



**HAWAII FLUID ART FRANCHISING, LLC**

**FRANCHISE DISCLOSURE DOCUMENT**

**ISSUANCE DATE: APRIL 19, 2024**

## FRANCHISE DISCLOSURE DOCUMENT



### Hawaii Fluid Art Franchising, LLC

A Texas limited liability company

610 Uptown Blvd., STE 3900

Cedar Hill, TX 75104

(800) 463-3793

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[www.HawaiiFluidArt.com](http://www.HawaiiFluidArt.com)

Hawaii Fluid Art Franchising, LLC (“Hawaii Fluid Art”) offers franchises for studios that offer art classes to groups and individuals featuring acrylic pour and resin art (“Studio(s)”).

The total investment necessary to begin operation of a new Studio ranges from \$182,450 to \$339,600. This includes \$109,550 to \$137,200 that must be paid to the franchisor or its affiliates.

If you enter into a Development Agreement to develop multiple Studios, the total investment necessary to begin operation of one new Studio and to have the right to develop between two and three Studios ranges from \$247,450 to \$479,600. This includes \$174,550 to \$262,200 that must be paid to the franchisor or its affiliates. You must open a minimum of two Studios under a Development Agreement with us.

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

You may wish to receive your Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Maya Ratcliff at 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104, (800) 463-3793, [info@hawaiifluidart.com](mailto:info@hawaiifluidart.com).

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

Buying a franchise is a complex investment. The information in this Disclosure Document can help you make up your mind. More information on franchising, such as “*A Consumer’s Guide to Buying a Franchise*,” which can help you understand how to use this Disclosure Document is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW., Washington, D.C. 20580. You can also visit the FTC’s home page at [www.ftc.gov](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: April 19, 2024

## State Cover Sheet

### 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 Exhibit I.
<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>	Exhibit A includes financial statements. Please 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 Hawaii Fluid Art business in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a Hawaii Fluid Art franchisee?</b>	Exhibit I lists the 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 May 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 a franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider about *This Franchise*

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

1. **Out of State Dispute Resolution.** The franchise agreement and area development agreement require you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Texas. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Texas than in your own state.
2. **Mandatory Minimum Payments.** You must make minimum royalty fee payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.
3. **Short Operating History.** The franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise in a system with a longer operating history.
4. **Financial Condition.** The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.

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

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## EXHIBITS

A.	FINANCIAL STATEMENTS
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**ITEM 1.**  
**THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS, AND AFFILIATES**

To simplify the language in this Disclosure Document, “Hawaii Fluid Art”, “HFA” or “we” means Hawaii Fluid Art Franchising, LLC, the franchisor. “You” or “Franchisee” means the person or entity who buys the franchise, including all equity owners of a corporation, general partnership, limited partnership, limited liability, or any other type of entity (an “Entity”). If you are an Entity, each individual with direct or indirect ownership interest shall be referred to as an “Owner.”

**Franchisor**

Hawaii Fluid Art Franchising, LLC was initially a Hawaii limited liability company organized on April 15, 2021, and was converted to a Texas limited liability company organized on March 21, 2022. Hawaii Fluid Art has a principal place of business at 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104. We conduct business under our legal name and the tradename “Hawaii Fluid Art®”. We began offering Studios in July 2021. We do not offer franchises in any other line of business. We have not conducted and are currently not conducting any other business activities other than selling and supporting Studios.

To the extent that we have designated agents for service of process in other states, they are listed in Exhibit F.

**Affiliates, Parents, and Predecessors**

We do not have any parents or predecessors.

All of our affiliates share our principal business address at 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104. Other than as disclosed below, none of our affiliates will provide products or services to our franchisees. None of our affiliates offer franchises in any line of business and conduct no other business than the business we have disclosed below.

- HFA Marketing, LLC (“HFA Marketing”) is the Approved Supplier for Hawaii Fluid Art® branded merchandise, graphic design and branding assistance, printed advertising materials, sign design, window graphics, newsletters, limited digital marketing services, social media account and google account setup, search engine optimization (“SEO”), and managing the Upfluence program.
- HFA Supply LLC (“HFA Supply”) is the Approved Supplier for paint, resin, “Secret Sauce”, and canvases.
- HFA Technologies LLC (“HFA Tech”) manages the System (as defined below) technology services. HFA Tech is the Approved Supplier for monthly technology services.

The below affiliate locations operate businesses in the United States similar to the Studios we offer in this Disclosure Document. We refer to each of these locations as “Affiliate-Owned Outlets”. None of these affiliates will provide products or services to you, though one or more of the Affiliate-Owned Outlets may host portions of our training programs or be available to you for viewing as part of the franchise awarding process.

- Hawaii Fluid Art, LLC (“HFA Waikoloa”) operates a brick-and-mortar Studio and mobile unit in Waikoloa Beach, HI
- Hawaii Fluid Art KC, LLC (“HFA KC”) operates a brick-and-mortar Studio in Kansas City, MO

- Hawaii Fluid Art Las Vegas, LLC (“HFA Las Vegas”) operates a brick-and-mortar Studio and mobile unit Las Vegas, NV
- Hawaii Cedar Hill, LLC (“HFA Cedar Hill”) operates a brick-and-mortar Studio and mobile unit in Cedar Hill, TX
- Hawaii Fluid Art Lubbock LLC (“HFA Lubbock”) operates a brick-and-mortar Studio in Lubbock, TX

## **The Business and Franchises Offered**

We are offering, under the terms of this Disclosure Document, the opportunity to become a franchisee to develop and operate a Hawaii Fluid Art Studio. Studios offer: (i) group art classes focused on fluid art, resin art, tumbler art, glass painting, mosaic classes, Patch Party(ies), and additional offerings; (ii) individual art lessons in fluid art techniques and pour painting; (iii) the sale of artwork to retail customers; (iv) event space for exhibiting customer art and small events; and (v) and other similar services that we may approve and modify from time to time (collectively the “Approved Products and Services”).

A Studio operates under the “Hawaii Fluid Art” mark and certain other trademarks, service marks, trade names, signs, associated designs, artwork, and logos (collectively, the “Marks”). We may designate other trade names, service marks, and trademarks as Marks and may change the Marks at any time.

A Studio operates under a prescribed system of specifications and operating procedures that we have developed and will continue to develop (the “System”). The distinguishing characteristics of the System include, but are not limited to, our designs, layouts, and identification schemes (collectively, the “Trade Dress”), our specifications for equipment, inventory, and accessories; our website or series of websites for the Studios (the “System Website”); our relationships with vendors; our software and computer programs; the accumulated experience reflected in our training program, operating procedures, customer service standards methods, and marketing techniques; and the mandatory and suggested policies, procedures, standards, specifications, rules, and requirements (“System Standards”) set out in our operations manuals (“Manuals”) and otherwise in writing. We may change, improve, add to, and further develop the elements of the System from time to time.

You may purchase a Hawaii Fluid Art Studio which grants you the right to develop and operate one Studio at a mutually agreed upon site (“Site”) within an area (“Site Selection Area”) that we will specify in the Franchise Agreement that we and you will execute (the “Franchise Agreement”). We may also grant you the right to operate from a mobile unit which we will grant you the right to operate within a limited territory around the Site you will also operate. Our current form of Franchise Agreement is included as Exhibit B to this Disclosure Document. You will have no obligation, nor any right, to open any additional Studios. Under the Franchise Agreement, you have no right to use the Marks or the System at any location other than the Site or to use the Marks or the System in any wholesale, e-commerce, or other channel of distribution other than the operation of the Studio within the Territory. See Item 12 for more details about your Territory and certain rights that we retain.

You may, if we approve, convert an existing business offering similar services to a Studio by entering into a Franchise Agreement with us. If you convert an existing business to a Studio, you will be required to operate under the Marks and System and in accordance with all other terms of the Franchise Agreement and may not continue to operate under your prior business name.



## **Development Agreement**

If we determine that you are financially and operationally qualified to develop multiple Studios, we may offer you the opportunity to enter into a “Development Agreement”, in which you will commit to develop a certain number of Studios in a defined geographic area (“Development Area”) that you and we determine to be appropriate over a set period time set forth in a “Development Schedule”. If you enter into a Development Agreement, you must pay us a development fee that is based upon the number of Studios set forth in your Development Schedule (the “Development Fee”). The Development Fee will be credited towards the initial Franchise Fee for each Studio developed under the Development Agreement. When signing a Development Agreement, you will execute an initial Franchise Agreement for your first franchise Studio, and you will be required to develop these additional units within a fixed time period. The initial Franchise Agreement will count as the first unit developed as part of your Development Schedule. You must sign our then-current franchise agreement for each additional Studio opened under the terms of the Development Agreement. These franchise agreements may not be the same as the initial Franchise Agreement that you will sign for your first Studio.

If you enter into a Development Agreement, we may allow you, upon your request, to operate a mobile Hawaii Fluid Art business from an approved vehicle, which will be similar to a transit van (a “Mobile Unit”). We do not charge you an additional fee to operate this Mobile Unit in your Development Area, nor do we require you to sign any additional agreements.

## **Market Conditions and Competition**

The general market for the products and services offered by Studios is well developed, and there will be competition from other national and local businesses that offer the same or similar services. The market for our services is year-round, but it will fluctuate to some degree depending on the time of year. The success of your Studio will depend in large measure on the demographics of the residents of your Territory, the competition surrounding your Studio, local labor conditions and wage rates, the local costs of advertising, the availability of suitable facilities in convenient locations and at affordable rents, and your management, marketing, and selling skills and work ethic. Your competitive advantage in the marketplace will be based largely on your adherence to our System Standards, as well as your entrepreneurial and managerial abilities and focus on customer service.

## **Industry-Specific Regulations**

You will have to comply with federal, state, and local laws and regulations that are applicable to business generally (such as employment, workers’ compensation, OSHA, insurance, and health and safety requirements). In some areas, you may be required to obtain certain business and trade licenses in order to perform the services. It is your responsibility to comply with all applicable laws in the operation of your Studio. We urge you to make further inquiries about these laws in the area in which you intend to operate your Studio.

Federal, state, and local governmental laws, ordinances and regulations periodically change. It will be your responsibility to ascertain and comply with all federal, state, and local governmental requirements in your jurisdiction. We do not assume any responsibility for advising you on these regulatory matters. You should consult with your attorney about laws and regulations that may affect your Studio.

**ITEM 2.  
BUSINESS EXPERIENCE**

**Maya Ratcliff – Founder & CEO**

Ms. Ratcliff has served as our Founder and CEO since April 2021, and is located in Ovilla, Texas. Since May 2019 Ms. Ratcliff has been owner and CEO of HFA Waikoloa. From April 2016 to April 2019 was an independent insurance inspector for major insurance carriers with Independent Inspection Services of Hawaii. Ms. Ratcliff has over 15 years of experience as a mortgage banker for several large lending institutions.

**Trinity Kirk – Director of Franchise Expansion**

Ms. Kirk has served as our Director of Franchise Expansion since January 2024. She was previously our Director of Real Estate Acquisition & Strategic Growth beginning in November 2022. From March 2022 to November 2022, Ms. Kirk served as an Accounting Manager for Mississippi Tank Co. in Hattiesburg, Mississippi. From January 2021 to March 2022 Ms. Kirk was voluntarily out of the workforce. From January 2019 to January 2021, she served as owner/operator of Tinker Tots Childcare in Weaverville, California. From February 2013 to April 2019, she was an independent real estate agent in Shasta and Trinity counties California. Ms. Kirk serves in her current capacities in Cedar Hill Texas.

**ITEM 3.  
LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4.  
BANKRUPTCY**

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

**ITEM 5.  
INITIAL FEES**

**Franchise Fees**

<b>Number of Studios</b>	<b>Initial Franchise Fee</b>	<b>Cumulative Development Fee</b>
1	\$65,000	\$65,000
2	\$65,000	\$130,000
3	\$55,000	\$185,000

The initial franchise fee (the “Franchise Fee”) for a single Studio is \$65,000 and is due upon execution of the Franchise Agreement. The Franchise Fee is deemed earned upon receipt and is not refundable under any circumstances. The Minnesota Commissioner has requested, and we have agreed, to defer collection of initial franchise fees until your Studio opens for business.

If you enter into a Development Agreement, you must pay us a development fee based upon the number of Studios that you agree to develop (the “Development Fee”). If you enter a Development Agreement, you will agree to develop a minimum of two Studios. You will be required to sign our Development Agreement and agree to open your additional Studios upon a set schedule. The Development Fee is deemed fully earned upon receipt and there are no refunds of the Development Fee under any circumstances. If you execute a

Development Agreement, you will be required to execute a Franchise Agreement for the first unit in your Development Agreement concurrently with your execution of the Development Agreement.

As detailed in the above table, the Development Fee, you must pay us depends upon the number of Studios we grant you the right to develop in your Development Area in accordance with the Development Schedule set forth in the Development Agreement. The Development Fee will be credited towards the initial Franchise Fee for each Studio developed under the Development Agreement. We may, upon our sole discretion, grant you the right to develop more than three Studios.

In fiscal year 2023, we received franchise fees ranging from \$44,500 to \$350,000. For the low end, we provided discounts to individual units under the VetFran program under our previous initial franchise fee schedule. Our high end was earned for a 10-unit deal.

### **Additional Initial Fees**

Except as described below, the disclosed fees are uniform for all franchisees, non-refundable, and deemed earned upon payment.

<b>Type</b>	<b>Additional Initial Fees</b>	<b>Price Range</b>
Required	Business Management Onboarding Fee	\$7,500
Required	Real Estate Acquisition and Construction Management Fee	\$3,000
Required	Onsite Training Fee	\$9,600 - \$12,000
Required	Initial Technology Fee Payment	\$950
Required	Grand Opening Project Management Fee	\$5,000
Required	Initial Inventory Order	\$18,500
Optional	Mobile Unit Training Fee	\$4,800
Optional	Onsite Real Estate Walkthrough	\$2,000 to \$3,500
Optional	Lease Rider Review	\$1,250
Optional	Onsite Setup Fee (minimum)	\$6,000
Optional	Initial FF&E Order	\$9,500 - \$14,500

#### Business Management Onboarding Fee

Upon signing your Franchise Agreement, you must pay us a non-refundable Business Management Onboarding Fee (the “Onboarding Fee”) equal to \$7,500 for our personnel to establish and set up your accounts with our platforms and service providers; including all current integrations, with vendors, on the website, creating a micro-site, setting up a booking system, an account with the call center, access to the intranet, establishing email accounts, accessing HFA University, access to the HFA google space, and establishing accounts with our digital marketing partners. This fee is uniform for all franchisees, is deemed earned upon payment, and is non-refundable.

#### Real Estate Acquisition and Construction Management Fee

Our in-house real estate acquisition professional will provide consulting and advice to you to assist you with finding and acquiring a location. Once you have signed your lease, you will work with our in-house construction project professional who will assist in coordinating with our national construction partners. We charge a fee of \$3,000 when you sign your lease, before beginning construction for our services. This fee is uniform for all franchisees, is deemed earned upon payment, and is non-refundable.

### Onsite Training Fee

You must pay us an initial training fee (“Training Fee”) for the cost of one or more of our personnel to provide our in-person training to you, your Operating Principal, and your Key Manager at your Studio prior to your grand opening. We will provide a minimum of eight days of in-person training at your Studio location as we and you determine to be appropriate. We anticipate we will spend between eight and ten days training you. The Training Fee is \$1,200 per day of onsite training and typically ranges from \$9,600 to \$12,000. We are responsible for the travel and living expenses of our personnel who provide onsite training for you. You must pay us \$9,600 upon execution of the Franchise Agreement, but the remaining balance for any additional days of training that we provide (if any) must be paid upon invoice delivered upon completion of training. We do not require you to travel to our facilities for training. If you enter into a Development Agreement with us, you must pay us the then-current Training Fee for each Studio that you develop under the Development Agreement at the time each then-current Franchise Agreement is signed.

### Technology Fee

You will contract with our affiliate, HFA Supply LLC to receive technology services. Our affiliate will centrally manage the technology services utilized by the System. Our affiliate charges franchisees \$950 per month beginning the day you are onboarded and begin accessing the system which will be within 2 days of when you sign your Franchise Agreement.

### Grand Opening Project Management Fee

You will pay us a “Grand Opening Project Management Fee” equal to \$5,000. We will provide grand opening support and assistance with planning your grand opening, drafting press releases, generating media content, providing you guidance and other support. You will pay us the Grand Opening Project Management Fee upon signing the lease for your Studio.

### Initial Inventory Order

On your behalf we will provide you with your initial opening inventory of supplies, canvases, paints, and proprietary pouring medium and specialty resin for use in your Studio. We do not order retail merchandise for your business. You will be invoiced, and you must pay prior to our ordering and shipping your inventory. As disclosed below in Item 7, we anticipate that your initial retail inventory will be \$18,500.

### Mobile Unit Training Fee – Only required if operating a Mobile Unit

If you enter a Development Agreement and choose to operate a Mobile Unit, you must pay us a Training Fee equal to \$1,200 per day for a minimum of four days. You will travel to our outlet in Las Vegas, NV for the training. You will be responsible for your own travel, living, and wage expenses.

### Onsite Real Estate Walkthrough - Optional

Upon your request, we will travel to your Site Selection Area to perform a walkthrough of your selected Site with you. For this service we charge from \$2,000 - \$3,500, which includes our costs and expenses, depending on the number of days we anticipate we will be on site. We will send you an invoice upon receipt of your request.

### Lease Rider Review – Optional

We recommend you utilize one of our recommended attorneys for negotiating your leases. If you use a recommended attorney, the lease rider review will be incorporated into a pre-negotiated flat fee. If you hire

your own attorney, we charge a pass through a \$1,250 lease rider review fee to you. The fee is due upon your receipt of the invoice.

Onsite Setup Fee – Optional

Upon your request, we will travel to your Studio to assist you in setting up the studio and retail area. We will turn the Studio over to you prepared for pre-opening training. We charge a minimum fee of \$6,000 (\$1,200 per day with a minimum of five days onsite), which we will invoice to you upon your request and prior to our traveling to your location.

Initial Furniture, Fixtures, and Equipment (“FF&E”) Order – Optional

We will provide you with a list of furniture, fixtures, and equipment you must purchase for setting up both the studio and retail sides of your Studio. If you request, we may invoice you, and order the required FF&E for you, but you will be required to set it up upon arrival. As disclosed below in Item 7, we anticipate that your order for FF&E will range from \$9,500 to \$14,500.

**ITEM 6.  
OTHER FEES**

Type of Fee <sup>1</sup>	Amount	Due Date	Remarks
Royalty Fees <sup>2</sup>	The greater of (i) 8% of your Gross Revenue for the preceding month; or (ii) \$750 per month (the “Minimum Royalty”)	Per transaction	<p>See Note 2 for the definition of Gross Revenue. Your Royalty Fee will be automatically drawn from each transaction when you collect it through the required POS system. Any Gross Revenue generated through alternate systems we use for bookings will be calculated in Gross Revenue and invoiced to you at the end of each month. Each month we will run a report and if you did not meet the Minimum Royalty amount, you will owe the difference to meet the Minimum Royalty.</p> <p>Beginning 6 months after you sign your Franchise Agreement, whether or not your Studio has opened, we have the right to begin charging you the Minimum Royalty. We may increase the Minimum Royalty at the start of any year by no greater than the CPI Increase.</p> <p>If you operate a Mobile Unit, your Gross Revenue will be included in your initial franchise agreement Royalty Fee calculation.</p>
Brand Fund Contribution	2% of Gross Revenue	Per transaction; same as Royalty Fee	You must contribute the Brand Fund Contribution to our established Hawaii Fluid Art Brand Fund. See Note 2 for the definition of Gross Revenue.

<b>Type of Fee<sup>1</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Digital Marketing Spend Requirement	Minimum of \$2,000 per month beginning the month after your Grand Opening plan is completed	As incurred	<p>We require you to contract with a marketing supplier we approve, which may be our affiliate, HFA Marketing, to perform digital marketing on your behalf each month.</p> <p>We do not require, but we recommend you spend more than this amount to advertise in your local market.</p>
Upfluence Program Fee	\$350 per month if you opt in	Currently due by the tenth of each month	If you choose to participate in the Upfluence program, you will pay our affiliate, HFA Marketing, to participate in the program.
Technology Fee	\$950 per month	Currently due by the tenth of each month.	You will contract with our affiliate to receive technology services. The Technology Fee currently includes fees related to your access to and usage of our reservation system, our intranet, any mobile applications we develop, and the System Website. We may add, delete, or otherwise modify the products and services that are included in the Technology Fee. The first month will be assessed pro rata from the date on which you begin receiving services, which is the date you sign the Franchise Agreement.
Real Estate Acquisition and Construction Project Management Fee	\$3,000	Upon signing your lease	See Item 5. If you sign a Development Agreement, this fee shall be assessed per location.
Renewal Fee	Our actual costs for review and preparation of renewal agreements, up to a maximum of \$3,000.	Upon execution of successor franchise agreement	Required if you elect to renew.
Transfer Fee	\$10,000 for any transfer resulting in a change of control to a third-party; \$5,000 for any transfer resulting in a change of control to an immediate family member; administrative and legal costs for non-control transfers and transfers to entities for the convenience of ownership.	\$3,000 deposit due with written notice of proposed transfer; balance due at closing	No Transfer Fee is due for transfers upon death or incapacity. This fee is subject to applicable state law.

Type of Fee <sup>1</sup>	Amount	Due Date	Remarks
Late Fee and Interest	18% per annum or maximum interest rate allowed by law (whichever is less) from due date to date of payment, plus \$100 late fee if not paid within 10 days of invoice date	When amount owed becomes past due	Required whenever a payment to us is made after its due date.
Relocation Fee	\$2,500 plus our administrative and legal costs in evaluating the relocation	Upon demand	Payable if you relocate your Studio from the Site to a new location
Initial Training Fee for Additional or Replacement Trainees	\$1,200 per day for additional onsite training at your Site	Upon invoicing	We will provide Initial Training in the System for a minimum of 8 days in your Studio as part of the Training Fee. For additional training, we reserve the right to charge a reasonable fee for training (i) more than four trainees, even if they attend the same training session, (ii) persons who are repeating the course or replacing a person who did not pass, and (iii) subsequent Operating Principals, Key Managers, or employees who attend the course.
Additional Training Programs	Currently, we do not charge for any required or optional additional online training.	Upon invoicing	We may charge you a reasonable fee for optional or some required training programs that we may provide, which may not yet be developed.
Other Requested Onsite Services	\$1,200 per employee per day	Upon invoicing	<p>Payable if you request and we provide requested operational or consulting services at your site including:</p> <ul style="list-style-type: none"> <li>- Temp. Key Manager Services</li> <li>- Additional Onsite Setup</li> <li>- Additional Onsite Training</li> </ul> <p>We may change this fee without limitation from time to time upon written notice to you.</p>
Onsite Setup Fee	Minimum \$6,000 (\$1,200 per day for a minimum of 5 days)	Upon invoicing	Payable if you request our assistance in setting up your Studio.
Lease Rider Review	\$1,250	Upon invoicing	We will pass through the cost of having an attorney review the lease rider and negotiate with your landlord on our behalf if you hire an attorney, we have not pre-negotiated a rate with.
Temporary Management	\$850 per day <i>plus</i> 3% of the Studio's Gross Revenue during the period of management, <i>plus</i> any direct out of pocket costs and expenses	Upon invoicing	Payable if we exercise our right to manage your Studio after a default. Our management of the Studio will continue up to a maximum of 1 year and lasting for intervals of 90 days.

<b>Type of Fee<sup>1</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Annual Convention	Currently \$2,800 per person	Prior to attending the event	If we host an annual convention, you and your Key Manager are required to attend. You are responsible for the travel and living expenses of you and your employees while attending the convention.
Grand Opening Project Management Fee	\$5,000	Upon invoicing	See Item 5. If you sign a Development Agreement, this fee shall be assessed per location.
Product, Service, Supplier, and Service Provider Review	\$1,000 for the inspection plus our actual cost of testing the proposed product or evaluating the proposed service or service provider, including personnel and travel costs	Upon demand	Payable if you wish to offer products or use any supplies, equipment, or services that we have not approved or wish to purchase from a supplier or service provider that we have not approved, whether or not we approve the item, service, supplier, or service provider.
Insurance	Cost of the premium plus a 10% administrative fee for our services in procuring the insurance	Upon demand	Payable only if you fail to maintain the minimum insurance we require and we choose to procure the required insurance for you.
Audit	Our costs and expenses, including costs for an independent accountant and attorneys' fees and related travel and living expenses	Upon demand	Payable if audit or review shows an understatement of Gross Revenue for the audited or reviewed period of 2% or more.
Inspection	Our expenses incurred in inspecting your business (ourselves, through our employees or agents), including travel and living expenses, wages, and other expenses for our employees	Upon demand	Payable only if inspection is necessitated by your repeated or continuing failure to comply with any provision of the Franchise Agreement.
Noncompliance Fee	\$500 - \$1,500 per instance	Upon demand	Payable if you violate our policies and procedures outlined in the Franchise Agreement and HFA Manuals, including but not limited to, unapproved advertising or purchasing from unapproved suppliers, or misuse of system Marks and branding.
Retail Sales Tax	Actual amounts assessed	Per transaction, as invoiced	If we are required to pay sales tax based on sales to you, we will pass that amount to you.
Indemnification	Amount of our liabilities, fines, losses, damages, costs and expenses (including reasonable attorneys' fees)	Upon demand	Payable if we incur losses due to your breach of the Franchise Agreement or any other action or inaction by you or any other person relating to your Studio.
Enforcement Expenses	Our costs to de-identify your Studio	Upon demand	Payable if your Franchise Agreement expires or is terminated and you fail to de-identify your Studio resulting in us



Type of Fee <sup>1</sup>	Amount	Due Date	Remarks
			having to take steps to do so.
Refurbishing and Renovations	Not to exceed \$25,000 across your 10-year Franchise Agreement term	As incurred	You may be required to spend up to \$25,000 each Term to make any required upgrades and updates to your Studio. For example, if we change our System standards and specifications for Studios, you will be required to update your Studio to match our new requirements.

**Notes:**

1. Except as described in the remarks above, all of the fees in the table above are imposed by us or our affiliates, payable to us or our affiliates, are non-refundable, and are uniformly imposed. You must use the payment methods we designate. You must furnish us and your bank with any necessary authorizations to make payment by the methods we require.

2. **“Gross Revenue”** means all revenue that you receive or otherwise derive from operating the Studio, including the sale of commissioned art pieces, and any revenue derived from organizing and hosting off-site events, whether from cash, check, credit or debit card, gift card or gift certificate, or other credit transactions, and regardless of collection or when you actually provide the products or services in exchange for the revenue. If you receive any proceeds from any business interruption insurance applicable to loss of revenue at the Studio, there shall be added to Gross Revenue an amount equal to the imputed gross revenue that the insurer used to calculate those proceeds. Gross Revenue includes promotional allowances or rebates paid to you in connection with your purchase of products or supplies or your referral of customers. Gross Revenue does not include (i) any bona fide returns and credits that are actually provided to customers, (ii) any bone fide shipping charges that you collect from a customer and actually pay to a third-party shipping or logistics company for the delivery of items to customers, and (iii) any sales or other taxes that you collect from customers and pay directly to the appropriate taxing authority. You may not deduct payment provider fees (i.e., bank or credit card company fees and gift card vendor fees) from your Gross Revenue calculation.

**ITEM 7.  
ESTIMATED INITIAL INVESTMENT**

**A. YOUR ESTIMATED INITIAL INVESTMENT - SINGLE UNIT**

Type of Expenditure <sup>1</sup>	Low Estimate	High Estimate	Method of Payment	When Due	To Whom Payment Is Made
Franchise Fee <sup>2</sup>	\$65,000	\$65,000	Lump sum	Upon signing Franchise Agreement	Franchisor
Business Management Onboarding Fee <sup>3</sup>	\$7,500	\$7,500	Lump Sum	Upon signing Franchise Agreement	Franchisor
Onsite Training Fee <sup>4</sup>	\$9,600	\$12,000	As incurred	Upon invoicing, prior to Training	Franchisor
Initial Product/ Inventory Purchase <sup>5</sup>	\$18,500	\$18,500	Lump Sum	Upon invoicing, prior to Training	Franchisor
Real Estate Acquisition and Construction Management Fee <sup>6</sup>	\$3,000	\$3,000	Lump Sum	Upon signing your lease	Franchisor

Type of Expenditure <sup>1</sup>	Low Estimate	High Estimate	Method of Payment	When Due	To Whom Payment Is Made
Technology Fee (3-9 Months) <sup>7</sup>	\$2,850	\$8,550	As incurred	Monthly	Franchisor
Security Deposits for Lease and/or Utilities <sup>8</sup>	\$3,000	\$15,000	As incurred	Within 120 days from signing FA	Landlord, utility company
Rent (3 Months) <sup>9</sup>	\$3,000	\$18,000	As incurred	As agreed with landlord	Landlord
Design/Architecture/Engineering <sup>10</sup>	\$0	\$6,800	As incurred	Prior to Opening the Business	Construction Project Manager
Net Leasehold Improvements <sup>11</sup>	\$12,000	\$68,000	As incurred	Prior to Opening the Business	Third-party vendors
Furniture, Fixtures, and Equipment <sup>12</sup>	\$9,500	\$14,500	As incurred	Prior to Opening the Business	Franchisor or Third-party vendors
Signage <sup>13</sup>	\$3,000	\$15,000	As incurred	Prior to Opening the Business	Third-party vendors
Office Supplies and Accessories <sup>14</sup>	\$250	\$500	As incurred	Prior to Opening the Business and ongoing as incurred	Third-party vendors
Business Management and Technology System <sup>15</sup>	\$1,000	\$2,500	As incurred	Prior to Opening the Business	Third-party vendors
Business Licenses <sup>16</sup>	\$250	\$3,000	As incurred	Prior to Opening the Business	Government agencies
Professional Fees <sup>17</sup>	\$2,500	\$7,500	As incurred	As incurred	Attorneys, bankers, accountants, and other professionals
Insurance Deposit and Initial Premiums <sup>18</sup>	\$1,500	\$2,500	As incurred	Prior to Opening the Business	Insurance agent or carrier
Grand Opening Project Management Fee <sup>19</sup>	\$5,000	\$5,000	Lump Sum	Upon signing your lease	Franchisor
Grand Opening Budget <sup>20</sup>	\$10,000	\$15,000	As incurred	6 weeks before and 6 weeks after opening your Business	Us and/or our affiliates, and third-party vendors
Digital Marketing Spend (3 months) <sup>21</sup>	\$6,000	\$6,000	Monthly, as incurred	As incurred before and after opening for Business	Third-party vendors or our affiliate
Onsite Real Estate Walkthrough Fee <sup>22</sup>	\$0	\$3,500	As incurred	Upon invoicing	Franchisor
Lease Rider Review Fee <sup>23</sup>	\$0	\$1,250	Lump Sum	Upon invoicing	Franchisor
Onsite Setup Fee <sup>24</sup>	\$0	\$6,000	Lump Sum	Upon invoicing	Franchisor
Additional Funds (3 months) <sup>25</sup>	\$19,000	\$35,000	As incurred	As incurred	Employees, utilities, suppliers, us, and other third parties, etc.

Type of Expenditure <sup>1</sup>	Low Estimate	High Estimate	Method of Payment	When Due	To Whom Payment Is Made
<b>TOTAL<sup>26</sup></b>	<b>\$182,450</b>	<b>\$339,600</b>			

**Notes:**

1. Type of Expenditure. The amounts provided in this Item 7 include costs you will incur to start your business. All fees and payments are non-refundable, unless otherwise stated or permitted by the payee.
2. Franchise Fee. The standard Franchise Fee for opening a single Studio is \$65,000.
3. Business Management Onboarding Fee. You must pay us the fee to establish and access the technology and account services used in operating your Studio. See Item 5 for more details.
4. Onsite Training Fee. We will provide onsite initial training to you at your Studio for a minimum of 8 days. You are not required to attend any initial training at our headquarters. We are responsible for the travel and living expenses of our representative while they conduct Initial Training in your Studio. The high end contemplates we provide you with 10 days of Initial Training.
5. Initial Product/Inventory Purchase. We will order your initial inventory of paint, canvases, resin, and all small items needed for use in your Studio. Prior to opening your Studio, we will invoice you for the inventory of Studio supplies. You must pay us the entire amount before we place your order with our suppliers. This amount does not include retail merchandise, which we do not order for you.
6. Real Estate Acquisition and Construction Management Fee. We will provide you both a real estate acquisition professional and a construction management professional to consult and advise you through the acquisition and construction phases. See Items 5 and 11 for more details. We will invoice you once you have executed your lease.
7. Technology Fee Through First Nine Months. This figure includes payment of the Technology Fee to us through your first three months of operation. Because you begin paying the Technology Fee after signing the Franchise Agreement, we estimate that nine months is your highest amount by which time your Studio should be open. The low end estimates you can open your location with 6 months.
8. Security Deposits for Lease and/or Utilities. This estimate includes prepaid rent and deposits payable to the landlord or storage facility and any deposits on utilities required to open the Studio. These amounts will vary based on your location and the terms of your lease.
9. Rent. The figures in the table reflect our estimates for leasing our standard prototype studio, which is a one-story, 1,200 - 1,800 square feet space. The low estimate assumes that you will be able to negotiate a rent abatement for your initial months of operation. The high estimate assumes that you lease a Studio in a high-demand area and do not receive a rent abatement. Your rent will depend on the Site's size, condition, visibility, accessibility, and location, local market conditions, and demand for the premises among prospective lessees. You should consult with a local commercial real estate broker to get a more accurate estimate of costs in your market.

You may choose to purchase, rather than rent, real estate on which a building suitable for the Studio already is constructed or could be constructed. Because of the numerous variables that affect the value of a particular piece of real estate, this initial investment table does not reflect the potential purchase cost of real estate or the costs of constructing a building suitable for the Studio.

10. Design/Architecture/Engineering. We recommend you engage designers, architects, and engineers to draft standard construction plans for your studio. The low-end estimate assumes you choose not to hire a designer, architect or engineer. The high-end estimate includes costs related to the drafting, shipping, and printing of such plans. This estimate does not include site-specific structural, seismic, and acoustical engineering designs, plans, and drawings. Your costs will vary depending upon the location of the Site, its condition, and the need for additional designs, plans, and drawings, if applicable.

11. Net Leasehold Improvements. This estimate includes the net cost of leasehold improvements to our standard prototype 1,200 - 1,800 square foot studio, including floor coverings, wall treatments, ceilings, painting, electrical, carpentry, plumbing, HVAC, and similar work. Our standard prototype Studio is a one-story 1,500 square feet space, but Studios typically range from 1,200 - 1,800 square feet. This estimate includes both materials and the cost of labor. The low estimate assumes you are renting a space that already includes many of our standard improvements and/or is close to the 1,200 square feet space. The high estimate assumes that the space you have rented does not already have these improvements and is closer to the 1,800 square foot space.

If you are able to negotiate a tenant improvement allowance from your landlord, the landlord typically may require you to provide proof that you have paid for the leasehold improvements before reimbursing you the money. Some landlords may require you to receive the tenant improvement allowance in the form of reduced rent over the life of your lease, rather than in the form of a lump sum reimbursement.

Your actual costs will depend on, among other factors, the Studio location, the size of the Studio, the condition of the premises being remodeled, national and local economic factors, the local costs of materials and labor, and the amount of tenant improvement allowances that you are able to obtain, if any.

12. Furniture, Fixtures, and Equipment. This estimate includes the furniture, fixtures, and equipment to be used in the Studio, including, retail displays, lighting systems, telephones, office furniture, furnishings, tables, drying shelves, and a large cabinet for storage for your Studio.

13. Signage. This estimate includes the cost of outdoor identification at the Studio which will vary based on your Site and the landlord. We require you to purchase the largest format signage approved by your landlord.

14. Office Supplies and Accessories. This estimate also includes the cost of purchasing an initial supply of office supplies, cleaning supplies, and other ancillary items used in the operation of the Studio.

15. Business Management and Technology System. This figure includes the cost of acquiring the hardware, software, other equipment, and network connections (including three months of internet service and security system service) that we specify in the Manuals necessary to operate our point-of-sale system, the customer relationship management system, the online reservation system, and other technology systems that we designate (collectively, the “Business Management and Technology System”). You must purchase these components from suppliers that we approve or designate and must execute any related software licenses require by designated vendors. See Item 11 for details on required hardware and software.

16. Business Licenses. This estimate includes the cost of acquiring business licenses and permits. Your costs will vary depending upon your Studio’s location.

17. Professional Fees. This estimate includes the cost of professional fees that you may incur in establishing your business. Such expenses may include fees payable to attorneys, accountants, and finance originators that you will need to use for the review of this Disclosure Document and its exhibits, as well as for entity formation and review of the lease for your Studio.

18. Insurance Deposit and Initial Premiums. This estimate is for your insurance premium deposit and your first three months of insurance coverage, which may be paid prior to opening. You will need to check with your insurance carrier for actual premium quotes and costs, as well as for the actual amount of the deposit. The cost of coverage will vary based upon the area in which your business will be located, your experience with the insurance carrier, the loss experience of the carrier, the amount of the deductibles and of coverage, and other factors beyond our control. You should also check with your insurance agent or broker regarding any additional insurance that you may wish to carry above our required minimums.
19. Grand Opening Project Management Fee. We will advise you on planning, preparing, and implementing certain pre-opening activities. You must pay us this fee upon signing your lease. See Item 5 for details.
20. Grand Opening Budget. You must spend between \$10,000 - \$15,000 for grand opening activities beginning six weeks before and ending six weeks after the opening of your Studio, in accordance with a plan that you must submit to us. This amount does not include wages and payroll-related expenses for your employees. Your cost may be higher based on the length of time you wish to run opening promotions or any additional marketing spending you may choose to undertake. We have the right to modify your grand opening plan, in our sole discretion. You must provide us with supporting documentation evidence of these expenditures upon our request. This estimate is in addition to the Brand Fund Contributions you will be required to make.
21. Digital Marketing Spend. You must spend a minimum of \$2,000 per month in digital marketing. The amount contemplates the 3-month minimum spend for digital marketing. While we do not require you spend more, we recommend you spend more to advertise your business. We do not require you to spend the minimum monthly amount while your grand opening activities are occurring.
22. Onsite Real Estate Walkthrough Fee. Upon your request, we will travel to your location to walk through your proposed location(s). See Item 5 for more details. The low estimate assumes you did not request our services. If you do request our services, we charge a minimum of \$2,000 and a maximum of \$3,500, as reflected in the high estimate.
23. Lease Rider Review. We recommend you have your lease reviewed by an attorney we recommend and with whom we have pre-negotiated a flat rate. See Item 5 for more details. The low estimate assumes you use the recommended attorney, which shall be part of your Professional Fees estimated above, and the high end estimates you do not use our recommended attorney and we will pass through the cost of the lease rider review to you.
24. Onsite Setup Fee. Upon your request, we will come to your Studio and set up your Studio in a turnkey fashion. The low end contemplates you do not request our assistance. The high end contemplates our minimum of \$6,000, which is 5 days of our onsite support in setting up your Studio.
25. Additional Funds, Three Months. This is an estimate of the amount of additional operating capital that you may need from the time you sign your franchise agreement through the first three months after opening your business. This estimate includes additional funds you may need to pay employee salaries and wages, utilities, payroll taxes (including payroll to cover the grand opening promotional period and the pre-opening training period for your staff), Royalty Fees, Brand Fund Contributions, legal and accounting fees, additional advertising, health and workers' compensation insurance, bank charges, miscellaneous supplies and equipment, staff recruiting expenses, state tax and license fees, deposits, prepaid expenses, and other miscellaneous items. The preceding list is by no means intended to be exhaustive of the extent of possible categories of expenses.

26. **Total.** This total amount is based upon the Affiliate-Owned Outlets' experience developing and operating the Affiliate-Owned Outlets, as well as industry data, and the experience of our franchisees and management team in operating similar businesses. We strongly recommend that you use these categories and estimates as a guide to develop your own business plan and budget and investigate specific costs in your area. You should independently investigate the costs of opening a Studio in the geographic area in which you intend to open a Studio. You should also review the figures carefully with a business advisor before making any decision to purchase the Franchise.

We do not provide financing to franchisees either directly or indirectly in connection with their initial investment requirements. The availability and terms of financing obtained from third parties will depend upon such factors as the availability of financing, your credit worthiness, collateral which you may make available, or policies of local lending institutions with respect to the nature of the business.

**B. YOUR ESTIMATED INITIAL INVESTMENT - MULTIPLE STUDIOS**

Type of Expenditure	Low Estimate	High Estimate	Method of Payment	When Due	To Whom Payment Is Made
<b>Development Fee<sup>1</sup></b>	\$130,000 (2 Units)	\$185,000 (3 Units)	Lump sum	When you sign Development Agreement	Franchisor
<b>Mobile Unit Setup Expenses</b>	\$0	\$20,000	As arranged	As incurred	Franchisor and Third-Party Suppliers
<b>Estimated Initial Investment for First Studio<sup>3</sup></b>	\$117,450	\$274,600	See Chart 7A above.		
<b>TOTAL<sup>4</sup></b>	<b>\$247,450</b>	<b>\$479,600</b>			

**Notes:**

1. **Development Fee.** Upon signing the Development Agreement, you must pay us the Development Fee. The Development Fee varies based on the number of Studios you commit to developing. The low estimate is based on a commitment to develop two Studios and the high estimate is based on a commitment to develop three Studios. The Development Fee will be credited towards the initial Franchise Fee for each Studio developed under the Development Agreement. The Development Fee is not refundable. See Item 5.

2. **Mobile Unit Setup Expenses.** We do not charge you to add on and use a Mobile Unit, however, if you choose to use a Mobile Unit in your Development Area, you will have these extra expenditures. This amount includes attending 4 days of training at our Las Vegas location (if you begin operating the Mobile Unit prior to our providing you Initial Training at your Studio), the Technology Fee, P-O-S, vehicle wrap, Mobile Unit inventory, and your vehicle lease.

3. **Estimated Initial Investment for First Studio.** For each Studio that you develop under a Development Agreement, you will execute a Franchise Agreement and incur the initial investment expenses for the development of a single Studio as described in the first table of this Item 7. This estimate is based on the expenses described in the first table of this Item 7. The estimate does not include the Franchise Fee since the Development Fee is credited towards the Franchise Fee for each Studio.

4. **Total.** We do not provide financing to franchisees either directly or indirectly in connection with their initial investment requirements.

**ITEM 8.**  
**RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

**Authorized Products and Services**

We have the right to require that furniture, fixtures, signs and equipment (the “Operating Assets”) and products, supplies, and services that you purchase for resale or purchase or lease for use in your Studio: (i) meet specifications that we establish from time to time; (ii) be a specific brand, kind, or model; (iii) be purchased or leased only from suppliers or service providers that we have expressly approved; and/or (iv) be purchased or leased only from a single source that we designate (which may include us or our affiliates or a buying cooperative organized by us or our affiliates).

You must offer all products or services that we designate as mandatory. You must offer to customers only the specific products and services we approve in writing and in our Manuals. We may change these specifications periodically, and we may designate specific products or services as optional or mandatory. If we disapprove of any product or service that you offer, you must immediately discontinue offering the product or service in accordance with our instructions.

You may sell products and services only in the varieties, forms, and packages that we have approved in accordance with our System Standards. You must maintain a sufficient supply of required products to meet the inventory standards we prescribe in the Manuals (or to meet reasonably anticipated customer demand if we have not prescribed specific standards).

We require you to purchase your point-of-sale services and payroll services from us, our affiliates, or an approved vendor we select. You must (i) require your customers to pay all services and other fees through the Business Management and Technology System; or (ii) enter all other payments received from customers into the Business Management and Technology System upon receipt. When you begin collecting revenue in your Studio, the payment processor may process all credit card payments related to your Studio, and remit payment to you of all monies owed, after withholding any Technology Fees, Royalty Fees, or Marketing Fees payable to us and any payment processing fees payable to such processor.

We require you to purchase your signage, art supplies, equipment, and initial paint inventory from an approved supplier that we designate, which may be us. We require you to purchase the proprietary pouring medium and resin that you will use in the operation of your Studio from us or our affiliate, HFA Supply. We require you to obtain your technology services through our affiliate, HFA Tech. We require you to obtain your marketing services from our affiliate, HFA Marketing. Other than as disclosed here, our affiliates are not currently approved suppliers, though we reserve the right to require you to purchase additional items from us or our affiliates in the future. Except where we or our affiliate are the approved supplier (as is the case for HFA Tech, HFA Marketing, and HFA Supply) for items you must purchase, none of our officers owns any interest in any supplier with whom you are required or recommended to do business.

**Insurance**

You must obtain before you operation of the Studio and must maintain at all times the types of insurance and the minimum policy limits specified in the Manuals which are currently: 1) comprehensive general liability insurance with a minimum per occurrence coverage of \$1,000,000 and general aggregate liability coverage of \$2,000,000; (2) property and casualty insurance; (3) workers’ compensation insurance that complies with the statutory requirements of the state in which the Business is located; and (4) employer liability coverage with a minimum limit of \$500,000. All of your insurance carriers must be rated A or higher by A.M. Best and Company, Inc. (or such similar criteria as we periodically specify). These insurance policies must be in effect on or before the deadlines we specify. All coverage must be on an “occurrence” basis, except for the employment practices liability insurance coverage, which is on a “claims

made” basis. All policies shall apply on a primary and non-contributory basis to any other insurance or self-insurance that we or our affiliates maintain. We must be named as an additional insured under each policy that we require. Upon our request or as specified in the Manuals, you must provide us with certificates of insurance evidencing the required coverage. We may require additional types of coverage or increase the required minimum amount of coverage upon 60 days’ notice to you.

### **Alternative Product or Supplier Approval Process**

If you would like to offer products or use any supplies, Operating Assets, or services that we have not approved or to purchase or lease from a supplier or service provider that we have not approved, you must submit a written request for approval and provide us with any information that we request. We have the right to inspect the proposed supplier’s facilities and test samples of the proposed products and to evaluate the proposed service provider and the proposed service offerings. Proposed suppliers may be required to come to our offices in order for us to make an evaluation. You agree to pay us an amount not to exceed the reasonable cost of the inspection and our actual cost of testing the proposed product or evaluating the proposed service or service provider, including personnel and travel costs, whether or not the item, service, supplier, or service provider is approved. In determining whether to approve or disapprove your proposed supplier, we may consider the following criteria, including the supplier’s reputation, the suppliers quality of product or service, whether the suppliers quality of product or service fits within our brand standards, whether the use of the supplier will subject us to risk, and other criteria we may choose. We have the right to grant, deny, or revoke approval of products, services, suppliers, or service providers based solely on our judgment. We will notify you in writing of our decision as soon as practicable following our evaluation, but in no event longer than 90 days after submitting all of the information that we request. If you do not receive our approval within 90 days after submitting all of the information that we request, our failure to respond will be deemed a disapproval of the request. If you do receive our approval within 90 days, you may contract with the supplier that we have approved. You acknowledge that the products and services that we approve for you to offer in your Studio may differ from those that we permit or require to be offered in other Studios. If we approve a supplier, we reserve the right to revoke our approval if, in our sole decision, we determine that the supplier could not pass a new inspection based on our then-current criteria for the suppliers.

We reserve the right to re-inspect the facilities and products of any approved supplier and to reevaluate the services provided by any service provider at and to revoke approval of the item, service, supplier, or service provider if any fail to meet any of our then-current criteria. If we revoke approval of a previously approved product that you have been selling to customers or service that you have been offering to customers, you must immediately discontinue offering the service and may continue to sell the product only from your existing inventory for up to 30 days following our disapproval. We have the right to shorten this period if, in our opinion, the continued sale of the product would prove detrimental to our reputation. After the 30-day period, or such shorter period that we may designate, you must dispose of your remaining formerly approved inventory as we direct.

### **Issuance of Specifications and Standards**

To the extent that we establish specifications, require approval of suppliers or service providers, or designate specific suppliers or service providers for particular items or services, we will publish our requirements in the Manuals. We may, at any time, in our discretion, change, delete, or add to any of our specifications or quality standards. Such modifications, however, will generally be uniform for all franchisees. We will notify you of any changes to our Manuals, specifications, or standards in writing, which we may transmit to you electronically.



## Proportion of Purchases Subject to Specifications

We estimate that the cost to purchase and lease all equipment, inventory and other items and services that we require you to obtain from us or our affiliates, from designated suppliers, or in accordance with our specifications ranges from 40% to 80% of the total cost to purchase and lease equipment, inventory, and other items necessary to establish a Studio and 60% to 75% of the total cost to purchase and lease equipment, inventory, and other items to operate a Studio.

## Revenue from Purchases

We or our affiliates may receive revenues or profits or other material consideration from the purchases you make from us, our affiliates, or from other approved suppliers. We or our affiliates intend to earn revenue from your purchase of apparel and merchandise, project management services, furniture, fixtures, equipment, technology, signage and graphics, audio-visual equipment, services we or they may offer, and other items that we may specify from time to time. We or our affiliates may retain any rebates or other payments we receive from suppliers. We currently have arrangements to receive rebates or payments from some approved suppliers and vendors that range between 5% to 20% of your purchase amounts from these suppliers. During the 2023 fiscal year we derived 15% of our total revenue of \$2,282,509 from franchisees' required purchases and leases of products and services.

## Cooperatives and Purchase Arrangements

We are not involved in any purchasing or distribution cooperatives. We may, but are not obligated to, negotiate purchase arrangements with suppliers for the benefit of franchisees. As of the issuance date of this Disclosure Document, we have not negotiated any such arrangements.

## Material Benefits

We do not provide any material benefits to franchisees (for example, renewal or granting additional franchises) based upon their purchase of particular products or services or use of particular suppliers.

## ITEM 9. FRANCHISEE'S OBLIGATIONS

**This table lists your principal obligations under the Franchise Agreement (FA). It will help you find more detailed information about your obligations in the Franchise Agreement, and in other items of this Disclosure Document.**

	Obligation	Section in Agreements	Disclosure Document Item
a.	Project management and site acquisition/lease	FA: Sections 4.1, 4.2, and 4.4	Item 11
b.	Pre-opening purchases/leases	FA: Sections 4.4, 6.7, and 6.10	Items 6,7, 8 and 11
c.	Site development and other pre-opening requirements	FA: Sections 4.4 and 4.5	Items 7, 8 and 11
d.	Initial and ongoing training	FA: Section 5	Items 6, 7 and 11
e.	Opening	FA: Section 4.6 DA: Section 3	Items 6 and 11
f.	Fees	FA: Sections 3, 4.6, 4.7, 5.1, 5.3, 5.4, 5.6, 6.2, 6.9(b), 6.10(a), 6.14, 7.2(a), 7.3, 8.4, 8.5, 8.6, 13.4, 13.5, 13.6, 13.8, 14.2(b)(viii), 15.1, 15.2, and 16.9 DA: Section 2	Items 5, 6, 7 and 11

	<b>Obligation</b>	<b>Section in Agreements</b>	<b>Disclosure Document Item</b>
g.	Compliance with standards and policies/Operations Manual	FA: Sections 5.4, 5.5, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.10, 6.12, 7.3, 8.4, 8.6, 10.3, and 13.4	Items 7, 8, 11, 13, 14, 15 and 16
h.	Trademarks and proprietary information	FA: Sections 9 and 10 DA: Section 9	Items 13, 14 and 17
i.	Restrictions on products/services offered	FA: Sections 6.6, 6.7, and 6.8	Items 8 and 16
j.	Warranty and customer service requirements	FA: Section 6.12 and 8.6	Items 8 and 16
k.	Territorial development and sales quotas	FA: Section 6.4 DA: Section 3	Item 12
l.	Ongoing product/service purchases	FA: Sections 6.7 and 6.8	Items 8 and 16
m.	Maintenance, appearance, and remodeling requirements	Sections 4.5, 6.3, and 6.5	Items 7, 8 and 11
n.	Insurance	FA: Section 6.14	Items 7 and 8
o.	Advertising	FA: Sections 3.3 and 7	Items 6, 7, 8 and 11
p.	Indemnification	FA: Section 11	Item 6
q.	Owner's participation/management/staffing	FA: Sections 1.4, 1.5, and 6.2	Items 11 and 15
r.	Records and reports	FA: Section 8.1, 8.2, and 8.3	Items 6 and 17
s.	Inspections and audits	FA: Sections 8.4, 8.5, and 8.6	Items 6 and 11
t.	Transfer	FA: Section 13 DA: Section 7	Items 6 and 17
u.	Renewal	FA: Section 2.2	Item 17
v.	Post-termination obligations	FA: Section 15 DA: Section 8.2	Item 17
w.	Non-competition covenants	FA: Section 12 and 15.9 DA: Section 8	Item 17
x.	Dispute resolution	FA: Section 16; DA: Section 9	Item 17

**ITEM 10.  
FINANCING**

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

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

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

If we have appointed, or appoint in the future, an Area Representative to operate an Area Business in the area in which your Studio is located, such Area Representative may provide the training, support, marketing, and other services described in this Item 11 to you on our behalf and will have the authority to exercise many of our rights and perform many of our obligations under the Franchise Agreement.

**Our Pre-Opening Obligations**

For all Franchise Agreements, before you begin operating your Studio:

1. Designate Areas. We will designate your Site Selection Area. (Franchise Agreement - Section 1.1). If you sign a Development Agreement with us, we will determine your Development Area using then current criteria.

2. Real Estate Project Manager. We have an in-house real estate acquisition professional who will manage your real estate acquisition in coordination with our national real estate partner. (Franchise Agreement – Section 4.1)

3. Construction Project Manager. We have an in-house construction management professional who will coordinate with our national construction partners to approve your construction project. (Franchise Agreement – Section 4.5)

4. Real Estate Site Selection and Lease Approval.

a. Site Selection. We will review each site that the broker or you identify and determine whether to accept it using our site selection assistance criteria. If you are operating under a development agreement, your site will be evaluated using then-current criteria. Upon your request, we will conduct an onsite evaluation with you. We are not required to complete our review within a certain period. In addition to certain demographic characteristics, we also consider the following factors in accepting a Studio location: site visibility, zoning, parking, competition, neighboring tenants, accessibility, population density, and adjusted gross income. We do not generally own, or lease, the premises to you (Franchise Agreement – Section 4.2). If you operate under a Development Agreement, we will use the same criteria for each additional studio that we have agreed you will develop. We will use your agreed upon development schedule to determine when you will be given the site selection criteria.

While we will provide assistance and guidance, it is solely your responsibility to select a suitable site for the Studio.

You must secure a site that we have accepted by signing a site lease or purchase agreement within 120 days after the effective date of your Franchise Agreement (the “Site Acquisition Deadline”). We may extend this Site Acquisition Deadline by up to 90 days in our sole discretion, and we may require you to execute a general release as a condition of us agreeing to grant such extension. If we have accepted a site for your Studio and you are unable or unwilling to acquire such site or an alternative site that we accept by the Site Acquisition Deadline or you are unable to identify a site for your Studio that we accept by the Site Acquisition Deadline, we may terminate the Franchise Agreement. (Franchise Agreement - Sections 4.1, 4.2, and 4.4).

b. Approval of Site Lease. Before you make a binding commitment to purchase, lease, or sublease a site, we must approve in writing the proposed lease or purchase agreement or any letter of intent between you and the third-party seller or lessor. If you lease the site, unless we waive the requirement in writing, you must arrange for the execution of the Lease Rider in the form that is attached as Appendix D to the Franchise Agreement. We may require you to engage an attorney to review your lease or purchase agreement for the Site that we have accepted and to supply us with reasonable documentation in connection with such review, including a lease abstract and confirmation that the terms in the agreement reflect the terms in any letter of intent between you and the third-party seller or lessor. We will not provide you with any legal advice with respect to your lease or purchase of the site. Our review of the lease is for our benefit and is not intended to supplement or replace any review by a real estate attorney engaged on your behalf. You are strongly encouraged to engage competent legal counsel to assist in the review and negotiation of your site lease. (Franchise Agreement - Section 4.4).

5. Initial Training. We will provide Initial Training in the System and our policies and procedures to your Required Trainee. See “Training”, below in this Item. (Franchise Agreement - Section 5.1)

6. **Manuals.** We will provide you with electronic access to our Manuals, on loan for as long as the Franchise Agreement or a successor franchise agreement remains in effect. The table of contents for the Manual is attached as Exhibit E to this Disclosure Document. In the Manuals we will provide you with a list of equipment, signs, fixture, opening inventory, and supplies, as well as the suppliers, including whether the supplier is us or our affiliate. Where we or our affiliate are the supplier, we will deliver the materials to your Studio. (Franchise Agreement - Section 6.1(a))

7. **Advice.** We will advise you as to local marketing and networking efforts. We will provide you with templates for services agreements for use in your Studio, which you must adapt to comply with applicable laws and regulations. We must approve any modified forms of such agreements or waivers. (Franchise Agreement – Sections 5.2 and 6.11)

8. **Opening Approval.** We will approve your Studio opening, provided that you have met all of our requirements for opening, including completion of Initial Training, providing us with proof of insurance in the forms and coverage limits that we require, and proof that you are in receipt of the certificate of occupancy for your Studio from your landlord. We estimate that the typical length of time between signing a Franchise Agreement and opening your Studio is approximately 210 days. Factors affecting this length of time include, among others: hiring of the requisite employees; successful completion of Initial Training; local ordinances or community requirements; issuance of all necessary licenses, permits and approvals; and procuring required insurance. You must open the Studio no later than 210 days after the effective date of the Franchise Agreement. We may extend this deadline, in our sole discretion, which we may condition on you agreeing to pay an extension fee of \$2,500 for each month (or portion of a month) for which the deadline is extended and you executing a general release. Once we provide you with our approval, you must open the Studio within 10 days. (Franchise Agreement – Section 4.6)

### **Ongoing Assistance**

During the operation of your Franchise:

1. **Review Advertising.** We will review any advertising or promotional programs or materials that you develop. (Franchise Agreement - Sections 7.3(b))

2. **Marketing Fund Management.** We will manage the Marketing Fund as described below in this Item. We will prepare an unaudited statement of contributions and expenditures for the Marketing Fund and make it available within 60 days after the close of our fiscal year to franchisees who make a written request for a copy. (Franchise Agreement - Section 7.2(a))

3. **Requested Consulting Services.** We will provide to you additional consulting services with respect to the operation of the Studio upon your reasonable request and subject to the availability of our personnel at a mutually convenient time. We will make available to you information about new developments, techniques, and improvements in the areas of advertising, management, operations, and Studio design. We may provide such additional consulting services through the distribution of printed or filmed material, an Intranet or other electronic forum, meetings or seminars, teleconferences, webinars, or in person. If such services are rendered, you must pay us a fee and our expenses. (Franchise Agreement - Section 5.6)

4. **Relocation Review.** We will evaluate sites to which you propose to relocate your Studio in accordance with our then-current System Standards for Premises locations. (Franchise Agreement - Section 4.7)

5. **Pricing.** If we determine that we may lawfully require you to charge certain prices for goods or services, certain minimum prices for goods or services, or certain maximum prices for goods or services, you must adhere to our pricing policies as set forth in the Manuals or otherwise in writing from time to time. We currently require you to charge rates equal to or in excess of a minimum pricing schedule, which

we will provide and may revise from time to time. Otherwise, you are solely responsible for determining the prices that you charge customers and must provide us with your current price list upon our request. (Franchise Agreement – Section 6.6)

## **Advertising**

Our Marketing. We may from time to time formulate, develop, produce, and conduct, at our sole discretion, advertising or promotional programs in such form and media as we determine to be most effective on a local, regional, or national scale. We may make available for you to purchase approved advertising and promotional materials, including signs, posters, collaterals, etc. that we have prepared. We have no obligation to spend any amount on advertising and promotion in your Territory. We may produce advertising and marketing materials either in-house or by a local, regional, or national agency.

Digital Marketing Spend. You must contract with our approved supplier for marketing services, which may be our affiliate, HFA Marketing, to promote the use of the Mark in your market area. You must spend at least \$2,000 per month on digital marketing (the “Marketing Spend Requirement”). Your Marketing Spend Requirement is in addition to your Marketing Fee. If you choose to spend additional amounts on marketing in your local area, we have the right to designate in the Manuals the types of expenditures that will or will not count toward the Marketing Spending Requirement. At our request, you must submit appropriate documentation to verify compliance with the Marketing Spending Requirement.

You must participate in such advertising, promotional, and community outreach programs that we may specify from time to time, at your own expense. Any media advertising or direct mail marketing that you conduct must be predominantly focused within your territory unless we and franchisees in neighboring territories agree otherwise. You must ensure that all of your advertising, marketing, promotional, customer relationship management, public relations and other brand related programs and materials that you or your agents or representatives develop or implement relating to the Studio is completely clear, factual and not misleading, complies with all applicable laws and regulations, and conforms to the highest ethical standards and the advertising and marketing policies that we periodically specify. Moreover, you must conduct all advertising in a dignified manner and in conformance with the standards and requirements we specify in the Manuals.

You must submit to us in writing for our prior approval all sales promotion materials and advertising that have not been prepared by or previously approved by us. If our written approval is not received within 14 days from the date we received the material, the material is deemed disapproved. We will have the final decision on all creative development of advertising and promotional messages. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

Grand Opening Advertising. In connection with the opening of the Studio, you must spend a minimum of \$10,000 and while there is no maximum, we expect you to spend up to \$15,000 for grand opening advertising and promotion in the six weeks prior to opening the Studio and the four weeks after opening the Studio in accordance with a plan that you must submit to us. We have the right to modify your grand opening plan, in our sole discretion, and may require you to use a public relations firm to assist with your grand opening. This amount will be in addition to the Marketing Spending Requirement. You must provide us with supporting documentation evidencing these expenditures upon request.

Brand Fund. We have established the Hawaii Fluid Art Brand Fund, a segregated or independent fund into which all Brand Fund Contributions will be paid (the “Brand Fund”). We collect 2% of your Gross Revenues as the Brand Fund Contribution for contribution to the Brand Fund. The Brand Fund Contribution will not be increased above 2%. We may use monies in the Brand Fund and any earnings on the Brand Fund account for any costs associated with advertising (media and production), branding, marketing, public relations and/or promotional programs and materials, and any other activities we believe would benefit the Hawaii Fluid Art brand or the Studios generally, including advertising campaigns in various media;

creation, maintenance, and optimization of the System Website or other websites; keyword or adword purchasing programs; conducting and managing social media activities; direct mail advertising; market research, including, without limitation, secret shoppers and customer satisfaction surveys; branding studies; employing advertising and/or public relations agencies; purchasing promotional items; conducting and administering promotions, contests, giveaways, public relations events, and community involvement activities; and providing promotional and other marketing materials and services to our franchisees. We have the right to direct all marketing programs, with the final decision over creative concepts, materials, and media used in the programs and their placement. We do not guarantee that you will benefit from the Brand Fund in proportion to your contributions to the Brand Fund.

We will make any sales and other materials produced with Brand Fund monies available to you without charge or at a reasonable cost, and we will deposit the proceeds of such sales into the Brand Fund.

We will not use the Brand Fund for anything whose sole purpose is the marketing of franchises; however, the Hawaii Fluid Art website, public relations activities, community involvement activities, and other activities supported by the Brand Fund may contain information about franchising opportunities.

We will not use any contributions to the Brand Fund to defray our general operating expenses, except for reasonable administrative costs and overhead we incur in activities reasonably related to the administration of the Brand Fund or the management of Brand Fund-supported programs (including the pro-rata amount of salaries of our personnel who devote time to Brand Fund activities and retainers and fees for outside agencies). We may use monies in the Brand Fund to pay for an independent audit of the Brand Fund, if we elect to have it audited.

In no event will we be deemed a fiduciary with respect to any Brand Fund Contributions we receive or administer. We are not required to have an independent audit of the Brand Fund completed. We will prepare an unaudited statement of contributions and expenditures for the Brand Fund and make it available within 60 days after the close of our fiscal year to franchisees who make a written request for a copy.

Generally, franchisees and Studios operated by us, or our affiliates, will contribute to the Brand Fund a uniform percentage of their Gross Revenue. Some franchisees may have negotiated differing terms for their Brand Fund contribution including not paying a Brand Fund Contribution for a limited period of time.

During the 2023 fiscal year, ending December 31, 2023, the Brand Fund received \$16,776 from franchisee, Affiliate-Owned Outlet, and owner contributions. All funds were used and allocated as follows: 20% on production of marketing materials, 80% on media placements, and 0% on general administrative expenses. Any sums in the Brand Fund at the end of any year shall be applied toward the following years' expenditures.

Franchisor-Controlled Digital Marketing. We may, in our sole discretion, establish and operate websites, social media accounts (such as Facebook, Twitter, Instagram, Pinterest, etc.), applications, keyword or adword purchasing programs, accounts with websites featuring gift certificates or discounted coupons (such as Groupon, Living Social, etc.), mobile applications, or other means of digital advertising on the Internet or any electronic communications network (collectively, "Digital Marketing") that are intended to promote the Marks, your Studio, and the entire network of Studios. We will have the sole right to control all aspects of any Digital Marketing, including those related to your Studio.

Unless we consent otherwise in writing, you and your employees may not, directly or indirectly, conduct or be involved in any Digital Marketing that uses the Marks or that relates to the Studio or the network. If we do permit you or your employees to conduct any Digital Marketing, you or your employees must comply with any policies, standards, guidelines, or content requirements that we establish periodically and must immediately modify or delete any Digital Marketing that we determine, in our sole discretion, is not compliant with such policies, standards, guidelines, or requirements. If we permit your or your employees

to conduct Digital Marketing, we will have the right to retain full control over all websites, social media accounts, mobile applications, or other means of digital advertising that we have permitted you to use. We may withdraw our approval for any Digital Marketing or suspend or terminate your use of any Digital Marketing platforms at any time. We reserve the right to charge you a Noncompliance Fee if you violate our policy on Digital Marketing.

You are not authorized to have a website for your Studio or to have a webpage related to your Studio in any third-party website, including, without limitation, social networking sites. As part of our Digital Marketing, we or one of our designees will operate and maintain the Hawaii Fluid Art website, which will include basic information related to the Studio, the ability for customers to request information and solicit services at your Studio, and access to the Studio's reservation system.

Promotional Programs. You must participate in all in-Studio promotional programs that we offer to franchisees. You will follow our guidelines concerning the acceptance and reimbursement of gift certificates, gift cards, coupons, corporate discounts, and other promotional programs as we set forth from time to time in the Manuals or otherwise in writing. You will not allow use of gift certificates, gift cards, or coupons (including Groupons and similar discounts) unless approved or offered by us.

Advertising Cooperatives. We currently do not have any advertising cooperatives and have no plans to form such cooperatives in the immediate future. However, you must join and actively participate in any organizations or associations of franchisees or advertising cooperatives that we establish or that are established at our direction for the purpose of promoting, coordinating, and purchasing advertising in local, regional, or national areas where there are multiple Studios, and you must abide by the bylaws, rules, and regulations duly required by such advertising cooperative, which we have the right to mandate or approve if and when we form such cooperative. If we form an advertising cooperative, we will have the right to determine how membership will be defined, whether company-owned or affiliate-owned Studios will participate in the cooperative, and whether we, an affiliate, a franchisee, or a third party will administer the cooperative. If you join an advertising cooperative, we or the advertising cooperative may require you to spend additional funds on marketing programs conducted by the advertising cooperative, which may be in addition to your Marketing Fee or the Marketing Spending Requirement. There is no cap on this potential spending obligation. If we form an advertising cooperative, we will make any governing documents available to you for your review. The advertising cooperatives shall compile and maintain available for inspection upon request by participating franchisees, unaudited financial statements for each quarter and each year in which the cooperative is operating.

Advertising Councils. We currently do not have an advertising council composed of franchisees to advise us on our advertising policies. We may decide to implement an advertising council in the future, at which point we will set policies related to such council. If we form an advertising council, we may appoint members, allow franchisees to elect members, or have a mix of appointed and elected positions. The advertising council may consist of both franchisees and our representatives. Any advertising council will be advisory and will not have any decision-making authority. We will have the right to modify or dissolve any advertising council that we create.

Computer System. You must obtain, maintain, and use the Business Management and Technology System that we specify periodically in the Manuals to (i) enter and track purchase orders and receipts, and customer information, (ii) update inventory, (iii) enter and manage your customer's contact information, (iv) generate sales reports and analysis relating to the Studio, and (iv) provide other services relating to the operation of the Studio.

The Business Management and Technology System currently includes a laptop computer, a tablet computer, a printer, a Clover device for point-of-sale functions, and a smartphone device. Specifications for the brand, operating capabilities, and functionality of these hardware components will be set forth in the Manuals and is subject to change. At a minimum, the components of the Business Management and Technology System

must be connected to the Internet via a high-speed Internet connection and must be able to run our designated software programs and general business software such as email, word processing, and similar programs. The Business Management and Technology System will use third-party software from our approved vendors for point-of-sale functions, email marketing, and all customer management functions.

We estimate that the Business Management and Technology System will cost between \$1,000 and \$2,500, which includes the cost of the hardware, software licenses, related equipment, and network connections, including related installation costs. We, or our approved suppliers, will act as vendors or suppliers of some or all of the components of the Business Management and Technology System.

You must maintain the Business Management and Technology System at your expense and must purchase any hardware or software maintenance or technical support programs that we require. You must replace, upgrade, or update the Business Management and Technology System as we may require from time to time. We will establish reasonable deadlines for implementation of any changes to our Business Management and Technology System requirements, but there are no contractual limitations on our right to require changes to the Business Management and Technology System.

We currently do not require you to enter into, or expect that you will need to enter into, any maintenance, updating, upgrading, or support contracts related to the Business Management and Technology System. We, our affiliates, and third-party vendors are not obligated to provide you with any ongoing maintenance, repairs, upgrades, or updates. Vendors may be able to offer optional maintenance, updating, upgrading, or support contracts to you, which we estimate may cost between \$300 to \$500 per year.

You, at all times, must give us unrestricted and independent electronic access (including users IDs and passwords, if necessary) to the Business Management and Technology System for the purposes of obtaining the information relating to the Studio. You must permit us to download and transfer data via a high-speed Internet connection or such other connection that we specify on a real-time basis. There are no contractual limitations on our right to access data stored in the Business Management and Technology System.

You must dedicate your computer system for use as the Business Management and Technology System only and use the Business Management and Technology System in accordance with our policies and operational procedures. Your employees must complete any and all training programs we reasonably require for the proper operation and use of the Business Management and Technology System. You may not use any other cash registers or computer systems in your Studio.

## **Manuals**

The current Table of Contents of the Manuals is attached as Exhibit E to this Disclosure Document. The Manuals currently consist of 178 pages. We may amend, modify, or supplement the Manuals at any time, so long as such amendments, modifications, or supplements will, in our good faith opinion, benefit us and our existing and future franchisees or will otherwise improve the System. You must comply with revised standards and procedures within 30 days after we transmit the updates.

## **Training**

Initial Training. You, your Operating Principal, and your Key Manager (“Required Trainees”) must personally attend and satisfactorily complete our Initial Training before you open your Studio. Initial Training currently consists of a minimum of 8 days of onsite training at your Studio location. Upon your request, we may provide additional training days at a rate of \$1,200 per day. We may provide additional training through online and virtual instruction via live and pre-recorded webinars, online learning management tools, and reading materials and guides, including our Manuals. If we deem necessary, we may provide onsite follow-up training to be conducted four to six weeks after your Studio opens for business. Initial Training will be provided as soon as practicable after you sign your Franchise Agreement



and secure and buildout your Site prior to your Studio’s grand opening. We reserve the right to modify the length, location, and timing of Initial Training. We may waive a portion of Initial Training or alter the training schedule if we determine that your Required Trainees have sufficient prior experience or training. You must complete the Initial Training to our satisfaction, and you may not open until you have completed the Initial Training.

We will provide instructors and materials for Initial Training for up to four of your representatives (including your Required Trainees) provided that all of your trainees are trained during the same training session. We reserve the right to charge a training fee of \$1,200 per day, which we may increase upon 60 days’ written notice to you, for (i) each person in excess of four trainees, (ii) each person who is repeating the course or replacing a person who did not pass, and (iii) each subsequent Operating Principal, Key Manager, or employee who attends the course. If you elect to participate in Initial Training at our headquarters, you are responsible for any travel and living expenses, wages, and other expenses incurred by your trainees during Initial Training or any other training programs. If you elect to have Initial Training conducted at your Studio, we will be responsible for any travel and living expenses, wages, and other expenses incurred by our trainers during Initial Training.

Our Initial Training currently consists of the following:

### **TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Online/ Classroom Training</b>	<b>Hours of On-the-Job Training</b>	<b>Location</b>
Onboarding	3	0	Online Library / Video Conference
Preparation	3	0	Online Library / Video Conference
Welcome and Culture	2	2	Online Library / Video Conference / Your Studio
Studio Setup	4	2	Online Library / Video Conference / Your Studio
Fluid Art Techniques	21	6	Online Library / Your Studio
Resin Based Techniques	16	4	Online Library / Your Studio
Patch Party	3	3	Online Library / Your Studio
Studio Maintenance	3	4	Video Conference / Your Studio
Employee Relations/ Training	4	5	Online Library / Video Conference / Your Studio
Booking Platform Management	2	2	Online Library / Video Conference / Your Studio
Marketing	3	2	Online Library / Video Conference / Your Studio

<b>Subject</b>	<b>Hours of Online/ Classroom Training</b>	<b>Hours of On-the-Job Training</b>	<b>Location</b>
Material Purchasing	1	1	Online Library / Video Conference / Your Studio
Point-Of-Sale Management	2	1	Online Library / Video Conference / Your Studio
Human Resources	1	1	Online Library / Your Studio
Bookkeeping	1	0	Video Conference
Onsite Party Setup	0	2	Your Studio
Post Opening Support	0	21	Your Studio
<b>TOTAL HOURS</b>	<b>69</b>	<b>56</b>	

We use manuals, online video tutorials, and Power Point presentations as instructional materials in our training programs. The following individuals will lead our training programs: Anderson Willms, our Area Training Manager who has two years' experience with the Hawaii Fluid Art brand. We reserve to use other instructors for our initial training program; whomever we appoint will have experience working with us or similar businesses.

Your Required Trainees must successfully complete Initial Training at least ten days before the Opening Deadline. We will determine, in our discretion, what constitutes successful completion of the program. If your Required Trainees are unable to successfully, in our sole discretion, complete Initial Training for any reason, your Required Trainee must repeat Initial Training, or you must send replacement Required Trainee to complete Initial Training. If your Required Trainee has not, in our sole discretion, successfully completed Initial Training ten days before the Opening Deadline, we may terminate the Franchise Agreement, in which case we will not refund any initial fees paid by you.

Additional Training. We may periodically conduct mandatory or optional training programs for your Required Trainees and/or your employees at our office or another location that we designate. There will be no charge for training programs that we require you or your employees to attend, but we may charge you a reasonable fee for optional training programs. We may provide additional training in person or via recorded media, teleconference, videoconference, the Internet, webinar, or any other means, as we determine. We may require your Required Trainees or employees to satisfactorily complete any additional training programs that we specify. We may require your Required Trainees to participate in refresher or advanced training each year.

If, in our sole judgment, you fail to maintain the quality and service standards set forth in the Manuals, we may, in addition to all of our other rights and remedies, assign trainers to the Studio to retrain Studio employees and restore service levels and/or require you or your employees to repeat Initial Training or attend additional training programs at a location that we designate. We may charge a reasonable fee for each trainer assigned to your Studio and any remedial training, including our reasonable travel, and living expenses related to providing remedial training.

If your Key Manager ceases to be employed by you at the Studio and you are unable to immediately appoint and train a new manager, we may, in our sole discretion and for a reasonable fee, provide a Key Manager to work at your Studio temporarily until a new Key Manager is appointed and trained.

Training by You. You and/or your Operating Principal and your Key Managers are responsible for training all of your other employees (and subsequent Key Managers) in accordance with our standards and training programs. If, in our sole judgment, you fail to properly train your employees in accordance with our standards, we may prohibit you from training additional employees and either require them to attend training at our headquarters or pay for our costs and expenses to send one of our representatives to train them at your Studio.

## **ITEM 12. TERRITORY**

### **Franchise Program**

Site. Your franchise is for the specific site that we approve. You must select a site that we have accepted within the non-exclusive Site Selection Area that we specify. The site will be added to the Franchise Agreement once we accept it and you secure it, usually within 60 days after signing the Franchise Agreement. Your Site Selection Area is not exclusive and is only intended to give you a general indication of the area within which you may locate the Site for the Studio.

Relocation of the Studio. If you would like to relocate your Studio, you must receive our written consent. Our approval will not be unreasonably withheld, provided (i) the new location for the Studio premises is satisfactory to us and you comply with our then-current real estate project management requirements, (ii) your lease, if any, for the new location complies with our then-current requirements and you and your landlord execute the Lease Rider, (iii) you comply with our then-current requirements for constructing and furnishing the new location, (iv) the new location will not, as determined in our sole discretion, materially and adversely affect the Gross Revenue of any other Studio, (v) you have fully performed and complied with each provision of this Agreement within the last three years prior to, and as of, the date we consent to such relocation (the “Relocation Request Date”), (vi) no Event of Default (as herein defined), or event which with the giving of notice and/or passage of time would constitute an Event of Default, exists as of the Relocation Request Date, and (vii) you have met all of our then-current training requirements. If your Site Lease expires or is otherwise terminated, you must secure our approval of another site and enter into a Site Lease for the new approved site within 90 days. You agree to pay us the Relocation Fee upon notifying us of your intent to relocate the Studio to a new Site, whether or not the new Site is approved. We reserve the right to terminate this Agreement if you fail to secure a new approved site within 90 days after you lose the Site Lease. You must pay us a relocation fee as specified in Item 6.

Territory. Once you have secured the Site, we will provide you with an area in which you will have protected rights (the “Territory”). Your Territory will typically be a three-mile radius around your Studio, unless your Studio is located in a major metropolitan downtown area or similarly situated/populated central business district (a “Central Business District”). If your Studio is located in a Central Business District, your Territory may be limited to a geographic area comprised of anywhere from a radius of two blocks to three miles around your Studio, as we deem appropriate in our discretion. The size of your Territory may vary from the territory granted to other franchisees based on the location and demographics surrounding your Studio.

The boundaries of your Territory may be described in terms of zip codes, streets, landmarks (both natural and man-made) or county lines, or otherwise delineated on a map. The sources we use to determine the population within your Territory will be publicly available population information (such as data published by the U.S. Census Bureau or other governmental agencies and commercial sources).

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, we will neither operate, nor award to another person a franchise to operate,

another Studio in your Territory, nor will we service, or authorize others to service, customers in your Territory, provided you are not in default under the Franchise Agreement.

Reserved Rights. Among other things, we and our affiliates have the right to (a) establish or license franchises and/or company-owned Studios, or other businesses offering the same or substantially similar, services, classes, and programs and using the System or elements of the System (i) under the Marks anywhere outside of the Territory or (ii) under names, symbols, or marks other than the Marks anywhere, including inside and outside of the Territory; (b) sell or offer, or license others to sell or offer, any products, services, or classes using the Marks or other marks through any alternative distribution channels, including, without limitation, through e-commerce, in retail stores, via recorded media, via online videos, or via broadcast media, anywhere, including inside and outside of the Territory; (c) advertise, or authorize others to advertise, using the Marks anywhere, including inside and outside of the Territory; and (d) acquire, be acquired by, or merge with other companies with existing facilities or businesses anywhere (including inside or outside of the Territory) and: (x) convert the other businesses to the Hawaii Fluid Art name *provided, that* we will not convert any businesses to the Hawaii Fluid Art name if they are located inside of your Territory, (y) permit the other businesses to continue to operate under another name, including inside and outside of your Territory and/or (z) permit the businesses to operate under another name and convert existing Studios to such other name.

We will not compensate you for any of our activities in your Territory, even if they have an impact on your Studio.

Restriction on Rights. You do not have the right to open additional Studios, nor do you have any rights of first refusal on any other location. You do not have the right to make any sales of products or services outside of the Studio, conduct classes or programs outside of the Studio, or use vendor relationships associated with us or the Hawaii Fluid Art brand for any other purpose besides the operation of the Studio, unless we consent in writing. You do not have the right to use the Marks or the System at any location other than the Territory or in any wholesale, e-commerce, or other channel of distribution besides the retail operation of the Studio within the Territory without our prior written consent. Any media advertising or direct mail marketing that you conduct must be predominantly focused within your Territory, unless we agree otherwise.

We reserve the right to establish guidelines concerning the acceptance and reimbursement of gift certificates, gift cards, coupons, corporate discounts, and other promotional programs as we set forth from time to time in the Manuals or otherwise in writing, including policies related to the allocation of monies when a gift certificate is purchased at one Studio and redeemed at another Studio.

Additional Disclosures. We have not established other franchises or company/affiliate-owned outlets or another distribution channel offering or selling similar products or services under a different trademark. Neither we nor our affiliates have established, or presently intend to establish, other franchised or company-owned businesses that offer similar art studio Studios or similar products or services under a different trade name or trademark, but we reserve the right to do so in the future without your consent.

## **Development Program**

If you are granted the right to open two or more Studios under our form of Development Agreement, then we will provide you with a Development Area. The size of your Development Area will substantially vary from other System developers based on the number of Studios we grant you the right to open and operate, and the location and demographics of the general area where we mutually agree you will be opening these locations. The boundaries of your Development Area may be described in terms of zip codes, streets, landmarks (both natural and man-made) or county lines, or otherwise delineated on a map attached to the Development Agreement.

Each Studio you timely open and commence operating under our then-current form of franchise agreement will be operated from a distinct site located within the Development Area and within its own protected territory that we will define once the site for that Studio has been approved. We will approve sites for additional Studios developed under your Development Agreement using our then-current site selection criteria.

We will not own or operate, or license a third party the right to own or operate, a Studio utilizing the Marks and System from a physical location within the Development Area until the earlier of (a) the date we define the protected territory of the final Studio you were granted the right to operate under the Development Agreement, or (b) the expiration or termination of the Development Agreement for any reason (whichever occurs earlier). Your Development Area will be exclusive during this time period.

Upon the occurrence of any one of the events described in the preceding paragraph, your territorial rights within the Development Area will be terminated, except that each Studio that you have opened and are continuously operating as of the date of such occurrence will continue to enjoy the territorial rights within their respective protected territories that were granted under the franchise agreement(s) you entered into for those Studio(s).

You must comply with your development obligations under the Development Agreement, including your Development Schedule, in order to maintain your exclusive rights within the Development Area. If you do not comply with your Development Schedule, we may terminate your Development Agreement and any further development rights you have under that agreement. Otherwise, we will not modify the size of your Development Area except by mutual written agreement signed by both parties.


Mobile Unit

If you sign a Development Agreement, and upon your request, we may grant you the right to operate with a Mobile Unit in your Development Area. Once your Development Agreement has been completed, you may continue using the Mobile Unit in any area that is not the Protected Territory of another franchisee.

**ITEM 13.  
TRADEMARKS**


We grant you the right to operate a Studio under the “Hawaii Fluid Art” mark, and other trademarks, service marks, associated designs, artwork, and logos that we specify from time to time. We may require you to use the Marks in conjunction with other words or symbols or in an abbreviated form.

The following is a description of trademarks that we license to Studios, and for which we have a registration with the United States Patent and Trademark Office (“USPTO”):

Mark	Registration No.	Registration Date	Register
HAWAII FLUID ART	6648685	February 15, 2022	Supplemental
	7084512	June 20, 2023	Principal

As of the Issuance Date, we have not filed any renewal affidavits, however, we expect and intend to submit all affidavits and filings necessary to maintain the registrations above.

The following is a description of the principal trademarks and service marks for which we have applied in the United States:

Mark	US App. Serial No.	App. Filing Date	Register
	98291882	November 30, 2023	Principal

This logo will be the primary mark used to identify your Studio. We do not have a registration for this mark. Therefore, this Mark does not have many of the legal benefits and rights as a federally registered trademark. If our right to use this Mark is challenged, you may have to change to an alternative mark which will increase your expenses.

There are no currently effective determinations of the USPTO, Trademark Trial and Appeal Board, the Trademark Administrator of any state, or any court; nor is there any pending infringement, opposition or cancellation proceedings, or material litigation, involving any of the Marks. We do not know of any superior prior rights or infringing uses that could materially affect your use of any of the Marks. There are no currently effective agreements that significantly limit our rights to use or license the use of the Marks listed above in a manner material to the franchise.

You may also use certain other Marks owned by or licensed to us in the operation of your Studio. You must use the Marks only in strict accordance with the Franchise Agreement and Operations Manual. You may not use any Mark (i) as part of any corporate or legal business name, (ii) with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos we have licensed to you), (iii) in selling any unauthorized services or products, (iv) as part of any domain name, electronic address, metatag, social media account, or otherwise in connection with any website or other electronic medium without our consent, or (v) in any other manner we have not expressly authorized in writing. You must display the Marks in a manner that we specify on signage at the Studio and on all written materials, forms, advertising, promotional materials, supplies, employee uniforms, business cards, receipts, letterhead, contracts, stationary, and other materials we designate. Upon receipt of notice from us, you must discontinue, alter, or substitute any of the Marks as we direct.

You must display in a conspicuous location in or upon the Studio, or in a manner that we specify, a sign containing the following notice (or an alternative notice that we specify): "This business is owned and operated independently by [name of franchisee] who is an authorized licensed user of the trademark "Hawaii Fluid Art", which is a trademark owned by Hawaii Fluid Art Franchising, LLC." You must include this notice or other similar language that we specify on all forms, advertising, promotional materials, business cards, receipts, letterhead, contracts, stationery, and other written materials we designate.

You must promptly notify us if any other person or Entity attempts to use any of the Marks or any colorable imitation of any of the Marks. You must immediately notify us of any infringement of or challenge to your use of any of the Marks. We will have the right to take any action that we deem appropriate, but the Franchise Agreement does not require us to take any action to protect your right to use any of the Marks or to participate in your defense and/or indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving any of the Marks. We will have the right to control any administrative proceedings or litigation related to the Marks. We will be entitled to retain any and all

proceeds, damages, and other sums, including attorneys' fees, recovered, or owed to us, or our affiliates in connection with any such action. You agree to execute all documents and render any other assistance we may deem necessary to any such proceeding or any effort to maintain the continued validity and enforceability of the Marks.

If we decide that you should modify or discontinue using any of the Marks or use one or more additional or substitute service marks or trademarks, you must comply with our directions in the time that we reasonably specify dependent on the scope of the circumstances, and neither we nor any of its affiliates will have any obligation to reimburse you for the cost of complying with our directions. For clarity, if we modify or discontinue using any of the Marks or use one or more additional or substitute service marks or trademarks, you do not have the right to continue using the old Marks. Our decisions to alter or discontinue the use of the Marks shall not affect a franchisee's rights under the Franchise Agreement.

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

We own no rights in, or licenses to, any patents or patent applications.

Except as provided below, we own no rights in, or licenses to, any copyrights. We have not registered any copyrights with the United States Copyright Office. However, we claim copyrights with respect to our advertising materials and Operations Manual, as well as other materials we may periodically develop. There are no determinations of the Copyright Office or any court regarding any of our copyrights. There are no agreements limiting the use of any copyrights by us.

Any copyrights used by you in the Studio belong solely to us or our affiliates. You agree to notify us in writing of any suspected infringement of our or our affiliates' copyrights. We and our affiliates have exclusive rights to bring an action for infringement and retain any amounts recovered with respect to such action, and to control any infringement proceeding whether brought by or against us or you. We have no obligation to defend or otherwise protect you against any claims involving any copyright, including without limitation any copyright infringement claim, or to indemnify you for any losses you may incur as a result of our copyrights infringing the rights of any other copyright owner. If so requested by us, you will discontinue the use of the subject matter covered by any copyright used in connection with the Studio. You have no rights to compensation if we require you to modify or discontinue using the subject matter covered by any copyrights. Our decision to modify or discontinue the use of the subject matter covered by any copyrights shall not affect a franchisee's rights under the Franchise Agreement.

During the term of your Franchise Agreement, we or our affiliates may disclose in confidence to you, either orally or in writing, certain trade secrets, know-how, and other confidential information relating to the System, our business, our vendor relationships, our classes, or the construction, management, operation, or promotion of the Studio (collectively, "**Proprietary Information**"). You may not, nor may you permit any person or Entity to, use, or disclose any Proprietary Information (including any portion of the Operations Manual) to any other person, except to the extent necessary for your employees to perform their functions in the operation of your Studio. You must take reasonable precautions necessary to protect Proprietary Information from unauthorized use or disclosure, including conducting orientation and training programs for your employees to inform them of your obligation to protect Proprietary Information and their related responsibilities and obligations. If we or our affiliates so request, you must obtain from your officers, directors, Owners, Key Managers, and employees confidentiality agreements in a form satisfactory to us or our affiliates. You will be responsible for any unauthorized disclosure of Proprietary Information by any person to whom you have disclosed Proprietary Information.

**ITEM 15.**  
**OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION**  
**OF THE FRANCHISE BUSINESS**

At all times that your Studio is open for business, it must be under the personal supervision of either you, your Operating Principal, your Key Manager, or a trained attendant. Your Key Manager or another trained manager must be available at all times the Studio is open for business. You or your Operating Principal and your Key Manager must successfully complete our training program and any other training programs that we may require. You may not permit your Studio to be operated, managed, directed, or controlled by any other person without our prior written consent.

Your Operating Principal must have at least a 10% ownership interest in your Entity and must have authority over all business decisions related to your Studio and must have the power to bind you in all dealings with us. In addition, you must appoint a Key Manager to manage the day-to-day business of your Studio, who may also be the Operating Principal. The Key Manager is not required to have an ownership interest in your Entity. You must provide us with written notice of your Operating Principal and Key Manager at least 60 days prior to opening and may not change your Operating Principal and Key Manager without our prior approval.

We may also require you to obtain from your officers, directors, Key Managers, instructors, your Owner's spouses, and other individuals that we may designate executed agreements containing nondisclosure and noncompete covenants in a form acceptable to us, which specifically identify us as having the independent right to enforce them.

Each Owner, including the Operating Principal, must sign the Payment and Performance Guarantee (the "Guarantee") attached to the Franchise Agreement, assuming and agreeing to discharge all obligations of the franchisee under the Franchise Agreement and agreeing to comply with the confidentiality, indemnification, covenant not to compete, and assignment provisions of the Franchise Agreement. If you are a party to a Development Agreement, each individual with a direct or indirect ownership interest in your Entity must sign the Guarantee attached to the Development Agreement.

**ITEM 16.**  
**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You may offer for sale in the Studio only the products and services that we have approved in writing. In addition, you must offer the specific products and services that we require in the Manuals or otherwise in writing. We may designate specific products or services as optional or mandatory. You must offer all products or services that we designate as mandatory. You may sell products only in the varieties, forms, and packages that we have approved. You must maintain a sufficient supply of required products to meet the inventory standards we prescribe in the Manuals (or to meet reasonably anticipated customer demand, if we have not prescribed specific standards).

We may, without limitation, change the types, amounts, or specifications of the goods or services that you may offer. We may, without limitation and in our sole discretion, revoke approval of a previously approved product or service that you have been selling, in which case, you must immediately discontinue offering the service and may continue to sell the product only from your existing inventory for up to 30 days following our disapproval. We have the right to shorten this period if, in our opinion, the continued sale of the product would prove detrimental to our reputation. After the 30-day period, or such shorter period that we may designate, you must dispose of your remaining formerly approved inventory as we direct.

We impose no restriction on the retail customers that you may serve at your Studio, but you may not make any sales of products or services outside of the Studio or use vendor relationships that you establish through



your association with us or the Hawaii Fluid Art brand for any other purpose besides the operation of the Studio, unless we consent in writing. You agree to purchase products solely for resale to retail customers, and not for resale or redistribution to any other party, including other Hawaii Fluid Art franchisees. You agree we will set minimum or maximum pricing of approved goods or services; we will provide you with minimum staffing requirements; and minimum or specific hours of operations, if we create a systemwide policy.

You must ensure that all services you provide are accounted for through the Business Management and Technology System, make payments through the Business Management and Technology System, and sign contracts for services on a form that we prescribe or approve.

You may not offer products or services in connection with the Marks on any website on the Internet or any other electronic communication network unless we consent in writing. Any media advertising or direct mail marketing that you conduct must be predominantly focused within your Territory unless we agree otherwise.

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

**THE FRANCHISE RELATIONSHIP**

**The table below lists certain important provisions of the Franchise Agreement. You should read these provisions in the form of Franchise Agreement attached to this Disclosure Document as Exhibit B.**

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Length of the franchise term	Section 2.1	Begins on the Effective Date of your Franchise Agreement and continues for ten years from the date you open your Studio for business.
b.	Renewal or extension of the term	Section 2.2	If you meet the conditions, you may enter into successor ten-year terms.
c.	Requirements for franchisee to renew or extend	Section 2.2	You have notified us of your intent to renew at least six months in advance but no more than 12 months in advance; you have signed our then-current form of franchise agreement, which may have materially different terms and conditions than your original Franchise Agreement; you have refurbished the Studio to our then-current specifications; you have executed a general release in favor of us and our affiliates; you, your Operating Principal, and Key Manager have completed our then-current training requirements; you secure the right from your landlord to continue operating at the Site for the remainder of your Successor term; you have substantially complied with the Franchise Agreement during the term; no Event of Default (as defined in the Franchise Agreement) or event which, with the giving of notice or passage of time or both, would become an Event of Default, exists; and you have paid us the Successor Fee.
d.	Termination by franchisee	Section 14.3	If we commit a material breach of the Franchise Agreement and we fail to cure the breach or take reasonable steps to begin curing the breach within 60 days after receiving notice from you, you may terminate the Franchise Agreement. You may also terminate under any grounds permitted by applicable state law.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
e.	Termination by us without cause	Not applicable	None.
f.	Termination by us with cause	Section 14.2	We can terminate only if you default under the Franchise Agreement. Termination of the Franchise Agreement does not terminate any other agreements we may have with you unless the cause of termination would be sufficient to terminate an agreement on its own. Subject to applicable state law.
g.	“Cause” defined – curable defaults	Section 14.1	You have 10 days to cure the non-payment of any amounts owed to us or our affiliates or your failure to make sufficient funds available to us; 24 hours to cure non-compliance with any law, regulation or ordinance which results in a threat to the public’s health or safety; and 30 days to cure a failure to comply with any other provision of the Franchise Agreement not described above or in (h) below. Subject to applicable state law.
h.	“Cause” defined – non-curable defaults	Section 14.1	You make a material misrepresentation to us; your Required Trainee fail to satisfactorily complete initial training; you fail to open on time; you fail to timely refurbish your Studio; you fail to sign a Site Lease or purchase agreement that we have approved for a site that we have accepted by the Site Acquisition Deadline; you fail to rebuild your Studio after its destruction; you suspend operations of the Studio for more than five days without our consent; you fail to communicate with us; you miss two or more required meetings; you or any of your Owners or officers or directors is convicted or pleads nolo contendere to a crime involving moral turpitude or consumer fraud or any other crime or offense or engages in any activities which impairs the goodwill associated with the Marks; you misuse the Marks; you disclose Proprietary Information; you or your Owners make an improper transfer; you or your Owners violate the noncompete covenants of the Franchise Agreement; you become insolvent or bankrupt; you fail to pay suppliers and trade creditors an amount exceeding \$2,000 for more than 60 days; you fail to pay your taxes; you underreport Gross Revenue by more than 2% twice in a two-year period or by 5% in any period; you fail to permit us to inspect or audit your books and records; you fail to timely file reports three times in 12 months; you default under any other agreement with us or our affiliates if such default would permit the termination of that agreement; or you are in default three or more times within any 18-month period. Subject to applicable state law.
i.	Franchisee’s obligations on termination/non-renewal	Section 15	Pay all amounts due to us or our affiliates; discontinue use of the Marks and the System; return Proprietary Information, customer data, and Manuals; close vendor accounts; cancel assumed name registration; cancel or transfer telephone number, post office boxes, domain names, social media accounts, and directory listings; complete de-identification of the Site; reimburse customers; refrain from disclosing

	Provision	Section in Franchise Agreement	Summary
			Proprietary Information; and comply with noncompete covenant.
j.	Assignment of contract by us	Section 13.1	No restriction on our right to assign.
k.	“Transfer” by franchisee – definition	Section 13.2	Includes transfer of the Franchise Agreement, any interest in the Franchise Agreement, the license to use the System and the Marks, the Studio or substantially all of the assets of the Studio, or an interest in the ownership of the Studio (if you are an Entity).
l.	Our approval of transfer by franchisee	Section 13.3	We have the right to approve all transfers.
m.	Conditions for our approval of transfer	Section 13.4	You pay us a non-refundable deposit to review the transfer; you pay us the Transfer Fee; all of your monetary obligations are satisfied; you are not in default; you and your Owners sign a general release; you and your Owners remain liable for obligations incurred or arising prior to transfer; you comply with noncompetition and confidentiality provisions; your landlord consents to the transfer of your lease; new franchisee agrees to discharge all of your obligations; new franchisee qualifies, meets training requirements, and signs then-current franchise agreement; new franchisee upgrades the Studio to our then-current specifications; new franchisee covenants to continue to operate the Studio under the Marks; new franchisee’s owners execute our then-current form of personal guarantee; and we determine purchase price acceptable and financing arrangements are subordinate to our interests.
n.	Our right of first refusal to acquire franchisee’s business	Section 13.9	We can match any offer for your Studio, the Studio’s assets, or any ownership interest, except for certain transfers to spouses, children, or existing Owners.
o.	Our option to purchase your business	Section 15.5	For 15 days after the Franchise Agreement terminates or expires, we can purchase any or all of the inventory, supplies, Operating Assets, and other assets related to the operation of your Studio for the fair market value of the assets, less any amounts then owing to us. We also may assume your lease or sublease or equipment leases.
p.	Death or disability of franchisee	Section 13.8	Executor or representative must transfer your interest to a third party approved by us within 120 days.
q.	Non-competition covenants during the term	Section 12.1	You and your Owners may not: own, manage, engage in, be employed by, advise, make loans to, or have any other interest in (i) any business which provides or offers group or individual art class instruction, the sale of works of art at a retail store, instruction in the technique of acrylic or resin fluid art, any other Approved Products and Services that we grant you the right to offer during the Term of your Franchise Agreement (ii) any entity that grants franchises or licenses for any of these types of businesses (a “ <b>Competitive Business</b> ”) in the United States; divert or attempt to divert any business or customer or potential business or customer of the Studio to any Competitive Business, by direct or indirect inducement

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
			or otherwise; perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; use any vendor relationship established through your association with us for any purpose other than to purchase products or equipment for use or retail sale in the Studio; or directly or indirectly solicit for employment any person who at any time within the immediate past 12 months has been employed by us, or our affiliates, or by any of our franchisees. Subject to applicable state law.
r.	Non-competition covenants after the Franchise Agreement is terminated or expires	Section 12.2	For two years after the expiration of termination of your Franchise Agreement, you and your Owners may not be involved in any Competitive Business that is (or is intended to be) located within a 10-mile radius of your former Studio or any other Studio that is operating or under development at that time and may not solicit for employment individuals employed during the past 12 months by us, our affiliates, or our franchisees. Subject to applicable state law.
s.	Modification of the agreement	Section 17.2	Except for modifications to the Manuals, no modifications unless agreed to in writing by both parties.
t.	Integration/merger clause	Section 17.1	Only the terms of the Franchise Agreement are binding (subject to state law). Any other promises made outside of this Disclosure Document and the Franchise Agreement may not be enforceable.
u.	Dispute resolution by arbitration or mediation	Section 16.1	Prior to filing most proceedings, a party must submit the dispute to non-binding mediation.
v.	Choice of forum	Section 16.2	Subject to applicable state laws, you and your Owners must, and we may, bring claims in federal or state courts located in Cedar Hill, Texas (or the city in which our principal place of business is then located, if we no longer have an office in Texas)
w.	Choice of law	Section 16.3	Subject to applicable state laws, Texas law applies, without regard to Texas conflict-of-laws rules, excluding the Hawaii Franchise Act except with respect to Studios which are physically located in Hawaii.

### **THE AREA DEVELOPMENT AGREEMENT**

**The table below lists certain important provisions of the Area Development Agreement. You should read these provisions in the form of Area Development Agreement attached to this Disclosure Document as Exhibit C.**

	<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary</b>
a.	Length of the franchise term	Section 5	The term expires upon the deadline to open the last Studio to be opened under the Development Schedule.

	<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary</b>
b.	Renewal or extension of the term	Not applicable	Not applicable.
c.	Requirements for franchisee to renew or extend	Not applicable	Not applicable.
d.	Termination by franchisee	Not applicable	You may terminate under any applicable grounds permitted by law.
e.	Termination by us without cause	Not applicable	Not applicable.
f.	Termination by us with cause	Section 6.1	We can terminate only if you default under the Franchise Agreement (see (g) and (h) below). Termination of the Development Agreement does not terminate any other agreements we may have with you unless the cause of termination would be sufficient to terminate an agreement on its own. Subject to applicable state law.
g.	“Cause” defined – curable defaults	None	Subject to applicable state law.
h.	“Cause” defined – non-curable defaults	Section 6.1	You fail to timely execute a Franchise Agreement or fail to pay any initial franchise fee owed thereunder; you fail to have open and operating the minimum number of Studios specified in the Development Schedule at any deadline; any Franchise Agreement is in default; or you breach or otherwise fail to comply fully with any provision of the Development Agreement.
i.	Franchisee’s obligations on termination/non-renewal	Section 6.2	You will lose your right to develop additional studios
j.	Assignment of contract by us	Section 7	No restriction on our right to assign.
k.	“Transfer” by franchisee – definition	Section 7	Includes transfer of the Franchise Agreement, any interest in the Franchise Agreement, the license to use the System and the Marks, the Studio or substantially all of the assets of the Studio, or an interest in the ownership of the Studio (if you are an Entity).
l.	Our approval of transfer by franchisee	Section 7	We have the right to approve all transfers.
m.	Conditions for our approval of transfer	Section 7	You pay us a non-refundable deposit to review the transfer; you pay us the Transfer Fee; all of your monetary obligations are satisfied; you are not in default; you and your Owners sign a general release; you and your Owners remain liable for obligations incurred or arising prior to transfer; you comply with noncompetition and confidentiality provisions; your landlord consents to the transfer of your lease; new franchisee agrees to discharge all of your obligations; new franchisee qualifies, meets training requirements, and signs then-current franchise agreement; new franchisee upgrades the Studio to our then-current specifications; new franchisee covenants to continue to operate the Studio under the Marks; new franchisee’s owners execute our then-current form of personal guarantee; and we determine purchase

	<b>Provision</b>	<b>Section in Area Development Agreement</b>	<b>Summary</b>
			price acceptable and financing arrangements are subordinate to our interests.
n.	Our right of first refusal to acquire franchisee's business	Section 7	We can match any offer for your Studio, the Studio's assets, or any ownership interest, except for certain transfers to spouses, children, or existing Owners.
o.	Our option to purchase your business	Not applicable	Not applicable
p.	Death or disability of franchisee	Section 7	Executor or representative must transfer your interest to a third party approved by us within 120 days.
q.	Non-competition covenants during the term	Section 8.1	You and your Owners may not: be involved in any Competitive Business in the United States; divert customers or potential customers to any Competitive Business; do acts injurious to our goodwill; use vendor relationships established through your associations with us for any other purpose besides the operation of your Studio; or solicit for employment individuals employed during the past 12 months by us, our affiliates, or our franchisees. Non-competition covenants are subject to applicable state law.
r.	Non-competition covenants after the Franchise Agreement is terminated or expires	Section 8.2	For two years after the expiration of termination of your Franchise Agreement, you and your Owners may not be involved in any Competitive Business that is (or is intended to be) located within a 10-mile radius of your former Studio or any other Studio that is operating or under development at that time and may not solicit for employment individuals employed during the past 12 months by us, our affiliates, or our franchisees. Non-competition covenants are subject to applicable state law.
s.	Modification of the agreement	Section 9	Except for modifications to the Manuals, no modifications unless agreed to in writing by both parties.
t.	Integration/merger clause	Section 9	Only the terms of the Franchise Agreement are binding (subject to applicable state law). Any other promises made outside of this Disclosure Document and the Franchise Agreement may not be enforceable. Nothing in the agreement or in any related agreement is intended to disclaim the representations made in the Franchise Disclosure Document.
u.	Dispute resolution by arbitration or mediation	Section 9	Prior to filing most proceedings, a party must submit the dispute to non-binding mediation.
v.	Choice of forum	Section 9	Subject to applicable state laws, you and your Owners must, and we may, bring claims in federal or state courts located in Cedar Hill, Texas (or the city in which our principal place of business is then located, if we no longer have an office in Texas)
w.	Choice of law	Section 9	Subject to applicable state laws, Texas law applies, without regard to Texas conflict-of-laws rules, excluding the Hawaii Franchise Act except with respect to Studios which are physically located in Hawaii.

**ITEM 18.  
PUBLIC FIGURES**

We do not use any public figure to promote our Franchises but may do so in the future.

**ITEM 19.**  
**FINANCIAL PERFORMANCE REPRESENTATIONS**

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

The historic financial performance representation is based upon sales data pulled from our point-of-sale system and discloses sales information for our five disclosed outlets: two existing Affiliate-Owned Outlets which operate a Studio in and around Waikoloa, Hawaii (“HFA Waikoloa”) and Kansas City, Missouri (“HFA KC”), and 3 franchised outlets which operate in and around Frisco, TX, Oklahoma City, OK, and Lubbock, TX (collectively, the five outlets are the “Disclosed Outlets”). The only criterium used in determining a Disclosed Outlet was whether it operated the entire “Measurement Period” which ran from January 1, 2023, to December 31, 2023. As of December 31, 2023, we had 24 locations, including the Affiliate-Owned Outlets, however, only 5 operated continuously during the entire Measurement Period. We omitted the 18 locations which opened for part but not all of the Measurement Period. We have a reasonable basis for the financial performance information disclosed in Item 19. Written substantiation for the financial performance representation will be made available to the prospective franchisee upon reasonable request.

The Disclosed Outlets operate similar to how our franchised outlets operate, including the studio size, the territory size, the availability of off-site events; the number of potential customers; and the general customer base, which is anyone.

In Table 7 we included the Average Gross Profit generated by HFA Waikoloa’s Mobile Unit, the only Mobile Unit that operated for the entire “Mobile Unit Measuring Period” which is a rolling 12-month period from April 15, 2023 to April 15, 2024. The Mobile Unit operated in a similar manner to how franchisees would operate their Mobile Units.

The figures in the tables below use the historic information provided by the Disclosed Outlets. Upon your reasonable request, we will provide written substantiation for this financial performance representation.

**Some outlets have sold this amount. Your individual results may differ. There is no assurance that you’ll sell as much.**

**Table 1: The Gross Profit per Canvas Option**

<b>Table 1 – Gross Profit per Canvas Option</b>				
<b>Category</b>	<b>Canvas #1</b>	<b>Canvas #2</b>	<b>Canvas #3</b>	<b>Canvas #4</b>
Retail Price <sup>1</sup>	\$35.00	\$65.00	\$85.00	\$115.00
COGS <sup>2</sup>	\$2.85	\$4.85	\$5.25	\$7.25
<b>Gross Profit w/o Upgrade</b>	<b>\$32.15</b>	<b>\$60.15</b>	<b>\$79.75</b>	<b>\$107.75</b>
Retail Price w/ Upgrade <sup>3</sup>	\$50.00	\$125.00	\$125.00	\$165.00
COGS w/ Upgrade	\$4.60	\$9.10	\$7.50	\$10.75
<b>Gross Profit<sup>4</sup> w/ Upgrades</b>	<b>\$45.40</b>	<b>\$115.90</b>	<b>\$117.50</b>	<b>\$154.25</b>

**Notes to Table 1:**

The Gross Profit per Canvas Option data was obtained from our Manuals for the minimum pricing schedule for Studios. Each canvas option is one of our 4 most popular sized canvases. We have left the specific sizes off this chart to protect our Confidential Information, however, the canvases are arranged in the following order: Canvas #1 is our kids' option, and Canvases 2-4 range from smallest to largest.

1. "Retail Price" means the minimum retail price a customer pays for the in-studio art experience on a canvas.
2. "COGS" and "COGS w/ Upgrade" means the cost of the goods used to produce the sale.
3. "Gross Profit w/o Upgrade" means the gross profit earned for each canvas art experience sold. Gross Profit is calculated as the Retail Price minus COGS.
4. "Retail Price w/ Upgrade" means the amount customers pay if they upgrade their experience.
5. "Gross Profit w/ Upgrade" means the gross profit earned for each upgraded canvas art experience sold. Gross Profit is calculated as the Retail Price w/ Upgrade minus COGS w/ Upgrade.

**Table 2 represents the Average Net Revenue per Retail Sale for the Disclosed Outlets. Retail sales represent separate sales from the studio art experience. Our Disclosed Outlets' performance is detailed below.**

Location	Average Net Revenue per Sale <sup>1</sup>	Total Retail Transactions <sup>2</sup>
Affiliate Owned Outlet #1	\$24.64	3880
Affiliate Owned Outlet #2	\$15.38	4522
Franchised Outlet #1	\$28.73	1118
Franchised Outlet #2	\$30.30	1705
Franchised Outlet #3	\$30.24	524

**Table 3 represents the high, low, and median of the sales data we used to create Table 2.**

Location	Low Retail Net Revenue Sale Made <sup>3</sup>	Median Retail Net Revenue Sale Made	High Retail Net Revenue Sale Made
Affiliate Owned Outlet #1	\$2.00	\$134.00	\$550.00
Affiliate Owned Outlet #2	\$2.00	\$20.00	\$840.00
Franchised Outlet #1	\$2.00	\$14.00	\$550.00
Franchised Outlet #2	\$2.00	\$168.75	\$700.00
Franchised Outlet #3	\$2.00	\$20.00	\$700.00

**Notes to Tables 2 and 3:**

1. "Average Net Revenue per Sale" means the average revenue generated per retail sale at a Studio.
2. The data was obtained from reports generated by our point-of-sale system.
3. Because we set minimum pricing, our locations will have similar pricing on certain items that may be the lowest or highest in a franchisee's Studio depending on the item.



**Table 4 represents the Average Retail Transactions per Month per Disclosed Outlet for the Measurement Period.**

Location	Total Retail Transactions <sup>2</sup>	Average Retail Transactions Per Month <sup>1</sup>
Affiliate Owned Outlet #1	3880	323
Affiliate Owned Outlet #2	4522	377
Franchised Outlet #1	1118	93
Franchised Outlet #2	1705	142
Franchised Outlet #3	524	44

**Notes to Table 4:**

1. “Average Retail Transactions Per Month” means the total retail transactions divided by the 12 months of the Measurement Period.
2. The data was obtained from reports generated by our point-of-sale system.

**Table 5 details the size of the Studio, maximum students, and the rent paid by the Disclosed Outlets.**

Location	Max Students Per Class <sup>1</sup>	SF of Studio <sup>2</sup>	Gross Monthly Rent	Price per SF
Affiliate Owned Outlet #1	12	834	\$2,000	\$28.78
Affiliate Owned Outlet #2	25	1,234	\$4,856	\$47.22
Franchised Outlet #1	18	1,800	\$4,160	\$27.73
Franchised Outlet #2	55	3,000	\$8,912	\$35.65
Franchised Outlet #3	12	2,000	\$2,200	\$13.20

**Notes to Table 5:**

1. “Max Students Per Class” is the maximum amount of students that can fit in a class due to size constraints of the Studio.
2. “SF of Studio” is the size in square feet for each Studio location.
3. “Gross Monthly Rent” is calculated as the base rent plus any triple net lease terms, if any.
4. “Price per SF” is calculated as the annual amount of Gross Monthly Rent divided by the square footage of the Studio.

**Table 6 represents the revenue generated by the Mobile Unit during the Mobile Unit Measurement Period.**

Item	Low	Median	High	Average <sup>2</sup>	Total Parties
Revenue Earned per Party	\$306.00	\$1,990.00	\$3,760.00	\$1,852.00	13

**Notes for Table 6:**

1. The Mobile Unit operated in the Waikoloa, HI area and didn't begin operating full-time until November 2023. The Mobile Unit operates similarly to how franchisees with Mobile Units will operate.
2. The "Average" revenue earned by the Mobile Unit is calculated as the total revenue earned by the Mobile Unit during the Mobile Unit Measurement Period divided by the Total Parties the Mobile Unit was contracted for. There were 7 parties that earned revenue above the average.

Other than the preceding financial performance representation, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Maya Ratcliff at 610 Uptown Blvd, STE 3900, Cedar Hill, TX 75104, by email at [info@hawaiifluidart.com](mailto:info@hawaiifluidart.com), or by phone at (800) 463-3793, the Federal Trade Commission, and the appropriate state regulatory agencies.

*[Remainder of page intentionally left blank. Item 20 begins next page.]*

**ITEM 20.  
OUTLETS AND FRANCHISEE INFORMATION**

**TABLE NO. 1  
SYSTEMWIDE OUTLET SUMMARY  
FOR YEARS 2021 TO 2023**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
<b>Franchised</b>	2021	0	0	0
	2022	0	3	+3
	2023	3	21	+18
<b>Affiliate-Owned</b>	2021	0	2	+2
	2022	2	3	+1
	2023	3	3	0
<b>Total</b>	<b>2021</b>	<b>0</b>	<b>2</b>	<b>+2</b>
	<b>2022</b>	<b>2</b>	<b>6</b>	<b>+4</b>
	<b>2023</b>	<b>6</b>	<b>24</b>	<b>+18</b>

**TABLE NO. 2  
TRANSFERS OF STUDIOS FROM FRANCHISEES TO NEW OWNERS  
(OTHER THAN TO US) FOR YEARS 2021 TO 2023**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
<b>TX</b>	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>0</b>
	<b>2023</b>	<b>1</b>
<b>Total</b>	<b>2021</b>	<b>0</b>
	<b>2022</b>	<b>0</b>
	<b>2023</b>	<b>1</b>

**TABLE NO. 3  
STATUS OF FRANCHISED OUTLETS FOR YEARS 2021 TO 2023**

<b>State</b>	<b>Year</b>	<b>Franchised Outlets at Start of Year</b>	<b>Franchised Outlets Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired by Franchisor</b>	<b>Ceased Operations -Other Reasons</b>	<b>Franchised Outlets at End of the Year</b>
<b>AL</b>	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
<b>CO</b>	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	1
	2023	0	1	0	0	0	0	1
<b>FL</b>	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	2	0	0	0	0	2
<b>IL</b>	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
<b>MI</b>	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1

State	Year	Franchised Outlets at Start of Year	Franchised Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations -Other Reasons	Franchised Outlets at End of the Year
MO	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
OH	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	3	3	0	0	0	0
OK	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2023	1	0	0	0	0	0	1
SC	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	2	0	0	0	0	2
SD	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
TN	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	2	0	0	0	0	2
TX	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	2023	2	6	0	0	0	0	8
Total	2021	0	0	0	0	0	0	0
	2022	0	3	0	0	0	0	3
	2023	3	21	3	0	0	0	21

**TABLE NO. 4  
STATUS OF AFFILIATE-OWNED OUTLETS  
FOR YEARS 2021 TO 2023**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
HI	2021	0	1	0	0	0	0
	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
MO	2021	0	1	0	0	0	1
	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
TX	2021	0	0	0	0	0	0
	2022	0	1	0	0	0	0
	2023	1	1	0	1	0	1
Totals	2021	0	2	0	0	0	2
	2022	2	1	0	0	0	3
	2023	3	1	0	1	0	3

**TABLE NO. 5  
PROJECTED OPENINGS AS OF THE ISSUANCE DATE**

State	Franchise Agreements Signed But Outlets Not Opened	Projected New Outlets in the Next Fiscal Year	Projected New Affiliate-Owned Outlets in the Next Fiscal Year
<b>Arizona</b>	2	0	0
<b>California</b>	4	0	0
<b>Colorado</b>	2	0	0
<b>Indiana</b>	1	0	0
<b>Pennsylvania</b>	1	0	0
<b>Illinois</b>	2	0	0
<b>Georgia</b>	2	0	0
<b>Michigan</b>	1	0	0
<b>Florida</b>	1	0	0
<b>South Carolina</b>	2	0	0
<b>Wisconsin</b>	1	0	0
<b>Missouri</b>	1	0	0
<b>Kansas</b>	1	0	0
<b>North Carolina</b>	2	0	0
<b>Tennessee</b>	1	0	0
<b>Virginia</b>	1	0	0
<b>Texas</b>	5	0	0
<b>Total</b>	<b>30</b>	<b>0</b>	<b>0</b>

Current and Former Franchisees. Set forth on Exhibit I are (i) the names of all current franchisees and the address and telephone number of each of their Studios, and (ii) the names, city and state, and the current business telephone number, or, if unknown, the last known home telephone number of every franchisee who had a Studio terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under any Franchise Agreement during the most recently completed fiscal year or who has not communicated with us within 10 weeks of this Disclosure Document’s issuance date.

Our fiscal year ends on December 31 each year.

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

Confidentiality Agreements. We have not signed any confidentiality clauses with current or former franchisees. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the Hawaii Fluid Art system. You may wish to speak with current and former franchisees but be aware that not all such franchisees will be able to communicate with you.

Trademark-Specific Franchisee Organizations. As of the date of this Disclosure Document, there are no trademark-specific franchisee organizations associated with our franchise system.

**ITEM 21.  
FINANCIAL STATEMENTS**

Attached as Exhibit A to this Disclosure Document is our audited financial statements as December 31, 2023, as of December 31, 2022, and our audited year-end balance sheet as of December 31, 2021. As we were formed in April 2021 and began offering franchises in July 2021 prior to our conversion from a Hawaii entity to a Texas entity in March 2022, we have not been in business for three years or more and cannot

include all of the financial statements required by the FTC Rule for our last three fiscal years. Our fiscal year ends on December 31.

Also included in Exhibit A are our unaudited interim financial statements as of March 31, 2024.

**ITEM 22.  
CONTRACTS**

The following agreements are attached as exhibits to this Disclosure Document:

<b>Contract</b>	<b>Location in FDD</b>
Franchise Agreement and Attachments	Exhibit B
FA Personal Guarantee	Attachment B to FA
Franchisee Compliance Questionnaire	Attachment C to FA
Area Development Agreement and Attachments	Exhibit C
ADA Personal Guarantee	Attachment to ADA
State-Required Agreement Riders	Exhibit D
Form of General Release	Exhibit G
Form of Confidentiality and Noncompete Agreement	Exhibit H
ACH/EFT Transfer Authorization Form	Exhibit J
Lease Rider	Exhibit K

**ITEM 23.  
RECEIPTS**

Attached as the last two pages of this Disclosure Document are copies of the Receipt which you will be required to sign. One signed copy of the Receipt must be returned to us, as provided on the Receipt.

**EXHIBIT A  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT  
FINANCIAL STATEMENTS**

# **Hawaii Fluid Art Franchising, LLC**

Financial Statements with Report of Independent Auditors

December 31, 2023, 2022, and 2021 (Balance Sheet only for 2021)



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Report of Independent Auditors

To the Member of  
Hawaii Fluid Art Franchising, LLC

*Opinion*

We have audited the accompanying financial statements of Hawaii Fluid Art Franchising, LLC, a Texas Limited Liability Company, which comprise the balance sheets as of December 31, 2023, 2022, and 2021 and the related statements of operations, changes in member's capital and cash flow for the years ended December 31, 2023 and 2022, 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 the Company as of December 31, 2023, 2022, and 2021, and the results of its operations and its cashflows for the years ended December 31, 2023 and 2022, in accordance with accounting principles generally accepted in the United States of America.

*Basis for Opinion*

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company 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 these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after April 17, 2024.

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

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audits.
- 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 audits in order to design audit procedures that are appropriate in the circumstance, but not for the purpose of expressing an opinion on the effectiveness of the Company'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 the Company'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 audits, significant audit findings, and certain internal control-related matters that we identified during the audits.

*DA Advisory Group PLLC*

Troy, MI  
April 17, 2024

Hawaii Fluid Art Franchising, LLC  
BALANCE SHEETS  
December 31, 2023, 2022, and 2021

	2023	2022	2021
<b>ASSETS</b>			
Current Assets:			
Cash and cash equivalents	\$ 20,133	\$ 100,405	\$ 541
Accounts receivable	164,910	-	-
Payments to deposit	1,266	-	-
Deferred commissions and fees, current	242,892	24,310	-
Total current assets	429,201	124,715	541
Noncurrent assets:			
Leasehold improvements, net of depreciation	88,650	93,575	-
Start-up costs, net of amortization	44,187	47,586	50,985
Deferred commissions and fees	348,258	-	-
Loans to related party	1,000,372	-	-
Total other assets	1,481,467	141,161	50,985
Total Assets	\$ 1,910,668	\$ 265,876	\$ 51,526
<b>LIABILITIES AND MEMBER'S EQUITY</b>			
Current Liabilities:			
Accounts payable	23,225	-	-
Credit cards	72,228	-	-
Taxes payable	13,299	-	-
Deferred franchise fees, current	843,906	71,167	-
Loans from related parties	277,795	-	-
Total current liabilities	1,230,453	71,167	-
Noncurrent liabilities:			
Deferred franchise fees, net of current	852,719	-	-
Long-term business loans	-	100,000	-
Total long-term liabilities	852,719	100,000	-
Total liabilities	2,083,172	171,167	-
Member's equity (deficit)	(172,504)	94,709	51,526
Total member's equity (deficit)	(172,504)	94,709	51,526
Total liabilities and equity (deficit)	\$ 1,910,668	\$ 265,876	\$ 51,526

see accompanying notes

Hawaii Fluid Art Franchising, LLC  
STATEMENT OF OPERATIONS  
For the Year Ended December 31, 2023 and 2022

	2023	2022
<b>REVENUE</b>		
Franchise fees	\$ 1,687,900	\$ 341,280
Sales of product income	184,520	-
Other revenue	157,630	-
Training fees	127,337	-
Royalties	79,799	5,455
Technology fees	45,323	-
Total revenue	2,282,509	346,735
 <b>OPERATING EXPENSES</b>		
Payroll expenses	955,857	49,976
Commissions & fees	439,900	118,690
Contract labor	215,550	-
Advertising & marketing	186,986	-
Cost of goods sold	204,600	-
Travel	86,166	-
Legal & professional services	85,137	-
Software & apps	77,918	-
Conference fees	50,500	-
General business expenses	48,959	2,500
Employee benefits	41,037	-
Repairs and maintenance	25,000	-
Other operating expenses	291,466	163,661
Total operating expenses	2,709,077	334,827
Operating income	(426,569)	11,908
Depreciation	4,925	4,925
Interest paid	15,403	-
Net Income (loss)	\$ (446,897)	\$ 6,983

see accompanying notes

Hawaii Fluid Art Franchising, LLC  
STATEMENT OF CHANGES IN MEMBER'S EQUITY  
For the Year Ended December 31, 2023 and 2022

	<u>Total Member's Equity</u>
BALANCE, DECEMBER 31, 2021	<u>\$ 51,526</u>
Capital contributions	51,200
Capital distributions	(15,000)
Net income	<u>6,983</u>
BALANCE, DECEMBER 31, 2022	<u>\$ 94,709</u>
Capital contributions	521,232
Capital distributions	(234,144)
Prior period adjustment	(107,404)
Net income	<u>(446,897)</u>
BALANCE, DECEMBER 31, 2023	<u>\$ (172,504)</u>

see accompanying notes

Hawaii Fluid Art Franchising, LLC  
STATEMENT OF CASH FLOWS  
For the Year Ended December 31, 2023 and 2022

	2023	2022
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income (loss)	\$ (446,897)	\$ 6,983
<i>Adjustment for</i>		
Depreciation	4,925	-
Amortization of asset	3,399	3,399
<i>Change in:</i>		
Increase in deferred commissions	(566,840)	(24,310)
Increase in accounts receivable	(164,910)	-
Increase in deposits	(1,266)	-
Increase in accounts payable	23,225	-
Increase in credit card	72,228	-
Increase in other current liabilities	291,094	-
Increase in deferred franchise fees	1,625,457	71,167
Net cash provided by operating activities	840,416	57,239
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Leasehold improvements	-	(93,575)
Net cash used by investing activities	-	(93,575)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Loans to related parties	(1,000,372)	
(Repayment)/Proceeds of notes payable	(100,000)	100,000
Change in equity	179,684	36,200
Net cash (used) provided by financing activities	(920,688)	136,200
Net change in cash and cash equivalents	\$ (80,272)	\$ 99,864
Cash and cash equivalents at beginning of year	100,405	541
Cash and cash equivalents at end of year	\$ 20,133	\$ 100,405
Total cash and cash equivalents	\$ 20,133	\$ 100,405
<b>SUPPLEMENTAL CASH FLOW INFORMATION:</b>		
Cash paid for interest	\$ 15,403	\$ -

see accompanying notes

Hawaii Fluid Art Franchising, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2023

1. Organization

Hawaii Fluid Art Franchising, LLC (the “Company”) is a Texas limited liability company formed in April 2021. The Company awards franchises to Fluid Art Studios, offering one-on-one, group and special events acrylic painting as well as other art forms such as silk scarf marbling, jewelry making, resin classes, alcohol ink, spin art, wood burning, and more.

2. Summary of significant accounting policies and nature of operations

Basis of accounting

The Company prepares its financial statements on the accrual basis of accounting consistent with accounting principles generally accepted in the United States of America.

Estimates

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

Advertising and Marketing

The Company expenses advertising and marketing costs as incurred. Advertising and marketing expense for the years ended December 31, 2023 and 2022 was \$186,986 and \$0, respectively.

Revenue and Expenses

Operating income consists of franchise sales to customers in addition to revenues earned by the Company from sales of marketing materials and services as well as royalties from each customer. Royalties are based on a percentage of monthly sales which are recognized as revenue in the month earned as well as revenue from other contractual agreements.

For franchise revenues, the Company has obligations to provide franchisees with the franchise rights to open a studio within the franchise system, training, and site selection. The Company’s revenue recognition policies for franchise fees are in compliance with accounting standards *ASC Topic 606, Revenue from Contracts with Customers*. In 2020, the Financial Accounting Standards Board (FASB) issued an Accounting Standards Update (ASU), *Franchisors-Revenue from Contracts with Customers (Subtopic 952-606) Practical Expedient*. The expedient has allowed franchisors that are not public business entities to account for pre-opening activities as a single performance obligation. The Company has concluded that these preopening activities represent performance obligations to which the franchise fee is allocated.

Therefore, initial franchise fees for each agreement are allocated to each performance obligation and recognized as these preopening activities are performed, which typically aligns with the date a franchisee opens. For the year ended December 31, 2023 and 2022, initial franchise fees earned were \$1,687,900 and \$341,280, respectively.



Hawaii Fluid Art Franchising, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2023

2. Summary of significant accounting policies and nature of operations (continued)

Contract Balances

The Company has recorded an asset for commission costs incurred to obtain franchise agreements and a liability for unearned revenue associated with the performance obligation of the Company's franchise agreements.

A summary of acquisition costs incurred as of December 31, 2023 and 2022 is as follows:

	<u>2023</u>	<u>2022</u>
Deferred commissions - beginning	\$ 24,310	\$ -
Additional costs incurred	1,006,740	143,000
Deferred commissions recognized	<u>(439,900)</u>	<u>(118,690)</u>
Deferred commissions - ending	\$ 591,150	\$ 24,310

Deferred acquisition costs are expected to be amortized over the remaining term of the associated franchise agreement as follows:

Year ending December 31:	<u>2023</u>	<u>2022</u>
2023	\$ -	\$ 24,310
2024	242,892	-
Thereafter	<u>348,258</u>	<u>-</u>
Total	\$ <u>591,150</u>	\$ <u>24,310</u>

A summary of deferred franchise revenue as of December 31, 2023 and 2022 is as follows:

	<u>2023</u>	<u>2022</u>
Deferred revenue - beginning	\$ 71,167	\$ -
Franchise fees collected	3,313,358	412,447
Franchise fees recognized and earned	<u>(1,687,900)</u>	<u>(341,280)</u>
Deferred revenue - ending	\$ 1,696,625	\$ 71,167

Deferred franchise fee revenue are expected to be amortized over the remaining term of the associated franchise agreement as follows:

Year ending December 31:	<u>2023</u>	<u>2022</u>
2023	\$ -	\$ 71,167
2024	843,906	-
Thereafter	<u>852,719</u>	<u>-</u>
Total	\$ <u>1,696,625</u>	\$ <u>71,167</u>

Hawaii Fluid Art Franchising, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2023

2. Summary of significant accounting policies and nature of operations (continued)

Cash and Cash Equivalents

Cash and cash equivalents include all cash balances on deposit with financial institutions and highly liquid investments with a maturity of three months or less at the date of acquisition. The Company maintains its cash in bank deposit accounts which, could exceed federally insured limits. The Company has not experienced an instance where cash held in the account exceeded insured limits since their inception and have not had losses in such accounts. The Company believes it is not exposed to any significant credit risk on cash and cash equivalents.

Property and Equipment

Property and equipment will be stated at cost. Depreciation will be computed using the straight-line method of depreciation over the estimated useful life of the assets.

Income Taxes

The Company filed an election with the Internal Revenue Service to be treated as a flow-through entity for all taxable years. Therefore, the Company is not subject to corporate income tax and all taxable income or loss will pass through to the member of the Company.

Accounts Receivable

Accounts receivable arise in the normal course of business through franchise sales, sales of marketing materials and services, and royalties earned. There were outstanding receivables of \$164,910 and \$0 at December 31, 2023 and December 31, 2022, respectively. If amounts become uncollectible, they are charged to operations in the period in which that determination is made. Accounting principles generally accepted in the United States of America require that the allowance method be used to recognize bad debts; however, the effect of using the direct write-off method is not materially different from the results that would have been obtained under the allowance method. No write-offs were made in the reporting period.

3. Intangible Assets

In accordance with ASC 350, Goodwill and Other Intangible Assets, the Company will test its intangible assets and franchise intellectual property for impairment on an annual basis, and between annual tests, if events occur or circumstances change that would more likely than not reduce the fair value below its carrying amount. At December 31, 2023 and 2022, intangible assets consisted of start-up costs capitalized and no impairment has been assessed as of this date.

4. Related Party Transactions

The Company has notes payable from related parties. On December 27, 2022, the Company received a \$100,000 note from an executive member of management. In 2023, the note was paid down to a balance of \$25,000 and then assume by another executive member of management.

Additionally in 2023, the Company took in other related-party advances in the amount of \$252,795. These payables do not have a stated interest rate or pay-back period but can be called at any time.

Hawaii Fluid Art Franchising, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2023

5. Related Party Transactions (continued)

There were also loans receivable from other related-party entities in the amount of \$1,000,372. These loans receivable do not have a stated interest rate or pay-back period but can be called at any time.

Additionally, the Company has a lease agreement with a related entity for the use of office space at a flat rate of \$6,000 per month. The lease is a month-to-month lease. Total lease payments in 2023 and 2022 were \$18,634 and \$68,000. Any shortage in payments were agreed upon due to various circumstances. The lease ended in June of 2023.

6. Subsequent Events

Subsequent events have been evaluated through April 17, 2024, which is the date the financial statements were available to be issued. No significant events or transactions were identified that would require adjustment to the financial statements or disclosure.

**THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAD AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO THE CONTENT OR FORM.**

Hawaii Fluid Art Franchising  
Balance Sheet  
As of March 31, 2024 (unaudited)

ASSETS

	March 31, 2024
Current Assets:	
Cash and cash equivalents	106,015
Accounts receivable	315,120
Payments to deposit	22,024
Deferred commissions and fees, current	-
Total current assets	<u>443,159</u>
Noncurrent assets:	
Leasehold improvements, net of depreciation	87,416
Start-up costs, net of amortization	44,187
Deferred commissions and fees	945,180
Loans to related party	1,308,894
Total other assets	<u>2,385,677</u>
Total Assets	<u><u>\$ 2,828,836</u></u>

LIABILITIES AND MEMBER'S EQUITY

Current Liabilities:	
Accounts payable	18,949
Credit cards	72,163
Taxes payable	10,670
Deferred franchise fees, current	-
Loans from related parties	128,085
Total current liabilities	<u>229,866</u>
Noncurrent liabilities:	
Deferred franchise fees, net of current -	2,484,625
Long-term business loans	-
Total long-term liabilities	<u>2,484,625</u>
Total liabilities	<u><u>2,714,491</u></u>
Total member's equity	114,345
Total liabilities and equity	<u><u>\$ 2,828,836</u></u>

Hawaii Fluid Art Franchising  
Income Statement  
As of March 31, 2024 (unaudited)

	As of March 31, 2024
REVENUE	
Franchise fees	211,500
Sales of product income	517,827
Other revenue	133,288
Training fees	70,100
Royalties	67,107
Technology fees	40,815
Total revenue	<u>1,040,637</u>
OPERATING EXPENSES	
Labor expenses	306,819
Commissions & fees	75,000
Advertising & marketing	28,062
Cost of goods sold	75,261
Travel	55,077
Legal & professional services	49,587
Software & apps	16,875
Conference fees	23,532
General business expenses	9,408
Employee benefits	7,015
Other operating expenses	99,304
Total operating expenses	<u>745,939</u>
Operating income	294,698
Depreciation	1,231
Interest paid	6,618
Net Income	<u><u>\$ 286,849</u></u>

**EXHIBIT B  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT  
FRANCHISE AGREEMENT & EXHIBITS**



*A Place to Create!*

FRANCHISE AGREEMENT

between

HAWAII FLUID ART FRANCHISING, LLC

and

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## ATTACHMENTS

- A. Franchisee-Specific Terms
- B. Payment and Performance Guarantee
- C. Franchisee Compliance Questionnaire

## HAWAII FLUID ART FRANCHISING, LLC

### FRANCHISE AGREEMENT

THIS AGREEMENT (this “**Agreement**”) is made and entered into as of the date set forth on Attachment A of this Agreement (the “**Effective Date**”) (Attachment A and all appendices and schedules attached to this Agreement are hereby incorporated by this reference) between Hawaii Fluid Art Franchising, LLC, a Texas limited liability company with its principal place of business at 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104 (“**HFA Franchising**”), and the person or entity identified on Attachment A as the franchisee (“**Franchisee**”) with its principal place of business as set forth on Attachment A. In this Agreement, “**we,**” “**us,**” and “**our**” refers to HFA Franchising. “**You**” and “**your**” refers to Franchisee.

### RECITALS

A. We and our affiliates have accumulated knowledge and experience in the fluid art and art instruction industry on the basis of which we have developed and will continue to develop a distinctive business format and set of specifications and operating procedures (collectively, the “**System**”) for the operation of art studios that operate under the Hawaii Fluid Art mark.

B. The distinguishing characteristics of the System include, but are not limited to, our Studio designs, layouts, and identification schemes (collectively, the “**Trade Dress**”), our specifications for equipment, inventory, and accessories; our website or series of websites for the Studios (the “**System Website**”); our relationships with vendors; our software and computer programs; our online booking system; our reservation procedures; any programs and classes that we have developed or may develop; the accumulated experience reflected in our training program, operating procedures, customer service standards methods, and marketing techniques; and the mandatory and suggested policies, procedures, standards, specifications, rules, and requirements (“**System Standards**”) set out in our operations manuals (“**Manuals**”) and otherwise in writing. We may change, improve, add to, and further develop the elements of the System from time to time.

C. We identify the Studios operating under the System by means of the Hawaii Fluid Art mark and certain other trademarks, service marks, trade names, signs, associated designs, artwork, and logos (collectively, the “**Marks**”). We may designate for your use other trade names, service marks, and trademarks as Marks from time to time. These marks will also be included in the term the “**Marks.**”

D. If you are a corporation, limited liability company, partnership, or other entity (collectively, an “**Entity**”), all of your owners of a legal and/or beneficial interest in the Entity (the “**Owners**”) are listed on Attachment A. If you are an Entity, the individual owner who you must appoint to have authority over all business decisions related to your business and to have the power to bind you in all dealings with us will be referred to as your “**Operating Principal.**”

E. You desire to open and operate a Hawaii Fluid Art studio using the Marks and the System (a “**Studio**”), and we are willing to grant you a license to open and operate a Studio on the terms and conditions of this Agreement.

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

## Section 1      **Rights Granted.**

1.1      Grant of Franchise. Upon the terms and conditions of this Agreement, we grant to you a non-exclusive license (the “**License**”) to operate one Studio using the Marks and the System. The Studio will be located at a site to be mutually agreed upon subsequent to the execution of this Agreement, pursuant to Section 4.2 (Site Selection) (the “**Site**”), within the area set forth on Attachment A (the “**Site Selection Area**”). You have no right to (i) sublicense the Marks or the System to any other person or entity, (ii) use the Marks or the System at any location other than the Site, or (iii) to use the Marks or the System in any wholesale, e-commerce, or other channel of distribution besides the operation of the Studio at the Site.

1.2      Acceptance of License. You hereby accept the License and agree to operate the Studio according to the provisions of this Agreement for the entire Term, as defined in Section 2.2 (Successor Term).

1.3      Limited Territorial Protection. Once you have selected and we have accepted a Site in the Site Selection Area in accordance with Section 4.2 (Site Selection), we will designate an area within the confines of the Site Selection Area as your protected territory (the “**Territory**”). You do not have any territorial protection in your Site Selection Area, unless and until we identify your Territory, as explained in Section 4.3 (Definition of the Territory). Except as provided in this Section 1.3, we and our affiliates will not open, or license a third party to open, a Studio within your Territory. Except for the foregoing sentence, we and our affiliates have the right to conduct any business activities, under any name, in any geographic area, and at any location, regardless of the proximity to or effect on your Studio. For example, without limitation, we have the right to:

(a) establish or license franchises and/or company-owned studios or businesses offering similar or identical products, services, classes, and programs and using the System or elements of the System (i) under the Marks anywhere outside of the Territory or (ii) under names, symbols, or marks other than the Marks anywhere, including inside and outside of the Territory;

(b) sell or offer, or license others to sell or offer, any products, services, or classes using the Marks or other marks through any alternative distribution channels, including, without limitation, through e-commerce, in retail stores, via recorded media, via online videos, or via broadcast media, anywhere, including inside and outside of the Territory;

(c) advertise, or authorize others to advertise, using the Marks anywhere, including inside and outside of the Territory; and

(d) acquire, be acquired by, or merge with other companies with existing facilities or businesses anywhere (including inside or outside of the Territory) and: (i) convert the other businesses to the Hawaii Fluid Art name, provided that we will not convert any business to the Hawaii Fluid Art name if they are located inside of your Territory, (ii) permit the other businesses to continue to operate under another name, and/or (iii) permit the businesses to operate under another name and convert existing Studios to such other name.

1.4      Operating Principal and Key Manager. If you are an Entity, you must appoint an individual owner as your Operating Principal who must have authority over all business decisions related to your Studio and must have the power to bind you in all dealings with us. In addition, you must appoint a manager to manage the day-to-day business of your Studio (the “**Key Manager**”). Your Operating Principal may serve as your Key Manager, unless we believe that he or she does not have sufficient experience or qualifications. Your Operating Principal must have at least a ten percent (10%) ownership interest in your Entity, but your Key Manager is not required to have an ownership interest in your Entity. Your Operating Principal and Key Manager (if known at the time of signing) shall be listed on Attachment A. You must provide us with written notice of your Operating Principal and Key Manager(s) at least sixty (60) days prior to opening and may not change your Operating Principal and Key Manager without our prior written approval.

## 1.5 Ownership and Guarantee.

(a) Owners of Equity. If you are an Entity, each of your Owners must execute the “Payment and Performance Guarantee” that is attached in Attachment B (the “**Guarantee**”). By executing the Guarantee, each Owner will be bound by the provisions contained in this Agreement, including without limitation the restrictions set forth in Section 12 (Your Covenant Not to Compete). Further, a violation of any of the provisions of this Agreement, including the covenants contained in Section 12, by any Owner will also constitute a violation by you of your obligations under this Agreement. You represent that the individuals executing this Agreement under the Guarantee represent that they are your sole owners.

(b) Governing Documents. If you are (or Transfer this Agreement to) an Entity, upon our request, you agree to furnish us with a list of holders of direct or indirect equity interests and their percentage interests, as well as copies of your governing documents and any other corporate documents, books, or records, including certificates of good standing from your state. The Owners may not enter into any shareholders’ agreement, management or operating agreement, voting trust, or other arrangement that gives a third party the power to direct and control your affairs without our prior written consent. During the Term, your governing documents must provide that no transfer of any ownership interest may be made, except in accordance with Section 13 (Transfer and Assignment) of this Agreement. Any securities that you issue must bear a conspicuous printed legend to that effect.

## **Section 2 Initial Term and Successor Term.**

2.1 Initial Term. The initial term (the “**Initial Term**”) of the License begins on the Effective Date and ends ten years from the date that your Studio opens for business (the “**Opening Date**”), unless this Agreement is terminated sooner as provided in other sections of this Agreement.

2.2 Successor Term. Upon the expiration of the Initial Term, if you (i) are not in default under this Agreement, (ii) have substantially complied with this Agreement throughout the Term, (iii) have timely paid all monies due to us or our affiliates, and (iv) comply with this Section 2.2, you may, at your option, obtain two additional consecutive successor terms of ten years each (each, a “**Successor Term**”). The Initial Term and Successor Terms are referred collectively in this Agreement as the “**Term.**” You may only exercise this right to obtain a Successor Term by:

(a) giving us written notice of your desire to obtain a successor License at least six, but no more than 12, months before the expiration of the then-current Initial Term or Successor Term;

(b) delivering to us a fully executed franchise agreement on our then-current form of franchise agreement, which you acknowledge may contain terms materially different than those contained in this Agreement, including, but not limited to, (i) higher rates of Royalty Fees and Brand Fund Contributions (as herein defined) and other fees and charges and (ii) a modified Territory;

(c) refurbishing or renovating the Studio, at your expense, to conform the decor, color schemes, storefront, signage, and presentation of the Marks to our then-current image and, if necessary, in our sole opinion, to update and replace the equipment, furniture, signage, and fixtures to meet our then-current specifications;

(d) executing a general release, in a form we prescribe, of any and all claims against us, our Area Representatives, our affiliates, and our and their past, present, and future officers, directors, shareholders, and employees arising out of, or relating to, your Studio;

(e) completing, and having your Operating Principal and Key Manager complete, all of our then-current training requirements, including any additional training that we may require;

(f) securing the right from your landlord to continue operating at the Site for the remainder of such Successor Term;

(g) substantially and timely complying with each provision of this Agreement or any other agreement with us, our affiliates, or your landlord throughout the Initial Term and having no Event of Default (as defined in Section 14.1 (Events of Default)), or event which with the giving of notice and/or passage of time would constitute an Event of Default, in existence as of the expiration of the Initial Term; and

(h) paying to us the Successor Fee (as defined in Section 3.11 (Successor Fee)).

### **Section 3 Fees.**

3.1 Franchise Fee. You must pay us an initial franchise fee as set forth on Attachment A (the “**Franchise Fee**”) upon execution of this Agreement. The initial Franchise Fee is paid in consideration of the rights granted in Section 1 (Rights Granted) and will be deemed fully earned at the time paid. You acknowledge that we have no obligation to refund the Franchise Fee, in whole or in part, for any reason.

(a) Fee Deferral. Based upon Franchisor’s financial condition, South Dakota has required a Fee Deferral Agreement to be executed in pursuant of State Code 37-5B-5 and on file at the South Dakota State Attorney General Office.

3.2 Royalty Fee.

(a) Amount of Royalty Fee. You must pay us a continuing royalty fee (the “**Royalty Fee**”) equal to the greater of (i) eight percent (8%) of your Gross Revenue (as defined in Section 3.2(b)) for the previous month or (ii) the Minimum Royalty. The “**Minimum Royalty**” is currently seven hundred and fifty dollars (\$750.00) per month, but it may be increased at the start of any year by no greater than the CPI Increase (as defined in Section 3.2(c)). If this Franchise Agreement is your first Franchise Agreement signed under a Development Agreement, the Gross Revenue generated by your Mobile Unit will be added to your Gross Revenue for this Section 3.2(a). The Royalty Fee is non-refundable and is paid in consideration of the ongoing right to use the Marks and the System in accordance with this Agreement and not in exchange for services rendered by us.

(b) Gross Revenue. “**Gross Revenue**” means all revenue that you receive or otherwise derive from operating the Studio, including the sale of commissioned art pieces, and any revenue derived from organizing and hosting off-site events, whether from cash, check, credit or debit card, gift card or gift certificate, or other credit transactions, and regardless of collection or when you actually provide the products or services in exchange for the revenue. If you receive any proceeds from any business interruption insurance applicable to loss of revenue at the Franchised Business, there shall be added to Gross Revenue an amount equal to the imputed gross revenue that the insurer used to calculate those proceeds. Gross Revenue includes promotional allowances or rebates paid to you in connection with your purchase of products or supplies or your referral of customers. Gross Revenue does not include (i) any bona fide returns and credits that are actually provided to customers, (ii) any bone fide shipping charges that you collect from a customer and actually pay to a third-party shipping or logistics company for the delivery of items to customers, and (iii) any sales or other taxes that you collect from customers and pay directly to the appropriate taxing authority. You may not deduct payment provider fees (i.e., bank or credit card company fees and gift card vendor fees) from your Gross Revenue calculation.

(c) CPI Increase. To calculate the “**CPI Increase**” on any amount, multiply that amount by a fraction, the numerator of which is the Inflation Index on the first day of the year for which the increase is to apply, and the denominator for which is the Inflation Index on January 1 of the year of the Effective Date or the effective date of the most recent CPI Increase, whichever is more recent. The “**Inflation Index**” means the U.S. City Average Price Index for All Urban Consumers for All Items (Base Year 1982-84), as published by the United States Department of Labor, Bureau of Labor Statistics, or, if

such index is discontinued or unavailable, such other comparable index for calculating changes in the cost of living or purchasing power for consumers in the United States that we reasonably designate.

3.3 Brand Fund Contribution. You must contribute two percent (2%) of your Gross Revenue (the “**Brand Fund Contribution**”) per month, which shall not increase, to the Hawaii Fluid Art Brand Fund (the “**Brand Fund**”).

3.4 Business Management Onboarding Fee. You must pay us a “**Business Management Onboarding Fee**” to establish and set up your accounts with our platforms and service providers. The Business Management Onboarding Fee is seven thousand five hundred dollars (\$7,500.00) and is a one-time non-refundable payment due upon signing this Agreement and deemed earned upon payment.

3.5 Technology Fee. You must pay to us, or a third party that we designate, a technology fee for various technology services that we will provide or arrange for third parties to provide, which services are subject to change over time (a “**Technology Fee**”). The Technology Fee is currently nine hundred fifty dollars (\$950.00) per month, which we may increase upon thirty (30) days’ notice to you. The Technology Fee is assessed from the date that you begin receiving the technology services, which shall be within two days of signing this Agreement. The first month will be assessed pro rata from the date on which you begin receiving the technology services. The Technology Fee currently includes fees related to your access to and usage of our reservation system, our intranet, any mobile applications we develop, and the System Website. We may add, delete, or otherwise modify the products and services that are included in the Technology Fee.

3.6 Real Estate Acquisition and Construction Management Fee. Upon signing your lease, you will pay us a fee of three thousand dollars (\$3,000.00) for our providing you consulting and advice to assist with finding and acquiring a location. Once you have signed your lease, you will work with our in-house construction project professional who will assist in coordinating with our national construction partners. The Real Estate Acquisition and Construction Management Fee is deemed earned upon payment and is non-refundable.

3.7 Training Fee. You must pay us an initial training fee (“**Training Fee**”) for the cost of one or more of our personnel to provide in-person training to you, your Operating Principal, and your Key Manager at your Studio prior to your grand opening. We will provide a minimum of eight (8) days and a maximum of ten (10) days of in-person training at your Studio location, as we and you determine to be appropriate. The Training Fee ranges from nine thousand six hundred dollars (\$9,600.00) to twelve thousand dollars (\$12,000.00) at a rate of one thousand two hundred dollars (\$1,200.00) per day of in-person training. We are responsible for the travel and living expenses of our personnel who provide Studio setup and training to you at your Studio. You must pay us nine thousand six hundred dollars (\$9,600.00) of the Training Fee upon execution of this Agreement and the remaining balance for any additional days of training that we provide (if any) must be paid upon invoice to be delivered upon completion of training. The Training Fee is deemed earned upon payment and is non-refundable.

(a) Mobile Unit Training. If you choose to operate a Mobile Unit, we will provide you in-person training at our headquarters in Cedar Hill, TX or our affiliate-owned location in Las Vegas, NV. We will provide a minimum of four (4) days of training to you. While attending training, you will be responsible for all your travel, living, and wage expenses while attending the mandatory training.

3.8 Studio Setup Fee. Upon your request, we will set up your Studio and retail area with the furniture, fixture, equipment, and inventory you have purchased. If we travel to set up your Studio, we would be there for a minimum of five (5) days at a cost of one thousand two hundred dollars (\$1,200.00) per day. We will invoice you for six thousand dollars (\$6,000.00), which must be paid prior to our traveling to your Studio. If the set up takes longer than five (5) days, we will invoice you for the additional days, which you must pay upon invoicing.

3.9 Initial Studio Inventory Purchase. Prior to opening the Studio, we will invoice you and you will purchase from us the inventory required for your initial 6-month supply of paint, canvases, supplies, and our proprietary pouring medium and specialty resin from us, our affiliates, or a supplier that we designate (the “**Initial Inventory**”). We will deliver your Initial Inventory prior to your grand opening and training. Thereafter, you must order from us, or a supplier that we designate, enough inventory to maintain a sufficient level of pouring medium and specialty resin for use in the operation of your Studio throughout the Term. We estimate the current price of the Initial Inventory to be eighteen thousand five hundred dollars (\$18,500.00), which you must pay us in full prior to our placing the order on your behalf.

3.10 Grand Opening Project Management Fee. Upon signing your lease, we will invoice you and you will pay us a “**Grand Opening Project Management Fee**” equal to five thousand (\$5,000.00). We will provide grand opening support and assistance with planning your grand opening, drafting press releases, generating media content, providing you guidance and other support. The Grand Opening Project Management Fee is deemed earned upon payment and is non-refundable fee.

3.11 Successor Fee. Upon your execution of a successor franchise agreement pursuant to Section 2.2 (Renewal Term), you will pay to us a successor fee equal to our actual costs for review and preparation of the renewal agreements, up to a maximum amount of three thousand dollars (\$3,000.00) (the “**Successor Fee**”).

3.12 Transfer Fee. If you Transfer (as defined in Section 13.2 (Definition of Transfer)) your Studio or this Agreement, you must pay us a Transfer Fee as specified in Sections 13.4(b), 13.5, and 13.6.

3.13 Relocation Fee. If you relocate your Studio from the Site to a new location, you will pay to us a relocation fee equal to two thousand five hundred (\$2,500.00) plus our administrative and legal expenses in evaluating the relocation (the “**Relocation Fee**”).

3.14 Payments of Fees. Your Royalty Fees, Brand Fund Contributions, and Technology Fees (the “**Operating Fees**”) are due to us and must be reported to us at the times and in the manner that we specify from time to time in the Manuals or otherwise. Currently, you must pay us your Operating Fees monthly, due on the tenth of each calendar month. All other fees and payments due to us must be paid to us within ten days of your receipt of an invoice from us.

3.15 Methods of Payment. You must make all payments to us by the method or methods that we specify from time to time in the Manuals, which may include payment via wire transfer or electronic debit to your bank account. You must furnish us and your bank with all authorizations necessary to effect payment by the methods we specify. You must maintain sufficient funds in your account to permit us to withdraw the Operating Fees due from time to time. You may not, under any circumstances, set off, deduct, or otherwise withhold any Operating Fees, interest charges, or any other monies payable under this Agreement on grounds of our alleged non-performance of any obligations or for any other reason. We may require you to purchase merchant processing services from us, our affiliates, or a vendor that we have approved or designated, each of whom may charge a reasonable monthly fee and reasonable per transaction fee. The payment processor may process all credit card payments related to your Studio, and remit payment to you of all monies owed, after withholding any Operating Fees payable to us and any payment processing fees payable to such processor. If you fail to timely report your Gross Revenue, or we are otherwise unable to access your Gross Revenue, we may estimate the amount of fees due and make a corresponding withdrawal from your bank account based on our estimate, plus twenty percent (20%) of our estimate. If we underestimate any fees due, you will remain obligated to pay the total amount of fees due, which, if we institute an automatic debit program, we may debit from your account automatically. If we overestimate any fees due, we will credit the fees paid (without interest) against fees due in the next payment period after we receive accurate records regarding your Gross Revenue.

3.16 Interest; Late Fee. If any payment due to us is not received in full by the due date, you agree to pay us daily interest on the amount owed, calculated from the due date until paid, at the rate of eighteen percent

(18%) per annum (or the maximum rate permitted by law, if less than 18%). You also agree to pay us a late fee in the amount of twenty-five dollars (\$25.00) for each day that a payment is paid after the applicable due date. This late fee is subject to increase upon sixty (60) days' prior written notice but will not be increased more than once in any 12-month period. You acknowledge that this Section 3.13 is not our agreement to accept any payments after they are due and that any late payments are a default under this Agreement.

3.17 Taxes. You are responsible for all taxes, assessments, and government charges levied or assessed on you in connection with your business activities under this Agreement. In addition, as part of the Royalty Fee, Brand Fund Contribution, Training Fee, Technology Fee, or any other fees that we charge, you will pay to us the amount of any taxes imposed on us or our affiliates (and any taxes imposed on us or our affiliates as a result of such imposition) by federal, state, or local taxing authorities as a result of our receipt of any such fees, not including any tax measured on our income.

## **Section 4 Project Management, Site Selection, Development, and Opening of Studio**

4.1 Real Estate Project Management. You must use a real estate project manager (the “**Real Estate Project Manager**”) that we designate or approve to manage and lead real estate brokerage services, site selection counseling, and other assistance that the Real Estate Project Manager considers necessary and appropriate, which may include, in the Real Estate Project Manager’s sole discretion, on-site evaluations. We or the Real Estate Project Manager may engage third-party real estate brokers to work on your behalf to identify sites for your Studio. You may not engage real estate brokers other than any broker that we may provide without our written approval.

4.2 Site Selection. If you identify a site in the Site Selection Area that is reasonably suited for the conduct of the Studio and is consistent with any site selection guidelines that we may provide, before entering into any lease or purchase agreement for the site, you must submit a site proposal package describing details about the proposed site and provide any other information that we reasonably require. We will review each site that you identify and determine whether to accept it using our proprietary site selection assistance criteria. You acknowledge that we may refuse to accept a proposed site for any reason. If we accept the proposed site and you obtain it, we will insert a description of the specific location on Schedule 1 to Attachment A. The address listed on Schedule 1, if completed and signed by us, will be the “**Site**” referred to in this Agreement. A site is not accepted until you have received our acceptance in writing, as indicated by our delivery of the completed and signed Schedule 1.

4.3 Definition of the Territory. Once the Site has been accepted, we will identify your Territory in Schedule 1 to Attachment A based on the factors that we deem relevant, in our sole discretion, which might include demographics, the character and location of the Site, and nearby businesses and residences. Once we have defined the Territory, you will have no territorial or other rights in those portions of the Site Selection Area that are outside the Territory. You must return to us upon our request a signed copy of Schedule 1 to Attachment A acknowledging the Territory we have designated.

4.4 Site Acquisition. Before you or an affiliate make a binding commitment to purchase, lease, or sublease a site, we must accept the location in writing and approve in writing the proposed lease or purchase agreement or any letter of intent between you and the third-party seller or lessor. If you or your affiliate leases the Site, unless we waive the requirement in writing, you must arrange for the execution of the Lease Rider in the form we provide you (as attached on Exhibit K of the FDD) by you and your landlord in connection with any lease or sublease for your Site (“**Site Lease**”) and any other provisions that we may reasonably require. Our review of the Site Lease is for our own benefit only and is not intended to supplement or replace a review by your attorney. We may require you to engage an attorney to review your Site Lease or purchase agreement for the Site that we have accepted and to supply us with reasonable documentation in connection with such review, including a lease abstract and confirmation that the terms in the agreement reflect the terms in any letter of intent between you and the third-party seller or lessor. You must secure a Site that we have approved by signing a Site Lease or purchase agreement within one



hundred and twenty (120) days after the Effective Date (the “**Site Acquisition Deadline**”). We may extend the Site Acquisition Deadline by ninety (90) days in our sole discretion, and we may require you to execute a general release as a condition of us agreeing to grant such extension. If we have accepted a site for your Studio and you are unable or unwilling to acquire such site or an alternative site that we accept by the Site Acquisition Deadline, we may terminate the Franchise Agreement. You must deliver to us the completely executed purchase agreement or Site Lease and Lease Rider within ten (10) days after execution of the Site Lease or purchase agreement, and you may not amend or renew any Site Lease without our written consent. You must comply with the terms and conditions of your Site Lease. We are not obligated to execute your lease or guarantee a lease for you.

#### 4.5 Site Construction.

(a) Construction Project Manager. You must use a construction project manager that we designate or approve (the “**Construction Project Manager**”) to manage and lead the design and construction of your Studio. We will make available to the Construction Project Manager a set of prototype plans and specifications (not for construction) for the Studio and for the exterior and interior design and layout. The Construction Project Manager will engage designers, architects, and engineers to adapt for the Site our standard plans and specifications for the exterior and interior design and layout, fixtures, furnishings, signs, Trade Dress, and equipment for the Studio. We will review the architectural drawings and specifications for the construction of the Studio showing all leasehold improvements, interior designs, and elevations developed by the Construction Project Manager and its designees (collectively “**Plans**”), which we must approve prior to their submission for permitting. After we have accepted the final Plans, you may not modify the Plans without our prior written consent. You may not engage any project managers, architects, engineers, or designers other than the Construction Project Manager and those selected by the Construction Project Manager without our prior written consent.

(b) Permit, Licenses, and Compliance. Before beginning any construction, you, at your expense, must obtain all necessary government permits and licenses for the lawful construction and operation of your Studio. You must abide by your landlord’s rules and guidelines. It is your responsibility to ensure that all Plans comply with the Americans with Disabilities Act (the “**ADA**”) and similar rules governing public accommodations for persons with disabilities, other applicable ordinances, building codes, permit requirements, and Lease requirements and restrictions. Our review of your Plans is limited to ensuring your compliance with our design requirements and is not designed to assess compliance with applicable federal, state, and local laws, rules, regulations, and ordinances in your Territory (“**Applicable Laws**”) or your Lease.

(c) Construction Phase. You must provide us with written notice identifying your proposed general contractor, and you must ensure that the contractor is duly licensed in your jurisdiction and adequately insured. You may not begin construction until we have given you written approval of the Plans and we or the Construction Project Manager has approved in writing your choice of general contractor. We may require you to use only general contractors that we have pre-approved, provided that we have pre-approved one in your Site Selection Area. You must notify us in writing promptly when construction begins and must maintain continuous construction until the Studio is completed. You agree to complete the construction of your Studio in accordance with the approved Plans at your expense. We, the Construction Project Manager, our and their employees, and our and their agents may inspect the construction at all reasonable times. After completion of construction, you must promptly obtain a certificate of occupancy and provide a copy of the certificate to us.

4.6 Opening Deadline. You must complete construction of and open your Studio for business no later than ninety (90) days after possession of the Site is delivered to you by your landlord and no later than two hundred and ten (210) days after the Effective Date (the “**Opening Deadline**”) unless we grant you an extension in writing which we shall not unreasonably withhold if you are making good faith efforts to meet the Opening Deadline. We may, in our sole discretion, extend the Opening Deadline, which we may condition on you agreeing to pay an extension fee of two thousand five hundred dollars (\$2,500.00) for

each month (or portion of a month) for which the Opening Deadline is extended and you executing a general release. You may not open the Studio until you have received our written approval, which we will not provide until (i) we have viewed the certificate of occupancy, (ii) confirmed that you have complied with the Plans, and (iii) confirmed that you have complied with the pre-opening marketing obligations set forth in this Agreement and have done so in accordance with our System Standards as set forth in the Manuals. You must open the Studio for business to the public within ten (10) days from the date we give our written approval. Time is of the essence in constructing the premises for and opening the Studio.

4.7 **Relocation.** You may not relocate the Studio without our prior written consent. Such approval will not be unreasonably withheld, provided that (i) the new location for the Studio premises is satisfactory to us and you comply with our then-current real estate project management requirements, (ii) your lease, if any, for the new location complies with our then-current requirements and you and your landlord execute the Lease Addendum, (iii) you comply with our then-current requirements for constructing and furnishing the new location, (iv) the new location will not, as determined in our sole discretion, materially and adversely affect the Gross Revenue of any other Studio, (v) you have fully performed and complied with each provision of this Agreement within the last three (3) years prior to, and as of, the date we consent to such relocation (the “**Relocation Request Date**”), (vi) no Event of Default (as herein defined), or event which with the giving of notice and/or passage of time would constitute an Event of Default, exists as of the Relocation Request Date, and (vii) you have met all of our then-current training requirements. If your Site Lease expires or is otherwise terminated, you must secure our approval of another site and enter into a Site Lease for the new approved site within ninety (90) days. You agree to pay us the Relocation Fee upon notifying us of your intent to relocate the Studio to a new Site, whether or not the new Site is approved. We reserve the right to terminate this Agreement if you fail to secure a new approved site within ninety (90) days after you lose the Site Lease.

## **Section 5      Training and Assistance**

5.1 **Initial Training.** Prior to opening the Studio, you (or your Operating Principal, if you are an Entity) and your Key Manager (“**Required Trainees**”) must personally attend and satisfactorily complete our initial training program (“**Initial Training**”). We will provide Initial Training prior to or around the time of the grand opening of your Studio. Initial training will be conducted online, at your Studio, your place of residence, virtually, or a suitable facility in your Site Selection Area. Currently, Initial Training includes a minimum of eight (8) days of in-person training at your Studio prior to opening. Upon your request, we may provide additional training days up to a maximum of ten (10) days of in-person training at your Studio. Portions of our Initial Training may be online and virtual instruction via live and pre-recorded webinars, online learning management tools, and reading materials and guides, including our Manual. We reserve the right to modify the length and location of Initial Training. We may waive a portion of Initial Training or alter the training schedule if we determine that your Required Trainees have sufficient prior experience or training or has previously been trained at one of our Studios. Each subsequent Operating Principal and Key Manager must attend our Initial Training unless we otherwise agree in writing, but we may permit them to attend Initial Training via recorded media, teleconference, videoconference, the Internet, webinar, or any other means, as we determine.

(a) **Cost.** We will provide in-person instructors and materials for your Required Trainees as part of your Training Fee. We will be responsible for the travel and living costs of our personnel who conduct the Initial Training. We reserve the right to charge an additional training fee of one thousand two hundred dollars (\$1,200.00) per person, which we may increase upon sixty (60) days’ written notice to you, for (i) each person who is repeating the course or replacing a person who did not pass, and (ii) each subsequent Operating Principal, Key Manager, or employee who attend the course.

(b) **Completion of Initial Training.** If your Required Trainees are unable to successfully complete, in our sole discretion, Initial Training for any reason, your Required Trainees must repeat Initial Training, or you must delegate replacement Required Trainees to complete Initial Training. Your Required Trainees must successfully complete Initial Training at least ten (10) days before the Opening Deadline.

We will not refund any initial franchise fees paid by you. If you and your personnel satisfactorily complete our Initial Training and you do not expressly inform us at the end of Initial Training that you feel that you or they have not been adequately trained, then you and they will be deemed to have been trained sufficiently to operate a Studio.

5.2 Opening Advice. Prior to opening your Studio, we will advise you as to the development of class schedules and local marketing and networking efforts.

5.3 Additional Training. We may periodically conduct mandatory or optional training programs for your Required Trainee and/or your employees online or another location that we designate, which may be your Studio. There will be no charge for training programs that we require you or your employees to attend virtually, but we may charge you a reasonable fee for optional training programs if we travel to your Studio (currently, \$1,200.00). We may provide additional training in person or via recorded media, teleconference, videoconference, the Internet, webinar, or any other means, as we determine. We may require your Required Trainees or employees to satisfactorily complete any additional training programs that we specify. We may require your Required Trainees to participate in refresher or advanced training in each year of the Term.

5.4 Remedial Training. If, in our sole judgment, you fail to maintain the quality and service standards set forth in the Manuals, we may, in addition to all of our other rights and remedies, assign trainers to the Studio to retrain Studio employees and restore service levels and/or require you or your employees to repeat Initial Training or attend additional training programs at a location that we designate. We may charge a reasonable fee (currently, \$1,200.00 per day) for each trainer assigned to your Studio and any remedial training. We may increase the amount to be charged for each trainer upon sixty (60) days' prior written notice.

5.5 Training by You. You and/or your Operating Principal and your Key Managers are responsible for training all of your other employees, including subsequent Key Managers, in accordance with our standards and training programs. If, in our sole judgment, you fail to properly train your employees in accordance with our standards, we may prohibit you from training additional employees and either require them to attend training at our headquarters (for the fee described in Section 5.1(a) (Initial Training)) or pay for our costs and expenses to send one of our representatives to train them at your Studio.

5.6 Requested Operational and Consulting Services. We will provide you with additional operational and consulting services with respect to the operation of the Studio upon your reasonable request and subject to the availability of our personnel. We will make available to you information about new developments, techniques, and improvements in the areas of merchandising, advertising, management, operations, and Studio design. We may provide such additional consulting services through the distribution of printed or filmed material, an intranet or other electronic forum, meetings or seminars, teleconferences, webinars, or in person. If such services are rendered in person other than at our offices, you must pay us a consulting fee of one thousand two hundred dollars (\$1,200.00) for each of such employees or agents for each day or partial day services are rendered. We may increase the amount to be charged for such requested consulting services upon sixty (60) days' prior written notice. Such additional consulting services will be rendered at a mutually convenient time.

5.7 Travel and Living Expenses. If you travel to our headquarters, you are responsible for any travel and living expenses (including meals, transportation, and accommodations), wages, and other expenses incurred by your trainees.

## **Section 6 Studio Operation and System Standards**

### **6.1 Manuals**

(a) Compliance with the Manuals. We will furnish you with access to our Manuals, on loan for as long as this Agreement or a successor franchise agreement remains in effect. We reserve the right to furnish

all or part of the Manuals to you in electronic form and to establish terms of use for access to any restricted portion of our website. You must comply with and abide by each required System Standard contained in the Manuals, as they may be amended, modified, or supplemented periodically and such other written or electronically transmitted System Standards that we may issue periodically. You acknowledge that we may amend, modify, or supplement the Manuals at any time, so long as such amendments, modifications, or supplements will, in our good faith opinion, benefit us and our existing and future franchisees or will otherwise improve the System. You must comply with revised mandatory System Standards within thirty (30) days after we transmit the updates, unless otherwise specified.

(b) Use of the Manuals. You agree to keep your copy of the Manuals up to date. If there is any dispute as to the current contents of the Manuals, the terms of our master copy maintained at our headquarters will control. You acknowledge that we own the copyright in the Manuals and that your copy of the Manuals remains our property and will be returned to us immediately upon expiration or termination of this Agreement. You will treat the Manuals, and the information contained therein, as confidential and will maintain the confidentiality of such information. You will not, without our prior written consent, copy, duplicate, record, use, or otherwise reproduce in any way the Manuals, in whole or in part, or otherwise make their contents available to any unauthorized person, except as provided in Section 10 (Proprietary Information).

## 6.2 Management and Personnel.

(a) Studio Management. Unless otherwise specified in the Manuals, at all times that your Studio is open for business, it must be under the personal, on-premises supervision of either you, your Operating Principal, your Key Manager, or a trained attendant. Your Key Manager or another trained manager must be available at all times the Studio is open for business. You may not permit your Studio to be operated, managed, directed, or controlled by any other person or entity without our prior written consent.

(b) Employment Decisions and Policies. You are solely responsible for all labor and employment-related matters and decisions related to your Studio, including hiring, firing, promoting, demoting, and compensating (including through wages, bonuses, or benefits) your employees. You must ensure that your employees are qualified to perform their duties in accordance with our System Standards and successfully pass a background check. We do not require you to implement any employment-related policies or procedures or security-related policies or procedures that we (at our option) may make available to you in the Manuals or otherwise for your optional use. You shall determine to what extent, if any, these policies and procedures may be applicable to your operations at the Studio.

(c) Replacement Key Manager. If your Key Manager ceases to be employed by you at the Studio, you must hire a new Key Manager, and have them successfully complete Initial Training, within thirty (30) days after your former Key Manager's employment at the Studio ends. If you are unable to immediately appoint and train a Key Manager, we may, in our sole discretion, provide a Key Manager to work at your Studio temporarily until a new Key Manager is appointed and trained. In such instances you will pay to us a fee equal to one thousand two hundred dollars (\$1,200.00) per day for such temporary Key Manager assigned to the Studio.

6.3 Operation of the Studio. You will not use the Site for any purpose other than the operation of the Studio in compliance with the System and the Manuals. You will not lease, sublease, or assign the Site Lease for all or any portion of the Site, without our prior written consent. You may not offer or allow others to offer classes at the Studio other than Hawaii Fluid Art classes taught by Hawaii Fluid Art instructors.

(a) Restricted Uses. You, your Owners, and your affiliates may not provide any unapproved services to your Studio's customers (whether those services are provided at the Studio or any other location) without our prior written approval, which we may withhold in our sole discretion. You, your Owners, and your affiliates may not operate any retail location providing any products or services that are

ancillary to the Studio's business to customers (such as, for example, a café, juice, or smoothie bar) from a location at or near the Site.

(b) Operating Hours. You must keep the Studio open for business to the public at least during the hours we approve, unless prohibited by Applicable Laws or by the Site Lease (if any) for the Studio premises.

(c) Notice of Independent Contractor. During the Term, you agree to hold yourself out to the public as an independent contractor operating your Studio under license from us, and you must display in a conspicuous location in or upon the Studio, or in a manner that we specify, a sign containing the following notice or an alternative notice that we specify: "This business is owned and operated independently by [name of franchisee] who is an authorized licensed user of the trademark Hawaii Fluid Art, which is a trademark owned by Hawaii Fluid Art Franchising, LLC." You must include this notice or other similar language that we specify on all forms, advertising, promotional materials, business cards, receipts, letterhead, contracts, stationery, and other written materials we designate.

(d) Upkeep of the Studio. You must keep the exterior (including parking lot) and interior of your Studio and all fixtures, furnishings, signs, and equipment (the "**Operating Assets**") in the highest degree of cleanliness, orderliness, sanitation, and repair in accordance with the Manuals. You must place or display at the Site (interior and exterior) only those signs, emblems, designs, artwork, lettering, logos and display and advertising materials that we periodically require or authorize. You may not make any material alteration, addition, replacement, or improvement to your Studio, including its Operating Assets, without our prior written consent.

6.4 Refurbishing and Renovations. You agree to take, without limitation, the following actions during the Term at your expense: (i) thorough cleaning, repainting and redecorating of the interior and exterior of the Studio at intervals that we may periodically designate and at our direction; (ii) interior and exterior repair of the Studio as needed; and (iii) repair or replacement, at our direction, of damaged, worn-out or obsolete Operating Assets at intervals that we may periodically specify (or, if we do not specify an interval for replacing any item, as that item needs to be repaired or replaced). Upon our written request, you must refurbish the Studio at your expense to conform the decor, Trade Dress, color schemes, signage, and presentation of the Marks to our then-current image. Such refurbishing may include, as we deem necessary, remodeling, redecoration, and other modifications to existing improvements and updating or replacing any Operating Assets. You acknowledge that this obligation could result in your making extensive structural changes to, and significantly remodeling and renovating, the Studio, and/or in your spending substantial amounts for new Operating Assets, and you agree to incur, up to twenty-five thousand dollars (\$25,000.00) during the Term, any capital expenditures required in order to comply with this obligation and our requirements (even if those expenditures cannot be amortized over the remaining Term). Within sixty (60) days after receiving written notice from us, you must have plans prepared according to the System Standards we prescribe and, if we require, using architects and contractors we approve, and you must submit those plans to us for our approval. You must complete all work according to the plans we approve within the period that we reasonably specify.

6.5 Classes. You must conduct all classes in accordance with the System. You must offer at the Studio any classes or programs that we deem to be mandatory. Any classes that you or your instructors develop must be consistent with the System Standards that we specify from time to time. If we disapprove of any class or program that you offer, you must immediately discontinue offering the class or modify the class in accordance with our instructions.

6.6 Pricing. If we determine that we may lawfully require you to charge certain prices for goods or services, certain minimum prices for goods or services, or certain maximum prices for goods or services, you must adhere to our pricing policies as set forth in the Manuals or otherwise in writing from time to time. Currently, we require you to charge customers rates equal to or in excess of our minimum pricing schedule, as set forth in the Manuals, which we may change from time to time in writing. Otherwise, you

are solely responsible for determining the prices that you will charge customers. You must provide us with your current price list upon our request.

#### 6.7 Products, Supplies, Operating Assets, and Services.

(a) Purchases. We have the right to require that products, supplies, Operating Assets, and services that you purchase for resale or purchase or lease for use in your Studio: (i) meet specifications that we establish from time to time; (ii) be a specific brand, kind, or model; (iii) be purchased or leased only from suppliers or service providers that we have expressly approved; and/or (iv) be purchased or leased only from a single source that we designate (which may include us or our affiliates or a buying cooperative organized by us or our affiliates). To the extent that we establish specifications, require approval of suppliers or service providers, or designate specific suppliers or service providers for particular items or services, we will publish our requirements in the Manuals.

(b) Products and Services You May Offer. You may offer in the Studio to customers only the products, services, and classes that we have approved in writing. In addition, you must offer the specific products, services, and classes that we require in the Manuals or otherwise in writing. We may change these specifications periodically, and we may designate specific products or services as optional or mandatory. You must offer all products, services, or classes that we designate as mandatory. You may sell products and services only in the varieties, forms, and packages that we have approved in accordance with our System Standards. You must maintain a sufficient supply of required products to meet the inventory standards we prescribe in the Manuals (or to meet reasonably anticipated customer demand, if we have not prescribed specific standards).

(c) Revenue from Purchases. You acknowledge and agree that we and/or our affiliates may derive revenue based on your purchases and leases, including from charging you for products and services we or our affiliates provide to you and from promotional allowances, volume discounts, and other payments made to us by suppliers and/or distributors that we designate or approve for some or all of our franchisees. We and our affiliates may use all amounts received from suppliers and/or distributors, whether or not based on your or other franchisees' actual or prospective dealings with them, without restriction for any purposes we or our affiliates deem appropriate. If you derive any revenue based on payments or promotional allowances received from suppliers and/or distributors, you must report to us the details of the arrangement and such revenue shall be included as part of your Gross Revenue.

(d) Approval Process. If you would like to offer products, services, or classes or use any supplies, Operating Assets, or services that we have not approved or to purchase or lease from a supplier or service provider that we have not approved, you must submit a written request for approval and provide us with any information that we request. We have the right to inspect the proposed supplier's facilities and test samples of the proposed products and to evaluate the proposed service provider and the proposed service offerings. We may require the proposed supplier or service provider to visit our then current headquarters to evaluate the proposed supplier or service provider in person. You agree to pay us a charge not to exceed the reasonable cost of the inspection and our actual cost of testing the proposed product or evaluating the proposed service or service provider, including personnel and travel costs, whether or not the item, service, supplier, or service provider is approved. We have the right to grant, deny, or revoke approval of products, services, suppliers, or service providers based solely on our judgment. We will notify you in writing of our decision as soon as practicable following our evaluation. If you do not receive our approval within ninety (90) days after submitting all of the information that we request, our failure to respond will be deemed a disapproval of the request. You acknowledge that the products and services that we approve for you to offer in your Studio may differ from those that we permit or require to be offered in other Studios.

(e) Revocation of Approval. We reserve the right to reinspect the facilities and products of any approved supplier and to reevaluate the services provided by any service provider at and to revoke approval of the item, service, supplier, or service provider if any fail to meet any of our then-current

criteria. If you receive a notice of revocation of approval, you agree to cease purchasing or leasing the formerly approved item or service or any items or services from the formerly approved supplier or service provider and you must dispose of your remaining inventory of the formerly approved items and services as we direct. If we revoke approval of a previously approved product that you have been selling to customers or service that you have been offering to customers, you must immediately discontinue offering the service and may continue to sell the product only from your existing inventory for up to thirty (30) days following our disapproval. We have the right to shorten this period if, in our opinion, the continued sale of the product would prove detrimental to our reputation. After the thirty- (30-) day period, or such shorter period that we may designate, you must dispose of your remaining formerly approved inventory as we direct.

6.8 Distribution. You may not make any sales of products or services outside of the Studio, conduct classes or programs outside of the Studio, or use vendor relationships that you establish through your association with us or the Hawaii Fluid Art brand for any other purpose besides the operation of the Studio, unless we consent in writing. You agree to purchase products solely for resale to retail customers, and not for resale or redistribution to any other party, including other Hawaii Fluid Art franchisees. You may not offer products or services in connection with the Marks on any website on the Internet or any other electronic communication network unless we consent in writing.

6.9 Participation in System-wide Programs, Conferences, and Councils.

(a) Promotional Programs. You must participate in all in-Studio promotional programs that we offer to franchisees. You will follow our guidelines concerning the acceptance and reimbursement of gift certificates, gift cards, coupons, corporate discounts, and other promotional programs as we set forth from time to time in the Manuals or otherwise in writing. You will not allow use of gift certificates, gift cards, or coupons (including Groupons and similar discounts) unless approved or offered by us or our affiliates.

(b) Conferences. You, your Operating Principal, your Key Managers, or any of your representatives that we designate must attend franchise conventions, meetings, product shows or demonstrations, and teleconferences that we may require periodically in the Manuals or otherwise in writing. We, in our sole discretion, will designate the time and place of any meetings, which may be held in-person or remotely via teleconference or web seminar. In each year, you and your employees shall not be required to attend in person more than three days of franchisee conventions and meetings that we organize, which shall count towards the five days of additional training programs that we may require your Required Trainee to attend annually. We will be responsible for arranging meetings and providing meeting materials. You are responsible for arranging and paying for travel and living expenses that you and/or your representatives incur. For attending our annual conference, we currently charge a fee of two thousand eight hundred dollars (\$2,800.00) per person attending. If you cannot attend the conference, you will still be required to pay the amount for your attendance.

(c) Franchisee Advisory Council. We may establish an advisory council of franchisees (“**Franchisee Advisory Council**”) using a form and process set forth in the Manuals to advise us on various issues and strategies. The Franchisee Advisory Council will have an advisory role, but no operational or decision-making power. We may change the structure and process of the Franchisee Advisory Council or dissolve the Franchisee Advisory Council at any time. If we establish a Franchisee Advisory Council, you must participate in all council-related activities and meetings and must pay any dues related to the administration of the Franchisee Advisory Council.

6.10 Studio Management and Technology System.

(a) Acquisition and Updates. You must obtain, maintain, and use the hardware, software, other equipment, and network connections that we specify periodically in the Manuals necessary to operate our point-of-sale system, the customer relationship management system, the online reservation system, and

other technology systems that we designate (collectively, the “**Studio Management and Technology System**”). You must use the Studio Management and Technology System to (i) enter and track purchase orders and receipts, attendance, and customer information, (ii) update inventory, (iii) enter and manage your customers’ contact information, (iv) generate sales reports and analysis relating to the Studio, and (v) provide other services relating to the operation of the Studio. If we require you to use any proprietary software or to purchase any software from a designated vendor, you must execute and pay any fees associated with any software license agreements or any related software maintenance agreements that we or the licensor of the software require. You must replace, upgrade, or update at your expense the Studio Management and Technology System as we may require periodically without limitation. We will establish reasonable deadlines for implementation of any changes to our Studio Management and Technology System requirements.

(b) Use of the Studio Management and Technology System. You agree: (i) that your Studio Management and Technology System will be dedicated for business uses relating to the operation of the Studio; (ii) to use the Studio Management and Technology System in accordance with our policies and operational procedures; (iii) to transmit financial and operating data to us as required by the Manuals; (iv) to do all things necessary to give us unrestricted access to the Studio Management and Technology System at all times (including users IDs and passwords, if necessary) so that we may independently download and transfer data via a modem or other connection that we specify; (v) to maintain the Studio Management and Technology System in good working order at your own expense; (vi) to ensure that your employees are adequately trained in the use of the Studio Management and Technology System and our related policies and procedures; and (vii) not to load or permit any unauthorized programs or games on any hardware included in the Studio Management and Technology System. You also must comply with all laws and payment card provider standards relating to the security of the Studio Management and Technology System, including, without limitation, the Payment Card Industry Data Security Standards. You are responsible for any and all consequences that may arise if the system is not properly operated, maintained and upgraded or if the Studio Management and Technology System (or any of its components) fails to operate on a continuous basis or as we or you expect.

6.11 Compliance with Laws and Good Business Practices. You must comply with all Applicable Laws. You will obtain and maintain in good standing any and all licenses, permits, and consents necessary for you to lawfully operate the Studio. You have sole responsibility for such compliance despite any information or advice that we or our Area Representatives may provide. You must in all dealings with your customers, prospective customers, suppliers, us and the public adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business or advertising practice which might injure our business or the goodwill associated with the Marks or other Studios.

6.12 Notice of Proceedings. You will notify us in writing within five days after the commencement of any action, suit or proceeding, or of the issuance of any inquiry, subpoena, order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality in connection with the operation or financial condition of the Studio, including without limitation any criminal action or proceeding brought by you against any employee, customer, or other person, but excluding civil proceedings against customers to collect monies owed.

6.13 Insurance. During the Term you must maintain in force at your sole expense the insurance coverage for the Studio in the amounts, covering the risks, and containing only the exceptions and exclusions that we periodically specify in the Manuals for all similarly situated Studios. All of your insurance carriers must be rated A or higher by A.M. Best and Company, Inc. (or such similar criteria as we periodically specify). These insurance policies must be in effect on or before the deadlines we specify. All coverage must be on an “occurrence” basis, except for the employment practices liability insurance coverage, which is on a “claims made” basis. All policies shall apply on a primary and non-contributory basis to any other insurance or self-insurance that we or our affiliates maintain. All general liability and workers’ compensation coverage must provide for waiver of subrogation in favor of us and our affiliates. We may, upon at least 60 days’ notice to you, periodically increase the amounts of coverage required and/or require different or



additional insurance coverage at any time to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances. All insurance policies must name us and any affiliates we designate as an additional insured and provide for 30 days' prior written notice to us of a policy's material modification or cancellation. You agree periodically to send us a valid certificate of insurance or duplicate insurance policy evidencing that you have maintained the required coverage and paid the applicable premiums. If you fail to obtain or maintain (or to prove that you have obtained or maintained) the insurance we specify, in addition to our other remedies, we may (but need not) obtain such insurance for you and the Studio on your behalf, in which event you shall cooperate with us and reimburse us for all premiums, costs and expenses we incur in obtaining and maintaining the insurance and pay us a reasonable fee for such service.

6.14 Taxes. You will pay when due all taxes, assessments, and governmental charges upon or against you or your real or personal properties, income, and revenue; provided that no such tax, assessment, or governmental charge need be paid so long as the validity, applicability, or amount thereof is being contested in good faith by appropriate proceedings and appropriate reserves are maintained to pay the disputed amount, if necessary.

## **Section 7      Marketing**

7.1 Our Advertising Materials. We may periodically formulate, develop, produce, and conduct, at our sole discretion, advertising or promotional programs in such form and media as we determine to be most effective. We may make available to you for you to purchase approved advertising and promotional materials, including signs, posters, collateral, etc. that we have prepared. We or our affiliates will retain all copyrights relating to such advertising materials.

### 7.2 Brand Fund.

(a) Fund Management. We have established the Hawaii Fluid Art Brand Fund, a segregated or independent fund into which all Brand Fund Contributions will be paid. In no event are we a fiduciary with respect to any Brand Fund Contributions we receive or administer. We are not required to have an independent audit of the Brand Fund completed. We will prepare an unaudited statement of contributions and expenditures for the Brand Fund and make it available within sixty (60) days after the close of our fiscal year to franchisees that make a written request for a copy. If any monies in the Brand Fund remain at the end of a fiscal year, they will carry-over in the Brand Fund into the next fiscal year. We or one of our affiliates may make or otherwise arrange loans to the Brand Fund in any year in which the balance of the Brand Fund is negative and charge a reasonable rate of interest. The amounts loaned to the Brand Fund will be repaid from future contributions to the Brand Fund in the year the loan is made or in subsequent years.

(b) Use of Brand Fund. We may use monies in the Brand Fund and any earnings on the Brand Fund account for any costs associated with advertising (media and production), branding, marketing, public relations and/or promotional programs and materials, and any other activities we believe would benefit the Hawaii Fluid Art brand or the Studios generally, including advertising campaigns in various media; creation, maintenance, and optimization of the System Website or other websites; keyword or adword purchasing programs; conducting and managing social media activities; direct mail advertising; market research, including, without limitation, secret shoppers and customer satisfaction surveys; branding studies; employing advertising and/or public relations agencies; purchasing promotional items; conducting and administering promotions, contests, giveaways, public relations events, and community involvement activities; and providing promotional and other marketing materials and services to our franchisees. We will not use the Brand Fund for anything whose sole purpose is the marketing of franchises, however, you acknowledge that the System Website, public relations activities, community involvement activities, and other activities supported by the Brand Fund may contain information about franchising opportunities. We will not use any contributions to the Brand Fund to defray our general operating expenses, except for reasonable administrative costs and overhead we incur in activities

reasonably related to the administration of the Brand Fund or the management of Brand Fund-supported programs (including the pro-rata amount of salaries of our personnel who devote time to Brand Fund activities and retainers and fees for outside agencies). We may use monies in the Brand Fund to pay for an independent audit of the Brand Fund, if we elect to have it audited. We do not guarantee that you will benefit from the Brand Fund in proportion to your contributions to the Brand Fund.

(c) Control Over Brand Fund. We may consult with, in our sole discretion, a franchisee advisory council selected by franchisees or a committee of franchisees that we appoint regarding marketing programs. However, we have the right to direct all marketing programs and uses of the Brand Fund, with the final decision over creative concepts, materials, and media used in the programs and their placement.

(d) Materials Produced. Any sales and other materials produced with Brand Fund monies will be made available to you without charge or at a reasonable cost. The proceeds of such sales will also be deposited into the Brand Fund.

(e) Other Contributions. If we or our affiliates operate any Studios, we or our affiliates will contribute to the Brand Fund a percentage of the receipts of those Studios, on the same basis as required for franchisees. If we reduce the Brand Fund contribution rate for franchisees, we will reduce the contribution rate for company or affiliate-owned Studios by the same amount. You acknowledge that our other franchisees may not be required to contribute to the Brand Fund, may be required to contribute to the Brand Fund at a different rate than you, or may be required to contribute to a different Brand Fund.

### 7.3 Local Marketing.

(a) Local Marketing Requirements. You must participate in such advertising, promotional, and community outreach programs that we may specify from time to time, at your own expense. You must contract with our affiliate, HFA Marketing, LLC, to advertise and promote the use of the Marks in your Territory. You must ensure that all of your advertising, marketing, promotional, customer relationship management, public relations and other brand related programs and materials that you or your agents or representatives develop or implement relating to the Studio is completely clear, factual, and not misleading, complies with all Applicable Laws, and conforms to the highest ethical standards and the advertising and marketing policies that we periodically specify. Any media advertising or direct mail marketing that you conduct must be predominantly focused within your Territory, unless we agree otherwise. There are no territorial restrictions from accepting business from retail customers that reside or work or are otherwise based outside of your Territory if these customers contact you, but we reserve the right to implement rules and restrictions regarding soliciting such customers in the future in our Manuals or otherwise in writing.

(b) Approval of Advertising Materials. You must obtain our advance written approval prior to using or producing any advertising or marketing materials using any of the Marks, in whole or in part. You agree to conduct all advertising in a dignified manner and to conform to the standards and requirements we specify in the Manuals. We will have the final decision on all creative development of advertising and promotional messages. If our written approval is not received within fourteen (14) days from the date we received the material, the material is deemed disapproved. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

(c) Minimum Marketing Expenditure. You must spend a minimum of two thousand dollars (\$2,000.00) per month on digital marketing, local advertising, and promotional activities (the “**Marketing Spending Requirement**”) with HFA Marketing. Your Marketing Spending Requirement is in addition to your Brand Fund Contribution. We have the right to designate in the Manuals the types of expenditures that will or will not count toward the Marketing Spending Requirement. At our request, you must submit appropriate documentation to verify compliance with the Marketing Spending

Requirement. You Minimum Marketing Expenditure shall begin being required in the first month after the completion of your grand opening activities.

(d) Grand Opening Activities. In connection with the opening of the Studio, you must spend a minimum of ten thousand dollars (\$10,000.00) for grand opening advertising and promotional activities beginning six (6) weeks before, and ending six (6) weeks after, the opening of your Studio in accordance with a plan that you must submit to us. We have the right to modify your grand opening plan, in our sole discretion, and may require you to use us or our affiliate to assist with your grand opening. The wages and other payroll-related expenses of your employees shall not be credited towards this spending requirement. No amount paid by you for your grand opening will be credited toward the Marketing Spending Requirement. You must provide us with supporting documentation evidencing these expenditures upon request.

7.4 Advertising Cooperatives. You agree to join and actively participate in any organizations or associations of franchisees or advertising cooperatives that we establish or approve for the purpose of promoting, coordinating, and purchasing advertising in local, regional, or national areas where there are multiple Studios (“**Advertising Cooperatives**”) and to abide by the bylaws, rules, and regulations duly required by the Advertising Cooperative, which we have the right to mandate or approve. If you join an Advertising Cooperative, the Advertising Cooperative may require you to spend additional funds on marketing programs conducted by the Advertising Cooperative, which may be in addition to your Brand Fund Contribution or Marketing Spending Requirement. We shall have the right to approve any marketing materials or marketing programs developed by any Advertising Cooperative in the same manner as specified in Section 7.3(b) (Approval of Advertising Materials).

#### 7.5 Digital Marketing.

(a) Restrictions. We or our affiliates may, in our sole discretion, establish and operate websites, social media accounts (such as Facebook, Twitter, Instagram, Pinterest, etc.), applications, keyword or adword purchasing programs, accounts with websites featuring gift certificates or discounted coupons (such as Groupon, Living Social, etc.), mobile applications, or other means of digital advertising on the Internet or any electronic communications network (collectively, “**Digital Marketing**”) that are intended to promote the Marks, your Studio, and the entire network of Studios. We will have the sole right to control all aspects of any Digital Marketing, including those related to your Studio. Unless we consent otherwise in writing, you and your employees may not, directly or indirectly, conduct or be involved in any Digital Marketing that use the Marks or that relate to the Studio or the network. If we do permit you or your employees to conduct any Digital Marketing, you or your employees must comply with any policies, standards, guidelines, or content requirements that we establish periodically and must immediately modify or delete any Digital Marketing that we determine, in our sole discretion, is not compliant with such policies, standards, guidelines, or requirements. If we permit you or your employees to conduct any Digital Marketing, we will have the right to retain full control over all websites, social media accounts, mobile applications, or other means of digital advertising that we have permitted you to use. We may withdraw our approval for any Digital Marketing or suspend or terminate your use of any Digital Marketing platforms at any time.

(b) System Website. As part of our Digital Marketing, we or one of our designees will operate and maintain a System Website, which will include basic information related to the Studio, the ability for customers to purchase classes at your Studio, and access to the Studio’s reservation system. You must promptly provide us with any information that we request regarding your Studio for inclusion on the System Website.

(c) Upfluence Influencer Program. Upon your election, you may participate in the Upfluence influencer program. The Upfluence program is managed by our affiliate, HFA Marketing, and is three hundred and fifty dollars (\$350.00) per month. The Upfluence program grants you access to social media influencers that may boost marketing awareness.

## **Section 8      Records, Reports, Audits, and Inspections**

8.1      Bookkeeping and Records. You agree to keep complete and accurate books, records, and accounts of all business conducted under this Agreement in accordance with generally accepted accounting principles. You must preserve all of your books and records in hard copy or in a format from which hard copies can be readily generated for at least five (5) years from the date of preparation or such longer period as may be required by law. You must maintain such information and records on the Studio Management and Technology System as we may require from time to time in the Manuals and you acknowledge and agree that we will have access to that data remotely via a network connection that we will specify. At our request, you must retain and use, at your expense, the services of an accountant or accounting firm that we approve.

8.2      Reports and Financial Statements. You agree to submit financial and operational reports and records to us at the times and in the manner specified in the Manuals. Upon our written request, by April 15 of each year, you must submit your balance sheet and income statement for the previous calendar year. With respect to your year-end income statement and balance sheet, you or the Operating Principal must certify that the income statement and balance sheet are correct and complete and that they have been prepared in accordance with generally accepted accounting principles. We have the right to demand audited financial statements if an Event of Default has occurred within the last calendar year. In addition, you must provide us within fifteen (15) days after our request, exact copies of federal and state income and other tax returns and any other forms, records, books, reports, and other information that we periodically require relating to the Studio or you.

8.3      Additional Information. You shall respond promptly to requests from us for clarification and/or additional information regarding any matter entrusted to you under this Agreement. We may from time to time require information about your financial condition, earnings, sales, profits, costs, expenses, and performance to provide a basis for providing our prospective franchisees with information concerning actual or potential earnings or to comply with Applicable Laws governing the sale of franchises. You will provide such information promptly upon our request, and you will certify that such information is true and complete in all material respects.

8.4      Inspection. We have the right, through our employees and any agents we designate, at any time during business hours and without prior notice to you to: (i) inspect the Site and Studio for compliance with the Manuals, (ii) videotape, photograph or otherwise record the operation of the Studio, (iii) interview your employees, landlord, and customers, (iv) examine the records, invoices, payroll records, check stubs, sales tax records and returns, and other supporting records and documents of the Studio, and (v) examine your income tax records and any other information, records or properties relating to the ownership, management, or operation of the Studio. We may require you to install and maintain, at your expense, a video surveillance system that we designate which we may access remotely through a connection that we specify to ensure compliance with our standards and the Manuals. Our right to inspect your business records includes records maintained electronically or off-site. You must cooperate with such inspections by giving our representatives unrestricted access and rendering such assistance as our representatives may reasonably request. If we notify you of any deficiencies after the inspection, you must promptly take steps to correct them. If you fail to correct any deficiencies within a reasonable time, not to exceed thirty (30) days, we have the right to correct such deficiencies and charge you a reasonable fee plus our costs and expenses incurred in such inspection. Any inspections will be made at our expense, unless the inspection is necessitated by your repeated or continuing failure to comply with any provision of this Agreement, in which case we may charge you the costs of making such inspection, including without limitation the wages and cost of travel and living expenses for our representatives.

8.5      Auditing. Without limiting the foregoing, we may audit or cause to be audited any statement you are required to submit pursuant to Section 8.2 (Reports and Financial Statements) and we may review, or cause to be reviewed, the records maintained by any bank or other financial institution used by you in connection with the Studio. If any such audit or review discloses an understatement of the Gross Revenue

for any period or periods, you will pay to us, within ten (10) days after demand for payment is made, all additional Royalty Fees, Brand Fund Contributions, or other amounts required to be paid based upon the results of such audit or review. In addition, if such understatement for any period or periods is two percent (2%) or more of the Gross Revenue for such period or periods, you will reimburse us for the cost of such audit or review, including without limitation the charges of any independent accountant and any related attorneys' fees and the cost of travel and living expenses and wages for such accountant and employees or other agents of us. You will pay to us, upon demand, on any delinquent fees interest at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law calculated from the date when the fees should have been paid to the date of actual payment. These remedies are in addition to our other remedies and rights under this Agreement and Applicable Laws.

8.6 Mystery Shopper Program. We may require you to participate in a mystery shopper service in order to ensure your compliance with the System and our customer service standards. We may specify mystery shopper services that you must engage at our expense, or we may engage the mystery shopper service on your behalf. You must share the results of any mystery shopper program with us and must promptly address any deficiencies identified in any such report. You must follow any evaluation process, and use such evaluation forms, as we may from time to time require.

## **Section 9 Intellectual Property.**

### 9.1 Marks and Trade Dress.

(a) Acknowledgements. You acknowledge that we or our affiliates are the owner of the Marks and the Trade Dress, that you have no interest in the Marks and the Trade Dress beyond the nonexclusive License granted herein, and that, as between we and you, we have the exclusive right and interest in and to the Marks and the Trade Dress and the goodwill associated with and symbolized by them. Upon the expiration or termination of this Agreement, no monetary amount will be attributable to goodwill associated with your activities as a franchisee under this Agreement.

(b) Rights. Your right to use the Marks and the Trade Dress applies only to the Studio operated at the Site as expressly provided in this Agreement, including advertising related to the Studio. You may only use in your Studio the Marks and the Trade Dress we designate, and only in compliance with written rules that we prescribe from time to time. You may not use any Mark (i) as part of any corporate or legal business name, (ii) with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos we have licensed to you), (iii) in selling any unauthorized services or products, (iv) as part of any domain name, electronic address, metatag, social media account, or otherwise in connection with any website or other electronic medium without our consent, or (v) in any other manner we have not expressly authorized in writing. No materials on which any of the Marks or the Trade Dress appears will be used by you without our prior written approval, which may be revoked at any time upon reasonable notice to you. You must display the Marks in a manner that we specify on signage at the Studio and on all written materials, forms, advertising, promotional materials, supplies, employee uniforms, business cards, receipts, letterhead, contracts, stationary, and other materials we designate.

9.2 Copyrights. You acknowledge that as between you and us, any and all present or future copyrights relating to the System or the Hawaii Fluid Art concept, including, but not limited to, the Manuals and marketing materials, (collectively, the “**Copyrights**”) belong solely and exclusively to us. You have no interest in the Copyrights beyond the non-exclusive License granted in this Agreement.

9.3 No Contesting Our Rights. During the Term of this Agreement and after its expiration or termination, you agree not to directly or indirectly contest our ownership, title, right or interest in or to, or our license to use, or the validity of, (i) the Marks, (ii) the Trade Dress, (iii) the Copyrights, or (iv) any trade secrets, methods, or procedures that are part of the System (collectively, the “**Intellectual Property**”), or contest our sole right to register, use, or license others to use the Intellectual Property.

9.4 Changes to the Intellectual Property. We have the right, upon reasonable notice, to change, discontinue, or substitute for any of the Intellectual Property and to adopt entirely different or new Intellectual Property for use with the System without any liability to you, in our sole discretion. You agree to implement any such change at your own expense within the time we reasonably specify.

9.5 Third-Party Challenges. You agree to notify us promptly of any unauthorized use of the Intellectual Property of which you have knowledge. You also agree to inform us promptly of any challenge by any person or Entity to the validity of our ownership of or our right to license others to use any of the Intellectual Property. We have the right, but no obligation, to initiate, direct, and control any litigation or administrative proceeding relating to the Intellectual Property, including, but not limited to, any settlement. We will be entitled to retain any and all proceeds, damages, and other sums, including attorneys' fees, recovered or owed to us or our affiliates in connection with any such action. You agree to execute all documents and, render any other assistance we may deem necessary to any such proceeding or any effort to maintain the continued validity and enforceability of the Intellectual Property.

9.6 Post-Termination or Expiration. Upon the expiration or termination of this Agreement for any reason, all of your rights to use the Intellectual Property will automatically revert to us without cost and without the execution or delivery of any document. Upon our request, you will execute all documents that we require to confirm such reversion.

9.7 Innovations. All ideas, concepts, techniques or materials relating to a Studio or the System (collectively, "**Innovations**"), whether or not protectable intellectual property and whether created by or for you or your Owners, employees, or contractors, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the System and the Intellectual Property, and works made-for-hire for us. To the extent any Innovation does not qualify as a work made-for-hire for us, by this Section you assign ownership of that Innovation, and all related rights to that Innovation, to us and agree to sign (and to cause your Owners, employees, and contractors to sign) whatever assignment or other documents we request to evidence our ownership or to help us obtain intellectual property rights in the Innovation. We and our affiliates have no obligation to make any payments to you or any other person with respect to any Innovations. You may not use any Innovation in operating the Studio or otherwise without our prior approval.

## **Section 10 Proprietary Information.**

10.1 Receipt of Proprietary Information. You acknowledge that prior to or during the Term, we may disclose in confidence to you, either orally or in writing, certain trade secrets, know-how, and other confidential information relating to the System, our business, our vendor relationships, our classes, or the construction, management, operation, or promotion of the Studio (collectively, "**Proprietary Information**"), including (i) site selection criteria and methodologies; (ii) methods, formats, systems, System Standards, sales and marketing techniques, knowledge and experience used in developing and operating Studios, including information in the Manuals; (iii) marketing research and promotional, marketing, advertising, public relations, customer relationship management and other brand-related materials and programs for Studios; (iv) knowledge of specifications for and suppliers of, and methods of ordering, certain items that Studios use and/or sell; (v) knowledge of the operating results and financial performance of other Studios; (vi) customer communication and retention programs, along with data used or generated in connection with those programs; and (vii) any other information we reasonably designate from time to time as confidential or proprietary. "Proprietary Information" does not include (i) information that is part of the public domain or becomes part of the public domain through no fault of you, (ii) information disclosed to you by a third party having legitimate and unrestricted possession of such information, or (iii) information that you can demonstrate by clear and convincing evidence was within your legitimate and unrestricted possession when the parties began discussing the sale of the franchise.

10.2 Nondisclosure of Proprietary Information. We and our affiliates own all right, title, and interest in and to the Proprietary Information. You will not, nor will you permit any person to, use or disclose any Proprietary Information (including without limitation all or any portion of the Manuals) to any other person, except to the extent necessary for your professional advisors and your employees to perform their functions in the operation of the Studio. You acknowledge that your use of the Proprietary Information in any other business would constitute an unfair method of competition with us and our franchisees. You will be liable to us for any unauthorized use or disclosure of Proprietary Information by any employee or other person to whom you disclose Proprietary Information. You will take reasonable precautions to protect the Proprietary Information from unauthorized use or disclosure and will implement any systems, procedures, or training programs that we require. At our request, you will require anyone who may have access to the Proprietary Information to execute non-disclosure agreements in a form satisfactory to us that identifies us as a third-party beneficiary of such covenants with the independent right to enforce the agreement.

### 10.3 Customer Information.

(a) Protection of Customer Information. You must comply with our System Standards, other directions from us, and all Applicable Laws regarding the organizational, physical, administrative, and technical measures and security procedures to safeguard the confidentiality and security of Customer Information on your Studio Management and Technology System or otherwise in your possession or control and, in any event, employ reasonable means to safeguard the confidentiality and security of Customer Information. “**Customer Information**” means names, contact information, financial information, and other personal information of or relating to the Studio’s customers and prospective customers. If there is a suspected or actual breach of security or unauthorized access involving your Customer Information, you must notify us immediately after becoming aware of such actual or suspected occurrence and specify the extent to which Customer Information was compromised or disclosed. You are responsible for any financial losses you incur or remedial actions that you must take as a result of a breach of security or unauthorized access to Customer Information in your control or possession.

(b) Ownership of Customer Information. You agree that all Customer Information that you collect in connection with your Studio is deemed to be owned by us, and must be furnished to us at any time that we request it. In addition, we and our affiliates may, through the Studio Management and Technology System or otherwise, have independent access to Customer Information.

(c) Use of Customer Information. You have the right to use Customer Information while this Agreement or a successor franchise agreement is in effect, but only to market Hawaii Fluid Art products and services to customers in accordance with the policies that we establish periodically and Applicable Laws. You may not sell, transfer, or use Customer Information for any purpose other than marketing Hawaii Fluid Art products and services. We and our affiliates may use Customer Information in any manner or for any purpose. You must secure from your actual and prospective customers and others all consents and authorizations, and provide them all disclosures, that Applicable Law requires to transmit Customer Information to us and our affiliates, and for us and our affiliates to use that Customer Information, in the manner that this Agreement contemplates.

## **Section 11 Indemnification.**

11.1 Indemnification By You. You agree to indemnify and hold harmless us, our Area Representative, and our affiliates, and our and their respective owners, directors, officers, employees, agents, representatives, successors, and assignees (the “**Indemnified Parties**”) against, and to reimburse any one or more of the Indemnified Parties for, all Losses (defined below) directly or indirectly arising out of or relating to: (i) the Studio’s operation; (ii) the business you conduct under this Agreement; (iii) your breach of this Agreement; or (iv) your noncompliance or alleged noncompliance with any law, ordinance, rule or regulation, including those concerning the Studio’s construction, design or operation, and including any allegation that we or another Indemnified Party is a joint employer or otherwise responsible for your acts or omissions relating to your employees. “**Losses**” means any and all losses, expenses, obligations,

liabilities, damages (actual, consequential, or otherwise), and reasonable defense costs that an Indemnified Party incurs, including accountants', arbitrators', mediators', attorneys', and expert witness fees, costs of investigation and proof of facts, court costs, travel and living expenses, and other expenses of litigation, arbitration, or alternative dispute resolution, regardless of whether litigation, arbitration, or alternative dispute resolution is commenced.

11.2 Indemnification Procedure. You agree to defend the Indemnified Parties against any and all claims asserted, or inquiries made (formally or informally), or legal actions, investigations, or other proceedings brought, by a third party and directly or indirectly arising out of or relating to any matter described in Subsection 11.1(i) through (iv) above (collectively, "**Proceedings**"), including those alleging the Indemnified Party's negligence, gross negligence, willful misconduct and/or willful wrongful omissions. Each Indemnified Party may at your expense defend and otherwise respond to and address any claim asserted or inquiry made, or Proceeding brought, that is subject to this Section 11 (instead of having you defend it as required above), and agree to settlements or take any other remedial, corrective, or other actions, for all of which defense and response costs and other Losses you are solely responsible, subject to Section 11.3. An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its Losses, in order to maintain and recover fully a claim against you, and you agree that a failure to pursue a recovery or mitigate a Loss will not reduce or alter the amounts that an Indemnified Party may recover from you under this Section 11. Your obligations in this Section 11 will survive the expiration or termination of this Agreement.

11.3 Willful Misconduct or Gross Negligence. Despite Section 11.1, you have no obligation to indemnify or hold harmless an Indemnified Party for, and we will reimburse you for, any Losses (including costs of defending any Proceeding under Section 11.2) to the extent they are determined in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction to have been caused solely and directly by the Indemnified Party's willful misconduct or gross negligence, so long as the claim to which those Losses relate is not asserted on the basis of theories of vicarious liability (including agency, apparent agency, or employment) or our failure to compel you to comply with this Agreement. However, nothing in this Section 11.3 limits your obligation to defend us and the other Indemnified Parties under Section 11.2.

## **Section 12 Your Covenant Not to Compete.**

12.1 During Term. You acknowledge that you will receive valuable, specialized training and confidential information regarding the manufacturing, operational, sales, promotional, and marketing methods of the Hawaii Fluid Art concept. During the Term, you and your Owners will not, without our prior written consent, either directly or indirectly, for themselves, or through, on behalf of, or in conjunction with any other person or Entity:

- (a) own, manage, engage in, be employed by, advise, make loans to, or have any other interest in (i) any business which provides or offers group or individual art class instruction, the sale of works of art at a retail store, instruction in the technique of acrylic or resin fluid art, any other Approved Products and Services that we grant you the right to offer during the Term of your Franchise Agreement (ii) any entity that grants franchises or licenses for any of these types of businesses (collectively, each, a "**Competitive Business**") at any location in the United States;
- (b) divert or attempt to divert any business or customer or potential business or customer of the Studio to any Competitive Business, by direct or indirect inducement or otherwise;
- (c) perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System;
- (d) use any vendor relationship established through your association with us for any purpose other than to purchase products or equipment for use or retail sale in the Studio; or



(e) directly or indirectly solicit for employment any person who at any time within the immediate past twelve (12) months has been employed by us, or our affiliates, or by any of our franchisees.

12.2 After Termination, Expiration, or Transfer. For two (2) years after the expiration or termination of this Agreement or an approved Transfer to a new franchisee, you and your Owners may not, without our prior written consent, (i) directly or indirectly own, manage, engage in, be employed in a managerial position by, advise, make loans to, or have any other interest in any Competitive Business that is (or is intended to be) located within a ten- (10-) mile radius of your former Studio or any other Studio that is operating or under development at the time of such expiration, termination, or Transfer, or (ii) solicit for employment any person who at any time within the immediate past twelve (12) months has been employed by us, or our affiliates, or by any of our franchisees. With respect to the Owners, the time period in this Section 12.2 will run from the expiration, termination, or Transfer of this Agreement or from the termination of the Owner's relationship with you, whichever occurs first.

12.3 Publicly Traded Corporations. Ownership of less than five percent of the outstanding voting stock of any class of stock of a publicly traded corporation will not, by itself, violate this Section 12.

12.4 Covenants of Owners and Employees. The Owners personally bind themselves to this Section 12 by signing this Agreement or the attached Guarantee. We may, in our sole discretion, require you to obtain from your officers, directors, Key Managers, Owners' spouses, and other individuals that we may designate executed agreements containing nondisclosure and noncompete covenants similar in substance to those contained in this Section 12 as we prescribe in the Manuals and otherwise. The agreements must be in a form acceptable to us and specifically identify us as having the independent right to enforce them.

12.5 Enforcement of Covenants. You acknowledge and agree that (i) the time, territory, and scope of the covenants provided in this Section 12 are reasonable and necessary for the protection of our legitimate business interests; (ii) you have received sufficient and valid consideration in exchange for those covenants; (iii) enforcement of the same would not impose undue hardship; and (iv) the period of protection provided by these covenants will not be reduced by any period of time during which you are in violation of the provisions of those covenants or any period of time required for enforcement of those covenants. To the extent that this Section 12 is judicially determined to be unenforceable by virtue of its scope or in terms of area or length of time, but may be made enforceable by reductions of any or all thereof, the same will be enforced to the fullest extent permissible. You agree that the existence of any claim you may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of the covenants contained in this Section 12. You acknowledge that any breach or threatened breach of this Section 12 will cause us irreparable injury for which no adequate remedy at law is available, and you consent to the issuance of an injunction prohibiting any conduct violating the terms of this Section 12. Such injunctive relief will be in addition to any other remedies that we may have.

## **Section 13      Transfer and Assignment.**

13.1 Transfer by Us. We may assign this Agreement and all of our rights, duties, and obligations under this Agreement to any person or Entity that we choose in our sole discretion. Upon any such assignment, we will be released from all of our duties and obligations hereunder, and you will look solely to our assignee for the performance of such duties and obligations.

13.2 Definition of Transfer. For purposes of this Agreement, "**Transfer**" as a verb means to sell, assign, give away, transfer, pledge, mortgage, or encumber, either voluntarily or by operation of law (such as through divorce or bankruptcy proceedings), any interest in this Agreement, the Studio, substantially all the assets of the Studio, or in the ownership of the franchisee (if you are an Entity). "**Transfer**" as a noun means any such sale, assignment, gift, transfer, pledge, mortgage, or encumbrance. A "**Control Transfer**" means any Transfer of (i) this Agreement or any interest in this Agreement; (ii) the Studio or all or substantially all of the Studio's assets; or (iii) any Controlling Ownership Interest (defined below) in you (if you are an Entity), whether directly or indirectly through a transfer of legal or beneficial ownership

interests in any Owner that is an Entity, and whether in one transaction or a series of related transactions, regardless of the time period over which these transactions take place. References to a “**Controlling Ownership Interest**” in you mean either (i) twenty percent (20%) or more of your direct or indirect legal or beneficial ownership interests in your Entity or (ii) an interest the acquisition of which grants the power (whether directly or indirectly) to direct or cause the direction of management and policies of you or the Studio to any individual or Entity, or group of individuals or Entities, that did not have that power before that acquisition.

13.3 No Transfer Without Our Consent. This Agreement and the License are personal to you, and we have granted the License in reliance on your (and, if you are an Entity, your Owners’) business skill, financial capacity, and personal character. Accordingly, neither you nor any of the Owners or any successors to any part of your interest in this Agreement or the License may make any Transfer or permit any Transfer to occur without obtaining our prior written consent, except as provided in Section 13.7 (Permitted Transfers). If you or any of your Owners desire to make a Transfer, you must promptly provide us with written notice. Any purported Transfer, without our prior written consent, will be null and void and will constitute an Event of Default (as herein defined), for which we may terminate this Agreement without opportunity to cure. We have sole and absolute discretion to withhold our consent, except as otherwise provided in Sections 13.4 through 13.8. We have the right to communicate with both you, your counsel, and the proposed transferee on any aspect of a proposed Transfer. You agree to provide any information and documentation relating to the proposed Transfer that we reasonably require. No Transfer that requires our consent may be completed until at least 60 days after we receive written notice of the proposed Transfer. Our consent to a Transfer does not constitute a waiver of any claims that we have against the transferor, nor is it a waiver of our right to demand exact compliance with the terms of this Agreement. If your Studio is not open and operating, we will not consent to your Transfer of this Agreement, and we are under no obligation to do so.

13.4 Control Transfer. For a proposed Control Transfer, the following conditions apply (unless waived by us):

(a) When you provide written notice of the proposed Transfer, you must pay to us a non-refundable deposit of three thousand dollars (\$3,000.00) to cover our administrative and legal costs incurred in reviewing the proposal. The deposit will be applied towards your Transfer Fee in the event that the Transfer is completed.

(b) You or your transferee must pay to us a Transfer Fee equal to: (i) ten thousand dollars (\$10,000.00) for any Control Transfer resulting in a change of control to a third party; or (ii) five thousand dollars (\$5,000.00) for any Control Transfer resulting in a change of control to any immediate family member. You must make such payment by wire transfer from the proceeds of the sale at the closing if we so request.

(c) You must satisfy all of your accrued monetary obligations to us and must be in compliance with all obligations to us under this Agreement and any other agreement that you have with us and our affiliates as of the date of the request for our approval of the Transfer or you must make arrangements satisfactorily to us to come into compliance by the date of the Transfer.

(d) You and your Owners must execute a general release, in a form that we prescribe, in favor of us, our Area Representatives, our affiliates, and our and their affiliates’ past, present, and future officers, directors, managers, members, equity holders, agents, and employees, releasing them from all claims, including claims arising under federal, state, and local laws, rules, and regulations.

(e) You and your Owners must agree to remain liable for all of the obligations to us in connection with the Studio arising before the effective date of the Transfer and execute any and all instruments that we reasonably request to evidence such liability.

(f) You and your Owners must continue to be bound by the provisions of Sections 9 (Intellectual Property), 10 (Proprietary Information), 11 (Indemnification), and 12 (Your Covenant Not to Compete) as if they were the Franchisee and this Agreement had expired or terminated as of the effective date of the Transfer.

(g) You must provide us with written notice from your landlord indicating that your landlord has agreed to transfer the Site Lease to your transferee.

(h) Your proposed transferee (or, if the transferee is not an individual, all owners of any legal or beneficial interest in the transferee) must demonstrate to our satisfaction that he or she meets all of our then-current qualifications to become a Hawaii Fluid Art franchisee, including not having any involvement with a Competing Business, or if he or she is already a Hawaii Fluid Art® franchisee, he or she must not be in default under any of their agreements with us and must have a good record of customer service and compliance with our System Standards.

(i) Your proposed transferee and their representatives must successfully complete our then-current training requirements at their expense.

(j) Your proposed transferee (and, if the transferee is not an individual, such owners of a legal or beneficial interest in the transferee as we may request) must (i) enter into a written assignment, in a form satisfactory to us, assuming and agreeing to discharge and guarantee all of your obligations under this Agreement and (ii) must execute our then-current form of personal guarantee.

(k) Your proposed transferee (and, if the transferee is not an individual, such owners of a legal or beneficial interest in the transferee as we may request) must execute, for a term ending on the last day of the Term and with such Successor Term as is provided by this Agreement, our then-current franchise agreement for new franchisees and such other agreements as we may require, which agreements will supersede this Agreement in all respects. The terms of the new franchise agreement may differ significantly from the terms of this Agreement. The prospective transferee will not be required to pay any initial Franchise Fee.

(l) Your proposed transferee must make arrangements to modernize, renovate, or upgrade the Studio, at its expense, to conform to our then-current System Standards for new Hawaii Fluid Art® Studios.

(m) Your proposed transferee must covenant that it will continue to operate the Studio under the Marks and using the System.

(n) We must determine, in our sole discretion, that the purchase price and payment terms will not adversely affect the operation of the Studio, and if you or your Owners finance any part of the purchase price, you and they must agree that all obligations under promissory notes, agreements, or security interests reserved in the Studio are subordinate to the transferee's obligation to pay all amounts due to us and our affiliates and otherwise to comply with this Agreement.

13.5 Non-Control Transfers. For any Transfer that does not result in a Control Transfer, you must give us advance notice and submit a copy of all proposed contracts and other information concerning the Transfer and transferee that we may request. We will have the right to require you to pay our administrative costs in processing such Transfer, including any attorneys' fees and other third-party costs that we incur. We will have a reasonable time (not less than thirty (30) days) after we have received all requested information to evaluate the proposed Transfer. You and/or your transferee must satisfy, in addition to others that we may specify, the conditions in Sections 13.4(c) (comply with obligations), 13.4(d) (sign general release), 13.4(e) (remain liable for pre-Transfer obligations), 13.4(f) (remain bound to certain provisions), 13.4(h) (transferee meets qualifications), and 13.4(j) (sign assignment and guaranty). You and your Owners must sign the form of agreement and related documents that we then specify to reflect your new ownership

structure. We may withhold our consent on any reasonable grounds or give our consent subject to reasonable conditions.

13.6 Transfer To An Entity. We will consent to the assignment of this Agreement to an Entity that you form for the convenience of ownership, provided that: (i) the Entity has and will have no other business besides operating Hawaii Fluid Art Studios; (ii) you satisfy the conditions in Sections 13.4(c) (comply with obligations), 13.4(d) (sign general release), 13.4(e) (remain liable for pre-Transfer obligations), 13.4(f) (remain bound to certain provisions), and 13.4(j) (sign assignment and guaranty); (iii) the Owners hold equity interests in the new Entity in the same proportion shown on Attachment A; and (iv) you pay our administrative costs in processing such Transfer, including any attorneys' fees and other third party costs that we incur.

13.7 Permitted Transfers. The other provisions in this Section do not apply, including our right of first refusal and right of approval, to the following Transfers:

(a) Security Interests. You may grant a security interest in the Site (if you own the Site), the Studio, any Operating Assets, this Agreement, or any direct or indirect legal and/or beneficial interest in you to a financial institution or other party that provided or provides any financing your acquisition, development, and/or operation of the Studio, but only if that party signs our then current form of lender consent to protect our rights under this Agreement. Any foreclosures or other exercise of the rights granted under that security interest are subject to all applicable terms and conditions of this Section 13.

(b) Transfer to a Trust. Any Owner who is an individual may Transfer his or her ownership interest in you (or any of your Owners that is an Entity) to a trust that he or she establishes for estate planning purposes, as long as he or she is a trustee of the trust and otherwise controls the exercise of the rights in you (or your Owner) held by the trust and you notify us in writing of the Transfer at least ten days before its anticipated effective date. Dissolution of or transfers from any trust described in this Section 13.7(b) are subject to all applicable terms and conditions of this Section 13.

13.8 Transfer Upon Death Or Incapacity. If you or any Owner dies, becomes incapacitated, or enters bankruptcy proceedings, that person's executor, administrator, personal representative, or trustee must apply to us in writing within three months after the event (death, declaration of incapacity, or filing of a bankruptcy petition) for consent to Transfer the person's interest. The Transfer will be subject to the provisions of this Section 13, as applicable, except there shall be no Transfer Fee due. In addition, if the deceased or incapacitated person is you or the Operating Principal, we will have the right (but not the obligation) to take over operation of the Studio until the Transfer is completed and to charge a reasonable management fee for our services. For purposes of this Section, "incapacity" means any physical or mental infirmity that will prevent the person from performing his or her obligations under this Agreement (i) for a period of thirty (30) or more consecutive days or (ii) for sixty (60) or more total days during a calendar year. In the case of Transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of Section 13.4(h) (transferee meets qualifications), the executor may transfer the decedent's interest to another successor that we have approved, subject to all of the terms and conditions for Transfers contained in this Agreement. If an interest is not disposed of under this Section 13.8 within one hundred and twenty (120) days after the date of death or appointment of a personal representative or trustee, we may terminate this Agreement under Section 14.2 (Our Remedies After An Event of Default).

13.9 Our Right Of First Refusal.

(a) Our Right. We have the right, exercisable within thirty (30) days after receipt of the notice of your intent to Transfer and such documentation and information that we require, to send written notice to you that we intend to purchase the interest proposed to be Transferred on the same economic terms and conditions offered by the third-party or, at our option, the cash equivalent thereof. If you and we cannot agree on the reasonable equivalent in cash or if the Transfer is proposed to be made by gift, we will designate, at our expense, an independent appraiser to determine the fair market value of the interest

proposed to be transferred. We may purchase the interest at the fair market value determined by the appraiser or may elect at that time to not exercise our rights. We must receive, and you and your Owners agree to make, all customary representations, warranties and indemnities given by the seller of the assets of a business or ownership interests in an Entity, as applicable, including representations and warranties regarding ownership and condition of, and title to, assets and (if applicable) ownership interests, liens and encumbrances on assets, validity of contracts and agreements, and the liabilities, contingent or otherwise, relating to the assets or ownership interests being purchased, and indemnities for all actions, events and conditions that existed or occurred in connection with the Studio or your business prior to the closing of our purchase. Closing on our purchase must occur within one hundred and twenty (120) days after the date of our notice to the seller electing to purchase the interest. We may assign our right of first refusal to another Entity or person either before or after we exercise it. However, our right of first refusal will not apply with regard to Transfers to an Entity under Section 13.7 (Permitted Transfers) or 13.8 (Transfer Upon Death or Incapacity) or Transfers to your spouse, son, or daughter.

(b) Declining Our Right. If we elect not to exercise our rights under this Section, the transferor may complete the Transfer after complying with the applicable provisions in Section 13. Closing of the Transfer must occur within ninety (90) days of our election (or such longer period as Applicable Laws may require); otherwise, the third-party's offer will be treated as a new offer subject to our right of first refusal. Any material change in the terms of the offer from a third party after we have elected not to purchase the seller's interest will constitute a new offer subject to the same right of first refusal as the third party's initial offer. The Transfer is conditional upon our determination that the Transfer was on terms substantially the same as those offered to us.

## **Section 14 Termination and Default.**

14.1 Events of Default. Any one or more of the following constitutes an “**Event of Default**” under this Agreement:

- (a) You or any Owner make any material misrepresentations or omissions in connection with your application to us for the franchise, this Agreement, or any related documents, or you submit to us any report or statement that you know or should know to be false or misleading;
- (b) Your Required Trainee fails to successfully complete initial training to our satisfaction at least ten (10) days before the Opening Deadline;
- (c) You fail to sign a Site Lease or purchase agreement that we have approved for a Site that we have accepted by the Site Acquisition Deadline;
- (d) You fail to open for business by the Opening Deadline;
- (e) You fail to make changes to the Site and the Studio as required in Section 6.5 (Refurbishing and Renovations) within the applicable time periods;
- (f) You fail to maintain possession of the Site and fail to secure our approval of and enter into a lease for a new, accepted Site within ninety (90) days after the expiration or termination of the Site Lease;
- (g) You voluntarily suspend operation of the Studio without our prior written consent for five (5) or more consecutive business days on which you were required to operate, unless we determine, in our sole discretion, that the failure was beyond your control;
- (h) After multiple attempts to reach you via telephone, e-mail, or other written correspondence, you fail to communicate with us within seven days after we send you a written communication in

accordance with Section 17.11 (Notices) notifying you of our attempts to reach you and our need to receive a response from you.

(i) You, your Operating Principal, your Key Managers, or any of your representatives that we designate fail to attend or participate in two or more required franchise conventions, meetings, and teleconferences during any twelve- (12-) month period, without our prior written consent;

(j) You, any Owner, or any of your Designated Representatives, officers or directors are convicted of or plead nolo contendere to a felony, a crime involving moral turpitude or consumer fraud, or any other crime or offense that we believe is likely to have an adverse effect on our franchise system, the Marks and any associated goodwill, or the Hawaii Fluid Art concept (an “**Adverse Effect**”) or you, any Owner, or any of your officers or directors has engaged in or engages in activities that, in our reasonable opinion, have an Adverse Effect;

(k) You use any of the Marks or any other identifying characteristic of us other than in the operation or promotion of the Studio;

(l) You or any of your Owners, directors, or officers disclose or divulge the contents of the Manuals or other Proprietary Information contrary to Section 10 (Proprietary Information);

(m) Any Transfer occurs that does not comply with Section 13 (Transfer and Assignment), including a failure to transfer to a qualified successor after death or disability within the time allowed by Section 13.8 (Transfer Upon Death or Incapacity);

(n) You or any Owner violates the noncompete covenants in Section 12 (Your Covenant Not to Compete);

(o) You breach or fail to comply with any law, regulation, or ordinance which results in a threat to the public’s health or safety and fail to cure the non-compliance within twenty-four (24) hours following receipt of notice thereof from us or applicable public officials, whichever occurs first;

(p) You become insolvent or make an assignment for the benefit of your creditors, execution is levied against your business assets, or a suit to foreclose any lien or mortgage is instituted against you and not dismissed within thirty (30) days;

(q) (i) You fail, refuse, or neglect to pay any monies owing to us or our affiliates or fail to make sufficient funds available to us as provided in Section 3.15 (Methods of Payment) within ten (10) days after receiving written notice of your default or thirty (30) days after due date of the payment, whichever is the shorter period, or (ii) you have previously been given at least two (2) notices of nonpayment for any reason within the last twenty-four (24) months and you subsequently fail to timely pay when due any monies; or (iii) you fail to do all things necessary to give us access to the information contained in your Studio Management and Technology System pursuant to Section 6.11 (Studio Management and Technology System) within ten (10) days after receiving notice;

(r) You are more than sixty (60) days past due on your obligations to suppliers and trade creditors in an amount exceeding two thousand dollars (\$2,000.00), unless you have given us prior notice that the failure to pay is a result of a bona fide dispute with such supplier or trade creditor that you are diligently trying to resolve in good faith;

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

(t) You underreport Gross Revenue by more than two percent (2%) two times or more in any two-year period or by five percent (5%) or more for any period of one (1) week or greater;

- (u) You refuse to permit, or try to hinder, an examination, inspection, or audit of your books and records, the Studio, or the Site as required by this Agreement;
- (v) You fail to timely file any periodic report required in this Agreement or the Manuals three (3) or more times in a twelve- (12-) month period, whether or not you subsequently cure the default;
- (w) You default under any other franchise agreement or other agreement between you and us or our affiliates, provided that the default would permit us or our affiliate to terminate that agreement;
- (x) You breach or fail to comply with any other covenant, agreement, standard, procedure, practice, or rule prescribed by us, whether contained in this Agreement, in the Manuals, or otherwise in writing and fail to cure such breach or failure to our satisfaction within thirty (30) days (or such longer period as Applicable Laws may require) after we provide you with written notice of the default; or
- (y) You are in default three (3) or more times within any eighteen- (18-) month period, whether or not the defaults are similar and whether or not they are cured.

#### 14.2 Our Remedies After An Event of Default.

- (a) Right to Terminate. If an Event of Default occurs, we may, at our sole election and without notice or demand of any kind, declare this Agreement and any and all other rights granted under this Agreement to be immediately terminated and, except as otherwise provided herein, of no further force or effect. Upon termination, you will not be relieved of any of your obligations, debts, or liabilities under this Agreement, including without limitation any debts, obligations, or liabilities that you accrued prior to such termination.
- (b) Other Remedies. If an Event of Default occurs, we may, at our sole election and upon delivery of written notice to you, take any or all of the following actions without terminating this Agreement:
  - (i) temporarily or permanently reduce the size of the Territory, in which event the restrictions on us and our affiliates under Section 1.3 (Limited Territorial Protection) will not apply in the geographic area that was removed from the Territory;
  - (ii) temporarily remove information concerning the Studio from the System Website and/or stop your or the Studio's participation in any other programs or benefits offered on or through the System Website;
  - (iii) suspend your right to participate in one or more programs or benefits that the Brand Fund provides;
  - (iv) suspend any other services that we or our affiliate provides to you under this Agreement or any other agreement, including any services relating to the Studio Management and Technology System;
  - (v) suspend or terminate any temporary or permanent fee reductions to which we might have agreed (whether as a policy, in an amendment to this Agreement, or otherwise);
  - (vi) suspend our performance of, or compliance with, any of our obligations to you under this Agreement or other agreements;
  - (vii) undertake or perform on your behalf any obligation or duty that you are required to, but fail to, perform under this Agreement. You will reimburse us upon demand for all costs and expenses that we reasonably incur in performing any such obligation or duty; and/or

(viii) enter the Studio's premises and assume the management of the Studio ourselves or appoint a third party (who may be our affiliate) to manage the Studio. All funds from the operation of the Studio while we or our appointee assumes its management will be kept in a separate account, and all of the expenses of the Studio will be charged to that account. We or our appointee may charge you (in addition to the amounts due under this Agreement) a management fee equal to three percent (3%) of the Studio's Gross Revenue during the period of management, plus any direct out-of-pocket costs and expenses. We or our appointee has a duty to utilize only reasonable efforts and will not be liable to you for any debts, losses, or obligations the Studio incurs, or to any of your creditors for any products or services the Studio purchases, while managing it. You shall not take any action or fail to take any action that would interfere with our or our appointee's exclusive right to manage the Studio and may, in our sole discretion, be prohibited from visiting the Studio so as to not interfere with its operations. Our (or our appointee's) management of the Studio will continue for intervals lasting up to ninety (90) days each (and, in any event, for no more than a total of one year), and we will during each interval periodically evaluate whether you are capable of resuming the Studio's operation and periodically discuss the Studio's status with you.

(c) Exercise of Other Remedies. Our exercise of our rights under Section 14.2(b) (Other Remedies) will not (i) be a defense for you to our enforcement of any other provision of this Agreement or waive or release you from any of your other obligations under this Agreement, (ii) constitute an actual or constructive termination of this Agreement, or (iii) be our sole or exclusive remedy for your default. You must continue to pay all fees and otherwise comply with all of your obligations under this Agreement (except as set forth in Section 14.2(viii) (our assumption of management)) following our exercise of any of these rights. If we exercise any of our rights under Section 14.2(b), we may thereafter terminate this Agreement without providing you any additional corrective or cure period, unless the default giving rise to our right to terminate this Agreement has been cured to our reasonable satisfaction.

14.3 Termination By You. You may terminate this Agreement only if: (i) we commit a material breach of this Agreement; (ii) you give us written notice of the breach; (iii) we fail to cure the breach, or to take reasonable steps to begin curing the breach, within sixty (60) days after receipt of your notice; and (iv) you are in full compliance with your obligations under this Agreement. If we cannot reasonably correct the breach within this sixty- (60-) day period but provide you, within this sixty- (60-) day period, with reasonable evidence of our effort to correct the breach within a reasonable time period, then the cure period shall run through the end of such reasonable time period. Termination will be effective no less than ten days after you deliver to us written notice of termination for failure to cure within the allowed period. Any attempt to terminate this Agreement without complying with this Section 14.3 (including by taking steps to de-identify the Studio or otherwise cease operations under this Agreement) will constitute an Event of Default by you.

## **Section 15 Your Obligations Upon Expiration or Termination.**

You covenant and agree that upon expiration or termination of this Agreement for any reason, unless we direct you otherwise:

15.1 Payment of Costs and Amounts Due. You will pay upon demand all sums owing to us and our affiliates. If this Agreement is terminated due to an Event of Default, you will promptly pay all damages, costs, and expenses, including reasonable attorneys' fees, incurred by us as a result of your default. These payment obligations will give rise to and remain, until paid in full, a lien in favor of us against the Studio premises and any and all of the personal property, fixtures, equipment, and inventory that you own at the time of the occurrence of the Event of Default. We are hereby authorized at any time after the Effective Date to make any filings and to execute such documents on your behalf to perfect the lien created hereby. You also will pay to us all damages, costs, and expenses, including reasonable attorneys' fees, that we incur after the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provision of this Section 15 (Your Obligations Upon Expiration or Termination).



15.2 Discontinue Use of the System and the Intellectual Property. You must immediately cease using, by advertising or in any other manner, (i) the Intellectual Property (including, without limitation, the Marks and the Trade Dress), (ii) the System and all other elements associated with the System, and (iii) any colorable imitation of any of the Intellectual Property or any trademark, service mark, trade dress, or commercial symbol that is confusingly similar to any of the Marks or the Trade Dress.

15.3 Return of Proprietary Information. You must immediately return to us, at your expense, all copies of the Manuals, all of your Customer Information, and all other Proprietary Information (and all copies thereof). You may not use any Proprietary Information or sell, trade, or otherwise profit in any way from any Proprietary Information at any time following the expiration or termination of this Agreement.

15.4 Cease Identification with Us. You must immediately take all action required (i) to cancel all assumed name or equivalent registrations relating to your use of the Marks and (ii) to cancel or transfer to us or our designee all authorized and unauthorized domain names, social media accounts, telephone numbers, post office boxes, and classified and other directory listings relating to, or used in connection with, the Studio or the Marks (collectively, “**Identifiers**”). You acknowledge that as between you and us, we have the sole rights to and interest in all Identifiers. If you fail to comply with this Section 15.4, you hereby authorize us and irrevocably appoint us or our designee as your attorney-in-fact to direct the telephone company, postal service, registrar, Internet Service Provider, and all listing agencies to transfer such Identifiers to us. The telephone company, the postal service, registrars, Internet Service Providers and each listing agency may accept such direction by us pursuant to this Agreement as conclusive evidence of our exclusive rights in such Identifiers and our authority to direct their transfer.

15.5 Our Right to Purchase Studio Assets.

(a) Exercise of Option. Upon termination of this Agreement for any reason (other than your termination in accordance with Section 14.3 (Termination By You)) or expiration of this Agreement without our and your signing a successor franchise agreement, we have the option, exercisable by giving you written notice within fifteen (15) days after the date of termination or expiration (the “**Exercise Notice**”), to purchase the inventory, supplies, Operating Assets, and other assets used in the operation of the Studio that we designate (the “**Purchased Assets**”). We have the unrestricted right to exclude any assets we specify relating to the Studio from the Purchased Assets and not acquire them. You agree to provide us the financial statements and other information we reasonably require, and to allow us to inspect the Studio and its assets, to determine whether to exercise our option under this Section 15.5. If you or one of your affiliates owns the Site, we may elect to include a fee simple interest in the Site as part of the Purchased Assets or, at our option, lease the Site from you or that affiliate for an initial five-year term with one renewal term of five years (at our option) on commercially reasonable terms. You (and your Owners) agree to cause your affiliate to comply with these requirements. If you lease the Site from an unaffiliated lessor, you agree (at our option) to assign the Lease to us or to enter into a sublease for the remainder of the Lease term on the same terms (including renewal options) as the Lease.

(b) Operations Pending Purchase. While we are deciding whether to exercise our option under this Section 15.5 (Our Right to Purchase Studio Assets), and, if we do exercise that option, during the period beginning with our delivery of the Exercise Notice and continuing through the closing of our purchase or our decision not to complete the purchase, you must continue to operate the Studio in accordance with this Agreement. However, we may, at any time during that period, assume the management of the Studio ourselves or appoint a third party (who may be our affiliate or our Area Representative) to manage the Studio pursuant to the terms of Section 14.2(b)(viii).

(c) Purchase Price. The purchase price for the Purchased Assets will be their fair market value for use in the operation of a Competitive Business (but not a Hawaii Fluid Art Studio). However, the purchase price will not include any value for any rights granted by this Agreement, goodwill attributable to the Marks, our brand image, any Proprietary Information or our other intellectual property rights, or participation in the network of Studios. For purposes of determining the fair market value of all

equipment (including the Studio Management and Technology System) used in operating the Studio, the equipment's useful life shall be determined to be no more than three (3) years. If we and you cannot agree on fair market value for the Purchased Assets, we will select an independent appraiser after consultation with you, and his or her determination of fair market value will be the final and binding purchase price.

(d) Closing. We will pay the purchase price at the closing, which will take place within sixty (60) days after the purchase price is determined, although we may decide after the purchase price is determined not to complete the purchase. We may set off against the purchase price, and reduce the purchase price by, any and all amounts you owe us or our affiliates. We are entitled to all customary representations, warranties and indemnities in our asset purchase, including representations and warranties as to ownership and condition of, and title to, assets, liens and encumbrances on assets, validity of contracts and agreements, and liabilities affecting the assets, contingent or otherwise, and indemnities for all actions, events and conditions that existed or occurred in connection with the Studio or your business prior to the closing of our purchase. At the closing, you agree to deliver instruments transferring to us: (a) good and merchantable title to the Purchased Assets, free and clear of all liens and encumbrances (other than liens and security interests acceptable to us), with all sales and transfer taxes paid by you; and (b) all of the Studio's licenses and permits which may be assigned or transferred. If you cannot deliver clear title to all of the Purchased Assets, or if there are other unresolved issues, the sale will be closed through an escrow. You and your Owners further agree to sign general releases, in a form satisfactory to us, of any and all claims against us, our Area Representatives, and our affiliates and our and their respective owners, officers, directors, employees, agents, representatives, successors and assigns.

(e) Assignment. We may assign our rights under this Section 15.5 (Our Right to Purchase Studio Assets) to any Entity (who may be our affiliate), and that Entity will have all of the rights and obligations under this Section 15.5.

15.6 De-identification of the Site. If we do not exercise our option to acquire the Site Lease or the Site, you will make such modifications or alterations to the Site immediately upon termination or expiration of this Agreement that we deem necessary to distinguish the appearance of the Site from a Hawaii Fluid Art® Studio, including, but not limited to, removing the signs, the Marks, and any Trade Dress so as to indicate to the public that you are no longer associated with us. If you do not comply with the requirements of this Section 15.6, we may enter the Studio without being guilty of trespass or any other tort, for the purpose of making or causing to be made any required changes. You agree to reimburse us on demand for our expenses in making such changes.

15.7 Reimbursement of Unused Classes. In addition to any procedures that Applicable Laws require, we may require you to notify all of the Studio's customers of the termination or expiration of this Agreement and offer each of them the option to receive a refund of all unused prepaid class credits, which you are solely responsible for refunding to them in a manner that we may specify. We must approve in writing the content of any such notice, prior to you contacting any of the Studio's customers, or may elect to send the notice on your behalf.

15.8 Promote Separate Identity. You will not, directly or indirectly, in any manner, identify yourself, or any individual connected with you, as a former Hawaii Fluid Art® franchisee or as otherwise having been associated with us, or use in any manner or for any purpose any of the Marks.

15.9 Comply with Noncompete. You and your Owners must comply with the covenant not to compete in Section 12 (Your Covenant Not to Compete).

15.10 Injunctive and Other Relief. You acknowledge that your failure to abide by the provisions of this Section 15 (Your Obligations Upon Expiration or Termination) will result in irreparable harm to us, and that our remedy at law for damages will be inadequate. Accordingly, you agree that if you breach any

provisions of this Section 15, we are entitled to injunctive relief (including the remedy of specific performance) in addition to any other remedies available at law or in equity.

## **Section 16      Dispute Resolution and Governing Law.**

16.1    Mandatory Pre-Litigation Mediation. Except as otherwise provided in this Section, prior to filing any proceeding to resolve any dispute based upon, arising out of, or in any way connected with this Agreement, a party must submit the dispute for mediation. The mediation will be held before one mediator selected by the parties, and if the parties cannot agree upon the mediator, then a mediator selected by the American Arbitration Association (“AAA”). All parties must attend and participate in the mediation. The mediation shall not last more than one day and shall be held in Cedar Hill, Texas, unless we no longer have an office there, in which case it will be held in the area of our then-current principal place of business. If we and you do not resolve our dispute, then thereafter any party may file for litigation, as applicable in accordance with the terms of this Agreement. The mediation shall be governed by the rules of the AAA. It is the intent of the parties that mediation shall be held not later than fourteen (14) days after a written request for mediation shall have been served on the other parties. The obligation to mediate shall not be binding upon either party with respect to claims relating to the Marks, the non-payment or underpayment of any monies due under this Agreement, the noncompetition covenants, or requests by either party for temporary restraining orders, preliminary injunctions or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution of the actual dispute.

16.2    Forum for Litigation. You and the Owners must file any suit against us, and we may file any suit against you, in federal or state courts located in Cedar Hill, Texas, unless we no longer have an office there, in which case, you must file any suit against us, and we may file against you, in federal or state courts located in the area of our then-current principal place of business. The parties waive all questions of personal jurisdiction and venue for the purpose of carrying out this provision.

16.3    Governing Law. This Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Texas.

16.4    Mutual Waiver of Jury Trial. You and we each irrevocably waive trial by jury in any litigation.

16.5    Mutual Waiver of Punitive Damages. Each of us waives any right to or claim of punitive, exemplary, multiple, or consequential damages against the other in litigation and agrees to be limited to the recovery of actual damages sustained.

16.6    Remedies Not Exclusive. Except as provided in Section 16.5 (Mutual Waiver of Punitive Damages), no right or remedy that the parties have under this Agreement is exclusive of any other right or remedy under this Agreement or under Applicable Laws. Each and every such remedy will be in addition to, and not in limitation of or substitution for, every other remedy available at law or in equity or by statute or otherwise.

16.7    Limitations of Claims. Except for:

- (a) claims against you by us concerning the underreporting of Gross Revenue and corresponding underpayment of any fees specified in Section 3 (Fees);
- (b) claims against you by us relating to third-party claims or suits brought against us as a result of your operation of the Studio;
- (c) claims against you by us for injunctive relief to enforce the provisions of this Agreement relating to your use of the Marks;

(d) claims against you by us relating to your financial obligations upon the termination or expiration of the Agreement;

(e) claims against you by us or concerning your obligations under Section 10 (Proprietary Information) or Section 12 (Your Covenant Not to Compete) of this Agreement; and

(f) claims against you by us regarding an assignment of this Agreement or any ownership interest therein,

any and all claims arising out of or relating to this agreement or our relationship with you will be barred unless a judicial proceeding is commenced in the proper forum within one year from the date on which the party asserting the claim knew or should have known of the facts giving rise to the claim.

16.8 Our Right to Injunctive Relief. Nothing in this Agreement bars our right to obtain injunctive or declaratory relief against a breach or threatened breach of this Agreement that will cause us loss or damage. You agree that we will not be required to prove actual damages or post a bond in excess of one thousand dollars (\$1,000.00) or other security in seeking or obtaining injunctive relief (both preliminary and permanent) and/or specific performance with respect to this Agreement.

16.9 Attorneys' Fees and Costs. You agree to reimburse us for all expenses we reasonably incur (including attorneys' fees): (i) to enforce the terms of this Agreement or any obligation owed to us by you and/or the Owners (whether or not we initiate a legal proceeding, unless we initiate and fail to substantially prevail in such court or formal legal proceeding); and (ii) in the defense of any claim you and/or the Owners assert against us on which we substantially prevail in court or other formal legal proceedings. We agree to reimburse you for all expenses you reasonably incur (including attorneys' fees): (i) to enforce the terms of this Agreement or any obligation owed to you by us (whether or not you initiate a legal proceeding, unless you initiate and fail to substantially prevail in such court or formal legal proceeding); and (ii) in the defense of any claim we assert against you on which you substantially prevail in court or other formal legal proceedings.

## **Section 17      Miscellaneous.**

17.1 Entire Agreement. This Agreement and the documents referred to herein constitute the entire agreement between you and us with respect to the Studio and supersede all prior discussions, understandings, representations, and agreements concerning the same subject matter. Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require you to waive reliance on any representations that we made in the most recent Franchise Disclosure Document (the "FDD") that we delivered to you or your representatives. This Agreement includes the terms and conditions on Attachment A, which are incorporated into this Agreement by this reference.

17.2 Amendments and Modifications. This Agreement may be amended or modified only by a written document signed by each party to this Agreement. The Manuals and any policies that we adopt and implement may be changed by us from time to time.

17.3 Waiver. Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit of the term or condition, but such waiver must be in writing. No course of dealing or performance by any party, and no failure, omission, delay, or forbearance by any party, in whole or in part, in exercising any right, power, benefit, or remedy, will constitute a waiver of such right, power, benefit, or remedy. Our waiver of any particular default does not affect or impair our rights with respect to any subsequent default you may commit. Our waiver of a default by another franchisee does not affect or impair our right to demand your strict compliance with the terms of this Agreement. We have no obligation to deal with similarly situated franchisees in the same manner. Our acceptance of any payments due from you does not waive any prior defaults.

17.4 Importance of Timely Performance. Time is of the essence in this Agreement.

17.5 Construction. The headings in this Agreement are for convenience of reference and are not a part of this Agreement and will not affect the meaning or construction of any of its provisions. Unless otherwise specified, all references to a number of days shall mean calendar days and not business days. The words “**include**,” “**including**,” and words of similar import shall be interpreted to mean “including, but not limited to” and the terms following such words shall be interpreted as examples of, and not an exhaustive list of, the appropriate subject matter.

17.6 Severability. Each provision of this Agreement is severable from the others. If any provision of this Agreement or any of the documents executed in conjunction with this Agreement is for any reason determined by a court to be invalid, illegal, or unenforceable, the invalidity, illegality, or unenforceability will not affect any other remaining provisions of this Agreement or any other document. The remaining provisions will continue to be given full force and effect and bind us and you.

17.7 Applicable State Law Controlling. If the termination, renewal, or other provisions set forth in this Agreement are inconsistent with any applicable state statute, in effect as of the Effective Date, governing the relationship of us and franchisees, the provisions of such statute will apply to this Agreement, but only to the extent of such inconsistency.

17.8 Survival. Each provision of this Agreement that expressly or by reasonable implication is to be performed, in whole or in part, after the expiration, termination, or Transfer of this Agreement will survive such expiration, termination, or Transfer, including, but not limited to, Sections 9 (Intellectual Property), 10 (Proprietary Information), 11 (Indemnification), 12 (Your Covenant Not to Compete), and 15 (Your Obligations Upon Expiration or Termination).

17.9 Consent. Whenever our prior written approval or consent is required under this Agreement, you agree to make a timely written request to us for such consent. Our approval or consent must be in writing and signed by an authorized officer to be effective.

17.10 Independent Contractor Relationship. This Agreement does not create, nor does any conduct by us create, a fiduciary or other special relationship or make you or us an agent, legal representative, joint venturer, partner, employee or servant of each other for any purpose. You are not authorized to make any contract, agreement, warranty, or representation on our behalf, or to create any obligation, express or implied, on our behalf. You are, and shall remain, an independent contractor responsible for all obligations and liabilities of, and for all loss or damage to, the Studio and its business, including any personal property, Operating Assets, or real property and for all claims or demands based on damage or destruction of property or based on injury, illness or death of any person or persons, directly or indirectly, resulting from the operation of the Studio. Further, we and you are not and do not intend to be partners, associates, or joint employers in any way, and we shall not be construed to be jointly liable for any of your acts or omissions under any circumstances. We have no relationship with your employees and you have no relationship with our employees.

17.11 Notices. All notices and other communications required or permitted under this Agreement will be in writing and will be given by one of the following methods of delivery: (i) personally; (ii) by certified or registered mail, postage prepaid; or (iii) by overnight delivery service. Notices to you will be sent to the address set forth on Attachment A. Notices to us must be sent to:

Hawaii Fluid Art Franchising, LLC  
610 Uptown Blvd., STE 3900  
Cedar Hill, TX 75104  
Attn: Corporate Counsel

Either party may change its mailing address by giving notice to the other party. Notices will be deemed received the same day when delivered personally, upon attempted delivery when sent by registered or certified mail or overnight delivery service, or the next business day when sent by facsimile.

17.12 Execution. This Agreement shall not be binding on either party until it is executed by both parties. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, and all of which will constitute one and the same instrument.

17.13 Successors and Assigns. Except as expressly otherwise provided herein, this Agreement is binding upon and will inure to the benefit of the parties and their respective heirs, executors, legal representatives, successors, and permitted assigns.

17.14 No Third-Party Beneficiaries. Except as expressly otherwise provided herein, no third party shall have the right to claim any of the benefits conferred under this Agreement.

17.15 Additional Terms; Inconsistent Terms. The parties may provide additional terms by including the terms on Attachment A. To the extent that any provisions of Attachment A are in direct conflict with the provisions of this Agreement, the provisions of Attachment A shall control. This section shall apply only to negotiated changes between the parties.

17.16 Area Representative and Delegation. We may delegate the performance of any or all of our obligations under this Agreement to an “**Area Representative**”, affiliate, agent, independent contractor, or other third party. You acknowledge that if we appoint an Area Representative in the area that includes your Territory, the Area Representative will provide training, support, marketing, and other services to you on our behalf and will have the authority to exercise many of our rights and perform many of our obligations under this Agreement. We may, without your consent, appoint an Area Representative or a substitute for the Area Representative at any time.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, upon signing below, each of the undersigned has executed this Agreement under seal as of the Effective Date.

**FRANCHISOR:**

HAWAII FLUID ART FRANCHISING, LLC

By:

Name:

Title:

Date:

**FRANCHISEE:**

[FRANCHISEE ENTITY]

By:

Name:

Title:

Date:

**ATTACHMENT A**

**FRANCHISEE-SPECIFIC TERMS**

1. Effective Date:
2. Franchisee's Name:
3. Franchisee's State of Organization and Entity Type (*if applicable*):
4. Ownership of Franchisee (Recital C): If the franchisee is an Entity (as defined in the Agreement), the following persons constitute all of the owners of a legal and/or beneficial interest in the franchisee:

Name	Percentage Ownership
	%
	%
	%

5. **Site Selection Area (Section 1.1) shall include the area within the zip codes:**
6. **Operating Principal (Section 1.4):**
7. **Key Manager (Section 1.4):**
8. **Franchise Fee (Section 3.1):**           \$
9. **Franchisee's Address for Notices (Section 17.11):**
  - A.
  - E.
  - P.
10. **Additional Terms; Inconsistent Terms (*if any*) (Section 17.15) (this section is limited to negotiated changes between the parties):**



**Signature Page for Attachment A (Franchisee-Specific Terms)**

**FRANCHISOR:**

HAWAII FLUID ART FRANCHISING, LLC

By:

Name:

Title:

Date:

**FRANCHISEE:**

[FRANCHISEE ENTITY]

By:

Name:

Title:

Date:

**SCHEDULE 1 TO ATTACHMENT A**

**LOCATION ACCEPTANCE LETTER**

*(to be completed after site selection and acceptance)*

**Date:**

1. **Preservation of Agreement.** Except as specifically set forth in this letter, the Franchise Agreement shall remain in full force and effect in accordance with its terms and conditions. This letter is attached to and upon execution becomes an integral part of the Franchise Agreement.

2. **Authorized Location.** The Authorized Location shall be the following:

---

3. **Protected Territory.** Pursuant to the Franchise Agreement, Franchisee's Protected Territory will be defined as follows (if identified on a map, please attach map and reference attachment below):

---

**FRANCHISOR:**

HAWAII FLUID ART FRANCHISING, LLC

**By:**

**Name:**

**Title:**

**FRANCHISEE ACKNOWLEDGEMENT:**

**By:**

**Name:**

**Date:**

## ATTACHMENT B

### PAYMENT AND PERFORMANCE GUARANTY

In order to induce Hawaii Fluid Art Franchising, LLC (“**Franchisor**”) to enter into a Hawaii Fluid Art Franchise Agreement (the “**Franchise Agreement**”) by and between Franchisor and the Franchisee named in the Franchise Agreement dated \_\_\_\_\_ to which this Payment and Performance Guarantee (the “**Guarantee**”) is attached (“**Franchisee**”), the undersigned (collectively referred to as the “**Guarantors**”) and individually referred to as a “**Guarantor**”) hereby covenant and agree as follows:

**11. Guarantee of Payment and Performance.** The Guarantors jointly and severally unconditionally guarantee to Franchisor and its affiliates the payment and performance when due, whether by acceleration or otherwise, of all obligations, indebtedness, and liabilities of Franchisee to Franchisor, direct or indirect, absolute or contingent, of every kind and nature, whether now existing or incurred from time to time hereafter, whether incurred pursuant to the Franchise Agreement or otherwise, together with any extension, renewal, or modification thereof in whole or in part (the “**Guaranteed Liabilities**”). The Guarantors agree that if any of the Guaranteed Liabilities are not so paid or performed by Franchisee when due, the Guarantors will immediately do so. The Guarantors further agree to pay all expenses (including reasonable attorneys’ fees) paid or incurred in endeavoring to enforce this Guarantee or the payment of any Guaranteed Liabilities. The Guarantors represent and agree that they have each reviewed a copy of the Franchise Agreement and have had the opportunity to consult with counsel to understand the meaning and import of the Franchise Agreement and this Guarantee.

**12. Waivers by Guarantors.** The Guarantors waive presentment, demand, notice of dishonor, protest, and all other notices whatsoever, including without limitation notices of acceptance hereof, of the existence or creation of any Guaranteed Liabilities, of the amounts and terms thereof, of all defaults, disputes, or controversies between Franchisor and Franchisee and of the settlement, compromise, or adjustment thereof. This Guarantee is primary and not secondary and will be enforceable without Franchisor having to proceed first against Franchisee or against any or all of the Guarantors or against any other security for the Guaranteed Liabilities. This Guarantee will be effective regardless of the insolvency of Franchisee by operation of law, any reorganization, merger, or consolidation of Franchisee, or any change in the ownership of Franchisee.

**13. Term: No Waiver.** This Guarantee will be irrevocable, absolute, and unconditional and will remain in full force and effect as to each of the Guarantors until the later of (i) such time as all Guaranteed Liabilities of Franchisee to Franchisor and its affiliates have been paid and satisfied in full, or (ii) the Franchise Agreement and all obligations of Franchisee thereunder expire. No delay or failure on the part of Franchisor in the exercise of any right or remedy will operate as a waiver thereof, and no single or partial exercise by Franchisor of any right or remedy will preclude other further exercise of such right or any other right or remedy.

**14. Other Covenants.** Each of the Guarantors agrees to comply with the provisions of Sections 8 (Records, Reports, Audits, and Inspections), 9 (Intellectual Property), 10 (Proprietary Information), 11 (Indemnification), and 12 (Your Covenant Not to Compete) of the Franchise Agreement as though each such Guarantor were the “Franchisee” named in the Franchise Agreement and agrees that the undersigned will take any and all actions as may be necessary or appropriate to cause Franchisee to comply with the Franchise Agreement and will not take any action that would cause Franchisee to be in breach of the Franchise Agreement.

**15. Dispute Resolution.** Section 16 (Dispute Resolution and Governing Law) of the Franchise Agreement is hereby incorporated herein by reference and will be applicable to any all disputes between Franchisor and any of the Guarantors, as though Guarantor were the “Franchisee” referred to in the Franchise Agreement.

**16. Miscellaneous.** This Agreement will be binding upon the Guarantors and their respective heirs, executors, successors, and assigns, and will inure to the benefit of Franchisor and its successors and assigns.

**IN WITNESS WHEREOF**, the undersigned Guarantors have caused this Guarantee to be duly executed as of the day and year first above written.

**GUARANTOR(S):**

*(add more lines as necessary)*

By:

Name:

Date:

## ATTACHMENT C

### FRANCHISEE QUESTIONNAIRE/COMPLIANCE CERTIFICATION

**DO NOT SIGN THIS STATEMENT IF YOU ARE A RESIDENT OF, OR INTEND TO OPERATE THE FRANCHISED BUSINESS IN, ANY OF THE FOLLOWING STATES: CA, HI, IL, IN, MD, MI, MN, NY, ND, RI, SD, VA, WA, WI (EACH A REGULATED STATE).**

As you know, Hawaii Fluid Art Franchising, LLC (“we”, “us”), and you are preparing to enter into a franchise agreement for the right to operate a Hawaii Fluid Art franchise (a “**Business**”). The purpose of this Questionnaire is to: (i) determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate, or misleading; (ii) be certain that you have been properly represented in this transaction; and (iii) be certain that you understand the limitations on claims you may make by reason of the purchase and operation of your franchise. **You cannot sign or date this Questionnaire the same day as the Receipt for the Franchise Disclosure Document, but you must sign and date it the same day you sign the Franchise Agreement and pay us the appropriate Franchisee Fee.** Please review each of the following questions carefully and provide honest responses to each question. If you answer “No” to any of the questions below, please explain your answer on the back of this sheet.

1. Have you received and personally reviewed the Franchise Agreement, as well as each exhibit or schedule attached to these agreements that you intend to enter into with us?

Y/N \_\_\_\_\_

2. Have you received and personally reviewed the Franchise Disclosure Document we provided?

Y/N \_\_\_\_\_

3. Did you sign a receipt for the Disclosure Document indicating the date you received it?

Y/N \_\_\_\_\_

4. Do you understand all the information contained in the Disclosure Document and the Franchise Agreement you intend to enter into with us?

Y/N \_\_\_\_\_

5. Have you reviewed the Disclosure Document and Franchise Agreement with a lawyer, accountant or other professional advisor and discussed the benefits and risks of operating the Business(es) with these professional advisor(s)?

Y/N \_\_\_\_\_

6. Do you understand the success or failure of your Business(es) will depend in large part upon your skills, abilities, and efforts and those of the persons you employ, as well as many factors beyond your control such as demographics of your Territory, competition, interest rates, the economy, inflation, labor and supply costs, lease terms, and the marketplace?

Y/N \_\_\_\_\_

7. Do you understand we have only granted you certain, limited territorial rights under the Franchise Agreement, and that we have reserved certain rights under the Franchise Agreement?

Y/N \_\_\_\_\_

8. Do you understand we and our affiliates retain the exclusive unrestricted right to engage, directly or through others, in the providing of services under the System mark or any other mark at any location outside your Territory under the Franchise Agreement, without regard to the proximity of these activities to the premises of your Business(es)?

Y/N \_\_\_\_\_

9. Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement must be mediated and/or arbitrated, at our option, at our then current headquarters?

Y/N \_\_\_\_\_

10. Do you understand the Franchise Agreement provides that you can only collect compensatory damages on any claim under or relating to the Franchise Agreement and are not entitled to any punitive, consequential, or other special damages?

Y/N \_\_\_\_\_

11. Do you understand the sole entity or person against whom you may bring a claim under the Franchise Agreement is us?

Y/N \_\_\_\_\_

12. Do you understand that the Franchisee (or one of its principals if Franchisee is an organization), as well as any Principal Executive(s) (as defined in the Franchise Agreement), must successfully complete the appropriate initial training program(s) before we will allow the Business to open or consent to a transfer of that Business?

Y/N \_\_\_\_\_

13. Do you understand that we require you to successfully complete certain initial training program(s) and if you do not successfully complete the applicable training program(s) to our satisfaction, we may terminate your Franchise Agreement?

Y/N \_\_\_\_\_

14. Do you understand that we do not have to sell you a franchise or additional franchises or consent to your purchase of existing franchises (other than those that you timely fulfill your development obligations and have contracted to open under the Development Agreement, provided you have not materially breached that agreement and failed to timely cure that breach)?

Y/N \_\_\_\_\_

15. Do you understand that we will send written notices, as required by your Franchise Agreement, to either your Business or home address until you designate a different address by sending written notice to us?

Y/N \_\_\_\_\_

16. Do you understand that we will not approve your purchase of a franchise, or we may immediately terminate your Franchise Agreement, if we are prohibited from doing business with you under any anti-terrorism law enacted by the United States Government?

Y/N \_\_\_\_\_

17. Is it true that no broker, employee, or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a Business that is not contained in the Disclosure Document or that is contrary to, or different from, the information contained in the Disclosure Document?

Y/N \_\_\_\_\_

18. Is it true that no broker, employee, or other person speaking on our behalf made any statement or promise regarding the actual, average, or projected profits or earnings, the likelihood of success, the amount of money you may earn, or the total amount of revenue a Business will generate, that is not contained in the Disclosure Document or that is contrary to, or different from, the information contained in the Disclosure Document?

Y/N \_\_\_\_\_

19. Is it true that no broker, employee, or other person speaking on our behalf made any statement or promise or agreement, other than those matters addressed in your Franchise Agreement and/or Development Agreement concerning advertising, marketing, media support, marketing penetration, training, support service or assistance that is contrary to, or different from, the information contained in the Disclosure Document?

Y/N \_\_\_\_\_

20. Is it true that no broker, employee, or other person providing services to you on our behalf has solicited or accepted any loan, gratuity, bribe, gift or any other payment in money, property, or services from you in connection with a Business purchase with exception of those payments or loans provided in the Disclosure Document?

Y/N \_\_\_\_\_

**[SIGNATURE PAGE FOLLOWS]**

**YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS QUESTIONNAIRE, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS.**

**FRANCHISEE APPLICANT(S):**

*(add more lines as necessary)*

By:

Name:

Date:

**EXPLANATION OF ANY NEGATIVE RESPONSES (REFER TO QUESTION NUMBER):**

<b>Question Number</b>	<b>Explanation of Negative Response</b>



**EXHIBIT C  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT  
AREA DEVELOPMENT AGREEMENT & ATTACHMENTS**



**DEVELOPMENT AGREEMENT**

**between**

**HAWAII FLUID ART FRANCHISING, LLC**

**and**

---

**FRANCHISEE**

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**ATTACHMENTS**

- Attachment A – Franchisee-Specific Terms
- Attachment B – Payment and Performance Guarantee

## HAWAII FLUID ART

### DEVELOPMENT AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and entered into as of the date set forth on Attachment A of this Agreement (the “Effective Date”) (Attachment A and all appendices and schedules attached to this Agreement are hereby incorporated by this reference) between Hawaii Fluid Art Franchising, LLC, a Texas limited liability company with its principal place of business at 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104 (“Hawaii Fluid Art”), and the person or entity identified on Attachment A as the franchisee (“Franchisee”, “Area Developer”) with its principal place of business as set forth on Attachment A. In this Agreement, “we,” “us,” and “our” refers to HFA. “You” and “your” refers to Franchisee.

### RECITALS

A. We and you have entered into a certain Franchise Agreement dated the same date as this Agreement (the “Initial Franchise Agreement”), in which we have granted you the right to establish and operate one Hawaii Fluid Art studio (a “Studio”).

B. We desire to grant to you the exclusive right to establish and operate a specified number of Studios within a specified geographical area in accordance with a development schedule.

C. If you are a corporation, limited liability company, partnership, or other entity (collectively, an “Entity”), all of your owners of a legal and/or beneficial interest in the Entity (the “Owners”) are listed on Attachment A of this Agreement (Attachment A and all other appendices hereto being hereby incorporated herein by reference).

D. You desire to establish and operate additional Studios upon the terms and conditions contained in our then-current standard franchise agreements.

**NOW, THEREFORE**, for and in consideration of the foregoing premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

#### **1. Grant of Development Rights and Development Area.**

Subject to the terms and conditions of this Agreement, we grant to you the right, and you undertake the obligation, to establish and operate in the area designated on Attachment A to this Agreement (the “Development Area”) the number of Studios specified in the development schedule in Attachment A (the “Schedule”). This Agreement does not grant you any right to use the Marks (as defined in your Initial Franchise Agreement) or the System (as defined in your Initial Franchise Agreement). Rights to use the Marks and the System are granted only by the Franchise Agreements.

**2. Fees.** Upon execution of this Agreement, you must pay us a development fee in the amount specified on Attachment A (the “Development Fee”), which is based on the initial franchise fee you must pay for each Studio that you develop (the “Franchise Fee,” which is also specified on Attachment A). The Development Fee will be credited towards 100% of the Franchise Fee due under the Franchise Agreement for each Studio that you develop pursuant to this Agreement. The Development Fee is fully earned by us when we and you sign this Agreement and is non-refundable, even if you do not comply with the Schedule.

### **3. Development Schedule.**

**3.1 Deadlines.** You must enter into Franchise Agreements and open and operate Studios in accordance with the deadlines set forth in the Schedule. By each “Opening Deadline” specified in the Schedule, you must have the specified number of Studios open and operating. You must locate the Studios only at sites that we have accepted in accordance with the terms of the applicable Franchise Agreement.

**3.2 Damaged Studios.** If a Studio is destroyed or damaged by any cause beyond your control such that it may no longer continue to be open for the operation of business, you must immediately give us notice of such destruction or damage (“Destruction Event”). You must diligently work to repair and restore the Studio to our approved plans and specifications as soon as possible at the same location or at a substitute site accepted by us within the Development Area. If a Studio is closed due to a Destruction Event, the Studio will continue to be deemed a “Studio in operation” for the purpose of this Agreement for up to 180 days after the Destruction Event occurs. If a Studio (i) is closed in a manner other than those described in this Section 3.2 or as otherwise agreed by us in writing or (ii) fails to reopen within 180 days after a Destruction Event, then we may exercise our rights under Section 6.2 (Our Remedies). If this Agreement has been completed prior to a Destruction Event, the terms of this Agreement shall not apply and only the terms of the respective Franchise Agreement shall apply.

### **4. Development Area.**

**4.1 Development Area.** Except as provided in this Section 4.1, while this Agreement is in effect, provided that you open and operate the Studios in accordance with the Schedule and the minimum number of Studios that you have open and operating in the Development Area at any given time is not less than the minimum required pursuant to the Schedule, we will not operate, or license any person other than you to operate, a Studio under the Marks (as defined in your Initial Franchise Agreement) and the System (as defined in your Initial Franchise Agreement) within the Development Area.

**4.2 No Other Restriction On Us.** Except as expressly provided in Section 4.1 or any other agreement between the parties, we and our affiliates retain the right, in our sole discretion, to conduct any business activities, under any name, in any geographic area, and at any location, regardless of the proximity to or effect on your Studios. For example, we and our affiliates have the right to:

(a) Establish or license franchises and/or company-owned art studios or other facilities or businesses offering similar or identical products, services, and classes and using the System or elements of the System (i) under the Marks anywhere outside of the Development Area or (ii) under names, symbols, or marks other than the Marks anywhere, including inside and outside of the Development Area;

(b) Sell or offer, or license others to sell or offer, any products, services, or classes using the Marks or other marks through any alternative distribution channels, including, without limitation, through e-commerce, in retail stores, via recorded media, via online videos, or via broadcast media, anywhere, including inside and outside of the Development Area;

(c) Advertise, or authorize others to advertise anywhere, using the Marks;

(d) Acquire, be acquired by, or merge with other companies with existing art facilities, art businesses, and/or studios anywhere (including inside or outside of the Development Area) and, even if such businesses are located in the Development Area, (i) convert the other businesses to the Hawaii Fluid Art name, (ii) permit the other businesses to continue to operate under another name, and/or (iii) permit the businesses to operate under another name and convert existing Studios to such other name; and

(e) Engage in any other activity, action or undertaking that we are not expressly prohibited from taking under this Agreement.

**5. Term.** This Agreement expires at midnight on the last Opening Deadline date listed on the Hawaii Fluid Art

Schedule, unless this Agreement is terminated sooner as provided in other sections of this Agreement.

## **6. Termination.**

**6.1 Events of Default.** Any one or more of the following constitutes an “**Event of Default**” under this Agreement:

- (a) You fail to pay any Franchise Fee or execute any Franchise Agreement by any Fee Deadline specified in the Schedule;
- (b) You fail to have open and operating the minimum number of Studios specified in the Schedule by any Opening Deadline specified in the Schedule;
- (c) An Event of Default occurs under any Franchise Agreement, resulting in the termination of such Franchise Agreement; or
- (d) You breach or otherwise fail to comply fully with any other provision contained in this Agreement, including Section 8 (Franchisee’s Covenant Not to Compete).

**6.2 Our Remedies.** If any Event of Default occurs under Section 6.1, we may, at our sole election, declare this Agreement and any and all other rights granted to you under this Agreement to be immediately terminated and of no further force or effect. Upon termination of this Agreement for any other reason whatsoever, we will retain the Development Fee and you will not be relieved of any of your obligations, debts, or liabilities hereunder, including without limitation any debts, obligations, or liabilities which have accrued prior to such termination. Your failure to open and thereafter operate Studios in accordance with the Schedule will not, in itself, constitute cause for us to terminate any previously executed Franchise Agreement.

**7. Assignment.** This Agreement and the rights granted to you under this Agreement are personal to you and neither this Agreement, nor any of the rights granted to you hereunder nor any controlling equity interest in you may be voluntarily or involuntarily, directly or indirectly, by operation of law or otherwise, assigned or otherwise transferred, given away, or encumbered by you without our prior written approval, which we may grant or withhold for any or no reason. If you or your Owners intend to transfer any interest in you or this Agreement, we shall have a right of first refusal in accordance with the procedure set forth in Section 13.9 (Our Right of First Refusal) of the Initial Franchise Agreement. Any and all Transfers will be set forth in Section 13 of the Initial Franchise Agreement. We may assign this Agreement or any ownership interests in us without restriction.

## **8. Franchisee’s Covenant Not to Compete.**

**8.1 In-Term Covenants.** You acknowledge that you will receive valuable, specialized training and confidential information regarding the manufacturing, operational, sales, promotional, and marketing methods of the Hawaii Fluid Art concept. During the Term, you and your Owners will not, without our prior written consent, either directly or indirectly, for themselves, or through, on behalf of, or in conjunction with any other person or entity:

- (a) own, manage, engage in, be employed by, advise, make loans to, or have any other interest in (i) any business which provides or offers group or individual art class instruction, the sale of works of art at a retail store, instruction in the technique of acrylic or resin fluid art, any other Approved Products and Services that we grant you the right to offer during the Term of your Franchise Agreement (ii) any entity that grants franchises or licenses for any of these types of businesses (a “Competitive Business”) in the United States;
- (b) divert or attempt to divert any business or customer or potential business or customer of the Studio to any Competitive Business, by direct or indirect inducement or otherwise;

- (c) perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System;
- (d) use any vendor relationship established through your association with us for any purpose other than to purchase products or equipment for use or retail sale in the Studios; or
- (e) directly or indirectly solicit for employment any person who at any time within the immediate past 12 months has been employed by us, or our affiliates, or by any of our franchisees.

**8.2 Post-Term Covenants.** For two years after the expiration or termination of this Agreement or an approved transfer to a new franchisee, you and your Owners may not, without our prior written consent, (i) directly or indirectly own, manage, engage in, be employed in a managerial position by, advise, make loans to, or have any other interest in any Competitive Business that is (or is intended to be) located within a ten-mile radius of the Development Area or any other Studio that is operating or under development at the time of such expiration, termination, or transfer, or (ii) solicit for employment any person who at any time within the immediate past 12 months has been employed by us, or our affiliates, or by any of our franchisees. With respect to the Owners, the time period in this Section 12.2 will run from the expiration, termination, or transfer of this Agreement or from the termination of the Owner's relationship with you, whichever occurs first.

**8.3 Publicly Traded Corporations.** Ownership of less than 5% of the outstanding voting stock of any class of stock of a publicly traded corporation will not, by itself, violate this Section 8.

**8.4 Covenants of Others.** The Owners personally bind themselves to this Section 8 by signing the Guarantee that is attached as Attachment B to this Agreement. You must also obtain from your officers, directors, managers, instructors, Owners' spouses, and other individuals that we may designate executed agreements containing nondisclosure and non-compete covenants similar in substance to those contained in this Section 8 as we prescribe in the Manuals and otherwise. The agreements must be in a form acceptable to us and specifically identify us as having the independent right to enforce them.

**8.5 Enforcement of Covenants.** You acknowledge and agree that (i) the time, territory and scope of the covenants provided in this Section 8 are reasonable and necessary for the protection of our legitimate business interests; (ii) you have received sufficient and valid consideration in exchange for those covenants; (iii) enforcement of the same would not impose undue hardship; and (iv) the period of protection provided by these covenants will not be reduced by any period of time during which you are in violation of the provisions of those covenants or any period of time required for enforcement of those covenants. To the extent that this Section 8 is judicially determined to be unenforceable by virtue of its scope or in terms of area or length of time, but may be made enforceable by reductions of any or all thereof, the same will be enforced to the fullest extent permissible. You agree that the existence of any claim you may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of the covenants contained in this Section 8. You acknowledge that any breach or threatened breach of this Section 8 will cause us irreparable injury for which no adequate remedy at law is available, and you consent to the issuance of an injunction prohibiting any conduct violating the terms of this Section 8. Such injunctive relief will be in addition to any other remedies that we may have.

## **9. Incorporation of Other Terms.**

Section 10 (Proprietary Information), Section 16 (Dispute Resolution and Governing Law), Section 17 (Miscellaneous), and Section 18 (Your Representations and Acknowledgements) of the Initial Franchise Agreement are incorporated by reference in this Agreement and will govern all aspects of our relationship and the construction of this Agreement as if fully restated within the text of this Agreement.

**Miscellaneous.** Capitalized terms used and not otherwise defined in this Agreement shall have the meanings set forth in the Initial Franchise Agreement. This Agreement, together with the Initial Franchise Agreement,

supersedes all prior agreements and understandings, whether oral and written, among the parties relating to its subject matter, and there are no oral or other written understandings, representations, or agreements among the parties relating to the subject matter of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require you to waive reliance on any representations that we made in the most recent Franchise Disclosure Document that we delivered to you or your representatives. This Agreement shall not be binding on either party until it is executed by both parties. This Agreement may be signed in multiple counterparts, but all such counterparts together shall be considered one and the same instrument. The provisions of this Agreement may be amended or modified only by written agreement signed by the party to be bound.

**IN WITNESS WHEREOF**, each of the undersigned has executed this Agreement under seal as of the Effective Date.

**FRANCHISOR:**

HAWAII FLUID ART FRANCHISING, LLC

By:

Name: Maya Ratcliff

Title: CEO

Date:

**FRANCHISEE:**

[FRANCHISEE ENTITY]

By:

Name:

Title:

Date:



**ATTACHMENT A**

**FRANCHISEE-SPECIFIC TERMS**

1. **Effective Date:**
2. **Franchisee's Name:**
3. **Franchisee's State of Organization and Entity Type** *(if applicable)*:
4. **Ownership of Franchisee (Recital C):** If the franchisee is an Entity (as defined in the Agreement), the following persons constitute all owners of a legal and/or beneficial interest in the franchisee:

Name	Percentage Ownership
	%
	%
	%

5. **Total Development Fee:**
6. **Development Area:**  
*[insert zip code, map, or other description of the Development Area]*
7. **Development Schedule:** You agree to establish and operate a total of \_\_\_\_\_ Studios within the Development Area during the term of this Agreement. The Studios must be open and operating in accordance with the following Schedule:

<b><u>MINIMUM NUMBER OF STUDIOS</u></b> The Minimum Number of Studios Open and Operating by Each Opening Deadline	<b><u>OPENING DEADLINE</u></b> Deadline for Having the Minimum Number of Studios Open and Operating

8. **Negotiated Terms** *(this section is limited to negotiated changes between the parties)*:

**Signature Page to Attachment A (Franchisee Specific Terms)**

**IN WITNESS WHEREOF**, each of the undersigned has executed this Agreement under seal as of the Effective Date.

**FRANCHISOR:**  
HAWAII FLUID ART FRANCHISING, LLC

By:

Name: Maya Ratcliff

Title: CEO

Date:

**FRANCHISEE:**  
[FRANCHISEE ENTITY]

By:

Name:

Title:

Date:

## ATTACHMENT B

### PAYMENT AND PERFORMANCE GUARANTEE

In order to induce Hawaii Fluid Art Franchising, LLC (“Franchisor”) to enter into a Hawaii Fluid Art® Development Agreement (the “Development Agreement”) by and between Franchisor and the Franchisee named in the Development Agreement dated \_\_\_\_\_ to which this Payment and Performance Guarantee (the “Guarantee”) is attached (“Franchisee”), the undersigned (collectively referred to as the “Guarantors” and individually referred to as a “Guarantor”) hereby covenant and agree as follows:

- 1. Guarantee of Payment and Performance.** The Guarantors jointly and severally unconditionally guarantee to Franchisor and its affiliates the payment and performance when due, whether by acceleration or otherwise, of all obligations, indebtedness, and liabilities of Franchisee to Franchisor, direct or indirect, absolute or contingent, of every kind and nature, whether now existing or incurred from time to time hereafter, whether incurred pursuant to the Development Agreement or otherwise, together with any extension, renewal, or modification thereof in whole or in part (the “Guaranteed Liabilities”). The Guarantors agree that if any of the Guaranteed Liabilities are not so paid or performed by Franchisee when due, the Guarantors will immediately do so. The Guarantors further agree to pay all expenses (including reasonable attorneys’ fees) paid or incurred in endeavoring to enforce this Guarantee or the payment of any Guaranteed Liabilities. The Guarantors represent and agree that they have each reviewed a copy of the Development Agreement and have had the opportunity to consult with counsel to understand the meaning and import of the Development Agreement and this Guarantee.
- 2. Waivers by Guarantors.** The Guarantors waive presentment, demand, notice of dishonor, protest, and all other notices whatsoever, including without limitation notices of acceptance hereof, of the existence or creation of any Guaranteed Liabilities, of the amounts and terms thereof, of all defaults, disputes, or controversies between Franchisor and Franchisee and of the settlement, compromise, or adjustment thereof. This Guarantee is primary and not secondary and will be enforceable without Franchisor having to proceed first against Franchisee or against any or all of the Guarantors or against any other security for the Guaranteed Liabilities. This Guarantee will be effective regardless of the insolvency of Franchisee by operation of law, any reorganization, merger, or consolidation of Franchisee, or any change in the ownership of Franchisee.
- 3. Term: No Waiver.** This Guarantee will be irrevocable, absolute, and unconditional and will remain in full force and effect as to each of the Guarantors until such time as all Guaranteed Liabilities of Franchisee to Franchisor and its affiliates have been paid and satisfied in full. No delay or failure on the part of Franchisor in the exercise of any right or remedy will operate as a waiver thereof, and no single or partial exercise by Franchisor of any right or remedy will preclude other further exercise of such right or any other right or remedy.
- 4. Other Covenants.** Each of the Guarantors agrees to comply with the provisions of Section 8 of the Development Agreement as though each such Guarantor were the “Franchisee” named in the Development Agreement and agrees that he or she will take any and all actions as may be necessary or appropriate to cause Franchisee to comply with the Development Agreement and will not take any action that would cause Franchisee to be in breach of the Development Agreement.
- 5. Dispute Resolution.** Section 16 (Dispute Resolution and Governing Law) of the Initial Franchise Agreement (as defined in the Development Agreement) is hereby incorporated herein by reference and will be applicable to any disputes between Franchisor and any of the Guarantors, as though Guarantor were the “Franchisee” referred to in the Development Agreement.
- 6. Miscellaneous.** This Agreement will be binding upon the Guarantors and their respective heirs, executors, successors, and assigns, and will inure to the benefit of Franchisor and its successors and assigns.

**IN WITNESS WHEREOF**, the undersigned Guarantors have caused this Guarantee to be duly executed as of the day and year first above written.

**GUARANTOR(S):**

*(add more lines as necessary)*

By:

Name:

Date:

**EXHIBIT D  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT  
STATE ADDENDA AND AGREEMENT RIDERS**

**ADDENDUM TO FRANCHISE AGREEMENT, SUPPLEMENTAL AGREEMENTS, FRANCHISE  
DISCLOSURE DOCUMENT, AND ALL RELATED AGREEMENTS FOR CERTAIN STATES  
FOR  
HAWAII FLUID ART FRANCHISING, LLC**

The following modifications are made to the Hawaii Fluid Art Franchising, LLC (“Franchisor,” “us,” “we,” or “our”) Franchise Disclosure Document (“FDD”) given to franchisee (“Franchisee,” “you,” or “your”) and may supersede, certain portions of the Franchise Agreement between you and us dated as of the Effective Date set forth in your franchise Agreement (“Franchise Agreement”). When the term “Franchisor’s Choice of Law State” is used, it means the laws of the state of Texas, subject to any modifications as set forth in the addenda below. When the term “Supplemental Agreements” is used, it means Area Development Agreement.

Certain states have laws governing the franchise relationship and franchise documents. Certain states require modifications to the FDD, Franchise Agreement and all other documents related to the sale of a franchise. This State Specific Addendum (“State Addendum”) will modify these agreements to comply with the state’s laws. The terms of this State Addendum will only apply if you meet the requirements of the applicable state independently of your signing of this State Addendum. The terms of this State Addendum will override any inconsistent provision of the FDD, Franchise Agreement, Supplemental Documents, and all related agreements. This State Addendum only applies to the following states: California, Hawaii, Illinois, Iowa, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Ohio, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

If your state requires these modifications, you will sign this State Addendum along with the Franchise Agreement, any Supplemental Agreements, and all related agreements, and the terms in this State Addendum will supersede the terms of the Franchise Agreement, any Supplemental Agreements, and all related agreements.

**CALIFORNIA**

The California Franchise Investment Law requires a copy of all proposed agreements relating to the sale of the Franchise be delivered together with the FDD.

California Corporations Code Section 31125 requires us to give to you an FDD approved by the Department of Business Oversight before we ask you to consider a material modification of your Franchise Agreement.

The Franchise Agreement and the Supplemental Agreements contain provisions requiring binding arbitration with the costs being awarded to the prevailing party. The arbitration will occur in Franchisor’s Choice of Law State. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of the Franchise Agreement or Supplemental Agreements restricting venue to a forum outside the State of California. The Franchise Agreement contains a mediation provision. As such, the parties shall each bear their own costs of mediation and shall share equally the filing fee and the mediator’s fees.

The Franchise Agreement and Supplemental Agreements require the application of the law of Franchisor’s Choice of Law State. This provision may not be enforceable under California law.

Neither Franchisor nor any other person listed in Item 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer, or non-renewal of a franchise. If the Franchise Agreement or Supplemental Agreements contain a provision that is inconsistent with the California Franchise Investment Law, the California Franchise Investment Law will control.

The Franchise Agreement and Supplemental Agreements may provide for termination upon bankruptcy. Any such provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. SEC. 101 et seq.).

The Franchise Agreement and the Supplemental Agreements contain a covenant not to compete provision which extends beyond the termination of the Franchise. Such provisions may not be enforceable under California law.

Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable. Any such provisions contained in the Franchise Agreement or Supplemental Agreements may not be enforceable.

You must sign a general release of claims if you renew or transfer your Franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

Our website has not been reviewed or approved by the California Department of Business Oversight. Any complaints concerning the content of this website may be directed to the California Department of Business Oversight at [www.dbo.ca.gov](http://www.dbo.ca.gov).

Item 6 of the FDD is amended to state the highest interest rate allowed by law in California is 10% annually.

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 and 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.

## **HAWAII**

The following is added to the Cover Page:

**THIS FRANCHISE WILL BE/HAS BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED IN THIS FRANCHISE DISCLOSURE DOCUMENT IS TRUE, COMPLETE AND NOT MISLEADING.**

**THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO YOU OR SUBFRANCHISOR AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY YOU OR SUBFRANCHISOR OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY YOU, WHICHEVER OCCURS**

**FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.**

**THIS FRANCHISE DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT**

**OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH US AND YOU.**

Registered agent in the state authorized to receive service of process:

Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813

The status of the Franchisor's franchise registrations in the states which require registration is as follows:

1. States in which this proposed registration is effective are listed on the third page of the FDD on the page entitled, "State Effective Dates."
2. States which have refused, by order or otherwise, to register these Franchises are: None
3. States which have revoked or suspended the right to offer the Franchises are: None
4. States in which the proposed registration of these Franchises has been withdrawn are: None

**ILLINOIS**

Sections 4 and 41 and Rule 608 of the Illinois Franchise Disclosure Act states that court litigation must take place before Illinois federal or state courts and all dispute resolution arising from the terms of this Agreement or the relationship of the parties and conducted through arbitration or litigation shall be subject to Illinois law. The FDD, Franchise Agreement and Supplemental Agreements are amended accordingly.

The governing law or choice of law clause described in the FDD and contained in the Franchise Agreement and Supplemental Agreements is not enforceable under Illinois law. This governing law clause shall not be construed to negate the application of Illinois law in all situations to which it is applicable.

Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void." The Franchise Agreement is amended accordingly. To the extent that the Franchise Agreement would otherwise violate Illinois law, such Agreement is amended by providing that all litigation by or between you and us, arising directly or indirectly from the Franchise relationship, will be commenced and maintained in the state courts of Illinois or, at our election, the United States District Court for Illinois, with the specific venue in either court system determined by appropriate jurisdiction and venue requirements, and Illinois law will pertain to any claims arising under the Illinois Franchise Disclosure Act.

Item 17.v, Choice of Forum, of the FDD is revised to include the following: "provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act."

Item 17.w, Choice of Law, of the FDD is revised to include the following: "provided, however, that the foregoing shall not be considered a waiver of any right granted upon you by Section 4 of the Illinois Franchise Disclosure Act".

The termination and non-renewal provisions in the Franchise Agreement and the FDD may not be enforceable under Sections 19 and 20 of the Illinois Franchise Disclosure Act.



Under Section 705/27 of the Illinois Franchise Disclosure Act, no action for liability under the Illinois Franchise Disclosure Act can be maintained unless brought before the expiration of three years after the act or transaction constituting the violation upon which it is based, the expiration of one year after you become aware of facts or circumstances reasonably indicating that you may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to you of a written notice disclosing the violation, whichever shall first expire. To the extent that the Franchise Agreement is inconsistent with the Illinois Franchise Disclosure Act, Illinois law will control and supersede any inconsistent provision(s).

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 and 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.

## **INDIANA**

Item 8 of the FDD is amended to add the following:

Under Indiana Code Section 23-2-2.7-1(4), we will not accept any rebates from any person with whom you do business or associate in relation to transactions between you and the other person, other than for compensation for services rendered by us, unless the rebate is properly accounted for and submitted to you.

Item 17 of the FDD is amended to add the following:

Indiana Code 23-2-2.7-1(7) makes it unlawful for us to unilaterally terminate your Franchise Agreement unless there is a material violation of the Franchise Agreement and termination is not in bad faith.

Indiana Code 23-2-2.7-1(5) prohibits us to require you to agree to a prospective general release of claims subject to the Indiana Deceptive Franchise Practices Act.

The “Summary” column in Item 17.r. of the FDD is deleted and the following is inserted in its place: No competing business for two years within the Territory.

The “Summary” column in Item 17.t. of the FDD is deleted and the following is inserted in its place:

Notwithstanding anything to the contrary in this provision, you do not waive any right under the Indiana Statutes with regard to prior representations made by us.

The “Summary” column in Item 17.v. of the FDD is deleted and the following is inserted in its place:

Litigation regarding Franchise Agreement in Indiana; other litigation in Franchisor’s Choice of Law State. This language has been included in this Franchise Disclosure Document as a condition to registration. The Franchisor and the Franchisee do not agree with the above language and believe that each of the provisions of the Franchise Agreement, including all venue provisions, is fully enforceable. The Franchisor and the Franchisee intend to fully enforce all of the provisions of the Franchise Agreement and all other documents signed by them, including but not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

The “Summary” column in Item 17.w. of the FDD is deleted and the following is inserted in its place:

Indiana law applies to disputes covered by Indiana franchise laws; otherwise Franchisor’s Choice of Law State law applies.

Despite anything to the contrary in the Franchise Agreement, the following provisions will supersede and apply to all Franchises offered and sold in the State of Indiana:

1. The laws of the State of Indiana supersede any provisions of the FDD, the Franchise Agreement, or Franchisor's Choice of Law State law, if such provisions are in conflict with Indiana law.
2. The prohibition by Indiana Code 23-2-2.7-1(7) against unilateral termination of the Franchise without good cause or in bad faith, good cause being defined under law as including any material breach of the Franchise Agreement, will supersede the provisions of the Franchise Agreement relating to termination for cause, to the extent those provisions may be inconsistent with such prohibition.
3. Any provision in the Franchise Agreement that would require you to prospectively assent to a release, assignment, novation, waiver, or estoppel which purports to relieve any person from liability imposed by the Indiana Deceptive Franchise Practices Law is void to the extent that such provision violates such law.
4. The covenant not to compete that applies after the expiration or termination of the Franchise Agreement for any reason is hereby modified to the extent necessary to comply with Indiana Code 23-2-2.7-1 (9).
5. The following provision will be added to the Franchise Agreement:

No Limitation on Litigation. Despite the foregoing provisions of this Agreement, any provision in the Agreement which limits in any manner whatsoever litigation brought for breach of the Agreement will be void to the extent that any such contractual provision violates the Indiana Deceptive Franchise Practices Law.

Item 8 of the FDD is amended to add the following:

Under Indiana Code Section 23-2-2.7-1(4), we will not accept any rebates from any person with whom you do business or associate in relation to transactions between you and the other person, other than for compensation for services rendered by us, unless the rebate is properly accounted for and submitted to you.

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 and 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.

### **IOWA**

Any provision in the Franchise Agreement or Compliance Questionnaire which would require you to prospectively assent to a release, assignment, novation, waiver, or estoppel which purports to relieve any person from liability imposed by the Iowa Business Opportunity Promotions Law (Iowa Code Ch. 551A) is void to the extent that such provision violates such law.

The following language will be added to the Franchise Agreement:

### **NOTICE OF CANCELLATION**

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence or business address, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do not agree to return the goods to the seller or if the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to Hawaii Fluid Art Franchising, LLC at 610 Uptown Blvd, STE 3900, Cedar Hill, TX 75104 not later than midnight of the third business day after the Effective Date.

I hereby cancel this transaction.

Franchisee: \_\_\_\_\_

Signed: \_\_\_\_\_

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

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

## **MARYLAND**

### **AMENDMENTS TO FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENTS AND AREA DEVELOPMENT AGREEMENT**

Item 17 of the FDD and the Franchise Agreement are amended to state: "The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law."

Item 17 of the FDD and sections of the Franchise Agreement and Area Development Agreement are amended to state that you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the Franchise.

The Franchise Agreement and Franchise Disclosure Questionnaire are amended to state that all representations requiring prospective franchisees to assent to a release, estoppel, or waiver of liability are not intended to, nor shall they act as, a release, estoppel, or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law (11 U.S.C.A Sec. 101 et seq.).

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 and 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.

Based upon the franchisor's financial condition, the Maryland Securities Commissioner has required a financial assurance. Therefore, all initial fees and payments owed by franchisees shall be deferred until the franchisor completes its pre-opening obligations under the franchise agreement. In addition, all development fees and initial payments by area developers shall be deferred until the first franchise under the development agreement opens.

## **MICHIGAN**

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

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

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

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

(iv) your or proposed transferee's failure to pay any sums owing to us or to cure any default in the Franchise Agreement existing at the time of the proposed transfer.

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

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

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

Any questions regarding this notice should be directed to: State of Michigan

Department of Attorney General Consumer Protection Division Attn: Franchise  
670 Law Building 525 W. Ottawa Street  
Lansing, Michigan 48909  
Telephone Number: (517) 335-7632

**MINNESOTA**

Despite anything to the contrary in the Franchise Agreement, the following provisions will supersede and apply to all Franchises offered and sold in the State of Minnesota:

1. Any provision in the Franchise Agreement which would require you to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22 will be void to the extent that such contractual provision violates such law.

2. Minnesota Statute Section 80C.21 and Minnesota Rule 2860.4400J prohibit the franchisor from requiring litigation to be conducted outside of Minnesota. In addition, nothing in the FDD or Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum, or remedies provided for by the laws of Minnesota.

3. Minn. Rule Part 2860.4400J prohibits a franchisee from waiving his rights to a jury trial or waiving his rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or consenting to liquidated damages, termination penalties or judgment notes. Any provision in the Franchise Agreement which would require you to waive your rights to any procedure, forum or remedies provided for by the laws of the State of Minnesota is deleted from any agreement relating to Franchises offered and sold in the State of Minnesota; provided, however, that this paragraph will not affect the obligation in the Franchise Agreement relating to arbitration.

4. With respect to Franchises governed by Minnesota law, we will comply with Minnesota Statute Section 80C.14, Subds. 3, 4 and 5, which require, except in certain specified cases, that you be given 90

days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement; and that consent to the transfer of the Franchise will not be unreasonably withheld.

5. Item 13 of the FDD is hereby amended to state that we will protect your rights under the Franchise Agreement to use the Marks, or indemnify you from any loss, costs, or expenses arising out of any third-party claim, suit or demand regarding your use of the Marks, if your use of the Marks is in compliance with the provisions of the Franchise Agreement and our System standards.

6. Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release. As a result, the FDD and the Franchise Agreement, which require you to sign a general release prior to renewing or transferring your Franchise, are hereby deleted from the Franchise Agreement, to the extent required by Minnesota law.

7. The following language will appear as a new paragraph of the Franchise Agreement:

No Abrogation. Pursuant to Minnesota Statutes, Section 80C.21, nothing in the dispute resolution section of this Agreement will in any way abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80.C.

8. Minnesota Statute Section 80C.17 states that no action for a violation of Minnesota Statutes, Sections 80C.01 to 80C.22 may be commenced more than three years after the cause of action accrues. To the extent that the Franchise Agreement conflicts with Minnesota law, Minnesota law will prevail.

9. Item 6 of the FDD and Section 4.9 of the Franchise Agreement is hereby amended to limit the Insufficient Funds Charge to \$30 per occurrence pursuant to Minnesota Statute 604.113.

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 and 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.

## NEW YORK

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT F OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

With the exception of what is stated above, the following applies to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal, or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature, or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge, or within the ten-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunction or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of the “Summary” sections of Item 17(c), titled “**Requirements for Franchisee to renew or extend,**” and Item 17(m), entitled “**Conditions for Franchisor approval of transfer:**”

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Section 33 of the General Business law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17(d), titled “**Termination by Franchisee:**”

You may terminate the agreement on any grounds available by law.

5. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of Forum,**” and Item 17(w), titled “**Choice of Law:**”

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Section 33 of the General Business Law of the State of New York.

6. Franchise Questionnaires and Acknowledgements - 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 and 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.

7. Receipts – Any sale made must be in compliance with Section 638(8) of the Franchise Sale Act (N.Y. Gen. Bus. L. Sec.680 *et seq.*), which describes the time period a Franchise Disclosure Document (offering prospectus) must be provided to a prospective franchisee before a sale may be made. New York law requires a franchisor to provide the Franchise Disclosure Document at the earlier of the first personal

meeting, ten (10) business days before the execution of the franchise or other agreement, or the payment of any consideration that relates to the franchise relationship.

## **NORTH DAKOTA**

The North Dakota Commissioner's officer has required a financial assurance. Franchisor elects fee deferral until all initial obligations owed to franchisee under the franchise agreement or other documents have been fulfilled by the franchisor and the franchisee has commenced doing business pursuant to the franchise agreement.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring that you sign a general release, estoppel, or waiver as a condition of renewal and/or assignment may not be enforceable as they relate to releases of the North Dakota Franchise Investment Law.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring resolution of disputes to be outside North Dakota may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Sections of the FDD, the Franchise Agreement, and the Supplemental Agreements relating to choice of law may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to liquidated damages and/or termination penalties may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to a waiver of trial by jury may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Any sections of the FDD, the Franchise Agreement, and the Supplemental Agreements requiring you to consent to a waiver of exemplary and punitive damages may not be enforceable under Section 51-19-09 of the North Dakota Franchise Investment Law, and are amended accordingly to the extent required by law.

Item 17(r) of the FDD and Section 12.1 of the Franchise Agreement disclose the existence of certain covenants restricting competition to which Franchisee must agree. The Commissioner has held that covenants restricting competition contrary to Section 9-08-06 of the North Dakota Century Code, without further disclosing that such covenants may be subject to this statute, are unfair, unjust, or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. The FDD and the Franchise Agreement are amended accordingly to the extent required by 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 and 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.

## **OHIO**

The following language will be added to the front page of the Franchise Agreement:

You, the purchaser, may cancel this transaction at any time prior to midnight of the fifth business day after the date you sign this agreement. See the attached notice of cancellation for an explanation of this right.



Initials \_\_\_\_\_

Date \_\_\_\_\_

NOTICE OF CANCELLATION

\_\_\_\_\_ (enter date of transaction)

You may cancel this transaction, without penalty or obligation, within five business days from the above date. If you cancel, any payments made by you under the agreement, and any negotiable instrument executed by you will be returned within ten business days following the seller’s receipt of your cancellation notice, and any security interest arising out of the transaction will be cancelled. If you cancel, you must make available to the seller at your business address all goods delivered to you under this agreement; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk. If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of them without further obligation. If you fail to make the goods available to the seller, or if you agree to return them to the seller and fail to do so, then you remain liable for the performance of all obligations under this agreement. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice to Hawaii Fluid Art Franchising, LLC at 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104 not later than midnight of the fifth business day after the Effective Date.

I hereby cancel this transaction.

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

Franchisee: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

**RHODE ISLAND**

§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.” The FDD, the Franchise Agreement, and the Supplemental Agreements are amended accordingly to the extent required by law.

The above language has been included in this FDD as a condition to registration. The Franchisor and the Franchisee do not agree with the above language and believe that each of the provisions of the Franchise Agreement and the Supplemental Agreements, including all choice of law provisions, are fully enforceable. The Franchisor and the Franchisee intend to fully enforce all of the provisions of the Franchise Agreement, the Supplemental Agreements, and all other documents signed by them, including, but not limited to, all venue, choice-of-law, arbitration provisions and other dispute avoidance and resolution provisions and to rely on federal pre-emption under the Federal Arbitration Act.

**VIRGINIA**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the FDD for Hawaii Fluid Art Franchising, LLC for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure. The following statements are added to Item 8 and Item 17.h.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

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 and 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.

## **WASHINGTON**

Franchisor will defer collection of all initial franchise fees described in Item 5 until the Franchisor has fulfilled its initial pre-opening obligations to the Franchisee and until the Franchisee has opened their Franchised Business.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180(1), RCW 19.100.180(2)(g), and RCW 19.100.22(2) may supersede the franchise agreement in your relationship with the franchisor including the areas of termination, noncompetition, and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In accordance with RCW 19.100.180(2)(g) and RCW 19.100.220(2), Sections 16.5 and 16.7 of the Franchise Agreement shall not apply to Washington franchisees.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

Franchisee’s obligations to indemnify, defend, and hold harmless referenced in Section 11 of the Franchise Agreement does not extend to liabilities caused by the Franchisor’s or its Indemnified Parties’ negligence, willful misconduct, strict liability, or fraud.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor’s reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee’s earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor’s earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for

inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

In accordance with Washington Franchise Act Interpretive Statement – FIS-03, Franchisor shall not terminate the Franchise Agreement upon the death of the franchisee unless Franchisor can show that the termination is for good cause under RCW 19.100.180(2) (j) and it does not violate RCW 19.100.180(1) and (2) (c). Additionally, Franchisor shall provide franchisees in Washington 180 days to effect a transfer upon the death or incapacity of the franchisee.

Section 15.5(c) of the Franchise Agreement will be modified to be consistent with RCW 19.100.180(2), including that the franchisor shall purchase the assets referenced in the statute at their fair market value at the time of the early termination or non-renewal of the Franchise Agreement, with only such amounts permitted to be offset by any amounts owed by the franchisee to the franchisor.

Section 12.5 of the Franchise Agreement shall not be applicable to Washington franchisees.

Point 15 in Exhibit H to the Franchise Disclosure Document, states that the parties acknowledge and agree that the restrictive covenants 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 the franchisor. This provision will not apply to Washington franchisees.

The following statement in the Personal Guarantee of Exhibit B to the Franchise Agreement and Exhibit B of the Development Agreement shall not apply to Washington franchisees; “[t]he Guarantors represent and agree that they have each reviewed a copy of the Franchise Agreement and have had the opportunity to consult with counsel to understand the meaning and import of the Franchise Agreement and this Guarantee.”

To the extent Franchisor is assessed a sales tax for sales and resales to franchisees, Franchisor will pass through that amount to the franchisee making the purchase.

In Section 8.5 of the Development Agreement, the first sentence shall not apply to Washington franchisees.

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 and 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.

### **WISCONSIN**

The Wisconsin Fair Dealership Law, Chapter 135 of the Wisconsin Statutes supersedes any provision of the Franchise Agreement if such provision is in conflict with that law. The Franchise Disclosure Document, the Franchise Agreement and the Supplemental Agreements are amended accordingly.

[SIGNATURES PAGE FOLLOWS]

**APPLICABLE ADDENDA**

The Addenda shall be incorporated into the Franchise Disclosure Document, Franchise Agreement, Area Development Agreement, and any other related agreement(s) entered into by us and the undersigned Franchisee. To the extent any terms of an Applicable Addenda conflict with the terms of the Franchise Disclosure Document, Franchise Agreement and other specified agreement(s), the terms of the Applicable Addenda shall supersede the terms of the Franchise Agreement.

- California
- Hawaii
- Illinois
- Iowa
- Indiana
- Maryland

- Michigan
- Minnesota
- New York
- North Dakota
- Ohio

- Rhode Island
- South Dakota
- Virginia
- Washington
- Wisconsin

The undersigned does hereby acknowledge receipt of this addenda.

**Dated:**

**FRANCHISOR:**  
HAWAII FLUID ART FRANCHISING, LLC

By:

Name:

Title:

**FRANCHISEE:**  
[FRANCHISEE ENTITY]

By:

Name:

Title:

**EXHIBIT E  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**TABLE OF CONTENTS FOR FRANCHISE OPERATIONS MANUAL**



**TABLE OF CONTENTS FOR FRANCHISE OPERATIONS MANUAL**

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Pre-Opening and Training	17
Accounting	13
Human Resources	37
Marketing, Social Media, and SEO	24
Daily Operations	19
Safety and Security	23
<b>TOTAL PAGES IN MANUAL</b>	<b>178</b>

**EXHIBIT F  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

## List of State Regulatory Administrators

We intend to register this disclosure document as a “franchise” in some or all of the following states, if required by the applicable state laws. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are the state administrators responsible for the review, registration, and oversight of franchises in these states:

<b>LIST OF STATE ADMINISTRATORS</b>	
<p><b><u>CALIFORNIA</u></b>                      Department of Financial Protection and Innovation                      320 West 4th Street, Suite 750                      Los Angeles, California 90013-2344                      (213) 576-7500                      Toll Free (866) 275-2677</p>	<p><b><u>CONNECTICUT</u></b>                      State of Connecticut                      Department of Banking                      Securities &amp; Business Investments Division                      260 Constitution Plaza                      Hartford, Connecticut 06103-1800                      (860) 240-8230</p>
<p><b><u>HAWAII</u></b>                      Commissioner of Securities of the State of Hawaii                      Department of Commerce and Consumer Affairs                      Business Registration Division                      Securities Compliance Branch                      335 Merchant Street, Room 203                      Honolulu, Hawaii 96813                      (808) 586-2722</p>	<p><b><u>ILLINOIS</u></b>                      Franchise Bureau                      Office of the Attorney General                      500 South Second Street                      Springfield, Illinois 62706                      (217) 782-4465</p>
<p><b><u>INDIANA</u></b>                      Indiana Secretary of State                      Franchise Section                      302 Washington Street, Room E-111                      Indianapolis, Indiana 46204                      (317) 232-6681</p>	<p><b><u>MARYLAND</u></b>                      Office of the Attorney General                      Securities Division                      200 St. Paul Place                      Baltimore, Maryland 21202-2021                      (410) 576-6360</p>
<p><b><u>MICHIGAN</u></b>                      Michigan Attorney General's Office                      Corporate Oversight Division, Franchise Section                      525 W. Ottawa Street                      G. Mennen Williams Building, 1<sup>st</sup> Floor                      Lansing, Michigan 48933                      (517) 373-7117</p>	<p><b><u>MINNESOTA</u></b>                      Minnesota Department of Commerce                      85 7<sup>th</sup> Place East, Suite 280                      St. Paul, Minnesota 55101-2198                      (651) 539-1600</p>
<p><b><u>NEW YORK</u></b>                      New York State Department of Law                      Investor Protection Bureau                      28 Liberty Street, 21<sup>st</sup> Floor                      New York, NY 10005                      (212) 416-8222</p>	<p><b><u>NORTH DAKOTA</u></b>                      North Dakota Securities Department                      State Capitol                      Department 414                      600 East Boulevard Avenue, Fourteenth Floor                      Bismarck, North Dakota 58505-0510                      (701) 328-4712</p>
<p><b><u>OREGON</u></b>                      Department of Business Services                      Division of Finance and Corporate Securities                      Labor and Industries Building                      350 Winter Street, NE Room 410                      Salem, Oregon 97310                      (503) 378-4387</p>	<p><b><u>RHODE ISLAND</u></b>                      Department of Business Regulation Securities Division,                      Building 69, First Floor                      John O. Pastore Center                      1511 Pontiac Avenue                      Cranston, Rhode Island 02920                      (401) 462-9527</p>
<p><b><u>SOUTH DAKOTA</u></b>                      Division of Insurance                      Securities Regulation                      124 S. Euclid, Suite 104                      Pierre, South Dakota 57501                      (605) 773-3563</p>	<p><b><u>VIRGINIA</u></b>                      State Corporation Commission                      Division of Securities and Retail Franchising                      1300 East Main Street, 9th Floor                      Richmond, Virginia 23219                      (804) 371-9051</p>
<p><b><u>WASHINGTON</u></b>                      Department of Financial Institutions                      Securities Division,                      P.O. Box 41200                      Olympia, Washington 98504-1200                      (360) 902-8760</p>	<p><b><u>WISCONSIN</u></b>                      Division of Securities                      4822 Madison Yards Way, North Tower                      Madison, Wisconsin 53705                      (608) 266-2139</p>



## List of Agents for Service of Process

We intend to register this disclosure document as a “franchise” in some or all of the following states, if required by the applicable state law. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, we will designate the following state offices or officials as our agents for service of process in these states:

<b>LIST OF STATE AGENT FOR SERVICE OF PROCESS</b>	
<p><b><u>CALIFORNIA</u></b>                      Commissioner                      Department of Financial Protection and Innovation                      320 West 4<sup>th</sup> Street, Suite 750                      Los Angeles, California 90013-2344                      (213) 576-7500                      Toll Free (866) 275-2677</p>	<p><b><u>CONNECTICUT</u></b>                      Banking Commissioner                      Department of Banking                      Securities &amp; Business Investments Division                      260 Constitution Plaza                      Hartford, Connecticut 06103-1800                      (860) 240-8230</p>
<p><b><u>HAWAII</u></b>                      Commissioner of Securities of the State of Hawaii                      Department of Commerce and Consumer Affairs                      Business Registration Division                      Securities Compliance Branch                      335 Merchant Street, Room 203                      Honolulu, Hawaii 96813                      (808) 586-2722</p>	<p><b><u>ILLINOIS</u></b>                      Illinois Attorney General                      Office of the Attorney General                      500 South Second Street                      Springfield, Illinois 62706                      (217) 782-4465</p>
<p><b><u>INDIANA</u></b>                      Indiana Secretary of State                      Franchise Section                      302 West Washington Street, Room E-111                      Indianapolis, Indiana 46204                      (317) 232-6681</p>	<p><b><u>MARYLAND</u></b>                      Maryland Securities Commissioner                      200 St. Paul Place                      Baltimore, Maryland 21202-2021                      (410) 576-6360</p>
<p><b><u>MICHIGAN</u></b>                      Michigan Attorney General's Office                      Corporate Oversight Division, Franchise Section                      525 W. Ottawa Street                      G. Mennen Williams Building, 1<sup>st</sup> Floor                      Lansing, Michigan 48933                      (517) 373-7117</p>	<p><b><u>MINNESOTA</u></b>                      Minnesota Commissioner of Commerce                      Minnesota Department of Commerce                      85 7th Place East, Suite 280                      St. Paul, Minnesota 55101-2198                      (651) 539-1600</p>
<p><b><u>NEW YORK</u></b>                      Secretary of State                      99 Washington Avenue                      Albany, NY 12231                      (518) 472-2492</p>	<p><b><u>NORTH DAKOTA</u></b>                      North Dakota Securities Commissioner                      State Capitol                      600 East Boulevard Avenue, Fifth Floor                      Bismarck, North Dakota 58505                      (701) 328-4712</p>
<p><b><u>OREGON</u></b>                      Secretary of State                      Corporation Division - Process Service                      255 Capitol Street NE, Suite 151                      Salem, OR 97310-1327                      (503) 986-2200</p>	<p><b><u>RHODE ISLAND</u></b>                      Director of Department of Business Regulation                      Department of Business Regulation                      Securities Division, Building 69, First Floor                      John O. Pastore Center                      1511 Pontiac Avenue                      Cranston, Rhode Island 02920                      (401) 462-9527</p>
<p><b><u>SOUTH DAKOTA</u></b>                      Division of Insurance                      Securities Regulation                      124 S. Euclid, Suite 104                      Pierre, South Dakota 57501                      (605) 773-3563</p>	<p><b><u>VIRGINIA</u></b>                      Clerk of the State Corporation Commission                      1300 East Main Street, 1<sup>st</sup> Floor                      Richmond, Virginia 23219                      (804) 371-9733</p>
<p><b><u>WASHINGTON</u></b>                      Director, Department of Financial Institutions                      Securities Division, 3rd Floor                      150 Israel Road, Southwest                      Tumwater, Washington 98501                      (360) 902-8760</p>	<p><b><u>WISCONSIN</u></b>                      Administrator, Division of Securities                      4822 Madison Yards Way, North Tower                      Madison, Wisconsin 53705                      (608) 266-2139</p>

**EXHIBIT G  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT  
FORM OF GENERAL RELEASE**

## GENERAL RELEASE OF CLAIMS

*[This is our current standard form of General Release. This document is not signed when you purchase a franchise. In circumstances such as a renewal of your franchise or as a condition of our approval of a sale of your franchise, we may require you to sign a general release.]*

This General Release of Claims (“Release”) is made as of the date signed below, by the individual or entity listed below as franchisee (“Franchisee”), and each individual holding an ownership interest in Franchisee (collectively with Franchisee, “Releasor”) in favor of Hawaii Fluid Art Franchising, LLC (“Franchisor,” and together with Releasor, the “Parties”).

**WHEREAS**, Franchisor and Franchisee have entered into a Franchise Agreement (“Agreement”) pursuant to which Franchisee was granted the right to own and operate a Hawaii Fluid Art® business;

**WHEREAS**, [Franchisee has notified Franchisor of its desire to transfer the Agreement and all rights related thereto, or an ownership interest in Franchisee, to a transferee/enter into a successor franchise agreement/amend the Agreement] OR [the Agreement is being terminated/or indicate other reason for the requirement of this waiver and release], and Franchisor has consented to such; and

**WHEREAS**, as a condition to Franchisor’s consent, Releasor has agreed to execute this Release upon the terms and conditions stated below.

**NOW, THEREFORE**, in consideration of Franchisor’s consent, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and intending to be legally bound, Releasor hereby agrees as follows:

**1. Representations and Warranties.** Releasor represents and warrants that it is duly authorized to enter into this Release and to perform the terms and obligations herein contained, and has not assigned, transferred, or conveyed, either voluntarily or by operation of law, any of its rights or claims against Franchisor or any of the rights, claims, or obligations being terminated and released hereunder. Each individual executing this Release on behalf of Franchisee represents and warrants that he/she is duly authorized to enter into and execute this Release on behalf of Franchisee. Releasor further represents and warrants that all individuals that currently hold a direct or indirect ownership interest in Franchisee are signatories to this Release.

**2. Release.** Releasor and its subsidiaries, affiliates, parents, divisions, successors and assigns, and all persons or firms claiming by, through, under, or on behalf of any or all of them, hereby release, acquit, and forever discharge Franchisor, any and all of its affiliates, parents, subsidiaries, or related companies, divisions, and partnerships, and its and their past and present officers, directors, agents, partners, shareholders, employees, representatives, successors and assigns, and attorneys, and the spouses of such individuals (collectively, the “Released Parties”), from any and all claims, liabilities, damages, expenses, actions, or causes of action which Releasor may now have or has ever had, whether known or unknown, past or present, absolute or contingent, suspected or unsuspected, of any nature whatsoever, including without limiting the generality of the foregoing, all claims, liabilities, damages, expenses, actions, or causes of action directly or indirectly arising out of or relating to the execution and performance of the Agreement and the offer and sale of the franchise related thereto, except to the extent such liabilities are payable by the applicable indemnified party in connection with a third party claim.

**3. Nondisparagement.** Releasor expressly covenants and agrees not to make any false representation of facts, or to defame, disparage, discredit, or deprecate any of the Released Parties or otherwise communicate with any person or entity in a manner intending to damage any of the Released Parties, their business, or their reputation.

**4. Confidentiality.** Releasor agrees to hold in strictest confidence and not disclose, publish, or use the existence of, or any details relating to, this Agreement to any third party without Franchisor’s express  
Hawaii Fluid Art Franchising, LLC  
FDD Exhibit G

written consent, except as required by law.

**5. Miscellaneous.**

a. Releasor agrees that it has read and fully understands this Release and that the opportunity has been afforded to Releasor to discuss the terms and contents of said Release with legal counsel and/or that such a discussion with legal counsel has occurred.

b. This Release shall be construed and governed by the laws of the state where the Franchised Business is located.

c. Each individual and entity that comprises Releasor shall be jointly and severally liable for the obligations of Releasor.

d. In the event that it shall be necessary for any Party to institute legal action to enforce or for the breach of any of the terms and conditions or provisions of this Release, the prevailing Party in such action shall be entitled to recover all of its reasonable costs and attorneys' fees.

e. All of the provisions of this Release shall be binding upon and inure to the benefit of the Parties and their current and future respective directors, officers, partners, attorneys, agents, employees, shareholders, and the spouses of such individuals, successors, affiliates, and assigns. No other party shall be a third-party beneficiary to this Release.

f. This Release constitutes the entire agreement and, as such, supersedes all prior oral and written agreements or understandings between and among the Parties regarding the subject matter hereof. This Release may not be modified except in a writing signed by all the Parties. This Release may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same document.

g. If one or more of the provisions of this Release shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Release, but this Release shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

h. Releasor agrees to do such further acts and things and to execute and deliver such additional agreements and instruments as any Released Party may reasonably require to consummate, evidence, or confirm the Release contained herein in the matter contemplated hereby.

i. Washington franchisees, this General Release of Claims does not apply to Claims arising under the Franchise Investment Protection Act, Chapter 19.100 RCW, or the rules adopted thereunder.

**[SIGNATURE PAGE FOLLOWS]**

**Signature Page to General Release Form**

IN WITNESS WHEREOF, Releasor has executed this Release as of the date signed below.

**FRANCHISEE:**  
[FRANCHISEE]

**By:**

**Name:**

**Title:**

**Date:**

**FRANCHISEE'S OWNERS:**  
*(add more lines signature lines as necessary)*

**By:**

**Name:**

**Date:**

**By:**

**Name:**

**Date:**

**EXHIBIT H  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**FORM OF CONFIDENTIALITY AND NONCOMPETE AGREEMENT**

## **FORM OF CONFIDENTIALITY AND NONCOMPETE AGREEMENT**

### **CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT**

*(for trained employees, officers, directors, general partners, members, Controlling Person(s) and any other management personnel of Franchisee)*

In consideration of my being a [INSERT TITLE/ROLE WITH FRANCHISEE] (the “Franchisee”), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I (the undersigned) hereby acknowledge and agree that Franchisee has acquired the right from Hawaii Fluid Art Franchising LLC (the “Company”) to: (i) establish and operate a Hawaii Fluid Art franchised business (the “Franchised Business”); and (ii) use in the operation of the Franchised Business the Company’s trade names, trademarks and service marks (collectively, the “Marks”) and the Company’s unique and distinctive format and system relating to the establishment and operation of Hawaii Fluid Art business (the “System”), as they may be changed, improved and further developed from time to time in the Company’s sole discretion, only at the following authorized and approved location: \_\_\_\_\_ (the “Premises”).

1. The Company possesses certain proprietary and confidential information relating to the operation of the Franchised Business and System generally, including without limitation: Company’s proprietary and confidential Operations Manual and other manuals providing guidelines, standards and specifications related to the establishment and operation of the Franchised Business (collectively, the “Manual”); Franchisor’s proprietary training materials and programs, as well as proprietary marketing methods and other instructional materials, trade secrets; information related to any other proprietary methodology or aspects of the System or the establishment and continued operation of the Franchised Business; financial information; any and all customer lists, contracts and other customer information obtained through the operation of the Franchised Business and other Hawaii Fluid Art businesses; any information related to any type of proprietary software that may be developed and/or used in the operation of with the Franchised Business; and any techniques, methods and know-how related to the operation of Hawaii Fluid Art business or otherwise used in connection with the System, which includes certain trade secrets, copyrighted materials, methods and other techniques and know-how (collectively, the “Confidential Information”).

2. Any other information, knowledge, know-how, and techniques which the Company specifically designates as confidential will also be deemed to be Confidential Information for purposes of this Agreement.

3. As [INSERT TITLE WITH RESPECT TO FRANCHISEE] of the Franchisee, the Company and Franchisee will disclose the Confidential Information to me in furnishing to me the training program and subsequent ongoing training, the Manual, and other general assistance during the term of this Agreement.

4. I will not acquire any interest in the Confidential Information, other than the right to utilize it in the operation of the Franchised Business during the term hereof, and the use or duplication of the Confidential Information, in whole or in part, for any use outside the System would constitute an unfair method of competition.

5. The Confidential Information is proprietary, involves trade secrets of the Company, and is disclosed to me solely on the condition that I agree, and I do hereby agree, that I shall hold in strict confidence all Confidential Information and all other information designated by the Company as confidential. Unless the Company otherwise agrees in writing, I will disclose and/or use the Confidential Information only in connection with my duties as [INSERT TITLE] of the Franchisee, and will continue not to disclose any such information even after I cease to be in that position and will not use any such information even after I cease to be in that position unless I can demonstrate that such information has become generally known or easily accessible other than by the breach of an obligation of Franchisee under the Franchise Agreement.

6. I will surrender any material containing some or all of the Confidential Information to the Company, upon request, or upon conclusion of the use for which the information or material may have been furnished.

7. Except as otherwise approved in writing by the Company, I shall not, while in my position with the Franchisee, for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation or limited liability company, own, maintain, engage in, be employed by, or have any interest in any other business which provides or offers group or individual art class instruction, the sale of works of art at a retail store, instruction in the technique of acrylic or resin pour painting (collectively, a "Competing Business"). I also agree that I will not undertake any action to divert business from the Franchised Business to any Competing Business, or solicit any of the former customers or employees of Franchisee for any competitive business purpose.

*7.1 Post-Term Restrictive Covenant for Controlling Person of Franchised Business or Manager/Officers/Directors of Franchisee.* In the event I am a manager of the Franchised Business, or an officer/director/manager/partner of Franchisee that has not already executed a personal guaranty agreeing to be bound by the terms of the Franchise Agreement, then I further agree that I will not be involved in a Competing Business of any kind for a period of one year after the expiration or termination of my employment with Franchisee for any reason: (i) at or within a 10-mile radius of the Premises; or (ii) within a 5-mile radius of any other Hawaii Fluid Art business that exists at the time my employment with Franchisee ceases through the date of my involvement with the Competing Business. I also agree that I will not be involved in the franchising or licensing of any Competing Business at any location, or undertake any action to divert business from the Franchised Business to any Competing Business or solicit any of the former customers or employees of Franchisee for any competitive business purpose, during this one-year period following the termination or expiration of my employment with the Franchisee.

8. I agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which the Company is a party, I expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

9. I understand and acknowledge that the Company 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 my consent, effective immediately upon receipt by me of written notice thereof; and I agree to comply forthwith with any covenant as so modified.

10. The Company is a third-party beneficiary of this Agreement and may enforce it, solely and/or jointly with the Franchisee. I am aware that my violation of this Agreement will cause the Company and the Franchisee irreparable harm; therefore, I acknowledge and agree that the Franchisee and/or the Company may apply for the issuance of 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. I agree to pay the Franchisee and the Company all the costs it/they incur(s), including, without limitation, legal fees and expenses, if this Agreement is enforced against me. Due to the importance of this Agreement to the Franchisee and the Company, any claim I have against the Franchisee or the Company is a separate matter and does not entitle me to violate, or justify any violation of this Agreement.

11. I shall not at any time, directly or indirectly, do any act that would or would likely be injurious or prejudicial to the goodwill associated with the Confidential Information and the System.

12. Franchisee shall make all commercially reasonable efforts to ensure that I act as required by this Agreement.



13. Any failure by Franchisor to object to or take action with respect to any breach of this Agreement by me shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by me.

14. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND MYSELF HEREBY IRREVOCABLY SUBMITS HIMSELF TO THE JURISDICTION OF THE STATE COURT CLOSEST TO FRANCHISOR'S THEN-CURRENT HEADQUARTERS OR, IF APPROPRIATE, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT FOR TEXAS. I HEREBY WAIVE ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. I HEREBY AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON ME IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW. I FURTHER AGREE THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE ONE OF THE COURTS DESCRIBED ABOVE IN THIS SECTION; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.

15. The parties acknowledge and agree that each of the covenants contained in this Agreement 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. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a part, I expressly agree to be bound by any lesser covenant subsumed within the terms of the covenant that imposes the maximum duty permitted by law as if the resulting covenant were separately stated in and made a part of this Agreement.

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

17. All notices and demands required to be given must be in writing and sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, facsimile or electronic mail, (provided that the sender confirms the facsimile or electronic mail, by sending an original confirmation copy by certified or registered mail or expedited delivery service within three (3) business days after transmission), to the respective party at the following address unless and until a different address has been designated by written notice.

The notice shall be addressed to: Maya Ratcliff, 610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by facsimile or electronic mail shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) business days after the time of mailing. Any change in the foregoing addresses shall be affected by giving fifteen (15) days written notice of such change to the other parties. Business day for the purpose of this Agreement excludes Saturday, Sunday and the following national holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving and Christmas.

18. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and inure to the benefit of its respective parent, successor, and assigns.

**IN WITNESS WHEREOF, this Agreement is made and entered into by the undersigned parties as of the Effective Date.**

**UNDERSIGNED**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGED BY FRANCHISEE**  
**[FRANCHISEE NAME]**

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

**EXHIBIT I  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**List of Current and Former Franchisees**

**Current and Former Franchisees**

**Franchisees Who Opened Hawaii Fluid Art Franchises (as of the fiscal year end Dec. 31, 2022):**

Franchisee	Address	Phone Number	Area Developer (Y/N)
KKRK, LLC	10600 S Pennsylvania Ave, Oklahoma City, OK 73170	405-808-5333	N
SRA ALCALA ENTERPRISE COMPANY, LLC	3231 Preston Rd Suite 6, Frisco, TX 75034	800-463-3793	Y
Bennett-Chew Marley Capital LLC	13603 Slide Rd, Lubbock, TX 79424	800-463-3793	Y

**Franchisees Who Opened Hawaii Fluid Art Franchises (from Jan. 1, 2023, through the Issuance Date):**

Franchisee	Address	Phone Number	Area Developer (Y/N)
Wolfmoon Inc.	1631 Pearl St, Boulder, CO 80302	720 485-0450	Y
VETERAN BRAND ENTERPRISES L.L.C.	2367 N High St, Columbus, OH 43201	618-541-1931	Y
Whitetail Meadow Inc	3252 Aspen Grove Drive Franklin, TN 37067	530-351-4483	Y

**Franchisees Who Have Signed Agreements But Not Yet Opened (as of the Issuance Date):**

Franchisee	Address	Phone Number	Area Developer (Y/N)
Leslie Boothe	8780 Neumann Dr. Elberts, AI 36530	334-531-3911	Y
FoxKnox Enterprises Inc.	26720 N. 10 <sup>th</sup> Lane Phoenix, AZ 85085	601-466-9500	Y
Seth Lowy	26720 N. 10 <sup>th</sup> Lane Phoenix, AZ 85085	602 793-9387	Y
Arches Art Adventures LLC	5224 SW. 159 Avenue, Miramar. Fl 33027	305-989-2941	N
Almina Holdings, LLC.	1053 NW 157 <sup>th</sup> Ave, Pembroke Pines, FL 33208	954-478-4811	Y
The Art Lady	4095 S State Rd 7, Wellington, FL 33449	319 400-811	N
Michele Vice	1160 Citrus Oaks Run, Winter Springs, FL 32708	321- 231-5231	Y
DP CREATIVITY LLC	17200 Oak Park Ave Unit 104, Tinley Park, IL 60477	708- 921-8551	Y
Boltimo Corporations	818 Lido, Rochester Hills, Michigan 48307	713-906-9422	N
Legacy Five	13 Mallard Dr Petal, Mississippi 75154	601-466-9500	Y
Ohana Creations, LLC	12 Nickel Springs Drive, Easley, SC 29542	703-786-8687	N
JMHSM, LLC	6101 Long Prairie Rd #736, Flower Mound TX 75028	800-463-3793	N
Renea Meyers	437 Cold Mountain Trl. Fort Worth, TX 76131	682 376-7515	N

BR Group of Companies	607 Mission Circle, Irving, TX, 75063	847-848-2269	N
Dawn Brandt	2240 Matlock Rd, Mansfield, TX 76063	972-655-6122	N
DREAM CITY ART LLC	450 Rockaway Drive, Midlothian TX 76065	817-504-9934	Y
Vicki Cravens	1704 Amazon Dr. Plano, Texas 75075	214 334-2773	N
Flowmix, Inc.	3910 Dalea Dr. Prosper, TX 75078	708-243-6853	N
Olivia Auston	1324 W. 320 North St. George, Utah 84700	435-215-5938	Y
Tao's Company, LLC	2406 Settlement Trl, Mount Pleasant, Wi 53406	262-497-6214	N

**Former Franchisees Who Were Terminated, Canceled, Not Renewed, or Otherwise Voluntarily or Involuntarily Ceased to Do Business Under the Franchise Agreement During our Prior Fiscal Year (or have not communicated with us within 10 weeks of the issuance date of this Disclosure Document):**

**None**

**EXHIBIT J  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**ELECTRONIC FUNDS TRANSFER AUTHORIZATION FORM**

**Bank Name:**

**ABA Number:**

**Account Number:**

**Account Name:**

Effective as of the date of the signature below, [FRANCHISEE NAME] (the "Franchisee") hereby authorizes Hawaii Fluid Art Franchising, LLC (the "Franchisor") or its designee to withdraw funds from the above-referenced bank account, electronically or otherwise, to cover the following payments that are due and owing Franchisor or its affiliates under the franchise agreement dated [EFFECTIVE DATE OF FA] (the "Franchise Agreement") for the business operating at the location identified on Attachment A of the Franchise Agreement (the "Franchised Business"): (i) all Royalty Fees; (ii) Marketing Fees; (iii) any amounts due and owing the Franchisor or its affiliates in connection with marketing materials or other supplies or inventory that is provided by Franchisor or its affiliates; and (iv) all other fees and amounts due and owing to Franchisor or its affiliates under the Franchise Agreement. Franchisee acknowledges each of the fees described above may be collected by the Franchisor (or its designee) as set forth in the Franchise Agreement.

The parties further agree that all capitalized terms not specifically defined herein will be afforded the definition they are given in the Franchise Agreement.

Such withdrawals shall occur on a weekly basis, or on such other schedule as Franchisor shall specify in writing. This authorization shall remain in full force and effect until terminated in writing by Franchisor. **PLEASE ATTACH A VOIDED BLANK CHECK, FOR PURPOSES OF SETTING UP BANK AND TRANSIT NUMBERS.**

AGREED ON \_\_\_\_\_:

**FRANCHISEE:**  
[FRANCHISEE]

**By:**

**Name:**

**Title:**

**FRANCHISOR:**  
HAWAII FLUID ART FRANCHISING, LLC

**By:**

**Name:**

**Title:**

**EXHIBIT K  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**LEASE RIDER**

THIS LEASE RIDER is entered into between the undersigned parties.

WHEREAS, Company and Franchisee are parties to a Franchise Agreement dated \_\_\_\_\_,  
(the "Franchise Agreement"); and

WHEREAS, the Franchise Agreement provides that Franchisee will operate a Hawaii Fluid Art ("Business")  
at a location that Franchisee selects and Company accepts; and

WHEREAS, Franchisee and Landlord propose to enter into the lease to which this Rider is attached (the  
"Lease"), pursuant to which Franchisee will occupy premises located at the address listed on the signature  
page below (the "Premises") for the purpose of constructing and operating the Business in accordance with  
the Franchise Agreement; and

WHEREAS, the Franchise Agreement provides that, as a condition to Company's authorizing Franchisee to  
enter into the Lease, the parties must execute this Lease Rider;

NOW, THEREFORE, in consideration of the mutual undertakings and commitments set forth in this Rider  
and in the Franchise Agreement, the receipt and sufficiency of which the parties acknowledge, the parties  
agree as follows:

1. During the term of the Franchise Agreement, Franchisee will be permitted to use the Premises for the  
operation of the Business and for no other purpose.
2. Subject to applicable zoning laws and deed restrictions and to prevailing community standards of decency,  
Landlord consents to Franchisee's installation and use of such trademarks, service marks, signs, decor items,  
color schemes, and related components of the Hawaii Fluid Art system as Company may from time to time  
prescribe for the Business.
3. Landlord agrees to furnish Company with copies of all letters and notices it sends to Franchisee pertaining  
to the Lease and the Premises, at the same time it sends such letters and notices to Franchisee. Notice shall be  
sent to Company by the method(s) as stated in the lease to:

Hawaii Fluid Art Franchising, LLC  
610 Uptown Blvd., STE 3900  
Cedar Hill, TX 75104  
info@hawaiifluidart.com

4. Company will have the right, without being guilty of trespass or any other crime or tort, to enter the  
Premises at any time or from time to time (i) to make any modification or alteration it considers necessary to  
protect the Hawaii Fluid Art system and marks, (ii) to cure any default under the Franchise Agreement or  
under the Lease, or (iii) to remove the distinctive elements of the Hawaii Fluid Art trade dress upon the  
Franchise Agreement's expiration or termination. Neither Company nor Landlord will be responsible to  
Franchisee for any damages Franchisee might sustain as a result of action Company takes in accordance with  
this provision. Company will repair or reimburse Landlord for the cost of any damage to the Premises' walls,  
floor or ceiling that result from Company's removal of trade dress items and other property from the Premises.

5. Franchisee will be permitted to assign the Lease to Company or its designee upon the expiration or  
termination of the Franchise Agreement. Landlord consents to such an assignment and agrees not to impose

any assignment fee or similar change, or to increase or accelerate rent under the Lease, in connection with such an assignment.

6. If Franchisee assigns the Lease to Company or its designee in accordance with the preceding paragraph, the assignee must assume all obligations of Franchisee under the Lease from and after the date of assignment, but will have no obligation to pay any delinquent rent or to cure any other default under the Lease that occurred or existed prior to the date of the assignment.

7. Franchisee may not assign the Lease or sublet the Premises without Company's prior written consent, and Landlord will not consent to an assignment or subletting by Franchisee without first verifying that Company has given its written consent to Franchisee's proposed assignment or subletting.

8. Landlord and Franchisee will not amend or modify the Lease in any manner that could materially affect any of the provisions or requirements of this Lease Rider without Company's prior written consent.

9. The provisions of this Lease Rider will supersede and control any conflicting provisions of the Lease.

10. Landlord acknowledges that Company is not a party to the Lease and will have no liability or responsibility under the Lease unless and until the Lease is assigned to, and assumed by, Company.

IN WITNESS WHEREOF, the parties have executed this Lease Rider on the date signed below:

**COMPANY:**

HAWAII FLUID ART FRANCHISING, LLC

**By:**

**Name:**

**Title:**

**FRANCHISEE:**

[FRANCHISEE]

**By:**

**Name:**

**Title:**

**LANDLORD:**

[LANDLORD]

**By:**

**Name:**

**Title:**

**Effective Date of this Lease Rider:**

**Premises Address:**



**EXHIBIT L  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**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 document is effective and may be used in the following states, where the document is filed or registered as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
California	June 28, 2023
Hawaii	December 21, 2023
Illinois	February 2, 2023
Indiana	November 3, 2022
Maryland	October 25, 2023
Michigan	May 4, 2023
Minnesota	August 28, 2023
New York	Application Pending
North Dakota	August 23, 2023
Rhode Island	June 1, 2023
South Dakota	June 2, 2023
Virginia	July 13, 2023
Washington	Application Pending
Wisconsin	May 17, 2023

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

## RECEIPT

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Hawaii Fluid Art 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 that you be given this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of any franchise or other agreement, or payment of any consideration that relates to the franchise relationship.

If Hawaii Fluid Art Franchising, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580, and any applicable state agency.

This franchise is being offered by the following seller(s) at the principal business address and phone number listed below (check all that have been involved in the sales process):

Name	Principal Business Address	Telephone Number
Maya Ratcliff	610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104	(800) 463-3793

I have received a Disclosure Document with an issuance date of April 19, 2024, which includes the following exhibits:

- Exhibit A – Financial Statements
  - Exhibit B – Franchise Agreement
  - Exhibit C – Area Development Agreement
  - Exhibit D – State Specific Addenda
  - Exhibit E – Manuals’ Table of Contents
  - Exhibit F – State Administrators & Agents for Service of Process
  - Exhibit G – Form of General Release
  - Exhibit H – Confidentiality and Noncompete Agreement
  - Exhibit I – List of Current and Former Franchisees
  - Exhibit J – Electronic Funds Transfer Form
  - Exhibit K – Lease Rider
  - Exhibit L – State Effective Dates
- Receipts

Signature:

Print Name:

Date Received:

**PLEASE SIGN AND KEEP THIS COPY FOR YOUR RECORDS.**

## RECEIPT

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

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  - Exhibit L – State Effective Dates
- Receipts

Signature:

Print Name:

Date Received:

**RETURN THIS COPY TO US:**

Hawaii Fluid Art Franchising, LLC  
c/o Maya Ratcliff  
610 Uptown Blvd., STE 3900, Cedar Hill, TX 75104  
info@hawaiifluidart.com

Hawaii Fluid Art  
FDD Receipts