Digital Experience

Date: 2/16/2024

**Dairy Queen Canada, Inc.**

By: DocuSigned by: 440DEB4ABAFD4D6... (signature)

Printed Name: Susie Moschkau

Title: VP of Digital Experience

Date: 2/16/2024

**Punchh Inc.**

By: DocuSigned by: Joe Yetter CB49C9AB3A20492... (signature)

Printed Name: Joe Yetter

Title: General Manager - Punchh

Date: 2/17/2024

**ORDER CONDITIONS**

Scoping and timelines for delivery of the Punchh Products and Services included in the above Order are outlined in a separate Statement of Work. Any products or services not specifically listed in this Order may be added under a separate Order (or an Add-On Order) and signed by both Parties.

**Billing and Invoicing**

- Except as specifically set forth in the Agreement regarding Non-National Marketing Fund Locations ("**Non-NMF Locations**"), Customer agrees to be invoiced for all Fees specified in this Order on an aggregate, system-wide basis (not per-store or per-franchise).
- All Fees are payable in US dollars.
- All Fees are non-refundable once paid, including for any Location(s) that may close or otherwise be deactivated in the Customer dashboard during a billing cycle. Any changes in ownership of a particular Location will be managed by contacting Punchh and completing a Transfer and Assumption Agreement, including payment of any applicable administrative fee.

**PLATFORM FEES:**

Customer (and the Non-NMF Locations) will be invoiced for the listed Monthly Platform Fees specified in this Order (the "**Platform Fees**") upon the Order Effective Date (the "**Activation Date**"). Platform Fees are recurring, due and payable in advance in the frequency indicated above under Billing Terms.

Platform Fees are to be based on the greater of: (a) the total number of Locations specified in this Order, or (b) the total number of Locations provisioned, meaning listed on the Customer dashboard, on Punchh's Platform at any given time during the applicably billing cycle (the "**Participating Locations**"). Platform Fees for Locations that are added mid-billing cycle will either, in Punchh's sole discretion: (i) result in Punchh issuing an additional mid-cycle invoice for the added Location(s); or (ii) be added (on a prorated basis) to the next billing cycle and paid in arrears. **Participating Locations** that use Coupons and Promos (US non-integrated locations only) would be considered active and billable if they have had 10 or more loyalty check-in a given month.

**IMPLEMENTATION AND PROFESSIONAL FEES:**

The Total Monthly Professional Fees (the "**Professional Services Fees**") specified in this Order are due and payable as specified under Billing Terms after the Order Effective Date as reflected in the applicable invoice(s).

**OTHER FEES (AND EXPENSES):**

If specific modules are being purchased under this Order, Customer will be invoiced for product modules as soon as delivered or made available to Customer, and Customer agrees to pay in accordance with the invoice terms.

Any Third-Party Fees pertaining to the Services (e.g., Sendgrid and Twilio, see Attachment 1), if any, shall be passed on by Punchh to Customer and invoiced separately from this Order.

**Term and Renewal**

The initial term of this Order is specified above under Order Term (the "**Initial Term**") and begins upon the Activation Date. Thereafter, and unless otherwise terminated earlier pursuant to the Agreement, the Order Term will automatically renew for twelve (12) month renewal periods following the Initial Term (each a "**Renewal Period**"), unless one Party notifies the other in writing of its intention not to renew at least ninety (90) days prior to the end of the then-current Renewal Period. Unless otherwise agreed upon in writing between the Parties, for the initial Renewal Period following the Initial Term all listed fees in the Order shall increase by the greater of 6% or the applicable annual percentage increase in the Consumer Price Index ("**CPI**") over the prior 36 month period (the "**Automatic Increase**") (with the CPI amount derived from the all-Urban Consumers All Cities Average, For All Items (1982- 1984=100) published by the Bureau of Labor Statistics, United States Department of Labor web site: https://www.bls.gov/news.release/cpi.nr0.htm); and thereafter fees shall be at Punchh's list price for each Renewal Period.

**AWS Private Instance**

Customer acknowledges that by requesting a private instance, it would be subject to additional Fees.

**ATTACHMENT 1**

**THIRD PARTY FEES**

| **Email Delivery** | | |
|---|---|---|
| **Item** | **Description** | **Fee** |
| **Mandatory IP Server Fee** | *Payment for dedicated Internet Protocol servers which send emails.* | $60 per month for 2 IP's, system-wide (scale up # of IP's based on email volume) |
| **Onboarding Fee for Accounts with More than 200,000 Users** | *Initial setup and IP warm-up for customers with 200K+ users.* | $5,000 one-time |
| **Volume-based Delivery Fees** | Email Volume (Emails Sent)<br>0-100K per month<br>100K-300K per month<br>300K-700K per month<br>700K-1.5M per month<br>Additional 500K per month | System Monthly Fee<br>$79.95 per month<br>$199.95 per month<br>$399.95 per month<br>$699.95 per month<br>$200.00 per month |

| **SMS Delivery (If Applicable)** | | |
|---|---|---|
| **Item** | **Description** | **Fee** |
| **Subscription Fee** | *Recurring pass-through charges for SMS application period and ongoing usage.* | Short Code (Vanity): $1,500 per month<br>Short Code (Random): $1,000 per month |
| **One-Time Setup Fee** | *Punchh and third-party combined one-time setup fee for SMS phone number approval and setup.* | Greater than 200 Locations: $10,000 one-time fee<br>Less than 200 Locations: $5,000 one-time fee |
| **Volume-based Delivery Fees** | Volume<br>First 500k Messages<br>Next 4.5 Million Messages<br>Next 20 Million Messages<br>Next 75 Million Messages<br>Next 100 Million Messages | Cost per Message<br>$ 0.0100<br>$ 0.0075<br>$ 0.0050<br>$ 0.0030<br>$ 0.0020 |
| **Carrier Fees** | | Carrier Fees For Messages<br>$0.0035 per message |

| **Other Fees (If Applicable)** | |
|---|---|
| AWS Private Instance | Based on usage and applicable only if selected. |

**FOOTNOTES**

Subject to change based on service provider pricing changes. Additional on-going or one-time fees may apply. SMS Carrier application fees may be assessed upon short code application submission and are passed directly to Customer. Fees for messages received are extra. Cellular Carrier Messaging Rates are not included. Message rollover not available.

# EXHIBIT F

## Territory Operator's Subfranchisees
## (As of February 28, 2025)

| CITY | ADDRESS | ZIP CODE | PHONE NUMBER | FRANCHISEE | CONTACT |
|---|---|---|---|---|---|
| Abingdon | 798 W. Main Street | 24210 | 276-619-5747 | Dairy Queen of Abingdon, LLC | Edward Cozart |
| Abingdon | 2440 Maringo Drive | 24211 | 276-525-1955 | Dairy Queen of Falcon Place, LLC | Edward Cozart |
| Alexandria | 6446 Lansdowne Center | 22315 | 703-550-2100 | Shah Paran, Corporation | Bahar Syed |
| Appomattox | 2113 Confederate Blvd | 24522 | 434-352-7411 | SHIVKRISHNA LLC | Jigar Raval |
| Ashburn | 44050 Ashburn Plaza Ste #183 | 20147 | 703-726-9622 | Tasneem, Inc. | Khan Islam |
| Big Stone Gap | 516 E. Fifth Street | 24219 | Khushbu Patel | North Star 412 Inc | Khushbu Patel |
| Bridgewater | 506 N. Main Street | 22812 | 540-828-0939 | Commonwealth Hospitality, corp. | Joel Slocum |
| Bristol | 2960 Paulena Drive | 24202 | 276-642-0060 | Dairy Queen of Bristol, LLC | Edward Cozart |
| Burke | 6050-E Burke Commons Road | 22015 | 703-426-2440 | S. Omar, Ltd | Omar Farooque |
| Centreville | 13840-C Braddock Road | 20121 | 703-266-1036 | SS & SA LLC | Nara “Harry” Adhikari |
| Charlottesville | 1777 Fortune Park Rd | 22191 | 434-964-9595 | Treats for Life LLC | Devak Patel |
| Chesapeake | 200 S. Battlefield Blvd | 23322 | 757-482-5658 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Chesapeake | 943 North Battlefield Blvd | 23230 | 757-312-8989 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Chesapeake | 3220 Western Branch Blvd | 23321 | 757-686-4817 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Chesapeake | 4024 Portsmouth Blvd | 23321 | 757-488-1860 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Christiansburg | 2257 Roanoke St. P.O. Bx. 1499 | 24068 | 540-381-8451 | Christiansburg QD LLC | Cody Pasco |
| Clifton Forge | 309 W. Ridgeway Street | 24422 | 540-863-3791 | Krishaliabbas | Khusbu Patel |
| Colonial Heights | 2011 Boulevard Ave. | 23834 | 804-520-6080 | Walcorp, Inc. | Robby Waldrop |
| Courtland | 27490 Southampton Parkway | 23837 | 757-653-0808 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Culpeper | 16125 Ira Hoffman Lane | 22701 | 540-718-1930 | Jones of Madison 2 Inc | Nicole Jones |
| Dale City | 4381 Dale Boulevard | 22193 | 703-670-6616 | Radheya & Yves, LLC | Rebecca Visperas |
| Daleville | 180 Town Center Street | 24083 | 540-750-9966 | Jiana, Inc. | Khushbu Patel & Shamana Momin |
| Danville | 2909 Riverside Drive | 24540 | 434-791-2156 | DQ of Danville, Inc. | David Arrington |
| Elkton | 108 Blue & Gold Drive | 22801 | 540-298-2800 | Commonwealth Hospitality, Inc. | Joel Slocum |
| Fairfax | 4076 Jermantown Road | 22030 | 703-359-2875 | K & S Foods LLC | Sabin Thapa |
| Fairfax Station | 9011 Silver Brook Road | 22039 | 703-495-8840 | Mohammed A. K. Mollah | Mohammed Mollah |
| Falls Church | 3527 S. Jefferson St. | 22041 | 703-931-7183 | S. Omar Ltd | Omar Farooque |
| Ferrum | 9737 Franklin Street | 24088 | 540-365-6400 | Arrington Enterprises Inc | David Arrington |
| Franklin | 1418 Armory Dr | 23851 | 757-562-5124 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Fredericksburg | 10907 Courthouse Road | 22408 | 540-898-0077 | Terry Hawley | Terry Hawley |
| Fredericksburg | 207 Kings Highway | 22405 | 540-373-6721 | Munni Enterprises, Inc. | Jaman Rahman |
| Fredericksburg | 535 Spotsylvania Mall | 22407 | 540-785-4262 | Thapa Foods, LLC | Sabin Thapa |
| Glen Allen | 4028-N Cox Road | 23060 | 804-270-1375 | Joshi Ventures LLC | Rohit Joshi |
| Gretna | 1304 W. Gretna Road | 24557 | 434-656-6009 | Michael & Debra Lewis | Mike Lewis |
| Hampton | 219 Fox Hill Road | 23669 | 757-848-1534 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Harrisonburg | 78 S. Carleton Street | 22801 | 540-433-9585 | Fact Enterprises LLC | Jane Blackburn |
| Harrisonburg | 1751-A Virginia Avenue | 22802 | 540-433-8308 | FACT Enterprises, Inc. | Jane Blackburn |
| Herndon | 742 Lynn Street | 20170 | 703-481-6173 | A.Q.M.”Zaki” Zakaria | Zaki Zakaria |
| Hopewell | 5201 Oakland Boulevard | 23860 | 804-458-0515 | S & H Fast Foods, Inc. | Said Ballout |
| Kilmarnock | 433 North Main Street | 23482 | 804-230-3725 | Kilmarnock DQ, LLC | Lloyd Bradley, Sr. |
| Kingstowne | 5810 Kingstowne Center | 22315 | 703-719-9885 | Thesylhet, Inc. | Bahar Syed |
| Leesburg | 548 Fort Evans Plaza II | 20176 | 703-771-4911 | DQ Leesburg, LLC | A.Q.M. Zakaria |
| Lexington | 874 North Lee Highway | 24450 | 540-463-1927 | Avadhoot Group II, LLC | Maulesh K. Raval |
| Louisa | 911 Cross County Road | 23117 | 804-556-6021 | Gum Ventures, Inc. | Nancy Kaur |

| CITY | ADDRESS | ZIP CODE | PHONE NUMBER | FRANCHISEE | CONTACT |
|---|---|---|---|---|---|
| Lynchburg | 4980 South Amherst Highway | 24572 | 434-846-8613 | Avadhoot Group Madison Heights LLC. | Maulesh K Raval |
| Lynchburg | 8021 Timberlake Road | 24502 | 434-237-7030 | Avadhoot Group II, LLC | Maulesh K Raval |
| Manassas | 11702 Sudley Manor Drive | 20109 | 703-335-2875 | B.K.I., Inc. | Kyoung Mi Lee |
| Midlothian | 14031 Midlothian Turnpike | 23113 | 804-357-0120 | RVADQ LLC | Jane Blackburn |
| Midlothian | 3900 N. Bailey Bridge Road | 23112 | 804-763-3200 | T&M Treats, Inc. | Sam Aboulhosn |
| Montclair | 5061 Waterway Drive | 22026 | 703-580-1240 | HFFA, Inc. | Harun Rashid |
| New Kent | 6201 Chesapeake Circle | 23124 | 804-966-8400 | Lebanese Cuisine, LLC | Antar Abouzaki |
| Newport News | 12300 Jefferson Avenue #716 | 23607 | 757-249-5540 | Yasmeen Dosani | Yasmeen Dosani |
| Newport News | 12999 Warwick Boulevard | 23602 | 757-249-9022 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Norfolk | 9636 Granby Street | 23503 | 757-588-2395 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Norton | 412 Coeburn Avenue | 24273 | 540-750-9966 | North Star 412 Inc | Khushbu Patel |
| Pearisburg | 503 N Main Street | 24134 | 540-921-1476 | Rick & Carolyn Witt | Rick Witt |
| Richcreek | 868 Federal Street | 24147 | 540-726-3133 | University Dairy Queen, Inc. | Rick Witt |
| Richmond | 807 E. Parham Road | 23227 | 804-261-4802 | Garbatela Friendly, LLC | Antar Abouzaki |
| Roanoke | 2350 Orange Avenue N.E. | 24012 | 540-343-9556 | AG Orange LLC | Maulesh K Raval |
| Roanoke | 3226 Brandon Avenue S.W. | 24018 | 540-344-8200 | Boudy Enterprises, Inc. | Bob Mick |
| Rocky Mount | 995 Franklin Street | 24151 | 540-483-7987 | Arrington Enterprises | David Arrington |
| Rocky Mount | 20430 Virgil H. Goode Highway | 24151 | 540-334-2977 | Arrington Enterprises | L.D. Arrington |
| Ruther Glen | 23845 Rogers Clark Blvd | 22546 | 804-448-9822 | Love's Travel Stores | Joe Cotton |
| Salem | 14 Wildwood Rd | 24153 | 540-389-1366 | University Dairy Queen, Inc | Rick Witt |
| South Riding | 25401 Eastern Marketplace | 20152 | 703-327-4686 | S. Omar Ltd | Omar Farooque |
| Springfield | 5230-C Port Royal Road | 22151 | 703-321-1820 | Abis Corporation | Bahar Syed |
| Stuarts Draft | 2647 Stuarts Draft Highway | 24477 | 540-337-4115 | Commonwealth Hospitality, Inc. | Joel Slocum |
| Vansant | 18856 Riverside Dr. P.O. Bx. 1854 | 24656 | 276-935-8711 | LyonLee Company, Inc. | Cindy Moore |
| Varina | 3275 New Market Road | 23231 | 804-795-4957 | Zaki's, LLC | Nayef Abouzaki |
| Verona | 79 Lee Highway | 24482 | 540-248-0626 | Commonwealth Hospitality, Inc. | Joel Slocum |
| Vienna | 304 Maple Avenue West | 22180 | 703-242-3820 | SS & SA, LC | Sita & Nara Adhikari |
| Virginia Beach | 1324 Kempsville Road | 23464 | 757-474-1838 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Virginia Beach | 3843 Holland Road | 23451 | 757-321-2747 | Holland Development, Inc. | Richard Maddox |
| Virginia Beach | 1093 Independence Boulevard | 23455 | 757-363-9432 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Virginia Beach | 1609 Atlantic Avenue | 23451 | 757-422-9342 | Seagate Development Corp. | Richard Maddox |
| Virginia Beach | 1585 General Booth Boulevard | 23454 | 757-425-6762 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Virginia Beach | 1925 Landstown Center Way #260 | 23456 | 757-562-7178 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Warsaw | 5031 Richmond Rd | 22572 | 804-250-2295 | Warsaw Properties LLC | Lloyd Bradley |
| Winchester | 2291 Valley Avenue | 22601 | 540-662-7607 | Wash J & L, Inc. | Roger Peterson |
| Windsor | 61 W. Windsor Boulevard | 23487 | 757-242-6446 | Mid Atlantic Dairy Queen, LLC | Mitch Sandlin |
| Woodbridge | 12465 Dillingham Square | 22192 | 703-590-6330 | NMS Lakeridge Inc | Deepak Shrestha |
| Woodford | 5115 Mudd Tavern Road | 22580 | 781-398-4205 | Global Montello Group Corp | Sean T. Geary |
| Yorktown | 5704 George Washington, Mem Hwy | 23692 | 757-562-7178 | Mid Atlantic Dairy Queen | Mitch Sandlin |

| Franchise Agreements Signed but not Open as of 02/28/2025 | | | | |
|---|---|---|---|---|
| **CITY** | **FRANCHISEE** | **STREET ADDRESS** | **ZIP CODE** | **CONTACT NUMBER** |
| Chesterfield | Sam Aboulhosn | 9400 Iron Bridge Road | 23832 | (804) 399-9421 |
| Fredericksburg | Sunil Shrestha | 10 Celebrate Virginia Parkway | 22406 | (703) 798-4545 |
| Sterling | Sunil Shrestha | 22060 Railcar Drive | 20164 | (703) 798-4545 |

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

# EXHIBIT G

## Territory Operator's Former Subfranchisees
## (Left the System in Fiscal Year Ended February 28, 2025)

**TRANSFERS**

None

**NON-RENEWALS**

None

**CEASED OPERATIONS FOR OTHER REASONS**

**DQ# 19344 Chantilly**

Contact: Mohammed Khan (Owner) - (703) 618-5071
Herndon, VA 20171

Reason: Mutual Cancellation Agreement

**DQ# 19417 Alexandria**

Contact: Baharuzzaman Syed (Owner) - (703) 582-5138
Falls Church, VA 22041

Reason: Mutual Cancellation Agreement

**TERMINATIONS**

None

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

# EXHIBIT H

## ADQ's Franchisees

## (As of December 31, 2024)

## FRANCHISED DQ GRILL & CHILL RESTAURANTS IN OPERATING AS OF DECEMBER 31, 2024

| DQ GRILL & CHILL FRANCHISED NORTH CAROLINA LOCATIONS 2024 | | |
|---|---|---|
| **Franchisee** | **Address** | **Phone Number** |
| Circle K Stores Inc | NC/Apex/2105 Ten Ten Rd | (919) 387-3809 |
| Bazmi LLC | NC/Arden/2304 Hendersonville Rd | (828) 687-1883 |
| Fourteen Foods LLC | NC/Asheboro/707 E Dixie Dr | (336) 953-2326 |
| Fourteen Foods LLC | NC/Burlington/502 Huffman Mill Rd | (952) 944-1304 |
| Walnut Treats LLC | NC/Cary/631 Walnut St | (919) 465-2100 |
| Mansa Travel Center Charlotte LLC | NC/Charlotte/1339 W Sugar Creek Rd | (980) 225-7992 |
| Me Buffaloe Enterprises Inc | NC/Clayton/11697 US Highway 70 W | (919) 553-2529 |
| Labbaik Ya Hussain LLC | NC/Denver/416 Atwater Ln | (980) 222-7497 |
| Jed Foods LLC | NC/Dobson/2359 Zephyr Rd | (336) 353-9475 |
| Edenton Treats LLC | NC/Edenton/706 N Broad St | (252) 482-0718 |
| Vedom Inc | NC/Elizabeth City/509 W Ehring Haus St | (732) 325-8033 |
| EI Ice LLC | NC/Emerald Isle/8307 Emerald Dr | (252) 424-8989 |
| Kausar Inc | NC/Gastonia/3128 Union Rd | (704) 685-9558 |
| Fourteen Foods LLC | NC/Greenville/913 S. Memorial Drive | (252) 408-4310 |
| Refuel Operating Company LLC | NC/Hamlet/543 W Hamlet Ave | (910) 557-5362 |
| Southeast Energy LLC / First Coast Energy LLP | NC/Hendersonville/5445 Asheville Hwy Ste 10 | (828) 654-9594 |
| Zaynab Inc | NC/Jacksonville/1513 N Marine Blvd | (910) 455-1515 |
| Shree Khodiar Corporation | NC/Kernersville/1458 Jag Branch Blvd | (336) 310-4659 |
| Fourteen Foods LLC | NC/Lenoir/344 Blowing Rock Blvd | (828) 302-2858 |
| QSR 17 LLC | NC/Lumberton/3080 West 5th Street | (910) 536-1597 |
| Refuel Operating Company LLC | NC/Monroe/400 W Roosevelt Blvd | (704) 776-4424 |
| Hamad, Samer A | NC/Morehead City/2302a Arendell St | (252) 726-5647 |
| Mad Treats Inc | NC/Morrisville/1008 Morrisville -Carpenter Rd | (919) 467-6753 |
| Sohail & Mian Incorporated | NC/Old Fort/121 Parker Padgett Rd | (828) 668-7511 |
| Mad Treats Inc | NC/Raleigh/5260 New Bern Ave | (919) 792-0127 |
| DMQ II Inc | NC/Roanoke Rapids/1915 Julian R Allsbrook Hwy | (252) 537-2479 |
| Fourteen Foods LLC | NC/Rocky Mount/1321 Benvenue Rd | (952) 540-4469 |
| Sanford Treats LLC | NC/Sanford/2831 S Horner Blvd | (919) 708-9091 |
| DMQ Inc | NC/Smithfield/1025 Outlet Center Dr, Ste 910 | (919) 934-0066 |
| Sneads Ferry Foods Inc | NC/Sneads Ferry/110 Robert Snead Pky | (910) 327-0404 |
| Circle K Stores Inc | NC/Statesville/131 Turnersburg Hwy | (704) 873-1841 |
| Toes In The Water Investments Inc | NC/Swansboro/709 W Corbett Ave | (910) 326-2828 |
| Southeast Energy LLC / First Coast Energy LLP | NC/Sylva/200 E Main St | (828) 747-8092 |
| Venus Plaza Jce LLC | NC/Wade/4001 Pembroke Ln | (910) 491-7605 |
| Southeast Energy LLC / First Coast Energy LLP | NC/Weaverville/112 Monticello Rd | (828) 645-7700 |
| Fourteen Foods LLC | NC/Williamston/1117 Brentway Ave | (252) 792-2772 |
| Fourteen Foods LLC | NC/Winterville/4155 S Memorial Dr | (252) 551-0548 |

## ADQ GRILL & CHILL FRANCHISEES WHO HAVE SIGNED OPERATING AGREEMENTS, BUT THE RESTAURANT IS NOT YET OPEN 2024

**None**

**Note: The information provided below regarding subfranchised outlets is provided to ADQ by territory operators and is not independently verified by ADQ or us.**

### SUBFRANCHISED DQ GRILL & CHILL AND DAIRY QUEEN/BRAZIER RESTAURANTS IN OPERATING AS OF DECEMBER 31, 2024

| DQ GRILL & CHILL SUBFRANCHISED RESTAURANT NORTH CAROLINA LOCATIONS 2024 | | | | | |
|---|---|---|---|---|---|
| **SUBFRANCHISEE GROUP** | **ADDRESS** | **CITY** | **ST** | **ZIP** | **PHONE** |
| Food Enterprise Inc / James, R Leo | 1137 Tsali Blvd | Cherokee | NC | 28719-7200 | (828) 497-4461 |
| Dairy Queen Of Cleveland County / Rachels Jr, C Milton | 814 S Dekalb St | Shelby | NC | 28150-5933 | (704) 482-6681 |

### FRANCHISED DQ TREAT STORE LOCATIONS OPERATING AS OF DECEMBER 31, 2024

| DQ TREAT FRANCHISED STORE NORTH CAROLINA LOCATIONS OPERATING AS OF DECEMBER 31, 2024 | | |
|---|---|---|
| **FRANCHISEE** | **ADDRESS** | **PHONE NUMBER** |
| Hamad, Summer / Hamad, Samer A | NC/Atlantic Beach/2610 W Fort Macon Rd | (252) 726-3039 |
| Doerr Inc | NC/Avon/39774 Hwy 12 | (252) 986-5075 |
| Refuel Operating Company LLC | NC/Biscoe/520 E Main St | (910) 828-4101 |
| Circle K Stores Inc | NC/Cameron/2531 NC Highway 87 S | (919) 499-9712 |
| Cason Companies Inc | NC/Canton/761 Champion Dr | (828) 648-8517 |
| Infinite Dream LLC | NC/Charlotte/108B S Sharon Amity Rd | (704) 367-9151 |
| Walters, Lacy / Walters, Blenda | NC/Charlotte/2732 Wilkinson Blvd | (704) 399-1385 |
| Ayushi Foods Corporation | NC/Charlotte/3020 Prosperity Church Rd | (704) 547-8886 |
| Peterson Jr, William P | NC/Clinton/1837 Southeast Blvd | (910) 592-1844 |
| Shamim Inc | NC/Corolla/Monteray Plaza Shopping Center/807 Ocean Trl | (252) 597-1708 |
| Sadler Brothers Oil Company Inc | NC/Dunn/65 Sadler Rd | (910) 897-0123 |
| Sweet Investments LLC | NC/Fayetteville/430 Westwood Shopping Center | (910) 860-4475 |
| Refuel Operating Company LLC | NC/Fayetteville/6047 Camden Rd | (910) 223-5115 |
| Refuel Operating Company LLC | NC/Fayetteville/8285 Cliffdale Rd | (910) 223-7447 |
| Fuquay Treats LLC | NC/Fuquay Varina/1408 N Main St | (919) 567-3738 |
| SMZ Inc | NC/Goldsboro/Market Place Shopping Center/1803 Wayne Memorial Dr Ste A | (919) 736-7774 |
| Basily LLC | NC/Greensboro/1708 Stanley Rd E | (336) 681-7280 |
| Bhonhariya, Abdulrahim N / Bhonhariya, Shamim A | NC/Havelock/120 W Main St | (843) 441-4328 |
| Burns, Patricia | NC/Hickory/1124 1st Ave SW | (828) 327-0236 |
| Thomas, Laverne M (Estate) | NC/Jacksonville/200 Wilmington Hwy (Hwy 17 S) | (910) 455-2510 |
| Corbitt Partners LLC | NC/Kenly/923 Johnston Pkwy/Rental Unit #4 | (919) 502-7044 |
| Dairy Queen of The Outer Banks Inc | NC/Kill Devil Hills/109 E Ocean Bay Blvd | (252) 480-2342 |

| | | |
|---|---|---|
| Refuel Operating Company LLC | NC/Locust/1204 W Main St | (704) 781-0468 |
| SMZ Inc | NC/Louisburg/317 S Bickett Blvd | (919) 496-1555 |
| Anytable Inc | NC/Lumberton/5030 Fayetteville Rd Ste B | (910) 674-4557 |
| Buster & Dill LLC | NC/Matthews/1819 Matthews Township Pkwy Ste 900 | (704) 847-8085 |
| 2B3G LLC | NC/Mooresville/223 Medical Park Rd | (704) 799-0270 |
| Kausar-Sara Inc | NC/New Bern/2401 Dr M L King Jr Blvd | (843) 443-4450 |
| Hamad, Samer A | NC/Pine Knoll Shores/NC Aquarium/1 Roosevelt Blvd | (252) 222-0201 |
| Fresh Starts LLC | NC/Raleigh/Brier Creek Commons/8321 Brier Creek Pkwy Ste 101 | (919) 484-2230 |
| Happy Treats Inc | NC/Rockingham/110 W Broad Ave | (910) 995-3623 |
| Circle K Stores Inc | NC/Sanford/2206 Jefferson Davis Hwy | (919) 777-7255 |
| Refuel Operating Company LLC | NC/Southern Pines/1035 S Knoll Rd | (910) 695-1994 |
| One Ganesh Ventures LLC | NC/Wake Forest/12271 Capital Blvd | (919) 554-2564 |
| Doerr Inc | NC/Waves/25199 Lela Ct | (252) 987-5061 |
| Womble, Harry G (Estate) | NC/White Lake/1608 White Lake Dr | (910) 862-4064 |

**Note: The information provided below regarding subfranchised outlets is provided to ADQ by territory operators and is not independently verified by ADQ or us.**

**SUBFRANCHISED DQ TREAT STORE LOCATIONS OPERATING AS OF DECEMBER 31, 2024**

| DQ TREAT SUBFRANCHISED NORTH CAROLINA LOCATIONS 2024 | | |
|---|---|---|
| **SUBFRANCHISEE** | **ADDRESS** | **PHONE** |
| Anika Foods Inc | NC/Charlotte/Eastway Crossing Shopping Ctr/3054 Eastway Dr | (980) 335-1164 |
| Carolina Dairy Queens Inc | NC/Concord/Carolina Mall/1480 Concord Pkwy N Unit 88 | (704) 918-4224 |
| Dairy Queen of Wilmington Inc | NC/Oak Island/5701 E Oak Island Dr | (910) 278-5371 |
| MrDQs LLC | NC/Salisbury/1004 W Innes St | (704) 636-8653 |
| Hartness LLC | NC/Salisbury/2143-D Statesville Blvd | (704) 637-6110 |
| Dairy Queen of Wilmington Inc | NC/Shallotte/20 Naber Dr | (910) 754-2999 |
| Dairy Queen of New Hanover and Brunswick Counties Inc | NC/Supply/106 Southport Supply Rd | (910) 754-9692 |
| Dairy Queen of Wilmington Inc | NC/Wilmington/5901 Oleander Dr | (910) 799-2902 |

# EXHIBIT I

## ADQ's Former Franchisees

## (Left the System in 2024)

# ADQ DQ GRILL & CHILL FRANCHISE TRANSFERS IN 2024

| ADQ DQ GRILL & CHILL FRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| ***Transfers where seller sold interest in this particular store, but remains a franchisee for other store(s)** | | | | |
| Huntsville | Alabama | Cusundae LLC | (256) 285-0216 | |
| Jackson | Alabama | MMBP Inc | (251) 246-0083 | Removed Partner(s) |
| Madison | Alabama | Cusundae LLC | (256) 325-2740 | |
| Albany | Georgia | M & J of Albany Inc | (229) 435-5050 | Removed Partner(s) |
| Albany | Georgia | J&M of Albany LLC | (229) 432-6339 | Removed Partner(s) |
| Carterville | Illinois | Stevens, Charles E / Stevens, Joyce | (618) 967-5405 | |
| Godfrey | Illinois | Bailey, David T / Bailey, Wendy L | (618) 419-3668 | |
| Clinton | Indiana | Kenkris Inc | (618) 554-1947 | |
| Crawfordsville | Indiana | JD Restaurants Inc | (317) 691-4749 | |
| Frankfort | Indiana | JD Restaurants Inc | (317) 691-4749 | |
| Indianapolis | Indiana | Malka Morris LLC | (317) 753-6489 | |
| Rushville | Indiana | JD Restaurants Inc | (317) 691-4749 | |
| Council Grove | Kansas | Lindy Inc. | (620) 716-1731 | Added Partner(s) |
| Ottawa | Kansas | Maloney, Joe P / Estate of Judith L. Maloney | (785) 242-4506 | Family Transfer |
| Glasgow | Kentucky | Freddie Rigdon Enterprises Inc | (270) 651-3864 | Family Transfer |
| Hamburg | Michigan | D&J Brothers Inc | (630) 935-7253 | |
| Blaine | Minnesota | Mockingbird LLC | (763) 755-8600 | Removed Partner(s) |
| International Falls | Minnesota | Ice Box Investments Inc | (218) 213-0637 | |
| Lake Elmo | Minnesota | BKJ Operations LLC | (999) 999-9999 | Incorporated |
| Marshall | Minnesota | MDQ Inc | (507) 532-9350 | Added Partner(s) |
| Perham | Minnesota | Jammers Inc | (218) 346-4070 | Removed Partner(s) |
| Sleepy Eye | Minnesota | Scott's Second Corporation | (507) 794-5971 | |
| Maryland Heights | Missouri | D P G Enterprises Inc | (314) 803-3688 | |
| O Fallon | Missouri | Toennies, Brian G / Westerheide-Toennies, Ramona L | (314) 842-0477 | Added Partner(s) |
| Springfield | Missouri | SGF Treats 2 LLC | (615) 545-6837 | |
| Springfield | Missouri | SGF Treats 1 LLC | (615) 545-6837 | |
| Akron | Ohio | Po Deep Freeze Holdings LLC | (330) 794-9119 | |
| Amherst | Ohio | R & E Engle Inc | (440) 984-1763 | Family Transfer |
| Ashland | Ohio | Po Deep Freeze Holdings LLC | (419) 281-1389 | |
| Fairfield | Ohio | A Akshar Shivam LLC | (513) 410-2388 | |
| Vandalia | Ohio | Radhe Krishna Foods LLC | (708) 415-8149 | Stock Transfer |
| Salem | Oregon | RNC Inc | (503) 881-5096 | Stock Transfer |
| White Oak | Pennsylvania | WsDQ Management LLC | (412) 672-4788 | Family Transfer |

| ADQ DQ GRILL & CHILL FRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| Alamo | Tennessee | S&S Foods Inc | (404) 786-1798 | |
| Crossville | Tennessee | Tenntime Inc | (931) 202-1000 | |
| Marysville | Washington | Norson Marysville Inc | (206) 779-7654 | |
| Franklin | Wisconsin | Shreeji Ventures LLC | (630) 624-3545 | Incorporated |
| Rhinelander | Wisconsin | Liberty Investments of Albert Lea Inc | (507) 402-8636 | |
| ***Transfers where seller sold interest in this particular store, and has left the system** | | | | |
| Birmingham | Alabama | Sani-E-Zehra Inc | (404) 512-1363 | |
| Clay | Alabama | Saboo Foods Inc | (205) 683-9105 | |
| Huntsville | Alabama | Cusundae LLC | (256) 285-9497 | |
| Huntsville | Alabama | Cusundae LLC | (256) 285-9496 | |
| Jacksonville | Alabama | Gazi LLC | (256) 365-2240 | |
| Phenix City | Alabama | Phenix 11 Inc | (334) 291-7803 | |
| Greenville | Florida | Land O' Sun Management Corporation | (850) 948-2255 | |
| Hudson | Florida | Mfh Holdings Inc | (727) 378-4677 | |
| Jasper | Florida | Land O' Sun Management Corporation | (386) 792-3804 | |
| Land O' Lakes | Florida | Mfh Brands Inc | (813) 388-2021 | |
| Pensacola | Florida | Tj's Scenic Hwy LLC | (850) 473-1111 | |
| Saint Petersburg | Florida | Begm LLC | (727) 343-8424 | Stock Transfer |
| Sunrise | Florida | Haryl Inc | (954) 990-5194 | |
| Tampa | Florida | Property King Fletcher LLC | (813) 971-6492 | |
| Winter Garden | Florida | Figuys LLC | (407) 614-1805 | |
| Alpharetta | Georgia | Kanta LLC | (470) 268-5362 | |
| Bloomingdale | Georgia | Little Neck Shell LLC | (912) 348-2762 | |
| Camilla | Georgia | Harry Phelps Inc | (229) 336-5522 | |
| Dawson | Georgia | Dawson Creamery LLC | (229) 995-3490 | |
| Macon | Georgia | Naved Sami Inc | (478) 742-4441 | |
| McRae | Georgia | Dairy Treats Inc | (229) 868-2566 | |
| Fairfield | Illinois | Demontster Inc / Smith, Joy Denise / Smith, Monty J | (618) 842-2618 | |
| Matteson | Illinois | OM Lucky Matteson Ice Cream Inc | (630) 674-5912 | |
| Morris | Illinois | Mlm Food's Inc | (815) 405-4564 | |
| Northbrook | Illinois | Schubert, Edward J / Schubert, Susan L | (847) 312-0552 | |
| Rushville | Illinois | Redshaw Enterprises Inc | (217) 430-7757 | |
| Wood River | Illinois | Guarino, Sam R (Estate) / Guarino, Debra A | (618) 830-2818 | Death |
| Elkhart | Indiana | D R B Inc | (574) 849-0295 | Death |
| Fishers | Indiana | Sinbad LLC | (317) 710-9337 | |
| Greenwood | Indiana | Kraus Enterprises Inc | (317) 453-0407 | |

| ADQ DQ GRILL & CHILL FRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| Indianapolis | Indiana | Lampe Inc | (317) 490-1908 | |
| Indianapolis | Indiana | R & Bg Inc | (317) 538-4618 | |
| Lawrence | Indiana | Clark, Thomas E | (317) 440-3481 | |
| Rockville | Indiana | Rockville Ventures Inc | (765) 344-3137 | |
| Spencer | Indiana | Castille Street Foods Inc | (765) 967-4562 | |
| Terre Haute | Indiana | Quad D Restaurants Inc | (812) 230-4313 | |
| Westville | Indiana | Ganesh A & B Food Inc | (773) 556-4264 | Family Transfer |
| Dyersville | Iowa | Millbun Inc | (563) 543-8349 | |
| Iowa Falls | Iowa | Wilson, Steven R / Wilson, Rosalie J | (641) 648-9558 | Incorporated |
| Wakeeney | Kansas | Katt, Cindy K | (785) 743-2160 | |
| Harrodsburg | Kentucky | Druthers of Harrodsburg Inc | (859) 734-0252 | Removed Partner(s) |
| Henderson | Kentucky | Louis B Hatchett Enterprises Inc | (270) 577-1046 | |
| Lexington | Kentucky | Scher Enterprises Inc | (859) 983-2358 | |
| Tompkinsville | Kentucky | Zoha LLC | (270) 487-8845 | |
| Leesville | Louisiana | Pat-Rick LLC | (337) 404-3605 | |
| Rockland | Maine | Maine-Ly Foods Inc | (207) 594-9460 | |
| Harwich Port | Massachusetts | Prm Foods Inc | (508) 432-3340 | |
| Ypsilanti | Michigan | Serra, Albert F | (727) 235-2379 | |
| Mora | Minnesota | Sure Would Inc | (320) 679-2055 | |
| Ortonville | Minnesota | Stedman, David K | (320) 487-2024 | Family Transfer |
| Zumbrota | Minnesota | Bucher Inc | (507) 732-7591 | |
| Brookhaven | Mississippi | Johnson, Zachary M | (601) 938-1882 | |
| Independence | Missouri | Ashir Group LLC | (816) 912-1611 | |
| Jefferson City | Missouri | Tb Foods LLC | (573) 338-3702 | |
| Sikeston | Missouri | SLC Sikeston Inc | (573) 579-9534 | |
| Beatrice | Nebraska | Engelman, Lavern D / Fugett, Kimberly R | (402) 228-3810 | |
| Omaha | Nebraska | Luce Sr, Jeffrey E | (402) 895-4877 | |
| Elko | Nevada | Khoury, Mariam I | (775) 738-3655 | |
| Fallon | Nevada | Shepard & Humphrey LLC | (775) 427-5600 | Death |
| Hudson | New Hampshire | White, Lynn C | (603) 883-0400 | |
| North Conway | New Hampshire | JGF Property Management LLC | (603) 356-5555 | |
| Denver | North Carolina | HRARG Dairy Denver LLC | (980) 833-4457 | |
| Huron | Ohio | C G & K Inc | (419) 656-5328 | |
| Louisville | Ohio | Hj Pap-Freez LLC | (330) 875-8987 | |
| Camp Hill | Pennsylvania | 3615 Creamery LLC | (717) 737-0732 | |
| Byrdstown | Tennessee | Ramsey & Son LLC | (931) 864-7552 | |
| Cookeville | Tennessee | Bean, Bruce J | (931) 526-5431 | |
| Beloit | Wisconsin | R Front Management LLC | (608) 346-1907 | |

| ADQ DQ GRILL & CHILL FRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| Marinette | Wisconsin | Beck, Christopher K / Beck, Cynthia A | (715) 732-0783 | |
| Menomonee Falls | Wisconsin | Schiefelbein, Gerald L / Schiefelbein, Julie A | (262) 370-8290 | |
| Menomonie | Wisconsin | Fretty, David D | (715) 309-2700 | |
| Prairie Du Chien | Wisconsin | Sinram, Jeffery A / Sinram, Cynthia L | (608) 326-8121 | |
| Pulaski | Wisconsin | Royer & Williams LLC | (920) 822-8044 | |
| Turtle Lake | Wisconsin | M & M of Turtle Lake LLC | (715) 986-4242 | |
| Waukesha | Wisconsin | Schiefelbein, Gerald Lee | (262) 370-8290 | |

## ADQ DQ GRILL & CHILL FRANCHISE TERMINATIONS IN 2024

| ADQ DQ GRILL & CHILL FRANCHISE TERMINATIONS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Franchisee** | **Phone** | **Reason** |
| Phoenix | Arizona | Steele, Charlotte M / Steele, Donald L | (602) 249-0432 | Franchisee Closure |
| Phoenix | Arizona | Paul, Rajiv | (623) 849-2440 | Franchisee Closure |
| Boulder | Colorado | First Serve Inc / Paneitz, Daniel | (303) 443-9262 | Terminated |
| Fort Myers Beach | Florida | Northern Stern Corp | (305) 873-7346 | Terminated |
| Ocala | Florida | DQ of Zuber Fla Inc | (352) 484-4814 | Franchisee closure |
| Augusta | Georgia | Anushazehra LLC | (706) 855-9540 | Franchisee Closure |
| Darien | Georgia | Weeks Fast Foods Inc | (912) 437-2167 | Franchisee Closure |
| McDonough | Georgia | Mushraf Corporation | (770) 957-6519 | Franchisee Closure |
| Hoffman Estates | Illinois | Om Hoffman Estates Ice Cream Inc | (847) 285-1455 | Terminated |
| Marion | Illinois | Southern Sales Inc | (618) 997-5180 | Franchisee closure |
| Batesville | Indiana | Herm Inc | (812) 934-6652 | Terminated |
| Indianapolis | Indiana | David Atherton Inc / Atherton, David S | (317) 357-1141 | Franchisee closure |
| Paola | Kansas | Azaan Enterprise LLC | (913) 472-1206 | Franchisee Closure |
| Wichita | Kansas | M and W Shaban Inc | (316) 685-7381 | Terminated |
| Louisville | Kentucky | Fourteen Foods LLC | (502) 774-5565 | Franchisee closure |
| Pineville | Kentucky | Fourteen Foods LLC | (606) 337-2100 | Franchisee closure |
| Eunice | Louisiana | Dairy Queen of Eunice Inc | (337) 546-1200 | Terminated |
| Bloomington | Minnesota | Fourteen Foods LLC | (612) 464-5583 | Franchisee closure |
| Ham Lake | Minnesota | BtndDQ LLC | (763) 434-3400 | Terminated |
| New Ulm | Minnesota | Winter, Shelly L | (507) 359-9229 | Franchisee Closure |
| Onamia | Minnesota | Treatsz LLC | (320) 532-3499 | Terminated |
| Victoria | Minnesota | Ridl, Josephine K (Estate) | (952) 443-2294 | Franchisee Closure |
| Clinton | Mississippi | Johnson's Foods Inc | (601) 924-6232 | Franchisee closure |
| Oakville | Missouri | Billings, Philip E / Billings, Joan B | (314) 487-6792 | Franchisee Closure |
| Shadyside | Ohio | Via Marie & Co LLC | (740) 676-2548 | Franchisee closure |
| Pawleys Island | South Carolina | Carolina G & C LLC | (843) 314-3024 | Franchisee closure |

| ADQ DQ GRILL & CHILL FRANCHISE TERMINATIONS IN 2024 | | | | |
|---|---|---|---|---|
| Celina | Tennessee | Zaman LLC | (931) 243-3277 | Franchisee closure |
| Osceola | Wisconsin | Grove, Relan K / Grove, Luanne L | (715) 755-3217 | Terminated |

**Note: The information provided below regarding subfranchised outlets is provided to ADQ by territory operators and is not independently verified by ADQ or us.**

## DQ GRILL & CHILL TERRITORY OPERATOR SUBFRANCHISE TRANSFERS IN 2024

| DQ GRILL & CHILL TERRITORY OPERATOR SUBFRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| ***Transfers where seller sold interest in this particular store, but remains a franchisee for other store(s)** | | | | |
| Pella | Iowa | Sperr Enterprises LLC | (641) 891-6074 | |
| Hamilton | Montana | Peterson Group Montana LLC | (425) 344-2713 | |
| Lolo | Montana | Swilcan Enterprises LLC | (425) 344-2713 | |
| Missoula | Montana | Peterson Group Montana LLC | (425) 344-2713 | |
| Missoula | Montana | Peterson Group Montana LLC | (425) 344-2713 | |
| Gahanna | Ohio | DQ of Gahanna Inc | (614) 471-0746 | |
| Lincoln City | Oregon | GEDQ II Inc | (541) 614-1141 | Family Transfer |
| Blairsville | Pennsylvania | Po Deep Freeze Holdings LLC | (724) 459-8740 | |
| Finleyville | Pennsylvania | JHDQ LLC | (724) 348-8080 | |
| Harmony | Pennsylvania | Harmony Cones Inc | (724) 452-4747 | Family Transfer |
| Leechburg | Pennsylvania | Po Deep Freeze Holdings LLC | (724) 845-6090 | |
| Cedar City | Utah | Dan & Brenda Investments Inc | (435) 233-2037 | |
| Perry | Utah | Peak I LLC | (208) 390-1002 | Death |
| ***Transfers where seller sold interest in this particular store, and has left the system** | | | | |
| Marion | Iowa | Lickety Split Inc | (319) 447-5660 | |
| Hackettstown | New Jersey | Colovic Hackettstown Dairy LLC | (908) 852-6685 | |
| Valley City | North Dakota | Kapaun, Todd A / Kapaun, Suzanne M | (701) 845-2622 | |
| Bryan | Ohio | Pool, Michael S | (419) 636-7925 | |
| Columbus | Ohio | Vedaant LLC | (614) 706-4458 | |
| Columbus | Ohio | Jjp Amusements Inc | (614) 582-6508 | |
| Groveport | Ohio | Sporleder & Associates LLC | (614) 836-9656 | |
| Winston | Oregon | Norton, James R / Norton, Rebecca J | (541) 679-5851 | |
| Mount Union | Pennsylvania | Carols Mount Union Dairy Queen LLC | (717) 437-2503 | |
| Richboro | Pennsylvania | Richboro Sucrose LLC | (267) 778-9944 | |
| Sandy | Utah | New Age Distributing Inc | (801) 572-3960 | |
| Milton | Washington | Prime DQ Inc | (253) 927-6772 | |
| Spokane Valley | Washington | Bergland, Judith (Estate) | (509) 926-6617 | Death |

**Note: The information provided below regarding subfranchised outlets is provided to ADQ by territory operators and is not independently verified by ADQ or us.**

## DQ GRILL & CHILL TERRITORY OPERATOR SUBFRANCHISE TERMINATIONS IN 2024

| DQ GRILL & CHILL TERRITORY OPERATOR SUBFRANCHISE TERMINATIONS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Franchisee** | **Phone** | **Reason** |
| Sedona | Arizona | Aj's Ventures LLC | (928) 282-2789 | Terminated |
| Cedar Rapids | Iowa | Sweet Solutions Inc | (319) 364-7888 | Franchisee Closure |
| Mars | Pennsylvania | Guru Fateh Inc | (412) 638-9791 | Franchisee closure |
| Bealton | Virginia | E E Wine Inc | (540) 439-7052 | Franchisee closure |

## ADQ DQ TREAT FRANCHISE TRANSFERS IN 2024

| ADQ DQ TREAT FRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| ***Transfers where seller sold interest in this particular store, but remains a franchisee for other store(s)** | | | | |
| Lone Tree | Colorado | Bell Brand Ranches Inc | (303) 792-9958 | |
| Milford | Connecticut | Fuzzy Bunny LLC | (203) 877-6506 | |
| Elk Grove Village | Illinois | Prairie State Ice Cream Inc | (847) 652-0392 | |
| Shelbyville | Indiana | JD Restaurants Inc | (765) 675-7531 | |
| Sanford | Maine | Titherington, Rachel E | (207) 324-8167 | Family Transfer |
| Bemidji | Minnesota | K & M of Bemidji Inc | (218) 444-2108 | |
| Frazeysburg | Ohio | Graham, Charles / Graham, Dawni | (740) 607-6567 | Family Transfer |
| Ravenna | Ohio | Joe-Hecs Inc | (330) 235-3230 | |
| Wooster | Ohio | Lim-End Inc | (330) 234-6837 | |
| Hinton | West Virginia | Vance Properties Inc | (304) 466-1700 | Family Transfer |
| ***Transfers where seller sold interest in this particular store, and has left the system** | | | | |
| Bermuda Dunes | California | Szulborski, Michael V | (925) 786-0643 | |
| Concord | California | Kps Corporation | (925) 348-5382 | |
| Simi Valley | California | Rayhan, Md / Rayhan, Fatema R | (805) 630-2280 | |
| Denver | Colorado | Canuckjenny LLC | (303) 593-0396 | |
| Wallingford | Connecticut | Sotere, Ronald (Estate) / Sotere, Roseann | (203) 281-0258 | Family Transfer |
| Willimantic | Connecticut | Bertora, Paul B | (860) 428-4338 | |
| Bonita Springs | Florida | Cool Treats of Bonita Inc | (239) 992-4797 | |
| Gainesville | Florida | Land O' Sun Management Corporation | (352) 244-4427 | |
| Madison | Florida | Land O' Sun Management Corporation | (850) 973-2311 | |
| Ormond Beach | Florida | Flips N Dips Inc | (386) 676-2144 | |
| Palatka | Florida | Dairy Queen of Palatka Inc | (386) 972-4572 | |
| Port Charlotte | Florida | Suncoast Delight Inc | (941) 743-8665 | |
| Aurora | Indiana | Mclaughlin, Jerome C (Estate) / Mclaughlin, Mercedita A | (812) 926-7624 | |

| ADQ DQ TREAT FRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| Huntington | Indiana | Shawmak Enterprises Inc | (260) 760-0048 | |
| Denison | Iowa | Frum, Steven E (Estate) | (712) 203-6445 | Death |
| Wichita | Kansas | Barrett, Richard D | (316) 686-7177 | |
| Biddeford | Maine | Wolfahrt, Dean | (207) 571-4304 | |
| Rockville | Maryland | Jal Enterprises Inc | (240) 605-8432 | |
| Edgartown | Massachusetts | Ckv Ice Cream Inc | (950) 580-7118 | |
| Garden City | Michigan | M Manjo Inc | (586) 344-1508 | Family Transfer |
| Grand Rapids | Michigan | Griffin, James | (616) 456-9393 | Family Transfer |
| Houghton | Michigan | Kytta Enterprises Inc | (906) 370-2461 | |
| Inkster | Michigan | Almira LLC | (313) 575-8087 | |
| Richmond | Michigan | Kadouh Brothers LLC | (248) 881-2891 | |
| Benson | Minnesota | Stevens, Kevin J / Stevens, Jill | (320) 843-3939 | |
| Janesville | Minnesota | Cowdin, Steven C / Cowdin, Susan R | (507) 234-5426 | |
| Minneapolis | Minnesota | Schwick Inc | (612) 822-2393 | |
| Saint Francis | Minnesota | Hero Treats LLC | (763) 954-9340 | |
| Saint Paul | Minnesota | LJSJ LLC | (651) 756-1535 | |
| Pahrump | Nevada | Beck and Gross LLC | (775) 209-0677 | |
| Tilton | New Hampshire | Two Queens LLC | (603) 286-3205 | |
| Fremont | Ohio | Darr, Bruce C | (419) 680-3218 | |
| Hubbard | Ohio | Cold Treats LLC | (330) 550-3822 | |
| Toledo | Ohio | M5 Holdings LLC | (419) 346-0669 | |
| Du Bois | Pennsylvania | Burton, Deborah N | (814) 371-7160 | |
| Gettysburg | Pennsylvania | Maslowski, John | (717) 334-4424 | Family Transfer |
| Racine | Wisconsin | Kook's Douglas Ave LLC | (414) 248-1412 | |

## ADQ DQ TREAT FRANCHISE TERMINATIONS IN 2024

| DQ TREAT FRANCHISE TERMINATIONS 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Franchisee** | **Phone** | **Reason** |
| National City | California | Kunain Inc | (619) 267-2674 | Franchisee closure |
| San Jose | California | Bdkn Enterprises LLC | (408) 225-8019 | Non renewed |
| Fort Collins | Colorado | Chavez, Michelle L | (970) 224-2428 | Franchisee closure |
| Grand Junction | Colorado | Colorado Mesa Mall Inc | (970) 243-7044 | Non renewed |
| Greenwood Village | Colorado | Tri-Treats Inc | (303) 779-4538 | Franchisee closure |
| Waterford | Connecticut | McBride Enterprises LLC | (860) 439-1826 | Non renewed |
| Vernon Hills | Illinois | Pre Corporation Inc | (847) 680-7270 | Franchisee closure |
| West Des Moines | Iowa | Hoffman, Robert J | (515) 225-6469 | Non renewed |

| DQ TREAT FRANCHISE TERMINATIONS 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Franchisee** | **Phone** | **Reason** |
| Cambridge | Maryland | Wyatt, Susan H | (443) 477-6330 | Franchisee closure |
| Lansing | Michigan | Hmfic LLC | (517) 708-8649 | Franchisee closure |
| Roscommon | Michigan | Evergreen Northern Market LLC | (989) 889- 1511 | Franchisee Closure |
| Brooklyn Park | Minnesota | Mixell, Todd / Mixell, Marty | (763) 560-5741 | Franchisee Closure |
| Minneapolis | Minnesota | Dapaul Enterprises LLC | (612) 788-8336 | Franchisee closure |
| Saint Paul | Minnesota | Slavik, Johnathan P | (651) 776-7188 | Terminated |
| Oak Grove | Missouri | TA Operating LLC | (816) 625-5164 | Franchisee Closure |
| Gastonia | North Carolina | Kausar Inc | (704) 917-1001 | Franchisee closure |
| Cincinnati | Ohio | Shree Shaktikrupa Inc | (513) 671-6226 | Franchisee Closure |
| Vienna | Ohio | Suroiu, Nick | (330) 394-1658 | Franchisee closure |
| Pittsburgh | Pennsylvania | Brico Realty LLC | (412) 494-4930 | Non renewed |
| Lexington | South Carolina | Circle K Stores Inc | (803) 808-0598 | Franchisee closure |

**Note: The information provided below regarding subfranchised outlets is provided to ADQ by territory operators and is not independently verified by ADQ or us.**

## DQ TREAT TERRITORY OPERATOR SUBFRANCHISE TRANSFERS IN 2024

| DQ TREAT TERRITORY OPERATOR SUBFRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| ***Transfers where seller sold interest in this particular store, but remains a franchisee for other store(s)** | | | | |
| Tucson | Arizona | Hoffman, Eric L / Hoffman, Jessica F | (520) 790-0769 | Incorporated |
| Freehold | New Jersey | MFR82 Inc | (732) 845-1144 | Family Transfer |
| Montvale | New Jersey | Stoll, Walter | (201) 391-3684 | Added Partner(s) |
| Ridgefield | New Jersey | KAYA Holdings LLC | (732) 639-2529 | Removed Partner(s) |
| Washington Township | New Jersey | Bergen Creamery LLC | (551) 206-7754 | |
| Bay Village | Ohio | Peters, Todd / Peters, Alana | (440) 835-1929 | |
| ***Transfers where seller sold interest in this particular store, and has left the system** | | | | |
| Lake Wales | Florida | C-Five Queen Management Company LLC | (863) 289-2155 | |
| Miami | Florida | Orsillo, Virginia / Smith, Kathleen Orsillo | (305) 665-1387 | |
| Campton Hills | Illinois | Patterson, Georgia / Karametsos, Margie | (630) 584-7390 | |
| Downers Grove | Illinois | Troha, Steven A | (630) 852-2246 | |
| Harvard | Illinois | Rank In Enterprises Inc | (815) 943-2663 | |
| Naperville | Illinois | J.M.R. Dairy Queen LLC | (630) 922-3737 | |

| DQ TREAT TERRITORY OPERATOR SUBFRANCHISE TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| Palatine | Illinois | Palatine Ice Cream Inc | (630) 745-0425 | |
| Spring Grove | Illinois | Pledgemark Inc | (815) 581-0956 | |
| Warrenville | Illinois | CORRAL FREEZERIA INC | (630) 393-2277 | |
| Willowbrook | Illinois | WillowbrookDQ LLC | (630) 667-8334 | Family Transfer |
| Story City | Iowa | DO Story Holdings LLC | (515) 733-2844 | |
| Havre | Montana | Hellegaard, Kevin / Hellegaard, Jody | (406) 265-7221 | |
| Missoula | Montana | A & M Inc | (406) 549-6075 | |
| Henderson | Nevada | Pecos LLC | (725) 205-8665 | |
| Allendale | New Jersey | Bergen Creamery LLC | (201) 236-8083 | |
| Ringwood | New Jersey | Almic Inc | (201) 637-2970 | |
| Sea Isle City | New Jersey | Don 3XDQ LLC | (609) 849-4996 | Removed Partner(s) |
| Stone Harbor | New Jersey | Shoreline Financial Group LLC | (609) 967-5150 | Death |
| Lansdale | Pennsylvania | DK Treats LLC | (215) 855-0229 | |
| Latrobe | Pennsylvania | Dudley Enterprises Inc | (724) 537-5441 | |
| Norristown | Pennsylvania | Connie Mack Inc / Carpani, David | (610) 733-8962 | |

**Note: The information provided below regarding subfranchised outlets is provided to ADQ by territory operators and is not independently verified by ADQ or us.**

## DQ TREAT TERRITORY OPERATOR SUBFRANCHISE TERMINATIONS IN 2024

| DQ TREAT TERRITORY OPERATOR SUBFRANCHISE TERMINATIONS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **St** | **Subfranchisee** | **Phone** | **Reason** |
| Watseka | Illinois | Paro, Randy / Paro, Peggy | (815) 432-2037 | Terminated |
| Ames | Iowa | Vg Fam LLC | (515) 233-5550 | Franchisee closure |
| Lawrence | Massachusetts | Lawrence ICA LLC | (978) 687-0682 | Franchisee Closure |
| Browns Mills | New Jersey | Hartol Inc | (609) 893-4240 | Franchisee Closure |
| Linden | New Jersey | Lmb of Linden Inc | (908) 925-7849 | Franchisee Closure |
| Mentor | Ohio | GlDQ LLC | (440) 974-5993 | Franchisee Closure |
| New Castle | Pennsylvania | Greco, Jennifer A | (724) 654-7073 | Franchisee Closure |
| Bedford | Virginia | Desimone, Rick (Estate) | (540) 874-4677 | Franchisee closure |
| Chantilly | Virginia | Hrk Corporation | (703) 263-3316 | Non renewed |
| Wytheville | Virginia | Pilot Travel Centers LLC | (276) 228-2522 | Franchisee Closure |

## ADQ G&C TEXAS RESTAURANT TRANSFERS IN 2024

| ADQ G&C TEXAS RESTAURANT TRANSFERS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **ST** | **Seller** | **Phone** | **Comment** |
| ***Transfers where seller sold interest in this particular store, but remains a franchisee for other store(s)** | | | | |
| Bonham | Texas | Hometown Boys LLC | (903) 877-4128 | Removed Partner(s) |
| Diana | Texas | Hometown Boys LLC | (903) 881-9949 | |
| Gilmer | Texas | Hometown Boys LLC | (903) 881-9949 | |
| Sulphur Springs | Texas | Hometown Boys LLC | (903) 881-9949 | |
| Sulphur Springs | Texas | Hometown Boys LLC | (903) 881-9949 | |
| ***Transfers where seller sold interest in this particular store, and has left the system** | | | | |
| Brady | Texas | Alexander, Kerilu M | (325) 456-8887 | |
| Carrizo Springs | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Crystal City | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Dilley | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Eagle Pass | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Euless | Texas | Sp Investment Group LLC | (214) 934-6251 | |
| Falfurrias | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Hebbronville | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Los Fresnos | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Mathis | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Premont | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Rio Grande City | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Riviera | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Roma | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| San Diego | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Sinton | Texas | Bowen, Jennifer J | (361) 808-8858 | |
| Sugar Land | Texas | Humberto & Family Inc | (281) 384-9558 | |
| The Woodlands | Texas | Dallas Ballers Club LLC | (832) 693-5469 | Stock Transfer |
| Wharton | Texas | Sugar Land Food Service Inc | (713) 382-5671 | |
| Zapata | Texas | Bowen, Jennifer J | (361) 808-8858 | |

## ADQ G&C TEXAS RESTAURANT TERMINATIONS IN 2024

| ADQ G&C TEXAS RESTAURANT TERMINATIONS IN 2024 | | | | |
|---|---|---|---|---|
| **City** | **State** | **Franchisee** | **Phone** | **Reason** |
| Bay City | Texas | Ctx Restaurants Inc | (979) 245-9101 | Franchisee closure |
| Benbrook | Texas | AMO TX2 LLC | (702) 845-2559 | Terminated |
| Calvert | Texas | Fal Co LLC | (979) 364-2121 | Franchisee Closure |
| Coppell | Texas | Project Lonestar Inc | (214) 222-5334 | Franchisee closure |
| Dickinson | Texas | Anwar, Muhammad Yousaf | (281) 534-4191 | Terminated |
| Flower Mound | Texas | Ag Bros Construction LLC | (972) 874-2345 | Franchisee closure |
| Fort Worth | Texas | AMO TX1 LLC | (702) 845-2559 | Franchisee closure |
| Kaufman | Texas | AG Bros Kaufman LLC | (214) 972-6633 | Terminated |

| ADQ G&C TEXAS RESTAURANT TERMINATIONS IN 2024 | | | | |
|---|---|---|---|---|
| Lufkin | Texas | Project Lonestar Inc | (936) 634-2526 | Franchisee closure |
| Mart | Texas | Nk Hayat Inc | (254) 876-2555 | Franchisee closure |
| Pharr | Texas | R & L Lozano Operating Ltd | (956) 787-7461 | Franchisee closure |
| Rowlett | Texas | Lone Star Treats Rowlett LLC | (214) 501-4620 | Franchisee Closure |
| San Antonio | Texas | Kiya 111 Inc | (210) 342-3700 | Franchisee closure |
| Webster | Texas | 2-Mna LLC | (832) 224-9113 | Terminated |

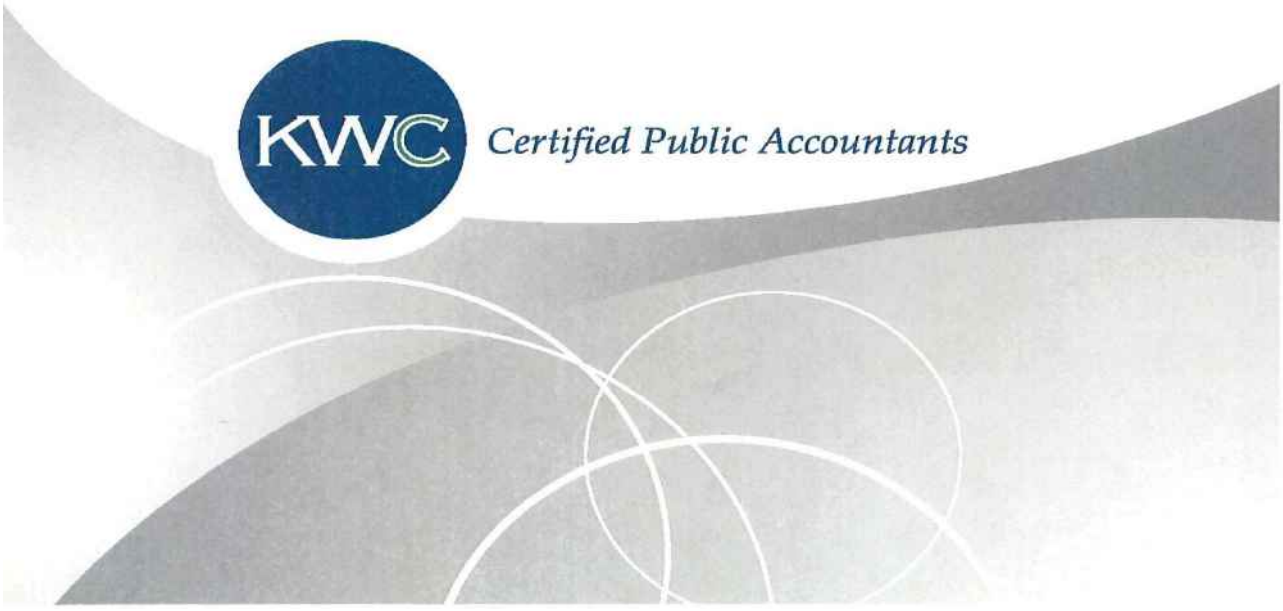
# EXHIBIT J

## Territory Operator's Financial Statements

# DAIRY QUEEN OF VIRGINIA, INC.

**FINANCIAL STATEMENTS**

**FEBRUARY 28, 2025,**
**FEBRUARY 29, 2024 AND FEBRUARY 28, 2023**



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*Certified Public Accountants*

**Independent Auditor's Report**

To the Board of Directors
**Dairy Queen of Virginia, Inc.**

**Opinion**
We have audited the accompanying financial statements of **Dairy Queen of Virginia, Inc.** (a Virginia corporation), which comprise the balance sheets as of February 28, 2025, February 29, 2024 and February 28, 2023, and the related statements of 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 **Dairy Queen of Virginia, Inc.** as of February 28, 2025, February 29, 2024 and February 28, 2023, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

**Basis for Opinion**
We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of **Dairy Queen of Virginia, Inc.** and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. 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 **Dairy Queen of Virginia, Inc.'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 omissions, misrepresentations, or the override of internal control. Misstatements 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.

To the Board of Directors
**Dairy Queen of Virginia, Inc.**

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 **Dairy Queen of Virginia, Inc.'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 **Dairy Queen of Virginia, Inc.'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.

Kositzka, Wicks and Company

Richmond, Virginia
June 17, 2025

## Dairy Queen of Virginia, Inc.

| Balance Sheets | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| **Assets** | | | |
| **Current assets** | | | |
| Cash and cash equivalents | $ 1,408,492 | $ 1,578,981 | $ 1,699,067 |
| Restricted cash | 283,575 | 270,195 | 354,621 |
| Royalty receivables | 244,614 | 262,040 | 229,763 |
| Prepaid expenses | 118,460 | 110,446 | 120,246 |
| Prepaid income taxes | - | 128,467 | - |
| Total current assets | 2,055,141 | 2,350,129 | 2,403,697 |
| **Property and equipment, net** | 1,074,888 | 1,120,291 | 1,057,337 |
| **Investments** | 7,190,332 | 6,834,094 | 5,569,286 |
| **Other assets** | | | |
| Note receivable | 151,908 | 157,513 | 164,013 |
| Cash surrender value - life insurance | 696,037 | 687,366 | 671,233 |
| Real estate investment holdings | 603,414 | 401,905 | 401,905 |
| Equity method investment | 417,818 | 415,539 | 406,840 |
| Operating lease right-of-use asset | 14,084 | 18,319 | 9,135 |
| Franchise rights | 87,500 | 87,500 | 87,500 |
| Total other assets | 1,970,761 | 1,768,142 | 1,740,626 |
| Total assets | $ 12,291,122 | $ 12,072,656 | $ 10,770,946 |
| **Liabilities and Stockholders' Equity** | | | |
| **Current liabilities** | | | |
| Accounts payable and accrued expenses | $ 97,765 | $ 266,124 | $ 47,249 |
| Deferred initial franchise and transfer fees | 62,082 | 56,286 | 62,430 |
| Unearned marketing fees | 283,575 | 270,195 | 354,621 |
| Income taxes payable | 384,162 | - | 27,512 |
| Operating lease liability, current portion | 4,236 | 4,236 | 4,236 |
| Total current liabilities | 831,820 | 596,841 | 496,048 |
| **Long-term liabilities** | | | |
| Operating lease liability, less current portion | 9,848 | 14,083 | 4,899 |
| Rental deposits | 9,576 | 9,576 | 9,576 |
| Deferred tax liability | 838,279 | 1,097,466 | 840,400 |
| Total long-term liabilities | 857,703 | 1,121,125 | 854,875 |
| Total liabilities | 1,689,523 | 1,717,966 | 1,350,923 |
| **Stockholders' equity** | | | |
| Common stock, $10.00 par value; authorized 10,000 shares; issued and outstanding 202 shares | 2,020 | 2,020 | 2,020 |
| Retained earnings | 10,599,579 | 10,352,670 | 9,418,003 |
| Total stockholders' equity | 10,601,599 | 10,354,690 | 9,420,023 |
| Total liabilities and stockholders' equity | $ 12,291,122 | $ 12,072,656 | $ 10,770,946 |

See accompanying notes and independent auditor's report.

## Dairy Queen of Virginia, Inc.

| Statements of Operations | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| **Operating revenues** | | | |
| Royalty income, net of royalty expense | $ 3,293,629 | $ 3,283,619 | $ 3,123,255 |
| Franchise and transfer fees | 6,204 | 6,144 | 5,594 |
| Total revenues, net | 3,299,833 | 3,289,763 | 3,128,849 |
| **Expenses** | | | |
| Salaries and benefits | 1,463,908 | 1,475,087 | 1,359,478 |
| Insurance | 318,843 | 295,064 | 281,764 |
| Retirement | 172,362 | 165,235 | 139,799 |
| Depreciation | 141,338 | 135,368 | 128,643 |
| Taxes and licenses | 103,996 | 113,003 | 84,253 |
| Legal and accounting | 78,205 | 82,135 | 57,019 |
| Office supplies | 67,038 | 66,034 | 81,948 |
| Automobile | 50,359 | 41,359 | 48,789 |
| Travel and entertainment | 43,396 | 72,614 | 63,113 |
| Other | 36,431 | 36,065 | 33,299 |
| Repairs and maintenance | 35,252 | 39,799 | 23,179 |
| Charitable contributions | 25,195 | 46,511 | 56,969 |
| Telephone and utilities | 24,836 | 25,482 | 27,213 |
| Franchise expenses | 3,564 | 1,970 | 3,460 |
| Total expenses | 2,564,723 | 2,595,726 | 2,388,926 |
| Income from operations | 735,110 | 694,037 | 739,924 |
| **Other income (expense)** | | | |
| Income from equity method investment | 138,015 | 152,357 | 107,461 |
| Interest and dividends, net | 222,527 | 199,115 | 144,265 |
| Realized gain (loss) on disposal of property and equipment | (7,301) | 61,224 | 45,053 |
| Realized gain on sale of investments | 1,500,153 | 13,542 | 47,061 |
| Change in unrealized gain (loss) on investments, net | (964,159) | 911,269 | (192,311) |
| Rental income | 117,304 | 117,439 | 113,940 |
| Rental expense | (37,205) | (29,631) | (32,794) |
| Expenses from real estate holdings | (135,093) | (26,794) | (32,764) |
| Total other income, net | 834,241 | 1,398,521 | 199,912 |
| Income before income taxes | 1,569,351 | 2,092,558 | 939,835 |
| **Income tax expense** | 466,442 | 551,891 | 286,519 |
| Net income | $ 1,102,909 | $ 1,540,667 | $ 653,316 |

See accompanying notes and independent auditor's report.

## Dairy Queen of Virginia, Inc.

**Statements of Changes in Stockholders' Equity**
**for the years ended February 28, 2025, February 29, 2024 and February 28, 2023**

| | Common Stock | Retained Earnings | Total |
|---|---|---|---|
| Balance at February 28, 2022 | $ 2,020 | $ 9,370,687 | $ 9,372,707 |
| Net income | - | 653,316 | 653,316 |
| Dividends | - | (606,000) | (606,000) |
| Balance at February 28, 2023 | 2,020 | 9,418,003 | 9,420,023 |
| Net income | - | 1,540,667 | 1,540,667 |
| Dividends | - | (606,000) | (606,000) |
| Balance at February 29, 2024 | 2,020 | 10,352,670 | 10,354,690 |
| Net income | - | 1,102,909 | 1,102,909 |
| Dividends | - | (856,000) | (856,000) |
| Balance at February 28, 2025 | $ 2,020 | $ 10,599,579 | $ 10,601,599 |

See accompanying notes and independent auditor's report.

## Dairy Queen of Virginia, Inc.

| Statements of Cash Flows | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| **Cash flows from operating activities** | | | |
| Net income | $ 1,102,909 | $ 1,540,667 | $ 653,316 |
| Adjustments to reconcile net income to net cash flows from operating activities: | | | |
| Depreciation | 141,338 | 135,368 | 128,643 |
| Change in cash surrender value - life insurance | (8,671) | (16,133) | (11,481) |
| Change in deferred income taxes | (259,187) | 257,066 | (35,219) |
| Change in equity method investment, net | (2,279) | (8,699) | (2,630) |
| Change in unrealized (gain) loss on investments, net | 964,159 | (911,269) | 192,311 |
| Realized (gain) loss on disposal of property and equipment | 7,301 | (61,224) | (45,053) |
| Realized gain on sale of investments | (1,500,153) | (13,542) | (47,061) |
| Changes in operating assets and liabilities: | | | |
| Royalty receivables | 17,426 | (32,277) | 3,722 |
| Prepaid expenses | (8,014) | 9,800 | (4,139) |
| Prepaid income taxes | 128,467 | (128,467) | - |
| Accounts payable and accrued expenses | (168,359) | 218,875 | 8,099 |
| Deferred initial franchise and transfer fees | 5,796 | (6,144) | 9,906 |
| Unearned marketing fees | 13,380 | (84,426) | (4,050) |
| Income taxes payable | 384,162 | (27,512) | (65,436) |
| Net cash provided by operating activities | 818,275 | 872,083 | 780,928 |
| **Cash flows from investing activities** | | | |
| Purchases of property and equipment | (119,236) | (196,644) | (146,141) |
| Proceeds from sale of property and equipment | 16,000 | 59,546 | 18,477 |
| Purchases of investments | (6,075,507) | (1,817,215) | (1,992,974) |
| Proceeds from sale of investments | 6,255,263 | 1,477,218 | 1,292,819 |
| Repayments from note receivable | 5,605 | 6,500 | 5,394 |
| Investment in real estate holdings | (201,509) | - | - |
| Net cash used in investing activities | (119,384) | (470,595) | (822,425) |
| **Cash flows from financing activities** | | | |
| Dividends to stockholders | (856,000) | (606,000) | (606,000) |
| Net cash used in financing activities | (856,000) | (606,000) | (606,000) |
| **Net change in cash, cash equivalents and restricted cash** | (157,109) | (204,512) | (647,497) |
| **Cash, cash equivalents and restricted cash, beginning of year** | 1,849,176 | 2,053,688 | 2,701,185 |
| **Cash, cash equivalents and restricted cash, end of year** | $ 1,692,067 | $ 1,849,176 | $ 2,053,688 |
| **Supplemental disclosures of cash flow information** | | | |
| Income taxes paid | $ 213,000 | $ 452,117 | $ 387,174 |
| **Supplemental disclosures of non-cash investing activities** | | | |
| Value of vehicle trade-in | $ 67,000 | $ 30,750 | $ 78,000 |

See accompanying notes and independent auditor's report.

## 1. Organization and purpose

Dairy Queen of Virginia, Inc. (the Company) was formed as a C-Corp under Virginia law in 1956. The Company is a franchisee of Dairy Queen International (IDQ) and holds exclusive rights to serve as the franchisor of "Dairy Queen" locations throughout the Commonwealth of Virginia. The Company's primary business activity is the franchising and support of these locations.

## 2. Summary of significant accounting policies

### Basis of accounting

The accompanying financial statements have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP) as determined by the Financial Statement Accounting Standards Board (FASB) Accounting Standards Codification (ASC). Below outlines those accounting policies considered significant to the Company.

### Use of estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period reported. Actual results could differ from those estimates.

### Revenue recognition

The Company's revenues include initial franchise and transfer fees and continuing royalties.

The Company has a contract with each franchisee that includes an initial franchise fee typically due upon execution of the agreement. Initial franchise and transfer (or assignment) fees are recognized as the Company satisfies the performance obligation over the franchise term, which is generally 20 years. The Company has deferred $62,082, $56,286 and $62,430 of such fees as of February 28, 2025, February 29, 2024 and February 28, 2023, respectively. The opening balance as of March 01, 2022 was $52,524.

To cover ongoing franchisee support services, each franchisee also enters into a royalty agreement whereby the Company is entitled to receive a specified percentage of franchise revenues (typically 4% of gross sales). Royalties are allocated entirely to the term of the franchise agreement and recognized in the period in which they are earned, generally due on a monthly basis and collected in arrears.

### Royalty and note receivables and allowance for credit losses

The Company operates in the franchise industry and its royalty receivables are primarily derived from franchisees and note receivable from a franchisee. Royalty receivables are recorded when the appropriate revenue recognition criteria are met. The note receivable is recorded at amortized cost. The year end balances for each of these receivables are presented individually on the balance sheets. The opening balance as of March 01, 2022 for royalty receivables was $233,485.

At the balance sheet date, the Company recognizes an expected allowance for credit losses. In addition, also at each reporting date, the estimate is updated to reflect any changes in credit risk since similar risk characteristics exist.

Management monitors the aging of all receivable balances. The allowance estimate is derived from a review of the Company's historical losses based on the aging of receivables and at the individual customer level. This estimate is adjusted for management's assessment of current conditions, reasonable and supportable forecasts regarding future events, and any other factors deemed relevant by the Company. The Company believes historical loss information is a reasonable starting point in which to calculate the expected allowance for credit losses as the Company's franchisees have remained substantially consistent since the Company's inception.

The allowance is established for expected credit losses to be recognized over the life of the receivable. Any allowance for credit losses is charged to net income in the period the receivable is recorded and revised in subsequent periods to reflect changes in the Company's estimate of expected credit losses. The allowance for credit losses associated with the Company's royalty and note receivables were both $0, as of February 28, 2025, February 29, 2024 and February 28, 2023. The opening balance of the allowance for credit losses associated with the Company's royalty and note receivables were both $0, as of March 01, 2022.

The Company writes off receivables when there is information that indicates the debtor is facing significant financial difficulty and there is no possibility of recovery. Balances that are deemed entirely uncollectible are written off through a charge to the allowance and a credit to the respective receivable account. If any recoveries are made from any accounts previously written off, they will be recognized in income or an offset to credit loss expense in the year of recovery, in accordance with the Company's accounting policy election. There were no write-offs for the years ended February 28, 2025, February 29, 2024 and February 28, 2023.

**Cash, cash equivalents and restricted cash**
The Company considers all money market investments and short-term debt securities purchased with an original maturity of three months or less to be cash equivalents. Certain cash balances are restricted as further explained in Note 4.

**Property and equipment**
Property and equipment are stated at cost less accumulated depreciation. Expenditures for repairs and maintenance are charged to expense as incurred and additions and improvements that significantly extend the lives of assets are capitalized. Depreciation is computed using the straight-line and accelerated methods over the estimated useful lives of the related assets, which range from three to 39 years. Upon retirement or sale of an asset, the related cost and accumulated depreciation are removed from the accounts and any gain or loss is reflected in other income (expense) in the statements of operations.

**Fair value measurements**
Accounting standards establish a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1) and the lowest priority to unobservable inputs (level 3). The three levels of the fair value hierarchy are described below:

Level 1. Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Company has the ability to access.

Level 2: Inputs to the valuation methodology include:
- Quoted prices for similar assets or liabilities in active markets,
- Quoted prices for identical assets or liabilities in inactive markets;
- Inputs other than quoted prices that are observable for the asset or liability;
- Inputs that are derived principally from or corroborated by observable market data by correlation or other means.

Level 3: Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

**Investments**
The Company's investments are trading securities and, accordingly, carried at fair value. Unrealized gain or loss at year end is the difference between cost and fair value of the investments held. The change in unrealized gain or loss is reflected in the statement of operations.

Interest income is recognized as earned and dividends are recognized on the ex-dividend date.

**Real estate investment holdings**
Real estate investment holdings are carried at historical cost and tested annually for impairment. Losses, if any, resulting from impairment testing are reflected in operations. No impairment loss was recognized for the years ended February 28, 2025, February 29, 2024 or February 28, 2023.

**Equity method investment**
The Company accounts for its 8.628% investment in Mid Atlantic Dairy Queen, LLC (MADQ), a franchisee of the Company, using the equity method of accounting, due to the Company's significant influence over MADQ. Under the equity method of accounting, the cost of an investment is adjusted for the Company's share of income or loss from the investment and reduced by distributions received. The accounts of MADQ are included in the Company's financial statements as of its year end of December 31. No material events occurred, and earnings related to the Company's interest in MADQ for the subsequent two months was not material for adjustment in the amounts reported as of February 28, 2025, February 29, 2024 or February 28, 2023.

**Franchise rights**
The Company holds the Dairy Queen franchise rights for the Commonwealth of Virginia. Amounts are recorded at cost and have indefinite lives. Indefinite-lived intangible assets are tested annually for impairment. Losses, if any, resulting from impairment testing are reflected in operations. No impairment loss was recognized for the years ended February 28, 2025, February 29, 2024 or February 28, 2023.

**Impairment of long-lived assets**
The Company reviews the carrying values of its long-lived assets for possible impairment whenever events or changes in circumstances indicate the carrying amount of the assets may not be recoverable. An impairment loss is recognized when a long-lived asset's carrying value is not recoverable and exceeds estimated fair value. There were no impairment losses recorded in the years ended February 28, 2025, February 29, 2024 or February 28, 2023.

**Advertising and marketing**
The Company follows the policy of charging the costs of advertising and marketing to expenses as incurred. Total advertising and marketing costs for the years ended February 28, 2025, February 29, 2024 and February 28, 2023 were $18,472, $21,140 and $16,435, respectively.

**Income taxes**
Current income taxes are based on the taxable income for the year, as measured by the current year's tax returns. Deferred income taxes (assets and/or liabilities) are computed annually for the differences between the financial statement and tax basis of assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. The deferred income tax liability results primarily from accumulated unrealized gains on investments. Deferred income tax expense represents the changes during the year in deferred tax assets and liabilities.

The Company has determined that it does not have any uncertain tax positions as of February 28, 2025. Tax years that remain subject to examination by the IRS are 2022 through 2025.

**Concentrations of credit risk**
Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash and investments.

The Company maintains cash on deposit within financial institutions located in the United States of America. The Federal Deposit Insurance Corporation (FDIC) provides insurance coverage for up to $250,000 of cash held in each separate FDIC insured bank and savings institution. The Company had cash balances amounting to approximately $1,708,000, $1,893,000 and $2,206,000 that are uninsured as of February 28, 2025, February 29, 2024 and February 28, 2023.

The Company also invests in investment securities that are exposed to various risks, such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect account balances and the amounts reported in the balance sheets.

**Lease arrangements**
In the ordinary course of business, the Company enters into a variety of operating lease arrangements. The Company determines if an arrangement is a lease at inception. The operating lease right-of-use (ROU) assets are included within the Company's other assets and lease liabilities are included in current or long-term liabilities on the Company's balance sheets. ROU assets represent the Company's right to use, or control the use of, a specified asset for the lease term. Lease liabilities are the Company's obligation to make lease payments arising from a lease and are measured on an undiscounted basis, as management has determined that any discount applied is immaterial. Operating lease ROU assets and operating lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term on the commencement date. The Company does not have any finance leases as of February 28, 2025, February 29, 2024 and February 28, 2023.

**Other financial assets and liabilities**
Financial assets with carrying values approximating fair value include cash and cash equivalents, restricted cash, royalty receivables, prepaid expenses and prepaid income taxes. Financial liabilities with carrying values approximating fair value include accounts payable and accrued expenses, deferred initial franchise and transfer fees, unearned marketing fees and income taxes payable. The carrying value of these financial assets and liabilities approximates fair value due to their short maturities and due to their interest rates approximating current market rates for short-term debt.

## 3. Franchise agreements

The Company operates under a franchise agreement with IDQ and holds exclusive rights to serve as the franchisor of "Dairy Queen" locations throughout the Commonwealth of Virginia. The franchise rights were acquired for $87,500 and are accounted for at historical cost, less any impairment. In addition, the Company is required to pay IDQ a monthly franchise fee of 1.3333% of net food sales at franchise locations. During the years ended February 28, 2025, February 29, 2024 and February 28, 2023, total royalty expense incurred was $611,922, $605,190 and $590,645, respectively, and is presented net against royalty income in the statements of operations.

The following table presents the number of franchisees in operation in the Commonwealth of Virginia at

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Full food | 60 | 60 | 61 |
| Limited food | 18 | 20 | 22 |
| Soft serve only | 5 | 5 | 6 |
| Total | 83 | 85 | 89 |

The franchise agreements typically require franchisees to pay an initial, non-refundable fee, as well as continuing royalties to the Company typically equal to 4% of gross sales. In most cases, franchisees are granted the right to operate the store as a branded Dairy Queen location for a period of twenty years with an additional renewal option contingent on payment of a renewal fee. The franchisees pay their own respective operating costs including cost of goods sold, payroll and occupancy costs.

## 4. Restricted cash

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the balance sheets that sum to the total of the same such amounts shown in the statements of cash flows. Restricted cash is exclusively held for marketing expenditures (see Note 9).

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Cash and cash equivalents | $ 1,408,492 | $ 1,578,981 | $ 1,699,067 |
| Restricted cash – marketing | 283,575 | 270,195 | 354,621 |
| Total cash, cash equivalents and restricted cash shown in the statement of cash flows | $ 1,692,067 | $ 1,849,176 | $ 2,053,688 |

## 5. Property and equipment

Property and equipment consists of the following major classifications as of:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Building and improvements | $ 1,317,452 | $ 1,317,452 | $ 1,317,452 |
| Furniture and equipment | 137,696 | 135,532 | 140,492 |
| Automobiles | 436,276 | 410,414 | 371,808 |
| Land | 232,901 | 232,901 | 232,901 |
| | 2,124,325 | 2,096,299 | 2,062,653 |
| Less: accumulated depreciation | (1,049,437) | (976,008) | (1,005,316) |
| Total property and equipment, net | $ 1,074,888 | $ 1,120,291 | $ 1,057,337 |

Depreciation expense totaled $141,338, $135,368 and $128,643 for the years ended February 28, 2025, February 29, 2024 and February 28, 2023, respectively.

## 6. Investments and fair value measurements

Investments consist of the following major classifications as of

| | February 28, 2025 | | February 29, 2024 | | February 28, 2023 | |
|---|---|---|---|---|---|---|
| | Cost | Fair Value | Cost | Fair Value | Cost | Fair Value |
| **Level 1** | | | | | | |
| T-Bills | $ 250,000 | $ 250,343 | $ 289,545 | $ 295,031 | $ 388,562 | $ 392,538 |
| Equities | 404,097 | 3,119,195 | 589,325 | 4,298,489 | 600,222 | 3,530,601 |
| Mutual funds | 623,507 | 618,335 | 432,798 | 433,145 | 418,294 | 419,438 |
| ETFs | 585,905 | 733,714 | 378,023 | 488,244 | 168,646 | 155,505 |
| REITs | 28,353 | 28,410 | 25,247 | 21,689 | - | - |
| **Level 2** | | | | | | |
| Fixed income | 2,334,000 | 2,315,329 | 1,185,000 | 1,183,530 | 1,005,000 | 963,989 |
| **NAV** | | | | | | |
| Private equity and multi-asset hedge funds | 105,757 | 125,006 | 101,499 | 113,966 | 99,428 | 107,215 |
| | $ 4,331,619 | $ 7,190,332 | $ 3,001,437 | $ 6,834,094 | $ 2,680,152 | $ 5,569,286 |

During the year ended February 28, 2025, it was determined that corporate bond fixed income investments are valued as Level 2 due to valuations based on inputs other than quoted prices in active markets. However, these inputs are observable and can be corroborated by market data. As such, the classification in the table above has been updated for the years ended February 28, 2025, February 29, 2024 and February 28, 2023.

The Company uses net asset value (NAV) per share as a practical expedient to estimate the fair values of certain hedge funds and private equity funds which do not have readily determinable fair values. Investments that are measured at fair value using NAV per share as a practical expedient are not classified in the fair value hierarchy.

Net investment income (loss) consists of the following as of:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Unrealized gains (losses) | $ (964,159) | $ 911,269 | $ (192,311) |
| Realized gains | 1,500,153 | 13,542 | 47,061 |
| Interest and dividends | 230,736 | 195,788 | 141,321 |
| Investment fees | (18,455) | - | - |
| | $ 748,275 | $ 1,120,599 | $ (3,929) |

The expected maturities of fixed income debt securities, as of February 28, 2025, are as follows:

| | |
|---|---|
| Due in one year or less | $ 1,770,750 |
| Due after one year through five years | 794,922 |
| | $ 2,565,672 |

Investments in certain assets that are measured at fair value using NAV per share as a practical expedient are as follows, at February 28, 2025.

| | Number of investments | Fair value | Commitments | Redemption frequency | Redemption notice period |
|---|---|---|---|---|---|
| Private equity and multi-asset hedge funds | 1 | $ 125,006 | $ - | Quarterly | 30 days |

Investments in certain assets that are measured at fair value using NAV per share as a practical expedient are as follows, at February 29, 2024:

| | Number of investments | Fair value | Commitments | Redemption frequency | Redemption notice period |
|---|---|---|---|---|---|
| Private equity and multi-asset hedge funds | 1 | $ 113,966 | $ - | Quarterly | 30 days |

Private equity and multi-asset hedge funds – the fund's primary investment objectives are to acquire controlling equity interests in combination with debt positions in private U.S. middle-market businesses that will allow it to:

- Seek to maximize risk-adjusted total returns comprised of current income and long-term capital appreciation
- Preserve and protect the invested capital
- Manage and grow the business

## 7. Note receivable

In March 2020, the Company served as a lender for a franchisee's acquisition of property to be used for a future franchise location. The $180,000 promissory note bears interest at 1.91% with payments of $756 per month beginning May 1, 2020 through April 1, 2045 and is collateralized by the acquired property. Interest income amounted to $2,710, $3,327 and $2,921 for the years ended February 28, 2025, February 29, 2024 and February 28, 2023, respectively.

## 8. Life insurance

The Company maintains various life insurance policies on key management. Increases in cash surrender value of life insurance owned by the Company are used to reduce the cost of insurance reflected in the financial statements. The changes in cash surrender value for life insurance policies were as follows for the years ended:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Increase in cash surrender value | $ 147,495 | $ 154,956 | $ 142,329 |
| Less: premiums paid during the year | (138,824) | (138,823) | (130,848) |
| Net change in cash surrender value | $ 8,671 | $ 16,133 | $ 11,481 |

## 9. Unearned marketing fees

The Company is typically entitled to receive 3-6% of franchisee revenues as a sales promotion program fee reserved for marketing expenditures. The amounts are held in separate bank accounts until spent on advertising and marketing efforts in accordance with the franchise agreements (see Note 4). As of February 28, 2025, February 29, 2024 and February 28, 2023, the Company held cash balances representing unearned marketing fees of $283,575, $270,195 and $354,621, respectively.

The movement in unearned marketing fees recorded within the Company's balance sheets are as follows:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Balance at beginning of year | $ 270,195 | $ 354,621 | 358,671 |
| Marketing fees advanced from franchisees, net | 129,501 | 101,043 | 97,534 |
| Marketing expenses incurred | (116,121) | (185,469) | (101,584) |
| Balance at end of year | $ 283,575 | $ 270,195 | $ 354,621 |

## 10. Lease obligations

The Company has operating leases for office equipment through 2029 with monthly payments ranging from $109 to $244. Upon maturity, the Company is required to return the equipment, or enter into a new agreement. The amounts of operating lease right-of-use assets and related lease obligations recorded within the Company's balance sheets are as follows:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Operating lease right-of-use asset | $ 14,084 | $ 18,319 | $ 9,135 |
| Current portion of long-term lease obligation | 4,236 | 4,236 | 4,236 |
| Long-term lease obligation | 9,848 | 14,083 | 4,899 |
| Total operating lease liabilities | $ 14,084 | $ 18,319 | $ 9,135 |

The components of lease expense are as follows:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Operating lease expense | $ 4,236 | $ 4,236 | $ 4,236 |
| Total lease expense | $ 4,236 | $ 4,236 | $ 4,236 |

The Company had the following cash and non-cash activities associated with leases:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Cash paid for amount included in the measurement of lease liabilities: | | | |
| Operating cash flows from operating leases | $ 4,236 | $ 4,236 | $ 4,236 |
| Right-of-use assets obtained in exchange for lease obligations: | | | |
| Operating leases | - | 14,640 | 13,371 |

The lease term and discount rates elected by the Company include:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Weighted-average remaining lease term: | | | |
| Operating leases | 3.92 years | 4.92 years | 2.67 years |
| Weighted-average discount rate: | | | |
| Operating leases | 0% | 0% | 0% |

As of February 28, 2025, the future payments due under operating leases were as follows:

| | |
|---|---|
| 2026 | $ 4,236 |
| 2027 | 4,236 |
| 2028 | 2,928 |
| 2029 | 2,684 |
| Total undiscounted cash flows | 14,084 |
| Less present value discount | - |
| Total lease liabilities | $ 14,084 |

## 11. Commitments and contingencies

The Company owns its headquarter buildings and leases excess space in the building to several tenants with rental income ranging from $2,921 to $3,491 per month. The leases have various terms with potential extensions of one further term of five years. Future minimum lease payments to be received from lease agreements, as of February 28, 2025, are as follows:

| | |
|---|---|
| 2026 | 75,424 |
| 2027 | 75,424 |
| 2028 | 57,896 |
| 2029 | 16,820 |
| | $ 225,564 |

The Company received a repayment demand letter from the U.S. Small Business Administration (SBA) on April 11, 2023 in connection to a delinquent loan. The letter indicated that the loan will be placed in liquidation and potential legal action taken thereon. However, management has confirmed that the original loan was not received by the Company, nor had they applied for this loan in the first instance. Management have taken the necessary steps to inform the SBA and local authorities on the matter and are cooperating with the said parties to resolve this matter going forward.

## 12. Income taxes

The provision for income taxes consists of the following as of:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Current income tax provision | | | |
| Federal | $ 558,438 | $ 231,626 | $ 242,062 |
| State | 167,191 | 63,199 | 79,676 |
| | 725,629 | 294,825 | 321,738 |
| Deferred income tax expense | (259,187) | 257,066 | (35,219) |
| Total income tax expense | $ 466,442 | $ 551,891 | $ 286,519 |

The differences between income taxes at the statutory federal tax rate and income tax expense as recorded in the statements of operations are as follows for the years ended:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Tax expense at federal statutory rate | $ 329,564 | $ 439,437 | $ 197,365 |
| State income taxes, net of federal benefit | 94,161 | 125,553 | 44,548 |
| Non-deductible life insurance and other expense | 75,284 | 47,072 | 52,828 |
| Non-taxable income and other deductions | (15,146) | (24,114) | - |
| Other (including true-up to prior year tax return) | (17,421) | (36,057) | (8,222) |
| Total income tax expense | $ 466,442 | $ 551,891 | $ 286,519 |

The deferred tax liability reflects the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the tax basis of those assets and liabilities. The significant components of the Company's deferred income tax liability are as follows as of:

| | February 28, 2025 | February 29, 2024 | February 28, 2023 |
|---|---|---|---|
| Unrealized gain on investments | $ 755,982 | $ 1,006,676 | $ 763,814 |
| Accelerated tax depreciation on property and equipment | 98,277 | 105,278 | 92,656 |
| Other assets and liabilities, net | (15,980) | (14,488) | (16,070) |
| | $ 838,279 | $ 1,097,466 | $ 840,400 |

## 13. Retirement plan

The Company has a profit-sharing retirement plan for its full time employees. The Company's contribution to the plan amounted to $172,362, $165,235, and $139,799 for the years ended February 28, 2025, February 29, 2024 and February 28, 2023, respectively.

## 14. Buy-sell agreement

The Company has a buy-sell agreement among the stockholders that is funded by life insurance and other assets of the Company. The Company intends to maintain insurance and other assets in an amount adequate to liquidate the obligation when it becomes due and payable.

## 15. Related party transactions

During the year ended February 28, 2025, the Company advanced $1,472,663 to an officer with interest charged at the applicable federal rates. This advance was also repaid in full during the year ended February 28, 2025. Interest income associated with this advance amounted to $7,536 and is recorded within interest and dividends, net, on the statements of operations. No amounts are outstanding from the officer as at February 28, 2025.

## 16. Subsequent events

Management has evaluated subsequent events through June 17, 2025, the date the financial statements were available for issuance, for potential recognition and disclosure in the financial statements. No events have occurred that would require adjustment to or disclosure in the financial statements.

# EXHIBIT K

## IDQ'S Financial Statements

## International Dairy Queen, Inc.
## (A wholly-owned subsidiary of Berkshire Hathaway)
## For the Period January 1, 2022 through December 31, 2024

# International Dairy Queen, Inc. and Subsidiaries

(A Wholly Owned Subsidiary of Berkshire Hathaway Inc.)

Consolidated Financial Statements as of December 31, 2024 and 2023, and for the Years Ended December 31, 2024, 2023, and 2022, and Independent Auditor's Report

Deloitte.

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## INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of
International Dairy Queen, Inc.
Minneapolis, Minnesota

### Opinion

We have audited the consolidated financial statements of International Dairy Queen, Inc. and subsidiaries (the "Company"), a wholly owned subsidiary of Berkshire Hathaway, Inc., which comprise the consolidated balance sheets as of December 31, 2024 and 2023, and the related consolidated statements of operations and comprehensive income, changes in stockholder's equity, and cash flows for each of the three years in the period ended December 31, 2024, and the related notes to the consolidated financial statements (collectively referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2024 and 2023, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2024, in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. 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 the Company's ability to continue as a going concern for 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 GAAS 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 omissions, misrepresentations, or the override of internal control. Misstatements 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 GAAS, 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 the Company'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 the Company'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.

Deloitte & Touche LLP

February 7, 2025

## INTERNATIONAL DAIRY QUEEN, INC. AND SUBSIDIARIES
### (A Wholly Owned Subsidiary of Berkshire Hathaway Inc.)
### Consolidated Balance Sheets

*In thousands*

| Assets | December 31 2024 | December 31 2023 |
|---|---|---|
| **Current assets** | | |
| Cash and cash equivalents | $ 27,271 | $ 27,032 |
| Notes and accounts receivable—less allowance of $1,501 and $903 in 2024 and 2023, respectively | 50,352 | 50,742 |
| Income tax receivable | 7,731 | 1,292 |
| Cash pooling receivable from affiliate | 44,559 | 55,807 |
| Inventories | 120 | 118 |
| Prepaid expenses | 2,047 | 2,604 |
| Total current assets | 132,080 | 137,595 |
| **Noncurrent assets** | | |
| Property and equipment, net | 10,903 | 12,309 |
| Goodwill | 92,023 | 92,214 |
| Intangibles, net | 82,398 | 80,049 |
| Operating lease assets | 5,090 | 5,799 |
| Other | 33,412 | 32,547 |
| Total noncurrent assets | 223,826 | 222,918 |
| Total assets | $ 355,906 | $ 360,513 |
| **Liabilities and Stockholder's Equity** | | |
| **Current liabilities** | | |
| Accounts payable | $ 27,026 | $ 24,348 |
| Committed advertising | 39,844 | 35,618 |
| Unredeemed gift card liabilities | 102,697 | 97,376 |
| Other liabilities | 36,889 | 38,613 |
| Current portion of operating lease liabilities | 1,004 | 962 |
| Total current liabilities | 207,460 | 196,917 |
| **Noncurrent liabilities** | | |
| Deferred franchise income | 3,024 | 2,816 |
| Deferred income taxes—net | 17,652 | 17,337 |
| Long-term operating lease liabilities | 7,305 | 8,365 |
| Other long-term liabilities | 40,155 | 41,702 |
| Total noncurrent liabilities | 68,136 | 70,220 |
| Total liabilities | 275,596 | 267,137 |
| **Commitments and contingencies** | | |
| **Stockholder's equity** | | |
| Class A common stock, $0.01 par value—authorized and outstanding, 1,000 shares | - | - |
| Additional paid-in capital | 152,197 | 152,197 |
| Retained deficit | (68,411) | (56,286) |
| Accumulated other comprehensive loss | (3,476) | (2,535) |
| Total stockholder's equity | 80,310 | 93,376 |
| Total liabilities and stockholder's equity | $ 355,906 | $ 360,513 |

See accompanying notes to consolidated financial statements.

## INTERNATIONAL DAIRY QUEEN, INC. AND SUBSIDIARIES
### (A Wholly Owned Subsidiary of Berkshire Hathaway Inc.)
### Consolidated Statements of Operations and Comprehensive Income

*In thousands*

| | Years ended December 31 | | |
|---|---|---|---|
| | 2024 | 2023 | 2022 |
| **Revenues** | | | |
| Service fees | $ 198,627 | $ 188,908 | $ 173,116 |
| Other fees and franchise sales | 45,681 | 45,918 | 46,482 |
| Sales of advertising kits | 9,446 | 9,751 | 13,939 |
| Sales of company-owned restaurants | 3,633 | 3,412 | 3,146 |
| Other | 254 | 272 | 254 |
| Total revenues | 257,641 | 248,261 | 236,937 |
| **Costs and expenses** | | | |
| Costs of other fees and franchise sales | 3,393 | 2,971 | 4,919 |
| Cost of sales of advertising kits | 8,725 | 9,090 | 12,647 |
| Costs of company-owned restaurants | 3,913 | 3,805 | 3,593 |
| Selling, general, and administrative | 115,600 | 111,911 | 99,868 |
| Total costs and expenses | 131,631 | 127,777 | 121,027 |
| **Operating income** | 126,010 | 120,484 | 115,910 |
| Net interest income | 3,137 | 3,370 | 1,249 |
| Income before income taxes | 129,147 | 123,854 | 117,159 |
| Provision for income taxes | 31,272 | 29,970 | 28,340 |
| **Net income** | $ 97,875 | $ 93,884 | $ 88,819 |
| **Comprehensive income, net of tax** | | | |
| Net income | $ 97,875 | $ 93,884 | $ 88,819 |
| Other comprehensive (loss) income - changes in cumulative translation adjustment | (941) | (19) | (800) |
| **Comprehensive income** | $ 96,934 | $ 93,865 | $ 88,019 |

See accompanying notes to consolidated financial statements.

## INTERNATIONAL DAIRY QUEEN, INC. AND SUBSIDIARIES
**(A Wholly Owned Subsidiary of Berkshire Hathaway Inc.)**
**Consolidated Statements of Changes in Stockholder's Equity**

*In thousands*

| | Common stock and additional paid-in capital | Retained (deficit) earnings | Accumulated other comprehensive loss | Total stockholder's equity |
|---|---|---|---|---|
| BALANCE—December 31, 2021 | $ 152,197 | $ (43,989) | $ (1,716) | $ 106,492 |
| Net income | - | 88,819 | - | 88,819 |
| Other comprehensive (loss) income, net | - | - | (800) | (800) |
| Dividends | - | (85,000) | - | (85,000) |
| BALANCE—December 31, 2022 | 152,197 | (40,170) | (2,516) | 109,511 |
| Net income | - | 93,884 | - | 93,884 |
| Other comprehensive (loss) income, net | - | - | (19) | (19) |
| Dividends | - | (110,000) | - | (110,000) |
| BALANCE—December 31, 2023 | 152,197 | (56,286) | (2,535) | 93,376 |
| Net income | - | 97,875 | - | 97,875 |
| Other comprehensive (loss) income, net | - | - | (941) | (941) |
| Dividends | - | (110,000) | - | (110,000) |
| BALANCE—December 31, 2024 | $ 152,197 | $ (68,411) | $ (3,476) | $ 80,310 |

See accompanying notes to consolidated financial statements.

## INTERNATIONAL DAIRY QUEEN, INC. AND SUBSIDIARIES
**(A Wholly Owned Subsidiary of Berkshire Hathaway Inc.)**
**Consolidated Statements of Cash Flows**

*In thousands*

| | Years ended December 31 | | |
|---|---|---|---|
| | 2024 | 2023 | 2022 |
| **Operating activities** | | | |
| Net income | $ 97,875 | $ 93,884 | $ 88,819 |
| **Adjustments to reconcile net income to net cash provided by operating activities:** | | | |
| Depreciation and amortization | 3,803 | 3,351 | 2,860 |
| Gain on sale of capital assets | (169) | (551) | (337) |
| Deferred income taxes | 315 | (2,015) | (418) |
| **Changes in assets and liabilities:** | | | |
| Notes and accounts receivable | (4) | (1,118) | (1,425) |
| Inventories, prepaid expenses, and other assets | 296 | (1,266) | 7,861 |
| Accounts payable, accruals, and other liabilities | 11,224 | 24,916 | (9,453) |
| Income taxes | (6,422) | 1,588 | (3,866) |
| Long term liabilities and deferred charges | (1,305) | 5,146 | (3) |
| Net cash provided by operating activities | 105,613 | 123,935 | 84,038 |
| **Investing activities** | | | |
| Purchase of franchise rights and other intangibles | - | (20) | - |
| Capital expenditures and intangible software | (4,888) | (6,439) | (4,047) |
| Proceeds from the disposal of property and equipment | 255 | 731 | 411 |
| Net advances to affiliate pursuant to cash pooling arrangment | 11,248 | (1,616) | (54,191) |
| Net cash provided by (used in) investing activities | 6,615 | (7,344) | (57,827) |
| **Financing activities** | | | |
| Dividends paid | (110,000) | (110,000) | (85,000) |
| Net cash used in financing activities | (110,000) | (110,000) | (85,000) |
| Effect of exchange rate changes on cash | (1,989) | 234 | (1,602) |
| Net increase (decrease) in cash and cash equivalents | 239 | 6,825 | (60,391) |
| Cash and cash equivalents, beginning of year | 27,032 | 20,207 | 80,598 |
| Cash and cash equivalents, end of year | $ 27,271 | $ 27,032 | $ 20,207 |
| **Supplementary disclosures to consolidated statements of cash flows** | | | |
| Cash paid for income taxes, net | $ 37,288 | $ 30,386 | $ 32,656 |

See accompanying notes to consolidated financial statements.

## 1. NATURE OF BUSINESS

International Dairy Queen, Inc. (the "Company") is a wholly owned subsidiary of Berkshire Hathaway Inc. ("Berkshire"). The Company is engaged in developing, licensing, franchising, and servicing a system of approximately 7,700 retail restaurants featuring over-the-counter sales of dairy desserts, food, and blended fruit drinks. On December 31, 2024 and 2023, the Company operated two Dairy Queen restaurants.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Basis of Presentation**—The consolidated financial statements were prepared in accordance with generally accepted accounting principles (GAAP) in the United States of America and include the accounts of the Company and its affiliates after elimination of all significant intercompany balances and transactions. The Company's fiscal year ends on December 31.

**Cash and Cash Equivalents**—Cash equivalents include all short-term investments with an original maturity of 90 days or less. Cash and cash equivalents are recorded at cost, which approximates their fair value.

**Notes and Accounts Receivable**—Accounts and notes receivable consist primarily of service fees, franchise sales fees, and advertising fees due principally from franchisees and gift card receivables. Accounts receivable are recorded net of an allowance for expected credit losses. The allowance is recognized in an amount equal to anticipated future write-offs. The Company estimates future write-offs based on delinquencies, aging trends, industry risk trends, its historical experience and current trends.

**Cash Pooling Receivable from Affiliate**—In 2022, the Company began participating in a centralized cash management program (cash pooling) with an affiliate, BH Finance LLC (BH Finance), a wholly owned subsidiary of Berkshire. The agreement with BH Finance allows for day-to-day cash borrowing not to exceed $10 million with no limit on invested amounts with BH Finance. Loans to the Company bear interest at the one-month SOFR rate. Loans by the Company to BH Finance bear interest at a rate established by BH Finance. The agreement automatically renews on December 31 of each year unless either party gives notice to the other party at least ninety days prior to the renewal date, in which case the amounts must be repaid. Amounts owed to the Company are shown as cash pooling receivable from affiliate.

**Inventories**—Inventories consist primarily of marketing material created or purchased for resale and are carried at the lower of cost (first-in, first-out) or net realizable value.

**Property and Equipment**—Property and equipment is stated at historical cost. Depreciation and amortization of property and equipment are computed on the straight-line method over the estimated useful lives of the assets or the remaining term of the lease for leasehold improvements. Estimated useful lives range from 3 to 10 years for equipment, the shorter of 20 years or remaining lease term for

leasehold improvements, and 15 to 40 years for buildings. Significant improvements that extend the lives of property and equipment are capitalized. Costs for repairs and maintenance are charged to expense as incurred. When property is retired or otherwise disposed of, the recorded cost of the assets and their related accumulated depreciation are removed from the Consolidated Balance Sheets and any related gains or losses are included in income.

**Recoverability of Long-Lived Assets**—The Company reviews the recoverability of long-lived assets, such as property and equipment, for impairment whenever events or changes in circumstances indicate the carrying value of an asset or group of assets may not be recoverable. The Company determines potential impairment by comparing the carrying value of the assets with the net undiscounted cash flows expected to be provided by operating activities of the business or related products. If the sum of the expected future net undiscounted cash flows is less than the carrying value, the Company determines whether an impairment loss should be recognized. An impairment loss is measured by comparing the amount by which the carrying value exceeds the fair value of the assets. Impairment losses on long-lived assets held for sale are determined in a similar manner, except that fair values are reduced for the cost to dispose of the assets. The measurement of impairment requires the Company to estimate future cash flows and the fair value of long-lived assets. The Company did not record any long-lived asset impairments for the years ended December 31, 2024, 2023, and 2022.

**Goodwill and Intangibles**—Goodwill and indefinite-lived intangibles are recorded in accordance with Accounting Standards Codification (ASC or the "Codification") 350, *Intangibles—Goodwill and Other*, and ASC 805, *Business Combinations*. The Company evaluates goodwill and indefinite-lived intangibles for impairment at least annually. The Company did not record any goodwill or intangible impairments for the years ended December 31, 2024, 2023, and 2022. Costs associated with the acquisition or development of software for internal use are capitalized and amortized over the expected useful life of the software, generally from 3 to 7 years.

**Leases**—Leases are recorded in accordance with ASC 842, *Leases* which requires a lessee to recognize a liability to make lease payments and an asset for the right to use the underlying asset for the lease term. A right of use asset and lease liability is recognized for all leases with lease terms greater than one year. Right of use assets are classified as operating lease assets and represent the right to use an underlying asset for the lease term. Lease liabilities are classified as operating lease liabilities and represent the obligation to make lease payments under the lease. Operating lease liabilities are measured based on the non-cancellable lease term using a risk-free interest rate for highly liquid market securities. Operating lease assets are reviewed for impairment whenever events or changes in circumstances indicate that an operating lease asset's carrying amount may not be recoverable.

**Committed Advertising**— The Company facilitates the collection of sales promotion funds from franchisees and administers programs to spend the funds for the purpose of growing sales and profits at franchised locations. Contributions to the advertising and marketing funds represent distinct performance obligations to administer the collection, spending and reporting of committed advertising activity. Franchise Advertising Committees, consisting of franchisee-elected representatives independent of the Company, approve annual promotional calendars and associated budgets and monitor performance against these budgets through periodic reporting. As a result, the Company acts as an agent of the committed advertising funds and thus records receipts and disbursements from the funds net on the balance sheet. Committed advertising, when in a net liability position, represents unexpended amounts received from franchisees to finance advertising programs. When in a net asset position, it represents expended amounts to be received from franchisees.

**Revenue Recognition**—Revenue is recognized when a good or service is transferred to a customer. A good or service is transferred as the customer obtains control of that good or service. Revenues are based on the consideration expected to be received in connection with the Company's promises to deliver goods and services to its customers. Contracts include various combinations of products and services which generally are capable of being distinct and accounted for as separate performance obligations. Substantially all of the Company's revenues are recognized at a point in time which is when services are provided. Sales are recognized net of any taxes collected from customers which are subsequently remitted to governmental authorities.

Service fees represent continuing license fees paid by franchisees and are based on sales activity at franchised locations. Service fee revenue is recognized as the usage of the license occurs which corresponds with the sales at franchised restaurants.

Other fees and franchise sales includes fees related to supply chain, new store development and the administration of franchise contracts. Supply chain fees are recognized at a point in time as products are sold by vendors and distributors to franchised locations. New store development fees are recognized as revenue when the Company's obligations regarding services to be performed in opening a restaurant are fulfilled which is generally at the time the restaurant is opened. Fees associated with the administration of franchise contracts principally relate to sales promotion management fees and fees assessed upon transfer and termination of franchise agreements. Such fees are recognized at a point in time when the services are performed. Sales promotion management fees are recognized as a percentage of sales promotion funds reported as Committed Advertising. Such funds are generated in conjunction with the sales of products at franchised locations and are managed by the Company to provide advertising programs on behalf of its franchisees. The management fees represent revenues of the Company that are earned upon its performance obligation to oversee the collection and administration of sales promotion funds.

A portion of the fees associated with the renewal of franchise agreements and new store development are recognized over the contractual term of the agreement during which time the Company is obligated to provide continuing licensing rights. Unearned revenue, representing a contract liability, is recorded when revenue is recognized subsequent to invoicing and represents revenue related to sales of licensing rights in certain geographic areas, revenue associated with contract renewals, and revenue associated with store openings in which the Company is not required to provide store opening services to franchisees. Unearned revenue is generally invoiced at the beginning of each contract period for multi-year agreements and recognized ratably over the life of the agreement. Unearned revenue is denoted as deferred franchise income on the consolidated balance sheets.

Sales by company-owned restaurants and sales of advertising kits represent the sales of products to customers in restaurants that are owned by the Company and the sale of in-store promotional materials to franchised locations and are recognized at a point in time when control of the product transfers to the customer, which coincides with customer pickup or product delivery or acceptance, depending on terms of the arrangement.

**Income Taxes**—The Company is included in the consolidated federal tax return of Berkshire. The provision for income taxes included in these consolidated financial statements is prepared on a separate company basis with certain modifications to eliminate the effects of inconsistent conclusions related to realizability as a result of inclusion in the Berkshire consolidated return.

The Company accounts for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events

that have been included in the consolidated financial statements. Under this method, deferred tax assets and liabilities are determined based on the differences between the consolidated financial statements and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

In general, it is the Company's practice and intention to permanently reinvest the earnings of its Canadian subsidiaries and that position has not changed following payment of the transition tax under the Tax Act. No deferred taxes have been provided for withholding taxes or other taxes that would result upon repatriation of undistributed foreign earnings of approximately $8.8 million and $8.5 million as of December 31, 2024 and 2023, respectively. To the extent these earnings are repatriated, foreign tax credits will be available to substantially eliminate any additional U.S. income taxes that might otherwise result from such repatriation.

The Company records net deferred tax assets to the extent it believes these assets will more likely than not be realized. In making such determination, the Company will consider all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax planning strategies, and recent financial operations. In the event the Company were to determine that it would be able to realize its deferred income tax assets in the future in excess of the net recorded amount, the Company would make an adjustment to the valuation allowance, which would reduce the provision for income taxes. As of December 31, 2024 and 2023, the Company had a valuation allowance of $3.7 million.

**Unredeemed Gift Card Liabilities**—The Company sells stored value gift cards of various denominations at Dairy Queen restaurants and other retail stores. Cash receipts from gift card sales are classified as a current liability on the Company's consolidated balance sheets. As gift cards are presented for redemption at Dairy Queen franchised restaurants, the liability is reduced through reimbursement to franchisees for the value redeemed. Based on historical redemption rates, a percentage of gift cards will never be redeemed, and the estimated value of unredeemed gift cards is recognized as gift card breakage reducing the liability. The Company recognizes gift card breakage over time in proportion to actual gift card redemptions. Breakage is recognized as a contribution to the Committed Advertising fund less management fees.

**Concentration of Credit Risk**—Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash equivalent investments, accounts and notes receivable, and cash pooling receivable from affiliate.

The Company places its cash equivalent investments with high-credit-quality financial institutions, with original maturities of 90 days or less and, by policy, limits the amount of credit exposure of any one financial institution. Accounts receivable are generally unsecured; however, concentrations of credit risk with respect to these receivables are limited due to the large number of franchisees and their dispersion across many different geographic areas. Notes receivable are generally secured by the equipment purchased or the existing franchise agreement.

**Use of Estimates**—The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements, the reported amounts of revenues and expenses during the reporting period and accompanying notes. Accounts

affected by significant estimates include service fee accruals, tax contingencies, and allowance for credit losses. Actual results could differ from those estimates.

**Foreign Currency Translation**—The financial statements of subsidiaries located outside the United States are measured using the local currency as the functional currency. Assets and liabilities of these subsidiaries are translated at the rates of exchange at the balance sheet date. Income and expense items are translated at average monthly rates of exchange. The resultant translation adjustments are included in accumulated other comprehensive loss, a separate component of stockholder's equity.

**Comprehensive Income**—The Company's comprehensive income consists of net income and foreign currency translation adjustments related to its investment in its Canadian subsidiary.

**Retained Deficit**—The Company has paid dividends to Berkshire in excess of net income and has resulted in a retained deficit on the consolidated balance sheets as of December 31, 2024 and 2023.

## 3. PROPERTY AND EQUIPMENT

Property and equipment as of December 31 consisted of the following:

| | 2024 | 2023 |
|---|---|---|
| Property and equipment—at cost: | | |
| Land | $ 1,408 | $ 1,408 |
| Buildings | 1,969 | 1,966 |
| Leasehold improvements | 7,351 | 7,352 |
| Equipment | 7,557 | 7,227 |
| Vehicles | 4,522 | 4,598 |
| Construction in process | 5 | - |
| Property and equipment—at cost | 22,812 | 22,551 |
| Less accumulated depreciation | 11,909 | 10,242 |
| Property and equipment—net | $10,903 | $12,309 |

Depreciation expense for the years ended December 31, 2024, 2023, and 2022, was $2,341, $2,378, and $2,275, respectively.

## 4. GOODWILL AND OTHER INTANGIBLES

As discussed in Note 2, the Company accounts for goodwill under the provisions of ASC 350 and ASC 805. The Codification requires business combinations to be accounted for using the purchase method of accounting and broadens the criteria for recording intangible assets other than goodwill.

Franchise rights reacquired prior to January 1, 2005, are classified in the consolidated balance sheets as goodwill. The Codification requires franchise rights reacquired subsequent to January 1, 2005, to be recognized as an intangible asset apart from goodwill. Intangibles include any reacquired franchise rights and trademarks/trade names acquired after January 1, 2005.

The Company tests goodwill and indefinite lived intangible assets for impairment on an annual basis, or more frequently if events or changes in circumstances indicate that the asset might be impaired, based on several factors, including operating results, business plans, and future estimated cash flows. The Company has elected to perform its annual tests for indications of goodwill and intangible asset

impairment as of December 31 of each year. Impairment testing is done at a reporting unit level. An impairment loss is recognized when the carrying amount of the reporting unit's net assets exceeds the estimated fair value of the reporting unit. The estimated fair value is determined using a discounted future cash flow analysis.

The net carrying value of goodwill as of December 31, 2024 and 2023, includes $1.2 million of accumulated impairment. The changes in the carrying value of goodwill for the years ended December 31 were as follows:

| | 2024 | 2023 |
|---|---|---|
| Net carrying value—January 1 | $92,214 | $92,162 |
| Foreign currency translation | (191) | 52 |
| Net carrying value—December 31 | $92,023 | $92,214 |

The following is a summary of the components of intangible assets as of December 31:

| | 2024 | | | 2023 | | |
|---|---|---|---|---|---|---|
| | Cost | Accumulated Amortization | Net | Cost | Accumulated Amortization | Net |
| **Indefinite-lived** | | | | | | |
| Territorial franchise rights | $ 73,275 | $ - | $ 73,275 | $ 73,295 | $ - | $ 73,295 |
| **Definite-lived** | | | | | | |
| Software | 13,619 | (4,496) | 9,123 | 9,788 | (3,034) | 6,754 |
| Total | $ 86,894 | $ (4,496) | $ 82,398 | $ 83,083 | $ (3,034) | $ 80,049 |

Amortization expense for the years ended December 31, 2024, 2023, and 2022, was $1,462, $973, and $585, respectively.

Estimated future amortization expense is as follows:

| **Years ending December 31** | |
|---|---|
| 2025 | $1,899 |
| 2026 | 1,570 |
| 2027 | 1,509 |
| 2028 | 1,498 |
| 2029 | 1,334 |
| Thereafter | 1,313 |
| Total | $9,123 |

## 5. OTHER ASSETS

Other long-term assets as of December 31 consisted of the following:

| | 2024 | 2023 |
|---|---|---|
| Deferred compensation | $27,222 | $24,858 |
| Deferred incentives | 6,080 | 7,627 |
| Notes receivable | 92 | 44 |
| Other | 18 | 18 |
| Total | $33,412 | $32,547 |

The Company has a deferred compensation plan that enables U.S. officers of the Company to defer a specified percentage of their cash compensation into mutual funds within a rabbi trust. The Company accounts for this deferred compensation plan in accordance with ASC 710, *Compensation*. All the funds within the plan are classified as Level 1 in accordance with ASC 820, *Fair Value Measurements and Disclosures*. This classification is based on the ability of these mutual funds to actively trade with enough frequency and volume to enable pricing information to be obtained on an ongoing basis. The Company didn't make any contributions to the plan for the years ended December 31, 2024, 2023, and 2022.

The Company periodically offers an incentive program for franchisees who invest in their stores, including remodels, technology investments, or building new stores. The programs typically offer an incentive equal to the lesser of a percentage of specific capital costs of improving or building a restaurant or a specified incentive dollar limit. The incentives generally are amortized over the period of expected increased economic benefit resulting from the investment, which ranges from 3 to 7 years, depending on the scope of the project. If a location that was awarded an incentive subsequently closes, the Company's policy is to expense the remaining unamortized portion of the incentive in the year of the location closure.

## 6. OTHER LIABILITIES

Other current liabilities as of December 31 consisted of the following:

| | 2024 | 2023 |
|---|---|---|
| Accrued salaries and benefits | $21,255 | $19,259 |
| Charity donations collected from franchisees | 6,902 | 6,640 |
| Deposits | 8,098 | 11,984 |
| Accrued remodel incentives | 196 | 237 |
| Other | 438 | 493 |
| Total | $36,889 | $38,613 |

Other long-term liabilities as of December 31 consisted of the following:

| | 2024 | 2023 |
|---|---|---|
| Deferred compensation | $27,222 | $24,858 |
| Incentive compensation | 12,755 | 16,564 |
| Accrued remodel incentives | 173 | 268 |
| Other | 5 | 12 |
| Total | $40,155 | $41,702 |

## 7. INCOME TAXES

The provision for income taxes for the years ended December 31 consisted of the following:

| | 2024 | 2023 | 2022 |
|---|---|---|---|
| Current: | | | |
| U.S. federal | $15,192 | $16,643 | $15,049 |
| State | 4,443 | 4,825 | 4,341 |
| Foreign | 11,322 | 10,517 | 9,368 |
| | 30,957 | 31,985 | 28,758 |
| Deferred: | | | |
| U.S. federal | 391 | (1,695) | (315) |
| State | 85 | (274) | (51) |
| Foreign | (161) | (46) | (52) |
| | 315 | (2,015) | (418) |
| Total | $31,272 | $29,970 | $28,340 |

Included in foreign taxes are taxes withheld by foreign countries on dividends and service fees received by U.S. entities.

A reconciliation of differences between the U.S. federal statutory income tax rate and the consolidated effective tax rate for the years ended December 31 were as follows:

| | 2024 | 2023 | 2022 |
|---|---|---|---|
| U.S. federal statutory rate | 21.00 % | 21.00 % | 21.00 % |
| State income tax—net of federal effect | 2.77 | 2.90 | 2.86 |
| Foreign income tax | 0.58 | 0.82 | 0.88 |
| Other—net | (0.14) | (0.52) | (0.54) |
| Consolidated effective tax rate | 24.21 % | 24.20 % | 24.20 % |

The Company's deferred tax assets and liabilities as of December 31 were as follows:

| | 2024 | 2023 |
|---|---|---|
| Deferred tax assets: | | |
| Employee benefits | $11,722 | $12,497 |
| Notes/accounts receivable/inventory allowances | 290 | 205 |
| Operating lease liability | 1,907 | 2,043 |
| Deferred revenue | 641 | 597 |
| Capitalized research and development | 1,279 | 1,039 |
| Other | - | 1,449 |
| Total deferred tax assets | 15,839 | 17,830 |
| Deferred tax liabilities: | | |
| Goodwill and other intangibles | 27,871 | 28,933 |
| Fixed assets | 3,256 | 3,158 |
| Operating lease assets | 1,160 | 1,231 |
| Other | 1,204 | 1,845 |
| Total deferred tax liabilities | 33,491 | 35,167 |
| Net deferred tax liabilities | $17,652 | $17,337 |

A valuation allowance of $3.7 million after-tax was established for disallowed amortization of Franchise Rights between November 1, 1970 and July 25, 1991.

The Company does not have any unrecognized tax benefits as of December 31, 2024 and 2023.

The Company is subject to taxation in the United States and various state and foreign jurisdictions. The tax years for 2012 through 2024 are subject to examination by the Internal Revenue Service. The expiration of the statute of limitations related to the various state and foreign income tax returns that the Company files varies by jurisdiction; in general, the years 2014 through 2024 remain open for state purposes.

## 8. LEASES

The Company and its subsidiaries have leases for administrative facilities, equipment, and one retail restaurant facility. Most of the leases require the lessee to pay executory costs (property taxes, maintenance, and insurance) and many of the leases provide for one or more renewal options. The retail restaurant facility lease requires the Company to pay the greater of an annual base rent amount or a percentage of annual gross sales, as defined in the lease agreement.

Total remaining operating lease payments are as follows:

| Years ending December 31 | |
|---|---|
| 2025 | $1,192 |
| 2026 | 1,216 |
| 2027 | 1,235 |
| 2028 | 1,180 |
| 2029 | 1,308 |
| Thereafter | 2,941 |
| Total lease payments | 9,072 |
| Imputed interest | (763) |
| Operating lease liabilities | $8,309 |

The weighted average term of these leases is 6.8 years, 7.7 years, and 8.6 years as of December 31, 2024, 2023 and 2022, respectively, and the weighted average discount rate used to measure operating lease liabilities was 2.38% for the years ended December 31, 2024, 2023, and 2022.

Components of operating lease costs are as follows:

| Years ending December 31 | 2024 | 2023 | 2022 |
|---|---|---|---|
| Operating lease cost | $ 981 | $1,002 | $1,072 |
| Short-term lease cost | 15 | 15 | 15 |
| Variable lease cost | 734 | 791 | 618 |
| Total operating lease costs | $1,730 | $1,808 | $1,705 |

Cash paid for amounts included in the present value of operating lease liabilities was an operating cash outflow of $1,182, $1,179, and $1,155 for the years ended December 31, 2024, 2023, and 2022 respectively.

## 9. EMPLOYEE BENEFIT PLANS

The Company sponsors a retirement savings plan. Substantially all permanent full-time employees of the Company and participating affiliates are eligible to participate and may contribute from 1% to 35% of their base pays, subject to Internal Revenue Service limitations. For the Plan year ending December 31, 2024, the Company match increased to 100% of the first 2% contributed and 50% of the next 4% contributed for a maximum Company match of 4%. For the Plan years ending December 31, 2023, and 2022, the Company matched 100% of the first 1% contributed and 50% of the next 5% contributed for a maximum Company match of 3.5%. The Company's contribution including administrative fees for the years ended December 31, 2024, 2023, and 2022, was $1,857, $1,520, and $1,411, respectively.

## 10. CONTINGENCIES

The Company is involved in various legal proceedings in the ordinary course of its business. In the opinion of the Company's management, the ultimate disposition of these proceedings and claims will not have a material effect on the consolidated financial position or results of operations of the Company.

## 11. RELATED PARTY TRANSACTIONS

In the ordinary course of business, the Company has transactions between Berkshire and its affiliates that are included in these consolidated financial statements.

As described in Note 2, the Company participates in a centralized cash management program (cash pooling) with BH Finance, a wholly owned subsidiary of Berkshire. As of December 31, 2024 and 2023, the Company had a cash pooling receivable due from BH Finance of $44.6 million and $55.8 million, respectively. The Company also recognized interest income from BH Finance of $2.6 million, $2.6 million, and $0.6 million for the years ended December 31, 2024, 2023, and 2022 respectively.

The Company paid dividends of $110 million, $110 million, and $85 million to Berkshire for the years ended December 31, 2024, 2023, and 2022, respectively.

The Company recognized revenue for supply chain and services fees from Berkshire affiliates for the years ended December 31, 2024, 2023, and 2022, of $0.3 million, $0.4 million, and $0.5 million, respectively.

## 12. SUBSEQUENT EVENTS

In accordance with ASC 855, *Subsequent Events*, the Company has considered subsequent events for recognition or disclosure through February 7, 2025, the date that the financial statements are available to be issued. No subsequent events were noted.

* * * * * *

# EXHIBIT L

## Operations Manuals Tables of Contents

# *DQ*® System Standards and Operations Manual

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# EXHIBIT M

## State Effective Dates

## State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following state, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

| State | Effective Date |
|---|---|
| Virginia | [_____] |

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

# EXHIBIT N

## Receipts

**RECEIPT**
**(YOUR COPY)**

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 Dairy Queen of Virginia, Inc. ("we" or "us") offers you a franchise, we must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale or grant.

If Dairy Queen of Virginia, Inc. does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal 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: Mark Dunham, Matt Dunham and Christopher Lofgren, 12020 Wyndham Lake Drive, Glen Allen, Virginia 23059, (804) 364 3006 and _____.

Date of Issuance: June 18, 2025

See Exhibit A for our registered agents authorized to receive service of process.

I have received a disclosure document dated June 18, 2025 that includes the following Exhibits:

| | | | |
|---|---|---|---|
| A. | Agencies/Agents for Service of Process | H. | ADQ's Franchisees |
| B. | Operating Agreement and Addenda | I. | ADQ's Former Franchisees |
| C. | Design Services Agreement | J. | Territory Operator's Financial Statements |
| D. | Draft Authorization Form | K. | IDQ's Financial Statements |
| E. | Third-Party Participation Agreements | L. | Operations Manuals Tables of Contents |
| F. | Territory Operator's Subfranchisees | M. | State Effective Dates |
| G. | Territory Operator's Former Subfranchisees | N. | Receipts |

_____ _____
Date Prospective Subfranchisee

_____ _____
Date Prospective Subfranchisee

KEEP THIS COPY FOR YOUR RECORDS. This disclosure document is available in other formats by request to Chris Lofgren, chris.lofgren@dq-va.com.

**RECEIPT**
**(OUR COPY)**

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 Dairy Queen of Virginia, Inc. ("we" or "us") offers you a franchise, we must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale or grant.

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| G. | Territory Operator's Former Subfranchisees | N. | Receipts |

_____ _____
Date Prospective Subfranchisee

_____ _____
Date Prospective Subfranchisee

PLEASE SIGN THIS COPY OF THE RECEIPT, DATE YOUR SIGNATURE, AND RETURN IT TO US ADDRESSED AS FOLLOWS: Matt Dunham, 12020 Wyndham Lake Drive, Glen Allen, Virginia 23059. This disclosure document is available in other formats by request to Chris Lofgren at chris.lofgren@dq-va.com.