

EXHIBIT A

APPROVED LOCATION(S)

**EXHIBIT B**

**GENERAL RELEASE  
OF  
DIPPIN' DOTS FRANCHISING, INC.**

This GENERAL RELEASE is entered into by and between Dippin' Dots Franchising, Inc., a Kentucky Franchisor with its principal office at 1640 McCracken Blvd., Suite 100, Paducah, Kentucky 42001 ("Franchisor") and \_\_\_\_\_ ("Franchisee") this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Now therefore, for good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, Franchisor and Franchisee agree as follows:

Franchisee hereby releases and discharges Franchisor, its respective agents, successors, assigns, officers, directors, shareholders, employees, attorneys, guarantors, sureties, and insurers and any persons acting on its or their behalf from any and all injuries, losses, damages, liabilities, defenses, claims, actions, causes of action, suits, debts, promises, demands, or agreements, of whatever nature or kind, known and unknown, whether based in law or in equity, including any claim for punitive or exemplary damages, that Franchisee ever had or now has or that anyone claiming through or under Franchisee may have or claim to have which was raised or asserted or could have been raised or asserted by Franchisee against Franchisor at any time prior to the execution of this release, including but not limited to any and all claims arising out of, by reason of, or in any way related to the subject matter of the Franchise Agreement dated \_\_\_\_\_ between Franchisee and Franchisor, it being expressly understood that this Release is entered into as part of the renewal, expiration, termination, or cancellation of said Franchise Agreement.

Wherefore, Franchisee and Franchisor have entered into this General Release on the date first set for above.

Franchisee:

Franchisor:

Dippin' Dots Franchising, Inc.

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

Title: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT C

FRANCHISEE INFORMATION SHEET

Franchisee Name:

Contact Person:

Franchisee Address:

Telephone Number:

Protected Territory:

Approved Location:

Dippin' Dots Franchising Inc.

Franchisee

By:

By:

Its:

## EXHIBIT D

### DEFINITIONS

As used in this agreement:

**"ACH DEBIT"** refers to the Automated Clearing House financial network run by the Federal Reserve to transfer funds electronically. Franchisee must instruct its bank to accept an ACH Debit. The Franchisee's bank will withdraw funds from Franchisee's bank account for payment to the Franchisor's bank account. The banks will not initiate an ACH Debit without the Franchisee's personal identification number in order to safeguard the transaction and prevent unauthorized transactions from the account.

**"ADVERTISING CONTRIBUTION"** means the fees paid by Franchisee to the Advertising Fund established exclusively to advertise and promote the Franchised Business and franchised businesses of other franchisees, including salaries or pro rata salaries for personnel dedicated to advertising and promotions.

**"ADVERTISING FEE"** means the fee payable by Franchisee pursuant to Section 12 of the Agreement.

**"ADVERTISING FUND"** means a fund established by Franchisor for the purpose of advertising and promoting the Franchised Business and products sold by them.

**"AGREEMENT"** refers to the Franchise Agreement (including all Exhibits and Addenda thereto) and all amendments thereto or any successor thereto.

**"AIRLINE"** means any organization in the business of providing transportation by air.

**"AIRPORT"** means any passenger service with more than 2,000,000 people per year arriving or departing via an Airline.

**"AMUSEMENT CENTER"** means any facility designed for and operated primarily for recreational activities. These may include, but are not limited to: amusement parks, such as Six Flags; theme parks, such as Knott'sberry Farm; child-oriented entertainment businesses, such as Discovery Zone®; museums; aquariums; zoos; or any commercially operated enterprise having various devices for entertainment in excess of 25,000 square feet under roof.

**"APPROVED LOCATION"** means the location specified in Section 1.2 of this Agreement. For Fair/Festival locations, an Approved Location will include an annual temporal restriction.

**"ARENA/STADIUM"** means any indoor or outdoor facility used for cultural or distinct business, religious or civic events with a seating capacity in excess of 10,000, or for professional or NCAA Division I or IAA sporting events.

**"BASIC MANAGEMENT TRAINING"** means the initial training program as established and conducted by Franchisor or its affiliates for the operation of the Franchised Business.

**"CATERING"** means bulk sales of an approved product to one company for further distribution at a group event without collecting money from the individual attendees.

**"COMPANY CAFETERIA"** means any company facility which provides food for employees of that company with a seating capacity in excess of one hundred (100) people.

**"FAIR/FESTIVAL"** means any annual exposition (of goods, farm products, livestock) or any program of cultural events which may include exhibition of works in the arts whether dedicated to a solitary artist or a unique genre, or whether held to celebrate a particular season, anniversary of an event or notable person(s), except for the New York State Fair, the Kentucky State Fair and the Dade County (Florida) Youth Fair. A Fair/Festival does not include locations within 30 feet of a Dippin' Dots, Inc. National Account Service Provider. If a Dippin' Dots, Inc. National Account Service Provider is operating within any facility located within a Fair or Festival, then a Franchisee may not have rights to operate a Franchised Business within that specific facility located in that particular Fair or Festival, in the event that National Account location is within 30 feet of the planned Franchised Business. However, Franchisee may operate its Franchised Business at any Fair/Festival, even if a DDI National Account Service Provider is located within a specific facility at the Fair/Festival, if the Franchised Business is outside a 30 foot radius of the National Account Service Provider location.

**"FRANCHISED BUSINESS"** means the business conducted at the Approved Location in the operation of a Dippin' Dots® Franchise.

**"FRANCHISEE"** means the person or company that is granted a franchise by Franchisor pursuant to this Agreement.

**"GROSS SALES"** means the entire amount of all your revenues from

the ownership or operation of the Franchised Business or any business at or about the Premises which is attributable to the ownership or operation of the Dippin' Dots Franchise including, without limitation, the proceeds of any business interruption insurance and any revenues received from the lease or sublease of a portion of the Premises, whether the revenues are evidenced by cash, credit, checks or gift certificates (unless exempted in writing by Franchisor), services, property or other means of exchange, excepting only the amount of any sales taxes that are collected and paid to the taxing authority. Gross Sales shall only include gift certificates either when sold or when redeemed by Franchisee, but shall not include both the sale and redemption of a gift certificate. Franchisees owning or operating a Franchised Business in conjunction with or at the same Premises as another business must account for the pro rata amount of their revenues attributable to the ownership or operation of the Franchised Business only, including, without limitation, business interruption insurance and any revenues received from the lease or sublease of a portion of the Premises. Cash refunded and credit given to customers and receivables uncollectible from customers may be deducted by Franchisee in computing Gross Sales to the extent that the cash, credit or receivables represent amounts previously included in Gross Sales on which Royalty Fees and Advertising Contributions were paid. Gross Sales are deemed received at the time the goods, products, merchandise or services exchanged from which they derive are delivered or rendered or at the time the relevant sale takes place, whichever occurs first. Gross Sales consisting of property or services (for example, "bartering" or "trade outs") are valued at the prices applicable, at the time the exchange occurs.

**"HOTELS AND RESORTS"** means all temporary lodging facilities, excluding the Grand Wailea Resort Hotel located in Wailea, Hawaii.

**"INITIAL FRANCHISE FEE"** means the fee payable by Franchisee pursuant to Section 4.1 of this Agreement.

**"MALL"** means any structure consisting of four (4) or more businesses operating under the same roof in which a franchisee may operate the Franchised Business. This definition shall not include a second location for a franchisee within the same Mall operated on a temporary basis of up to sixty (60) days.

**"MANUAL"** means Franchisor's Confidential Operating Manual described in Section 9 of this Agreement.

**"MOVIE THEATER"** means an indoor building or facility for public presentation of motion pictures.

**"PROMOTIONAL MATERIAL"** means any item used to advertise or publicize the sale of Franchisee's or Franchisor's products or services.

**"PROPRIETARY MARKS"** means all words or symbols having a spatial association with goods or services such that consumers perceive it as a signal communicating information about the Franchisor and its products, such marks belonging to or pertaining to Franchisor or its affiliates having exclusive rights to, but not limited to, any distinctive forms, slogans, signs, symbols, and devices associated with the System.

**"PROTECTED TERRITORY"** means the area within the radius specified in Section 1.3.1 of the Agreement.

**"REGIONAL ADVERTISING FUND"** means a fund established exclusively to advertise and promote the Franchised Business (the "Advertising Contribution") within a defined geographical area as demarcated by the Franchisor.

**"ROYALTY FEE"** means the fee payable by Franchisee pursuant to Section 4.3 of this Agreement.

**"SCHOOL"** means any public or private educational facility at or below the high school level located outside the following Kentucky counties of McCracken County; Marshall County; Lyon County; Livingston County; Graves County; Calloway County; Carlisle County; Hickman County; Caldwell County; Crittenden County; Ballard County; and Massac County, or Pulaski County in Illinois.

**"SCHOOL EVENT"** means individual school-sponsored organizations, activities, programs, and clubs, including but not limited to, sports teams, concessions, booster clubs, honor societies, band, orchestra, and choral organizations, academic teams, DECA, FFA, FHA, and other groups.

**"STAND ALONE STORE"** means any structure consisting of three (3) or fewer businesses operating under the same roof in which a franchisee may operate a Franchised Business for sixty (60) days or more.

**"SYSTEM"** means the entire method of operations, promotion, and sales developed by Franchisor and its affiliates including, without limitation, the sale of ice cream, yogurt and frozen ice; distinctive design, decor, color scheme, fixtures, and furnishings; standards and specifications for products,

equipment, materials, and supplies; uniform standards, specifications, and procedures for operations' procedures for inventory and management control; training and assistance; and advertising and promotional programs identified by means of certain trade names, service marks, trademarks, logos, emblems, and indicia of origin.

**"WORLDWIDE WEB"** means any electronic computer-mediated-communication including network information retrieval systems designed for disseminating Internet resources through servers and retrieving hypermedia resources through browsers.



**Exhibit E**

| Location Size:   | ADDITIONAL LOCATION/<br>EACH UNIT | RENEWAL FEE FOR EACH UNIT |
|--|-----------------------------------|---------------------------|
| Mall<br>(More than 1 million sq. ft.)  | \$10,000.00                       | \$2,500.00                |
| Mall/Stand Alone Store<br>(Less than 1 million sq. ft.)                      | \$8,000.00                        | \$2,000.00                |
| Fair/ Festival *<br>(More than 1 million in attendance)                      | \$3,000.00                        | \$1,000.00                |
| Fair/ Festival *<br>(Less than 1 million but more than 99,999 in attendance) | \$1,500.00                        | \$500.00                  |

\* Multiple locations may be opened at any single Fair/Festival without payment of an additional franchise fee.

**Cost for Purchases of Multiple Franchises at One Time\***

| Number of Franchise Units Purchased and/or Renewed: | Percentage Discount of Franchise Fee or Renewal Fee |
|---|---|
| 10-24   | 20%   |
| 25-49   | 30%   |
| 50 or more  | 40%   |

\* The fee for the first Franchised Business purchased is the Franchisee Fee provided in Franchise Agreement. The quantity discounts in this Exhibit E apply to renewals and/or new purchases by Franchisees paid at one time.

## Exhibit F

### Confidentiality Agreement

#### (A) Standards of conduct

Franchisee shall diligently devote himself/herself in the business of a franchisee and shall be faithful to Franchisor in all transactions relating to Franchisor and its business and shall give, whenever required, a true account to the Franchisor as the case may be, of all business transactions arising out of or connected with Franchisor or its business, and shall not, without first obtaining the written consent of the Franchisor, devote either his/her interest in the franchise or his/her interests in this agreement or credit of Franchisor for any purposes.

#### (B) Confidential information

Franchisee recognizes that he/she has access to a variety of confidential information concerning the Franchisor; therefore, Franchisee agrees that he/she will not, either during his/her term as Franchisee or any time after the termination of his/her Franchise Agreement with the Franchisor, divulge or reveal to any person, firm or corporation, any information, directly or indirectly, if that information might be used in any way to injure or interfere with the Franchisor's business or trade or to alienate customers or employees from the Franchisor or to cause discontent or dissatisfaction among the Franchisor's customers or employees.

#### (C) Trade secrets

Franchisee shall not, at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation, in any manner whatsoever, any information concerning any matters affecting or relating to Franchisor or its respective businesses, including, without limiting the generality of the foregoing, any information concerning any of its customers, or any other information concerning any of its businesses, its manner of operation, its plans, process or other data, without regard to whether all or any part of the foregoing matters will be deemed confidential, material or important, as the parties hereto stipulate that as between them the same are important, material, and confidential and gravely affect the effective and successful conduct of the business and goodwill of Franchisor, and that any breach of the terms of this paragraph shall be a substantial and material breach of the Franchise Agreement. All terms of this paragraph shall remain in full force and effect after the termination of the Franchise Agreement and of this Agreement. Franchisee

acknowledges that it is necessary and proper that Franchisor preserve and protect its proprietary rights and unique, confidential and special information and goodwill, and the confidential nature of its respective businesses and of the affairs of its customers, and that it is therefore appropriate that Franchisor prevent Franchisee from engaging in any breach of the provisions of this paragraph. Franchisee, therefore, agrees that a violation by Franchisee of the terms of this paragraph would result in irreparable and continuing injury to Franchisor, for which there might well be no adequate remedy at law. Therefore, in the event Franchisee shall fail to comply with the provisions of this paragraph, Franchisor shall be entitled to such injunctive and other relief as may be necessary or appropriate to cause Franchisee to comply with the provisions of this paragraph, and to recover, in addition to such relief, its reasonable costs and attorney fees incurred in obtaining same. Such right to injunctive relief shall be in addition to, and not in lieu of, such rights to damages or other remedies as Franchisor shall be entitled to receive.

(D) Assignment of patent rights; protection of trade secrets

(1) Franchisor's business

For the purpose of this Agreement the business of Franchisor shall be deemed to include:

(a) The developing, perfecting, inventing and improving of:

(i) Processes or methods of manufacturing, distributing, selling, promoting and developing ice cream, frozen yogurt and ice products:

(ii) Articles of manufacture, fabrications and parts thereof which Franchisor is now making or selling or undertaking to make or sell and those which Franchisor, during the continuance of this agreement, may make or sell or undertake to make or sell; and

(iii) Machines, apparatus, appliances, appurtenances and devices applicable especially for use in connection with any or all of the aforesaid processes or methods; and

(b) The granting to others of rights, privileges and licenses in, to, and under any or all of the inventions, improvements or discoveries relating to the subject matter recited in above paragraphs, which during the continuance of this

Agreement may be owned or controlled by said Franchisor or under which it is licensed.

(2) Secrecy of plant

Franchisor's business is carried on by means of an organization, plant, equipment, resources and goodwill which are the property of the Franchisor and the plant is operated as a secret plant and Franchisor desires to maintain and continue to operate it as such.

(3) Assignment of patents and rights

Franchisee hereby sells, assigns, transfers and sets over to Franchisor the entire right, title and interest of the Franchisee in and to each of all inventions, discoveries and improvements, applications for letters patent therefore and the letters patent that may be granted therefore, in the United States and all foreign countries, which inventions, discoveries or improvements, applications for letters patent, and letters patent relate or pertain to or are capable of use in or in connection with said business of the Franchisor, and which Franchisee may wholly or in part make or secure during the period in which he/she serves or agrees to serve the Franchisor in any capacity either hereunder or under any other agreement or arrangement now or hereafter made by him/her with the Franchisor, the same to be held and enjoyed by Franchisor as fully and entirely as each or all of them would have been held and enjoyed by Franchisee had this Agreement and assignment not been entered into.

(4) Franchisee delivering records, etc., to Franchisor

Franchisee hereby covenants and agrees for himself/herself, his/her heirs and legal representatives that both during the term of his/her Franchise Agreement with Franchisor, whether under this Agreement or otherwise, and at all times thereafter he/she will promptly execute and deliver to Franchisor without further compensation any and all necessary papers for preparing, filing and prosecuting applications for letters patent and for reissue letters patent of any and all countries relating to any or all of the aforesaid inventions, discoveries or improvements wholly or in part made by Franchisee, which Franchisor may deem it advisable to have prepared and filed; and promptly to execute any and all papers necessary to specifically identify and separately assign, transfer and set over to Franchisor, all of his/her title and interest in and to each and all of the said inventions, discoveries or improvements and in and to any and all said applications for letters patent therefor, and in and to any and all letters patent that may be granted upon said applications in the United States and foreign countries, it being understood and agreed that the Franchisor shall meet and pay any and all

expenses arising because of or in carrying out any of the provisions of this article.

(5) Conflicting interests

Franchisee covenants and warrants that he/she has not executed and is not now a party to any agreement or assignment in conflict herewith and that he/she will not enter into or execute any agreement or assignment in conflict herewith; and that, during the period in which he/she serves or agrees to serve the Franchisor in any capacity either hereunder or under any other agreement or arrangement now or hereafter made by him/her with Franchisor, he/she will not knowingly or intentionally aid or assist any person, firm or corporation other than said Franchisor to manufacture, use or sell any of the processes or methods, forms or mixtures of matter, articles of manufacture, fabrications and parts thereof, and machines, apparatus, appliances, appurtenances and devices, or any of them, embraced by said business of the Franchisor.

(6) Notification of inventions, etc.

Franchisee further covenants and agrees that, during the terms stipulated in the Franchise Agreement, the Franchisor in any capacity either hereunder or under any other agreement or arrangement now or hereafter made by him/her with the Franchisor, he/she will immediately notify and fully inform the Franchisor of any and all inventions, discoveries and improvements wholly or in part made or secured by him/her relating or pertaining to or which are capable of use in or in connection with the business of said Franchisor.

(7) Confidential information

Franchisee further covenants and agrees that, at all times while he/she is a Franchisee of the Franchisor, he/she will hold in secrecy, as trustee or custodian for Franchisor and for its exclusive benefit and use, and faithfully do all in his/her power to assist said Franchisor in holding in secrecy:

(a) Each and all of Franchisor's trade secrets, including secret processes, secret machines, secret formulas and secret devices, now known to Franchisee and those disclosed or divulged to Franchisee by Franchisor, or any of its representatives, agents or employees, or otherwise learned or acquired by Franchisee during the continuance of this Agreement; and

(b) Each and all of the aforesaid inventions, discoveries and improvements wholly or in part made by Franchisee; and that he/she will not disclose or divulge,

directly or indirectly, to any person or persons at any time the trade secrets and secret inventions, discoveries and improvements, or any information relating to the same, without the express written consent and approval in writing of Franchisor, or until the same have been: (i) patented, or (ii) published by Franchisor, and that he/she will not at any time practice or use, other than for Franchisor, or assist any person or persons to practice or use, the said trade secrets and secret inventions, discoveries and improvements, or any of them, without the express written consent and approval of Franchisor.

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

DIPPIN' DOTS FRANCHISING, INC:

\_\_\_\_\_  
Franchisee

\_\_\_\_\_  
Franchisor

\_\_\_\_\_  
Title  
Version 13.7

\_\_\_\_\_  
Title

**GENERAL RELEASE**  
**OF**  
**DIPPIN' DOTS FRANCHISING, INC.**

This GENERAL RELEASE is entered into by and between Dippin' Dots Franchising, Inc., a Kentucky Franchisor with its principal office at 1640 McCracken Blvd., Suite 100, Paducah, Kentucky 42001 ("Franchisor") and \_\_\_\_\_ ("Franchisee") this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Now therefore, for good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, Franchisor and Franchisee agree as follows:

Franchisee hereby releases and discharges Franchisor, its respective agents, successors, assigns, officers, directors, shareholders, employees, attorneys, guarantors, sureties, and insurers and any persons acting on its or their behalf from any and all injuries, losses, damages, liabilities, defenses, claims, actions, causes of action, suits, debts, promises, demands, or agreements, of whatever nature or kind, known and unknown, whether based in law or in equity, including any claim for punitive or exemplary damages, that Franchisee ever had or now has or that anyone claiming through or under Franchisee may have or claim to have which was raised or asserted or could have been raised or asserted by Franchisee against Franchisor at any time prior to the execution of this release, including but not limited to any and all claims arising out of, by reason of, or in any way related to the subject matter of the Franchise Agreement dated \_\_\_\_\_ between Franchisee and Franchisor, it being expressly understood that this Release is entered into as part of the renewal, expiration, termination, or cancellation of said Franchise Agreement.

Wherefore, Franchisee and Franchisor have entered into this General Release on the date first set for above.

Franchisee:

Franchisor:

Dippin' Dots Franchising, Inc.

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

Title: \_\_\_\_\_

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

Title: \_\_\_\_\_

DIPPIN' DOTS, INC.  
5101 CHARTER OAK DRIVE  
PADUCAH, KENTUCKY 42001  
Phone (270) 443-8994  
Fax (270) 443-8997

Customer Agreement

This Agreement entered into the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by and between Dippin' Dots, Inc. (an Illinois  
Corporation), hereinafter called Seller, and \_\_\_\_\_  
\_\_\_\_\_, hereinafter called Customer.

Whereas, Seller is the manufacturer of certain products  
which Customer wishes to sell at retail.

Now, therefore, it is mutually agreed:

1. Customer's Orders

(a) Customer warrants with each order that it is a bona  
fide franchisee, in good standing of Dippin' Dots  
Franchising, Inc.

(b) Customer shall submit orders to Seller for  
acceptance as defined by Seller in the Customer  
Guidelines (Addendum A).

2. Customer Prices

(a) Established Prices. Customer shall pay Seller for  
each shipment of said products, at the then current  
prices, together with a shipping and handling charge,  
which shall include reimbursement to Seller for any tax  
on said products.

(b) Right to Change Prices. Upon thirty days notice,  
Seller shall have the right to change prices,  
discounts, terms and provisions affecting said products  
and to issue new applicable price lists.

3. Payment

(a) Payment for said products purchased by Customer  
shall be made at the time of delivery unless previous  
arrangements have been made with the Financial



Department of Dippin' Dots, Inc. Receipt of any check or draft will not constitute payment until Seller has received cash in the full amount thereof. Customer shall pay all collection charges, including Seller's reasonable attorney's fees.

4. Title

(a) Title to said products shall be and remain with Seller until receipt by Seller in cash of the full purchase price thereof. Seller shall have the right to retake possession of and resell said products until title thereto shall have passed to Customer. Customer shall be responsible for the care of all products in Customer's possession. Any damage or loss occurring to the product while it is in Customer's possession shall be the sole responsibility of Customer.

5. Shipments

(a) Product pricing is F.O.B. Paducah, KY, or other shipping point requested by customer. Seller will endeavor, whenever practicable, to follow Customer's requests with regard to route and method of shipment, but reserves the right to ship said products purchased by Customer hereunder by whatever mode of transportation, it may select (see Addendum A).

6. Warranties

(a) Seller warrants that product is produced in compliance with the Kentucky Milk and Milk Products Act of 1972 and the rules and regulations based thereon. The manufacturing plant permit no. is P21-240-2. There are no other warranties, expressed or implied, made by Seller to Customer on said products furnished hereunder.

7. Conditions of Sale

(a) Change of Design. Seller may change the design or specifications of any of said products at any time without notice.

(b) Failure to Fill Orders. Seller shall not be liable for failure or delay in filling orders of Customer, which have been accepted by Seller, whether or not such failure is due to any fault or negligence of Seller.

(c) No Transshipment. DDI sells only directly to approved Customer franchises for resale by them only to

end users at approved locations. Resale or transshipment of our frozen products to an unauthorized location or to another business or person is expressly prohibited, violates the terms and conditions of sale covered by this Agreement and may result in non-shipment and/or termination of the Customer's business relationship with DDI. Sales to schools by a Franchisee, with the intent to resell is excluded from the definition of transshipment. Further, sales to caterers are exempt provided the sale is limited to a one-time bulk re-sale, and there is no direct charge to the ultimate consumer.

8. Written Agreement

(a) All agreements relating to the subject matter of this agreement are in writing, and signed by both parties, and supersede all oral agreements except as specifically stated herein.

9. Indemnification by Customer

(a) Customer hereby indemnifies and holds Seller and each of its officers, directors, servants, agents and employees, harmless from and agrees to defend each of them from and against all and any manner of liabilities, suits, claims, damages and expenses arising out of or in connection with this Agreement or the customer's operations.

10. Trade Secrets

(a) Customer acknowledges that during the course of its business relationship with DDI that it may be made aware of trade secret information that is proprietary to DDI. Customer specifically agrees to maintain the confidentiality of any trade secret material obtained during the course of the business relationship with DDI.

11. Severability

(a) If any provision of this Agreement is deemed to be invalid or unenforceable or is prohibited by the laws of the state or place where it is to be performed, this Agreement shall be considered divisible. The remaining provisions of this Agreement will be valid and binding and of like effect as though such provisions were not included herein.

12. No waiver

(a) The delay of enforcement by either party shall not be deemed a waiver of the rights of that party.

13. Applicable law

(a) This Agreement is to be governed by and construed according to the laws of the Commonwealth of Kentucky.

(b) Notwithstanding any provision of state or local law to the contrary, and except for any controversy or claim arising out of the non-payment of amounts owed under this Agreement, the parties hereto agree that any controversy or claim arising out of or relating to this Agreement shall be settled by arbitration pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq., in accordance with the Commercial Arbitration Rules of the American Arbitration Association and following the laws of the Commonwealth of Kentucky. The parties hereto further agree that the arbitrators are not authorized to award any punitive damages in connection with any controversy or claim settled by arbitration hereunder. The decision of the arbitrators shall be final and binding upon the parties and judgment upon the award may be entered in any court having jurisdiction thereof in the Commonwealth of Kentucky. The arbitration shall take place in Kentucky and the expenses of the arbitration shall be paid by the losing party. Customer acknowledges that this clause concerning arbitration, and in particular the place of arbitration, is a vital part of this Agreement; and upon which Seller has relied upon in entering into this Agreement.

In the event of any dispute between the parties to this Agreement, the parties agree that neither party shall seek nor be liable to the other party for punitive damages.

Any claim brought under any provision of the Agreement, whether by Mediation, Arbitration, or litigation, by Franchisee, shall be brought within two (2) years of the claim arising.

With respect to class action suits, both parties agree that they will not participate in any class action against the other party.

14. Notices

(a) All notices shall be sent Certified Mail, to the following addresses:

If to Seller:

Curt D. Jones President  
Dippin' Dots, Inc.  
5101 Charter Oak Drive  
Paducah, KY 42001

If to Customer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In witness whereof, Seller and Customer have executed this Agreement as of the day and year first written above.

Seller:  
DIPPIN' DOTS, INC.

Customer:  
Company Name \_\_\_\_\_

\_\_\_\_\_  
by Curt D. Jones, President

\_\_\_\_\_  
Customer

**2005  
CUSTOMER GUIDELINES**

**Effective Date April 11, 2005**

**TO:** ALL FRANCHISEES

**FROM:** DIPPIN' DOTS, INC.  
5101 CHARTER OAK DRIVE  
PADUCAH KENTUCKY 42001

**PRODUCT:** DIPPIN' DOTS ICE CREAM, YOGURT, SHERBET, AND FLAVORED ICE

**DATE:** 2005

**Ordering Procedures:**

- a. For product to be picked up at the plant:  
Franchisee shall submit orders to the Customer Call Center a minimum of 3 days in advance of pick-up date. Seller will not be responsible for product once Buyer takes possession. **Pick up orders will not be available on Mondays from May 1 thru September 1.**
- b. For product to be shipped via the Pallet Reefer® system:  
All Franchisees using this system must call or fax the Customer Call Center by 11:00 AM (CST), each weekday for placing orders. All orders received by 11:00 AM (CST) each weekday will be processed for shipment. Orders processed one week may not necessarily be delivered that same week, although that will be the goal.

**Delivery Procedures/Charges:**

| Container Sizes and Minimum Shipment Charges  |                       |                       |                      |
|---|-----------------------|-----------------------|----------------------|
| Pallet Reefer                                 | X-Large Breakdown Box | Large Breakdown Box   | Small Breakdown Box  |
| (40 case min) \$444.00<br>(60 cases) \$666.00 | \$305.00              | \$255.00              | \$220.00             |
| 60 cases/~120 PP cases                        | 24 cases/~48 PP cases | 18 cases/~36 PP cases | 9 cases/~18 PP cases |

- a. Delivery charges will be assessed at the larger of either the per item charge or the minimum shipment charge for the size container.
- b. The shipping rates are \$1.85 per gallon for bulk, \$4.95 per case for pre-packs, \$10.02 per case for small pre-cups and \$7.88 per case for large pre-cups. Due to the minimum shipment charges, orders of less than 40 cases of gallons would incur higher shipping costs on a per case basis. It may be more economical to order the maximum amount per size container when possible to alleviate excessive charges.
- c. An order with both bulk and pre-packs in the same shipment (if they exceed the minimum shipment charge) will pay shipping for both the exact number of bulk cases and the exact number of pre-pack cases at the appropriate rates for each.
- d. Shipments that include product for both franchised events and service provider events will be assessed a per case fee for the franchised product equivalent to the container size minimum fee divided by the number of cases ordered. (i.e. small breakdown box holds 9 cases bulk,  $\$220/9 = \$24.44/\text{case}$ )

| Shipping Charges for Combined Shipments |               |        |                       |        |                     |        |                     |        |
|---|---------------|--------|-----------------------|--------|---------------------|--------|---------------------|--------|
|   | Pallet Reefer |        | X-Large Breakdown Box |        | Large Breakdown Box |        | Small Breakdown Box |        |
|   | /case         | /each  | /case                 | /each  | /case               | /each  | /case               | /each  |
| Bulk                                    | \$11.10       | \$1.85 | \$12.71               | \$2.12 | \$14.17             | \$2.36 | \$24.44             | \$4.07 |
| Pre-Pack                                | \$4.95        |        | \$6.35                |        | \$7.08              |        | \$12.22             |        |
| Pre-Cup Small                           | \$10.02       |        | \$12.71               |        | \$14.17             |        | \$24.44             |        |
| Pre-Cup Large                           | \$7.88        |        | \$12.71               |        | \$14.17             |        | \$24.44             |        |

- e. Customers who pick up product at the Paducah Warehouse will not be assessed a shipping fee. Event types that have shipping included in their price will be issued a credit equal to the shipping price per case for product. Customers who bring their own containers will be charged \$.30 per pound for dry ice. Otherwise, customers will be charged the following for breakdown boxes which includes 150 lbs of dry ice: \$120 per extra-large, \$110 per large, \$100 per small or \$110 per pallet reefer per week. The shipping charge for the return of the pallet reefers via common carrier will be invoiced to the customer. Pick up orders will not be available on Mondays from May 1 thru September 1.
- f. Customers who pick up product at the Ontario, California Warehouse will use the Ontario pricing structure below.
- g. Customers who pick up product at the Honolulu Warehouse will use the Honolulu pricing structure below.

| Pick up at Warehouse Product Pricing |             |                 |                 |                  |
|--------------------------------------|-------------|-----------------|-----------------|------------------|
|                                      | Unit        | Paducah /Gallon | Ontario /Gallon | Honolulu /Gallon |
| <b>Bulk Product</b>                  |             |                 |                 |                  |
| Ice Cream                            | 6 gal./case | \$10.75         | \$11.75         | \$15.15          |
| Sherbet                              | 6 gal./case | \$10.75         | \$11.75         | \$15.15          |
| Flavored Ice                         | 6 gal./case | \$9.45          | \$10.45         | \$13.85          |
| Premium/Yogurt                       | 6 gal./case | \$10.75         | \$11.75         | \$15.15          |
| No Sugar Added                       | 6 gal./case | \$11.25         | \$12.25         | \$15.65          |
| <b>Pre-Packaged Product</b>          |             |                 |                 |                  |
| Pre-Pack                             | 50/case     | \$32.20         | \$35.20         | \$40.70          |
| Pre-Cup Small                        | 108/case    | \$36.92         | \$42.92         | \$44.28          |
| Pre-Cup Large                        | 65/case     | \$41.60         | \$44.60         | \$52.65          |

- h. If an order is received after the cut off time of 11:00 AM (CST) and current day processing is required, a \$75.00 special handling charge for rush orders will be assessed.
- i. Shipments scheduled for a residential delivery will be assessed a \$55.00 fee to cover additional costs if incurred by the common carrier.
- j. Saturday deliveries will be assessed an additional fee of \$275.00.
- k. A lift gate, if required, is an additional fee of \$95.00.
- l. Delivery notification fee is \$26.00.
- m. Shipping charges for cups, spoons and other dry goods will be included in addition to the product shipping charge as a handling fee except when the product is picked up. Dry goods have an indefinite shelf life if stored in a dry, cool place. DDI cannot always guarantee immediate shipment of dry goods.

| Dry Goods Pricing                             |           |          |
|---|-----------|----------|
| Item  | Unit      | Price    |
| 3.5 oz. Logo Cup - SD35T                      | 1000/case | \$44.00  |
| Delivery and Shipping                         | case      | \$4.25   |
| 5 oz. Logo Cup - SD5T                         | 1000/case | \$44.00  |
| Delivery and Shipping                         | case      | \$4.25   |
| 8 oz. Logo Cup - SD8T                         | 1000/case | \$47.00  |
| Delivery and Shipping                         | case      | \$4.75   |
| 12 oz. Logo Cup - SD12T                       | 1000/case | \$63.00  |
| Delivery and Shipping                         | case      | \$10.00  |
| 12 oz. Parfait Cup - CP-12                    | 240/case  | \$45.00  |
| Delivery and Shipping                         | case      | \$5.25   |
| 5 oz. Sample Cup - P050                       | 5000/case | \$45.50  |
| Delivery and Shipping                         | case      | \$4.25   |
| Light Wt. Spoons - #10159                     | 1000/case | \$7.75   |
| Delivery and Shipping                         | case      | \$1.75   |
| Wrapped Spoons - #61070                       | 1000/case | \$17.50  |
| Delivery and Shipping                         | case      | \$1.75   |
| Parfait (float) Spoons - R15CLE               | 1000/case | \$24.00  |
| Delivery and Shipping                         | case      | \$1.75   |
| Lids - 3.5 oz. - 640TP                        | 2500/case | \$59.25  |
| Delivery and Shipping                         | case      | \$5.25   |
| Lids - 5 & 8 oz. - 622TP                      | 1000/case | \$34.75  |
| Delivery and Shipping                         | case      | \$5.25   |
| Lids - 12 oz. - 626TP                         | 1000/case | \$34.75  |
| Delivery and Shipping                         | case      | \$5.25   |
| Drink Cup 12 oz. Solar Freeze - T12TA         | 1000/case | \$67.00  |
| Delivery and Shipping                         | case      | \$10.00  |
| Drink Cup - 16 oz. PT Logo - 5000             | 1000/case | \$110.00 |
| Delivery and Shipping                         | case      | \$8.50   |
| Drink Cup - 20 oz. PT Logo - 6000             | 1000/case | \$70.00  |
| Delivery and Shipping                         | case      | \$8.50   |
| Drink Cup - 16 oz. DP Logo - DP-16T           | 1000/case | \$54.25  |
| Delivery and Shipping                         | case      | \$10.00  |
| Drink Cup - 22 oz. DP Logo - DP-22T           | 1200/case | \$72.25  |
| Delivery and Shipping                         | case      | \$12.50  |
| Drink Cup - 32 oz. Plastic Logo - D32WT       | 300/case  | \$44.75  |
| Delivery and Shipping                         | case      | \$8.50   |
| Drink Lid - Solar Freeze 12 oz. - 662TS       | 1000/case | \$40.00  |
| Delivery and Shipping                         | case      | \$5.00   |
| Drink Lid - 16 oz. PT Cup - T316R             | 1000/case | \$22.50  |
| Delivery and Shipping                         | case      | \$5.00   |
| Drink Lid - 20 oz. PT Cup - D9550             | 1000/case | \$24.50  |
| Delivery and Shipping                         | case      | \$5.00   |
| Drink Lid - DP Series 16-22oz. - 668NS        | 1000/case | \$33.25  |
| Delivery and Shipping                         | case      | \$5.00   |
| Drink Lid - DP Series X-Slot 16-22oz. - 668TS | 1000/case | \$34.75  |
| Delivery and Shipping                         | case      | \$5.00   |
| Drink Lid - 32 oz. Plastic - 636TR            | 500/case  | \$24.66  |
| Delivery and Shipping                         | case      | \$6.50   |



|                                  |            |         |
|----------------------------------|------------|---------|
| Napkins – 4000                   | 6000/case  | \$65.00 |
| Delivery and Shipping            | case       | \$12.50 |
| <b>Non Dry Good Item</b>         |            |         |
| Smoothie Mix<br>(Order Min of 6) | 1/2 gallon | \$14.75 |

| <b>Product Pricing, Delivery and Shipping</b>   |               |          |         |
|---|---------------|----------|---------|
|   | Unit          | /Case    | /Each   |
| <b>Bulk Product</b>   |               |          |         |
| Ice Cream   | 6 gal./case   | \$64.50  | \$10.75 |
| Sherbet   | 6 gal./case   | \$64.50  | \$10.75 |
| Flavored Ice  | 6 gal./case   | \$56.70  | \$ 9.45 |
| Premium/Yogurt  | 6 gal./case   | \$64.50  | \$10.75 |
| No Sugar Added  | 6 gal./case   | \$67.50  | \$11.25 |
| Delivery and Shipping   | /case         | \$11.10  | \$1.85  |
| <b>Pre-Packaged Product</b>   |               |          |         |
| Pre-Packs   | 50/case       | \$32.20  | \$0.64  |
| Delivery and Shipping   | /case         | \$4.95   |         |
| Pre-Cups Small  | 108/case      | \$36.92  | \$0.34  |
| Delivery and Shipping   | /case         | \$10.02  |         |
| Pre-Cups Large  | 65/case       | \$41.60  | \$0.64  |
| Delivery and Shipping   | /case         | \$7.88   |         |
| <b>Dot Delicacies</b>   |               |          |         |
| Start Up Kit<br>includes 3 of each cake flavor, 80 of each<br>Dotwich flavor plus all required supplies | 1 kit         | \$300.00 |         |
| Delivery and Shipping   | /kit          | \$23.50  |         |
| Dot Cake Kits   | 3 kits/case   | \$18.00  | \$6.00  |
| Delivery and Shipping   | /case         | \$5.75   |         |
| Dotwich Kits  | 240 kits/case | \$125.00 | \$0.52  |
| Delivery and Shipping   | /case         | \$11.05  |         |
| Dippin' Stix  | 24/case       | \$30.00  | \$1.25  |
| Delivery and Shipping   | /case         | \$6.15   |         |

Sales transactions to Franchisees on products and supplies are shipped F.O.B. Paducah Kentucky. The payment terms for ice cream and dry goods are 2% 10/net 30. All equipment orders in excess of \$500 are C.O.D. and will require 50% of the order amount to be prepaid with the balance due upon delivery. A minimum of 14 days should be allowed for delivery of equipment. Longer lead times may be necessary during peak seasons, equipment on back order, or custom-built requirements.

All bulk orders must be received in case increments for each flavor. Refer to page 6 for all standard flavors. For the large variety of other flavors and flavors of the month that are in stock, please contact our Customer Call Center. A special handling fee and/or a minimum order may apply to a request for special flavors not currently in stock.

**Product Information Bulk:**

|                                 |  |
|---------------------------------|--|
| Product:                        | Ice Cream, Yogurt, Sherbet and Flavored Ice  |
| Container:                      | 1-gallon bags packed 6 bags per case   |
| Serving Size:                   | 3.5, 5, 8, and 12 oz. logo cups  |
| No of Standard Flavors          | 12   |
| Standard Ice Cream Flavors      | Chocolate, Vanilla, Strawberry, Banana Split, Mint<br>Chocolate, Peanut Butter Chip and Cookies 'n Cream |
| Standard Non-fat Yogurt Flavors | Strawberry Cheesecake  |
| Standard Flavored Ice           | Rainbow  |
| Standard Sherbet Flavors        | Orange, Lemon/Lime, and Raspberry  |

**Product Information Pre-Pack:**

|                                 |  |
|---------------------------------|--|
| Product:                        | Ice Cream, Yogurt, and Flavored Ice  |
| Container:                      | ½ cup serving pre-packs in quantities of 50 per case                                 |
| Serving Size:                   | ½ cup serving size   |
| No of Standard Flavors          | 8  |
| Standard Ice Cream Flavors      | Chocolate, Vanilla, Strawberry, Banana Split, Mint<br>Chocolate and Cookies 'n Cream |
| Standard Non-fat Yogurt Flavors | Strawberry Cheesecake  |
| Standard Flavored Ice           | Rainbow  |

**Product Information Pre-Cup Large:**

|                                 |  |
|---------------------------------|--|
| Product:                        | Ice Cream and Yogurt   |
| Container:                      | 5/8 cup serving pre-cups packed 65 per case                        |
| Serving Size:                   | 5/8 cup serving size   |
| No of Standard Flavors          | 6  |
| Standard Ice Cream Flavors      | Chocolate, Vanilla, Strawberry, Banana Split and Mint<br>Chocolate |
| Standard Non-fat Yogurt Flavors | Strawberry Cheesecake  |

**Product Information Pre-Cup Small:**

|                            |   |
|----------------------------|---|
| Product:                   | Ice Cream                                     |
| Container:                 | 5/16 cup serving pre-cups packed 108 per case |
| Serving Size:              | 5/16 cup serving size                         |
| No of Standard Flavors     | 3   |
| Standard Ice Cream Flavors | Chocolate, Vanilla and Banana Split           |

**Product Information Dot Cake Kits:**

|                        |   |
|------------------------|---|
| Product:               | Dot Cake Kit                            |
| Container:             | 3 kits per case                         |
| Serving Size:          | 1 cake                                  |
| No of Standard Flavors | 3                                       |
| Standard Flavors       | Fudge Frenzy, Banana Split and Confetti |

**Product Information Dotwich Kits:**

|                        |  |
|------------------------|--|
| Product:               | Dotwich Kit                                      |
| Container:             | Supplies to produce 240 per case                 |
| Serving Size:          | 1 dotwich  |
| No of Standard Flavors | 3  |
| Standard Flavors       | Vanilla Fudge, Mint Chocolate and Chocolate Chip |

**Product Information Dippin' Stix:**

Product: Dippin' Stix  
Container: 24 per case  
Serving Size: 1 box  
No of Standard Flavors: 1  
Standard Flavors: Fudge

**Equipment Pricing:**

DDI must receive notice of approval from DDF on all equipment orders for franchise locations. Please note menu boards are extra and priced when ordered.

- a. **Modular A-3 10' x 10'** **\$31,500**  
see section C-5-5 of your operations manual

**Includes:**

Canopy  
Solid/surface counter top  
Laminate body  
Modular construction for transportability  
Three compartment sink  
Hand sink  
Footprint for kiosk, 10' x 10'  
Electrical system, 40 Amp 220 Volt  
Under cabinet storage  
Sneeze guard package included  
Self-contained water system or hard-plumbed  
Delivery included

- b. **Modular A-3-W 10' x 10'** **Pricing is available by quotation.**  
Custom built to Mall Specifications

- c. **Modular A-4 6' x 10' Standard with Freezer Wrap** **\$24,500**  
Stand behind with canopy

**Includes:**

Solid surface counter top  
Laminate body  
Modular construction for transportability  
Three compartment sink  
Hand sink  
Footprint for kiosk, 6' x 10' unless specified otherwise  
Electrical system, 30 Amp 110 volts unless specified otherwise  
Self-contained water system or hard-plumbed  
Choice of freezer wrap design  
Sneeze guard package included  
Delivery included

- Modular A-4 6' x 10' Freezer and Sink Wrap** **\$26,000**  
Stand behind with canopy

**Includes:**

All of the above with additional Sink Wrap allowing for more storage

- d. **"Ice Cream of the Future" stand, 8' x 10' Glassed-in** **\$18,500**  
**Includes:**  
 Fiberglass molded body  
 Formica countertops  
 Smooth panel surface on floor and interior  
 Stainless steel hand sink and 3 compartment sink (NSF approved)  
 Self-contained water system  
 8' x 10' canopy w/lighting  
 Electrical system is 240 volts  
 Window unit air conditioner  
 Sneeze guard to cover serving freezer included  
 24" Dippin' Dots logo placard (front mount)  
 4" vinyl lettering for canopy apron  
     "Dippin' Dots – Ice Cream of the Future"® (2 sides)  
     "Ice Cream of the Future"® (2 sides)  
 Delivery included
- e. **"Ice Cream of the Future" stand, 8' x 10' Open Air** **\$15,500**  
**Includes:**  
 Fiberglass panels  
 Formica countertops  
 Smooth panel surface on floor and interior  
 Stainless steel hand sink and 3 compartment sink (NSF approved)  
 Self-contained water system  
 8' x 10' canopy w/lighting  
 Electrical system is 110 Volts  
 Sneeze guard to cover serving freezer included  
 24" Dippin' Dots logo placard (front mount)  
 4" vinyl lettering for canopy apron  
     "Dippin' Dots – Ice Cream of the Future"® (2 sides)  
     "Ice Cream of the Future"® (2 sides)  
 Delivery included
- f. **"Ice Cream of the Future" stand, 4' x 6'** **\$8,750**  
**Includes:**  
 Fiberglass front, sides and countertop  
 Smooth panel surface on floor and interior  
 Hand sink  
 3' x 4' base, 4' x 6' canopy w/lighting  
 Chrome canopy poles  
 Sneeze guard included  
 24" Dippin' Dots logo placard (front mount)  
 4" Vinyl lettering for canopy apron  
     "Dippin' Dots – "Ice Cream of the Future"® (2 sides)  
     "Ice Cream of the Future" ® (2 sides)  
 Delivery included
- g. **Portable/Temporary Cart (59 day use limit)** **Call for current pricing.**

For the following items, shipping costs will be added.

| Item/Description                                     | Unit | Price      |
|--|------|------------|
| <b>Serving Items</b>                                 |      |            |
| 8 quart Round Containers                             | each | \$6.00     |
| 8 quart Round Lid                                    | each | \$2.00     |
| Acrylic Scoop  | each | \$4.00     |
| 8 quart Square Containers                            | each | \$8.95     |
| 8 quart Square Lid                                   | each | \$3.50     |
| <b>Sneeze guards</b>                                 |      |            |
| Large Sneeze Guard for 6' x 10' or 8' x 10' Open Air | each | \$400.00   |
| Small Sneeze Guard for 4' x 6'                       | each | \$400.00   |
| Nelson Sneeze Guard NF-45                            | each | \$400.00   |
| Vestfrost Sneeze Guard                               | each | \$400.00   |
| Sneeze Guard EL11                                    | each | \$185.00   |
| Sneeze Guard EL21                                    | each | \$400.00   |
| Sneeze Guard EL21 Double Enclosure                   | each | \$500.00   |
| Sneeze Guard EL31                                    | each | \$500.00   |
| Sneeze Guard EK35                                    | each | \$500.00   |
| <b>Freezers</b>                                      |      |            |
| EL51LT Ultra Low Storage Freezer - 90 gallon         | each | \$1,850.00 |
| EL31 Storage Freezer - 60 gallon                     | each | \$1,600.00 |
| EL21 ST Storage Freezer - 40 gallon                  | each | \$1,500.00 |
| EL31 SE <i>Serving</i> Freezer -10 flavor lighted    | each | \$1,850.00 |
| EL21 <i>Serving</i> Freezer - 8 flavor w/o baskets   | each | \$1,650.00 |
| EL11 <i>Serving</i> Freezer - 4 flavor w/baskets     | each | \$1,450.00 |
| Elcold Counter Top Freezer                           | each | \$1,850.00 |
| <b>Other</b>   |      |            |
| Vending Machine                                      | each | \$9,950.00 |
| Nelson Pushcart Blue                                 | each | \$2,750.00 |
| Nelson Pushcart                                      | each | \$2,750.00 |
| Panels for Pushcart                                  | set  | \$255.00   |
| Pushcart Umbrella Blue                               | each | \$195.00   |
| Pushcart Umbrella                                    | each | \$195.00   |
| Table Umbrellas                                      | each | \$195.00   |

Used equipment may be available for purchase upon request. Contact the CS Call Center for pricing.

Equipment returns will not be accepted without written authorization from SELLER, i.e. DDI. BUYER may obtain authorization by calling (270) 443-8994 and requesting a Return Authorization Form from the Accounting Department.

Returned equipment received without written authorization will be refused and returned to the customer freight collect.

Authorized returns are to be shipped to SELLER, freight prepaid by the BUYER, except when returned on a DDI truck.

All returned equipment is subject to a fifteen (15) percent restocking charge, and must still be in the original packaging. Equipment out of original packaging is subject to a thirty (30) percent restocking charge.

### Equipment Cleaning Materials:

| CHEMCO Cleaning Pricing    |        |           |
|----------------------------|--------|-----------|
| Item                       | Weight | Price/Kit |
| Kiosk Start-up Kit         | 23#    | \$63.00   |
| In-Line Store Start-up Kit | 35#    | \$77.00   |

| CHEMCO Cleaning Pricing - Reorders               |        |               |           |
|--|--------|---------------|-----------|
| Item   | Weight | Quantity      | Price/Box |
| Purple Tiger Concentrate                         | 7#     | (6) pints     | \$22.50   |
| Glass Cleaner Concentrate                        | 7#     | (6) pints     | \$20.00   |
| Chemocide Sanitizer (1/4 oz. per gallon)         | 18#    | (2) gallons   | \$20.00   |
| Dirt Buster One                                  | 18#    | (2) gallons   | \$16.75   |
| Purple Tiger (Pre-mixed w/sprayers)              | 7#     | (6) pints     | \$12.50   |
| Glass Cleaner (Pre-mixed w/sprayers)             | 7#     | (6) pints     | \$11.00   |
| Chem-Tabs  | 4#     | (6) bottles   | \$29.50   |
| Antibacterial Hand Soap Kit (includes dispenser) | 5#     | (1) Unit      | \$13.00   |
| Antibacterial Hand Soap Refills                  | 13.5#  | (6) 800ml.    | \$35.00   |
| Instant Foaming Hand Sanitizer                   | 5#     | (2) 32oz.     | \$12.00   |
| Test Strips (25 packs w/40 strips)               | 1/2#   | (25@40) packs | \$43.75   |
| Test Strips (1 pack w/40 strips)                 |        | (1) pack      | \$1.75    |

### Signage:

Kiosks will include approved logo placards and trademark signage. Additional signage and menus may be ordered through Dippin' Dots. Any signage or kiosk modification provided by Franchisee must be approved for use by Dippin' Dots Franchising, Inc. Point of Sale Items/Signage are available through the DDI Merchandise Catalog, available upon request.

## Dippin' Dots Wearables

Wearables are processed through Dippin' Dots, Inc. and a separate price list is available in the DD! Merchandise Catalog. All orders are C.O.D. and payments should be directed to Dippin' Dots Inc. For a copy of the catalog contact the Customer Call Center.

## Discounts and Rebates

- a. If 500 gallons of bulk product is ordered per "ship to address" a \$.25 discount per gallon will be applied.
- b. A 10% discount on single item pallets of dry goods will be applied plus the actual shipping costs as rated by common carrier. (i.e. a pallet will hold 36 cases of 5 oz. cups, 30 cases of 8 oz. cups or 75 cases of lightweight spoons).

| Palletized Dry Goods  |                 |            |
|---|-----------------|------------|
| Item  | Number of Cases | Price/Case |
| 5 oz. Logo Cup – SD5T<br>price does not include shipping      | 36              | \$39.60    |
| 8 oz. Logo Cup – SD8T<br>price does not include shipping      | 30              | \$42.30    |
| Light Weight Spoons – S5BW<br>price does not include shipping | 75              | \$6.97     |

- c. Customers that have multiple event types that use the same product, pay at the highest type rate. They submit a Rebate Request Form for the product they use at an event with a lower pricing structure.

Date

Paymentech, L.P.  
1601 Elm Street, Suite 900  
Dallas, Texas 75201  
Attr: FlexCache Implementation

RE: Dippin Dots Franchising, Inc.

Dear Paymentech:

We request and authorize you to process debit and credit Automated Clearing House ("ACH") transactions to our bank account listed below in accordance with instructions received by you from Dippin Dots Franchising, Inc.. These transactions will be initiated pursuant to an agreement between you and Dippin Dots Franchising, Inc. and will only be for the purpose of settling stored value card sales and redemptions by us in connection with DDF's stored value card program (the "Program").

The bank account information is:

\_\_\_ [Name of Bank]  
ABA No. \_\_\_\_\_  
Account No. \_\_\_\_\_  
Account Name: \_\_\_\_\_  
Reference: \_\_\_\_\_

We agree to indemnify and defend Paymentech for any claims, losses, or actions caused by or as a result of our activities pursuant to the Program. We further agree that Paymentech assumes no liability for acting in accordance with the requirements of the Program or instructions received by us or Dippin Dots Franchising, Inc.

Sincerely,

\_\_\_ Merchant Legal Name  
Authorized Signature





## STORED VALUE CARD AGREEMENT

THIS STORED VALUE CARD AGREEMENT (this "Agreement") is dated as of \_\_\_\_\_, 200\_\_\_\_ by and between PAYMENTECH, L.P. and its affiliates ("Paymentech," "we", "our" or "us") and Dippin Dots Franchising, Inc. ("Merchant," "you" or "your"). Paymentech and Merchant agree to the following terms and conditions:

**Services.** You will tender to us all your stored value and/or loyalty card ("Card") transactions according to our formats and procedures. You will not use the services of any other bank, corporation, entity or person for Card processing throughout the term of this Agreement. Paymentech will provide the services set forth in Exhibit A (collectively, the "Services") in accordance with the terms of this Agreement and any user documentation that it may furnish to Merchant from time to time. The Services provide an electronic stored value payment instrument through the use of plastic cards encoded with a magnetic stripe. The stored value card is used by the Merchant to issue spending credit to their customers. Popular uses for this stored value card include, but are not limited to, an electronic version of paper gift certificates, merchandise return cards, and prepaid cards. The Merchant's customers are given a magnetic stripe card by the Merchant in exchange for money received, merchandise returned or other considerations. The card represents a dollar value that the Merchant's customer can either use or give to another individual. There is no security associated with the card itself. The actual record of the balance on the card is maintained on Paymentech's Stored Value Card database. The card, the design and use of which is proprietary to the Merchant, is designed to be swiped through a POS terminal during each transaction at Merchant's location. When the customer gives the magnetic stripe card to the cashier, the cashier will press the appropriate keys, dependent upon the transaction type, swipe the card into the terminal and key in the amount to be applied against the card's balance. This information will be immediately transmitted to Paymentech, and the appropriate approval response will be routed to the Merchant. Associated with the program is a standard monthly reporting package detailing the Merchant's transactions and the outstanding balances on the individual cards. The Merchant will have access to help desk support through Paymentech for their stored value card transactions. Cardholders will have access to an interactive voice response system ("IVR"), via a toll free number, through which they may receive some basic account information. Merchant's card program will be configured in the manner specified by Merchant to Paymentech during enrollment, which will represent binding program rules relating to Merchant's card program. Changes to such program requested by Merchant subsequent to setup will be made at Paymentech's sole discretion and in the time and manner which Paymentech shall determine. We will supply a detailed statement reflecting your Program activity. We will not be responsible for any error that you do not bring to our attention within ninety days from date of such statement.

**Fees.** You agree to pay us the fees set forth in Exhibit A, all of which amounts are due and payable at the time the corresponding Services are rendered to you. All fees and prices charged hereunder are exclusive of taxes. You will be responsible for any federal, state, or local sales, use, property, or other taxes which may be imposed as a result of the transactions contemplated by this Agreement (except taxes imposed upon our net income). You hereby authorize Paymentech to initiate electronic debit entries at any time to the bank account designated by you from time to time for the payment of such fees. We will supply a statement reflecting the activity for your account(s). We will not be responsible for any error that you do not bring to our attention within ninety days from the date of such statement.

**Cards.** You are not obligated to purchase Cards from us. If you elect to do so, we will arrange for the Card production and may, at our option, invoice you therefore, in lieu of electronically debiting your account. Any such invoice will be payable upon receipt. All production and delivery timeframes and costs provided by us are estimates only and we do not guarantee any specific date of delivery or price for Cards produced by third parties. You are responsible for all production costs and delivery

charges for Cards. The form and content of all Cards will be subject to our approval.

**Compliance.** To the extent permitted by applicable law, you may provide for an expiration date or carrying charge for each Card. You are solely responsible for complying with all applicable laws relating to your Cards and you agree to indemnify and hold us harmless from any loss, damage or claim relating to or arising out of any failure to comply with applicable laws in connection with your Card program.

**Warranties.** THE SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER THIS AGREEMENT NOR ANY DOCUMENTATION FURNISHED UNDER IT IS INTENDED TO EXPRESS OR IMPLY ANY WARRANTY BY US THAT THE SERVICES WILL FUNCTION WITHOUT INTERRUPTION OR ERRORS. ANY SECURITY MECHANISMS INCORPORATED IN THE SERVICES HAVE INHERENT LIMITATIONS, AND YOU MUST INDEPENDENTLY DETERMINE THAT THE SUCH MECHANISMS ADEQUATELY MEET ITS SECURITY AND RELIABILITY REQUIREMENTS. BY USING THE SERVICES, YOU REPRESENT THAT YOU HAVE SO DETERMINED.

**Limitation of Liability.** We will, at our own expense, correct any data in which (and to the extent that) errors have been caused by us, or by malfunctions of our software or machines. However, the expense of correcting such data will be our only responsibility in connection with such errors or in connection with any other performance or nonperformance by us under this Agreement. In the event that any data error is not correctable by us, or any data is permanently lost or destroyed by us, and as a result of such error, loss or destruction you incur any direct losses, liabilities, costs, expenses (including, without limitation, reasonable attorneys' fees), claims, or damages (collectively, "Damages"), we will indemnify you and hold you harmless for the amount of such Damages up to a maximum amount equal to the total balance of all outstanding Cards at the time of such error, loss or destruction. Subject only to the foregoing, under no circumstances will our financial responsibility for our failure of performance under this Agreement exceed the total fees paid to it under this Agreement for the six months prior to the time the liability arose. IN NO EVENT WILL EITHER PARTY BE LIABLE HEREUNDER FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES.

**Indemnity.** You hereby releases and agrees to indemnify and hold us harmless from and against any loss, claim, demand, damages, liability, cost, expense, action or cause of action whatsoever to which we may become subject, arising out of or relating to your negligence or intentional misconduct or your breach of this Agreement. In the event of any loss, theft, disappearance of or damage to data that is transmitted electronically in connection with the Program, you agree to indemnify and hold harmless Paymentech with respect to such. You are solely responsible for monitoring the legal developments applicable to the operation of your Card program and ensuring that your Card program complies fully with such requirements as in effect from time to time. Merchant acknowledges that Paymentech cannot reasonably be expected to monitor and interpret the laws applicable to its diverse customer base, and has no responsibility to monitor or interpret laws applicable to Merchant's business.

**Fraud.** You hereby agree (i) that you are responsible for ensuring that all Cards require activation at the point of sale; (ii) to provide notification in writing to Paymentech of any fraud losses by type by fifteen days following the end of each calendar quarter; (iii) that you will be solely responsible for any and all value adding and fraud losses and expenses relating to or arising from your Card program; (iv) to discourage transportation of groups of sequentially numbered Cards; and (v) to deactivate or otherwise remove all value from Cards that have been compromised. You shall be responsible for any fraudulent transactions involving your Cards, including, without limitation, the unauthorized

activation of Cards, reloading of existing Cards (whether pursuant to a manual telephone order or otherwise) with additional value, or the unauthorized replication of Cards or Card data for fraudulent transactions. Paymentech provides a number of tools and options to help Merchant reduce Merchant's risk of exposure for fraudulent transactions. We urge you to make use of any and all of such tools as we may offer in order to help reduce the risk of such transactions. In particular, we recommend that you utilize only those vendors that have been certified by Paymentech as having appropriate security measures in place to reduce the risk of counterfeit Cards and the loss of sensitive Card information that might result in unauthorized transactions, and promptly and frequently reconcile the transaction reports we provide to you against your own internal transaction records, and to report any unauthorized transactions to your account representative at Paymentech. Because manual Card transactions (i.e. those involving the activation or reloading of cards over the telephone in cases where your terminals may be unavailable) pose a higher risk of potential fraud, we urge you to pay special attention to these transactions and reconcile them on an even more frequent basis. In the event that you do not reconcile your transaction reports and promptly report any suspicious activity to us, Paymentech may not be able to assist you in canceling fraudulently activated or reloaded cards, or in otherwise identifying the source of any fraud.

**Term and Termination.** This Agreement takes effect on the date it is executed by us and has an initial term expiring on the later of three years from that date, or the date your payment card processing agreement with us expires or is terminated. Unless otherwise terminated by either party as provided in this Agreement, the Agreement will automatically extend for successive one-year terms. Either party may give notice of non-renewal of this Agreement in writing no less than 30 days prior to any expiration date. We may terminate this Agreement at any time upon notice to you as a result of any of the following events: (i) the failure by you to pay when due any amount due hereunder, (ii) any other noncompliance by you with this Agreement that you fail to cure within 15 days after we give you written notice thereof, or (iii) any voluntary or involuntary bankruptcy or insolvency proceeding involving you or any of your affiliated entities. Upon termination or expiration of this Agreement

for any reason, we will make electronic reports available to the you that contain all active Card account balances. It is your sole responsibility to accomplish the conversion of your Card processing business at termination or expiration.

**Miscellaneous.** This Agreement (including all exhibits attached hereto) embodies the parties' final, complete and exclusive agreement with respect to the subject matter. This Agreement supersedes all prior and contemporaneous agreements, understandings and representations, written or oral. Any waiver, amendment, or modification of this Agreement or any of its terms must be in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. We may, in our sole discretion, retain third parties to perform various functions in connection with the Services on our behalf; provided, that we will continue to be liable for the performance of our obligations hereunder. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without reference to conflict of law provisions. Any action, proceeding, litigation or mediation relating to or arising from this Agreement must be brought by you against us exclusively in Dallas County, Dallas, Texas, and by us against you in the county and state of your principal office, as indicated below. **THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHTS EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT.** Except as otherwise provided in this Agreement, all notices must be given in writing and either hand delivered, faxed, or mailed first class, postage prepaid (and deemed to be delivered when mailed) to the addresses set forth below or to such other address as either party may from time to time specify to the other party in writing. Neither party will be liable for delays in processing or other nonperformance caused by such events as fires, telecommunications or utility or power failures, equipment failures, labor strife, riots, war, nonperformance of our vendors or suppliers, acts of God, or other causes over which the respective party has no reasonable control. You cannot assign or transfer your rights or delegate your responsibilities under this Agreement, without our prior written consent.

IN WITNESS WHEREOF, Paymentech and Merchant have caused this Agreement to be executed by their duly authorized officers as of the date first written above.

PAYMENTECH:

PAYMENTECH, L.P.

By: PTI General Partner, LLC, its general partner

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

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

Title: \_\_\_\_\_

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

Address: 1601 Elm Street, 8<sup>th</sup> Floor

Dallas, Texas 75201

Attn: \_\_\_\_\_

MERCHANT:

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

EXHIBIT A

Fees

|  |  | For Paymentech Internal Use |
|--|--|-----------------------------|
| Stored Value Authorization Fee*                  | 0 per authorization                      | Fee Code 0BB                |
| Block Activation Fee                             | 0 per activated card (if applicable)     | Fee Code 0BA                |
| Stored Value Setup Fee                           | 0 per location                           | Fee Code M1F                |
| Stored Value Only Fee                            | 0 per location per month (if applicable) | Fee Code 31L                |
| Paper Report Delivery                            | 0 per location per month (if applicable) | Fee Code 31L                |
| Monthly Service Fee                              | 0 per location per month (if applicable) | Fee Code 31L                |
| ACH Services Fee (Interstore or Central Account) | 0 per location per month (if applicable) | Fee Code 31L                |

Cards, Packaging and Point-of-purchase marketing materials are available and priced on a per run basis, based on current rates. These rates are captured on the FlexCache Materials Order Form.

\*A Stored Value Authorization Fee will be charged on each transaction generated at the point of sale.