

## FRANCHISE DISCLOSURE DOCUMENT

Infinity Health Advisors, LLC  
a Pennsylvania limited liability company  
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Lancaster, Pennsylvania 17601  
Telephone: 800-361-8060  
Email: david@bebalancedcenters.com  
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# BeBalanced



You will operate a health and wellness center specializing in natural weight loss services through our “Becoming Balanced” program and under the “BeBalanced” name and the associated trademarks.

The total investment necessary to begin the operation of a BeBalanced franchise ranges from \$155,650 to \$208,450. This includes \$57,500 to \$60,000 that must be paid to the franchisor or an affiliate.

The total investment necessary to begin the operation of a BeBalanced multi-unit development business ranges from \$220,650 to \$363,450 for the development of three to six BeBalanced outlets. This includes \$122,500 to \$215,000 that must be paid to the franchisor or an affiliate.

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

The terms of your contract will govern your franchise relationship. Don’t rely on the disclosure document alone to understand your contract. Read your entire contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as “A Consumer’s Guide to Buying a Franchise”, which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue NW, Washington, DC, 20580. You can also visit the FTC’s home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance Date: July 17, 2023

## How to Use This Franchise Disclosure Document

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

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

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

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

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

**Supplier restrictions.** You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

**Operating restrictions.** The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration, and/or litigation only in Pennsylvania. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Pennsylvania than in your own state.
2. **Spouse Liability.** Your spouse must sign a document that makes your spouse liable for your financial obligations under the franchise agreement, even though your spouse has no ownership interest in the business. This guarantee will place both your and your spouse's personal and marital assets, perhaps including your house, at risk if your franchise fails.
3. **Financial Condition.** The franchisor's financial condition as reflected in its financial statements (see Item 21) calls into question the franchisor's ability to provide services and support to you.
4. **Mandatory Minimum Payments.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments, may result in termination of your franchise and loss of your investment.

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

## **DISCLOSURE REQUIRED BY THE STATE OF MICHIGAN**

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

- (a) A prohibition on the right of a franchisee to join an association of franchises.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty (30) days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) the term of the franchise is less than five (5) years, and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least six (6) months' advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - (i) Failure of the proposed transferee to meet the franchisor's then-current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

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

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

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

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

If the franchisor's most recent financial statements are unaudited and show a net worth of less than \$100,000, franchisee has the right to request an escrow arrangement.

Any questions regarding this notice should be directed to:

Consumer Protection Division  
Attn: Katharyn Barron  
Michigan Department of Attorney General  
525 W. Ottawa Street, 1st Floor  
Lansing, Michigan 48933  
(517) 335-7567

**INFINITY HEALTH ADVISORS, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
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D – Financial Statements  
E – Operations Manual Table of Contents  
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## **ITEM 1: THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

To simplify the language in this disclosure document, the terms “Franchisor”, or “we”, or “us” means Infinity Health Advisors, LLC, the Franchisor. The terms “we”, “us”, and “Franchisor” do not include you, the “Franchisee”. We refer to the purchaser(s) of a BeBalanced franchise, as “you” or “Franchisee”, whether an individual, a partnership, corporation, or limited liability company. If you are a corporation, partnership, or other entity, our Franchise Agreement also will apply to your owners, officers, and directors. If you are married and your spouse is not a partner in the franchise business, certain provisions of our Franchise Agreement will also apply to that spouse.

We were formed as a limited liability company in the Commonwealth of Pennsylvania on May 2, 2013. Our principal business address is 485 Royer Drive, Suite 102, Lancaster, Pennsylvania, 17601. We do not own or operate any businesses of the type you will be operating. We have not offered franchises in any other line of business. We only offer franchises which operate under the “BeBalanced” trademarks. We began offering franchises in 2013.

The principal business addresses of our agents for service of process are shown on Exhibit A.

### **Our Parents, Predecessors and Affiliates**

We have no parent or predecessor.

Our affiliate, IHA Distribution, LLC, was formed in the Commonwealth of Pennsylvania on April 20, 2015, and is located at our headquarters. IHA Distribution, LLC provides initial inventory and operating supplies to franchisees for use in the operation of the franchise. IHA Distribution, LLC has not operated a business of the type being offered through this Disclosure Document and has not offered franchises in this or in any other lines of business.

Through an affiliate, we have operated a BeBalanced outlet similar to the franchise offered by this Disclosure Document since 2006.

### **The Franchise Offered:**

We grant franchises for the right to establish and operate a health and wellness center specializing in natural weight loss services through our “Becoming Balanced” program. You will provide products and services to customers under the “BeBalanced” name and trademarks, using our distinctive operating procedures and standards in a limited protected territory and from a single location (the “Franchised Business”). The distinguishing characteristics of the Franchised Business include, but are not limited to, our distinctive trade dress, inventory, procedures for management, training, advertising, and promotional programs, all of which may be changed, improved, or further developed by us at any time (the “System”).

Your Franchised Business may be located in a retail center or free-standing building. The Franchised Business will require approximately 1,000 to 1,200 square feet of space, which may be leased space or owned space.

We also offer qualified individuals the right to open a minimum of three, but no more than six, BeBalanced outlets in a designated area under the terms of a multi-unit development agreement. You must sign the then-current form of franchise agreement for each Franchised Business to be developed under the multi-unit development agreement, which may differ from the current Franchise Agreement included with this Franchise Disclosure Document.



### **Market and Competition:**

The market for your Franchised Business consists of the general public seeking weight loss and wellness products and services. The market for these products and services is developed and competitive. You will compete with businesses, including national, regional, and local businesses, offering products and services similar to those offered by your Franchised Business. The market for all-natural weight loss services is not as developed.

### **Industry Specific Regulations:**

The Franchised Business will be subject to the requirements of health department rules, regulations, and inspections, city occupancy permits, ordinances, building codes, zoning, licensing, certifications, and other federal, state, and local laws and ordinances. There may also be state laws and regulations with which you must comply in the opening and operation of your BeBalanced outlet. You will also be subject to the laws and regulations of the American Disabilities Act, federal wage and hour requirements, the Occupational Health and Safety Act, and local, city, and state governmental authority health requirements and regulations, among others.

You should investigate whether there are any state or local regulations or requirements that may apply in the geographic area in which you intend to conduct business. You should consider both their effect on your business and the cost of compliance. You are responsible for obtaining all licenses and permits which may be required for your business.

### **ITEM 2: BUSINESS EXPERIENCE**

#### **David Mathew Cutillo: Board Chairman and Chief Executive Officer (CEO)**

Mr. Cutillo has been our Board Chairman since April 2022, and has been our CEO since May 2023. He previously served as our Director of Franchisor Development from April 2022 to April 2023, and was our CEO from May 2013 to April 2022.

#### **William E. Warrin: Chief Financial Officer (CFO)**

Mr. Warrin has been our CFO since December 2017.

#### **Diane Rizio: Director of Franchise Development and Operations**

Ms. Rizio has been our Director of Franchise Development and Operations since June 2022. From January 2022 to June 2022, she was a Consultant at Evolve Med Spa in Hoboken, New Jersey. Ms. Rizio was Regional Director at Ideal Image Med Spa located in Tampa, Florida, from October 2017 to July 2019.

### **ITEM 3: LITIGATION**

No litigation is required to be disclosed in this Item.

### **ITEM 4: BANKRUPTCY**

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

### **ITEM 5: INITIAL FEES**

We will charge you an initial franchise fee when you sign the Franchise Agreement. The initial franchise fee is \$45,000. This payment is fully earned by us and due in a lump sum when you sign the Franchise Agreement, and it is not refundable under any circumstances.

From time to time, we may offer special incentive programs as part of our franchise development activities. We reserve the right to offer, modify or withdraw any incentive program without notice to you.

#### Initial Inventory and Operating Supplies

You are required to purchase certain initial inventory and operating supplies from us or our affiliate. The cost of these supplies ranges from \$12,500 to \$15,000 and the payments are due to us before the Franchised Business opens. These fees are not refundable under any circumstance.

#### Internal Systems Fee

You must pay us \$1,350 for the set-up and use of the cloud-based POS system with scheduling, the integrated email marketing software, and landing page/email maintenance. This fee is not refundable.

#### Development Fee

We will charge you a development fee (“Development Fee”) when you sign the Multi-Unit Development Agreement. The Development Fee is calculated as \$45,000 for the first unit to be developed, plus \$35,000 for the second unit to be developed, plus \$30,000 for the third and each additional unit to be developed under the Multi-Unit Development Agreement. For the required minimum of three BeBalanced outlets you commit to develop under the Multi-Unit Development Agreement, the Development Fee is \$110,000 (\$45,000 + \$35,000 + \$30,000). The Development Fee is fully earned by us when received, is due in a lump sum when you sign the Multi-Unit Development Agreement, and is not refundable under any circumstance. The maximum number of outlets you may develop under a Multi-Unit Development Agreement is six.

You will sign the franchise agreement for your first BeBalanced outlet when you sign the Multi-Unit Development Agreement. You will receive a \$45,000 credit from the Development Fee as full payment of the initial franchise fee due under your first franchise agreement. Upon execution of your second franchise agreement under the Multi-Unit Development Agreement, you will receive a \$35,000 credit from the Development Fee as full payment of the initial franchise fee due under the second franchise agreement. For each additional franchise agreement signed under the Multi-Unit Development Agreement, you will receive a \$30,000 credit from the Development Fee as full payment of the initial franchise fee for the applicable franchise agreement.

There are no other payments to or purchases from us or any affiliate that you must make before your Franchised Business opens.

#### **ITEM 6:      OTHER FEES**

Type of Fee	Amount	Due Date	Remarks
Royalty Fee	6% of monthly Gross Sales, with a monthly minimum of \$1,000 starting after your first 12 months of operations	Monthly by the 5 <sup>th</sup> day following the close of each calendar month	Payable to us. See footnote 1.
Required Minimum Local Advertising Expenditure	\$3,500 or 8% of monthly Gross Sales, whichever is greater	As incurred	Payable to third parties. All advertising must be pre-approved by us. See footnote 2.

Type of Fee	Amount	Due Date	Remarks
Brand Fund Contribution	\$100 or 2% of monthly Gross Sales, whichever is greater	Monthly by the 5 <sup>th</sup> day following the close of each calendar month	Payable directly to the Brand Fund. See footnote 3.
Advertising Cooperative	Your share of actual cost of advertising, not to exceed 2% of Gross Sales	As determined by cooperative	You are required to join an advertising cooperative if one is formed in the area where the Franchised Business is located. Cooperatives will be comprised of all franchised BeBalanced outlets in a designated geographic area. Any affiliate-owned outlets may, but are not required to, participate in an advertising cooperative. Currently, there is one advertising cooperative operating in the System.
Internal Systems Fee	\$450	Monthly, in the same manner and at the same time as the Royalty Fee	Payable to us for use of the cloud-based POS system with scheduling and integrated email marketing software and landing page/email maintenance.
Merchant Processing Fee	2% - 3%	As incurred	This fee is charged on all credit card transactions completed at or by the Franchised Business.
Non-Sufficient Funds Fee	\$30	As incurred	We may charge this fee each time your check is returned or an electronic funds transfer from your bank account is denied for insufficient funds.
Late Fee	\$75	As incurred	If you fail to pay us the Royalty Fee, Brand Fund Contribution, or if you fail to submit your Gross Sales report when due, we may charge you a late fee in addition to interest charges.
Interest Charge	18% per annum from the due date or the maximum allowed by law, whichever is lower	As incurred	If you fail to pay us any amount when due, we may charge you interest on the unpaid balance until the payment is received.
Successor Agreement Fee	25% of the then-current initial franchise fee	Upon signing the successor franchise agreement	Payable to us. See Item 17.
Transfer Fee – Franchise Agreement	75% of the then-current initial franchise fee  For transfers to:	Before we approve the transfer	Payable to us. See Item 17.

Type of Fee	Amount	Due Date	Remarks
	<p>(a) an existing franchisee in good standing, the transfer fee is 50% of the then-current initial franchise fee</p> <p>(b) an entity owned and controlled by the franchisee for convenience purposes, the transfer fee is \$1,500</p> <p>(c) a spouse, parent or child upon death or permanent disability, the transfer fee is \$3,500</p>		
Transfer Fee – Multi-Unit Development Agreement	<p>\$15,0000</p> <p>For transfers:</p> <p>(a) to an existing multi-unit developer or franchisee in good standing, the transfer fee is \$10,000</p> <p>(b) among the individuals originally named as “Developer” in the Multi-Unit Development Agreement, the transfer fee is \$2,000</p> <p>(c) to a spouse, parent or child upon death or permanent disability, the transfer fee is \$2,500</p>		
Relocation Fee	\$3,000	As incurred	Payable to us if we approved the relocation of the Franchised Business.
Initial Training	<p>Our then-current per person training fee, plus expenses</p> <p>Current per person training fee = \$2,000</p>	Before training	There is no charge for initial training for up to two people. If you wish to send additional people to our initial management training program, either before the Franchised Business opens or during the term of the Franchise Agreement, you must pay this per person fee to us. You must also pay the trainees’ incidental costs to attend the initial training program, such as airfare/transportation, lodging, and

Type of Fee	Amount	Due Date	Remarks
			meals.
Additional Training	Our then-current per person per diem fee, plus expenses  Current per person per diem fee = \$500	As incurred	Payable to us if you are required to attend additional training and/or an annual meeting or convention. You must also pay your attendees' incidental costs to attend additional training, meetings, or conventions, such as airfare/transportation, lodging, and meals. See footnote 4.
Remedial Training	Our then-current trainer per diem rate, plus expenses  Current rate = \$400	As incurred	We may impose this fee, payable to us, if you request additional training at your premises, or if you are operating below our standards and we require you to have additional training. You must also pay all costs of our trainer, which include but are not limited to, airfare, transportation, hotel, and meals.
Interim Management Support Fee	Our then-current per diem rate for on-site management, plus expenses  Current rate = 10% of Gross Sales	As incurred	We may impose this fee (in addition to all regularly occurring fees such as the Royalty Fee and Brand Fund Contributions), payable to us, if we provide on-site management of your Franchised Business. See footnote 5.
Examination of Books and Records	Cost of examination plus related expenses.	As incurred	We have the right under the Franchise Agreement to examine your books, records and tax returns. If an examination reveals that you have understated any Gross Sales, you must pay us the owing Royalty Fee and Brand Fund Contribution, with interest, and if there is an understatement of 2% or more, you must pay to us the cost of the audit and all travel and related expenses.
Quality Review Services	Actual cost of services provided	As incurred	Payable to third-party providers. See footnote 6.
Indemnification	Amount of loss or damages plus costs	As incurred	See footnote 7
Reimbursement of Cost and Expenses for Non-compliance	Actual costs and expenses	As incurred	See footnote 8.
Insurance	Amount paid by us for your	As incurred	You must reimburse us for any

Type of Fee	Amount	Due Date	Remarks
Reimbursement	insurance obligations, plus a 10% administrative fee		insurance costs and other fees we incur due to your failure to meet the insurance obligations required by the Franchise Agreement.
Reimbursement of legal fees and expenses	Our costs and expenses, including but not limited to attorneys' fees, incurred for your failure to pay amounts when due or failure to comply in any way with the Franchise Agreement	As incurred	Payable to us.
Evaluation Fee	\$500	As incurred	Payable to us.
Accounting Services	Actual costs	As incurred	We have the right to require you to use an external accounting service if (a) you do not keep your books and records in accordance with our requirements or (b) we determine that use of an external service by all franchisees is beneficial to the System.
Liquidated Damages	The amount equal to the average monthly Royalty Fees and Brand Fund Contributions you paid or owed to us during the 12 months of operation preceding the date of your default multiplied by (a) 24 months, or (b) the number of months remaining in the Franchise Agreement, whichever is less.	As incurred	Payable to us if the Franchise Agreement is terminated due to your default.
Taxes	Amount of taxes	When incurred	You must reimburse us for any taxes that we must pay to any taxing authority on account of either the operation of your Franchised Business or payments that you make to us, including, but not limited to any sales taxes or income taxes imposed by any authority.

All fees and expenses described in this Item 6 are nonrefundable and are uniformly imposed. Except as otherwise indicated in the preceding chart, we impose all fees and expenses listed and you must pay them to us.

<sup>1</sup> "Gross Sales" includes all sales of every kind and nature at or from your Franchised Business location or made per the rights granted to you by the Franchise Agreement, regardless of whether you have collected the amount of the sales. "Gross Sales" does not include (a) any sales tax or similar taxes collected from customers

and turned over to the governmental authority imposing the tax, (b) properly documented refunds to customers, and (c) properly documented promotional discounts (i.e. coupons). If you do not report Gross Sales for any reporting period, then we will collect 120% of the last Royalty Fee collected and settle the balance the next period in which you report Gross Sales. You are required to set up authorization at your bank to allow us to electronically transfer funds from your bank account to our bank account. Interest and late fees will apply to any late payments or electronic funds transfer requests denied due to insufficient funds.

<sup>2</sup> Upon our request, you must furnish us with a quarterly report and documentation of local advertising expenditures during the previous calendar quarter. You may not use social media platforms, such as Facebook, Twitter, Instagram, TikTok, LinkedIn, blogs and other networking and sharing websites, unless you first receive our written approval and any use of social media must be in strict accordance with our requirements.

<sup>3</sup> Brand Fund Contribution payments are due at the same time and in the same manner as Royalty Fees. You are required to set up authorization at your bank to allow the Brand Fund to electronically transfer funds from your bank account to the Brand Fund's bank account. Interest and late fees will apply to any late payments or electronic funds transfer requests denied due to insufficient funds. If you do not report Gross Sales for a required period, then the Brand Fund will collect 120% of the last Brand Fund Contribution collected and settle the balance the next period in which you report sales.

<sup>4</sup> We may offer mandatory and/or optional additional training programs periodically, including an annual business meeting or convention. If we require it, you must participate in additional training, which may include up to five days at an annual business meeting or convention at a location we designate.

<sup>5</sup> In the event of your death or disability, your default of the Franchise Agreement, absence of a qualified general manager, or other reasons, in our sole discretion, we may provide interim on-site management of your Franchised Business.

<sup>6</sup> We may establish quality assurance programs conducted by third-party providers, such as mystery shop programs and periodic quality audits, to monitor the operations of your Franchised Business. If we require it, you must subscribe and pay the fees for any such program.

<sup>7</sup> You must indemnify and hold us, our affiliates, and all of our respective officers, directors, agents, and employees harmless from and against any and all claims, losses, costs, expenses, liability, and damages arising directly or indirectly from, as a result of, or in connection with your business operations under the Franchise Agreement, as well as the costs, including attorneys' fees, of defending against them.

<sup>8</sup> We may, but have no obligation to, correct any deficiency you fail to correct in the Franchised Business and/or your operation of the Franchised Business or take steps to modify, alter or de-identify the Franchised Business location upon the termination or expiration of the Franchise Agreement. You will reimburse us for our costs and expenses incurred to correct any deficiency or to modify, alter or de-identify the Franchised Business location.

## **ITEM 7: ESTIMATED INITIAL INVESTMENT**

### **YOUR ESTIMATED INITIAL INVESTMENT – SINGLE UNIT**

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is Made
Initial Franchise Fee <sup>1</sup>	\$45,000	Lump sum payment by wire or ACH	Upon signing the Franchise Agreement.	Us
Travel & Living Expenses while Training <sup>2</sup>	\$0 - \$2,500	As required	Before opening	Suppliers of transportation, lodging, & meals
Premises & Utility Deposits <sup>3</sup>	\$1,000 - \$2,500	As required	As required	Landlord, Utility providers
Rent – three months <sup>3</sup>	\$4,600 - \$9,000	As required	As required	Landlord
Insurance Premium – three months <sup>4</sup>	\$400 - \$800	As required	Before opening	Insurer
Business Licenses and Permits <sup>5</sup>	\$1,500 - \$2,500	As required	Before opening, as required	Government agencies
Blueprints, Plans, Permits, Architecture Fees <sup>6</sup>	\$1,000 - \$5,000	As required	Before opening, as required	Architect, planner, government agencies
Leasehold Improvements, Construction and/or Remodeling <sup>6</sup>	\$15,000 - \$30,000	As required	Before opening, as required	Suppliers, contractor and/or landlord
Signage and Graphics <sup>7</sup>	\$8,000 - \$12,000	As required	As required	Suppliers
Furniture, Fixtures, and Equipment <sup>8</sup>	\$30,000 - \$35,000	As required	Before opening	Suppliers
Computer Systems <sup>9</sup>	\$1,500 - \$2,500	As required	Before opening	Suppliers
Initial Inventory and Operating Supplies <sup>10</sup>	\$12,500 - \$15,000	As required	Before opening	Our affiliate, IHA Distribution, LLC
Internal Systems Fee <sup>11</sup>	\$1,350	As required	As incurred	Us
Grand Opening Advertising <sup>12</sup>	\$12,000	As required	Before opening	Suppliers
Professional Fees <sup>13</sup>	\$1,000 - \$2,500	As incurred	As incurred	Financial Adviser, Accountant, Attorney
Operating Expenses/Additional Funds – three months <sup>14</sup>	\$20,800 - \$30,800	As incurred	Weekly payroll, other purchases according to agreed-upon terms	Employees, utilities, suppliers, etc.
<b>TOTALS: \$155,650 - \$208,450</b>				

<sup>1</sup> This is discussed in Item 5.



<sup>2</sup> The cost of the initial training program for up to two individuals is included in the initial franchise fee. The chart estimates the costs for transportation, lodging, and meals for your trainees. These incidental costs are not included in the initial franchise fee. Your costs will depend on the number of people attending training, their point of origin, method of travel, class of accommodation and living expenses. The duration of the in-person portion of the training program is approximately eight days. This estimate does not include employee wages.

<sup>3</sup> Utility providers set the amounts of the utility deposits. A credit check may be required by the issuing utility company prior to the initiation of services, or a higher deposit may be required for first time customers. These costs will vary depending on the type of services required for the facility and the municipality or utility provider from which they are being contracted. We have based our estimate on the experiences of our affiliate. The figures in the chart include deposits that may be refundable to you at a later time. In most cases, your lease will require you to pay electric, gas, water, and other utilities directly; however, some landlords cover some utility charges through operating fees. You must obtain a location for your Franchised Business that is acceptable to us. Generally, you will need a minimum of 1,000 to 1,200 square feet of space. We anticipate that you will lease the premises for your Franchised Business, and this rent figure is an estimate for three months of rent. The cost of commercial space varies considerably depending upon the location and the conditions affecting the local market for commercial property. Your landlord will likely require you to pay a security deposit equal to one month's rent or more. Although we anticipate that you will lease the space for your Franchised Business, it is possible that you will choose to purchase real estate on which a building suitable for your Franchised Business is already constructed or could be constructed. Real estate costs depend on location, size, visibility, economic conditions, accessibility, competitive market conditions, and the type of ownership interest you are buying. Because of the numerous variables affecting the value of a particular piece of real estate, this initial investment table does not reflect the potential purchase cost of real estate or the costs of constructing a building suitable for your Franchised Business.

<sup>4</sup> Insurance costs and requirements may vary widely in different localities. The estimate represents the cost of insurance premiums for three months of operations.

<sup>5</sup> This is an estimate of the costs of building permits, sign permits, and a certificate of occupancy for your premises. Not all locations will require all of these permits, depending on the prior use of the premises and the requirements of local ordinances. This estimate also includes the cost of a local business license. The costs of permits and licenses will vary by location. Please contact your local governing agencies for information specific to the municipality where your Franchised Business is located.

<sup>6</sup> This cost of leasehold improvements depends upon the condition and size of the leasehold, the local cost of contract work and the location of the Franchised Business. The estimated figures assume a vanilla-shell, where no demolition is required, with a minimum of finished concrete floor, grid and tile ceiling, interior walls in paint-ready condition, and existing and adequate electrical, plumbing, and HVAC systems and an ADA-compliant restroom. These amounts will vary based on the condition of the existing leasehold. Many locations are built in existing structures, while many others are new buildouts. You will incur expenditures in this category if you take over space which was occupied by a prior tenant. You may need to engage the services of an architect or space designer. It is difficult, if not impossible, to estimate what it might cost to improve existing property. Tenant improvement allowances, if any, paid to you may defray a portion of build-out costs.

<sup>7</sup> The cost of signage and graphics will vary from location to location depending on lease requirements, local ordinances and restrictions, store frontage, and related factors. We can provide design guidance and assistance to you if needed. The final design must be submitted to us for review and approval.

<sup>8</sup>This item includes all furniture, fixtures, and equipment needed to open and operate a BeBalanced outlet. You are required to furnish your Franchised Business in accordance with our specifications and standards, as well as the needs of your outlet and personnel.

<sup>9</sup>You are required to purchase computer hardware and software that meets our specifications and requirements. This estimate includes the cost of QuickBooks, which we require you to use for financial reporting purposes. See Item 11 for more information.

<sup>10</sup>This estimate covers the initial inventory and various supplies you will need in your initial phase of operations. You are required to obtain these items from our affiliate.

<sup>11</sup>The internal systems fee is for a cloud-based POS system with scheduling and integrated email marketing software, and for ongoing website and search engine optimization to coincide with digital marketing efforts and landing page and email maintenance.

<sup>12</sup>You are required to expend \$12,000 on a grand opening advertising campaign, which includes promotional programs, which must be conducted in the 60 days prior to opening and the 90 days after opening the Franchised Business.

<sup>13</sup>You may incur professional fees depending on the scope of work performed, which may include, legal and accounting fees to review franchise documents and costs of forming a separate legal entity and/or obtaining zoning approval. This list is not exhaustive. This amount will vary greatly depending on your specific needs and location. We strongly recommend that you seek the assistance of professional advisors when evaluating this franchise opportunity, this disclosure document, and the Franchise Agreement. It is also advisable to consult these professionals to review any lease or other contracts that you will enter into as part of starting your franchise.

<sup>14</sup>This is an estimate of the amount of additional operating capital that you may need to operate your Franchised Business during the first three months after commencing operations. This estimate includes such items as utilities, internet service, initial payroll and payroll taxes, royalty fees, software fees, technology fees, local advertising expenses, repairs and maintenance, bank charges, initial staff recruiting expenses, and other miscellaneous items. These estimates do not include any compensation to you, nor do they include debt service. These items are by no means all-inclusive of the extent of possible expenses.

We relied upon the experience of our affiliate-owned BeBalanced outlet, and the experience of certain franchisees that commenced operating their franchised businesses prior to the issuance date of this Disclosure Document, in compiling these estimates. You should review these figures carefully with a business advisor before making any decision to invest in the franchise. Your additional costs will depend on factors such as how closely you follow our methods and procedures; your management skill, experience, and business acumen; local economic conditions; the local market for our service; competition; and the sales level reached during your initial period. We estimate that a franchisee can expect to put additional cash into the business during at least the first three to six months, and sometimes longer.

We do not offer financing for any part of the initial investment.

All fees and payments are non-refundable, unless otherwise stated or permitted by payee.

\* \* \* \* \*

**YOUR ESTIMATED INITIAL INVESTMENT – MULTI-UNIT**  
**(Minimum three outlets/Maximum six outlets)**

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is Made
Development Fee <sup>1</sup>	\$110,000 - \$200,000	Lump sum payment in cash or available funds	Upon signing the Multi-Unit Development Agreement	Us
Other Expenditures for First Unit <sup>2</sup>	\$110,650 - \$163,450	See tables above	See tables above	See tables above
<b>TOTAL</b>	<b>\$220,650 - \$363,450</b>			

In general, none of the expenses listed in the above table are refundable. We do not finance any portion of your initial investment.

<sup>1</sup>The Development Fee is discussed in Item 5.

<sup>2</sup>These are the estimates to build-out your first outlet under the Multi-Unit Development Agreement. Costs associated with building out additional outlets are subject to factors that we cannot estimate or control, such as inflation, increased labor costs, or increased materials costs.

#### **ITEM 8: RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

We have identified various suppliers, distributors and manufacturers of equipment, inventory, and services that your Franchised Business must use or provide which meet our standards and requirements. You must purchase all equipment (including computer systems and software), fixtures, inventory, supplies and services from our designated suppliers and contractors or in accordance with our specifications.

You are required to purchase all initial inventory and operating supplies required for the operation of your Franchised Business from our affiliate, IHA Distribution, LLC (“Affiliate”), the sole designated supplier of these items. Our Affiliate reserves the right to make a profit from the sale of these items to our franchisees. In our last fiscal year ended December 31, 2022, our Affiliate earned \$3,175,887 in revenue from the sale of these items to our franchisees.

Neither we, nor any of our affiliates, are approved suppliers of any other product or service that you must lease or purchase. Our officer, David Cutillo, has an ownership interest in our Affiliate. Other than our Affiliate, none of our officers owns an interest in any approved supplier.

We approve suppliers after careful review of the quality of the products they provide to us and you. If you would like us to consider another item or supplier, you must provide a written request to us and have the supplier give us samples of its product or service and any other information that we may require. If the item and/or supplier meet our specifications, as we determine in our sole discretion, we will approve it as an additional item or supplier. We will make a good-faith effort to notify you whether we approve or disapprove of the proposed item or supplier within 30 days after we receive all required information to evaluate the product or service. If we do not approve any request within 30 days, it is deemed unapproved. We reserve the right to revoke approval of any item or supplier that does not continue to meet our then-current standards. Our criteria for approving items and suppliers are not available to you. Along with your written request that we approve a proposed item or supplier, you must pay an evaluation fee of \$500 to offset our cost for time, review, and testing.

We maintain written lists of approved items of equipment, fixtures, inventory and services (by brand name and/or by standards and specifications) and a list of designated suppliers and contractors for those items. We update these lists periodically and issue the updated lists to all franchisees.

We do not receive any other revenue, rebates, discounts or other material consideration from any other suppliers based on your required purchases of products, supplies or equipment; however, we may do so in the future, and any rebates or discounts we receive may be kept by us in our sole discretion.

We estimate that your purchase or lease of products, supplies, and services from approved suppliers (or those which meet our specifications) will represent approximately 40% to 50% of your costs to establish your Franchised Business and approximately 40% to 45% of your costs for ongoing operation.

Currently, there are no purchasing or distribution cooperatives. However, we can require that you make your purchases through a cooperative if one is formed.

From time to time, we may negotiate purchase arrangements, including price terms, with designated and approved suppliers on behalf of all franchisees. As of the date of this Disclosure Document, we have not created any purchasing arrangements with suppliers.

Before you open for business, you must purchase and maintain at your sole cost and expense the insurance coverage that we specify. The current insurance specifications are:

<b>Type of Coverage</b>	<b>Amount</b>	<b>Maximum Deductible</b>
<u><b>General Liability</b></u>		
General Aggregate Limit	\$2,000,000	N/A
Products/Completed Ops. Aggregate Limit	\$2,000,000	N/A
Personal & Advertising Injury Limit	\$1,000,000	N/A
Each Occurrence Limit	\$1,000,000	N/A
Fire Damage Limit (Any one fire)	\$300,000	N/A
Medical Expense (Any one person)	\$5,000	N/A
<u><b>Professional Liability</b></u>		
Each Occurrence Limit	\$1,000,000	N/A
<u><b>Umbrella Liability</b></u>		
Each Occurrence Limit	\$1,000,000	N/A
Aggregate Limit	\$1,000,000	N/A
<u><b>Employers Liability (Workers' Compensation)</b></u>		
Each Accident Limit	\$500,000	N/A
Each Person-disease limit	\$500,000	N/A
Aggregate- disease limit	\$500,000	N/A
<u><b>Property Coverage</b></u>		
Adequate limit to cover personal property of franchise		N/A

Each policy must be written by a responsible carrier or carriers acceptable to us, with an A.M. Best rating of no less than A-VIII, and must name us and our respective officers, directors, partners, agents and employees as additional insured parties. We have the right to require additional types of insurance and coverage as provided in the Franchise Agreement.

You must accept credit cards to facilitate sales at the Franchised Business. The accepted credit cards must include Visa, MasterCard, and Discover. You may accept American Express at your option. You will be charged a merchant processing fee in connection with the processing of all credit card transactions.

We provide no material benefits (such as the grant of additional franchises) based on your use of designated sources; however, failure to use approved items or designated suppliers and contractors may be a default under the Franchise Agreement. When there is any default under the Franchise Agreement, we reserve the right, in addition to other remedies available under the Franchise Agreement, to direct suppliers to withhold furnishing products and services to you.

## **ITEM 9: FRANCHISEE'S OBLIGATIONS**

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

<b>Obligation</b>	<b>Section or Article in Franchise Agreement</b>	<b>Item in Franchise Disclosure Document</b>
a. Site Selection and Acquisition/Lease	8.1	11
b. Pre-Opening Purchase/Leases	8.3, 12.3.1	7, 11
c. Site Development & other Pre-Opening Requirements	8.2, 8.3, 12.1.1, 12.1.3	11
d. Initial and Ongoing Training	Article 7	11
e. Opening	8.2.3, 8.3	11
f. Fees	Article 5, Section 5.2.7, Article 6, 12.3.7, 12.6, 15.6, 16.4, 18.1.4, 18.1.5, 18.1.8	5, 6, 7
g. Compliance with Standards and Policies/Operating Manual	Article 9, 12.1, 19.1.1	8, 11
h. Trademarks and Proprietary Information	9.4, 12.1.8, Article 14, 19.2, 19.3, 19.4	13, 14
i. Restrictions on Products/Services Offered	12.1.1, 12.1.4, 12.6	8
j. Warranty and Customer Service Requirements	Not Applicable	Not Applicable
k. Territorial Development and Sales Quotas	13.2	12
l. Ongoing Product/Service Purchases	12.1.4, 12.3.5	8
m. Maintenance, Appearance and Remodeling Requirements	Article 9, 12.1.1, 12.1.2	Item 11
n. Insurance	Article 15	7
o. Advertising	12.1.9, Article 13	6, 11
p. Indemnification	15.6, 16.3.6, 21.1	14

Obligation	Section or Article in Franchise Agreement	Item in Franchise Disclosure Document
q. Owner's Participation, Management, Staffing	11.1, 11.4, 12.1.6	11, 15
r. Records/Reports	12.2	6
s. Inspections and Audits	9.2, 12.1.7, 12.2.5	6, 11
t. Transfer	Article 16	17
u. Renewal	Article 5	17
v. Post-Termination Obligations	Article 18	17
w. Non-Competition Covenants	19.5	17
x. Dispute Resolution	Article 20	17
y. Guaranty	11.3, Attachment 7	15

**ITEM 10: FINANCING**

We do not offer direct or indirect financing. We do not guarantee any note, lease, or obligation on your behalf.

**ITEM 11: FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

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

**1. Pre-Opening Obligations**

Before you open your Franchised Business, we will:

- a. provide you with site selection guidelines and approve a location for your Franchised Business. Within 60 days of signing the Franchise Agreement, you must submit a written request for approval to us describing the proposed location and providing other information about the site that we reasonably request. We will respond within 30 business days, either accepting or rejecting the proposed location. We consider the following factors in approving a site: general location and neighborhood, distance from neighboring franchise territories, proximity to major roads and residential areas, traffic patterns, condition of premises, tenant mix, and demographic characteristics of the area. If you do not identify a site that meets our approval within 90 days of signing the Franchise Agreement and obtain possession of the site within 30 days of our approval, we reserve the right to terminate the Franchise Agreement. We will not own and/or lease a site to you. You are responsible for negotiating a lease with the owner of a site we approve. (Franchise Agreement, Sections 8.1.2, 8.1.3 10.1)
- b. provide you with specifications for the layout, design, appearance, and signage for your Franchised Business. You, your architect, and your contractor are required to adapt our specifications for the construction of your premises and obtain permits. We do not adapt plans or obtain permits for you. (Franchise Agreement, Sections 8.2.2, 10.2)
- c. loan to you our operations manual, other manuals, and operating materials we designate, as they may be available and revised from time to time. (Franchise Agreement, Section 10.3)

- d. provide a written list of equipment, fixtures, furnishings, signage, supplies, and products that will be required to open the Franchised Business. We and our affiliates are not obligated to install any of these items; however, you will purchase from our affiliate your initial inventory and various supplies you will need in the operation of the Franchised Business. (Franchise Agreement, Section 10.5)
- e. provide initial training remotely, through teleconference and/or web-based applications, and at our headquarters and the affiliate-owned outlet. We have the right to designate an alternative location for any portion of the initial training program. We will determine, in our sole discretion, whether you satisfactorily complete the initial training program. (Franchise Agreement, Sections 7.1, 7.2)
- f. provide a trainer at your premises for on-site training, supervision and assistance for two days upon the opening of your Franchised Business. (Franchise Agreement, Section 7.3)
- g. provide you with standards for qualifications and training of your employees. We do not otherwise assist you with employee hiring and training. (Franchise Agreement, Section 12.1.6)
- h. subject to applicable law, recommend or set maximum prices for products and services at your Franchised Business. (Franchise Agreement, Section 12.5)
- i. provide written approval for your grand opening advertising campaign. You must conduct a grand opening advertising campaign to promote the opening of your Franchised Business. The grand opening advertising campaign must be conducted in the 60 days before your Franchised Business opens and the 90 days after your Franchised Business opens. (Franchise Agreement, Section 13.2.3)

## 2. **Time to Open**

We estimate the typical length of time between the signing of the Franchise Agreement and the time you open your Franchised Business is 90 to 180 days. Factors that may affect this time period include your ability to acquire financing or permits, build out of your location, installation of signs and equipment, and completion of required training. You must find a site that we accept within 90 days of signing the Franchise Agreement, and in all cases you must commence operations within two months of the time you obtain possession of your premises. If you have not opened your Franchised Business within six months after you sign the Franchise Agreement, you must obtain our consent to extend the time to open, which we may or may not grant, at our discretion. Failure to open your Franchised Business within the original time, or any extension of this timeframe, is a default of the Franchise Agreement. (Franchise Agreement, Sections 8.1, 8.3)

## 3. **Obligations After Opening**

During the operation of your franchise, we will:

- a. offer from time to time, in our discretion, mandatory or optional additional training programs, including an annual national meeting or convention. If we require it, you must attend an annual national meeting or convention for up to five days and mandatory additional training offered by us for up to five days per year. Failure to attend mandatory additional training or an annual national meeting or convention is a default of the Franchise Agreement. We reserve the right to impose our then-current fee per person per diem fee for attendance at all additional training programs, including the annual national meeting or convention. You must also pay your transportation, lodging, meals, and other expenses to attend any mandatory training program. If you fail to attend any mandatory training program, you are required to obtain the training at a location we designate, at your sole cost,



which includes a fee at the then-current rate for attendance, plus all of your travel costs and our trainer's travel costs. (Franchise Agreement, Section 7.4)

- b. upon your request, or as we determine to be appropriate, provide remedial on-site training and assistance at your premises. For any on-site remedial training, you must reimburse all costs for the services of our trainer, including but not limited to the trainer's then-current per diem fee and all travel-related expenses, such as transportation, meals and lodging. (Franchise Agreement, Section 7.5)
- c. upon your request, provide individualized assistance to you by telephone, video conference, electronic mail, or postage service, subject at all times to availability of our personnel and reasonable time limits. (Franchise Agreement, Section 7.6)
- d. periodically and according to availability, provide you with samples or digital artwork, advertising and promotional materials. (Franchise Agreement, Section 10.6)
- e. conduct inspections of your Franchised Business, at the frequency and duration that we deem advisable. Such inspections include evaluating your products, service, and premises to ensure that they meet our standards. (Franchise Agreement, Section 10.4)
- f. provide you with any written specifications for required equipment, products, and services and updated lists of any approved suppliers of these items. (Franchise Agreement, Section 10.7)
- g. subject to applicable law, recommend or set maximum prices for products and services at your Franchised Business. (Franchise Agreement, Section 12.5)
- h. approve or disapprove all advertising, direct mail, and other promotional material and campaigns you propose in writing to us. We will respond within ten business days, either accepting or rejecting the proposed material and/or campaign; however, if we do not respond within ten business days, the proposed material and/or campaign is deemed not approved. (Franchise Agreement, Section 13.6)

#### 4. **Advertising**

##### **Local Advertising** (Franchise Agreement, Sections 13.2, 13.5, and 13.6)

We require you to spend at least \$12,000 on the creation of a grand opening advertising campaign to promote the opening of your Franchised Business. The campaign must be conducted in your territory during the 60 days prior and the 90 days following the opening of your Franchised Business. Your grand opening advertising campaign, including all materials and promotional elements, must be approved by us in advance and in writing.

Each month, you are required to spend (a) 8% of Gross Sales or (b) \$3,500, whichever is greater, on local advertising in your territory. Local advertising expenditures may also include contributions to a marketing fund operated by your landlord. We must approve all advertising materials.

You may develop advertising materials for your own use at your own cost, and you may use marketing materials that we may offer to you periodically. You may not use any advertising or marketing materials, including press releases, unless they have been approved in advance in writing by us, which approval may be withheld in our discretion. We will respond to your request for approval within ten business days;



however, if we do not respond within ten business days, the proposed advertising or marketing material is deemed not approved.

We do not place local advertising on your behalf, and we have no obligation to spend any amount on advertising in your area or territory. You are responsible for local advertising placement. If feasible, you may do cooperative advertising with other BeBalanced franchisees in your area, with our prior written approval. You may not maintain any business profile on Facebook, Twitter, Instagram, LinkedIn, YouTube, TikTok, or any other social media and/or networking site without our prior written approval.

### **Brand Fund** (Franchise Agreement, Section 13.3)

Each month, you are required to contribute to the Brand Fund (a) 2% of Gross Sales or (b) \$100, whichever is greater. Your Brand Fund contribution is collected at the same time and in the same manner as your Royalty Fee. Each BeBalanced outlet operated by our affiliate or us may contribute to the Brand Fund, but is not obligated to do so.

The Brand Fund is administered by us. We may use Brand Fund contributions to pay any and all costs for the development, production, and placement of advertising, marketing, promotional, and public relations materials and programs. We may also use Brand Fund contributions to pay any and all costs of marketing seminars and training programs, market research, services of advertising and/or public relations agencies, and website development and maintenance. We may further use Brand Fund contributions to pay our costs (including salaries of our personnel and other administrative costs) for advertising that is administered by us or prepared by us, as well as for administration and direction of the Brand Fund.

The Brand Fund will not be used to defray any of our other general operating expenses. Brand Fund contributions will not be used to solicit new franchise sales; provided however, we reserve the right to include “Franchises Available” or similar language and contact information in advertising produced with Brand Fund contributions. The Brand Fund and its earnings will not otherwise inure to our benefit except that any resulting technology and intellectual property will be deemed our property.

The Brand Fund collects and expends the Brand Fund contributions for the benefit of the System as a whole. We reserve the right to use the Brand Fund contributions to place advertising in national, regional, or local media (including broadcast, print, or other media) and to conduct marketing campaigns through any channel, in our discretion, including but not limited to, internet and direct-mail campaigns. We have no obligation, however, to place advertising or conduct marketing campaigns in any particular area, including the territory where your Franchised Business is located. We have no obligation to make expenditures that are equivalent or proportionate to your Brand Fund contribution or to ensure that you benefit directly or pro rata from the production or placement of advertising from the Brand Fund.

An annual unaudited financial statement of the Brand Fund is available to any franchisee upon written request.

If we spend more or less than the total of all contributions to the Brand Fund in any fiscal year, we may carry-forward any surplus or deficit to the next fiscal year.

In the calendar year ended December 31, 2022, 49% of Brand Fund contributions went to website, social media, and other electronic efforts, 23% went to marketing staff and contractor support, 15% went to advertising and marketing efforts, 7% went to public relations efforts, and 6% went to video and creative production. Although the Brand Fund is intended to be of perpetual duration, we may terminate it at any time and for any reason or no reason. We will not terminate the Brand Fund, however, until all monies in the Brand Fund have been spent for advertising or promotional purposes or returned to contributors, without interest, on the basis of their respective contributions.

### **Regional Advertising** (Franchise Agreement, Section 13.4)

Currently, there is one regional advertising cooperative in the System. If we establish a regional fund or cooperative, or if one already exists, in the area where your Franchised Business is located, your participation may be mandatory, in our sole discretion. Regional cooperatives will be comprised of all franchised BeBalanced outlets in a designated geographic area. Our affiliate-owned outlets may participate in a regional cooperative, in our sole discretion. We will determine in advance how each cooperative will be organized and governed. We have the right to form, dissolve, merge, or change the structure of the cooperatives. If a cooperative is established during the term of your Franchise Agreement, you must sign all documents we request and become a member of the cooperative according to the terms of the documents. Governing documents for the one existing cooperative are available for your review.

If we establish a regional advertising fund or cooperative, you must contribute amounts equal to your share of the total cost of cooperative advertising. Your contributions to a regional advertising fund or cooperative will be in addition to your required contributions to the Brand Fund; however, contributions made by you to a regional advertising fund or cooperative will be credited against your required expenditures for local advertising. We may require you to contribute up to 2% of monthly Gross Sales to a regional advertising fund or cooperative.

### **Advisory Council** (Franchise Agreement, Section 9.6)

We have formed an advisory council made up of franchisees to advise us on advertising policies, operations, and new products and services. We appoint franchisee members to the council based on a franchisee's level of success, superior performance, and outlet profitability. The advisory council operates in an advisory capacity only. We have the right to change or dissolve the council at any time.

### **5. Computer Systems** (Franchise Agreement, Section 12.3)

You must purchase and use the computer hardware and software ("Computer System") we specify, and have the latest versions of hardware, software, and applications to operate the Computer System according to our standards and specifications. The Computer System performs a variety of functions, including inventory management, payment processing, employee scheduling, sales report generation, and maintenance of client data. We require you to purchase one desktop computer, one laptop, at least two tablets, a multi-function printer, receipt printer, credit card swiper, and a cash drawer. We estimate the cost to purchase the current Computer System hardware and software, including peripherals, to be approximately \$1,500 to \$2,500.

You are required to use all other software and applications that we specify and pay any subscription or access fees associated with them. Currently, we use a cloud-based POS system with scheduling and integrated email marketing software plus website landing page/email maintenance. The costs associated with this software are included in the monthly internal systems fee.

We may in the future modify the sales reporting systems as we deem appropriate for the accurate and expeditious reporting of Gross Sales, and you must fully cooperate in implementing any such system at your expense.

The Computer System allows us to independently and remotely access all of your sales data, including your Gross Sales, through the internet. There are no contractual limitations on our right to have full access to this information. We may retrieve, download, analyze, and store such information and data at any time. We own all customer data stored in your Computer System.

There are no contractual limitations on the frequency and cost of upgrades and/or updates to the above-described systems or programs. We have no obligation to maintain, repair, update, or upgrade your computer and software. At your cost, you must provide on-going maintenance and repairs to your computer and software. You must upgrade your computer hardware and software as necessary to operate the most current version of the required software, including the POS system or any replacement POS systems. We cannot estimate the cost of maintaining, updating, and upgrading your computer hardware and software because it depends on the make and model of your hardware, required upgrades to operate our currently required computer applications, repair history, usage, local cost of computer maintenance services in your area, and technological advances that we cannot predict.

## 6. **Table of Contents of Operations Manual**

The Table of Contents of our operations manual, current as of the date of this Disclosure Document, is attached as Exhibit E. The operations manual has a total of 359 pages.

## 7. **Training** (Franchise Agreement, Article 7)

You (if the franchisee is an individual) or all of your owners (if the franchisee is a business entity), must complete our initial training program, to our satisfaction, at least 45 days before opening your Franchised Business. The initial training program extends for approximately 14 days, and consists of a course conducted remotely through virtual platforms (the first seven days), four days of classroom training (two days over Zoom and two days in-person at our headquarters), and on-the-job practical training at an affiliate-owned or franchised outlet for the final three days. The initial seven-day online portion of the initial training program must be completed before you and your trainees may attend the classroom and on-the-job training sessions.

Training will be conducted on a schedule substantially similar to the following:

### **TRAINING PROGRAM**

<b>Subject</b>	<b>Classroom Hours</b>	<b>On-the-Job Hours</b>	<b>Location</b>
<b>Intranet-based Online Training</b>			
Intro Course	2	0	At Home
Science Behind Our BeBalanced Program Course	9	0	At Home
Appointments Course	15	0	At Home
Client Support Coordinator Course	8	0	At Home
Supplements Course	9	0	At Home
Management Course	6	0	At Home
Marketing Course	7	0	At Home
Intro Course	2	0	At Home
<b>Total</b>	<b>56</b>	<b>0</b>	
<b>Corporate Office Based Training</b>			
Introductions, History/Philosophy of BeBalanced Brand	1	0	Lancaster, PA (or virtual, at Franchisor's option)

Subject	Classroom Hours	On-the-Job Hours	Location
Marketing	3	0	Lancaster, PA (or virtual, at Franchisor's option)
Technology/Front & Back Office	6	0	Lancaster, PA (or virtual, at Franchisor's option)
Sales	6	8	Lancaster, PA (or virtual, at Franchisor's option)
Hiring, Training, and Overseeing Employees, Affiliates	3	0	Lancaster, PA (or virtual, at Franchisor's option)
Program/Product and Appointment Training	6	12	Lancaster, PA (or virtual, at Franchisor's option)
Operating Procedures	3	2	Lancaster, PA (or virtual, at Franchisor's option)
Administrative Procedures	2	2	Lancaster, PA (or virtual, at Franchisor's option)
Graduation, Review, and Completion	2	0	Lancaster, PA (or virtual, at Franchisor's option)
<b>Total</b>	<b>32</b>	<b>24</b>	
<b>New Center On-Site Training</b>			
Hands-on lead management, administrative organization, customer interaction, time management, membership management and software system utilization	0	8	On-site new franchise
Appointment training	0	8	On-site new franchise
<b>Total</b>	<b>0</b>	<b>16</b>	

We periodically conduct our initial training program throughout the year, as needed, but no less frequently than quarterly. Training will be provided by or under the direction of Diane Rizio, whose biographical information is disclosed in Item 2. Ms. Rizio has one year of experience with us, and has extensive experience in the weight loss and med spa industry.

Our training materials consist of our operations manual, supplemented with active observation, participation, and verbal instruction. We may also use instructional videos, class exercises, and handouts.

The cost of our instructors and training materials for up to two individuals is included in the initial franchise fee. You must pay for all travel and personal expenses, including, but not limited to, all costs for your transportation, meals, and lodging for yourself and your personnel. Our current fee to provide initial training to any additional trainee is \$2,000 per person.

If you do not complete our initial training program to our satisfaction, we have the right to terminate the Franchise Agreement.

We will provide you, at no charge, on-site training, supervision, and assistance for two days upon the opening of your Franchised Business.

We may offer mandatory and/or optional additional training programs, including an annual business meeting or convention, from time to time. If we require it, you must participate in additional training for up to five days per year and an annual business meeting or convention for up to five days, at a location we designate. We have the right to charge our then-current per person per diem fee for all additional training programs, including the annual convention. You are responsible for any and all incidental expenses incurred by you and your personnel in connection with additional training or attendance at our national meeting or annual convention, including, without limitation, costs of travel, lodging, meals and wages. If you fail to attend any mandatory training program, you are required to obtain the training at a location we designate, at your sole cost, which includes a fee at the then-current rate for attendance, plus all of your travel costs and our trainer's travel costs.

We may provide consultation and assistance to you weekly or monthly, as we deem appropriate, either in person or by telephone, video conferencing, through the intranet, or via other electronic communication, in our sole discretion, with respect to the operation of the Franchised Business. You are required to attend phone consultations with us and/or our representative two times per month for the first 12 months of operations.

## **ITEM 12: TERRITORY**

Under the Franchise Agreement, you have the right to establish and operate one BeBalanced outlet within a territory that will be defined after the location of your Franchised Business is identified and approved by us (the "Territory"). You are required to find and obtain possession of a specific location for your Franchised Business that meets our site selection criteria and our approval. Your Territory is located in all or a portion of a listed town, city, or county, and is identified by a marked map and/or list of one or more contiguous zip codes. The Territory is determined on an individual basis taking into account minimum numbers of households, average home prices and household incomes. Your Territory will have a minimum population of 100,000 individuals or, if less than 100,000 individuals reside within six miles of your Franchised Business' location, your Territory will have a radius of six miles. Your Territory will be identified and attached to your Franchise Agreement as Attachment 2. If you do not yet have a location at the signing of the Franchise Agreement, you will receive a non-exclusive site search area listed in Attachment 2 instead.

You will receive an exclusive territory, which means that we will not open another dedicated BeBalanced outlet or grant the right to anyone else to open a dedicated BeBalanced outlet within your Territory, provided that you are not in default of your Franchise Agreement. Although we grant you this territory protection, we reserve all rights to sell, either directly or through others, our products and services under the Marks in the Territory through alternative distribution channels, which are described below.

There is no minimum sales requirement, market penetration or other contingency that will affect your protected right to operate in the Territory during the term of your Franchise Agreement, unless you are in default of your obligations to us.

Under our Multi-Unit Development Agreement, you will be granted the right to develop an agreed upon number of BeBalanced outlets within a geographical area described in the Multi-Unit Development Agreement (the "Development Area"). The Development Area is typically described in terms of municipal or county boundaries. The actual size of the Development Area will vary depending upon the availability of contiguous markets, our long-range development plans, your financial and operational resources, population, and market conditions. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control.

You may not change the location of your Franchised Business without our written consent, which we may withhold in our sole discretion. If we give our consent, we will charge you a relocation fee of (a) \$3,000

or (b) our actual costs in evaluating and approving the new location, whichever is greater. The conditions under which we may allow you to relocate include the following: loss of your premises not due to your default, demographics of the surrounding area, proximity to other BeBalanced outlets, lease requirements, traffic patterns, vehicular and pedestrian access, proximity to major roads, available parking, and overall suitability. If you wish to relocate, you must identify a new location for the Franchised Business that meets our approval, in accordance with our then-current site selection procedures, and build out the approved location within 120 days. If you do not identify a site and complete the build-out within this time period, we may terminate the Franchise Agreement. You must continue to operate at your original premises until construction of the new site is complete.

Unless you are a multi-unit developer, we may, but have no obligation to, consider granting to you the right to establish additional BeBalanced outlets under other franchise agreements. The Franchise Agreement grants you no options, rights of first refusal, or similar rights to acquire additional franchises within the Territory or contiguous territories. We may, but have no obligation to, consider granting to you the right to establish additional BeBalanced outlets under other franchise agreements if you are in compliance with the Franchise Agreement and propose to open another BeBalanced outlet in an area and at a location we approve.

We reserve all rights not expressly granted in the Franchise Agreement. For example, we or our affiliates may own, operate, or authorize others to own or operate BeBalanced outlets outside of the Territory and may operate other kinds of businesses within the Territory. Although we do not currently do so and have no plans to do so, we and our affiliates may own, acquire, conduct, or authorize others to conduct, any form of business at any location selling any type of product or service not offered under the Marks, including a product or service similar to those you will sell at your Franchised Business. We reserve the right to merge with, acquire, or be acquired by, an existing competitive or non-competitive franchise network, chain or other business; however, we will not convert any acquired business in your Territory to a franchise using our primary trademarks during the term of your Franchise Agreement.

We and our affiliates may sell products and services under the Marks within or outside the Territory through any method of distribution other than a dedicated BeBalanced outlet location, such as distribution through retail outlets, catalog sales, telemarketing, other direct marketing, and the internet (“Alternative Distribution Channels”). You will receive no compensation for our sales through Alternative Distribution Channels in the Territory. You may not use Alternative Distribution Channels to make sales inside or outside your Territory; however, we will include a listing on our website of your Franchised Business’ location.

You may only conduct sales from or at the Franchised Business and only in your Territory, however there are no restrictions on accepting business from customers who reside or work outside your Territory. You may only solicit sales inside your Territory, and your local advertising must target customers in your Territory, although the reach of your local advertising may extend beyond your Territory.

### **ITEM 13: TRADEMARKS**

The Franchise Agreement will license to you the right to operate your Franchised Business under the BeBalanced marks, which we have registered with the U.S. Patent and Trademark Office (“Principal Marks”):

<b>Mark</b>	<b>Registration Date</b>	<b>Registration Number</b>	<b>Register</b>
BeBalanced	December 22, 2015	4,875,000	Principal
Becoming Balanced	December 22, 2015	4,875,001	Principal



We also license you to use the following Mark:



With regard to the above logo mark only, we do not have a federal registration for our principal trademark. Additionally, we have not registered or filed for registration of the “BeBalanced Natural Weight Loss Centers” logo. Therefore, our logo trademark does not have many legal benefits and rights as a federally registered trademark. If our right to use this logo trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

We have timely filed all required affidavits of use with the U.S. Patent and Trademark Office, and we will timely file all renewal filings when they come due for these registrations.

There are no currently effective material determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeals Board, the Trademark Administration of any state, or any court relating to the marks. There are no pending infringement, opposition, or cancellation proceedings. There are no pending material federal or state court litigation involving the Principal Marks or other marks. There are no agreements currently in effect that significantly limit our rights to use or license the use of the trademarks listed in this Item 13 in a manner material to the franchise. As of the date of this Disclosure Document, we know of no superior prior rights or infringing uses that could materially affect your use of the Principal Marks.

You must not directly or indirectly contest our right to any Principal Mark or other marks. You must notify us immediately when you learn about an infringement of or challenge to your use of any Principal Mark or other mark. We will take any action we think appropriate and, if you have given us timely notice and are in full compliance with the Franchise Agreement, we will indemnify you for all expenses and damages arising from any claim challenging your authorized use of any Principal Mark or other mark. We have the right to control any administrative proceedings or litigation involving any Principal Mark or other mark licensed by us to you. You must cooperate fully with us in defending and/or settling the litigation.

We have the right to substitute different marks if we can no longer use the current Principal Marks, or if we determine that substitution of different marks will be beneficial to the System. In such event, we may require you, at your expense, to modify or stop using any mark, including any Principal Mark, or to use one or more additional or substitute marks.

#### **ITEM 14: PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

We hold no patents and have no pending patent applications that are material to the franchise. We have registered no copyright with the United States Copyright Office. However, we claim copyrights on certain product formulas, forms, advertisements, promotional materials, and other written materials. We also claim copyrights and other proprietary rights in our Manual and the contents of our website.

There are no current material determinations of, or proceedings pending in, the United States Patent and Trademark Office, the U.S. Copyright Office, or any court regarding any of our copyrights discussed above.

There are no agreements currently in effect that limit your right to use any of our copyrights. As of the date of this Disclosure Document, we are unaware of any infringing uses of or superior previous rights to any of our copyrights that could materially affect your use of them.

You must notify us immediately when you learn about an infringement of or challenge to your use of our copyrights. We will take any action we think appropriate and, if you have given us timely notice and are in full compliance with the Franchise Agreement, we will indemnify you for all expenses and damages arising from any claim challenging your authorized use of our copyrights. We have the right to control any administrative proceedings or litigation involving our copyrights licensed by us to you. You must cooperate fully with us in defending and/or settling the litigation.

During the term of the Franchise Agreement, you may have access to and become acquainted with our trade secrets, including, but not limited to, product formulas, methods, processes, customer lists, vendor partnerships and/or relationships, sales and technical information, financial information, costs, product prices and names, software tools and applications, website and/or email design, products, services, equipment, technologies and procedures relating to the operation of the Franchised Business; the Manual; methods of advertising and promotion; instructional materials; any other information which Franchisor may or may not specifically designate as "confidential" or "proprietary"; and the components of the System, whether or not such information is protected or protectable by patent, copyright, trade secret, or other proprietary rights (collectively called the "Confidential Information"). You agree that you will take all reasonable measures to maintain the confidentiality of all Confidential Information in your possession or control and that all Confidential Information and trade secrets will remain our exclusive property. You may never (during the initial term, any successor term, or after the Franchise Agreement expires or is terminated) reveal any of our Confidential Information to another person or use it for any other person or business. You may not copy any of our Confidential Information or give it to a third party except as we authorize in writing to you prior to any dissemination. Your personnel who have access to our Confidential Information must sign our Confidentiality and Non-Compete Agreement (Franchise Agreement, Attachment 9).

You must promptly tell us when you learn about unauthorized use of any Confidential Information. We are not obligated to take any action but will respond to this information as we think appropriate. We will indemnify you for losses brought by a third party concerning your use, in strict compliance with the Franchise Agreement, of the Confidential Information.

We reserve the right to modify or discontinue using the subject matter covered by a patent or copyright. In such event, we may require you, at your expense, to modify or discontinue using the subject matter in the operation of your Franchised Business.

**ITEM 15: OBLIGATIONS OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

The Franchise Agreement requires either you personally supervise and manage the day-to-day operation of your Franchised Business, or you hire a qualified general manager. You may not appoint a non-owner general manager unless you receive our prior approval. Upon approval, your manager must successfully complete our initial training program and all other training courses we require. Your manager must devote full time to the job and cannot have an interest or business relationship with any of our competitors. If the franchisee is a business entity, your manager is not required to have an equity interest in the franchisee entity but must otherwise meet our approval.

Your manager and all other personnel who will have access to our proprietary and Confidential Information and training must sign our Confidentiality and Non-Compete Agreement, which is attached to our Franchise



Agreement as Attachment 9. If your Franchised Business is owned by an entity, all owners of the entity must personally sign the Franchise Agreement as a “Principal”. If you are a married individual, your spouse must sign our Spouse Guaranty which is attached to our Franchise Agreement as Attachment 7.

**ITEM 16: RESTRICTION ON WHAT FRANCHISEE MAY SELL**

You must offer and sell all products and services that are part of the System, and all services and products which we incorporate into the System in the future. You may only offer products and services that we have previously approved. You may only engage in providing products and services to end-consumers.

You may not use our Principal Marks or other trademarks for any other business, and you may not conduct any other business from your Franchised Business location. You cannot engage in any other business that competes with your Franchised Business, with us or our affiliates, or with BeBalanced outlets owned by other franchisees, regardless of where the other business is located.

We may add to, delete from, or modify the products and services that you can and must offer. You must abide by any additions, deletions, and modifications. There are no limits on our rights to make these changes.

You may only sell products and services from your approved Franchised Business location and in the manner we prescribe. You may only solicit sales from customers in your Territory. Your local advertising must target customers in your Territory, although the reach of your local advertising may extend beyond your Territory.

**ITEM 17: RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

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

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Length of the franchise term	Art. 4	Term is 10 years
b.	Renewal	Sections 5.1 and 5.4	If you are in good standing as defined below, you can sign a successor franchise agreement for one additional 10-year term, unless we have determined, in our sole discretion, to withdraw from the geographical area where your franchise is located.
c.	Requirements for franchisee to renew or extend	Sections 5.1, 5.2 and 5.3	Be in full compliance, have no more than three events of default during current term; provide written notice to us at least six months before the end of the term; execute a new franchise agreement; pay us a successor agreement fee; continue to maintain your location, current trade dress and other standards; execute a general release; comply with then-current

	Provision	Section in Franchise Agreement	Summary
			qualifications and training requirements; including completion of additional training. You may be asked to sign a new Franchise Agreement with materially different terms and conditions than your original Franchise Agreement.
d.	Termination by franchisee	None	You may seek termination upon any grounds available by state law.
e.	Termination by franchisor without cause	Section 16.7	The Franchise Agreement will terminate upon your death or permanent disability and the franchise must be transferred within six months to a replacement franchisee that we approve.
f.	Termination by franchisor with cause	Article 17	We may terminate only if you default. The Franchise Agreement describes defaults throughout. Please read it carefully.
g.	“Cause” defined – curable defaults	Section 17.3	You have five days to cure non-payments and any other defaults (except for non-curable defaults listed in the Franchise Agreement and described in h. immediately below).
h.	“Cause” defined - non-curable defaults	Sections 17.1 and 17.2	<p>The Franchise Agreement will terminate automatically, without notice for the following defaults: insolvency; bankruptcy; written admission of inability to pay debts; receivership; levy; composition with creditors; unsatisfied final judgment for more than 30 days; or foreclosure proceeding that is not dismissed within 30 days.</p> <p>We may terminate the Franchise Agreement upon notice to you if you: do not acquire a site, do not complete construction, obtain permits and/or open the Franchised Business within required time frames; falsify any report to us; cease operations for five days or more, unless the premises are damaged and you apply to relocate; lose possession of the premises, unless you are not at fault for loss and you timely apply to relocate; fail to restore and re-open the Franchised Business within 120 days after a casualty, as may be extended by us; fail to comply with applicable laws; default under any lease for the premises; understate Gross Sales two or more times; fail to comply with insurance and indemnification requirements; attempt a transfer in violation of the Franchise Agreement; fail, or your legal representative fails to</p>

	Provision	Section in Franchise Agreement	Summary
			transfer as required upon your death or permanent disability; misrepresent or omit a material fact in applying for the Franchise; are convicted or plead no contest to a felony or crime or engages in conduct that could damage the goodwill or reputation of our trademarks or the System; receive an adverse judgment in any proceeding involving allegations of fraud, racketeering or improper trade practices or similar claim that could damage the goodwill or reputation of our trademarks or the System; conceal revenues or maintain false books; create a threat or danger to public health or safety; refuse an inspection or audit by us; use our trademarks, copyrighted material or Confidential Information in an unauthorized manner; make an unauthorized disclosure of Confidential Information; fail to comply with non-competition covenants; default in the performance of your obligations three or more times during the term or receive two or more default notices in any 12-month period; default under any other agreement with us or our affiliate; have insufficient funds to honor a check or EFT two or more times within any 12-month period; default, or your affiliate defaults, under another agreement with us or our affiliate or suppliers; or terminate the Franchise Agreement without cause.
i.	Franchisee's obligations on termination/ non-renewal	Article 18	Upon termination, you must: cease operations; cease to identify yourself as a BeBalanced franchisee; cease to use our trademarks or other intellectual property; cancel any assumed name registration that contains any Mark; pay us and our affiliates all sums owing; pay us any damages, costs or expenses we incur in obtaining any remedy for any violation of the Franchise Agreement by you, including, but not limited to attorney's fees; deliver to us all Confidential Information, the operations manual and all records and files related to your Franchised Business; comply with the non-disclosure and non-competition covenants; pay liquidated damages; sell to us, at our option, all furnishing, fixtures, equipment, inventory and supplies of your

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
			Franchised Business; and assign, at our option, your telephone numbers, directory and internet listings, and social media and software accounts and the lease for the location.
j.	Assignment of contract by franchisor	Section 16.1.1	No restrictions on our right to assign.
k.	“Transfer” by franchisee defined	Section 16.3	Any assignment, sale, transfer, gift, devise or encumbrance of any interest in the Franchise Agreement, the Franchised Business, any assets of the Franchised Business, or in the Franchisee (if the Franchisee is a business entity).
l.	Franchisor approval of transfer by franchisee	Section 16.3	No transfer is allowed without our consent, which we will not unreasonably withhold.
m.	Conditions for franchisor approval of a transfer	Section 16.3 and 16.4	Conditions include: our decision not to exercise our right of first refusal; transferee meets our then-current standards for qualifying franchisees; transferee signs our then-current form of Franchise Agreement, which may have materially different terms from your Franchise Agreement; transferee successfully completes our initial training program; you have paid us and third-party creditors all amounts owed; you and the transferee sign a Release in the form of Attachment 3 to the Franchise Agreement; you will subordinate any claims you have against the transferee to us; you will indemnify us for misrepresentations in the transfer process, excluding the representations we make in our Disclosure Document; our approval of the material terms and conditions of the transfer; payment of a transfer fee.
n.	Franchisor’s right of first refusal to acquire franchisee’s business	Section 16.6	You must promptly notify us of any written offer to purchase your Franchise. We have 30 days to exercise our first right to buy it on the same terms and conditions, provided that (a) we may substitute cash for any other consideration (b) we may pay the entire purchase price at closing, (c) our credit is deemed as good as the proposed purchaser, (d) we have at least 60 days to close and (e) you will give us all customary seller’s representations and warranties.
o.	Franchisor’s option to purchase franchisee’s business	Section 18.2	Upon termination of the Franchise Agreement, we have the option to purchase your equipment, furniture, fixtures, signs, advertising materials, supplies, and inventory at your cost or fair market value, whichever is less.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
p.	Death or disability of franchisee	Sections 16.3, 16.4 and 16.7	The Franchise Agreement will terminate upon your death or permanent disability, and the franchise must be transferred within six months to a replacement franchisee that we approve.
q.	Non-competition covenants during the term of the franchise	Section 19.5.1	You may not: divert, or attempt to divert, customers of any BeBalanced outlet (including yours) to any competitor, participate in any capacity, including, but not limited to as an owner, investor, officer, director, employee or agent, in any competing business; do any act that could damage the goodwill of the Marks or System, or disrupt or jeopardize our business or that of our franchisees.
r.	Non-competition covenants after the franchise is terminated or expires	Section 19.5.2	For 24 months after the termination of the Franchise Agreement, you may not: divert, or attempt to divert, customers of any BeBalanced outlet (including yours) to any competitor, participate in any capacity, including, but not limited to as an owner, investor, officer, director, employee or agent, in any competing business within 40 miles of your former Franchised Business' location or any other BeBalanced outlet location (franchised or company owned); do any act that could damage the goodwill of the Marks or System, or disrupt or jeopardize our business or that of our franchisees.
s.	Modification of the agreement	Sections 9.3, 9.4, 14.6 and 19.1.4	No oral modifications. We may change the operations manual and System standards at any time. You may be required to implement these changes at your own costs. We have the right to modify our Marks at any time upon written notice to you.
t.	Integration/merger clause	Section 21.4	Only the terms of the Franchise Agreement and other related written agreements, such as any attachments to the Franchise Agreement or addenda, are binding (subject to applicable state law). Any representations or promises outside of the disclosure document and Franchise Agreement may not be enforceable.
u.	Dispute resolution by arbitration or mediation	Sections 20.2 and 20.3	At our option, claims that are not resolved internally may be submitted to non-binding mediation or arbitration at our headquarters, excluding claims related to injunctive relief, anti-trust, the trademarks, and post-termination obligations. Subject to state law.

	Provision	Section in Franchise Agreement	Summary
v.	Choice of forum	Section 20.5	Litigation takes place in Pennsylvania (subject to applicable state law).
w.	Choice of law	Section 20.3	Pennsylvania law applies (subject to applicable state law).

**THE FRANCHISE RELATIONSHIP  
(UNDER THE MULTI-UNIT DEVELOPMENT AGREEMENT)**

**This table lists certain important provisions of the multi-unit development agreement. You should read these provisions in the agreement attached to this disclosure document.**

	Provision	Section in Multi-Unit Development Agreement	Summary
a.	Length of the franchise term	Art. 3	As determined by you and us based on the number of BeBalanced outlets you commit to develop.
b.	Renewal or extension of the Term	Not Applicable	Not Applicable
c.	Requirements for franchisee to renew or extend	Not Applicable	Not Applicable
d.	Termination by franchisee	None	You may seek termination upon any grounds available by state law.
e.	Termination by franchisor without cause	Not Applicable	The Multi-Unit Development Agreement will terminate upon your death or permanent disability and your interest in the agreement must be transferred within six months to a replacement developer that we approve.
f.	Termination by franchisor with cause	Article 7	We may terminate only if you default. The Multi-Unit Development Agreement describes defaults throughout. Please read it carefully.
g.	“Cause” defined – curable defaults	Section 7.3	You have five days to cure non-payments and any other defaults (except for non-curable defaults listed in the Multi-Unit Development Agreement and described in h. immediately below).
h.	“Cause” defined - non-curable defaults	Sections 7.1 and 7.2	The Multi-Unit Development Agreement will terminate automatically, without notice for the following defaults: insolvency; bankruptcy; written admission of inability to pay debts; receivership; levy; composition with creditors; unsatisfied final judgment for more than 30 days; or foreclosure proceeding that is not dismissed within 30 days. We may terminate the Multi-Unit Development Agreement upon notice to you if you: misrepresent or omit a material fact in applying for the

	<b>Provision</b>	<b>Section in Multi-Unit Development Agreement</b>	<b>Summary</b>
			Development Rights; falsify any report to us; fail to comply with any federal, state, or local law, rule, or regulation, applicable to the development and operations of your BeBalanced outlets, including, but not limited to, the failure to pay taxes; fail to develop the BeBalanced outlets in accordance with the Mandatory Development Schedule; attempt a transfer in violation of the Multi-Unit Development Agreement; are convicted or plead no contest to a felony or crime or do anything that could damage the goodwill or reputation of our trademarks or the System; receive an adverse judgment in any proceeding involving allegations of fraud, racketeering, or improper trade practices or similar claim that could damage the goodwill or reputation of our trademarks or the System; fail to comply with non-competition covenants; default, or your affiliate defaults, under any other agreement, including any Franchise Agreement, with us or any of our affiliates or suppliers and does not cure such default within the time period provided in such other agreement; or terminate the Multi-Unit Development Agreement without cause.
i.	Franchisee's obligations on termination/non-renewal	Section 7.4	Upon termination, you must: cease all development operations and comply with the non-disclosure and non-competition covenants.
j.	Assignment of contract by franchisor	Section 6.1	No restrictions on our right to assign.
k.	"Transfer" by franchisee defined	Section 6.3	Any assignment, sale, transfer, gift, devise, or encumbrance of any interest in the Multi-Unit Development Agreement or Development Rights.
l.	Franchisor approval of transfer by franchisee	Sections 6.2, 6.3	No transfer is allowed without our consent, which we will not unreasonably withhold.
m.	Conditions for franchisor approval of a transfer	Sections 6.3 and 6.4	Conditions include: our decision not to exercise our right of first refusal; transferee meets our then-current standards for qualifying developers; you have paid us all amounts owed; transferee signs our then-current form of Multi-Unit Development Agreement, which may have materially different terms from your Multi-Unit Development Agreement; you

	<b>Provision</b>	<b>Section in Multi-Unit Development Agreement</b>	<b>Summary</b>
			and the transferee sign a General Release in the form of Attachment 3 to the Franchise Agreement; you will subordinate any claims you have against the transferee to us; our approval of the material terms and conditions of the transfer; payment of the applicable transfer fee.
n.	Franchisor's right of first refusal to acquire franchisee's business	Section 6.5	You must promptly notify us of any written offer to purchase your Development Rights. We have 30 days to exercise our first right to buy it on the same terms and conditions, provided that (a) we may substitute cash for any other consideration (b).we may pay the entire purchase price at closing, (c) our credit is deemed as good as the proposed purchaser, (d) we have at least 60 days to close and (e) you will give us all customary seller's representations and warranties.
o.	Franchisor's option to purchase franchisee's business	Not Applicable	Not Applicable
p.	Death or disability of franchisee	Section 6.6	The executor of your estate or other personal representative must transfer and your interest in the agreement must be transferred within six months to a replacement developer that we approve.
q.	Non-competition covenants during the term of the franchise	Section 8.3.1	You may not: divert, or attempt to divert, customers of any BeBalanced outlet (including yours) to any competitor; participate in any capacity, including, but not limited to as an owner, partner, officer, director, employee or agent, in any other capacity in any competing business; do any act that could damage the goodwill of the Marks or System, or disrupt or jeopardize our business or that of our franchisees.
r.	Non-competition covenants after the franchise is terminated or expires	Section 8.3.2	For 24 months after the termination of the Franchise Agreement, you may not: divert, or attempt to divert, customers of any BeBalanced outlet (including yours) to any competitor; participate in any capacity, including, but not limited to as an owner, partner, officer, director, employee or agent, in any other capacity in any competing business within 40 miles of the Development Area or any BeBalanced outlet location; do any act that could damage the goodwill of the



	Provision	Section in Multi-Unit Development Agreement	Summary
			Marks or System, or disrupt or jeopardize our business or that of our franchisees.
s.	Modification of the agreement	Section 11.4	No oral modifications. No amendment of the provisions will be binding upon either party unless the amendment has been made in writing and executed by all interested parties.
t.	Integration/merger clause	Section 11.4	Only the terms of the Multi-Unit Development Agreement and other related written agreements are binding (subject to applicable state law.) Any representations or promises outside of the Multi-Unit Development Agreement may not be enforceable. In spite of the above, nothing in the Multi-Unit Development Agreement is intended to disclaim the express representations made in this Franchise Disclosure Document.
u.	Dispute resolution by arbitration or mediation	Sections 10.1, 10.2, 10.3, and 10.4	At our option, claims that are not resolved internally may be submitted to non-binding mediation at our headquarters, and then to binding arbitration, excluding claims related to injunctive relief, anti-trust, the trademarks, and post-termination obligations. Subject to state law.
v.	Choice of forum	Section 10.5	Litigation takes place in Pennsylvania, subject to applicable state law.
w.	Choice of law	Section 10.5	Pennsylvania law applies, subject to applicable state law.

See the state addenda in Exhibit G of this Franchise Disclosure Document for special state disclosures.

#### **ITEM 18: PUBLIC FIGURES**

We do not currently use any public figures to promote our franchise.

#### **ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

This Item 19 includes an historical financial performance representation of the open and operating BeBalanced Centers outlets for the calendar years 2021 and 2022. As of December 31, 2021, we had a total of 25 outlets open, of which 24 are franchised outlets and one is our company-owned outlet. We excluded the financial performance of one franchised outlet, as this outlet opened in 2021 and did not

present a full 12 months of data. As of December 31, 2022, we had a total of 25 outlets open, of which 24 are franchised and one is our company-owned outlet. We have excluded the financial performance of one franchised outlet because this outlet opened in 2022 and would not present a full 12 months of data.

**Some outlets have earned these amounts. Your individual results may differ. There is no assurance that you'll earn as much.**

### **2021 Calendar Year**

Of the 23 franchised outlets open in 2021, (a) three were open for less than two years at the start of 2021, and (b) 20 were open for two or more years at the start of 2021.

<b>2021 Calendar Year Gross Sales<sup>1</sup></b>			
<b>All Franchised Outlets</b>			
Average*	Median	High	Low
\$316,155	\$320,822	\$534,252	\$137,951
*12 franchised outlets, or 52%, performed above average while 11 franchised outlets, or 48%, performed below average.			

<b>2021 Calendar Year Gross Sales<sup>1</sup></b>			
<b>Franchised Outlets Open for Two or More Years at the Start of 2021</b>			
Average*	Median	High	Low
\$326,998	\$329,489	\$534,252	\$137,951
*10 franchised outlets, or 50%, performed above average and 10 franchised outlets, or 50%, performed below average.			

<b>2021 Calendar Year Gross Sales<sup>1</sup></b>			
<b>Franchised Outlets Open for Less than Two Years at the Start of 2021</b>			
Average*	Median	High	Low
\$243,869	\$229,051	\$336,894	\$165,662
*One franchised outlet, or 33%, performed above average and two franchised outlets, or 67%, performed below average.			

### **2022 Calendar Year**

Of the 23 franchised outlets open in 2022, (a) one was open for less than two years at the start of 2022, and (b) 22 were open for two or more years at the start of 2022.

<b>2022 Calendar Year Gross Sales<sup>1</sup></b>			
<b>All Franchised Outlets</b>			
Average*	Median	High	Low
\$371,121	\$357,944	\$655,959	\$123,856
*10 franchised outlets, or 45%, performed above average while 13 franchised outlets, or 55%, performed below average.			

2022 Calendar Year Gross Sales <sup>1</sup> Franchised Outlets Open for Two or More Years at the Start of 2022			
Average*	Median	High	Low
\$373,668	\$359,828	\$655,959	\$123,856
*10 franchised outlets, or 45%, performed above average and 12 franchised outlets, or 55%, performed below average.			

2022 Calendar Year Gross Sales <sup>1</sup> Franchised Outlets Open for Less than Two Years at the Start of 2022			
Average*	Median	High	Low
\$315,077	\$315,077	\$315,077	\$315,077
*Only one center was open less than two years.			

The following table represents the performance of our one company-owned outlet for the calendar years 2021 and 2022. This outlet has been operating in Lancaster, Pennsylvania, since 2007.

Company Owned Outlet Performance - 2021 & 2022 Calendar Years				
YOY Sales Growth: +10%				
	2021		2022	
	Total	Percentage	Total	Percentage
<b>Gross Sales<sup>1</sup></b>	<b>\$711,453</b>	100.00%	<b>\$785,963</b>	100.00%
Cost of Goods Sold	\$264,738	37%	\$290,187	37%
Labor Cost	\$99,088	13%	\$100,788	13%
<b>Gross Profit</b>	<b>\$347,627</b>	<b>49%</b>	<b>\$394,988</b>	<b>50%</b>
<b>Disclosed Expenses:</b>				
Rent	\$40,347	6%	\$41,721	5%
Marketing	\$40,473	6%	\$72,193	9%
<b>Gross Profit After Disclosed Expenses</b>	<b>\$266,807</b>	<b>37%</b>	<b>\$281,075</b>	<b>36%</b>
Adjustment for Expenses not paid by Company Owned Outlet but Charged to Franchisees:				
Royalty Fee	\$42,687	6%	\$47,158	6%
Technology Fee	\$5,400	1%	\$5,400	1%
Advertising Fund	\$7,115	1%	\$7,860	1%

Additional Marketing	\$16,443	2%	\$0	0%
<b>Adjusted Gross Profit</b>	<b>\$195,162</b>	<b>27%</b>	<b>\$220,657</b>	<b>28%</b>

The following two tables provide further detail for the Gross Sales performance of our company-owned outlet for the calendar years 2021 and 2022.

<b>Company Owned Outlet - Total Gross Sales by Category Calendar Years 2021 &amp; 2022</b>				
<b>Gross Sales Category</b>	<b>2021</b>		<b>2022</b>	
BeBalanced® Main Program	\$184,456	26%	\$233,191	30%
BeBalanced® Upgrade / Restarts	\$202,330	28%	\$202,802	26%
BeBalanced® Maintenance	\$177,342	25%	\$173,525	22%
Other – Supplement Sales	\$147,324	21%	\$176,444	22%
<b>Total Gross Sales</b>	<b>\$711,453</b>	<b>100%</b>	<b>\$785,963</b>	<b>100%</b>

<b>Company Owned Outlet – Select Average Sales Price Data Calendar Years 2021 and 2022</b>		
	<b>2021</b>	<b>2022</b>
BeBalanced® Main Program Average Sales Price Per Customer	\$747	\$752
BeBalanced® Upgrade / Restart Average Sales Price Per Customer	\$339	\$328

#### Notes

<sup>1</sup> Gross Sales is the total revenue derived by a franchised outlet less sales tax, discounts, allowances, and returns.

The data for the outlets included in this Item 19 is based on the financial information reported to us by our franchisees and our affiliate. We offered the same services to the outlets described in this statement. These outlets offered the same products and services to the public as you will. This financial performance representation has not been audited. Written substantiation of the data used in preparing these sales figures will be made available to you upon reasonable request.

Other than the preceding financial performance representation, Infinity Health Advisors, LLC does not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting David Cutillo, 485 Royer Drive, Suite 102, Lancaster, Pennsylvania, 17601, and 800-361-8060, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20: OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1**  
**System-wide Outlet Summary**  
**For Years 2020 to 2022**

<b>Column 1 Outlet Type</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at the Start of the Year</b>	<b>Column 4 Outlets at the End of the Year</b>	<b>Column 5 Net Change</b>
Franchised	2020	20	23	+3
	2021	23	24	+1
	2022	24	24	0
Company – Owned*	2020	1	1	0
	2021	1	1	0
	2022	1	1	0
<b>Total Outlets</b>	<b>2020</b>	<b>21</b>	<b>24</b>	<b>+3</b>
	<b>2021</b>	<b>24</b>	<b>25</b>	<b>+1</b>
	<b>2022</b>	<b>25</b>	<b>25</b>	<b>0</b>

\*The Company-Owned Outlets reflected in the chart above are owned and operated by our affiliates.

**Table No. 2**  
**Transfers of Outlets From Franchisees to New Owners (Other than the Franchisor)**  
**For Years 2020 to 2022**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Number of Transfers</b>
N/A	2020	0
	2021	0
	2022	0
<b>Total</b>	<b>2020</b>	<b>0</b>
	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>0</b>

**Table No. 3**  
**Status of Franchised Outlets**  
**For Years 2020 to 2022**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at Start of Year</b>	<b>Column 4 Outlets Opened</b>	<b>Column 5 Terminations</b>	<b>Column 6 Non- renewals</b>	<b>Column 7 Reacquired by Franchisor</b>	<b>Column 8 Ceased Operations - Other Reasons</b>	<b>Column 9 Outlets at End of the Year</b>
Arizona	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
California	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
Florida	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Maryland	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Minnesota	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
New York	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	1	1
Pennsylvania	2020	11	1	0	0	0	0	12
	2021	12	0	0	0	0	0	12
	2022	12	0	0	0	0	0	12
Texas	2020	1	2	0	0	0	0	3
	2021	3	1	0	0	0	0	4
	2022	4	0	0	0	0	0	4
Virginia	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
<b>Total</b>	<b>2020</b>	<b>20</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>23</b>
	<b>2021</b>	<b>23</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>24</b>
	<b>2022</b>	<b>24</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>24</b>

**Table No. 4**  
**Status of Company Owned Outlets**  
**For Years 2020 to 2022**

<b>Col. 1 State</b>	<b>Col. 2 Year</b>	<b>Col. 3 Outlets at Start of Year</b>	<b>Col. 4 Outlets Opened</b>	<b>Col. 5 Outlets Reacquired from Franchisees</b>	<b>Col. 6 Outlets Closed</b>	<b>Col. 7 Outlets Sold to Franchisees</b>	<b>Col. 8 Outlets at End of the Year</b>
Pennsylvania	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
<b>Total</b>	<b>2020</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	<b>2021</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	<b>2022</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

**Table No. 5**  
**Projected Openings as of December 31, 2022**

<b>Column 1 State</b>	<b>Column 2 Franchise Agreements Signed But Outlet Not Opened</b>	<b>Column 3 Projected New Franchised Outlets in the Next Fiscal Year</b>	<b>Column 4 Projected New Company Owned Outlets in the Next Fiscal Year</b>
California	1	1	0
Connecticut	1	0	0
Delaware	0	1	0
Florida	0	2	0
New Jersey	0	2	0
North Carolina	0	1	0
Pennsylvania	0	1	0
Texas	1	1	0
Virginia	0	1	0
<b>Total</b>	<b>3</b>	<b>10</b>	<b>0</b>

Exhibit F lists the location of each BeBalanced franchised outlet in our System and each franchisee during our last fiscal year who has had an outlet terminated, canceled, not renewed, or has otherwise voluntarily or involuntarily ceased to do business under the franchise agreement or has not communicated with us within 10 weeks of the date of this Disclosure Document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Within the last three years, our current franchisees have signed a Confidentiality and Non-Competition Agreement. In some instances, current and former franchisees may sign provisions restricting their ability to speak openly about their experience with us. You may wish to speak with current and former franchisees, but be aware that not all franchisees will be able to communicate with you.



There are no trademark-specific franchisee organizations associated with the franchise system being offered in this Franchise Disclosure Document.

**ITEM 21: FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit D are our audited financial statements for the fiscal years ended December 31, 2022, December 31, 2021, and December 31, 2020, and our unaudited statements as of May 31, 2023.

Our fiscal year end is December 31.

**ITEM 22: CONTRACTS**

Attached as Exhibits to this Disclosure Document are the following contracts and their attachments:

- |    |                                  |   |
|----|----------------------------------|---|
| 1. | Franchise Agreement              | Exhibit B   |
| 2. | Multi-Unit Development Agreement | Exhibit C   |
| 3. | Acknowledgment Statement         | Exhibit H, as permitted by state law. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise. |

**ITEM 23: RECEIPT**

Two copies of an acknowledgment of your receipt of this Disclosure Document appear at the end of this Disclosure Document. Please return one signed copy to us and retain the other for your records.

## EXHIBIT A

### **LIST OF STATE FRANCHISE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

This list includes the names, addresses and telephone numbers of state agencies having responsibility for franchising disclosure/registration laws, and serving as our agents for service of process (to the extent that we are registered in their states). This list also includes the names, addresses and telephone numbers of other agencies, companies or entities serving as our agents for service of process.

State	State Agency	Agent for Service of Process
CALIFORNIA	Commissioner of the Department of Financial Protection and Innovation Department of Financial Protection and Innovation 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013 (213) 576-7505 Toll-free (866-275-2677)	Commissioner of the Department of Financial Protection and Innovation
HAWAII	Business Registration Division Department of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722	Commissioner of Securities of the State of Hawaii
ILLINOIS	Office of Attorney General Franchise Division 500 South Second Street Springfield, IL 62706 (217) 782-4465	Illinois Attorney General
INDIANA	Indiana Secretary of State Securities Division 302 West Washington St., Room E-111 Indianapolis, IN 46204 (317) 232-6681	Indiana Secretary of State 201 State House Indianapolis, IN 46204
MARYLAND	Office of the Attorney General Division of Securities 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360	Maryland Securities Commissioner 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-6360
MICHIGAN	Michigan Department of Attorney General Consumer Protection Division Antitrust and Franchise Unit 670 Law Building Lansing, MI 48913 (517) 373-7117	Michigan Department of Commerce, Corporations and Securities Bureau
MINNESOTA	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 280 St. Paul, MN 55101-2198 (651) 539-1500	Minnesota Commissioner of Commerce

<b>State</b>	<b>State Agency</b>	<b>Agent for Service of Process</b>
NEW YORK	New York State Department of Law Investor Protection Bureau 28 Liberty Street, 21 <sup>st</sup> Floor New York, NY 10005 (212) 416-8222 Phone (212) 416-6042 Fax	Attention: New York Secretary of State New York Department of State One Commerce Plaza 99 Washington Avenue, 6 <sup>th</sup> Floor Albany, NY 11231-0001 (518) 473-2492
NORTH DAKOTA	North Dakota Securities Department 600 East Boulevard State Capitol, 14 <sup>th</sup> Floor, Dept. 414 Bismarck, ND 58505-0510 (701) 328-4712	North Dakota Securities Commissioner
RHODE ISLAND	Department of Business Regulation Division of Securities 1511 Pontiac Avenue, Building 69-1 Cranston, RI 02920 (401) 462-9585	Director of Rhode Island Department of Business Regulation
SOUTH DAKOTA	Division of Insurance Securities Regulation 124 South Euclid, Suite 104 Pierre, SD 57501 (605) 773-3563	Director of South Dakota Division of Insurance – Securities Regulation
VIRGINIA	State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219 (804) 371-9051	Clerk of State Corporation Commission 1300 East Main Street, 1 <sup>st</sup> Floor Richmond, VA 23219 (804) 371-9733
WASHINGTON	Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, WA 98507-9033 (360) 902-8760	Director of Washington Financial Institutions Securities Division 150 Israel Road, SW Tumwater, WA 98501
WISCONSIN	Wisconsin Securities Commissioner Securities and Franchise Registration 345 W. Washington Avenue Madison, WI 53703 (608) 266-8559	Commissioner of Securities of Wisconsin

**EXHIBIT B**  
**FRANCHISE AGREEMENT**

**INFINITY HEALTH ADVISORS, LLC**

**FRANCHISE AGREEMENT**

\_\_\_\_\_  
**FRANCHISEE**

\_\_\_\_\_  
**DATE OF AGREEMENT**

**INFINITY HEALTH ADVISORS, LLC**  
**FRANCHISE AGREEMENT**  
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Attachments

- 1 - Trademarks
- 2 – Territory and Franchised Business Address
- 3 – General Release
- 4 - ACH Authorization
- 5 - Collateral Assignment of Lease
- 6 - Statement of Ownership Interests in Franchisee
- 7 - Spouse Guaranty
- 8 - Internet Advertising, Social Media, Software, and Telephone Listing Agreement
- 9 - Confidentiality and Non-Compete Agreement

THIS FRANCHISE AGREEMENT (the “Agreement”) is being entered into this day of \_\_\_\_\_ (the “Effective Date”), by and between Infinity Health Advisors, LLC, a Pennsylvania limited liability company, with its principal place of business at 485 Royer Drive, Suite 102, Lancaster, Pennsylvania, 17601 (herein “Franchisor”), and \_\_\_\_\_, a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_, and \_\_\_\_\_’s principal(s) \_\_\_\_\_, an individual, residing at \_\_\_\_\_, and \_\_\_\_\_, an individual, residing at \_\_\_\_\_ (“Principal(s)”). \_\_\_\_\_ and \_\_\_\_\_ Principal(s) shall be collectively referred to in this Agreement as the “Franchisee”.

## RECITATIONS

Through the expenditure of considerable time, effort and money, Franchisor has developed and established a unique system for the establishment and operation of health and wellness centers specializing in natural weight loss services through the proprietary “Becoming Balanced” program, under the BeBalanced trademarks, and using Franchisor’s confidential operations manual (“Manual”) of business practices and policies, and Franchisor’s distinctive, décor, fixtures and furnishings, operations methods, sales techniques, inventory, procedures for management control and training, assistance, advertising, and promotional programs, all of which may be changed, improved or further developed by Franchisor at any time (taken together herein the “System”).

The System is identified by certain trade names, service marks, trademarks, logos, emblems, and indicia of origin, including but not limited to the BeBalanced service mark, as set forth in Attachment 1, and such other trade names, service marks, and trademarks as are now designated and may hereafter be designated or substituted by Franchisor for use in connection with the System (the “Marks”).

Franchisor continues to develop, use, and control the use of such Marks in order to identify for the public the source of services and products marketed under the Marks and the System and to represent the System’s high standards of quality, appearance, and service.

Franchisee understands and acknowledges the importance of Franchisor’s high and uniform standards of quality, service, and appearance, and the necessity of operating the business franchised hereunder in conformity with Franchisor’s standards and specifications.

NOW, THEREFORE, the parties, in consideration of the promises, undertakings, and commitments of each party to the other set forth herein, and intending to be legally bound hereby, mutually agree as follows:

### 1. RECITATIONS

The Recitations set out above form part of this Agreement.

### 2. GRANT OF FRANCHISE

Franchisor hereby grants to Franchisee and Franchisee accepts, upon the terms and conditions contained in this Agreement, the license to operate a BeBalanced franchise (the “Franchise” or “Franchised Business”), using only the Marks licensed hereunder, in strict conformity with the System, which may be changed, improved, and further developed by Franchisor from time to time. This grant applies only to a single location within a territory that is designated in Attachment 2 attached hereto and incorporated herein (the “Territory”).



### **3. TERRITORY**

3.1 Territory. This Agreement grants Franchisee the right to operate the Franchised Business at a single location within the Territory. Subject to Section 3.2 below, Franchisor agrees that during the Term of this Agreement, Franchisor will not operate, and will not authorize any other franchisees to operate, a BeBalanced outlet in the Territory using the same Marks as licensed to Franchisee in this Agreement so long as Franchisee is not in default under this Agreement or this Agreement has not expired or been terminated. Except as otherwise specified in this Agreement, Franchisor reserves the right to open, operate, or franchise BeBalanced franchises bordering and adjacent to the Territory. Franchisee will be selling its products and services from a single location that will be determined by Franchisee with Franchisor's prior written approval, which may be withheld or denied in Franchisor's sole discretion. Franchisee is prohibited from selling to and soliciting clients through alternative distribution channels as more fully specified herein.

3.2 Reservation of Rights. Franchisee understands and agrees that all rights to any businesses, other than as specified in this Agreement, are fully reserved to Franchisor within or outside of the Territory. By way of example only, Franchisor reserves the rights to offer (i) other products or services not offered under the Marks, (ii) other weight loss and wellness concepts under the Marks or other trademarks, and (iii) products or services through any channel in the Territory other than a dedicated BeBalanced outlet, such as distribution through retail outlets, catalog sales, telemarketing, other direct marketing, and the internet ("Alternate Distribution Channels"). Franchisee will receive no compensation for Franchisor's sales through Alternate Distribution Channels made within the Territory, except as may be set forth in the Manual. Franchisee agrees that such implementation of Franchisor's rights pursuant to this Section 3.2 is deemed not to impair or injure Franchisee's rights pursuant to Section 2 hereof.

### **4. TERM**

Unless terminated earlier in accordance with the terms set forth in this Agreement, this Agreement and the Franchise granted hereunder shall commence upon the Effective Date set forth above, and terminate on the date that is ten (10) years following the Opening Date, as defined in Section 8.3 hereof (the "Term").

### **5. SUCCESSOR AGREEMENT OPTIONS**

Subject to the terms and conditions of this Agreement, Franchisee shall have the right, following the expiration of the Term hereof, to enter into a new franchise agreement and other agreements then customarily employed by Franchisor and in the form then generally being offered to prospective franchisees in the state in which the Franchised Business is located (the "Successor Franchise Agreement") for one (1) additional ten (10) year term. The term of such Successor Franchise Agreement shall commence upon the date of expiration of the immediately preceding term. Franchisee shall be charged a successor agreement fee of twenty-five percent (25%) of the then-current initial franchise fee charged to new franchisees, plus our legal costs.

5.1 Form and Manner of Successor Agreement. If Franchisee desires to exercise Franchisee's option to enter into a Successor Franchise Agreement, it shall be done in the following manner:

5.1.1 Not less than six (6) months prior to the expiration of the Term of this Agreement, Franchisee shall request from Franchisor in writing, a copy of Franchisor's then-current Disclosure Document (including Franchisor's then-current franchise agreement).

5.1.2 Franchisee must execute and return to Franchisor all required documents, including any and all ancillary documents within thirty (30) days after receipt by Franchisee of a copy of Franchisor's then-current Disclosure Document.

5.1.3 The Successor Franchise Agreement shall supersede this Agreement in all respects, and Franchisee understands and acknowledges that the terms of such new agreement may differ from the terms of this Agreement, including, without limitation, higher or lower royalty and other fees.

5.1.4 If Franchisee fails to perform any of the acts, or deliver any of the notices required pursuant to this Paragraph 5 in a timely fashion, such failure shall be deemed an election by Franchisee not to exercise Franchisee's option to enter into the Successor Franchise Agreement, and such failure shall cause Franchisee's right and option to automatically lapse and expire, without further notice by Franchisor.

5.1.4.1 Franchisee acknowledges that the initial Term of this Agreement provides Franchisee more than a sufficient opportunity to recoup Franchisee's investment in the Franchise, as well as a reasonable return on such investment.

5.2 Conditions of Successor Agreement. Franchisee's right to enter into a Successor Franchise Agreement is conditioned upon the following:

5.2.1 Franchisee shall be in full compliance with this Agreement and shall have materially performed Franchisee's obligations under this Agreement, the Manual, and under all other agreements that may be in effect between Franchisee and Franchisor, including but not limited to all monetary obligations.

5.2.2 Franchisee shall not have committed three (3) or more events constituting default during the then-current Term of this Agreement, whether or not such defaults were cured.

5.2.3 Franchisee will have completed any required additional training to Franchisor's reasonable satisfaction.

5.2.4 Franchisee shall have obtained the right to continue to occupy the premises of the Franchised Business following the expiration of the Term hereof for the full term of the Successor Franchise Agreement and/or have received Franchisor's approval regarding relocating the Franchised Business to a new location.

5.2.5 Franchisee shall execute a general release of all claims Franchisee may have against Infinity Health Advisors, LLC, its parent, subsidiaries, and affiliates, its officers, directors, shareholders, agents, and employees, whether in their corporate and/or individual capacities, in the form attached hereto as Attachment 3. This release will include all claims arising under any federal, state, or local law, rule, or ordinance.

5.2.6 Franchisee performs such remodeling, repairs, replacements and redecoration as Franchisor may require in order to cause the Franchised Business premises, equipment, fixtures, furnishings, and furniture to conform to the plans and specifications being used for new or remodeled franchised businesses at the time the successor term shall commence.

5.2.7 Franchisee shall pay the required successor agreement fee and sign the Successor Franchise Agreement.

5.3 Notice Required by Law. If applicable law requires Franchisor to give notice to Franchisee prior to the expiration of the Term, this Agreement shall remain in effect on a month-to-month basis until Franchisor has given the notice required by such applicable law. If Franchisor is not offering new BeBalanced franchises, is in the process of revising, amending, or renewing Franchisor's form of franchise agreement or disclosure document, or Franchisor is not lawfully able to offer Franchisee the then-current form of successor franchise agreement at the time Franchisee advises Franchisor pursuant to Paragraph 5.2 hereof that Franchisee desires to exercise Franchisee's option to enter into a Successor Franchise Agreement, Franchisor may, in Franchisor's sole discretion, (i) offer to renew this Agreement upon the same terms set forth herein for the appropriate successor term or (ii) offer to extend the Term hereof on a month-to-month basis following the expiration of the Term for as long as Franchisor deems necessary or appropriate so that Franchisor may lawfully offer the then-current form of successor franchise agreement. Any timeframes specified in this Paragraph 5 shall be inclusive of any state mandated notice periods.

5.4 Additional Reservation of Rights. Notwithstanding anything herein to the contrary, Franchisor reserves the right not to enter into a Successor Franchise Agreement for this Franchise as a result of a decision to withdraw from a marketing area or the Territory in which Franchisee's Franchised Business is located.

## 6. FEES

6.1 Initial Franchise and Royalty Fee. As part of the consideration for the right to operate the Franchise granted herein, Franchisee shall pay to Franchisor the following fees:

6.1.1 Initial Franchise Fee. Franchisee acknowledges and agrees that the grant of this Franchise and the rights and obligations of the parties under this Agreement constitute the sole and only consideration for the initial franchise fee of Forty-Five Thousand Dollars (\$45,000) (the "Initial Fee"). **The Initial Fee is fully earned at the time this Franchise Agreement is signed and is not refundable under any circumstances.** Franchisee shall pay the full amount of the Initial Fee to Franchisor upon Franchisee's execution of this Agreement.

6.1.2 Royalty Fee. Franchisee agrees to pay Franchisor, throughout the Term, a royalty fee equal to six percent (6%) of the monthly Gross Sales, as hereinafter defined, realized from the Franchised Business and from any other revenues received using Franchisor's methods, operations and/or trade secrets (the "Royalty Fee"). The term "Gross Sales" means the aggregate of all revenues, sales, and other incomes of Franchisee from whatever source derived, regardless of whether collected by Franchisee or collected in the form of check, cash, credit, or otherwise, arising out of, in connection with, or relating to the Franchised Business, including, without limitation, (a) income from the sale of any products or other items; (b) income from any services provided; (c) all proceeds from any business interruption insurance, but excluding (i) all refunds and discounts made in good faith to a client; (ii) any sales, use retail sales, and equivalent taxes which are collected by Franchisee on behalf of any governmental or other public body and actually remitted to such body; and (iii) the value of any coupon, voucher, or other allowance authorized by Franchisor and issued or granted to clients of the Franchised Business which is received or credited by Franchisee in full or partial satisfaction of the price of any product or service offered in connection with the Franchised Business. Royalty Fees are subject to a monthly minimum of One Thousand Dollars (\$1,000.00) after Franchisee's first twelve (12) months of operations.

6.1.3 Gross Sales Reports. Franchisee shall, on the fifth (5<sup>th</sup>) day following the close of each calendar month, furnish Franchisor with a report verifying Franchisee's Gross Sales at or from the Franchised Business and/or made pursuant to the rights granted hereunder during the preceding month (the "Gross Sales Report"). The Gross Sales Report shall be in such form and shall contain such information as Franchisor may from time to time prescribe. Franchisor reserves the right to establish point-of-sale systems

(“POS System”) that Franchisor may require Franchisee to use from time to time in the operation of the Franchised Business. At Franchisor’s option, Franchisee shall submit, or grant Franchisor access to, the Gross Sales Report by an electronic transfer of data via the POS System at the times and interims then specified by Franchisor.

6.1.4 Method of Payment. Franchisee shall, together with the submission of the Gross Sales Report, pay Franchisor the Royalty Fee and the Brand Fund Contribution, as defined and more particularly described in Article 13, then due. At Franchisor’s request, Franchisee must execute documents, including but not limited to, the ACH Authorization attached as Attachment 4, that allow Franchisor to automatically withdraw the Royalty Fee and Brand Fund Contribution due as well as other sums due Franchisor, from business bank accounts via electronic funds transfers or Automated Clearing House (“ACH”) payments. Franchisee’s failure to allow electronic funds transfers or ACH payments on an ongoing basis is a material breach of this Agreement. If Franchisee fails to timely report Gross Sales, then, in addition to a late fee and interest pursuant to Sections 6.2 and 6.3 hereof, Franchisor shall collect one hundred twenty percent (120%) of the last Royalty Fee payable. Franchisor shall reconcile amounts when Gross Sales are reported. Franchisor reserves the right to modify the method and frequency of collection of the Royalty Fee and Brand Fund Contribution upon forty-five (45) days’ prior notice to Franchisee.

6.2 Late Fee. If the Royalty Fee, Brand Fund Contribution, or any Gross Sales Reports are not received by Franchisor as required by this Agreement, Franchisee shall pay to Franchisor, in addition to the overdue amount, a late fee of Seventy-Five Dollars (\$75.00). This late fee is reasonably related to Franchisor’s costs resulting from the delay in payment and/or receipt of any report, is not a penalty, and is in addition to any other remedy available to Franchisor under this Agreement for Franchisee’s failure to pay the Royalty Fee, the Brand Fund Contribution, and/or submit Gross Sales Reports in accordance with the terms of this Agreement.

6.3 Interest. Any and all amounts that shall become due and owing from Franchisee to Franchisor under the terms hereof shall bear interest from the date due until paid at the rate of eighteen percent (18%) per annum or at the highest rate permitted by law, whichever is lower.

6.4 Internal Systems Fee. Franchisee agrees to pay Franchisor, monthly throughout the Term, an internal systems fee in an amount determined by Franchisor for technology adopted, developed, or otherwise required by Franchisor for the benefit of the System and Franchised Business, including but not limited to, assigned phone numbers and email addresses required for use in the Franchised Business, a franchise portal, benchmarking platform, or other operations or communications systems (“Internal Systems Fee”). In Franchisor’s sole discretion, Franchisor may (i) increase the amount of the Internal Systems Fee or (ii) replace the technology with different technology, developed by Franchisor or a third-party, and Franchisee shall pay the then-current fees for the replacement technology and for continuous access thereto. Franchisee shall pay the Internal Systems Fee in the manner and frequency as reasonably determined by Franchisor.

6.5 Non-Sufficient Funds Fee. In the event any of Franchisee’s checks are returned, or an electronic funds transfer from Franchisee’s bank account is denied, for insufficient funds, Franchisee shall pay Franchisor, in addition to the amount due, a non-sufficient funds fee of Thirty Dollars (\$30.00) per occurrence. This non-sufficient funds fee is reasonably related to Franchisor’s costs resulting from the delayed and declined payment, is not a penalty, and is in addition to any other remedy available to Franchisor under this Agreement.

6.6 Merchant Processing Fee. To facilitate sales, and as further set forth in the Manual, Franchisee is required to accept credit cards as payment for all products and services sold at or by the Franchised Business. Franchisee will be charged a merchant processing fee, at the then-current rate, in

connection with the processing of credit card transactions.

6.7 Taxes. If any sales, excise, use, or privilege tax is imposed or levied by any government or governmental agency on Franchisor for any Royalty Fee, Brand Fund Contribution, or other fees due and payable to Franchisor under this Agreement, Franchisee shall pay Franchisor a sum equal to the amount of such tax.

## **7. TRAINING.**

7.1 Initial Training Program. Franchisee (specifically including all Franchisee's principals) and Franchisee's general manager shall attend and complete to Franchisor's sole and absolute satisfaction, Franchisor's initial training program ("Initial Training Program") at least forty-five (45) days prior to the opening of the Franchised Business. The Initial Training Program consists of a course conducted remotely through virtual platforms, classroom training conducted virtually and at Franchisor's headquarters, and on-the-job practical training at an affiliate-owned or franchised outlet. Franchisor reserves the right to designate an alternate location for any component of the Initial Training Program. Franchisee must at all times during the term of this Agreement have principals who have successfully completed the Initial Training Program to Franchisor's sole and complete satisfaction. No charge shall be made for up to two (2) individuals to attend the Initial Training Program prior to opening the Franchised Business ("Initial Trainees"). Notwithstanding the foregoing, Franchisee shall be required to pay all of the expenses of the Initial Trainees, including, without limitation, costs of travel, lodging, meals, and wages.

7.2 Satisfactory Completion. Franchisor shall determine, in Franchisor's sole discretion, whether the Initial Trainees have satisfactorily completed the Initial Training Program. If the Initial Training Program is not satisfactorily completed or if Franchisor, in Franchisor's reasonable business judgment based upon the performance of the Initial Trainees, determines that the Initial Training Program cannot be satisfactorily completed by Franchisee and Franchisee's Principal(s), Franchisor may terminate this Agreement.

7.3 Opening Assistance. Immediately prior to the opening of the Franchised Business, Franchisor shall provide Franchisee with opening assistance by a trained representative of Franchisor. The trainer will provide on-site opening training, supervision, and assistance to Franchisee for two (2) days at no charge to Franchisee.

7.4 Additional Training. Franchisor may offer mandatory and/or optional additional training programs from time to time. If required by Franchisor, Franchisee or Franchisee's Principals shall participate in the following additional training:

- (i) on-going training for up to five (5) days per year at a location designated by Franchisor; and
- (ii) an annual national meeting or convention for up to five (5) days at a location designated by Franchisor.

Franchisor reserves the right to impose its then-current fee for all additional training programs. Franchisee shall be responsible for any and all incidental expenses incurred by Franchisee or Franchisee's personnel in connection with additional training or attendance at Franchisor's annual national meeting or convention, including, without limitation, costs of travel, lodging, meals, and wages. Franchisee's failure to attend and/or complete mandatory additional training or failure to attend Franchisor's annual national meeting or convention is a default of this Agreement. Franchisee or Franchisee's principal(s) shall be required to obtain any missed mandatory additional training at a location Franchisor designates. Franchisee

shall pay all costs and expenses for such additional training, including but not limited to, tuition at the then-current rate and any and all transportation, meals, and lodging of Franchisee, any Principal, and Franchisor's training personnel. Franchisee shall pay to Franchisor any incurred expenses by Franchisor's training personnel within ten (10) days of Franchisor's billing thereof to Franchisee.

7.5 On-Site Remedial Training. Upon Franchisee's reasonable request or as Franchisor shall deem appropriate, Franchisor shall, during the term hereof, subject to the availability of personnel, provide Franchisee with additional trained representatives who shall provide on-site remedial training and assistance to Franchisee's personnel at the Franchised Business location. For any additional on-site training and assistance, Franchisee shall pay the then-current per diem fee for the services of such trained representatives, plus their costs of travel, lodging, and meals.

7.6 Counseling and Assistance. In addition to visits by Franchisor's field representatives, as Franchisor deems appropriate, Franchisor shall, within reasonable limits and subject to the availability of Franchisor's personnel, upon Franchisee's request and at no charge, unless such assistance is provided at the Franchised Business pursuant to Section 7.5, furnish consultation and assistance to Franchisee, either in person or by telephone, video conferencing, electronic communications, mail, or postal service, as determined by Franchisor, in Franchisor's sole discretion, with respect to the operation of the Franchised Business, including consultation and advice regarding training, marketing, operation issues, purchasing and inventory control, bookkeeping and System improvements. Franchisee shall be required to attend phone consultations with Franchisor and/or Franchisor's representatives two (2) times per month for the first twelve (12) months of operations.

## **8. FRANCHISED LOCATION REQUIREMENTS**

### **8.1 Site Selection.**

8.1.1 Franchisee assumes all cost, liability, expense and responsibility for obtaining and developing a site for the Franchised Business within the Territory and for constructing and equipping the Franchised Business at such site. Franchisee shall not make any binding commitment to a prospective vendor or lessor of real estate with respect to a site for the Franchised Business unless the site location is approved by Franchisor. While Franchisor may render assistance to Franchisee in the selection of a site, as set forth in Section 8.1.2 below, Franchisee has sole responsibility for procuring and developing a site for the Franchised Business and Franchisee may and is encouraged to consult with professionals of Franchisee's choosing in discharging such responsibility. Franchisee acknowledges that Franchisor's approval of a prospective site is permission only, does not constitute a representation, promise, warranty, or guarantee, express or implied, by Franchisor that the Franchised Business operated at that site will be profitable or otherwise successful, and cannot, and does not, create a liability for Franchisor. Franchisee releases Franchisor from any claims over the site selection and evaluation by Franchisor, and Franchisee shall hold Franchisor harmless with respect to Franchisee's selection of the site for the Franchisee's Franchised Business.

8.1.2 Franchisee shall locate a site that satisfies the site selection guidelines provided to Franchisee by Franchisor and shall submit to Franchisor, in writing, a description of the site, together with written certification the site complies with Franchisor's site selection guidelines, and such other information and materials as Franchisor may reasonably require. Recognizing that time is of the essence, Franchisee shall submit such information and materials for a proposed site to Franchisor for its consent no later than sixty (60) days after the execution of this Agreement. Franchisor shall have thirty (30) business days after receipt of this information and materials to consent, in its sole and absolute discretion, to the proposed site as the location for the Franchised Business. No site may be used for the location of the Franchised Business unless it is consented to in writing by Franchisor.

8.1.3 Within thirty (30) days after Franchisor has consented to the site for the Franchised Business (or such longer period as Franchisor consents to in writing), Franchisee shall execute a lease therefor, as applicable, and obtain physical possession of the premises. Any lease must include Franchisor's Collateral Assignment of Lease Agreement, a copy of which is attached hereto as Attachment 5. Failure by Franchisee to acquire the site for the Franchised Business within the time and in the manner required herein shall constitute a material event of default under this Agreement.

8.1.4 Upon consent by Franchisor to the location for the Franchised Business, Franchisor shall set forth the location and Territory in Attachment 2 of this Agreement and shall provide a copy thereof to Franchisee. Attachment 2, as completed by Franchisor, shall be incorporated herein and made a part hereof. Franchisee shall notify Franchisor within fifteen (15) days of any error or rejection of Attachment 2; otherwise, the Attachment 2 provided to Franchisee shall be deemed final.

## 8.2 Construction.

8.2.1 Franchisee shall be responsible for obtaining clearances that may be required by state or local laws, ordinances, or regulations or that may be necessary as a result of any restrictive covenants or regulations relating to the Franchised Business premises. Prior to beginning the construction of the Franchised Business, and within thirty (30) days of signing the lease for the premises, Franchisee shall (a) obtain all permits, licenses, insurance, and certifications required for the lawful construction or remodeling and operation of the Franchised Business, including, but not limited to, permits for the installation of signage, and (b) certify in writing to Franchisor that all required approvals, clearances, permits, insurance, and certifications have been obtained.

8.2.2 During the time of construction or remodeling, Franchisee shall provide Franchisor, or its designated representative, with such periodic reports regarding the progress in obtaining all licenses and permits; and of the construction or remodeling as may be reasonably requested by Franchisor or its representative. In addition, Franchisor or its representative may make such on-site inspections as it may deem reasonably necessary to evaluate such progress. At least thirty (30) days prior to completion of the construction or remodeling, Franchisee shall notify Franchisor of the scheduled date for completion of construction or remodeling. Within a reasonable time after the date of completion of construction or remodeling, Franchisor or its representative may, at its option, conduct a virtual or in-person inspection of the completed Franchised Business.

8.2.3 Franchisee acknowledges and agrees that it will not open the Franchised Business for business without the written authorization of Franchisor and that authorization to open shall be conditioned upon Franchisee's strict compliance with this Agreement.

8.3 Time to Open. Franchisee acknowledges that time is of the essence in this Agreement. Subject to Franchisee's compliance with the conditions stated below, Franchisee shall open the Franchised Business and commence business within two (2) months after Franchisee has obtained possession of the Franchised Business premises, unless Franchisee obtains a written extension of such time period from Franchisor. The date the Franchised Business opens for business to the public shall be defined herein as the "Opening Date". Prior to the Opening Date, Franchisee shall (i) complete all exterior and interior preparations for the Franchised Business, including installation and cleaning of equipment (including the Computer System as defined in Article 12 hereof), fixtures, furnishings, and signs, in accordance with System requirements and the plans and specifications consented to by Franchisor, (ii) satisfactorily complete Franchisor's Initial Training Program, as further set forth in Article 7, (iii) hire and train staff, as required, (iv) purchase and stock initial inventory, and (v) obtain all required licenses to operate the Franchised Business. If Franchisee fails to comply with any of such obligations, Franchisor shall have the right to prohibit



Franchisee from opening for business. Franchisee's failure to open the Franchised Business and commence business (i) in accordance with the foregoing and (ii) within six (6) months following the date of this Agreement, subject to any written extension of this time period from Franchisor, shall be deemed a material event of default under this Agreement.

8.4 No Relocation. Franchisee's rights to operate the Franchised Business shall be limited to the Territory set forth in Attachment 2, and no other. Franchisee shall not relocate the premises of the Franchised Business at any time without Franchisor's written approval, which approval shall be granted only in the sole and complete discretion of Franchisor, and, if permitted, shall be at Franchisee's sole expense. In the event such permission is granted, Franchisee shall (i) pay a relocation fee equal to Three Thousand Dollars (\$3,000) or Franchisor's actual costs, whichever is greater, (ii) secure and outfit the replacement premises in accordance with Sections 8.1 and 8.2 within one hundred twenty (120) days of Franchisor's consent, (iii) if feasible, continue to operate at the original premises during the construction of the replacement premises, and (iv) upon relocation, remove any signs or other property and otherwise deidentify the original Franchised Business premises. Failure to comply with the foregoing requirements shall be a default of this Agreement. Franchisor shall issue a revised Attachment 2, in accordance with Section 8.1.4, to reflect the address of the new Franchised Business premises and, in Franchisor's sole discretion, any adjustment to the Territory.

## **9. MAINTENANCE AND IMPROVEMENT OF THE FRANCHISED LOCATION AND SYSTEM**

9.1 Maintenance of Franchised Business Location. Franchisee shall equip and maintain the Franchised Business location to the standards of décor, air quality, sanitation, repair and condition required by Franchisor, which standards are specified in the Manual and other written directives, standards and specifications. Franchisee, at Franchisee's expense, shall make such additions, alterations, repairs, refurbishing and replacements as may be required to comply with Franchisor's standards, including, without limitation, periodic repainting and repairs or replacement of worn or impaired décor, materials, furniture, fixtures, equipment, and signage as Franchisor may direct.

9.2 Inspections. Franchisee shall operate and maintain the Franchised Business and Franchised Business location in conformance with all regulations and best practices to ensure the highest rating possible for businesses of like kind from the governmental authorities that may inspect such businesses in the Territory. Franchisee shall submit to Franchisor a copy of any inspection reports. It shall be a default of this Agreement if, upon inspection, Franchisee does not obtain such rating or if Franchisee fails to operate in accordance with the general standards of quality, maintenance, repairs and sanitation required by the System, and Franchisor may, at its option, terminate this Agreement.

9.3 Equipment and Technology Updates. Franchisee shall make any and all upgrades to equipment, including but not limited to, design, display and storage equipment, POS Systems, and computer hardware and software, and any technology used in conjunction therewith, as Franchisor requires in its sole and absolute discretion.

### **9.4 Trade Dress Modifications.**

9.4.1 Franchisee is aware that to maintain and improve the image and reputation of the System, Franchisor, in its sole and absolute discretion, may change and modify identifying elements of the System, including but not limited to, the adoption and use of new exterior building designs, new interior decors, new color schemes, new or modified marks, and new furnishings (collectively, "Trade Dress Modifications").

9.4.2 No more than once in a five (5)-year period, at Franchisor's request, Franchisee shall refurbish the Franchised Business location at Franchisee's sole expense, as required by Franchisor, to conform to Trade Dress Modifications. This includes, without limitation, structural changes, remodeling, redecoration, and modifications to existing improvements. Notwithstanding the foregoing restriction on the frequency of Trade Dress Modifications, Franchisee, upon notice by Franchisor and in accordance with Section 14.6 hereof, shall immediately discontinue the use of any Mark that is no longer desirable or available to Franchisor and substitute a different Mark or Marks as Franchisor directs.

9.4.3 Franchisee will accept, use, and display any such Trade Dress Modifications as if they were a part of this Franchise Agreement at the time of execution hereof.

9.5 No Liability/Waiver of Claims. Franchisor shall not be liable to Franchisee for any expenses, losses, or damages sustained by Franchisee as a result of any of the modifications, including Trade Dress Modifications, required by this Article 9. Franchisee hereby covenants not to commence or join in any litigation or other proceeding against Franchisor or any third party, complaining of any such expenses, losses or damages caused thereby and seeking compensation therefor. Further, Franchisee expressly waives any claims, demands, or damages arising from or related to the modifications contemplated by this Article 9, including, without limitation, any claim of breach of contract, breach of fiduciary duty, fraud, and/or breach of the implied covenant of good faith and fair dealing.

9.6 Franchisee Advisory Council. Franchisor has created a franchisee advisory council as a formal means for System franchisees to communicate ideas, and may invite Franchisee to participate in council-related activities and meetings, which invitation may be based on factors, including but not necessarily limited to, Franchisee's level of success, superior performance, and profitability. Franchisor reserves the right to change or dissolve the council at any time.

## **10. FRANCHISOR'S OBLIGATIONS.**

Franchisor and/or its designated representative will provide the services described below:

10.1 Site Selection Guidelines. Site selection criteria, as Franchisor may deem advisable. Franchisor shall also approve the site in accordance with Section 8.1.2.

10.2 Construction. Provide to Franchisee criteria and specifications for a BeBalanced outlet. Franchisee shall independently, and at Franchisee's expense, have such criteria and specifications incorporated into the construction of the Franchised Business in accordance with Article 8.

10.3 Manual. Provide Franchisee access to the Manual and such other manuals and written materials as Franchisor may hereafter develop for use by franchisees, as the same may be revised by Franchisor from time to time. Such documents may be provided electronically or via the internet, at Franchisor's sole and absolute discretion.

10.4 Inspection. Inspection of the Franchised Business and evaluations of the products sold and services rendered therein whenever reasonably determined by Franchisor.

10.5 Pre-Opening Requirements. Provide a written list of equipment, fixtures, furnishings, signage, supplies, and products that will be required and/or recommended to open the Franchised Business for business.

10.6 Advertising Materials. Provide samples of certain advertising and promotional materials and information developed by Franchisor from time to time for use by Franchisee in marketing and conducting local advertising for the Franchised Business.

10.7 List of Suppliers. Make available from time to time, and amend as deemed appropriate by Franchisor, required products and services and a list of approved and/or recommended suppliers therefor.

10.8 Training. The training programs specified in Article 7 herein.

10.9 On-Site Assistance. On-site opening assistance at the Franchised Business location in accordance with the provisions of Article 7.

10.10 Brand Fund. Administer a brand fund in accordance with Section 13.3.

## **11. FRANCHISEE'S REPRESENTATIONS, WARRANTIES, AND COVENANTS**

11.1 Best Efforts. Franchisee, including each of Franchisee's Principals covenants and agrees that he or she shall make all commercially reasonable efforts to operate the Franchised Business so as to achieve optimum sales.

11.2 Corporate Representations. If Franchisee is a corporation, partnership, limited liability company, or other legal entity, Franchisee and each Principal represent, warrant, and covenant that:

11.2.1 Franchisee is duly organized and validly existing under the state law of its formation;

11.2.2 Franchisee is duly qualified and is authorized to do business in the jurisdiction of the Franchised Business location and the Territory;

11.2.3 Franchisee's organizational documents shall at all times provide that the activities of Franchisee are confined exclusively to the operation of the Franchise granted herein, unless otherwise consented to in writing by Franchisor, which consent may be withheld by Franchisor in Franchisor's sole discretion;

11.2.4 The execution of this Agreement and the consummation of the transactions contemplated hereby are within Franchisee's power and have been duly authorized by Franchisee; and

11.2.5 Any financial statements and tax returns provided to Franchisor shall be certified as true, complete, and correct and shall have been prepared in conformity with generally accepted accounting principles applicable to the respective periods involved and, except as expressly described in the applicable notes, applied on a consistent basis. No material liabilities, adverse claims, commitments, or obligations of any nature exist as of the date of the statements or returns, whether accrued, unliquidated, absolute, contingent, or otherwise, that are not reflected as liabilities.

11.3 Spouse Guaranty. If any Franchisee Principal is a married individual and the Principal's spouse has not executed this Agreement, such Principal shall cause his or her spouse to personally execute and bind himself or herself to the terms of a Guaranty, in the form attached as Attachment 7 hereof.

11.4 Appointment of Manager.

11.4.1 Franchisee shall designate and retain at all times a general manager (“General Manager”) to direct the operation and management of the Franchised Business outlet. Franchisee shall designate its General Manager prior to attending the Initial Training Program. The General Manager shall be responsible for the daily operation of the Franchised Business outlet. Unless otherwise permitted by Franchisor, the General Manager shall be the Franchisee, if Franchisee is an individual, or a Principal.

11.4.2 The General Manager shall, during the entire period he or she serves as General Manager, meet the following qualifications:

11.4.2.1 The General Manager shall meet Franchisor’s standards and criteria for such individual, as set forth in the Manual or otherwise in writing by Franchisor and shall be an individual otherwise acceptable to Franchisor in its sole discretion.

11.4.2.2 The General Manager shall devote his or her full time and best efforts to the supervision and management of the Franchised Business and may not engage in any other business activity without the Franchisor’s consent, which may be withheld in Franchisor’s sole discretion.

11.4.2.3 The General Manager shall satisfy the training requirements set forth in Article 7.

11.4.3 If the General Manager is not able to continue to serve in such capacity, or no longer qualifies to act as such in accordance with this Agreement, Franchisee shall promptly notify Franchisor and designate a replacement within thirty (30) days after the General Manager ceases to serve, such replacement being subject to the same qualifications required by this Agreement (including, but not limited to, completing all training and obtaining all certifications required by Franchisor). Until such replacement is designated, Franchisee shall provide interim management of the Franchised Business, who shall act in accordance with the terms of this Agreement. Any failure to comply with the requirements of this Section shall be deemed a material event of default under this Agreement. Franchisor, in its sole discretion, may provide interim management at Franchisor’s then-current interim management support fee, plus any and all costs of travel, lodging, meals, and other expenses reasonably incurred by Franchisor, and shall be withdrawn from Franchisee’s designated bank account in accordance with Section 6.1.4.

11.5 Legal Compliance. Franchisee shall comply with all federal, state, and local laws, rules, and regulations and shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper conduct of the Franchised Business. Such laws, rules, and regulations shall include, without limitation, licenses to do business, health and sanitation inspections, if required, fictitious name registrations, sales and other tax permits, fire and police department clearances, Americans With Disability Act compliance, certificates of occupancy, any permits, certificates or licenses required by any environmental federal, state, or local law, rule, or regulation and any other requirement, rule, law, or regulation of any federal, state, or local jurisdiction.

11.6 Claims and Potential Claims. Franchisee shall notify Franchisor in writing within three (3) days of any incident or injury that could lead to, or the actual commencement of any action, suit, or proceeding and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which in any way relating to or affecting the operation or financial condition of the Franchised Business. Any and all media inquiries concerning the Franchised Business or Franchised Business location, including, but not limited to, the business operation and incidents and occurrences related to a client or employee, shall be referred to Franchisor. Neither Franchisee, Franchisee’s employees, nor anyone on Franchisee’s behalf may comment to any broadcast medium, except as directed by Franchisor.

11.7 Assignment of Numbers and Listings. At Franchisor's request, Franchisee shall execute such forms and documents as Franchisor deems necessary to appoint Franchisor its true and lawful attorney-in-fact, with full power and authority, for the sole purpose of assigning to Franchisor, Franchisee's telephone numbers and listings, and provide Franchisor with passwords and administrator rights for all email, software, social media, or other such accounts used or created by Franchisee in order to operate the Franchised Business. Upon the expiration or termination of this Agreement, Franchisor may exercise its authority, pursuant to such documents, to obtain any and all of Franchisee's rights to the telephone numbers of the Franchised Business and all related telephone directory listings and other business listings, and all internet listings, domain names, internet advertising, websites, listings with search engines, electronic mail addresses, social media, software, or any other similar listing or usages related to the Franchised Business.

11.8 Access to Tax Filings. Upon execution of this Agreement, and at any time thereafter upon Franchisor's request, Franchisee shall execute such forms and documents as Franchisor deems necessary, to appoint Franchisor its true and lawful attorney-in-fact with full power and authority, for the sole purpose of obtaining any and all tax returns and reports related to the Franchised Business filed by Franchisee with any state or federal taxing authority.

11.9 Continuing Obligation. Franchisee and each Principal acknowledge and agree that the representations, warranties, and covenants set forth in this Article 11 are continuing obligations of Franchisee and each Principal, as applicable, and that any failure to comply with such representations, warranties, and covenants shall constitute a material event of default under this Agreement. Franchisee and each Principal shall cooperate with Franchisor in any efforts made by Franchisor to verify compliance with such representations, warranties, and covenants.

## **12. FRANCHISEE'S OPERATIONS**

12.1 Operation of Franchised Business Location. In order to maintain the highest degree of quality and service on a uniform System-wide basis, Franchisee shall operate the Franchised Business in conformity with the methods, standards, and specifications prescribed by Franchisor. Franchisee agrees to comply with the Manual, as it is modified from time to time, and all directives, rules, and procedures specified by Franchisor, and will, among other things:

12.1.1 Use only those furnishings, fixtures, décor, equipment, supplies, and signage that conform with Franchisor's specifications and/or which shall be purchased from only those vendors designated and approved by Franchisor;

12.1.2 Maintain and operate the Franchised Business location in attractive condition and good repair, using Franchisee's best efforts to maintain a clean, enjoyable and inviting atmosphere therein in accordance with System standards, the Manual, and all other directives and requirements of Franchisor, and do such redecoration, repairing, refurbishing, and restoration as from time to time may be reasonably required to meet System standards and Franchisor's requirements as they may be modified from time to time;

12.1.3 Procure and hold all necessary licenses or permits to allow the operation of the Franchised Business, and otherwise comply with all applicable governmental laws, ordinances, rules and regulations including those related to health and safety;

12.1.4 Maintain sufficient inventories of merchandise and supplies, as prescribed by Franchisor;

12.1.5 Conduct sales in accordance with Franchisor's standards and specifications. Franchisee acknowledges and accepts that, unless expressly permitted in writing by Franchisor, Franchisee may only engage in providing the products and services prescribed by the System. Franchisee is expressly prohibited from selling products outside of the Franchised Business outlet, on the internet, to dealers and/or distributors for subsequent re-sale, and engaging in such sales shall be a material default of this Agreement;

12.1.6 Employ only engaging, outgoing and qualified individuals who are trained in accordance with Franchisor's standards, including but not limited to the protection of Franchisor's confidential and proprietary information. Franchisee and its employees will at all times enhance Franchisor's brand and conduct themselves in a competent and courteous manner in accordance with this Agreement and the image and reputation of the System. Franchisee shall use its best efforts to ensure that Franchisee's employees maintain a neat and clean appearance and render competent and courteous service to patrons of the Franchised Business. Franchisee acknowledges and agrees that poorly trained employees, sloppy or unclean appearances, and incompetent or discourteous service by Franchisee or its employees are extremely damaging to the goodwill of the System and the Marks and are a material default of this Agreement;

12.1.7 Permit Franchisor or its agents, to inspect the Franchised Business location and any services, products or equipment, to determine whether they meet Franchisor's then-current standards, specifications, and requirements. In addition to any other remedies Franchisor may have, Franchisee shall reimburse Franchisor for Franchisor's inspection costs of any item that does not conform to the System standards and specifications;

12.1.8 Prominently display signs in and upon the Franchised Business location using the Marks and/or other advertising and/or signs of such nature, form, color, number, location, and size, and containing such material, as Franchisor may from time to time reasonably direct or approve in writing; and to not display in or upon the Franchised Business location or elsewhere any sign or advertising media of any kind to which Franchisor reasonably objects, including signs and advertising media which have not been approved by Franchisor, or which have been improperly made or are outdated. Upon giving Franchisee notice of its objection to same or upon termination hereof, Franchisor may at any time enter upon the Franchised Business premises or elsewhere and remove any objectionable or non-approved signs or advertising media and keep or destroy same without paying therefor or without being deemed guilty of trespass or any other tort;

12.1.9 Conduct all advertising programs in a manner consistent with Franchisor's standards and specifications, in a manner satisfactory to Franchisor and that will not detract from the reputation of the System or the Marks.

## 12.2 Bookkeeping and Reports.

12.2.1 Franchisee agrees to keep and maintain complete and accurate books and records of its transactions and business operations using the accounting procedures and chart of accounts specified by Franchisor. Franchisee agrees to purchase the computer systems specified in Section 12.3 to maintain the records and accounts of the Franchisee to the standards of the Franchisor. Franchisee acknowledges and agrees that the financial data of Franchisee's Franchised Business is (i) owned by Franchisor, (ii) is Franchisor's proprietary information, (iii) may be published in franchise disclosure document(s) issued by Franchisor following the Effective Date hereof, and (iv) may be shared with other franchisees in the System.

12.2.2 Within thirty (30) days after the close of each calendar quarter and within ninety (90) days after the close of each fiscal year, Franchisee will furnish Franchisor a full and complete written statement of income and expense and a profit and loss statement for the operation of the Franchised Business during said

period, together with a balance sheet for the Franchised Business, all of which shall be prepared in accordance with generally accepted accounting principles and practice. Franchisee's annual statements and balance sheets shall be prepared by an independent certified public accountant and certified to be correct.

12.2.3 The financial statements required hereunder shall be in such form and contain such information as Franchisor may from time to time reasonably designate.

12.2.4 Franchisor reserves the right to require Franchisee to engage the services of a third-party accounting services firm, designated and approved by Franchisor, in the event that (i) Franchisee fails to keep books and records in accordance with Franchisor's standards or (ii) Franchisor, in its sole discretion, determines that use of a third-party accounting services firm by all System franchisees is beneficial to the System.

12.2.5 Franchisor shall have the right at all reasonable times to examine, at its expense, Franchisee's books, records, and tax returns. If Franchisor's examination finds an understatement of any Gross Sales Report, Franchisee shall pay Franchisor the amounts due together with interest thereon at the rate provided herein, and if understated by two percent (2%) or more, Franchisee shall reimburse Franchisor for the cost of such examination. Such understatement may be considered a material default hereunder. Two (2) such understatements during the term of this Agreement may, at the option of Franchisor, be considered an incurable default and thereby subject to termination as provided herein.

### 12.3 Computer Systems.

12.3.1 Franchisee, at Franchisee's sole expense, shall install and maintain the POS System and computer hardware and software Franchisor requires for the operation of the Franchised Business and shall follow the procedures related thereto that Franchisor specifies in the Manual or otherwise in writing.

12.3.2 Franchisor may require Franchisee, at Franchisee's sole expense, to install and maintain systems and web-based payment processing accounts that permit Franchisor to independently and electronically access and retrieve any information stored in Franchisee's POS System, other computer systems, and web-based payment processing accounts, including, without limitation, information concerning Gross Sales. Upon Franchisor's request, Franchisee shall execute such documents as Franchisor deems necessary to permit Franchisor to independently and electronically access and retrieve all information stored on Franchisee's POS System, other computer systems, and web-based payment processing accounts.

12.3.3 Any and all client lists and client data collected or provided by Franchisee, retrieved from Franchisee's POS System, or otherwise collected from Franchisee by Franchisor or provided to Franchisor, is and will be owned exclusively by Franchisor and will be considered to be Franchisor's proprietary and Confidential Information. Franchisor has the right to use such data in any manner without compensation to Franchisee. Franchisor licenses to Franchisee the use of such data solely for the purpose of operating the Franchised Business; provided that, this license shall automatically and irrevocably terminate, without any additional action or notice required by Franchisor, upon the expiration or earlier termination of this Agreement.

12.3.4 Franchisor may require Franchisee, at Franchisee's sole expense, to enter into software license agreements in the form that Franchisor requires for software Franchisor develops or acquires for use in the System, or for security purposes to protect the operation and integrity of Franchisor's systems.



12.3.5 Franchisee shall have and maintain adequate hardware and software in order to access the internet at the speed required by Franchisor from time to time. Franchisee shall utilize the electronic mail account provided by Franchisor. Franchisee shall promptly read and respond to all electronic mail related to the Franchised Business no less often than on a daily basis and shall accept and acknowledge receipt of all electronic mail sent by Franchisor. Franchisee shall not establish any website or other listing on the internet except as provided and specifically permitted herein.

12.3.6 Franchisor has established a website that provides information about the System and the products and services offered by the BeBalanced System (the "Website"). Franchisor has sole discretion and control over the Website. Franchisor shall include a listing on its Website linking Franchisee's Franchised Business location and calendar. Franchisee has no ownership or other proprietary rights to Franchisor's website and Franchisee will lose all rights to such link to Franchisee's location upon expiration or termination of this Agreement for any reason.

12.3.7 In addition to the requirements of Section 6.4, Franchisee shall pay all fees, whether to Franchisor or to third party vendor(s), and expenses for technology required by this Agreement for operation of the Franchised Business, including but not limited to, the costs of computer hardware and software and applications, installation costs and regularly recurring fees for software, internet access, license fees, help desk fees, and licensing or user-based fees.

12.3.8 Franchisee is solely responsible for maintaining the security and integrity of the Computer System used in the Franchised Business and the client and other data stored therein. Franchisee, at Franchisee's sole cost and expense, shall implement all computer hardware, software, and internet security procedures, including required updates or upgrades thereto, that are reasonably necessary to protect Franchisee's computer and payment processing systems and the data stored therein from viruses, malware, privacy breaches, or other unauthorized access. Franchisee shall notify Franchisor immediately in the event of any compromise to the Computer System or any data breach.

12.4 Safety and Security of Premises. Franchisee is solely responsible for the safety and security of the Franchised Business outlet for Franchisee, Franchisee's personnel, agents, clients, and the general public. Any suggestions by Franchisor on such matters are for guidance only and are not binding on Franchisee. All matters of safety and security are within Franchisee's discretion and control, and Franchisee's indemnification obligations set forth in Section 15.6 hereof shall apply to any claims made against Franchisor regarding safety or security.

12.5 Prices. Subject to applicable law, Franchisor may recommend or set maximum prices for services and products offered by Franchisee, which may vary depending on geographic and other market conditions. Franchisee acknowledges that Franchisor has made no guarantee or warranty that offering services or products at any particular price will enhance Franchisee's sales or profits.

12.6 Unapproved Item/Suppliers. If Franchisee desires to purchase, lease, or use any unapproved equipment, product, or service or to purchase, lease, or use any equipment, product, or service from an unapproved supplier, Franchisee shall submit to Franchisor a written request for such approval prior to utilizing such product, service, or supplier. Franchisee shall not purchase or lease any item or use any supplier until and unless such item or supplier has been approved in writing by Franchisor. Franchisor shall have the right to require that its representatives be permitted to inspect the supplier's facilities and to test or otherwise evaluate samples from the supplier. Franchisor reserves the right to charge its then-current evaluation fee to Franchisee for such inspection and testing. Franchisor shall notify Franchisee whether Franchisor approves or disapproves of the proposed item or supplier within thirty (30) days after Franchisor receives all required information to evaluate the product, service, or supplier. If Franchisor fails to respond to Franchisee's submission within said thirty (30) days, such item or supplier shall be deemed

“disapproved.” Franchisor reserves the right, at its option, to re-inspect from time to time the facilities and products of any such approved supplier and to revoke its approval upon the supplier’s failure to continue to meet any of Franchisor’s then-current criteria. Nothing in the foregoing shall be construed to require Franchisor to approve any particular item or supplier.

12.7 External Quality Assurance Services. Franchisor reserves the right to establish quality assurance programs conducted by third-party providers, including, but not limited to, mystery shop programs and periodic quality assurance audits (“Quality Review Services”). Upon Franchisor’s request and at Franchisee’s sole cost and expense, Franchisee shall subscribe to any such third-party provider for Quality Review Services to monitor the operations of the Franchised Business as directed by Franchisor.

12.8 Variations in Standards. Notwithstanding anything to the contrary contained in this Agreement and this Section 12 in particular, Franchisee acknowledges and agrees that because complete and detailed uniformity under many varying conditions may not be possible or practical, Franchisor specifically reserves the right and privilege, at its sole discretion and as it may deem in the best interests of all concerned in any specific instance, to vary performance standards for some franchisees based upon the peculiarities and characteristics of the particular site or circumstance, business potential, existing business practices, or any other condition which Franchisor deems to be of importance to the successful operation of such particular franchised business. Franchisor has full rights to vary standard specifications and practices for any other franchisee at any time without giving Franchisee comparable rights. Franchisee shall not be entitled to require Franchisor to disclose or grant to Franchisee a like or similar variation.

### **13. ADVERTISING, PROMOTIONS AND RELATED FEES**

13.1 Advertising Programs. Franchisor may from time to time develop and administer advertising and sales promotion programs designed to promote and enhance the collective success of all Franchised Businesses operating under the System. Franchisee shall participate in all such advertising and sales promotion programs in accordance with the terms and conditions established by Franchisor from time to time for each program. In all aspects of these programs, including, without limitation, the type, quantity, timing, placement and choice of media, market areas and advertising agencies, the standards and specifications established by Franchisor, as modified from time to time, shall be final and binding upon Franchisee.

#### **13.2 Local Advertising.**

13.2.1 In addition to the ongoing advertising contributions set forth herein, and following the expenditures set forth in Section 13.2.3 below, Franchisee shall spend monthly, throughout the term of this Agreement, the greater of (i) eight percent (8%) of Gross Sales or (ii) Three Thousand Five Hundred Dollars (\$3,500.00), each month on advertising for the Franchised Business in the Territory (“Local Advertising”). Franchisor may require Franchisee to allocate to a regional advertising cooperative, as described in Section 13.4, up to two percent (2%) of Franchisee’s Gross Sales each month.

13.2.2 Within ten (10) business days of Franchisor’s request, Franchisee shall provide a quarterly expenditure report accurately reflecting Franchisee’s Local Advertising expenditures for the preceding quarterly period. The following costs and expenditures incurred by Franchisee shall **not** be included in Franchisee’s expenditures on Local Advertising for purposes of this Section, unless approved in advance by Franchisor in writing: (i) incentive programs for employees or agents of Franchisee; (ii) research expenditures; (iii) salaries and expenses of any of Franchisee’s personnel to attend advertising meetings, workshops, or other marketing activities; (iv) charitable, political, or other contributions or donations.

13.2.3 Franchisee shall expend Twelve Thousand Dollars (\$12,000) on creation of a grand opening advertising campaign to promote the opening of the Franchised Business, which shall include advertising, marketing, social media, and promotional elements. All materials and promotional elements of Franchisee's grand opening advertising campaign must be approved by Franchisor in writing. The grand opening advertising campaign shall be conducted in the Territory in the sixty (60) days prior to and the ninety (90) days after the opening of the Franchised Business.

### 13.3 Brand Fund.

13.3.1 Franchisor has established a national fund on behalf of the System for national advertising, marketing, and brand development (the "Brand Fund"). Franchisee is required to contribute an amount equal to the greater of (i) two percent (2%) of the Gross Sales generated monthly by Franchisee's Franchised Business or (ii) One Hundred Dollars (\$100) to the Brand Fund ("Brand Fund Contribution"). Payments will be made in the same manner and time as the Royalty Fees. If Franchisee fails to timely report Gross Sales, then, in addition to a late fee and interest pursuant to Sections 6.2 and 6.3 hereof, Franchisor shall collect one hundred twenty percent (120%) of the last Brand Fund Contribution payable. Franchisor shall reconcile amounts when Gross Sales are reported.

13.3.2 Franchisor shall direct the Brand Fund and shall have sole discretion to approve or disapprove the creative concepts, materials, and media used in such programs and the placement and allocation thereof. Franchisee agrees and acknowledges that the Brand Fund is intended to maximize general public recognition and acceptance of the Marks and enhance the collective success of all Franchised Businesses operating under the System.

13.3.3 Franchisor may, but has no obligation to, contribute to the Brand Fund on the same basis as Franchisee with respect to BeBalanced outlets operated by Franchisor or Franchisor's affiliates.

13.3.4 Franchisor may use the Brand Fund to satisfy any and all costs of developing, preparing, producing, directing, administering, conducting, maintaining, and disseminating advertising, marketing, promotional, and public relations materials, programs, campaigns, sales and marketing seminars and training programs of every kind and nature, through media now existing or hereafter developed (including, without limitation, the cost of television, radio, magazine, social media, newspaper and electronic advertising campaigns; direct mail and outdoor billboard advertising; public relations activities; conducting marketing research, employing advertising agencies to assist therein; developing, enhancing and maintaining the Website; and staff salaries and other personnel and departmental costs for advertising that Franchisor internally administers or prepares). While Franchisor does not intend that any part of the Brand Fund will be used for advertising which is principally a solicitation for franchisees, Franchisor reserves the right to use the Brand Fund for public relations, to explain the franchise system, and/or to include a notation in any advertisement indicating "Franchises Available."

13.3.5 The Brand Fund will not be used to defray any of Franchisor's general operating expenses, except for reasonable administrative costs and overhead that Franchisor may incur in activities related to the administration and direction of the Brand Fund and such costs and expenses pursuant Section 13.3.4. The Brand Fund and its earnings shall not otherwise inure to Franchisor's benefit except that any resulting technology and intellectual property shall be deemed the property of Franchisor.

13.3.6 Franchisor will prepare an unaudited annual statement of the Brand Fund's operations and will make it available to Franchisee upon request. In administering the Brand Fund, Franchisor undertakes no obligation to make expenditures for Franchisee that are equivalent or proportionate to Franchisee's contribution or to ensure that any particular franchisee benefits directly or pro rata from the production or placement of advertising.

13.3.7 Although the Brand Fund is intended to be of perpetual duration, Franchisor may terminate it at any time and for any reason or no reason. Franchisor will not terminate the Brand Fund, however, until all monies in the Brand Fund have been spent for advertising or promotional purposes or returned to contributors, without interest, on the basis of their respective contributions.

13.4 Regional Advertising. Franchisor reserves the right to establish, in Franchisor's sole discretion, a regional advertising cooperative. If a regional cooperative is established during the term of this Agreement, Franchisee agrees to sign all documents Franchisor requests to become a member of the cooperative according to the terms of the documents. If Franchisor establishes a regional cooperative, Franchisee agrees to contribute amounts equal to Franchisee's share of the total cost of cooperative advertising, which shall not exceed two percent (2%) of monthly Gross Sales, in addition to required Brand Fund Contributions.

13.5 Directory Listings. At Franchisee's sole cost and expense, Franchisee must list the Franchised Business in local business directories, including, but not limited to, listings on internet search engines. If feasible, and with Franchisor's prior written approval, Franchisee may do cooperative listings with other System franchisees. Notwithstanding the foregoing, Franchisee may not maintain any business profile on Facebook, Instagram, Twitter, LinkedIn, YouTube, TikTok, or any other social media and/or networking site without Franchisor's prior written approval, and use of any social media accounts shall be in strict accordance with Franchisor's requirements. Franchisee shall provide Franchisor with all passwords and administrative rights to any and all social media accounts for the Franchised Business, and Franchisee hereby appoints Franchisor its true and lawful agent and attorney-in-fact with full power and authority, for the sole purpose of taking whatever action is necessary for the best interest of the System, if Franchisee fails to maintain such accounts in accordance with Franchisor's standards.

13.6 Approval of Advertising. All advertising and promotion by Franchisee, in any medium, shall be conducted in a professional manner and shall conform to the standards and requirements of Franchisor as set forth in the Manual or otherwise. Franchisee shall submit to Franchisor for its approval samples of all advertising, press releases, promotional plans and materials, and public relations programs that Franchisee desires to use, including, without limitation, any materials in digital, electronic, or computerized form, or in any form of media now or hereafter developed that have not been either provided or previously approved by Franchisor. Franchisor shall approve or disapprove such plans and materials within ten (10) business days of Franchisor's receipt thereof. If Franchisor fails to respond to Franchisee's submission within ten (10) business days, such plans and materials shall be deemed "disapproved". Franchisee shall not use such unapproved plans or materials until they have been approved by Franchisor in writing and shall promptly discontinue use of any advertising or promotional plans or materials, whether or not previously approved, upon notice from Franchisor. Any advertising, marketing, or sales concepts, programs, or materials proposed or developed by Franchisee for the BeBalanced brand and approved by Franchisor may be used by other System franchisees without any compensation to Franchisee.

## **14. INTELLECTUAL PROPERTY**

### **14.1 Ownership.**

14.1.1 Franchisee expressly understands and acknowledges that Franchisor and/or Franchisor's affiliate(s) are the record owner of the Marks. Franchisor holds the exclusive right to license the Marks to franchisees of the System for use pursuant to the System. Franchisee further expressly understands and acknowledges that Franchisor and/or Franchisor's affiliate(s) claim copyrights on certain material used in the System, including but not limited to its website, documents, formulas, advertisements, promotional materials, and the Manual, whether or not Franchisor and/or Franchisor's affiliate(s) have filed

for copyrights thereto with the U.S. Copyright Office. The Marks and copyrights, along with Franchisor's trade secrets, service marks, trade dress, and proprietary systems are hereafter collectively referred to as the "Intellectual Property".

14.1.2 As between Franchisor and Franchisee, Franchisor and/or Franchisor's affiliate(s) are the owner of all right, title, and interest in and to the Intellectual Property and the goodwill associated with and symbolized by them.

14.2 No Interference. Neither Franchisee nor any Principal shall take any action that would prejudice or interfere with the validity of Franchisor's and/or Franchisor's affiliate(s)'s rights with respect to the Intellectual Property. Nothing in this Agreement shall give the Franchisee any right, title, or interest in or to any of the Intellectual Property or any of Franchisor's and/or Franchisor's affiliate(s)'s service marks, trademarks, trade names, trade dress, logos, copyrights, or proprietary materials, except the right to use the Intellectual Property and the System in accordance with the terms and conditions of this Agreement for the operation of a Franchised Business and only at or from the Franchised Business premises or in approved advertising related to the Franchised Business.

14.3 Goodwill. Franchisee understands and agrees that any and all goodwill arising from Franchisee's use of the Intellectual Property and the System shall inure solely and exclusively to the benefit of Franchisor and/or Franchisor's affiliate(s), and upon expiration or termination of this Agreement and the license herein granted, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee's use of the Intellectual Property.

14.4 Validity. Franchisee shall not contest the validity of, or Franchisor's and/or Franchisor's affiliate(s)'s interest in, the Intellectual Property or assist others to contest the validity of, or Franchisor's and/or Franchisor's affiliate(s)'s interest in, the Intellectual Property.

14.5 Infringement. Franchisee acknowledges that any unauthorized use of the Intellectual Property shall constitute an infringement of Franchisor's and/or Franchisor's affiliate(s)'s rights in the Intellectual Property and a material event of default hereunder. Franchisee shall provide Franchisor and/or Franchisor's affiliate(s) with all assignments, affidavits, documents, information, and assistance Franchisor and/or Franchisor's affiliate(s) reasonably request to fully vest in Franchisor and/or Franchisor's affiliate(s) all such rights, title, and interest in and to the Intellectual Property, including all such items as are reasonably requested by Franchisor and/or Franchisor's affiliate(s) to register, maintain, and enforce such rights in the Intellectual Property.

14.6 Substitution. Franchisor reserves the right to substitute different Marks for use in identifying the System and the Franchised Business, if it in its sole discretion, determines that substitution of different Marks will be beneficial to the System. Franchisor will not be liable to Franchisee for any expenses, losses, or damages sustained by Franchisee as a result of any additions, modifications, substitutions, or discontinuation of the Marks. Franchisee covenants not to commence or join in any litigation or other proceeding against Franchisor for any of these expenses, losses, or damages.

14.7 Franchisee's Use of the Intellectual Property. With respect to Franchisee's use of the Intellectual Property pursuant to this Agreement, Franchisee further agrees that:

14.7.1 Unless otherwise authorized or required by Franchisor, Franchisee shall advertise the Franchised Business only under the "BeBalanced" Marks and design. Franchisee shall not use the Marks, or any portions, variations, or derivatives thereof, as part of its corporate or other legal name. All fictitious names used by Franchisee shall bear the designation "a franchisee of Infinity Health Advisors, LLC".

14.7.2 Franchisee shall identify itself as the owner of the Franchised Business and as an independent BeBalanced franchisee in conjunction with any use of the Intellectual Property, including, but not limited to, uses on invoices, order forms, receipts, and contracts, as well as the display of a notice in such content and form and at such conspicuous locations on the premises of the Franchised Business as Franchisor may designate in writing.

14.7.3 Franchisee shall not use the Intellectual Property to incur any obligation or indebtedness on behalf of Franchisor.

14.7.4 Any item offered by Franchisee that contains the Marks must be approved by Franchisor in writing prior to being distributed or sold by Franchisee and such approval may be granted or denied in Franchisor's sole and absolute discretion.

14.8 Claims. Franchisee shall notify Franchisor immediately, via both email and telephone, of any apparent infringement of or challenge to Franchisee's use of any Intellectual Property and of any claim by any person of any rights in any Intellectual Property. Franchisee shall not communicate with any person other than Franchisor or any designated affiliate thereof, their counsel, and Franchisee's counsel in connection with any such infringement, challenge, or claim. Franchisor shall have complete discretion to take such action as it deems appropriate in connection with the foregoing, and the right to control exclusively, or to delegate control to any of its affiliates of, any settlement, litigation, or other proceeding arising out of any such alleged infringement, challenge, or claim or otherwise relating to any Intellectual Property. Franchisee agrees to execute any and all instruments and documents, render such assistance, and do such acts or things as may, in the opinion of Franchisor, reasonably be necessary or advisable to protect and maintain the interests of Franchisor or any other person or entity in any litigation or other proceeding or to otherwise protect and maintain the interests of Franchisor or any other interested party in the Intellectual Property. Franchisor will indemnify and defend Franchisee against and reimburse Franchisee for actual damages (including settlement amounts) for which Franchisee is held liable in any proceeding arising out of Franchisee's use of any of the Intellectual Property that infringes on the rights of any other party, provided that the conduct of Franchisee with respect to such proceeding and use of the Intellectual Property is in full compliance with the terms of this Agreement.

14.9 Franchisor may use and grant franchises and licenses to others to use the Intellectual Property and the System and to establish, develop, and franchise other systems, different from the System licensed to Franchisee herein, without offering or providing Franchisee any rights in, to, or under such other systems and Franchisor may modify or change, in whole or in part, any aspect of the Intellectual Property or the System, so long as Franchisee's rights thereto are in no way materially harmed thereby.

14.10 Franchisee shall not register or attempt to register the Intellectual Property in Franchisee's name or that of any other person, firm, entity, or corporation.

## **15. INSURANCE AND INDEMNIFICATION**

15.1 Procurement. Franchisee shall procure, prior to the commencement of any operations under this Agreement, and thereafter maintain in full force and effect during the term of this Agreement at Franchisee's sole cost and expense and to Franchisor's sole satisfaction, insurance policies, which shall be primary and non-contributory to any insurance that Franchisor may carry. Franchisee's insurance shall be provided by insurance companies with an A.M. Best rating of not less than A-VIII, protecting Franchisee and Franchisor, and naming Franchisor, its officers, directors, partners, owners, employees, and affiliates as additional insureds as their interests may appear. Such policies shall be written by a responsible, duly licensed carrier or carriers reasonably acceptable to Franchisor, shall include any insurance Franchisee must

have according to the terms of the lease for the premises and as required by applicable law, and shall have the following minimum limits (except as additional coverage and higher policy limits may reasonably be specified from time to time in the Manual or otherwise in writing):

<b>Type of Coverage</b>	<b>Amount</b>	<b>Maximum Deductible</b>
<u>General Liability</u>		
General Aggregate Limit	\$2,000,000	N/A
Products/Completed Ops. Aggregate Limit	\$2,000,000	N/A
Personal & Advertising Injury Limit	\$1,000,000	N/A
Each Occurrence Limit	\$1,000,000	N/A
Fire Damage Limit (Any one fire)	\$300,000	N/A
Medical Expense (Any one person)	\$5,000	N/A
<u>Professional Liability</u>		
Each Occurrence Limit	\$1,000,000	N/A
<u>Umbrella Liability</u>		
Each Occurrence Limit	\$1,000,000	N/A
Aggregate Limit	\$1,000,000	N/A
<u>Employers Liability (Workers' Compensation)</u>		
Each Accident Limit	\$500,000	N/A
Each Person-disease limit	\$500,000	N/A
Aggregate- disease limit	\$500,000	N/A
<u>Property Coverage</u>		
Adequate limit to cover personal property of franchise		N/A

15.2 Evidence of Insurance. Franchisee shall deliver to, and maintain at all times with Franchisor, current Certificates of Insurance evidencing the existence and continuation of the required coverages. Franchisee shall deliver the initial Certificate of Insurance no later than ten (10) days before Franchisee opens the Franchised Business. In addition, if requested by Franchisor, Franchisee shall deliver to Franchisor a copy of the insurance policy or policies required hereunder.

15.3 Failure to Procure. If, for any reason, Franchisee should fail to procure or maintain the insurance required by this Agreement as revised from time to time for all franchisees by the Manual or otherwise in writing, Franchisor shall have the right and authority (without, however, any obligation) to immediately procure such insurance and to charge Franchisee for the cost thereof together with an administrative fee of ten percent (10%) of the cost for Franchisor's expenses in so acting, including all attorneys' fees. Franchisee shall pay Franchisor immediately upon notice by Franchisor to Franchisee that Franchisor has undertaken such action and the cost thereof.

15.4 Increase in Coverage. The levels and types of insurance stated herein are minimum requirements. Franchisor reserves the right to raise the required minimum requirements for any type of insurance or add additional types of insurance requirements as Franchisor deems reasonably prudent to require. Within thirty (30) days of any such required new limits or types of coverage, Franchisee must submit proof to Franchisor of Franchisee's coverage pursuant to Franchisor's requirements.

15.5 Additional Insured. All required insurance policies shall name Franchisor and their affiliates and their members, officers, agents and employees as additional insureds as their interests may appear. All public liability policies shall contain a provision that the additional insureds, although named as insureds, shall nevertheless be entitled to recover under such policies on any loss caused by Franchisee or Franchisee's servants, agents, or employees, and all required insurance policies shall contain a waiver of subrogation in favor of the additional insureds.

15.6 Indemnification. TO THE FULLEST EXTENT PERMITTED BY LAW, FRANCHISEE AGREES TO EXONERATE AND INDEMNIFY AND HOLD HARMLESS INFINITY HEALTH ADVISORS, LLC, IHA DISTRIBUTION, LLC, AND ANY OF EITHER'S PARENT COMPANY, SUBSIDIARIES, DIVISIONS, AFFILIATES, SUCCESSORS, ASSIGNS AND DESIGNEES, AS WELL AS THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SHAREHOLDERS, SUCCESSORS, DESIGNEES AND REPRESENTATIVES (COLLECTIVELY REFERRED TO AS THE "BEBALANCED INDEMNITEES"), FROM ALL CLAIMS BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATED TO THE OPERATION, CONDITION, OR ANY PART OF FRANCHISEE'S BEBALANCED FRANCHISE, THE FRANCHISED BUSINESS, THE PRODUCTS, THE PREMISES, OR ANY ASPECT OF THE REAL ESTATE CONNECTED TO FRANCHISEE'S FRANCHISED BUSINESS, WHETHER CAUSED BY FRANCHISEE, FRANCHISEE'S AGENTS OR EMPLOYEES, OR ARISING FROM FRANCHISEE'S ADVERTISING OR BUSINESS PRACTICES. FRANCHISEE AGREES TO PAY FOR ALL THE BEBALANCED INDEMNITEES' LOSSES, EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES) OR CONCURRENT OR CONTRIBUTING LIABILITY INCURRED IN CONNECTION WITH ANY ACTION, SUIT, PROCEEDING, INQUIRY (REGARDLESS OF WHETHER THE SAME IS REDUCED TO JUDGMENT OR DETERMINATION), OR ANY SETTLEMENT THEREOF FOR THE INDEMNIFICATION GRANTED BY FRANCHISEE HEREUNDER. THE BEBALANCED INDEMNITEES SHALL HAVE THE RIGHT TO SELECT AND APPOINT INDEPENDENT COUNSEL TO REPRESENT ANY OF THE BEBALANCED INDEMNITEES IN ANY ACTION OR PROCEEDING COVERED BY THIS INDEMNITY. FRANCHISEE AGREES THAT TO HOLD THE BEBALANCED INDEMNITEES HARMLESS, FRANCHISEE WILL REIMBURSE THE BEBALANCED INDEMNITEES AS THE COSTS AND EXPENSES ARE INCURRED BY THE BEBALANCED INDEMNITEES.

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## **16. TRANSFERS**

### **16.1 Transfers by Franchisor.**

16.1.1 Franchisor shall have the right to assign this Agreement, and all of Franchisor's rights and privileges hereunder, to any person, firm, corporation, or other entity, without Franchisee's permission or prior knowledge, provided that, with respect to any assignment resulting in the subsequent performance by the assignee of Franchisor's obligations, the assignee shall expressly assume and agree to perform Franchisor's obligations hereunder. Specifically, and without limitation to the foregoing, Franchisee expressly affirms and agrees that Franchisor may: (i) sell Franchisor's assets and Franchisor's rights to the Marks and the System outright to a third party; (ii) engage in a public or private placement of some or all of Franchisor's securities; (iii) merge, acquire other corporations, or be acquired by another corporation, including competitors; (iv) undertake a refinancing, recapitalization, leveraged buy-out, or other economic or financial restructuring; and (v) with regard to any or all of the above sales, assignments, and dispositions, Franchisee expressly and specifically waives any claims, demands, or damages arising from or relating to the loss of association with or identification of Franchisor. Nothing contained in this Agreement shall require Franchisor to remain in the business franchised herein or to offer the same products and services, whether or not bearing the Marks, in the event that Franchisor exercises its prerogative hereunder to assign Franchisor's rights in this Agreement.

16.1.2 Franchisee agrees that Franchisor has the right, now or in the future, to purchase, merge, acquire, or affiliate with an existing competitive or non-competitive franchise network, chain, or



any other business regardless of the location of that chain's or business' facilities, and to operate, franchise, or license those businesses and/or facilities operating under the Marks or any other marks following Franchisor's purchase, merger, acquisition, or affiliation, regardless of the location of the facilities (which Franchisee acknowledges may be within the Territory, proximate thereto, or proximate to any of Franchisee's locations). However, Franchisor represents that it will not convert any such acquired facilities that are operating within the Territory to a BeBalanced franchise outlet during the Term of this Agreement.

16.1.3 If Franchisor assigns its rights in this Agreement, nothing herein shall be deemed to require Franchisor to remain in the same type of business as the business franchised herein or to offer or sell any products or services to Franchisee.

16.2 Restrictions on Transfers by Franchisee. Franchisee's rights and duties under this Agreement are personal to Franchisee as it is organized and with the Principals of the business as they exist on the date of execution of this Agreement, and Franchisor has made this Agreement with Franchisee in reliance on Franchisor's perceptions of the individual and collective character, skill, aptitude, attitude, business ability, and financial capacity of Franchisee. Thus, no transfer, as hereafter defined, may be made without Franchisor's prior written approval. Franchisor may void any transfer made without such approval.

16.3 Transfers by Franchisee. Neither Franchisee nor any Principal(s) shall directly or indirectly sell, assign, transfer, give, devise, convey, or encumber this Agreement or any right or interest herein or hereunder (a "Transfer"), the Franchise, the Franchised Business, or any assets thereof (except in the ordinary course of business) or suffer or permit any such assignment, transfer, or encumbrance to occur by operation of law, unless Franchisee or Principal(s) first obtains the written consent of Franchisor. A transfer of any stock in the Franchisee if it is a corporation or a transfer of any ownership rights in Franchisee if it is a partnership, a limited liability company, or limited partnership shall be considered a Transfer restricted hereunder. If Franchisee and Principal(s) have complied fully with this Agreement and subject to Franchisor's right of first refusal set forth in Section 16.6, Franchisor will not unreasonably withhold its consent of a Transfer that meets the following requirements:

16.3.1 The proposed transferee and all its principals must have the demeanor and be individuals of good character and otherwise meet Franchisor's then-applicable standards for franchisees.

16.3.2 The transferee must have sufficient business experience, aptitude, and financial resources to operate the Franchised Business and to comply with this Agreement;

16.3.3 The transferee has agreed to complete Franchisor's Initial Training Program to Franchisor's satisfaction;

16.3.4 Franchisee has paid all amounts owed to Franchisor and third-party creditors;

16.3.5 The transferee has executed Franchisor's then-standard form of Franchise Agreement, which may have terms and conditions different from this Agreement, except that the transferee shall not be required to pay the initial franchise fee;

16.3.6 Franchisee and the transferee and each of Franchisee's and the transferee's Principals shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Franchisor's officers, directors, shareholders, members, and employees in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances. Franchisee will agree to subordinate any claims Franchisee may have against the transferee to Franchisor, and indemnify Franchisor against any claims by the transferee relating

to misrepresentations in the transfer process, specifically excluding those representations made by Franchisor in the Franchise Disclosure Document given to the transferee;

16.3.7 Franchisor has granted written approval of the material terms and conditions of the Transfer, including, without limitation, that the price and terms of payment will not adversely affect the Franchised Business's operation. However, Franchisor's approval of a Transfer is not in any way a representation or warranty of the transferee's success or the soundness of transferee's decision to purchase the Franchise on such terms and conditions. Franchisee shall provide Franchisor all proposed transfer documents for Franchisor's review at least thirty (30) days prior to a closing of the proposed Transfer;

16.3.8 If Franchisee or any Principal finances any part of the sale price of the Transfer, Franchisee or its Principal have agreed that all obligations of the transferee under any notes, agreements or security interests to Franchisee or its Principal will be subordinate to the transferee's obligations to Franchisor; and

16.3.9 If consent is required, the lessor of the Franchised Business's premises consents to the assignment or further sublet of the premises to the transferee.

16.4 As a condition to any Transfer, Franchisee shall pay Franchisor a transfer fee equal to seventy-five percent (75%) of the then-current initial franchise fee; provided however, (i) for transfers to an existing franchisee in good standing with Franchisor, the transfer fee is fifty percent (50%) of the then-current initial franchise fee, (ii) for transfers of ownership interest among existing principals, shareholders, or members, or to add a business entity or new shareholder or member of the Franchisee entity and such transfer does not change management control of the Franchise, the transfer fee is One Thousand Five Hundred Dollars (\$1,500), and (iii) for a transfer to a spouse, parent, or child upon death or permanent disability of Franchisee or Franchise's Principal, as the case may be, the transfer fee is Three Thousand Five Hundred Dollars (\$3,500).

16.5 Entity Formation Documents. The By-Laws of a corporation or Operating Agreement of a limited liability company of a Franchisee that is an entity must state that (i) the issuance and assignment of any interest in Franchisee are restricted by this Article 16; (ii) Franchisee may conduct no business except the operation of a Franchised Business pursuant to the terms of this Agreement; (iii) transfers of interests in Franchisee are subject to the terms of this Agreement governing transfers; and (iv) stock or member certificates will contain a legend so indicating.

#### 16.6 Franchisor 's Right of First Refusal.

16.6.1 If Franchisee wishes to transfer all or part of its interest in the Franchised Business or this Agreement or if a Principal wishes to transfer any ownership interest in Franchisee, pursuant to any bona fide offer to purchase such interest, then Franchisee or such Principal shall promptly notify Franchisor in writing of each such offer, and shall provide such information and documentation relating to the offer as Franchisor may require.

16.6.2 Franchisor has the right, exercisable by written notice to Franchisee within thirty (30) days after receipt of written notification and copies of all documentation required by Franchisor describing such offer, to buy the interest in this Agreement and the Franchised Business or the Principal's interest in Franchisee for the price and on the terms and conditions contained in the offer, subject to Section 16.6.3.

16.6.3 Franchisee further agrees, in the event Franchisor exercises its right of first refusal, notwithstanding anything to the contrary contained in the offer, that (i) Franchisor may substitute cash for

any other form of consideration contained in the offer; (ii) at Franchisor's option, Franchisor may pay the entire purchase price at closing; (iii) Franchisor's credit will be deemed equal to the credit of any proposed transferee; (iv) Franchisor will have at least sixty (60) days to close the purchase; and (v) Franchisor will be entitled to receive from the Franchisee all customary representations and warranties given by a seller of the assets of a business or equity interest in an entity, as applicable.

16.6.4 If Franchisor does not exercise its right to buy within thirty (30) days, Franchisee may thereafter transfer the interest to the transferee on terms no more favorable than those disclosed to Franchisor, provided that such transfer is subject to Franchisor's prior written approval pursuant to Section 16.3 hereof. However, if (i) the sale to the transferee is not completed within one hundred twenty (120) days after the offer is given to Franchisor or (ii) there is any material change in the terms of the offer, the offer will again be subject to Franchisor's right of first refusal.

16.7 Death or Permanent Disability. The grant of rights under this Agreement is personal to Franchisee, and on the death or permanent disability of Franchisee or any of Franchisee's Principals, the executor, administrator, conservator, or other personal representative of Franchisee or Principal, as the case may be, shall be required to transfer Franchisee's or Principal's interest in this Agreement within six (6) months from the date of death or permanent disability to a third party approved by Franchisor. Failure to transfer in accordance with the forgoing will constitute a material default and the Franchise granted by this Agreement will terminate. A transfer under this Section 16.7, including without limitation, transfer by devise or inheritance, is subject to the conditions for Transfers in this Article 16 and unless transferred by gift, devise, or inheritance, subject to the terms of Section 16.6 above. For purposes of this Agreement, the term "permanent disability" means a mental or physical disability, impairment, or condition that is reasonably expected to prevent or actually does prevent such person from providing continuous and material supervision of the operation of Franchisee's Franchised Business during the six (6)-month period from its onset.

Immediately after the death or permanent disability of such person, or while the Franchise is owned by an executor, administrator, guardian, personal representative, or trustee of that person, the Franchised Business shall be supervised by an interim successor manager satisfactory to Franchisor, or Franchisor, in its sole discretion, may provide interim management at Franchisor's then-current interim management support fee, plus any and all costs of travel, lodging, meals, and other expenses reasonably incurred by Franchisor, pending transfer of the Franchise to the deceased or disabled individual's lawful heirs or successors.

16.8 Effect of Consent to Transfer. Franchisor's consent to a Transfer will not waive any claims Franchisor may have against the Franchisee or any Franchisee's Principals nor waive its right to demand that the transferee comply strictly with this Agreement.

16.9 Security Interests to Lender. If Franchisee is in full compliance with this Agreement, Franchisee may pledge or give a security interest in Franchisee's interest in the assets and the Franchised Business to a lender of the funds needed by Franchisee for Franchisee's initial investment, provided that Franchisor's rights to use or purchase the assets as set forth in Sections 11.3.3, 16.6, 16.7, 17.4.2, and 18.2 are not impaired, that a foreclosure on such a pledge or security interest and/or any Transfer resulting from such a foreclosure shall be subject to all provisions of this Agreement, and that Franchisee obtains from the lender a written acknowledgement to Franchisor of these restrictions. Notwithstanding the foregoing, in the event Franchisee obtains financing whereby funding is provided with the assistance of the United States Small Business Administration ("SBA Financing"), Franchisee shall be permitted to grant the lender of such SBA Financing a senior lien on any Uniform Commercial Code collateral Franchisee uses to secure the SBA Financing, and Franchisor agrees to (i) subordinate its interest in any lien on

Franchisee's Uniform Commercial Code collateral to that of the lender of the SBA Financing and (ii) waive the requirement of the written acknowledgment referenced in this Section.

## **17. DEFAULTS**

17.1 Default and Automatic Termination. Franchisee shall be deemed to be in material default under this Agreement, and all rights granted herein shall automatically terminate without notice to Franchisee, if Franchisee shall become insolvent or makes a general assignment for the benefit of creditors; or if Franchisee files a voluntary petition under any section or chapter of federal bankruptcy law or under any similar law or statute of the United States or any state thereof, or admits in writing its inability to pay its debts when due; or if Franchisee is adjudicated a bankrupt or insolvent in proceedings filed against Franchisee under any section or chapter of federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee; or if a receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any state or federal law should be instituted by or against Franchisee; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); or if Franchisee is dissolved; or if execution is levied against Franchisee's business or property; or if suit to foreclose any lien or mortgage against the Franchised Business premises or equipment is instituted against Franchisee and not dismissed within thirty (30) days.

17.2 Defaults with No Opportunity to Cure. Franchisee shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective immediately upon notice to Franchisee, if Franchisee, or any Principal, as the case may be:

17.2.1 fails to acquire a site for the Franchised Business, complete construction of the Franchised Business, obtain all licenses and permits before opening, or open the Franchised Business within the time and in the manner specified in Article 8.

17.2.2 falsifies any report required to be furnished Franchisor hereunder;

17.2.3 ceases to operate the Franchised Business for a period of five (5) days or more; provided, however, that this provision shall not apply if through no fault of Franchisee, the premises are damaged or destroyed by a casualty and Franchisee applies within thirty (30) days after such event, for Franchisor's approval to relocate or reconstruct the premises (which approval shall not be unreasonably withheld) and Franchisee diligently pursues such reconstruction or relocation.

17.2.4 loses for any cause whatsoever the right of possession of the real property on which the Franchised Business is located; provided, however, that this provision shall not apply if through no fault of Franchisee, Franchisee loses right of possession and Franchisee applies within thirty (30) days after such event, for Franchisor's approval to relocate the Franchised Business (which approval shall not be unreasonably withheld) and Franchisee diligently pursues such relocation in accordance with Section 8.5.

17.2.5 fails to restore the Franchised Business location to full operation within a reasonable period time but not more than one hundred twenty (120) days from the date the Franchised Business location is rendered inoperable by any casualty or closed due to an order issued by a local authority having jurisdiction over the Franchised Business location;

17.2.6 fails to comply with any federal, state or local law, rule, or regulation, applicable to the operation of the Franchised Business, including, but not limited to, the failure to pay taxes;

17.2.7 defaults under any lease or sublease of the real property on which the Franchised Business is located;

17.2.8 understates Gross Sales on two (2) occasions or more, whether or not cured on any or all of those occasions;

17.2.9 fails to comply with the covenants in Article 15;

17.2.10 permits a Transfer in violation of the provisions of Article 16 of this Agreement;

17.2.11 fails, or Franchisee's legal representative fails, to transfer the interests in this Franchise Agreement and the Franchised Business upon death or permanent disability of Franchisee or any Principal of Franchisee as required by Section 16.7.

17.2.12 has misrepresented or omitted material facts in applying for, or in operating, the Franchise;

17.2.13 is convicted of, or pleads no contest to, a felony or to a crime that could damage the goodwill associated with the Marks; or does anything (whether criminal or otherwise) to harm the reputation of the System or the goodwill associated with the Marks;

17.2.14 receives an adverse judgment or a consent decree in any case or proceeding involving allegations of fraud, racketeering, unfair or improper trade practices or similar claim which is likely to have an adverse effect on the System, or the Marks, the goodwill associated therewith or Franchisor's interest therein, in Franchisor's sole opinion;

17.2.15 conceals revenues, knowingly maintains false books or records, or knowingly submits any false reports;

17.2.16 creates a threat or danger to public health or safety from the construction, maintenance or operation of the Franchised Business;

17.2.17 refuses to permit Franchisor to inspect or audit Franchisee's books or records;

17.2.18 makes any unauthorized use of the Marks or copyrighted material or any unauthorized use or disclosure of Confidential Information (as defined in Section 19.2);

17.2.19 fails to comply with the non-competition covenants in Section 19.5;

17.2.20 defaults in the performance of Franchisee's obligations under this Agreement three (3) or more times during the term of this Agreement or has been given at least two (2) notices of default in any consecutive twelve (12)-month period, whether or not the defaults have been corrected;

17.2.21 has insufficient funds to honor a check or electronic funds transfer two (2) or more times within any consecutive twelve (12)-month period;

17.2.22 defaults, or an affiliate of Franchisee defaults, under any other agreement, including any other franchise agreement, with Franchisor or any of its affiliates, suppliers or landlord and does not cure such default within the time period provided in such other agreement; or

17.2.23 terminates this Agreement, including by ceasing to operate the Franchised Business, without cause.

17.3 Curable Defaults. Franchisee shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, if Franchisee fails to cure the default within the time period set forth in this Section 17.3, effective immediately upon notice to Franchisee, if Franchisee, or any Principal, as the case may be:

17.3.1 fails to pay when due any amounts due to Franchisor under this Agreement or any related agreement and does not correct the failure within five (5) days after written notice; provided, however, Franchisor has no obligation to give written notice of a late payment more than two (2) times in any twelve (12)–month period, and the third such late payment in any twelve (12)–month period shall be a non-curable default under Sections 17.2.20 and/or 17.2.21;

17.3.2 fails to perform any non-monetary obligation imposed by this Agreement (excepting those defaults of obligations set forth in Sections 17.1 and 17.2 for which there is no opportunity to cure) and such default shall continue for five (5) days after Franchisor has given written notice of such default, or if the default cannot be reasonably corrected within said five (5)-day period, then if it is not corrected within such additional time as may be reasonably required assuming Franchisee proceeds diligently to cure; provided, however, Franchisor has no obligation to give written notice of a non-monetary default more than two (2) times in any twelve (12)–month period, and the third such default, whether monetary or non-monetary, in any twelve (12) – month period shall be a non-curable default under Section 17.2.20.

17.4 Franchisor's Cure of Franchisee's Defaults. In the event of a default by Franchisee, in addition to Franchisor's right to terminate the Franchise Agreement, and not in lieu thereof, Franchisor may, but has no obligation to:

17.4.1 effect a cure on Franchisee's behalf and at Franchisee's expense, and Franchisee shall immediately pay Franchisor the costs incurred by Franchisor upon demand; or

17.4.2 enter upon the Franchised Business location and exercise complete authority with respect to the operation thereof until such time as Franchisor determines that the default of Franchisee has been cured and that Franchisee is complying with the requirements of this Agreement. Franchisee specifically agrees that a designated representative of Franchisor may take over, control, and operate the Franchised Business. In addition to all other fees paid under this Agreement, Franchisee shall pay Franchisor the then-current interim management support fee, plus any and all costs of travel, lodging, meals, and other expenses reasonably incurred by Franchisor during Franchisor's operation thereof as compensation therefor. Further, Franchisee shall reimburse Franchisor for the full compensation paid to such representative including the cost of all fringe benefits plus all travel expenses, lodging, meals, and other expenses reasonably incurred by such representative until the default has been cured and Franchisee is complying with the terms of this Agreement.

17.5 Notice to Suppliers. In the event of a default by Franchisee, in addition to Franchisor's right to terminate the Franchise Agreement, and not in lieu thereof, Franchisor reserves the right with five (5) days' prior written notice to Franchisee to direct suppliers to stop furnishing any and all products and supplies until such time as Franchisee's default is cured. In no event shall Franchisee have recourse against

Franchisor for loss of revenue, customer goodwill, profits, or other business arising from Franchisor's actions and the actions of suppliers.

17.6 Reimbursement of Costs. Franchisee shall reimburse Franchisor all costs and expenses, including but not limited to attorneys' fees, incurred by Franchisor as a result of Franchisee's default, including costs in connection with collection of any amounts owed to Franchisor and/or enforcement of Franchisor's rights under this Agreement.

## **18. POST-TERMINATION**

18.1 Franchisee's Obligations. Upon termination or expiration of this Agreement, all rights and licenses granted hereunder to Franchisee shall immediately terminate and Franchisee and each Principal, if any, shall:

18.1.1 immediately cease to operate the Franchised Business, and shall not thereafter, directly or indirectly identify himself, herself, or itself as a current BeBalanced franchise owner, franchisee, or licensee;

18.1.2 immediately and permanently cease to use the Marks, any imitation of any Mark, logos, copyrighted material or other intellectual property, confidential or proprietary material or indicia of a BeBalanced outlet, or use any trade name, trade or service mark or other commercial symbol that suggests a current or past association with Franchisor, Franchisor's affiliates, or the System. In particular, Franchisee shall cease to use, without limitation, all signs, billboards, advertising materials, displays, stationery, forms, and any other articles, which display the Marks;

18.1.3 take such action as may be necessary to cancel any assumed name or equivalent registration that contains the Mark or any other service mark or trademark of Franchisor, and Franchisee shall furnish Franchisor with evidence of compliance with this obligation, which is satisfactory to Franchisor, within five (5) days after termination or expiration of this Agreement;

18.1.4 promptly pay all sums owing to Franchisor and its affiliates. Such sums shall include all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of any default by Franchisee. The payment obligations herein shall give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of the personal property, furnishings, equipment, fixtures, and inventory owned by Franchisee and located at the Franchised Business outlet at the time of default;

18.1.5 pay to Franchisor all damages, costs, and expenses, including reasonable attorneys' fees, incurred by Franchisor in connection with obtaining any remedy available to Franchisor for any violation of this Agreement and, subsequent to the termination or expiration of this Agreement, in obtaining injunctive or other relief for the enforcement of any provisions of this Agreement that survive its termination;

18.1.6 immediately deliver at Franchisee's sole cost and expense, to Franchisor the Manual and all records, files, instructions, correspondence, invoices, agreements, all confidential, proprietary, and copyrighted material and all other materials related to operation of the Franchised Business, including but not limited to client lists and records, (all of which are acknowledged to be Franchisor's property), delete all electronic copies and retain no copy or record of any of the foregoing, except Franchisee's copy of this Agreement and of any correspondence between the parties and any other documents that Franchisee reasonably needs for compliance with any provision of law;

18.1.7 comply with the non-disclosure and non-competition covenants contained in Article 19; and

18.1.8 in the event this Agreement is terminated due to Franchisee's default, pay Franchisor a lump sum payment (as liquidated damages and not as a penalty) in an amount equal to: (a) the average monthly Royalty Fee and Brand Fund Contribution payable by Franchisee over the twelve (12) month period immediately prior to the date of termination (or such shorter time period if the Franchised Business has been open less than twelve (12) months); (b) multiplied by the lesser of (i) twenty-four (24) months or (ii) the number of months then remaining in the then-current term of this Agreement. Franchisee acknowledges that a precise calculation of the full extent of the damages Franchisor will incur in the event of termination of this Agreement as a result of Franchisee's default is difficult to determine and that this lump sum payment is reasonable in light thereof. The liquidated damages payable by Franchisee pursuant to this Section 18.1.8 shall be in addition to all other amounts payable under this Agreement and shall not affect Franchisor's right to obtain appropriate injunctive relief and remedies pursuant to any other provision of this Agreement.

## 18.2 Right to Purchase.

18.2.1 Franchisor shall have the option, to be exercised within thirty (30) days after Franchisee has provided an itemization and valuation of assets, to purchase from Franchisee any or all of the furnishings, equipment (including any point-of-sale system), signs, fixtures, advertising materials, supplies, and inventory of Franchisee related to the operation of the Franchised Business, at Franchisee's cost or fair market value, whichever is less. Franchisor shall purchase Franchisee's assets free and clear of any liens, charges, encumbrances, or security interests and Franchisor shall assume no liabilities whatsoever, unless otherwise agreed to in writing by the parties. If the parties cannot agree on the fair market value within thirty (30) days of Franchisor's exercise of its option, fair market value shall be determined by two (2) appraisers, with each party selecting one (1) appraiser, and the average of their determinations shall be binding. In the event of such appraisal, each party shall bear its own legal and other costs and shall split the appraisal fees equally. If Franchisor elects to exercise its option to purchase herein provided, it shall have the right to set off (i) all fees for any such independent appraiser due from Franchisee, (ii) all amounts due from Franchisee to Franchisor or any of its affiliates, and (iii) any costs incurred in connection with any escrow arrangement (including reasonable legal fees), against any payment therefor and shall pay the remaining amount in cash. Closing of the purchase shall take place no later than thirty (30) days after Franchisor notifies Franchisee that Franchisor exercises its option to purchase the assets.

18.2.2 With respect to the options described in Sections 18.2.1, Franchisee shall deliver to Franchisor in a form satisfactory to Franchisor, such warranties, releases of lien, bills of sale, assignments, and such other documents and instruments that Franchisor deems necessary in order to perfect Franchisor's title and possession in and to the assets being purchased or assigned and to meet the requirements of all tax and government authorities. If, at the time of closing, Franchisee has not obtained all of these certificates and other documents, Franchisor may, in its sole discretion, place the purchase price in escrow pending issuance of any required certificates or documents.

18.2.3 Franchisor shall be entitled to assign any and all of its option in Section 18.2.1 to any other party, without the consent of Franchisee.

18.3 Assignment of Communications. Franchisee, at the option of Franchisor, shall assign to Franchisor all rights to the telephone numbers of the Franchised Business and any related public directory listing or other business listings and execute all forms and documents required by Franchisor and any telephone company at any time, to transfer such service and numbers to Franchisor. Further, Franchisee shall assign to Franchisor any and all social media and internet listings, domain names, internet advertising,



websites, listings with search engines, electronic mail addresses, or any other similar listing or usage related to the Franchised Business. Notwithstanding any forms and documents that may have been executed by Franchisee under Section 11.7, Franchisee shall provide Franchisor with all passwords and administrative rights, and hereby appoints Franchisor its true and lawful agent and attorney-in-fact with full power and authority, for the sole purpose of taking such action as is necessary to complete such assignment. This power of attorney shall survive the expiration or termination of this Agreement. Franchisee shall thereafter use different telephone numbers, electronic mail addresses, or other listings or usages at or in connection with any subsequent business conducted by Franchisee.

18.4 Survival. The rights and obligations of the parties contained in this Article 18 shall survive the expiration or sooner termination of this Agreement.

## **19. NON-DISCLOSURE AND NON-COMPETITION COVENANTS**

### **19.1 Operations Manual.**

19.1.1 Franchisor has provided to Franchisee, on loan, a current copy of the Manual. The Manual may be in hard copy or made available to Franchisee in digital, electronic, or computerized form or in some other form now existing or hereafter developed that would allow Franchisee to view the contents thereof. If the Manual (or any changes thereto) are provided in a form other than physical copy, Franchisee shall pay any and all costs to retrieve, review, use, or access the Manual. To protect the reputation and goodwill of Franchisor and to maintain high standards of operation under Franchisor's Marks, Franchisee shall operate all aspects of the Franchised Business in accordance with the Manual, as they may from time to time be modified by Franchisor, other written directives that Franchisor may issue to Franchisee from time to time, whether or not such directives are included in the Manual, and any other manual and materials created or approved for use in the operation of the Franchised Business.

19.1.2 Franchisee and any and all Principals shall at all times treat the Manual, written directives, and other materials and any other confidential communications or materials, and the information contained therein, as confidential and shall maintain such information as trade secret and confidential in accordance with this Article and this Agreement. Franchisee and Franchisee's Principals, if any, shall not divulge and make such materials available to anyone other than those of Franchisee's employees who require the information contained therein to operate the Franchised Business. Franchisee shall, prior to disclosure, fully train and inform its employees on all the restrictions, terms, and conditions under which it is permitted to use Franchisor's intellectual, proprietary and confidential information; and shall ensure its employees' compliance with such restrictions, terms, and conditions. Franchisee, Franchisee's Principals, and any person working with Franchisee shall agree not, at any time to use, copy, duplicate, record, or otherwise reproduce these materials, in whole or in part, or otherwise make the same available to any person other than those authorized above, without Franchisor's prior written consent.

19.1.3 The Manual, written directives, and other materials and any other confidential communications provided or approved by Franchisor shall at all times remain the sole property of Franchisor. Franchisee shall maintain the Manual and all Franchisor's confidential and proprietary materials at all times in a safe and secure location, shall take all reasonable measures to prevent unauthorized access thereto, whether any attempted unauthorized access takes the form of physical access or access via computer or telecommunications networks or otherwise, and shall report the theft or loss of the Manual, or any portion thereof, immediately to Franchisor. At a minimum, Franchisee shall, in the case of computer and telecommunications networks, use the latest available firewall, encryption, and similar technology to prevent unauthorized access. Franchisee shall delete all electronic copies and return and cease using any physical copy of the Manual and other confidential and proprietary materials to Franchisor immediately upon request or upon transfer, termination, or expiration of this Agreement.

19.1.4 Franchisor may from time to time revise the contents of the Manual and other materials created or approved for use in the operation of the Franchised Business. Franchisee expressly agrees to comply with each new or changed policy, standard, or directive. In the event of any dispute as to the contents of the Manual, the terms of the master copy of the Manual maintained by Franchisor shall control.

19.2 Confidential Information. Franchisee along with its Principals acknowledge and accept that during the term of this Agreement Franchisee and any Principal will have access to Franchisor's trade secrets, including, but not limited to, product formulas, methods, processes, client lists, vendor partnerships and/or relationships, sales and technical information, financial information, costs, product prices and names, software tools and applications, website and/or email design, products, services, equipment, technologies, and procedures relating to the operation of the Franchised Business; the Manual; methods of advertising and promotion; instructional materials; any other information which Franchisor may or may not specifically designate as "confidential" or "proprietary"; and the components of the System, whether or not such information is protected or protectable by patent, copyright, trade secret, or other proprietary rights (collectively referred to herein as the "Confidential Information"). Neither Franchisee nor any Principal shall, during the term of this Agreement and thereafter, communicate or divulge to, or use for the benefit of, any other person or entity, and, following the expiration or termination of this Agreement, shall not use for their own benefit, any Confidential Information that may be communicated to Franchisee or any Principal or of which Franchisee or any Principal may be apprised in connection with the operation of the Franchised Business under the terms of this Agreement. Franchisee and any Principal shall not divulge and make any Confidential Information available to anyone other than those of Franchisee's employees who require the Confidential Information to operate the Franchised Business and who have themselves entered into confidentiality and non-compete agreements containing the same provisions as contained in this Agreement, in accordance with Section 19.10 hereof. Franchisee and any Principal shall not at any time copy, duplicate, record, or otherwise reproduce any Confidential Information, in whole or in part, or otherwise make the same available to any person other than those authorized above, without Franchisor's prior written consent. The covenant in this Section 19.2 shall survive the expiration, termination, or transfer of this Agreement or any interest herein and shall be perpetually binding upon Franchisee and each Principal.

19.3 Protection of Information. Franchisee shall take all steps necessary, at Franchisee's own expense, to protect the Confidential Information and shall immediately notify Franchisor if Franchisee finds that any Confidential Information has been divulged in violation of this Agreement.

19.4 New Concepts. If Franchisee or any Principal develops any new concept, process, product, formula, or improvement in the operation or promotion of the Franchised Business ("Improvements"), Franchisee is required to promptly notify Franchisor and provide Franchisor with all related information, processes, products, formula, or other improvements, and sign any and all forms, documents and/or papers necessary for Franchisor to obtain full proprietary rights to such Improvements, without compensation and without any claim of ownership or proprietary rights to such Improvements. Franchisee and any Principal acknowledge that any such Improvements will become the property of Franchisor, and Franchisor may use or disclose such information to other franchisees as it determines to be appropriate.

19.5 Non-Competition Covenants. Franchisee and each Principal, if any, specifically acknowledge that, pursuant to this Agreement, Franchisee and each Principal, if any, will receive valuable training, trade secrets, and Confidential Information of the System that are beyond the present knowledge, training, and experience of Franchisee, each Principal, and Franchisee's managers and employees. Franchisee and each Principal, if any, acknowledge that such specialized training, trade secrets, and Confidential Information provide a competitive advantage and will be valuable to them in the development

and operation of the Franchised Business, and that gaining access to such specialized training, trade secrets, and Confidential Information is, therefore, a primary reason why Franchisee and each Principal, if any, are entering into this Agreement. In consideration for such specialized training, trade secrets, Confidential Information, and rights, Franchisee and each Principal, if any, covenant that, except as otherwise approved in writing by Franchisor:

19.5.1 During the term of this Agreement, Franchisee and each Principal, if any, shall not, either directly or indirectly, for themselves or through, on behalf of, or in conjunction with, any person or entity (i) divert, or attempt to divert, any business or client of the Franchised Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any weight loss and wellness products and services business similar to the System; (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or (iv) in any manner interfere with, disturb, disrupt, decrease, or otherwise jeopardize the business of the Franchisor or any BeBalanced franchisees or Franchisor-affiliated outlets.

19.5.2 Upon the expiration or earlier termination of this Agreement or upon a Transfer and continuing for twenty-four (24) months thereafter, Franchisee and Principals, if any, shall not, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person or entity (i) divert, or attempt to divert, any business or client of the Franchised Business or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant, or agent or serve in any other capacity in any weight loss and wellness products and services business within forty (40) miles of the Franchised Business premises or any BeBalanced outlet location; (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or (iv) in any manner interfere with, disturb, disrupt, decrease, or otherwise jeopardize the business of the Franchisor or any BeBalanced franchisees.

19.6 Reasonableness of Restrictions. Franchisee and each Principal, if any, acknowledge and agree that the covenants not to compete set forth in this Agreement are fair and reasonable and will not impose any undue hardship on Franchisee or Principals, if any, since Franchisee or Principals, as the case may be, have other considerable skills, experience, and education which afford Franchisee or Principals, as the case may be, the opportunity to derive income from other endeavors.

19.7 Reduction of Time or Scope. If the period of time or the geographic scope specified above, should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion thereof, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Article 19 or any portion thereof, without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice thereof, and Franchisee agrees to forthwith comply with any covenant as so modified.

19.8 Injunctive Relief. Franchisee and each Principal, if any, acknowledges that a violation of the covenants not to compete contained in this Agreement would result in immediate and irreparable injury to Franchisor for which no adequate remedy at law will be available. Accordingly, Franchisee and each Principal, if any, hereby consents to the entry of an injunction prohibiting any conduct by Franchisee or any Principal in violation of the terms of the covenants not to compete set forth in this Agreement.

19.9 No Defense. Franchisee and each Principal, if any, expressly agree that the existence of any claims they may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Section.

19.10 Covenants of Employees, Agents, and Third Persons. Franchisee shall require and obtain execution of covenants similar to those set forth in this Section (including covenants applicable upon the termination of a person's employment with Franchisee) from all employees, contractors, or third persons who will have access to Franchisor's confidential and proprietary information. Such covenants shall be substantially in the form set forth in Attachment 9 as revised and updated from time to time and contained in the Manual.

## **20. DISPUTE RESOLUTION**

20.1 Internal Dispute Resolution. Franchisee shall first bring any claim, controversy, or dispute arising out of or relating to this Agreement, the Attachments hereto, or the relationship created by this Agreement to Franchisor's president and/or chief executive officer for resolution. After providing notice as set forth in Section 21.7 below, Franchisee must exhaust this internal dispute resolution procedure before Franchisee may bring Franchisee's dispute before a third party. This agreement to first attempt resolution of disputes internally shall survive termination or expiration of this Agreement.

20.2 Mediation. At Franchisor's option, any claim, controversy or dispute that is not resolved pursuant to Section 20.1 hereof shall be submitted to non-binding mediation. Franchisee shall provide Franchisor with written notice of Franchisee's intent to pursue any unresolved claim, controversy, or dispute, specifying in sufficient detail the nature thereof, prior to commencing any legal action. Franchisor shall have thirty (30) days following receipt of Franchisee's notice to exercise Franchisor's option to submit such claim, controversy, or dispute to mediation. Mediation shall be conducted through a mediator or mediators in accordance with the American Arbitration Association Commercial Mediation Rules. Such mediation shall take place in the then-current location of Franchisor's corporate headquarters. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorney's fees incurred by either party), shall be borne by the parties equally. Franchisor may specifically enforce Franchisor's rights to mediation, as set forth herein.

### **20.3 Arbitration.**

20.3.1 Except disputes not subject to alternative dispute resolution as set forth in Section 20.4, any dispute between Franchisor and Franchisee and/or any Principal arising out of or relating to this Agreement, the Attachments hereto, or any breach thereof, including any claim that this Agreement or any of its parts, is invalid, illegal, or otherwise voidable or void, which has not been resolved in accordance with Sections 20.1 or 20.2, will be resolved by submission to the American Arbitration Association or its successor organization to be settled by a single arbitrator in accordance with the Commercial Arbitration Rules then in effect for such Association or successor organization.

20.3.2 All issues relating to arbitrability or the enforcement of the agreement to arbitrate contained in this Article 20 will be governed by the Federal Arbitration Act (9 U.S.C. §1 *et seq.*) and the federal common law of arbitration. All hearings and other proceedings will take place in the then-current county of Franchisor's corporate headquarters, or the nearest offices of the American Arbitration Association thereto, or, if Franchisor so elects, in the county where the principal place of business of Franchisee is then located.

20.3.3 This arbitration provision is self-executing and will remain in full force and effect after expiration or termination of this Agreement. Any arbitration will be conducted on an individual, and

not a class-wide or multiple plaintiffs, basis. If either party fails to appear at any properly noticed arbitration proceeding, an award may be entered against the party by default or otherwise, notwithstanding the failure to appear. Judgment upon an arbitration award may be entered in any court having jurisdiction and will be binding, final, and not subject to appeal. No punitive or exemplary damages will be awarded against Franchisor, Franchisee, or entities related to either of them, in an arbitration proceeding or otherwise, and are hereby waived.

20.3.4 The provisions of this Section 20.3 are independent of any other covenant or provision of this Agreement; provided, however, that if a court of competent jurisdiction determines that any of the provisions are unlawful in any way, the court will modify or interpret the provisions to the minimum extent necessary to have them comply with the law.

20.3.5 In proceeding with arbitration and in making determinations hereunder, no arbitrator shall extend, modify, or suspend any terms of this Agreement or the reasonable standards of business performance and operation established by Franchisor in good faith. No notice, request, or demand for arbitration shall stay, postpone, or rescind the effectiveness of any termination of this Agreement.

20.3.6 Except as expressly required by law, Franchisor, Franchisee, and any Principal shall keep all aspects of any mediation and/or arbitration proceeding in confidence, and shall not disclose any information about the proceeding to any third party other than legal counsel who shall be required to maintain the confidentiality of such information.

20.4 Exceptions. Notwithstanding the requirements of Sections 20.2 or 20.3, the following claims shall not be subject to mediation or arbitration:

20.4.1 Franchisor's claims for injunctive or other extraordinary relief;

20.4.2 disputes and controversies arising from the Sherman Act, the Clayton Act, or any other federal or state antitrust law;

20.4.3 disputes and controversies based upon or arising under the Lanham Act, as now or hereafter amended, relating to the ownership or validity of the Marks; and

20.4.4 enforcement of Franchisee's post-termination obligations, including but not limited to, Franchisee's non-competition covenants.

20.5 Governing Law and Venue. This Agreement is made in, and shall be substantially performed in, the Commonwealth of Pennsylvania. Any claims, controversies, disputes, or actions arising out of this Agreement shall be governed, enforced and interpreted pursuant to the laws of the Commonwealth of Pennsylvania. Franchisee and its Principals, except where specifically prohibited by law, hereby irrevocably submit themselves to the sole and exclusive jurisdiction of the state and federal courts in Pennsylvania. Franchisee and its Principals hereby waive all questions of personal jurisdiction for the purpose of carrying out this provision.

20.6 Mutual Benefit. Franchisee, each Principal, if any, and Franchisor acknowledge that the parties' agreement regarding applicable state law and forum set forth in Section 20.5 provide each of the parties with the mutual benefit of uniform interpretation of this Agreement and any dispute arising hereunder. Each of Franchisee, its Principals, if any, and Franchisor further acknowledge the receipt and sufficiency of mutual consideration for such benefit and that each party's agreement regarding applicable state law and choice of forum have been negotiated in good faith and are part of the benefit of the bargain reflected by this Agreement.

20.7 Waiver of Certain Damages. Franchisee and each Principal, if any, hereby waive, to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special, consequential, or other damages (including, without limitation, loss of profits) against Franchisor, its affiliates, and their respective officers, directors, shareholders, partners, agents, representatives, independent contractors, servants, and employees, in their corporate and individual capacities, arising out of any cause whatsoever. Each of Franchisee and Principals, if any, agree that in the event of a dispute, Franchisee and each Principal shall be limited to the recovery of any actual direct compensatory damages sustained.

20.8 Injunctive Relief. Nothing herein contained (including, without limitation, Sections 20.1 through 20.3 above) shall bar Franchisor from the right to obtain immediate injunctive relief from any court of competent jurisdiction against threatened conduct by Franchisee that may cause Franchisor loss or damage, under the usual equity rules, including the applicable rules for obtaining specific performance, restraining orders, and preliminary injunctions.

20.7 Limitations of Claims. Any and all claims asserted by Franchisee arising out of or relating to this Agreement or the relationship with Franchisor will be barred unless a proceeding for relief is commenced within one (1) year from the date on which Franchisee knew or should have known of the facts giving rise to such claims.

20.8 Attorney's Fees. In the event of any action in law or equity by and between Franchisor and Franchisee concerning the operation, enforcement, construction, or interpretation of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney's fees and court costs incurred.

## **21. GENERAL**

### **21.1 Relationship of the Parties.**

21.1.1 Independent Licensee. Franchisee is and shall be an independent licensee under this Agreement, and no partnership shall exist between Franchisee and Franchisor. This Agreement does not constitute Franchisee as an agent, legal representative, or employee of Franchisor for any purpose whatsoever, and Franchisee is not granted any right or authority to assume or create any obligation for or on behalf of, or in the name of, or in any way to bind Franchisor. Franchisee agrees not to incur or contract any debt or obligation on behalf of Franchisor or commit any act, make any representation, or advertise in any manner which may adversely affect any right of Franchisor or be detrimental to Franchisor or other franchisees of Franchisor. Franchisor does not assume any liability, and will not be considered liable, for any agreements, representations, or warranties made by Franchisee which are not expressly authorized under this Agreement. Franchisor will not be obligated for any damages to any person or property which directly or indirectly arise from or relate to Franchisee's operation of the Franchised Business. Pursuant to the above, Franchisee agrees to indemnify Franchisor and hold Franchisor harmless from any and all liability, loss, attorneys' fees, or damage Franchisor may suffer as a result of claims, demands, taxes, costs, or judgments against Franchisor arising out of any allegation of an agent, partner, or employment relationship.

21.1.2 No Relationship. Franchisee acknowledges and agrees that Franchisee alone exercises day-to-day control over all operations, activities, and elements of the Franchised Business, and that under no circumstance shall Franchisor do so or be deemed to do so. Franchisee further acknowledges and agrees, and will never claim otherwise, that the various restrictions, prohibitions, specifications, and procedures of the System which Franchisee is required to comply with under this Agreement, whether set

forth in Franchisor's Manual or otherwise, does not directly or indirectly constitute, suggest, infer, or imply that Franchisor controls any aspect or element of the day-to-day operations of the Franchised Business, which Franchisee alone controls, but only constitute standards Franchisee must adhere to when exercising control of the day-to-day operations of the Franchised Business.

21.1.3 Franchisee's Employees. Franchisee acknowledges and agrees that any training Franchisor provides for Franchisee's employees is geared to impart to those employees, with Franchisee's ultimate authority, the various procedures, protocols, systems, and operations of an outlet pursuant to the System and in no fashion reflects any employment relationship between Franchisor and such employees. If ever it is asserted that Franchisor is the employer, joint employer, or co-employer of any of Franchisee's employees in any private or government investigation, action, proceeding, arbitration, or other setting, Franchisee irrevocably agrees to assist Franchisor in defending said allegation, appearing at any venue requested by Franchisor to testify on Franchisor's behalf, participate in depositions, other appearances, or preparing affidavits rejecting any assertion that Franchisor is the employer, joint employer, or co-employer of any of Franchisee's employees.

21.2 Successors. This Agreement shall bind and inure to the benefit of the successors and assigns of Franchisor and shall be personally binding on and inure to the benefit of Franchisee (including the individuals executing this Agreement on behalf of the Franchisee entity) and its or their respective heirs, executors, administrators and successors or assigns; provided, however, the foregoing provision shall not be construed to allow a transfer of any interest of Franchisee or Principals, if any, in this Agreement or the Franchised Business, except in accordance with Article 16 hereof.

21.3 Invalidity of Part of Agreement. Should any provisions in this Agreement, for any reason, be declared invalid, then such provision shall be invalid only to the extent of the prohibition without in any way invalidating or altering any other provision of this Agreement.

21.4 Entire Agreement. This Agreement, including all attachments, is the entire agreement of the parties, superseding all prior written or oral agreements of the parties concerning the same subject matter, and superseding all prior written or oral representations made to Franchisee, provided that nothing in this Agreement is intended to disclaim the representations made to Franchisee in Franchisor's Franchise Disclosure Document. No agreement of any kind relating to the matters covered by this Agreement and no amendment of the provisions hereof shall be binding upon either party unless and until the same has been made in writing and executed by all interested parties.

21.5 Construction. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any provision herein may require, as if such words had been fully and properly written in the appropriate number and gender. All covenants, agreements, and obligations assumed herein by Franchisee and any Principals shall be deemed to be joint and several covenants, agreements, and obligations of each of the persons named as Franchisee, if more than one person is so named.

21.6 Captions. Captions and section headings are used herein for convenience only. They are not part of this Agreement and shall not be used in construing it.

21.7 Notices. Whenever notice is required or permitted to be given under the terms of this Agreement, it shall be given in writing, and be delivered personally or by certified mail or courier, postage prepaid, addressed to the party for whom intended, and shall be deemed given on the date of delivery or delivery is refused. All such notices shall be addressed to the party to be notified at their respective

addresses as set forth in the introductory paragraph of this Agreement, or at such other address or addresses as the parties may from time to time designate in writing.

21.8 Effect of Waivers. No waiver, delay, omission or forbearance on the part of Franchisor to exercise any right, option, duty or power arising from any default or breach by Franchisee shall affect or impair the rights of Franchisor with respect to any subsequent default of the same or of a different kind. Any use by Franchisee of the System or any part thereof at any place other than at the Franchised Business outlet approved by Franchisor shall not give Franchisee any rights not specifically granted hereunder. Failure to take action to stop such use shall not in any event be considered a waiver of the rights of Franchisor at any time to require Franchisee to restrict said use to the approved Franchised Business outlet.

21.9 Remedies Cumulative. All rights and remedies of the parties to this Agreement shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies that are provided for herein or that may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement or any other agreement between Franchisee or any of its affiliates and Franchisor or any of its affiliates. The rights and remedies of the parties to this Agreement shall be continuing and shall not be exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration, earlier termination or exercise of Franchisor's rights pursuant to Article 17 shall not discharge or release Franchisee or any Principal from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination or the exercise of such rights under this Agreement.

21.10 Consent to Do Business Electronically. The parties to the Franchise Agreement hereby consent to do business electronically. Pursuant to the Uniform Electronic Transactions Act as adopted by the Commonwealth of Pennsylvania, the parties hereby affirm to each other that they agree with the terms of the Franchise Agreement and its Attachments, and by attaching their signature electronically to the Franchise Agreement, they are executing the document and intending to attach their electronic signature to it. Furthermore, the parties acknowledge that the other parties to the Franchise Agreement can rely on an electronic signature as the respective party's signature.

21.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument.

21.12 Survival. Any obligation of Franchisee or any Principal that contemplates performance of such obligation after termination or expiration of this Agreement or the transfer of any interest of Franchisee or any Principal therein shall be deemed to survive such termination, expiration or transfer.

*-Remainder of page intentionally left blank-*



The parties hereto have executed this Franchise Agreement on the day and year first above written.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:

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

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

## ATTACHMENT 1

### TRADEMARKS

Service Marks –

BEBALANCED

BECOMING BALANCED



## ATTACHMENT 2

### **TERRITORY AND FRANCHISED BUSINESS ADDRESS**

[If there is no Approved Location on the Effective Date, insert: \*\*TERRITORY AND ADDRESS TO BE DETERMINED AND INSERTED AFTER THE BEBALANCED PREMISES IS IDENTIFIED BY FRANCHISEE AND APPROVED BY FRANCHISOR, IN ACCORDANCE WITH SECTION 8.1 OF THE FRANCHISE AGREEMENT, IN THE SITE SEARCH AREA OF \_\_\_\_\_.]

Territory (insert map and/or define by zip codes):

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Franchised Business Address:

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**ATTACHMENT 3**

**GENERAL RELEASE**

\_\_\_\_\_ (“Franchisee”) and its Principal(s):

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

(collectively, “Franchisee’s Principal(s)”), on behalf of themselves and their respective officers, directors, employees, successors, assigns, heirs, personal representatives, and all other persons acting on their behalf or claiming under them (collectively, the “Franchisee Releasors”), hereby release, discharge and hold harmless Infinity Health Advisors, LLC (“Franchisor”), IHA Distribution, LLC, their parents, subsidiaries, affiliates, and each of their respective officers, directors, shareholders, employees, agents, attorneys, successors, and assigns (collectively, the “Franchisor Releasees”) from any suits, claims, controversies, rights, promises, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character and description, in law or in equity, whether presently known or unknown, vested or contingent, suspected or unsuspected arising under, relating to, or in connection with the Franchise Agreement dated \_\_\_\_\_ between Franchisee and Franchisor and any related agreements and the relationship created thereby, or the Franchised Business operated under the Franchise Agreement, or any claims or representations made relative to the sale of the franchise to operate such Franchised Business or under any federal or state franchise or unfair or deceptive trade practice laws, which any of the Franchisee Releasors now own or hold or have at any time heretofore owned or held against the Franchisor Releasees (collectively, the “Franchisee Released Claims”).

FRANCHISEE AND FRANCHISEE’S PRINCIPAL(S) ON BEHALF OF THEMSELVES AND THE FRANCHISEE RELEASORS WAIVE ANY RIGHTS AND BENEFITS CONFERRED BY ANY APPLICABLE PROVISION OF LAW EXISTING UNDER ANY FEDERAL, STATE OR POLITICAL SUBDIVISION THEREOF WHICH WOULD INVALIDATE ALL OR ANY PORTION OF THE RELEASE CONTAINED HEREIN BECAUSE SUCH RELEASE MAY EXTEND TO CLAIMS WHICH THE FRANCHISEE RELEASORS DO NOT KNOW OR SUSPECT TO EXIST IN THEIR FAVOR AT THE TIME OF EXECUTION OF THIS AGREEMENT. The Franchisee Releasors also covenant not to bring any suit, action, or proceeding, or make any demand or claim of any type, against any Franchisor Releasees with respect to any Franchisee Released Claim, and Franchisee and Franchisee’s Principal(s) shall defend, indemnify and hold harmless each of Franchisor Releasees against same.

Executed as of \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

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

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

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

FRANCHISEES'S PRINCIPALS:

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

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

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

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

**ATTACHMENT 4**

**ACH AUTHORIZATION**

Franchisor Name: **Infinity Health Advisors, LLC**

I (We) hereby authorize Infinity Health Advisors, LLC, hereinafter called Franchisor, to initiate debit entries to my (our) Checking Account/Savings Account (Select One) indicated below at the depository financial institution named below, and to debit the same to such account. I (We) acknowledge that the origination of ACH transactions to my (our) account must comply with the provisions of U.S. Law, and that I will be responsible for any banking fees that my institution charges.

Financial Institution Name: \_\_\_\_\_ Branch: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

ACH/Routing Number: \_\_\_\_\_ Account Number: \_\_\_\_\_  
(Nine Digits)

This authorization is to remain in full force and effect until Franchisor has received a written replacement ACH Withdrawal Form notification from me. I (We) understand that revocation of this Authorization Agreement by me (us) may constitute an event of Default under the Franchise Agreement.

I (We) understand that the amount to be withdrawn by Franchisor will not be the same each month and I (We) therefore authorize all monetary transfers pursuant to Articles 6 and 18 of the Franchise Agreement.

\_\_\_\_\_  
Print Franchisee / Account Holder Name

\_\_\_\_\_  
Print Franchisee/Co-Account Holder Name

\_\_\_\_\_  
Franchisee/ Account Holder Signature-Date

\_\_\_\_\_  
Franchisee/Co-Account Holder Signature-Date

\_\_\_\_\_  
Daytime Phone Number

\_\_\_\_\_  
Email Address

**PLEASE ATTACH A VOIDED CHECK TO THIS FORM**

**Please Return Form to:**

Infinity Health Advisors, LLC  
485 Royer Drive, Suite 102  
Lancaster, Pennsylvania 17601

**ATTACHMENT 5**

**COLLATERAL ASSIGNMENT OF LEASE**

**FOR VALUE RECEIVED**, the undersigned \_\_\_\_\_ ("Assignor") hereby assigns and transfers to Infinity Health Advisors, LLC, a Pennsylvania limited liability company with a notice address of 485 Royer Drive, Suite 102, Lancaster, Pennsylvania, 17601 ("Assignee"), all of Assignor's right, title and interest as tenant in, to and under that certain lease, a copy of which shall be attached hereto (the "Lease") respecting premises commonly known as \_\_\_\_\_. This Assignment is for collateral purposes only and except as specified herein, Assignee shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment or the Lease unless Assignee takes possession of the premises demised by the Lease pursuant to the terms hereof and assumes the obligations of Assignor thereunder.

Assignor represents and warrants to Assignee that Assignor has full power and authority to so assign the Lease and Assignor's interest therein and that Assignor has not previously assigned or transferred, and is not obligated to assign or transfer, any of Assignor's interest in the Lease or the premises demised thereby.

Upon a default by Assignor under the Lease or under the franchise agreement for a BeBalanced outlet between Assignee and Assignor (the "Franchise Agreement"), or in the event of a default by Assignor under any document or instrument securing the Franchise Agreement, Assignee shall have the right and is hereby empowered to take possession of the Premises demised by the Lease, expel Assignor therefrom, and, in such event, Assignor shall have no further right, title or interest in the Lease.

Assignor agrees that it will not suffer or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of Assignee. Throughout the term of the Franchise Agreement and any successor terms thereof, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that the option must be exercised, unless Assignee otherwise agrees in writing. If Assignee does not otherwise agree in writing, and upon failure of Assignor to so elect to extend or renew the Lease as aforesaid, Assignor hereby appoints Assignee as its true and lawful attorney-in-fact to exercise such extension or renewal options in the name, place and stead of Assignor for the purpose of effecting such extension or renewal.

ASSIGNOR:

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

\_\_\_\_\_  
(Print Name, Title)

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

**CONSENT AND AGREEMENT OF LANDLORD**

to that Conditional Assignment of Lease from \_\_\_\_\_ (Assignor) to Infinity Health Advisors, LLC (Assignee) dated \_\_\_\_\_ for the property known as \_\_\_\_\_.

The undersigned Landlord under the aforescribed Lease further hereby:

- (a) Agrees to notify Assignee in writing of and upon the failure of Assignor to cure any default by Assignor under the Lease;
- (b) Agrees that Assignee shall have the right, but shall not be obligated, to cure any default by Assignor under the Lease within thirty (30) days after delivery by Landlord of notice thereof in accordance with paragraph (a) above;
- (c) Consents to the foregoing Conditional Assignment and agrees that if Assignee takes possession of the Premises demised by the Lease and confirms to Landlord the assumption of the Lease by Assignee as tenant thereunder, Landlord shall recognize Assignee as tenant under the Lease, provided that Assignee cures within the thirty (30)-day period the non-monetary defaults, if any, of Assignor under the Lease;
- (d) Agrees that Assignee may further assign the Lease to a person, firm or corporation who shall agree to assume the tenant's obligations under the Lease and who is reasonably acceptable to Landlord and upon such assignment Assignee shall have no further liability or obligation under the Lease as assignee, tenant or otherwise.
- (e) Permits Assignee to enter upon the Premises without being guilty of trespass or any other crime or tort to de-identify the Premises as a BeBalanced outlet if Tenant fails to do so following termination of the Franchise Agreement or Lease, provided that Assignee shall repair any damage caused thereby.

DATED: \_\_\_\_\_

LANDLORD:

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



**ATTACHMENT 6**

**STATEMENT OF OWNERSHIP INTERESTS IN FRANCHISEE**

**Name**

**Percentage of Ownership**

## ATTACHMENT 7

### SPOUSE GUARANTY

This Guaranty and Covenant (this “Guaranty”) is given by the undersigned (“Guarantor”) on \_\_\_\_\_, (the “Effective Date”) to Infinity Health Advisors, LLC, a Pennsylvania limited liability company (“Franchisor”), in order to induce Franchisor to enter into that certain Franchise Agreement dated on or about the Effective Date hereof (the “Franchise Agreement”) with \_\_\_\_\_, a(n) \_\_\_\_\_ and \_\_\_\_\_ (collectively “Franchisee”).

Guarantor acknowledges that Guarantor is the spouse of Franchisee’s Principal, as that term is used in the Franchise Agreement.

Guarantor acknowledges that Guarantor has read the terms and conditions of the Franchise Agreement and acknowledges that the execution of this Guaranty is in partial consideration for, and a condition to the granting of, the rights granted in the Franchise Agreement to Franchisee, and that Franchisor would not have granted these rights without the execution of this Guaranty by Guarantor.

Guarantor hereby individually makes, agrees to be bound by, and agrees to perform, all of the monetary obligations and non-competition covenants and agreements of the Franchisee as set forth in the Franchise Agreement, including but not limited to, the covenants set forth in Sections 19.2, 19.5, 19.6, 19.8 and 19.9 of the Franchise Agreement (“Guaranteed Obligations”). Guarantor shall perform and/or make punctual payment to Franchisor of the Guaranteed Obligations in accordance with the terms of the Franchise Agreement or other applicable document forthwith upon demand by Franchisor.

This Guaranty is an absolute and unconditional continuing guaranty of payment and performance of the Guaranteed Obligations. This Guaranty shall not be discharged by renewal of any obligations guaranteed by this instrument, change in ownership or control of the Franchisee entity, transfer of the Franchise Agreement, the suffering of any indulgence to any debtor, extension of time of payment thereof, nor the discharge of Franchisee by bankruptcy, operation of law or otherwise. Presentment, demand, protest, notice of protest and dishonor, notice of default or nonpayment and diligence in collecting any obligation under any agreement between Franchisee and Franchisor are each and all waived by Guarantor and/or acknowledged as inapplicable. Guarantor waives notice of amendment of any agreement between Franchisee and Franchisor and notice of demand for payment by Franchisee. Guarantor further agrees to be bound by any and all amendments and changes to any agreement between Franchisee and Franchisor.

Franchisor may pursue its rights against Guarantor without first exhausting its remedies against Franchisee and without joining any other guarantor hereto and no delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise by Franchisor of any right or remedy shall preclude the further exercise of such right or remedy.

If other guarantors have guaranteed any and or all of the Guaranteed Obligations, their liability shall be joint and several to that of Guarantor.

Until all of the Guaranteed Obligations have been paid in full and/or performed in full, Guarantor shall not have any right of subrogation, unless expressly given to Guarantor in writing by Franchisor.

All Franchisor's rights, powers and remedies hereunder and under any other agreement now or at any time hereafter in force between Franchisor and Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to Franchisor by law.

Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.

This Guaranty shall extend to and inure to the benefit of Franchisor and its successors and assigns and shall be binding on Guarantor and its successors and assigns.

Guarantor has signed this Guaranty as of the date set forth above.

GUARANTOR - SPOUSE OF FRANCHISEE'S PRINCIPAL:

\_\_\_\_\_  
*Signature*  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ATTACHMENT 8

### **INTERNET ADVERTISING, SOCIAL MEDIA, SOFTWARE, AND TELEPHONE LISTING AGREEMENT**

**THIS INTERNET ADVERTISING, SOCIAL MEDIA, SOFTWARE, AND TELEPHONE LISTING AGREEMENT** (the “Agreement”) is made and entered into this day of \_\_\_\_\_ (the “Effective Date”), by and between Infinity Health Advisors, LLC, a Pennsylvania limited liability company, with its principal place of business at 485 Royer Drive, Suite 102, Lancaster, Pennsylvania, 17601 (the “Franchisor”), and \_\_\_\_\_, a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_, and \_\_\_\_\_’s principal(s), \_\_\_\_\_, an individual, residing at \_\_\_\_\_, and \_\_\_\_\_, an individual, residing at \_\_\_\_\_ (“Principal(s)”). \_\_\_\_\_ and Principal(s) shall be collectively referred to in this Agreement as the “Franchisee”.

**WHEREAS**, Franchisee desires to enter into a franchise agreement with Franchisor for a BeBalanced outlet (“Franchise Agreement”) which will allow Franchisee to conduct internet-based advertising, maintain social media accounts, use software, and use telephone listings linked to the BeBalanced brand.

**WHEREAS**, Franchisor would not enter into the Franchise Agreement without Franchisee’s agreement to enter into, comply with, and be bound by all the terms and provisions of this Agreement;

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual promises and covenants contained herein, and in further consideration of the Franchise Agreement and the mutual promises and covenants contained therein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### 1. **Definitions**

All terms used but not otherwise defined in this Agreement shall have the meanings set forth in the Franchise Agreement. “Termination” of the Franchise Agreement shall include, but shall not be limited to, the voluntary termination, involuntary termination, or natural expiration thereof.

#### 2. **Internet Advertising and Telephone Listings**

2.1 **Interest in Websites, Social Media Accounts, Other Electronic Listings and Software.** Franchisee may acquire (whether in accordance with or in violation of the Franchise Agreement) during the term of Franchise Agreement, certain right, title, or interest in and to certain domain names, social media accounts, hypertext markup language, uniform resource locator addresses, access to corresponding internet websites, the right to hyperlink to certain websites and listings on various internet search engines, and the right to use certain software (collectively, “Electronic Advertising and Software”) related to the Franchised Business or the Marks.

2.2 **Interest in Telephone Numbers and Listings.** Franchisee has or will acquire during the term of the Franchise Agreement, certain right, title, and interest in and to those certain telephone numbers and regular, classified, internet page, and other telephone directory listings (collectively, the “Telephone Listings”) related to the Franchised Business or the Marks.

2.3 Transfer. On Termination of the Franchise Agreement, or on periodic request of Franchisor, Franchisee will immediately:

2.3.1 direct all internet service providers, domain name registries, internet search engines, other listing agencies and software companies (collectively, the “Internet and Software Companies”) with which Franchisee has Electronic Advertising and Software: (i) to transfer all of Franchisee’s interest in such Electronic Advertising and Software to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Electronic Advertising and Software, Franchisee will immediately direct the Internet and Software Companies to terminate such Electronic Advertising and Software or will take such other actions with respect to the Electronic Advertising and Software as Franchisor directs; and

2.3.2 direct all telephone companies, telephone directory publishers, and telephone directory listing agencies (collectively, the “Telephone Companies”) with which Franchisee has Telephone Listings: (i) to transfer all Franchisee’s interest in such Telephone Listings to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Telephone Listings, Franchisee will immediately direct the Telephone Companies to terminate such Telephone Listings or will take such other actions with respect to the Telephone Listings as Franchisor directs.

2.4 Appointment; Power of Attorney. Franchisee hereby constitutes and appoints Franchisor and any officer or agent of Franchisor, for Franchisor’s benefit under the Franchise Agreement and this Agreement or otherwise, with full power of substitution, as Franchisee’s true and lawful attorney-in-fact with full power and authority in Franchisee’s place and stead, and in Franchisee’s name or the name of any affiliated person or affiliated company of Franchisee, to take any and all appropriate action and to execute and deliver any and all documents that may be necessary or desirable to accomplish the purposes of this Agreement. Franchisee further agrees that this appointment constitutes a power coupled with an interest and is irrevocable until Franchisee has satisfied all of its obligations under the Franchise Agreement and any and all other agreements to which Franchisee and any of its affiliates on the one hand, and Franchisor and any of its affiliates on the other, are parties, including without limitation this Agreement. Without limiting the generality of the foregoing, Franchisee hereby grants to Franchisor the power and right to do the following:

2.4.1 Direct the Internet and Software Companies to transfer all Franchisee’s interest in and to the Electronic Advertising and Software to Franchisor, or alternatively, to direct the Internet and Software Companies to terminate any or all of the Electronic Advertising and Software;

2.4.2 Direct the Telephone Companies to transfer all Franchisee’s interest in and to the Telephone Listings to Franchisor, or alternatively, to direct the Telephone Companies to terminate any or all of the Telephone Listings; and

2.4.3 Execute such standard assignment forms or other documents as the Internet and Software Companies and/or Telephone Companies may require in order to affect such transfers or terminations of Franchisee’s interest.

2.5 Certification of Termination. Franchisee hereby directs the Internet and Software Companies and Telephone Companies to accept, as conclusive proof of Termination of the Franchise Agreement, Franchisor’s written statement, signed by an officer or agent of Franchisor, that the Franchise Agreement has terminated.

2.6 Cessation of Obligations. After the Internet and Software Companies and the Telephone Companies have duly transferred all Franchisee's interests as described in paragraph 2.3 above to Franchisor, as between Franchisee and Franchisor, Franchisee will have no further interest in, or obligations with respect to the particular Electronic Advertising and Software and/or Telephone Listings. Notwithstanding the foregoing, Franchisee will remain liable to each and all of the Internet and Software Companies and Telephone Companies for the respective sums Franchisee is obligated to pay to them for obligations Franchisee incurred before the date Franchisor duly accepted the transfer of such interests, or for any other obligations not subject to the Franchise Agreement or this Agreement.

### 3. Miscellaneous

3.1 Release. Franchisee hereby releases, remises, acquits, and forever discharges each and all of the Internet and Software Companies and/or Telephone Companies and each and all of their parent corporations, subsidiaries, affiliates, directors, officers, stockholders, employees, and agents, and the successors and assigns of any of them, from any and all rights, demands, claims, damage, losses, costs, expenses, actions, and causes of action whatsoever, whether in tort or in contract, at law or in equity, known or unknown, contingent or fixed, suspected or unsuspected, arising out of, asserted in, assertible in, or in any way related to this Agreement.

3.2 Indemnification. Franchisee is solely responsible for all costs and expenses related to its performance, its nonperformance, and Franchisor's enforcement of this Agreement, which costs and expenses Franchisee will pay Franchisor in full, without defense or setoff, on demand. Franchisee agrees that it will indemnify, defend, and hold harmless Franchisor and its affiliates, and its and their directors, officers, shareholders, partners, members, employees, agents, and attorneys, and the successors and assigns of any and all of them, from and against, and will reimburse Franchisor and any and all of them for, any and all loss, losses, damage, damages, debts, claims, demands, or obligations that are related to or are based on this Agreement.

3.3 No Duty. The powers conferred on Franchisor hereunder are solely to protect Franchisor's interests and shall not impose any duty on Franchisor to exercise any such powers. Franchisee expressly agrees that in no event shall Franchisor be obligated to accept the transfer of any or all of Franchisee's interest in any matter hereunder.

3.4 Further Assurances. Franchisee agrees that at any time after the date of this Agreement, Franchisee will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the purposes of this Agreement.

3.5 Successors, Assigns, and Affiliates. All Franchisor's rights and powers, and all Franchisee's obligations, under this Agreement shall be binding on Franchisee's successors, assigns, and affiliated persons or entities as if they had duly executed this Agreement.

3.6 Effect on Other Agreements. Except as otherwise provided in this Agreement, all provisions of the Franchise Agreement and attachments and schedules thereto shall remain in effect as set forth therein.

3.7 Survival. This Agreement shall survive the Termination of the Franchise Agreement.

3.8 Governing Law. This Agreement shall be governed by and construed under the laws of the Commonwealth of Pennsylvania, without regard to the application of Pennsylvania conflict of law rules.

The undersigned have executed or caused their duly authorized representatives to execute this Internet Advertising, Social Media and Telephone Account Agreement as of the Effective Date.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

)

PRINCIPALS:

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

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

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

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

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

## ATTACHMENT 9

### **CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This Confidentiality and Non-Compete Agreement (the “Agreement”) is made and entered into this day of \_\_\_\_\_, by \_\_\_\_\_, a(n) \_\_\_\_\_ (“Franchisee”), a franchisee of Infinity Health Advisors, LLC, a Pennsylvania limited liability company (“Franchisor”), and \_\_\_\_\_, an individual (“Covenantor”), in connection with a Franchise Agreement.

**WHEREAS**, Franchisee and Franchisor are parties to a franchise agreement dated \_\_\_\_\_ (the “Franchise Agreement”), whereby Franchisor has granted Franchisee the right to use certain trademarks, including, the “BeBalanced” mark and design, and certain proprietary products, services, promotions, and methods (the “System”) for the establishment and operation of a BeBalanced outlet;

**WHEREAS**, in connection with his or her duties, it will be necessary for Covenantor to have access to some or all of the confidential information, knowledge, know-how, techniques, contents of the BeBalanced operations manual and other materials used in or related to the System and/or concerning the methods of operation of the System (collectively referred to as “Confidential Information”);

**WHEREAS**, the Confidential Information provides economic advantages to Franchisor and licensed users of the System, including Franchisee;

**WHEREAS**, Franchisee has acknowledged the importance of restricting the use, access and dissemination of the Confidential Information, and Franchisee therefore has agreed to obtain from Covenantor a written agreement protecting the Confidential Information and further protecting the System against unfair competition; and

**WHEREAS**, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

#### **1. Confidentiality Agreement.**

**a.** Covenantor shall, at all times, maintain the confidentiality of the Confidential Information and shall use such Confidential Information only in the course of his or her employment by or association with Franchisee in connection with the operation of a Franchised Business under the Franchise Agreement.

**b.** Covenantor shall not at any time make copies of any documents or compilations containing some or all of the Confidential Information without Franchisor’s express written permission.

**c.** Covenantor shall not at any time disclose or permit the disclosure of the Confidential Information except, and only then to the limited extent necessary, to those employees of Franchisee for training and assisting such employees in the operation of the Franchised Business.

**d.** Covenantor shall surrender any material containing some or all of the Confidential Information to Franchisee or Franchisor, upon request, or upon termination of employment or association with Franchisee.



**e.** Covenantor shall not at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the System.

**f.** Covenantor agrees that no Confidential Information may be reproduced, in whole or in part, without written consent.

## **2. Covenants Not to Compete.**

**a.** In order to protect the goodwill and unique qualities of the System, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants that during Covenantor's employment or association with Franchisee, Covenantor shall not, for Covenantor or through, on behalf of or in conjunction with any person or entity:

(i) divert, or attempt to divert, any business or client of the BeBalanced outlet or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise, or

(ii) participate as an owner, partner, director, officer, employee, consultant or agent or serve in any other capacity in any weight loss and wellness products and services business substantially similar to the System.

**b.** In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the goodwill and unique qualities of the System, Covenantor further agrees and covenants that, upon the termination of Covenantor's employment or association with Franchisee and continuing for twenty-four (24) months thereafter, Covenantor shall not, for Covenantor or through, on behalf of or in conjunction with any person or entity:

(i) divert, or attempt to divert, any business or client of the Franchised Business or of other franchisees in the BeBalanced System to any competitor, by direct or indirect inducement or otherwise, or

(ii) participate as an owner, partner, director, officer, employee, or consultant or serve in any other managerial, operational, or supervisory capacity in any weight loss and wellness products and services business within the within forty (40) miles of the Franchised Business premises or any BeBalanced location.

**c.** The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor.

**d.** If the period of time or the geographic scope specified Section 2.b. above, should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion thereof, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Agreement or any portion thereof, without Covenantor's or Franchisee's consent, effective immediately upon receipt by Covenantor of written notice thereof, and Covenantor agrees to forthwith comply with any covenant as so modified.

### **3. General.**

**a.** Franchisee shall take full responsibility for ensuring that Covenantor acts as required by this Agreement.

**b.** Covenantor agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions hereof, Franchisee is obligated to enforce the provisions of this Agreement and shall be entitled, in addition to any other remedies that are made available to it at law or in equity, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

**c.** Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement.

**d.** Any failure by Franchisee to object to or take action with respect to any breach of any provision of this Agreement by Covenantor shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Covenantor.

**e.** THIS AGREEMENT SHALL BE INTERPRETED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO PENNSYLVANIA CHOICE OF LAW PRINCIPLES. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF OR HERSELF TO THE JURISDICTION OF THE STATE AND FEDERAL COURTS OF THE COMMONWEALTH OF PENNSYLVANIA. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON COVENANTOR IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY PENNSYLVANIA OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE IN PENNSYLVANIA; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION THAT INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE THAT HAS JURISDICTION.

**f.** The parties agree that each of the foregoing covenants contained herein shall be construed as independent of any other covenant or provision of this Agreement.

**g.** Covenantor acknowledges and agrees that each of the covenants contained herein will not impose any undue hardship on Covenantor since Covenantor has other considerable skills, experience and education which affords Covenantor the opportunity to derive income from other endeavors.

**h.** This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

**i.** All notices and demands required to be given hereunder shall be in writing, and shall be delivered personally or by certified or registered mail, postage prepaid, addressed to the party for whom intended, and shall be deemed given on the date of delivery or the date delivery is refused. All such notices shall be addressed to the party to be notified at the following addresses:

If directed to Franchisee:

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If directed to Covenantor:

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Any change in the foregoing addresses shall be effected by giving written notice of such change to the other parties.

**j.** Franchisor is an intended third-party beneficiary of this Agreement, and Franchisor may take whatever action it deems necessary to enforce Covenantor's obligations hereunder. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall inure to the benefit of its respective affiliates, successors and assigns.

**k.** The respective obligations of Franchisee and Covenantor hereunder may not be assigned by Franchisee or Covenantor, without the prior written consent of Franchisor.

The undersigned have entered into this Confidentiality and Non-Compete Agreement as witnessed by their signatures below.

FRANCHISEE:

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

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

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

COVENANTOR:

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

**EXHIBIT C**

**MULTI-UNIT DEVELOPMENT AGREEMENT**

**INFINITY HEALTH ADVISORS, LLC**  
**MULTI-UNIT DEVELOPMENT AGREEMENT**

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**DEVELOPER**

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**DATE OF AGREEMENT**

# INFINITY HEALTH ADVISORS, LLC

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### ATTACHMENTS:

1 - DEVELOPMENT AREA

2 - MANDATORY DEVELOPMENT SCHEDULE

## MULTI-UNIT DEVELOPMENT AGREEMENT

THIS MULTI-UNIT DEVELOPMENT AGREEMENT (this "Agreement") is being entered into this day of \_\_\_\_\_ (the "Effective Date"), by and between Infinity Health Advisors, LLC, a Pennsylvania limited liability company, with its principal place of business at 485 Royer Drive, Suite 102, Lancaster, Pennsylvania, 17601 (herein "Franchisor"), and \_\_\_\_\_, an individual, residing at \_\_\_\_\_, and \_\_\_\_\_, an individual, residing at \_\_\_\_\_ (individually and together herein "Developer").

### RECITATIONS

Through the expenditure of considerable time, effort, and money, Franchisor has developed and established a unique system for the establishment and operation of health and wellness centers specializing in natural weight loss services through the proprietary "Becoming Balanced" program, under the BeBalanced trademarks, and using Franchisor's confidential operations manual ("Manual") of business practices and policies, and Franchisor's distinctive, décor, fixtures and furnishings, operations methods, sales techniques, inventory, procedures for management control and training, assistance, advertising, and promotional programs, all of which may be changed, improved, or further developed by Franchisor at any time (taken together herein the "System").

The System is identified by certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including but not limited to the BeBalanced service mark, and such other trade names, service marks, and trademarks as are now designated and may hereafter be designated or substituted by Franchisor for use in connection with the System (the "Marks").

Franchisor continues to develop, use, and control the use of such Marks in order to identify for the public the source of services and products marketed under the Marks and the System and to represent the System's high standards of quality, appearance, and service.

Pursuant to franchise agreements, Franchisor licenses to others the right to operate BeBalanced outlets, using the Marks and System, in strict conformity therewith, which may be changed, improved, and further developed by Franchisor from time to time (each a "Franchise Agreement").

Developer understands and acknowledges the importance of Franchisor's high and uniform standards of quality, service, and appearance, and the necessity of operating franchised businesses of the System in conformity with Franchisor's standards and specifications.

Developer desires to obtain the right to further develop and expand the System in accordance with the development schedule described on Attachment 2 of this Agreement (the "Mandatory Development Schedule") within the development area described on Attachment 1 (the "Development Area"), under the System and Marks, on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, the parties, in consideration of the promises, undertakings, and commitments of each party to the other set forth herein, and intending to be legally bound hereby, mutually agree as follows:

#### 1. RECITATIONS.

The Recitations set out above form part of this Agreement.

## **2. GRANT OF DEVELOPMENT RIGHTS.**

2.1 Grant. Franchisor hereby grants to Developer, and Developer hereby accepts from Franchisor, on the terms and conditions set forth in this Agreement, which includes, but is not limited to, the execution of a Franchise Agreement pursuant to Section 4.2 hereof, the right to develop, construct, open, and operate one (1) BeBalanced outlet within the Development Area set forth in Attachment 1. Developer shall be granted rights to establish additional BeBalanced outlets in the Development Area, up to the total number of outlets set forth in the Mandatory Development Schedule on Attachment 2 hereof, subject to Developer's full compliance with all conditions precedent to the grant of such rights outlined below, which rights shall be exercised in accordance with Sections 5.1 and 5.4 hereof.

2.2 Reservation of Rights. Notwithstanding the provisions of Section 2.1 above, Developer understands and agrees Franchisor fully reserves all other rights, other than as specified in this Agreement, for sales, solicitation, and distribution of BeBalanced products and services within or outside of the Development Area. This reservation of Franchisor's rights includes, but is not limited to, Franchisor's right to offer (i) other products or services not offered under the Marks, (ii) other weight loss and wellness concepts under the Marks or other trademarks, including licensing Franchisor's designs for use in other formats, and (iii) products or services through any channel in the Development Area other than a dedicated BeBalanced outlet, such as distribution through retail outlets, catalog sales, telemarketing, other direct marketing, and the internet ("Alternated Distribution Channels").

2.3 No License to System and Marks. Developer expressly acknowledges that this Agreement is not a Franchise Agreement and does not grant to Developer any right or license to operate a BeBalanced outlet, distribute any product or service, or use the Marks. This Agreement sets forth conditions which, if fully satisfied, confer upon Developer the rights to enter a Franchise Agreement with Franchisor to establish one (1) or more BeBalanced outlets in the Development Area only. Developer's rights to open and operate a BeBalanced outlet and use the System and Marks shall be derived only through the execution of a Franchise Agreement for each BeBalanced outlet to be established in the Development Area.

## **3. TERM.**

Unless sooner terminated in accordance with this Agreement, the term of this Agreement and all rights granted by Franchisor under this Agreement shall expire on the date on which Developer successfully and in a timely manner has complied with all of Developer's obligations hereunder and has completed the development obligations in accordance with the Mandatory Development Schedule.

## **4. DEVELOPMENT AND FRANCHISE FEES.**

4.1 Multi-Unit Development Fee. In consideration of the rights granted under this Agreement, Developer shall pay Franchisor a development fee equal to Forty-Five Thousand Dollars (\$45,000.00) for the first BeBalanced outlet developed hereunder, plus Thirty-Five Thousand Dollars (\$35,000.00) for the second BeBalanced outlet to be developed hereunder, plus Thirty Thousand Dollars (\$30,000.00) for the third and any additional BeBalanced outlet(s) to be developed hereunder according to the Mandatory Development Schedule (the "Development Fee"). The Development Fee is fully earned at the time this Multi-Unit Development Agreement is signed and is not refundable under any circumstances. Developer shall pay the full amount of the Development Fee to Franchisor upon Developer's execution of this Agreement.

4.2 Application of Development Fee. Contemporaneous with the execution of this Agreement, Developer shall execute the initial Franchise Agreement for the first BeBalanced outlet to be established pursuant to the Mandatory Development Schedule. Developer shall receive a Forty-Five Thousand Dollar (\$45,000.00) credit from the Development Fee, which shall be payment in full of the initial franchise fee due



under the initial Franchise Agreement. Upon the execution of the second Franchise Agreement, Developer shall receive a Thirty-Five Thousand Dollar (\$35,000.00) credit from the Development Fee, which shall be payment in full of the initial franchise fee under the second Franchise Agreement. Upon the execution of the third and each additional Franchise Agreement pursuant to the Mandatory Development Schedule, Developer shall receive a Thirty Thousand Dollar (\$30,000.00) credit from the Development Fee, which shall be payment in full of the initial franchise under the applicable Franchise Agreement. Upon Franchisor's approval, Developer may enter into the initial Franchise Agreement or any subsequent Franchise Agreement as required under this Agreement using a newly formed entity, such as a limited liability company, corporation, or partnership, for the sole purpose of entering into a Franchise Agreement and operating the BeBalanced outlet pursuant thereto, provided that Developer shall also personally sign such Franchise Agreement as a principal.

## **5. EXERCISE OF DEVELOPMENT RIGHTS.**

5.1 Valid Exercise. Developer shall exercise the development rights granted hereunder only by entering into a separate Franchise Agreement with Franchisor for each BeBalanced outlet for which a development right is granted. Developer shall execute and deliver to Franchisor, concurrently with the execution and delivery of this Agreement, Franchisor's current form of Franchise Agreement for the first BeBalanced outlet to be established by Developer pursuant to the Mandatory Development Schedule. For each subsequent BeBalanced outlet to be established hereunder, Developer shall execute and deliver to Franchisor Franchisor's then-current form of Franchise Agreement, which shall be presented to Developer together with Franchisor's then-current Franchise Disclosure Document. The then-current form of Franchise Agreement may differ from the current form of Franchise Agreement; provided however, the initial franchise fee for each additional outlet shall be the applicable amount set forth in Section 4.2 hereof. Further, Developer acknowledges and agrees that Developer shall not receive any initial training related to each additional BeBalanced outlet. Developer hereby waives all obligations by Franchisor to provide any training to Developer contained in each Franchise Agreement, other than the initial Franchise Agreement executed concurrently herewith, by and between Franchisor and Developer. Developer hereby acknowledges and agrees that the training Developer receives pursuant to the initial Franchise Agreement executed concurrently with this Agreement is sufficient to allow Developer to construct, equip, open, and operate each of Developer's BeBalanced outlets in the Development Area.

5.2 Mandatory Development Schedule. Subsequent to Developer's signing of this Agreement and the initial Franchise Agreement, and provided that all conditions in Section 5.4 hereof are satisfied or waived, upon the execution of a lease for Developer's first BeBalanced outlet, Developer shall execute an additional Franchise Agreement for the development of the second BeBalanced outlet to be opened under the Mandatory Development Schedule. Provided that all conditions in Section 5.4 hereof are satisfied or waived, upon the execution of a lease for each subsequent BeBalanced outlet to be developed by Developer, Developer shall execute an additional Franchise Agreement for the development of the next BeBalanced outlet to be opened under the Mandatory Development Schedule. Notwithstanding the foregoing, Developer shall open the BeBalanced outlets in accordance with the Mandatory Development Schedule attached hereto as Attachment 2.

Developer acknowledges and agrees that the terms of the Mandatory Development Schedule are reasonable and viable based upon Developer's independent investigation and analysis. Failure by Developer to adhere to the Mandatory Development Schedule (including any extensions thereof approved by Franchisor in writing pursuant to Section 5.3 below) shall constitute a material event of default under this Agreement.

5.3 Extension of Mandatory Development Schedule. If Developer is unable to meet the Mandatory Development Schedule for any outlet, Developer may seek a reasonable extension from Franchisor. Any request for an extension must be in writing and submitted to Franchisor at least sixty (60) days prior to the Mandatory Open Date (as defined on the Mandatory Development Schedule) for such outlet.

Franchisor shall not unreasonably withhold consent for such reasonable extension provided that Developer has (i) submitted its extension request in a timely manner; (ii) demonstrated diligent efforts to meet the original Mandatory Open Date; and (iii) has at all times acted in good faith and is otherwise fulfilling its obligations under this Agreement.

5.4 Conditions to Exercise Developer's Rights. All of the following conditions must be satisfied or waived, in Franchisor's sole discretion, before Franchisor grants Developer the right to develop an additional BeBalanced outlet in accordance with Section 4.2 hereof and pursuant to a Franchise Agreement:

5.4.1 Developer shall (i) request Franchisor's then-current Franchise Disclosure Document, (ii) submit to Franchisor all information and other documents requested by Franchisor prior to and as a basis for the issuance of Franchise Agreements in the System, (iii) submit to Franchisor all financial statements reasonably requested by Franchisor, and (iv) satisfy Franchisor's then-current financial criteria.

5.4.2 Developer shall be in full compliance with this Agreement, the Mandatory Development Schedule, and all Franchise Agreements with Franchisor and any other agreement with Franchisor or Franchisor's affiliates;

5.4.3 Developer has demonstrated the management skills necessary for competent operation, organization, customer service, and record keeping of an additional BeBalanced outlet as determined by Franchisor, in Franchisor's sole discretion.

5.5 Termination for Failure of Condition. Notwithstanding anything to the contrary contained herein, in the event that Franchisor determines, in Franchisor's sole and absolute discretion, that any condition set forth in Section 5.4 hereof cannot be satisfied, Franchisor may terminate this Agreement upon written notice to Developer. Termination of this Agreement in accordance with this Section 5.5 shall have no effect on the validity of any other agreement between Franchisor and Developer, provided that Developer is in full compliance therewith.

## **6. TRANSFER.**

### **6.1 Transfers by Franchisor.**

6.1.1 Franchisor shall have the right to assign this Agreement, and all of Franchisor's rights and privileges hereunder, to any person, firm, corporation, or other entity, without Developer's permission or prior knowledge, provided that, with respect to any assignment resulting in the subsequent performance by the assignee of Franchisor's obligations, the assignee shall expressly assume and agree to perform Franchisor's obligations hereunder. Specifically, and without limitation to the foregoing, Developer expressly affirms and agrees that Franchisor may: (i) sell Franchisor's assets and Franchisor's rights to the Marks and the System outright to a third party; (ii) engage in a public or private placement of some or all of Franchisor's securities; (iii) merge, acquire other corporations, or be acquired by another corporation, including competitors; (iv) undertake a refinancing, recapitalization, leveraged buy-out, or other economic or financial restructuring; and (v) with regard to any or all of the above sales, assignments, and dispositions, Developer expressly and specifically waives any claims, demands, or damages arising from or relating to the loss of association with or identification of Franchisor. Nothing contained in this Agreement shall require Franchisor to remain in the business subject to development hereunder or to offer the same products and services, whether or not bearing the Marks, in the event that Franchisor exercises its prerogative hereunder to assign Franchisor's rights in this Agreement.

6.1.2 Developer agrees that Franchisor has the right, now or in the future, to purchase, merge, acquire, or affiliate with an existing competitive or non-competitive franchise network, chain, or

any other business regardless of the location of that chain's or business' facilities, and to operate, franchise, or license those businesses and/or facilities operating under any other marks following Franchisor's purchase, merger, acquisition, or affiliation, regardless of the location of the facilities (which Developer acknowledges may be within the Development Area, proximate thereto, or proximate to any of Developer's locations). Franchisor will not convert any acquired business in Developer's Development Area to an outlet operating under the Marks during the term of this Agreement.

6.1.3 If Franchisor assigns its rights in this Agreement, nothing herein shall be deemed to require Franchisor or any of its affiliates to remain in any line of business or to offer or sell any products or services to Developer.

6.2 Restrictions on Transfers by Developer. Developer's rights and duties under this Agreement are personal to Developer, and Franchisor has made this Agreement with Developer in reliance on Franchisor's perceptions of the individual and collective character, skill, aptitude, attitude, business ability, and financial capacity of Developer. Thus, no transfer, as hereafter defined, may be made without Franchisor's prior written approval. Franchisor may void any transfer made without such approval.

6.3 Transfers by Developer. Developer shall not directly or indirectly sell, assign, transfer, give, devise, convey, or encumber this Agreement or any right granted or interest herein or hereunder (a "Transfer") or suffer or permit any such assignment, transfer, or encumbrance to occur by operation of law unless Developer first obtains the written consent of Franchisor, which Franchisor may or may not grant in Franchisor's sole discretion, and subject to the following:

6.3.1 The proposed transferee must be an individual of good moral character and otherwise meet Franchisor's then-applicable standards for multi-unit franchisees.

6.3.2 The transferee must have sufficient business experience, aptitude, and financial resources to operate multiple BeBalanced outlets and to comply with this Agreement;

6.3.3 The transferee has agreed to complete Franchisor's initial training program to Franchisor's satisfaction;

6.3.4 Developer has paid all amounts owed to (i) Franchisor pursuant to this Agreement and all Franchise Agreements and other agreements between Franchisor and/or Franchisor's affiliates and Developer and (ii) third-party creditors;

6.3.5 The transferee has executed Franchisor's then-standard form of Multi-Unit Development Agreement, which may have terms and conditions different from this Agreement, for a term no less than the unexpired term of future development obligations due pursuant to the Mandatory Development Schedule of this Agreement;

6.3.6 Developer and the transferee shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Franchisor's officers, directors, shareholders, members, and employees in their corporate and individual capacities, including, without limitation, claims arising under federal, state, and local laws, rules, and ordinances. Developer agrees to subordinate any claims Developer may have against the transferee to Franchisor and indemnify Franchisor against any claims by the transferee relating to misrepresentations in the transfer process, specifically excluding those representations made by Franchisor in the Franchise Disclosure Document given to the transferee;

6.3.7 Franchisor has granted written approval of the material terms and conditions of the Transfer, including, without limitation, that the price and terms of payment will not adversely affect the transferee's development obligations. However, Franchisor's approval of a Transfer is not in any way a representation or warranty of the transferee's success or the soundness of transferee's decision to purchase the Developer's development rights on such terms and conditions. Developer shall provide Franchisor all proposed transfer documents for Franchisor's review at least thirty (30) days prior to a closing of the proposed Transfer; and

6.3.8 If Developer, through Developer or any entity, finances any part of the sale price of the Transfer, Developer agrees that all obligations of the transferee under any notes, agreements, or security interests to Developer or Developer's entity will be subordinate to the transferee's obligations to Franchisor.

6.4 Transfer Fee. As a condition to any Transfer, Developer shall pay Franchisor a transfer fee equal to Fifteen Thousand Dollars (\$15,000.00); provided however, (i) for transfers to an existing BeBalanced multi-unit developer or franchisee, who is in good standing with Franchisor, the transfer fee is Ten Thousand Dollars (\$10,000.00), (ii) for transfers among the individuals named as Developer in the introductory paragraph of this Agreement, the transfer fee is Two Thousand Dollars (\$2,000.00), and (iii) for a transfer to a spouse, parent, or child upon death or permanent disability of Developer, the transfer fee is Two Thousand Five Hundred Dollars (\$2,500.00).

#### 6.5 Franchisor 's Right of First Refusal.

6.5.1 If Developer wishes to transfer all or part of his or her interest in this Agreement pursuant to any bona fide offer received from a third party to purchase such interest, then Developer shall promptly notify Franchisor in writing of each such offer, and shall provide such information and documentation relating to the offer as Franchisor may require.

6.5.2 Franchisor has the right, exercisable by written notice to Developer within thirty (30) days after receipt of written notification and copies of all documentation required by Franchisor describing such offer, to buy the interest in this Agreement for the price and on the terms and conditions contained in the offer.

6.5.3 Developer further agrees, in the event Franchisor exercises its right of first refusal, notwithstanding anything to the contrary contained in the third-party offer, that (i) Franchisor may substitute cash for any other form of consideration contained in the offer; (ii) at Franchisor 's option, Franchisor may pay the entire purchase price at closing; (iii) Franchisor 's credit will be deemed equal to the credit of any proposed transferee; (iv) Franchisor will have at least sixty (60) days to close the purchase; and (v) Franchisor will be entitled to receive from Developer all customary representations and warranties given by a seller of franchise development rights.

6.5.4 If Franchisor does not exercise its right to buy within thirty (30) days, Developer may thereafter transfer the interest to the transferee on terms no more favorable than those disclosed to Franchisor, provided that such transfer is subject to Franchisor 's prior written approval pursuant to Section 6.3 hereof. However, if (i) the sale to the transferee is not completed within one hundred twenty (120) days after the offer is given to Franchisor or (ii) there is any material change in the terms of the offer, the offer will again be subject to Franchisor's right of first refusal.

6.6 Death or Permanent Disability. The grant of rights under this Agreement is personal to Developer, and on the death or permanent disability of Developer, the executor, administrator, conservator, or other personal representative of Developer shall be required to transfer Developer's interest in this

Agreement within six (6) months from the date of death or permanent disability to a third party approved by Franchisor. Failure to transfer in accordance with the forgoing will constitute a material default and all that is granted by this Agreement will terminate. A transfer under this Section 6.6, including without limitation, transfer by devise or inheritance, is subject to the conditions for Transfers in this Article 6 and unless transferred by gift, devise, or inheritance, subject to the terms of Section 6.5 above. For purposes of this Agreement, the term "permanent disability" means a mental or physical disability, impairment, or condition that is reasonably expected to prevent or actually does prevent such person from providing continuous and material supervision of the operation of Developer's BeBalanced outlet(s) and remaining development schedule during the six (6)-month period from its onset.

## **7. DEFAULT AND TERMINATION.**

7.1 Default and Automatic Termination. Developer shall be deemed to be in material default under this Agreement, and all rights granted herein shall automatically terminate without notice to Developer, if Developer shall become insolvent or makes a general assignment for the benefit of creditors; or if Developer files a voluntary petition under any section or chapter of federal bankruptcy law or under any similar law or statute of the United States or any state thereof, or admits in writing his or her inability to pay debts when due; or if Developer is adjudicated a bankrupt or insolvent in proceedings filed against Developer under any section or chapter of federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Developer or other custodian for Developer's business or assets is filed and consented to by Developer; or if a receiver or other custodian (permanent or temporary) of Developer's assets or property, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any state or federal law should be instituted by or against Developer; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); or if execution is levied against Developer's business or property; or if suit to foreclose any lien or mortgage against any of Developer's BeBalanced outlet premises or equipment is instituted against Developer and not dismissed within thirty (30) days.

7.2 Defaults With No Opportunity to Cure. Developer shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Developer any opportunity to cure the default, effective immediately upon notice to Developer, if Developer:

7.2.1 has misrepresented or omitted material facts in applying for the development rights granted hereunder;

7.2.2 falsifies any report required to be furnished Franchisor hereunder;

7.2.3 fails to comply with any federal, state, or local law, rule, or regulation, applicable to the development and operations of Developer's BeBalanced outlets, including, but not limited to, the failure to pay taxes;

7.2.4 fails to develop the BeBalanced outlets in accordance with the Mandatory Development Schedule.

7.2.5 attempts a Transfer in violation of the provisions of Article 6 of this Agreement;

7.2.6 is convicted of, or pleads no contest to, a felony or to a crime that could damage the goodwill associated with the Marks or does anything that may harm the reputation of the System or the goodwill associated with the Marks;

7.2.7 receives an adverse judgment or a consent decree in any case or proceeding involving allegations of fraud, racketeering, unfair or improper trade practices, or similar claim which is likely to have an adverse effect on the System, or the Marks, the goodwill associated therewith or Franchisor's interest therein, in Franchisor's sole opinion;

7.2.8 fails to comply with the non-disclosure and non-competition covenants in Article 8 hereof;

7.2.9 defaults, or an affiliate of Developer defaults, under any other agreement, including any Franchise Agreement, with Franchisor or any of its affiliates or suppliers and does not cure such default within the time period provided in such other agreement; or

7.2.10 terminates this Agreement without cause.

7.3 Curable Defaults. Developer shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, if Developer fails to cure the default within the time period set forth in this Section 7.3, effective immediately upon notice to Developer, if Developer:

7.3.1 fails to pay when due any amounts due to Franchisor under this Agreement or any related agreement and does not correct the failure within five (5) days after written notice; provided, however, Franchisor has no obligation to give written notice of a late payment more than two (2) times in any twelve (12)-month period, and the third such late payment in any twelve (12)-month period shall be a non-curable default under Section 7.2;

7.3.2 fails to perform any non-monetary obligation imposed by this Agreement (excepting those defaults of obligations set forth in Sections 7.1 and 7.2 for which there is no opportunity to cure) and such default shall continue for five (5) days after Franchisor has given written notice of such default, or if the default cannot be reasonably corrected within said five (5)-day period, then if it is not corrected within such additional time as may be reasonably required assuming Developer proceeds diligently to cure; provided, however, Franchisor has no obligation to give written notice of a non-monetary default more than two (2) times in any twelve (12)-month period, and the third such default, whether monetary or non-monetary, in any twelve (12) – month period shall be a non-curable default under Section 7.2.

7.4 Post-Termination Obligations. Upon termination or expiration of this Agreement, all rights and licenses granted hereunder to Developer shall immediately terminate and Developer shall (i) immediately cease all development operations pursuant to this Agreement; and (ii) comply with the non-disclosure and non-competition covenants contained in Article 8.

## **8. NON-DISCLOSURE AND NON-COMPETITION COVENANTS.**

8.1 Confidential Information. Developer acknowledges and accepts that during the term of this Agreement, Developer will have access to Franchisor's trade secrets, including, but not limited to, the "Becoming Balanced" program, product formulas, methods, processes, client lists, vendor partnerships and/or relationships, sales and technical information, financial information, costs, product prices and names, software tools and applications, website and/or email design, products, services, equipment, technologies, and procedures relating to the operation of the Franchised Business; the Manual; methods of advertising and promotion; instructional materials; any other information which Franchisor may or may not specifically designate as "confidential" or "proprietary"; and the components of the System, whether or not such information is protected or protectable by patent, copyright, trade secret, or other proprietary rights

(collectively referred to herein as the “Confidential Information”). Developer shall not, during the term of this Agreement and thereafter, communicate or divulge to, or use for the benefit of, any other person or entity, and, following the expiration or termination of this Agreement, shall not use for Developer’s own benefit, any Confidential Information that may be communicated to Developer or of which Developer may be apprised in connection with the development of BeBalanced outlets under the terms of this Agreement. Developer shall not at any time copy, duplicate, record, or otherwise reproduce any Confidential Information, in whole or in part, or otherwise make the same available to any person, without Franchisor’s prior written consent. The covenant in this Section 8.1 shall survive the expiration, termination, or transfer of this Agreement or any interest herein and shall be perpetually binding upon Developer.

8.2 Protection of Information. Developer shall take all steps necessary, at Developer’s own expense, to protect the Confidential Information and shall immediately notify Franchisor if Developer finds that any Confidential Information has been divulged in violation of this Agreement.

8.3 Non-Competition Covenants. Developer acknowledges that, pursuant to this Agreement and the Franchise Agreement, Developer will receive valuable training, trade secrets, and Confidential Information of the System that are beyond the present knowledge, training, and experience of Developer. Developer acknowledges that such specialized training, trade secrets, and Confidential Information provide a competitive advantage and will be valuable to him or her in the development and operation of BeBalanced outlets, and that gaining access to such specialized training, trade secrets, and Confidential Information is, therefore, a primary reason why Developer is entering into this Agreement. In consideration for such specialized training, trade secrets, Confidential Information, and rights, Developer covenants that, except as otherwise approved in writing by Franchisor:

8.3.1 During the term of this Agreement, Developer shall not, either directly or indirectly, for himself or herself or through, on behalf of, or in conjunction with, any person or entity (i) divert, or attempt to divert, any business or customer of the Developer’s BeBalanced outlets or of other developers or franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant, or agent or serve in any other capacity in any weight loss and wellness products and services business similar to the System; (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System, or (iv) in any manner interfere with, disturb, disrupt, decrease, or otherwise jeopardize the business of the Franchisor or any BeBalanced developers’ or franchisees’ or Franchisor-affiliated outlets.

8.3.2 Upon the expiration or earlier termination of this Agreement or upon a Transfer and continuing for twenty-four (24) months thereafter, Developer shall not, either directly or indirectly, for himself or herself or through, on behalf of, or in conjunction with any person or entity (i) divert, or attempt to divert, any business or customer of Developer’s BeBalanced outlets or of other franchisees in the System to any competitor, by direct or indirect inducement or otherwise; (ii) participate as an owner, partner, director, officer, employee, consultant or agent, or serve in any weight loss and wellness products and services business within forty (40) miles of the Development Area or any BeBalanced location; (iii) do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System, or (iv) in any manner interfere with, disturb, disrupt, decrease or otherwise jeopardize the business of the Franchisor or any BeBalanced developers or franchisees.

8.4 Reasonableness of Restrictions. Developer acknowledges and agrees that the covenants not to compete set forth in this Agreement are fair and reasonable and will not impose any undue hardship on Developer since Developer has other considerable skills, experience, and education which afford Developer the opportunity to derive income from other endeavors.

8.5 Reduction of Time or Scope. If the period of time or the geographic scope specified above, should be adjudged unreasonable in any proceeding, then the period of time will be reduced by such number of months or the geographic scope will be reduced by the elimination of such portion thereof, or both, so that such restrictions may be enforced for such time and scope as are adjudged to be reasonable. In addition, Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Article 8 or any portion thereof, without Developer's consent, effective immediately upon receipt by Developer of written notice thereof, and Developer agrees to forthwith comply with any covenant as so modified.

8.6 Injunctive Relief. Developer acknowledges that a violation of the covenants not to compete contained in this Agreement would result in immediate and irreparable injury to Franchisor for which no adequate remedy at law will be available. Accordingly, Developer hereby consents to the entry of an injunction prohibiting any conduct by Developer in violation of the terms of the covenants not to compete set forth in this Agreement.

8.7 No Defense. Developer expressly agrees that the existence of any claims he or she may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Section.

## **9. INDEMNIFICATION.**

TO THE FULLEST EXTENT PERMITTED BY LAW, DEVELOPER AGREES TO EXONERATE AND INDEMNIFY AND HOLD HARMLESS INFINITY HEALTH ADVISORS, LLC, IHA DISTRIBUTION, LLC, AND ANY OF THEIR PARENT COMPANIES, SUBSIDIARIES, DIVISIONS, AFFILIATES, SUCCESSORS, ASSIGNS, AND DESIGNEES, AS WELL AS THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SHAREHOLDERS, SUCCESSORS, DESIGNEES, AND REPRESENTATIVES (COLLECTIVELY REFERRED TO AS THE "BEBALANCED INDEMNITEES"), FROM ALL CLAIMS BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATED TO THE DEVELOPMENT, OPERATION, CONDITION, OR ANY PART OF ANY OF DEVELOPER'S BEBALANCED OUTLETS TO BE DEVELOPED HEREUNDER, THE PRODUCTS, THE PREMISES, OR ANY ASPECT OF THE REAL ESTATE CONNECTED TO ANY OF SUCH BEBALANCED OUTLETS, WHETHER CAUSED BY DEVELOPER'S AGENTS OR EMPLOYEES, OR ARISING FROM DEVELOPER'S ADVERTISING OR BUSINESS PRACTICES. DEVELOPER AGREES TO PAY FOR ALL THE BEBALANCED INDEMNITEES' LOSSES, EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES), OR CONCURRENT OR CONTRIBUTING LIABILITY INCURRED IN CONNECTION WITH ANY ACTION, SUIT, PROCEEDING, INQUIRY (REGARDLESS OF WHETHER THE SAME IS REDUCED TO JUDGMENT OR DETERMINATION), OR ANY SETTLEMENT THEREOF FOR THE INDEMNIFICATION GRANTED BY DEVELOPER HEREUNDER. THE BEBALANCED INDEMNITEES SHALL HAVE THE RIGHT TO SELECT AND APPOINT INDEPENDENT COUNSEL TO REPRESENT ANY OF THE BEBALANCED INDEMNITEES IN ANY ACTION OR PROCEEDING COVERED BY THIS INDEMNITY. DEVELOPER AGREES THAT TO HOLD THE BEBALANCED INDEMNITEES HARMLESS, DEVELOPER WILL REIMBURSE THE BEBALANCED INDEMNITEES AS THE COSTS AND EXPENSES ARE INCURRED BY THE BEBALANCED INDEMNITEES.

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Initial



## **10. DISPUTE RESOLUTION.**

10.1 Internal Dispute Resolution. Developer shall first bring any claim, controversy, or dispute arising out of or relating to this Agreement, the Attachments hereto, or the relationship created by this Agreement to Franchisor's president and/or chief executive officer for resolution. After providing notice as set forth in Section 11.7 below, Developer must exhaust this internal dispute resolution procedure before Developer may bring Developer's dispute before a third party. This agreement to first attempt resolution of disputes internally shall survive termination or expiration of this Agreement.

10.2 Mediation. At Franchisor's option, any claim, controversy, or dispute that is not resolved pursuant to Section 10.1 hereof shall be submitted to non-binding mediation. Developer shall provide Franchisor with written notice of Developer's intent to pursue any unresolved claim, controversy, or dispute, specifying in sufficient detail the nature thereof, prior to commencing any legal action. Franchisor shall have thirty (30) days following receipt of Developer's notice to exercise Franchisor's option to submit such claim, controversy, or dispute to mediation. Mediation shall be conducted through a mediator or mediators in accordance with the American Arbitration Association Commercial Mediation Rules. Such mediation shall take place in the then-current location of Franchisor's corporate headquarters. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorneys' fees incurred by either party), shall be borne by the parties equally. Franchisor may specifically enforce Franchisor's rights to mediation, as set forth herein.

### **10.3 Arbitration.**

10.3.1 Except disputes not subject to alternative dispute resolution as set forth in Section 10.4, any dispute between Franchisor and Developer arising out of or relating to this Agreement, the Attachments hereto, or any breach thereof, including any claim that this Agreement or any of its parts, is invalid, illegal, or otherwise voidable or void, which has not been resolved in accordance with Sections 10.1 or 10.2, will be resolved by submission to the American Arbitration Association or its successor organization to be settled by a single arbitrator in accordance with the Commercial Arbitration Rules then in effect for such Association or successor organization.

10.3.2 All issues relating to arbitrability or the enforcement of the agreement to arbitrate contained in this Article 10 will be governed by the Federal Arbitration Act (9 U.S.C. §1 *et seq.*) and the federal common law of arbitration. All hearings and other proceedings will take place in the then-current county of Franchisor's corporate headquarters, or the offices of the American Arbitration Association, or, if Franchisor so elects, in the county where the principal place of business of Developer is then located.

10.3.3 This arbitration provision is self-executing and will remain in full force and effect after expiration or termination of this Agreement. Any arbitration will be conducted on an individual, and not a class-wide or multiple plaintiffs, basis. If either party fails to appear at any properly noticed arbitration proceeding, an award may be entered against the party by default or otherwise, notwithstanding the failure to appear. Judgment upon an arbitration award may be entered in any court having jurisdiction and will be binding, final, and not subject to appeal. No punitive or exemplary damages will be awarded against Franchisor, Developer, or entities related to either of them, in an arbitration proceeding or otherwise, and are hereby waived.

10.3.4 The provisions of this Section 10.3 are independent of any other covenant or provision of this Agreement; provided, however, that if a court of competent jurisdiction determines that any of the provisions are unlawful in any way, the court will modify or interpret the provisions to the minimum extent necessary to have them comply with the law.

10.3.5 In proceeding with arbitration and in making determinations hereunder, no arbitrator shall extend, modify, or suspend any terms of this Agreement or the reasonable standards of business performance and operation established by Franchisor in good faith. No notice, request, or demand for arbitration shall stay, postpone, or rescind the effectiveness of any termination of this Agreement.

10.3.6 Except as expressly required by law, Franchisor and Developer shall keep all aspects of any mediation and/or arbitration proceeding in confidence and shall not disclose any information about the proceeding to any third party other than legal counsel who shall be required to maintain the confidentiality of such information.

10.4 Exceptions. Notwithstanding the requirements of Sections 10.2 or 10.3, the following claims shall not be subject to mediation or arbitration:

10.4.1 Franchisor's claims for injunctive or other extraordinary relief;

10.4.2 disputes and controversies arising from the Sherman Act, the Clayton Act, or any other federal or state antitrust law;

10.4.3 disputes and controversies based upon or arising under the Lanham Act, as now or hereafter amended, relating to the ownership or validity of the Marks; and

10.4.4 enforcement of Developer's post-termination obligations, including but not limited to, Developer's non-competition covenants.

10.5 Governing Law and Venue. This Agreement is made in, and shall be substantially performed in the Commonwealth of Pennsylvania. Any claims, controversies, disputes, or actions arising out of this Agreement shall be governed, enforced, and interpreted pursuant to the laws of the Commonwealth of Pennsylvania. Developer, except where specifically prohibited by law, hereby irrevocably submits him/herself to the sole and exclusive jurisdiction of the state and federal courts in Pennsylvania. Developer hereby waives all questions of personal jurisdiction for the purpose of carrying out this provision.

10.6 Mutual Benefit. Developer and Franchisor acknowledge that the parties' agreement regarding applicable state law and forum set forth in Section 10.5 provide each of the parties with the mutual benefit of uniform interpretation of this Agreement and any dispute arising hereunder. Each of Developer and Franchisor further acknowledge the receipt and sufficiency of mutual consideration for such benefit and that each party's agreement regarding applicable state law and choice of forum have been negotiated in good faith and are part of the benefit of the bargain reflected by this Agreement.

10.7 Waiver of Jury Trial and Certain Damages. Developer hereby waives, to the fullest extent permitted by law, any right to or claim for (i) a trial by jury in any action, proceeding, or counterclaim brought by or against Franchisor, and (ii) any punitive, exemplary, incidental, indirect, special, consequential, or other damages (including, without limitation, loss of profits) against Franchisor, its affiliates, and their respective officers, directors, shareholders, partners, agents, representatives, independent contractors, servants, and employees, in their corporate and individual capacities, arising out of any cause whatsoever. Developer agrees that in the event of a dispute, Developer shall be limited to the recovery of any actual damages sustained.

10.8 Limitations of Claims. Any and all claims asserted by Developer arising out of or relating to this Agreement or the relationship among the parties will be barred unless a proceeding for relief is

commenced within one (1) year from the date on which Developer knew or should have known of the facts giving rise to such claims.

10.9 Attorneys' Fees. In the event of any action in law or equity by and between Franchisor and Developer concerning the operation, enforcement, construction, or interpretation of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney's fees and court costs incurred.

10.10 Survival. The provisions of this Article 10 shall continue in full force and effect notwithstanding the expiration or termination of this Agreement or a transfer by Developer of his/her respective interests in this Agreement.

## **11. GENERAL.**

11.1 Independent Licensee. Developer is and shall be an independent licensee under this Agreement, and no partnership shall exist between Developer and Franchisor. This Agreement does not constitute Developer as an agent, legal representative, or employee of Franchisor for any purpose whatsoever, and Developer is not granted any right or authority to assume or create any obligation for or on behalf of, or in the name of, or in any way to bind Franchisor. Developer agrees not to incur or contract any debt or obligation on behalf of Franchisor or commit any act, make any representation, or advertise in any manner which may adversely affect any right of Franchisor or be detrimental to Franchisor or other developers or franchisees of Franchisor. Pursuant to the above, Developer agrees to indemnify Franchisor and hold Franchisor harmless from any and all liability, loss, attorneys' fees, or damage Franchisor may suffer as a result of claims, demands, taxes, costs, or judgments against Franchisor arising out of the relationship hereby established which specifically, but not exclusively, includes costs, losses, expenses, attorneys fees relative to assignment or the transfer of right to develop and transactional costs relative thereto, defaults under any leases, subleases, notes, receipt of revenues or any other relationships arising directly or indirectly out of the development and operation of the BeBalanced outlets.

11.2 Successors. This Agreement shall bind and inure to the benefit of the successors and assigns of Franchisor and shall be personally binding on and inure to the benefit of Developer and his or her respective heirs, executors, administrators, and successors or assigns; provided, however, the foregoing provision shall not be construed to allow a transfer of any interest of Developer in this Agreement, except in accordance with Article 6 hereof.

11.3 Invalidity of Part of Agreement. Should any provisions in this Agreement, for any reason, be declared invalid, then such provision shall be invalid only to the extent of the prohibition without in any way invalidating or altering any other provision of this Agreement.

11.4 Entire Agreement. This Agreement, including all attachments, is the entire agreement of the parties, superseding all prior written or oral agreements of the parties concerning the same subject matter, and superseding all prior written or oral representations made to Developer, except the representations made to Developer in Franchisor's Franchise Disclosure Document. No agreement of any kind relating to the matters covered by this Agreement and no amendment of the provisions hereof shall be binding upon either party unless and until the same has been made in writing and executed by all interested parties.

11.5 Construction. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context or sense of this Agreement or any provision herein may require, as if such words had been fully and properly written in the appropriate number and gender. All covenants, agreements, and obligations assumed herein by Developer shall be

deemed to be joint and several covenants, agreements, and obligations of each of the persons named as Developer, if more than one person is so named.

11.6 Captions. Captions and section headings are used herein for convenience only. They are not part of this Agreement and shall not be used in construing it.

11.7 Notices. Whenever notice is required or permitted to be given under the terms of this Agreement, it shall be given in writing, and be delivered personally or by certified or registered mail, postage prepaid, addressed to the party for whom intended, and shall be deemed given on the date of delivery or delivery is refused. All such notices shall be addressed to the party to be notified at their respective addresses as first above written, or at such other address or addresses as the parties may from time to time designate in writing.

11.8 Effect of Waivers. No waiver, delay, omission, or forbearance on the part of Franchisor to exercise any right, option, duty, or power arising from any default or breach by Developer shall affect or impair the rights of Franchisor with respect to any subsequent default of the same or of a different kind.

11.9 Remedies Cumulative. All rights and remedies of the parties to this Agreement shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies that are provided for herein or that may be available at law or in equity in case of any breach, failure, or default or threatened breach, failure, or default of any term, provision, or condition of this Agreement or any other agreement between Developer or any of its affiliates and Franchisor or any of its affiliates. The rights and remedies of the parties to this Agreement shall be continuing and shall not be exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration, earlier termination, or exercise of Franchisor's rights pursuant to Article 7 shall not discharge or release Developer from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination, or the exercise of such rights under this Agreement.

11.10 Consent to Do Business Electronically. The parties to this Agreement hereby consent to do business electronically. Pursuant to the Uniform Electronic Transactions Act as adopted by the Commonwealth of Pennsylvania, the parties hereby affirm to each other that they agree with the terms of this Agreement, and by attaching their signature electronically to this Agreement, they are executing the document and intending to attach their electronic signature to it. Furthermore, the parties acknowledge that the other parties to this Agreement can rely on an electronic signature as the respective party's signature.

11.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument.

11.10 Survival. Any obligation of Developer that contemplates performance of such obligation after termination, expiration, or transfer of this Agreement shall be deemed to survive such termination, expiration, or transfer.

*-Remainder of page intentionally left blank-*

The parties hereto have executed this Multi-Unit Development Agreement on the day and year first above written.

DEVELOPER:

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

**ATTACHMENT 1**

**DEVELOPMENT AREA**

(insert map and/or define by zip codes):

APPROVED:

DEVELOPER:

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

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

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

**ATTACHMENT 2**

**MANDATORY DEVELOPMENT SCHEDULE**

<b>Outlet for Development</b>	<b>Mandatory Open Date</b>
1	___ months following the Effective Date
2	___ months following the Effective Date
3	___ months following the Effective Date

APPROVED:

DEVELOPER:

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

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

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

**EXHIBIT D**  
**FINANCIAL STATEMENTS**



INFINITY HEALTH ADVISORS, LLC

YEARS ENDED  
DECEMBER 31, 2022 AND 2021



CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS ADVISORS

A Professional Corporation

*INFINITY HEALTH ADVISORS, LLC*

YEARS ENDED DECEMBER 31, 2022 AND 2021

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## Independent Auditor's Report

Members  
Infinity Health Advisors, LLC  
Lancaster, Pennsylvania

### Opinion

We have audited the accompanying financial statements of Infinity Health Advisors, LLC (a Limited Liability Company), which comprise the balance sheets as of December 31, 2022 and 2021 and the related statements of loss, members' deficit and cash flows for the years then ended and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Infinity Health Advisors, LLC as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Infinity Health Advisors, LLC and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Infinity Health Advisors, LLC's ability to continue as a going concern for one year after the date the financial statements are issued.

## Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not absolute assurance; and therefore, is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users made on the basis of these financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Infinity Health Advisors, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Infinity Health Advisors, LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings and certain internal control related matters that we identified during the audit.



Lancaster, Pennsylvania  
July 14, 2023

*INFINITY HEALTH ADVISORS, LLC*

BALANCE SHEETS  
DECEMBER 31, 2022 AND 2021

	2022	2021
ASSETS		
Current assets:		
Cash	\$ 56,482	\$ 39,639
Accounts receivable	57,969	50,621
Prepaid expenses	937	11,754
Deferred broker fees	32,250	131,750
<b>Total current assets</b>	<b>147,638</b>	<b>233,764</b>
Property and equipment, net of accumulated depreciation of \$50,075 and \$55,449 in 2022 and 2021, respectively	23,904	41,460
Other assets:		
Trademark costs	14,183	14,183
Franchise agreement, net of accumulated amortization of \$6,867 in 2022 and 2021	27,133	27,133
Operating lease right-of-use assets, net of amortization	240,118	
Deposits	1,500	1,500
<b>Total assets</b>	<b>\$ 454,476</b>	<b>\$ 318,040</b>
LIABILITIES AND MEMBERS' DEFICIT		
Current liabilities:		
Trade payables	\$ 328,653	\$ 208,995
Related party payables	9,553	8,451
Accrued expenses	9,009	10,368
Deferred revenue	235,000	410,000
Current operating lease liabilities	54,241	
Current portion of notes payable, related parties		5,771
<b>Total current liabilities</b>	<b>636,456</b>	<b>643,585</b>
Long-term operating lease liabilities	184,038	
Members' deficit	(366,018)	(325,545)
<b>Total liabilities and members' deficit</b>	<b>\$ 454,476</b>	<b>\$ 318,040</b>

See notes to financial statements.

*INFINITY HEALTH ADVISORS, LLC*

STATEMENTS OF LOSS  
YEARS ENDED DECEMBER 31, 2022 AND 2021

	<u>2022</u>	<u>2021</u>
<b>Revenue:</b>		
Ad Fund fees	\$ 97,078	\$ 81,215
Initial franchise fees	45,000	35,000
Royalties and other fees	<u>792,052</u>	<u>575,157</u>
<b>Total revenue</b>	<u><b>934,130</b></u>	<u><b>691,372</b></u>
<b>General and administrative expenses:</b>		
Advertising and promotion	51,171	58,695
Bad debts		2,006
Commissions and broker fees	122,000	7,500
Computer and subscription fees	94,313	72,488
Depreciation and amortization	9,077	11,485
Dues and memberships	10,813	18,865
Insurance	37,980	19,147
Interest	1,220	1,825
Miscellaneous	5,197	3,514
Office expenses	64,853	49,396
Professional fees	368,820	418,216
Rent	30,337	22,936
Salaries and payroll taxes	161,486	143,004
Travel, meals and entertainment	150,367	46,526
Taxes	200	660
Utilities	1,463	1,064
Website and intranet costs	<u>75,779</u>	<u>73,216</u>
<b>Total general and administrative expenses</b>	<u><b>1,185,076</b></u>	<u><b>950,543</b></u>
<b>Other income:</b>		
PPP loan forgiven		59,467
Gain on disposal of assets	<u>6,026</u>	
<b>Total other income</b>	<u><b>6,026</b></u>	<u><b>59,467</b></u>
<b>Net loss</b>	<u><u><b>\$ (244,920)</b></u></u>	<u><u><b>\$ (199,704)</b></u></u>

See notes to financial statements.

*INFINITY HEALTH ADVISORS, LLC*

STATEMENTS OF MEMBERS' DEFICIT  
YEARS ENDED DECEMBER 31, 2022 AND 2021

<b>Members' deficit, January 1, 2021</b>	<b>\$ (333,965)</b>
Member distribution	(1,876)
Capital contribution	210,000
Net loss	<u>(199,704)</u>
<b>Members' deficit, December 31, 2021</b>	<b>(325,545)</b>
Member distribution	(45,553)
Capital contribution	250,000
Net loss	<u>(244,920)</u>
<b>Members' deficit, December 31, 2022</b>	<b><u><u>\$ (366,018)</u></u></b>

See notes to financial statements.

*INFINITY HEALTH ADVISORS, LLC*

STATEMENTS OF CASH FLOWS  
YEARS ENDED DECEMBER 31, 2022 AND 2021

	<u>2022</u>	<u>2021</u>
<b>Cash flows from operating activities:</b>		
Net loss	<u>\$ (244,920)</u>	<u>\$ (199,704)</u>
Adjustments:		
Depreciation and amortization	9,077	11,485
Noncash lease expense	(1,839)	
Gain on disposal of assets	(6,026)	
Changes in assets and liabilities:		
Gain on extinguishment of debt		(59,467)
Accounts receivable, trade	(7,348)	(6,536)
Deferred broker fees	99,500	(101,750)
Prepaid expenses	10,817	7,516
Accounts payable and accrued expenses	118,299	53,672
Deferred revenue	(175,000)	140,000
Related party payable	<u>(4,355)</u>	<u>3,327</u>
Total adjustments	<u>43,125</u>	<u>48,247</u>
<b>Net cash used in operating activities</b>	<u><b>(201,795)</b></u>	<u><b>(151,457)</b></u>
<b>Cash flows used in investing activities, purchase of property and equipment</b>	<u><b>(9,788)</b></u>	<u><b>(8,161)</b></u>
<b>Cash flows from financing activities:</b>		
Line of credit, repayments		(50,659)
Cash overdraft		(10,348)
Notes payable, related parties, repayments	(3,179)	(7,327)
Borrowings of long-term debt		59,467
Member:		
Capital contributions	250,000	210,000
Distribution	<u>(18,395)</u>	<u>(1,876)</u>
<b>Net cash provided by financing activities</b>	<u><b>228,426</b></u>	<u><b>199,257</b></u>

(continued)



*INFINITY HEALTH ADVISORS, LLC*

STATEMENTS OF CASH FLOWS (CONTINUED)  
YEARS ENDED DECEMBER 31, 2022 AND 2021

	2022	2021
Net change in cash and cash equivalents	\$ 16,843	\$ 39,639
Cash and cash equivalents:		
Beginning	39,639	
Ending	<u>\$ 56,482</u>	<u>\$ 39,639</u>
Supplemental cash flow information:		
Cash payments for interest	\$ 1,220	\$ 2,006
Supplemental noncash financing activities:		
Forgiveness of the Paycheck Protection Program (PPP) loans		59,467
Payable to minority member	5,457	
Noncash majority member distribution	21,701	

See notes to financial statements.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### **1. Nature of business and summary of significant accounting policies:**

##### *Nature of business:*

Infinity Health Advisors, LLC (the Company) was formed on May 2, 2013, in Lancaster, Pennsylvania. The Company is primarily engaged in the franchising of *BeBalanced Hormone Weight Loss Centers* (BeBalanced) nationally.

The Company is owned by two related individuals and Infinity Health, LLC, which is operated by the minority owner. The Company has entered into an agreement with Infinity Health, LLC whereby the Company is granted the right to operate as the exclusive marketer for the proprietary products and system integral to the Becoming Balanced Hormone Metabolic Correction Program. See Note 3 for the terms of the contract. The authorized territory covers the United States.

##### *Estimates:*

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. In times of economic disruption when uncertainty regarding future economic conditions is heightened, these estimates and assumptions are subject to greater variability.

##### *Leases:*

The Company categorizes leases at their inception as either operating or finance leases. Operating leases are included in operating lease right-of-use assets, current operating lease liabilities and long-term operating lease liabilities in the balance sheet. The Company does not have any finance leases, however, they would be included in property and equipment, net, current liabilities and long-term liabilities in the balance sheets.

Leased assets represent the Company's right to use an underlying asset for the lease term, and lease liabilities represent the Company's obligation to make lease payments arising from the lease. The Company combines and accounts for lease and non-lease components as a single lease component for leases of certain classes of assets, including real estate and certain equipment. Operating lease right-of-use assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. The Company used a risk free Treasury rate as the discount rate for present value of lease payments. The Company's lease agreements do not contain variable payments dependent upon an index or rate, nor any material residual value guarantees or material restrictive covenants. Leases that have a term of 12 months or less upon commencement date are considered short-term in nature. Accordingly, short-term leases are not included on the balance sheets and are expensed on a straight-line basis over the lease term, which commences on the date the Company has the right to control the property. See Notes 2 and 7 below for more information.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Revenue recognition:*

The Company accounts for the sales of franchises when both parties have approved the contract and are committed to perform their respective obligations, each party's rights are identified, payment terms can be identified, the contract has legal substance and it is at least probable that the Company will collect the consideration to which it is entitled. Judgment is required in instances where the Company's contracts include multiple services to determine whether each should be accounted for as a separate performance obligation. The Company enters into contracts that include various combinations of services, each of which is generally capable of being distinct, as well as distinct within the context of the contracts.

##### *Initial franchise fee:*

The Company executes franchise agreements licensing certain trade names, trademarks and service marks of BeBalanced. When an individual franchise is sold, the Company agrees to provide certain services to the franchisee, including an initial management training program, the loaned use of an operations manual, assistance with site selection and advertising programs. The franchise agreements require the franchisee to pay an initial franchise fee as consideration for these services. The initial fee is typically paid prior to services being provided. As a practical expedient, these pre-opening services provided to the franchisee are recognized as a single performance obligation. The initial franchise fee is recognized as revenue at the point in time the pre-opening services are complete, which generally aligns with the franchise opening.

Contract liabilities include "Deferred revenue," which represents initial fees collected on franchises not yet opened. Contract liabilities are classified as current as the revenue is generally expected to be recognized in one year from the balance sheet date. "Deferred broker fees" represent fees paid related to franchise agreements that have not been recognized as revenue at year end.

The revenue recognized represents the opening of two of the Company's franchises in 2022. During 2022, initial franchise fees and other fees totaling \$175,000 were recognized from the deferred revenue reported at December 31, 2021. Deferred revenue totaling \$235,000 at December 31, 2022 represents the initial franchise fee for the one initial franchise outlet and advance deposit fees for additional outlets. There were 24 franchised outlets in operation at December 31, 2022 and 2021.

The Company does not finance the initial franchise fee in whole or in part on behalf of the franchisees.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### 1. Nature of business and summary of significant accounting policies (continued):

##### *Contract assets and liabilities:*

The beginning and ending contract balances were as follows:

	Accounts receivable		Deferred broker fees		Deferred revenue	
	2022	2021	2022	2021	2022	2021
Beginning of year	\$ 50,621	\$ 44,085	\$ 131,750	\$ 30,000	\$ 410,000	\$ 270,000
End of year	57,969	50,621	32,250	131,750	235,000	410,000

##### *Royalty fees:*

The franchise agreements require the franchisee to pay monthly royalty fees as consideration for continuous access to the intellectual property of BeBalanced. Royalty revenue is based upon a percentage of the franchise's monthly gross sales and is variable. Franchise royalty revenue is earned over a period of time as services are provided.

##### *Ad Fund:*

The Company has established an Advertising Fund charging franchisees sales-based contributions to the fund. The advertising fund contributions are not for distinct services, and the Company has the control over the use and direction of the funds in accordance with the franchise agreements. These contributions are recognized over time as sales occur and are reported at gross as part of revenue. The advertising fund is maintained in a separate checking account, and expenses paid from the advertising fund are charged to advertising and promotion expense in the period in which they are incurred.

##### *Technology fee income:*

The Company charges a flat monthly technology support fee. The fee is used towards a cloud-based POS system with scheduling and integrated email marketing software, ongoing website and search engine optimizations and landing page and email maintenance. The payments received from franchisees do not fully cover the cost of providing these services. The technology expenses are incurred on a monthly basis and recorded as expense. The technology fee income is billed with the monthly royalty fee and recognized gross, in the period they are billed for.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Trade accounts receivable:*

Trade accounts receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance. There were no amounts to be reserved in 2022 or 2021.

##### *Franchise agreement:*

Costs incurred to develop the Company's franchise agreement have been capitalized and were being amortized over its estimated useful life through September 2033 (the initial period that the Company was provided the exclusive distribution rights to the program). There was no amortization expense recorded for this agreement in 2022 and 2021. See Note 3 regarding distribution agreement extending the franchise agreement to an indefinite useful life.

##### *Trademark:*

The Company has incurred costs related to obtaining the trademark for "BeBalanced" (the business) and "Becoming Balanced" (the Hormone Weight Loss Program). The costs have been capitalized and reported as an indefinite life intangible asset.

##### *Long-lived assets:*

Long-lived assets to be held and used are reviewed for impairment whenever events or changes in circumstances indicate that the related carrying amount may not be recoverable. When required, impairment losses on assets to be held and used are recognized based on the fair value of the asset, and long-lived assets to be disposed of are reported at the lower of carrying amount or net realizable value. No such impairments were incurred in 2022 or 2021.

##### *Advertising costs:*

Advertising costs are charged to operations as incurred. Advertising expense for the years ended December 31, 2022 and 2021 was \$51,171 and \$58,695, respectively.

##### *Income taxes:*

The Company is treated as a partnership for income tax purposes. Profits, losses and tax credits are shown on the members' individual income tax returns; therefore, no provision has been made for federal or state income taxes.

## ***INFINITY HEALTH ADVISORS, LLC***

### **NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021**

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Variable interest entities:*

In accordance with Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) 2018-17 to ASC 810, *Consolidation of Variable Interest Entities*, the Company has determined that Infinity Health, LLC and IHA Distribution, LLC, as described in Note 3, does not require consolidation as variable interest entities.

#### **2. Adoption of new accounting pronouncements:**

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, which amends the guidance in former ASC 840, *Leases*. The core principle of ASC 842 is that any entity should recognize an asset and related liability for leases longer than one year to depict the transfer of promised rights and obligations in an amount that reflects the consideration to which the entity expects to be entitled. Additionally, the guidance requires improved disclosures to help users of financial statements better understand the nature, amount, timing and uncertainty of leases and cash flows arising from contracts.

On January 1, 2022, the Company adopted ASU 2016-02, *Leases*, and subsequent updates, collectively referred to as ASC 842, using the modified retrospective transition method and did not adjust comparative prior periods. The primary impact of the adoption resulted in the recognition of a lease liability of \$293,142 and a corresponding right-of-use asset of \$293,142 for operating leases, as well as enhanced disclosures. In addition, the Company adopted the package of practical expedients in transition, which permit the Company not to reassess the prior conclusions pertaining to lease identification, lease classification and initial direct costs on leases that commenced prior to adoption of the new standard. The Company also elected the ongoing practical expedient to not recognize operating lease right-of-use assets and operating lease liabilities related to short-term leases. For additional information on leases, see Note 7.

#### **3. Related party transactions:**

##### *Infinity Health, LLC:*

The Company, under the exclusive master distribution agreement with Infinity Health, LLC, an entity related by common ownership, agrees to compensate Infinity Health, LLC \$50,000 per year for 20 years, to be paid in each year where the combined adjusted net income of the Company and IHA Distribution, LLC is equal to or greater than \$1,000,000. The cumulative amount of compensation related to this agreement, which is not paid to Infinity Health, LLC, will be paid based on an agreed-upon formula at a future date only if the Becoming Balanced Hormonal Weight Loss Program is sold to a third party at predetermined amounts. The agreement provides the Company with the exclusive rights to market the Becoming Balanced Hormonal Weight Loss Program and to distribute the products integral to the program for an initial period of 20 years.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### **3. Related party transactions (continued):**

##### *IHA Distribution, LLC:*

IHA Distribution, LLC (IHA Distribution) is a company under common control as it is owned by the same related individuals as the Company. It was formed by the Company to fulfill the distribution and management of the products integral to the program on behalf of the Company's exclusive distribution agreement (See additional disclosures in Note 7). IHA Distribution obtained an SBA loan totaling \$150,000 in 2020. The loan required monthly interest payments of \$731 through December 31, 2022. Beginning in 2023, the loan requires monthly interest and principal payment of \$731 for a period of 30 years. The loan is secured by the assets, including inventory, of IHA Distribution. The loan balance was \$150,000 at December 31, 2022.

The Company was reimbursed by IHA Distribution for the costs of shared personnel and administrative expenses totaling \$754,169 and \$698,938 for 2022 and 2021, respectively. Additionally, IHA Distribution provided cash to the Company to assist in meeting the Company's cash flow needs. The net amount resulted in a payable due to IHA Distribution from the Company of \$4,096 and \$8,451 at December 31, 2022 and 2021, respectively.

##### *Notes payable, member:*

The Company also had a note payable to a member fully described in Note 6, Note payable, related party.

#### **4. Concentrations:**

The Company has entered into an agreement with a third party in the Dallas, Texas, geographic region of the United States to open three BeBalanced locations plus an option for the right to acquire additional franchises in the future. The full option fee of \$100,000 has been paid and the third party is anticipating opening additional franchises in the future in addition to the two franchises which were opened in 2020 and a third franchise which was opened in 2021. The Company recognized \$30,000 of prior deferred revenue in 2021.

#### **5. Line of credit:**

The Company obtained a working capital line of credit totaling \$100,000 in October 2019 with a commercial bank. The line is payable on demand and is subject to annual renewal. The line bears interest at the bank's prime rate plus 1%, with a floor of 4%. The rate at December 31, 2022 was 8.75%. The line is secured by the Company's assets and is also guaranteed by IHA Distribution, LLC and the majority member. There were no borrowings on the line of credit at December 31, 2022 or December 31, 2021.

# *INFINITY HEALTH ADVISORS, LLC*

## NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

### 6. Note payable, related party:

The Company assumed a loan from the majority owner used to finance the purchase of a vehicle used in the business. The loan was paid off in September 2022.

### 7. Leases and other commitments:

The Company leases office space under an operating lease with an expiration in February 2027, at a monthly base rent, plus CAM, totaling \$4,735 for 2022. The Company recognizes lease expense on a straight-line basis over the term of the lease, taking into account, when applicable, lessor incentives for tenant improvements, periods where no rent payment is required and escalations in rent payments over the term of the lease. A portion of this rent was shared with IHA Distribution for both 2022 and 2021. The Company's lease agreement does not contain any material residual value guarantees or material restrictive covenants.

The weighted-average discount rate and lease term assumptions used in determining the liability are 1.37% and 4.09 years, respectively. The primary assumption used to determine the discount rate was the applicable federal rate as of January 1, 2022.

The following table shows ROU assets and lease liabilities, and the associated financial statements line items, as of December 31, 2022:

	Balance sheet captions	December 31, 2022
Assets, operating lease assets	Operating lease right-of-use assets, net of amortization	\$ 240,118
Liabilities:		
Current operating lease liabilities	Current operating lease liabilities	54,241
Long-term operating lease liabilities	Long-term operating lease liabilities	184,038
Total lease liabilities		<u>\$ 238,279</u>
	Statement of loss captions	December 31, 2022
Operating lease cost	General and administrative expenses, rent	\$ 30,337



## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### 7. Leases and other commitments (continued):

Future minimum rental obligations under the noncancelable lease, including common area maintenance charges, at December 31, 2022 were as follows:

	Operating leases
	<hr/>
2023	\$ 57,101
2024	57,439
2025	59,849
2026	60,602
2027	10,111
	<hr/>
Total lease payments	245,102
Less imputed interest	(6,823)
	<hr/>
Present value of lease liabilities	<u>\$ 238,279</u>

In 2022, total gross rents were \$56,370, of which \$29,264 were shared with related party IHA Distribution. In 2021, total gross rents were \$50,966, of which \$25,483 were shared with related party IHA Distribution.

The Company has an agreement whereby they acquired the exclusive right, title and interest in certain products related to the Be Balanced Hormonal Weight Loss Program from an unrelated company. The rights in the product were received in exchange for an exclusive limited license to manufacture and sell the products to the Company. The agreement requires that the Company purchase specified quantities on a predetermined scale with a final payment of \$10,000 at the termination or expiration of the agreement. Currently, the Company has designated IHA Distribution as the distributor of the product. IHA Distribution has made purchases of the product in excess of the requirements under the agreement with no anticipated reductions in future periods.

#### 8. Contingencies:

The minority owner of the Company filed a lawsuit against the Company and its majority owner and CEO asserting copyright infringement and other claims. The management of the Company believes the lawsuit to be meritless and have filed a motion to dismiss the claim. In June 2023, the Federal Court dismissed the lawsuit with no actions pending.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### **9. Paycheck Protection Program loan recognized:**

In January 2021, the Company received \$59,467 under the United States Small Business Administration's (SBA) Paycheck Protection Program (PPP). The PPP funding is legally structured as a forgivable loan by the SBA. In order to achieve forgiveness of the loan, the Company must spend the funding for specific purposes and also must generally maintain its full-time equivalent level of staffing over a defined time period. The Company's PPP funding received formal forgiveness in December of 2021.

#### **10. Going concern and management plans:**

The Company generated losses of approximately \$245,000 and \$200,000 during 2022 and 2021, respectively. Working capital deficits of approximately \$489,000 and \$410,000 exist at December 31, 2022 and 2021, respectively. Cash flows used in operations were approximately \$202,000 and \$151,000 at December 31, 2022 and 2021, respectively.

These factors raise substantial doubt about the Company's ability to continue as a going concern. The Company has performed an evaluation of these financial factors and world events in conjunction with developing management action plans to mitigate any substantial doubt about the Company's ability to continue as a going concern within one year after the date that these financial statements were available to be issued. The considerations include the following:

The members continue to provide capital funding as needed throughout the startup phase of the franchise's development and expansion. During 2022, the members contributed capital of \$250,000.

The Company obtained a working capital line of credit totaling \$100,000 in October 2019. This was increased to \$250,000 in April 2023.

The operating loss in 2022 was primarily due to the higher than normal professional fees related to a contingency which was dismissed in June 2023, in favor of the Company, and to a lesser extent lingering effects from the COVID-19 pandemic. The Company continued to support their franchisees through the development of a virtual platform to enable continued servicing of clients. All 24 centers continued to operate and grow their center's sales; there was one closure in 2022, but also an opening. The Company's comparable franchise center's sales for the year increased by 17% as compared to 2021. The total franchise system center's sales for the year increased by 19% over 2021.

Additionally, the Company continues to focus on franchise development to source new franchisees and increased salaries to support the infrastructure related to this planned growth. Royalties for the year increased by \$63,000 or 14%. Royalties have increased year over year for the past five years and are expected to continue into 2023.

## *INFINITY HEALTH ADVISORS, LLC*

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2022 AND 2021

#### **10. Going concern and management plans (continued):**

The Company sold one additional franchise in Farmington Valley, CT which opened in January 2023 for \$45,000. Additionally, as disclosed in Note 4, Concentrations, the Company has entered into an agreement with a third party in Dallas, Texas, to open additional franchise locations. The Company anticipates three additional locations to open in 2023 or 2024 which will also provide for an increase in royalty income for the Company during 2023 and 2024. The members will continue to provide capital funding as needed throughout 2023 and beyond

Management believes based on their analysis, including the above noted items, that the Company will be able to continue as a going concern. No adjustments have been made to the assets or liabilities included in these financial statements to reflect adjustments that might be necessary should the Company be unable to continue as a going concern.

#### **11. Subsequent events:**

The Company increased the working capital line of credit to \$250,000 in May 2023. IHA Distribution is also named as a borrower and guarantor on the new line of credit agreement.

The Company has evaluated subsequent events through July 14, 2023, the date which the financial statements were available to be issued.

**INFINITY HEALTH ADVISORS, LLC**

**YEARS ENDED  
DECEMBER 31, 2021 AND 2020**



CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS ADVISORS

A Professional Corporation

# ***INFINITY HEALTH ADVISORS, LLC***

YEARS ENDED DECEMBER 31, 2021 AND 2020

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## Independent Auditor's Report

Members  
Infinity Health Advisors, LLC  
Lancaster, Pennsylvania

### **Opinion**

We have audited the accompanying financial statements of Infinity Health Advisors, LLC (a Limited Liability Company), which comprise the balance sheets as of December 31, 2021 and 2020 and the related statements of loss, members' deficit and cash flows for the years then ended and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Infinity Health Advisors, LLC as of December 31, 2021 and 2020, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Infinity Health Advisors, LLC and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Infinity Health Advisors, LLC's ability to continue as a going concern for one year after the date the financial statements are issued.

## Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not absolute assurance; and therefore, is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users made on the basis of these financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Infinity Health Advisors, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Infinity Health Advisors, LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings and certain internal control related matters that we identified during the audit.



Lancaster, Pennsylvania  
April 29, 2022

***INFINITY HEALTH ADVISORS, LLC***

BALANCE SHEETS  
DECEMBER 31, 2021 AND 2020

	<u>2021</u>	<u>2020</u>
ASSETS		
<b>Current assets:</b>		
Cash	\$ 39,639	
Accounts receivable	50,621	\$ 44,085
Prepaid expenses	11,754	19,270
Deferred broker fees	131,750	30,000
<b>Total current assets</b>	<b>233,764</b>	<b>93,355</b>
Property and equipment, net of accumulated depreciation of \$55,449 and \$43,964 in 2021 and 2020, respectively	41,460	44,784
<b>Other assets:</b>		
Trademark costs	14,183	14,183
Franchise agreement, net of accumulated amortization of \$6,867 in 2021 and 2020	27,133	27,133
Deposits	1,500	1,500
<b>Total assets</b>	<b>\$ 318,040</b>	<b>\$ 180,955</b>
LIABILITIES AND MEMBERS' DEFICIT		
<b>Current liabilities:</b>		
Cash overdraft		\$ 10,348
Trade payables	\$ 208,995	151,654
Related party payables	8,451	5,124
Line of credit		50,659
Accrued expenses	10,368	14,037
Deferred revenue	410,000	270,000
Current portion of notes payable, related parties	5,771	7,327
<b>Total current liabilities</b>	<b>643,585</b>	<b>509,149</b>
Long-term portion of notes payable, related parties		5,771
Members' deficit	(325,545)	(333,965)
<b>Total liabilities and members' deficit</b>	<b>\$ 318,040</b>	<b>\$ 180,955</b>

See notes to financial statements.



***INFINITY HEALTH ADVISORS, LLC***

STATEMENTS OF LOSS  
YEARS ENDED DECEMBER 31, 2021 AND 2020

	<u>2021</u>	<u>2020</u>
<b>Revenue:</b>		
Ad Fund fees	\$ 81,215	\$ 57,488
Initial franchise fees	35,000	70,000
Royalties and other fees	<u>575,157</u>	<u>421,027</u>
<b>Total revenue</b>	<b><u>691,372</u></b>	<b><u>548,515</u></b>
<b>General and administrative expenses:</b>		
Advertising and promotion	58,695	55,010
Bad debts	2,006	
Commissions and broker fees	7,500	24,915
Computer and subscription fees	72,488	75,164
Depreciation and amortization	11,485	10,777
Dues and memberships	18,865	18,672
Insurance	19,147	10,779
Interest	1,825	3,981
Miscellaneous	3,514	1,029
Office expenses	49,396	53,194
Professional fees	418,216	308,390
Rent	22,936	23,724
Salaries and payroll taxes	143,004	149,263
Travel, meals and entertainment	46,526	33,684
Taxes	660	314
Utilities	1,064	979
Website and intranet costs	<u>73,216</u>	<u>48,674</u>
<b>Total general and administrative expenses</b>	<b><u>950,543</u></b>	<b><u>818,549</u></b>
Other income, PPP loan forgiven	<u>59,467</u>	<u>57,660</u>
<b>Net loss</b>	<b><u><u>\$ (199,704)</u></u></b>	<b><u><u>\$ (212,374)</u></u></b>

See notes to financial statements.

***INFINITY HEALTH ADVISORS, LLC***

STATEMENTS OF MEMBERS' DEFICIT  
YEARS ENDED DECEMBER 31, 2021 AND 2020

<b>Members' deficit, January 1, 2020</b>	<b>\$ (311,591)</b>
Capital contribution	190,000
Net loss	<u>(212,374)</u>
<b>Members' deficit, December 31, 2020</b>	<b>(333,965)</b>
Member distribution	(1,876)
Capital contribution	210,000
Net loss	<u>(199,704)</u>
<b>Members' deficit, December 31, 2021</b>	<b><u><u>\$ (325,545)</u></u></b>

See notes to financial statements.

***INFINITY HEALTH ADVISORS, LLC***

STATEMENTS OF CASH FLOWS  
YEARS ENDED DECEMBER 31, 2021 AND 2020

	<u>2021</u>	<u>2020</u>
<b>Cash flows from operating activities:</b>		
Net loss	<u>\$ (199,704)</u>	<u>\$ (212,374)</u>
Adjustments:		
Depreciation and amortization	11,485	10,777
Changes in assets and liabilities:		
Gain on extinguishment of debt	(59,467)	(57,660)
Accounts receivable, trade	(6,536)	(6,489)
Deferred broker fees	(101,750)	19,915
Prepaid expenses	7,516	6,428
Accounts payable and accrued expenses	53,672	60,531
Deferred revenue	140,000	(20,000)
Related party payable	<u>3,327</u>	<u>(4,114)</u>
Total adjustments	<u>48,247</u>	<u>9,388</u>
<b>Net cash used in operating activities</b>	<u><b>(151,457)</b></u>	<u><b>(202,986)</b></u>
<b>Cash flows used in investing activities, purchase of property and equipment</b>	<u><b>(8,161)</b></u>	<u><b>(1,964)</b></u>
<b>Cash flows from financing activities:</b>		
Line of credit, repayments	(50,659)	
Cash overdraft	(10,348)	10,348
Notes payable, related parties, repayments	(7,327)	(70,692)
Borrows of long-term debt	59,467	57,660
Member capital contributions	210,000	190,000
Member distribution	<u>(1,876)</u>	
<b>Net cash provided by financing activities</b>	<u><b>199,257</b></u>	<u><b>187,316</b></u>

(continued)

***INFINITY HEALTH ADVISORS, LLC***

STATEMENTS OF CASH FLOWS (CONTINUED)  
YEARS ENDED DECEMBER 31, 2021 AND 2020

	<u>2021</u>	<u>2020</u>
<b>Net change in cash and cash equivalents</b>	<b>\$ 39,639</b>	<b>\$ (17,634)</b>
<b>Cash and cash equivalents:</b>		
Beginning	<u>                    </u>	<u>17,634</u>
<b>Ending</b>	<b><u>\$ 39,639</u></b>	<b><u>\$ -</u></b>
Supplemental cash flow information:		
Cash payments for interest	\$ 2,006	\$ 4,232
Supplemental noncash financing activities:		
Forgiveness of the Paycheck Protection Program (PPP) loans	59,467	57,660

See notes to financial statements.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **1. Nature of business and summary of significant accounting policies:**

##### *Nature of business:*

Infinity Health Advisors, LLC (the Company) was formed on May 2, 2013, in Lancaster, Pennsylvania. The Company is primarily engaged in the franchising of *BeBalanced Hormone Weight Loss Centers* (BeBalanced) nationally.

The Company is owned by two related individuals and Infinity Health, LLC, which is operated by the minority owner. The Company has entered into an agreement with Infinity Health, LLC whereby the Company is granted the right to operate as the exclusive marketer for the proprietary products and system integral to the Becoming Balanced Hormone Metabolic Correction Program. See Note 2 for the terms of the contract. The authorized territory covers the United States.

##### *Estimates:*

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. In times of economic disruption when uncertainty regarding future economic conditions is heightened, these estimates and assumptions are subject to greater variability. The Company is currently subject to risks and uncertainties resulting from the novel coronavirus (COVID-19) pandemic, which had a negative impact on results of operations in 2020. The impacts of COVID-19 are likely to continue to impact results of operations. As a result, actual results could differ from the estimates and assumptions made that could affect the amounts reported in the financial statements and accompanying notes, and such differences may be material.

##### *Revenue recognition:*

The Company accounts for the sales of franchises when both parties have approved the contract and are committed to perform their respective obligations, each party's rights are identified, payment terms can be identified, the contract has legal substance and it is at least probable that the Company will collect the consideration to which it is entitled. Judgment is required in instances where the Company's contracts include multiple services to determine whether each should be accounted for as a separate performance obligation. The Company enters into contracts that include various combinations of services, each of which is generally capable of being distinct, as well as distinct within the context of the contracts.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Initial franchise fee:*

The Company executes franchise agreements licensing certain trade names, trademarks and service marks of BeBalanced. When an individual franchise is sold, the Company agrees to provide certain services to the franchisee, including an initial management training program, the loaned use of an operations manual, assistance with site selection and advertising programs. The franchise agreements require the franchisee to pay an initial franchise fee as consideration for these services. The initial fee is typically paid prior to services being provided. As a practical expedient, these pre-opening services provided to the franchisee are recognized as a single performance obligation. The initial franchise fee is recognized as revenue at the point in time the pre-opening services are complete, which generally aligns with the franchise opening.

Contract liabilities include “Deferred revenue,” which represents initial fees collected on franchises not yet opened. Contract liabilities are classified as current as the revenue is generally expected to be recognized in one year from the balance sheet date. “Deferred broker fees” represent fees paid related to franchise agreements that have not been recognized as revenue at year end.

The revenue recognized represents the opening of one of the Company’s franchises in 2021 and three in 2020. During 2021, initial franchise fees and other fees totaling \$45,000 were recognized from the deferred revenue reported at December 31, 2020. Deferred revenue totaling \$410,000 at December 31, 2021 represents the initial franchise fee for the one initial franchise outlet and advance deposit fees for additional outlets. There were 24 and 23 franchised outlets in operation at December 31, 2021 and 2020, respectively.

The Company does not finance the initial franchise fee in whole or in part on behalf of the franchisees.

##### *Contract assets and liabilities:*

The beginning and ending contract balances were as follows:

	Accounts receivable, including retainage		Deferred broker fees		Deferred revenue	
	2021	2020	2021	2020	2021	2020
Beginning of year	\$ 44,085	\$ 37,596	\$ 30,000	\$ 49,915	\$ 270,000	\$ 290,000
End of year	50,621	44,085	131,750	30,000	410,000	270,000

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Royalty fees:*

The franchise agreements require the franchisee to pay monthly royalty fees as consideration for continuous access to the intellectual property of BeBalanced. Royalty revenue is based upon a percentage of the franchise's monthly gross sales and is variable. Franchise royalty revenue is earned over a period of time as services are provided.

##### *Ad Fund:*

The Company has established an Advertising Fund charging franchisees sales-based contributions to the fund. The advertising fund contributions are not for distinct services, and the Company has the control over the use and direction of the funds in accordance with the franchise agreements. These contributions are recognized over time as sales occur and are reported at gross as part of revenue. The advertising fund is maintained in a separate checking account, and expenses paid from the ad fund are charged to advertising and promotion expense in the period in which they are incurred.

##### *Technology fee income:*

The Company charges a flat monthly technology support fee. The fee is used towards a cloud-based POS system with scheduling and integrated email marketing software, ongoing website and search engine optimizations and landing page and email maintenance. The payments received from franchisees do not fully cover the cost of providing these services. The technology expenses are incurred on a monthly basis and recorded as expense. The technology fee income is billed with the monthly royalty fee and recognized gross, in the period they are billed for.

##### *Trade accounts receivable:*

Trade accounts receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance. There were no amounts to be reserved in 2021 or 2020.

##### *Franchise agreement:*

Costs incurred to develop the Company's franchise agreement have been capitalized and were being amortized over its estimated useful life through September 2033 (the initial period that the Company was provided the exclusive distribution rights to the program). There was no amortization expense recorded for this agreement in 2021 and 2020. See Note 2 for new distribution agreement with indefinite useful life.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Trademark:*

The Company has incurred costs related to obtaining the trademark for “BeBalanced” (the business) and “Becoming Balanced” (the Hormone Weight Loss Program). The costs have been capitalized and reported as an indefinite life intangible asset.

##### *Long-lived assets:*

Long-lived assets to be held and used are reviewed for impairment whenever events or changes in circumstances indicate that the related carrying amount may not be recoverable. When required, impairment losses on assets to be held and used are recognized based on the fair value of the asset, and long-lived assets to be disposed of are reported at the lower of carrying amount or net realizable value. No such impairments were incurred in 2021 or 2020.

##### *Advertising costs:*

Advertising costs are charged to operations as incurred. Advertising expense for the years ended December 31, 2021 and 2020 was \$58,695 and \$55,010, respectively.

##### *Income taxes:*

The Company is treated as a partnership for income tax purposes. Profits, losses and tax credits are shown on the members' individual income tax returns; therefore, no provision has been made for federal or state income taxes.

##### *Variable interest entities:*

In accordance with Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) 2018-17 to ASC 810, *Consolidation of Variable Interest Entities*, the Company has determined that Infinity Health, LLC and IHA Distribution, LLC, as described in Note 2, does not require consolidation as variable interest entities.



## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **1. Nature of business and summary of significant accounting policies (continued):**

##### *Recently issued accounting standards:*

FASB ASU 2016-02, *Leases*, is effective for the Company's December 31, 2022 year end and requires that all leases with terms of more than 12 months be recognized as assets and liabilities on the balance sheet. Recognition of these lease assets and lease liabilities represents a change from previous generally accepted accounting principles (GAAP), which did not require lease assets and lease liabilities to be recognized for operating leases. Qualitative disclosures, along with specific quantitative disclosures, will be required to provide enough information to supplement the amounts recorded in the financial statements so that users can understand more about the nature of an entity's leasing activities.

The Company will be required to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach, which includes a number of optional practical expedients that the Company may elect to apply. At adoption, the Company will recognize a right-of-use asset and a lease liability initially measured at the present value of its operating lease payments. The Company is currently evaluating the impacts of adopting this guidance on its financial position, results of operations and cash flows.

#### **2. Related party transactions:**

##### *Infinity Health, LLC:*

The Company, under the exclusive master distribution agreement with Infinity Health, LLC, an entity related by common ownership, agrees to compensate Infinity Health, LLC \$50,000 per year for 20 years, to be paid in each year where the combined adjusted net income of the Company and IHA Distribution, LLC is equal to or greater than \$1,000,000. The cumulative amount of compensation related to this agreement, which is not paid to Infinity Health, LLC, will be paid based on an agreed-upon formula at a future date only if the Becoming Balanced Hormonal Weight Loss Program is sold to a third party at predetermined amounts. The agreement provides the Company with the exclusive rights to market the Becoming Balanced Hormonal Weight Loss Program and to distribute the products integral to the program for an initial period of 20 years.

##### *IHA Distribution, LLC:*

IHA Distribution, LLC (IHA Distribution) is a company under common control as it is owned by the same related individuals as the Company. It was formed by the Company to fulfill the distribution and management of the products integral to the program on behalf of the Company's exclusive distribution agreement (See additional disclosures in Note 6). IHA Distribution obtained an SBA loan totaling \$150,000 in 2020. The loan, which requires monthly payments of \$731 for a period of 30 years is secured by the assets including inventory of IHA Distribution. The loan balance was \$144,833 and \$150,000 at December 31, 2021 and 2020, respectively.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **2. Related party transactions (continued):**

##### *IHA Distribution, LLC:*

The Company was reimbursed by IHA Distribution for the costs of shared personnel and administrative expenses totaling \$698,938 and \$586,279 for 2021 and 2020, respectively. Additionally, IHA Distribution provided cash to the Company to assist in meeting the Company's cash flow needs. The net amount resulted in a payable due to IHA Distribution from the Company of \$8,451 and \$5,124 at December 31, 2021 and 2020, respectively.

##### *Notes payable, members:*

The Company also has notes payable to members fully described in Note 5, notes payable, related parties.

#### **3. Concentrations:**

The Company has entered into an agreement with a third party in the Dallas, Texas, geographic region of the United States to open three BeBalanced locations plus an option for the right to acquire additional franchises in the future. The full option fee of \$100,000 has been paid and the third party is anticipating opening additional franchises in 2022, in addition to the two franchises which were opened in 2020 and a third franchise which was opened in 2021. The Company recognized \$30,000 and \$60,000 of prior deferred revenue in 2021 and 2020, respectively.

#### **4. Line of credit:**

The Company obtained a working capital line of credit totaling \$100,000 in October 2019 with a commercial bank. The line is payable on demand and is subject to annual renewal. The line bears interest at the bank's prime rate plus 1%, with a floor of 4%. The rate at December 31, 2021 was 4.25%. The line is secured by the Company's assets and is also guaranteed by IHA Distribution, LLC and the majority shareholder. There were no borrowings on the line of credit at December 31, 2021. Borrowings on this line of credit was \$50,659 at December 31, 2020.

#### **5. Notes payable, related parties:**

The minority owner advanced \$120,000 to the Company under a 20-year revolving loan. During 2020, the loan was paid in full.

The Company assumed a loan from the majority owner used to finance the purchase of a vehicle used in the business. The loan, which is due September 2022, is payable in monthly installments of \$657 with an interest rate of 5.75%. The balance outstanding at December 31, 2021 totaled \$5,771.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **6. Commitments:**

The Company leases office space under an operating lease with an expiration in February 2022. Under the terms of this lease, the first four months the Company had possession of the property, there was no base rent assessed. The lease was renewed for an additional five-year term through February 2027 at a monthly base rent, plus CAM, totaling \$4,735. Rent expense recognized on a straight-line basis was \$47,355 for 2021 and 2020. A portion of this rent was shared with IHA Distribution for both 2021 and 2020.

Future minimum rental obligations under the noncancelable lease, including common area maintenance charges, at December 31, 2021 were as follows:

<u>Year</u>	<u>Amount</u>
2022	\$ 56,370
2023	57,101
2024	57,439
2025	59,849
2026	60,602
Thereafter	<u>10,100</u>
	<u><u>\$ 301,461</u></u>

In 2021, total gross rents were \$50,966, of which \$25,483 were shared with related party IHA Distribution. In 2020, total gross rents were \$49,406, of which \$24,703 were shared with related party IHA Distribution.

The Company has an agreement whereby they acquired the exclusive right, title and interest in certain products related to the Be Balanced Hormonal Weight Loss Program from an unrelated company. The rights in the product were received in exchange for an exclusive limited license to manufacture and sell the products to the Company. The agreement requires that the Company purchase specified quantities on a predetermined scale with a final payment of \$10,000 at the termination or expiration of the agreement. Currently, the Company has designated IHA Distribution as the distributor of the product. IHA Distribution has made purchases of the product in excess of the requirements under the agreement with no anticipated reductions in future periods.

#### **7. Contingencies:**

The minority owner of the Company filed a lawsuit against the Company and its majority owner and CEO asserting copyright infringement and other claims. The management of the Company believes the lawsuit to be meritless and have filed a motion to dismiss the claim. The motion to dismiss is pending with the court. While the ultimate outcome of this matter is not presently determinable, it is the opinion of management that the resolution of the outstanding claim will not have a material adverse effect on the financial position or results of operations of the Company.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **8. Paycheck Protection Program loan recognized:**

In April 2020 and January 2021, the Company secured and received funding totaling \$57,660 and \$59,467, respectively, under the United States Small Business Administration's (SBA) Paycheck Protection Program (PPP). The PPP funding is legally structured as a forgivable loan by the SBA. In order to achieve forgiveness of the loan, the Company must spend the funding for specific purposes and also must generally maintain its full-time equivalent level of staffing over a defined time period. The Company received notice that the applications were reviewed, and all amounts were forgiven.

#### **9. Going concern and management plans:**

The Company generated losses of approximately \$200,000 and \$212,000 during 2021 and 2020, respectively. Working capital deficits of approximately \$410,000 and \$416,000 exist at December 31, 2021 and 2020, respectively. Also, as disclosed previously, in December 2019, the Company is subject to risks and uncertainties resulting from the novel strain of coronavirus (COVID-19) pandemic. Whereas most state and local governments have eased restrictions on commercial activity, it is possible that a resurgence in COVID-19 cases could prompt a return to tighter restrictions in certain areas of the country. Therefore, the extent of the impact of COVID-19 on the Company's operational and financial performance will depend on future developments, including the duration and spread of the outbreak, related travel advisories and restrictions and the impact of COVID-19 on overall demand for the Company's services, all of which are highly uncertain and cannot be predicted.

These factors raise substantial doubt about the Company's ability to continue as a going concern. The Company has performed an evaluation of these financial factors and world events in conjunction with developing management action plans to mitigate any substantial doubt about the Company's ability to continue as a going concern within one year after the date that these financial statements were available to be issued. The considerations include the following:

The members continue to provide capital funding as needed throughout the startup phase of the franchise's development and expansion. During 2021, the members contributed capital of \$210,000, resulting in a net increase in the members' deficit of \$4,250 as of December 31, 2021.

The operating loss in 2021 was primarily due to the higher than normal professional fees related to a contingency which is in process, and is anticipated to reach a settlement in favor of the Company in 2022, and to a lesser extent lingering effects from the COVID-19 pandemic. The Company continued to support their franchisees through the development of a virtual platform to enable continued servicing of clients. All 24 centers continued to operate and grow their center's sales; there were no closures in 2021. The Company's comparable franchise centers sales for the year increased by 21% as compared to 2020. The total franchise system centers sales for the year increased by 29% over 2020.

## ***INFINITY HEALTH ADVISORS, LLC***

### NOTES TO FINANCIAL STATEMENTS YEARS ENDED DECEMBER 31, 2021 AND 2020

#### **9. Going concern and management plans (continued):**

Additionally, the Company continues to focus on franchise development to source new franchisees and increased salaries to support the infrastructure related to this planned growth. Royalties for the year increased by \$123,000 or 37%. Royalties have increased year over year for the past five years and are expected to continue into 2022.

The Company sold three additional franchises in San Antonio, Texas in 2021 for a total of \$110,000 and Harford, Connecticut for \$45,000. Additionally, as disclosed in the Note 3, concentrations, the Company has entered into an agreement with a third party in Dallas, Texas, to open additional franchise locations. We anticipate three additional locations to open in 2022 which will also provide for an increase in royalty income for the Company during 2022.

Management believes based on their analysis, including the above noted items, that the Company will be able to continue as a going concern. No adjustments have been made to the assets or liabilities included in these financial statements to reflect adjustments that might be necessary should the Company be unable to continue as a going concern.

#### **10. Subsequent events:**

The Company has evaluated subsequent events through April 29, 2022, the date which the financial statements were available to be issued.

**THESE FINANCIAL STATEMENTS ARE PREPARED  
WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES  
OR SELLERS OF FRANCHISES SHOULD BE ADVISED  
THAT NO CERTIFIED PUBLIC ACCOUNTANT HAD  
AUDITED THESE FIGURES OR EXPRESSED HIS/HER  
OPINION WITH REGARD TO THE CONTENT OR FORM.**

INFINITY HEALTH ADVISORS, LLC  
BALANCE SHEET  
MAY 31, 2023

	2023 (unaudited)
<b>ASSETS</b>	
<b>Current assets:</b>	
Cash	\$ 8,153
Accounts Receivable	62,119
Prepaid Expenses	5,312
Deferred broker fees	-
<b>Total current assets</b>	<b>75,584</b>
Property and equipment, net of accumulated depreciation	75,729
<b>Other assets:</b>	
Trademark costs	14,183
Franchise agreement, net of accumulated amortization	27,133
Operating lease right-of use assets, net of Amortization	240,118
Deposits	1,500
<b>Total assets</b>	<b>\$ 434,247</b>
<b>LIABILITIES AND MEMBERS' DEFICIT</b>	
<b>Current liabilities:</b>	
Trade payables	\$ 391,064
Related party payables	27,898
Line of credit	75,000
Accrued expenses	(14,836)
Deferred revenue	210,000
Current portion of notes payable, related parties	-
<b>Total current liabilities</b>	<b>689,126</b>
<b>Long Term Operating Lease Liabilities</b>	<b>184,038</b>
Members' deficit	(438,917)
<b>Total liabilities and members' deficit</b>	<b>\$ 434,247</b>

INFINITY HEALTH ADVISORS, LLC  
STATEMENT OF LOSS  
FIVE MONTHS ENDED MAY 31, 2023

	2023 (unaudited)
<b>Revenue:</b>	
Ad Fund fees	\$ 37,077
Initial franchise fees	45,000
Royalties and other fees	<u>246,378</u>
<b>Total revenue</b>	<b>328,455</b>
<b>General and administrative expenses:</b>	
Advertising and promotion	41,105
Bad debts	-
Commissions and broker fees	32,250
Computer and subscription fees	41,502
Depreciation and amortization	-
Dues and memberships	5,236
Insurance	22,981
Interest	-
Miscellaneous	526
Office expenses	25,713
Professional Fees	160,830
Rent	11,856
Salaries and payroll taxes	83,562
Travel, meals and entertainment	34,306
Taxes	175
Utilities	542
Website and intranet costs	<u>36,667</u>
<b>Total general and administrative expenses</b>	<b><u>497,251</u></b>
<b>Net loss</b>	<b><u>\$ (168,796)</u></b>



## **EXHIBIT E**

### **OPERATIONS MANUAL TABLE OF CONTENTS**

#### **INFINITY HEALTH ADVISORS, LLC BEBALANCED NATURAL WEIGHT LOSS CENTERS**

#### **OPERATIONS MANUAL TABLE OF CONTENTS**

##### **A – Pre-Opening Manual**

<u>Section</u>	<u>Page</u>	
Overview	6	(7 pages)
Financial/Legal	14	(23 pages)
Licenses, Permits & Taxes		
Insurance		
Bank Accounts		
Site Selection		
Ordering	38	(37 pages)
Signage		
Required Fixtures and Furniture		
System Requirements		
Initial Inventory and Supplies		
Training	77	(5 pages)
Initial Training		
Staff Training		
Launch	83	(9 pages)
Soft Open		
Grand Opening		
Pre-Opening Marketing Plan		
Appendix: Pre-Opening Checklist	92	(2 pages)

##### **B – Franchisee Manual**

<u>Section</u>	<u>Page</u>	
Overview	6	(19 pages)
Customer Policies and Procedures	28	(13 pages)
Sales Procedures	41	(44 pages)
Service Procedures	85	(12 pages)
Opening and Closing Procedures	97	(2 pages)
Required Cleaning and Maintenance	99	(2 pages)
Safety and Security	101	(3 pages)
Monitoring and Reporting	104	(20 pages)
Marketing	125	(45 pages)

## C – Recommendations

<u>Section</u>	<u>Page</u>
Employment Overview	8 (24 pages)
Employment Law Overview	33 (9 pages)
Building Your Team	43 (6 pages)
Recruitment Process	50 (6 pages)
Interview Process	57 (9 pages)
Onboarding Process	67 (9 pages)
Staff Training	77 (6 pages)
Staff Performance	84 (8 pages)
Disciplinary Process	93 (4 pages)
Termination	98 (6 pages)
Providing References	105 (2 pages)
Appendix	108 (27 pages)
Total Pages	359

## EXHIBIT F

### LIST OF CURRENT FRANCHISEES AND FORMER FRANCHISEES

#### CURRENT FRANCHISEES

(as of December 31, 2022)

<b>Arizona</b>	
<i>Scottsdale</i> Marlz, Inc. 10893 North Scottsdale Road, Suite 105 Scottsdale, Arizona 85254 480-607-8187	
<b>California</b>	
<i>Pismo Beach</i> C&P Proactive Health Solutions, LLC 2 James Way, Suite 205 Pismo Beach, California 93449 408-334-9191	
<b>Florida</b>	
<i>Lake Mary</i> SDW Solutions, Inc. 4261 West Lake Mary Boulevard Lake Mary, Florida 32746 407-573-2466	<i>Ormond Beach</i> SDW Solutions, Inc. 1185 West Granada Boulevard, Suite 3 Ormond Beach, Florida 32174 386-317-2549
<b>Maryland</b>	
<i>Crownsville</i> The Wellness Journey, LLC 1321 Generals Highway, Suite 101A Crownsville, Maryland 21032 410-923-7200	
<b>Minnesota</b>	
<i>Minnetonka</i> LP Health and Wellness, L.L.C. 15612 Highway 7, Door D, Suite 252 Minnetonka, Minnesota 55345 952-938-3748	
<b>New York</b>	
<i>Rochester</i> SMQ Wellness LLC 2170 West Ridge Road Rochester, New York 14626 585-206-7000	
<b>Pennsylvania</b>	
<i>Blue Bell</i> McRino Group, LLC Shoppes at Village Square 708 Dekalb Pike Blue Bell, Pennsylvania 19422 610-239-8888	<i>Bryn Mawr</i> JAR Corporation 1041 West Lancaster Avenue Bryn Mawr, Pennsylvania 19010 610-525-0555

<i>Canonsburg</i> Kate Kelleher 4120 Washington Road Canonsburg, Pennsylvania 15317 724-690-0003	<i>Collegeville</i> BeFabulous, LLC 305 2nd Avenue, Suite 203A Collegeville, Pennsylvania 19426 610-968-2322
<i>Erie</i> Denise Horton Enterprises, LLC 5031 Peach Street, Unit A-4 Erie, Pennsylvania 16509 814-636-5081	<i>Harrisburg</i> BBP, Ltd. 4813 Jonestown Road, Suite 105 Harrisburg, Pennsylvania 17109 717-673-7046
<i>Harrisburg West</i> BBP, Ltd. 3812 Market Street Camp Hill, Pennsylvania 17011 717-673-7046	<i>Murrysville</i> SG Convergence Capital, LLC 302 Blue Spruce Way Murrysville, Pennsylvania 15668 724-690-0001
<i>West Chester</i> Linro Enterprises 1385 Dilworthtown Crossing West Chester, Pennsylvania 19382 484-999-2133	<i>Wexford</i> SG Convergence Capital, LLC 10339 Perry Highway Wexford, Pennsylvania 15090 724-690-0002
<i>Wyomissing</i> Linro Enterprises 90 Commerce Drive Wyomissing, Pennsylvania 19610 610-750-5158	<i>York</i> BBP, Ltd. 2331 East Market Street York, Pennsylvania 17402 717-673-7046
<b>Texas</b>	
<i>Dallas</i> Women in Balance, Texas LLC 6131 Luther Lane Dallas, Texas 75225 214-730-0153	<i>Frisco</i> Paradigm Development Holdings, LLC 3290 Main Street, Suite 204 Frisco, Texas 75034 214-308-9974
<i>McKinney</i> Paradigm Development Holdings, LLC 3610 West University Drive, Suite 150 McKinney, Texas 75071 214-592-8889	<i>West Plano</i> Paradigm Development Holdings, LLC 7130 Preston Road, 200 Plano, Texas 75024 817-899-5110
<b>Virginia</b>	
<i>Leesburg</i> Balanced Investments, Inc. 221 Crescent Station Terrace SE Leesburg, Virginia 20175 571-258-4782	

**Franchise Agreements signed before December 31, 2022, but outlets not yet open:**

<b>California</b>	
Bher Wellness Co. TBD, Woodland Hills, CA 860-470-4274	

<b>Connecticut</b>	
SR Wellness, LLC Shawn and Rhonda Peter 813-494-2209	
<b>Texas</b>	
DTS Wellness, LLC* Dana Hernandez/Scott Villareal 210-883-5778	

**\*Multi-Unit Developer**

**FORMER FRANCHISEES**  
(as of December 31, 2022)

<b>New York</b>	
JK2 Women's Services, LLC Kim Petry 7 Fenimore Avenue Garden City, New York 11530 516-941-0237	

## **EXHIBIT G**

### **STATE ADDENDA**

#### **ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT** **REQUIRED BY THE STATE OF CALIFORNIA**

The Department of Financial Protection and Innovation for the State of California requires that certain provisions contained in franchise documents be amended to be consistent with California Franchise Investment Law, Cal. Corp. Code Section 31000 et seq., and of the Rules and Regulations promulgated thereunder. To the extent that this Disclosure Document contains provisions that are inconsistent with the following, such provisions are hereby amended.

1. The California Franchise Investment Law requires a copy of all proposed agreements relating to the sale of the franchise be delivered together with the franchise disclosure document.

2. Item 3 is amended to add:

The franchisor, any person or franchise broker in Item 2 of the FDD is (or not) subject to any currently effective order of any national securities association or national securities exchanges, as defined in the Securities Exchange Act of 1934, 16 U.S.C.A 78a et seq., suspending or expelling such persons from membership in such association or exchange.

3. OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION at [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

4. Item 5 is amended to add:

The Department of Financial Protection and Innovation requires that we defer the collection of all initial fees from California franchisees until we have completed all of our pre-opening obligations and you are open for business.

5. Item 17 is amended to state:

a. California Business and Professions Code 20000 through 20043 provide rights to the franchisee concerning transfer, termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

b. The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law. (11 U.S.C.A. Sec 101 et seq.).

c. The franchise agreement contains a covenant not to compete, which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

d. The franchise agreement contains a liquidated damages clauses. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

e. The franchise agreement requires binding arbitration. The arbitration will occur at Lancaster, Pennsylvania, with the costs being borne by each party. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

f. The franchise agreement requires application of the law of Pennsylvania. This provision may not be enforceable under California law.

6. Section 31125 of the California Corporations Code requires us to give you a disclosure document, in a form containing the information that the commissioner may be rule or order require, before a solicitation of a proposed material modification of an existing franchise.

7. You must sign a general release of claims if you renew or transfer your franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 Through 31516). Business and Professions Code Section 20010 Voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

8. The highest interest rate allowed by law in California is 10% annually.

9. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee (or developer) in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

10. The terms of Items 6, 11, 12, 17, and the Personal Guaranty have been negotiated with other franchisees. A copy of all Negotiated Sales Notices filed in California in the last twelve months is attached on the following page(s) of this Exhibit G.

STATE OF CALIFORNIA – DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
**FRANCHISE INVESTMENT LAW NOTICE OF NEGOTIATED SALE OF FRANCHISE**  
**UNDER SECTION 310.100.2, TITLE 10, CALIFORNIA CODE OF REGULATIONS**

DFPI-310.100.2 (Rev. 11-20)



Department of Financial Protection and Innovation

File No. app-24640

(Insert file-number of currently effective  
franchise registration)

STATE OF CALIFORNIA  
 DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

1. (a) Name of FILER: Infinity Health Advisors, LLC  
 (b) The above-named filer is filing as a (check one):  
☒ FRANCHISOR ☐ SUBFRANCHISOR  
 (c) If FILER is a SUBFRANCHISOR, the name of FRANCHISOR:
2. (a) Name of FRANCHISE: BeBalanced Hormone Weight Loss Center  
 (b) Contact Person: David Cutillo  
 (c) Address: 485 Royer Drive, Suite 102, Lancaster, PA, 17601  
  
 (d) Telephone: 800-361-8060
3. A. (a) Offering Circular Item Number: 6  
 (b) Description of Provisions in Currently Registered Offering Circular:  
Refresher Training Fee is \$2,000  
 (c) Description of Change: Refresher Training Fee is waived.
- B. (a) Offering Circular Item Number: 6 and 11  
 (b) Description of Provisions in Currently Registered Offering Circular:  
Advertising Fee is greater of 2% of gross sales and \$100, monthly  
 (c) Description of Change: Advertising Fee is greater of 1% of gross sales and \$100, monthly
- C. (a) Offering Circular Item Number: 6  
 (b) Description of Provisions in Currently Registered Offering Circular:  
Non-Compliance Fine is up to \$500 per incident  
 (c) Description of Change: No fines will be assessed.

(If additional space is needed, attach separate sheet (s) with respect to each additional item being changed using the above format)



STATE OF CALIFORNIA – DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

**FRANCHISE INVESTMENT LAW NOTICE OF NEGOTIATED SALE OF FRANCHISE  
UNDER SECTION 310.100.2, TITLE 10, CALIFORNIA CODE OF REGULATIONS**

DFPI-310.100.2 (Rev. 11-20) Page 2 of 2

4. Date of Sale of Negotiated Franchise: 3/5/2023

5. Name, title, business address and telephone number of individual to be contacted by the  
Department regarding this notice:

Name: David Cutillo

Title: Board Chairman and Director of Franchisor Development

Business Address: 485 Royer Drive, Suite 102, Lancaster, PA, 17601

Telephone: (800) 361-8060

6. Date of this notice : 3/13/2023

DocuSigned by:  
David Cutillo  
212AD336415B4A5...

Authorized Signature

David Cutillo

Printed Name of Signatory

CA Notice of Negotiated Sale (031323), continued

3.     D.     (a)     Offering Circular Item Number: 17  
              (b)     Description of Provisions in Currently Registered Offering Circular:  
                            Franchisee is offered one successor term of five years.  
              (c)     Description of Change:  
                            Franchisee has the option to renew for three additional five-year terms.
- E.     (a)     Offering Circular Item Number: 17  
              (b)     Description of Provisions in Currently Registered Offering Circular:  
                            Property lessor must agree not to enter into a lease at the premises with  
                            franchisee for a business offering the same or similar products and services  
                            within the building where the premises is located for the duration of the term or  
                            two years after termination or expiration.  
              (c)     Description of Change:  
                            This provision is deleted.
- F.     (a)     Offering Circular Item Number: 11  
              (b)     Description of Provisions in Currently Registered Offering Circular:  
                            Franchisee must apply for all permits and licenses within 30 calendar days  
                            following execution of the lease.  
              (c)     Description of Change:  
                            Franchisee must apply for all permits and licenses within 45 calendar days  
                            following execution of the lease.
- G.     (a)     Offering Circular Item Number: 6  
              (b)     Description of Provisions in Currently Registered Offering Circular:  
                            If any inspection or audit of franchisee's books uncovers an understatement of  
                            Gross Sales in excess of 2% of the correct amount, franchisee must bear the cost  
                            of the inspection or audit.  
              (c)     Description of Change:  
                            This provision is deleted.
- H.     (a)     Offering Circular Item Number: 6  
              (b)     Description of Provisions in Currently Registered Offering Circular:  
                            Franchisor can impose a Transfer Fee of 25% of the then-current initial franchise  
                            fee.  
              (c)     Description of Change:

This provision is deleted.

- I. (a) Offering Circular Item Number: 17
- (b) Description of Provisions in Currently Registered Offering Circular:

If Franchisee breaches the Franchise Agreement and the Franchise Agreement is terminated, Franchisee will pay damages the greater of (1) \$10,000; (2) an amount equal to the last six months' continuing fees; or (3) an amount equal to ½ of the last 12 months' continuing fees due and payable multiplied by the number of years (prorated for partial years) left in the term of the Franchise Agreement.
- (c) Description of Change:

Franchisee shall pay damages in an amount equal to the average of the last 12 months of royalty payments multiplied by the lesser of: (i) 12 and (ii) the number of months remaining in the Term.
- J. (a) Offering Circular Item Number: 6
- (b) Description of Provisions in Currently Registered Offering Circular:

Franchisee must reimburse Franchisor for any costs (including our attorneys' fees) if Franchisor is held liable for any claims arising from Franchisee's Franchised Business.
- (c) Description of Change:

If Franchisee prevails in any action against Franchisor for Franchisor's breach of the Franchise Agreement or breach of California franchise law, then Franchisee will receive and recover from Franchisor its reasonable attorneys' fees and costs.
- K. (a) Offering Circular Item Number: 17
- (b) Description of Provisions in Currently Registered Offering Circular

N/A
- (c) Description of Change:

The failure of either party to perform will not be considered a default during the period of any Force Majeure event.
- L. (a) Offering Circular Item Number: Exhibit E
- (b) Description of Provisions in Currently Registered Offering Circular

Guarantor is liable for all unpaid and owing Royalty Fees, Advertising Fees, or other regularly occurring payments due and owed to Franchisor.
- (c) Description of Change:

The personal liability of the individual franchisees is capped at \$24,000.
- M. (a) Offering Circular Item Number: 12

(b) Description of Provisions in Currently Registered Offering Circular

N/A

(c) Description of Change:

Franchisee is offered one location identified in the Franchise Agreement and the Right of First Refusal during the first 24 months of the Term to establish one or more additional BeBalanced Hormone Weight Loss Center Franchise(s) in any area sharing a border with the Territory.

**ADDENDUM TO THE FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF ILLINOIS**

Illinois law governs the agreements between the parties to this franchise.

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

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

Your right upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

The Fees section of the Franchise Agreement is amended to state all initial franchise fees are deferred until Franchisor has satisfied its pre-opening obligations to franchisee and the franchisee has commenced business operations. The Illinois Attorney General's Office imposed this deferral requirement due to Franchisor's financial condition.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee (or developer) in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

IN ILLINOIS, UNLICENSED INDIVIDUALS AND ENTITIES ARE PROHIBITED FROM OWNING, OPERATING AND MAINTAINING AN ESTABLISHMENT FOR THE STUDY, DIAGNOSIS AND TREATMENT OF HUMAN AILMENTS AND INJURIES, WHETHER PHYSICAL OR MENTAL. See Medical Corporation Act, 805 ILCS 15/2, (West 2016) and Medical Practice Act of 1987, 225 ILCS 60/ (West 2016).

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

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

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

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

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

PRINCIPALS:

\_\_\_\_\_

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

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

**ADDENDUM TO THE MULTI-UNIT DEVELOPMENT AGREEMENT**  
**REQUIRED BY THE STATE OF ILLINOIS**

Illinois law governs the agreements between the parties to this franchise.

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

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

Your right upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

The Fees section of the Multi-Unit Development Agreement is amended to state all initial franchise fees are deferred until Franchisor has satisfied its pre-opening obligations to franchisee and the franchisee has commenced business operations. The Illinois Attorney General's Office imposed this deferral requirement due to Franchisor's financial condition.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee (or developer) in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_\_

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:

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

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

**ADDENDUM FOR THE STATE OF INDIANA TO THE INFINITY HEALTH ADVISORS, LLC**  
**DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT, AND MULTI-UNIT**  
**DEVELOPMENT AGREEMENT**

1. To be added to Item 3 of the Disclosure Document, is the following statement:

There are presently no arbitration proceedings to which the Franchisor is a party.

2. Item 17 of the Disclosure Document is amended to reflect the requirement under Indiana Code 23-2-2.7-1 (9), which states that any post term non-compete covenant must not extend beyond the franchisee's exclusive territory.
3. Item 17 is amended to state that this is subject to Indiana Code 23-2-2.7-1(10).
4. Under Indiana Code 23-2-2.7-1 (10), jurisdiction and venue must be in Indiana if the franchisee so requests. This amends the appropriate sections of the Franchise Agreement and Multi-Unit Development Agreement.
5. Under Indiana Code 23-2-2.7-1 (10), franchisee may not agree to waive any claims or rights.

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_  
\_\_\_\_\_.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:

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

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



**ADDENDUM TO THE DISCLOSURE DOCUMENT**  
**REQUIRED BY THE STATE OF MARYLAND**

This will serve as the State Addendum for the State of Maryland for Infinity Health Advisors, LLC's Franchise Disclosure Document.

1. Item 17 of the Disclosure Document is amended to state that, pursuant to COMAR 02.02.08.16L, the general release required as a condition of renewal, sale and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
2. Item 17 of the Disclosure Document is amended to state that a franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
3. Item 17 of the Disclosure Document is amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.
4. Item 17 of the Disclosure Document is amended to state that the provisions in the Franchise Agreement and Multi-Unit Development Agreement which provide for termination upon bankruptcy of the franchisee/multi-unit developer may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).
5. Item 5 of the Disclosure Document is amended to state: "Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all development fees and initial payments by area developers shall be deferred until the first franchise under the development agreement opens."
6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO THE FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF MARYLAND**

This will serve as the State Addendum for the State of Maryland for Infinity Health Advisors, LLC's Franchise Agreement. The amendments to the Franchise Agreement included in this addendum have been agreed to by the parties.

1. The provisions in the Franchise Agreement which provide for termination upon bankruptcy of the franchisee may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).
2. The appropriate sections of the Franchise Agreement are amended to permit a franchisee to bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
3. The appropriate sections of the Franchise Agreement are amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

4. The appropriate sections of the Franchise Agreement are amended to state that, pursuant to COMAR 02.02.08.16L, the general release required as a condition of renewal, sale and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

5. The Franchise Agreement is amended to include the following statement: "All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law."

6. The Franchise Agreement provides that disputes are resolved through mediation and arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

7. The fees section of the Franchise Agreement is amended to state: "Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all development fees and initial payments by area developers shall be deferred until the first franchise under the development agreement opens."

8. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_\_.  
\_\_\_\_\_.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:

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

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

**ADDENDUM TO THE MULTI-UNIT DEVELOPMENT AGREEMENT**

## **REQUIRED BY THE STATE OF MARYLAND**

This will serve as the State Addendum for the State of Maryland for Infinity Health Advisors, LLC's Multi-Unit Development Agreement. The amendments to the Multi-Unit Development Agreement included in this addendum have been agreed to by the parties.

1. The provisions in the Multi-Unit Development Agreement which provide for termination upon bankruptcy of the multi-unit developer may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

2. The appropriate sections of the Multi-Unit Development Agreement are amended to permit a franchisee to bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

3. The appropriate sections of the Multi-Unit Development Agreement are amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

4. The appropriate sections of the Multi-Unit Development Agreement are amended to state that, pursuant to COMAR 02.02.08.16L, the general release required as a condition of renewal, sale and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

5. The Multi-Unit Development Agreement is amended to include the following statement: "All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law."

6. The Multi-Unit Development Agreement provides that disputes are resolved through mediation and arbitration. A Maryland franchise regulation states that it is an unfair or deceptive practice to require a franchisee to waive its right to file a lawsuit in Maryland claiming a violation of the Maryland Franchise Law. In light of the Federal Arbitration Act, there is some dispute as to whether this forum selection requirement is legally enforceable.

7. The fees section of the Multi-Unit Development Agreement is amended to state: "Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all development fees and initial payments by area developers shall be deferred until the first franchise under the development agreement opens."

8. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_\_.  
\_\_\_\_\_.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

**PRINCIPALS:**

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

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

## **ADDENDUM REQUIRED BY THE STATE OF MINNESOTA**

This addendum to the Disclosure Document is agreed to this day of \_\_\_\_\_, and effectively amends and revises said Disclosure Document, Franchise Agreement, and Multi-Unit Development Agreement as follows:

1. Item 13 of the Disclosure Document and the appropriate sections of the Franchise Agreement are amended by the addition of the following language to the original language that appears therein:

“In accordance with applicable requirements of Minnesota law, Franchisor shall protect Franchisee’s right to use the trademarks, service marks, trade names, logotypes or other commercial symbols and/or shall indemnify Franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding such use.”

2. Item 17 of the Disclosure Document and the appropriate sections of the Franchise Agreement are amended by the addition of the following language to the original language that appears therein:

“With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes Sec. 80C.14, Subds.3, 4 and 5, which require (except in certain specified cases) that a franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for non-renewal of the franchise agreement and that consent to the transfer of the franchise will not be unreasonably withheld.”

3. Item 17 of the Disclosure Document and the appropriate sections of the Franchise Agreement and Multi-Unit Development Agreement are amended by the addition of the following language to amend the Governing Law, Jurisdiction and Venue, and Choice of Forum sections:

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

4. Item 17 of the Disclosure Document and the appropriate sections of the Franchise Agreement are amended by the addition of the following language to the original language that appears therein:

“Minn. Rule 2860.4400D prohibits us from requiring you to assent to a general release.”

5. Item 17 of the Disclosure Document and the appropriate sections of the Franchise Agreement are hereby amended to the extent required by the following:

"Minnesota Statutes, Section 80C.21 and Minnesota Rule 2860.4400 (J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure document or agreement(s) can abrogate or reduce any of franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction."

6. Under Minn. Rule 2860.440J, the franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. A court will determine if a bond is required. The appropriate sections of the Franchise Agreement are hereby amended accordingly.

7. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_  
\_\_\_\_\_.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:

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

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

**ADDENDUM REQUIRED BY THE DEPARTMENT OF LAW OF THE STATE OF NEW YORK**

1. The following is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21ST FLOOR, NEW YORK, NEW YORK 10005. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added at the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added at the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. The following is added at the end of the “Summary” sections of Items 17(c), entitled, “**Requirements for you to renew or extend,**” and Item 17(m), entitled, “**Conditions for our approval of transfer.**”

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

6. The following language replaces the “Summary” section of Item 17(d), titled “**Termination by you**”:

You may terminate the agreement on any grounds available by law.

7. The following is added to the end of the “Summary” section of Item 17(j), titled “**Assignment of contract by us**”:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of forum,**” and Item 17(w), titled “**Choice of law**”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:



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

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

## **ADDENDUM REQUIRED BY THE COMMONWEALTH OF VIRGINIA**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Infinity Health Advisors, LLC for use in the Commonwealth of Virginia shall be amended as follows:

1. Additional Disclosure: The following statements are added to Item 17.h:

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the franchise agreement and development agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, the provision may not be enforceable.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Franchise Agreement involves the use of undue influence by the franchisor to induce a franchisee to surrender any rights given to him under the franchise, that provision may not be enforceable.

2. The Virginia State Corporation Commission’s Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by the franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement.

3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

### **Special Risks to Consider About *This* Franchise**

**Estimated Initial Investment.** The franchisee will be required to make an estimated initial investment ranging from \$155,650 to \$208,450. This amount exceeds the franchisor’s members equity as of December 31, 2022, which is (\$366,018).

The parties hereto have duly executed, sealed and delivered this Addendum dated this day of \_\_\_\_.

FRANCHISEE:

\_\_\_\_\_

FRANCHISOR:

INFINITY HEALTH ADVISORS, LLC

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

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

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

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

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

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

PRINCIPALS:

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

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

## EXHIBIT H

### ACKNOWLEDGEMENT STATEMENT

#### FRANCHISEE ACKNOWLEDGMENT STATEMENT

**\*\*NOT FOR USE IN CALIFORNIA AND MARYLAND\*\***

Acknowledgement of the truthfulness of the statements below are an inducement for the Franchisor to enter into a Franchise Agreement (or Multi-Unit Development Agreement). Notify Franchisor immediately, prior to acknowledgment, if any statement below is incomplete or incorrect.

**No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee (or developer) in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.**

1. Franchisee (or Developer) has conducted an independent investigation of all aspects relating to the financial, operational, and other aspects of the business of operating the Franchised Business. Franchisee (or Developer) further acknowledges that, except as may be set forth in Franchisor's Disclosure Document, no representations of performance (financial or otherwise) for the Franchised Business provided for in this Agreement has been made to Franchisee (or Developer) by Franchisor and Franchisee (or Developer) and any and all Principals hereby waive any claim against Franchisor for any business failure Franchisee (or Developer) may experience as a franchisee (or developer) under this Agreement.

\_\_\_\_\_  
Initial

2. Franchisee (or Developer) has conducted an independent investigation of the business contemplated by this Agreement and understands and acknowledges that the business contemplated by this Agreement involves business risks making the success of the venture largely dependent upon the business abilities and participation of Franchisee (or Developer) and its efforts as an independent business operation.

\_\_\_\_\_  
Initial

3. Franchisee (or Developer) agrees that no claims of success or failure have been made to it or him or her prior to signing the Franchise Agreement (or Multi-Unit Development Agreement) and that it/she/he understands all the terms and conditions of the Franchise Agreement (or Multi-Unit Development Agreement). Franchisee (or Developer) further acknowledges that the Franchise Agreement (or Multi-Unit Development Agreement) contains all oral and written agreements, representations, and arrangements between the parties hereto, and any rights which the respective parties hereto may have had under any other previous contracts are hereby cancelled and terminated, and that this Agreement cannot be changed or terminated orally.

---

Initial

4. Franchisee (or Developer) has no knowledge of any representations by Franchisor or its officers, directors, shareholders, employees, sales representatives, agents or servants, about the business contemplated by the Franchise Agreement (or Multi-Unit Development Agreement) that are contrary to the terms of the Franchise Agreement (or Multi-Unit Development Agreement) or the documents incorporated herein. Franchisee (or Developer) acknowledges that no representations or warranties are made or implied, except as specifically set forth in the Franchise Agreement (or Multi-Unit Development Agreement). Franchisee (or Developer) represents, as an inducement to Franchisor's entry into this Agreement, that it has made no misrepresentations in obtaining the Franchise Agreement (or Multi-Unit Development Agreement).

---

Initial

5. Franchisor expressly disclaims the making of, and Franchisee (or Developer) acknowledges that it has not received or relied upon, any warranty or guarantee, express or implied, as to the potential volume, profits or success of the business venture contemplated by the Franchise Agreement (or Multi-Unit Development Agreement).

---

Initial

6. Franchisee (or Developer) acknowledges that Franchisor's approval or acceptance of Franchisee's (or Developer's) Business location does not constitute a warranty, recommendation, or endorsement of the location for the Franchised Business, nor any assurance by Franchisor that the operation of the Franchised Business at the premises will be successful or profitable.

---

Initial

7. Franchisee (or Developer) acknowledges that it has received the Infinity Health Advisors, LLC Franchise Disclosure Document with a complete copy of the Franchise Agreement (and Multi-Unit Development Agreement) and all related Attachments and agreements at least fourteen (14) calendar days prior to the date on which the Franchise Agreement (or Multi-Unit Development Agreement) was executed. Franchisee (or Developer) further acknowledges that Franchisee (or Developer) has read such Franchise Disclosure Document and understands its contents.

---

Initial

8. Franchisee (or Developer) acknowledges that it has had ample opportunity to consult with its own attorneys, accountants, and other advisors and that the attorneys for Franchisor have not

advised or represented Franchisee (or Developer) with respect to the Franchise Agreement (or Multi-Unit Development Agreement) or the relationship thereby created.

\_\_\_\_\_  
Initial

9. Franchisee (or Developer), together with Franchisee's (or Developer's) advisers, has sufficient knowledge and experience in financial and business matters to make an informed investment decision with respect to the Franchise granted by the Franchise Agreement (or Multi-Unit Development Agreement).

\_\_\_\_\_  
Initial

10. Franchisee (or Developer) is aware of the fact that other present or future franchisees (or developers) of Franchisor may operate under different forms of agreement(s), and consequently that Franchisor's obligations and rights with respect to its various franchisees may differ materially in certain circumstances.

\_\_\_\_\_  
Initial

11. It is recognized by the parties that Franchisor is also (or may become) a manufacturer or distributor of certain products under the Marks licensed herein; and it is understood that Franchisor does not warrant that such products will not be sold within the Franchisee's (or Developer's) Territory by others who may have purchased such products from Franchisor.

\_\_\_\_\_  
Initial

12. BY EXECUTING THE FRANCHISE AGREEMENT (OR MULTI-UNIT DEVELOPMENT AGREEMENT), FRANCHISEE (OR DEVELOPER) AND ANY PRINCIPAL, INDIVIDUALLY AND ON BEHALF OF FRANCHISEE'S (OR DEVELOPER'S) AND SUCH PRINCIPAL'S HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, HEREBY FOREVER RELEASE AND DISCHARGE INFINITY HEALTH ADVISORS, LLC AND ANY OF THE ABOVE'S PARENT COMPANY, SUBSIDIARIES, DIVISIONS, AFFILIATES, SUCCESSORS, ASSIGNS AND DESIGNEES, AND THE FOREGOING ENTITIES' DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SHAREHOLDERS, SUCCESSORS, DESIGNEES AND REPRESENTATIVES FROM ANY AND ALL CLAIMS, DEMANDS AND JUDGMENTS RELATING TO OR ARISING UNDER THE STATEMENTS, CONDUCT, CLAIMS OR ANY OTHER AGREEMENT BETWEEN THE PARTIES EXECUTED PRIOR TO THE DATE OF THE FRANCHISE AGREEMENT (OR MULTI-UNIT DEVELOPMENT AGREEMENT), INCLUDING, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER PRESENTLY KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, ARISING UNDER THE FRANCHISE, SECURITIES, TAX OR ANTITRUST LAWS OF THE UNITED STATES OR OF ANY STATE OR TERRITORY THEREOF. THIS RELEASE SHALL NOT APPLY TO ANY CLAIMS

ARISING FROM REPRESENTATIONS MADE BY FRANCHISOR IN FRANCHISOR'S  
FRANCHISE DISCLOSURE DOCUMENT RECEIVED BY FRANCHISEE (OR  
DEVELOPER).

\_\_\_\_\_  
Initial

ACKNOWLEDGED:

FRANCHISEE:

\_\_\_\_\_

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

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

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

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

PRINCIPALS:

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

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

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

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

## State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the states, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

State	Effective Date
California	<i>Pending</i>
Illinois	<i>Pending</i>
Indiana	<i>Pending</i>
Maryland	
Michigan	<i>Pending</i>
Minnesota	<i>Pending</i>
New York	<i>Pending</i>
Virginia	<i>Pending</i>
Wisconsin	August 23, 2023

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.



## **RECEIPT**

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

If Infinity Health Advisors, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. New York requires you to receive this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Infinity Health Advisors, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC, 20580, and to your state authority listed on Exhibit A.

The name and principal business address and telephone number of each franchise seller offering the franchise is:

David Cutillo  
485 Royer Drive, Suite 102  
Lancaster, Pennsylvania 17601  
717-587-3395

Issuance Date: July 17, 2023

I received a Disclosure Document dated July 17, 2023, that included the following Exhibits:

- EXHIBIT A: List of State Franchise Administrators and Agents for Service of Process
- EXHIBIT B: Franchise Agreement with Attachments
- EXHIBIT C: Multi-Unit Development Agreement with Attachments
- EXHIBIT D: Financial Statements
- EXHIBIT E: Operations Manual Table of Contents
- EXHIBIT F: List of Current Franchisees and Former Franchisees
- EXHIBIT G: State Addenda
- EXHIBIT H: Acknowledgment Statement

Date Received: \_\_\_\_\_  
(If other than date signed)

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

\_\_\_\_\_  
(Signature of recipient)

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

\_\_\_\_\_  
Legal Residential Address

**KEEP FOR YOUR RECORDS**

## RECEIPT

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

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- EXHIBIT H: Acknowledgment Statement

Date Received: \_\_\_\_\_  
(If other than date signed)

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

\_\_\_\_\_  
(Signature of recipient)

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

\_\_\_\_\_  
Legal Residential Address

Please return signed receipt to Infinity Health Advisors, LLC  
485 Royer Drive, Suite 102  
Lancaster, Pennsylvania 17601