FRANCHISE DISCLOSURE DOCUMENT

Andy's Frozen Custard Franchising, LLC
a Missouri limited liability company
211 E Water Street
Springfield, Missouri 65806
(417) 881-3500, 1-888-60-ANDYS
e-mail info@eatandys com
website www eatandys com

The franchise is to operate a store under the "ANDY'S FROZEN CUSTARD" name that features frozen custard, other frozen dessert items, and other food and beverage products

The total investment necessary to begin operation of an ANDY'S FROZEN CUSTARD Store is $622,000 to $1,490,500 This includes $32,000 that must be paid to the franchisor or an affiliate The total investment necessary to begin operation under the Development Rights Agreement is $622,000 to $1,490,500 This includes $42,000 that must be paid to the franchisor or an affiliate The minimum number of stores required to be opened under the Development Rights Agreement is 3

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

You may wish to receive your disclosure document in another format that is more convenient for you To discuss the availability of disclosures in different formats, contact Andy Kuntz, our President, at 211 E Water Street, Springfield, Missouri 65806, (417) 881-3500

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, D C 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 also be laws on franchising in your state Ask your state agencies about them

Issuance date of this Franchise Disclosure Document April 14, 2017

STATE COVER PAGE

Your state may have a franchıse law that requıres a franchısor to regıster or file wıth a state franchıse admınıstrator before offerıng or sellıng ın your state REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT

Call the state franchıse admınıstrator lısted ın Exhıbıt A for ınformatıon about the franchısor or about franchısıng ın your state

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW

Please consıder the followıng RISK FACTORS before you buy thıs franchıse

1 THE FRANCHISE AGREEMENT AND DEVELOPMENT RIGHTS AGREEMENT REQUIRE YOU TO RESOLVE DISPUTES WITH US BY ARBITRATION AND LITIGATION ONLY IN SPRINGFIELD, MISSOURI OUT-OF-STATE ARBITRATION OR LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES IT MAY ALSO COST YOU MORE TO ARBITRATE OR LITIGATE WITH US IN SPRINGFIELD, MISSOURI THAN IN YOUR OWN STATE

2 THE FRANCHISE AGREEMENT AND DEVELOPMENT RIGHTS AGREEMENT REQUIRES THAT MISSOURI LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW YOU MAY WANT TO COMPARE THESE LAWS

3 THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE

We do not use the servıces of any franchıse brokers or referral sources to assıst us ın sellıng our franchıse

Effectıve Date See the next page for state effectıve dates

ANDY'S FROZEN CUSTARD FRANCHISING, LLC
STATE EFFECTIVE DATES

The following states 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 Franchise Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates

California	Pending
Illinois	May 1, 2017
Indiana	May 1, 2017
Michigan	April 14, 2017
Minnesota	Pending

In all other states, except those requiring registration or filing of the franchise documents, the effective this Franchise Disclosure Document is the issuance date of April 14, 2017

THE FOLLOWING PROVISIONS APPLY ONLY TO TRANSACTIONS GOVERNED BY <u>THE MICHIGAN FRANCHISE INVESTMENT LAW</u>

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU

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

(a) A prohibition on the right of a franchisee to join an association of franchisees

(b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims

(c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure

(d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation This subsection applies only if (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise

(e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances This section does not require a renewal provision

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

(g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise Good cause shall include, but is not limited to

(i) The failure of the proposed franchisee to meet the franchisor's then current reasonable qualifications or standards

(ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations

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

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

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

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

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

Any questions regarding the notice should be directed to

State of Michigan
Consumer Protection Division
Attention Franchise
670 G Mennen Williams Building
525 West Ottawa
Lansing, Michigan 48909
Telephone 517-373-7117

Note Despite subparagraph (f) above, we intend to enforce fully the provisions of the arbitration section contained in our Franchise Agreement and Development Rights Agreement We believe that subparagraph (f) is unconstitutional and cannot preclude us from enforcing our arbitration section You acknowledge that we will seek to enforce this section as written

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EXHIBITS

APPLICABLE STATE LAW MIGHT REQUIRE ADDITIONAL DISCLOSURES RELATED TO THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT THESE ADDITIONAL DISCLOSURES, IF ANY, APPEAR IN EXHIBIT F

Item 1

THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

The franchisor is Andy's Frozen Custard Franchising, LLC ("we," "us," or "our") "You" means the person to whom we grant a franchise If you are a corporation, partnership, limited liability company, or other entity, your owners must sign our "Guaranty and Assumption of Obligations," which means that all of our Franchise Agreement's provisions (Exhibit B) also will apply to your owners

We incorporated in Missouri on August 1, 2003 Our principal business address is 211 E Water Street, Springfield, Missouri 65806 We operate under our corporate name and the trademarks described in Item 13 (the "Marks") and no other name We currently have no parents or predecessors required to be included in this Item If we have an agent in your state for service of process, we disclose that agent in Exhibit A

We began offering franchises for Andy's Frozen Custard Stores on January 12, 2004 We do not operate any Andy's Frozen Custard Stores, although we may do so in the future Our affiliate, Andy's Frozen Custard, Inc ("AFCI"), whose principal business address is 211 E Water Street, Springfield, Missouri 65806, has operated at least one Andy's Frozen Custard Store since 1986 Our affiliate Andy's Frozen Custard Stores, LLC f/k/a Andy's Frozen Custard Chicago, LLC ("AFCS"), who shares the same principal business address as AFCI, has operated Andy's Frozen Custard Stores since 2010 We have no other business activities and have not offered franchises in other lines of business Neither AFCI nor AFCS has offered franchises in any line of business, but AFCI does provide certain products and supplies to franchisees for use in the operation of their Andy's Frozen Custard Stores We have no other affiliates who offer franchises in any line of business or who provide products or services to our franchisees

We grant franchises for stores operating under the "ANDY'S FROZEN CUSTARD" name and other Marks (For reference purposes in this Disclosure Document, we call the stores in our system "Andy's Frozen Custard Stores", we call the Andy's Frozen Custard Store that you will operate the "Store ") Andy's Frozen Custard Stores offer premium frozen custard and custard-related products and services, and other food and beverage products ("Menu Items") Menu Items are prepared according to specified recipes and procedures and use high quality ingredients, including our specially formulated and specially produced proprietary lines of frozen custard and other food products (collectively, "Trade Secret Food Products") If you acquire a franchise, you must operate your Store according to our business formats, methods, procedures, designs, layouts, standards, and specifications

If you qualify, we might grant you the right to develop and operate a number of Andy's Frozen Custard Stores within a development area (the "Development Area") as an area developer under our Development Rights Agreement (Exhibit B-2) We will offer development rights only to certain qualified candidates who already have signed, or who simultaneously will sign, one or more franchise agreements with us and only in certain areas of the country Before you sign the Development Rights Agreement, we and you will agree to the Development Area, the number of Andy's Frozen Custard Stores that you must open in the Development Area, and the timeframe within which you must open them (the "Development Schedule") We will grant Andy's Frozen Custard Store franchises under the Development Rights Agreement only to you or your

Affiliated Entities "Affiliated Entity" means any corporation, limited liability company or other entity of which you or one or more of your majority owners owns more than 50% of the total authorized ownership interests, if you or those owners have the power unilaterally, without the consent or approval of any other person or entity, to direct and control the entity's management and policies Franchises that we grant to your Affiliated Entities will count toward your development obligation You (or your Affiliated Entity) will sign our then current form of franchise agreement, which currently is the Franchise Agreement included in this disclosure document but in the future could differ from the Franchise Agreement, for each Andy's Frozen Custard Store developed under the Development Rights Agreement, but for each franchise agreement that the Development Rights Agreement covers, the initial franchise fee is $28,000 and the royalty will depend on the number of Andy's Frozen Custard Stores you operate as follows

Number of Andy's Frozen Custard Stores You Develop under the Development Rights Agreement	**Royalty for Your Andy's Frozen Custard Stores Developed under the Development Rights Agreement**
Less than 3	6% of Gross Sales (5% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 3	5½% of Gross Sales (4½% of Gross Sales above $1,000,000 in any given year where your Gross Sales exceeds $1,000,000)
At Least 5	5% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 10	4½% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 20	4% of all Gross Sales

The minimum number of Stores required to be opened under the Development Rights Agreement is 3

Your Store will offer products and services to the general public throughout the year and compete with other frozen dessert chains (local, regional, and national), restaurants, grocery stores and food service businesses The market for your type of products and services generally is developed and very competitive Despite this competition, we believe that Andy's Frozen Custard Stores appeal to consumers because of our product and service quality Because sales of frozen desserts generally increase in warmer weather, your sales may be seasonal

There are no regulations that apply specifically to the industry in which Andy's Frozen Custard Stores operate However, you must comply with laws that apply generally to all food service businesses You should investigate these laws

Item 2

BUSINESS EXPERIENCE

President and Managing Member Andy Kuntz

Andy Kuntz has been our President and Managing Member since our formation in August 2003 Since March 2000, he has been the President of our affiliate, AFCI, and is now the operator of 6 Andy's Frozen Custard Stores

Vice President Carol Kuntz

Carol Kuntz has been our Vice President since our formation in August 2003 She has been Secretary and Vice President of AFCI since March 1986 Previously, she was our Controller from August 2003 to August 2011

Chief Financial Officer Mike Carroll

Mike Carroll has been our Chief Financial Officer since December 2016 Prior to that, he was our Controller from August 2011 until November 2016 Previously, he was Tax Manager at Marks Nelson Vohland Campbell Radetic, LLC in Kansas City, Missouri from June 2011 to August 2011

Item 3

LITIGATION

No litigation is required to be disclosed in this Item

Item 4

BANKRUPTCY

No bankruptcy proceedings are required to be disclosed in this Item

Item 5

INITIAL FEES

Franchise Agreement

You must pay us an initial franchise fee in a lump sum when you sign the Franchise Agreement Our standard initial franchise fee currently is $32,000 If you are an existing franchisee in good standing and buy a second or additional franchise, the initial franchise fee currently is $28,000 for each additional unit

Initial franchise fees under Franchise Agreements are fully earned when paid and are not refundable under any circumstances, except as provided below If we determine that you (or your managing owner) cannot complete initial training to our satisfaction, we may terminate the Franchise Agreement and keep 2/3 of the initial franchise fee We will return the other 1/3 to you if you sign our required form of release of claims

Development Rights Agreement

You must pay us a lump sum development fee when you sign the Development Rights Agreement Your development fee is $14,000 multiplied by the number of Andy's Frozen Custard Store you agree to develop in the Development Area We will insert this fee in the Development Rights Agreement before signing it The development fee is not refundable under any circumstances, but we will apply $14,000 of the development fee toward the initial franchise fee owed under each Franchise Agreement that the Development Rights Agreement covers The minimum number of Stores required to be opened under the Development Rights Agreement is 3

Range of Initial Fees and Development Fees

Franchisees signing franchise agreements during 2016 paid us initial fees (as described in this Item 5) of $28,000 2 franchisees signed Development Rights Agreements with us during 2016 Their development fees ranged from $28,000 to $ 84,000

Item 6

OTHER FEES

Column 1 Type of Fee(1)	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
Continuing Service and Royalty	6% of Store's weekly Gross Sales, but 5% of Gross Sales over $1 million (2)	Due on Wednesday of each week on Gross Sales during previous week ending Sunday(3)	"Gross Sales" means all of your revenue from operating the Store, but excluding taxes collected from customers and paid to a taxing authority, and reduced by the amount of any documented refunds, credits, allowances, and chargebacks the Store in good faith gives to customers
Advertising and Development Fund	Up to 2% of Store's weekly Gross Sales, currently 1% of Gross Sales	Due on Wednesday of each week on Gross Sales during previous week ending Sunday(3)	See Item 11 for a detailed discussion about this Fund
Local Advertising	3% of Store's Gross Sales	As incurred	You must spend this amount on local advertising

Column 1 Type of Fee[1]	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
Cooperative Advertising Programs	Up to 3% of the Store's Gross Sales (although 67% or more of the Andy's Frozen Custard Stores operating in a defined Advertising Coverage Area may vote to increase this amount[4])	As Cooperative Program directs	See Item 11 for a detailed discussion about Cooperative Advertising Programs
Additional Training or Assistance	Currently, we charge $150 per day plus expenses for training at our location, and $250 per day plus expenses for training at your Store	When training or assistance begins	We provide initial training for 2 people at no cost — we may charge you for initial training of more than 2 people, for training newly-hired personnel, for refresher training courses, for the annual convention, and for additional or special assistance or training you need or request
Transfer	60% of our then current initial franchise fee	Before transfer completed	No charge if Franchise Agreement transferred to an entity you control
Product and Service Purchases	See Item 8	See Item 8	You will buy products and services from us, our affiliates, designated and approved vendors whose items meet our standards and specifications, and/or other suppliers to the industry
Testing	Costs of Testing	When billed	This covers the costs of testing new products or inspecting new suppliers you propose

Column 1 Type of Fee[(1)]	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
Computer Systems, Maintenance, and Support	Costs of Service	As incurred	We or a third party may charge you a fee for any proprietary software or technology that we, our affiliates or a third party license to you and for other maintenance and support services that we or a third party might provide in the future, we do not currently provide these services but may charge you for them if we choose to provide them in the future, certain services may be provided through a third party that offers an Internet-based reporting system for which it currently charges $150 a month
Audit	Cost of inspection or audit	15 days after billing	Due if you do not give us reports, supporting records, or other required information or understate required Royalties or Fund contributions by more than 2%
Interest	Lesser of 1 5% per month or highest commercial contract interest rate law allows	15 days after billing	Due on all overdue amounts
Maintenance and Refurbishing of Store	You must reimburse our expenses	15 days after billing	If, after we notify you, you do not undertake efforts to correct deficiencies in the Store's appearance, then we can undertake the repairs and you must reimburse our costs
Insurance	You must reimburse our costs	15 days after billing	If you fail to obtain insurance, we may obtain insurance for you and you must reimburse us
Insufficient Funds Processing Fee	$100	As incurred	Due if you have insufficient funds in your EDTA to cover a payment, or, if you pay by check, a check is returned for insufficient funds
Management Fee	$500 per person per day (plus costs and expenses)	As incurred	Due when we (or a third party) manage the Store after your or your managing owner's death or disability or after your default or abandonment
Costs and Attorneys' Fees	Will vary under circumstances	As incurred	Due when you do not comply with the Franchise Agreement or Development Rights Agreement

Column 1 Type of Fee[(1)]	Column 2 Amount	Column 3 Due Date	Column 4 Remarks
Indemnification	Will vary under circumstances	As incurred	You must reimburse us if we are held liable for claims from your Store's operation or breach of the Franchise Agreement or Development Rights Agreement

1/ Except for product and service purchases described in Item 8, and except as otherwise noted in this Item 6, all fees are imposed and collected by and payable to us Except as otherwise noted in this Item 6, all fees are uniform and non-refundable

2/ If you sign a Development Rights Agreement with us, the royalty will depend on the number of Andy's Frozen Custard Stores you operate as follows

Number of Andy's Frozen Custard Stores You Develop under the Development Rights Agreement	Royalty for Your Andy's Frozen Custard Stores Developed under the Development Rights Agreement
Less than 3	6% of Gross Sales (5% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 3	5½% of Gross Sales (4½% of Gross Sales above $1,000,000 in any given year where your Gross Sales exceeds $1,000,000)
At Least 5	5% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 10	4½% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 20	4% of all Gross Sales

3/ Before your Store opens, you must sign and deliver to us the documents we require to authorize us to debit your business checking account automatically for the Royalty, Fund contributions, and other amounts due under the Franchise Agreement and for your purchases from us and/or our affiliates (the "Electronic Depository Transfer Account" or "EDTA") We will debit the EDTA for these amounts on their due dates Funds must be available in the EDTA for withdrawal We may require payment other than by automatic debit, and you must comply with our payment instructions

If you do not report the Store's Gross Sales, we may debit your EDTA for 120% of the last Royalty and Fund contribution that we debited If the amounts we debit are less than the amounts you actually owe us, we will debit your EDTA for the balance on the day we specify If the amounts we debit are greater than the amounts you actually owe us, we will credit the excess against the amounts that we otherwise would debit from your EDTA during the following week

4/ These Stores will include Andy's Frozen Custard Stores operated in the Advertising Coverage Area by us, AFCI, AFCS, or our other affiliates Each Andy's Frozen Custard Store operating in the Advertising Coverage Area will have one vote

Item 7

ESTIMATED INITIAL INVESTMENT

YOUR ESTIMATED INITIAL INVESTMENT

Column 1 Type of Expenditure	Column 2 Amount	Column 3 Method of Payment	Column 4 When Due	Column 5 To Whom Payment is to be made
Initial Franchise Fee (1)	$32,000	Lump Sum	Upon signing Franchise Agreement	Us
Real Estate/Rent (2)	Not Included	Not Included	Not Included	Not Included
Leasehold Improvements (3)	$250,000 - $750,000	As Agreed	As Incurred	Outside Suppliers
Utility and Security Deposits(2)	$2,500 – $8,500	As Agreed	As Incurred	Utility Companies, Landlord
Computer System	$30,000 - $40,000	As Agreed	As Incurred	Outside Supplier
Furniture, Fixtures, and Equipment (4)	$200,000 - $280,000	As Agreed	As Incurred	Outside Suppliers
Signage	$75,000 - $150,000	As Agreed	As Incurred	Outside Suppliers
Professional Fees (5)	$5,000 - $50,000	As Agreed	As Incurred	Lawyers, Accountants and other Advisors (including engineers and architects)
Office Equipment and Supplies (6)	$2,500 - $5,000	As Agreed	As Incurred	Outside Suppliers
Business License and Permits	$1,000 - $25,000	As Agreed	As Incurred	Government Agencies

Column 1 Type of Expenditure	Column 2 Amount	Column 3 Method of Payment	Column 4 When Due	Column 5 To Whom Payment is to be made
Opening Inventory and Supplies (7)	$12,000 - $20,000	As Agreed	As Incurred	Designated and Approved Suppliers
Grand Opening Marketing (8)	$5,000 - $25,000	As Incurred	As Incurred	Advertising Sources
Training Expenses (out-of-pocket costs for 2 people)	$4,000 - $20,000	As Incurred	As Incurred	Third Parties
Insurance – 3 months (9)	$2,000 - $5,000	As Incurred	As Incurred	Insurance Company
Additional Funds - 3 months (10)	$1,000 - $80,000	As Incurred	As Incurred	
TOTAL ESTIMATED INITIAL INVESTMENT (excluding real estate costs) (11)	$622,000 – $1,490,500			

Explanatory Notes

* All amounts listed in the above table are nonrefundable, except that a portion of the initial franchise fee is refundable if we determine that you (or your managing owner) cannot complete initial training to our satisfaction and we decide to terminate the Franchise Agreement

1 We describe the initial franchise fee in Item 5 Our standard initial franchise fee is $32,000, but if you are a franchisee in good standing and buy a second or additional franchise, the initial franchise fee currently is $28,000 for each additional unit Also, if you sign a Development Rights Agreement with us, the initial franchise fee for each Andy's Frozen Custard Store you develop under that Development Rights Agreement is $28,000

2 An Andy's Frozen Custard Store occupies approximately 1,500 to 2,100 square feet of space We anticipate that you will rent the Store's premises Rent depends on geographic location, size, local rental rates, businesses in the area, site profile, and other factors and could be considerably higher in large metropolitan areas Andy's Frozen Custard Stores are typically free-standing units It is possible that you might choose to buy, rather than rent, real estate on which a building suitable for the Store already is constructed or could be constructed Real estate costs depend on location, size, visibility,

economic conditions, accessibility, competitive market conditions, and the type of ownership interest you are buying Because of the numerous variables that affect the value of a particular piece of real estate, this initial investment table does not reflect the potential cost to purchase real estate

3 Leasehold improvement costs, including floor covering, wall treatment, counters, ceilings, painting, window coverings, electrical, carpentry, and similar work, and architect's and contractor's fees, depend on the site's condition, location, and size, the demand for the site among prospective lessees, the site's previous use, the build-out required to conform the site for your Store, and any construction or other allowances the landlord grants The lower figure assumes that you remodel an existing building, the higher figure assumes construction of a new building

4 These amounts include the frozen custard making machines (the "Machine") that you must purchase from our designated supplier We will determine the number of Machines that you will need to purchase The lower figure assumes that you are purchasing 1 Machine The higher figure assumes that you are purchasing 2 Machines We require that you pay our designated supplier a deposit in the amount of 1/2 of the total cost of each machine that you purchase at the time you sign the lease for your Store, with the balance of the total amount that you owe our designated supplier payable at the time the Machine(s) are delivered to your Store These amounts also include refrigerators, freezers and stereo and phone systems

5 The architect will provide architectural services relating to the Store building The civil engineer will provide engineering services in conjunction with the architect and contractor

6 This includes a small desk and chair, safe, fax machine, and telephones

7 This includes food and beverage products, paper products, cleaning supplies, and printing and other supplies purchased from approved suppliers

8 This is a range that you may spend on grand opening marketing for your Store We can require up to an amount not to exceed $25,000

9 You must obtain and maintain certain types and amounts of insurance Insurance costs depend on policy limits, types of policies, nature and value of physical assets, gross revenue, number of employees, square footage, location, business contents, and other factors bearing on risk exposure The estimate contemplates insurance costs for 3 months

10 This item estimates your initial start up expenses (other than the items identified separately in the table) These expenses include payroll costs but not any draw or salary for you These figures are estimates, and we cannot guarantee that you will not have additional expenses starting the business Your costs depend on how much you follow our methods and procedures, your management skill, experience, and business acumen, local economic conditions, the local market for your products and services, the prevailing wage rate, competition, and the sales level reached during the initial period

11 We relied on AFCI's approximately 30 years of operating, as well as our franchisees' experience in operating, Andy's Frozen Custard Stores to compile these estimates You should review these figures carefully with a business advisor before deciding to acquire the franchise We do not offer financing directly or indirectly for any part of the initial investment The availability and terms of financing depend on many factors, including the availability of financing generally, your creditworthiness and collateral, and lending policies of financial institutions from which you request a loan

12 No separate initial investment is required when you sign the Development Rights Agreement (if applicable) You need only pay us the development fee described in Item 5

Item 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

You must operate the Store according to our System Standards System Standards may regulate, among other things, the types, models, and brands of fixtures, furniture, equipment, furnishings, and signs (collectively, "Operating Assets"), products and supplies you must use in operating the Store, unauthorized and prohibited food products, beverages, and services, inventory requirements, and designated and approved suppliers of Operating Assets, Trade Secret Food Products and other items

In the case of Trade Secret Food Products, suppliers will be limited to us, our affiliates, and/or other specified exclusive sources, and you must buy Trade Secret Food Products during the franchise term only from us, our affiliates, and/or the other specified exclusive sources at the prices we and they decide to charge We restrict your sources of Trade Secret Food Products in order to protect our trade secrets, assure quality, assure a reliable supply of products that meet our standards, achieve better terms of purchase and delivery service, control usage of the Marks by third parties, and monitor the manufacture, packaging, processing, and sale of these items

In the case of Operating Assets and items other than Trade Secret Food Products, suppliers could, at our option, be limited to us, our affiliates, and/or other specified exclusive sources, in which case you would have to buy such Operating Assets and other items only from us, our affiliates, and/or the other specified exclusive sources at the prices we or they decide to charge We have the absolute right to limit the suppliers with whom you may deal There are currently no suppliers in which any of our officers owns an interest

We currently manufacture our sundae dishes and sell them to a designated supplier, and you must buy your sundae dishes from this supplier You currently must buy all of your custard mix, custard-making machines, nuts and other toppings, and root beer from designated suppliers You must also purchase frozen custard making machines and the Computer System from designated suppliers There are no other goods, services, supplies, fixtures, equipment, inventory, computer hardware and software, real estate or comparable items for establishing or operating the Store that you currently must buy or lease from us (or an affiliate) or designated suppliers Any purchases from us and our affiliates, whether required or voluntary, generally will be at prices exceeding our costs

To maintain the quality of the goods and services that Andy's Frozen Custard Stores sell and our system's reputation, we may condition your right to buy or lease goods and/or services (besides those described above that you may obtain only from us, our affiliates, and/or other specified exclusive sources) on their meeting our minimum standards and specifications and/or being acquired from suppliers that we approve We will issue and modify standards and specifications based on our, AFCI's, AFCS's and our franchise owners' experience in operating Andy's Frozen Custard Stores Our standards and specifications may impose minimum requirements for production, performance, reputation, prices, quality, design, and appearance Our Operations Manual or other communications will identify our standards and specifications We will notify you and, where appropriate, the suppliers, of our standards and specifications There might be situations where you can obtain items from any supplier who can satisfy our requirements and, therefore, would be an approved supplier

If we institute any type of restrictive sourcing program (which, as noted above, we already have done for the Computer System, sundae dishes, custard mix, custard machines, nuts and other toppings and root beer may do for other items) and you want to use any item or service that we have not yet evaluated or to buy or lease from a supplier that we have not yet approved or designated, you first must send us sufficient information, specifications, and samples so that we can determine whether the item or service complies with System Standards or the supplier meets approved supplier criteria We may charge you or the supplier a reasonable fee for the evaluation and will decide within a reasonable time (no more than 30 days) We periodically will establish procedures for your requests and may limit the number of approved items, services, and/or suppliers as we think best

Supplier approval might depend on product quality, delivery frequency and reliability, service standards, financial capability, customer relations, concentration of purchases with limited suppliers to obtain better prices and service, and/or a supplier's willingness to pay us, AFCI, AFCS, and/or our system for the right to do business with our system We, AFCI, AFCS, and any other affiliate have the right to receive payments or other material consideration from suppliers on account of their actual or prospective dealings with you and other franchise owners and to use all amounts that we and our affiliates receive without restriction (unless we and our affiliates agree otherwise with the supplier) for any purposes we and our affiliates deem appropriate Supplier approval might be temporary until we evaluate the supplier in more detail We may inspect a proposed supplier's facilities during and after the approval process to make sure that the supplier meets our standards If it does not, we may revoke our approval by notifying the supplier and you in writing We have no obligation to approve any request for a new supplier, product, or service We may charge you a fee to cover the cost of testing new products or inspecting new suppliers you propose

<u>Insurance</u> Besides these purchases or leases, you must obtain and maintain, at your own expense, the insurance coverage that we periodically require and satisfy other insurance-related obligations You currently must have comprehensive general liability insurance, motor vehicle liability insurance with $500,000 minimum coverage, comprehensive public liability coverage with a minimum of $1,000,000 per occurrence, personal injury coverage of $1,000,000 per occurrence, product liability coverage of at least $1,000,000, property damage insurance, worker's compensation insurance as required by law, and any other coverage required by law or your lease Premiums depend on the insurance carrier's charges, terms of payment, and your history All insurance policies must name us as an additional insured party

Advertising Materials Before you use them, you must send us for review samples of all advertising, promotional, and marketing materials that we have not prepared or previously approved If you do not receive written disapproval within 5 days after we receive the materials, they are deemed to be approved You may not use any advertising, promotional, or marketing materials that we have not approved or have disapproved

Store Development You are responsible for developing the Store We will give you mandatory and suggested specifications and layouts for an Andy's Frozen Custard Store, including requirements for dimensions, design, image, interior layout, decor, Operating Assets, and color scheme These plans might not reflect the requirements of any federal, state, or local law, code, or regulation, including those arising under the Americans with Disabilities Act ("ADA") or similar rules governing public accommodations for persons with disabilities You must prepare a site survey and all required construction plans and specifications for the Store's site and make sure that they comply with the ADA and similar rules, other applicable ordinances, building codes, permit requirements, and lease requirements and restrictions We must review and approve all final plans and specifications before you begin constructing the Store and all revised or "as built" plans and specifications during construction Our review is only to ensure your compliance with our design requirements We may inspect the Store during its development

Store Site The Store must be at a site that we approve We do not anticipate a situation where we would own the Site and lease it to you for your operation of the Store We have the right to approve the Store's lease or sublease and to require that it include certain provisions (listed in Section 2 B of the Franchise Agreement), including our right to the Store's site if the franchise is terminated or not renewed or if you lose possession because of your default under the lease

Collectively, the purchases and leases described above are approximately 90% of your overall purchases and leases in establishing the Store and 70% of your overall purchases and leases in operating the Store During fiscal year 2016, we did not derive any revenue or other material consideration from selling items to franchisees During fiscal year 2016, we received no rebates from any suppliers Therefore, no rebate amounts were deposited into the Advertising and Development Fund described in Item 11

During 2016, AFCI derived $34,529 from sales of products (including sundae dishes) to our franchisees This amount represented 0 27% of its total revenue

There currently are no purchasing or distribution cooperatives We may negotiate purchase arrangements with suppliers (including price terms) We do not provide material benefits to franchisees (for example, renewal or granting additional franchises) based on their purchase of particular products or services or use of particular suppliers

Development Rights Agreement Except as described in this paragraph, the Development Rights Agreement does not require you to buy or lease from us or designated or approved suppliers, or according to our specifications, any goods, services, supplies, fixtures, computer hardware and software, real estate, or comparable items related to establishing or operating the business under the Development Rights Agreement However, you must follow our requirements under the franchise agreement for each Andy's Frozen Custard Store you develop

For each site at which you propose to operate an Andy's Frozen Custard Store, you must send us a complete site report and other materials demonstrating your (or your Affiliated Entity's) financial and operational ability to develop the site We also may terminate your development rights if any of your Andy's Frozen Custard Stores covered by the Development Rights Agreement fail to meet our then current minimum operational criteria for future development

Item 9

FRANCHISEE'S OBLIGATIONS

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

	OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
a	Site selection and acquisition/lease	Sections 2A and B of Franchise Agreement and 5 and 7 of Development Rights Agreement	Items 7, 8, 11, and 12
b	Pre-opening purchases/leases	Sections 2C, D, and E and 8 of Franchise Agreement	Items 5, 7, 8, and 11
c	Site development and other pre-opening requirements	Sections 2C, D, E, and F of Franchise Agreement	Items 7, 8, and 11
d	Initial and ongoing training	Sections 4A and B of Franchise Agreement	Items 6, 7, and 11
e	Opening	Section 2F of Franchise Agreement	Item 11
f	Fees	Sections 2E, 3, 4A, B, and C, 9, 11B, 12C(7), 12E(2), 14C, 16D, and 17C of Franchise Agreement and 4 and 11 of Development Rights Agreement	Items 5, 6, and 7
g	Compliance with standards and policies/operating manual	Sections 4C and D and 8 of Franchise Agreement	Items 8 and 11
h	Trademarks and proprietary information	Sections 2E, 5, and 6 of Franchise Agreement and 6 of Development Rights Agreement	Items 13 and 14
i	Restrictions on products/services offered	Sections 1D and 8C of Franchise Agreement	Items 8, 11, 12, and 16

	Obligation	Section in Agreement	Disclosure Document Item
j	Warranty and customer service requirements	Not Applicable	Not Applicable
k	Territorial development and sales quotas	None under the Franchise Agreement and Exhibit A of Development Rights Agreement	Items 8, 11 and 12
l	Ongoing product/service purchases	Sections 2D and E and 8 of Franchise Agreement	Items 6 and 8
m	Maintenance, appearance, and remodeling requirements	Sections 8 and 13A of Franchise Agreement	Items 8, 11, 16, and 17
n	Insurance	Section 8F of Franchise Agreement	Items 7 and 8
o	Advertising	Section 9 of Franchise Agreement	Items 6, 7, 8, and 11
p	Indemnification	Section 16D of Franchise Agreement and 11 of Development Rights Agreement	Item 6
q	Owner's participation/ management/staffing	Sections 1C, 4A, and 8E of Franchise Agreement	Items 11 and 15
r	Records and reports	Section 10 of Franchise Agreement	Not Applicable
s	Inspections and audits	Section 11 of Franchise Agreement	Items 6 and 11
t	Transfer	Section 12 of Franchise Agreement and 10 of Development Rights Agreement	Item 17
u	Renewal	Section 13 of Franchise Agreement	Item 17
v	Post-termination obligations	Section 15 of Franchise Agreement	Item 17
w	Non-competition covenants	Sections 7, 12C(12), 12G, and 15D of Franchise Agreement and 11 of Development Rights Agreement	Items 15 and 17

OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
x Dispute resolution	Sections 17E, F, G, and H of Franchise Agreement and 11 of Development Rights Agreement	Item 17

Item 10

FINANCING

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

Item 11

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

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

Before you open the Store, we will

1 Give you our site selection criteria for the Store The site must meet our criteria for demographic characteristics, traffic patterns, parking, character of neighborhood, competition from, proximity to, and nature of other businesses, size, appearance, and other physical and commercial characteristics We will approve or disapprove a location you propose within 30 business days after receiving your description of, and evidence confirming your favorable prospects for obtaining, the proposed site We will use reasonable efforts to help analyze your market area, to help determine site feasibility, and to assist in designating the location, although we will not conduct site selection activities for you We do not anticipate a situation where we would own the Site and lease it to you for your operation of the Store (Franchise Agreement – Section 2 A)

2 Approve your Store's lease You must sign a lease for the premises of your Store within 270 days after the effective date of the Franchise Agreement (Franchise Agreement – Section 2 B)

3 If you do not locate and sign a lease or purchase document for an acceptable site for the premises of your Store within 270 days after you sign the Franchise Agreement, we will terminate the Franchise Agreement (Franchise Agreement – Section 14 B (2))

4 Give you mandatory and suggested specifications and layouts for an Andy's Frozen Custard Store, including requirements for dimensions, design, image, interior layout, decor, fixtures, equipment, signs, furnishings, and color scheme (Franchise Agreement – Section 2 C)

5 As dıscussed ın Item 8, ıdentıfy the Operatıng Assets, Trade Secret Food Products, other food products, and supplıes that you must use to develop and operate the Store, the mınımum standards and specıficatıons that you must satısfy, and the desıgnated and approved supplıers from whom you must or may buy or lease these ıtems (whıch may be lımıted to and/or ınclude us, our affilıates, and/or other specıfied exclusıve sources) (Franchıse Agreement – Sectıons 2 D , 2 E , and 8)

6 Provıde you access to one copy of the Operatıons Manual, the current table of contents of whıch ıs Exhıbıt D As of the date of thıs Dısclosure Document, the Operatıons Manual contaıns 329 pages (Franchıse Agreement – Sectıon 4 D)

7 Advıse you on the Store's grand openıng advertısıng program (Franchıse Agreement – Sectıon 9 A)

8 Traın you (or your managıng owner) and one manager-level employee (Franchıse Agreement – Sectıon 4 A) We descrıbe thıs traınıng later ın thıs Item

9 Determıne your Development Schedule and Development Area ıf you sıgn the Development Rıghts Agreement (Development Rıghts Agreement – Sectıons 2, 3 and 7)

Durıng your operatıon of the Store, we wıll

1 Send one of our representatıves to the Store for a perıod of 5 days to assıst wıth the Store's openıng (Franchıse Agreement – Sectıon 4 A)

2 Advıse you regardıng the Store's operatıon based on your reports or our ınspectıons We also wıll guıde you on standards, specıficatıons, and operatıng procedures and methods that Andy's Frozen Custard Stores use, purchasıng requıred and authorızed Operatıng Assets, Trade Secret Food Products, and other ıtems and arrangıng for theır dıstrıbutıon to you, advertısıng and marketıng materıals and programs, employee traınıng on ıssues related to brand standards, and admınıstratıve, bookkeepıng, accountıng, and ınventory control procedures We wıll guıde you ın our Operatıons Manual, bulletıns, or other wrıtten materıals, by electronıc medıa, by telephone consultatıon, and/or at our office or the Store Any materıals, guıdance or assıstance that we provıde on employment related polıcıes or procedures, whether ın the Operatıons Manuals or otherwıse, are solely for your optıonal use Those materıals, guıdance and assıstance do not form part of our mandatory System Standards You wıll determıne to what extent, ıf any, these materıals, guıdance or assıstance should apply to the Store’s employees We do not dıctate or control labor or employment matters for franchısees and theır employees You are solely responsıble for determınıng the terms and condıtıons of employment for all Store employees (ıncludıng your managers), for all decısıons concernıng the hırıng, firıng and dıscıplıne of Store employees, and for all other aspects of the Store’s labor relatıons and employment practıces (Franchıse Agreement – Sectıon 4 C)

3 Gıve you, at your request (and our optıon), addıtıonal or specıal guıdance, assıstance, and traınıng (Franchıse Agreement – Sectıon 4)

4 Continue to provide you access to one copy of the Operations Manual, which could include audiotapes, videotapes, compact disks, computer software, other electronic media, and/or written materials The Operations Manual contains mandatory and suggested specifications, standards, operating procedures, and rules ("System Standards") that we periodically require We may modify the Operations Manual periodically to reflect changes in System Standards (Franchise Agreement – Sections 4 D and 8)

5 Issue and modify System Standards for Andy's Frozen Custard Stores We periodically may modify System Standards, which may accommodate regional or local variations, and these modifications may require you to invest additional capital in the Store and/or incur higher operating costs (Franchise Agreement – Section 8)

6 Inspect the Store and observe its operation to help you comply with the Franchise Agreement and all System Standards (Franchise Agreement – Section 11 A)

7 Let you use our confidential information (Franchise Agreement – Section 6)

8 Let you use our Marks (Franchise Agreement – Section 5)

9 Periodically offer refresher training courses (Franchise Agreement – Section 4 B)

<u>Advertising and Development Fund</u> We have established a formal Advertising and Development Fund (the "Fund") for advertising, marketing, and public relations programs and materials we deem appropriate You must contribute to the Fund the amounts that we periodically require Andy's Frozen Custard Stores that we, AFCI, AFCS, or our other affiliates own will contribute to the Fund on the same basis as franchise owners We have the right to collect for deposit into the Fund any advertising, marketing, or similar allowances paid to us by suppliers who deal with Andy's Frozen Custard Stores and with whom we have agreed that we will so deposit these allowances

We will direct all programs that the Fund finances, with sole control over the creative concepts, materials, and endorsements used and their geographic, market, and media placement and allocation The Fund may pay for preparing and producing video, audio, and written materials and electronic media, developing, implementing, and maintaining an electronic commerce Website and/or related strategies, administering regional and multi-regional marketing and advertising programs, including purchasing trade journal, direct mail, and other media advertising, using advertising, promotion, and marketing agencies and other advisors to provide assistance, and supporting public relations, market research, and other advertising, promotion, and marketing activities The Fund may advertise locally, regionally, and/or nationally in printed materials, on radio or television, and/or on the Internet, whatever we think best The Fund periodically will give you samples of advertising, marketing, and promotional formats and materials at no cost We will sell you multiple copies of these materials at our direct cost of producing them, plus any related shipping, handling, and storage charges

We will account for the Fund separately from our other funds and not use the Fund for our general operating expenses However, we may use the Fund to pay the reasonable salaries and benefits of personnel who manage and administer the Fund, the Fund's other administrative costs, travel expenses of personnel while they are on Fund business, meeting costs, overhead relating to Fund business, and other expenses that we incur in activities reasonably related to administering or directing the Fund and its programs, including conducting market research, public relations, preparing advertising, promotion, and marketing materials, and collecting and accounting for Fund contributions

The Fund is not our asset The Fund also is not a trust We have a contractual obligation to hold all Fund contributions for the benefit of the contributors and to use contributions only for their permitted purposes (described above) We have no fiduciary obligation to you for administering the Fund The Fund may spend in any fiscal year more or less than the total Fund contributions in that year, borrow from us or others (paying reasonable interest) to cover deficits, or invest any surplus for future use We will use interest earned on Fund contributions to pay costs before spending the Fund's other assets We will not use Fund contributions for advertising that principally is a solicitation for the sale of franchises We will prepare an annual, unaudited statement of Fund collections and expenses and give it to you upon written request We may have the Fund audited annually, at the Fund's expense, by an independent certified public accountant We may incorporate the Fund or operate it through a separate entity when we think best The successor entity will have all of the rights and duties described here

During fiscal year 2016, the Fund contributions were spent as follows 18% on media placement, 52%% on production expenses, 28% on administrative expenses, and 2% on miscellaneous other expenses

The Fund is to maximize recognition of the Marks and patronage of Andy's Frozen Custard Stores Although we will try to use the Fund to develop advertising and marketing materials and programs, and to place advertising and marketing, that will benefit all Andy's Frozen Custard Stores, we need not ensure that Fund expenditures in or affecting any geographic area are proportionate or equivalent to Fund contributions by Andy's Frozen Custard Stores operating in that geographic area or that any Andy's Frozen Custard Store benefits directly or in proportion to its Fund contribution from the development of advertising and marketing materials or the placement of advertising We may use collection agents and institute legal proceedings to collect Fund contributions at the Fund's expense We also may forgive, waive, settle, and compromise all claims by or against the Fund We assume no other direct or indirect liability or obligation to you for collecting amounts due to, maintaining, directing, or administering the Fund

We may at any time defer or reduce a franchise owner's Fund contributions and, upon 30 days' prior written notice to you, reduce or suspend Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Fund If we terminate the Fund, we will distribute all unspent monies to franchise owners, and to us and our affiliates, in proportion to their, and our, respective contributions during the preceding 12 month period (Franchise Agreement – Section 9 B)

Your Local Advertising In addition to your Fund contributions and your grand opening advertising obligation, you must spend at least 3% of the Store's Gross Sales to advertise and promote your Store (including the costs of yellow pages advertising) Within 30 days after the end of each month, you must send us, in the manner we prescribe, an accountıng of your expendıtures for local advertısıng and promotıon durıng the precedıng month Your local advertısıng and promotıon must follow our guıdelınes All advertısıng and promotıonal materıals developed for your Store must contaın notıces of our Websıte's domaın name ın the manner we desıgnate You may not develop, maıntaın, or authorıze any Websıte that mentıons or descrıbes you or the Store or dısplays any of the Marks

All advertısıng, promotıon, and marketıng must be completely clear, factual, and not mısleadıng and conform to both the hıghest standards of ethıcal advertısıng and marketıng and the advertısıng and marketıng polıcıes that we perıodıcally requıre Before you use them, you must send us or our desıgnated agency for revıew samples of all advertısıng, promotıonal, and marketıng materıals that we have not prepared or prevıously approved If you do not receıve wrıtten dısapproval wıthın 5 days after we or our desıgnated agency receıves the materıals, they are deemed to be approved You may not use any advertısıng, promotıonal, or marketıng materıals that we have not approved or have dısapproved

You must lıst and advertıse the Store ın at least one recommended classıfied telephone dırectory dıstrıbuted wıthın the Store's market area (ın desıgnated busıness classıficatıons) and use an approved form of classıfied telephone dırectory advertısement If other Andy's Frozen Custard Stores are located wıthın the dırectory's dıstrıbutıon area, you must partıcıpate ın a collectıve telephone dırectory advertısement wıth those Stores and pay your share (Franchıse Agreement – Sectıon 9 C)

<u>Cooperatıve Advertısıng Programs</u> We may desıgnate an advertısıng coverage area ("ACA") – local or regıonal – ın whıch 2 or more Andy's Frozen Custard Stores are located ın order to seek to establısh a cooperatıve advertısıng program ("Cooperatıve Program") An ACA ıs the area covered by the partıcular advertısıng medıum recognızed ın the ındustry We wıll requıre all franchıse owners ın the ACA to partıcıpate Each Andy's Frozen Custard Store operatıng ın the ACA wıll have one vote, ıncludıng those we or our affilıate operate

If a Cooperatıve Program ıs establıshed for your ACA, you must contrıbute up to 3% of your Store's Gross Sales to the Cooperatıve Program weekly, monthly, or as otherwıse specıfied by 50% or more of the Andy's Frozen Custard Stores operatıng ın the ACA You need not contrıbute more than 3% of your Store's Gross Sales to the Cooperatıve Program unless 67% or more of the Andy's Frozen Custard Stores operatıng ın the ACA, ıncludıng those we or our affilıates operate, vote to ıncrease the contrıbutıon ın excess of the 3% Any amounts you contrıbute to a Cooperatıve Program wıll count toward the 3% of Gross Sales you are requıred to spend on local advertısıng

We have the power to form, change, dıssolve, or merge any Cooperatıve Program Cooperatıve Programs wıll not operate from any wrıtten governıng documents We wıll make avaılable for your revıew any records showıng payments to and expenses of any Cooperatıve Program ın whıch you partıcıpate

We do not have a franchıse owner advısory councıl that advıses us on advertısıng polıcıes

Computer System

You must obtain and use in your Store a computer-based point-of-sale cash register system and a "back-of-office" IBM compatible computer (the "Computer System") You must purchase the Computer System only from our designated suppliers We estimate that your purchase of the Computer System will cost between $30,000 and $40,000 The types of data to be generated or stored in the Computer System include sales, labor, product mix, and employee statistics You will be solely responsible for the acquisition, operation, maintenance, and upgrading of the Computer System We currently do not require that you purchase a maintenance contract to service the Computer System, but we reserve the right to do so in the future The third parties whose Computer System-related products you purchase or lease have no contractual rights or obligations to provide ongoing maintenance, repairs, upgrades or updates unless you obtain a service contract or a warranty covers the product You must also have a functioning email address so that we can send you notices and otherwise communicate with you by this method

We reserve the right to change the Computer System at any time There are no contractual limitations on the frequency and cost of this obligation We need not reimburse you for any of these costs We have independent, unlimited access to the information generated by the Computer System We or our affiliates may condition any license of proprietary software to you, or your use of technology that we or our affiliates develop or maintain, on your signing the Software License Agreement or similar document that we or our affiliates prescribe to regulate your use of, and our and your respective rights and responsibilities concerning, the software or technology We or our affiliates may charge you a monthly or other fee for any proprietary software or technology that we or our affiliates license to you and for other maintenance and support services that we or our affiliates provide during the franchise term

Opening

We estimate that it will be 270 to 360 days after you sign the Franchise Agreement before you open the Store, but this assumes that you already have a site for the Store or find one shortly after signing the Franchise Agreement You must sign a lease for an acceptable site within 270 days after the Franchise Agreement's effective date, and we may terminate the Franchise Agreement if you fail to sign a lease within the 270-day period The specific timetable for opening depends on the site's condition, the Store's construction schedule, the extent to which you must upgrade or remodel an existing location, the delivery schedule for equipment and supplies, completing training, and complying with local laws and regulations You may not open the Store until (1) we notify you in writing that the Store meets our standards and specifications, (2) you complete initial training to our satisfaction, (3) you pay the initial franchise fee and other amounts then due to us, and (4) you give us certificates for all required insurance policies Subject to these conditions, you must open the Store within 360 days after the Franchise Agreement's effective date (Franchise Agreement – Section 2 F)

Training

If this is your first Andy's Frozen Custard Store, then before the Store opens, we will train you (or your managing owner) and assistant manager on operating an Andy's Frozen Custard Store We will provide approximately 4 weeks of training (although the specific number of days depends on our opinion of your experience and needs) We will use the Operations Manual and various training guides as we conduct the initial brand standard training program If you (or your managing owner) and one of your manager-level employees cannot complete initial training to our satisfaction, we may terminate the Franchise Agreement and may refund you a portion of the initial franchise fee (Franchise Agreement – Section 4 A)

Additional people beyond the first 2 may attend initial training if you pay our then current training charge for each additional person You also must pay for all travel and living expenses that you and your employees incur and for your employees' wages and workers' compensation insurance while they train at operating Andy's Frozen Custard Stores

Training will occur after you sign the Franchise Agreement and while you are developing the Store The training will be scheduled after site construction has begun Your attendees must complete initial training to our satisfaction before you may open your Store We plan to be flexible in scheduling training to accommodate our personnel, you, and your personnel As of the date of this disclosure document, we provide the following initial training

TRAINING PROGRAM

Column 1 Subject	Column 2 Hours of Classroom Training	Column 3 Hours of On-The-Job Training	Column 4 Location
Module 1 – Approximately 11 Days	**26**	**80**	**See Note 1**
Introduction/History/ Philosophy of Andy's Frozen Custard	5	0	See Note 1
Use of the Manual	2 5	0	See Note 1
Pre-Opening Procedures	1 5	0	See Note 1
Personnel	22	0	See Note 1
Advertising	3 5	0	See Note 1
In-Store Training	0	80	See Note 1

Column 1 Subject	Column 2 Hours of Classroom Training	Column 3 Hours of On-The-Job Training	Column 4 Location
Module 2 – Approximately 10 Days	**16 75**	**80**	**See Note 1**
Employee Management	75	0	See Note 1
Customer Service	2 5	0	See Note 1

Operations	9 5	0	See Note 1
Accounting/Record Keeping	2	0	See Note 1
Computer System	2	0	See Note 1
In-Store Training		80	See Note 1

Column 1 **Subject**	**Column 2** **Hours of Classroom Training**	**Column 3** **Hours of On-The-Job Training**	**Column 4** **Location**
Module 3 – Approximately 5 Days	**0**	**50**	**See Note 1**
Overall Store Operations – Management	0	50	**See Note 1**
Totals – Approximately 26 Days	**42 75**	**210**	

1 The initial brand standard training program will be conducted at our training facility in Springfield, Missouri or another location we designate and/or at an operating Andy's Frozen Custard Store

Kyle Campbell, our Director of Training, supervises all training He has worked with us and the Andy’s Frozen Custard Store Concept since 2003 and he has provided training and opening support to franchisees since 2005 Joey Homm, our Franchise Operations Manager, also supervises all training He has worked with us and the Andy’s Frozen Custard Store concept for over ten years, and has provided training and opening support to our franchisees since 2015 Finally, Kristie Dains, our Training Specialist, also supervises training She has worked with us and the Andy’s Frozen Custard Store concept since 2012 and she has provided training and opening support to our franchisees since 2014 as well Andy Kuntz and Carol Kuntz (our President and Vice President), who have worked with us since our formation and have overseen the operation of AFCI’s Andy’s Frozen Custard Stores, oversee all initial training as well

Other staff may assist in conducting initial training as well We expect that all other staff who assist in conducting initial training will have at least 1 to 5 years of experience in their appropriate subject areas We use manuals (including the Operations Manual), training guides and handouts in our brand standard training program

Item 12

TERRITORY

Franchise Agreement

You will operate the Store at a specific location that we first must approve You may operate the Store only at the approved premises and may not relocate the premises without our approval We will describe your territory in your Franchise Agreement before you sign it There are no circumstances under which we may alter your territory or your territorial rights We will determine the size and boundaries of your territory in our discretion, based upon factors including population density, character of neighborhood, location and number of competing businesses and other factors While there is no minimum territory size, we typically will define a territory to include approximately 30,000 people (residents and/or workers)

Except as limited below, and provided that you are in full compliance with the Franchise Agreement, we and our affiliates will not operate or grant a franchise for the operation of another Andy's Frozen Custard Store at a location within your territory during the term of the Franchise Agreement Except as expressly limited by the previous sentence, we and our affiliates retain all rights with respect to Andy's Frozen Custard Stores, the Marks, the sale of similar or dissimilar products and services, and any other activities we deem appropriate whenever and wherever we desire, including, but not limited to

(1) the right to establish and operate, and to grant to others the right to establish and operate similar businesses or any other businesses offering similar or dissimilar products and services through similar or dissimilar channels of distribution (including the Internet, catalog sales, telemarketing, or other direct marketing), at any locations inside or outside your territory under trademarks or service marks other than the Marks and on any terms and conditions we deem appropriate,

(2) the right to provide, offer and sell and to grant others the right to provide, offer and sell goods and services that are identical or similar to and/or competitive with those provided at Andy's Frozen Custard Stores, whether identified by the Marks or other trademarks or service marks, through dissimilar distribution channels (including grocery stores and the internet or similar electronic media) both inside and outside your territory and on any terms and conditions we deem appropriate,

(3) the right to establish and operate, and to grant to others the right to establish and operate, businesses offering dissimilar products and services, both inside and outside your territory under the Marks and on any terms and conditions we deem appropriate,

(4) the right to operate, and to grant others the right to operate Andy's Frozen Custard Stores located anywhere outside your territory under any terms and conditions we deem appropriate and regardless of proximity to the Store,

(5) the right to operate and grant others the right to operate Andy's Frozen Custard Stores at "Non Traditional Sites" within and outside your territory on any terms and conditions we deem appropriate "Non Traditional Sites" are sites that generate customer traffic flow which is independent from the general customer traffic flow of the surrounding area, including military bases, shopping malls, airports, stadiums, major industrial or office complexes, hotels, school campuses, train stations, travel plazas, toll roads, casinos, hospitals, and sports or entertainment venues,

(6) the right to acquire the assets or ownership interests of one or more businesses providing products and services similar to those provided at Andy's Frozen

Custard Stores, and franchising, licensing or creating similar arrangements with respect to these businesses once acquired, wherever these businesses (or the franchisees or licensees of these businesses) are located or operating (including in your territory), and

(7) the right to be acquired (whether through acquisition of assets, ownership interests or otherwise, regardless of the form of transaction), by a business providing products and services similar to those provided at Andy's Frozen Custard Stores, or by another business, even if such business operates, franchises and/or licenses competitive businesses in your territory

Because we and others may establish and operate Andy's Frozen Custard Stores at Non-Traditional sites within your territory, you will not receive an exclusive territory You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control You may not use other channels of distribution, such as the Internet, catalog sales, telemarketing, or other direct marketing to make sales inside or outside your territory

You have no options, rights of first refusal, or similar rights to acquire additional franchises, unless you sign a Development Rights Agreement with us

Although we have the right to do so (as described above), neither we nor our affiliate currently operates, franchises, or has present plans to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those you will sell in your Store

Continuation of your franchise and your territorial rights (as described above) does not depend on your achieving a certain sales volume, market penetration, or other contingency There are no restrictions on the areas in which you may solicit or accept orders

Development Rights Agreement

We and you will identify the Development Area within which you and your Affiliated Entities may develop Andy's Frozen Custard Stores in an exhibit to the Development Rights Agreement before signing it We typically identify determine the size and boundaries of your Development Area based upon factors including population density, character of neighborhood, location and number of competing businesses and other factors While there is no minimum Development Area size, we typically will define a Development Area based on the number of Andy's Frozen Custard Stores you agree to develop, the market, other characteristics of the Development Area, and demographic factors

We and you will agree on the number of Andy's Frozen Custard Stores that you or your Affiliated Entities must open, and the dates by which you and they must open them, to keep your territorial rights and insert this information in the Development Rights Agreement before signing it If you are fully complying with the Development Rights Agreement, we will grant you and your Affiliated Entities franchises to operate the agreed-upon number of Andy's Frozen Custard Stores in the Development Area Franchises that we grant to your Affiliated Entities will count toward your Development Schedule You and your Affiliated Entities may not develop Andy's Frozen Custard Stores outside the Development Area

For each Andy's Frozen Custard Store that you (or your Affiliated Entity) develops under the Development Rights Agreement, you or your Affiliated Entity will sign the form of franchise agreement and any ancillary agreements we then customarily use in granting franchises for Andy's Frozen Custard Stores, the terms of which may differ substantially from the terms contained in the Franchise Agreement attached to this disclosure document However, we will charge an initial franchise fee of $28,000 and the royalty will depend on the number of Andy's Frozen Custard Stores you operate as follows

Number of Andy's Frozen Custard Stores You Develop under the Development Rights Agreement	**Royalty for Your Andy's Frozen Custard Stores Developed under the Development Rights Agreement**
Less than 3	6% of Gross Sales (5% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 3	5½% of Gross Sales (4½% of Gross Sales above $1,000,000 in any given year where your Gross Sales exceeds $1,000,000)
At Least 5	5% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 10	4½% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 20	4% of all Gross Sales

We will apply $14,000 of the development fee to your initial franchise fee for each Andy's Frozen Custard Store you develop under the Development Rights Agreement We will determine the territory and territorial rights for each Andy's Frozen Custard Store that you develop under the Development Rights Agreement using the standards in place at the time when you sign the franchise agreement for that Andy's Frozen Custard Store To retain your rights under the Development Rights Agreement, each Andy's Frozen Custard Store it covers must operate continuously during the agreement's term Otherwise we may terminate the Development Rights Agreement

Except as provided below, if you are complying with the Development Rights Agreement, and you and your Affiliated Entities are fully complying with all of your and their obligations under all franchise agreements for Andy's Frozen Custard Stores, then during the Development Rights Agreement's term only, neither we nor our affiliates will operate, or authorize any other party to operate, an Andy's Frozen Custard Store the physical premises of which is located within the Development Area except for franchises we grant you and your approved Affiliated Entities We and our affiliates may at all times engage in any activities we or they deem appropriate that the Development Rights Agreement does not expressly prohibit, whenever and wherever we or they desire, including those rights listed in (1) through (7) above Because we and others may establish and operate Andy's Frozen Custard Stores at Non-Traditional sites within your Development Area, you will not receive an exclusive territory You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control

If you fail to meet your Development Schedule, we may terminate the Development Rights Agreement Also, we may terminate the Development Rights Agreement if any of your Andy's Frozen Custard Stores covered by the Development Rights Agreement fail to meet our then current minimum operational criteria for future development Otherwise, continuation of your territorial rights in the Development Area does not depend on your achieving a certain sales volume, market penetration, or other contingency, and we may not alter your Development Area or modify your territorial rights in the Development Area When the Development Rights Agreement terminates or expires, we (and our affiliates) may operate, and authorize any other parties to operate, Andy's Frozen Custard Stores the physical premises of which are located within the Development Area and engage, and allow others to engage, in any other activities we desire within and outside the Development Area without any restrictions whatsoever, subject only to your (or your Affiliated Entity's) rights under existing franchise agreements with us

Item 13

TRADEMARKS

You may use certain Marks in operating the Store The principal Mark is

Mark	Registration Number	Registration Date	International Class of Goods
"Andy's Frozen Custard"	2,774,370	Oct 21, 2003	42
"Andy's"	3,097,085	May 30, 2006	43

The Marks are owned by AFCI AFCI has registered the Marks listed above on the Principal Register of the United States Patent and Trademark Office ("USPTO") No affidavits or renewal filings are yet due in connection with this registration

Under a License Agreement with AFCI dated January 12, 2004, AFCI has licensed us to use the Marks and to sublicense them to our franchise owners to use in operating Andy's Frozen Custard Stores The license agreement is perpetual in duration, but either we or AFCI may terminate it with 30 days' notice to the other However, termination of the license agreement will not affect existing franchise agreements No other agreement limits our right to use or license the Marks

You must follow our rules when you use the Marks, including giving proper notices of trademark and service mark registration and obtaining fictitious or assumed name registrations required by law You may not use any Mark in your corporate or legal business name, with modifying words, terms, designs, or symbols (except for those we license to you), in selling any unauthorized services or products, or as part of any domain name, homepage, electronic address, or otherwise in connection with a website

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, and no pending infringement, opposition, or cancellation proceedings or material litigation, involving the principal Marks We do not actually know of either superior prior rights or infringing uses that could materially affect your use of the Marks in any state

You must notify us immediately of any apparent infringement or challenge to your use of any Mark, or of any person's claim of any rights in any Mark, and you may not communicate with any person other than us, our attorneys, and your attorneys, regarding any infringement, challenge, or claim We and AFCI may take the action we deem appropriate (including no action) and control exclusively any litigation, USPTO proceeding, or other administrative proceeding arising from any infringement, challenge, or claim You must assist us and AFCI in protecting and maintaining our interests in any litigation or USPTO or other proceeding We will reimburse you for your costs of taking any action that we asked you to take

If it becomes advisable at any time for us and/or you to modify or discontinue using any Mark and/or to use one or more additional or substitute trade or service marks, you must comply with our directions within a reasonable time after receiving notice We need not reimburse you for your direct expenses of changing the Store's signs, for any loss of revenue due to any modified or discontinued Mark, or for your expenses of promoting a modified or substitute trademark or service mark

We will reimburse you for all damages and expenses that you incur in any trademark infringement proceeding disputing your authorized use of any Mark under the Franchise Agreement if you have timely notified us of, and comply with our directions in responding to, the proceeding At our option, we may defend and control the defense of any proceeding arising from your use of any Mark

The Development Rights Agreement does not grant you any rights to use the Marks You derive the right to use the Marks only under a franchise agreement

Item 14

PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION

No patents or pending patent applications are material to the franchise We and AFCI claim copyrights in the Operations Manual (which contains our trade secrets), advertising and marketing materials, menus, and similar items used in operating Andy's Frozen Custard Stores We and AFCI have not registered these copyrights with the United States Registrar of Copyrights, but need not do so at this time to protect them You may use these items only as we specify while operating your Store (and must stop using them if we so direct you)

There currently are no effective adverse determinations of the USPTO, the United States Copyright Office, or any court regarding the copyrighted materials No agreement limits our right to use or allow others to use the copyrighted materials We do not actually know of any infringing uses of our copyrights that could materially affect your use of the copyrighted materials in any state

We need not protect or defend copyrights, although we intend to do so if in the system's best interests We may control any action we choose to bring, even if you voluntarily bring the matter to our attention We need not participate in your defense and/or indemnify you for damages or expenses in a proceeding involving a copyright

Our Operations Manual and other materials contain our confidential information (some of which constitutes trade secrets under applicable law) This information includes site selection criteria, recipes for Trade Secret Food Products, training and operations materials, methods, formats, specifications, standards, systems, procedures, food preparation techniques, sales and marketing techniques, knowledge, and experience used in developing and operating Andy's Frozen Custard Stores, marketing and advertising programs for Andy's Frozen Custard Stores, any computer software or similar technology that is proprietary to us or the system, knowledge of specifications for and suppliers of Operating Assets, Trade Secret Food Products, and other products and supplies, knowledge of the operating results and financial performance of Andy's Frozen Custard Stores other than your Store, and graphic designs and related intellectual property

All ideas, concepts, techniques, or materials concerning an Andy's Frozen Custard Store, whether or not protectable intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the system, and works made-for-hire for us To the extent any item does not qualify as a "work made-for-hire" for us, you assign ownership of that item, and all related rights to that item, to us and must take whatever action (including signing assignment or other documents) we request to show our ownership or to help us obtain intellectual property rights in the item

You may not use our confidential information in an unauthorized manner You must take reasonable steps to prevent its improper disclosure to others and use non-disclosure and non-competition agreements with those having access We may regulate the form of agreement that you use and will be a third party beneficiary of that agreement with independent enforcement rights

The Development Rights Agreement does not grant you any right to use our copyrighted materials or confidential information You derive the right to use these items only under a franchise agreement with us

Item 15

OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

Franchise Agreement

You (or, if you are an entity, your managing owner) must act as the general manager of the Store with responsibility for direct, on-premises supervision of the Store You (or your managing owner) must devote full time and efforts to the management and supervision of the

Store You must at all tımes faıthfully, honestly, and dılıgently perform your contractual oblıgatıons and use best efforts to promote and enhance the Store System Standards may suggest Store staffing levels, ıdentıfy the Store's personnel necessary to maıntaın brand standards, and suggest employee qualıficatıons, traınıng, dress, and appearance However, you are solely responsıble for determınıng the terms and condıtıons of employment for all Store employees, for all decısıons concernıng the hırıng, fırıng and dıscıplıne of those employees, and for all other aspects of the Store's labor relatıons and employment practıces

If you are a legal entıty, you must appoınt a shareholder, member, or partner (as applıcable) to be your "Managıng Owner," responsıble for overseeıng and supervısıng the Store's operatıon

You must keep us ınformed at all tımes of the ıdentıty of any supervısory employees actıng as assıstant managers of the Store Your assıstant managers need not have an equıty ınterest ın the Store or you but must agree ın wrıtıng to preserve confidentıal ınformatıon to whıch they have access and not to compete wıth you, us, and other franchıse owners We may regulate the form of agreement that you use and be a thırd party beneficıary of that agreement wıth ındependent enforcement rıghts

If you are a corporatıon, lımıted lıabılıty company, or partnershıp, your owners must personally guarantee your oblıgatıons under the Franchıse Agreement and agree to be bound personally by every contractual provısıon, whether contaınıng monetary or non-monetary oblıgatıons, ıncludıng the covenant not to compete Thıs "Guaranty and Assumptıon of Oblıgatıons" ıs the last page of the Franchıse Agreement

Development Rıghts Agreement

You must develop your Development Area accordıng to the Development Schedule We do not requıre, but do recommend, that you (or your managıng owner) personally supervıse your development of Andy's Frozen Custard Stores Under the Development Rıghts Agreement your personnel need not have an equıty ınterest ın any Andy's Frozen Custard Store (or ın you) and need not attend our traınıng program If you are a corporatıon, lımıted lıabılıty company, partnershıp, or other busıness entıty, your owners need not sıgn any personal guarantees of your oblıgatıons under the Development Rıghts Agreement

Item 16

RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must offer and sell all Menu Items and perform all servıces that we perıodıcally requıre for Andy's Frozen Custard Stores You may not offer or sell any products or perform any servıces that we have not authorızed Our System Standards may regulate requıred and/or authorızed Menu Items and Trade Secret Food Products, maxımum, mınımum, or other prıcıng requırements wıth respect to the prıces you may charge for products and servıces (to the maxımum extent the law allows, unauthorızed and prohıbıted food products, beverages, and servıces, purchase, storage, preparatıon, handlıng, and packagıng procedures and technıques for Menu Items and Trade Secret Food Products, and ınventory requırements for Trade Secret Food Products and other products and supplıes so that your Store operates at full capacıty We periodically may change required and/or authorized Menu Items and Trade Secret Food Products There are no limits on our right to do so

Item 17

RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

THE FRANCHISE RELATIONSHIP

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

	Provision	Section in Franchise or Other Agreement	Summary
a	Length of the franchise term	Section 1 D of Franchise Agreement and 8 of Development Rights Agreement	10 years from the effective date of the Franchise Agreement Development Rights Agreement expires on the date when the last franchise agreement under the Development Schedule is signed or when the Development Rights Agreement is otherwise terminated, whichever occurs first
b	Renewal or extension of the term	Section 13 of Franchise Agreement	If you are in full compliance, you may acquire 2 successor franchise terms of 5 years each (for a total of 10 years) Each renewal will be on our then current form of Franchise Agreement (which may be materially different)

PROVISION		SECTION IN FRANCHISE OR OTHER AGREEMENT	SUMMARY
c	Requirements for franchisee to renew or extend	Section 13 of Franchise Agreement	To "renew," you must give us timely notice, maintain possession of Store premises or find acceptable substitute premises, remodel Store according to our then current standards (regardless of cost), and sign our then current franchise agreement, a release (if law allows), and other documents we use to grant franchises The terms of our then current franchise agreement that you sign for renewal of the franchise may differ materially from any and all of those contained in the franchise agreement attached to this Disclosure Document, including reduced Territory and increased fees
d	Termination by franchisee	Section 14 A of Franchise Agreement	If we breach Franchise Agreement and an arbitrator determines that we did not cure default after notice from you Except as applicable law allows, you may not terminate the Development Rights Agreement
e	Termination by franchisor without cause	Not Applicable	We may not terminate the Franchise Agreement or Development Rights Agreement without cause
f	Termination by franchisor with cause	Section 14 B of Franchise Agreement and 9 of Development Rights Agreement	We may terminate your Franchise Agreement or Development Rights Agreement only if you or your owners commit one of several violations

	PROVISION	SECTION IN FRANCHISE OR OTHER AGREEMENT	SUMMARY
g	"Cause" defined-curable defaults	Section 14 B of Franchise Agreement and 9 of Development Rights Agreement	You have 72 hours to cure health, safety, or sanitation law violations, 10 days to cure monetary defaults and failure to maintain required insurance, 30 days to cure operational defaults and other defaults not listed in (h) below, and 90 days to relocate to a new site if you lose possession of the premises You have no right to cure defaults under the Development Rights Agreement
h	"Cause" defined- non-curable defaults	Section 14 B of Franchise Agreement and 9 of Development Rights Agreement	Non-curable defaults include misrepresentation in acquiring the franchise, failure to secure Store's site within 270 days after Franchise Agreement's effective date, failure to open Store within 360 days after Franchise Agreement's effective date, failure to complete training, abandonment, unapproved transfers, conviction of a felony, dishonest or unethical conduct, unauthorized use or disclosure of the Operations Manual or other confidential information, failure to pay taxes, understating Gross Sales, repeated defaults (even if cured), an assignment for the benefit of creditors, appointment of a trustee or receiver, and violation of any anti-terrorism law Non-curable defaults under Development Rights Agreement include failure to meet Development Schedule, breach of any obligation under Development Rights Agreement, and termination of any franchise agreement with you or Affiliated Entity

PROVISION		SECTION IN FRANCHISE OR OTHER AGREEMENT	SUMMARY
i	Franchisee's obligations on termination/nonrenewal	Section 15 of Franchise Agreement	Obligations include paying outstanding amounts, complete deidentification, assigning telephone and other numbers, and returning confidential information (also see (o) and (r) below)
j	Assignment of contract by franchisor	Section 12 A of Franchise Agreement and 10 of Development Rights Agreement	No restriction on our right to assign, we may assign without your approval
k	"Transfer" by franchisee – defined	Section 12 B of Franchise Agreement and 10 of Development Rights Agreement	Includes transfer of Franchise Agreement or Development Rights Agreement, the Store (or its profits, loses or capital appreciation) sale of Store's assets, and ownership change in you or your owners
l	Franchisor approval of transfer by franchisee	Section 12 C of Franchise Agreement	No transfer without our prior written consent

PROVISION	**SECTION IN FRANCHISE OR OTHER AGREEMENT**	**SUMMARY**
m Conditions for franchisor approval of transfer	Section 12 C of Franchise Agreement	New franchise owner qualifies, you pay us, our affiliates, and third party vendors all amounts due and submit all required reports, no default during 60-day period before transfer request or during period between request and transfer's proposed effective date, new franchise owner (and its owners and affiliates) are not in a competitive business, training completed, lease transferred, you or transferee signs our then current franchise agreement and other documents, transfer fee paid, you sign release (if law allows), we approve material terms, you subordinate amounts due to you, you deidentify, you correct existing Store deficiencies of which we notify you on punchlist, and transferee agrees to upgrade and remodel Store within specified timeframe after transfer (also see (r) below)
n Franchisor's right of first refusal to acquire franchisee's business	Section 12 G of Franchise Agreement	We may match any offer for your Store or an ownership interest in you
o Franchisor's option to purchase franchisee's business	Section 15 E of Franchise Agreement	We may buy the custard-making equipment at the then current book value after the Franchise Agreement is terminated or expires (without renewal)
p Death or disability of franchisee	Section 12 E of Franchise Agreement	Assignment of franchise or an ownership interest in you to approved party within 9 months, we may manage Store if there is no qualified manager

	Provision	Section in Franchise or Other Agreement	Summary
q	Non-competition covenants during the term of the franchise	Section 7 of Franchise Agreement and 11 of Development Rights Agreement	No diverting business, no ownership interest in, or performing services for, competitive business anywhere ("competitive business" means any business that derives more than 5% of its revenue from selling frozen custard, frozen yogurt, ice cream or other frozen dessert products or any business granting franchises or licenses to others to operate such a business), no interference with our or franchise owner's employees
r	Non-competition covenants after the franchise is terminated or expires	Section 15 D of Franchise Agreement	No direct or indirect ownership interest in, or performing services for, competing business for 2 years at Store's premises, within 25 miles of premises or within 25 miles of any other Andy's Frozen Custard Store existing or under construction as of date Franchise Agreement expires or is terminated (same restrictions apply after transfer)
s	Modification of the agreement	Section 17 I of Franchise Agreement and 11 of Development Rights Agreement	No modifications generally, but we may change Operations Manual and System Standards
t	Integration/merger clause	Section 17 K of Franchise Agreement and 11 of Development Rights Agreement	Only the terms of the Franchise Agreement are binding (subject to state law) Any representations or promises outside of the Disclosure Document and Franchise Agreement may not be enforceable
u	Dispute resolution by arbitration or mediation	Section 17 E of Franchise Agreement and 11 of Development Rights Agreement	We and you must arbitrate all disputes in Springfield, Missouri

PROVISION		SECTION IN FRANCHISE OR OTHER AGREEMENT	SUMMARY
v	Choice of forum	Section 17 G of Franchise Agreement and 11 of Development Rights Agreement	Subject to arbitration requirement, litigation generally must be in courts in Springfield, Missouri (subject to state law)
w	Choice of law	Section 17 F of Franchise Agreement and 11 of Development Rights Agreement	Except for Federal Arbitration Act and other federal law, Missouri law governs (subject to state law)

Item 18

PUBLIC FIGURES

We do not use any public figure to promote our franchise

Item 19

FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in 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

There were 44 Andy's Frozen Custard Stores operating as of December 31, 2016, 28 of which operated during our entire 2016 fiscal year period from January 1, 2016 until December 31, 2016 We call these 28 Andy's Frozen Custard Stores the "Covered Stores" Franchisees operate 13 of the Covered Stores (the "Franchised Covered Stores") and our affiliates operate the other 15 Covered Stores (the "Company-Owned Covered Stores") All statistics in these financial performance representations cover our 2016 fiscal year

13 of the Covered Stores are located in Missouri, 4 of the Covered Stores are located in Arkansas, 5 of the Covered Stores are located in Illinois, 3 of the Covered Stores are located in Oklahoma and 3 of the Covered Stores are located in Texas 17 of the Covered Stores opened in 2012 or earlier (2 of the Company-Owned Covered Stores opened more than 26 years ago and 1 of the Company-Owned Covered Stores opened more than 16 years ago) We expect that franchised Andy's Frozen Custard Stores will offer the same products and services as the

Covered Stores The Covered Stores generally reflect the mix of characteristics that we expect for new franchised Andy's Frozen Custard Stores For example, all of the Covered Stores offer walk up counter service (with little or no indoor seating), 27 of the Covered Stores are in freestanding locations and 1 Covered Store is in an in-line location

We compiled the information in the below financial performance representations from financial information our franchisees reported to us and the internal, unaudited financial statements of our affiliates, AFCI and AFCS, for the fiscal year ended December 31, 2016 These financial statements were not prepared in accordance with Generally Accepted Accounting Principles

First Financial Performance Representation Gross Sales For All Covered Stores

In this first table, we include the annual Gross Sales for our 2016 fiscal year for the 13 Franchised Covered Stores

Franchised Covered Store #	Gross Sales
1	$1,679,473
2	$1,678,803
3	$1,574,832
4	$1,191,085
5	$1,187,030
6	$1,160,880
7	$1,154,111
8	$1,137,756
9	$1,096,814
10	$1,034,996
11	$936,215
12	$846,597
13	$792,792
Average of the 13 Franchised Covered Stores	$1,190,106
#/% That Actually Attained or Surpassed Average	4/31%

Franchised Covered Store #	Gross Sales
Median of the 13 Franchised Covered Stores	$1,154,111

In this second table, we include the annual Gross Sales for our 2016 fiscal year for the 15 Company-Owned Covered Stores

Company-Owned Covered Store #	Location of Company-Owned Covered Store	Gross Sales
1	Springfield, Missouri	$1,518,547
2	Springfield, Arkansas	$1,376,453
3	Springfield, Missouri	$1,435,546
4	Springfield, Missouri	$2,273,335
5	Branson, Missouri	$1,940,969
6	Chicago, Illinois	$1,483,580
7	Chicago, Illinois	$1,194,352
8	Chicago, Illinois	$1,630,230
9	Springfield, Missouri	$937,884
10	Joplin, Missouri	$1,000,353
11	Fayetteville, Arkansas	$1,099,198
12	Chicago, Illinois	$1,302,695
13	Chicago, Illinois	$788,398
14	Kansas City, Missouri	$1,402,142
15	Kansas City, Missouri	$1,516,966
Average of the 14 Company-Owned Covered Stores		$1,393,377
#/% That Actually Attained or Surpassed Average		8/53%
Median of the 14 Company-Owned Covered Stores		$1,402,142

<u>Second Fınancıal Performance Representatıon Gross Sales, Cost of Goods Sold, and Gross Profit For All Company-Owned Covered Stores</u>

Thıs second financıal performance representatıon reflects the average 2016 Gross Sales, Cost of Goods Sold and Gross Profit, as we define those terms below, durıng our 2016 fiscal year for the 15 Company-Owned Covered Stores We excluded the results of the Franchısed Covered Stores from thıs financıal performance representatıon because franchısees provıde some, but not all, of thıs expense data to us In addıtıon, not all franchısees calculate Cost of Goods Sold and Gross Profit ın the way that our affilıates do, and usıng dıfferent calculatıons would lead to dıfferent results We determıned that provıdıng expense data on only Company-Owned Covered Stores allows for more unıform reportıng

Company-Owned Covered Store #	Gross Sales	Cost of Goods Sold	Gross Profit	Adjusted Gross Profit
1	$1,518,547	$442,836	$1,075,711	$969,415
2	$1,376,453	$423,505	$952,948	$856,596
3	$1,435,546	$423,005	$1,012,541	$912,053
4	$2,273,335	$631,450	$1,640,395	$1,481,262
5	$1,940,969	$495,593	$1,445,376	$1,309,509
6	$1,483,580	$384,264	$1,099,316	$995,465
7	$1,194,352	$302,996	$891,356	$807,751
8	$1,630,230	$400,750	$1,229,480	$1,115,364
9	$937,884	$257,786	$680,098	$614,446
10	$1,000,353	$271,890	$728,462	$658,437
11	$1,099,198	$290,118	$809,080	$732,136
12	$1,302,695	$334,226	$968,468	$877,279
13	$788,398	$213,792	$574,606	$519,418
14	$1,402,142	$383,505	$1,018,637	$920,487
15	$1,516,966	$413,670	$1,103,296	$997,108

Company-Owned Covered Store #	Gross Sales	Cost of Goods Sold	Gross Profit	Adjusted Gross Profit
Average of the 15 Company-Owned Covered Stores*	$1,393,377	$377,959	$1,015,418	$917,782
Median of the 15 Company-Owned Covered Stores	$1,402,142	$384,464	$1,012,541	$912,053

* 8 or 53% of the Company-Owned Covered Stores attained or surpassed the average Gross Sales of $1,393,377 6 or 40% of the Company-Owned Covered Stores attained Costs of Goods Sold that were less than the average Cost of Goods Sold of $377,959 7 or 47% of the Company-Owned Covered Stores attained or surpassed the average Gross Profit of $1,015,418 7 or 47% of the Company-Owned Covered Stores attained or surpassed the average Adjusted Gross Profit of $917,782

<u>Notes to the Financial Performance Representations</u>

1 We calculated the figures in the tables above using information that our affiliates and franchisees provided Prospective franchisees and sellers of franchises should be advised that no certified public accountant has audited these figures or expressed his or her opinion concerning their contents or form Upon your reasonable request, we will provide written substantiation for these financial performance representations

2 We asked franchisees to report "Gross Sales" for their Andy's Frozen Custard Stores, and we calculated Gross Sales for the Andy's Frozen Custard Stores that our affiliates own, using a Gross Sales definition identical to the one in Item 6

3 "Cost of Goods Sold" means the cost for food, paper, plastic and beverage inventory, including custard mix, cones and toppings, but excludes related shipping and transportation costs

4 "Gross Profit" means Gross Sales minus Cost of Goods Sold

5 "Adjusted Gross Profit" means Gross Profit minus Royalty (6% of Gross Sales) and Advertising and Development Fund contributions (currently, 1% of Gross Sales) currently paid by franchisees

6 The Gross Profit calculation is intended to show the amount of revenue that the Company-Owned Covered Stores retain after deducting Cost of Goods Sold, which they use to pay other costs and expenses The standard definition of Cost of Goods Sold does not include, and is not intended to include, these other costs and expenses Some of the costs and expenses that you will incur, which are not reflected in Cost of Goods Sold include, for example, Royalty Fees equal to 6% of weekly Gross Sales, Advertising and Development Fund contributions of up to 2% of weekly Gross Sales, licenses and permits, personal property taxes, legal fees, equipment rental fees, liability insurance premiums, occupancy expenses such as fixed rent, percentage rent, common area maintenance charges and real estate taxes, labor costs such as wages, bonus and other incentive compensation, health insurance premiums, vacation pay, workers' compensation costs and associated payroll taxes, general operating expenses such as costs for office and janitorial supplies, including smallwares and cleaning supplies, telephone, gas, electric, water, waste removal and other utilities, advertising, marketing and promotion, controllable expenses like employee uniforms, repairs and maintenance on the equipment and store premises, service contracts and janitorial services, non-controllable expenses like cash handling and credit card fees, payroll processing fees, accounting and other professional fees, and employee recruiting costs, and interest and other debt services costs, income taxes, depreciation and amortization Also, some of the general and administrative expenses that our affiliates incur are not included in the calculation for Gross Profit These expenses cover services relating to overseeing the organization that a typical business owner would ordinarily provide, such as services to procure insurance, analyze financial statements and store performance, troubleshoot operational or repair issues, place employment ads and onboard employees, and any other miscellaneous oversight roles We expect that franchisees will provide these services for their franchised Andy's Frozen Custard Stores You should consider these and all other costs and expenses that you will incur when creating a business plan for your Store

6 13 of the Covered Stores are located in Missouri, where Andy's Frozen Custard Stores have established a market presence If you open your Store in a new market, the Store will not benefit from an established trade identity in the market from other Andy's Frozen Custard Stores or from marketing activities that other Andy's Frozen Custard Stores conduct An Andy's Frozen Custard Store's gross sales and operating profit will vary significantly depending on a number of factors, including, among other things, the location of the store, competition in the market, pricing decisions, variable commodity costs (particularly, the cost of milk/dairy), distribution costs, the number of other nearby Andy's Frozen Custard Stores in the market, the level and types of marketing the store undertakes, the quality of management and service at the store, staffing decisions (including wage rates), labor productivity and contractual relationships with lessors and vendors and other operating cost differences Your results will depend on many factors, some of which include your (and your employees') experience, competition, overall economic conditions, your skill in managing a business, and how hard you are willing to work

The figures in the first financial performance representation do not reflect the costs of sales, operating expenses or other costs or expenses that must be deducted from the gross revenue or gross sales figures to obtain your net income or profit You should conduct an independent investigation of the costs and expenses you will incur in operating your Store Franchisees or former franchisees, listed in this disclosure document, may be one source of this information

Some outlets have sold this amount Your individual results may differ There is no assurance you will sell as much

Other than the preceding financial performance representation, we do not make any representations about a franchisee's future financial performance or the past financial performance of any company-owned or franchised outlets 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 the franchisor's management by contacting Andy Kuntz, our President, at 211 E Water Street, Springfield, Missouri 65806, (417) 881-3500, the Federal Trade Commission, and the appropriate state regulatory agencies

Item 20

OUTLETS AND FRANCHISEE INFORMATION

Table No 1

Systemwide Outlet Summary
For years 2014 to 2016

Column 1 Outlet Type	Column 2 Year	Column 3 Outlets at the Start of the Year	Column 4 Outlets at the End of the Year	Column 5 Net Change
Franchised	2014	8	8	0
	2015	8	13	+5
	2016	13	23	+10
Company-Owned	2014	12	14	+2
	2015	14	16	+2
	2016	16	21	+5
Total Outlets	2014	20	22	+2
	2015	22	29	+7
	2016	29	44	+15

Table No 2

Transfers of Outlets from Franchisees to New Owners
For years 2014 to 2016

Column 1 State	Column 2 Year	Column 3 Number of Transfers
All States	2014	0
	2015	0
	2016	0
Totals	2014	0
	2015	0
	2016	0

Table No 3

Status of Franchised Outlets
For years 2014 to 2016

Col 1 State	Col 2 Year	Col 3 Outlets at Start of Year	Col 4 Outlets Opened	Col 5 Terminations	Col 6 Non-Renewals	Col 7 Reacquired by Franchisor	Col 8 Ceased Operations-Other Reasons	Col 9 Outlets at End of the Year
Arkansas	2014	2	0	0	0	0	0	2
	2015	2	1	0	0	0	0	3
	2016	3	0	0	0	0	0	3
Colorado	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	1	0	0	0	0	1
Missouri	2014	4	0	0	0	0	0	4
	2015	4	0	0	0	0	0	4
	2016	4	2	0	0	0	0	6
North Carolina	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	1	0	0	0	0	1
Oklahoma	2014	1	0	0	0	0	0	1
	2015	1	2	0	0	0	0	3
	2016	3	1	0	0	0	0	4
Tennessee	2014	0	0	0	0	0	0	0
	2015	0	0	0	0	0	0	0
	2016	0	1	0	0	0	0	1
Texas	2014	1	0	0	0	0	0	1
	2015	1	2	0	0	0	0	3

Col 1 State	Col 2 Year	Col 3 Outlets at Start of Year	Col 4 Outlets Opened	Col 5 Terminations	Col 6 Non-Renewals	Col 7 Reacquired by Franchisor	Col 8 Ceased Operations-Other Reasons	Col 9 Outlets at End of the Year
	2016	3	4	0	0	0	0	7
Totals	2014	8	0	0	0	0	0	8
	2015	8	5	0	0	0	0	13
	2016	13	10	0	0	0	0	23

Table No 4

Status of Company-Owned Outlets
For years 2014 to 2016

Col 1 State	Col 2 Year	Col 3 Outlets at Start of Year	Col 4 Outlets Opened	Col 5 Outlets Reacquired From Franchisee	Col 6 Outlets Closed	Col 7 Outlets Sold to Franchisee	Col 8 Outlets at End of the Year
Arkansas	2014	2	0	0	0	0	2
	2015	2	0	0	0	0	2
	2016	2	0	0	0	0	2
Illinois	2014	3	2	0	0	0	5
	2015	5	0	0	0	0	5
	2016	5	2	0	0	0	7
Missouri	2014	7	0	0	0	0	7
	2015	7	2	0	0	0	9
	2016	9	2	0	0	0	11
Texas	2014	0	0	0	0	0	0
	2015	0	0	0	0	0	0
	2016	0	1	0	0	0	1
Totals	2014	12	2	0	0	0	14
	2015	14	2	0	0	0	16
	2016	16	5	0	0	0	21

Table No 5

Projected Openings of Franchised Outlets As of December 31, 2016

Column 1 State	Column 2 Franchise Agreements Signed But Outlets Not Opened	Column 3 Projected New Franchised Outlets In The Next Fiscal Year	Column 4 Projected New Company-Owned Outlets In the Next Fiscal Year
Arizona	1	2	0
Arkansas	1	1	1
Colorado	0	1	0
Illinois	0	0	2
Kansas	1	1	2
Missouri	0	0	2
North Carolina	0	1	0
South Carolina	1	0	0
Tennessee	0	1	0
Texas	0	2	2
Totals	4	9	9

The figures in the charts above are as of December 31, 2014, December 31, 2015, and December 31, 2016

Exhibit E lists the names of all of our operating franchisees and the addresses and telephone numbers of their Andy's Frozen Custard Stores as of December 31, 2016 There was one franchisees who had outlets terminated, cancelled, or not renewed or otherwise voluntarily or involuntarily ceased to do business under our Franchise Agreement during the last fiscal year or who have not communicated with us within 10 weeks of this Disclosure Document's issuance date This franchisee, Lex McCarty (Tennessee/865-368-6574) signed a Franchise Agreement but never opened his outlet

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

During our last 3 fiscal years, none of our current or former franchisees have signed provisions restricting their ability to speak openly about their experience with our franchise system

There are currently no trademark-specific franchisee organizations associated with the System

Item 21

FINANCIAL STATEMENTS

Attached to this Disclosure Document as Exhibit C are our audited financial statements as of December 31, 2014, December 31, 2015, and December 31, 2016

Item 22

CONTRACTS

The following agreements are exhibits

(a) Franchise Agreement — Exhibit B-1

(b) Development Rights Agreement — Exhibit B-2

(b) State Riders to Franchise Agreement — Exhibit F

Item 23

RECEIPTS

Our and your copies of the Franchise Disclosure Document Receipt are located at the last 2 pages of this Disclosure Document

EXHIBIT A

LIST OF STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS

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

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

There also may be additional agents appointed in some of the states listed

CALIFORNIA

Commissioner of the Department
of Business Oversight
Toll Free 1 (866) 275-2677

Los Angeles

Suite 750
320 West 4th Street
Los Angeles, California 90013-2344
(213) 576-7500

Sacramento

1515 K Street, Suite 200
Sacramento, California 95814-4052
(916) 445-7205

San Diego

1350 Front Street, Rm 2034
San Diego, California 92101-3697
(619) 525-4233

San Francisco

One Sansome Street, Suite 600
San Francisco, California 94105-2980
(415) 972-8559

HAWAII

(for service of process)

Commissioner of Securities
Business Registration Division
Department of Commerce
and Consumer Affairs
335 Merchant Street, Room 205
Honolulu, Hawaii 96813
(808) 586-2722

(for other matters)

Commissioner of Securities
Business Registration Division
Department of Commerce
and Consumer Affairs
335 Merchant Street, Room 205
Honolulu, Hawaii 96813
(808) 586-2722

ILLINOIS

Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706
(217) 782-4465

INDIANA

(for service of process)

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

(state agency)

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

MARYLAND

(state agency)

Office of the Attorney General-
Securities Division
200 St Paul Place
Baltimore, Maryland 21202-2021
(410) 576-6360

(for service of process)

Maryland Securities Commissioner
at the Office of Attorney General-
Securities Division
200 St Paul Place
Baltimore, Maryland 21202-2021
(410) 576-6360

MICHIGAN

Corporations Division
Franchise
P O Box 30054
Lansing, MI 48909
(517) 373-7117

MINNESOTA

Commissioner of Commerce
Department of Commerce
85 7th Place East, Suite 500
St Paul, Minnesota 55101
(651) 296-6328

NEW YORK

(Administrator)

Office of the New York State Attorney
General
Investor Protection Bureau
Franchise Section
120 Broadway, 23rd Floor
New York, NY 10271-0332
(212) 416-8236 (Phone)
(212) 416-6042 (Fax)

(Agent for Service)

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

NORTH DAKOTA

(state agency)

North Dakota Securities Department
600 East Boulevard Avenue State Capitol
Fifth Floor Dept 414
Bismarck, North Dakota 58505-0510
(701) 328-4712

(for service of process)

Securities Commissioner
600 East Boulevard Avenue State Capitol
Fifth Floor Dept 414
Bismarck, North Dakota 58505-0510
(701) 328-4712

OREGON

Oregon Division of Finance and Corporate Securities
350 Winter Street NE, Room 410
Salem, Oregon 97301-3881
(503) 378-4387

RHODE ISLAND

Securities Division
Department of Business Regulations
1511 Pontiac Avenue
John O Pastore Complex-Building 69-1
Cranston, RI 02920
(401) 462-9500

SOUTH DAKOTA

Division of Securities
Department of Labor and Regulation
124 S Euclid, Suite 104
Pierre, SD 57501
(605) 773-4823

VIRGINIA

(for service of process)

Clerk, State Corporation Commission
1300 East Main Street
First Floor
Richmond, Virginia 23219
(804) 371-9733

(for other matters)

State Corporation Commission
Division of Securities and Retail Franchising
1300 East Main Street
Ninth Floor
Richmond, Virginia 23219
(804) 371-9051

WASHINGTON

(for service of process)

Director Department of Financial Institutions
Securities Division
150 Israel Road SW
Tumwater, Washington 98501
(360) 902-8760

(for other matters)

Department of Financial Institutions
Securities Division
P O Box 9033
Olympia, Washington 98501-9033
(360) 902-8760

WISCONSIN

Commissioner of Securities
345 W Washington Ave , 4th Floor
Madison, Wisconsin 53703
(608) 266-8557

EXHIBIT B-1

FRANCHISE AGREEMENT

ANDY'S FROZEN CUSTARD FRANCHISING, LLC

FRANCHISE AGREEMENT

____
FRANCHISE OWNER

____
DATE OF AGREEMENT

____
STORE ADDRESS

____

____

TABLE OF CONTENTS

EXHIBITS

ANDY'S FROZEN CUSTARD FRANCHISING, LLC
<u>FRANCHISE AGREEMENT</u>

THIS FRANCHISE AGREEMENT (the "Agreement") is made and entered into by and between **ANDY'S FROZEN CUSTARD FRANCHISING, LLC**, a Missouri limited liability company located at 338 North Boonville Ave , Springfield, Missouri 65806 ("we," "us," or "our"), and ______________________________, whose principal business address is ____ ("you" or "your") as of the date signed by us and set forth opposite our signature on this Agreement (the "Effective Date")

1 PREAMBLES, ACKNOWLEDGMENTS, AND GRANT OF FRANCHISE

A PREAMBLES

(1) We and our affiliates have, over a considerable time period and with considerable effort, developed (and continue to develop and modify) a system and franchise opportunity for the operation of retail businesses offering premium frozen custard and custard-related products and services (collectively, "Menu Items") Menu Items are prepared according to our specified recipes and procedures and use high quality ingredients, including our specially formulated and specially produced proprietary lines of frozen custard and other food products (collectively, "Trade Secret Food Products") and other food products These stores operate under the "Andy's Frozen Custard" name and other trademarks ("Andy's Frozen Custard Stores") and have distinctive business formats, methods, procedures, designs, layouts, standards, and specifications, all of which we may improve, further develop, or otherwise modify from time to time

(2) We and our affiliates use, promote, and license certain trademarks, service marks, and other commercial symbols in operating Andy's Frozen Custard Stores, which have gained and will continue to gain public acceptance and goodwill, and may create, use, and license other trademarks, service marks, and commercial symbols for Andy's Frozen Custard Stores (collectively, the "Marks")

(3) We grant to persons who meet our qualifications, and are willing to undertake the investment and effort, a franchise to own and operate an Andy's Frozen Custard Store offering the Menu Items and services we authorize and using our business formats, methods, procedures, signs, designs, layouts, standards, specifications, and Marks (the "Franchise System")

(4) As a franchise owner of an Andy's Frozen Custard Store, you will comply with this Agreement and all System Standards (defined below) in order to maintain the high and consistent quality that is critical to attracting and keeping customers for Andy's Frozen Custard Stores

(5) You have applied for a franchise to own and operate an Andy's Frozen Custard Store

B **ACKNOWLEDGMENTS**

You acknowledge

(1) That you have independently investigated the Andy's Frozen Custard Store franchise opportunity and recognize that, like any other business, the nature of the business an Andy's Frozen Custard Store conducts may, and probably will, evolve and change over time

(2) That an investment in an Andy's Frozen Custard Store involves business risks that could result in the loss of a significant portion or all of your investment

(3) That your business abilities and efforts are vital to your success

(4) That attracting customers for your Andy's Frozen Custard Store will require you to make consistent marketing efforts in your community through various methods, including media advertising, direct mail advertising, and display and use of in-store promotional materials

(5) That retaining customers for your Andy's Frozen Custard Store will require you to have a high level of customer service and adhere strictly to the Franchise System and our System Standards and that you are committed to maintaining System Standards

(6) That you have not received from us, and are not relying upon, any representations or guarantees, express or implied, as to the potential volume, sales, income, or profits of an Andy's Frozen Custard Store

(7) That in all of their dealings with you, our officers, directors, employees, and agents act only in a representative, and not in an individual, capacity and that business dealings between you and them as a result of this Agreement are deemed to be only between you and us

(8) That you have represented to us, to induce our entry into this Agreement, that all statements you have made and all materials you have given us are accurate and complete and that you have made no misrepresentations or material omissions in obtaining the franchise

(9) That you have read this Agreement and our Franchise Disclosure Document and understand and accept that this Agreement's terms and covenants are reasonably necessary for us to maintain our high standards of quality and service, as well as the uniformity of those standards at each Andy's Frozen Custard Store, and to protect and preserve the goodwill of the Marks

(10) That we will restrict your sources of Trade Secret Food Products and have the right to restrict your sources of other goods and services as well, as provided in various sections of this Agreement, including Subsection 8 C below

(11) That we have not made any representation, warranty, or other claim regarding this Andy's Frozen Custard Store franchise opportunity, other than those made in this Agreement and our Franchise Disclosure Document, and that you have independently evaluated this opportunity, including by using your business professionals and advisors, and have relied solely upon those evaluations in deciding to enter into this Agreement

(12) That you have been afforded an opportunity to ask any questions you have and to review any materials of interest to you concerning the Andy's Frozen Custard Store franchise opportunity

(13) That you have been afforded an opportunity, and have been encouraged by us, to have this Agreement and all other agreements and materials we have given or made available to you reviewed by an attorney and have either done so or waived your right to do so

C **CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP**

If you are at any time a corporation, limited liability company, or general or limited partnership (collectively, an "Entity"), you agree and represent that

(1) You will have the authority to execute, deliver, and perform your obligations under this Agreement and all related agreements and are duly organized or formed and validly existing in good standing under the laws of the state of your incorporation or formation,

(2) Your organizational documents, operating agreement, or partnership agreement, as applicable, will recite that this Agreement restricts the issuance and transfer of any ownership interests in you, and all certificates and other documents representing ownership interests in you will bear a legend referring to this Agreement's restrictions,

(3) **Exhibit A** to this Agreement completely and accurately describes all of your owners and their interests in you as of the Effective Date,

(4) Each of your owners during this Agreement's term will execute a guaranty in the form we prescribe undertaking personally to be bound, jointly and severally, by all provisions of this Agreement and any ancillary agreements between you and us Subject to our rights and your obligations under Section 12, you and your owners agree to sign and deliver to us revised Exhibits A to reflect any permitted changes in the information that **Exhibit A** now contains,

(5) You will appoint a shareholder, member, or partner, as applicable, to be your "Managing Owner," responsible for overseeing and supervising the operation of the STORE (as defined in Subsection D below) The Managing Owner as of the Effective Date is identified in **Exhibit A** You may not change the Managing Owner without our prior written consent, and

(6) The STORE and other Andy's Frozen Custard Stores, ıf applıcable, wıll be the only busınesses you operate (although your owners may have other, non-competıtıve busıness ınterests)

D **GRANT OF FRANCHISE**

You have applıed for a franchıse to own and operate an Andy's Frozen Custard Store at the locatıon ıdentıfied on **Exhıbıt B** (the "Premıses") Subject to thıs Agreement's terms, we grant you a franchıse (the "Franchıse") to operate an Andy's Frozen Custard Store (the "STORE") at the Premıses, and to use the Franchıse System ın ıts operatıon, for a term begınnıng on the Effectıve Date and expırıng ten (10) years from that date, unless sooner termınated as provıded hereın You may use the Premıses only for the STORE You agree at all tımes faıthfully, honestly, and dılıgently to perform your oblıgatıons under thıs Agreement and to use your best efforts to promote the STORE

E **EXCLUSIVE TERRITORIAL RIGHTS**

Before thıs Agreement ıs executed, we wıll descrıbe the Terrıtory ın **Exhıbıt B** The sıze of the Terrıtory shall be determıned ın our sole dıscretıon Provıded that you are ın full complıance wıth thıs Agreement, and except for Non-Tradıtıonal Sıtes (as provıded below), we and our affılıates wıll not operate or grant a franchıse for the operatıon of another Andy's Frozen Custard Store at a locatıon wıthın the Terrıtory durıng the term of thıs Agreement

F **RIGHTS WE RESERVE**

Except as expressly lımıted by Subsectıon E above, we and our affılıates retaın all rıghts wıth respect to Andy's Frozen Custard Stores, the Marks, the sale of sımılar or dıssımılar products and servıces, and any other actıvıtıes we deem approprıate whenever and wherever we desıre Specıfically, but wıthout lımıtatıon, we reserve the followıng rıghts

(1) the rıght to establısh and operate, and to grant to others the rıght to establısh and operate sımılar busınesses or any other busınesses offerıng sımılar or dıssımılar products and servıces through sımılar or dıssımılar channels of dıstrıbutıon, at any locatıons ınsıde or outsıde the Terrıtory under trademarks or servıce marks other than the Marks and on any terms and condıtıons we deem approprıate,

(2) the rıght to provıde, offer and sell and to grant others the rıght to provıde, offer and sell goods and servıces that are ıdentıcal or sımılar to and/or competıtıve wıth those provıded at Andy's Frozen Custard Stores, whether ıdentıfied by the Marks or other trademarks or servıce marks, through dıssımılar dıstrıbutıon channels (ıncludıng, wıthout lımıtatıon, the ınternet or sımılar electronıc medıa) both ınsıde and outsıde the Terrıtory and on any terms and condıtıons we deem approprıate,

(3) the rıght to establısh and operate, and to grant to others the rıght to establısh and operate, busınesses offerıng dıssımılar products and servıces, both ınsıde and outsıde the Terrıtory under the Marks and on any terms and condıtıons we deem approprıate,

(4) the right to operate, and to grant others the right to operate Andy's Frozen Custard Stores located anywhere outside the Territory under any terms and conditions we deem appropriate and regardless of proximity to the STORE,

(5) the right to operate and grant others the right to operate Andy's Frozen Custard Stores at "Non Traditional Sites" within and outside the Territory on any terms and conditions we deem appropriate "Non Traditional Sites" are sites that generate customer traffic flow which is independent from the general customer traffic flow of the surrounding area, including, without limitation, military bases, shopping malls, airports, stadiums, major industrial or office complexes, hotels, school campuses, train stations, travel plazas, toll roads, casinos, hospitals, and sports or entertainment venues,

(6) the right to acquire the assets or ownership interests of one or more businesses providing products and services similar to those provided at Andy's Frozen Custard Stores, and franchising, licensing or creating similar arrangements with respect to these businesses once acquired, wherever these businesses (or the franchisees or licensees of these businesses) are located or operating (including in the Territory), and

(7) the right to be acquired (whether through acquisition of assets, ownership interests or otherwise, regardless of the form of transaction), by a business providing products and services similar to those provided at Andy's Frozen Custard Stores, or by another business, even if such business operates, franchises and/or licenses competitive businesses in the Territory

G **MODIFICATION OF FRANCHISE SYSTEM**

Because complete and detailed uniformity under many varying conditions might not be possible or practical, you acknowledge that we specifically reserve the right and privilege, as we consider to be best, to vary System Standards (defined below) for any franchise owner based upon the peculiarities of any condition that we consider important to that franchise owner's successful operation You have no right to require us to grant you a similar variation or accommodation

2 **SITE SELECTION, LEASE OF PREMISES, AND DEVELOPMENT AND OPENING OF STORE**

A **SITE SELECTION**

You agree to obtain our written approval of the STORE's proposed site before signing any lease, sublease, or other document for the site We will use reasonable efforts to help analyze your market area, to help determine site feasibility, and to assist in designating the location, although we will not conduct site selection activities for you We will not unreasonably withhold our approval of a site that meets our criteria for demographic characteristics, traffic patterns, parking, character of neighborhood, competition from, proximity to, and nature of other businesses, other commercial characteristics, and the proposed site's size, appearance, and other physical characteristics

You agree to send us a description of the proposed site, including a summary of the items listed above, along with a letter of intent or other evidence confirming your favorable prospects for obtaining the proposed site We will use reasonable efforts to approve or disapprove the proposed site within thirty (30) business days after receiving your written proposal Upon our approval of a site, and after you secure the site, we will insert its address into **Exhibit B**, and it will be the Premises You may operate the STORE only at the Premises

You acknowledge and agree that, if we recommend or give you information regarding a site for the Premises, that is not a representation or warranty of any kind, express or implied, of the site's suitability for an Andy's Frozen Custard Store or any other purpose Our recommendation indicates only that we believe that the site meets our then acceptable criteria Applying criteria that have appeared effective with other sites and premises might not accurately reflect the potential for all sites and premises, and demographic and/or other factors included in or excluded from our criteria could change, altering the potential of a site and premises The uncertainty and instability of these criteria are beyond our control, and we are not responsible if a site and premises we recommend fail to meet your expectations You acknowledge and agree that your acceptance of the Franchise is based on your own independent investigation of the site's suitability for the Premises

B **LEASE OF PREMISES**

You must sign a lease or sublease for the Premises (the "Lease") within two hundred seventy (270) days after the Effective Date We have the right to approve the terms of the Lease before you sign it The Lease must be in a form acceptable to us and must contain certain required terms and provisions (although we will not directly negotiate your Lease), including, but not limited to

(1) A provision reserving to us the right to receive an assignment of the Lease upon termination or expiration of the Franchise,

(2) A provision requiring the lessor to give us all sales and other information we request relating to the STORE's operation,

(3) A provision requiring the lessor concurrently to send us a copy of any written notice of a Lease default sent to you and granting us the right (but without any obligation) to cure any Lease default within fifteen (15) business days after the expiration of your cure period (if you fail to do so),

(4) A provision evidencing your right to display the Marks according to the specifications in the Operations Manual (subject only to applicable law), and

(5) A provision that the Premises may be used only for the operation of an Andy's Frozen Custard Store

You acknowledge that our approval of the Lease is not a guarantee or warranty, express or implied, of the success or profitability of an Andy's Frozen Custard Store operated at the Premises Our approval indicates only that we believe that the Premises and the Lease's terms meet our then acceptable criteria You must deliver to us a signed copy of the Lease within seven (7) days after its execution

If the Lease expires or is terminated without your fault, or if the site for the Premises is destroyed, condemned, or otherwise rendered unusable, we will allow you to relocate the STORE to a new site acceptable to us Any relocation will be at your sole expense, and we may charge you for the reasonable costs we incur, plus a reasonable fee (as set forth in the Operations Manual) for our services, in connection with any relocation of the STORE

C **STORE DEVELOPMENT**

You are responsible for developing the STORE We will give you mandatory and suggested specifications and layouts for an Andy's Frozen Custard Store, including requirements for dimensions, design, image, interior layout, decor, fixtures, equipment, signs, furnishings, and color scheme These plans might not reflect the requirements of any federal, state, or local law, code, or regulation, including those arising under the Americans with Disabilities Act (the "ADA") or similar rules governing public accommodations for persons with disabilities It is your responsibility to prepare a site survey and all required construction plans and specifications to suit the Premises and to make sure that these plans and specifications comply with the ADA and similar rules governing public accommodations for persons with disabilities, other applicable ordinances, building codes, permit requirements, and Lease requirements and restrictions

You agree to send us construction plans and specifications for review before you begin constructing the STORE and all revised or "as built" plans and specifications during construction We may require you to use an approved or designated architect and/or general contractor to design and construct the STORE Because our review is limited to ensuring your compliance with our design requirements, it might not assess compliance with federal, state, or local laws and regulations, including the ADA, as compliance with these laws is your responsibility We may inspect the Premises while you are developing the STORE

You agree to do the following, at your own expense, to develop the STORE at the Premises

(1) secure all financing required to develop and operate the STORE,

(2) obtain all required building, utility, sign, health, sanitation, business, and other permits and licenses,

(3) construct all required improvements to the Premises and decorate the STORE according to approved plans and specifications,

(4) obtain all customary contractors' sworn statements and partial and final waivers of lien for construction, remodeling, decorating, and installation services,

(5) purchase or lease, and install, all required fixtures, furniture, equipment (including a required or recommended computer, facsimile, and point-of-sale information system), furnishings, and signs (collectively, "Operating Assets") for the STORE, and

(6) purchase an opening inventory of authorized and approved Trade Secret Food Products, other products, materials, and supplies to operate the STORE

D **OPERATING ASSETS**

You agree to use in operating the STORE only those Operating Assets that we approve for Andy's Frozen Custard Stores as meeting our specifications and standards for quality, design, appearance, function, and performance You may not install or otherwise operate at the Premises any unauthorized vending or lotto machines You agree to place or display at the Premises (interior and exterior) only the signs, emblems, lettering, logos, and display materials that we approve from time to time You agree to purchase or lease approved brands, types, or models of Operating Assets only from suppliers we designate or approve (which may include or be limited to us and/or our affiliates)

E **COMPUTER SYSTEM**

You agree to obtain and use the computer hardware and/or operating software we specify from time to time (the "Computer System") We may modify specifications for and components of the Computer System You also agree to maintain a functioning e-mail address Our modification of specifications for the Computer System, and/or other technological developments or events, might require you to purchase, lease, and/or license new or modified computer hardware and/or software and to obtain service and support for the Computer System Although we cannot estimate the future costs of the Computer System or required service or support, and although these costs might not be fully amortizable over this Agreement's remaining term, you agree to incur the costs of obtaining the computer hardware and software comprising the Computer System (or additions and modifications) and required service or support We have no obligation to reimburse you for any Computer System costs Within sixty (60) days after you receive notice from us, you agree to obtain the Computer System components that we designate and to ensure that your Computer System, as modified, is functioning properly

You agree that we or our affiliates may condition any license of proprietary software to you, or your use of technology that we or our affiliates develop or maintain, on your signing the Software License Agreement or similar document that we or our affiliates prescribe to regulate your use of, and our and your respective rights and responsibilities with respect to, the software or technology We and our affiliates may charge you a monthly or other fee for any proprietary software or technology that we or our affiliates license to you and for other maintenance and support services that we or our affiliates provide during this Agreement's term

Despite the fact that you agree to buy, use, and maintain the Computer System according to our standards and specifications, you will have sole and complete responsibility for (1) the acquisition, operation, maintenance, and upgrading of the Computer System, (2) the manner in which your Computer System interfaces with our and any third party's computer system, and (3) any and all consequences if the Computer System is not properly operated, maintained, and upgraded

F STORE OPENING

You agree not to open the STORE until

(1) we notify you in writing that the STORE meets our standards and specifications (although our acceptance is not a representation or warranty, express or implied, that the STORE complies with any engineering, licensing, environmental, labor, health, building, fire, sanitation, occupational, landlord's, insurance, safety, tax, governmental, or other statutes, rules, regulations, requirements, or recommendations nor a waiver of our right to require continuing compliance with our requirements, standards, or policies),

(2) you (or your Managing Owner) and your other employees satisfactorily complete training,

(3) you pay the initial franchise fee and other amounts then due to us, and

(4) you give us certificates for all required insurance policies

Subject to your compliance with these conditions, you agree to open the STORE for business within three hundred sixty (360) days after the Effective Date

3 FEES

A **INITIAL FRANCHISE FEE**

You agree to pay us a nonrecurring and, except as specifically provided in this Agreement, nonrefundable initial franchise fee of Thirty-Two Thousand Dollars ($32,000) If you are in good standing with us and you are purchasing a second or additional franchise, your initial franchise fee is Twenty-Eight Thousand Dollars ($28,000) for each additional unit This fee is due, and fully earned by us, when you sign this Agreement

B **CONTINUING SERVICE AND ROYALTY FEE**

You agree to pay us, in the manner provided below (or as the Operations Manual otherwise prescribes), a weekly Continuing Service and Royalty Fee (the "Royalty") equal to the percentage of the STORE's Gross Sales (defined in Subsection C below) set forth in **Exhibit B** attached hereto On or before Wednesday of each week, you agree to send us on a form we approve (or as we otherwise direct) a signed statement of the STORE's Gross Sales for the week ending on the immediately preceding Sunday Each weekly statement of Gross Sales must be accompanied by the Royalty due for that week

C **DEFINITION OF "GROSS SALES"**

As used in this Agreement, the term "Gross Sales" means all revenue that you derive from operating the STORE, including, but not limited to, all amounts that you receive at or away from the Premises, and whether from cash, check, credit and debit card, barter exchange, trade credit, or other credit transactions, but (1) excluding all federal, state, or municipal sales, use, or service taxes collected from customers and paid to the appropriate taxing authority and (2) reduced by the amount of any documented refunds, credits, allowances, and charge-backs the STORE in good faith gives to customers

D **LATE FEES AND INTEREST**

All amounts which you owe us for any reason, will bear interest accruing as of their original due date at one and one-half percent (1 5%) per month or the highest commercial contract interest rate the law allows, whichever is less We may debit your bank account automatically for late fees and interest You acknowledge that this Subsection is not our agreement to accept any payments after they are due or our commitment to extend credit to, or otherwise finance your operation of, the STORE

E **APPLICATION OF PAYMENTS**

Despite any designation you make, we may apply any of your payments to any of your past due indebtedness to us We may set off any amounts you or your owners owe us or our affiliates against any amounts we or our affiliates owe you or your owners You may not withhold payment of any amounts you owe us due to our alleged nonperformance of any of our obligations under this Agreement

F **METHOD OF PAYMENT**

Before the STORE opens, you agree to sign and deliver to us the documents we require to authorize us to debit your business checking account automatically for the Royalty, Fund contributions (defined below), and other amounts due under this Agreement and for your purchases from us and/or our affiliates (the "Electronic Depository Transfer Account" or "EDTA") We will debit the EDTA for these amounts on their due dates You agree to ensure that funds are available in the EDTA to cover our withdrawals If there are insufficient funds in the EDTA to cover any such amount owed (or, if you are paying by check and a check is returned for insufficient funds), we will charge you a processing fee of One Hundred Dollars ($100) to compensate us for our additional administrative expenses

If you fail to report the STORE's Gross Sales, we may debit your EDTA for one hundred twenty percent (120%) of the last Royalty and Fund contribution that we debited (together with the late fee noted in Subsection 3 D above) If the amounts that we debit from your EDTA are less than the amounts you actually owe us (once we have determined the STORE's true and correct Gross Sales), we will debit your EDTA for the balance on the day we specify If the amounts that we debit from your EDTA are greater than the amounts you actually owe us, we will credit the excess against the amounts we otherwise would debit from your EDTA during the following week

We may require you to pay any amounts due under this Agreement or otherwise by means other than automatic debit (*e g* , by check) whenever we deem appropriate, and you agree to comply with our payment instructions

4 TRAINING AND ASSISTANCE

A INITIAL TRAINING

If this is your first Andy's Frozen Custard Store, then before the STORE opens for business, we will train you (or, if you are an Entity, your Managing Owner) and your assistant manager on the material aspects of operating an Andy's Frozen Custard Store We will provide the initial brand standard training program at a designated training facility of our choice and/or at an operating Andy's Frozen Custard Store

We will provide initial training for no additional fee for your two attendees Additional people beyond these two may attend initial training if you pay our then current training charge for each additional person You also agree to pay for all travel and living expenses which you (or your Managing Owner) and all of your employees incur and for your employees' wages and workers' compensation insurance while they train at operating Andy's Frozen Custard Stores

You (or your Managing Owner) and your manager-level employee must satisfactorily complete initial training If we determine that you (or your Managing Owner) and your manager-level employee cannot complete initial training to our satisfaction, we may terminate this Agreement, in which case we will keep sixty-seven percent (67%) of the initial franchise fee We will return the other thirty-three percent (33%) of the initial franchise fee to you if you sign our required form of release of claims

You (or your Managing Owner) may request additional training at the end of the initial training, to be provided at our then current per diem charges, if you (or your Managing Owner) do not feel sufficiently trained in the operation of an Andy's Frozen Custard Store We and you will jointly determine the duration of this additional training However, if you (or your Managing Owner) satisfactorily complete our initial brand standard training program and have not expressly informed us at the end of the program that you (or your Managing Owner) do not feel sufficiently trained in the operation of an Andy's Frozen Custard Store, then you (or your Managing Owner) will be deemed to have been trained sufficiently to operate an Andy's Frozen Custard Store

When the STORE is ready to open for business, we will, at our own cost, send one of our representatives to the STORE for a period of five (5) days to assist with its opening You also must successfully complete this phase of the initial brand standard training program If you request, and we agree to provide, additional or special guidance, assistance, or training during this opening phase, you agree to pay our then applicable charges, including our personnel's per diem charges and travel and living expenses

B ONGOING TRAINING

We may require you (or your Managing Owner) and/or other previously trained and experienced employees to attend and complete satisfactorily various training courses that we periodically choose to provide at the times and locations that we designate We may charge reasonable registration or similar fees for these courses We will not require attendance for more than a total of ten (10) days during a calendar year Besides attending these courses, you agree to attend an annual meeting of all Andy's Frozen Custard Store franchise owners at a location we designate Attendance will not be required for more than three (3) days during any calendar year You agree to pay all costs to attend

We may require that your STORE managers satisfactorily to complete our initial and ongoing brand standard training programs We may charge reasonable fees for training managers You agree to pay all travel and living expenses which you and your employees incur during all training courses and programs You agree to assist us in training other Andy's Frozen Custard Store franchise owners We will reimburse your out-of-pocket expenses for providing this assistance

You understand and agree that any specific ongoing training or advice we provide does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which we may discontinue and modify from time to time

C **<u>GENERAL GUIDANCE</u>**

We will advise you from time to time regarding the STORE's operation based on your reports or our inspections and will guide you with respect to (1) standards, specifications, and operating procedures and methods that Andy's Frozen Custard Stores use, (2) purchasing required and authorized Operating Assets, Trade Secret Food Products, and other items and arranging for their distribution to you, (3) advertising and marketing materials and programs, (4) employee training on issues relating to brand standards (although you are responsible for training your STORE employees, subject to Section 4 A), and (5) administrative, bookkeeping, accounting, and inventory control procedures

We will guide you in our operations manual ("Operations Manual"), in bulletins or other written materials, by electronic media, by telephone consultation, and/or at our office or the STORE If you request, and we agree to provide, additional or special guidance, assistance, or training, you agree to pay our then applicable charges, including our personnel's per diem charges and travel and living expenses

D **<u>OPERATIONS MANUAL</u>**

We will loan you during the Franchise term one (1) copy of our Operations Manual, which could include audiotapes, videotapes, compact disks, computer software, other electronic media, and/or written materials The Operations Manual contains mandatory and suggested specifications, standards, operating procedures, and rules ("System Standards") that we periodically prescribe for operating an Andy's Frozen Custard Store and information on your other obligations under this Agreement We may modify the Operations Manual periodically to reflect changes in System Standards

You agree to keep your copy of the Operations Manual current and in a secure location at the STORE If there is a dispute over its contents, our master copy of the Operations Manual controls You agree that the Operations Manual's contents are confidential and that you will not disclose the Operations Manual to any person other than STORE employees who need to know its contents You may not at any time copy, duplicate, record, or otherwise reproduce any part of the Operations Manual If your copy of the Operations Manual is lost, destroyed, or significantly damaged, you agree to obtain a replacement copy at our then applicable charge

At our option, we may post some or all of the Operations Manual on a restricted Website or extranet to which you will have access (For purposes of this Agreement, "Website" means an interactive electronic document contained in a network of computers linked by communications software, including, without limitation, the Internet and World Wide Web home pages) If we do so, you agree to monitor and access the Website or extranet for any updates to the Operations Manual or System Standards Any passwords or other digital identifications necessary to access the Operations Manual on a Website or extranet will be deemed to be part of Confidential Information (defined in Section 6 below)

E **DELEGATION OF PERFORMANCE**

You agree that we have the right to delegate the performance of any portion or all of our obligations under this Agreement to third-party designees, whether these designees are our agents or independent contractors with whom we have contracted to perform these obligations If we do so, such third-party designees will be obligated to perform the delegated functions for you in compliance with this Agreement

5 **MARKS**

A **OWNERSHIP AND GOODWILL OF MARKS**

Andy's Frozen Custard, Inc , ("AFC, Inc ") has licensed the Marks to us to use in connection with the franchising, development, and operation of Andy's Frozen Custard Stores Your right to use the Marks is derived only from this Agreement and limited to your operating the STORE according to this Agreement and all System Standards we prescribe during its term Your unauthorized use of the Marks is a breach of this Agreement and infringes our and AFC, Inc 's rights in the Marks You acknowledge and agree that your use of the Marks and any goodwill established by that use are exclusively for our and AFC, Inc 's benefit and that this Agreement does not confer any goodwill or other interests in the Marks upon you (other than the right to operate the STORE under this Agreement) All provisions of this Agreement relating to the Marks apply to any additional proprietary trade and service marks we authorize you to use You may not at any time during or after this Agreement's term contest or assist any other person in contesting the validity, or our and AFC, Inc 's ownership, of the Marks

B **LIMITATIONS ON YOUR USE OF MARKS**

You agree to use the Marks as the STORE's sole identification, except that you agree to identify yourself as its independent owner in the manner we prescribe You may not use any Mark (1) as part of any corporate or legal business name, (2) with any prefix, suffix, or other modifying words, terms, designs, or symbols (other than logos we have licensed to you) (3) in selling any unauthorized services or products, (4) as part of any domain name, homepage, electronic address, or otherwise in connection with a Website, or (5) in any other manner that we have not expressly authorized in writing

You may not use any Mark in advertising the transfer, sale, or other disposition of the STORE or an ownership interest in you without our prior written consent, which we will not unreasonably withhold You agree to display the Marks prominently as we prescribe at the STORE and on forms, advertising, supplies, and other materials we designate You agree to give the notices of trade and service mark registrations that we specify and to obtain any fictitious or assumed name registrations required under applicable law

C **NOTIFICATION OF INFRINGEMENTS AND CLAIMS**

You agree to notify us immediately of any apparent infringement or challenge to your use of any Mark, or of any person's claim of any rights in any Mark, and not to communicate with any person other than us, our attorneys, and your attorneys, regarding any infringement, challenge, or claim We may take the action we deem appropriate (including no action) and control exclusively any litigation, U S Patent and Trademark Office proceeding, or other administrative proceeding arising from any infringement, challenge, or claim or otherwise concerning any Mark You agree to sign any documents and take any other reasonable action that, in the opinion of our attorneys, are necessary or advisable to protect and maintain our interests in any litigation or Patent and Trademark Office or other proceeding or otherwise to protect and maintain our interests in the Marks We will reimburse you for your costs of taking any action that we have asked you to take

D **DISCONTINUANCE OF USE OF MARKS**

If it becomes advisable at any time for us and/or you to modify or discontinue using any Mark and/or to use one or more additional or substitute trade or service marks, you agree to comply with our directions within a reasonable time after receiving notice We need not reimburse you for your direct expenses of changing the STORE's signs, for any loss of revenue due to any modified or discontinued Mark, or for your expenses of promoting a modified or substitute trademark or service mark

Our rights in this Subsection D apply to any and all of the Marks (and any portion of any Mark) that we authorize you to use in this Agreement We may exercise these rights at any time and for any reason, business or otherwise, that we think best You acknowledge both our right to take this action and your obligation to comply with our directions

E **INDEMNIFICATION FOR USE OF MARKS**

We agree to reimburse you for all damages and expenses that you incur in any trademark infringement proceeding disputing your authorized use of any Mark under this Agreement if you have timely notified us of, and comply with our directions in responding to, the proceeding At our option, we may defend and control the defense of any proceeding arising from your use of any Mark under this Agreement

6 CONFIDENTIAL INFORMATION

We possess (and will continue to develop and acquire) certain confidential information, some of which constitutes trade secrets under applicable law (the "Confidential Information"), relating to developing and operating Andy's Frozen Custard Stores, including (without limitation)

(1) site selection criteria,

(2) recipes and related information regarding for Trade Secret Food Products,

(3) training and operations materials and manuals,

(4) methods, formats, specifications, standards, systems, procedures, food preparation techniques, sales and marketing techniques, knowledge, and experience used in developing and operating Andy's Frozen Custard Stores,

(5) marketing and advertising programs for Andy's Frozen Custard Stores,

(6) knowledge of specifications for and suppliers of Operating Assets, Trade Secret Food Products, and other products and supplies,

(7) any computer software or similar technology which is proprietary to us or the Franchise System, including, without limitation, digital passwords and identifications and any source code of, and data, reports, and other printed materials generated by, the software or similar technology,

(8) knowledge of the operating results and financial performance of Andy's Frozen Custard Stores other than the STORE, and

(9) graphic designs and related intellectual property

You acknowledge and agree that you will not acquire any interest in Confidential Information, other than the right to use it as we specify in operating the STORE during this Agreement's term, and that Confidential Information is proprietary, includes our trade secrets, and is disclosed to you only on the condition that you agree, and you in fact do agree, that you

(a) will not use Confidential Information in any other business or capacity,

(b) will keep each item deemed to be part of Confidential Information absolutely confidential, both during this Agreement's term and then thereafter for as long as the item is not generally known in the food-service industry,

(c) will not make unauthorized copies of any Confidential Information disclosed via electronic medium or in written or other tangible form, and

(d) will adopt and implement reasonable procedures to prevent unauthorized use or disclosure of Confidential Information, including, without limitation, restricting its disclosure to STORE personnel and others and using non-disclosure and non-competition agreements with those having access to Confidential Information We have the right to regulate the form of agreements that you use and to be a third party beneficiary of those agreements with independent enforcement rights

Confidential Information does not include information, knowledge, or know-how which you can demonstrate lawfully came to your attention before we provided it to you directly or indirectly, which, at the time we disclosed it to you, already had lawfully become generally known in the food-service industry through publication or communication by others (without violating an obligation to us), or which, after we disclose it to you, lawfully becomes generally known in the food-service industry through publication or communication by others (without violating an obligation to us) However, if we include any matter in Confidential Information, anyone who claims that it is not Confidential Information must prove that one of the exclusions provided in this paragraph is fulfilled

All ideas, concepts, techniques, or materials relating to an Andy's Frozen Custard Store, whether or not protectable intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the Franchise System, and works made-for-hire for us To the extent that any item does not qualify as a "work made-for-hire" for us, by this paragraph you assign ownership of that item, and all related rights to that item, to us and agree to take whatever action (including signing assignment or other documents) we request to evidence our ownership or to help us obtain intellectual property rights in the item

7 EXCLUSIVE RELATIONSHIP

You acknowledge that we have granted you the Franchise in consideration of and reliance upon your agreement to deal exclusively with us You therefore agree that, during this Agreement's term, neither you, any of your owners, nor any of your or your owners' spouses will

(a) have any direct or indirect controlling or non-controlling interest as an owner – whether of record, beneficially, or otherwise – in a Competitive Business, wherever located or operating (except that equity ownership of less than two percent (2%) of a Competitive Business whose stock or other forms of ownership interest are publicly traded on a recognized United States stock exchange will not be deemed to violate this subparagraph),

(b) perform services as a director, officer, manager, employee, consultant, representative, or agent for a Competitive Business, wherever located or operating,

(c) divert or attempt to divert any actual or potential business or customer of the STORE to a Competitive Business, or

(d) engage in any other activity which might injure the goodwill of the Marks and Franchise System

The term "Competitive Business" means (i) any restaurant or other food-service business which derives more than five percent (5%) of its revenue from selling frozen custard, frozen yogurt, ice cream or other frozen dessert products or (ii) any business granting franchises or licenses to others to operate the type of business specified in subparagraph (i) (other than an Andy's Frozen Custard Store operated under a franchise agreement with us)

You agree to obtain similar covenants from the personnel we specify, including officers, directors, managers and other employees attending our brand standard training program or having access to Confidential Information We have the right to regulate the form of agreement that you use and to be a third party beneficiary of that agreement with independent enforcement rights

8 SYSTEM STANDARDS

A CONDITION AND APPEARANCE OF THE STORE

You agree that

(1) you will maintain the condition and appearance of the STORE, its Operating Assets and the Premises in accordance with System Standards and consistent with the image of an Andy's Frozen Custard Store as an efficiently operated business offering high quality products and services and observing the highest standards of cleanliness, sanitation, efficient, courteous service and pleasant ambiance, and in that connection will take, without limitation, the following actions during the term of this Agreement (1) thorough cleaning, repainting and redecorating of the interior and exterior of the Premises at intervals we prescribe, (2) interior and exterior repair of the Premises, and (3) repair or replacement of damaged, worn out or obsolete Operating Assets,

(2) you will place or display at the Premises (interior and exterior) only those signs (including neon), emblems, designs, artwork, lettering, logos, and display and advertising materials that we from time to time approve,

(3) if at any time in our reasonable judgment, the general state of repair, appearance or cleanliness of the Premises of the STORE or its fixtures, furnishings, equipment or signs does not meet our standards, we have the right to notify you, specifying the action you must take to correct the deficiency If you do not initiate action to correct such deficiencies within ten (10) days after you receive our notice, and then continue in good faith and with due diligence, a bona fide program to complete any required maintenance or refurbishing, we have the right, in addition to all other remedies, to enter the Premises or the STORE and do any required maintenance or refurbishing on your behalf, and you agree to reimburse us on demand for any expenses we incur in that connection, and

(4) on notice from us, you agree to remodel, expand, redecorate, reequip and/or refurnish the Premises and the STORE to reflect changes in the operations of Andy's Frozen Custard Stores which we prescribe and require of new franchisees

B STORE MENU, SPECIFICATIONS, STANDARDS AND PROCEDURES

You agree that (1) the STORE will offer for sale all Menu Items and other products and services that we specify from time to time, and will only use recipes and methods of food preparation we have specified or approved, (2) the STORE will offer and sell approved products and services only in the manner we have prescribed, (3) you will not offer for sale or sell at the STORE, the Premises or any other location any products or services we have not approved, (4) all products will be offered and sold only at retail and from the Premises and you will not offer or sell any products at wholesale, and (5) you will discontinue selling and offering for sale any products or services that we at any time decide (in our sole discretion) to disapprove in writing

C **APPROVED PRODUCTS, DISTRIBUTORS AND SUPPLIERS**

We have developed or may develop standards and specifications for types, models and brands of required Operating Assets, Trade Secret Food Products, other products, ingredients, materials and supplies We reserve the right from time to time to approve specifications or suppliers and distributors of the above products that meet our reasonable standards and requirements If we do so, you agree to purchase only such products meeting those specifications, and if we require it, only from distributors and other suppliers we have approved, including ourselves or our affiliates

We may designate a single distributor or supplier (collectively "supplier") for any product, service, equipment, supply or material and may approve a supplier or distributor only as to certain products The designated supplier may be us or an affiliate of ours

We and our affiliates may receive payments from suppliers on account of such suppliers' dealings with you and other franchise owners, and may use any amounts so received without restriction and for any purpose we and our affiliates deem appropriate We may concentrate purchases with one or more suppliers or distributors to obtain lower prices or the best advertising support or services Approval of a supplier or distributor may be conditioned on requirements relating to product quality, prices, consistency, reliability, financial capability, labor relations, customer relations, frequency of delivery, concentration of purchases, standards of service, including prompt attention to complaints, or other criteria and may be temporary, pending our continued evaluation of the supplier or distributor from time to time

If you would like to purchase any items from any unapproved supplier or distributor, you must submit to us a written request for approval of the proposed supplier or distributor (Alternatively, the proposed supplier or distributor may submit its own request) We have the right to inspect the proposed supplier's or distributor's facilities, and to require product samples from the proposed supplier or distributor to be delivered at our option either directly to us or to any independent, certified laboratory which we designate for testing Either you or the proposed supplier or distributor must pay us a fee (not to exceed the reasonable cost of the inspection and the actual cost of the test) to make the evaluation We reserve the right to periodically re-inspect the facilities and products of any approved supplier or distributor and to revoke our approval if the supplier or distributor does not continue to meet any of our criteria We also reserve the right to charge manufacturers or suppliers a royalty for the right to manufacture products for use in an Andy's Frozen Custard Stores

We and our affiliates have developed specially formulated and prepared Trade Secret Food Products for use in the operation of Andy's Frozen Custard Stores You must use only the Trade Secret Food Products in the preparation of custard served and sold by your STORE Currently, you must purchase the Trade Secret Food Products from us or a designated third party supplier

D **COMPLIANCE WITH LAWS AND GOOD BUSINESS PRACTICES**

You must secure and maintain in force all required licenses, permits and certificates relating to the operation of the STORE and must operate the STORE in full compliance with all applicable laws, ordinances and regulations, including, without limitation, government regulations relating to occupational hazards, health, worker's compensation and unemployment insurance and withholding and payment of federal and state income taxes, social security taxes and sales and service taxes All advertising and promotion by you must be completely factual and must conform to the highest standards of ethical advertising The STORE must in all dealings with its customers, suppliers, us and the public adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct You agree to refrain from any business or advertising practice which may be injurious to our business and the goodwill associated with the Marks and other Andy's Frozen Custard Stores You must notify us in writing within five (5) days of the commencement of any action, suit or proceeding, and of the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, which may adversely affect your operation or financial condition or that of the STORE and of any notice of violation of any law, ordinance, or regulation relating to the STORE

E **MANAGEMENT OF THE STORE/CONFLICTING INTERESTS**

Except as provided below, you (or your Managing Owner) must act as the general manager of the STORE with responsibility for direct, on-premises supervision of the STORE You must keep us informed at all times of the identity of any supervisory employee(s) acting as assistant manager(s) of the STORE You (or your Managing Owner) must devote full time and efforts to the management and supervision of the STORE

If you (or your Managing Owner) own more than one Andy's Frozen Custard Store, each Andy's Frozen Custard Store must be under the direct on-premises supervision of a general manager we have approved and who has completed our brand standard training programs

F **INSURANCE**

During the term of this Agreement you must maintain in force at your sole expense comprehensive public liability, general liability, product liability and motor vehicle liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in connection with the STORE's operation, all containing the minimum liability coverage we prescribe from time to time We may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverages (including reasonable excess liability insurance) at any time to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances These insurance policies must name us and any affiliates we designate as additional named insureds and provide for thirty (30) days' prior written notice to us of a policy's material modification, cancellation or expiration You routinely must furnish us copies of your Certificates of Insurance or other evidence of your maintaining this insurance coverage and paying premiums If you fail or refuse to obtain and maintain the insurance we specify, in addition to our other remedies, we may (but need not) obtain such insurance for you and the STORE on your behalf, in which event you shall cooperate with us and reimburse us for all premiums, costs and expenses we incur in obtaining and maintaining the insurance, plus a reasonable fee for our time incurred in obtaining such insurance

G PRICING

We reserve the right, to the fullest extent allowed by applicable law, to establish maximum, minimum, or other pricing requirements with respect to the prices you may charge for products and services

H COMPLIANCE WITH SYSTEM STANDARDS

You acknowledge and agree that operating and maintaining the STORE according to System Standards are essential to preserve the goodwill of the Marks and all Andy's Frozen Custard Stores Therefore, you agree at all times to operate and maintain the STORE according to all of our System Standards, as we periodically modify and supplement them, even if you believe that a System Standard, as originally issued or subsequently modified, is not in the Franchise System's or the STORE's best interests Although we retain the right to establish and periodically modify System Standards that you have agreed to maintain, you retain the right to and responsibility for the day-to-day management and operation of the STORE and implementing and maintaining System Standards at the STORE

As examples, and without limitation, System Standards may regulate any one or more of the following, in addition to the items described in Subsections 8 A through 8 H above

(1) purchase, storage, preparation, handling, and packaging procedures and techniques for Menu Items and Trade Secret Food Products, and inventory requirements for Trade Secret Food Products and other products and supplies so that the STORE may operate at full capacity,

(2) terms and conditions of the sale and delivery of, and terms and methods of payment for, Trade Secret Food Products, other products, and services that you obtain from us and affiliated and unaffiliated suppliers, and our and our affiliates' right not to sell you any Trade Secret Food Products, or other products or to provide you with services, or to do so only on a "cash-on-delivery" or other basis, if you are in default under any agreement with us,

(3) sales, marketing, advertising, and promotional programs and materials and media, including social media websites, used in these programs,

(4) use and display of the Marks at the STORE and on napkins, boxes, bags, wrapping paper, labels, forms, paper and plastic products, and other supplies,

(5) issuing and honoring gift certificates,

(6) staffing levels for the STORE to meet brand standards, identifying the STORE's personnel, and suggested employee qualifications, training, dress, and appearance to meet brand standards (although you have sole responsibility and authority concerning employee selection and promotion, hours worked, rates of pay and other benefits, work assigned, and working conditions),

(7) days and hours of operation,

(8) participation in market research and testing and product and service development programs as well as participation in, and dues assessed for, advisory councils,

(9) accepting credit and debit cards, other payment systems, and check verification services,

(10) bookkeeping, accounting, data processing, and recordkeeping systems and forms, formats, content, and frequency of reports to us of sales, revenue, financial performance, and condition, and giving us copies of tax returns and other operating and financial information concerning the STORE,

(11) any other aspects of operating and maintaining the STORE that we determine to be useful to preserve or enhance the efficient operation, image, or goodwill of the Marks and Andy's Frozen Custard Stores

You agree that System Standards we prescribe in the Operations Manual, or otherwise communicate to you in writing or another tangible form (for example, via Franchise System extranet or Website), are part of this Agreement as if fully set forth within its text All references to this Agreement include all System Standards as periodically modified However, you agree that any materials, guidance, or assistance we provide with respect to employment-related policies or procedures, whether in the Operations Manual or otherwise, are solely for your optional use Those materials, guidance, and assistance do not form part of the mandatory System standards You will determine to what extent, if any, these materials, guidance, or assistance should apply to the STORE's employees You acknowledge that we do not dictate or control labor or employment matters for franchisees and Andy's Frozen Custard Store employees You are solely responsible for determining the terms and conditions of employment for all STORE employees, for all decisions concerning the hiring, firing, and discipline of STORE employees, and for all other aspects of the STORE's labor relations and employment practices

I <u>MODIFICATION OF SYSTEM STANDARDS</u>

We periodically may modify System Standards, which may accommodate regional or local variations, and these modifications may obligate you to invest additional capital in the STORE and/or incur higher operating costs You agree to implement any changes in System Standards within the time period we request, whether they involve refurbishing or remodeling the Premises or any other aspect of the STORE, buying new Operating Assets, adding new Menu Items and services, or otherwise modifying the nature of your operations, as if they were part of this Agreement as of the Effective Date

9 <u>MARKETING</u>

A <u>GRAND OPENING ADVERTISING</u>

We may require you to spend up to Twenty-Five Thousand Dollars ($25,000) to advertise and promote the STORE during a grand opening period that we designate You agree to comply with our guidelines for this grand opening advertising program

B ADVERTISING AND DEVELOPMENT FUND

Recognizing the value of advertising and marketing to the goodwill and public image of Andy's Frozen Custard Stores, we may establish an Advertising and Development Fund (the "Fund") for the advertising, marketing, and public relations programs and materials we deem appropriate You agree to contribute to the Fund the amounts that we prescribe from time to time, not to exceed two percent (2%) of the STORE's Gross Sales, payable in the same manner as the Royalty

We have the right to collect for deposit into the Fund any advertising, marketing, or similar allowances paid to us by suppliers who deal with Andy's Frozen Custard Stores and with whom we have agreed that we will so deposit these allowances (These payments are different from those which are not designated by suppliers to be used exclusively for advertising or similar purposes and which we and our affiliates therefore may use for any purposes we and they deem appropriate, as provided in Subsection 8 C above)

We will direct all programs that the Fund finances, with sole control over the creative concepts, materials, and endorsements used and their geographic, market, and media placement and allocation The Fund may pay for preparing and producing video, audio, and written materials and electronic media, developing, implementing, and maintaining an electronic commerce Website and/or related strategies, administering regional and multi-regional marketing and advertising programs, including, without limitation, purchasing trade journal, direct mail, and other media advertising and using advertising, promotion, and marketing agencies and other advisors to provide assistance, and supporting public relations, market research, and other advertising, promotion, and marketing activities

The Fund periodically will give you samples of advertising, marketing, and promotional formats and materials at no cost We will sell you multiple copies of these materials at our direct cost of producing them, plus any related shipping, handling, and storage charges

We will account for the Fund separately from our other funds and not use the Fund for any of our general operating expenses However, we may use the Fund to pay the reasonable salaries and benefits of personnel who manage and administer the Fund, the Fund's other administrative costs, travel expenses of personnel while they are on Fund business, meeting costs, overhead relating to Fund business, and other expenses that we incur in activities reasonably related to administering or directing the Fund and its programs, including, without limitation, conducting market research, public relations, preparing advertising, promotion, and marketing materials, and collecting and accounting for Fund contributions

The Fund will not be our asset Although the Fund is not a trust, we will hold all Fund contributions for the benefit of the contributors and use contributions only for the purposes described in this Subsection We do not owe any fiduciary obligation to you for administering the Fund or any other reason The Fund may spend in any fiscal year more or less than the total Fund contributions in that year, borrow from us or others (paying reasonable interest) to cover deficits, or invest any surplus for future use We will use all interest earned on Fund contributions to pay costs before using the Fund's other assets

We will prepare an annual, unaudited statement of Fund collections and expenses and give you the statement upon written request We may have the Fund audited annually, at the Fund's expense, by an independent certified public accountant We may incorporate the Fund or operate it through a separate entity whenever we deem appropriate The successor entity will have all of the rights and duties specified in this Subsection

We intend the Fund to maximize recognition of the Marks and patronage of Andy's Frozen Custard Stores Although we will try to use the Fund to develop advertising and marketing materials and programs, and to place advertising and marketing, that will benefit all Andy's Frozen Custard Stores, we need not ensure that Fund expenditures in or affecting any geographic area are proportionate or equivalent to Fund contributions by Andy's Frozen Custard Stores operating in that geographic area or that any Andy's Frozen Custard Store benefits directly or in proportion to its Fund contribution from the development of advertising and marketing materials or the placement of advertising and marketing

We have the right, but no obligation, to use collection agents and institute legal proceedings to collect Fund contributions at the Fund's expense We also may forgive, waive, settle, and compromise all claims by or against the Fund Except as expressly provided in this Subsection, we assume no direct or indirect liability or obligation to you for collecting amounts due to, maintaining, directing, or administering the Fund

We may at any time defer or reduce contributions of an Andy's Frozen Custard Store franchise owner and, upon thirty (30) days' prior written notice to you, reduce or suspend Fund contributions and operations for one or more periods of any length and terminate (and, if terminated, reinstate) the Fund If we terminate the Fund, we will distribute all unspent monies to our franchise owners, and to us and our affiliates, in proportion to their, and our, respective Fund contributions during the preceding twelve (12) month period

C **BY YOU**

You agree to list and advertise the STORE in at least one (1) recommended classified telephone directory distributed within the STORE's market area (in the business classifications we prescribe from time to time) and to use an approved form of classified telephone directory advertisement If other Andy's Frozen Custard Stores are located within the directory's distribution area, we may require you to participate in a collective telephone directory advertisement with those other Andy's Frozen Custard Stores and to pay your share of that collective advertisement

In addition to your grand opening obligation in Subsection 9 A above and your Fund contribution obligations in Subsection 9 B above, you agree to spend at least three percent (3%) of the STORE's Gross Sales to advertise and promote your STORE (this may include the costs of yellow pages advertising) Within thirty (30) days after the end of each month, you agree to send us, in the manner we prescribe, an accounting of your expenditures for local advertising and promotion during the preceding month

Your local advertising and promotion must follow our guidelines All advertising and promotional materials that you develop for your STORE must contain notices of our Website's domain name in the manner we designate You may not develop, maintain, or authorize any Website that mentions or describes you or the STORE or displays any of the Marks You agree that your advertising, promotion, and marketing will be completely clear, factual, and not misleading and conform to both the highest standards of ethical advertising and marketing and the advertising and marketing policies that we prescribe from time to time

Before you use them, you agree to send us or our designated agency for approval samples of all advertising, promotional, and marketing materials which we have not prepared or previously disapproved If you do not receive written disapproval within five (5) days after we or our designated agency receives the materials, they are deemed to be approved You may not use any advertising, promotional, or marketing materials that we have not approved or have disapproved

D **COOPERATIVE ADVERTISING PROGRAMS**

We may designate an advertising coverage area ("ACA") — local or regional — in which two (2) or more Andy's Frozen Custard Stores are located in order to establish a cooperative advertising program ("Cooperative Program") for that ACA An ACA is the area covered by the particular advertising medium recognized in the industry All franchise owners in the ACA will be required to participate Each Andy's Frozen Custard Store operating in the ACA will have one vote, including Andy's Frozen Custard Stores operated by us or our affiliates

If a Cooperative Program is established for your ACA, you will be required to contribute up to three percent (3%) of your STORE's Gross Sales to the Cooperative Program weekly, monthly, or as otherwise specified by fifty percent (50%) or more of the Andy's Frozen Custard Stores operating in the ACA You will not be required to contribute more than three percent (3%) of your STORE's Gross Sales to the Cooperative Program unless sixty-seven percent (67%) or more of the Andy's Frozen Custard Stores operating in the ACA, including any Andy's Frozen Custard Stores operated by us or our affiliates, vote to increase the contributions of all Andy's Frozen Custard Stores operating in the ACA in excess of the three percent (3%) Any amounts you contribute to a Cooperative Program will count toward the three percent of Gross Sales you are required to spend under Subsection 9 C to promote the STORE

10 RECORDS, REPORTS, AND FINANCIAL STATEMENTS

You agree to establish and maintain at your own expense a bookkeeping, accounting, and recordkeeping system conforming to the requirements and formats we prescribe from time to time (other than employee-related information) We may require you to use a Computer System to maintain certain sales data and other information and to report such information to us via a website or other means You agree to give us in the manner and format that we prescribe from time to time

(a) on or before Wednesday of each week, a report on the STORE's Gross Sales during the week ending on the preceding Sunday,

(b) within fifteen (15) days after the end of each calendar quarter, the operating statements, financial statements, statistical reports, purchase records, and other information we request regarding you and the STORE covering the previous calendar quarter and the fiscal year to date,

(c) by April 15th of each year, annual profit and loss and source and use of funds statements and a balance sheet for the STORE as of the end of the prior calendar year,

(d) within ten (10) days after our request, exact copies of federal and state income tax returns, sales tax returns, and any other forms, records, books, and other information we periodically require relating to the STORE and the Franchise

You agree to verify and sign each report and financial statement in the manner we prescribe We may disclose data derived from these reports, although we will not without your consent (unless required by law) disclose your identity in any materials that we circulate publicly Moreover, we may, as often as we deem appropriate (including on a daily basis), access the Computer System and retrieve all information relating to the STORE's operation

You agree to preserve and maintain all records in a secure location at the STORE for at least three (3) years (including, but not limited to, sales checks, purchase orders, invoices, payroll records, customer lists, check stubs, sales tax records and returns, cash receipts and disbursement journals, and general ledgers) We may require you to have audited financial statements prepared annually during this Agreement's term

11 INSPECTIONS AND AUDITS

A OUR RIGHT TO INSPECT THE STORE

To determine whether you and the STORE are complying with this Agreement and all System Standards, we and our designated agents or representatives may at all times and without prior notice to you (1) inspect the STORE, (2) photograph the STORE and observe and videotape the STORE's operation for consecutive or intermittent periods we deem necessary, (3) remove samples of any products and supplies, (4) interview the STORE's personnel and customers, and (5) inspect and copy any books, records, and documents relating to the STORE's operation You agree to cooperate with us fully If we exercise any of these rights, we will not interfere unreasonably with the STORE's operation

B OUR RIGHT TO AUDIT

We may at any time during your business hours, and without prior notice to you, examine your (if you are an Entity) and the STORE's business, bookkeeping, and accounting records, sales and income tax records and returns, and other records You agree to cooperate fully with our representatives and independent accountants in any examination If any examination discloses an understatement of the STORE's Gross Sales, you agree to pay us, within fifteen (15) days after receiving the examination report, the Royalty and Fund contributions due on the amount of the understatement, plus our service charges and interest on the understated amounts from the date originally due until the date of payment Furthermore, if an examination is necessary due to your failure to furnish reports, supporting records, or other information as required, or to furnish these items on a timely basis, or if our examination reveals a Royalty or

Fund contribution understatement exceeding two percent (2%) of the amount that you actually reported to us for the period examined, you agree to reimburse us for the costs of the examination, including, without limitation, the charges of attorneys and independent accountants and the travel expenses, room and board, and compensation of our employees These remedies are in addition to our other remedies and rights under this Agreement and applicable law

12 TRANSFER

A BY US

You acknowledge that we maintain a staff to manage and operate the Franchise System and that staff members can change as employees come and go You represent that you have not signed this Agreement in reliance on any particular shareholder, director, officer, or employee remaining with us in that capacity We may change our ownership or form and/or assign this Agreement and any other agreement to a third party without restriction After our assignment of this Agreement to a third party who expressly assumes the obligations under this Agreement, we no longer will have any performance or other obligations under this Agreement

B BY YOU

You understand and acknowledge that the rights and duties this Agreement creates are personal to you (or, if you are an Entity, to your owners) and that we have granted you the Franchise in reliance upon our perceptions of your (or your owners') individual or collective character, skill, aptitude, attitude, business ability, and financial capacity Accordingly, none of the following may be transferred without our prior written approval (i) this Agreement (or any interest in this Agreement), (ii) the STORE (or any right to receive all or a portion of the STORE's profits or losses or capital appreciation related to the STORE), (iii) substantially all of the assets of the STORE, (iv) any ownership interest in you (regardless of its size), or (v) any ownership interest in any of your owners (if such owners are legal entities) A transfer of the STORE's ownership, possession, or control, or substantially all of its assets, may be made only with a transfer of this Agreement Any transfer without our approval is a breach of this Agreement and has no effect

In this Agreement, the term "transfer" includes a voluntary, involuntary, direct, or indirect assignment, sale, gift, or other disposition An assignment, sale, gift, or other disposition includes the following events

(a) transfer of ownership of capital stock, a partnership or membership interest, or another form of ownership interest,

(b) merger or consolidation or issuance of additional securities or other forms of ownership interest,

(c) any sale of a security convertible to an ownership interest,

(d) transfer of an interest in you, this Agreement, the STORE or substantially all of its assets, or your owners in a divorce, insolvency, or entity dissolution proceeding or otherwise by operation of law,

(e) if you, one of your owners, or an owner of one of your owners dies, a transfer of an interest in you, this Agreement, the STORE or substantially all of its assets, or your owner by will, declaration of or transfer in trust, or under the laws of intestate succession, or

(f) pledge of this Agreement (to someone other than us) or of an ownership interest in you or your owners as security, foreclosure upon the STORE, or your transfer, surrender, or loss of the STORE's possession, control, or management You may grant a security interest (including a purchase money security interest) in the STORE's assets (not including this Agreement) to a lender that finances your acquisition, development, and/or operation of the STORE without having to obtain our prior written approval as long as you give us ten (10) days' prior written notice

C **CONDITIONS FOR APPROVAL OF TRANSFER**

If you (and your owners) are fully complying with this Agreement, then, subject to the other provisions of this Section 12, we will approve a transfer that meets all of the requirements in this Subsection

If you are an entity, your owners may transfer a non-controlling ownership interest in you or your owners (determined as of the date on which the proposed transfer will occur) if (1) the proposed transferee and its direct and indirect owners (if the transferee is an Entity) are of good character and otherwise meet our then applicable standards for Andy's Frozen Custard Store franchise owners (including no ownership interest in or performance of services for a Competitive Business), and (2) you give us prior written notice of the transfer

For any other proposed transfer (including a transfer of this Agreement, a transfer of a controlling ownership interest in you or one of your owners, or a transfer which is one of a series of transfers (regardless of the time period over which these transfers take place) which in the aggregate transfer this Agreement or a controlling ownership interest in you or one of your owners) all of the following conditions must be met before or concurrently with the effective date of the transfer

(1) the transferee has sufficient business experience, aptitude, and financial resources to operate the STORE,

(2) you have paid all Royalties, Fund and Cooperative Program contributions, and other amounts owed to us, our affiliates, and third party vendors, have submitted all required reports and statements, and have not violated any provision of this Agreement, the Lease, or any other agreement with us during both the sixty (60) day period before you requested our consent to the transfer and the period between your request and the effective date of the transfer,

(3) neither the transferee nor its owners (if the transferee is an Entity) or affiliates have an ownership interest (direct or indirect) in or perform services for a Competitive Business,

(4) the transferee (or its managing owner) satisfactorily completes our brand standard training program,

(5) your landlord allows you to transfer the Lease or sublease the Premises to the transferee,

(6) the transferee shall (if the transfer is of this Agreement), or you shall (if the transfer is of a controlling ownership interest in you or one of your owners), sign our then current form of franchise agreement and related documents, any and all of the provisions of which may differ materially from any and all of those contained in this Agreement, including the Royalty and the Fund and Cooperative Program contributions, provided, however, that the term of the new franchise agreement signed will equal ten (10) years as long as the transferee may maintain possession of the Premises during that ten (10) year period,

(7) you or the transferee pays us a transfer fee equal to sixty percent (60%) of our then current initial franchise fee charged to a franchise owner who is new to the system,

(8) you (and your transferring owners) sign a general release, in a form satisfactory to us, of any and all claims against us and our shareholders, officers, directors, employees, and agents,

(9) we have determined that the purchase price and payment terms will not adversely affect the transferee's operation of the STORE,

(10) if you or your owners finance any part of the purchase price, you and/or your owners agree that all of the transferee's obligations under promissory notes, agreements, or security interests reserved in the STORE are subordinate to the transferee's obligation to pay Royalties, Fund contributions, and other amounts due to us, our affiliates, and third party vendors and otherwise to comply with this Agreement,

(11) (a) you have corrected any existing deficiencies of the STORE of which we have notified you on a punchlist or in other communications, and/or (b) the transferee agrees (if the transfer is of this Agreement) to upgrade, remodel, and refurbish the STORE in accordance with our then current requirements and specifications for Andy's Frozen Custard Stores within the time period we specify following the effective date of the transfer (we will advise the transferee before the effective date of the transfer of the specific actions that it must take and the time period within which such actions must be taken),

(12) you and your transferring owners (and your and your owners' spouses) will not, for two (2) years beginning on the transfer's effective date, engage in any of the activities proscribed in Subsection 15 D below, and

(13) you and your transferring owners will not directly or indirectly at any time or in any manner (except with respect to other Andy's Frozen Custard Stores you own and operate) identify yourself or themselves or any business as a current or former

Andy's Frozen Custard Store or as one of our franchise owners, use any Mark, any colorable imitation of a Mark, or other indicia of an Andy's Frozen Custard Store in any manner or for any purpose, or utilize for any purpose any trade name, trade or service mark, or other commercial symbol that suggests or indicates a connection or association with us

We may review all information regarding the STORE that you give the transferee, correct any information that we believe is inaccurate, and give the transferee copies of any reports that you have given us or we have made regarding the STORE

D **TRANSFER TO A WHOLLY-OWNED CORPORATION OR LIMITED LIABILITY COMPANY**

Despite Subsection C above, if you are fully complying with this Agreement, you may transfer this Agreement to a corporation or limited liability company which conducts no business other than the STORE and, if applicable, other Andy's Frozen Custard Stores, in which you maintain management control, and of which you own and control one hundred percent (100%) of the equity and voting power of all issued and outstanding ownership interests, provided that all of the STORE's assets are owned, and the STORE's business is conducted, only by that single corporation or limited liability company The corporation or limited liability company must expressly assume all of your obligations under this Agreement Transfers of ownership interests in the corporation or limited liability company are subject to Subsection C above You agree to remain personally liable under this Agreement as if the transfer to the corporation or limited liability company did not occur

E **YOUR DEATH OR DISABILITY**

(1) **Transfer Upon Death or Disability** Upon your or your Managing Owner's death or disability, your or the Managing Owner's executor, administrator, conservator, guardian, or other personal representative must transfer your interest in this Agreement, or the Managing Owner's ownership interest in you, to a third party (which may be your or the Managing Owner's heirs, beneficiaries, or devisees) That transfer must be completed within a reasonable time, not to exceed nine (9) months from the date of death or disability, and is subject to all of the terms and conditions in this Section 12 A failure to transfer your interest in this Agreement or the Managing Owner's ownership interest in you within this time period is a breach of this Agreement

The term "disability" means a mental or physical disability, impairment, or condition that is reasonably expected to prevent or actually does prevent you or the Managing Owner from supervising the STORE's management and operation

(2) **Operation Upon Death or Disability** Upon your or the Managing Owner's death or disability, your or the Managing Owner's executor, administrator, conservator, guardian, or other personal representative must within a reasonable time, not to exceed fifteen (15) days from the date of death or disability, appoint a manager The manager must complete our brand standard training program at your expense A new Managing Owner acceptable to us also must be appointed for the STORE, and that new

Managing Owner must complete our brand standard training program, within sixty (60) days after the date of death or disability

If, in our judgment, the STORE is not being managed properly any time after your or the Managing Owner's death or disability, we may, but need not, assume the STORE's management (or appoint a third party to assume its management) All funds from the STORE's operation while it is under our (or the third party's) management will be kept in a separate account, and all expenses will be charged to this account We may charge you (in addition to the Royalty, Fund contributions, and other amounts due under this Agreement) Five Hundred Dollars ($500) per day, plus our (or the third party's) direct out-of-pocket costs and expenses, if we (or a third party) assume the STORE's management under this subparagraph We (or a third party) have a duty to utilize only reasonable efforts and will not be liable to you or your owners for any debts, losses, or obligations the STORE incurs, or to any of your creditors for any products, other assets, or services the STORE purchases, while we (or a third party) manage it

F **EFFECT OF CONSENT TO TRANSFER**

Our consent to a transfer of this Agreement and the STORE, or any interest in you or your owners, is not a representation of the fairness of the terms of any contract between you and the transferee, a guarantee of the STORE's or transferee's prospects of success, or a waiver of any claims we have against you (or your owners) or of our right to demand the transferee's full compliance with this Agreement

G **OUR RIGHT OF FIRST REFUSAL**

If you (or any of your owners) at any time determine to sell or transfer for consideration an interest in this Agreement and the STORE, or an ownership interest in you (except to or among your current owners, which is not subject to this Subsection), in a transaction that otherwise would be allowed under Subsections 12 B and C above, you (or your owners) agree to obtain from a responsible and fully disclosed buyer, and send us, a true and complete copy of a bona fide, executed written offer (which may include a letter of intent) relating exclusively to an interest in you or in this Agreement and the STORE The offer must include details of the payment terms of the proposed sale and the sources and terms of any financing for the proposed purchase price To be a valid, bona fide offer, the proposed purchase price must be in a dollar amount, and the proposed buyer must submit with its offer an earnest money deposit equal to five percent (5%) or more of the offering price

The right of first refusal process will not be triggered by a proposed transfer that would not be allowed under Subsections B and C above We may require you (or your owners) to send us copies of any materials or information sent to the proposed buyer or transferee regarding the possible transaction

We may, by written notice delivered to you or your selling owner(s) within thirty (30) days after we receive both an exact copy of the offer and all other information we request, elect to purchase the interest offered for the price and on the terms and conditions contained in the offer, provided that

(1) we may substitute cash for any form of payment proposed in the offer (such as ownership interests in a privately-held entity),

(2) our credit will be deemed equal to the credit of any proposed buyer (meaning that, if the proposed consideration includes promissory notes, we or our designee may provide promissory notes with the same terms as those offered by the proposed buyer),

(3) we will have an additional thirty (30) days to prepare for closing after notifying you of our election to purchase, and

(4) we must receive, and you and your owners agree to make, all customary representations and warranties given by the seller of the assets of a business or the ownership interests in a legal entity, as applicable, including, without limitation, representations and warranties regarding (a) ownership and condition of and title to ownership interests and/or assets, (b) liens and encumbrances relating to ownership interests and/or assets, and (c) validity of contracts and the liabilities, contingent or otherwise, of the entity whose assets or ownership interests are being purchased

If we exercise our right of first refusal, you and your selling owner(s) agree that, for two (2) years beginning on the closing date, you and they will be bound by the non-competition covenant contained in Subsection 15 D below We have the unrestricted right to assign this right of first refusal to a third party, who then will have the rights described in this Subsection

If we do not exercise our right of first refusal, you or your owners may complete the sale to the proposed buyer on the original offer's terms, but only if we otherwise approve the transfer in accordance with, and you (and your owners) and the transferee comply with the conditions in, Subsections B and C above This means that, even if we do not exercise our right of first refusal (whether or not it is properly triggered as provided above), if the proposed transfer otherwise would not be allowed under Subsections B and C above, you (or your owners) may not move forward with the transfer at all

If you do not complete the sale to the proposed buyer within sixty (60) days after we notify you that we do not intend to exercise our right of first refusal, or if there is a material change in the terms of the sale (which you agree to tell us promptly), we or our designee will have an additional right of first refusal during the thirty (30) day period following either the expiration of the sixty (60) day period or our receipt of notice of the material change(s) in the sale's terms, either on the terms originally offered or the modified terms, at our or our designee's option

13 EXPIRATION OF THIS AGREEMENT

A YOUR RIGHT TO ACQUIRE A SUCCESSOR FRANCHISE

If you meet certain conditions, then you will have the option to acquire two successor franchise terms Each of the two successor terms will be five (5) years, for a total of ten (10) years The qualifications and conditions for the first successor term are described below The qualifications and conditions for the second successor term will be described in the form of franchise agreement signed upon the expiration of this Agreement

When this Agreement expires

(1) if you (and each of your owners) have substantially complied with this Agreement during its term, and

(2) if you (and each of your owners) are, both on the date you give us written notice of your election to acquire a successor franchise (as provided in Subsection 13 B below) and on the date on which the term of the successor franchise would commence, in full compliance with this Agreement and all System Standards, and

(3) provided that (a) you maintain possession of and agree (regardless of cost) to remodel and/or expand the STORE, add or replace improvements and Operating Assets, and otherwise modify the STORE as we require to comply with System Standards then applicable for new Andy's Frozen Custard Stores, or (b) at your option, you secure a substitute premises that we approve and you develop those premises according to System Standards then applicable for Andy's Frozen Custard Stores,

then you have the option to acquire a successor franchise term of five (5) years commencing immediately upon the expiration of this Agreement You agree to sign the franchise agreement we then use to grant franchises for Andy's Frozen Custard Stores (modified as necessary to reflect the fact that it is for a successor franchise), which may contain provisions that differ materially from any and all of those contained in this Agreement You will not owe a renewal fee for either of the two five-year renewal terms

If you (and each of your owners) are not, both on the date you give us written notice of your election to acquire a successor franchise and on the date on which the term of the successor franchise commences, in full compliance with this Agreement and all System Standards, you acknowledge that we need not grant you a successor franchise, whether or not we had, or chose to exercise, the right to terminate this Agreement during its term under Subsection 14 B

B **GRANT OF A SUCCESSOR FRANCHISE**

You agree to give us written notice of your election to acquire a successor franchise no more than two hundred twenty (220) days and no less than one hundred eighty (180) days before this Agreement expires We agree to give you written notice ("Our Notice"), not more than ninety (90) days after we receive your notice, of our decision

(1) to grant you a successor franchise,

(2) to grant you a successor franchise on the condition that you correct existing deficiencies of the STORE or in your operation of the STORE, or

(3) not to grant you a successor franchise based on our determination that you and your owners have not substantially complied with this Agreement during its term or

were not in full compliance with this Agreement and all System Standards on the date you gave us written notice of your election to acquire a successor franchise

If applicable, Our Notice will

(a) describe the remodeling, expansion, improvements, and/or modifications required to bring the STORE into compliance with then applicable System Standards for new Andy's Frozen Custard Stores, and

(b) state the actions you must take to correct operating deficiencies and the time period in which you must correct these deficiencies

If we elect not to grant you a successor franchise, Our Notice will describe the reasons for our decision If we elect to grant you a successor franchise, your right to acquire a successor franchise is subject to your full compliance with all of the terms and conditions of this Agreement through the date of its expiration, in addition to your compliance with the obligations described in Our Notice

If Our Notice states that you must cure certain deficiencies of the STORE or its operation as a condition to our granting you a successor franchise, we will give you written notice of our decision not to grant a successor franchise, based upon your failure to cure those deficiencies, not less than ninety (90) days before this Agreement expires, provided, however, that we need not give you this ninety (90) days' notice if we decide not to grant you a successor franchise due to your breach of this Agreement during the ninety (90) day period before it expires If we fail to give you

(i) notice of deficiencies in the STORE, or in your operation of the STORE, within ninety (90) days after we receive your timely election to acquire a successor franchise (if we elect to grant you a successor franchise under subparagraphs (2) and (b) above), or

(ii) notice of our decision not to grant a successor franchise at least ninety (90) days before this Agreement expires, if this notice is required,

we may extend this Agreement's term for the time period necessary to give you either reasonable time to correct deficiencies or the ninety (90) days' notice of our refusal to grant a successor franchise If you fail to notify us of your election to acquire a successor franchise within the prescribed time period, we need not grant you a successor franchise

C **<u>AGREEMENTS/RELEASES</u>**

If you satisfy all of the other conditions for a successor franchise, you and your owners agree to execute the form of franchise agreement and any ancillary agreements we then customarily use in granting franchises for Andy's Frozen Custard Stores (modified as necessary to reflect the fact that it is for a successor franchise), which may contain provisions that differ materially from any and all of those contained in this Agreement You and your owners further agree to sign general releases, in a form satisfactory to us, of any and all claims against us and our shareholders, officers, directors, employees, agents, successors, and assigns We will consider your or your owners' failure to sign these agreements and releases and to deliver them to us for acceptance and execution within thirty (30) days after their delivery to you to be an election not to acquire a successor franchise

14 TERMINATION OF AGREEMENT

A BY YOU

If you and your owners are fully complying with this Agreement and we materially fail to comply with this Agreement and do not correct the failure within thirty (30) days after you deliver written notice of the material failure to us or, if we cannot correct the failure within thirty (30) days, give you within thirty (30) days after your notice reasonable evidence of our effort to correct the failure within a reasonable time, you may terminate this Agreement effective an additional thirty (30) days after you deliver to us written notice of termination (The time period during which we may cure any material failure to comply with this Agreement after receiving notice from you is called the "Cure Period ") However, if we send you written notice during the Cure Period indicating either that (1) we do not agree that we have materially failed to comply with this Agreement or (2) we have fully corrected the failure, then you may not terminate this Agreement, instead, if you disagree with our position, you agree to submit the dispute to arbitration in accordance with Subsection 17 E below

This Agreement will remain in full force and effect during these arbitration proceedings (unless we terminate it under Subsection B below) If the arbitrator determines that we are materially failing to comply with this Agreement, or that we did not fully correct a material failure to comply, then we will have an additional thirty (30) days following the arbitrator's decision to correct the failure If we fail to do so, then you may terminate this Agreement effective an additional thirty (30) days after you deliver to us written notice of termination

Your termination of this Agreement other than according to this Subsection 14 A will be deemed a termination without cause and a breach of this Agreement

B BY US

We may terminate this Agreement, effective upon delivery of written notice of termination to you, if

(1) you (or any of your owners) have made or make any material misrepresentation or omission in acquiring the Franchise or operating the STORE,

(2) you do not locate, and sign a Lease or purchase document for, an acceptable site for the Premises within two hundred seventy (270) days after the Effective Date,

(3) you do not open the STORE for business within three hundred sixty (360) days after the Effective Date,

(4) you (or your Managing Owner) and your manager-level employee do not satisfactorily complete the initial brand standard training program,

(5) you abandon or fail actively to operate the STORE for three (3) or more consecutive business days, unless you close the STORE for a purpose we approve or because of casualty or government order,

(6) you (or your owners) make or attempt to make any transfer in violation of Section 12,

(7) you (or any of your owners) are or have been convicted by a trial court of, or plead or have pleaded no contest to, a felony,

(8) you fail to maintain the insurance we require and do not correct the failure within ten (10) days after we deliver written notice of that failure to you,

(9) you (or any of your owners) engage in any dishonest or unethical conduct which, in our opinion, adversely affects the STORE's reputation or the goodwill associated with the Marks,

(10) you lose the right to occupy the Premises and fail (a) to begin immediately to look for a substitute site or (b) to locate a substitute site, and to begin operating the STORE from that substitute site, within ninety (90) days,

(11) you (or any of your owners) knowingly make any unauthorized use or disclosure of any part of the Operations Manual or any other Confidential Information,

(12) you violate any health, safety, or sanitation law, ordinance, or regulation, or operate the STORE in an unsafe manner, and do not begin to cure the violation immediately, and correct the violation within seventy-two (72) hours, after you receive notice from us or any other party,

(13) you fail to pay us (or our affiliates) any amounts due and do not correct the failure within ten (10) days after we deliver written notice of that failure to you,

(14) you fail to pay when due any federal or state income, service, sales, or other taxes due on the STORE's operation, unless you are in good faith contesting your liability for these taxes,

(15) you understate the STORE's Gross Sales three (3) times or more during this Agreement's term or by more than five percent (5%) on any one occasion,

(16) you (or any of your owners) (a) fail on three (3) or more separate occasions within any twelve (12) consecutive month period to comply with this Agreement, whether or not we notify you of the failures, and, if we do notify you of the failures, whether or not you correct the failures after our delivery of notice to you, or (b) fail on two (2) or more separate occasions within any six (6) consecutive month period to comply with the same obligation under this Agreement, whether or not we notify you of the failures, and, if we do notify you of the failures, whether or not you correct the failures after our delivery of notice to you,

(17) you make an assignment for the benefit of creditors or admit in writing your insolvency or inability to pay your debts generally as they become due, you consent to the appointment of a receiver, trustee, or liquidator of all or the substantial part of your property, the STORE is attached, seized, subjected to a writ or distress warrant, or levied upon, unless the attachment, seizure, writ, warrant, or levy is vacated within thirty (30) days, or any order appointing a receiver, trustee, or liquidator of you or the STORE is not vacated within thirty (30) days following the order's entry,

(18) your or any of your owners' assets, property, or interests are blocked under any law, ordinance, or regulation relating to terrorist activities, or you or any of your owners otherwise violate any such law, ordinance, or regulation, or

(19) you (or any of your owners) fail to comply with any other provision of this Agreement or any System Standard and do not correct the failure within thirty (30) days after we deliver written notice of the failure to you

C ASSUMPTION OF MANAGEMENT

We have the right (but not the obligation), under the circumstances described below, to enter the Premises and assume the STORE's management (or to appoint a third party to assume its management) for any period of time we deem appropriate If we (or a third party) assume the STORE's management under subparagraphs (1) and (2) below, you agree to pay us (in addition to the Royalty, Fund contributions, and other amounts due under this Agreement) Five Hundred Dollars ($500) per day, plus our (or the third party's) direct out-of-pocket costs and expenses, for up to sixty (60) days after we assume management

If we (or a third party) assume the STORE's management, you acknowledge that we (or the third party) will have a duty to utilize only reasonable efforts and will not be liable to you or your owners for any debts, losses, or obligations the STORE incurs, or to any of your creditors for any supplies, products, or other assets or services the STORE purchases, while we (or the third party) manage it

We (or a third party) may assume the STORE's management under the following circumstances (1) if you abandon or fail actively to operate the STORE, (2) if you fail to comply with any provision of this Agreement or any System Standard and do not cure the failure within the time period we specify in our notice to you, or (3) if this Agreement expires or is terminated and we are deciding whether to exercise our option to purchase the STORE under Subsection 15 E below

If we exercise our rights under subparagraphs (1) or (2) above, that will not affect our right to terminate this Agreement under Subsection 14 B above

15 OUR AND YOUR RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION OF THIS AGREEMENT

A PAYMENT OF AMOUNTS OWED TO US

You agree to pay us within fifteen (15) days after this Agreement expires or is terminated, or on any later date that we determine the amounts due to us, the Royalties, Fund contributions, interest, and all other amounts owed to us (and our affiliates) which then are unpaid

B MARKS

When this Agreement expires or is terminated

(1) you may not directly or indirectly at any time or in any manner (except with other Andy's Frozen Custard Stores you own and operate) identify yourself or any business as a current or former Andy's Frozen Custard Store or as one of our current or former franchise owners, use any Mark, any colorable imitation of a Mark, or other indicia of an Andy's Frozen Custard Store in any manner or for any purpose, or use for any purpose any trade name, trade or service mark, or other commercial symbol that indicates or suggests a connection or association with us,

(2) you agree to take the action required to cancel all fictitious or assumed name or equivalent registrations relating to your use of any Mark,

(3) you agree to deliver to us within thirty (30) days all signs, sign-faces, sign-cabinets, marketing materials, forms, and other materials containing any Mark or otherwise identifying or relating to an Andy's Frozen Custard Store that we request and allow us, without liability to you or third parties for trespass or any other claim, to enter the Premises and remove these items from the STORE,

(4) if we do not have or do not exercise an option to purchase the STORE under Subsection E below, you agree promptly and at your own expense to make the alterations we specify in our Operations Manual (or otherwise) to distinguish the STORE clearly from its former appearance and from other Andy's Frozen Custard Stores in order to prevent public confusion,

(5) you agree to notify the telephone company and all telephone directory publishers of the termination or expiration of your right to use any telephone, facsimile, or other numbers and telephone directory listings associated with any Mark, to authorize the transfer of these numbers and directory listings to us or at our direction, and/or to instruct the telephone company to forward all calls made to your numbers to numbers we specify If you fail to do so, we may take whatever action and sign whatever documents we deem appropriate on your behalf to effect these events, and

(6) you agree to give us, within thirty (30) days after the expiration or termination of this Agreement, evidence satisfactory to us of your compliance with these obligations

C CONFIDENTIAL INFORMATION

You agree that, when this Agreement expires or is terminated, you will immediately cease using any of our Confidential Information (including computer software or similar technology and digital passwords and identifications that we have licensed to you or that otherwise are proprietary to us or the Franchise System) in any business or otherwise and return to us all copies of the Operations Manual and any other confidential materials that we have loaned you

D COVENANT NOT TO COMPETE

Upon

(1) our termination of this Agreement according to its terms and conditions,

(2) your termination of this Agreement without cause, or

(3) expiration of this Agreement (if we offer, but you elect not to acquire, a successor franchise, or if we do not offer you a successor franchise due to your failure to satisfy the conditions for a successor franchise set forth in Section 13),

you and your owners agree that, for two (2) years beginning on the effective date of termination or expiration or the date on which all persons restricted by this Subsection begin to comply with this Subsection, whichever is later, neither you nor any of your owners will have any direct or indirect interest (e g , through a spouse) as an owner (whether of record, beneficially, or otherwise), investor, partner, director, officer, employee, consultant, representative, or agent in any Competitive Business (as defined in Section 7 above) located or operating

(a) at the Premises,

(b) within a twenty five (25) mile radius of the Premises,

(c) within twenty five (25) miles of any other Andy's Frozen Custard Store in operation or under construction on the later of the effective date of the termination or expiration of this Agreement or the date on which all persons restricted by this Subsection begin to comply with this Subsection

These restrictions also apply after transfers, as provided in Section 12 C (12) above If any person restricted by this Subsection refuses voluntarily to comply with these obligations, the two (2) year period for that person will commence with the entry of a court order enforcing this provision You and your owners expressly acknowledge that you possess skills and abilities of a general nature and have other opportunities for exploiting these skills Consequently, our enforcing the covenants made in this Subsection will not deprive you of your personal goodwill or ability to earn a living

E OUR RIGHT TO PURCHASE CERTAIN ASSETS OF THE STORE

Upon termination of this Agreement, or upon expiration of this Agreement without renewal, we shall have the right and option, but not the obligation, to purchase the custard-making equipment from the STORE at a purchase price equal to its then-current book value determined using the straight-line method of depreciation If we elect to exercise this option, we will deliver written notice to you of our election within thirty (30) days after the date of termination or expiration of this Agreement We will have the right to inspect the equipment at any time during this thirty day period If we elect to purchase the equipment, we will be entitled to, and you must provide, all customary warranties and representations relating to the equipment purchase, including, without limitation, representations and warranties as to the maintenance, function and condition of the equipment and your good title to the equipment (including that you own the equipment free and clear of any liens and encumbrances)

F CONTINUING OBLIGATIONS

All of our and your (and your owners') obligations which expressly or by their nature survive this Agreement's expiration or termination will continue in full force and effect subsequent to and notwithstanding its expiration or termination and until they are satisfied in full or by their nature expire

16 RELATIONSHIP OF THE PARTIES/INDEMNIFICATION

A INDEPENDENT CONTRACTORS

You and we understand and agree that this Agreement does not create a fiduciary relationship between you and us, that you and we are and will be independent contractors, and that nothing in this Agreement is intended to make either you or us a general or special agent, joint venturer, partner, or employee of the other for any purpose You agree to identify yourself conspicuously in all dealings with customers, suppliers, public officials, STORE personnel, and others as the STORE's owner under a franchise we have granted and to place notices of independent ownership on the forms, business cards, stationery, advertising, and other materials we require from time to time You also agree to communicate clearly with STORE employees in employment agreements, manuals, handbooks, and other materials that you, and not us or our affiliates, are the employer of all STORE employees

B NO LIABILITY FOR ACTS OF OTHER PARTY

We and you may not make any express or implied agreements, warranties, guarantees, or representations, or incur any debt, in the name or on behalf of the other or represent that our respective relationship is other than franchisor and franchise owner We will not be obligated for any damages to any person or property directly or indirectly arising out of the STORE's operation or the business you conduct under this Agreement

C TAXES

In addition to any sales, use, excise, privilege or other transaction taxes that we are required or permitted by law to collect from you for the sale, lease or other provision of goods or services under this Agreement, you shall pay to us an amount equal to all federal, state, local or foreign (i) sales, use, excise, privilege, occupation or any other transactional taxes, or (ii) any other taxes or similar exactions no matter how designated (excluding only taxes imposed on us for the privilege of conducting business and calculated with respect to our net income, capital, net worth, gross receipts, or some other basis or combination thereof, but not excluding any gross receipts taxes imposed on us for your payments intended to reimburse us for expenditures incurred for the benefit and on behalf of you), that are imposed on us or required to be withheld by you in connection with the receipt or accrual of Royalties or any other amounts payable by you to us under this Agreement or any related agreement Any additional required payment pursuant to the preceding sentence shall be made in an amount necessary to provide us with after tax receipts (taking into account any additional payments required hereunder), equal to the same amounts we would have received under the provisions of this Agreement if such additional tax liability or withholding had not been imposed or required

D **INDEMNIFICATION**

You agree to indemnify, defend, and hold harmless us, our affiliates, and our and their respective shareholders, directors, officers, employees, agents, successors, and assignees (the "Indemnified Parties") against, and to reimburse any one or more of the Indemnified Parties for, all claims, obligations, and damages directly or indirectly arising out of (a) the STORE's operation, (b) the business you conduct under this Agreement, (c) your breach of this Agreement, including, without limitation, those alleged to be or found to have been caused by the Indemnified Party's negligence, unless (and then only to the extent that) the claims, obligations, or damages are determined to be caused solely by our gross negligence or willful misconduct in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction, or (d) your noncompliance or alleged noncompliance with any law, ordinance, rule or regulation, including those concerning the STORE's construction, design or operation, and including any allegation that we or another Indemnified Party is a joint employer or otherwise responsible for your acts or omissions relating to your employees

For purposes of this indemnification, "claims" include all obligations, damages (actual, consequential, or otherwise), and costs that any Indemnified Party reasonably incurs in defending any claim against it, including, without limitation, reasonable accountants', arbitrators', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation, arbitration, or alternative dispute resolution, regardless of whether litigation, arbitration, or alternative dispute resolution is commenced Each Indemnified Party may defend any claim against it at your expense and agree to settlements or take any other remedial, corrective, or other actions

This indemnity will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its losses and expenses, in order to maintain and recover fully a claim against you under this subparagraph You agree that a failure to pursue a recovery or mitigate a loss will not reduce or alter the amounts that an Indemnified Party may recover from you under this subparagraph

17 ENFORCEMENT

A SEVERABILITY AND SUBSTITUTION OF VALID PROVISIONS

Except as expressly provided to the contrary in this Agreement, each section, paragraph, term, and provision of this Agreement is severable, and if, for any reason, any part is held to be invalid or contrary to or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court, agency, or tribunal with competent jurisdiction, that ruling will not impair the operation of, or otherwise affect, any other portions of this Agreement, which will continue to have full force and effect and bind the parties

If any covenant which restricts competitive activity is deemed unenforceable by virtue of its scope in terms of area, business activity prohibited, and/or length of time, but would be enforceable if modified, you and we agree that the covenant will be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction whose law determines the covenant's validity

If any applicable and binding law or rule of any jurisdiction requires more notice than this Agreement requires of this Agreement's termination or of our refusal to enter into a successor franchise agreement, or some other action that this Agreement does not require, or if, under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement or any System Standard is invalid, unenforceable, or unlawful, the notice and/or other action required by the law or rule will be substituted for the comparable provisions of this Agreement, and we may modify the invalid or unenforceable provision or System Standard to the extent required to be valid and enforceable or delete the unlawful provision in its entirety You agree to be bound by any promise or covenant imposing the maximum duty the law permits which is subsumed within any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement

B WAIVER OF OBLIGATIONS

We and you may by written instrument unilaterally waive or reduce any obligation of or restriction upon the other under this Agreement, effective upon delivery of written notice to the other or another effective date stated in the notice of waiver Any waiver granted will be without prejudice to any other rights we or you have, will be subject to continuing review, and may be revoked at any time and for any reason effective upon delivery of ten (10) days' prior written notice

We and you will not waive or impair any right, power, or option this Agreement reserves (including, without limitation, our right to demand exact compliance with every term, condition, and covenant or to declare any breach to be a default and to terminate this Agreement before its term expires) because of any custom or practice at variance with this Agreement's terms, our or your failure, refusal, or neglect to exercise any right under this Agreement or to insist upon the other's compliance with this Agreement, including, without limitation, any System Standard, our waiver of or failure to exercise any right, power, or option, whether of the same, similar, or different nature, with other Andy's Frozen Custard Stores, the existence of franchise agreements for other Andy's Frozen Custard Stores which contain provisions different from those contained in this Agreement, or our acceptance of any payments due from you after any breach of this Agreement No special or restrictive legend or endorsement on any check or similar item given to us will be a waiver, compromise, settlement, or accord and satisfaction We are authorized to remove any legend or endorsement, which then will have no effect

Neither we nor you will be liable for loss or damage or be in breach of this Agreement if our or your failure to perform our or your obligations results from (1) compliance with the orders, requests, regulations, or recommendations of any federal, state, or municipal government, (2) acts of God, (3) fires, strikes, embargoes, war, acts of terrorism or similar events, or riot, or (4) any other similar event or cause Any delay resulting from any of these causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that these causes will not excuse payments of amounts owed at the time of the occurrence or payment of Royalties or Fund and Cooperative contributions due afterward

C **COSTS AND ATTORNEYS' FEES**

If we incur costs and expenses due to your failure to pay when due amounts owed to us, to submit when due any reports, information, or supporting records, or otherwise to comply with this Agreement, you agree, whether or not we initiate a formal legal proceeding, to reimburse us for all of the costs and expenses that we incur, including, without limitation, reasonable accounting, attorneys', arbitrators', and related fees

D **RIGHTS OF PARTIES ARE CUMULATIVE**

Our and your rights under this Agreement are cumulative, and our or your exercise or enforcement of any right or remedy under this Agreement will not preclude our or your exercise or enforcement of any other right or remedy which we or you are entitled by law to enforce

E **ARBITRATION**

We and you agree that all controversies, disputes, or claims between us and our affiliates, and our and their respective shareholders, officers, directors, agents, and/or employees, and you (and/or your owners, guarantors, affiliates, and/or employees) arising out of or related to

(1) this Agreement or any other agreement between you and us,

(2) our relationship with you,

(3) the scope and validity of this Agreement or any other agreement between you and us or any provision of such agreements (including the validity and scope of the arbitration obligations under this Subsection, which the parties acknowledge is to be determined by an arbitrator and not a court), or

(4) any System Standard,

must be submitted for binding arbitration, on demand of either party, to the American Arbitration Association The arbitration proceedings will be conducted by one arbitrator and, except as this Subsection otherwise provides, according to the then current commercial arbitration rules of the

American Arbitration Association All proceedings will be conducted at a suitable location chosen by the arbitrator in the Springfield, Missouri metropolitan area The arbitrator shall have no authority to select a hearing locale other than as described in the prior sentence All matters relating to arbitration will be governed by the Federal Arbitration Act (9 U S C §§ 1 et seq) Judgment upon the arbitrator's award may be entered in any court of competent jurisdiction

The arbitrator has the right to award or include in his or her award any relief which he or she deems proper, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator may not declare any Mark generic or otherwise invalid or, except as expressly provided in Subsection 17 H below, award any punitive or exemplary damages against either party (we and you hereby waiving to the fullest extent permitted by law, except as expressly provided in Subsection 17 H below, any right to or claim for any punitive or exemplary damages against the other)

We and you agree to be bound by the provisions of any limitation on the period of time in which claims must be brought under applicable law or this Agreement, whichever expires earlier We and you further agree that, in any arbitration proceeding, each must submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates Any claim which is not submitted or filed as required is forever barred The arbitrator may not consider any settlement discussions or offers that might have been made by either you or us We reserve the right, but have no obligation, to advance your share of the costs of any arbitration proceeding in order for such arbitration proceeding to take place and by doing so will not be deemed to have waived or relinquished our right to seek the recovery of those costs in accordance with Subsection 17 C

We and you agree that arbitration will be conducted on an individual, not a class-wide, basis and that an arbitration proceeding between us and our affiliates, and our and their respective shareholders, officers, directors, agents, and/or employees, and you (and/or your owners, guarantors, affiliates, and/or employees) may not be consolidated with any other arbitration proceeding between us and any other person Notwithstanding the foregoing or anything to the contrary in this Subsection or Subsection 17 A , if any court or arbitrator determines that all or any part of the preceding sentence is unenforceable with respect to a dispute that otherwise would be subject to arbitration under this Subsection 17 E , then the parties agree that this arbitration clause shall not apply to that dispute and that such dispute will be resolved in a judicial proceeding in accordance with this Section 17 (excluding this Subsection 17 E)

Despite our and your agreement to arbitrate, we and you each have the right in a proper case to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction, provided, however, that we and you must contemporaneously submit our dispute for arbitration on the merits as provided in this Subsection

The provisions of this Subsection are intended to benefit and bind certain third party non-signatories and will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination

F GOVERNING LAW

ALL MATTERS RELATING TO ARBITRATION WILL BE GOVERNED BY THE FEDERAL ARBITRATION ACT (9 U S C §§ 1 ET SEQ) EXCEPT TO THE EXTENT GOVERNED BY THE FEDERAL ARBITRATION ACT, THE UNITED STATES TRADEMARK ACT OF 1946 (LANHAM ACT, 15 U S C SECTIONS 1051 ET SEQ), OR OTHER FEDERAL LAW, THIS AGREEMENT, THE FRANCHISE, AND ALL CLAIMS ARISING FROM THE RELATIONSHIP BETWEEN US AND YOU WILL BE GOVERNED BY THE LAWS OF THE STATE OF MISSOURI, WITHOUT REGARD TO ITS CONFLICT OF LAWS RULES, EXCEPT THAT ANY MISSOURI LAW REGULATING THE SALE OF FRANCHISES OR GOVERNING THE RELATIONSHIP OF A FRANCHISOR AND ITS FRANCHISEE WILL NOT APPLY UNLESS ITS JURISDICTIONAL REQUIREMENTS ARE MET INDEPENDENTLY WITHOUT REFERENCE TO THIS SUBSECTION

G CONSENT TO JURISDICTION

SUBJECT TO SUBSECTION 17 E ABOVE AND THE PROVISIONS BELOW, YOU AND YOUR OWNERS AGREE THAT ALL ACTIONS ARISING UNDER THIS AGREEMENT OR OTHERWISE AS A RESULT OF THE RELATIONSHIP BETWEEN YOU AND US MUST BE COMMENCED IN THE STATE OR FEDERAL COURT OF GENERAL JURISDICTION IN SPRINGFIELD, MISSOURI, AND YOU (AND EACH OWNER) IRREVOCABLY SUBMIT TO THE JURISDICTION OF THOSE COURTS AND WAIVE ANY OBJECTION YOU (OR THE OWNER) MIGHT HAVE TO EITHER THE JURISDICTION OF OR VENUE IN THOSE COURTS NONETHELESS, YOU AND YOUR OWNERS AGREE THAT WE MAY ENFORCE THIS AGREEMENT AND ANY ARBITRATION ORDERS AND AWARDS IN THE COURTS OF THE STATE OR STATES IN WHICH YOU ARE DOMICILED OR THE STORE IS LOCATED

H WAIVER OF PUNITIVE DAMAGES AND JURY TRIAL

EXCEPT FOR YOUR OBLIGATION TO INDEMNIFY US FOR THIRD PARTY CLAIMS UNDER SUBSECTION 16 D , AND EXCEPT FOR PUNITIVE DAMAGES AVAILABLE TO EITHER PARTY UNDER FEDERAL LAW, WE AND YOU (AND YOUR OWNERS) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN US AND YOU, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS

WE AND YOU IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF US

I **BINDING EFFECT**

This Agreement is binding upon us and you and our and your respective executors, administrators, heirs, beneficiaries, permitted assigns, and successors in interest Subject to our right to modify the Operations Manual and System Standards, this Agreement may not be modified except by a written agreement signed by both our and your duly-authorized officers

J **LIMITATIONS OF CLAIMS**

Except for claims arising from your non-payment or underpayment of amounts you owe us, any and all claims arising out of or relating to this Agreement or our relationship with you will be barred unless a judicial or arbitration proceeding is commenced within eighteen (18) months from the date on which the party asserting the claim knew or should have known of the facts giving rise to the claims

K **CONSTRUCTION**

The preambles and exhibits are a part of this Agreement which, together with any addenda or riders signed at the same time as this Agreement, constitutes our and your entire agreement, and supersedes all prior and contemporaneous oral or written agreements and understandings between us and you relating to the subject matter of this Agreement There are no other oral or written understandings or agreements between us and you, or oral or written representations by us, relating to the subject matter of this Agreement, the franchise relationship, or the STORE (any understandings or agreements reached, or any representations made, before this Agreement are superseded by this Agreement) Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require you to waive reliance on any representation made by us in our most recent franchise disclosure document (including exhibits and amendments) delivered to you or your representative

Any policies that we adopt and implement from time to time to guide us in our decision-making are subject to change, are not a part of this Agreement, and are not binding on us

Except as provided in Subsections 16 D and 17 E , nothing in this Agreement is intended or deemed to confer any rights or remedies upon any person or legal entity not a party to this Agreement

Except where this Agreement expressly obligates us reasonably to approve or not unreasonably to withhold our approval of any of your actions or requests, we have the absolute right to refuse any request you make or to withhold our approval of any of your proposed, initiated, or completed actions that require our approval The headings of the sections and paragraphs are for convenience only and do not define, limit, or construe the contents of these sections or paragraphs

References in this Agreement to "we," "us," and "our," with respect to all of our rights and all of your obligations to us under this Agreement, include any of our affiliates with whom you deal The term "affiliate" means any person or entity directly or indirectly owned or controlled by, under common control with, or owning or controlling you or us "Control" means the power to direct or cause the direction of management and policies

If two or more persons are at any time the owners of the Franchise and the STORE, whether as partners or joint venturers, their obligations and liabilities to us will be joint and several References to "owner" mean any person holding a direct or indirect ownership interest (whether of record, beneficially, or otherwise) or voting rights in you (or a transferee of this Agreement and the STORE or an ownership interest in you), including, without limitation, any person who has a direct or indirect interest in you (or a transferee), this Agreement, the Franchise, or the STORE and any person who has any other legal or equitable interest, or the power to vest in himself or herself any legal or equitable interest, in their revenue, profits, rights, or assets

References to a "controlling ownership interest" in you or one of your owners (if an Entity) mean the percent of the voting shares or other voting rights that results from dividing one hundred percent (100%) of the ownership interests by the number of owners In the case of a proposed transfer of an ownership interest in you or one of your owners, the determination of whether a "controlling ownership interest" is involved must be made as of both immediately before and immediately after the proposed transfer to see if a "controlling ownership interest" will be transferred (because of the number of owners before the proposed transfer) or will be deemed to have been transferred (because of the number of owners after the proposed transfer)

"Person" means any natural person, corporation, limited liability company, general or limited partnership, unincorporated association, cooperative, or other legal or functional entity

Unless otherwise specified, all references to a number of days shall mean calendar days and not business days

The term "STORE" includes all of the assets of the Andy's Frozen Custard Store you operate under this Agreement, including its revenue and the Lease

This Agreement may be executed in multiple copies, each of which will be deemed an original

18 NOTICES AND PAYMENTS

All written notices, reports, and payments permitted or required to be delivered by this Agreement or the Operations Manual will be deemed to be delivered

(a) at the time delivered by hand,

(b) at the time delivered via computer transmission and, in the case of the Royalty, Fund contributions, and other amounts due, at the time we actually receive payment via the EDTA,

(c) one (1) business day after transmission by facsimile or other electronic system if the sender has confirmation of successful transmission,

(d) one (1) business day after being placed in the hands of a nationally recognized commercial courier service for next business day delivery, or

(e) three (3) business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid

Any notice to us must be sent to the address specified on the first page of this Agreement, although we may change this address for notice by giving you notice of the new address Any notice that we send to you may be sent only to the one (1) person identified on **Exhibit A**, even if you have multiple owners, at the email or postal address specified on **Exhibit A** You may change the person and/or address for notice only by giving us thirty (30) days' prior notice by any of the means specified in subparagraphs (a) through (e) above

Any required payment or report which we do not actually receive during regular business hours on the date due (or postmarked by postal authorities at least two (2) days before then) will be deemed delinquent

19 COMPLIANCE WITH ANTI-TERRORISM LAWS

You and your owners agree to comply, and to assist us to the fullest extent possible in our efforts to comply, with Anti-Terrorism Laws (defined below) In connection with that compliance, you and your owners certify, represent, and warrant that none of your property or interests is subject to being blocked under, and that you and your owners otherwise are not in violation of, any of the Anti-Terrorism Laws "Anti-Terrorism Laws" mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war Any violation of the Anti-Terrorism Laws by you or your owners, or any blocking of your or your owners' assets under the Anti-Terrorism Laws, shall constitute good cause for immediate termination of this Agreement, as provided in Subsection 14 B (18) above

20 ELECTRONIC MAIL

You acknowledge and agree that exchanging information with us by e-mail is efficient and desirable for day-to-day communications and that we and you may utilize e-mail for such communications You authorize the transmission of e-mail by us and our employees, vendors, and affiliates ("**Official Senders**") to you during the term of this Agreement

You further agree that (a) Official Senders are authorized to send e-mails to those of your employees as you may occasionally authorize for the purpose of communicating with us, (b) you will cause your officers, directors, and employees to give their consent to Official Senders' transmission of e-mails to them, (c) you will require such persons not to opt out or otherwise ask to no longer receive e-mails from Official Senders during the time that such person works for or is affiliated with you, and (d) you will not opt out or otherwise ask to no longer receive e-mails from Official Senders during the term of this Agreement

The consent given in this Section 20 shall not apply to the provision of notices by either party under this Agreement pursuant to Section 18 using e-mail unless the parties otherwise agree in a written document manually signed by both parties

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement on the dates noted below, to be effective as of the Effective Date

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________
Andy Kuntz, President

DATED* ________________________
(*Effective Date of this Agreement)

FRANCHISE OWNER

(IF YOU ARE TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP)

____
[Print Name of Franchisee Entity]

By ______________________________
[signature of person signing on behalf of entity]

Title of Signator ____________________

DATED __________________________

(IF YOU ARE TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY)

____
[signature of individual franchisee]

Print Name _______________________

DATED __________________________

____
[signature of individual franchisee]

Print Name _______________________

DATED __________________________

EXHIBIT A

TO THE FRANCHISE AGREEMENT

Effective Date This Exhibit A is current and complete as of ________________, 20___

You and Your Owners

1 **Form of Owner** (Choose (a) or (b))

(a) **Individual Proprietorship** List individual(s)

____

____

____

(b) **Corporation, Limited Liability Company, or Partnership** (CIRCLE ONE) You were incorporated or formed on __________________, under the laws of the State of _____________ You have not conducted business under any name other than your corporate, limited liability company, or partnership name and ______________________ __________________________ The following is a list of your directors, if applicable, and officers as of the effective date shown above

Name of Each Director/Officer	**Position(s) Held**

2 **Owners** The following list includes the full name of each person who is one of your owners (as defined in the Franchise Agreement), or an owner of one of your owners, and fully describes the nature of each owner's interest (attach additional pages if necessary)

	Owner's Name	Percentage/Description of Interest
(a)	______________________	______________________
(b)	______________________	______________________
(c)	______________________	______________________
(d)	______________________	______________________

3 **Name and Address of Person to Receive Notice for Franchise Owner**

(a) Name ____

(b) Postal Address ____

____

(c) E-mail Address ____

4 **Identification of Managing Owner** Your Managing Owner as of the Effective Date is ____________________________________ (must be one of the individuals listed in paragraph 2 above) You may not change the Managing Owner without prior written approval

[Signatures on following page]

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________
Andy Kuntz, President

DATED* ________________________
(*Effective Date of this Agreement)

FRANCHISE OWNER

(IF YOU ARE TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP)

____
[Print Name of Franchisee Entity]

By ______________________________
[signature of person signing on behalf of entity]

Title of Signator ____________________

DATED __________________________

(IF YOU ARE TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY)

____
[signature of individual franchisee]

Print Name ________________________

DATED __________________________

____
[signature of individual franchisee]

Print Name ________________________

DATED __________________________

EXHIBIT B

TO THE FRANCHISE AGREEMENT

PREMISES, TERRITORY AND ROYALTY

1 The Premises of the STORE will be located at

____
____
____
____

2 The Territory shall be

____
____
____
____

3 The Royalty shall be

[Signatures on following page]

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________
Andy Kuntz, President

DATED* ________________________
(*Effective Date of this Agreement)

FRANCHISE OWNER

(IF YOU ARE TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP)

____
[Print Name of Franchisee Entity]

By ______________________________
[signature of person signing on behalf of entity]

Title of Signator ___________________

DATED ________________________

(IF YOU ARE TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY)

____
[signature of individual franchisee]

Print Name ______________________

DATED ________________________

____
[signature of individual franchisee]

Print Name ______________________

DATED ________________________

<u>**GUARANTY AND ASSUMPTION OF OBLIGATIONS**</u>

THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS is given this _____ day of ________________, 20 __

By (list each guarantor)

____

____

____

____

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement (the "Agreement") on this date by ANDY'S FROZEN CUSTARD FRANCHISING, LLC ("us," "we," or "our"), each of the undersigned personally and unconditionally (a) guarantees to us and our successors and assigns, for the term of the Agreement (including extensions) and afterward as provided in the Agreement, that ____________________________ ("Franchisee") will punctually pay and perform each and every undertaking, agreement, and covenant set forth in the Agreement (including any amendments or modifications of the Agreement) and (b) agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement (including any amendments or modifications of the Agreement), both monetary obligations and obligations to take or refrain from taking specific actions or to engage or refrain from engaging in specific activities, including the non-competition, confidentiality, transfer, and arbitration requirements

Each of the undersigned consents and agrees that (1) his or her direct and immediate liability under this Guaranty will be joint and several, both with Franchisee and among other guarantors, (2) he or she will render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so, (3) this liability will not be contingent or conditioned upon our pursuit of any remedies against Franchisee or any other person, (4) this liability will not be diminished, relieved, or otherwise affected by any extension of time, credit, or other indulgence which we may from time to time grant to Franchisee or to any other person, including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims (including the release of other guarantors), none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable during the term of the Agreement (including extensions), for so long as any performance is or might be owed under the Agreement by Franchisee or its owners, and for so long as we have any cause of action against Franchisee or its owners, and (5) this Guaranty will continue in full force and effect for (and as to) any extension or modification of the Agreement and despite the transfer of any interest in the Agreement or Franchisee, and each of the undersigned waives notice of any and all renewals, extensions, modifications, amendments, or transfers

Each of the undersigned waives (i) all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Franchisee arising as a result of the undersigned's execution of and performance under this Guaranty, and (ii) acceptance and notice of acceptance by us of his or her undertakings under this Guaranty, notice of demand for payment of any indebtedness or non-performance of any obligations hereby guaranteed, protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed, and any other notices to which he or she may be entitled

If we are required to enforce this Guaranty in a judicial or arbitration proceeding, and prevail in such proceeding, we shall be entitled to reimbursement of our costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants', arbitrators', and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of any such proceeding If we are required to engage legal counsel in connection with any failure by the undersigned to comply with this Guaranty, the undersigned shall reimburse us for any of the above-listed costs and expenses we incur

Subject to the arbitration obligations and the provisions below, each of the undersigned agrees that all actions arising under this Guaranty or the Agreement, or otherwise as a result of the relationship between us and the undersigned, must be commenced in the state or federal court of general jurisdiction in Springfield, Missouri, and each of the undersigned irrevocably submits to the jurisdiction of those courts and waives any objection he or she might have to either the jurisdiction of or venue in those courts Nonetheless, each of the undersigned agrees that we may enforce this Guaranty and any arbitration orders and awards in the courts of the state or states in which he or she is domiciled

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

Signatures Of Each Guarantor	**Percentage Of Ownership In Franchisee**
______________________________	____________________%
______________________________	____________________%
______________________________	____________________%
______________________________	____________________%
______________________________	____________________%

EXHIBIT B-2

DEVELOPMENT RIGHTS AGREEMENT

ANDY'S FROZEN CUSTARD FRANCHISING, LLC
DEVELOPMENT RIGHTS AGREEMENT

THIS DEVELOPMENT RIGHTS AGREEMENT (the "**Agreement**") is made and entered into as of ____________________________ (the "**Agreement Date**"), regardless of the date of the parties' signatures, between **ANDY'S FROZEN CUSTARD FRANCHISING, LLC**, a Missouri limited liability company located at 211 E Water Street, Springfield, Missouri 65806 ("**we**," "**us**" or "**our**"), and ______________________________, whose principal business address is ________________________________ ("**you**" or "**your**")

1 **Background** We and you (or your affiliate) are signing or have signed a Franchise Agreement dated as of __________________ (the "**Existing Agreement**") under which you (or your affiliate) operate or will operate an Andy's Frozen Custard Store in/at ________________________________ All capitalized terms used but not defined in this Agreement shall have the meanings in the Existing Agreement We and you are signing this Agreement because you would like the right to develop and operate a number of Andy's Frozen Custard Stores within a certain geographic area over a certain period of time We are willing to grant you such development rights if you comply with the terms of this Agreement

2 **Grant of Development Rights** Subject to your compliance with this Agreement, we hereby grant you and/or any of your approved Affiliated Entities (defined below) the right to sign Franchise Agreement(s) (defined in Section 5) to develop and operate _________ (_____) new Andy's Frozen Custard Stores, in addition to the Andy's Frozen Custard Store that the Existing Agreement covers, according to a development schedule (the "**Schedule**"), and within a geographic area (the "**Area**"), identified on Exhibit A to this Agreement "**Affiliated Entity**" means any corporation, limited liability company or other entity of which you or one or more of your owners owns more than fifty percent (50%) of the total authorized ownership interests, as long as you or such owner(s) have the power unilaterally, without the consent or approval of any other person or Entity, to direct and control the Entity's management and policies

3 **Area and Rights We Reserve** Provided you (and your Affiliated Entities) are in full compliance with this Addendum and all other agreements between us and you (or your Affiliated Entity), then, during the term of this Addendum, neither we nor our affiliates will operate, or grant rights to any third party to operate, an Andy's Frozen Custard Store the physical premises of which is located within the Area, except for Andy's Frozen Custard Stores that are located at non-traditional locations such as airports, amusement parks, sports stadiums, colleges and universities, hospitals and other medical centers, and other venues to which the general public customarily does not have unlimited access ("**Non-Traditional Locations**") We and our affiliates shall at all times have the right to engage in any activities we deem appropriate that are not expressly prohibited by this Addendum, wherever and whenever we desire, including

(a) establishing and operating, and granting rights to other persons to establish and operate, on any terms and conditions we deem appropriate, (i) Andy's Frozen Custard Stores at Non-Traditional Locations within the Area and at any locations outside the Area, and (ii) other similar or dissimilar stores and/or businesses (including any store or other foodservice business which derives revenue from the sale of frozen custard) operating under trademarks and service marks other than the Marks, whether within or outside the Area, and

(b) exercising all rights relating directly or indirectly to the Marks, the Franchise System and Trade Secret Food Products in connection with any methods of distribution, other than Andy's Frozen Custard Stores the physical premises of which are located within the Area at locations which are not Non-Traditional Locations This includes providing, and granting rights to other persons to provide, Trade Secret Food Products and other goods and services similar or dissimilar to, and/or competitive with, those provided at Andy's Frozen Custard Stores, whether identified by the Marks or other trademarks or service marks, through sales over the Internet and other electronic media, kiosks, grocery stores and other retail sales, and at any locations, whether within or outside the Area

4 **Development Fee and Initial Franchise Fee** Simultaneously with signing this Agreement, you must pay us a "Development Fee" of ____________ ($_________) We will apply Fourteen Thousand Dollars ($14,000) of the Development Fee toward the Initial Franchise Fee owed for each Andy's Frozen Custard Store franchise we grant to you (or your approved Affiliated Entities) under this Agreement The Initial Franchise Fee shall be Twenty-Eight Thousand Dollars ($28,000) for each new Andy's Frozen Custard Store to be developed pursuant to this Agreement You will pay us the remainder of the Initial Franchise Fee (i e , Fourteen Thousand Dollars ($14,000)) when you sign the Franchise Agreement (defined below) for each such Andy's Frozen Custard Store The Development Fee is fully earned by us when we and you sign this Agreement and is non-refundable, even if you do not comply with the Schedule, although we will apply the Development Fee as provided in Section 5 below

5 **Development Obligations and Incentives** To maintain your rights under this Agreement you (and/or approved Affiliated Entities) must open the agreed-upon number of Andy's Frozen Custard Stores within the Area by the dates set forth on the Schedule Time is of the essence under this Agreement You (or your Affiliated Entity) will operate each Andy's Frozen Custard Store under a separate Franchise Agreement with us The franchise agreement and related documents that you (or your Affiliated Entity) sign for each Andy's Frozen Custard Store developed under this Agreement will be the form of franchise agreement and any ancillary agreements we then customarily use in granting franchises for Andy's Frozen Custard Stores (collectively, the "**Franchise Agreement**"), any or all of the terms of which may differ substantially from the terms contained in the Existing Agreement, except that (a) for each Franchise Agreement signed pursuant to this Agreement, the initial franchise fee will be $28,000, and (b) the Royalty will be the percentage of each Andy's Frozen Custard Store's Gross Sales set forth on Exhibit A attached hereto For the avoidance of doubt, if this Agreement is terminated, and some or all of the Andy's Frozen Custard Stores you developed under this Agreement continue to operate under a Franchise Agreement with us, the Royalty you will pay us under each such Franchise Agreement will be 6% of Gross Sales (5% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000) To retain your rights under this Agreement, each Andy's Frozen Custard Store developed under this Agreement must operate continuously throughout the term of this Agreement in a manner that we determine, in our sole judgment, meets our minimum operational and System Standards

6 **No Sublicensing Rights or Rights to Use Marks** This Agreement does not grant you any right to license others to operate Andy's Frozen Custard Stores Only you (and your approved Affiliated Entities) may develop Andy's Frozen Custard Stores pursuant to this Agreement and only under Franchise Agreements with us This Agreement does not grant you

any right to use, or authorize others to use, the Marks in any manner Your right to use the Marks arises only under Franchise Agreements with us Our affiliate owns all rights to the Marks, and your unauthorized use of the Marks is an infringement of our and our affiliate's rights and a breach of this Agreement

7 **Grant of Franchises** You agree to give us all information and materials we request to assess each proposed Andy's Frozen Custard Store site and your (or your Affiliated Entity's) financial and operational ability to develop and operate each proposed Andy's Frozen Custard Store We will not unreasonably withhold approval of any site you propose in the Area if that site meets our then current site criteria However, we have the absolute right to disapprove any site that does not meet these criteria We agree to use our reasonable efforts to review and approve the sites you propose within ten (10) calendar days after we receive all requested information and materials

If we approve a proposed site and your (or your Affiliated Entity's) financial and operational ability to develop and operate the proposed Andy's Frozen Custard Store, then you or your approved Affiliated Entity (and your or its owners) must sign a Franchise Agreement with us You may not sign any lease or sublease for a site without our approval and signing, and complying with, the Franchise Agreement After you (or your Affiliated Entity) sign the Franchise Agreement, their terms and conditions will control the development and operation of the Andy's Frozen Custard Store

8 **Term** The term of this Agreement begins on the Agreement Date and it ends on the date when (a) the final Andy's Frozen Custard Store under the Schedule opens for business, or (b) this Agreement otherwise is terminated, whichever occurs first

9 **Termination** We may terminate this Agreement and your right to develop additional Andy's Frozen Custard Stores within the Area at any time, effective upon delivery of written notice of termination if

(a) you fail to satisfy either your development obligations under the Schedule or any other obligation under this Agreement, which failures you have no right to cure,

(b) the Existing Agreement or any other franchise agreement between us and you (or your Affiliated Entity) for an Andy's Frozen Custard Store is terminated by us or you for any reason,

(c) we determine, in our sole judgment, that any of your Andy's Frozen Custard Stores opened under this Agreement fail to meet our then current minimum operational criteria for future development, or

(d) you (or any of your Affiliated Entities) (i) fail on three (3) or more separate occasions within any twelve (12) consecutive month period to company with a Franchise Agreement, this Agreement, or any other agreement between us and you (or any of your Affiliated Entities), whether or not we notify you (or any of your Affiliated Entities) of the failures, and, if we do notify you (or any of your Affiliated Entities) of the failures, whether or not you (or your Affiliated Entity) correct the failures after delivery of notice, or (ii) fail on two (2) or more separate occasions within any six (6) consecutive month period to comply with the same obligation under a Franchise Agreement, this Agreement or any other agreement between us and you (or any of your Affiliated Entities), whether or not we notify you (or any of your Affiliated Entities) of the failures, and whether nor not you (or your Affiliated Entity) corrects the failures after delivery of notice

10 **Assignment** You and your owners acknowledge that we are granting you the rights under this Agreement because of our perception of your (and your owners') individual and collective character, skill, business acumen, financial capability and ability to operate Andy's Frozen Custard Stores according to our standards These rights are personal to you and your owners Therefore, you and your owners may not assign this Agreement or any of your ownership interests unless you or your owners (a) obtain our prior written approval, which we may grant or withhold for any or no reason, and (b) simultaneously transfer to the transferee of this Agreement (or an interest in you) all right, title and interest that you (or your transferring owners) own or hold in and to any Andy's Frozen Custard Stores and all Affiliated Entities We may assign this Agreement or any of our ownership interests without restriction

11 **Incorporation of Other Terms** Sections 6, 7, 16 and 17 of the Existing Agreement, entitled "Confidential Information," "Exclusive Relationship," "Relationship of the Parties/Indemnification" and "Enforcement," respectively, including (without limitation) the provisions relating to arbitration of disputes, are incorporated by reference in this Agreement and will govern all aspects of our relationship and the construction of this Agreement as if fully restated within the text of this Agreement This Agreement, together with the Existing Agreement, supersedes all prior agreements and understandings, whether oral and written, between the parties relating to its subject matter, and there are no oral or other written understandings, representations, or agreements between the parties relating to the subject matter of this Agreement This Agreement may be signed in multiple counterparts, but all such counterparts together shall be considered one and the same instrument The provisions of this Agreement may be amended or modified only by written agreement signed by the party to be bound

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement on the date first written above

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________
Andy Kuntz, President

DATED _________________________

DEVELOPER

(IF ENTITY)

____
Name

By ______________________________
Name ____________________________
Title _____________________________

DATED _________________________

(IF INDIVIDUALS)

____
[Signature]

____
[Print Name]

____
[Signature]

____
[Print Name]

DATED _________________________

EXHIBIT A
TO DEVELOPMENT RIGHTS AGREEMENT

1 You agree to open ______________ additional Andy's Frozen Custard Stores within the Area (excluding the Andy's Frozen Custard Store operating or to be operated under the Existing Agreement) according to the following Schedule

Open by	**Cumulative Number of Andy's Frozen Custard Stores to be Opened by Date (in Previous Column)**

2 The Area is defined as the entire territory encompassed by __________________ in the State of ____________, as the boundaries of that territory exist on the Agreement Date

3 The Royalty will depend on the number of Andy's Frozen Custard Stores you open under this Development Rights Agreement and continuously operate as follows

Number of Andy's Frozen Custard Stores You Develop and Continuously Operate under the Development Rights Agreement	**Royalty for Each Your Andy's Frozen Custard Stores Developed under the Development Rights Agreement**
Less than 3	6% of Gross Sales (5% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)
At Least 3	5½% of Gross Sales (4½% of Gross Sales above $1,000,000 in any given year where your Gross Sales exceeds $1,000,000)
[At Least 5]	**[5% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)]**
[At Least 10]	**[4½% of Gross Sales (4% of Gross Sales above $1,000,000 in any given year where Gross Sales exceed $1,000,000)]**
[At Least 20]	**[4% of all Gross Sales]**

[The remainder of this page is intentionally left blank]

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________
Andy Kuntz, President

DATED ______________________

DEVELOPER

(IF ENTITY)

____
[Name]

By ______________________________
Name ____________________________
Title ____________________________

Date ______________________

(IF INDIVIDUALS)

____
[Signature]

____
[Print Name]

____
[Signature]

____
[Print Name]

Date ______________________

EXHIBIT D

OPERATIONS MANUAL TABLE OF CONTENTS

Table of Contents

SECTION C

HUMAN RESOURCES

SECTION D

DAILY OPERATING PROCEDURES

NUMBER OF PAGES=92

SECTION E

ADVERTISING

NUMBER OF PAGES=18

APPENDIX FORMS (22 PAGES)

APPENDIX PRODUCT PREP (25 PAGES)

Total Number of Pages = 329

EXHIBIT E

LIST OF FRANCHISEES AS OF 12/31/16

Arkansas
Call it Success Enterprise
Mark Crabtree
1327 Stadium Blvd
Jonesboro, AR 72401
(870) 933-8266
**Area Developer*

Call it Success Enterprise
Mark Crabtree
232 E Highland Drive
Jonesboro, AR 72401
(870) 268-1811
**Area Developer*

Call it Success Enterprise
Mark Crabtree
2375 Dave Ward Drive
Conway, AR 72034
(501) 358-6546
**Area Developer*

Colorado
Rocky Mountain Custard, LLC
Josh Spurlock
3505 River Point Parkway
Sheridan, CO 80110
(444) 44-ANDYS
**Area Developer*

Missouri
Diamond Custard Company
Mark Diamond
809 N Kingshighway
Cape Girardeau, MO 63701
(573) 335-7500

Ozark Custard
Greg Anderson
610 N Cooper Dr
Columbia, MO 65201
(573) 442-8866

Ozark Custard
Greg Anderson
4820 Highway 54
Osage Beach, MO 65065
(573) 302-0020

Gateway Custard
Greg Anderson
311 South Kirkwood
St Louis, Missouri 63122
(314) 966-1075
**Area Developer*

Gateway Custard
Greg Anderson
15501 Manchester Rd
Ballwin, MO 63011
(636) 686-5301
**Area Developer*

Gateway Custard
Greg Anderson
1600 S Hanley Rd
Richmond Heights, MO 63144
(314) 781-4940
**Area Developer*

North Carolina
Carolina Custard Company
Greg Anderson
High Point, NC 27265
(336) 803-4148
**Area Developer*

Oklahoma
Ranchers Custard
Eric Reed
8251 E 102nd Street
Tulsa, Oklahoma 74133
(918) 364-9866
**Area Developer*

Ranchers Custard
Eric Reed
4844 S Yale Ave
Tulsa, Oklahoma 74135
(918) 932-8821
**Area Developer*

Ranchers Custard
Eric Reed
800 E Kenosha St
Broken Arrow, OK 74012
(918) 364-9866
**Area Developer*

Ranchers Custard
Eric Reed
5801 NW Expressway
Warr Acres, OK 73132
(405) 470-7969
**Area Developer*

Tennessee
Falcon Custard, LLC
Brad Feuerbacher
4941 Main Street
Spring Hill, TN 37174
(615) 302-3540
**Area Developer*

Texas
JJGL Enterprises, LLC
Galen Taylor
6106 S Broadway
Tyler, TX 75703
(903) 509-2639

Andy's Central Texas
Karl Plumpe
1700 E Palm Valley Blvd Suite 800
Round Rock, TX 78664
(512) 687-2786
**Area Developer*

Andy's Central Texas
Karl Plumpe
18601 Limestone Commercial Drive
Pflugerville, TX 78660
(512) 687-2786
**Area Developer*

Andy's Central Texas
Karl Plumpe
1210 N Bell Blvd
Cedar Park, TX 78613
(512) 986-7900
**Area Developer*

Ranchers Custard
Eric Reed
1733 E Hebron Parkway
Carrollton, TX 75010
(972) 394-7555
**Area Developer*

Ranchers Custard
Eric Reed
9310 Lebanon Rd
Frisco, TX 75035
(214) 308-9037
**Area Developer*

Ranchers Custard
Eric Reed
3541 Plano Pkwy
The Colony, TX 75056
**Area Developer*
(469) 362-2100

LIST OF FRANCHISEES WITH AGREEMENTS SIGNED BUT OUTLETS NOT OPENED AS OF 12/31/16

Arkansas

Mark Crabtree
Call ıt Success Enterprıse
Arkansas
(870) 933-8266

Arızona

Southwest Frozen Custard, LLC
Ken Treat
Phoenıx market
kentreat@gmaıl com

Kansas

Sunflower Custard, LLC
Brıan Cates
10788 West 21st St North
Wıchıta, KS 67205
(316) 425-1855

South Carolına

Andy Nıcholson
atnıch1@gmaıl com

EXHIBIT F

STATE ADDENDA AND FRANCHISE AGREEMENT RIDERS

ADDITIONAL DISCLOSURES FOR THE MULTI-STATE FRANCHISE DISCLOSURE DOCUMENT OF ANDY'S FROZEN CUSTARD FRANCHISING, LLC

The followıng are addıtıonal dısclosures for the Franchıse Dısclosure Document of Andy's Frozen Custard Franchısıng, LLC requıred by varıous state franchıse laws Each provısıon of these addıtıonal dısclosures wıll not apply unless, wıth respect to that provısıon, the jurısdıctıonal requırements of the applıcable state franchıse regıstratıon and dısclosure law are met ındependently, wıthout reference to these addıtıonal dısclosures

CALIFORNIA

1 THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT

2 SECTION 31125 OF THE FRANCHISE INVESTMENT LAW REQUIRES US TO GIVE YOU A DISCLOSURE DOCUMENT APPROVED BY THE COMMISSIONER OF BUSINESS OVERSIGHT BEFORE WE ASK YOU TO CONSIDER A MATERIAL MODIFICATION OF YOUR FRANCHISE AGREEMENT

3 OUR WEBSITE, www eatandys com, HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT ANY COMPLAINTS CONCERNING THE CONTENT OF THE WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT www dbo ca gov

4 Item 3 of the Franchıse Dısclosure Document ıs amended to provıde that neıther the franchısor, nor any person ın Item 2 of the Franchıse Dısclosure Document, ıs subject to any currently effectıve order of any natıonal securıtıes assocıatıon or natıonal securıtıes exchange, as defined ın the Securıtıes Exchange Act of 1934, 15 U S C A 78a et seq , suspendıng or expellıng such person from membershıp ın that assocıatıon or exchange

5 The followıng paragraphs are added at the end of Item 17 of the Franchıse Dısclosure Document

> Calıfornıa Busıness and Professıons Code Sectıons 20000 through 20043 provıde rıghts to franchısees concernıng termınatıon, transfer, or nonrenewal of a franchıse If the Franchıse Agreement contaıns a provısıon that ıs ınconsıstent wıth the law, the law wıll control
>
> The Franchıse Agreement provıdes for termınatıon upon ınsolvency Thıs provısıon mıght not be enforceable under federal bankruptcy law (11 U S C A Secs 101 et seq)

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

The Franchise Agreement contains a covenant not to compete that extends beyond the termination of the franchise This provision might not be enforceable under California law

The Franchise Agreement requires binding arbitration at a location in Springfield, Missouri You will be required to travel to that location and pay the expenses you incur in any such arbitration proceeding You are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040 5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California

The Franchise Agreement requires application of the laws of the State of Missouri This provision might not be enforceable under California law

ILLINOIS

1 The following paragraph is added at the end of Item 12 of the Franchise Disclosure Document

Neither we nor our affiliate are obligated to pay any compensation to you for soliciting and/or conducting business within your territory

2 The "Summary" section of Item 17(v), entitled **Choice of forum**, is deleted and replaced with the following

Subject to arbitration requirement, litigation must be in courts in Illinois

3 The "Summary" section of Item 17(w), entitled **Choice of law**, is deleted and replaced with the following

Except for Federal Arbitration Act and other federal law, Illinois law governs

4 Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void

MINNESOTA

1 The following language is added to the end of Item 5 of the Disclosure Document

Despite the payment provision above, you need not pay us the initial franchise fee until after we have satisfied our initial obligations to you under the Franchise Agreement and you have commenced operations of your first Store

2 **Renewal, Termination, Transfer and Dispute Resolution** The following is added at the end of the chart in Item 17

With respect to franchises governed by Minnesota law, we will comply with Minn Stat Sec 80C 14, Subds 3, 4 and 5 which require, except in certain specified cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement

Minn Stat Sec 80C 21 and Minn Rule 2860 4400J might prohibit us from requiring litigation to be conducted outside Minnesota Those provisions also provide that no condition, stipulations or provision in the Franchise Agreement shall in any way abrogate or reduce any rights you have under the Minnesota Franchises Law, including (if applicable) the right to submit matters to the jurisdiction of the courts of Minnesota and the right to any procedure, forum or remedies that the laws of the jurisdiction provide

Any release required as a condition of renewal or transfer/assignment will not apply to the extent prohibited by the Minnesota Franchises Law
Minnesota Rule Part 2860 4400J prohibits you from waiving your rights to a jury trial or waiving your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes

RIDER TO ANDY'S FROZEN CUSTARD FRANCHISING, LLC
FRANCHISE AGREEMENT
FOR USE IN ILLINOIS

THIS RIDER (the "Rider') is made and entered into by and between **ANDY'S FROZEN CUSTARD FRANCHISING, LLC**, a Missouri limited liability company located at 338 North Boonville Ave, Springfield, Missouri 65806 ("we," "us," or "our"), and ______________________________, whose principal business address is ____ ("you" or "your")

1 **Background** We and you are parties to that certain Franchise Agreement dated ________________________, 20__ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider This Rider is annexed to and forms part of the Franchise Agreement This Rider is being signed because (a) any of the offering or sales activity relating to the Franchise Agreement occurred in Illinois and the STORE that you will operate under the Franchise Agreement will be located in Illinois, and/or (b) you are a resident of Illinois

Illinois law governs the agreements between the parties to this franchise

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void However, a franchise agreement may provide for arbitration outside of Illinois

Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void

Your rights upon termination and non-renewal of a franchise are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement on the dates noted below, to be effective as of the Effective Date

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________

Title ______________________________

DATED ______________________________

FRANCHISE OWNER

(IF YOU ARE TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP)

____
[Name]

By ______________________________

Title ______________________________

DATED ______________________________

(IF YOU ARE TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY)

____
[Signature]

____
[Print Name]

____
[Signature]

____
[Print Name]

RIDER TO ANDY'S FROZEN CUSTARD FRANCHISING, LLC
FRANCHISE AGREEMENT
FOR USE IN MINNESOTA

THIS RIDER (the "Rider") is made and entered into by and between **ANDY'S FROZEN CUSTARD FRANCHISING, LLC**, a Missouri limited liability company located at 338 North Boonville Ave, Springfield, Missouri 65806 ("we," "us," or "our"), and ______________________________, whose principal business address is _______________________________________ ("you" or "your")

1 **Background** We and you are parties to that certain Franchise Agreement dated ___________________________, 20__ (the "Franchise Agreement") that has been signed concurrently with the signing of this Rider This Rider is annexed to and forms part of the Franchise Agreement This Rider is being signed because (a) any of the offering or sales activity relating to the Franchise Agreement occurred in Minnesota and/or (b) the STORE that you will operate under the Franchise Agreement will be located in Minnesota

2 Subsection 3 A of the Franchise Agreement is amended by adding the following language

> Despite the payment provisions above, you need not pay the initial franchise fee until after all of our initial obligations are complete and you begin operating the STORE The full initial franchise fee is due that day

3 **Releases** The following language is added to the end of the third paragraph of Subsection 4 A , the end of Subsection 12 C (8), and the end of Subsection 13 C of the Franchise Agreement

> provided, however, that such general releases will not apply to the extent prohibited by applicable law with respect to claims which arise under Minn Rule 2860 4400D

4 **TERMINATION OF AGREEMENT BY US** The following language is added to the end of Subsection 14 B

> Minnesota law provides you with certain termination and non-renewal rights Minn Stat §80C 14 Subds 3, 4 and 5 require except in certain specified cases, that you be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of this Agreement

5 **Liquidated Damages** If required by the Minnesota Franchises Law, the first paragraph of Subsection 14 C of the Franchise Agreement is deleted to the extent unenforceable under the Minnesota Franchises Law

6 **GOVERNING LAW/CONSENT TO JURISDICTION** The following language is added to the end of Subsections 17 F and 17 G of the Franchise Agreement

PURSUANT TO MINN STAT §80C 21 AND MINN RULE PART 2860 4400J, THESE SECTIONS SHALL NOT IN ANY WAY ABROGATE OR REDUCE YOUR RIGHTS AS PROVIDED FOR IN MINNESOTA STATUTES 1984, CHAPTER 80C, INCLUDING THE RIGHT TO SUBMIT MATTERS TO THE JURISDICTION OF THE COURTS OF MINNESOTA

7 **WAIVER OF PUNITIVE DAMAGES AND JURY TRIAL** The second paragraph of Subsection 17 H of the Franchise Agreement is deleted to the extent unenforceable under the Minnesota Franchises Law

8 **LIMITATIONS OF CLAIMS** The following sentence is added to the end of Subsection 17 J of the Franchise Agreement

Minnesota law provides that no action may be commenced pursuant to Minn Stat §80C 17 more than three (3) years after the cause of action accrues Minn Stat §80C 17, Subd 5

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement on the dates noted below, to be effective as of the Effective Date

ANDY'S FROZEN CUSTARD FRANCHISING, LLC, a Missouri limited liability company

By ______________________________

Title ____________________________

DATED _________________________

FRANCHISE OWNER

(IF YOU ARE TAKING THE FRANCHISE AS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP)

____

[Name]

By ______________________________

Title ____________________________

DATED _________________________

(IF YOU ARE TAKING THE FRANCHISE INDIVIDUALLY AND NOT AS A LEGAL ENTITY)

____

[Signature]

____

[Print Name]

____

[Signature]

____

[Print Name]

Item 23

RECEIPT

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language Read this Disclosure Document and all agreements carefully

If Andy's Frozen Custard Franchising, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale **[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first]**

If Andy's Frozen Custard Franchising, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D C 20580 and the state agency listed on Exhibit A

The franchisor is Andy's Frozen Custard Franchising, LLC, located at 211 E Water Street, Springfield, Missouri 65806 Its telephone number is (417) 881-3500

Issuance date April 14, 2017

The name, principal business address, and telephone number of each franchise seller offering the franchise is as follows (circle those who apply to this transaction) Andy Kuntz, our President, and Mike Carroll, our Chief Financial Officer, each with his principal business address at 211 E Water Street, Springfield, Missouri 65806, (417) 881-3500

We authorize the respective state agencies identified on Exhibit A to receive service of process for us in the particular state

I received a Disclosure Document dated April 14, 2017, from Andy's Frozen Custard Franchising, LLC that included the following Exhibits

A	List of State Administrators/Agents for Service of Process
B-1	Franchise Agreement
B-2	Development Rights Agreement
C	Financial Statements
D	Operations Manual Table of Contents
E	List of Franchisees as of 12/31/16
F	State Addenda and Franchise Agreement Riders

_______________________________ Date

_______________________________ Prospective Franchisee

(Sign, Date and Keep This Copy for Your Records)

_______________________________ Authorized Signature

Item 23

RECEIPT

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language Read this Disclosure Document and all agreements carefully

If Andy's Frozen Custard Franchising, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale **[Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first]**

If Andy's Frozen Custard Franchising, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D C 20580 and the state agency listed on Exhibit A

The franchisor is Andy's Frozen Custard Franchising, LLC, located at 211 E Water Street, Springfield, Missouri 65806 Its telephone number is (417) 881-3500

Issuance date April 14, 2017

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B-2	Development Rights Agreement
C	Financial Statements
D	Operations Manual Table of Contents
E	List of Franchisees as of 12/31/16
F	State Addenda and Franchise Agreement Riders

________________________ Date

________________________ Prospective Franchisee

(Sign, Date and Return This Copy to US)

________________________ Authorized Signature