

## FRANCHISE DISCLOSURE DOCUMENT

**KITCHEN REFRESH FRANCHISING, LLC**  
**A North Dakota limited liability company**  
**2401 46<sup>th</sup> Avenue SE, Suite 202**  
**Mandan, North Dakota 58554**  
**Telephone: 701-204-8924**  
**Email: [mail@kitchenrefresh.net](mailto:mail@kitchenrefresh.net)**  
**[www.kitchenrefresh.net](http://www.kitchenrefresh.net)**



You will operate a business that offers refresh and remodeling of cabinets and drawers for kitchen, bathrooms and other interior spaces, as well as installation of backsplashes, flooring and countertops.

The total investment necessary to begin operation of a Kitchen Refresh franchise ranges from \$21,280 to \$133,950. This includes \$6,500 - \$32,000 that must be paid to us or our affiliates.

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Patrick Kellar, 2401 46th Avenue SE, Suite 202, Mandan, North Dakota, 58554, 701-204-8924.

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 all of your 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: August 29, 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:

QUESTION	WHERE TO FIND INFORMATION
<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 E.
<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 C 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 Kitchen Refresh 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 Kitchen Refresh franchisee?</b>	Item 20 or Exhibit E 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 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:

**Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in North Dakota. Out-of-state 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 North Dakota than in your own state.

**Spousal Liability.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.

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

**KITCHEN REFRESH FRANCHISING, LLC**  
**Franchise Disclosure Document**

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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 Kitchen Refresh Franchising, LLC, the Franchisor. The terms “we,” “us” and “Franchisor” do not include you, the “Franchisee”. We refer to the purchaser(s) of a Kitchen Refresh franchise, as “you,” “your” 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 State of North Dakota on March 18, 2020. Our principal business address is 2401 46th Avenue SE, Suite 202, Mandan, North Dakota, 58554. We do business under our company name, “Kitchen Refresh” and its associated design (the “Marks”). 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 “Kitchen Refresh” Marks. We began offering franchises in March 2021.

Our agents for service of process are listed in Exhibit A.

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

We have a parent company, Kitchen Refresh Holdings, Inc. Kitchen Refresh Holdings, Inc. is a North Dakota corporation with a principal business address of 2401 46<sup>th</sup> Avenue SE, Suite 202, Mandan, North Dakota 58554.

We have an affiliated company, Kitchen Refresh, Inc. (formerly known as Cabinet Refresh, Inc.). Kitchen Refresh Inc. is a North Dakota corporation with a principal place of business at 2401 46th Avenue SE, Suite 202, Mandan, North Dakota, 58554. Kitchen Refresh, Inc. is the owner of the Marks and has licensed use of the Marks to us, which we license to you. From October 2018 to March 2020, Kitchen Refresh, Inc. licensed the use of the Kitchen Refresh Marks in certain geographic areas.

We have a second affiliated company, Kitchen Refresh Supply, LLC. Kitchen Refresh Supply, LLC, is a North Dakota limited liability company with a principal place of business at 2401 46th Avenue SE, Suite 202, Mandan, North Dakota, 58554. Kitchen Refresh Supply, LLC, is an approved supplier of cabinet doors, drawer fronts, drawer boxes, panel ends, toe kicks, cabinet box rollouts, crown mouldings, shiplap, soffit extensions, and other millwork items that you will use in the operation of your Kitchen Refresh franchise.

Our affiliate Kitchen Refresh Inc. operated a Kitchen Refresh Studio in Bismarck, North Dakota, using both the trade name “Kitchen Refresh” and the Marks, from October 2015 through December 2019. We may operate other Kitchen Refresh concepts, including additional Kitchen Refresh Studio outlets, or other home improvements concepts in the future.

### **The Franchise Offered:**

We grant franchises for the right to own and operate a Kitchen Refresh Studio in a designated territory, which offers refresh and remodeling of cabinets and drawers for kitchen, bathrooms and other interior spaces, as well as installation of backsplashes, flooring and countertops. You will offer services and products to property owners and occupants under the “Kitchen Refresh®” Marks, using our distinctive operating procedures and standards (the “Franchised Business”). The distinguishing characteristics of a Kitchen Refresh Franchised Business include, the Kitchen Refresh distinctive trade dress, service

techniques, operations methods, inventory, merchandise 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”). We offer 3 franchise tiers. A Tier 1 franchise will receive the most favorable pricing on products purchased from us or our affiliates. A Tier 3 franchise will pay more for product purchases than what is paid by a Tier 1 or a Tier 2 franchise.

### **Market and Competition:**

The market for your Kitchen Refresh Franchised Business consists of homeowners and residential dwellers who seek affordable kitchen and bath remodeling. The home improvement industry is well-developed and highly competitive. You will compete with businesses, including national, regional and local businesses, offering services similar to those offered by your Kitchen Refresh Studio, including other home remodeling, renovation and design businesses, custom cabinet businesses, home improvement contractors and big-box home improvement stores. There are other home renovation franchises, as well as independent businesses throughout the United States, that may offer similar or more comprehensive goods and services. The market for our products and services is not seasonal but does have peak periods and may be affected by changing economic conditions.

### **Industry Specific Regulations:**

Local regulations may require you to obtain building permits for home renovation services that you perform in your Territory, and your work may be subject to inspection by local authorities. Local regulations may also require that you are a licensed contractor and that you are insured and bonded, at the levels required by state or local laws. You must abide by all laws relating to the posting of construction notices and to the disposal, transportation, and recycling of construction waste.

You must comply with all local, state and federal laws and regulations that apply to the operation of your Franchised Business, including, among others, business operations, insurance, discrimination, employment, health, sanitation and workplace safety laws. Your advertising of the Franchised Business is regulated by the Federal Trade Commission. There may be federal, state and local laws which affect your Franchised Business in addition to those listed here.

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**

### **Director and President: Marea Reinicke**

Maria Reinicke is our Director and President, positions she has held since our inception. Marea has also served as Director and President of our affiliate, Kitchen Refresh Inc., since February 2017 when she, along with her husband Chris, purchased the corporation and the Kitchen Refresh brand.

### **Director and Vice President: Chris Reinicke**

Chris Reinicke is our Director and Vice President, positions he has held since our inception. Chris has also served as Director and Vice President of our affiliate, Kitchen Refresh Inc., since February 2017 when he, along with his wife Marea, purchased the corporation and the Kitchen Refresh brand.

**Director of Franchise Operations: Patrick Kellar**

Patrick Kellar is our Director of Franchise Operations, a position he has held since our inception. Patrick had also served as Director of Franchise Operations for our affiliate, Kitchen Refresh, Inc., from October 2018 to March 2020. From 2003 to October 2018, Patrick was Vice President of Marketing for Capital Credit Union located in Bismarck, North Dakota.

**ITEM 3: LITIGATION**

*In the Matter of Kitchen Refresh Franchising, LLC*, (State of Minnesota Department of Commerce, Case No. 71377/DPK). On March 16, 2022, without hearing or final adjudication of any issue of fact, we voluntarily entered into a Consent Order with the Minnesota Department of Commerce (the “Department”) to settle the Department’s claims that we violated the Minnesota Franchise Act (Minn. Stat. Ch.80C) by engaging in the sale of franchises at a time when a Disclosure Document was not effectively registered in the State. Under the Consent Order, we agreed to (1) comply with the Minnesota Franchise Act and (2) to offer rescission of their agreements to four Minnesota franchisees, and (3) to pay a civil penalty to the State in the amount of \$4,000.

Other than the above matter, 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 (“Initial Franchise Fee”) when you sign the Franchise Agreement, as follows:

Tier 1 Franchise	\$ 28,500
Tier 2 Franchise	\$ 16,000
Tier 3 Franchise	\$ 6,000

The Initial Franchise Fee is fully earned by us, and due in a lump sum payment when you sign the Franchise Agreement. The Initial Franchise Fee is not refundable, except as follows:

- If you complete all onboarding tasks and tracking forms through our Intranet within thirty (30) days of signing the Franchise Agreement, we will refund you One Thousand Dollars (\$1,000).
- If you complete construction of your Kitchen Refresh Studio, in accordance with the plans and specifications we had approved, within ninety (90) days of signing the Franchise Agreement, we will refund you One Thousand Five Hundred Dollars (\$1,500).

You must purchase your Studio Products Display from us. The total charge for the Studio Products Display is \$500 – \$3,500, which is due and payable when you sign the lease for your Kitchen Refresh Studio premises. This charge is non-refundable.

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. We currently offer an incentive whereby we will discount the Initial Franchise Fee by One Thousand Dollars (\$1,000.00) if you sign a Franchise Agreement within 45 days following: your attendance at a Kitchen Refresh Discovery Day; or, if you choose not to attend a Kitchen Refresh Discovery Day, our offer of a territory to you.

**ITEM 6: OTHER FEES**

Type of Fee	Amount	Due Date	Remarks
Required Minimum Expenditure for Local Marketing and Advertising	Tiers 1 and 2 franchises: 4% of projected revenue or \$300, whichever is greater  Tier 3 franchise: \$0, however, if system standards are unmet, the Tiers 1 and 2 minimum expenditure is required	Weekly	Payable to third parties. All advertising must be pre-approved by us. See footnote 1.
Brand Fund Contribution	Up to 3% of projected revenue. Currently \$0	Weekly	Brand Fund Contributions are paid directly to the Brand Fund.
Site Extension Fee	\$2,500	As incurred	You may request an extension of time to find a site if you make a timely request and pay a site extension fee to us.
Opening Delay Charge	\$500	Monthly, as incurred	We may charge you a fee for each month you fail to commence business as required.
Lead Nurturing Services Fee	\$100	Weekly	See footnote 2.
Internal Systems Fee	Currently \$0	As incurred	We reserve the right to impose a fee for new or improved technology for the benefit of the System and the Franchised Business, including but not limited to, assigned phone numbers and email addresses, a franchise portal, benchmarking platform or other operations or communications systems.

Type of Fee	Amount	Due Date	Remarks
Late Charge	\$50	As incurred	We may assess a late charge if you fail to pay us the Lead Nurturing Service Fee, Internal Systems Fee or any other amount owed to us when due.
Interest Charge	21% per annum from due date, or maximum allowed by law	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.
Non-Sufficient Funds Fee	\$50	As incurred	If your check is returned or an electronic funds transfer from your bank account is denied for insufficient funds, for each occurrence we may charge you a Non-Sufficient Funds Fee.
Relocation Fee	\$7,500	As incurred	This fee is due if we approve your request to relocate your Kitchen Refresh outlet.
Transfer Fee	\$7,500; however, for transfers to: (i) an entity owned and controlled by the you for convenience purposes or for transfers among owners that does not change management control, the transfer fee is \$1,500 and (ii) a spouse, parent or child upon death or permanent disability, the transfer fee is \$2,500	Before we approve the transfer.	Payable to us. See Item 17
Additional Training	A reasonable fee for each training session	As incurred.	See footnote 3.

Type of Fee	Amount	Due Date	Remarks
Interim Management Support Fee	Our then-current per diem rate for on-site management, plus expenses. Our current per diem rate is \$500	As incurred.	We may impose this fee if we provide on-site or virtual management of your Franchised Business. See footnote 4.
Examination of Books and Records	The greater of: actual damages and \$1,000, plus the cost of examination.	As incurred.	We have the right under the Franchise Agreement to examine your books, records and tax returns. You must pay our costs and damages if an examination reveals that you misreported revenue, customer purchases or invoicing.
Evaluation Fee of Unapproved Item or Supplier	Actual costs of inspection and/or testing	As incurred.	Payable to us.
Quality Review Services	Actual costs	As incurred	Payable to third-party providers. See footnote 5.
Accounting Services	Actual costs	As incurred.	We reserve the right to require you to use an external accounting service if (i) you do not keep your books and records in accordance with our requirements or (ii) we determine that use of an external service by all franchisees is beneficial to the System.
Indemnification	Amount of loss or damages plus costs	As incurred.	See footnote 6.
Reimbursement of Cost and Expenses for Non-compliance	Actual costs and expenses	As incurred.	See footnote 7.

Type of Fee	Amount	Due Date	Remarks
Reimbursement of legal fees and expenses	Our legal costs to enforce your obligations.	As Incurred	Payable to us.
Insurance Reimbursement	Amount paid by us for your insurance obligations, plus a 10% administrative fee and our legal fees, if any.	As incurred	You must reimburse us for any insurance costs and other fees we incur due to your failure to meet the insurance obligations required by the Franchise Agreement.
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> 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, LinkedIn, blogs and other networking and sharing websites, unless you first receive our written approval to do so and such use is in strict accordance with our requirements. A Tier 3 franchise has no minimum local advertising expenditure requirement. However, if a Tier 3 franchise fails to (i) promptly contact leads generated by us, (ii) promptly and regularly follow up with leads post-consultation, as we require, (iii) maintain lead communication notes in the POS System, and/or (iv) execute a contract for services for at least forty percent (40%) of consultations (commencing twelve (12) months following the Opening Date), then we can require a Tier 3 franchise to make the same minimum local advertising expenditures as Tiers 1 and 2 franchises.

<sup>2</sup> As we determine, we will provide pre- and post-consultation telephone and email contact with prospective customers in the Territory to encourage sales.

<sup>3</sup> We may offer mandatory and/or optional additional training programs from time to time. If we require it, you must participate in additional training for up to five (5) days per year, at a location we designate. We may also require you to attend a national business meeting or annual convention for up to five (5) days per year, at a location we designate. We reserve the right to impose a reasonable fee for all additional training programs, including the national business meeting or 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 Franchisor's national business meeting or annual convention, including, without limitation, costs of travel, lodging, meals and wages.

<sup>4</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 or virtual management of your Franchised Business.

<sup>5</sup> We may establish quality assurance programs conducted by third-party providers, such as, by way of example only, 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>6</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>7</sup> If you fail to do so, in our sole discretion, we may correct any deficiency in the Franchised Business and/or your operation of the Franchised Business or take steps to modify, alter or de-identify the Franchised 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**

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is Made
Initial Franchise Fee	\$6,000 - \$28,500	Lump sum payment in cash or available funds.	Upon signing the Franchise Agreement.	Us
Your Training Expenses <sup>1</sup>	\$0 - \$8,000	As required by suppliers	As required by suppliers	Suppliers
Premises deposits <sup>2</sup>	\$300 - \$2,500	As required by landlord, utility providers	As required by landlord, utility providers	Landlord, Utilities providers
Leasehold Improvements, Construction and/or Remodeling	\$500 - \$13,000	As required by supplier, contractor or landlord	Before opening, as required by supplier.	Suppliers, contractor and/or Landlord
Studio Products Display	\$500 - \$3,500	Lump Sum	Lease Signing	Us
Other Furniture, Fixtures & Supplies	\$500 - \$2,000	As required by supplier	Before opening	Suppliers
Exterior & Interior Signage	\$500 - \$6,000	As incurred	Before opening	Suppliers

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is Made
Tools & Equipment	\$100 - \$5,500	As incurred	Before opening	Suppliers
Vehicle <sup>3</sup>	\$4,000 - \$25,000	As incurred	Before opening	Vendor
Business Licenses and Bonds	\$500 - \$5,000	As required by government agencies	Before opening, as required by government agencies	Government Agencies
Computer Systems	\$180 - \$550	As required by suppliers	Before opening	Suppliers
Professional Fees <sup>4</sup>	\$500 - \$2,500	As required by providers	As incurred	Attorney, Accountant, Other Professional Service Providers
Grand Opening Advertising <sup>5</sup>	\$0 - \$3,900	As required by supplier	As required by supplier	Suppliers
Insurance	\$500 - \$3,000	As required by insurer	Before opening	Insurer
Additional Funds – 3 months <sup>6</sup>	\$7,200 - \$25,000	As incurred	As arranged	Utility companies, advertising companies, employees, landlord, government agencies, and various suppliers as needed.
<b>TOTAL</b>	<b>\$21,280 - \$133,950</b>			

<sup>1</sup> The cost of the Initial Training Program is included in the Initial Franchise Fee. Our training program may be completed virtually. Your costs will depend on the number of people attending training and whether you choose to attend optional installation training in Bismarck, North Dakota.

<sup>2</sup> This estimate includes a one (1) month deposit of rent for a 300 – 600 square foot commercial premises. Real estate costs vary widely from place to place. Rental rates may be more or less than this range depending on the location of your Franchised Business. 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 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. The figures in the chart include deposits that may be refundable to you at a later time.

<sup>3</sup> You are required to have a utility van or truck with trailer. Your vehicle must be in good condition, free of obvious dents and scratches; otherwise, we do not provide specifications for your vehicle.

<sup>4</sup> This is an estimate of your professional fees, such as entity formation costs and legal fees for reviewing the franchise offering and lease agreement.

<sup>5</sup> Tiers 1 and 2 franchises are required to at least \$3,900 during the first 6 months of opening. We will conduct all marketing and lead generation activities for Tier 3 franchises.

<sup>6</sup> This is an estimate of expected required expenses you may incur before operations begin and during the initial 3-month period of operation. This estimate includes rent, utilities, internet service, lead nurturing services fees, and employee or subcontractor compensation. We relied upon the experience of opening our original Kitchen Refresh Studio outlet in Bismarck, North Dakota, to compile the estimate of these additional funds. You should review these figures carefully with a business advisor before making any decision to invest in the franchise. These figures are estimates and we cannot guarantee that you will not have additional expenses starting your Franchised Business.

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.

#### **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 that meet our standards and requirements.

You are required to purchase your Studio Products Display from us. We are the only approved supplier of this item.

You are required to purchase all customer orders of cabinet doors and drawer fronts from us or our affiliate. We and our affiliates are the only approved suppliers of these items.

We and our affiliates are also approved suppliers of drawer boxes, panel ends, toe kicks, cabinet box rollouts, crown mouldings, shiplap, soffit extensions, other millwork items and components.

Other than us and our affiliates, none of our officers own any interest in any other approved or designated supplier for any product, good or service that you are required to purchase for the operation of your Franchised Business.

Before you open for business, you must purchase and maintain at your sole cost and expense the insurance coverage that we specify. This includes comprehensive general liability insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate; property insurance to cover the full replacement value of your leasehold improvements, equipment, furniture, fixtures, and inventory or the requirements of your lease, whichever is greater; business interruption insurance in an amount necessary to satisfy your obligations under your franchise agreement and premises lease for at least twelve (12) months; statutory worker's compensation insurance in the limits required by state law; employer's liability practices insurance in the amount of Five Hundred Thousand Dollars (\$500,000); and automobile liability insurance in the amount of at least One Million Dollars (\$1,000,000). Each policy must be written by a responsible carrier or carriers acceptable to us, with an A.M. Best rating of not less than A-, and must name us and our respective officers, directors, partners, agents and employees as

additional insured parties. Insurance costs and requirements may vary widely in different localities. We reserve the right to require additional types of insurance and coverage as provided in the Franchise Agreement.

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 make such request in writing to us and have the supplier give us samples of its product or service and such 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 60 days after we receive all required information to evaluate the product or service. If we do not approve any request within 60 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. If you request that we approve a proposed item or supplier, we reserve the right to charge an Evaluation Fee equal to our actual costs of inspection 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.

From time to time, we may receive revenue, rebates, discounts or other material consideration from suppliers based on your required purchases of products, supplies or equipment. Any rebates or discounts we receive may be kept by us in our sole discretion.

During our fiscal year ending December 31, 2022, we derived \$545,495 from required purchases by our franchisees which comprised 87% of our total revenue of \$629,944.

We estimate that your purchase or lease of products, supplies and services from approved suppliers (or those which meet our specifications) will represent approximately 10% of your costs to establish your Franchised Business and approximately 21% - 40% 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.

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 is a default under the Franchise Agreement. Additionally, 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, 10.5, 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	8.3	11
f. Fees	5.1, 5.2.7, Article 6, 8.1.2, 12.2.5, 12.3.7, 12.7, 13.5, 15.6, 16.4, 18.1.4, 18.1.5, 19.1.5, Attachment 3	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	12.1.8, Article 14, 19.2, 19.3, 19.4	13, 14
i. Restrictions on Products/Services Offered	12.1.1, 12.1.5, 12.7	8
j. Warranty and Customer Service Requirements	12.1.5.7	11
k. Territorial Development and Sales Quotas	13.2, Attachment 3	12
l. Ongoing Product/Service Purchases	12.1.5, 12.3.5	8

<b>Obligation</b>	<b>Section or Article in Franchise Agreement</b>	<b>Item in Franchise Disclosure Document</b>
m. Maintenance, Appearance and Remodeling Requirements	Article 9, 12.1.2	11
n. Insurance	Article 15	7
o. Advertising	12.1.9, Article 13, Attachment 3	6, 11
p. Indemnification	15.6, 16.3.6, 21.1	14
q. Owner's Participation, Management, Staffing	11.1, 11.3, 12.1.6	11, 15
r. Records /Reports	6.1.3, 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. Spouse Guaranty	11.3, Attachment 8	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 the premises for your Franchised Business. Within thirty (30) 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 ten (10) days, either accepting or rejecting the proposed premises. 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 and sign a lease within one hundred twenty (120) days of signing the Franchise Agreement, 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 8.1,10.1).
- b. provide you with specifications for the layout, design, appearance, and signage for your Kitchen Refresh Studio outlet, and approve, in our reasonable discretion, your architect and contractor(s). 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, 10.2).
- c. provide you access to the Kitchen Refresh Studio Operations Manual, other manuals and training aids we designate for use in the operation of your Kitchen Refresh Franchise, as they may be revised from time to time. (Franchise Agreement, Section 10.3).
- d. provide a written list of equipment, 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 (Franchise Agreement, Section 10.5).
- e. upon your payment of the purchase price, deliver to you the Studio Products Display. We and our affiliates are not obligated to install this item for you (Franchise Agreement, Section 10.5).
- f. provide initial training virtually, at our headquarters, and/or affiliate-owned outlet. We reserve the right to designate an alternative location for the initial training. We will determine, in our sole discretion, whether you satisfactorily complete the initial training. (Franchise Agreement, Sections 7.1, 7.2).
- 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, set maximum prices for products and services at your Kitchen Refresh Studio outlet (Franchise Agreement, Section 12.6).

## **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 60 days. Factors that may affect this time period include your ability to acquire financing or permits, build out of your premises, acquire tools, equipment and a vehicle, and completion of required training. You must find a site that we accept and sign a lease within thirty (30) days of signing the Franchise Agreement, and in all cases you must commence operations within sixty (60) days after signing your lease. If you have not opened

your Franchised Business within sixty (60) days after signing your lease or one hundred twenty (120) days after you sign the Franchise Agreement, whichever is earlier, 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 as extended, 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. If we require it, you must attend mandatory additional training offered by us for up to five (5) days each year, and/or attend an annual business meeting or franchisee conference for up to five (5) each year at a location we designate. Failure to attend mandatory additional training or an annual business meeting or conference is a default of the Franchise Agreement. We reserve the right to impose a reasonable fee for tuition and/or attendance for all additional training programs, including the annual business meeting or conference. 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 tuition at the then-current rate, plus all of your travel costs and our trainer's travel costs. (Franchise Agreement, Section 7.4).

b. upon your request, provide individualized assistance to you within reasonable limits by telephone, video conferencing, electronic mail or postage service, subject at all times to availability of our personnel and in reasonable limits (Franchise Agreement, Section 7.4).

c. from time to time, as may become available, provide you with samples or digital artwork, advertising and promotional materials (Franchise Agreement, Section 10.6).

d. conduct inspections of your Franchised Business, at the frequency and duration that we deem advisable. Such inspections include evaluating your service and premises to ensure that they meet our standards (Franchise Agreement, Section 10.4, 12.1.7).

e. sell to you cabinet and drawer components, including doors, fronts, knobs and pulls, and other items ordered by your customers for installation. We will repair or replace any defective or non-conforming product sold to you. Repair or replacement is your only remedy (Franchise Agreement, Section 12.1.5).

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, set maximum prices for products and services at your Kitchen Refresh Studio outlet (Franchise Agreement, Section 12.5).

h. approve or disapprove of all advertising, direct mail, and other promotional material and campaigns you propose in writing to us. We will respond within ten (10) business days, either accepting or rejecting the proposed material and/or campaign; however, if we do not respond within ten (10) business days, the proposed material and/or campaign is deemed "disapproved" (Franchise Agreement, Section 13.5).

- i. provide pre- and post-consultation services for your customer leads (Franchise Agreement, Section 6.2).
- j. manage the Systemwide Brand Fund (Franchise Agreement, Section 13.3).

#### 4. **Advertising**

From time to time, we will place locally-targeted digital advertising, such as Facebook and Google ads, for Kitchen Refresh products and services in your Territory; otherwise, we have no obligation to spend any amount on advertising in your area or territory. You are responsible for local advertising placement.

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

We require a Tier 1 and Tier 2 Franchise to spend a minimum of Three Thousand Nine Hundred Dollars (\$3,900) in opening advertising and promotional activities within the first one hundred eighty (180) days following the signing of the Franchise Agreement. You will conduct a grand opening campaign in accordance with plans approved by us. Following the grand opening campaign, Tier 1 and Tier 2 Franchises are required to spend a minimum of \$300 each week, and no less than 4% of monthly projected revenue, if greater, on local advertising. You are required to pay us a minimum of \$300 weekly of your required advertising expenditure, and we will implement locally-targeted digital advertising on your behalf. Tier 3 Franchises do not have a minimum local advertising expenditure requirement; however, if a Tier 3 Franchise fails to (i) promptly contact leads generated by us, (ii) promptly and regularly follow up with leads post-consultation, as we require, (iii) maintain lead communication notes in the POS System, and/or (iv) execute a contract for services for at least forty percent (40%) of consultations (commencing twelve (12) months following the Opening Date), then we can require a Tier 3 Franchise to make the same minimum local advertising expenditures as Tiers 1 and 2 Franchises.

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 from time to time. 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 (10) business days; however, if we do not respond within ten (10) business days, the proposed advertising or marketing material is deemed “disapproved”.

If feasible, you may do cooperative advertising with other Kitchen Refresh Studio franchisees in your area, with our prior written approval. You may not maintain any business profile on Facebook, Twitter, Instagram, LinkedIn, YouTube or any other social media and/or networking site, except in accordance with our specifications.

#### **System-wide Brand Fund** (Franchise Agreement, Section 13.3)

We reserve the right in the Franchise Agreement to create a systemwide Brand Fund. If and when the Brand Fund is created, you will be required to contribute up to 4% your projected revenue to the Fund. Each Kitchen Refresh outlet operated by our affiliates or us may, but is not obligated to, contribute to the Brand Fund on the same basis as System franchisees.

The Brand Fund will be administered by our accounting and marketing personnel. We may use Brand Fund contributions to pay any and all costs for developing, producing and disseminating advertising, marketing, promotional and public relations materials, programs, campaigns, sales

and marketing seminars and training programs of every kind and nature, through any media we determine; conducting marketing research and employing advertising agencies; developing, enhancing and maintaining our website, social media platforms, apps, and other technology for the benefit of the Brand image and/or Systemwide improvements; and staff salaries and other personnel and departmental costs for advertising that we internally administer or prepare.

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 have the right to use the Brand Fund for public relations, to explain the franchise system, and/or include “Franchises Available” or similar language and contact information in advertising produced with Brand Fund contributions.

The Brand Fund collects and expends contributions for the benefit of the System as a whole. We have 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 use the Brand Fund to place advertising or conduct marketing campaigns in any particular area, including the geographical area 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.

The Brand Fund is not audited. 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. 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 have been spent for advertising or promotional purposes or returned to contributors, without interest, on the basis of their respective contributions.

No Brand Fund contributions were required, made or expended in our most recently concluded fiscal year.

#### **Advertising Council (Franchise Agreement, Section 9.5)**

We do not have an advertising council composed of franchisees that advises us on advertising policies. The Franchise Agreement gives us the right, in our discretion, to create a franchisee advisory council to communicate ideas, including proposed advertising policies. If created, we will determine in advance how franchisees are selected to the council, which may include factors such as a franchisee’s level of success, superior performance, and outlet profitability. We reserve 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 point-of-sale system (“POS System”) we specify, and have the latest versions of hardware, software and computer platforms to operate the POS System. The current POS System requires a laptop computer and Quickbooks online. The POS System

performs a variety of functions, including customer order submissions to us or our affiliate, employee scheduling, storage of customer data, payment processing, bookkeeping, and sales report generation.

You are required to use all software and applications that we specify and pay any subscription or access fees associated with them.

The current cost of the required hardware and software is \$180 - \$550. Monthly software access fees are approximately \$27, subject to increase.

We may in the future establish or modify the computer systems as we deem appropriate for the accurate and expeditious submissions of customer orders and revenue reporting, and you must fully cooperate in implementing any such system at your expense.

The POS System allows us to independently and remotely access all of your sales data, including your customer orders, customer data and projected revenue, 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 POS 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 POS System or any replacements thereto. We cannot estimate the cost of maintaining, updating and upgrading your computer hardware and software because it will depend on the make and model of your hardware, required upgrades to operate our current management and payment processing 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 Kitchen Refresh Studios Operations Manual, current as of the date of this Disclosure Document is attached as Exhibit D. The Operations Manual has a total of 158 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), and your general manager must complete our Initial Training Program, to our satisfaction, within 60 days of signing the Franchise Agreement. We will train you virtually, at our headquarters, or at another location we specify.

## **TRAINING PROGRAM**

Subject	Hours of Classroom Training	Hours of On-the-Job Training	Location
CRM	5.5	4	Virtually and/or Bismarck, North Dakota
Intranet	2	1	Virtually and/or Bismarck, North Dakota
Operations and Marketing	26	40	Virtually and/or Bismarck, North Dakota
Quickbooks	4.5	4	Virtually and/or Bismarck, North Dakota
Acuity (Client Self-Booking)	2	2	Virtually and/or Bismarck, North Dakota
Installations	6	5	Virtually and/or Fargo, North Dakota
Design Consulting	4	6	Virtually or Fargo, North Dakota
Design Studio Assistance	1	40	Virtually and/or Bismarck, North Dakota
Facebook Use	2	8	Virtually and/or Bismarck, North Dakota
<b>Totals</b>	<b>53</b>	<b>110</b>	

We periodically conduct our Initial Training Program throughout the year, as needed. Training is currently provided by Christopher Reinicke and Patrick Kellar. Chris is the Director and Vice President of us and our affiliate Kitchen Refresh Inc. He had operated a Kitchen Refresh (formerly Cabinet Refresh) outlet since 2015 before purchasing the Kitchen Refresh brand in February 2017. Patrick is our Director of Franchise Operations and had served in this same role for our affiliate since October 2018. Chris and Patrick train on all aspects of the Franchised Business, including marketing, operations, and financial reporting.

Our training materials consist of our Operations Manuals and video modules. The on-the-job training component of our Initial Training Program is unsupervised; however, our trainers and other System franchisees will be available to you by video chat during your first five (5) to six (6) weeks of operation and installations for coaching and assistance.

The cost of our instructors and training materials 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 and internet access costs.

If you do not complete our Initial Training Program to our satisfaction, we reserve the right to terminate the Franchise Agreement.

We may conduct mandatory or optional additional training programs, including an annual convention or national business meeting. If we require it, you must attend mandatory training programs that we offer for up to five (5) days per year at a location we designate. We may also require you to attend a national business meeting or annual convention for up to five (5) days per year, at a location we designate. We

reserve the right to impose a reasonable fee for tuition and/or attendance for all additional training programs, including the annual business meeting or conference. 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 tuition at the then-current rate, plus all of your travel costs and our trainer's travel costs.

## **ITEM 12: TERRITORY**

Under the Franchise Agreement, you have the right to establish and operate one (1) Kitchen Refresh outlet within a limited protected area that will be defined after the premises of your Kitchen Refresh outlet is identified and approved by us (the "Territory"). The Territory is determined on an individual basis taking into account minimum numbers of households and population demographics and will encompass approximately a population of 350,000 individuals. If you do not have an approved premises for your Franchised Business at the time you sign the Franchise Agreement, we will grant you a non-exclusive site search area in which to find and obtain possession of premises that meets our site selection criteria and our approval.

You may not change the premises of your Franchised Business, without our written consent, which we may withhold in our sole discretion. 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 Kitchen Refresh Studio outlets, vehicular and pedestrian access, proximity to major roads, 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 complete your build-out within 120 days. If you do not meet these timelines, you will be in default of your Franchise Agreement. You must continue to operate at your original premises until construction of the new site is complete.

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 Kitchen Refresh Studio outlets under other franchise agreements if you are in compliance with the Franchise Agreement and propose to open another Kitchen Refresh Studio Franchise in an area and at a location we approve. If you are in compliance with all of your obligations under the Franchise Agreement and operate a Tier 2 or Tier 3 Franchise, you may elevate your Franchise to a higher Tier with our consent and payment of the then-current Initial Franchise Fee for the higher Tier, less the amount of the Initial Franchise Fee you had originally paid to us.

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.

During the term of your Franchise Agreement, and provided that you are not in default of your Franchise Agreement, we will not open another dedicated Kitchen Refresh Studio outlet or grant the right to anyone else to open a dedicated Kitchen Refresh Studio outlet within your Territory. However, notwithstanding this limited protection right we grant to you, you will not receive an exclusive customer base. Other franchisees may sell goods and services to customers who reside in your Territory. We also reserve the right solicit and sell to commercial customers who manage non-residential premises and/or multi-unit dwellings ("Commercial Accounts"). We will offer you the right to service Commercial Accounts in your Territory, provided that you accept our negotiated rates; if you decline, we or another

franchisee may service these customers. We further reserve all rights to sell, either directly or through others, our products and services through alternative distribution channels.

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

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 Kitchen Refresh Studio outlets outside of the Territory and may operate other kinds of businesses within the Territory. We and our affiliates may own, acquire, conduct, or authorize others to conduct, any other form of business at any location selling any type of product or service not offered under the Mark, 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 Mark within or outside the Territory through any method of distribution other than a dedicated Kitchen Refresh Studio outlet location, such as solicitation and sales at retail outlets; trade shows; home shows; and through the Internet, catalog sales, telemarketing and direct marketing (“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 Kitchen Refresh Studio outlet location.

You may only sell products and services 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. You may service a customer located outside of your Territory, provided that you did not solicit the customer in violation of your Franchise Agreement.

### **ITEM 13: TRADEMARKS**

The Franchise Agreement will license to you the right to operate your Kitchen Refresh Studio outlet under the Kitchen Refresh Studio service marks described below (“Principal Marks”):

<b>Mark</b>	<b>Registration Number</b>	<b>Registration Date</b>	<b>Register</b>
 kitchen refresh	5968017	January 21, 2020	Principal
Kitchen Refresh	5968016	January 21, 2020	Principal

No required affidavits or renewals are due as of the Issuance Date of this Disclosure Document.

You must notify us immediately when you learn about an infringement of or challenge to your use of the Principal Marks or other Marks. 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 the Principal Mark or other Marks. We have the right to control any administrative proceedings or litigation involving the Principal Marks or other Mark licensed by us to you. You must cooperate fully with us in defending and/or settling the litigation.

We reserve the right to substitute different Marks if we can no longer use the current 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 the Principal Marks, or to use one or more additional or substitute Marks.

You must not directly or indirectly contest our right to the Principal Marks or other Marks.

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 is no pending infringement, opposition or cancellation. There is no pending material federal or state court litigation involving the Principal Marks or other Marks.

There are no currently effective agreements that significantly limit our rights to use or license the use of the Principal Marks or other Marks 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.

#### **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 forms, advertisements, promotional materials, photographs and other written materials. We also claim copyrights and other proprietary rights in our Manual and 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, 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 material; and 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 such Confidential Information and trade secrets shall 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/Non-Competition Agreement (Franchise Agreement, Attachment 8).

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.

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

The Franchise Agreement requires that you personally supervise, devote full time, and manage the day-to-day operation of your Franchised Business. You may not appoint a non-owner manager of your Franchised Business, unless you receive our prior written 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 Non-Disclosure/Non-Competition Agreement, which is attached to our Franchise Agreement as Attachment 8. 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 services that are part of the System, and all services and products that we incorporate into the System in the future. You must only offer products we have authorized, which you must purchase from suppliers we have approved. You may only sell products and services to end-users. You cannot sell products on the Internet or to dealers or distributors for subsequent re-sale.

You may not use our Marks for any other business, and you may not conduct any other business from your Franchised Business premises. You cannot engage in any other business that competes with your Franchised Business, with our affiliates, or us or with Kitchen Refresh Studio outlets owned by other franchisees, whether such business is inside or outside of the Territory.

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, but only if the changes do not materially and

unreasonably increase your obligations under the Franchise Agreement. There are no other limits on our rights to make these changes.

You may only sell products and services 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, provided that you do not advertise in any medium whose primary circulation is in another Kitchen Refresh Studio franchisee's territory. You may service a customer who comes to your Franchised Business premises from outside of your Territory, provided that you did not solicit the customer in violation of your Franchise Agreement.

**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 ten (10) years
b.	Renewal	Sections 5.1 and 5.4	If you are in good standing as defined below, you can sign a successor agreement for 1 additional term of 10 years, 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 5.2 and 5.3	Be in full compliance, have no more than three (3) 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; continue to maintain your premises; update to current trade dress and other standards; execute a general release; comply with then-current qualifications and training requirements; including completion of additional training; and pay a successor agreement fee of 10% of the then-current initial franchise fee. 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.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
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 5 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 5 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; misreport revenue, customer purchases, invoices or other information two (2) 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 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 engage in other conduct that could damage the goodwill or reputation of our trademarks or the System or engages in other misconduct that could harm the reputation of 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 (3) or more times during the term or receive two (2) 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 (2) or more times within any twelve (12)-month</p>
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	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
			period; 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 Kitchen Refresh Studio franchisee; cease to use our trademarks; 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 attorneys' 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; sell to us, at our option, all furnishing, fixtures, equipment, inventory and supplies of your 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 premises.
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		No transfer is allowed without our consent, which we will not unreasonably withhold.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
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 General Release; you shall subordinate any claims you have against the transferee to us; you will indemnify us for misrepresentations in the transfer process (excluding representations in our FDD); our approval of the material terms and conditions of the transfer; payment of a transfer fee equal to \$7,500, or \$1,500 for transfer among existing owners, or to add a new entity or shareholder or member to your entity and such transfer does not change management control of your entity, or \$2,500 for transfer to your spouse, parent or child upon death or permanent disability.
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 shall 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.
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 Kitchen Refresh Studio 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.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
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 Kitchen Refresh Studio 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 thirty (30) miles of your former Kitchen Refresh Studio outlet location or any other Kitchen Refresh Studio 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 9.4, 14.6, 19.1.4 and 22.4	No oral modifications generally, but 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 20.1, 20.2, 20.3	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, possession of the Franchised Business premises and post-termination obligations.
v.	Choice of forum	Section 20.5	Litigation takes place in North Dakota (subject to applicable state law)
w.	Choice of law	Section 20.5	North Dakota law applies (subject to applicable state law)

See the state addenda to this Franchise Disclosure Document and the Franchise Agreement 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 Franchise Disclosure Document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee’s future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, 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 Patrick Kellar at 2401 46<sup>th</sup> Avenue SE, Suite 202, Mandan, North Dakota 58554, or 702-366-9480, 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

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2020	0	0	0
	2021	0	0	0
	2022	0	5	+5
Company – Owned*	2020	0	0	0
	2021	0	0	0
	2022	0	0	0
Total Outlets	2020	0	0	0
	2021	0	0	0
	2022	0	5	+5

Table No. 2

Transfers of Outlets From Franchisees to New Owners (Other than the Franchisor)  
For Years 2020 to 2022

State	Year	Number of Transfers
None	2020	0
	2021	0
	2022	0
Total	2020	0
	2021	0
	2022	0

Table No. 3

Status of Franchised Outlets  
For Years 2020 to 2022

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-renewals	Reacquired by Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
Minnesota	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	5	0	0	0	0	5
Total	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	5	0	0	0	0	5

Table No. 4

Status of Company Owned Outlets  
For Years 2020 to 2022

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisees	Outlets Closed	Outlets Sold to Franchisees	Outlets at End of the Year
None	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0
Total	2020	0	0	0	0	0	0
	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0

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

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company Owned Outlets in the Next Fiscal Year
Colorado	0	1	0
Indiana	0	1	0
Kansas	0	1	0
Missouri	0	2	0
Ohio	0	1	0
Total	0	6	0

Exhibit E lists the location of each Kitchen Refresh Studio 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.

No franchisee has signed confidentiality clauses during the last three years.

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

**ITEM 21: FINANCIAL STATEMENTS**

Our audited financials, which comprise the balance sheet and the related statements of operations and members equity, and cash flows for the year ended December 31, 2022, December 31, 2021 and December 31, 2020, are included in Exhibit C.

Our fiscal year end is December 31.

**ITEM 22: CONTRACTS**

A copy of all proposed agreements regarding the franchise offering are included in this Disclosure Document, as follows:

- Exhibit B – The Franchise Agreement and all attachments to it;
- Exhibit F -- Franchisee Acknowledgement Statement, 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**

A receipt in duplicate is attached to this Disclosure Document as Exhibit H. You should sign both copies of the receipt. Keep one copy for your own records and return the other signed copy to us at 2401 46<sup>th</sup> Avenue SE, Suite 202, Mandan, North Dakota 58554.

## EXHIBIT A

### AGENCIES/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
CONNECTICUT	State of Connecticut Department of Banking Securities & Business Investments Division 260 Constitution Plaza Hartford, CT 06103-1800 (860) 240-8230	Banking Commissioner
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

<b>State</b>	<b>State Agency</b>	<b>Agent for Service of Process</b>
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
NEW YORK	NYS Department of Law Investor Protection Bureau 28 Liberty Street, 21st Floor New York, NY 10005 (212) 416-8222	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, 5 <sup>th</sup> Floor Bismarck, ND 58505-0510 (701) 328-4712	North Dakota Securities Commissioner
OREGON	Department of Consumer and Business Services Division of Finance and Corporate Labor and Industries Building Salem, Oregon 97310 (503) 378-4387	Director of the Department of Consumer and Business Services
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 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**

**KITCHEN REFRESH FRANCHISING, LLC  
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**ATTACHMENTS:**

- ATTACHMENT 1: TRADEMARKS
- ATTACHMENT 2: TERRITORY
- ATTACHMENT 3: FRANCHISEE FEE OBLIGATIONS
- ATTACHMENT 4: AUTHORIZATION AGREEMENT (ACH WITHDRAWALS)
- ATTACHMENT 5: INTERNET ADVERTISING, SOCIAL MEDIA, SOFTWARE, AND TELEPHONE  
ACCOUNT AGREEMENT
- ATTACHMENT 6: STATEMENT OF OWNERSHIP INTEREST IN FRANCHISEE/ENTITY
- ATTACHMENT 7: SPOUSE GUARANTY
- ATTACHMENT 8: CONFIDENTIALITY AND NON-COMPETE AGREEMENT

## FRANCHISE AGREEMENT

**THIS AGREEMENT** is made and entered this \_\_\_\_\_ (the “Effective Date”) between the franchisor Kitchen Refresh Franchising, LLC, a North Dakota limited liability company, with its principal address at 2401 46<sup>th</sup> Avenue SE, Suite 202, Mandan, North Dakota, 58554 (herein referred to as “Franchisor”) and \_\_\_\_\_, a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ and \_\_\_\_\_’s principals \_\_\_\_\_, an individual residing at \_\_\_\_\_ and \_\_\_\_\_, an individual residing at \_\_\_\_\_ (“Principal(s)”). \_\_\_\_\_ and Principal(s) shall be individually and collectively referred to, and each is, the “Franchisee”.

### RECITATIONS

Through the expenditure of considerable time, effort and money, Franchisor has developed and established a unique business that offers refresh and remodeling of cabinets and drawers for kitchen, bathrooms and other interior spaces, as well as installation of backsplashes, flooring and countertops, using the Kitchen Refresh trademarks and Franchisor’s confidential operations manual (“Manual”) of business practices and policies, 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 Kitchen Refresh service marks, 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

Kitchen Refresh studio (the “Kitchen Refresh Studio”, “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 and from 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 Kitchen Refresh Studio 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 been terminated. Franchisee acknowledges that the Territory does not grant Franchisee any exclusive customer base. Except as otherwise specified in this Agreement, Franchisor reserves the right to open, operate or franchise Kitchen Refresh studios 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 and soliciting customers 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 home improvement concepts under the Marks or other trademarks, and (iii) products or services through any channel in the Territory other than a dedicated Kitchen Refresh Studio, such as distribution through retail outlets; exhibition at trade shows and home shows; and the Internet, catalog sales, telemarketing and direct marketing sales (“Alternate Distribution Channels”). Franchisor further specifically reserves the right to solicit, sell to, negotiate rates with, and service commercial customers, who manage non-residential premises and/or multi-unit dwellings (“Commercial Accounts”). Franchisor will offer Franchisee the first right to service Commercial Accounts in the Territory, provided that Franchisee accepts negotiated terms; otherwise, Franchisor may service the Commercial Accounts either directly or permit another franchisee to provide such service. Franchisee will receive no compensation for Franchisor’s sales through Alternate Distribution Channels or declined Commercial Accounts made within the Territory. 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 hereof (the “Term”).

5. **SUCCESSOR 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 Franchise is located (the “Successor Franchise Agreement”) for an additional term of ten (10) years. The term of each the Successor Franchise Agreement shall commence upon the date of expiration of the initial term. Franchisee shall be charged a successor agreement fee equal to ten percent (10%) of the then-current initial franchise fee.

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.

5.1.5 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 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 new premises.

5.2.5 Franchisee shall execute a general release of all claims Franchisee may have against Kitchen Refresh Franchising, LLC, its parent, subsidiaries and affiliates, its officers, directors, shareholders, agents, and employees, whether in their corporate and/or individual capacities, in the form acceptable to Franchisor. 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 that the Successor Franchise Agreement is executed.

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 Kitchen Refresh 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 enter into a Successor Agreement, Franchisor may, in Franchisor's sole discretion, (i) offer to renew this Agreement upon the same terms set forth herein for the appropriate renewal 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 the Territory in which Franchisee's Kitchen Refresh Studio is located.

## 6. FEES

### 6.1 Initial Franchise Fee.

6.1.1 Franchisee acknowledges and agrees that the grant of this Franchise, at the Tier indicated on Attachment 3, and the rights and obligations of the parties under this Agreement constitute the sole and only consideration for the initial franchise fee (“Initial Franchise Fee”) set forth on Attachment 3 hereof. **The Initial Franchise Fee is fully earned at the time this Franchise Agreement is signed and is not refundable under any circumstances, except as set forth in Section 8.5 hereof.** Franchisee shall pay the full amount of the Initial Fee to Franchisor upon Franchisee’s execution of this Agreement.

6.1.2 Franchisee acknowledges that (i) Franchisor offers three (3) pricing tiers to its franchisees, as specified in Attachment 3, (ii) as of the Effective Date, Franchisee is required to order cabinet doors and boxes, drawer fronts and other products specified by Franchisor from Franchisor or Franchisor’s affiliate(s) (“Franchisor-Supplier Products”), and (iii) pricing on Franchisor-Supplier Products will vary by tiers, with Tier 1 receiving most favorable pricing and Tier 3 receiving least favorable pricing.

6.1.3 At any time during the Term of this Agreement, and provided that Franchisee is in compliance with all obligations set forth herein, Franchisee (if Franchisee is a Tier 3 or Tier 2 franchisee) may advance to a higher Tier with Franchisor’s consent and payment by Franchisee of the then-current initial franchise fee for such Tier, less the amount of the Initial Fee Franchisee heretofore paid pursuant to Section 6.1.1.

6.2 Lead Nurturing Services Fee. Commencing ninety (90) days following the Opening Date, Franchisee agrees to pay Franchisor, weekly throughout the Term, a lead nurturing services fee of One Hundred Dollars (\$100.00) per week, subject to increase. Franchisor will provide pre- and post-consultation telephone and email contact with prospective customers in the Territory to encourage sales. Franchisor makes no representation or warranty that such marketing activities will be successful or will yield any particular level of sales or for Franchisee. Franchisee hereby waives any and all claims against Franchisor and Franchisor’s affiliates related to marketing activities and the success, or lack of success, of marketing efforts by Franchisor made on behalf of Franchisee in the Territory

6.3 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 Fifty Dollars (\$50.00) 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.

6.4 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 twenty-one percent (21%) per annum or at the highest rate permitted by law, whichever is lower.

6.5 Internal Systems Fee. Franchisor reserves the right to impose an internal systems fee, in an amount that Franchisor reasonably determines, for the development, adoption and/or use of new or improved technology 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 technology fees 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. Payment of the Internal Systems Fee will be made in the manner and frequency as reasonably determined by Franchisor.

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

6.7 Method of Payment. At Franchisor’s request, Franchisee must execute documents, including but not limited to, the Authorization attached as Attachment 4, that allow Franchisor to automatically take sums due to Franchisor, including but not limited to, the Lead Nurturing Services Fee, Required Local Advertising Expenditure (as hereafter defined), Brand Fund Contribution (as hereafter defined), and product purchase charges, 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.

## **7. TRAINING.**

7.1 Initial Training Program. Franchisee (specifically including all Franchisee’s principals) and Franchisee’s general manager (“Initial Trainees”) shall attend and complete to Franchisor’s sole and absolute satisfaction, Franchisor’s initial training program (“Initial Training Program”) within sixty (60) days of the Effective Date hereof. The Initial Training Program consists of a course conducted virtually, at Franchisor’s headquarters and/or at an operating Kitchen Refresh Studio 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 principal(s) who have successfully completed the Initial Training Program to Franchisor’s sole and complete satisfaction. No charge shall be made for the Initial Trainees to take the Initial Training Program; however, 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 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.

(ii) a national business meeting or annual convention for up to five (5) days per year, at a location designated by Franchisor.

Franchisor reserves the right to impose a reasonable 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 national business meeting or annual 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 national business meeting or annual 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, Franchisee's 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.

7.4 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, furnish consultation and assistance to Franchisee, either by telephone, email or video conferencing, as determined by Franchisor, in Franchisor's sole discretion, with respect to the operation of the Franchised Business, including consultation and advice regarding employee training, marketing, operation issues, purchasing and inventory control, bookkeeping and System improvements.

## **8. FRANCHISED BUSINESS SITE 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 location 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 location 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 thirty (30) days after the execution of this Agreement. Franchisor shall have ten (10) 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. If Franchisor fails to respond to Franchisee's submission within ten (10) days, such proposed site shall be deemed "disapproved". No site may be used for the location of the Franchised Business unless it is consented to in writing by Franchisor.

8.1.3 Franchisee's failure to identify a site for the Kitchen Refresh Studio which that meets Franchisor's approval within the timeframe set forth in Section 8.1.3 above shall constitute a default of this Agreement. Notwithstanding the foregoing, Franchisee may request a one-time extension of site selection and approval deadline, which will be granted in Franchisor's reasonable discretion, provided that Franchisee (i) makes such request no later than five (5) days prior to the expiration of the original deadline and (ii) pays to Franchisor a site extension fee of Two Thousand Five Hundred Dollars (\$2,500), which is due and payable at the time Franchisee's extension request is made.

8.1.5 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 and obtain physical possession of the premises. Failure by Franchisee to acquire the site for the Franchised Business within sixty (60) days following the Effective Date shall constitute a material event of default under this Agreement.

8.1.6 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. 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 relating to the Franchised Business premises. Prior to beginning the construction and/or improvement of the Franchised Business premises, Franchisee shall (a) adapt Franchisor's prototypical construction plans and specifications, provided to Franchisee, for the construction of the Franchised Business premises and submit such adapted plans and specifications to Franchisor for approval, (b) 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 (c) certify in writing to Franchisor that all required approvals, clearances, permits, insurance and certifications have been obtained.

8.3 Time to Open. Subject to Franchisee's compliance with the conditions stated below, Franchisee shall open the Franchised Business and commence business no later than ninety (90) days following the Effective Date hereof, 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 onboarding tasks and tracking forms using Franchisor's intranet site; (ii) complete all exterior and interior preparations for the Franchised Business, including installation and cleaning of equipment, fixtures, furnishings, décor and signs, in accordance with System requirements and the plans and specifications consented to by Franchisor, (iii) satisfactorily complete Franchisor's Initial Training Program, as further set forth in Article 7, (iv) hire and train staff, as applicable (v) obtain all required licenses to operate the Franchised Business and (vi) obtain all required insurance and provide Franchisor with certificates therefor. 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 in accordance with the foregoing shall be deemed a material event of default under this Agreement.

8.4 Opening Delay Charge. If Franchisee fails to open the Kitchen Refresh Studio for business as required herein, then Franchisee shall pay to Franchisor Five Hundred Dollars (\$500.00) per month until the Kitchen Refresh Studio is open, such payments to commence on the first day of the month following the date that the Kitchen Refresh Studio should have been opened for business. Such payment represents liquidated damages for lost revenues which Franchisor would have received had Franchisee opened as required in this Agreement. In the event that such failure to open on schedule shall continue for more than ninety (90) days, Franchisor shall have the right, but not the obligation, to terminate this Agreement and all of Franchisee's rights herein, select a new franchisee for the Franchised Business premises and retain all monies paid to Franchisor by Franchisee, as well as any and all other rights and remedies of Franchisor on Franchisee's default, whether provided by this Agreement or by law.

8.5 Opening Incentives. Franchisee acknowledges that time is of the essence in this Agreement. Provided that Franchisee is in compliance with the Agreement, Franchisor hereby agrees to refund to Franchisee a portion of the Initial Franchise Fee for Franchisee's timely completion of certain opening obligations, as follows:

- (i) One Thousand Dollars (\$1,000.00) of the Initial Franchise Fee if Franchisee completes on-boarding tasks, as described in the Manual, with thirty (30) days of the Effective Date of this Agreement; and
- (ii) One Thousand Five Hundred Dollars (\$1,500.00) of the Initial Franchise Fee if Franchisee completes construction of the Franchised Business premises in accordance with the plans and specifications approved by Franchisor within ninety (90) days of the Effective Date of this Agreement.

8.5 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 Franchisor a relocation fee of Two Thousand Dollars (\$2,000.00), (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, (iv) upon relocation, remove any signs or other property from the original Franchised Business premises which identified the original Franchised Business premises as part of the System, and (v) Franchisor shall issue a revised Attachment 2, in accordance with Section 8.1.6, to reflect the address of the new Franchised Business premises. Failure to comply with the foregoing requirements shall be a default of this Agreement.

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

9.1 Maintenance of Franchised Business Site. Franchisee shall equip and maintain the Franchised Business premises to the standards of décor, 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 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.

### 9.3 Trade Dress Modifications.

9.3.1 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").

9.3.2 No more than once in a five (5) year period, at Franchisor's request, Franchisee shall refurbish the Franchised Business premises 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.

9.3.3 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.

9.4 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 or seeking expenses, losses or damages caused thereby. 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.

9.5 Franchisee Advisory Council. Franchisor reserves the right to create (and if created, the right to change or dissolve) a franchisee advisory council as a formal means for System franchisees to communicate ideas. In the event a franchisee advisory council is created, Franchisor may invite Franchisee to participate in council-related activities and meetings, which invitation may be based on a franchisee's level of success, superior performance and profitability.

## **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. Upon payment of the Site Assessment Fee, as required by Section 8.1.2, Franchisor shall also review and approve, in Franchisor's discretion, the site in accordance with Section 8.1.3.

10.2 Construction. Provide to Franchisee criteria and specifications for construction of a Kitchen Refresh Studio outlet. Such criteria and specifications include, but are not necessarily limited to, criteria with respect to design and layout. Franchisee shall independently, and at Franchisee's expense, have such criteria and specifications incorporated into the construction and/or improvement of the Franchised Business premises in accordance with Article 8.

10.3 Manual. Provide Franchisee access to the Confidential Operations 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 evaluation of the products sold and services rendered therethrough, 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. Franchisor shall provide Franchisee with a Studio products display, upon Franchisee's payments therefor.

10.6 Advertising Materials. Provide samples or digital artwork 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 Supplies/Suppliers. Make available from time to time, and amend as deemed appropriate by Franchisor, a list of required and/or recommended products and services for System franchisees and a list of approved and/or recommended suppliers of such items. Franchisee acknowledges that Franchisor or Franchisor's affiliate(s) may be the sole approved supplier(s) of certain products and services that Franchisee is required to purchase to operate the Franchised Business.

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

10.9 Ongoing Assistance. Ongoing, post-opening assistance 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 The Franchisee entity is duly organized and validly existing under the state law of its formation;

11.2.2 Attachment 5 of this Agreement accurately reflects all individuals with an ownership interest, whether direct or beneficial, in the Franchisee entity;

11.2.3 The Franchisee entity is duly qualified and is authorized to do business in the jurisdiction of the Franchised Business premises and the Territory;

11.2.4 The Franchisee entity'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;

11.2.5 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

11.2.6 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 If any 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 premises. Franchisee shall designate its General Manager prior to attending the Initial Training Program. Unless otherwise permitted by Franchisor, the General Manager shall be, 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 competitive 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. Franchisee's replacement General Manager shall attend and satisfactorily complete the Initial Training Program, at Franchisee's sole cost and expense, including the payment of the then-current tuition. Until such replacement is designated and trained, 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 Franchisor's sole discretion, may provide interim management support and charge Franchisee the then-current interim management support

fee until such General Manager is properly trained or certified in accordance with Franchisor's requirements, 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 6.8.

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; construction or home improvement contracting licenses and/or construction permits, if required; fictitious name registrations, sales and other tax permits; fire and police department clearances; 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. Franchisee shall further comply with all industry best practices with respect to disposal and recycling of construction waste.

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 relates to or affects the operation or financial condition of the Franchised Business. Any and all media inquiries concerning the Franchised Business or Franchised Business premises, including, but not limited to, the business operation and incidents and occurrences related to a customer 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. Franchisee shall execute such forms and documents as Franchisor deems necessary, including the agreement set forth in Attachment 6 hereof, 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, 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 Premises.** 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 then-currently designated and approved by Franchisor. Franchisee acknowledges and agrees that: (i) Franchisor and/or Franchisor's affiliate may be a designated supplier or sole approved supplier of any product or service that Franchisee is required to lease or purchase, (ii) Franchisor and/or Franchisor's affiliate may receive payment from supplier(s) related to Franchisee's required purchases or leases, and (iii) any payments so received are for Franchisor's benefit only and may be used or applied in any manner determined by Franchisor in Franchisor's sole and absolute discretion.

12.1.2 Maintain and operate the Franchised Business premises in attractive condition and good repair, using Franchisee's best efforts to maintain a clean 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 sale of products and provision of services as required hereby, and otherwise comply with all applicable governmental laws, ordinances, rules and regulations including those related to construction and/or home improvement and the disposal and recycling of remodeling waste;

12.1.4 Maintain sufficient inventories of product display and samples, as prescribed by Franchisor;

12.1.5 Conduct sales in accordance with Franchisor's standards and specifications. Franchisee acknowledges and accepts that (i) Franchisee must only engage in providing System products and services to end-users, (ii) Franchisee must sell only products authorized by Franchisor, which Franchisee must purchase from suppliers approved by Franchisor, and (iii) Franchisor and/or Franchisor's affiliate may be the only approved supplier(s) of authorized products. Franchisee is expressly prohibited from selling products or services outside of the Franchised Business premises, on the Internet, or to dealers and/or distributors for subsequent re-

sale, and engaging in such sales shall be a material default of this Agreement. For all Franchisor-Supplier Products:

12.1.5.1 Franchisee shall submit orders (each an “Order”) for Franchisor-Supplier Products through the POS System or other electronic transmission method specified by Franchisor;

12.1.5.2 Franchisor or Franchisor’s affiliate, as applicable, reserves the right, in its sole discretion, to accept an Order in whole or in part, and shall endeavor to confirm acceptance with two (2) business days of receipt of Franchisee’s payment for such Order. Franchisee acknowledges that (i) Franchisor or Franchisor’s affiliate may withdraw payment from Franchisee’s bank account in accordance with Section 6.8 hereof, (ii) Franchisor or Franchisor’s affiliate may refuse to manufacture or ship any Order until payment in full is received, and (iii) neither Franchisor nor Franchisor’s affiliate shall have any liability to Franchisee for non-fulfillment of any Order for which Franchisee has not received confirmation of acceptance;

12.1.5.3 Neither Franchisor nor Franchisor’s affiliate shall have any liability to Franchisee for any delay or failure to ship any Order or for the cancellation of any Order where such delay, failure or cancellation results in whole or in part from (i) shortage, interruption, or unavailability of material, labor, transportation or utility services; (ii) any labor or production difficulty at any facility, whether of Franchisor, Franchisor’s affiliate or any supplier thereto; (iii) any law, rule, regulation, decree, order or other court or governmental action; (iv) any action or failure to act on the part of a supplier to Franchisor or Franchisor’s affiliate, or (v) any cause beyond reasonable control of Franchisor or Franchisor’s affiliate. If Franchisor or Franchisor’s affiliate does not have adequate supplies of Franchisor-Supplier Products to fulfill all Orders, Franchisor or Franchisor’s affiliate may allocate Franchisor-Supplier Products in its sole discretion;

12.1.5.4 Provided Franchisee is in compliance with System standards and this Agreement, Franchisor or Franchisor’s affiliate, in its sole discretion, may, but is not obligated to, grant credit to Franchisee for Orders of Franchisor-Supplier Products. In such case, Franchisee shall pay the full amount of each invoice within fifteen (15) days of transmission. Franchisee shall not make any deductions from, or offsets against, said invoice amount for any purpose whatsoever, unless a valid credit memo has been issued. Franchisee shall not withhold, delay or offset part or all of any payment due to Franchisor or Franchisor’s affiliate for any reason whatsoever, including, but not limited to, any claimed amounts due from Franchisor or Franchisor’s affiliate. If Franchisee has received credit and fails to make full payment for an invoice within thirty (30) days, Franchisor or Franchisor’s affiliate shall charge interest on the unpaid amounts in accordance with Section 6.4 hereof;

12.1.5.5 Franchisee shall make all claims for damages, errors or shortages in Franchisor-Supplier Products (i) in writing upon delivery thereof to Franchisee and (ii) in accordance with the procedures set forth in the Manual. Franchisee’s failure to timely make such claims shall constitute an irrevocable acceptance of Franchisor-Supplier Products and an admission that they are in full compliance with all terms, conditions, and specifications of the Order. Franchisor shall evaluate all timely submitted claims and reserves the right to deny any claim where documentation does not show defect or damage in manufacturing or shipping;

12.1.5.6 No returns of Franchisor-Supplier Products will be accepted for reasons other than defective goods or shipping errors by Franchisor or Franchisor's affiliate. Franchisee shall not return any Franchisor-Supplier Product unless first authorized by Franchisor or Franchisor's affiliate. Franchisee is responsible for the safe packaging of all returned Franchisor-Supplier Products and shall comply with all carriers' return policies;

12.1.5.7 Franchisee's sole and exclusive remedy against Franchisor or Franchisor's affiliate with respect to purchased Franchisor-Supplier Products shall be for the repair or replacement of any defective or non-conforming product. No other remedy (including, but not limited to, incidental or consequential damages, lost profits, lost sales, injury to person or property, or any other incidental or consequential loss) is available to Franchisee. No refund or other remedy provided by Franchisor or Franchisor's affiliate other than repair and replacement as described in this Section shall obligate Franchisor or Franchisor's affiliate to provide such refund or alternative remedy with respect to any future transaction; and

12.1.5.8 Franchisor or Franchisor's affiliate make no warranties with respect to Franchisor-Supplier Products, and all warranty, express or implied, including but not limited to warranties of merchantability and fitness for a particular purpose, are hereby disclaimed.

12.1.6 Employ only 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, and who 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 customers of the Franchised Business. Franchisee acknowledges and agrees that poorly trained employees, sloppy or unclean appearances and incompetent or discourteous service 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 and any services, products or equipment, which includes, at Franchisor's option, Franchisor's attendance at customer installations, 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 or service that does not conform to the System standards and specifications;

12.1.8 Prominently display signs in and upon the Franchised Business premises and at installation sites 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 premises or elsewhere any sign or advertising media or interior décor of any kind to which Franchisor reasonably objects, including signs, advertising media or interior décor which 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, advertising media or interior décor 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 POS 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 (i) is 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 that Franchisee has misreported to Franchisor revenue, customer purchases, invoicing, or other information Franchisor requires, Franchisee shall reimburse Franchisor for the cost of such examination and pay to Franchisor the greater of: (i) actual damages identified by the examination together with interest thereon at the rate provided herein, as applicable and (ii) One Thousand Dollars (\$1,000.00). Such misreporting may be considered a material default hereunder. Two (2) such misreporting incidents 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 a point-of-sale system ("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 payment processing accounts that permit Franchisor to independently and electronically access and retrieve any information stored in Franchisee's POS System, other computer systems payment processing accounts, including, without limitation, information concerning Franchisee's revenue. 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 payment processing accounts.

12.3.3 Any and all customer 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.

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 use the email account provided by Franchisor. Franchisee shall promptly read and respond to all email 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 Kitchen Refresh System (the "Website"). Franchisor has sole discretion and control over the Website. Franchisor shall include a listing on its Website with Franchisee's contact information, and may, at Franchisor's option, provide Franchisee with a linked webpage for the Franchised Business. Franchisee has no ownership or other proprietary rights to Franchisor's website and Franchisee will lose all rights to such listing and/or webpage of Franchisee's outlet upon expiration or termination of this Agreement for any reason.

12.3.7 In addition to the requirements of Section 6.5, whether to Franchisor or to third party vendor(s), Franchisee shall pay all fees and expenses for technology required by this Agreement, including but not limited to, the costs of computer hardware and software,

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 and payment processing systems used in the Franchised Business and the customer 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.

12.4 Safety and Security of Premises. Franchisee is solely responsible for the safety and security of the Franchised Business premises for Franchisee, Franchisee's personnel, customers, agents and the general public. Any suggestions by Franchisor on such matters are for guidance only and 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. Customer Safety. Franchisee shall conduct a background review of every prospective employee's criminal history and any other histories (such as motor vehicle, employment and/or credit histories) that Franchisor requires and that Franchisee determines to be necessary and appropriate, prior to hiring. Franchisee shall not hire any prospective employee for any position involving entrance to a client's residence if such prospective employee's background review indicates, in Franchisee's sole discretion, a propensity for violence, dishonesty, negligent, reckless or careless behavior, or a conviction for any crime. Notwithstanding the foregoing, all matters of employment and the safety of Franchisee's customers are within Franchisee's discretion and control. Franchisor shall not be liable to Franchisee, any employee or prospective employee of Franchisee, or any third party for any act or omission of Franchisee or any employee or agent of Franchisee, and Franchisee's indemnification obligations set forth in Section 15.6 hereof shall apply to any claims, demands or actions against Franchisor arising from any act or omission of Franchisee or any employee or agent of Franchisee, including, without limitation, refusal to hire or discrimination claims or claims asserted by third parties for torts allegedly committed by any employee or agent of Franchisee.

12.6 Prices. Subject to applicable law, Franchisor may set maximum prices for products and services offer by Franchisee to customers. Franchisee shall have the right to sell its products and services at any price within Franchisor's parameters. 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.

12.7 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 using 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 Franchisee a fee equal to the actual cost and expense for inspection and testing. Franchisor shall notify Franchisee whether Franchisor approves or disapproves of the proposed item or supplier within sixty (60) days after Franchisor receives all required information to evaluate the product, service or supplier or, if Franchisor fails to respond within sixty (60) days, such proposed 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.

12.8 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.

12.9 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 franchise 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 weekly, commencing one hundred eighty (180) days following the Effective Date and for the remainder of the Term, the minimum amount set forth on Attachment 3 hereof for marketing activities and advertising of the

Franchised Business in the Territory (“Required Local Advertising Expenditure”). A minimum of Three Hundred Dollars (\$300.00) of the Required Local Advertising Expenditure shall be payable to Franchisor, and Franchisor shall implement social media marketing in the Territory on Franchisee’s behalf.

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 spend the minimum amount set forth on Attachment 3 for Local Advertising and promotional activities in the Territory during the one hundred eighty (180) days following the Effective Date to promote the opening of the Franchised Business. Franchisee shall conduct Franchisee’s grand opening campaign in accordance with plans approved by Franchisor pursuant to Section 13.5.

### 13.3 Brand Fund.

13.3.1 Franchisor reserves the right to establish a national Brand Fund (the “Brand Fund”) on behalf of the System for national advertising, marketing, and business system development and enhancements. Once established, Franchisee shall be required to contribute up to four percent (4%) of the projected weekly revenue of Franchisee’s Kitchen Refresh Studio to the Brand Fund (“Brand Fund Contribution”). Franchisee shall pay Brand Fund Contribution in the manner and time determined by Franchisor.

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 Kitchen Refresh 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, social media platforms, apps, and other technology for the benefit of the Kitchen Refresh brand image and/or Systemwide improvements; 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 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 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, blogs 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 as is necessary for the best interest of the System, if Franchisee fails to maintain such accounts in accordance with Franchisor’s standards.

13.5 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 Kitchen Refresh 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 written material used in the System, including but not limited to, forms, 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 are hereafter together referred to as the "Intellectual Property".

14.1.2. As between Franchisor and Franchisee, Franchisor and/or Franchisor's affiliate(s) are the owners 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 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 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 and/or Franchisor's affiliate(s)'s interest in, the Intellectual Property or assist others to contest the validity of, or Franchisor 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 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 requests 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 Marks "Kitchen Refresh" 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 Kitchen Refresh Franchising, LLC"

14.7.2 Franchisee shall identify itself as the owner of the Franchised Business and as an independent Kitchen Refresh Studio 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 from carrier(s) with a minimum AM Best rating of A- protecting Franchisee and Franchisor, and naming Franchisor, its officers, directors, partners, owners, employees and affiliates as additional insureds as their interests may appear, in 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):

15.1.1. Liability. Commercial general liability insurance, including public liability, personal injury, property damage, completed operations, products liability and errors and omissions coverage in the amount of at least One Million Dollars (\$1,000,000) per occurrence and Two Million (\$2,000,000) in the aggregate;

15.1.2. Employment. Worker's compensation coverage in the limits required by state law, and employer's liability insurance, including employment practices, in the minimum amount of Five Hundred Thousand Dollars (\$500,000), as well as such other insurance as may be required by statute or rule of the state in which the Franchised Business is located and operated;

15.1.3. Property. Fire, vandalism, windstorm and hail, and extended coverage insurance for property damage with primary and excess limits of not less than the full replacement value of

the leasehold improvements, equipment, furniture, fixtures, and inventory, or the requirements of the lease for the Franchised Business premises, whichever is greater;

15.1.4 Business. Business interruption insurance for a minimum of twelve (12) months, in an amount necessary to satisfy Franchisee's obligations under this Agreement and the lease for the Franchised Business premises; and

15.1.5. Automobile Insurance. Prior to operation of any vehicle on behalf of the Franchised Business, Franchisee must obtain comprehensive automobile liability insurance in the amount of at least a combined single limit for bodily and property damage of One Million Dollars (\$1,000,000.00), or greater if required by state law.

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 thirty (30) 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 KITCHEN REFRESH FRANCHISING, LLC AND ANY OF ITS PARENT COMPANIES, SUBSIDIARIES, DIVISIONS, AFFILIATES, SUCCESSORS, ASSIGNS AND DESIGNEES, AS WELL AS THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND SHAREHOLDERS (COLLECTIVELY REFERRED TO AS THE "KITCHEN REFRESH INDEMNITEES"), FROM

ALL CLAIMS BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATED TO FRANCHISEE'S FRANCHISE AND/OR THE OPERATION THEREOF, INCLUDING BUT NOT LIMITED TO, ANY CLAIM IN CONNECTION WITH FRANCHISEE'S EMPLOYEES OR AGENTS; FRANCHISEE'S COMPUTER SYSTEMS; FRANCHISEE'S PROVISION OF SERVICES; THE FRANCHISED BUSINESS PREMISES; OR FRANCHISEE'S ADVERTISING OR BUSINESS PRACTICES. FRANCHISEE AGREES TO PAY FOR ALL THE KITCHEN REFRESH 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 KITCHEN REFRESH INDEMNITEES SHALL HAVE THE RIGHT TO SELECT AND APPOINT INDEPENDENT COUNSEL TO REPRESENT ANY OF THE KITCHEN REFRESH INDEMNITEES IN ANY ACTION OR PROCEEDING COVERED BY THIS INDEMNITY. FRANCHISEE AGREES THAT TO HOLD THE KITCHEN REFRESH INDEMNITEES HARMLESS, FRANCHISEE WILL REIMBURSE THE KITCHEN REFRESH INDEMNITEES AS THE COSTS AND EXPENSES ARE INCURRED BY THE KITCHEN REFRESH 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.

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 outlets). However, Franchisor represents that it will not convert any such acquired facilities that are operating within the Territory to a Kitchen Refresh

Studio franchise 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 any part of 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 Principal(s) of the Franchise 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. Franchisee shall not 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 it 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 has 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, Franchisor's affiliate(s), 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 Principal(s) 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 Transfer Fee. As a condition to any Transfer, Franchisee shall pay Franchisor a transfer fee equal to Seven Thousand Five Hundred Dollars (\$7,500.00); provided however, (i) 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 (\$1,500.00), 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 Two Thousand Five Hundred Dollars (\$2,500.00).

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, 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 of 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 the security interest is subordinate to Franchisee's obligations to Franchisor, 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 acknowledgement 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 as 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 and/or improvement 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 premises to full operation within a reasonable period of time but not more than one hundred twenty (120) days from the date the Franchised Business premises is rendered inoperable by any casualty, as may be extended by Franchisor in Franchisor's reasonable discretion;

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 obtain home improvement permits, if applicable, and 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 misreports revenue, customer purchases, invoicing, or other information Franchisor requires 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 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 engages in any other conduct that may 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 Franchised Business premises or jobsites or 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 or suppliers and does not cure such default within the time period provided in such other agreement; or

17.2.23 terminates this Agreement 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 premises 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, Franchisor may retain all projected revenues generated by the Franchised Business 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 attorney's 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 Kitchen Refresh Studio 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 Kitchen Refresh Studio, or use any trade name, trade or service mark or other commercial symbol that suggests a current or past association with Franchisor and/or Franchisor's affiliate(s), or the System. In particular, Franchisee shall cease to use, without limitation, all signs, billboards, advertising materials, displays, stationery, forms, any other articles, and social media accounts 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 obligation 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 premises 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, designs, signs bearing the Mark(s), all confidential, proprietary and copyrighted material and all other materials related to operation of the Franchised Business, including but not limited to customer 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; and

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

18.2 Right to Purchase.

18.2.1 Franchisor shall have the option, to be exercised within thirty (30) days after termination or expiration of this Agreement, to purchase from Franchisee any or all of the furnishings, equipment (including the POS 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 determination of the fair market value.

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 Telephone Numbers. 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 shall be 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. 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, Principal(s), 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, 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 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, 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, design 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 Noncompetition Covenants. Franchisee and Principal(s) specifically acknowledge that, pursuant to this Agreement, Franchisee and Principal(s) 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 Principal(s) 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 Principal(s) are entering into this Agreement. In consideration for such specialized training, trade secrets, Confidential Information and rights, Franchisee and Principal(s) covenant that, except as otherwise approved in writing by Franchisor:

19.5.1 During the term of this Agreement, Franchisee and Principal(s) 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 customer 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 home improvement business that offers refresh, remodel and/or installation of kitchens, baths, interior cabinetry and/or drawers, countertops, backsplashes and flooring ("Competitive Business"); or (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 Franchisor or any Kitchen Refresh Studio 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 Principal(s) 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 customer of the Franchised Business 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 Competitive Business within thirty (30) miles of the Territory or any Kitchen Refresh Studio outlet; or (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 Kitchen Refresh franchisees.

19.6 Reasonableness of Restrictions. Franchisee and Principal(s) 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 Franchisee or Principal(s) since Franchisee or Principal(s), as the case may be, have other considerable skills, experience and education which afford Franchisee or Principal(s), 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 Paragraph 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 Principal(s) acknowledge 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 Principal(s) hereby consent to the entry of an injunction prohibiting any conduct by Franchisee or Principal(s) in violation of the terms of the covenants not to compete set forth in this Agreement.

19.9 No Defense. Franchisee and Principal(s) 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 8 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 21.6 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 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.

### 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 Burleigh County, North Dakota, or the offices of the American Arbitration Association, 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;

20.4.4 disputes and controversies relating to actions to obtain possession of the premises of the Franchised Business; and

20.4.5 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 State of North Dakota. Any claims, controversies, disputes or actions arising out of this Agreement shall be governed, enforced and interpreted pursuant to the laws of the State of North Dakota. Franchisee and Principal(s), except where specifically prohibited by law, hereby irrevocably submit themselves to the sole and exclusive jurisdiction of the state and federal courts in North Dakota. Franchisee and Principal(s) hereby waive all questions of personal jurisdiction for the purpose of carrying out this provision.

20.6 Mutual Benefit. Franchisee, Principal(s), 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, Principal(s), 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 Jury Trial and Certain Damages. Franchisee and each Principal hereby waive, 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. Each of Franchisee and Principal(s) agree that in the event of a dispute, Franchisee and each Principal shall be limited to the recovery of any actual damages sustained.

20.8 Limitations of Claims. Any and all claims asserted by Franchisee 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 Franchisee knew or should have known of the facts giving rise to such claims.

20.9 Attorneys' 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 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 the 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 a Kitchen Refresh outlet 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 agree 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 Principal(s) 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 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.

21.5 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.

21.6 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.

21.7 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 approved Franchised Business premises 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 premises.

21.8 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.

21.9. 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 State of North Dakota, 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.

21.10 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.

21.11 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.

21.12 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.

**-Remainder of Page Intentionally Blank-**

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

FRANCHISOR:  
Kitchen Refresh Franchising, LLC

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

FRANCHISEE (Entity):  
\_\_\_\_\_

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

FRANCHISEE (Principal):  
  
\_\_\_\_\_  
Name: \_\_\_\_\_

FRANCHISEE (Principal):  
  
\_\_\_\_\_  
Name: \_\_\_\_\_

## ATTACHMENT 1

Service Marks:

Kitchen Refresh



**ATTACHMENT 2**

**TERRITORY DESCRIPTION AND APPROVED LOCATION**

\*\*TERRITORY AND ADDRESS TO BE DETERMINED AND INSERTED AFTER A KITCHEN REFRESH STUDIO PREMISES IS IDENTIFIED BY FRANCHISEE AND APPROVED BY FRANCHISOR, IN ACCORDANCE WITH SECTION 8.1 OF THE FRANCHISE AGREEMENT, IN THE NON-EXCLUSIVE SITE SEARCH AREA OF \_\_\_\_\_.

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

Approved Location Address:

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**ATTACHMENT 3**

**FRANCHISEE’S FEE OBLIGATIONS**

Tier: \_\_\_\_\_

Initial Franchise Fee:

<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
\$28,500	\$16,000	\$6,000

Minimum Grand Opening Marketing Expenditure (initial six (6) months of Term):

<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
\$3,900	\$3,900	\$0

Minimum Local Advertising Expenditure (weekly):

<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
\$300, but no less than 4% of monthly projected revenue, if greater	\$300, but no less than 4% of monthly projected revenue, if greater	\$0, subject to the following provision

**For Tier 3 only:** If Franchisee (i) fails to promptly contact leads generated by Franchisor on Franchisee’s behalf, (ii) fails to promptly and regularly follow up with leads post-consultation, in accordance with Franchisor’s requirements, (iii) fails to maintain lead communication notes in the POS System, in accordance with Franchisor’s requirements, and/or (iv) fails to execute a contract for services for at least forty percent (40%) of consultations (commencing twelve (12) months following the Opening Date), Franchisor reserves the right to require Franchisee to expend a minimum of \$300 per week, and no less than 4% of monthly projected revenue, if greater, on Local Advertising. Franchisor further reserves the right to require Franchisee to pay such Local Advertising to Franchisor to continue to conduct lead generation efforts on Franchisee’s behalf.

**ATTACHMENT 4**

**AUTHORIZATION AGREEMENT  
AUTOMATIC DEPOSITS (ACH WITHDRAWALS)**

Franchisor Name: **Kitchen Refresh Franchising, LLC**

I (We) hereby authorize Kitchen Refresh Franchising, 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:**

Kitchen Refresh Franchising, LLC  
2401 46<sup>th</sup> Avenue SE, Suite 202  
Mandan, North Dakota, 58554  
Phone: (701) 204-8924

**ATTACHMENT 5**

**STATEMENT OF OWNERSHIP INTERESTS IN FRANCHISEE ENTITY**

**Name**

**Percentage of Ownership**

**ATTACHMENT 6**

**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 Kitchen Refresh Franchising, LLC, a North Dakota \_\_\_\_\_ with its principal place of business at 2401 46<sup>th</sup> Avenue SE, Suite 202, Mandan, North Dakota, 58554 (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 Kitchen Refresh business (“Franchise Agreement”) which, among other things, will allow Franchisee to conduct internet-based advertising, maintain social media accounts, use software, and use telephone listings linked to the Kitchen Refresh 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 Web Sites, 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 web sites, the right to hyperlink to certain web sites 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 exhibits 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 State of North Dakota without regard to the application of North Dakota conflict of law rules.

The undersigned have executed or caused their duly authorized representatives to execute this Agreement as of the Effective Date.

FRANCHISOR:

**KITCHEN REFRESH FRANCHISING, LLC**

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

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

FRANCHISEE (Entity):

\_\_\_\_\_

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

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

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**ATTACHMENT 7**

**SPOUSAL GUARANTY**

This Guaranty and Covenant (this “Guaranty”) is given by the undersigned (“Guarantor”) on \_\_\_\_\_ (the “Effective Date”), to Kitchen Refresh Franchising, LLC, a North Dakota 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 claims 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:**

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

**ATTACHMENT 8**

**CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This Confidentiality and Non-Compete Agreement (the “Agreement”) is made and entered into this \_\_\_\_\_, by \_\_\_\_\_, a(n) \_\_\_\_\_ (“Franchisee”), a franchisee of Kitchen Refresh Franchising, LLC, a North Dakota 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 registered trademark “Kitchen Refresh” and design mark, and certain proprietary products, services, promotions and methods (the “System”) for the establishment and operation of a Kitchen Refresh Studio (the “Franchised Business”);

**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 Kitchen Refresh 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 customer of the Kitchen Refresh 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 home improvement business that offers refresh, remodel and/or installation of kitchens, baths, interior cabinetry and/or drawers, countertops, backsplashes and flooring ("Competitive Business").

**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 two (2) years 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 customer of the Franchised Business or of other franchisees in the Kitchen Refresh 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 Competitive Business within thirty (30) miles of Franchisee's Kitchen Refresh Studio or any Kitchen Refresh Studio outlet.

**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 in 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 of 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 STATE WHERE

FRANCHISEE'S FRANCHISED BUSINESS IS LOCATED, WITHOUT REFERENCE TO SUCH STATE CHOICE OF LAW PRINCIPLES. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF OR HERSELF TO THE JURISDICTION OF THE STATE AND FEDERAL COURTS OF SUCH STATE. 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 SUCH STATE OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE IN SUCH STATE; 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: \_\_\_\_\_  
\_\_\_\_\_

If directed to Covenantor: \_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_

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

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

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

COVENANTOR:

\_\_\_\_\_

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

**EXHIBIT C**  
**FINANCIAL STATEMENTS**

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**FINANCIAL STATEMENTS**  
**YEARS ENDED DECEMBER 31, 2022 AND 2021, AND THE**  
**PERIOD FROM MARCH 18, 2020 (INCEPTION)**  
**THROUGH DECEMBER 31, 2020**

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021, AND FOR**  
**THE PERIOD FROM MARCH 18, 2020 (INCEPTION)**  
**THROUGH DECEMBER 31, 2020**

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## **INDEPENDENT AUDITOR'S REPORT**

To the Member  
Kitchen Refresh Franchising, LLC

### **Opinion**

We have audited the accompanying financial statements of Kitchen Refresh Franchising, LLC, which comprise the balance sheets as of December 31, 2022 and 2021, and the related statements of operations and member's equity, and cash flows for the years ended December 31, 2022 and 2021, and for the period from March 18, 2020 (inception) through December 31, 2020, 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 Kitchen Refresh Franchising, LLC as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years ended December 31, 2022 and 2021, and for the period from March 18, 2020 (inception) through December 31, 2020, in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Kitchen Refresh Franchising, 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 Kitchen Refresh Franchising, LLC's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

### Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Kitchen Refresh Franchising, 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 Kitchen Refresh Franchising, 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.



CERTIFIED PUBLIC ACCOUNTANTS

New York, New York  
June 15, 2023

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**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**BALANCE SHEETS**  
**DECEMBER 31, 2022 AND 2021**

	<u>2022</u>	<u>2021</u>
<b><u>ASSETS</u></b>		
Current assets:		
Cash	\$ 20,005	\$ 20,005
Accounts receivable	<u>13,987</u>	<u>-</u>
Total current assets	33,992	20,005
Other asset:		
Due from related party, net	<u>203,961</u>	<u>-</u>
<b>TOTAL ASSETS</b>	<b><u>\$ 237,953</u></b>	<b><u>\$ 20,005</u></b>

**LIABILITIES AND MEMBER'S EQUITY**

Liabilities	\$ 192	\$ 736
Commitments and contingencies (Notes 7 and 8)		
Member's equity	<u>237,761</u>	<u>19,269</u>
<b>TOTAL LIABILITIES AND MEMBER'S EQUITY</b>	<b><u>\$ 237,953</u></b>	<b><u>\$ 20,005</u></b>

See accompanying notes to financial statements.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**STATEMENTS OF OPERATIONS AND MEMBER'S EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021, AND FOR THE**  
**PERIOD FROM MARCH 18, 2020 (INCEPTION)**  
**THROUGH DECEMBER 31, 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Revenues:			
Product sales	\$ 545,495	\$ -	\$ -
Advertising income	67,649	-	-
Home office lead contact and nurturing fees	16,600	-	-
Other revenues	<u>200</u>	<u>-</u>	<u>-</u>
Total revenues	629,944	-	-
Cost of revenues	<u>340,169</u>	<u>-</u>	<u>-</u>
Gross profit	289,775	-	-
Selling, general and administrative expenses	<u>71,283</u>	<u>24,610</u>	<u>13,720</u>
Net income (loss)	218,492	(24,610)	(13,720)
Member's equity - beginning	19,269	20,005	-
Member contributions	-	23,874	33,725
Member distributions	<u>-</u>	<u>-</u>	<u>-</u>
MEMBER'S EQUITY - ENDING	<u>\$ 237,761</u>	<u>\$ 19,269</u>	<u>\$ 20,005</u>

See accompanying notes to financial statements.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021, AND FOR THE**  
**PERIOD FROM MARCH 18, 2020 (INCEPTION)**  
**THROUGH DECEMBER 31, 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Cash flows from operating activities:			
Net income (loss)	\$ 218,492	\$ (24,610)	\$ (13,720)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Expenses paid on behalf of the Company by the Parent	-	23,874	13,720
Changes in operating assets and liabilities:			
Accounts receivable	(13,987)	-	-
Due from related party, net	(203,961)	-	-
Accrued expenses	<u>(544)</u>	<u>736</u>	<u>-</u>
Net cash provided by operating activities	-	-	-
Cash provided by financing activity:			
Member contributions	<u>-</u>	<u>-</u>	<u>20,005</u>
Net increase in cash	-	-	20,005
Cash - beginning	<u>20,005</u>	<u>20,005</u>	<u>-</u>
CASH - ENDING	<u>\$ 20,005</u>	<u>\$ 20,005</u>	<u>\$ 20,005</u>
Supplemental disclosure of non-cash financing activities:			
Member contributions - expenses paid on behalf of the Company by the Parent	<u>\$ -</u>	<u>\$ 23,874</u>	<u>\$ 13,720</u>

See accompanying notes to financial statements.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 1. ORGANIZATION AND NATURE OF OPERATIONS**

Kitchen Refresh Franchising, LLC (the "Company"), a wholly-owned subsidiary of Kitchen Refresh Holdings, Inc. (the "Parent"), was formed on March 18, 2020, as a North Dakota limited liability company to sell franchises pursuant to a non-exclusive license agreement dated June 1, 2020, between the Company and Kitchen Refresh Inc., ("Kitchen Refresh"), an entity related to the Company by common ownership and control. Pursuant to the Company's standard franchise agreement, franchisees will operate a business under the "Kitchen Refresh" name and operate a retail studio which sells goods and services relating to the remodeling and refreshing of kitchen, bathrooms, and other interior cabinets and installing kitchen, bathroom and other interior countertops, related products and accessories to individuals, households and businesses.

The Company is a limited liability company and, therefore, the member is not liable for the debts, obligations or other liabilities of the Company, whether arising in contract, tort or otherwise, unless the member has signed a specific guarantee.

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Basis of accounting

The accompanying financial statement has been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Use of estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. These estimates may be adjusted due to changes in future economic, industry or other financial conditions. Actual results may ultimately differ from these estimates.

Accounts receivable

Accounts receivable are stated at the amount the Company expects to collect. The Company maintains allowances for doubtful accounts for estimated losses resulting from the inability of some of its franchisees to make required payments. Management considers the following factors when determining the collectibility of specific franchisee accounts: franchisee creditworthiness, past transaction history with the franchisee, and current economic industry trends. If the financial condition of the Company's franchisees was to deteriorate, adversely affecting their ability to make payments, additional allowances would be required. Based on management's assessment, the Company provides for estimated uncollectible amounts through a charge to earnings and a credit to a valuation allowance. Balances that remain outstanding after the Company has made reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable. The Company had no allowances for doubtful accounts at December 31, 2022 and 2021.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

Revenue and cost recognition

The Company derives its revenues from franchise fee revenue, transfer fees, product sales, home office lead contact and nurturing fees and advertising income.

*Franchise fees and marketing fund fees*

Contract consideration from franchisees primarily consists of initial or renewal franchise fees, multi-unit agreement fees ("MUAs"), sales-based marketing fund fees and transfer fees payable by a franchisee for the transfer of their franchise unit to another franchisee. The Company also enters into MUAs which grant a franchisee the right to develop two or more franchise territories. The Company collects an up-front fee for the grant of such rights. The initial franchise fees and up-front multi-unit fees are nonrefundable and collectable when the underlying franchise agreement or MUA is signed by the franchisee. Marketing fund fees are payable on a monthly basis. Renewal and transfer fees are due from franchisees when an existing franchisee renews the franchise agreement for an additional term or when a transfer to a third party occurs, respectively.

The Company's primary performance obligation under the franchise agreement mainly includes granting certain rights to access the Company's intellectual property in addition to a variety of activities relating to opening a franchise unit. Those costs would include site selection, training and other such activities commonly referred to collectively as "pre-opening activities." Pre-opening activities are deemed to be distinct as they provide a benefit to the franchisee and are not highly interrelated or interdependent to access to the Company's intellectual property. For all other pre-opening activities, if any, the Company determines if a certain portion of those pre-opening activities provided is not brand specific and provides the franchisee with relevant general business information that is separate from the operation of a company-branded franchise unit. The portion of pre-opening activities that is not brand specific is deemed to be distinct as it provides a benefit to the franchisee and is not highly interrelated to the use of the Company's intellectual property and therefore accounted for as a separate performance obligation.

All other pre-opening activities are determined to be highly interrelated to the use of the Company's intellectual property and therefore accounted for as a single performance obligation, which is satisfied by granting certain rights to use the Company's intellectual property over the term of each franchise agreement.

The Company estimates the stand-alone selling price of pre-opening activities using an adjusted market assessment approach. The Company first allocates the initial franchise fees and the fixed consideration under the franchise agreement to the stand-alone selling price of the pre-opening activities and the residual, if any, to the right to access the Company's intellectual property. Consideration allocated to pre-opening activities is recognized when the franchisee location opens.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

*Revenue and cost recognition (continued)*

*Franchise fees and marketing fund fees (continued)*

Initial and renewal franchise fees allocated to the right to access the Company's intellectual property are recognized as revenue on a straight-line basis over the term of the respective franchise agreement. MUAs generally consist of an obligation to grant the right to open two or more units. These development rights are not distinct from franchise agreements; therefore, up-front fees paid by franchisees for development rights are deferred and apportioned to each franchise agreement signed by the franchisee. The pro-rata amount apportioned to each franchise agreement is recognized as revenue in the same manner as the initial and renewal franchise fees.

*Marketing fund*

The Company has reserved the right to establish a marketing fund to collect and administer funds contributed for use in advertising and promotional programs for franchise units. Franchisees may be charged a percentage of their monthly gross sales of up to 4% per month by the marketing fund in accordance with the Company's standard franchise agreement. The Company has determined that it acts as a principal in the collection and administration of the marketing fund and therefore recognizes the revenues and expenses related to the marketing fund on a gross basis. The Company has determined that the right to access its intellectual property and administration of the marketing fund are highly interrelated and therefore are accounted for as a single performance obligation. As a result, revenues from the marketing fund are related to the right to access the Company's intellectual property, which will be recognized as franchisee sales occur.

When marketing fund fees exceed the related marketing fund expenses in a reporting period, advertising costs will be accrued up to the amount of marketing fund revenues recognized.

*Product sales*

Revenues from product sales are recognized when control of the promised goods is transferred to the franchisees upon delivery. The Company has elected to treat shipping and handling as fulfillment activities and not a separate performance obligation at the point of sale or at the time of delivery, which is when transfer of control to the franchisee occurs and the related revenue is recognized.

Provisions for customer volume discounts, product returns, rebates and allowances are variable consideration and are estimated and recorded as a reduction of revenue in the same period the related product revenue is recorded. There were no such provisions at December 31, 2022 and 2021.

*Other revenues*

The Company will recognize revenue from other fees and other services provided to the franchisees as a single performance obligation, when the services are rendered.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

Incremental costs of obtaining a contract

The Company capitalizes direct and incremental costs, principally consisting of commissions, associated with the sale of franchises and will amortize them over the term of the franchise agreement and MUAs. In the case of costs paid related to MUAs for which no signed franchise agreement has been received, these costs will be deferred until the signed franchise agreement is received.

Income taxes

The Company is treated as a partnership for tax purposes and, as such, is not liable for federal or state income taxes. As a single-member limited liability company and, therefore, a disregarded entity for income tax purposes, the Company's assets and liabilities are combined with and included in the income tax return of the Parent. Accordingly, the accompanying financial statement does not include a provision or liability for federal or state income taxes.

The Company recognizes and measures its unrecognized tax benefits in accordance with FASB ASC 740, *Income Taxes*. Under that guidance, management assesses the likelihood that tax positions will be sustained upon examination based on the facts, circumstances and information, including the technical merits of those positions, available at the end of each period. The measurement of unrecognized tax benefits is adjusted when new information is available or when an event occurs that requires a change. There were no uncertain tax positions at December 31, 2022 and 2021.

The Parent files income tax returns in the U.S. federal jurisdiction and in various state jurisdictions.

Advertising

Advertising costs are expensed as incurred. There were no advertising costs for the years ended December 31, 2022, 2021, and for the period from March 18, 2020 (inception) through December 31, 2020, respectively.

Reclassifications

Certain amounts in the prior year financial statements have been reclassified to conform to the current year presentation. These reclassification adjustments had no effect on the Company's previously reported net loss.

Variable interest entities

In accordance with the provisions of the FASB ASU No. 2018-17, *Consolidation (Topic 810): Targeted Improvements to Related Party Guidance for Variable Interest Entities* ("ASU 2018-17"), FASB no longer requires nonpublic companies to apply variable interest entity guidance to certain common control arrangements, including leasing arrangements under common control. The Company has applied these provisions to the accompanying financial statements and has determined that the entities disclosed in Note 8 meet the conditions under ASU 2018-17, and accordingly, are not required to be included in the Company's financial statements.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

Recently issued but not yet effective accounting pronouncements

In June 2016, FASB issued ASU No. 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"), and subsequent amendment to the initial guidance: ASU No. 2018-19, *Codification Improvements to Topic 326, Financial Instruments - Credit Losses* (collectively, "Topic 326"). Topic 326 introduces a new forward-looking approach, based on expected losses, to estimate credit losses on certain types of financial instruments, including trade receivables. The estimate of expected credit losses will require entities to incorporate considerations of historical information, current information, and reasonable and supportable forecasts and will generally result in earlier recognition of allowances for losses. For non-public companies, Topic 326 will be effective for annual and interim reporting periods beginning after December 15, 2022. The guidance is to be applied using the modified retrospective approach. The Company is in the process of assessing the impact of Topic 326 on its financial statements.

Subsequent events

In accordance with FASB ASC 855, *Subsequent Events*, the Company has evaluated subsequent events through June 15, 2023, the date on which these financial statements were available to be issued. There were no material subsequent events that required recognition or additional disclosure in these financial statements.

**NOTE 3. FRANCHISED OUTLETS**

The following data reflects the status of the Company's franchised outlets as of and for the years ended December 31, 2022, 2021, and for the period from March 18, 2020 (inception) through December 31, 2020::

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Franchises assigned	4	-	-
Franchises purchased	-	-	-
Franchised outlets in operation	4	-	-
Franchisor-owned outlets in operation	-	-	-

**NOTE 4. LIQUIDITY AND BUSINESS RISKS**

The Company has sustained no cash flows from operations since inception through December 31, 2022. Since inception, the Company's operations have been funded through a combination of contributions from the Parent. The Company is growing and, as such, is incurring expenditures in the near term to benefit the future as it looks to grow the franchisee base and expand into new markets. Such expenses could be reduced or eliminated in order to improve operating cash flows as needed.

Subsequent to the year ended December 31, 2022, management has taken several actions to improve operating cash flows mainly through the collection of cash from franchisees. If necessary, management of the Company has been advised that the Parent intends to provide any financial assistance needed by the Company should its cash flows from operations combined with its cash balances not be sufficient to meet its working capital needs. Management believes that the Parent has the intent and ability to provide the funds needed, if any, to continue to fund the operations of the Company for at least one year from the date these financial statements were available to be issued.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 5. REVENUES AND RELATED CONTRACT BALANCES**

Disaggregated revenues

The Company derives its revenues from franchisees located throughout the state of Minnesota. The economic risks of the Company's revenues are dependent on the strength of the economy in the United States, and the Company's ability to collect on its contracts. The Company disaggregates revenue from contracts with customers by timing of revenue recognition by type of revenue, as it believes this will best depict how the nature, amount, timing and uncertainty of revenue and cash flows will be affected by economic factors. The Company's timing of its revenue recognized for the year ended December 31, 2022, is all point in time. There was no revenue recognized during the year ended December 31, 2021, and for the period from March 18, 2020 (inception) through December 31, 2020.

**NOTE 6. CONCENTRATION OF CREDIT RISK**

Cash

The Company may place its cash, which may at times be in excess of Federal Deposit Insurance Corporation insurance limits, with a major financial institution. Management believes that this policy will limit the Company's exposure to credit risk.

Accounts receivables

Concentration of credit risk with respect to receivables is limited due to the number of franchisees in the Company's customer base and their geographic dispersion. The Company provides an allowance for doubtful accounts equal to the estimated collection losses based on historical experience coupled with a review of the current status of existing receivables.

**NOTE 7. COMMITMENTS AND CONTINGENCIES**

Litigation

The Company is subject to claims and legal proceedings that arise in the ordinary course of its business activities. Management believes that any liability that may ultimately result from the resolution of these matters will not have a material adverse effect on the financial condition or results of operations of the Company.

**NOTE 8. RELATED-PARTY TRANSACTIONS**

License agreement

On June 1, 2020, the Company entered into a perpetual non-exclusive license agreement with Kitchen Refresh for the use of the registered name "Kitchen Refresh" (the "license agreement"). Pursuant to the license agreement, the Company acquired the right to sell "Kitchen Refresh" franchises, and the right to earn franchise fees, product sale fees, and other fees from franchisees. In accordance with the license agreement, the Company will be required to pay Kitchen Refresh a license fee based on the Company's gross revenue, as defined. The license fee was waived during the year ended December 31, 2022. There were no license fee expenses for the year ended December 31, 2021, and for the period from March 18, 2020 (inception) through December 31, 2020.

**KITCHEN REFRESH FRANCHISING, LLC**  
**(A Limited Liability Company)**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2022, 2021 AND 2020**

**NOTE 8. RELATED-PARTY TRANSACTIONS (CONTINUED)**

Supply agreement

On June 1, 2020, the Company entered into a supply agreement with Kitchen Refresh Supply, LLC ("Kitchen Supply"), an entity related to the Company by common ownership and control. The Company will purchase, based on orders from its franchisees, custom-made and off-the-shelf furniture, parts and components for the remodeling and refreshing of kitchens, bathrooms and other interior cabinets and installation of kitchen, bathroom and other interior countertops. The Company will pay Kitchen Supply the cost incurred plus a markup, as defined in the supply agreement. Effective, May 5, 2022, the Company entered into a temporary supply agreement with Kitchen Refresh, Inc., an entity related to the Company by common ownership, as Kitchen Supply and the Company mutually suspended performance under the original agreement. The Company will be charged a supply fee expense of 54% of all amounts invoiced to the franchisees. Supply fee expenses amounted to \$340,169 for the year ended December 31, 2022, and is included in "Cost of revenues" in the accompanying statements of operations and member's equity. There were no supply fee expenses for the year ended December 31, 2021, and for the period from March 18, 2020 (inception) through December 31, 2020.

Employee service agreement

On June 1, 2020, the Company entered into an employee service agreement with Kitchen Supply. Pursuant to the service agreement, the Company has agreed to reimburse Kitchen Supply for its actual cost incurred in providing services on behalf of the Company. The employee service fee was waived for the year ended December 31, 2022. There were no employee service fee expenses for the year ended December 31, 2021, and for the period from March 18, 2020 (inception) through December 31, 2020.

Assignment agreement

On May 1, 2022, Kitchen Refresh assigned to the Company four franchise agreements for franchisees located in the state of Minnesota.

Due from related party, net

In the ordinary course of business, the Company advances funds to and from an entity related through common ownership. The amount due from the related party relating to revenues collected net of cost of goods sold paid on the Company's behalf at December 31, 2022 is \$258,451. The amount due to the related party relating to expenses paid on the Company's behalf at December 31, 2022 is \$54,490. The amounts due from and due to the related party were netted together in the amount of \$203,961, which is represented on the accompanying balance sheet as of December 31, 2022, as "Due from related party, net." There were no amounts due from or to the related party at December 31, 2021. No interest is charged on these advances. Advances to the related party are unsecured and have no specific repayment terms. Management does not expect balances due from the related party to be settled within the next year.

## **EXHIBIT D**

### **Table of Contents Kitchen Refresh Operations Manual**

**158 total pages**

**Welcome and Congratulations - 2 pages**

**Reputation - 2 pages**

**Training Overview - 2 pages**

**Contact Numbers - 1 page**

**Franchise Tiers - 1 page**

**The Franchise System - 6 pages**

**Franchisee Communication and Support - 1 page**

**Cybersecurity - 4 pages**

**Business Plan - 4 pages**

**Business Setup: Launch Preparation - 6 pages**

**Business Setup Items: Greater Detail - 19 pages**

**Vendor Relationships: A Great Bonus Revenue Source - 2 pages**

**Design Studio Search & Buildout - 9 pages**

**Marketing & Advertising - 29 pages**

**Referrals - 3 pages**

**Marketing Assets - 3 pages**

**Facebook After & Before Photo Requirements - 3 pages**

**Grand Opening - 2 pages**

**Monthly Showcase Events - 2 pages**

**Lead Management - 14 pages**

**Home Office Lead Nurturing Program - 2 pages**

**CRM Overview - 4 pages**

**Design Inspiration - 2 pages**

**Design Consultation - 11 pages**

**Volume Discounting - 2 pages**

**Clients Contacting You After Hours - 2 pages**

**Nurturing the Leads After the Consultation - 2 pages**

**Congratulations - You Got A Sale - 2 pages**

**The Measure & A Measure Fee - 2 pages**

**The Cutlist & Order Payment - 2 pages**

**Handling Client Complaints - 7 pages**

**Project Management - 7 pages**

**Managing Your Sales Revenues - 1 page**

**Product Order and Delivery - 2 pages**

**Adding A Territory - 2 pages**

**FAQ - 4 pages**

**Design Training & Installer Training - 1 page**

## EXHIBIT E

### Franchised Outlets

Franchisee	Address	Phone Number	Territory
Value Add Services* Shelly and Jerry Carr	6420 Flying Cloud Drive Eden Prairie MN	507-358-9513	Bloomington MN
Installit** Emily and Bill Korf	6420 Flying Cloud Drive Eden Prairie MN	612-414-7794	Plymouth Super MN
Brandex Woodworks, LLC Richard T. Cole	200 Spruce Avenue NW Montgomery MN	507-491-5230	Mankato MN
Installit** Emily and Bill Korf	659 Hayward Ave N Oakdale MN	612-414-7794	St. Paul Super MN
Value Add Services* Shelly and Jerry Carr	1814 2 <sup>nd</sup> Street SW Rochester MN	507-358-9513	Rochester MN

\*Multiple outlets under a single franchise agreement

\*\* Multiple outlets under a single franchise agreement

### Former Franchisees

that had an outlet terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or has not communicated with the franchisor within the 10 weeks preceding the Issuance Date of this Disclosure Document:

Wright Company LLC Karen and Chad Wright	Plymouth, Minnesota	763-742-7823
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**EXHIBIT F**

**KITCHEN REFRESH FRANCHISEE ACKNOWLEDGEMENT STATEMENT**

**\*\*NOT FOR USE IN CALIFORNIA, MARYLAND OR WASHINGTON**

**KITCHEN REFRESH FRANCHISEE ACKNOWLEDGEMENT STATEMENT**

Acknowledgement of the truthfulness of the statements below are an inducement for the Franchisor to enter into a Franchise Agreement. Notify the 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 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.**

Franchisee hereby acknowledges the following:

1. Franchisee 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 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 have been made to Franchisee by Franchisor and Franchisee and any and all Principals hereby waive any claim against Franchisor for any business failure Franchisee may experience as a franchisee under this Agreement.

\_\_\_\_\_  
Initial

2. Franchisee 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 and its efforts as an independent business operation.

\_\_\_\_\_  
Initial

3. Franchisee agrees that no claims of success or failure have been made to it or him or her prior to signing the Franchise Agreement and that it/she/he understands all the terms and conditions of the Franchise Agreement. Franchisee further acknowledges that the Franchise 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 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 that are contrary to the terms of the Franchise Agreement or the documents incorporated herein. Franchisee acknowledges that no representations or warranties are

made or implied, except as specifically set forth in the Franchise Agreement. Franchisee represents, as an inducement to Franchisor's entry into this Agreement, that it has made no misrepresentations in obtaining the Franchise Agreement.

\_\_\_\_\_  
Initial

5. Franchisor expressly disclaims the making of, and Franchisee 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.

\_\_\_\_\_  
Initial

6. Franchisee acknowledges that Franchisor's approval or acceptance of Franchisee'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 acknowledges that it has received the Kitchen Refresh Franchising, LLC Franchise Disclosure Document with a complete copy of the Franchise Agreement and all related Attachments and agreements at least fourteen (14) calendar days prior to the date on which the Franchise Agreement was executed. Franchisee further acknowledges that Franchisee has read such Franchise Disclosure Document and understands its contents.

\_\_\_\_\_  
Initial

8. Franchisee 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 with respect to the Franchise Agreement or the relationship thereby created.

\_\_\_\_\_  
Initial

9. Franchisee, together with Franchisee'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.

\_\_\_\_\_  
Initial

10. Franchisee is aware of the fact that other present or future franchisees 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 Territory by others who may have purchased such products from Franchisor.

\_\_\_\_\_  
Initial

12. BY EXECUTING THE FRANCHISE AGREEMENT, FRANCHISEE AND ANY PRINCIPAL, INDIVIDUALLY AND ON BEHALF OF FRANCHISEE'S AND SUCH PRINCIPAL'S HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, HEREBY FOREVER RELEASE AND DISCHARGE KITCHEN REFRESH FRANCHISING, LLC, AND ANY OF ITS 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, 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.

\_\_\_\_\_  
Initial

FRANCHISEE:

\_\_\_\_\_

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

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

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

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

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

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

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

**EXHIBIT G**

**FORM OF GENERAL RELEASE**

**GENERAL RELEASE**

This release (the "Release") is given this day of \_\_\_\_\_ by \_\_\_\_\_, a(n) \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ ("Franchisee") and \_\_\_\_\_'s principals \_\_\_\_\_, an individual residing at \_\_\_\_\_ and ("Principal(s)").

Franchisee and 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 Releasers"), hereby release, discharge and hold harmless Kitchen Refresh Franchising, LLC ("Franchisor") and Franchisor's affiliates, officers, directors, members, 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 Releasers now own or hold or have at any time heretofore owned or held against the Franchisor Releasees (collectively, the "Franchisee Released Claims").

FRANCHISEE AND 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 Releasers 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 Principal(s) shall defend, indemnify and hold harmless each of Franchisor Releasees against same.

Release given this day of \_\_\_\_\_ by:

FRANCHISEE:

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_

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

(Print Name)

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

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**EXHIBIT H**

**STATE-SPECIFIC ADDENDA**

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**  
**PURSUANT TO THE ILLINOIS FRANCHISE DISCLOSURE ACT**

Illinois law shall apply to and govern the Franchise Agreement.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

Franchisee's right upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with section 41 of the Illinois Franchise Disclosure Act, 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 is void.

**AMENDMENT TO THE KITCHEN REFRESH FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF ILLINOIS**

In recognition of the requirements of the Illinois Franchise Disclosure Act, 815 ILCS §§ 705/1 et seq. (1987) (the "Act"), which govern the attached Kitchen Refresh Franchise Agreement (the "Franchise Agreement"), the parties thereto agree as follows:

1. To the extent of any inconsistencies, the Franchise Agreement is hereby amended to further state:

"Section 4 of the Act provides that no franchisee shall be required to litigate any cause of action, with the exception of arbitration proceedings, arising under the Franchise Agreement or the Act outside of the State of Illinois."

2. To the extent of any inconsistencies, the Franchise Agreement is hereby amended to further state:

"Illinois law governs the terms of this Franchise Agreement."

3. To the extent of any inconsistencies, the Franchise Agreement is hereby amended to further state:

"Section 41 of the Act provides that any condition, stipulation, or provision purporting to bind Franchisee to waive compliance with any provision of the Act, or any other Illinois law is void. The foregoing requirement, however, shall not prevent Franchisee from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of the Act, and shall not prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code."

4. To the extent of any inconsistencies, the Franchise Agreement is hereby amended to further state:

"To the extent any provision regarding termination or renewal of the Franchise Agreement is inconsistent with the Illinois Franchise Disclosure Act §§ 815 ILCS §§ 705/19 and 705/20, the provisions of these sections of the Act will control."

5. Each provision of this Amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Act are met independently without reference to this Amendment.

6. No statement, questionnaire or acknowledgement 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 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 this Illinois Amendment to the Franchise Agreement on the same date as that on which the Franchise Agreement was executed.

FRANCHISOR:

KITCHEN REFRESH FRANCHISING, LLC

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

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

FRANCHISEE (Entity):

\_\_\_\_\_

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

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

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**  
**REQUIRED BY THE STATE OF MINNESOTA**

The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in franchise documents be amended to be consistent with Minnesota Franchise Act, Minn. Stat. Section 80.01 et seq., and of the Rules and Regulations promulgated under the Act (collectively the "Franchise Act"). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

1. Item 6, Non-Sufficient Funds Fee, is amended to state:

Pursuant to Minn. Stat. § 604.113, the Non-Sufficient Funds Fee is \$30.00 per occurrence.

2. Item 17 is amended to state:

- (a) Minn. Stat. § 80C.21 and Minnesota Rules § 2860.4400(J) prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring you to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in this Franchise Disclosure Document or agreement(s) shall abrogate or reduce (1) any of your rights as provided for in Minn. Stat. Chapter 80C or (2) your rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
- (b) In accordance with Minn. Stat. § 80C.14 subd. 3-5, except in certain specified cases, we will give you 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the Franchise Agreement. Additionally, we will not unreasonably withhold our consent to a transfer of your Kitchen Refresh franchise.
- (c) In accordance with Minnesota Rules 2860.4400(D), we cannot require you to assent to a general release.
- (d) In accordance with Minnesota Rules 2860.4400(J), we cannot require you to consent to liquidated damages.
- (e) Minn. Stat. § 80C.17 subd. 5 requires that an action be commenced pursuant to the Franchise Act within three (3) years after the cause of action accrues.
- (f) You cannot consent to us obtaining injunctive relief. We may seek injunctive relief. See Minnesota Rules 2860.4400(J),

**AMENDMENT TO THE KITCHEN REFRESH FRANCHISING, LLC  
FRANCHISE AGREEMENT REQUIRED BY THE STATE OF MINNESOTA**

In recognition of the requirements of the Minnesota Statutes Chapter 80C, the parties to the attached Kitchen Refresh Franchise Agreement (the "Franchise Agreement") agree as follows:

1. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee's assent to a release other than as part of a voluntary settlement of disputes. To the extent of any inconsistencies with the Minnesota Rules requirement contained in Sections 5.2.5 or 16.3.6 of the Franchise Agreement, such inconsistent provisions are hereby deleted.

2. To the extent of any inconsistencies, Section 5.1.1 of the Franchise Agreement is hereby amended to state:

"Except in certain specified cases as set forth in Minn. Stat. § 80C.14 subd. 4, Franchisor will give Franchisee 180 days' notice for non-renewal of the Franchise Agreement."

3. To the extent of any inconsistencies, Section 6.3 of the Franchise Agreement is hereby amended to state that the non-sufficient funds fee is Thirty Dollars (\$30.00) per occurrence.

4. To the extent of any inconsistencies, Sections 17.1 through 17.3 of the Franchise Agreement are hereby amended to state:

"Except in certain specified cases as set forth in Minn. Stat. § 80C.14 subd. 3, Franchisor will give Franchisee 90 days notice of termination (with 60 days to cure)".

5. To the extent of any inconsistencies, Article 20, Dispute Resolution, of the Franchise Agreement is hereby amended to state:

"Franchisor cannot require Franchisee to: (i) conduct litigation outside Minnesota, (ii) waive a jury trial, or (iii) consent to liquidated damages, termination penalties or judgment notes. Nothing in this Franchise Agreement shall abrogate or reduce (1) any of Franchisee's rights as provided for in Minn. Stat. Chapter 80C or (2) Franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction. Franchisee cannot consent to Franchisor obtaining injunctive relief. Franchisor may seek injunctive relief."

8. Each provision of this Amendment shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Statutes Chapter 80C are met independently without reference to this Amendment.

The parties hereto have duly executed this Minnesota Amendment to the Franchise Agreement on the same date as that on which the Franchise Agreement was executed.

FRANCHISOR:

KITCHEN REFRESH FRANCHISING, LLC

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

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

FRANCHISEE (Entity):

\_\_\_\_\_

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

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

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**ADDENDUM TO THE KITCHEN REFRESH FRANCHISING, LLC**  
**FRANCHISE DISCLOSURE DOCUMENT AND FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF NORTH DAKOTA**

The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, NDCC § 51-19 *et seq.* (“NDFIL”). To the extent that (a) the jurisdictional requirements of the NDFIL are met and (b) this Franchise Disclosure Document and Franchise Agreement contain provisions that are inconsistent with the following, such provisions are hereby amended:

1. Covenants not to compete upon termination or expiration of the franchise agreement are subject to NDCC § 9-08-06.

To the extent required by the NDFIL, arbitration proceedings shall take place at a location mutually agreed upon by you and us.

3. Any requirement that you consent to liquidated damages or termination penalties shall not apply to the extent prohibited by the NDFIL;
4. Any requirement that you consent to (i) the jurisdiction of courts outside of North Dakota, (ii) the application of laws of a state other than North Dakota, (iii) waiver of jury trial or (iv) waiver of exemplary and punitive damages shall not apply to the extent prohibited by the NDFIL;
5. Any release required as a condition to a renewal of the franchise agreement shall not apply to the extent prohibited by the NDFIL;
6. Any requirement that you consent to a limitation of claims shall not apply to the extent prohibited by the NDFIL. As applicable, the statute of limitations under North Dakota law shall control.
7. The prevailing party in any enforcement action is entitled to recover all costs and expenses, including attorney's fees.
8. In the State of North Dakota, we will defer the payment of the initial franchise fee, development fee and any other initial payment until all of our material pre-opening obligations have been satisfied and until you open your business, and it is operating. The North Dakota Securities Department imposed this deferral requirement due to Franchisor's financial condition.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

The parties hereto have duly executed this North Dakota Amendment to the Franchise Agreement on the same date as that on which the Franchise Agreement was executed.

FRANCHISOR:

KITCHEN REFRESH FRANCHISING, LLC

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

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

FRANCHISEE (Entity):

\_\_\_\_\_

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

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

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

FRANCHISEE (Principal):

\_\_\_\_\_

\_\_\_\_\_  
(Print Name)

## STATE EFFECTIVE DATES

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This Franchise Disclosure Document is registered, on file or exempt from registrations in the following states having franchise disclosure laws, with the following effective dates:

<u>STATE</u>	<u>EFFECTIVE DATE</u>
Illinois	Pending
Minnesota	Pending
North Dakota	Pending
South Dakota	Pending
Wisconsin	Pending

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

**EXHIBIT I**

**RECEIPT OF FRANCHISE DISCLOSURE DOCUMENT OF KITCHEN REFRESH FRANCHISING, LLC**

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 Kitchen Refresh Franchising, LLC offers you a franchise, it must provide this Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

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 Kitchen Refresh Franchising, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal 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:

Patrick Kellar 2401 46 <sup>th</sup> Ave. SE, Suite 202 Mandan, North Dakota 58554 701-204-8924	
--	--

Issuance Date: August 29, 2023

I received a Disclosure Document dated \_\_\_\_\_, that included the following Exhibits:

- EXHIBIT A: List of State Franchise Administrators and Agents for Service of Process
- EXHIBIT B: Franchise Agreement with Attachments 1 - 8.
- EXHIBIT C: Financial Statements of Kitchen Refresh Franchising, LLC
- EXHIBIT D: Operations Manual Table of Contents
- EXHIBIT E: Outlets as of the date of this Disclosure Document
- EXHIBIT F: Franchisee Acknowledgment Statement
- EXHIBIT G: Form of Release
- EXHIBIT H: State Specific Addenda  
State Effective Dates Page
- EXHIBIT I: Receipt

Date Received: \_\_\_\_\_  
(If other than date signed)

DATE: \_\_\_\_\_

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

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

City, State: \_\_\_\_\_

\_\_\_\_\_  
(Signature of recipient)

Please return signed receipt to Kitchen Refresh Franchising, LLC,  
2401 46<sup>th</sup> Ave. SE, Suite 202  
Mandan, North Dakota 58554

**EXHIBIT I**

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Patrick Kellar 2401 46 <sup>th</sup> Ave. SE, Suite 202 Mandan, North Dakota 58554 701-204-8924	
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State Effective Dates Page
- EXHIBIT I: Receipt

Date Received: \_\_\_\_\_  
(If other than date signed)

DATE: \_\_\_\_\_

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

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

City, State: \_\_\_\_\_

\_\_\_\_\_  
(Signature of recipient)

**KEEP FOR YOUR RECORDS**