

Rocky Mountain Chocolate Factory, Inc. and its subsidiaries Franchise Communication System User Policies

1. Introduction. Rocky Mountain Chocolate Factory, Inc. and its subsidiaries, (RMCF) Franchise Communication System (FCS) has been created to provide an efficient and effective means of communication within the RMCF franchise network.
2. Your electronic acceptance of these FCS User Policies ("Policies") means you agree to abide by the Policies represented in this agreement.
3. Franchise Agreement Governs. Your use of all materials provided on the FCS, including but not limited to new items, training manuals and trademarks, is governed by the Franchise Agreement. These Policies and all information posted by RMCF on FCS will be considered part of the Operations Manual as defined in your Franchise Agreement. Nothing in these Policies or any information on FCS online shall replace or supersede any portion of the Franchise Agreement. If there is ever a conflict between any information on the FCS and your Franchise Agreement, the Franchise Agreement will govern. All of the provisions in your Franchise Agreement regarding confidential information apply to your use of the FCS, to these Policies and apply to all information posted on the FCS.
4. Users. The FCS is intended for use by RMCF franchisees and their employees RMCF company stores and selected vendors. (Users).
5. Communication Technology. As a progressive company, we will increasingly use electronic forms of communication and information exchange. (Computers, e-mail, E-commerce, telephones and voice mail, fax machines, electronic bulletin boards, wire services and on-line services.) RMCF encourages the use of these media and associated services as they can make communication more efficient and effective and because they can be valuable sources of information.
6. Policy updates for a dynamic technology. With the rapidly changing nature of electronic media, these Policies cannot lay down rules to govern every possible situation. Instead, they express RMCF's philosophy and set forth general principles to be applied for use of the FCS. RMCF reserves the right to modify these Policies from time to time. These Policies are included in the FCS Library and you will be notified by an e-mail on the FCS of any update to these Policies.
7. Use is a Privilege. The use of the RMCF FCS is considered a privilege and is offered "*at will*" by RMCF, which reserves the right to add or remove users at its sole discretion. Access will be suspended by RMCF upon the termination of the Franchise Agreement or if you violate these Policies. The FCS is to be used only by authorized Users.

8. Features. The RMCF FCS includes a private RMCF FCS-only chat system, news articles, downloadable forms and marketing aids, an extensive reference library, the RMCF program training manuals, updates to the Operations Manual, company policies and other useful documents. Two types of interactive discussion forums are provided, including the private help system used for specific questions to RMCF departments or managers and open discussion forums on specific topics where all users can ask questions, make comments and leverage the great knowledge available from our franchisees.
9. Access Costs for Franchisees. Access to the RMCF FCS is being provided to USA franchisees free of charge (one account per franchise agreement). RMCF reserves the right to initiate a fee at its discretion upon 30 days notice.
10. Annual Fee for Additional Users. For additional Users, such as employees of franchisees, there will be an annual fee of \$84 for each additional User. RMCF reserves the right to change the amount of the annual fee upon 30 days notice.
11. Risk of Usage, Disclaimers of Warranty. You must bear the risk of any liability relating to your use of the RMCF FCS and we cannot be held accountable for any wrongful actions by other subscribers. YOUR USE OF THE RMCF FCS IS ENTIRELY AT YOUR OWN RISK. This system is provided “as is” and “as available” and we make no warranties, express or implied, as to the merchantability, fitness for a particular use or purpose, title, non-infringement or any other warranty condition, guaranty or representation, whether oral, in writing or in electronic form, including but not limited to the accuracy or completeness of any information contained therein or provided by the service.
12. Open Communication. The RMCF FCS is not intended to be a forum for private communication between specific franchisees, but rather an open forum for a broad sharing of information and for open discussions on specific topics. Users should assume communications may be read by others. However, RMCF will attempt to restrict access to postings on the private question and answer forum to the User and RMCF managers.
13. Privacy and System Security. Users of the RMCF FCS must respect the privacy and confidentiality of other people’s electronic communications and may not attempt to read, “hack” into the system or access other people’s log-ins, “crack” passwords, or breach computer or network security measures, upload any virus or other data which may be harmful to the system, or to monitor electronic files or communications of other Users. Users agree to use their best efforts to prevent any third party from obtaining a password and Users will inform RMCF immediately of any actual or potential unauthorized access to a password or to the system.
14. Lawful Use. Users agree that the RMCF FCS shall only be used by designated Users for lawful purposes, and Users shall not allow any party or unauthorized

User or computer system to access or use the FCS. Users shall make their best efforts to ensure that they, or their employees, do not use the system in a manner (i) which would result in any transmission of material in violation of any international, federal, state or local laws (ii) which in any way would violate or infringe upon any party's privacy rights, rights of publicity or any other rights of any person or entity, or (iii) which would display, transmit or store material which is unlawful, harmful, abusive, hateful, obscene, threatening, libelous or defamatory.

15. **Company Monitoring.** RMCF does not want or intend to play the role of "Big Brother" on discussion forums; however, the system administrators have the ability to review postings and RMCF reserves the right to review all postings, and at its sole discretion, to delete postings to the extent necessary to ensure that electronic media and services are being used in compliance with the law and with RMCF policies. For example, postings which include personal attacks or that are discriminatory, harassing, obscene or derogatory, are against the usage policy. Use of the RMCF FCS should be considered a privilege, and RMCF reserves the right to remove access to the system from those who abuse that privilege.
16. **Proprietary Rights.** By posting messages or engaging in any form of communication on the FCS, you are hereby granting RMCF an unrestricted right to use, copy, modify, adapt or document in any form, any communications, information or any underlying work in which you may possess proprietary rights, including but not limited to, copyrights. You shall have absolutely no recourse against us as the system provider for any alleged or actual infringement of any proprietary rights to which you may claim ownership.
17. **Choice of Law.** You agree that the User Agreement shall for all purposes be governed by and construed in accordance with the laws of the State of Colorado. Any litigation shall be enforced under the laws of the State of Colorado. In addition, you agree to submit to the jurisdiction of the courts of the State of Colorado, and that any legal action pursued by you shall be with the exclusive jurisdiction of the courts of the State of Colorado.
18. **Passwords and Security.** You agree (a) to notify the current Systems Administrator immediately of any unauthorized use of your User ID or passwords, or any other breach of security that comes to your attention, and (b) to log out of your FCS account at the end of each session. We cannot and will not be liable for any loss or damage arising from your failure to comply with these requirements.
19. **Confidentiality of Certain Information.** All provisions of your Franchise Agreement pertaining to Confidential Information are in effect and applicable with regards to all content located on the FCS.
20. **Conduct.** You agree not to use the FCS to:

1. upload, post, e-mail or otherwise transmit any User Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise offensive;
2. impersonate any person or entity;
3. disguise the authorship or origin of any User Content you transmit;
4. upload, post, e-mail or otherwise transmit any User Content that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary information and confidential information);
5. upload, post, e-mail or otherwise transmit any User Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any person;
6. upload, post, e-mail or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," or any other form of solicitation;
7. upload, post, e-mail or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
8. disrupt the normal flow of dialogue, cause a screen to "scroll" faster than normal, or otherwise act in a manner that negatively affects other users' ability to engage in orderly exchanges;

9. interfere with or disrupt servers or networks connected to the FCS;
10. "stalk" or otherwise harass another; or
11. collect or store personal data about other users.

We reserve the right, in our sole discretion, to block or remove any objectionable User Content that you transmit available via the FCS. Without limiting the breadth of our right, you are advised that we have the right to remove any User Content that violates these Policies or your Franchise Agreement, or is otherwise objectionable (in our determination).

We store and preserve User Content in accordance with established policy and may disclose it if required by law or in the good faith belief that such disclosure is reasonably necessary (a) to comply with legal process, (b) to enforce these Policies, (c) to respond to claims that any User Content violates the rights of third-parties, or (d) to protect the rights, property and personal safety of RMCF and its employees, Franchisees and their employees, and/or suppliers and vendors.

21. License to Republish User Content. You grant us a royalty-free, perpetual, irrevocable, non-exclusive, fully assignable, worldwide right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform and display all or any part of the User Content that you transmit and/or to incorporate it with and into other works in any form, media, or technology now known or later developed.
22. Indemnity. You indemnify and agree to hold us, and our subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party with respect to or arising out of User Content you submit, post to or transmit through the FCS, your use of the FCS, your violation of these Policies, or your violation of any rights of another.
23. Use and Storage. We may establish general practices and limits concerning use of the FCS, including the maximum number of days that e-mail messages, message board postings or other uploaded User Content will be retained on or by the FCS, the maximum number of e-mail messages that may be sent from or received by an account, the maximum size of any e-mail message that may be sent from or received by an account, the maximum disk space that will be allotted on our servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the FCS in a given period. We disclaim any responsibility or liability for the deletion or failure to store any messages and other communications or other User Content maintained or transmitted by the FCS. We have the right to change these general practices and limits at any time, in our sole discretion, with or without notice.

24. Modifications to FCS. We reserve the right at any time and from time to time to modify or discontinue, temporarily or permanently, the FCS (or any of its features), with or without notice. You agree that we shall not be liable to you or to any third party for any modification, suspension or discontinuance of the FCS.
25. Termination. We may suspend your password, your e-mail account or other use of the FCS, and remove and discard any of your User Content if you violate these Policies. Any violation or breach of these Policies by you or your employees will be deemed a breach of your Franchise Agreement. In addition to any other rights or remedies we may have, if you repeatedly breach these Policies, we may terminate your password, e-mail account or other use of the FCS and thereafter supply you with paper copies of our Operations Manual, bulletins and other materials that we are required to provide you under your Franchise Agreement. We shall not be liable to you or any third-party for any termination or suspension of your access to the FCS.
26. Intellectual Property Rights. We grant you a personal, non-transferable and non-exclusive right and license to use the object code of the Software (defined below) on your computers. You promise not to copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, or to sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software, either directly or through your employees or independent contractors. You agree not to modify the Software in any manner or form, or to use modified versions of the Software for any purpose, including (without limitation) that of obtaining unauthorized access to the FCS. You agree not to access the FCS by any means other than the interface that we provide for use in accessing the FCS.

RMCF is the owner of, and will retain all right, title and interest in and to the Software (subject to any licenses for the same with third parties), all Owner Content (as defined below) prepared for, or used on, the FCS, and all intellectual property rights in or to any of them.

“Owner Content” means all text, e-mail, images, sounds, files, videos, designs, animations, layouts, color schemes, trade dress, concepts, methods, techniques, processes and data used in connection with, displayed on, or collected from or through the FCS that we post or provide.

“Software” means computer programs and computer code (e.g., HTML, Java) used for, with or on the FCS, excluding any software programs owned by third parties.

27. Disclaimer of Warranties. YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

1.YOUR USE OF THE FCS IS AT YOUR SOLE RISK. THE FCS IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. WE EXPRESSLY DISCLAIM ALL

WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.2.WE MAKE NO WARRANTY THAT (i) THE FCS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (ii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE FCS WILL BE ACCURATE OR RELIABLE, (iii) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL YOU PURCHASE OR OBTAIN THROUGH THE FCS WILL MEET YOUR EXPECTATIONS, AND (iv) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

28. Limitation of Liability. YOU EXPRESSLY UNDERSTAND AND AGREE THAT NEITHER WE NOR OUR AFFILIATES, CONTRACTORS, SUPPLIERS OR LICENSORS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) YOUR USE OF OR INABILITY TO USE THE FCS; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE FCS; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS, DATA OR OTHER USER CONTENT; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE FCS; OR (v) ANY OTHER MATTER RELATING TO THE FCS.