

## FRANCHISE DISCLOSURE DOCUMENT

RED EFFECT INTERNATIONAL FRANCHISE, LLC  
a Michigan limited liability company  
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This Franchise Disclosure Document describes the Red Effect Infrared Fitness RE24 franchise, which is a fitness studio that offers members access to virtual fitness classes 24 hours a day, 7 days a week that combine infrared therapy inside of a infrared sauna designed for multiple modalities (including cycling, yoga, pilates, weight training, and other fitness training programs) and access to personal training services.

The total investment necessary to begin operation of an RE24 Fitness Studio is from \$184,500 to \$277,500. This includes \$164,500 to \$293,000 that must be paid to the franchisor or its affiliates. If you enter into a Multi-Unit Addendum with us for RE24 Fitness Studios (either a 3-Pack or a 10-Pack Multi-Unit Addendum), your initial investment will increase by the additional amount of the total initial franchise fees for the number of RE24 Fitness Studio franchises you commit to develop (\$30,000 in additional fees for the 3-Pack and \$130,000 in additional fees for the 10-Pack).

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 to you. To discuss the availability of disclosures in different formats, contact Mr. Carlos Guzman at the address and phone number listed above.

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 30, 2024

## 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 Exhibits J and K.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit L includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Red Effect 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 Red Effect franchisee?</b>	Exhibits J and K list current and former franchisees. You can contact them to ask about their experiences
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

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

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

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

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

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution**. The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration, and/or litigation only in Michigan. 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 Michigan than in your own state.
2. **Financial Condition**. The Franchisor's financial condition as reflected in the financial statements (see Item 21) calls into question the Franchisor's financial ability to provide services and support to you.
3. **Spousal Liability**. Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets (perhaps including your house) at risk if your franchise fails.
4. **Sales Performance Required**. You must maintain minimum sales performance levels. Your inability to maintain these levels may result in loss of any territorial rights you are granted, termination of your franchise, and loss of your investment.
5. **Mandatory Minimum Payments**. You must make mandatory minimum royalty payments or advertising contributions regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.

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

## **NOTICE UNDER MICHIGAN'S FRANCHISE INVESTMENT LAW**

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.

1. A prohibition on the right of a franchisee to join an association of franchisees.
2. A requirement that a franchisee assent to a release, assignment, novation, waiver or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
3. A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty (30) days, to cure such failure.
4. A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (1) the term of the franchise is less than five (5) years and (2) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least six (6) months advance notice of franchisor's intent not to renew the franchise.
5. A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
6. A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
7. A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - a. the failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards;
  - b. the fact that the proposed transferee is a competitor of the franchisor or sub-franchisor;

c. the unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations; and

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

8. A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor the right of first refusal to purchase the assets of a franchisee on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subsection 3.

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

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

IF FRANCHISOR'S MOST RECENT UNAUDITED FINANCIAL STATEMENT SHOWS A NET WORTH OF LESS THAN ONE HUNDRED THOUSAND (\$100,000) DOLLARS, YOU HAVE THE RIGHT TO REQUEST THE ESCROW OF THE INITIAL INVESTMENT AND OTHER FUNDS PAID UNTIL OBLIGATIONS TO PROVIDE REAL ESTATE, IMPROVEMENTS, EQUIPMENT INVENTORY, TRAINING OR OTHER ITEMS INCLUDED IN THE FRANCHISE OFFERING ARE FULFILLED.

ANY QUESTIONS REGARDING THIS NOTICE MAY BE DIRECTED TO THE STATE OF MICHIGAN, DEPARTMENT OF ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ATTN: FRANCHISE, G. MENNEN WILLIAMS BUILDING, 525 W. OTTAWA STREET, P.O. BOX 30213, LANSING, MICHIGAN 48909, TELEPHONE (517) 335-7567.

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## **ITEM 1--THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

### **Franchisor**

The Franchisor is Red Effect International Franchise, LLC. In this Franchise Disclosure Document, the Franchisor will be referred to as "we," "us," or "Red Effect," and the person who buys a franchise will be referred to as "you". If the prospective franchisee is a corporation, partnership, limited liability company or other entity, "you" will mean the entity and the owners of the entity.

We are a Michigan limited liability company, organized on April 19, 2016 under the name "ZIFit International Franchise, LLC." We changed our name to "Red Effect International Franchise, LLC" on November 16, 2017. We currently do business under our company name and the "Red Effect Infrared Fitness®," "Red Effect®," "Red Effect Infrared Fitness Studio™," and "RE24 Infrared Studio" names. We previously operated and authorized our franchisees to operate under the "ZIFit Infrared Fitness" name. All new franchisees will operate under the "Red Effect" name and we converted all existing ZIFit Infrared Fitness Studios so that they now operate under the "Red Effect" name. Our principal business address is 4000 Page Ave., Michigan Center, Michigan 49254. Our agents for service of process are listed on Exhibit A.

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

Our parent company is Red Effect Holdings, LLC, a Michigan limited liability company. We do not have any predecessors. We have a number of affiliates. Our affiliate, Massage Green International Franchise Corp., a Michigan corporation ("Massage Green"), is the franchisor of Massage Green® Spa franchises. Our affiliate, Stretch Smart International Franchise, LLC ("Stretch Smart"), is the franchisor of Stretch Smart single unit and area development franchises. Our affiliate, Red Effect Distributing, LLC, a Michigan limited liability company ("Red Effect Distributing"), will supply equipment and other goods to our franchisees. Our affiliate, Legacy Five Construction Pros, LLC, a Michigan limited liability company, provides general contractor services to Red Effect fitness studio franchises. We also have a number of affiliates that operate Red Effect fitness studios and a Massage Green Spa. Except as described above, we do not have any affiliates that offer franchises in any line of business or that provide products or services to our franchisees. The principal business address of our parent company and our affiliates listed above is the same as our principal business address. Our owner owns an interest in Lefty's Cheesesteaks Franchising, LLC ("Lefty's"), which is the franchisor of Lefty's Famous Cheesesteaks, Hoagies & Grill single unit and area development franchises. The principal business address of Lefty's is 29407 Six Mile Road, Livonia, Michigan 48152.

### **Franchisor's Business**

We offer and sell Red Effect Infrared Fitness Studio RE24 franchises. We may also offer and sell products and services to our franchisees. We do not currently have other business activities.

### **The Franchises Offered**

The Red Effect Infrared Studio RE24 franchise being offered in this Franchise Disclosure Document is a fitness studio that offers members access to virtual fitness classes 24 hours a day, 7 days a week that combine infrared therapy inside of a infrared sauna designed for multiple modalities (including cycling, yoga, pilates, weight training and other fitness training programs) and access to personal training services (sometimes referred to as an "RE24 Fitness Studio." An RE24 Fitness Studio will market its services to customers of all ages, but will target adults between the ages of 18

and 60. A typical RE24 Fitness Studio location will be approximately 1,500 to 2,500 square feet in size. An RE24 Fitness Studio will be constructed to our specifications as to size, layout, color scheme, décor, etc. An RE24 Fitness Studio will typically be located in a metropolitan area or surrounding suburbs with proximity to high traffic areas. An RE24 Fitness Studio may be located in a freestanding building or in an in-line retail plaza with ample parking, good visibility, and availability of prominent signage. An RE24 Fitness Studio franchise will be operated under our trademarks, which are described in Item 13 of this Franchise Disclosure Document (the "Franchise Marks") and in accordance with our systems, which may include trademarks, trade dress, equipment, layout, supplier and distribution arrangements, training, operational procedures, promotional techniques and materials, methods of inventory and operation, and manuals covering business practices and policies (the "Franchise System"). In the Franchise Agreement, the Franchise Marks, trade dress, any copyrights relating to the Franchise System, any inventions or patents that are part of the Franchise System, and confidential information, proprietary rights, trade secrets, methods, or procedures that are part of the Franchise System are referred to as the "Intellectual Property" and that term is also used in this Franchise Disclosure Document when describing provisions in the Franchise Agreement.

You acquire the right to operate an RE24 Fitness Studio franchise by signing our standard Franchise Agreement (see Exhibit B to this Franchise Disclosure Document). Under the Franchise Agreement you will acquire the right to operate a single RE24 Fitness Studio at a designated location (the "Franchise Location"). In the Franchise Agreement, the specific RE24 Fitness Studio franchise licensed to you is referred to as the "Franchise Business" and that term is also used in this Franchise Disclosure Document when describing provisions in the Franchise Agreement.

We have affiliates that develop and operate RE24 Fitness Studio franchises. You may have the opportunity to purchase an RE24 Fitness Studio franchise that is being developed (not yet operating) or that is operating from one of our affiliates. This opportunity is referred to in the Franchise Disclosure Document as a "Turn-Key Franchise." If you purchase a Turn-Key Franchise, in addition to signing a Franchise Agreement with us, you will sign an Agreement for Sale of Assets and related documents with one of our affiliates (see Item 10 and Exhibit G to this Franchise Disclosure Document).

If you request, we may authorize you to operate your franchise at a co-brand location. A co-brand location is a location that you will share with a business operating under a different brand. An example of a co-brand location is the operation of a Stretch Smart franchise at your franchise location. A co-brand location may also include the operation of an RE24 Fitness Studio franchise at the location of the other brand. In order to operate a co-brand location, you will also have to enter into a separate agreement with the owner of the other brand in order to have the authority to operate both brands from the same location. You must also receive our written consent, which we may deny in our sole discretion. If we authorize you to operate a co-brand location, you must sign our Addendum to Franchise Agreement for Co-Brand Location ("Co-Brand Addendum") (see Exhibit C).

### The RE24 Fitness Studio 3-Pack and 10-Pack Multi-Unit Addenda

If you desire to operate three RE24 Fitness Studios and to obtain a discount in the initial franchise fees you will pay, we may enter into a Three Unit Addendum to Franchise Agreements with you in the form attached as Exhibit D ("3-Pack Addendum"). At the same time as you enter into the 3-Pack Addendum, you will sign three separate Franchise Agreements with us—one for each of the RE24 Fitness Studios you will develop. If you desire to operate 10 RE24 Fitness Studios and to obtain a discount in the initial franchise fees you will pay, we may enter into a 10 Unit

Addendum to Franchise Agreements with you in the form attached as Exhibit E (“10-Pack Addendum”). At the same time as you enter into the 10-Pack Addendum, you will sign ten separate Franchise Agreements with us—one for each of the RE24 Fitness Studios you will develop. The 3-Pack Addendum and the 10-Pack Addendum will together be referred to as the “Multi-Unit Addendum.” The Multi-Unit Addendum supersedes the Franchise Agreement provisions relating to initial franchise fees (see Item 5) and the required opening dates of each of the RE24 Fitness Studios you will develop (see Items 9 and 11), otherwise your relationship with us will be controlled by the Franchise Agreement you sign for each RE24 Fitness Studio.

The opening dates of the RE24 Fitness Studios you must open under the Multi-Unit Addendum will be negotiated and specified in the Multi-Unit Addendum. If you fail to open any of the RE24 Fitness Studios by the required opening date or if you give written notice to us that you are ceasing development of further RE24 Fitness Studios: (a) the Multi-Unit Addendum will automatically terminate; (b) the Franchise Agreements for any of the RE24 Fitness Studios you have not opened may, in our discretion, be terminated under and subject to the terms of those Franchise Agreements; (c) no fees will be refunded; and (d) the Franchise Agreements for the RE24 Fitness Studios you have opened and any other Franchise Agreements we have not terminated will continue in effect in accordance with their terms.

### Market and Competition

An RE24 Fitness Studio will primarily serve the public within the vicinity of the Franchise Location. An RE24 Fitness Studio will offer products and services to the general public, but you will target adults between the ages of 18 and 60. The general market for the products and services offered by an RE24 Fitness Studio is developed and is highly competitive. Depending on the location and demographics, your RE24 Fitness Studio may have high/low seasons. An RE24 Fitness Studio will compete with other health and fitness facilities, including nationally affiliated, regionally affiliated and local, franchised and independently owned athletic or fitness centers, health clubs, gymnasiums, exercise or aerobics facilities, boot camp style fitness programs, and other health and fitness facilities.

### Industry Regulations

Many states and municipalities have laws and regulations regarding fitness center contracts with customers. These laws and regulations may regulate the membership contracts length and terms, and advertising, and may impose limitations on pre-opening sales, requiring bonds if the club sells memberships valid for more than a specified period of time, requiring owners to deposit into escrow certain amounts collected from members before the club opens, imposing other restrictions on memberships that the club may sell, and requiring certain disclosures or statements in membership contracts. These laws and regulations may also grant additional rights to members, including cancellation rights, rights on death or disability, and rights if the location ceases to operate or moves. Some states and municipalities have laws relating to health and fitness clubs, including laws requiring postings concerning use of steroids and other drugs, requiring certain medical equipment in the club, and limiting the supplements that clubs may sell. You must also comply with all local, state, and federal laws and regulations relating to your business and businesses in general. Building codes and requirements vary in different jurisdictions and it is important for you and your architect to be aware of and comply with all local laws as well as the federal laws including the Americans with Disabilities Act. You must become familiar with federal, state and local laws and health regulations. These laws and regulations may vary significantly from state to state and even from locality to locality.

You must ensure compliance with Payment Card Industry (“PCI”) Data Security Standard (“DSS”) Requirements and Security Assessment Procedures and other applicable PCI requirements (the “PCI Requirements”). The purpose of the PCI Requirements is to ensure the protection and privacy of customer information and credit card numbers. The PCI Requirements require secured data connections and other steps to protect information. The PCI Requirements are substantial and complex and change regularly, so you must devote material business and management time and effort to your compliance efforts. You could incur significant liability if there is credit card fraud and you have not complied with the PCI Requirements.

There may be other laws and regulations applicable to your business and we urge you to make inquiries about any laws or regulations that may impact your business. You should consult with your attorney and local, state, and federal government agencies before investing in an RE24 Fitness Studio franchise in order to identify all of the legal requirements relating to the business, the impact of those laws and regulations on the business, and the cost of compliance with those laws and regulations.

### Prior Business Experience

We do not operate a business of the type to be operated by our franchisees. Our affiliates have operated Red Effect Infrared Fitness Studios since April 2016 and RE24 Fitness Studios since February 2024. We began offering Red Effect Infrared Fitness Studio franchises in September 2016 and have offered franchises for RE24 Fitness Studio since the date of this Franchise Disclosure Document. We offered Red Effect Infrared Fitness area development franchises from September 2016 to April 2020.

Our affiliate, Massage Green, has offered Massage Green® Spa single unit and area development franchises since January 2009. The Massage Green® Spa single unit franchise offers on-premises massage therapy, on-premises lifestyle education classes, and environmentally conscious health and beauty take out items. As of December 31, 2023, Massage Green had 9 operating single unit franchises and 1 operating affiliate-owned units. Our affiliate, Stretch Smart, began offering Stretch Smart single unit and area development franchises in April 30, 2018. Stretch Smart does not currently offer any franchises but may do so in the future. The Stretch Smart™ single unit franchise offers on-premises assisted stretching therapy. As of December 31, 2023, Stretch Smart had 1 operating single unit franchises, no operating affiliate-owned units, and no operating area development franchises. Lefty’s has offered Lefty’s Famous Cheesesteaks, Hoagies & Grill single unit and area development franchises since April 2020. The Lefty’s Famous Cheesesteaks, Hoagies & Grill unit franchise is a modern and innovative fast casual restaurant offering cheesesteaks, hoagies, cold cuts, burgers, chicken sandwiches, corned beef, coney dogs, salads, and other menu items. As of December 31, 2019, Lefty’s had 22 operating unit franchises, 8 operating affiliate-owned units, and 1 operating area development franchise.

We have not offered franchises in any other line of business. Except as described above, our affiliates have not offered franchises in any line of business.

## **ITEM 2--BUSINESS EXPERIENCE**

### **Allie T. Mallad – Founder and Chief Executive Officer**

Mr. Mallad has been our Chief Executive Officer since April 2016. Mr. Mallad has been CEO of Red Effect Holdings, LLC since September 2016. Mr. Mallad has been CEO of Red Effect Distributing, LLC since September 2016. Mr. Mallad has been President and CEO of Massage

Green since July, 2008. Mr. Mallad has been President of Massage Green Distributing Inc. since July 2008. Mr. Mallad has been the Manager of MG Construction Pros, LLC since May 2012. Mr. Mallad has been the Manager of Legacy Five Construction Pros, LLC since January 2019. Mr. Mallad has been CEO of Stretch Smart since February 2018. Mr. Mallad has been CEO of Stretch Smart Holding, LLC and Stretch Smart Distributing, LLC since October 2017. Mr. Mallad has been CEO of Lefty's since April 2020. Mr. Mallad is also the Member or Manager of a number of affiliated entities that operate Red Effect Infrared Fitness Studios and a Massage Green Spa Store.

### **Carlos Guzman – President and Chief Operating Officer**

Mr. Guzman has been our President and Chief Operating Officer since May 2016. Mr. Guzman has been Chief Operating Officer of Massage Green since January 2017. From May 2016 to December 31, 2017, Mr. Guzman was Chief Marketing Officer of Massage Green. Mr. Guzman has been COO of Stretch Smart since March 2018. Mr. Guzman has been Senior Vice President of Operations of Lefty's since April 2020.

### **Chelsie Bender – Executive Vice President of Brand Marketing**

Ms. Bender has been our Executive Vice President of Brand Marketing since October 2023. Ms. Bender was previously our National Director of Brand Marketing and Creative from June 2017 to October 2023. Ms. Bender has been National Director of Brand Marketing and Creative of Stretch Smart since March 2018.

### **Gary Christmas – Executive Vice President of Video Production and Content Development**

Mr. Christmas has been our Executive Vice President of Video Production and Content Development since June 2023. Mr. Christmas was previously CEO and owner operator of his own video production consulting firm that produced HD Streaming, Episodic TV, Podcasting and Live Event production from 2006 to 2023 and served as Creative Director for The Online Training Academy during that time.

### **Erica Abbas – Vice President of Corporate Development**

Ms. Abbas has been our Vice President of Corporate Development since September 2019. Ms. Abbas was our Director of Human Resources from May 2016 to September 2019. Ms. Abbas has been Director of Administration and Human Resources for Massage Green since March 2017. Ms. Abbas was National Director of Corporate Administration for Massage Green from October 2014 to March 2017. Ms. Abbas has been Director of Human Resources and Administration of Stretch Smart since March 2018. Ms. Abbas was Assistant Director of Administration for Massage Green from August 2014 to December 2014. Ms. Abbas was a Manager of a Massage Green Spa in Allen Park, Michigan from August 2013 to August 2014 and was a Senior Sales Associate at a Massage Green Spa in Dearborn, Michigan from August 2009 to August 2013.

### **Amrieh Eljahmi– Vice President of Franchise Support**

Ms. Eljahmi has been our Vice President of Franchise Support since September 2023. Ms. Eljahmi was previously our National Director of Franchise Support from June 2019 to September 2023.

### **Sasha Konovalov – Director of Construction**

Mr. Konovalov has been our Director of Construction since January 2016. Mr. Konovalov has been Director of Construction for Legacy Five Construction Pros, LLC since January 2019. Mr. Konovalov Construction Supervisor for Legacy Five Construction Pros, LLC from January 2016 to January 2019.

### **Jodi Rosen – National Director of Fitness and Social Media Marketing**

Ms. Rosen has been our National Director of Fitness and Social Media Marketing since February 2024. Ms. Rosen was previously the Director of Fitness Training for affiliate-owned and franchised studios from May 2019 to February 2024.

## **ITEM 3--LITIGATION**

### **Actions Involving the Franchise Relationship in 2023**

None

### **Pending Actions**

*Commissioner of Financial Protection and Innovation's Investigation of Red Effect International Franchise, LLC and Red Effect Holdings, LLC* – Complaint 63461; Org-243588. By letter dated January 4, 2024, the California Department of Financial Protection and Innovation (the "Department") notified Red Effect that it had come to its attention that Red Effect was and/or may be engaged in activity that is in violation of the California Franchise Investment Law. The Department did not provide any specific claims or allegations but asked for specified information. Red Effect timely provided the information and is waiting to hear further from the Department.

*Red Fit, LLC and Cali Red, LLC v. Red Effect International Franchise, LLC, et al.* (U.S. District Court for the Eastern District of Michigan Case No. 2:20-cv-12513) (the "Red Fit Federal Case") and *Red Fit, LLC and Cali Red, LLC v. Red Effect International Franchise, LLC, et al.* (Oakland County, Michigan Circuit Court Case No. 2021-186383-CB) (the "Red Fit Oakland County Case"). On September 14, 2020, Red Fit, LLC and its affiliate ("plaintiffs") filed the Red Fit Federal Case against Red Effect, affiliates of Red Effect, and certain of Red Effect's employees ("defendants"). The plaintiffs claimed that defendants breached certain contracts by filing an arbitration action for unpaid royalties and defaulting under certain purchase agreements. The plaintiffs also claimed the defendants breached provisions of the Michigan and California franchise laws in connection with the purchase agreements and the offer and sale of franchises to plaintiffs. The plaintiffs also claimed they should be excused from certain obligations under the contracts because of the defendants' conduct and because of pandemic-related circumstances. The plaintiffs requested equitable and declaratory relief and damages of \$7,953.31 and other unspecified amounts. The defendants filed a motion to dismiss based, in part, on releases that had been signed by Red Fit, LLC. The plaintiffs responded to the motion. Before having a hearing or ruling on defendants' motion to dismiss, the federal court issued an order to show cause why the case should not be dismissed for lack of diversity jurisdiction. On February 12, 2021, the plaintiffs filed a response to the order to show cause, admitted there was a lack of diversity jurisdiction, and stated that they did not object to dismissal of the case on those grounds. Also on February 12, 2021, the plaintiffs filed the Red Fit Oakland County Case, in which the plaintiffs essentially made the same claims as in the Red Fit Federal Case. Defendants filed a motion for partial summary disposition in

the Red Fit Oakland County Case, in which defendants essentially made the same arguments as in the motion to dismiss filed in the Red Fit Federal Case. On August 26, 2021, the court issued an opinion and order regarding defendants' motion for partial summary disposition, which dismissed many of plaintiffs' claims. Later, a case evaluation panel found the plaintiffs' case to be frivolous. When plaintiffs refused to post a bond, as required under the Michigan court rules, this resulted in plaintiffs' remaining tort claims to be dismissed. The only remaining claim was for breach of contract. On October 14, 2022, after trial on the remaining claim and a motion for involuntary dismissal of the remaining claim, the court granted the motion for involuntary dismissal and dismissed the case. The plaintiffs filed an appeal on all the court's rulings in this matter. On May 30, 2024, the Michigan Court of Appeals issued an opinion affirming the trial court's rulings in the matter. It is not yet known whether the plaintiffs will seek further appeals in this matter.

Other than these actions, no litigation is required to be disclosed in this Item.

#### **ITEM 4--BANKRUPTCY**

No bankruptcies are required to be disclosed in this Item.

#### **ITEM 5--INITIAL FEES**

You must pay an initial franchise fee of \$20,000. The initial franchise fee must be paid in full at the time the Franchise Agreement is signed.

If we enter into a 3-Pack Addendum with you, instead of paying a \$20,000 initial franchise fee for each of the 3 RE24 Fitness Studio franchises you agree to develop, you will pay total initial franchise fees of \$50,000 for all 3 RE24 Fitness Studio franchises. If we enter into a 10-Pack Addendum with you, instead of paying a \$20,000 initial franchise fee for each of the 10 RE24 Fitness Studio franchises you agree to develop, you will pay total initial franchise fees of \$150,000 for all 10 RE24 Fitness Studio franchises. At the time you sign the applicable Multi-Unit Addendum, you will also sign three or 10 Franchise Agreements (as applicable)—one for each of the RE24 Fitness Studio franchises you agree to develop. These initial franchise fees must be paid in full at the time of signing the applicable Multi-Unit Addendum and Franchise Agreements.

We offer qualified veterans of the U.S. Armed Forces a discount on initial franchise fees. Under our current policies, qualified veterans will receive a discount of \$5,000 on the initial franchise fee payable for a single RE 24 Fitness Studio franchise, a discount of \$7,500 on the initial franchise fees payable under a 3-Pack Addendum for RE24 Fitness Studio franchises, and a discount of \$25,000 on the initial franchise fees payable under a 10-Pack Addendum for RE24 Fitness Studio franchises.

Other than as described above, it is our intent to charge all new franchisees the same initial franchise fee. The initial franchise fees described above are not refundable.

You must purchase goods and services related to the development of your RE24 Fitness Studio from or through us and our affiliates before you open for business, including: fitness and infrared sauna equipment; initial inventory and operating supplies (including apparel); marketing materials (tee shirts, towels, sales tent); exterior signs; reception desk and retail displays; and audio/visual equipment. We estimate that the cost of these goods and services will range from \$141,500 to \$212,000. These payments are not refundable.

You must pay us a \$1,000 fee before you open for business to cover the cost of having our attorney review your lease for compliance with our requirements. This payment is not refundable.

You must purchase goods and services in connection with the construction of your RE24 Fitness Studio from our affiliate, Legacy Five Construction Pros, LLC, which is our designated supplier for general contractor services, unless we approve a different general contractor in our sole discretion. We estimate that the goods and services purchased from Legacy Five Construction Pros, LLC will range from \$0 (if we approve use of a general contractor other than Legacy Five Construction Pros, LLC) to \$60,000. This amount could be higher if your landlord does not provide a “white box,” but in that case we would not approve the location unless the landlord agreed to cover the additional expense (see note 5 to the Item 7 table). These payments are not refundable. If you request and we approve your use of a general contractor other than the general contractor designated by us, you must pay us a \$1,000 review fee plus our food, lodging, and transportation (air travel, car rental, etc.) expenses for two physical inspections of the work of the general contractor (once before rough inspection and once before final inspection). We estimate that the cost of the review fee and the expenses for the two inspections will range from \$2,000 to \$5,000. These fees are not refundable. You will not be responsible for the review fee and related expenses if you use our designated general contractor.

If you purchase a Turn-Key Franchise, in addition to the initial franchise fee you will pay to us, you will pay a purchase price for that business to one of our affiliates. The purchase price will vary depending on the costs incurred by the affiliate to develop the franchise, the number of pre-opening sales of memberships at the time of the purchase (if the business is not yet operating), the historical performance of the business (if the business is operating), and negotiation between the parties. We estimate that the purchase price for a Turn-Key Franchise will range from \$325,000 to \$360,000. These payments are not refundable.

#### **ITEM 6--OTHER FEES**

<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fee	A weekly amount equal to the greater of 7% of Gross Sales or \$300 <sup>(2)</sup>	Monday of each week based on Gross Sales of the preceding calendar week	Gross Sales include all revenues from the Franchise Business except sales taxes paid and refunds. <sup>(3)</sup>
Advertising Fund Contribution	1% of Gross Sales; may be increased in the future to no more than 3% of Gross Sales	Monday of each week based on Gross Sales of the preceding calendar week	We may specify an advertising fund contribution of up to 3% of Gross Sales. The advertising fund contribution is currently 1% of Gross Sales. This contribution is in addition to amounts you must spend on local advertising.
Minimum Local Advertising and Advertising Cooperative	The greater of 5% of monthly Gross Sales or \$4,000	As incurred	You must spend this amount each month for advertising in your local market. Amounts you



Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
			spend for joint advertising, advertising cooperatives, and required promotions will apply to this amount. If you participate in an advertising cooperative, we may collect the amounts you owe to the cooperative after 5 days notice to you. <sup>(4)</sup>
Additional Training	\$1,000.00 per person per week or \$250 per person per day, plus travel and living expenses	Before additional training	We will charge training fees and expenses for additional people attending the initial training program or additional training requested by you or required by us.
Renewal Fee	25% of the standard initial franchise fee being charged by us at the time of renewal	At the time of renewal	You must pay this fee as a condition to renewal if you elect to renew your franchise at the end of the term of your franchise.
Review Fee	\$5,000	At the time of delivery of an offer notice	If you desire to accept an offer from a 3 <sup>rd</sup> party to purchase your franchise, you must deliver an offer notice to us along with the review fee. If we do not exercise our right of 1 <sup>st</sup> refusal and we consent to the transfer, the review fee will be applied to the transfer fee due.
Transfer Fee	25% of the standard initial franchise fee being charged by us at the time of transfer	At the time of our consent to the transfer	You or the proposed transferee must pay a transfer fee if you transfer your franchise or a controlling interest in the franchisee or substantially all the assets of the franchise.
Relocation Fee	\$10,000	On receipt of our billing	This fee must be paid if you change the location of your Franchise Business.
Management Fee	10% of Gross Sales plus employee expenses	On receipt of our billing	This fee must be paid if we manage the Franchise Business after the death or incapacity of the franchisee or the last surviving owner of the franchisee.

<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Mystery Shopper Fee	Currently \$175 per month	5 <sup>th</sup> day of each month	We will use these fees to administer a program to evaluate and report on the operations of our franchisees and to otherwise support the uniformity and quality of operations of RE24 Fitness Studios.
Annual Convention Fees	Up to \$1,000 per year for attending the annual convention	On the date specified by us	You must pay the applicable fee in any year in which we conduct an annual convention.
Computer Systems Licensing Fee	\$400 to \$600 per month (currently \$400 per month)	5 <sup>th</sup> day of each month	You must pay this fee for the POS, management systems, and other computer systems that we may provide or make available to our franchisees.
Franchise Technology Fee	An amount specified by us, not to exceed \$1,000 per month for each RE24 Fitness Studio (currently \$800 per month)	5 <sup>th</sup> day of each month	These amounts will be used by us for expenses relating to the development and maintenance of franchise technology used in our Franchise System.
Systems Standards Fee	\$300 per occurrence	Within 7 days of notice from us	We will assess this fee if you fail to operate in accordance with our policies and standards.
Late Charge, NSF Fees, and Interest	Late charge of \$100; NSF fees of at least \$30 for each item returned; and interest of 1.5% per month or maximum rate allowed by law	On receipt of billing	A late charge must be paid on all late payments; you must reimburse us for NSF fees we incur; and interest must be paid on all overdue amounts.
Late Fee for Failure to Provide Financial Reports	\$100 for each week a weekly report is not timely provided; \$500 per months for each month a monthly or annual report is not timely provided	On receipt of billing	These charges must be paid if you fail to timely provide required financial reports to us.
Cost of Compiling Financial Reports Plus Administrative Fee	Cost of having a 3 <sup>rd</sup> party compile the report plus a 10% administrative fee	On receipt of billing	If you fail to provide us with required financial reports, we may have a 3 <sup>rd</sup> party compile and provide us with the missing reports. If you fail to provide 2 or more

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
			consecutive financial reports, we may have a third party compile and provide us with all of your future financial reports. You have to pay for the costs of having the 3 <sup>rd</sup> party compile the reports plus an administrative fee of 10% of that cost.
Audit Expenses	Cost of audit; we estimate the range of costs is \$1,500 to \$2,500	On receipt of our billing	This cost must be paid if the audit is necessary because of your failure to furnish reports or financial information, or the audit discloses an understatement of 3% or more for any reporting period.
Non-compliance Fees	\$2,500 if you fail to timely register and fully attend the annual convention; \$1,000 per day for failing to be open during required business days; \$500 per week if you fail to participate in promotional programs; \$1,000 if you fail to attend required additional training	On the date specified by us.	We have the right to charge non-compliance fees if you fail to comply with certain obligations under the Franchise Agreement.
Product and Supplier Approval Fee	Up to \$3,000	Before approval of a product or supplier	You will be required to pay this fee if you request that we approve a product or supplier.
Insurance	Actual cost to us	On receipt of billing	If you fail to purchase insurance for your Franchise Business, we may do so at your expense.
Maintenance and Repairs	Actual cost to us	On receipt of billing	If you fail to maintain your Franchise Location, we may do so at your expense.

<b>Type of Fee<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Payments Relating to Cross Global Programs <sup>(5)</sup>	Will vary under circumstances	On receipt of our invoice	You may have to make payments or you may receive payments in connection with Cross Global Programs specified by us.
Administrative Fees	\$40 per month	5 <sup>th</sup> day of each month	We will charge fees for administering the Cross Global Programs and marketing programs. We currently charge a combined fee for these administrative services.
Deadline Extension Fee	\$5,000	At the time you request an extension	You may obtain a six-month extension of the time to obtain a location if you timely notify us and pay a non-refundable extension fee.
Indemnification	Amount will vary under circumstances	As incurred	You must reimburse us if we incur liability from the operation of your franchise.
Fee for Not Having a Trained Manager	\$1,000 per week	On receipt of our invoice	We will charge this fee if you cease to have a trained manager and do not have a successor manager attend the next available training program.
Attorneys Fees and Other Expenses	Amount will vary under circumstances	As incurred	You must pay our costs and attorneys fees if we must take action to enforce your obligations to us or if we incur expenses responding to any special requests from you.
Other Amounts Owed by Franchisee and its Affiliates	Amount will vary under circumstances	As incurred	See Note 6. <sup>(6)</sup>

#### Notes to Table

(1) Except as otherwise noted, all fees are imposed by and payable to us. Except as otherwise noted, it is our intent that all fees payable to us will be uniform for franchises being offered at this time. All fees paid to us are non-refundable.

Your payments to us for royalty, local advertising fees, advertising fund contributions, training, renewal and transfer fees, management fees, mystery shopper fees, annual convention fees, software maintenance and support fees, system standards fees, non-compliance fees, late

charges and interest, amounts owed for products or services provided by us, fees and expensed due in connection with the failure to provide reports, amounts owed for maintenance expenses incurred by us, amounts owed for Cross Global Programs, amounts owed for local advertising, advertising cooperative contributions, our costs of enforcement (including attorneys' fees), and all other amounts owed by you and your affiliates to us and our affiliates must be made by electronic or similar funds transfer in the appropriate amounts from your bank account to our bank account, and at such places or in such manner as we may specify. Payments must be made at the times specified in the Franchise Agreement or as otherwise specified by us. We may specify payment by electronic fund transfers (EFT's) initiated by us. You must sign and deliver to your bank and to us those documents necessary to authorize these transfers (see Appendix F attached to the Franchise Agreement). If we specify, all required payments to us must be made daily, weekly, monthly, or another interval specified by us, instead of as otherwise provided in the Franchise Agreement.

(2) If you do not meet the minimum gross sales requirements specified in the Franchise Agreement (\$250,000 for the 1<sup>st</sup> the year of operation; \$300,000 for the 2<sup>nd</sup> year of operation; and \$350,000 for the 3<sup>rd</sup> year of operation and each year after the 3<sup>rd</sup>), you must pay us the difference between the royalties actually paid for sales during that year of operation and the royalties that would have been paid if you had met the minimum gross sales requirements. That amount is payable within 14 days of receipt of an invoice from us.

(3) The Franchise Agreement defines "Gross Sales" as the entire amount of all of your revenues from the ownership or operation of the Franchise Business or any business at or about the Franchise Location including sales at or from the Franchise Location and outside sales and sales at events outside the Franchise Location as well as the proceeds of any business interruption insurance, whether the revenues are evidenced by cash, credit, checks, gift certificates, coupons and premiums (unless exempted by Franchisor), services, property or other means of exchange, excepting only the amount of any sales taxes that are collected and paid to the taxing authority. Cash refunded and credit given to customers and receivables uncollectible from customers will be deducted in computing Gross Sales if the cash, credit or receivables represent amounts previously included in Gross Sales where royalty fees were paid. Gross Sales are deemed received by you at the time the goods, products, merchandise, or services from which they derive are delivered or rendered or at the time the relevant sale takes place, whichever occurs first. Gross Sales consisting of property or services (for example, "bartering" or "trade outs") are valued at the prices applicable to the products or services exchanged for the Gross Sales at the time the Gross Sales are received.

(4) You must provide documentation to us to prove that you have timely spent the required amounts on local advertising. If you do not provide that documentation or you do not spend the required amounts for local advertising, you must pay those amounts to us. We will use those funds, in our discretion, for local advertising and promotion for you. In addition, you must pay us an administrative fee equal to 10% of those amounts. Currently, there are no advertising cooperatives in the Red Effect system. If advertising cooperatives are formed, it is possible that Studios owned by us or our affiliates could have controlling voting power in a cooperative. The minimum and maximum of the advertising fees that may be imposed by the cooperative will be determined by a vote of the members of the cooperative. However, even if Studios owned by us and our affiliates have controlling voting power in a cooperative, the maximum fees that that a franchisee will have to pay in total for local advertising, joint advertising, cooperative advertising, and promotional programs specified by us are the greater of 5% of monthly Gross Sales or \$4,000 per month. There are no minimum fees that may be imposed if franchisor and affiliate owned Studios have controlling voting power in a cooperative.

(5) We may establish policies and procedures relating to: (a) defining a customer's home RE24 Fitness Studio ("Home Studio"); (b) the membership programs to be offered to customers by RE24 Fitness Studios; (c) the right of a customer to receive services from the customer's Home Studio and other RE24 Fitness Studios; (d) specifying the RE24 Fitness Studio that is entitled to receive membership fees paid by a customer, regardless of the RE24 Fitness Studio at which the customer purchases the membership; (e) the sharing of fees between RE24 Fitness Studios based on a customer receiving services at RE24 Fitness Studios other than the customer's Home Studio; (f) membership transfers from one RE24 Fitness Studio to another RE24 Fitness Studio; (g) the issuance and honoring of cross memberships, cross gift cards and cross electronic money cards issued by RE24 Fitness Studios; (h) customer loyalty programs; and (i) other cross member usage and reciprocal access programs and other cross global matters specified by Franchisor (the "Cross Global Programs"). We may add, delete or modify the policies and procedures relating to Cross Global Programs on 30 days notice to you. You must fully participate in the Cross Global Programs and fully comply with the policies and procedures specified by us relating to the Cross Global Programs, including the payment of any amounts owed to us or other RE24 Fitness Studios under the Cross Global Programs. We will periodically reconcile payments due to and from you under the Cross Global Programs. You must pay any amounts due under the Cross Global Programs to or as directed by us at the times and in the manner specified by us. We will debit or credit your bank account on a periodic basis by electronic fund transfer after reconciling and reporting to you amounts due to or from you in connection with the Cross Global Programs. We will charge a reasonable administrative fee for administering or having a designated supplier administer the Cross Global Programs. Our policies do not currently require payments related to Cross Global Programs but, instead, require customers to pay an additional fee (currently \$5.00) to the non-Home Studio for attending a class at the non-Home Studio. This policy may change in the future.

(6) You must pay all additional amounts owed by you and your affiliates to us and our affiliates and any applicable advertising cooperatives on a timely basis. This includes, but is not limited to, amounts owed for goods and services provided by us and our affiliates, amounts owed as a result of Cross Global Program reconciliations, amounts owed to any advertising cooperatives, or other miscellaneous amounts owed to us and our affiliates. Those amounts must be paid by the due dates specified in the Franchise Agreement or other applicable agreement or as otherwise specified by us. Payments not paid when due will be subject to late charges and interest. Under this provision, we may charge you and may transfer payments from your bank accounts for amounts you or your affiliates may owe to us or our affiliates or any applicable advertising cooperatives (including but not limited to amounts your affiliates may owe for royalty, advertising, Cross Global Reconciliations, advertising cooperatives, or other obligations under other franchise or other agreements between your affiliate and us or our affiliates). We will only charge you for amounts owed by your affiliates if those amounts are not timely paid by your affiliates.

**ITEM 7--ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Franchise Fee	\$20,000 <sup>(1)</sup>	Lump sum	On signing the Franchise Agreement	Us
Pre-Opening/Grand Opening Advertising <sup>(2)</sup>	\$10,000	As incurred	As incurred	Advertising Providers
Initial Lease Payments <sup>(3)</sup>	\$4,000 to \$14,000	As agreed	As specified in lease	Landlord
Leasehold Improvements and Construction Costs <sup>(4)</sup>	\$40,000 to \$60,000	As agreed	Before opening as incurred	Our Affiliates, Contractors, and Suppliers
Reception Desk, Retail Displays, and Interior Signage	\$4,000 to \$6,000	As agreed	Before opening as incurred	Our Affiliates and Suppliers
Fitness Equipment and Infrared Saunas, <sup>(5)</sup>	\$75,000 to \$120,000	As agreed	Before opening as incurred	Our Affiliates and Suppliers
AED and First Aid Equipment and Supplies <sup>(6)</sup>	\$1,000 to \$1,500	As agreed	Before opening as incurred	Suppliers
Exterior Signage	\$5,000 to \$7,000	As agreed	Before opening as incurred	Our Affiliates and Suppliers
Initial Inventory and Operating Supplies <sup>(7)</sup>	\$2,000 to \$4,000	As agreed	Before opening as incurred	Our Affiliates and Suppliers
Audio/Video Equipment, Other Equipment and Supplies <sup>(8)</sup>	\$2,500 to \$5,000	As agreed	Before opening as incurred	Our Affiliates and Suppliers
Computer Systems <sup>(9)</sup>	\$2,000 to \$3,000	As agreed	Before opening as incurred	Suppliers
Travel and Living Expenses while Training <sup>(10)</sup>	\$2,000 to \$3,000	As agreed	Before opening as incurred	Third Parties
Insurance Deposits <sup>(11)</sup>	\$1,000 to \$2,000	As Agreed	Before opening as incurred	Insurance Companies
Business Licenses, Professional Fees, and Miscellaneous Pre-opening Expenses <sup>(12)</sup>	\$1,000 to \$2,000	As incurred	Before opening as incurred	Third Parties
Additional Funds (three months) <sup>(13)</sup>	\$15,000 to \$20,000	As incurred	As incurred	Us, our Affiliates, Suppliers and Employees

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment Is To Be Made
<b>TOTALS</b> <sup>(14)(15)(16)(17)(18)</sup>	<b>\$184,500 to \$277,500</b>			

Notes to Table

(1) See Item 5 for an explanation of the amount and refundability of the initial franchise fee.

(2) You must conduct a pre-opening/grand opening advertising and promotional program for your RE24 Fitness Studio as specified by us. You must spend an amount specified by us (up to \$10,000) for the pre-opening/grand opening program. The pre-opening/grand opening program must be conducted within the period beginning 12 weeks before the opening of your RE24 Fitness Studio and ending 30 days after the opening of your RE24 Fitness Studio (or such other period specified by us).

(3) You will generally lease your Franchise Location. We estimate that your monthly rent will range from \$4,000 to \$7,000. The initial charge to you for leasing the Franchise Location is estimated to be one month of rent plus a separate security deposit equal to one month of rent. Your rent may be subject to escalation clauses based on inflation or other factors as provided in your lease. The annual rent amount may vary significantly depending on the condition, location and size of the location and the demand for the location among prospective tenants. Our estimates are based on our experience in Michigan. Your rent costs could be lower or significantly higher if your location will not be in Michigan. The estimates in the table do not reflect an amount for investment in real estate, since it is assumed that you will lease your Franchise Location. Your initial investment will be much greater if you purchase real estate and construct your Franchise Location and we do not have any estimate of those costs.

(4) This category will include mechanical installations (e.g. HVAC), leasehold improvements (e.g. walls and counters, wall and floor coverings, ceilings, lighting, electrical and plumbing) as well as the cost of a qualified architect to prepare a site plan and construction drawings for the Franchise Location. This category also includes fees you may be required to pay to us for site inspections if you request and we approve your use of a general contractor other than the general contractor designated by us. The costs of these items may vary considerably depending on the size, physical condition and location of the premises and the amount of the costs, if any, a landlord may be willing to assume (however, if the landlord assumes costs, you will probably pay a higher rent for the location and you may have to personally guaranty the lease payments for a period of time to allow the landlord to amortize its costs). The estimated cost assumes the landlord will provide you with a "white box," including utility hookups, etc. or will directly pay or reimburse you for a portion of the expenses. If the landlord does not provide a "white box" or pay or reimburse you for a portion of the expenses, you may have to incur substantial additional expenses for leasehold improvements. This category also includes fees and costs you may be required to pay to us for site inspections if you request and we approve your use of a general contractor other than the general contractor designated by us. We estimate that the cost of the review fee and the expenses for the two inspections will range from \$2,000 to \$5,000. You will not incur these fees and expenses if the use the general contractor designated by us. The estimated range of expenses for this category does not include fees and costs relating to obtaining building and other permits and licenses.

(5) This category includes the exercise equipment (which may include treadmills, rowing machines, free weight/resistance stations, stationary bikes, kickboxing equipment, and



accessories), infrared saunas, and heart rate monitoring equipment we have designated for use in RE24 Fitness Studios.

(6) This category includes the cost of one automated external defibrillator (AED), training for CPR and AED's, and other first aid supplies.

(7) This category includes an initial inventory of branded merchandise, which includes shirts, hats, shorts, gym bags, water bottles, towels, and related items designated by us and miscellaneous operating and cleaning supplies.

(8) This category includes audio equipment for your sound system (including music licensing) and video equipment for your RE24 Fitness Studio, printed materials, office supplies, and other office equipment, other than the computer system.

(9) This category includes point of sale and customer managements systems specified by us, which may include computer hardware, software, web-based systems, licenses to use proprietary software or systems, etc., credit card machines, and other miscellaneous computer equipment specified by us.

(10) Although we do not charge any additional fees for the initial training program, you are responsible for paying any wages due to your employees as well as travel, food and lodging expenses incurred by you and your employees during initial training. These costs will depend on the distance you and your employees must travel and the type of accommodations you choose.

(11) The estimate in the table is an estimate of the initial deposit required to obtain insurance for the Franchise Business. Generally, insurance companies are willing to accept a partial up front payment (for example—25%) and allow the balance to be paid monthly during the period of coverage.

(12) This category may include fees for lawyers, accountants or other advisers, a fee for having our attorney review your lease, uniforms, miscellaneous deposits, installation services, business licenses, permits, and other miscellaneous pre-opening expenses.

(13) This category covers expenses you may incur during the three-month initial phase of operation of your RE24 Fitness Studio. These expenses may include royalty, advertising expenses, mystery shopper fees, insurance premiums, rent and other lease expenses, payroll costs, additional inventory and supplies, equipment maintenance, etc. These expenses do not include any amounts for an owner's salary or draw. These figures are estimates and we cannot guarantee that you will not have additional expenses starting the business. Your costs during this initial phase will depend on factors including: how much you follow our procedures; your management skill, experience, and business abilities; local economic conditions; the local market for the franchise's product; competition; and the sales level reached during this initial phase.

(14) We relied on our officers and affiliates' experience in developing and operating similar businesses in formulating the amount required for Additional Funds. You should, of course, review these figures carefully with a business advisor before making any decision to purchase the franchise.

(15) If you enter into a Multi-Unit Addendum with us, your initial investment will increase by the additional amount of the total initial franchise fees for the RE24 Fitness Studio franchises you commit to develop (\$30,000 in additional fees for the 3-Pack Addendum and \$130,000 in additional fees for the 10-Pack Addendum). So your initial investment will range from \$214,500 to \$307,500

for a 3-Pack Addendum and \$314,500 to \$407,500 for a 10-Pack Addendum. You will also incur the expenses in the table for each of the additional RE24 Fitness Studio franchises you develop under the Multi-Unit Addendum, except for the initial franchise fee which will have been paid in full when you sign the Multi-Unit Addendum.

(16) If you purchase a Turn-Key Franchise, you may pay a fair market value purchase price that is significantly more than the initial investment noted in the table. See Item 5.

(17) Except as may be noted, none of the payments to us are refundable. The refundability of payments to other parties is determined by your agreements with those parties.

(18) Unless you purchase a Turn-Key Franchise, we and our affiliates do not offer any financing for any part of your initial investment. If you purchase a Turn-Key Franchise, you may be offered financing for a portion of the purchase price (see Item 10 and Exhibit G). You may finance a portion of your initial investment with a third party. The availability and terms of financing with third parties will depend on factors including the availability of financing generally, your credit history, collateral you may have, and the lending policies of financial or leasing institutions.

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

### **General**

In order to maintain uniqueness, consistency, uniformity, quality and identity of RE24 Fitness Studios and the products and services sold by RE24 Fitness Studios and the group purchasing power of RE24 Fitness Studios, you must purchase all equipment, fixtures, signs, inventory, uniforms, computer systems, credit card processing systems, computer hardware and software, insurance, and all other products and services for the development and operation of your RE24 Fitness Studio of the type and in the amounts we specify, in accordance with our specifications, and only from manufacturers, suppliers or distributors designated or approved by us, as described in more detail below.

### **Obligations to Purchase or Lease from the Franchisor or its Designees**

We may specify any products and services used in the development or operation of an RE24 Fitness Studio as products and services that must be purchased only from us or a manufacturer, supplier or distributor specifically designated by us (which may be our affiliate) (a "Designated Supplier"). You must purchase these designated products and services ("Designated Supplier Products") in accordance with our specifications (which may include brand names) and only from a Designated Supplier. We do not have to approve other suppliers for Designated Supplier Products and we do not issue criteria to our franchisees for Designated Supplier Products. We impose these requirements so that we can ensure uniformity and quality and sufficient volume purchases to obtain favorable pricing. We will specify Designated Supplier Products and Designated Suppliers in memos, bulletins, emails, or in our Operations Manual. We will issue notification of Designated Supplier Products status and Designated Supplier status or revocation of the status to you in memos, bulletins, emails, or in our Operations Manual.

We currently designate the following products and services as Designated Supplier Products that must be purchased from a Designated Supplier: architectural services; general contractor services; fitness and infrared sauna equipment; initial inventory and operating supplies (including apparel); marketing materials (tee shirts, towels, sales tent); exterior signs; reception desk and retail

displays; audio/visual equipment; POS system software; and insurance. We and our affiliates are the Designated Suppliers for the following products and services: general contractor services; fitness and infrared sauna equipment; initial inventory and operating supplies (including apparel); marketing materials (tee shirts, towels, sales tent); exterior signs; reception desk and retail displays; and audio/visual equipment. You must purchase architectural services from a Designated Supplier unless we approve another architect in our sole discretion. You must also purchase general contractor services from a Designated Supplier unless we approve another general contractor in our sole discretion. The general contractor we currently designate is Legacy Five Construction Pros, LLC, which is our affiliate. In order to ensure that you are being charged a reasonable price by our designated general contractor, you must obtain bids for the work from two alternative general contractors. We will review those bids at no cost to you to determine if the bids meet our specifications. If you are satisfied with the bids from the two alternative general contractors and are willing to accept one of the bids (and the work represented by that bid is in compliance with our specifications), we agree that, in our sole discretion: (a) we will approve the use by you of the general contractor that submitted that bid to you; or (b) our designated general contractor will agree to act as your general contractor. If you request and we approve the use of a general contractor other than the Designated Supplier of general contractor services, you must pay us a \$1,000 review fee (for reviewing the general contractor and the work of the general contractor) plus our food, lodging, and transportation (air travel, car rental, etc.) expenses for two physical inspections of the work of the general contractor (once before rough inspection and once before final inspection). You will not be responsible for the review fee and related costs if our designated general contractor acts as your general contractor.

#### Obligations to Purchase or Lease from Approved Suppliers

Unless otherwise specified by us, all items used in the Franchise Business, other than Designated Supplier Products, must be obtained in accordance with our specifications (which may include brand names) and only from a manufacturer and/or supplier that has been approved by us (an "Approved Supplier"). An Approved Supplier will be a supplier that: (a) has met our standards for quality and uniformity of goods and services and other relevant standards established by us; (b) has been designated by us in writing as an Approved Supplier; and (c) has not later been disapproved by us. You may request to have a supplier for items other than Designated Supplier Products approved by submitting to us the information, samples or agreements necessary for our determination under the procedures specified by us. This request must be in writing and must include information about the product or supplier relating to our specifications, a sample of the product or service to be approved or a person at the manufacturer or supplier that we can contact for information. We may submit the information to an independent laboratory or another independent expert to determine if the product or supplier meets our specifications. We may charge you a fee of up to \$3,000 to cover the costs incurred in making this determination. On your request, and only on a confidential basis, we will furnish you with any issued standards and specifications for items other than Designated Supplier Products, as well as any issued criteria for supplier approval. We will notify you in writing of our approval or disapproval of a supplier within 60 days after receiving all information that we reasonably believe is necessary to make the determination.

Before we approve a supplier, the supplier may be required to enter into an agreement with us in a form reasonably acceptable to us providing that the supplier will: (a) follow our procedures, specifications and standards, formulas, and patterns; (b) provide for periodic quality control inspections of the supplier's premises and production facilities; (c) require the supplier to provide a reasonable number of samples, without charge, for inspection; (d) require the supplier to keep any trade secrets or other confidential information disclosed to it by a franchisee or us in confidence and

to have employees to which disclosure is made sign agreements that they will not use or disclose confidential information; and (e) require the supplier to pay a reasonable license fee for a limited license for the production and sale of items using the Intellectual Property. Our approval of a supplier is not a blanket approval of all the items the supplier may sell but only for specific items sold by that supplier as approved by us.

We will provide a list of Approved Suppliers to you in memos, bulletins, emails, or in our Operations Manual. We will issue approval, disapproval or notification of revocation of approval of suppliers to you in memos, bulletins, emails, or in our Operations Manual.

We currently designate the following items that must be purchased from Approved Suppliers: phone and internet service; computer systems; AED and first aid equipment and supplies.

#### Additional Information Relating to Designated and Approved Suppliers

Officers of Red Effect own an interest in: Red Effect Distributing, which is the Designated Supplier of fitness and infrared sauna equipment, initial inventory and operating supplies (including apparel), marketing materials (tee shirts, towels, sales tent), exterior signs, reception desk and retail displays, and audio/visual equipment; and Legacy Five Construction Pros, LLC, which is the Designated Supplier of construction services to our franchisees.

In order to take advantage of group purchasing power and to ensure uniformity and quality, we reserve the right to limit the total number of Approved Suppliers for any items. We may add or delete Designated Supplier Products, Designated Suppliers, or Approved Suppliers at any time and you must comply with those changes immediately on written notice from us. If we add a Designated or Approved Supplier, you must immediately, on written notice from us, take the steps necessary to comply with the credit, purchase and other policies of the Designated or Approved Supplier. If we delete a Designated or Approved Supplier, you must cease purchasing products and services from that supplier immediately on written notice from us.

We may enter into agreements with Designated or Approved Suppliers for and on behalf of all RE24 Fitness Studios or all RE24 Fitness Studios in a particular region (a "Supplier Contract"), which may include price terms. If we enter into a Supplier Contract with a Designated or Approved Supplier, the terms and conditions of your relationship with that Designated or Approved Supplier will be controlled by that contract to the extent covered by the contract.

We will not have any liability to you for any claims, damages or losses suffered by you as a result of or arising from the products or services provided by or the acts or omissions of any Designated or Approved Supplier or manufacturer, architect, general contractor, or other provider of products or services designated or approved by us.

We and our affiliates have the right to receive rebates or other fees from Designated and Approved Suppliers based on sales of goods or services to our franchisees. You agree that we and our affiliates have the right to collect those rebates and fees and you must cooperate with us in the collection of those rebates and fees. In the Franchise Agreement you acknowledge and agree that we, in our sole discretion, and on a non-uniform basis, may: (i) pay, pass-through or waive some or all of those rebates or other fees from suppliers to or for the benefit of franchisees in certain markets or to or for the benefit of some, but not all, franchisees in a particular market; or (ii) use those rebates for any other purpose, including purposes that may benefit certain markets or some, but not all, franchisees in a particular market. We currently have an arrangement to receive a

rebate from our POS system supplier, which is used to help fund our annual convention. The rebate is \$85.00 per month for each franchisee using the POS system. We also currently have an arrangement with our credit card processing supplier to receive a rebate of 0.49% on all credit card transactions of our franchisees, not including Amex. As of the date of this Disclosure Document, we do not have any other arrangements to receive rebates or fees from any suppliers to our franchisees. We have not arranged for our area representatives to receive any revenue and we do not know of any revenue being received by our area representatives from suppliers based on purchases by our franchisees.

Any products or services sold by or through us or our affiliates will be sold in accordance with the terms set forth in standards terms and conditions, memos, bulletins, emails, franchisee meetings, or otherwise in writing by us, our affiliate, or by the manufacturer of the products. These terms may be modified on written notice from us, our affiliate, or the manufacturer of the products.

### Obligations to Purchase under Specifications

The Franchise Agreement provides that all items used in the Franchise Business must be obtained in accordance with our specifications (which may include brand names) and from Designated or Approved Suppliers. Although we have the right to require you to purchase all items used in the Franchise Business from Designated and Approved Suppliers, in our discretion we may issue specifications for certain products (which may include brand names) and allow you to purchase those products from any source as long as the products comply with our specifications. Also, we may not issue specifications for some products and supplies and we may allow you to purchase those products and supplies from any source until we do issue specifications and/or supplier requirements for those items.

Your lease must be approved by us. However, we will not evaluate or be responsible for the commercial reasonableness or suitability of your lease. That is your sole responsibility and we recommend that you engage independent counsel to assist you in the evaluation and negotiation of your lease. Your lease must include the authorization by the landlord for you to have a kiosk or table placed outside the location for a period of 12 weeks before opening your RE24 Fitness Studio (or such other period specified by us) for pre-opening sales activities or, in the alternative, the ability to rent space adjacent to the location for the purpose of conducting pre-opening sales activities during the 12-week period before opening your RE24 Fitness Studio. If the landlord does not agree to authorize the pre-opening sales activities, we may reject the proposed lease or allow you to submit, for our approval, a pre-opening marketing plan that outlines in detail the process you will follow for pre-opening sales of memberships during the 12-week period. Unless agreed otherwise by us, the initial term of your lease and each renewal term must not exceed five years and the combination of the initial term and the renewal terms must be equal to or greater than the term of the Franchise Agreement. Also, you and your landlord must sign a lease addendum acknowledging certain rights we have under the Franchise Agreement that relate to your lease. A copy of our standard Lease Addendum is attached to the Franchise Agreement as Appendix G.

In addition, your Franchise Location must be constructed or improved in accordance with our specifications for build-out, décor, signage, equipment layout, space, etc. We must approve all construction agreements, and all drawings, plans and specifications relating to the construction and/or improvement of your location. You must not make any changes to the design, build-out, or decoration of your location without our prior written consent. Although we have the right to review and comment on and must designate or approve all construction agreements, and all drawings, plans and specifications, architects, and general contractors relating to the construction and/or improvement of your Franchise Location, we are only acting to ensure compliance with our

specifications. We will not evaluate or be responsible for compliance with governmental requirements, legal requirements, or adequacy of design and engineering relating to the design and construction and/or improvement of your location and you are solely responsible for those matters.

You must acquire, maintain, and update the equipment (including POS and computer systems), furniture, fixtures, signs, and other property that we specify for establishing and operating your RE24 Fitness Studio. Also, all of these items must meet our standards and specifications.

You must purchase insurance coverage for your business in accordance with our standards and specifications. Currently we require that you procure and maintain at least the following level of insurance for your RE24 Fitness Studio:

- Property:
  - Property must be insured on an all risk form including back up of sewers and drains and to its full replacement value, including agreed amount. Include blanket coverage if there are multiple locations. If building coverage is required, the building must be insured to full replacement cost value including improvements, agreed amount, and boiler and machinery coverage.
  - Loss of income must be written on an actual loss sustained basis for 12 months. This coverage must be written on an all risk form including back up of sewers and drains and off premises power failure including overhead transmission lines.
  - During construction of the RE24 Fitness Studio, an all risk builder's risk policy must be maintained in an amount equal to 100% of the construction value and also general liability insurance and workers compensation insurance as described below.
- Comprehensive General Liability on an occurrence basis with limits as follows:
  - Each Occurrence: \$1,000,000
  - General Aggregate: \$2,000,000
  - Products/Completed Operations: \$1,000,000
  - Personal/Advertising Injury: \$1,000,000
  - Fire Damage: \$300,000
  - Medical Expense: \$5,000
- Hired and Non-Owned Automobile Liability:
  - Each Occurrence: \$1,000,000
- Automobile Liability with limits of liability below (if any owned autos):
  - Each Occurrence: \$1,000,000
- Workers' Compensation as required by law with coverage as follows:

- Part 1: Workers Compensation – Statutory Benefits
- Part 2 Employer’s Liability:
  - \$100,000 Each Accident
  - \$500,000 Disease Policy Limit
  - \$100,000 Disease Each Employee
- Must include a waiver of insurer’s rights of subrogation against us.
- Stop Gap Liability (Employer’s Liability) – required if any locations are located in the following states or territory: North Dakota, Ohio, Washington, Wyoming, Puerto Rico, or any state where a franchisee employer is approved to self insure for Workers’ Compensation.
- The following insurance coverages are not mandatory, but are recommended:
  - Property insurance for flood and earthquake (mandatory if you are in a flood or earthquake zone)
  - Crime insurance for employee dishonesty, depositors forgery and loss of money
  - Umbrella insurance -- excess coverage that is over your general liability, automobile liability, employer’s liability (Workers’ Compensation) and Professional Liability
  - Employee Benefit Liability
  - Employment Practices Liability

We may revise these insurance specifications in the future. Each required insurance policy must meet the following requirements: (a) the policy must name us (and any of our affiliates or representatives that we may reasonably specify) as an additional insured on the form specified by us; (b) the policy must not be subject to cancellation, modification or amendment except after 30 days written notice to us; (c) the insurance must be obtained from or through a designated or approved Supplier, as applicable, and an insurance carrier with an AM Best’s Rating of not less than A-IX; (d) the policy must provide that failure by you to comply with any term, condition or provision of the insurance contract, or other conduct by you, will not void or otherwise affect the coverage afforded us and our affiliates and representatives; (e) the applicable policies must cover your indemnification obligations under the Franchise Agreement; (f) the policy will be primary to and without right of contribution from any insurance purchased by us; and (g) the policy must contain a waiver of subrogation in favor of us for casualty losses. Your obligation to obtain and maintain the policies of insurance in the minimum amounts specified by us will not be limited in any way by reason of any insurance that may be maintained by us nor will your obligation to obtain insurance relieve you of your liability for indemnification as provided in the Franchise Agreement. Your lease may require higher limits or additional coverages.

The insurance coverages and amounts specified by us reflect minimum required amounts and are not meant to reflect your actual insurance coverage needs. It is your responsibility to carefully evaluate your insurance needs and to obtain the insurance coverages and amounts as necessary to satisfy those insurance needs.

You must provide and authorize your insurance carriers to provide us with monthly, quarterly, and/or annual reports (as specified by us) of losses paid by your insurance carriers on your behalf for losses suffered under your insurance policies. In addition, you must provide and authorize your insurance carriers to provide proof of your Worker's Compensation experience modification (EMOD). By signing the Franchise Agreement, you grant us a power-of attorney to obtain whatever loss reports or EMOD reports we determine are necessary to protect the integrity of the Franchise Marks and System or for any other reasonable business purpose. Also, you must cooperate with us and your insurance carriers to enable us to obtain the insurance loss reports and EMOD reports as promptly and efficiently as possible, which may include providing written authorization to permit us to obtain the reports, in addition to the power of attorney granted in the Franchise Agreement.

We formulate and modify our specifications based on our experience in the business. Factors that we consider include quality and uniformity of products and services. Except as described above with respect to the approval of products or suppliers, we are not required to issue our specifications to our franchisees. We may issue and modify our specifications by sending memos, bulletins, emails, or updates to our Operations Manual.

#### Revenue or Other Benefits to Franchisor or Affiliates

As described above, we and our affiliates have the right to receive rebates or other fees from Designated and Approved Suppliers based on sales of goods or services to our franchisees. Also, if we or our affiliates directly supply products or services to you, we will derive revenue. In the year ending December 31, 2023, we and our affiliates did not have any revenue in connection with the sale or lease of goods and services to our franchisees.

#### Percentage of Purchases

All of your purchases from Designated and Approved Suppliers and in accordance with our specifications will represent 85% to 95% of your total purchases in the establishment of your RE24 Fitness Studio and 85% to 95% of your total purchases in the ongoing operation of your RE24 Fitness Studio.

#### Cooperatives; Material Benefits to Franchisees

We do not have any formal purchasing or distribution cooperatives. We do not provide material benefits to our franchisees based on a franchisee's purchases of particular products and services or use of particular suppliers; however, if you do not comply with your obligations to purchase from Designated and Approved Suppliers, you will be in default of your Franchise Agreement and we can withhold services and/or terminate or refuse to renew your franchise.



## ITEM 9--FRANCHISEE'S OBLIGATIONS

This table lists your principal obligations under the Franchise Agreement and other Agreements. It will help you find more detailed information about your obligations in these Agreements and in other Items of this Disclosure Document.

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/ lease	Sections 8.1 and 8.2 of the Franchise Agreement	Items 7, 11, and 17
b. Pre-opening purchases/leases	Sections 8.2, 8.4 and 8.6 of the Franchise Agreement	Items 5, 7 and 8
c. Site development and other pre-opening requirements	Sections 8.1 through 8.10 of the Franchise Agreement; Section 4 of Co-Brand Addendum	Items 5, 7 and 11
d. Initial and ongoing training	Section 8.5 and Article 11 of the Franchise Agreement	Item 11
e. Opening	Sections 8.1 and 9.1 of the Franchise Agreement; Section 3 of the Multi-Unit Addendum	Items 11 and 17
f. Fees	Section 3.2(j), Article 4, Sections 5.1, 5.6, 8.2, 8.4, 8.5, 9.1, 9.2, 9.7, 9.10, 9.11, 9.12, 9.15, 9.19, 10.3, 10.4, 10.6, 11.3, 14.3(h), 14.4, and 17.4 of the Franchise Agreement; Section 2 of the Multi-Unit Addendum	Items 5, 6 and 7
g. Compliance with standards and policies/operating manual	Sections 2.1, 3.2, 4.12, 5.1 through 5.6, Articles 7, 8, and 9, Sections 10.4, 10.5, 10.6, 10.8, 11.2, 14.3 and Article 16 of the Franchise Agreement; Section 4 of Co-Brand Addendum	Items 8, 11, 13 and 16
h. Trademarks and proprietary information	Articles 7 and 12 of the Franchise Agreement; Section 1 of Confidentiality and Non-Competition Agreement ("CNCA") (Exhibit F)	Items 13 and 14
i. Restrictions on products/ services offered	Sections 9.7, 9.8, and 9.11 of the Franchise Agreement	Items 8, 11 and 16
j. Warranty and customer service requirements	Sections 9.1 and 9.3 of the Franchise Agreement	Not applicable
k. Territorial development and sales quotas	Sections 9.1 and 9.2 of the Franchise Agreement; Sections 3 and 4 of the Multi-Unit Addendum	Item 12
l. Ongoing product/service purchases	Sections 9.6, 9.7 and 9.8 of the Franchise Agreement	Items 8 and 16
m. Maintenance, appearance and remodeling requirements	Sections 3.2, 9.12 and 14.3 of the Franchise Agreement	Items 11 and 17
n. Insurance	Section 9.15 of the Franchise Agreement	Items 7 and 8
o. Advertising	Section 9.9 and Article 10 of the Franchise Agreement	Items 6 and 11

Obligation	Section in Agreement	Disclosure Document Item
p. Indemnification	Sections 9.14, 9.15, 9.19, 11.5 and 14.2 of the Franchise Agreement	Item 6
q. Owner's participation/ management/staffing	Sections 9.13 and 9.14 of the Franchise Agreement; Appendix B of Franchise Agreement—Obligations and Representations of Individual Interested Parties; Appendix D of Franchise Agreement—Guaranty	Items 11 and 15
r. Records and reports	Article 5 of the Franchise Agreement	Not applicable
s. Inspections and audits	Sections 5.5 and 5.6 of the Franchise Agreement; Section 4 of Co-Brand Addendum	Item 6
t. Transfer	Article 14 of the Franchise Agreement	Items 6 and 17
u. Renewal	Section 3.2 of the Franchise Agreement	Items 6 and 17
v. Post-termination obligations	Sections 12.2, 12.4, 13.2, 13.3 and Article 16 of the Franchise Agreement; Sections 6 and 7 of Co-Brand Addendum; Sections 1 and 2 of CNCA	Item 17
w. Non-competition covenants	Article 13 of the Franchise Agreement; Section 2 of CNCA	Item 17
x. Dispute resolution	Article 17 of the Franchise Agreement; Sections 7, 8, 10, and 11 of CNCA	Item 17
y. Guaranty	Appendix D of Franchise Agreement	Not applicable

### **ITEM 10--FINANCING**

If you purchase a Turn-Key Franchise, our affiliate may allow you to finance a portion of the purchase price. The amount of financing will vary depending on the purchase price, but our affiliate may finance up to 50% of the purchase price. You must sign a note with a reasonable rate of interest. As of the date of this Franchise Disclosure Document, our affiliates intend to charge an APR of 7% to 12% depending on credit worthiness. The term of the note will be 1 to 5 years. You must grant our affiliate security in all the assets of your franchise. Also, all the principals of the franchisee and their spouses must personally guaranty the note. The note may be prepaid at any time and is not subject to any prepayment penalty. If you default on the note, or under your Franchise Agreement, you may be immediately liable for the entire principal balance of the note and all costs of collection, including reasonable attorney fees. Also, our affiliate may foreclose on the collateral and we may terminate your franchise agreement. In the Note and Security Agreement, you waive certain notices, but you do not waive any other legal rights or defenses. In the Note and Security Agreement, you also agree to jurisdiction of the courts of Michigan. Our affiliates do not have a present practice of or intent to sell, assign, or discount to a third party all or part of the financing arrangement. If your note is assigned, you may lose any defenses you have as a result of the assignment. Specimen copies of the Agreement for Sales of Assets, Bill of Sale, Assignment and Assumption of Lease, Promissory Note, Security Agreement, Personal Guaranty, and Closing Statements used by our affiliates as of the date of this Franchise Disclosure Document are attached as Exhibit G.

Except as described above, we and our affiliates do not offer direct or indirect financing for your franchise. We do not guaranty any of your notes, leases, or other obligations. At your request, we may provide information and advice to assist you in seeking financing.

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

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

### **Before Opening**

Before you open your business:

1. We will provide written specifications for the Franchise Location, which may include, without limitation, specifications for space requirements and build out (Section 6.1 of the Franchise Agreement). Also, we will review your proposed location for approval (Section 8.1 of the Franchise Agreement). We do not generally own the premises and then lease it to the franchisee.

We may provide our expertise and assistance in obtaining your location. However, you are ultimately responsible for the Franchise Location. It is your responsibility to research and evaluate the suitability and commercial value of the location for operation of your Franchise Business. We must approve the location for your Franchise Business. The factors that we consider when we recommend or approve a site include population, traffic count and patterns, visibility, weather, the neighboring properties, demographic makeup of residents and commercial establishments in surrounding areas, availability of parking, and related characteristics. Once you have provided a site selection package to us, we must make a determination of whether to approve the proposed location within 14 days. If we cannot agree on a site and you have not obtained a site for your Franchise Business within six months of the date of the Franchise Agreement, we may terminate the Franchise Agreement. However, if you anticipate that you will not obtain a site within six months after the date of the Franchise Agreement, you may obtain a six-month extension of the deadline. In order to obtain the extension, you must, no later than 30 days before the end of the six month period: (a) notify us in writing that you intend to extend the deadline; and (b) pay us a nonrefundable fee of \$5,000 for the extension. You may not obtain more than one six-month extension of this deadline.

We do not provide assistance with conforming your premises to local ordinances and building codes or obtaining any required permits.

If you enter into a Multi-Unit Addendum with us, we must approve the site for each franchise developed by you under the Multi-Unit Addendum. Our approval of each site will be based on our then-current standards for sites. Except for the opening date for each unit you are required to open under the Multi-Unit Addendum, all site selection and opening requirements and procedures are governed by the terms of the Franchise Agreements you sign in connection with the Multi-Unit Addendum.

2. We will specify and provide sources of supply for the equipment, fixtures, signs, and inventory necessary for you to begin operation of your Franchise Business (Section 6.2 of the Franchise Agreement). We provide assistance with providing necessary equipment, signs, fixtures, opening inventory, and supplies. We will provide written specifications for these items. Our affiliates may provide these items directly to you or we may designate the source of supply. If our affiliates provide these items, our affiliates may also deliver or install these items.

3. We will provide you the Operations Manual for use in the operation of the Franchise Business (Section 6.3 of the Franchise Agreement).

4. We will provide an initial training program to train you to operate the Franchise Business (Section 6.4 of the Franchise Agreement). The training program is described in more detail below in this Item under the heading "Training."

5. We will provide one representative to conduct five days of on-site training at the Franchise Location, at a mutually agreed on time at or around opening, to assist you in the opening of the Franchise Business. However, we are not required to provide this training if you or one of your owners or a company affiliated with you has previously operated or is currently operating an RE24 Fitness Studio. You must provide 30 days advance notice to us and be ready to open before we will begin any on-site training (Sections 8.5 and 11.1 of the Franchise Agreement).

6. We will designate the products and services to be offered by your Franchise Business (Section 6.5 of the Franchise Agreement).

7. We will provide guidance for you on pre-opening/grand opening advertising for the Franchise Business (Sections 6.7 and 10.1 of the Franchise Agreement). Our advertising program is described in more detail below in this Item under the heading "Advertising."

8. The assistance described in this paragraph is optional assistance and is not required under the Franchise Agreement: We may, in our discretion, consult with you in the process of construction or improvement of your Franchise Location. Also, at your reasonable request, we may, in our sole discretion and subject to the availability of our personnel, furnish you with additional site selection and/or development guidance and assistance that is beyond the nature and scope of the services we are then providing to new franchisees without charge. If we elect to provide additional services, we and you must agree in writing on the nature and scope of the additional services. We may charge a reasonable fee for these additional services. (Section 6.1 of the Franchise Agreement). We do not provide assistance in hiring your employees.

### Time of Opening

We expect franchisees to open their Franchise Business within six to ten months after signing the Franchise Agreement or paying consideration to us. The main factors that we expect to affect this time period are ability to find a location and negotiate a lease for the location, requirements and timetable of approval from the municipality, ability to complete training, time for improvement of the location and your personal timetable.

### During Operation

During the operation of your franchise:

1. We will provide updates to you, as they become available, of our Operations Manual and other specifications for all aspects of your Franchise Business (Section 6.3 of the Franchise Agreement).

2. We will provide one representative to conduct five days of on-site training at the Franchise Location, at a mutually agreed on time at or around opening, to assist you in the opening of the Franchise Business. However, we are not required to provide this training if you or one of

you owners or a company affiliated with you has previously operated or is currently operating an RE24 Fitness Studio. You must provide 30 days advance notice to us and be ready to open before we will begin any on-site training. If you request and we agree, we will provide additional on-site assistance, but may charge you for that assistance (Sections 8.5 and 11.1 of the Franchise Agreement).

3. We will designate the products and services to be offered by your Franchise Business and provide you with any updates in our specifications for products or services. We will also provide sources of supply for all authorized products or services and we will review any proposed supplier of other than Designated Supplier Products to determine if the proposed supplier and its products and services conform to our standards and specifications (Sections 6.5, 9.7 and 9.8 of the Franchise Agreement).

4. We will periodically visit your Franchise Business as we deem appropriate during the term of your Franchise Agreement. During these visits, we will evaluate your operations and provide any operational advice and assistance we deem necessary. We will also provide reasonable operational advice and assistance to you by telephone or email, including advice on specific services or products, if requested by you (Section 6.6 of the Franchise Agreement).

5. We will administer the advertising fund and review for approval any local advertising proposed by you (Sections 6.7, 10.2 and 10.5 of the Franchise Agreement). Our advertising program is described in more detail below in this Item under the heading "Advertising."

6. We will indemnify you against liability to third parties resulting from claims by third parties that your use of the Franchise Marks infringes trademark rights of the third party, but only if (a) you have used the Franchise Marks in accordance with the requirements of the Franchise Agreement and our specifications and (b) you have given notice to us of the claim within ten days of receipt by you of the claim and you have tendered the defense of the claim to us (Sections 6.8 and 7.4 of the Franchise Agreement).

7. We will make all modifications to or substitution of the Intellectual Property on a uniform basis for all similar situated RE24 Fitness Studios in a particular market (Section 7.6 of the Franchise Agreement).

8. If your initial Franchise Location becomes unusable, we will review for approval any alternative location proposed by you (Section 8.1 of the Franchise Agreement).

9. We will review proposed transferees of your RE24 Fitness Studio franchise for approval (Section 14.3 of the Franchise Agreement).

### Advertising

We are not required to spend any amount on advertising in the area or territory where you are located. We will provide guidance to you on pre-opening/grand opening advertising for the Franchise Business. You are responsible for all costs and expenses related to the pre-opening/grand opening advertising. You must conduct a pre-opening/grand opening advertising and promotional program for your Franchise Business as specified by us. You must spend an amount specified by us (up to \$30,000) for the pre-opening/grand opening advertising program (this amount is separate from and in addition to advertising fund contributions you will pay to us). The pre-opening/grand opening program must be conducted within the period beginning 12 weeks before the opening of your Franchise Business and ending 30 days after the opening of your Franchise Business (or such

other period specified by us). You must provide documentation to us, at the times and in the form and manner specified by us, to prove that you have spent the required amount on the pre-opening/grand opening advertising program within the specified time frame. If you do not timely provide the documentation, or do not spend the required amount on the pre-opening/grand opening advertising program within the specified time frame, you must pay the amount not satisfactorily documented or not spent to us on demand. These funds will either be spent on your behalf to execute a promotion for your RE24 Fitness Studio or be placed in the advertising fund.

You must make contributions to an advertising fund in an amount specified by us, not to exceed 3% of your Gross Sales. We currently specify an advertising fund contribution of 1% of your Gross Sales. See Sections 4.3 and 10.2 of the Franchise Agreement. In the Franchise Agreement, you agree that: (a) we may implement an advertising fund for some but not all markets; (b) the amount of contributions required may not be uniform for all franchisees and may vary by market because we may implement certain advertising programs in some but not all markets and because advertising programs and administrative expenses may vary by market; and (c) we are not under any obligation to continue an advertising fund and may suspend contributions to or operations of the advertising fund or terminate the advertising fund (or reinstate the advertising fund if it is terminated). Our and our affiliates' outlets are not required to contribute to the advertising fund; however, we currently intend to have any outlets owned by us and our affiliates contribute to the advertising fund at the same rate as our franchisees contribute to the advertising fund.

The advertising fund will be administered and controlled by us in our sole discretion. The advertising fund may be used to: maximize general public recognition and patronage of the Franchise Marks and Franchise System; formulate, develop and produce advertising and sales support materials for use by franchisees; conduct advertising and promotional programs on a national, regional or local level; provide marketing support services to franchisees; develop, maintain, and support the Franchise Technology (the "Franchise Technology" includes website, Computer Systems, intranet, extranet, web-based systems, other Electronic Media, and/or other technology developed and maintained by us or on our behalf) and Electronic Media ("Electronic Media" includes the Internet, email addresses, Internet domain names, homepages, electronic addresses, websites, social networks, wikis, podcasts, online forums, content sharing communities, blogging, or other social media accounts or participations (including but not limited to FaceBook, Twitter, LinkedIn, YouTube, Pinterest, and Instagram), and other digital media (such as mobile phones—SMS and MMS) and Digital Marketing ("Digital Marketing" means the marketing of products and services using digital technologies, including digital coupons, search engine optimization, search engine marketing, social media optimization, social media marketing, email marketing, mobile phone marketing, and marketing using other forms of digital media) for us and/or franchisees; administer and support Cross Global Programs; obtain public relations services; pay the expenses of the advertising fund; and other uses determined in our discretion. We are not required to spend your advertising fund contributions to place advertising in your local market or in any specific media. All expenses of the advertising fund may be paid from the advertising fund. We may engage the services of an advertising source or sources to formulate, develop, produce and conduct advertising and promotional programs, and to develop and implement Franchise Technology, Electronic Media, and Digital Marketing, and these costs will be paid by the advertising fund. There is no advertising council composed of franchisees that advises us on advertising policies. The Franchise Agreement does not require us to consult with an advertising council of franchisees on advertising policies.

We may expend or allocate up to 25% of the advertising fund on an annual basis for the reasonable salaries, administrative costs and overhead, if any, as we may incur in connection with administration of the advertising fund (which does not include separate costs of employing

independent contractors or agencies to administer, create, distribute, place, publish or otherwise provide products or services to the advertising fund). The advertising fund may borrow money and pay interest or establish credit from us or other entities. Payments of principal and interest may be deducted from the advertising fund. The advertising fund may not be used for advertising that is principally a solicitation for the sale of franchises but the advertising fund may be used for ancillary or incidental uses for the solicitation or sale of franchises by us or other franchisees; for example, an area on our web-site or on print advertisements created or distributed by the advertising fund or an advertising cooperative.

We may administer the advertising fund in some or all markets by disbursing a portion of the advertising funds to one or more individual franchisees or cooperative groups of franchisees for advertising expenditures in their markets. Those disbursements must be expended by the applicable franchisees on local or regional advertising and media as we determine. Any rebate advertising expenditures must be documented at the times and in the manner specified by us.

We will use reasonable efforts to expend advertising fees contributed to the advertising fund during the fiscal year in which the contributions are made, taking into account reasonable reserves for advertising promotions and campaigns, repayment of debt, and other reasonable business needs in the next fiscal year. If we spend less than the total amount of funds available in the advertising fund during any fiscal year, we will expend the unused funds during a subsequent fiscal year. If we expend an amount greater than the amount available to the advertising fund, and we have contributed the additional amounts to the advertising fund, we will be entitled to be reimbursed by the advertising fund for all the excess expenditures.

The advertising fund will not be audited. We will submit to you, on request, an annual report of the receipts and disbursements of the advertising fund, unaudited and prepared by our management. See Section 10.2 of the Franchise Agreement.

We may incorporate the advertising fund or operate it through a separate entity whenever we deem appropriate. The successor entity will have all of the rights and duties described above.

We did not collect advertising fund contributions during 2023. As a result, we do not have any data on the portions of the advertising fees used for media placement, production of advertising, administrative costs, or other costs during 2023 or the portion of advertising fund payments that were used for advertising that is principally a solicitation for the sale of franchises.

In addition to any advertising fund contributions you are required to make, you must spend a minimum of the greater of 5% of monthly Gross Sales or \$4,000 each month for advertising in your local market. You must provide documentation to us, at the times and in the form and manner specified by us, to prove that you have spent the required amount on local advertising. If you do not timely provide the documentation, or do not spend the required minimum amount on local advertising, you must pay the amount not satisfactorily documented or not spent to us on demand. These funds will be used, in our discretion, for local advertising and promotion for you. In addition, you must pay an administrative fee to us equal to 10% of the amount not satisfactorily documented or not spent.

We may designate a local, regional or national advertising area that includes a group of RE24 Fitness Studios. If your Franchise Business is within a designated advertising area, we may require you to participate in and pay your proportionate cost of any joint advertising specified by us for that advertising area. In addition, we may require an advertising cooperative to be formed and operated in a designated advertising area. If your RE24 Fitness Studio is within that designated

advertising area, you must join, maintain a membership in, and sign and abide by the cooperative agreement for the advertising cooperative in that advertising area. Each advertising cooperative must adopt a cooperative agreement governing the organization and operation of the advertising cooperative. If specified by us, the cooperative agreement must require contributions to the advertising cooperative to be paid to us or to the advertising cooperative by electronic fund transfer. We must approve the structure of the advertising cooperative as well as the cooperative agreement and any changes to that agreement. The cooperative agreement must be submitted to us for prior approval. If we have not approved the cooperative agreement in writing within 14 days after receipt, the cooperative agreement will be deemed not approved. If the members of the advertising cooperative do not adopt and sign an approved cooperative agreement within 30 days after we designate the advertising area for the advertising cooperative, the advertising cooperative must adopt and the franchisees in the cooperative must sign our then current recommended cooperative agreement. A copy of our current recommended cooperative agreement is attached as Exhibit H to this Franchise Disclosure Document. The cooperative agreement cannot modify the terms of your Franchise Agreement, but may require you to make contributions to the advertising cooperative in addition to any advertising fund contributions you must make to us. You must make contributions to the advertising cooperative at the times and in the amounts as determined by the advertising cooperative and must otherwise comply with the decisions of the advertising cooperative. Each RE24 Fitness Studio in the advertising cooperative (including RE24 Fitness Studios operated by the Franchisor or its affiliates) will have one vote on matters before the advertising cooperative. Decisions will be made as provided in the cooperative agreement, or if not otherwise specified, based on a majority of the votes entitled to be cast by the members of the advertising cooperative. Any franchisee holding an officer, management, executive or committee position with the advertising cooperative must be a franchisee in good standing. The administration, costs, and expenses of each advertising cooperative will be the responsibility of the advertising cooperative. The advertising cooperative will be responsible for the collection of contributions from its members and we will not be responsible to you if other franchisees in the advertising cooperative fail to pay contributions or to otherwise abide by the cooperative agreement or the decisions of the advertising cooperative. We will have the authority to form, change, dissolve, or merge advertising cooperatives. All advertising or promotional programs and materials used by an advertising cooperative or furnished to the members of the advertising cooperative must be approved in advance by us and must comply with our advertising policies and procedures. We may require an advertising cooperative to work with us or an agency designated by us in coordinating and placing local, regional or national advertising for the members of the advertising cooperative. We do not currently have any advertising cooperatives.

We have the right to set advertising policies and procedures that you must follow. These advertising policies and procedures may include, but are not limited to, specific advertising strategy, promotional programs, media selection, timing requirements, limiting marketing to a certain area so that you are not directing marketing to another franchisee's area, and limiting the type of marketing that may be used by you.

You may produce and use your own advertising materials, but only if you receive our approval in writing before placing the advertising. All advertising by you in any medium, including signage, must be factual and dignified, must conform to our standards and specifications, and to the highest standards of ethical advertising practice. You must submit to us for approval all marketing and promotion materials, including signage, prepared by you for the Franchise Business and not prepared by or previously approved by us. These materials must be submitted at least 14 days before use. We will have the right to disapprove the use of any advertising materials by you at any time. Even if we previously approved the use of advertising materials, you must discontinue the use of advertising materials immediately after we request in writing. If we specify, all your advertising



must contain notices of: (a) our website domain name or other Electronic Media specified by us; (b) our toll-free telephone number; and (c) a statement regarding the availability of RE24 Fitness Studio franchises. To the extent possible, you must include the following language in all advertising: “Each RE24 Fitness Studio is independently owned and operated.” You are not allowed to advertise any products or services for your business or using the Franchise Marks except those products or services authorized by us.

In order to enhance the competitive position and consumer acceptance for the products and services of RE24 Fitness Studios, we may exercise rights with respect to the pricing of products and services to the fullest extent permitted by then-applicable law. These rights may include, without limitation: (a) prescribing the maximum and/or minimum retail prices that you may charge customers for the products and/or services offered and sold at your Franchise Business; (b) recommending retail prices; (c) advertising specific retail prices for some or all products or services sold by the Franchise Business, which prices you must observe; (d) engaging in marketing programs, promotional programs, drives, giveaways, contests and other campaigns that you must participate in and that may directly or indirectly impact your retail prices; and € otherwise mandating, directly or indirectly, the maximum and/or minimum retail prices that your Franchise Business may charge the public for the products and services it offers. We may engage in this activity either periodically or throughout the term of your Franchise Agreement. Further, we may engage in this activity only in certain geographic areas (e.g. cities, states, regions) and not others, or with regard to certain subsets of franchisees and not others.

You must participate in all promotional campaigns, prize contests, special offers, and other programs, national, regional, or local in nature (including the introduction of new Red Effect products or services, new franchises, or other marketing programs directed or approved in writing by us) specified by us. These promotional programs may include offering fee products or services from another franchise program operated by one of our affiliates (e.g. buy an RE24 Fitness Studio gift card and receive a free gift card to be used at another business). You will be responsible for the costs of that participation, which may be payable to us, our affiliates, or another person designated by us. In addition, you must honor any coupons or other authorized promotional offers we specify at your sole cost unless otherwise specified by us. You must participate in any gift certificates or cards, electronic gift or money cards, frequency cards, customer loyalty programs, or other programs specified by us and honor all cards issued by us or by other franchisees in accordance with our policies. Your participation in those programs is integral to the RE24 Fitness Studio franchise system and to the success of those programs. We or a person designated by us may administer those programs and may charge an administrative fee for those services. We have a right to charge you a non-compliance fee of \$500 for each week you fail to participate in any promotional program specified by us.

Amounts spent by you for joint advertising, cooperative advertising, and promotional programs specified by us will apply to your minimum local advertising obligation. Except for pre-opening/grand opening advertising, you will not be required to spend more than the greater of 5% of your Gross Sales or \$4,000 per month for local advertising, joint advertising, cooperative advertising, and promotional programs specified by us. This advertising limit does not apply to advertising fund contributions you will make to us.

Your use of Electronic Media, Digital Marketing, and toll-free telephone numbers in connection with the operation, advertising, and marketing of your RE24 Fitness Studio is subject to the trademark, advertising, marketing, and other requirements of the Franchise Agreement and the Operations Manual. You must not use any Electronic Media, Digital Marketing, or toll-free telephone numbers in connection with your RE24 Fitness Studio, except with our written consent

and then only in accordance with any policies and procedures specified by us. We reserve the right to control all Electronic Media, Digital Marketing, and toll-free telephone numbers used to promote RE24 Fitness Studios and/or associated with the Franchise Marks and may require you to only use Electronic Media, Digital Marketing, and toll-free telephone numbers through central accounts established by us. You must provide us with login, password, administrative password, security codes, and other information necessary for us to access and use (including use for marketing to your customers) your Electronic Media and Digital Marketing accounts and participations. We will have the right to control all responses to postings by customers and/or the public on Electronic Media relating to your RE24 Fitness Studio.

### Computer Systems and Franchise Technology

We may require or authorize you to use certain technology in connection with your RE24 Fitness Studio, which may include point of sale (POS), customer management, and credit card processing systems (which may include computer hardware, software, web-based systems, licenses to use proprietary software or systems, etc.) (the "Computer Systems"), website, intranet, extranet, web-based systems, other Electronic Media, and/or other technology developed and maintained by us or on our behalf (the "Franchise Technology"). Uses of the Franchise Technology may include, but are not limited to, monitoring, displaying, and recording performance of members' fitness activities at RE24 Fitness Studios (e.g. heart rate and fitness performance monitoring and display and related applications for phones and computers), advertising for all RE24 Fitness Studios, lists of RE24 Fitness Studios, on-line sign-up and purchasing of memberships, administration of reciprocal access and membership transfer matters, inventory control for franchisees, entering sales and other information, processing credit card transactions, making schedules, projecting sales, reviewing reports, entering payroll, placing orders with us or Designated or Approved Suppliers, posting the Operations Manual and communication between us, franchisees and customers. You must acquire and use the Franchise Technology specified by us in your Franchise Business and in the manner specified by us. Your access to and use of the Franchise Technology is subject to your compliance with the terms and conditions of use and other policies and procedures specified by us. You must pay us or our affiliate a technology fee in an amount that we may establish; provided that, the technology fee will not exceed \$1,000 per month for each RE24 Fitness Studio. The technology fee may be used by us for expenses relating to development and maintenance of the Franchise Technology and other expenses relating to technology used in our franchise system.

You must acquire the Computer Systems we specify for the Franchise Business and use the specified Computer Systems in the Franchise Business in the manner we specify. Also, you must pay all required license fees, service fees, and support, maintenance, update and upgrade costs to use and maintain the specified Computer Systems in the manner specified by us. We may change or modify the Computer Systems in the future, including changes in the specifications, components, and providers relating to the Computer Systems. In that case, you must obtain and begin to use the changed or modified Computer Systems, at your expense, within 90 days after you receive written notice from us. There are no contractual limitations on the cost or frequency of your obligation to update or upgrade the Computer Systems during the term of your franchise. We may charge initial set-up and ongoing licensing fees for any Computer Systems that we provide or make available to you. We currently anticipate that the one-time set-up fee for these Computer Systems will range from \$500 to \$750 and the monthly licensing fees for these Computer Systems will range from \$400 to \$600 per month. Although you may pay a licensing fee to us for the Computer Systems, you will still be responsible for the expenses of maintenance and updates, including service contracts, relating to the Computer Systems.

Under our current specifications, you must acquire and maintain 2 or 3 desktop computers that are capable of running the POS and customer management software specified by us and that operates on Windows 10 or higher operating system. You must also acquire a laptop computer or pad to manage your pre-opening sales program and other events relating to your RE24 Fitness Studio. The computers must have a high speed modem that permits you to connect to the internet. You will also be required to install a heart rate monitor system and 3 to 5 television/monitors for the heart rate monitor system and RE24 Fitness Studio lobby. The television/monitors are used in connection with the heart rate monitor system and to display videos, advertisement, and other information approved or specified by us. You must license the heart rate monitor system software from us or an affiliate or another Designated Supplier for use in connection with your RE24 Fitness Studio. This software is used to record sales, collect and manage customer data, and collect and report data on sales levels, amounts and activity. The software includes time clock and payroll functions and records accounting data that can be imported to the accounting software program specified by us. The software will also be used to calculate the fees and other amounts payable by you to us under the Franchise Agreement, and the software will be set up to effect preauthorized automatic electronic transfers of those amounts. Our estimate of the cost of the Computer Systems hardware is approximately \$4,000 to \$6,000. Also, you will incur a \$500 set-up fee and you must pay a monthly fee of \$400 per month fee in connection with the Computer Systems software. We also require that you acquire QuickBooks accounting software to use in your business. The cost of QuickBooks is approximately \$200 to \$350.

We, our affiliates, and third parties do not have any obligation to provide ongoing maintenance, repairs, upgrades, or updates to the Computer Systems. As noted above, you may be required to upgrade or update the Computer Systems during the term of the Franchise Agreement and there are no contractual limitations on the frequency and cost of the obligation. Currently there are no optional or required maintenance, updating, upgrading, or support contracts for the Computer Systems.

We have the right to independently access the sales information and other data produced by the Computer Systems and there are no contractual limitations on our right to access and use that information and data. You must provide us access to the information on the Computer Systems in the manner specified by us and must supply us with any security codes necessary to obtain that access. We may retrieve, analyze, download, and use the software and all data on your Computers Systems at any reasonable times as long as the access does not unreasonably interfere with the operation of your Franchise Business. Our rights to use the Computer Systems data includes the right to deliver the data to any third party we deem appropriate in our sole discretion; provided that the identity and other personal information of your employees, agents, and customers are not disclosed.

You must also acquire and maintain high speed Internet access and an e-mail address so that you may communicate with us by e-mail, access any web-based Computer Systems and our extranet (if applicable), and your customers may communicate with you by e-mail. If specified by us, you must use the e-mail addresses provided or specified by us, and no other e-mail address, in your Franchise Business. We will have the right to access and monitor all of your correspondence by e-mail.

You are responsible for securing the data of your customers. You must comply with the PCI Requirements in connection with your Franchise Business. We also recommend that you comply with the ISO/IEC 27000-series information security standards (or other comparable third-party information security standards) ("Information Security Standards") in connection with your Franchise Business. It is your responsibility to research and understand the PCI Requirements and Information Security Standards and to ensure that your business policies and practices comply with these requirements and standards. You must periodically participate in audits of your information technology systems and data security policies by third party auditors as specified by us. We have

the right to engage a vendor to consult with and advise RE24 Fitness Studios on compliance with the PCI Requirements and Information Security Standards and to require you to pay a portion of the cost of the vendor’s services as determined under our policies or to directly engage the vendor for these purposes. Also, we have the right to acquire a cyber insurance policy for the RE24 Fitness Studio franchise system and to require you to pay a portion of the cost of the cyber insurance policy as determined under our policies.

Operations Manual

Our Operations Manual provides details concerning the methods of operation of RE24 Fitness Studios. As of the date of this Franchise Disclosure Document, the Operations Manual is approximately 43 pages. The Table of Contents of the Operations Manual is attached as Exhibit I. You will be provided a copy or given on-line access to any currently existing Operations Manual after completing training for use during the term of the Franchise Agreement. The Operations Manual remains our property, must not be duplicated, and any paper or digital copies must be returned to us on expiration or termination of the Franchise Agreement. You must at all times ensure that your copy of the Operations Manual is kept current and up to date. If there is a dispute as to the contents of the Operations Manual, the terms and dates of the master copy of the Operations Manual maintained by us at our place of business will be controlling. In addition to any Operations Manual, we may provide written specifications to you in bulletins, newsletters, emails, or other written or electronic materials.

Training

**TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-The-Job Training</b>	<b>Location</b>
Trainers and Sales Associate Education, Performance Expectations, and Product Knowledge	20 to 24 hours	30 to 40 hours*	A designated RE24 Fitness Studio, our corporate office, or another location within the U.S. * Conducted at Studio*
Branding, Community Relations, Social Media, Equipment Maintenance and Usage	3 to 6 hours	10 to 20 hours	A designated RE24 Fitness Studio, our corporate office, or another location within the U.S.
Attracting, Presenting, Providing, Sales, Closing, and Member Satisfaction	3 to 6 hours	10 to 20 hours	A designated RE24 Fitness Studio, our corporate office, or another location within the U.S.
Reporting Obligations and Administration	3 to 6 hours	None	A designated RE24 Fitness Studio, our corporate office, or another location within the U.S.

Subject	Hours of Classroom Training	Hours of On-The-Job Training	Location
Advertising and Marketing	3 to 6 hours	None	A designated RE24 Fitness Studio, our corporate office, or another location within the U.S.

We will make available an initial training program to train you to operate your RE24 Fitness Studio. The training program is summarized in the preceding table. We will provide, without additional charge, an initial training program for up to three individuals who are designated owners of franchisee or the manager of the Franchise Business, if a trained designated owner will not be the manager. We will also provide, without additional charge, an initial training program for your lead trainer and up to three additional trainers. If you request, we may, in our discretion, allow additional individuals to attend the initial training program or management or lead trainer training programs, but may, in that case, charge a reasonable fee for the training. You will be responsible for paying your personnel's compensation, and expenses for travel, food, and lodging incurred during the training programs. The individuals attending the training programs must sign an agreement relating to confidentiality and/or non-competition in the form specified by us before beginning the training program (see Exhibit F). The training programs must be completed to our satisfaction before you begin pre-opening sales of memberships, advertise the Franchise Business, or begin operation of the Franchise Business. We recommend that the training be completed not more than four months before you open your Franchise Business.

You will only be allowed to begin the initial training program after the Franchise Agreement is signed, the Franchise Location has been secured, and a lease is signed for the Franchise Location. You must provide us with written notice that you are ready to start the initial training program at least 30 days in advance of the time you desire to begin the initial training program. We do not guaranty that you will be able to start training after the 30 day period, but we will use reasonable efforts to schedule you for the initial training program as soon as possible after the 30 day period. You must complete the initial training program at least 21 days before you commence introductory classes at the Franchise Business. We reserve the right to waive a portion of the initial training program or alter the training schedule, if in our discretion, a designated owner or the manager has sufficient prior experience or training.

Our initial training program will consist of five days of training at our offices and/or at one or more RE24 Fitness Studios in Michigan or another location in the U.S. designated by us. The time periods allocated to the subjects listed in the table are approximations, and the time actually spent by you and your personnel may vary based on experience and performance of the individuals being trained. Our training materials include our Operations Manual and other written training materials. The number and frequency of training program sessions will depend on the number of franchisees, but we expect them to begin every four to six weeks.

Jodi Rosen is in charge of our training program. Ms. Rosen has five years of experience with us and 10 years of experience in the industry.

We will provide one representative to conduct five days of on-site training at your Franchise Location, at a mutually agreed on time at or around opening, to assist you in the opening of your Franchise Business. However, we will not be required to provide this training if you or one of your owners or an entity affiliated with you has previously operated or is currently operating an RE24

Fitness Studio. If you request and we agree, we will provide additional on-site assistance, but may charge you for that assistance.

At least 30 days in advance of the projected opening date for your Franchise Business, you must request that we to perform our final inspection. Your Franchise Business must be ready to open prior to the commencement of any on-site training and the final inspection. "Ready to open" means that you have obtained all necessary permits, licenses and inspections, all equipment necessary to operate the Franchise Business must be operational, product is available for sale, adequate staff has been employed, and you or a trained manager is present at the Franchise Location. Our representative will not provide training or remain on-site if you or a trained manager is not present at the Franchise Location. We will not book travel for the on-site training and final inspection until you notify us that you are ready to open. We will go through a ready to open checklist a day or two before the representative is scheduled to travel. If you are not ready to open, we will have to reschedule the representative's travel and you will have to pay the expense of rescheduling, which may include cancellation fees. If it appears you are ready to open, but the Franchise Business is not ready to open when the representative arrives for training and/or final inspection, you must pay all reasonable travel and living expenses incurred by us or our agents and the reasonable wages of our employees or independent contractors or agents in connection with provision of the on-site training and inspection. If we interrupt on-site training and inspection because your Franchise Business is not ready to open, we will provide on-site training and a final inspection only after payment of the above listed expenses and certification by you that your Franchise Business is ready to open.

If we determine that you have not completed the training requirements to our satisfaction or that you or your team of employees is not ready to open your Franchise Business to the public in accordance with our standards, we may: (a) require you and/or your employees designated by us to attend additional training before the Franchise Business opens to the public; and/or (b) require you to use additional assistance from our representatives for a period of time during and after opening of the Franchise Business; or (c) terminate your Franchise Agreement. The additional training and/or assistance will be at your expense.

You or a designated owner (or, if we specify, the manager, or other management employees, and/or the lead trainer) must attend additional training, sales programs, and meetings reasonably specified by us. We will give you reasonable notice of any additional specified training, sales programs, or meetings. We may impose a reasonable charge for any training provided beyond the initial training program. Any training fees will be uniform as to all persons attending additional training at that time. Also, you are responsible for all travel and living expenses you or your employees incur when attending the additional training, sales programs, and meetings. We may require you to complete additional training before offering new products or services from your Franchise Business. These additional programs will generally be conducted at our training facility or an RE24 Fitness Studio in the U.S.

If at any time your franchise ceases to be under the supervision of an approved manager that has successfully completed the management training program and you do not have a successor manager acceptable to us attend the next available management training program, then, in addition to all other remedies, we may charge you a fee of \$1,000.00 per week (beginning the week that the initial training program is available) until the earlier of termination of the Franchise Agreement or when you have a appointed a manager acceptable to us who has successfully completed the management training program.

We may require that your management level employees, including replacement managers, satisfactorily complete our training programs and additional training programs. We may charge reasonable fees for training managers. You must employ a lead trainer that has completed our lead trainer training program and all of your successor lead trainers must satisfactorily complete our lead trainer training program before they begin their employment duties. At least once every year (or less often if specified by us), you must send your lead trainer to complete our then-current lead trainer training program. We will not charge for this required annual lead trainer program, but you must pay your lead trainer's wages, travel, and living expenses. You must assist us in training other RE24 Fitness Studio franchisees, but we will reimburse your out-of-pocket expenses for providing this assistance.

You will be responsible for training all of your employees who work in any capacity in your Franchise Business and will be responsible for compliance by your employees with the operations standards that are part of the Franchise System. You must conduct your employee training in accordance with our specifications.

No compensation or other benefits will be paid by us to you, your principals, owners, managers, or employees for any services performed by you or your principals, owners, managers, or employees during training at any RE24 Fitness Studio operated by us, our affiliates, or any other person. You will be responsible for compliance with all minimum wage and hour and other employment laws applicable to your employees attending training and/or providing services during training. You are responsible for any injuries sustained by you, your principals, owners, managers, or employees while attending training.

#### Services May be Provided by Area Developer

If there is an area developer in the area in which your RE24 Fitness Studio is located, the area developer may be responsible for performing some or all of the obligations described above that would otherwise be performed by us, including on-site assistance and operations support.

### **ITEM 12--TERRITORY**

#### Franchise Location; Relocation

You must operate your Franchise Business only from a specific location, which will be designated in Item 3 on Appendix A to the Franchise Agreement. If the exact location for your Franchise Business has not been determined before signing of the Franchise Agreement, you must use your best efforts to find a suitable location for your Franchise Business within the area designated in Item 2 on Appendix A to the Franchise Agreement. You must always operate your Franchise Business only at a location approved in writing by us.

You cannot relocate your franchise without our approval. If your lease or sublease for the Franchise Location expires or terminates without your fault or if the Franchise Location is condemned, destroyed, or rendered unusable or you have other reasonable business reasons to relocate, you may request that we consent to the relocation of the Franchise Location. If the new location proposed by you is approved by us as a viable location and you have submitted to us a lease that meets our requirements, we will not unreasonably withhold consent to the relocation of the Franchise Location. The factors we consider for approving a new location are the same factors we consider for your initial location (see Item 11). We will not be required to consent to a new location if the location is outside of your Protected Area or if we believe the new location will encroach on the location of another RE24

Fitness Studio. If the Franchise Location becomes unusable for the Franchise Business through no fault of yours and a substitute location is not available within a reasonable period of time, the Franchise Agreement will terminate on conclusion of operation of the Franchise Business at the Franchise Location.

### Protected Area

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, from other channels of distribution or competitive brands that we control.

You will be granted a protected area that will be determined at the time the Franchise Location is determined (the "Protected Area"). The Protected Area will be designated in Item 5 of Appendix A to the Franchise Agreement. Unless otherwise stated in Item 4 of Appendix A to the Franchise Agreement, the Protected Area will be: the area within a five mile radius of the front door of the Franchise Location. A different area may be stated in Item 4 of Appendix A as determined necessary by us in areas with heavy population density, to accommodate existing or planned RE24 Fitness Studios, or other business reasons. As long as the Franchise Agreement is in effect and you are not in default under the Franchise Agreement, we will not operate or authorize any other person to operate an RE24 Fitness Studio under the Franchise Marks at a location in your Protected Area, except that: (a) we or our affiliates may operate or authorize other persons to operate RE24 Fitness Studios at any hotels, motels, resorts, or similar facilities the physical premises of which are located within your Protected Area as long as those RE24 Fitness Studios only provide services to guests of the facility; and (b) we and our affiliates may operate or authorize other persons to operate a kickboxing studio using the Franchise Marks and Franchise System at locations within your Protected area; but only if: (i) you are not authorized to offer a kickboxing training program at your RE24 Fitness Studio; and (ii) the kickboxing studio we and our affiliates operate or authorize another person to operate in your Protected Area using the Franchise Marks and the Franchise System only offers a kickboxing training program and other training programs not offered at your RE24 Fitness Studio.

### Achievement of Certain Sales Volume

You must meet the applicable minimum Gross Sales requirements described below for each year of operation (the "Minimum Sales Requirement"). The Minimum Sales Requirement for each type of franchise is as follows:

<b>Year of Operation</b>	<b>Annual Gross Sales</b>
Year 1	\$250,000
Year 2	\$300,000
Year 3 and after	\$350,000

The first year of operation begins on the 1<sup>st</sup> day of the calendar month after you open the Franchise Business to the public and continues for a total of 12 calendar months. Each subsequent year of operation runs for the same 12-month period. If you fail to meet the Minimum Sales Requirement for a year of operation: (a) you must pay us the difference between the royalties actually paid for sales during that year of operation and the royalties that would have been paid if you had met the Minimum Sales Requirement for that year; and (b) we may either: (i) terminate your rights in the Protected Area; (ii) reduce the scope of the geographic area comprising the Protected Area; or (iii) terminate your Franchise Agreement.



### Limitations; Reservation of Rights

Your rights in the Protected Area relate to location only and do not grant you any exclusivity of marketing or customers. The Protected Area granted to you does not in any way grant or imply any other area, market, or territorial rights to you. You are not granted a minimum or maximum territory in which to operate your Franchise Business. As long as you provide your services from your Franchise Location and comply with applicable marketing restrictions, you are not limited in the area from which you may draw your customers. You must not use Electronic Media, Digital Marketing, or toll-free telephone numbers or similar methods with potential local, regional, national or worldwide scope in connection with your Franchise Business, except with our written consent and then only in accordance with our policies and procedures. We reserve the right to control all Electronic Media, Digital Marketing, and toll-free telephone numbers used to promote RE24 Fitness Studios and/or associated with the Franchise Marks and may require you to only use Electronic Media, Digital Marketing, and toll-free telephone numbers through central accounts established by us.

All rights not expressly granted to you in the Franchise Agreement are reserved to us. We and/or our affiliates may engage in any business activity whatsoever inside or outside your Protected Area except as restricted by your rights in the Protected Area. The Franchise Agreement does not confer on you any right to participate in or benefit from any of our other business activities, regardless of whether or not it is conducted under the Franchise Marks. By way of example, we and/or our affiliates may own, operate, or authorize others to own or operate any type of business at any location whatsoever, including within the Protected Area, so long as the other business does not sell under the Franchise Marks the type of products or services that the Franchise Business offers and sells (except as permitted below). Further, we and/or our affiliates may own, operate or authorize others to own or operate RE24 Fitness Studios at any location outside your Protected Area, including immediately proximate to your Protected Area.

In addition, we and/or our affiliates alone have the right to offer and sell within and outside the Protected Area, and under the Franchise Marks, any and all products or services and/or their components or ingredients (including those used or sold by the Franchise Business), whether or not a part of the Franchise System, through any method of distribution other than an RE24 Fitness Studio located in the Protected Area. Examples include: Electronic Media and Digital Marketing; any other form of electronic commerce; "800" or similar toll-free telephone numbers; mail order; catalogs; television sales (including "infomercials"); or any other channel of distribution whatsoever except for an RE24 Fitness Studio. We are not required to pay you any compensation for soliciting or accepting orders from inside your Protected Area.

We may purchase, merge, acquire, be acquired by, or affiliate with a competitive or non-competitive franchise or non-franchise network, chain or any other business regardless of the location of that other business' facilities. Following that activity, we may operate, franchise or license those other businesses and/or facilities under any names or marks, regardless of the location of those businesses and/or facilities, which may be within your Protected Area or immediately proximate to your Protected Area. However, we will not operate, franchise, or license those other businesses under the Franchise Marks in your Protected Area while the Franchise Agreement is in effect.

As noted in Item 1, our affiliate, Massage Green, authorizes others to operate Massage Green Spa Stores. We don't think a Massage Green Spa Store is similar to an RE24 Fitness Studio, but both businesses offer infrared sauna services and they may compete for the same customers. It is possible that Massage Green Spa Stores could be operated in your territory by Massage Green or its affiliates or franchisees. Also, Massage Green Spa Stores operated by Massage Green or its affiliates or franchisees could solicit or service customers from your Protected

Area. Also, as noted in Item 1, our affiliate, Stretch Smart, authorizes others to operate Stretch Smart Infrared Therapy Centers. A Stretch Smart Infrared Therapy Center business is not similar to an RE24 Fitness Studio, but both businesses offer infrared sauna services. It is possible that Stretch Smart Infrared Therapy Centers could be operated in your Protected Area by Stretch Smart or its affiliates or franchisees. Also, Stretch Smart Infrared Therapy Centers operated by Stretch Smart or its affiliates or franchisees could solicit or service customers from your Protected Area. We are not required to resolve any conflicts between us and our franchisees or between franchisees in each franchise system regarding territory, customers and franchisor support. If we choose to resolve any conflicts of this nature, we will do so in our reasonable business judgment and in our sole discretion. The principal business address of Massage Green and Stretch Smart is the same as our principal business address, but Massage Green and Stretch Smart intend to maintain training facilities that are physically separate from our training facilities. As noted in Item 1, Lefty's, authorizes others to operate Lefty's Famous Cheesesteaks, Hoagies & Grill restaurants. We don't think a Lefty's Famous Cheesesteaks, Hoagies & Grill restaurant is similar to an RE24 Fitness Studio or that both businesses compete for the same customers.

Except as described above regarding Massage Green Spa Stores and Stretch Smart Infrared Therapy Centers, although we are not prohibited from doing so, we do not presently operate or franchise or have plans to operate or franchise any business providing products or services under different trade names or trademarks similar to or competitive with those to be offered by you.

#### Franchisee Options; Additional Franchises

You will not have any options, rights of first refusal or similar rights to acquire additional franchises within any specified territory or any contiguous territories. We may allow you to acquire additional franchises if you meet our qualifications in place at that time for acquiring a franchise and ownership of multiple locations. These qualifications may include standards of character, business experience, financial strength, credit standing, health, reputation, business ability, experience, availability of management personnel, etc.



#### Multi-Unit Addendum

If you enter into a Multi-Unit Addendum with us, you will receive a separate Protected Area for each RE24 Fitness Studio franchise you develop and you will have the rights and obligations described above for each RE24 Fitness Studio franchise you develop. If you do not timely begin to operate an RE24 Fitness Studio franchise under a Franchise Agreement signed with the Multi-Unit Addendum, that Franchise Agreement and any other Franchise Agreements for RE24 Fitness Studio franchises that you have not yet started to operate may be terminated and you will lose all rights in any Protected Area covered by those Franchise Agreements.

### **ITEM 13--TRADEMARKS**

#### Principal Franchise Marks

You must operate your Franchise Business under the Franchise Marks. As of the date of this Franchise Disclosure Document, our principal trademarks include "Red Effect Infrared Fitness<sup>®</sup>™" and "Red Effect<sup>®</sup>." The status of the filings and federal registrations with the U.S. Patent and Trademark Office ("USPTO") for our principal trademarks is as follows:

Trademark	Country	Application Date and Number	Registration Date and Number	Status
RED EFFECT INFRARED FITNESS	U.S.	05/17/2017 87453888	01/23/2018 5388526	Registered on Principal Register
RED EFFECT INFRARED FITNESS	International	11/16/2017 87453888	11/16/2017 1381592	Registered – Madrid (WIPO)
RED EFFECT	U.S.	05/17/2017 87453855	01/23/2018 5388525	Registered on Principal Register
ON YOUR MARK, GET SET, SWEAT	U.S.	2/8/2016 86900957	4/4/2017 5177811	Registered on Principal Register
SWEAT LIKE YOU MEAN IT!	U.S.	5/27/2016 87051993	2/28/2017 5152877	Registered on Principal Register
INFRARED THE FUTURE OF FITNESS	U.S.	5/27/2016 87051997	9/5/2017 5282301	Registered on Principal Register
HEAT FIRE BURN	U.S.	4/25/2017 87424358	11/21/2017 5339582	Registered on Principal Register
RED EFFECT (water bottles sold empty; bottoms as clothing; headwear; jackets; tops as clothing; boxing gloves)	U.S.	4/25/2018 87892120	4/23/2019 5735226	Registered on Principal Register
	U.S.	4/25/2018 87892293	5/14/2019 5752946	Registered on Principal Register
POWERED WITH INFRARED	U.S.	8/19/2019 88584018	11/17/2020 6201616	Registered on Principal Register
POWERED WITH INFRARED	International	2/12/2020 88584018	2/12/2020 1520430	Registered – Madrid (WIPO)
THE INFRARED EFFECT	U.S.	8/19/2019 88584039	2/9/2021 6267640	Registered on Principal Register
THE INFRARED EFFECT	International	2/12/2020 88584039	2/12/2020 1520434	Registered – Madrid (WIPO)
DEFEND WITH INFRARED	U.S.	5/13/2020 88914062	5/25/2021 6365915	Registered on Principal Register
	U.S.	5/13/2020 88915034	5/25/2021 6365918	Registered on Principal Register

We have filed and intend to file all required affidavits and renewals relating to our principal trademarks.

#### Determinations, Agreements or Uses Affecting Franchise Marks

Except as described above, there are no currently effective material determinations of the USPTO, Trademark Trial and Appeal Board, the Trademark Administrator of any state, or any court, any pending interference, opposition or cancellation proceeding nor any pending material federal or

state court litigation involving our principal Franchise Marks. There are no agreements currently in effect that limit our rights to use or license the principal Franchise Marks in any manner material to your franchise. We do not know of any superior prior rights or infringing uses of the Franchise Marks that could materially affect your use of our Franchise Marks.

### Franchisee's Obligations

You must use the Franchise Marks only in accordance with our rules. You must only use the Franchise Marks in connection with the operation of your Franchise Business pursuant to the Franchise System and only in the manner specified in the Franchise Agreement or otherwise specified by us. You must not use the Franchise Marks in connection with any products and services not authorized by us in writing. You must not reproduce or cause to be reproduced any Franchise Marks in any manner, including reproduction on forms, in connection with advertising, marketing or promotion, or in connection with Electronic Media or Digital Marketing without our prior written approval. You must not use the Franchise Marks in your corporate, partnership or limited liability company name. If you receive notice, or are informed, of any claim, suit or demand against you on account of any alleged infringement, unfair competition, or similar matter on account of your use of the Franchise Marks, you must promptly notify us of any such claim, suit or demand. If you receive notice or are informed or learn that any third party is using the Franchise Marks or any name or trademark confusingly similar to the Franchise Marks without authorization, you must promptly notify us of the facts relating to the alleged infringing use.

### Defense of the Franchise Marks

If we become aware of a claim against you relating to your use of the Franchise Marks, we will take action as we deem necessary and appropriate to protect and defend you against the claim. You must not settle or compromise any claim by a third party without our written consent. We will have the sole right to defend, compromise or settle any claim, in our discretion, using attorneys of our choosing, and you agree to cooperate fully with us in connection with the defense of any claim. You may, if you choose, participate at your own expense in the defense or settlement, but our decisions with regard to the Franchise Marks will be final.

We will indemnify you against liability to third parties resulting from claims by third parties that your use of the Franchise Marks infringes trademark rights of the third party, but only if (1) you have used the Franchise Marks in accordance with the requirements of the Franchise Agreement and our specifications and (2) you have given notice to us of the claim within 10 days of receipt by you of the claim and you have tendered the defense of the claim to us. Otherwise, the Franchise Agreement does not require us to participate in your defense and/or to indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving the Franchise Marks or if the proceeding is resolved unfavorably to you.

### Prosecution of Infringers

If we become aware that a third party is using the Franchise Marks or any name or mark confusingly similar to the Franchise Marks without authorization, we will then, in our sole discretion, determine whether or not we wish to take any action against the third person. You will have no right to make any demand against any alleged infringer or to prosecute any claim of any kind or nature whatsoever against an alleged infringer. If we choose to prosecute any violation of the Franchise Marks, you must sign all documents and do all acts necessary or incidental to that action as our attorneys may reasonably request.

### Modification of Franchise Marks

We may, in our discretion, change the Franchise Marks, including adding, discontinuing or modifying the Franchise Marks, or substituting different Franchise Marks. We may make these changes because of the rejection of any pending registrations or the revocation of any registrations of the Franchise Marks, or due to the rights of senior users, or for other business reasons, except that we must make all such changes in the authorized Franchise Marks on a uniform basis for all similarly situated RE24 Fitness Studios in a particular market. If we change the Franchise Marks, you will have the right to use the modified Franchise Marks and you will have the obligation to make those changes at your expense.

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

### Patents and Copyrights

We do not own any patents that are material to your franchise. We do not have any pending patent applications that are material to your franchise. We claim copyright protection for our written materials, including Operations Manuals and marketing materials, although these materials are not registered with the U.S. Copyright Office.

### Proprietary Information

Our Operations Manual, specifications and procedures and other aspects of the Franchise System are considered proprietary and confidential. This information may include Operations Manuals, training methods, operations methods, knowledge and experience relating to Fitness Studios, advertising, marketing techniques and advertising programs, information regarding the identities and business transactions of customers and suppliers, the Franchise Technology, digital passwords and identifications, source code, data reports, knowledge of operating results and financial performance of Fitness Studios, and related Intellectual Property. You must use our specifications and procedures and the other aspects of our Franchise System only as provided in the Franchise Agreement. You must not use our specifications and procedures or any other aspect of our Franchise System in any unauthorized manner and you must take reasonable steps to prevent disclosure of this information to others. Your employees must sign an agreement relating to confidentiality and non-competition in a form specified by us before you disclose confidential information to them (see Exhibit F).

### Determinations, Agreements or Uses Affecting Proprietary Information

There are no currently effective material determinations of the U.S. Copyright Office or any court regarding any of our copyrighted or confidential materials. There are no agreements currently in effect that limit our rights to use or license the copyrighted materials or any of our confidential information. We do not know of any superior prior right or infringing uses of our copyrighted materials or our confidential information that could materially affect your use of those materials or information.

### Defense of Copyrights and Confidential Information

We are not required by any agreement to protect or defend our copyrights or confidential information or to take affirmative action when notified of infringement of our copyrights or confidential information or to defend you against claims arising from your use of copyrighted or confidential

information, although we intend to protect our System. If there is litigation involving our copyrights or confidential information, we would have the right to control that litigation. We do not have an obligation under the Franchise Agreement to participate in your defense or to indemnify you for expenses or damages in a proceeding involving a copyright or confidential information licensed to you.

#### Modification of Copyrights and Confidential Information

We may, in our discretion, modify our copyrights and confidential information. If we modify our copyrights or confidential information, you will have the right under the Franchise Agreement to use the modified materials and you will have the obligation to make changes specified by us at your expense.

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

The individual or at least one of the individuals designated in Item 5 on Appendix A of the Franchise Agreement (a “Designated Owner”) must: (a) preserve and exercise ultimate authority and responsibility with respect to the management and operation of the Franchise Business; and (b) represent and act on behalf of the franchisee in all dealings with us. Each Designated Owner must have an ownership interest in the franchisee.

Your Franchise Business must, at all times, be under the direct supervision of a manager as described in this paragraph (the “Manager”). The Manager must: (i) devote his or her full time and effort to the day-to-day active management and operation of the Franchise Business; (ii) be personally responsible for the Franchise Business at all times; (iii) personally exercise his or her best efforts to market the Franchise Business and maximize customer satisfaction; and (iv) be present at the Franchise Location for the minimum number of days and hours specified by us. Unless otherwise specified by us, the minimum number of days and hours will be five days a week, eight hours per day, at total of 40 hours per week. The Manager must meet the following requirements before beginning to serve as Manager for the Franchise Business: (1) the Manager must have successfully completed our management training program and any retraining or refresher training programs specified by us; (2) the Manager must be approved by us and not later disapproved; and (3) the Manager must sign an agreement relating to confidentiality and non-competition in the form specified by us as a condition of employment. The on-premises Manager is not required to possess an equity interest in the Franchise Business. An individual who previously successfully completed the initial training program but has not worked for an RE24 Fitness Studio for a period of six months or more, must attend the initial training program again before we will approve that individual as a Manager for the Franchise Business. Our approval or disapproval of a Manager will be based on the standards and requirements specified by us in writing or otherwise. If we reject or disapprove a Manager, we will notify you of the reasons for the decision.

The Designated Owner must attend each annual convention scheduled by us. If the Designated Owner fails to attend the annual convention for two years in a row, we may terminate your Franchise Agreement. We may excuse the Designated Owner from attending the annual convention, but only if the Designated Owner show good cause and is able to have a qualified replacement, approved in our sole discretion, attend the annual convention.

We do not require but we recommend that a Designated Owner act as the Manager. If a Designated Owner is not the Manager, the Manager must be under the direct supervision of a

Designated Owner. If you desire to change the approved Manager, you must notify us in writing as least 30 days before employing a new Manager. It will be your responsibility to ensure that the Franchise Business is always under the supervision of an approved Manager. A failure to have the Franchise Business under the supervision of an approved Manager is a material default under the Franchise Agreement.

If the franchisee is a corporation, partnership, limited liability company or other entity, the owners must personally guaranty all of the franchisee's obligations to us by signing the Obligations and Representations of Individual Interested Parties attached to the Franchise Agreement as Appendix B and the Guaranty attached to the Franchise Agreement as Appendix D.

#### **ITEM 16--RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must sell all products and provide all services that we specify for sale for the Franchise Business. You must not sell any products, provide any services or engage in any business at the Franchise Business or Franchise Location other than those specified by us without our written authorization. We may add or delete required or authorized products or services to be provided by the Franchise Business. If any products or services are added, you must be qualified to provide the products and services before we will authorize you to offer those products and services. If a product or service is deleted, you must cease offering that product or service immediately on written notice from us. We have the right to vary specifications for products and services to be offered by RE24 Fitness Studios by geographic area or market or type or size of location or other relevant distinctions between franchises. Also, we have the right to authorize one or more RE24 Fitness Studios to test market products, services, suppliers, or other items on a non-uniform basis. You will not be entitled to require us to disclose or grant to you a like or similar variation in our standards and specifications. There are no limits on our right to make changes to the types of authorized goods or services.

You must not use the Electronic Media, Digital Marketing, toll-free telephone numbers or similar methods with potential local, regional, national or worldwide scope in connection with your Franchise Business, except with our written consent and then only in accordance with our policies and procedures. We reserve the right to control all Electronic Media, Digital Marketing, and toll-free telephone numbers used to promote RE24 Fitness Studios and/or associated with the Franchise Marks and may require you to only use Electronic Media, Digital Marketing, and toll-free telephone numbers through central accounts established by us.

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

**THE FRANCHISE RELATIONSHIP**

These tables list certain important provisions of the Franchise and related agreements. You should read these provisions in the Agreements attached to this Disclosure Document.

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a. Length of the franchise term	Section 3.1 of Franchise Agreement; Section 5 of Co-Brand Addendum	10 years
b. Renewal or extension of the term	Sections 3.2 and 3.3 of Franchise Agreement;	10 years
c. Requirements for you to renew or extend	Section 3.2 of Franchise Agreement	Not in default; no multiple defaults within last 12 months; provide notice; able to maintain possession of Franchise Location; refurbish Franchise Location to meet current standards; has satisfied payment and reporting requirements throughout the previous term; satisfy current training and operational standards; sign a general release; sign new Franchise Agreement or assume existing Franchise Agreement; pay a renewal fee; comply with other standards; and we have approved the renewal. As a condition of renewal, you may be asked to sign a Franchise Agreement with materially different terms and conditions than your original Franchise Agreement.
d. Termination by you	Section 15.1 of Franchise Agreement	If we materially breach the Franchise Agreement and do not cure within 60 days notice from you.
e. Termination by us without cause	None	
f. Termination by us with cause	Sections 15.2 through 15.5 of Franchise Agreement; Section 6 of Co-Brand Addendum; Section 4 of Multi-Unit Addendum	If you default under the Franchise Agreement as defined in these Sections.
g. "Cause" defined—curable defaults	Sections 15.4 and 15.5 of Franchise Agreement; Section 4 of Multi-Unit	The notice and cure period for curable defaults is: 10 days for defaults involving the payment of money, failure to operate in accordance with system standards or failure



Provision	Section in Franchise Agreement	Summary
	Addendum	to permit quality control checks, and failure to purchase products from Designated or Approved Suppliers; and 30 days for disagreements between the owners of franchisee that materially and adversely affect the operation of the franchise, other material breaches by the franchisee or its owners or any of their affiliates of the Franchise Agreement or any other agreement with us, and cancellation of a guaranty. If you fail to comply with the studio opening schedule under a Multi-Unit Addendum: we may terminate the Franchise Agreements for units you have not opened if you fail to cure the default within 30 days of notice from us; and we will not have the right to terminate any Franchise Agreements for units you have opened.
h. "Cause" defined—non-curable defaults	Section 15.3 of Franchise Agreement; Section 4 of Multi-Unit Addendum	Non-curable defaults include: failure to obtain Franchise Location; failure to complete training; failure to obtain necessary permits and licenses; material misrepresentations or dishonesty or fraud; a substantial number of complaints by customers; any assignment that has not been approved by us; violation of criminal laws; repeat defaults; abandonment; operating in a manner that presents a health or safety hazard; substance abuse; material and adverse conduct; insolvency bankruptcy, assignments for the benefit of creditors or similar proceedings; outstanding judgments; termination of lease or foreclosure on mortgage; assessed system standards fees multiple times; failure to meet minimum sales requirements a year of operation; a breach of terrorist or money laundering representations; failure to attend two consecutive annual conventions; submitting two or more inaccurate financial reports; failure to submit financial reports or submitting reports late on multiple occasions. If you fail to comply with the studio opening schedule under a Multi-Unit Addendum, the Multi-Unit Addendum will automatically terminate.

Provision	Section in Franchise Agreement	Summary
i. Your obligations on termination/non-renewal	Article 16 of Franchise Agreement; Section 6 of Co-Brand Addendum	Discontinue use of the Intellectual Property; cease advertising and complete de-identification; notify customers and pay any refunds due to customers; remain liable for obligations to customers; cease using Operations Manuals and other proprietary information; assign telephone numbers, fax numbers, Electronic Media, and other electronic identifiers to us; cease using business name containing the Franchise Marks; payment of amounts due; payment of outstanding gift cards and pre-paid memberships to us; sale of branded product to us at our request; do not sell any branded product to the public; assign lease to us at our option; and sell assets to us at our option.
j. Assignment of contract by us	Section 14.6 of Franchise Agreement	No restriction on our right to assign.
k. "Transfer" by you—defined	Section 14.1 of Franchise Agreement	Includes transfers of any interest in the Franchise Agreement, the Franchise Business or the assets of the Franchise Business, the Franchise Location, or ownership of the franchisee.
l. Our approval of a transfer by you	Sections 14.1 and 14.3 of Franchise Agreement	You must have our written consent to transfer your franchise. We will not unreasonably withhold consent if you meet conditions listed in the Franchise Agreement.
m. Conditions for our approval of the transfer	Section 14.3 of Franchise Agreement	Offer notice provided and review fee paid; new franchisee qualifies; transfer does not place unreasonable burdens on transferee; franchisee is in compliance with the Franchise Agreement and all amounts due to us and suppliers are paid; release signed by you; new franchisee completes training program; new Franchise Agreement signed by new franchisee or assumption agreement, at our option; new owners personally guaranty obligations; you and you guarantors remain liable for obligations to customers; transfer fee paid; current requirements met; transferee is not a competitor; landlord allows transfer of the lease to the new franchisee; and compliance with other standard procedures specified by us.
n. Our right of first refusal to acquire your business	Section 14.2 of Franchise Agreement	We can match any offer for the purchase of your business.

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
o. Our option to purchase your business	Section 16.3 of Franchise Agreement	We have the option to purchase the assets of your business if the Franchise Agreement expires or is terminated.
p. Your death or disability	Section 14.4 of Franchise Agreement	Your estate may operate the franchise if we approve a manager. If no acceptable manager is approved, the estate must transfer the franchise within 180 days. We may take over operation of your franchise in the interim period.
q. Non-competition covenants during the term of the franchise	Section 13.1 of Franchise Agreement	No involvement in competing business anywhere. This prohibition applies to you, your owners, officers, directors, members, partners, and affiliates.
r. Non-competition covenants after the franchise is terminated or expires	Section 13.2 of Franchise Agreement	No competing business for 2 years within certain geographic areas. This prohibition applies to you, your owners, officers, directors, members, partners, and affiliates. Non-competition provisions are subject to local law.
s. Modification of the agreement	Section 20.8 of Franchise Agreement	Amendments must be in writing and signed by both parties except we may unilaterally modify our specifications.
t. Integration/merger clause	Section 20.8 of Franchise Agreement	Only the terms of the Franchise Agreement are binding (subject to applicable state law—see Exhibit M). Notwithstanding the foregoing, nothing in any Franchise Agreement is intended to disclaim the express representations made in this Franchise Disclosure Document.
u. Dispute resolution by arbitration or mediation	Sections 17.1 through 17.3 of Franchise Agreement	Except for actions for injunctive relief, all disputes are subject to binding arbitration in Michigan.
v. Choice of forum	Section 17.5 of Franchise Agreement	Actions by us may be brought and actions by you must be brought in the federal or state courts in Michigan (subject to applicable state law—see Exhibit M).
w. Choice of law	Section 17.4 of Franchise Agreement	Except for the U.S. Trademark Act and other applicable federal law, Michigan law applies (subject to applicable state law—see Exhibit M).

### **ITEM 18--PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

## **ITEM 19--FINANCIAL PERFORMANCE REPRESENTATIONS**

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

We do not make any representations about a franchisee's future financial performance or past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections or your future income, you should report it to the franchisor's management by contacting Mr. Carlos Guzman at 4000 Page Ave., Michigan Center, Michigan 49254, (833) 227-5671, the Federal Trade Commission, and the appropriate state regulatory agencies.

## **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>
Franchised	2021	10	8	-2
	2022	8	4	-4
	2023	4	3	-1
Company-Owned	2021	3	2	-1
	2022	2	1	-1
	2023	1	1	0
Total Outlets	2021	13	10	-3
	2022	10	5	-5
	2023	5	4	-1

**Table No. 2**

**Transfers of Outlets from Franchisees to New Owners (Other than the Franchisor)  
For Years 2021 to 2023**

State	Year	Number of Transfers
California	2021	0
	2022	0
	2023	0
Illinois	2021	0
	2022	0
	2023	0
Michigan	2021	0
	2022	0
	2023	0
Virginia	2021	1
	2022	0
	2023	0
<b>Totals</b>	<b>2021</b>	<b>1</b>
	<b>2022</b>	<b>0</b>
	<b>2023</b>	<b>0</b>

**Table No. 3**

**Status of Franchised Outlets for Years 2021 to 2023**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of Year
Arizona	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	1	0
	2023	0	0	0	0	0	0	0
California	2021	3	0	0	0	0	3	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
Illinois	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Michigan	2021	4	0	0	0	0	1	3
	2022	3	0	0	0	0	1	2
	2023	2	0	0	0	0	0	2
Oklahoma	2021	1	0	0	0	0	1	0
	2022	0	0	0	0	0	0	0
	2023	0	0	0	0	0	0	0
South Carolina	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	1	0

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Re-acquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of Year
Virginia	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	2	0
	2023	0	0	0	0	0	0	0
<b>Totals</b>	<b>2021</b>	<b>10</b>	<b>3</b>	<b>0<sup>(1)</sup></b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>8</b>
	<b>2022</b>	<b>8</b>	<b>0</b>	<b>0<sup>(2)</sup></b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>
	<b>2023</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>3</b>

(1) 13 Franchise Agreements for outlets to be developed in California, 2 Franchise Agreements for outlets to be developed in Michigan, 2 Franchise Agreements for outlets to be developed in Oklahoma, 2 Franchise Agreements for outlets to be developed in Virginia, and 1 Franchise Agreement for an outlet to be developed in Utah were terminated in 2021. These terminations are not reflected in Table 3 because the outlets never opened.

(2) 2 Franchise Agreements for outlets to be developed in Michigan and 2 Franchise Agreement for outlets to be developed in Virginia were terminated in 2022. These terminations are not reflected in Table 3 because the outlets never opened.

**Table No. 4**  
**Status of Company-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
California	2021	0	1	0	0	0	1
	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
Michigan	2021	2	0	0	1	0	1
	2022	1	0	0	1	0	0
	2023	0	0	0	0	0	0
South Carolina	2021	1	0	0	1	0	0
	2022	0	0	0	0	0	0
	2023	0	0	0	0	0	0
<b>Totals</b>	<b>2021</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>
	<b>2022</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>
	<b>2023</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

**Table No. 5**  
**Projected Openings as of December 31, 2023**

State	Franchise Agreements Signed But Outlet Not Yet Opened	Projected New Franchised Outlet in the Next Fiscal Year	Projected New Affiliate-Owned Outlet in the Next Fiscal Year
Arizona	2 <sup>(1)</sup>	0	0
California	0	0	1
Florida	7 <sup>(1)</sup>	2	1
Georgia	1 <sup>(1)</sup>	0	0
Illinois	2	0	0
Michigan	3 <sup>(1)</sup>	2	2
New Jersey	2 <sup>(1)</sup>	0	0
Nevada	1 <sup>(1)</sup>	0	0
New Mexico	2 <sup>(1)</sup>	0	0
South Carolina	3 <sup>(1)</sup>	0	0
Texas	1 <sup>(1)</sup>	0	0
Virginia	0	0	0
<b>Totals</b>	<b>24</b>	<b>4</b>	<b>4</b>

(1) We intend to terminate these Franchise Agreements in 2024 based on the franchisees' failure to develop the outlets.

The information in the tables is as of December 31<sup>st</sup> of each year.

We do not own or operate any RE24 Fitness Studios. The outlets referred to in the tables as "Company-Owned" are owned by affiliates of Red Effect or family members of affiliates of Red Effect.

The names of all current franchisees and the address and telephone number of each of their outlets (as applicable), as well as the name, address and telephone number for each affiliate-owned outlet, are listed on Exhibit J. A list of the name, city and state and current business telephone number, or if unknown, the last home telephone number of every franchisee who has had a franchise terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the calendar year 2023 or who has not communicated with us within ten weeks of our application date (or the date of this Franchise Disclosure Document, if this Franchise Disclosure Document is not for use in a state requiring registration of franchises) is attached as Exhibit K. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

If we sell a formerly franchised outlet that is now under our control, we will provide you with the following information for the outlet (covering the last 5 fiscal years): (a) the name, city and state, current business telephone number, or if unknown, last known home telephone number of each previous owner of the outlet within the last 5 years; (b) the time period when each previous owner controlled the outlet; (c) the reason for each previous change in ownership; and (d) the time periods when the franchisor retained control of the outlet (for example, after termination, non-renewal, or reacquisition). This disclosure may be provided as an addendum to this Disclosure Document or in a supplement to the Disclosure Document, if disclosure was already made.

Some of our franchisees signed confidentiality clauses during the last three fiscal years. In some instances, current and former franchisees may sign provisions restricting their ability to speak openly about their experience with the Red Effect franchise 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.

There are no trademark-specific franchisee organizations associated with the RE24 Fitness Studio franchise system that have been created, sponsored or endorsed by us or that have asked to be included in our Franchise Disclosure Document.

## **ITEM 21--FINANCIAL STATEMENTS**

Our financial statement(s) listed below are attached as Exhibit L.

- Audited Balance Sheets as of December 31, 2023, December 31, 2022, and December 31, 2021 and the Related Statements of Operations and Changes in Members' Equity and Cash Flows for the periods ending December 31, 2023, December 31, 2022, and December 31, 2021.

## **ITEM 22--CONTRACTS**

The following contracts are attached to this Franchise Disclosure Document:

- Franchise Agreement – Exhibit B
  - Specifics – Appendix A to Franchise Agreement
  - Obligations and Representations of Individual Interested Parties – Appendix B to Franchise Agreement
  - Acknowledgments by Franchisee – Appendix C to Franchise Agreement
  - Guaranty – Appendix D to Franchise Agreement
  - Assignment of Telephone Numbers and Electronic Media – Appendix E to Franchise Agreement
  - Electronic Fund Transfer Authorization – Appendix F to Franchise Agreement
  - Form of Lease Addendum – Appendix G to Franchise Agreement
  - Collateral Assignment of Lease – Appendix H to Franchise Agreement
- Addendum to Franchise Agreement for Co-Brand Location – Exhibit C
- Three Unit Addendum to Franchise Agreements – Exhibit D
- Ten Unit Addendum to Franchise Agreements – Exhibit E
- Confidentiality and Non-Competition Agreement – Exhibit F
- Sales and Related Documents for a Turn-Key Franchise – Exhibit G
- Local Advertising Cooperative Agreement – Exhibit H
- State Specific Addenda to Agreements – Exhibit M

## **ITEM 23--RECEIPTS**

Two copies of a Receipt that acknowledges your receipt of this Franchise Disclosure Document, including all Exhibits, are attached as Exhibit N. You must date and sign one copy of the Receipt and deliver it to us.



**EXHIBIT A**

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

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

<b>STATE</b>	<b>STATE ADMINISTRATOR</b>	<b>AGENT FOR SERVICE OF PROCESS</b>
<b>CALIFORNIA</b>	California Department of Business Oversight 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013-2344 (866) 275-2677	California Commissioner of Department of Business Oversight 320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013-2344
<b>HAWAII</b>	Department of Commerce and Consumer Affairs Business Registration Division Commissioner of Securities P.O. Box 40 Honolulu, HI 96810 (808) 586-2722	Commissioner of Securities Department of Commerce and Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 203 Honolulu, HI 96813
<b>ILLINOIS</b>	Illinois Office of Attorney General Franchise Bureau 500 South Second St. Springfield, IL 62706 (217) 782-4465	Illinois Office of Attorney General Franchise Bureau 500 South Second St. Springfield, IL 62706 (217) 782-4465
<b>INDIANA</b>	Indiana Secretary of State Securities Division 302 West Washington Street Room E-111 Indianapolis, IN 46204 (317) 232-6681	Indiana Secretary of State Securities Division 302 West Washington Street Room E-111 Indianapolis, IN 46204 (317) 232-6681
<b>MARYLAND</b>	Office of Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202 (410) 576-7042	Maryland Commissioner of Securities 200 St. Paul Place Baltimore, Maryland 21202
<b>MICHIGAN</b>	Michigan Department of Attorney General Consumer Protection Division Franchise Section 525 W. Ottawa Street G. Mennen Williams Building, 1 <sup>st</sup> Floor Lansing, MI 48913 (517) 335-7567	Michigan Department of Commerce Corporations and Securities Bureau 670 Law Building Lansing, MI 48913
<b>MINNESOTA</b>	Commissioner of Commerce Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101-2198 (651) 539-1600	Commissioner of Commerce Minnesota Department of Commerce 85 7th Place East, Suite 280 St. Paul, Minnesota 55101-2198 (651) 539-1600
<b>NEW YORK</b>	New York State Department of Law Investor Protection Bureau 28 Liberty St. 21 <sup>st</sup> Floor New York, New York 10005 (212) 416-8285	Secretary of State 99 Washington Avenue Albany, New York 12231

<b>STATE</b>	<b>STATE ADMINISTRATOR</b>	<b>AGENT FOR SERVICE OF PROCESS</b>
<b>NORTH DAKOTA</b>	Securities Department 600 East Boulevard, Fifth Floor Bismarck, North Dakota 58505 (701) 328-2910	Securities Department 600 East Boulevard, Fifth Floor Bismarck, North Dakota 58505 (701) 328-2910
<b>RHODE ISLAND</b>	State of Rhode Island and Providence Plantations Department of Business Regulation Securities Division 1511 Pontiac Avenue John O. Pastore Complex Bldg 69-1 Cranston, Rhode Island 02920 (401) 462-9527	Director of Rhode Island Department of Business Regulation 1511 Pontiac Avenue John O. Pastore Complex, Bldg 69-1 Cranston, Rhode Island 02920
<b>SOUTH DAKOTA</b>	South Dakota Division of Insurance Securities Regulation 124 S. Euclid, Suite 104 Pierre, South Dakota 57501 (605) 773-3563	South Dakota Division of Insurance Securities Regulation 124 S. Euclid, Suite 104 Pierre, South Dakota 57501 (605) 773-3563
<b>VIRGINIA</b>	State Corporation Commission Division of Securities and Retail Franchising 1300 E. Main Street, Ninth Floor Richmond, Virginia 23219 (804) 371-9051	State Corporation Commission Clerk's Office 1300 E. Main Street, First Floor Richmond, Virginia 23219 (804) 371-9733
<b>WASHINGTON</b>	Department of Financial Institutions Securities Division PO Box 9033 Olympia, Washington 98507-9033 (360) 902-8760	Department of Financial Institutions Securities Division 150 Israel Road SW Tumwater, Washington 98501 (360) 902-8760
<b>WISCONSIN</b>	Department of Financial Institutions Division of Securities 4 <sup>th</sup> Floor 345 W. Washington Avenue Madison, Wisconsin 53703 (608) 266-1064	Department of Financial Institutions Division of Securities 4 <sup>th</sup> Floor 345 W. Washington Avenue Madison, Wisconsin 53703 (608) 266-1064

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

# FRANCHISE AGREEMENT

BETWEEN

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**  
(“Franchisor”)

AND

\_\_\_\_\_  
(“Franchisee”)

EFFECTIVE DATE: \_\_\_\_\_, 20\_\_

FRANCHISE NUMBER: \_\_\_\_\_

LOCATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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# **RED EFFECT INTERNATIONAL FRANCHISE, LLC**

## **FRANCHISE AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee").

### **ARTICLE 1 - INTRODUCTION**

#### **1.1 Franchise System.**

Franchisor licenses a system for operation of a fitness studio that offers members 24/7 access to an infrared workout studio with virtual instructors streamed inside infrared saunas using equipment and strength and conditioning workouts, as well as free style fitness equipment used outside the infrared saunas, and other related services and merchandise. The distinguishing characteristics of the system may include trademarks, trade dress, equipment, layout, supplier and distribution arrangements, training, operational procedures, promotional techniques and materials, methods of inventory and operation, and manuals covering business practices and policies (collectively the "System"). The System may be updated and revised by Franchisor in the future. The System that Franchisor specifies and authorizes Franchisee to use now and in the future will be referred to in this Agreement as the "Franchise System."

#### **1.2 Franchise Marks.**

Franchisor identifies its fitness studios by means of certain trademarks, service marks, tradenames, logos, and other marks (the "Marks") and location designs, layouts, and other characteristics of visual appearance (the "Trade Dress"). Franchisor may, in the future, develop, use, or register additional or different Marks and Trade Dress that it may make available for use by Franchisee. The Marks and Trade Dress that Franchisor authorizes Franchisee to use now and in the future for the specific franchise concept licensed to Franchisee will be referred to in this Agreement as the "Franchise Marks" and the "Franchise Trade Dress."

#### **1.3 Franchise Business.**

A business operated under the Franchise Systems, Franchise Marks, and Franchise Trade Dress, whether operated by Franchisor, an Affiliate of Franchisor or a Person authorized by Franchisor, will be referred to in this Agreement as a "Fitness Studio" ("Person" and "Affiliate" are defined in Section 20.2). The Fitness Studio Franchisee is authorized to operate under this Agreement will sometimes be referred to in this Agreement as the "Franchise Business."

#### **1.4 Franchisee's Desire to Obtain a Franchise.**

Franchisee recognizes the advantages of operating under the Franchise System, Franchise Marks, and Franchise Trade Dress and desires to obtain the right to operate a Fitness Studio by entering into this Agreement with Franchisor. Franchisor is willing to grant Franchisee a license to open and operate a Fitness Studio on the terms and conditions in this Agreement.

## ARTICLE 2 - GRANT OF FRANCHISE

### 2.1 Grant of Franchise.

Franchisor grants to Franchisee the right to use the Franchise Marks, Franchise Trade Dress, and the Franchise System in connection with the operation of a single Fitness Studio in accordance with this Agreement and Franchisor's Operations Manual (as defined in Section 9.3). These rights are non-exclusive except as provided in Section 2.2. The Franchise Business must be operated at the location designated in Item 3 of Appendix A in accordance with Section 8.1 of this Agreement (the designated location is referred to as the "Franchise Location").

### 2.2 Protected Area; Limited Exclusivity; Exceptions.

Franchisee is granted a protected area that will be determined at the time the Franchise Location is agreed to by the parties (the "Protected Area"). The Protected Area will be designated in Item 4 of Appendix A. Unless otherwise stated in Item 4 of Appendix A, the Protected Area will be the area within a five mile radius of the front door of the Franchise Location. A different area may be stated in Item 4 of Appendix A as determined in the sole discretion of Franchisor in areas with heavy population density, to accommodate existing or planned Fitness Studios, or for other business reasons. Except as provided in this Section, Section 2.3, Section 2.4, or otherwise in this Agreement, as long as this Agreement is in effect and Franchisee is not in default under this Agreement, Franchisor and its Affiliates will not operate or authorize any other Person to operate a Fitness Studio under the Franchise Marks at a location in the Protected Area. Franchisee's limited rights relate to location only and do not grant Franchisee any exclusivity of marketing or customers. The Protected Area granted under this Agreement does not in any way grant or imply any other area, market or territorial rights to Franchisee.

Notwithstanding Franchisee's rights in the Protected Area under this Section: (a) Franchisor and its Affiliates may operate or authorize other Persons to operate Fitness Studios at any hotels, motels, resorts, or similar facilities the physical premises of which are located within the Protected Area; provided that, those Fitness Studios must only provide services to guests of the facility; and (b) Franchisor and its Affiliates may operate or authorize other Persons to operate a kickboxing studio using the Marks and System at locations within the Protected area; but only if: (i) Franchisee is not authorized to offer a kickboxing training program at the Franchise Business; and (ii) the kickboxing studio Franchisor and its Affiliates may operate or authorize other Persons to operate in the Protected Area using the Marks and the System only offers a kickboxing training program and other training programs not offered at the Franchise Business.

### 2.3 Reservation of Rights.

All rights not expressly granted in this Agreement to Franchisee are reserved to Franchisor. Franchisee agrees that Franchisor and/or its Affiliates may engage in any business activity whatsoever inside or outside the Protected Area except as Franchisor is restricted by Section 2.2, and that this Agreement does not confer on Franchisee any right to participate in or benefit from any such other business activity, regardless of whether or not it is conducted under the Franchise Marks, Franchise Trade Dress, or Franchise System. Franchisor's rights to engage in other business activities are specifically reserved and may not be qualified or diminished in any way by implication. Franchisor may engage in, or authorize others to engage

in, any form of business offering and selling any type of product or service except as restricted by Section 2.2.

By way of example, Franchisor and/or its Affiliates may own, operate or authorize others to own or operate any type of business at any location whatsoever, including within the Protected Area, so long as such other business does not sell under the Franchise Marks the type of products or services that the Franchise Business offers and sells (except as otherwise permitted in this Agreement). Further, Franchisor and/or its Affiliates may own, operate or authorize others to own or operate Fitness Studios at any location outside the Protected Area, including immediately proximate to the Protected Area.

In addition, Franchisee understands and agrees that Franchisor and/or its Affiliates alone have the right to offer and sell within and outside the Protected Area, and under the Franchise Marks, any and all products or services and/or their components (including those used or sold by the Franchise Business), whether or not a part of the Franchise System, through any method of distribution other than a Fitness Studio located in the Protected Area, including, without limitation, such alternative channels of distribution as Electronic Media and Digital Marketing (defined in Section 10.8); any other form of electronic commerce; “800” or similar toll-free telephone numbers; mail order; catalogs; television sales (including “infomercials”); or any other channel of distribution whatsoever except for a Fitness Studio.

Franchisee acknowledges that an Affiliate of Franchisor operates and authorizes others to operate businesses that offer massage therapy and infrared sauna therapy services under the Massage Green Spa name (“Massage Green Spas”) and that Franchisor and its Affiliates are not prohibited from operating or authorizing others to operate Massage Green Spas in the Protected Area. Franchisee also acknowledges that an Affiliate of Franchisor may operate and may authorize others to operate a business that offers assisted stretching services combined with infrared therapy under the Stretch Smart Infrared Therapy name (“Stretch Smart Infrared Therapy Centers”) and that Franchisor and its Affiliates are not prohibited from operating or authorizing others to operate Stretch Smart Infrared Therapy Centers in the Protected Area.

## **2.4 Acquisitions or Mergers.**

Franchisee agrees that Franchisor may purchase, merge, acquire, be acquired by, or affiliate with a competitive or non-competitive franchise or non-franchise network, chain or any other business regardless of the location of that other business’ facilities, and that following such activity Franchisor may operate, franchise or license those other businesses and/or facilities under any names or marks, regardless of the location of those businesses and/or facilities, which may be within the Protected Area or immediately proximate to the Protected Area; provided that Franchisor will not operate, franchise or license those other businesses under the Franchise Marks in the Protected Area while this Agreement is in effect.

## **ARTICLE 3 - TERM AND OPTION**

### **3.1 Term.**

The term of this Agreement will begin on the date of this Agreement and, unless sooner terminated as provided in this Agreement, will expire 10 years from the date of this Agreement.

### 3.2 Option of Franchisee.

Franchisee will have the option to continue to operate the Franchise Business for an additional period of ten years if, at the beginning of the option period (or as otherwise specified), all of the following conditions are fulfilled:

(a) Franchisee is not in default of this Agreement or any other agreement between the parties and no Affiliate of Franchisee is in default under any agreement between the Affiliate and Franchisor.

(b) Franchisee, during the 36 month period before the beginning of the option period, has not received from Franchisor two or more notices of default of the terms of this Agreement or any specification, standard or operating procedure of Franchisor (whether or not such notices related to the same or different violations and whether or not those violations have been remedied by Franchisee).

(c) Franchisee provides written notice of its intent to continue as a franchisee not more than twelve (12) months and not less than six (6) months before the beginning of the option period.

(d) Franchisee is able to maintain possession of the Franchise Location for the option period or Franchisee has been able to secure and develop, in compliance with the then applicable standards of Franchisor used in the granting of a franchise, suitable alternative premises for the Franchise Business for the option period. Any alternative premises must be acceptable to and approved in advance by Franchisor and will be subject to a relocation fee under Section 8.1.

(e) Franchisee undertakes and completes, not less than 30 days before the beginning of the option period, such maintenance, renovation, remodeling and/or addition or substitution of equipment, furniture or fixtures as specified by Franchisor for compliance with the then applicable standards of Franchisor. Franchisee acknowledges that the Franchisor may not uniformly impose these obligations on renewal of its franchises based on numerous factors and that Franchisee may be required to take steps to refurbish the Franchise Location that have not been required of other franchisees.

(f) Franchisee, throughout the term of this Agreement, has satisfied all material reporting requirements and all monetary obligations to Franchisor and any Affiliates of Franchisor, suppliers and creditors (excepting reasonable disputes that Franchisee is attempting in good faith to resolve) within the amount of time specified for satisfaction or cure of default with respect to such obligation.

(g) Franchisee has satisfied current training and operational standards and requirements for new or existing franchisees of Franchisor.

(h) Franchisee has signed a general release, in a form specified by Franchisor, of any and all claims against Franchisor and its Affiliates, and their respective officers, directors, agents, members, and employees.

(i) Franchisee must sign and deliver to Franchisor, within thirty (30) days of receipt from Franchisor, Franchisor's standard franchise agreement in use by Franchisor at the time of renewal together with such other documents as are then customarily used by Franchisor to grant new franchises, all of which will replace this Agreement. The new standard franchise agreement signed by Franchisee may have substantial differences from this Agreement, including, without limitation, different or increased fees, different protected areas, etc.

(j) Franchisee must pay a renewal fee to exercise its option. The renewal fee will be equal to 25% of the initial franchise fee being charged by Franchisor at the time of renewal. This fee must be paid at the time the new standard franchise agreement is delivered to Franchisor and is not refundable.

(k) Franchisor has approved the renewal. If all of the other conditions in this Section are met, Franchisor will not withhold approval of renewal without good cause.

Failure or refusal by Franchisee to sign the franchise agreement and other documents and pay the renewal fee within thirty (30) days after delivery of the franchise agreement and other documents to Franchisee, when Franchisor approves renewal of the franchise, will be deemed an election by Franchisee not to renew the franchise. If Franchisee does not elect to renew its franchise relationship, does not qualify for renewal, or does not comply with the requirements for renewal specified above, the franchise relationship between Franchisor and Franchisee will automatically terminate on completion of the term set forth in this Agreement.

### **3.3 Continuation.**

If Franchisee continues to operate the Franchise Business with Franchisor's express or implied consent following the expiration of this Agreement, the continuation will be a month-to-month extension of this Agreement, unless otherwise set forth in writing. All provisions of this Agreement will apply while Franchisee continues to operate the Franchise Business. This Agreement will then be terminable by either party on 30 days written notice to the other party.

## **ARTICLE 4 - FEES; SECURITY INTEREST**

### **4.1 Initial Franchise Fee.**

Franchisee must pay an initial franchise fee in the amount of \$20,000. If you are eligible for a discounted initial franchise fee, the amount of the initial franchise fee will be designated in Item 1 on Appendix A. The initial franchise fee is payable in full at the time of signing of this Agreement, is considered earned at that time, and is not refundable.

### **4.2 Royalty Fee; Gross Sales.**

Franchisee must pay Franchisor a weekly royalty fee equal to the greater of: (a) seven percent (7%) of Franchisee's Gross Sales of the preceding calendar week; or (b) \$300. Franchisee must report Gross Sales and pay royalty, in the manner specified in Section 4.12, by Monday of each week based on Gross Sales in the preceding calendar week. Franchisee agrees that royalty payments must be paid daily or at other intervals, instead of weekly, if specified by Franchisor. Royalty fees are not refundable.

For purposes of this Agreement, "Gross Sales" means the entire amount of all of Franchisee's revenues from the ownership or operation of the Franchise Business or any business at or about the Franchise Location including sales at or from the Franchise Location and outside sales and sales at events outside the Franchise Location as well as the proceeds of any business interruption insurance, whether the revenues are evidenced by cash, credit, checks, gift certificates, coupons and premiums (unless exempted by Franchisor), services, property or other means of exchange, excepting only the amount of any sales taxes that are collected and paid to the taxing authority. Cash refunded and credit given to customers and receivables uncollectible from customers will be deducted in computing Gross Sales if the cash, credit or receivables represent amounts previously included in Gross Sales where royalty fees were paid. Gross Sales are deemed received by Franchisee at the time the goods, products, merchandise, or services from which they derive are delivered or rendered or at the time the relevant sale takes place, whichever occurs first. Gross Sales consisting of property or services (for example, "bartering" or "trade outs") are valued at the prices applicable to the products or services exchanged for the Gross Sales at the time the Gross Sales are received.

#### **4.3 Advertising Fund Contributions.**

In addition to the amounts required to be spent by Franchisee on local advertising (see Section 10.3), Franchisee must make periodic contributions to an advertising fund in an amount specified by Franchisor, not to exceed three percent (3%) of Franchisee's Gross Sales. Currently, the advertising fund contribution specified by Franchisor is one percent (1%) of Gross Sales, but the amount may be changed (reduced or increased) by Franchisor on 30 days notice to Franchisee. Franchisee must pay advertising fund contributions at the same time and in the same manner as royalty payments. Franchisor will use the advertising fund contributions in the manner described in Section 10.2. See Article 10 for other obligations of Franchisee relating to advertising, including amounts required to be spent on pre-opening/grand opening advertising and local advertising.

#### **4.4 Management Fee.**

During the period in which Franchisor manages the Franchise Business on Franchisee's behalf, in accordance with Section 14.4 of this Agreement or otherwise, Franchisor may charge a management fee of 10% of the Gross Sales of the Franchise Business plus the direct costs and expense of providing any manager or employee (including the compensation, employee benefits, required employment taxes and insurances). The management fee charged under this Section is in addition to any other fees, contributions or charges due under this Agreement.

#### **4.5 Mystery Shopper Fee.**

Franchisee must pay a monthly mystery shopper fee to Franchisor in an amount specified by Franchisor (currently \$175 per month). This fee must be paid by the 5<sup>th</sup> day of each month and is not refundable. Franchisor will use the mystery shopper fees collected from Fitness Studios to administer and/or have a third party administer a program to evaluate and report on the operations of Franchisee and other franchisees and to otherwise support the uniformity and quality of operations of Fitness Studios. Franchisor may use the fees collected for purposes reasonably related to this program, including, without limitation, paying the Franchisor or a third party a fee for administering this program and reimbursement to Franchisor for the costs of any Franchisor employees' time relating to administration of this program. This program may involve the use of mystery shoppers and other techniques for evaluating and reporting on operations. Franchisee must not take any actions that will interfere with this program or the actions of mystery shoppers.

#### **4.6 Annual Convention Fees.**

Franchisee must pay a fee for attending the annual convention for each year that Franchisor conducts an annual convention. The fee for attending the annual convention will not exceed \$1,000 unless Franchisee agrees to a higher fee. If Franchisor announces that it is conducting an annual convention, Franchisee must register for the annual convention no later than 60 days before the date of the annual convention. If Franchisee timely registers for the annual convention, Franchisee will be charged the applicable fee for the annual convention, which will be paid on the date specified by Franchisor. If Franchisee does not timely register for the annual convention or registers and fails to fully attend the annual convention without Franchisor's consent, Franchisee will be charged a non-compliance fee of \$2,500, which will be paid on the date specified by Franchisor in the manner described in Section 4.12. As used in this Section, "fully attend the annual convention" means that a representative of the Franchisee (which must be a Designated Owner unless approved in advance by Franchisor) attends all portions of the annual convention, including all general sessions, a break-out session during each break-out session time slot, and the dinner/awards banquet.

#### **4.7 Computer Systems Licensing Fees.**

Franchisor may charge initial set-up and ongoing licensing fees for any Computer Systems that Franchisor provides or makes available to Franchisee (see Section 5.2). Franchisor currently anticipates that the one-time set-up fee for these Computer Systems will range from \$500 to \$750 and the monthly licensing fees for these Computer Systems will range from \$400 to \$600 per month. The licensing fees must be paid in the manner specified in Section 4.12 by the 5<sup>th</sup> day of each month (or at such other times as may be specified by Franchisor). Although Franchisee may pay a licensing fee to Franchisor for the Computer Systems, Franchisee will still be responsible for the expenses of maintenance and updates, including service contracts, relating to the Computer Systems.

#### **4.8 Franchise Technology Fee.**

Franchisee must pay Franchisor or an Affiliate a technology fee in an amount that may be established by Franchisor and revised from time to time by Franchisor; provided that, the technology fee will not exceed \$1,000 per month for each Fitness Studio. The technology fee must be paid in the manner specified in Section 4.12 by the 5<sup>th</sup> day of each month (or at such other times as may be specified by Franchisor). The technology fee may be used by Franchisor for expenses relating to development and maintenance of the Franchise Technology (see Section 9.5) and other expenses relating to technology used in the Franchise System. The technology fee is not refundable.

#### **4.9 System Standards Fees.**

If Franchisee violates any of its obligations under this Agreement, including any failure to operate in accordance with policies and standards in the Operations Manual or otherwise issued by Franchisor, Franchisor may assess a systems standards fee in the amount of \$300 per occurrence. Franchisee must pay the systems standards fee in the manner specified in Section 4.12 within seven days of receipt of notice from Franchisor. The systems standards fee will apply for each notice sent to Franchisee, even if the failure involves the same provision of this Agreement for which Franchisee previously received a notice or is a continuing failure for which Franchisee previously received a notice. Imposition of a system standards fee will not be



the sole remedy of Franchisor for any failure by Franchisee and Franchisor reserves all other rights and remedies.

#### **4.10 Payment of Other Amounts Owed by Franchisee and its Affiliates.**

Franchisee must pay all additional amounts owed by Franchisee or any Affiliate of Franchisee to Franchisor and its Affiliates and any applicable advertising cooperatives on a timely basis. This includes, but is not limited to, amounts owed for goods and services provided by Franchisor and its Affiliates, amounts owed as a result of Cross Global Program reconciliations, amounts owed to any advertising cooperatives, or other miscellaneous amounts owed to Franchisor and its Affiliates. Those amounts must be paid by the due dates specified in this Agreement or other applicable agreement or as otherwise specified by Franchisor. Payments not paid when due will be subject to late charges and interest in the amounts specified in Section 4.11 or as otherwise specified in an invoice. Franchisee understands that under this Section Franchisor may charge Franchisee and may transfer payments from Franchisee's bank accounts (as provided in Section 4.12) for amounts Franchisee or its Affiliates may owe to Franchisor or its Affiliates or any applicable advertising cooperatives (including but not limited to amounts Franchisee's Affiliates may owe for royalty, advertising, Cross Global Reconciliations, advertising cooperatives, or other obligations under other franchise or other agreements between Franchisee's Affiliate and Franchisor or its Affiliates). Franchisor will only charge Franchisee for amounts owed by Franchisee's Affiliates if those amounts are not timely paid by the Affiliates.

#### **4.11 Late Charges, NSF Fees and Interest.**

Franchisee must pay to Franchisor, on demand, a late charge of \$100 for any payments not made to Franchisor within five days of the due date of the payment. In addition, Franchisee must pay on demand a fee equal to any charges Franchisor may incur as a result of checks or debits returned to Franchisor for non-sufficient funds or other similar reasons, but not less than \$30.00 for each item returned. Also, Franchisee must pay to Franchisor, on demand, interest on all overdue payments from the date the payment was due until paid equal to the lesser of (i) 1.5% per month or (ii) the maximum rate of interest permitted by law. The assessment of late charges and interest will not be the sole remedies of Franchisor in such circumstances.

#### **4.12 Manner and Timing of Payment.**

Franchisee's payments to Franchisor for royalty, advertising fund contributions, training, renewal and transfer fees, management fees, mystery shopper fees, annual convention fees, software maintenance and support fees, system standards fees, non-compliance fees, other amounts owed by Franchisee and its Affiliates to Franchisor and its Affiliates as provided in Section 4.10, late charges and interest, amounts owed for products or services provided by Franchisor, fees and expenses due in connection with the failure to provide reports under Section 5.1, amounts owed for maintenance expenses incurred by Franchisor under Section 8.11, amounts owed for Cross Global Programs under Section 9.10, amounts owed under Section 10.3 for local advertising, advertising cooperative contributions under Section 10.4, amounts owed under Section 14.4, Franchisor's costs of enforcement (including attorneys' fees) owed under Section 17.7, and all other amounts owed by Franchisee and its Affiliates to Franchisor and its Affiliates must be made by electronic or similar funds transfer in the appropriate amounts from Franchisee's bank account to Franchisor's accounts, and at such places or in such manner as Franchisor may specify from time to time. Payments must be made at the times specified in this Agreement or as otherwise specified by Franchisor. Franchisee acknowledges that Franchisor may specify payment by electronic fund transfers initiated by Franchisor. Franchisee must sign and deliver to its bank and to Franchisor those

documents necessary to authorize and effectuate such transfers as specified by Franchisor. Franchisee agrees that it will not terminate such authorization as long as this Agreement is in effect. Franchisee agrees that it will not close its bank account without prior written notice to Franchisor and the establishment of a substitute bank account for the transfers. Franchisee also agrees that all required payments to Franchisor must be made daily, weekly, monthly, or another interval, instead of as otherwise provided in this Agreement, if specified by Franchisor.

#### **4.13 No Setoff; Application of Payments.**

Franchisee's obligations for the full and timely payment of the fees described in this Agreement and all other amounts owed to Franchisor are absolute and unconditional. Franchisee must not delay or withhold the payment of all or part of those amounts based on the alleged nonperformance by Franchisor or for any other reason or put the fees or other amounts in escrow or setoff against any claims Franchisee may allege against Franchisor. Franchisor may apply any payments received first to any accrued late charges or interest and then to any delinquent fees or other amounts outstanding before crediting the payment in the manner specified by Franchisee or to the current amount due.

#### **4.14 Security Interest.**

Franchisee grants to Franchisor a continuing security interest in all the assets of Franchisee and the Franchise Business, including: all personal and fixture property of every kind and nature including without limitation all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts (including health-care-insurance receivables), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to payment of money, insurance claims and proceeds, tort claims, and all general intangibles (including all payment intangibles) now or hereafter owned by Franchisee, and all proceeds and products arising from the sale, exchange or other disposition of any or all of the aforesaid types of properties, whether cash or non-cash in nature (all such property referred to as the "Collateral").

This security interest is granted to secure payment of all indebtedness of Franchisee and any Affiliate of Franchisee owed to Franchisor or any Affiliate of Franchisor, whether now existing or arising in the future, absolute or contingent, due or to become due, including, but not limited to all costs and expenses incurred in the collection of any of Franchisee's indebtedness to Franchisor ("Indebtedness"). This security interest must be a first priority security interest in the Collateral unless Franchisee requests and Franchisor agrees in writing to subordinate the security interest to a purchase money security interest Franchisee desires to grant to a lender in connection with the initial development of the Franchise Business.

Franchisee irrevocably authorizes Franchisor at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of Franchisee or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of an applicable state or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the Uniform Commercial Code of the applicable state for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether Franchisee is an organization, the type of organization and any organization identification number issued to

Franchisee, and (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. Franchisee agrees to furnish any such information to Franchisor on request.

## **ARTICLE 5 – REPORTS, COMPUTER SYSTEMS, ACCESS AND AUDIT**

### **5.1 Reports, Financial Statements and Customer Correspondence.**

Franchisee must use the standard reporting systems and forms specified by Franchisor. Franchisee must submit to Franchisor a complete statement of Gross Sales and other information specified by Franchisor for the reporting periods in the manner specified by Franchisor. Franchisee must provide Franchisor with copies of all sales or similar tax returns, annual income tax returns, monthly profit and loss statements, monthly balance sheets, monthly inventory statements and annual financial statements. Copies of monthly statements or reports must be provided within 15 days of the end of each month and copies of annual statements or reports must be provided within 60 days of the end of Franchisee's fiscal year. When recording financial information and preparing financial statements and other reports, Franchisee must use the "chart of accounts" designated by Franchisor from time to time. Franchisor may specify other requirements relating to reporting in the Operations Manual.

If Franchisee fails to timely provide required reports or financial statements under this Section:

(a) Franchisee must pay Franchisor a \$100 late fee for each week a weekly report is not timely provided and a \$500 late fee for each month that a monthly or annual report is not timely provided to Franchisor. In order to be considered timely provided, the report must be accurate and in compliance with the chart of accounts designated by Franchisor.

(b) Franchisor may have a third party compile and provide to Franchisor the missing reports for Franchisee and charge Franchisee the cost of the service plus an administrative fee equal to 10% of the cost of the service. Franchisee agrees to give the third party access to its books and records for purposes of compiling the required reports.

(c) If Franchisee fails to timely provide two or more consecutive reports, Franchisor may have a third party compile and provide to Franchisor all future reports for Franchisee and charge Franchisee the cost of the service plus an administrative fee equal to 10% of the cost of the service. Franchisee agrees to give the third party access to its books and records for purposes of compiling the required reports. The third party will continue to compile and provide Franchisee's reports to Franchisor until Franchisor agrees, in its sole discretion, to allow Franchisee to again compile and provide its own reports.

(d) Franchisor's rights under this Section will be in addition to any other rights or remedies of Franchisor under this Agreement or otherwise arising from Franchisee's failure to timely provide the reports required under this Section, including, but not limited to, termination of this Agreement under Section 15.4.

Franchisee agrees that Franchisor may receive information directly from suppliers and authorizes Franchisee's suppliers to provide such information directly to Franchisor. Franchisee agrees to sign separate authorizations or additional documents requested by suppliers or deemed necessary by Franchisor to allow Franchisor to obtain information directly from suppliers.

Franchisor may disclose the financial records of Franchisee in future Franchise Disclosure Documents, reporting analyses presented to third parties, and to Franchisor's actual and potential lenders. Also, Franchisor may share information in these reports and financial statements with other franchisees in the ordinary course of Franchisor's business as a tool to improve the franchise system's volume of business.

Franchisee must provide Franchisor with a copy of all written, electronic or other documented correspondence with customers contemporaneous with the correspondence.

## **5.2 Computer Systems; Access to and Use of Information.**

Franchisee must acquire the point of sale, customer management, and credit card processing systems (which may include computer hardware, software, web-based systems, licenses to use proprietary software or systems, etc.) specified by Franchisor (the "Computer Systems"). Franchisee must use the Computer Systems in the Franchise Business in the manner specified by Franchisor. Also, Franchisee must pay all required license fees, service fees, and support, maintenance, update, and upgrade costs to use and maintain the Computer Systems in the manner specified by Franchisor. Franchisor may change or modify the Computer Systems in the future, including changes in the specifications, components, and providers relating to the Computer Systems. In that case, Franchisee must obtain and begin to use the changed or modified Computer Systems, at Franchisee's expense, within 90 days after Franchisee receives written notice from Franchisor. Franchisee must pay fees to Franchisor for the set-up and use of the Computer Systems specified by Franchisor. See Section 4.7.

Franchisor will have the right to independently access the sales information and other data produced by the Computer Systems and there are no contractual limitations on Franchisor's right to access and use that information and data. Franchisee must provide Franchisor access to the information on the Computer Systems in the manner specified by Franchisor and must supply Franchisor with any and all security codes necessary to obtain that access. Franchisor may retrieve, analyze, download and use the software and all data on Franchisee's Computer Systems at any time as long as the access does not unreasonably interfere with the operation of the Franchise Business. Franchisee must maintain high-speed Internet access at all times in the manner specified by Franchisor for communication with Franchisor, use of the Computer Systems, and to allow Franchisor to access information from Franchisee's Computer Systems. Franchisor's rights to use the Computer Systems data includes the right to deliver the data to any third party Franchisor deems appropriate in its sole discretion; provided that the identity and other personal information of the employees, agents, and customers of Franchisee are not improperly disclosed.

## **5.3 Records.**

Franchisee must keep complete and correct books of account, business records and records of Gross Sales, in accordance with any procedures specified by Franchisor and in accordance with generally accepted accounting principles. Franchisee must keep all of its

business records for the greater of: (a) seven (7) years; or (b) the time period specified by any applicable federal, state or local law or regulation.

#### **5.4 Customer Information.**

On request from Franchisor, Franchisee must provide Franchisor with complete customer information, including names, addresses, email addresses, phone numbers, LinkedIn, Facebook, Twitter and other social media addresses, other contact information and other information specified by Franchisor ("Customer Information"). The Customer Information must be provided in the manner and format specified by Franchisor, which may include written or electronic copies delivered by email, courier or regular mail or Franchisor remotely accessing the information on Franchisee's Computer Systems. Franchisee agrees that Franchisor may also access and obtain the Customer Information from Franchisee's records (including computer records) and from software and other service providers that can provide access to that information. The Customer Information will be the property of Franchisor and Franchisor will have the right to use the Customer Information for Franchisor's business purposes. The parties acknowledge and agree that the exchange of customer or other personal information between Franchisor and Franchisee is not a sale and is in the nature of one party acting as a service provider to the other party.

#### **5.5 Inspection by Franchisor.**

To determine whether Franchisee is complying with this Agreement, and/or to determine whether Franchisee is complying with all applicable specifications and quality standards in connection with Franchisee's use of the Franchise Marks and Franchise System, Franchisor or its designated agents have the right, at any reasonable time and without prior notice, to: (a) inspect the Franchise Location and the Franchise Business before and after opening; (b) confer with Franchisee and its personnel; and (c) inspect equipment, signage, fixtures, furniture and operating methods of Franchisee. Franchisor may require that Franchisee furnish its customers with an evaluation form specified by Franchisor pre-addressed to Franchisor. Also, Franchisor may require that Franchisee maintain a comment box at the Franchise Location, which may only be opened by Franchisor. Franchisee must fully cooperate with representatives of Franchisor making any inspection or observing the work of Franchisee or its personnel or retrieving information from the comment box.

Franchisor reserves the right to evaluate the operation and quality of the Franchise Business, including such things as customer service, cleanliness, merchandising, franchise compliance and proper use of the Computer Systems. This evaluation may be performed by Franchisor, a third party shopping service, or other agents of Franchisor. Franchisor may use service evaluations to inspect the Franchise Business at any time without prior notification to Franchisee. Franchisor may make the results of service evaluations available to Franchisee, in Franchisor's sole discretion.

Franchisee must take such steps as may be necessary to immediately correct any deficiencies detected during any inspection by Franchisor or its agents. If Franchisee fails to make these corrections within a reasonable period of time, Franchisor will have the right, but not the obligation, to correct any deficiencies that may be susceptible of correction, including removal from the premises of any non-conforming products, fixtures, furnishings, equipment, supplies, advertising or promotional materials and signs, and to charge Franchisee a reasonable fee for any expenses incurred by Franchisor.

Franchisee understands that violations of this Agreement or Franchisor's specifications observed in any inspection or other evaluation may result in system standards fees being charged to Franchisee under Section 4.9.

#### **5.6 Access to Records and Audit by Franchisor.**

Franchisor or its designated representatives have the right at all reasonable times to examine and copy the books, records and tax returns of Franchisee. Franchisor will also have the right, on five days written notice, to have an independent audit made of the books of Franchisee. If an audit reveals that any payments to Franchisor have been understated in any report to Franchisor, Franchisee must immediately pay to Franchisor the amount understated on demand, in addition to any interest and late charges required under Section 4.11 of this Agreement from the date originally due to the date paid.

Any audit will be conducted at the expense of Franchisor; provided that, if an audit is made necessary by Franchisee's failure to furnish reports, financial statements, or tax returns, or discloses an understatement of 3% or more of the Gross Sales of the Franchise Business in any report, then Franchisee must pay Franchisor for the costs of the audit, including, without limitation, any travel expenses, meals, lodging and compensation of Franchisor's employees or agents and reasonable accounting and attorney's fees.

Franchisee acknowledges that nothing contained in this Section constitutes Franchisor's agreement to accept any payments after they are due or a commitment by Franchisor to extend credit to or otherwise finance Franchisee's operation of the Franchise Business. The payment of Franchisor's expenses and/or the assessment of late charges or interest are not the sole remedies of Franchisor in those circumstances and this Agreement may be subject to termination under Article 15.

### **ARTICLE 6 - SERVICES PROVIDED TO FRANCHISEE**

#### **6.1 Specifications for Franchise Location.**

Franchisor or its designated representative will provide written specifications for the Franchise Location, which may include, without limitation, specifications for space requirements and build out. Franchisor may, in its discretion, consult with Franchisee in the process of construction or improvement of the Franchise Location. Franchisee acknowledges that Franchisor will have no other obligation to provide assistance in the selection and approval of the Franchise Location other than the provision of such written specifications and approval or disapproval of a proposed Franchise Location. At Franchisee's reasonable request, Franchisor may, in its sole discretion and subject to the availability of Franchisor's personnel, furnish Franchisee with additional site selection and/or development guidance and assistance that is beyond the nature and scope of the services Franchisor is then providing to new Fitness Studio franchisees without charge. If Franchisor, in its sole discretion, elects to provide such additional services, Franchisor and Franchisee must agree in writing on the nature and scope of the additional services. Franchisor may charge Franchisee a reasonable fee for these additional services.

#### **6.2 Equipment, Fixtures, Signs and Suppliers.**

Franchisor will specify and provide sources of supply for the equipment, fixtures, signs and inventory necessary for Franchisee to begin operation of the Franchise Business.

### **6.3 Operations Manual; Update Specifications.**

Franchisor will provide the Operations Manual for use by Franchisee in the operation of the Franchise Business. Franchisor will provide Franchisee with updates in the Operations Manual and in Franchisor's specifications for all aspects of the Franchise Business, if and when updates become available.

### **6.4 Training.**

Franchisor will provide an initial program to train Franchisee to operate the Franchise Business. Franchisor may also provide ongoing training programs from time to time. See Article 11.

### **6.5 Products and Services; Suppliers.**

Franchisor will designate the products and services to be offered by the Franchise Business and will provide Franchisee with any updates in Franchisor's specifications for products or services to be offered by the Franchise Business. Franchisor will provide sources of supply for all authorized products and services. Franchisor will review any proposed supplier of other than the Designated Supplier Products (see Section 9.7) to determine if the proposed supplier and its products and services conform to Franchisor's standards and specifications.

### **6.6 Other Operational Assistance.**

A representative of Franchisor will periodically visit the Franchise Business at such intervals deemed appropriate by Franchisor throughout the term of this Agreement. During these visits, the representative will evaluate Franchisee's operations and provide any operational advice and assistance deemed necessary by the representative. Franchisor will also provide reasonable operational advice and assistance to Franchisee by telephone or email, including advice on specific services or products, if requested by Franchisee.

### **6.7 Advertising.**

Franchisor will provide guidance for pre-opening/grand opening advertising for the Franchise Business. Franchisor will administer the advertising fund and review for approval, any local advertising proposed by Franchisee. See Section 4.3 and Article 10.

### **6.8 Indemnification for Trademark Actions.**

Franchisor will indemnify Franchisee for certain liabilities arising from use of the Franchise Marks as provided in Section 7.4.

### **6.9 Franchisor's Services May be Provided by Independent Agents and Representatives.**

The services to be provided by Franchisor under this Agreement may be provided by employees of Franchisor or by independent representatives and agents engaged by Franchisor.

## **ARTICLE 7 - USE AND PROTECTION OF INTELLECTUAL PROPERTY**

### **7.1 Intellectual Property Defined.**

Franchisor's intellectual property includes: (a) the Marks; (b) the Trade Dress; (c) any present or future copyrights relating to the System or the Red Effect Infrared Fitness Studio

concept, including, but not limited to, the Operations Manual and marketing materials; (d) any present or future inventions, patents, and patents pending that are part of the System; (e) the Confidential Information (defined in Section 12.1); and (f) any other proprietary rights, trade secrets, methods, or procedures that are part of the System (collectively referred to in this Agreement as the "Intellectual Property").

## **7.2 Acknowledgements; No Contesting Franchisor's Rights.**

Franchisee acknowledges the validity of the Intellectual Property and that Franchisor and its Affiliates are the exclusive owners of the Intellectual Property. Franchisee agrees that any further rights or goodwill that may develop in any of the Intellectual Property in the future will inure solely to the benefit of Franchisor and its Affiliates. Franchisee does not now and will not in the future assert a claim to any goodwill, reputation, or ownership of the Intellectual Property by virtue of Franchisee's non-exclusive license to use the Intellectual Property or for any other reason. Nothing in this Agreement gives Franchisee any right, title, or interest in or to any of the Intellectual Property, except a mere privilege and license during the term of this Agreement, to display or use the Intellectual Property according to the terms and conditions of this Agreement. During the Term of this Agreement and after its expiration or termination, Franchisee agrees not to directly or indirectly contest Franchisor's ownership, title, right, or interest in or to, or Franchisor's license to use, or the validity of the Intellectual Property, or contest Franchisor's sole right to register, use, or license others to use the Intellectual Property.

## **7.3 Use of Intellectual Property.**

Franchisee must use the Intellectual Property only in connection with the operation of the Franchise Business pursuant to the Franchise System and only in the manner specified in this Agreement or otherwise by Franchisor. The Franchise Business must be operated under the Franchise Marks and under no other name or mark. Franchisee must not use the Franchise Marks in connection with any products or services not specifically authorized by Franchisor in writing. Franchisee must not reproduce or cause to be reproduced any Franchise Marks in any manner, including reproduction on forms, in connection with advertising, marketing or promotion, or in connection with any Electronic Media or Digital Marketing without the prior written approval of Franchisor. Franchisee must not use the Franchise Marks in its business, corporate, partnership or limited liability company name. However, Franchisee must register to do business under an assumed business name that uses the Franchise Marks with an additional designation or number as determined by Franchisor to distinguish the assumed name from other Fitness Studios.

On expiration or termination of this Agreement, Franchisor may, if Franchisee does not do so, sign in Franchisee's name and on Franchisee's behalf, any documents necessary in Franchisor's judgment to end and cause discontinuance of Franchisee's use of the Franchise Marks and Franchisor is irrevocably appointed and designated as Franchisee's attorney-in-fact for that purpose.

## **7.4 Use of Other Trademarks.**

Franchisee must not display the trademark, service mark, trade name, insignia or logotype of any other Person in connection with the operation of the Franchise Business without the prior written consent of Franchisor, which may be withheld in Franchisor's sole subjective discretion.



### **7.5 Defense of Intellectual Property.**

If Franchisee receives notice, or is informed, of any claim, suit or demand against Franchisee on account of any alleged infringement, unfair competition, or similar matter relating to Franchisee's use of the Intellectual Property, Franchisee must promptly notify Franchisor of any such claim, suit or demand. Franchisor will then take such action as Franchisor deems necessary and appropriate to protect and defend Franchisee against such claim by any third party. Franchisee must not settle or compromise any such claim by a third party without the prior written consent of Franchisor. Franchisor will have the sole right to defend, compromise or settle any such claim, in its discretion, using attorneys of its choosing, and Franchisee agrees to cooperate fully with Franchisor in connection with the defense of any such claim. Franchisee may participate at its own expense in such defense or settlement, but Franchisor's decisions with regard to the Intellectual Property will be final.

Franchisor will indemnify Franchisee against liability to third parties resulting from claims by third parties that Franchisee's use of the Intellectual Property infringes rights of the third party, but only if (a) Franchisee has used the Intellectual Property in accordance with the requirements of this Agreement and Franchisor's specifications and (b) Franchisee has given notice to Franchisor of the claim within 10 days of receipt by Franchisee of the claim and Franchisee has tendered the defense of the claim to Franchisor.

### **7.6 Prosecution of Infringers.**

If Franchisee receives notice or is informed or learns that any third party is using the Intellectual Property or any name or mark confusingly similar to the Marks without authorization, Franchisee must promptly notify Franchisor of the facts relating to the alleged infringing use. Franchisor will then, in its sole discretion, determine whether or not it wishes to take any action against the third party on account of the alleged infringement of the Intellectual Property. Franchisee will have no right to make any demand against any alleged infringer or to prosecute any claim of any kind or nature whatsoever against the alleged infringer for or on account of such infringement. If Franchisor chooses to prosecute any violation of the Intellectual Property, Franchisee must sign all documents and do all acts necessary or incidental to that action as counsel for Franchisor may reasonably request. Any damages awarded or recovered in any prosecution of an infringement claim related to the Intellectual Property will be the exclusive property of Franchisor.

### **7.7 Modification or Substitution of Intellectual Property.**

Franchisor may change the authorization to use the Intellectual Property contained in this Agreement, including adding, discontinuing or modifying Intellectual Property, or substituting different Intellectual Property, by issuing, in a written notice, a description of the changes and the products or services to which they relate. Franchisee is required to use and abide by these changes or substitutions. Franchisor may make the changes because of the rejection of any pending registrations or the revocation of any existing registrations of the Intellectual Property, or due to the rights of senior users, or for other business reasons, except Franchisor must make all changes in the authorized Intellectual Property on a uniform basis for all similarly situated Fitness Studios in a particular market.

### **7.8 Innovations.**

All ideas, concepts, techniques, variations, improvements, marketing programs, techniques, materials or other intellectual properties that relate to or enhance the Franchise

Business or the System ("Innovations"), whether or not protectable intellectual property and whether created by or for Franchisor or by or for Franchisee, must be promptly disclosed to Franchisor and will be Franchisor's sole and exclusive property, part of the Franchise System, and works made-for-hire for us. Franchisee hereby permanently and irrevocably assigns ownership of the Innovations, and all related rights to the Innovations, to Franchisor to the extent the Innovations do not qualify as a "work made-for-hire" for us. Franchisee agrees to take whatever action (including signing an assignment or other documents) that Franchisor requests to evidence its ownership of the Innovations.

## **ARTICLE 8 - FRANCHISE LOCATION, LEASE, DEVELOPMENT OF LOCATION AND OTHER PRE-OPENING OBLIGATIONS**

### **8.1 Location Selection and Approval; Relocation.**

The location for the Franchise Business must be approved in advance in writing by Franchisor and Franchisee must always operate its Franchise Business only at a location approved in writing by Franchisor (the location approved in writing by Franchisor will be referred to in this Agreement as the "Franchise Location"). Franchisee must use its best efforts to find a suitable location for the Franchise Business within the area designated in Item 2 of Appendix A. Franchisee must submit to Franchisor, in a form acceptable to Franchisor, a site selection package as specified by Franchisor, including multiple pictures of the site, site plan, traffic counts, evidence confirming Franchisee's prospects for obtaining the site, demographic information, economic terms, use clause and any other materials or information Franchisor specifies before Franchisor will consider approving the location. Franchisor will make its determination of whether to approve the proposed location within 14 days after receiving all required materials and information from Franchisee. Once the physical address of the Franchise Location is determined and approved, Franchisor will insert the address in Item 3 of Appendix A.

Franchisee must obtain the right to possession of the Franchise Location through ownership or a signed lease (which has been approved by Franchisor under Section 8.2) within six months of the date of this Agreement or this Agreement may be terminated by Franchisor. However, if Franchisee will not have obtained ownership or a signed lease for the Franchise Location within six months after the date of this Agreement, Franchisee may obtain a six-month extension of the deadline. In order to obtain the extension, Franchisee must, no later than 30 days before the end of the six month period after the date of this Agreement: (1) notify Franchisor in writing that it intends to extend the deadline; and (2) pay a nonrefundable fee of \$5,000 for the extension. Franchisee may not obtain more than one six-month extension of this deadline.

Franchisor may provide its expertise and assistance in obtaining a location. However, Franchisee is ultimately responsible for the Franchise Location, whether or not Franchisor recommends the location, approves the location, or assists Franchisee in obtaining the location. It is Franchisee's responsibility to research and evaluate the suitability and commercial value of the location for operation of the Franchise Business. Franchisor's location recommendations and its approval of a location do not constitute a representation, warranty or guarantee of the commercial value or success of the Franchise Location. Franchisor will not be responsible or liable to Franchisee for any claims relating to selection of the Franchise Location and Franchisee waives and releases Franchisor from any such claims.

If the lease or sublease for the Franchise Location expires or terminates without Franchisee's fault or if the location is condemned, destroyed or rendered unusable or Franchisee has other reasonable business reasons to relocate, Franchisee may request that the Franchisor consent to the relocation of the Franchise Location. If the new location proposed by Franchisee is approved by Franchisor as a viable location and Franchisee has submitted to Franchisor a lease for the new location for review as provided in Section 8.2, Franchisor will not unreasonably withhold consent to the relocation of the Franchise Location. Any relocation will be at Franchisee's sole expense, including payment to Franchisor of a relocation fee in the amount of \$10,000 to defray some of Franchisor's administrative costs and expenses. The relocation fee is part of the conditions imposed on the relocation and must be paid before Franchisor will grant permission to relocate the Franchise Business. Franchisor will not be required to consent to a new location if the location is outside of the Protected Area or if Franchisor believes the new location will encroach on the location of another Fitness Studio. If the Franchise Location becomes unusable for the Franchise Business through no fault of Franchisee and a substitute location is not available within a reasonable period of time, this Agreement will terminate on conclusion of operation of the Franchise Business at the Franchise Location.

## **8.2 Lease Requirements.**

If Franchisee leases the Franchise Location from a third party, Franchisor must approve, in writing, the terms and form of Franchisee's lease and the lease must not be terminated, renewed or in any way altered or amended by Franchisee without the prior written consent of Franchisor. Franchisee must submit to Franchisor, in a form acceptable to Franchisor, a description of the proposed site, evidence confirming Franchisee's prospects for obtaining the site, economic terms, use clause and any other materials Franchisor specifies. The location must be approved by Franchisor under Section 8.1. Any letter of intent ("LOI") for the lease for the Franchise Location must be submitted to Franchisor and approved by Franchisor under this Section before the LOI is signed by Franchisee. The lease for the Franchise Location must be submitted to Franchisor and approved by Franchisor under this Section before the lease is signed by Franchisee. Franchisee must deliver to Franchisor a fully signed copy of the lease for the Franchise Location within five days after the lease is fully signed.

The lease for the Franchise Location must include the authorization by the landlord for Franchisee to have a kiosk or table placed outside the location for a period of 12 weeks before opening the Franchise Business (or such other period specified by Franchisor) for pre-opening sales activities or, in the alternative, the ability to rent space adjacent to the location for the purpose of conducting pre-opening sales activities during the 12-week period before opening the Franchise Business. If the landlord does not agree to authorize the pre-opening sales activities, Franchisor may reject the proposed lease or allow Franchisee to submit, for approval by Franchisor, a pre-opening marketing plan that outlines in detail the process Franchisee will follow for pre-opening sales of memberships during the 12-week period.

Unless agreed otherwise by Franchisor, the initial term of the lease and each renewal term must not exceed five years and the combination of the initial term and the renewal terms must be equal to or greater than the term of this Agreement. As a condition to approval of the lease, the lease must contain the provisions included in the form of Addendum to Lease attached to this Agreement as Appendix G (except to the extent Franchisor agrees to waive any of the provisions) and other provisions reasonably specified by Franchisor. In addition, as a condition to approval of the lease, Franchisee must execute a Collateral Assignment of Lease in

the form attached to this Agreement as Appendix H. Except in accordance with this Agreement, Franchisee must not assign its lease or let or sublet the Franchise Location or any portion of the Franchise Location without the prior written consent of Franchisor.

As part of its lease approval process, Franchisor may have an attorney review the proposed lease to ensure that the proposed lease meets the Franchisor's requirements. Franchisor will have a right to charge Franchisee a non-refundable fee of \$1,000 to cover the cost of that review. Franchisee must pay this fee within seven days of demand from Franchisor in the manner described in Section 4.12.

Although Franchisor must approve Franchisee's lease for the Franchise Location and may have an attorney review the lease, Franchisee acknowledges that: (a) Franchisor and its attorney are only evaluating the lease to determine if the lease meets Franchisor's requirements for approval; and (b) Franchisor and its attorney will not evaluate or be responsible for the commercial reasonableness or suitability of the lease and Franchisee is solely responsible for those matters.

### **8.3 Licenses and Permits.**

Franchisee must obtain all authorizations, permits, and licenses as required under federal, state or local law for the lawful construction and operation of the Franchise Business, including without limitation, zoning and other approvals, occupancy permits, all certifications from government authorities having jurisdiction over the site that all requirements for construction and operation have been met, building and other required construction permits, licenses to do business and fictitious name registrations, sales tax permits, health and sanitation permits and ratings and fire clearances. Franchisee must keep copies of all health department, fire department, building department and other similar state and local agency and entity certifications, other licenses, and reports of inspections on file and available for review by Franchisor.

### **8.4 Development of Franchise Location.**

Franchisee must fully develop the Franchise Business in accordance with Franchisor's specifications. Franchisee must construct and/or improve the Franchise Location in compliance with Franchisor's specifications, including but not limited to specifications for build-out, decor, signage, equipment layout, space, etc. Franchisor must approve all construction agreements, and all drawings, plans and specifications relating to the construction and/or improvement of the Franchise Location. Franchisee must not make any changes to the design, build-out, or decoration of the Franchise Location without the prior written consent of Franchisor.

Franchisee must use an architect that has been designated by Franchisor, which may be an Affiliate of Franchisor, or another architect approved in writing by Franchisor at its sole discretion. Franchisor may, in its sole discretion, for any reason whatsoever or for no reason at all, elect to withhold approval of an alternative architect.

Franchisee must also use a general contractor that has been designated by Franchisor, which may be an Affiliate of Franchisor, or another general contractor approved in writing by Franchisor at its sole discretion. The general contractor currently designated by Franchisor is MG Construction Pros, LLC, which is an affiliate of Franchisor. Franchisor may, in its sole discretion, for any reason whatsoever or for no reason at all, elect to withhold approval of an alternative general contractor. In order to ensure that Franchisee is being charged a reasonable

price by Franchisor's designated general contractor, Franchisee must obtain bids for the work from two alternative general contractors. Franchisor will review those bids at no cost to Franchisee to determine if the bids meet Franchisor's specifications. If Franchisee is satisfied with the bids from the two alternative general contractors and is willing to accept one of the bids (and the work represented by that bid is in compliance with Franchisor's specifications), Franchisor agrees that, in Franchisor's sole discretion: (a) Franchisor will approve the use by Franchisee of the general contractor that submitted the bid that Franchisee desires to accept; or (b) Franchisor's designated general contractor will agree to act as general contractor for Franchisee. If Franchisee requests and Franchisor approves the use of a general contractor other than the designated general contractor, Franchisee must pay Franchisor a \$1,000 review fee (for reviewing the general contractor and the work of the general contractor) plus Franchisor's food, lodging, and transportation (air travel, car rental, etc.) expenses for two physical inspections of the work of the general contractor (once before rough inspection and once before final inspection). These and any related costs are Franchisee's sole responsibility. Franchisee will not be responsible for the review fee and related costs if Franchisor's designated general contractor acts as general contractor for Franchisee.

Franchisee must complete development of the Franchise Location and purchase and install all equipment, fixtures, signs and supplies specified by Franchisor at the Franchise Location before opening the Franchise Business. Franchisor will have the right to inspect and approve the construction before Franchisee opens the Franchise Business to make sure Franchisor's specifications have been followed. If, in the opinion of Franchisor, the Franchisor's specifications have not been followed, Franchisee must resolve any issues to the satisfaction of Franchisor before opening the Franchise Business.

Although Franchisor has the right to review and comment on and must designate or approve all construction agreements, and all drawings, plans and specifications, architects, and general contractors relating to the construction and/or improvement of the Franchise Location, Franchisor is only acting to ensure compliance with Franchisor's specifications. Franchisee acknowledges that Franchisor will not evaluate or be responsible for compliance with governmental requirements, legal requirements or adequacy of design and engineering relating to the design and construction and/or improvement of the Franchise Location and that Franchisee is solely responsible for those matters.

### **8.5 On-Site Pre-Opening Training and Final Inspection.**

At least 30 days in advance of the projected opening date for the Franchise Business, Franchisee must, by written notice, request Franchisor to perform its final inspection. The Franchise Business must be ready to open prior to the commencement of any on-site training and the final inspection. "Ready to open" means that Franchisee has obtained all necessary permits, licenses and inspections, all equipment necessary to operate the Franchise Business must be operational, product is available for sale, adequate staff has been employed, and Franchisee or a trained Manager is present at the Franchise Location. Franchisor's representative will not provide training or remain on-site if Franchisee or a trained Manager is not present at the Franchise Location. Franchisor will not book travel for the on-site training and final inspection until Franchisee notifies Franchisor in writing that Franchisee is ready to open. Franchisor will go through a ready to open checklist a day or two before the representative is scheduled to travel. If Franchisee is not ready to open, Franchisor will have to reschedule the representative's travel and Franchisee will have to pay all of the expenses of rescheduling, which may include representatives' salaries and cancellation fees. If it appears Franchisee is

ready to open, but the Franchise Business is not ready to open when the representative arrives for training and/or final inspection, Franchisee must pay all reasonable travel and living expenses incurred by Franchisor or its agents and the reasonable wages of Franchisor employees or independent contractors or agents in connection with provision of the on-site training and inspection. If Franchisor interrupts on-site training and inspection because the Franchise Business is not ready to open, Franchisor will provide on-site training and a final inspection only after payment of the above listed expenses and certification by Franchisee that the Franchise Business is ready to open.

#### **8.6 Telephone Numbers, Internet Access, and Email Address.**

Franchisee must acquire and maintain telephone lines dedicated solely to the Franchise Business. Franchisor may, at its option, obtain and register in its name, the telephone number or numbers to be used by the Franchise Business. Franchisee must pay all costs and charges for the installation, maintenance and use of the telephone number or numbers, even if those numbers are obtained and registered in the name of Franchisor. Franchisee must also acquire and maintain high speed Internet access and an e-mail address so that Franchisee may communicate with Franchisor by e-mail, access any web-based Computer Systems and Franchisor's extranet (if applicable) and Franchisee's customers may communicate with Franchisee by e-mail. If specified by Franchisor, Franchisee must use the e-mail addresses provided or specified by Franchisor, and no other e-mail address, in the Franchise Business. Franchisee acknowledges and agrees that Franchisor will have access to and may monitor all of Franchisee's correspondence by e-mail.

#### **8.7 Pre-Opening Sales of Memberships.**

Franchisee must begin to sell memberships for the Franchise Business 12 weeks before opening the Franchise Business (or such other period specified by Franchisor) and must sell a minimum number of pre-opening memberships equal to \$25,000 in monthly re-occurring fees. Franchisee must not begin pre-opening sales activities unless and until: (a) Franchisee's Computer Systems are activated and Franchisor has authorized Franchisee to begin pre-opening sales activities in writing; (b) Franchisee and the lead trainer and manager of the Franchise Business have completed the training designated by Franchisor; and (c) Franchisee has secured all financing and permits necessary to develop, build, and fully equip the Franchise Business. Franchisee's pre-opening sales activities must comply with all Franchisor's specifications. Franchisee must obtain all necessary bonds and comply with all applicable laws relating to Franchisee's pre-opening sales activities. Franchisee is responsible for ensuring that its membership agreements and pre-opening sales activities comply with all applicable laws and other legal requirements, including, but not limited to, laws relating to bonding and escrow requirements. Franchisee will be liable to the applicable legal authorities if it fails to comply with these requirements and will also be liable to Franchisor if Franchisor incurs liability because of Franchisee's failure.

#### **8.8 Conditions to Opening.**

Franchisee must begin operation of the Franchise Business by the required opening date specified in Section 9.1. However, Franchisee must not begin operating the Franchise Business until all the following conditions have been met:

- (a) Franchisee has sold the minimum number of pre-opening memberships equal to \$25,000 in monthly re-occurring fees.

(b) Franchisor has performed its final inspection and approved the Franchise Business as having been developed in accordance with the Franchisor's specifications and standards. As an alternative, or in addition to a physical inspection of the Franchise Business, Franchisor may require Franchisee to provide video or pictures of the Franchise Business.

(c) The Designated Owners (see Section 9.13), the Manager (see Section 9.13), and Franchisee's lead trainer have completed the pre-opening training program to the satisfaction of Franchisor.

(d) Franchisee has satisfied all bonding, licensing, and other legal requirements for the lawful operation of the Franchise Business, including, but not limited to, ensuring that Franchisee's membership offerings and forms of membership agreements comply with applicable law and Franchisee has delivered to Franchisor copies of business registrations, permits, and approvals for the Franchise Business required by applicable laws in the jurisdiction of the Franchise Business.

(e) All amounts due to Franchisor and its Affiliates have been paid.

(f) Franchisee has delivered to Franchisor certificates of coverage evidencing the insurance policies required under this Agreement.

(g) Franchisee has signed and delivered to Franchisor a completed checklist for opening, in the form specified by Franchisor, certifying to Franchisor that all requirements described in the Section have been satisfied.

If Franchisee fails to satisfy any of these conditions, Franchisee will not be authorized begin operating the Franchise Business and Franchisor will work with Franchisee to identify an opening date at least 14 days before the actual opening date of the Franchise Business.

## ARTICLE 9 - OPERATIONS

### 9.1 Opening Date; Continuing Operations and Best Efforts.

Franchisee must begin operation of the Franchise Business by the earlier of: (a) six months from the date of acquiring the Franchise Location by ownership or lease; or (b) ten months from the date of this Agreement. If operations do not begin by the specified date, Franchisor may terminate this Agreement. Franchisee must at all times during the term of this Agreement keep its Franchise Business open and fully operational in compliance with the provisions of this Agreement and Franchisor's specifications during the days and business hours designated by Franchisor from time to time in the Operations Manual or as otherwise designated in writing by Franchisor. The Franchise Business will only be considered open and fully operational when the Franchise Business is open to the public, fully staffed, and ready and able at that time to provide all products and services offered by the Franchise Business. In addition to, or instead of its other available remedies, including termination, Franchisor may impose a non-compliance fee of \$1,000.00 for each day the Franchise Business is not open and fully operational during the days and business hours designated by Franchisor, unless due to fire, flood, earthquake or other similar causes beyond Franchisee's control and not related to the availability of funds to Franchisee. These non-compliance fees must be paid on the date specified by Franchisor in the manner described in Section 4.12. Franchisee must use its best

efforts to promote and maximize the sales of the Franchise Business throughout the term of this Agreement. Franchisee must maintain at all times, sufficient equipment, supplies and personnel to operate the Franchise Business at optimal capacity and efficiency as specified by Franchisor.

## 9.2 Minimum Sales Requirement.

Franchisee must meet the applicable minimum Gross Sales requirements specified in this Section for each year of operation (the "Minimum Sales Requirement"). The Minimum Sales Requirement for each concept is as follows:

Year of Operation	Annual Gross Sales
Year 1	\$250,000
Year 2	\$300,000
Year 3 and after	\$350,000

The first year of operation begins on the 1<sup>st</sup> day of the calendar month after Franchisee opens the Franchise Business to the public and continues for a total of 12 calendar months. Each subsequent year of operation runs for the same 12-month period. If Franchisee fails to meet the Minimum Sales Requirement for a year of operation: (a) Franchisee must pay Franchisor the difference between the royalties actually paid for sales during that year of operation and the royalties that would have been paid if Franchisee had met the Minimum Sales Requirement for that year, which is payable within 14 days of receipt of an invoice from Franchisor; and (b) Franchisor may either: (i) terminate Franchisee's exclusive rights in the Protected Area; (ii) reduce the scope of the geographic area comprising the Protected Area; or (iii) terminate this Agreement.

## 9.3 Standards of Operation; Operations Manual.

Franchisee acknowledges that every component of the Franchise System is important to Franchisor and to the operation of the Franchise Business. Franchisee must, at all times, operate and maintain the Franchise Business in a competent manner and in full compliance with all aspects of the Franchise System specified by Franchisor. In all business dealings with the public, Franchisee must be governed by the highest standards of honesty, integrity, fair dealing and ethical conduct.

Franchisee must comply with all lawful and reasonable policies and procedures specified by Franchisor in connection with the operation of the Franchise Business. These specifications may include standards, techniques and procedures for: (a) the safety, maintenance, cleanliness, sanitation, function, hours of operation and appearance of the Franchise Business and its equipment, fixtures, furniture, décor, signs, and Trade Dress; (b) qualifications, dress, uniforms, grooming, general appearance, demeanor and training of personnel; (c) the products and services required or authorized to be offered and sold by the Franchise Business; (d) audio and video entertainment and other media heard or displayed at the Franchise Business; (e) sales, advertising and promotional techniques and programs; (f) construction, maintenance and appearance of the Franchise Business and the Franchise Location; (g) payment, credit, accounting and financial reporting policies and procedures; (h) use of the Franchise Technology (see Section 9.5); (i) use of Electronic Media and Digital Marketing (see Section 10.8); (j) purchase and maintenance of equipment, fixtures and inventory; (k) insurance coverage; (l) use of standard forms; (m) use and protection of the Franchise Marks and other proprietary rights of Franchisor in accordance with any usage guidelines, and any trade secret or information protection programs or other intellectual property policies established by Franchisor; (n) use and



illumination of exterior and interior signs, displays and similar items; (o) atmosphere of the Franchise Location, including, without limitation, such things as music and lighting; (p) warranties to customers and the handling of customer complaints and customer communications; (q) identification, pursuant to Franchisor's specifications, of the Franchise Business as an independently owned and operated business; (r) attendance by Franchisee and managers at required training programs and meetings; (s) maintenance of a minimum required number of trained staff at all times, based on the business needs of the Franchise Business; (t) using and honoring gift certificates, coupons and other such local and national promotional programs authorized or specified by Franchisor; (u) use of security cameras and other safety equipment; (v) participation in Cross Global Programs (see Section 9.10); and (w) other details of the operation of the Franchise Business and the relationship between Franchisor and Franchisee.

The policies and procedures specified by Franchisor may be contained in training, operating and/or policy manuals of Franchisor or in memos, bulletins, newsletters, emails, or other written or electronic materials prepared by Franchisor and delivered to Franchisee (for the purposes of this Agreement, "Operations Manual" will mean all manuals or other written or electronic materials relating to the Franchise System or containing Franchisor's specifications). Franchisee will be provided a copy of or given on-line access to any currently existing Operations Manual after the signing of this Agreement or when and if prepared by Franchisor and made available to franchisees. Franchisee will be provided a copy of or given on-line access to any applicable modifications or additions to the Operations Manual as they become available. The Operations Manual remains the property of Franchisor, must not be duplicated, and any paper or digital copies must be returned to Franchisor or destroyed immediately on request or on expiration or termination of this Agreement.

Franchisee must at all times ensure that its copy of the Operations Manual is kept current and up to date. If there is a dispute as to the contents of the Operations Manual, the terms and dates of the master copy of the Operations Manual maintained by Franchisor at its place of business will be controlling.

Due to the nature of operation of the Franchise Business and the fact that the specifications for the Franchise Business must and do change, Franchisor reserves the right to change the Franchise System after the signing of this Agreement and to change the terms of the Operations Manual after the signing of this Agreement to reflect those changes. Franchisee must comply with all such changes immediately on written notice from Franchisor of the change. The Operations Manual cannot change the terms of this Agreement, but will be in addition to this Agreement and will have the same effect as if set forth in this Agreement. If the Operations Manual is inconsistent with this Agreement, this Agreement will control. Franchisor agrees that it will specify its policies and procedures in a reasonable manner.

#### **9.4 Security and Safety Procedures.**

Franchisee is solely responsible to take appropriate security and safety measures to protect personnel, customers, those engaging in business with Franchisee, those coming on the premises of the Franchise Business and the general public at large. Franchisor does not in any way share any of that responsibility. Franchisee is responsible for obtaining its own legal advice with respect to the preparation and enforceability of any customer waiver forms.

## **9.5 Use of the Franchise Technology in Operations.**

Franchisor may require or authorize Franchisee to use certain technology in connection with the Franchise Business, which may include websites, Computer Systems, intranet, extranet, web-based systems, other Electronic Media, and/or other technology developed and maintained by or on behalf of Franchisor (the “Franchise Technology”). Uses of the Franchise Technology may include, but are not limited to, monitoring, displaying, and recording performance of members’ fitness activities at Fitness Studios (e.g. heart rate and fitness performance monitoring and display and related applications for phones and computers), advertising for all Fitness Studios, lists of Fitness Studios, on-line sign-up and purchasing of memberships, administration of reciprocal access and membership transfer matters, inventory control for franchisees, entering sales and other information, processing credit card transactions, making schedules, projecting sales, reviewing reports, entering payroll, placing orders with Franchisor or Designated or Approved Suppliers, posting the Operations Manual and communication between Franchisor, franchisees and customers. Franchisee must acquire and use the Franchise Technology specified by Franchisor in the Franchise Business and in the manner specified by Franchisor. Franchisee’s access to and use of the Franchise Technology is subject to Franchisee’s compliance with the terms and conditions of use and other policies and procedures specified by Franchisor from time to time. Franchisee agrees to comply with those terms, conditions, policies and procedures.

THE FRANCHISE TECHNOLOGY AND ITS CONTENT ARE PROVIDED “AS-IS”. FRANCHISOR AND ITS AGENTS AND LICENSORS DISCLAIM ANY AND ALL WARRANTIES RELATING TO THE FRANCHISE TECHNOLOGY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, REGARDING ANY SUCH CONTENT AND FRANCHISEE’S ABILITY OR INABILITY TO USE THE FRANCHISE TECHNOLOGY AND ITS CONTENT.

USE OF THE FRANCHISE TECHNOLOGY IS AT FRANCHISEE’S SOLE RISK. FRANCHISOR WILL IN NO EVENT BE LIABLE TO FRANCHISEE OR ANY PERSON CLAIMING THROUGH FRANCHISEE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES UNDER ANY THEORY OR LAW FOR ANY ERRORS IN OR THE USE OF OR INABILITY TO USE THE FRANCHISE TECHNOLOGY AND ITS CONTENT INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, BUSINESS, DATA, OR DAMAGE TO ANY COMPUTER SYSTEMS.

## **9.6 Acquisition of Products and Services.**

Franchisee must obtain all equipment, fixtures, signs, Franchise Trade Dress, inventory, supplies, packaging materials, uniforms and all other products and services specified by Franchisor for development and on-going operation of the Franchise Business.

## **9.7 Specifications and Designated and Approved Suppliers for Products and Services.**

In order to maintain uniqueness, consistency, uniformity, quality and identity of Fitness Studios and the products and services offered and sold by Fitness Studios and the group purchasing power of Fitness Studios, Franchisee must comply with the product, service and supply requirements set forth in this Section.

Franchisor may specify any products and services used in the development or operation of the Franchise Business as products and services that must be purchased only from Franchisor or a manufacturer, supplier or distributor specifically designated by Franchisor (which may be an Affiliate of Franchisor) (a "Designated Supplier"). These designated products and services ("Designated Supplier Products") must be purchased in accordance with Franchisor's specifications (which may include brand names) and only from a Designated Supplier. Franchisee will have no right to request approval of alternative suppliers for Designated Supplier Products. Franchisor currently designates the following products and services as Designated Supplier Products that must be purchased from a Designated Supplier: architectural services; general contractor services; fitness and infrared sauna equipment; initial inventory and operating supplies (including apparel); marketing materials (tee shirts, towels, sales tent); exterior signs; reception desk and retail displays; audio/visual equipment; POS system software; and insurance. Franchisor and its affiliates are currently the Designated Suppliers for the following products and services: general contractor services; fitness and infrared sauna equipment; initial inventory and operating supplies (including apparel); marketing materials (tee shirts, towels, sales tent); exterior signs; reception desk and retail displays; and audio/visual equipment. These Designated Supplier Products and Designated Suppliers are subject to change by Franchisor.

Unless otherwise specified by Franchisor, all products and services used in the Franchise Business, other than Designated Supplier Products, must be obtained in accordance with the Franchisor's specifications (which may include brand names) and only from a manufacturer and/or supplier that has been approved by Franchisor (an "Approved Supplier"). An Approved Supplier will be a supplier that: (a) has met Franchisor's standards for quality and uniformity of goods and services and other relevant standards established by Franchisor; (b) has been designated by Franchisor in writing as an Approved Supplier; and (c) has not later been disapproved by Franchisor. Franchisee may request to have a supplier for items other than Designated Supplier Products approved by submitting to Franchisor the information, samples or agreements necessary for Franchisor's determination under the procedures specified by Franchisor. This request must be in writing and must include information about the product or supplier relating to Franchisor's specifications, a sample of the product or service to be approved or an individual at the manufacturer or supplier that Franchisor can contact for information. Franchisor may submit the information to an independent laboratory or another independent expert to determine if the product or supplier meets Franchisor's specifications. Franchisor may charge Franchisee a fee of up to \$3,000 to cover the costs incurred in making this determination. On Franchisee's request, and only on a confidential basis, Franchisor will furnish Franchisee with any issued standards and specifications for items other than Designated Supplier Products, as well as any issued criteria for supplier approval. Franchisor will notify Franchisee in writing of its approval or disapproval of a supplier within 60 days after receiving all information that Franchisor reasonably believes is necessary to make the determination.

Before Franchisor approves a supplier, the supplier may be required to enter into an agreement with Franchisor in a form reasonably acceptable to Franchisor providing that the supplier will: (a) follow the Franchisor's procedures, specifications and standards, formulas, and patterns; (b) provide for periodic quality control inspections of the supplier's premises and production facilities; (c) require the supplier to provide a reasonable number of samples, without charge, for inspection; (d) require the supplier to keep any trade secrets or other confidential information disclosed to it by Franchisee or Franchisor in confidence and to have employees to which such disclosure is made sign agreements that they will not use or disclose confidential

information; and (e) require the supplier to pay a reasonable license fee for a limited license for the production and sale of items using the Intellectual Property. An approval of a supplier is not a blanket approval of the items the supplier may sell but only for specific items sold by that supplier as approved by Franchisor.

In order to take advantage of group purchasing power and to ensure uniformity and quality, Franchisor reserves the right to limit the total number of Approved Suppliers for any items. Franchisor may add or delete Designated Supplier Products, Designated Suppliers, and Approved Suppliers from time to time and Franchisee must comply with those changes immediately on written notice from Franchisor. If Franchisor adds a Designated Supplier or Approved Supplier, Franchisee must immediately, on written notice from Franchisor, take the steps necessary to comply with the credit, purchase and other policies of the Designated Supplier or Approved Supplier. If Franchisor deletes a Designated Supplier or Approved Supplier, Franchisee must cease purchasing products and services from that supplier immediately on written notice from Franchisor.

Franchisor may, from time to time, enter into agreements with Designated Suppliers or Approved Suppliers of products for and on behalf of all Fitness Studios or all Fitness Studios in a particular region (a "Supplier Contract"). If Franchisor enters into a Supplier Contract with a Designated Supplier or Approved Supplier, the terms and conditions of Franchisee's relationship with that Designated Supplier or Approved Supplier may be controlled by that contract to the extent covered by the contract.

The designation by Franchisor of a Designated Supplier or Approved Supplier or manufacturer, architect, general contractor or other provider of products or services does not create any express or implied promise, guaranty or warranty by Franchisor as to the products or services of the Designated Supplier or Approved Supplier or manufacturer, architect, general contractor or other provider of products or services and Franchisor disclaims any such promises, guaranties or warranties. Franchisee agrees that Franchisor will not have any liability to Franchisee for any claims, damages or losses suffered by Franchisee as a result of or arising from the products or services provided by or the acts or omissions of any Designated Supplier or Approved Supplier or manufacturer, architect, general contractor or other provider of products or services designated or approved by Franchisor.

Franchisee acknowledges and agrees that Franchisor and/or its Affiliates have the right to receive rebates, commissions, dividends, distributions or other fees, discounts or payments from Designated Suppliers and Approved Suppliers or other providers of products or services based on sales of products or services to the Franchise Business and other Fitness Studios ("Supplier Payments"). Franchisee agrees that Franchisor and its Affiliates will have the right to collect all Supplier Payments and to use the Supplier Payments for any purpose in Franchisor's sole discretion. Franchisee must cooperate with Franchisor and its Affiliates in the collection of Supplier Payments. Franchisee also acknowledges and agrees that Franchisor, in its sole discretion, and on a non-uniform basis, may: (i) pay, pass-through or waive some or all of the Supplier Payments to or for the benefit of franchisees in certain markets or to or for the benefit of some, but not all, franchisees in a particular market; or (ii) use the Supplier Payments for any other purpose, including purposes that may benefit certain markets or some, but not all, franchisees in a particular market.

Any products or services sold by or through Franchisor or its Affiliates will be sold in accordance with the terms set forth in writing by Franchisor, its Affiliate or by the manufacturer of the products. These terms may be modified from time to time on written notice from Franchisor, its Affiliate or by the manufacturer of the products.

EXCEPT AS EXCLUSIVELY SET FORTH IN WRITING, FRANCHISOR AND ITS AFFILIATES MAKE NO WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS OR SERVICES SOLD BY OR THROUGH FRANCHISOR OR ITS AFFILIATES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF TITLE AND THE IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FRANCHISOR WILL NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE, LOSS OF PROFIT, OR OTHER INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCTS AND SERVICES SOLD BY OR THROUGH FRANCHISOR OR ITS AFFILIATES OR FOR ANY DAMAGES (REGARDLESS OF THEIR NATURE) CAUSED BY FRANCHISOR'S FAILURE TO FULFILL ITS RESPONSIBILITIES UNDER THIS AGREEMENT. FRANCHISOR'S AND ITS AFFILIATES' SOLE LIABILITY FOR ANY WARRANTIES GRANTED IS TO REPAIR OR REPLACE, AT FRANCHISOR'S OR ITS AFFILIATES' OPTION, ANY PRODUCTS AND SERVICES SOLD BY OR THROUGH FRANCHISOR AND ITS AFFILIATES THAT ARE NOT IN COMPLIANCE WITH THE WARRANTY. IN NO EVENT WILL FRANCHISOR'S AND ITS AFFILIATES' LIABILITY RELATING TO PRODUCTS AND SERVICES SOLD BY OR THROUGH FRANCHISOR AND ITS AFFILIATES EXCEED THE STATED SELLING PRICE OF THE PRODUCTS AND SERVICES TO FRANCHISEE. ANY WARRANTIES GRANTED WILL BE VOID AND OF NO FORCE AND EFFECT WITH RESPECT TO ANY PRODUCTS THAT ARE DAMAGED AS A RESULT OF (A) NEGLIGENCE, ALTERATION OR ACCIDENT OR (B) IMPROPER USE, INCLUDING FAILURE TO FOLLOW OPERATING AND MAINTENANCE PROCEDURES SPECIFIED BY FRANCHISOR AND ITS AFFILIATES.

#### **9.8 Products and Services Offered by the Franchise Business.**

Franchisee must sell all products and provide all services that Franchisor specifies for sale for the Franchise Business. Franchisee must sell those products and provide those services in the manner specified by Franchisor and in accordance with the policies and procedures specified by Franchisor. Franchisee must not sell any products, provide any services or engage in any business at the Franchise Business or Franchise Location other than those specified by Franchisor without written authorization from Franchisor. Franchisor may add or delete required or authorized products or services to be provided by the Franchise Business. If any products or services are added, Franchisee must be qualified to provide the products and services before Franchisor will authorize Franchisee to offer those products and services. If a product or service is deleted, Franchisee must cease offering that product or service immediately on written notice from Franchisor. Franchisor has the right in its sole discretion to vary specifications for products and services to be offered by Fitness Studios by geographic area or market or type or size of location or other relevant distinctions between franchises. Also, Franchisor has the right in its sole discretion to authorize one or more Fitness Studios to test market products, services, suppliers, or other items on a non-uniform basis. Franchisee will not be entitled to require Franchisor to disclose or grant to Franchisee a like or similar variation in Franchisor's standards and specifications.

## **9.9 Pricing.**

In order to enhance the competitive position and consumer acceptance for the products and services of Fitness Studios, Franchisor may exercise rights with respect to the pricing of products and services to the fullest extent permitted by then-applicable law. These rights may include, without limitation: (a) prescribing the maximum and/or minimum retail prices that Franchisee may charge customers for the products and/or services offered and sold at the Franchise Business; (b) recommending retail prices; (c) advertising specific retail prices for some or all products or services sold by the Franchise Business, which prices Franchisee will be required to observe; (d) engaging in marketing programs, promotional programs, drives, giveaways, contests and other campaigns that Franchisee must participate in and that may directly or indirectly impact Franchisee's retail prices; and (e) otherwise mandating, directly or indirectly, the maximum and/or minimum retail prices that the Franchise Business may charge the public for the products and services it offers. Franchisor may engage in any such activity either periodically or throughout the term of this Agreement. Further, Franchisor may engage in such activity only in certain geographic areas (e.g. cities, states, regions) and not others, or with regard to certain subsets of franchisees and not others. Franchisee acknowledges that any maximum, minimum or other prices Franchisor prescribes or suggests may not optimize the revenues or profitability of the Franchise Business and Franchisee irrevocably waives any and all claims arising from or related to Franchisor's prescription or suggestion of retail prices for the Franchise Business. Franchisee will not have the right to commit any other Fitness Studio to a particular price for products and services and agrees not to advertise any prices for the products and services of the Franchise Business without the written consent of Franchisor.

## **9.10 Participation in Cross Global Programs.**

Franchisor may establish policies and procedures relating to: (a) defining a customer's home Fitness Studio ("Home Studio"); (b) the membership programs to be offered to customers by Fitness Studios; (c) the right of a customer to receive services from the customer's Home Studio and other Fitness Studios; (d) specifying the Fitness Studio that is entitled to receive membership fees paid by a customer, regardless of the Fitness Studio at which the customer purchases the membership; (e) the sharing of fees between Fitness Studios based on a customer receiving services at Fitness Studios other than the customer's Home Studio; (f) membership transfers from one Fitness Studio to another Fitness Studio; (g) the issuance and honoring of cross memberships, cross gift cards and cross electronic money cards issued by Fitness Studios; (h) customer loyalty programs; and (i) other cross member usage and reciprocal access programs and other cross global matters specified by Franchisor (the "Cross Global Programs"). Franchisor may add, delete or modify the policies and procedures relating to Cross Global Programs on 30 days notice to Franchisee. Franchisee acknowledges that Franchisee's participation in the Cross Global Programs specified by Franchisor is integral to the Franchise System and to the success of those programs. Franchisee agrees to fully participate in the Cross Global Programs and to fully comply with the policies and procedures specified by Franchisor relating to the Cross Global Programs, including the payment of any amounts owed to Franchisor or other Fitness Studios under the Cross Global Programs. Franchisor will periodically reconcile payments due to and from Franchisee under the Cross Global Programs. Franchisee agrees to pay any amounts due under the Cross Global Programs to or as directed by Franchisor at the times and in the manner specified by Franchisor. Franchisor may debit or credit Franchisee's bank account on a periodic basis by electronic funds transfer after reconciling and reporting to Franchisee amounts due to or from Franchisee in connection with the Cross Global Programs. Franchisor may provide these reports by email, online access, or other means specified by Franchisor. Franchisor may

charge a reasonable administrative fee for administering or having a designated supplier administer the Cross Global Programs.

Franchisor may incorporate some or all of the Cross Global Programs or operate them through one or more separate entities whenever Franchisor deems appropriate. The successor entity or entities will have all of the rights and duties specified in this Section.

### **9.11 Group Health Programs.**

Franchisor may, but is not obligated to, periodically establish programs that involve some or all Fitness Studios providing products and services to certain groups of customers and prospective customers ("Group Health Programs"). Also, Franchisor may periodically eliminate or modify existing Group Health Programs. Franchisee must participate fully in any Group Health Programs specified by Franchisor and must provide products and services to all valid members of each Group Health Program according to the terms of the program established by Franchisor. Franchisee acknowledges that Group Health Programs may require uniform billing terms, central billing by Franchisor or an Affiliate, and other practices and formats and Franchisee agrees to abide by the terms of the programs as specified by Franchisor. Franchisee must not alter its standard membership terms for, or withhold access to any products and services from, any one or more Group Health Program participants or otherwise treat any Group Health Program participant differently from the other members of the Franchise Business, except as specified or approved by Franchisor. In addition, Franchisee must participate in and fully support any national or regional advertising and marketing programs that Franchisor develops to support any Group Health Programs. Franchisor will have the right to receive payments from groups representing any Group Health Program based on Franchisor's establishment or administration of the program and/or may charge Franchisee an administrative fee for administering Group Health Programs.

### **9.12 Maintenance; Refurbishing; Alterations.**

Franchisee must maintain the Franchise Location, equipment, furniture, fixtures, signs, Franchise Trade Dress, and other property of the Franchise Business in a clean, attractive and safe condition and in good maintenance and repair and in compliance with the standards specified by Franchisor. Franchisee must, at its expense, engage in any program of preventative maintenance or replacement specified by Franchisor for the equipment, furniture, fixtures, signs, Franchise Trade Dress, and other property of the Franchise Business. As part of a preventative maintenance program, Franchisor may specify the timing and manner of performing the maintenance services and may designate one or more suppliers that Franchisee may be required to use for preventative maintenance services. Franchisee understands that regular maintenance obligations include the repair and replacement of worn-out or obsolete equipment and fixtures, including fitness equipment, and that Franchisee may have to replace fitness equipment every three to four years as necessary or as specified by Franchisor.

If at any time, in Franchisor's reasonable judgment, the general state of repair, appearance or cleanliness of the Franchise Location or its equipment, fixtures, signs, or Franchise Trade Dress do not meet Franchisor's standards, Franchisor may notify Franchisee in writing, specifying the action to be taken by Franchisee to correct the deficiency. Franchisee must initiate the specified action within 30 days after receipt of the notice and diligently proceed to complete the specified action. If Franchisee fails to do so, Franchisor will have the right, but not the obligation, to enter the Franchise Location and cause the specified action to be taken on behalf of Franchisee. This action may be taken by Franchisor or a Person designated by

Franchisor. Franchisee will be responsible for the entire cost of the action taken and must pay Franchisor for the cost immediately on demand.

In addition to regular maintenance obligations, after written notice from Franchisor, Franchisee must refurbish the Franchise Location to maintain or improve the appearance and efficient operation of the Franchise Business, to increase its sales potential, and to comply with Franchisor's then current standards and identity. However, Franchisee will not be required to refurbish the Franchise Location more than once every two years. The requirement to refurbish the Franchise Location will be imposed uniformly on all Franchisees presently acquiring Fitness Studios, but the expenses incurred in fulfilling the requirement will vary depending on such factors as the condition of the Franchise Location and local costs of construction. If the refurbishing requires spending less than \$25,000, Franchisee will have 90 days to complete the refurbishing. If the refurbishing requires spending \$25,000 or more, Franchisee will have 180 days to complete the refurbishing.

Franchisee must make no material alterations to the leasehold improvements or appearance of the Franchise Location and must not make any material alterations to the equipment, fixtures, signs, or Franchise Trade Dress of the Franchise Business without prior written approval of Franchisor. Franchisor agrees not to unreasonably withhold such approval provided that the alterations are consistent with the image of the Franchise System and Franchisor's specifications and are not prohibited by Franchisee's lease or by law.

### **9.13 Management of the Franchise Business.**

The individual or at least one of the individuals designated in Item 5 on Appendix A (a "Designated Owner"), must: (a) preserve and exercise ultimate authority and responsibility with respect to the management and operation of the Franchise Business; and (b) represent and act on behalf of Franchisee in all dealings with Franchisor. Each Designated Owner must have an ownership interest in Franchisee. If all of the Designated Owners listed in Item 5 of Appendix A resign, die or become incapacitated, it will be considered a Transfer under the provisions of Article 14 of this Agreement.

The Franchise Business must, at all times, be under the direct supervision of a manager as described in this Section (the "Manager"). The Manager must: (i) devote his or her full time and effort to the day-to-day active management and operation of the Franchise Business; (ii) be personally responsible for the Franchise Business at all times; (iii) personally exercise his or her best efforts to market the Franchise Business and maximize customer satisfaction; and (iv) be present at the Franchise Location for the minimum number of days and hours specified by Franchisor. Unless otherwise specified by Franchisor, the minimum number of days and hours will be five days a week, eight hours per day, at total of 40 hours per week. The Manager must meet the following requirements before beginning to serve as Manager for the Franchise Business: (1) the Manager must have successfully completed the management training program and any retraining or refresher training programs specified by Franchisor; (2) the Manager must be approved by Franchisor and not later disapproved; and (3) the Manager must sign an agreement relating to confidentiality and non-competition in the form specified by Franchisor as a condition of employment. An individual who previously successfully completed the initial training program but has not worked for a Fitness Studio for a period of six months or more, must attend the initial training program again before Franchisor will approve that individual as a Manager for the Franchise Business.



Franchisor's approval or disapproval of a Manager will be based on the standards and requirements specified by Franchisor from time to time, in writing or otherwise. If Franchisor rejects or disapproves a Manager, it will notify Franchisee of the reasons for the decision. Notwithstanding the right of Franchisor to protect the goodwill of the Fitness Studio franchise system by disapproving a Manager employed by Franchisee, the Manager will not be deemed an employee of Franchisor for any purpose whatsoever.

If a Designated Owner is not the Manager, the Manager must be under the direct supervision of a Designated Owner. If Franchisee desires to change the approved Manager, Franchisee must notify Franchisor in writing as least 30 days before employing a new Manager. It is Franchisee's responsibility to ensure that the Franchise Business is always under the supervision of an approved Manager. A failure by Franchisee to have the Franchise Business under the supervision of an approved Manager is a material default under this Agreement.

If at any time Franchisee ceases to be under the supervision of an approved Manager that has successfully completed the management training program, Franchisee must immediately designate a successor Manager acceptable to Franchisor, who must attend and successfully complete the next available management training program. The training of the Manager will be at Franchisee's expense. If Franchisor determines, in its sole discretion, that the proposed successor Manager has not satisfactorily completed the management training program, Franchisor may: (a) require the proposed successor Manager to attend additional training; or (b) require Franchisee to designate another proposed Manager to attend the next available management training program; or (c) terminate this Agreement.

If at any time Franchisee ceases to be under the supervision of an approved Manager that has successfully completed the management training program and does not have a successor Manager acceptable to Franchisor attend the next available management training program, then, in addition to all other remedies, Franchisor may charge Franchisee a fee of \$1,000.00 per week (beginning the week that the management training program is available) until the earlier of termination of the Franchise Agreement or when Franchisee has a appointed a Manager acceptable to Franchisor who has successfully completed the management training program.

#### **9.14 Other Personnel Matters.**

Franchisee must maintain at all times a staff of trained personnel sufficient to operate the Franchise Business in compliance with Franchisor's specifications. Franchisee must implement a training program for its employees in compliance with Franchisor's specifications. Franchisee must require its employees and agents to sign an agreement relating to confidentiality and non-competition in the form specified by Franchisor as a condition of employment of the employee. Franchisee must provide a copy of each executed agreement on request. Franchisee agrees to perform complete background checks of its employees and to follow other hiring standards specified by Franchisor that are reasonably related to ensuring the safety of the customers of the Franchise Business or protecting the reputation of the Franchise Marks and the Red Effect Fitness Studio franchise system.

Franchisee must engage all personnel for the Franchise Business and must be exclusively responsible for the terms of their engagement and compensation. Franchisor's policies and standards do not include any employee policies and procedures. Franchisor will not control and will not be involved in any way with Franchisee's compensation or other

personnel matters regardless of any information that Franchisor may provide in operations or training manuals or otherwise. Franchisee is solely responsible for all employment decisions and obligations. Franchisee must prominently post signs at the Franchise Location (including in the area in which all official employment relating notices are posted) and at Franchisee's offices informing employees and independent contractors that their relationship is solely with Franchisee and that they are not an employee of Franchisor or any of its Affiliates. Similar language must be included in all employment contracts, offer letters, and employee handbooks. Franchisor may specify the language for the required postings and notices. Franchisee must indemnify and hold harmless Franchisor from and against any liability relating to or arising from employment related decisions and obligations, including but not limited to labor and employment law violations by Franchisee or Franchisee's personnel.

Franchisor may impose a reasonable charge on Franchisee for any training provided to Franchisee, its managers or employees, beyond the initial training program described in Section 11.1. Any such fees will be uniform as to all individuals attending training at that time. These fees are not refundable.

### **9.15 Insurance.**

Franchisee must obtain and provide Franchisor with evidence of insurance with the coverages and in the amounts specified by Franchisor. Evidence of this insurance must be initially provided at least fourteen days before beginning operation of the Franchise Business. Certificates of renewal must be provided no later than fourteen days before the expiration date of each policy. If Franchisee does not provide Franchisor with evidence of any required insurance policies at any due date, Franchisor may (but is not obligated to) purchase that insurance at Franchisee's expense. Franchisee must immediately pay for any insurance obtained by Franchisor.

Each required insurance policy must meet the following requirements: (a) the policy must name Franchisor (and any Affiliates or representatives of Franchisor that Franchisor may reasonably specify) as an additional insured on the form specified by Franchisor; (b) the policy must not be subject to cancellation, modification or amendment except after 30 days written notice to Franchisor; (c) the insurance must be obtained from or through a Designated or Approved Supplier, as applicable, and an insurance carrier with an AM Best's Rating of not less than A-IX; (d) the policy must provide that failure by Franchisee to comply with any term, condition or provision of the insurance contract, or other conduct by Franchisee, will not void or otherwise affect the coverage afforded Franchisor or its Affiliates or representatives (e.g. Franchisor, although named as an insured, will nevertheless be entitled to recover under such policies on any loss occasioned to Franchisor or its agents or employees by reason of the negligence of Franchisee or Franchisee's agents or employees); (e) the applicable policies must cover Franchisee's indemnification obligations under this Agreement; (f) the policy will be primary to and without right of contribution from any insurance purchased by Franchisor; and (g) the policy must contain a waiver of subrogation in favor of Franchisor for casualty losses. Franchisee's obligation to obtain and maintain the policies of insurance in the minimum amounts specified by Franchisor will not be limited in any way by reason of any insurance that may be maintained by Franchisor nor will Franchisee's obligation to obtain insurance relieve Franchisee of its liability for indemnification as provided in Section 9.19 of this Agreement.

Franchisee acknowledges that the insurance coverages and amounts specified by Franchisor reflect minimum required amounts and are not meant to reflect Franchisee's actual

insurance coverage needs. It is Franchisee's responsibility to carefully evaluate its insurance needs and to obtain the insurance coverages and amounts as necessary to satisfy those insurance needs.

Franchisee must provide and authorize the Franchisee's insurance carriers to provide Franchisor monthly, quarterly, and/or annual reports (as specified by Franchisor) of losses paid by the Franchisee's insurance carriers on behalf of the Franchisee for losses suffered under the Franchisee's insurance policies. In addition, Franchisee must provide and authorize Franchisee's insurance carriers to provide proof of Franchisee's Worker's Compensation experience modification (EMOD). Franchisee hereby grants Franchisor a power-of attorney, authorizing Franchisor to obtain whatever loss reports or EMOD reports Franchisor determines, in its sole discretion, are necessary to protect the integrity of the Franchise Marks and System or for any other reasonable business purpose. Franchisee agrees to cooperate with Franchisor and Franchisee's insurance carriers to enable Franchisor to obtain the insurance loss reports and EMOD reports as promptly and efficiently as possible, which cooperation may include providing written authorization to permit Franchisor to obtain the reports, in addition to the power of attorney granted in this Section.

#### **9.16 Payment Card Industry and Other Data Security Requirements.**

Franchisee is responsible for securing the data of its customers. Franchisee must comply with industry standards and all applicable laws relating to the protection of Customer Information and other personal information. Franchisee will be solely responsible for any liability, damages or claims caused by any data breaches or Franchisee's failure to comply with these industry standards and laws. Franchisee must comply with the Payment Card Industry Data Security Standard Requirements and Security Assessment Procedures and other applicable PCI requirements ("PCI Requirements") in connection with the Franchise Business. It is recommended that Franchisee also comply with the ISO/IEC 27000-series information security standards (or other comparable third-party information security standards) ("Information Security Standards") in connection with the Franchise Business. It is Franchisee's responsibility to research and understand the PCI Requirements and Information Security Standards, other industry standards, and applicable laws and to ensure that its business policies and practices comply with these requirements. Although Franchisor may provide advice and/or specify or provide Computer Systems or business software, Franchisor does not represent or warrant that those systems or software comply with the PCI Requirements or Information Security Standards, other industry standards, and applicable laws and it will be the sole responsibility of Franchisee to ensure that its business practices comply with these requirements. Franchisee must periodically participate in audits of its information technology systems and data security policies by third party auditors as specified by Franchisor.

If Franchisee detects or is notified of data breach involving the data of its customers ("Data Breach"), Franchisee must immediately notify Franchisor of the Data Breach. Franchisee must cooperate with Franchisor in investigating and halting the Data Breach, including giving Franchisor access to Franchisee's information technology systems. Franchisor will have the right to name legal counsel to deal with the Data Breach and to control media communications relating to the Data Breach. Franchisee must not make any public statements about the Data Breach without Franchisor's approval. Franchisee must indemnify and hold harmless Franchisor for all claims and costs, including attorneys' fees, incurred by Franchisor as a result of any Data Breach that is the responsibility of Franchisee.

Franchisor will have the right to engage a vendor to consult with and advise Fitness Studios on compliance with the PCI Requirements and Information Security Standards and to require Franchisee to pay a portion of the cost of the vendor's services as determined under the policies and procedures specified by Franchisor or to directly engage the vendor for these purposes. Also, Franchisor will have the right to acquire a cyber insurance policy for the Red Effect Fitness Studio franchise system and to require Franchisee to pay a portion of the cost of the cyber insurance policy as determined under the policies and procedures specified by Franchisor. Franchisor will have the right to collect Franchisee's share of the costs of the vendor and/or cyber insurance policy on a periodic basis in the manner provided in Section 4.10 of this Agreement.

#### **9.17 Compliance with Laws and Other Obligations; Taxes.**

Franchisee must obtain and keep in force every registration, charter, license or permit required for the Franchise Business. Franchisee must comply with all federal, state, county, municipal and other civil and criminal statutes, laws, ordinances, regulations, rules and orders of public authorities applicable to the Franchise Business, including but not limited to those relating to the maintenance and operation of the Franchise Business, health, safety, sanitation, employment (including state and federal labor and employment laws, such as the Fair Labor Standards Act (FLSA), Family and Medical Leave Act (FMLA), Occupational Safety and Health Act (OSHA), Employee Retirement Income Security Act (ERISA), Title VII, the Age Discrimination in Employment Act, and the Affordable Care Act, and comparable laws regulating minimum wage, overtime pay, recordkeeping, youth employment standards and other aspects of employment), environmental regulation, and taxation. Franchisee must immediately notify Franchisor if any governmental department or agency begins an investigation of the Franchise Business, schedules a review, inspection or audit of the Franchise Business or takes any action against the Franchise Business.

Franchisee must pay, when due, all taxes of every kind applicable to the Franchise Business or the income of the Franchise Business, including all local, state or federal taxes. Franchisor will have no liability for any sales, use, service, occupation, excise, gross receipts, income, property, or other taxes, whether levied on Franchisee or the Franchise Business, due to the business Franchisee conducts (except for Franchisor's income taxes). Franchisee is responsible for paying these taxes and must reimburse Franchisor for any taxes that Franchisor must pay to any federal, state or local taxing authority on account of either Franchisee's operation or payments that Franchisee makes to Franchisor.

Franchisor may, but has no obligation to, advise Franchisee on legislative or other legal developments that may affect the Franchise Business. Any information Franchisor provides to Franchisee does not relieve Franchisee of its responsibility to consult with its own legal advisor regarding laws applicable to the Franchise Business. Franchisee acknowledges that it is solely responsible for complying with all laws applicable to the Franchise Business.

#### **9.18 Separate Identification of Franchise Business.**

Franchisee must identify the Franchise Business as a separate business by filing an assumed name certificate as appropriate in the state and/or county of location of the Franchise Business. Franchisee must conspicuously post at the Franchise Location a notice to the effect that the Franchise Business is owned independently of the Franchisor. Franchisee must identify itself conspicuously in all dealings with customers, suppliers, public officials, the personnel of the Franchise Business, and others as the owner of the Franchise Business under a franchise

granted by Franchisor and to place notice of independent ownership on the forms, business cards, stationery, advertising, and other materials specified by Franchisor.

### **9.19 Indemnification.**

Franchisee agrees that it will, at its sole cost, at all times defend, indemnify and hold harmless Franchisor, any Affiliate of Franchisor, the Affiliates, subsidiaries, successors and assigns and designees of each and the officers, directors, managers, employees, agents, attorneys, shareholders, owners, members, designees and representatives of all of the foregoing (the "Indemnitees") to the fullest extent permitted by law, from all claims, losses, liabilities and costs incurred in connection with any civil, criminal or governmental action, suit, proceeding, claim, demand, investigation, or formal or informal inquiry (regardless of whether any of the foregoing is reduced to judgment) or any settlement of the foregoing, which actually or allegedly, directly or indirectly, arises out of, is based on, is a result of, or is related in any way to any element of the establishment, construction, opening and operation of the Franchise Business, including, without limitation: any personal injury, death or property damage suffered by any customer, visitor, operator, employee or guest of the Franchise Business; crimes committed on or near the Franchise Location or vehicles used by the Franchise Business; all acts, errors, neglects or omissions engaged in by Franchisee, its employees, contractors or subcontractors, as well as any third party, arising out of or related to the design, construction, conversion, build-out, outfitting, remodeling, renovation or upgrading of the Franchise Location, whether or not any of the foregoing was approved by Franchisor; defects in any premises constructed by or operated by Franchisee, whether or not discoverable by Franchisee or Franchisor; all acts, errors, neglects or omissions of Franchisee, Franchisee's employees, the Franchise Business, and/or the owners, members, officers, directors, management, employees, agents, servants, contractors, partners, proprietors, Affiliates or representatives of Franchisee or the Franchise Business (or any third party acting on behalf of or at the direction of Franchisee), whether in connection with the Franchise Business or otherwise, including, without limitation, any property damage, injury or death suffered or caused by any delivery person or vehicle serving the Franchise Business; all liabilities arising from or related to the offer, sale and/or delivery of products and/or services by Franchisee, Franchisee's employees, or the Franchise Business; and any action by any customer of Franchisee or visitor to the Franchise Business.

As used above, the phrase "claims, losses, liabilities and costs" includes: all claims; causes of action; fines; penalties; liabilities; losses; compensatory, exemplary, statutory or punitive damages or liabilities; costs of investigation; lost profits; court costs and expenses; reasonable attorneys' and experts' fees and disbursements; settlement amounts; judgments; compensation for damage to Franchisor's reputation and goodwill; costs of or resulting from delays; travel, food lodging and other living expenses necessitated by the need or desire to appear before (or witness the proceedings of courts or tribunals (including arbitration tribunals), or government or quasi-governmental entities (including those incurred by Indemnitees' attorneys and/or experts); all expenses of recall, refunds, compensation and public notices; and other such amounts incurred in connection with the matters described. All such losses and expenses incurred under this indemnification provision will be chargeable to and paid by Franchisee, regardless of any actions, activity or defense undertaken by Indemnitees or the subsequent success or failure of the actions, activity or defense.

Franchisee agrees to give Franchisor written notice of any action, suit, proceeding, claim, demand, inquiry or investigation that could be the basis for a claim for indemnification by any Indemnitee within three days of Franchisee's actual or constructive knowledge of it. At

Franchisee's expense and risk, Franchisor may elect to assume (but under no circumstance will Franchisor be obligated to undertake) the defense and/or settlement of the action, suit, proceeding, claim, demand, inquiry or investigation. Franchisor's undertaking of defense and/or settlement will in no way diminish Franchisee's obligation to indemnify Franchisor and other Indemnitees and to hold Franchisor and other Indemnitees harmless. Franchisor will have the right, at any time it considers appropriate, to offer, order, consent or agree to settlements or take any other remedial or corrective actions Franchisor considers expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in Franchisor's sole judgment, there are reasonable grounds to do so.

This indemnity obligation will continue in full effect even after the expiration, Transfer or termination of this Agreement. Franchisor's right to indemnity under this Agreement will arise and be valid notwithstanding that joint or concurrent liability may be imposed on Franchisor by statute, ordinance, regulation or other law. An Indemnitee need not seek recovery from any insurer or other third party, or otherwise mitigate its losses and expenses in order to maintain and recover fully a claim against Franchisee under this Section. Franchisee agrees that a failure to pursue recovery or mitigate a loss will not reduce or alter the amounts that an Indemnitee may recover from Franchisee under this Section.

#### **9.20 Participation in Franchisee Advisory and other Committees.**

Franchisor may establish, from time to time, committees of Franchisees to advise Franchisor on various matters involving the Franchise System. Franchisee will be eligible to participate on such committees, in accordance with the rules established by Franchisor and each committee, but only if Franchisee is a Franchisee in good standing at that time and has been a Franchisee in good standing for the six month period before serving on the committee. In order to be a Franchisee in good standing, Franchisee must be: (a) current in all obligations to Franchisor and (b) operating in accordance with the all requirements of the Franchise System, including requirements relating to quality, cleanliness and service.

#### **9.21 Notices to Franchisor.**

Franchisee must notify Franchisor in writing of the details of any of the following events, within one business day of the occurrence of the event:

- (a) The start of any civil or criminal action, suit, countersuit or other proceeding against Franchisee, any Designated Owner or the Manager.
- (b) Franchisee, any Designated Owner, or the Manager receives a notice of noncompliance with any law, rule or regulation.
- (c) The issuance of any order, writ, injunction, award or decree of any court, any agency or other governmental organization against Franchisee, any Designated Owner, or the Manager.
- (d) Any complaints, inspections, reports, warnings, certificates or ratings of Franchisee or the Franchise Business, communicated, issued, performed, or scheduled by any governmental agency.

Franchisee must provide Franchisor with any additional information Franchisor requests, within five days of request, about the status, progress or outcome of any of the events listed in

this Section. Franchisee's failure to provide the notice and/or additional information required by this Section will be considered a material default under this agreement.

### **9.22 Franchisor's Costs to Respond to Special Requests.**

Franchisor may charge Franchisee and Franchisee agrees to pay Franchisor for any expenses incurred by the Franchisor in responding to special requests from Franchisee and preparing any documentation necessary based on those requests. These expenses include but are not limited to, out-of-pocket expenses and attorneys fees. Examples of special requests from Franchisee that could cause these expenses include, but are not limited to, requests for approval of minority transfers or transfers to controlled entities, corrections or amendments to this Agreement or other agreements, modifications of standards or standard procedures, and extensions of time to perform obligations.

## **ARTICLE 10 – ADVERTISING**

### **10.1 Pre-Opening/Grand Opening Advertising.**

Franchisee must conduct a pre-opening/grand opening advertising and promotional program for the Franchise Business as specified by Franchisor. Franchisee must spend an amount specified by Franchisor (up to \$10,000) for the pre-opening/grand opening advertising program (this amount is separate from and in addition to advertising fund contributions referenced in Section 4.3). The pre-opening/grand opening program must be conducted within the period beginning 12 weeks before the opening of the Franchise Business and ending 30 days after the opening of the Franchise Business (or such other period specified by Franchisor). Franchisee must provide documentation to Franchisor, at the times and in the form and manner specified by Franchisor, to prove that Franchisee has spent the required amount on the pre-opening/grand opening advertising program within the specified time frame. If Franchisee does not timely provide such documentation, or does not spend the required amount on the pre-opening/grand opening advertising program within the specified time frame, Franchisee must pay the amount not satisfactorily documented or not spent to Franchisor on demand. These amounts may be collected by Franchisor by electronic funds transfer under Section 4.12 after five days notice to Franchisee. These funds will either be spent on Franchisee's behalf to execute a promotion for Franchisee's Fitness Studio or be placed in the advertising fund.

### **10.2 Administration of Advertising Fund.**

Franchisee must make contributions, as required under Section 4.3, to an advertising fund. Franchisee acknowledges and agrees that: (a) Franchisor may implement an advertising fund for some but not all markets; (b) the amount of contributions required may not be uniform for all franchisees and may vary by market because Franchisor may implement certain advertising programs in some but not all markets and because advertising programs and administrative expenses may vary by market; and (c) Franchisor is not under any obligation to continue an advertising fund and may suspend contributions to or operations of the advertising fund or terminate the advertising fund (or reinstate the advertising fund if it is terminated).

The advertising fund will be administered and controlled by Franchisor in its sole discretion. The advertising fund may be used to: maximize general public recognition and patronage of the Franchise Marks and Franchise System; formulate, develop and produce advertising and sales support materials for use by franchisees; conduct advertising and promotional programs on a national, regional or local level; provide marketing support services

to franchisees; develop, maintain, and support the Franchise Technology (see Section 9.5) and Electronic Media and Digital Marketing (see Section 10.8) for Franchisor and/or franchisees; administer and support Cross Global Programs (see Section 9.10); obtain public relations services; pay the expenses of the advertising fund; and other uses determined in the discretion of Franchisor.

Franchisor is not required to spend Franchisee's advertising fund contributions to place advertising in Franchisee's market or in any specific media. The advertising fund will be used to pay all expenses of the advertising fund. Franchisor reserves the right to engage the services of an advertising source or sources to formulate, develop, produce and conduct advertising and promotional programs, and to develop and implement Franchise Technology, Electronic Media, and Digital Marketing. The cost of these services will be paid by the advertising fund. Franchisor will submit to Franchisee, on request, an annual report of the receipts and disbursements of the advertising fund, which may be unaudited and prepared by management of Franchisor.

Franchisor may expend or allocate up to 25% of the advertising fund on an annual basis for such reasonable salaries, administrative costs and overhead, if any, as Franchisor may incur in connection with administration of the advertising fund (which does not include separate costs of employing independent contractors or agencies to administer, create, distribute, place, publish or otherwise provide products or services to the advertising fund). The advertising fund may borrow money and pay interest or establish credit from Franchisor or other entities. Payments of principal and interest may be deducted from the advertising fund. The advertising fund may not be used for advertising that is principally a solicitation for the sale of franchises but the advertising fund may be used for ancillary or incidental uses for the solicitation or sale of franchises by Franchisor or other franchisees, such as but not limited to an area on Franchisor's website or on print advertisements created or distributed by the advertising fund or an advertising cooperative.

Franchisor may, in its discretion, administer the advertising fund in some or all markets by disbursing a portion of the advertising funds to one or more individual franchisees or cooperative groups of franchisees for advertising expenditures in their markets. Those disbursements must be expended by the applicable franchisees on local or regional advertising and media as Franchisor determines. Any such rebate advertising expenditures must be documented at the times and in the manner specified by Franchisor.

Franchisor will use reasonable efforts to expend advertising fees contributed to the advertising fund during the fiscal year in which the contributions are made, taking into account reasonable reserves for advertising promotions and campaigns, repayment of debt, and other reasonable business needs in the next fiscal year. If Franchisor spends less than the total amount of funds available in the advertising fund during any fiscal year, Franchisor will expend the unused funds during a subsequent fiscal year. If Franchisor expends an amount greater than the amount available to the advertising fund, and Franchisor has contributed the additional amounts to the advertising fund, Franchisor will be entitled to be reimbursed by the advertising fund for all such excess expenditures.

Franchisor or any agency engaged by Franchisor will not be liable for consequential or incidental damages resulting from administration of the advertising fund or resulting from any advertising produced or placed by or on behalf of Franchisor or Franchisee, or the failure to



produce or place such advertising, including any claims for loss of business, and Franchisee waives any such claims.

Franchisor may incorporate the advertising fund or operate it through a separate entity whenever Franchisor deems appropriate. The successor entity will have all of the rights and duties specified in this Section.

### **10.3 Minimum Local Advertising.**

In addition to the advertising fund contributions Franchisee must pay to Franchisor, Franchisee must spend a minimum of the greater of 5% of monthly Gross Sales or \$4,000 each month for advertising in Franchisee's local market. Franchisee must provide documentation to Franchisor, at the times and in the form and manner specified by Franchisor, to prove that Franchisee has spent the required amount on local advertising. If Franchisee does not timely provide such documentation, or does not spend the required minimum amount on local advertising, Franchisee must pay the amount not satisfactorily documented or not spent to Franchisor on demand. These funds will be used, in Franchisor's discretion, for local advertising and promotion for Franchisee. In addition, Franchisee must pay an administrative fee to Franchisor equal to 10% of the amount not satisfactorily documented or not spent. These amounts may be collected by Franchisor by electronic funds transfer under Section 4.12 after five days notice to Franchisee.

### **10.4 Joint Advertising and Advertising Cooperatives.**

Franchisor may designate a local, regional or national advertising area that includes a group of Fitness Studios (an "Advertising Area"). If the Franchise Business is within a designated Advertising Area, Franchisee must participate in and pay its proportionate cost of any joint advertising specified by the Franchisor for that Advertising Area.

In addition, Franchisor may require an advertising cooperative to be formed and operated in an Advertising Area. If the Franchise Business is within that designated Advertising Area, Franchisee must join, maintain a membership in, and sign and abide by the cooperative agreement for the advertising cooperative in that Advertising Area. Each advertising cooperative must adopt a cooperative agreement governing the organization and operation of the advertising cooperative. If specified by Franchisor, the cooperative agreement must require contributions to the advertising cooperative to be paid to Franchisor or to the advertising cooperative by electronic funds transfer. Franchisor must approve the structure of the advertising cooperative as well as the cooperative agreement and any changes to that agreement. The cooperative agreement must be submitted to Franchisor for prior approval. If Franchisor has not approved the cooperative agreement in writing within 14 days after receipt, the cooperative agreement will be deemed not approved. If the members of the advertising cooperative do not adopt and sign an approved cooperative agreement within 30 days after Franchisor designates the advertising area for the advertising cooperative, the advertising cooperative must adopt and Franchisee must sign Franchisor's then current recommended cooperative agreement. The cooperative agreement cannot modify the terms of this Agreement, but may require Franchisee to make contributions to the advertising cooperative in addition to any advertising fund contributions Franchisee is required to make to Franchisor. Franchisee must make contributions to the advertising cooperative at the times and in the amounts as determined by the advertising cooperative and must otherwise comply with the decisions of the advertising cooperative. Each Fitness Studio in the advertising cooperative (including Fitness Studios operated by the Franchisor or its Affiliates) will have one vote on

matters before the advertising cooperative. Decisions will be made as provided in the cooperative agreement, or if not otherwise specified, based on a majority of the votes entitled to be cast by the members of the advertising cooperative. Any franchisee holding an officer, management, executive or committee position with the advertising cooperative must be a franchisee in good standing as defined in Section 9.20. The administration, costs, and expenses of each advertising cooperative will be the responsibility of the advertising cooperative. The advertising cooperative will be responsible for the collection of contributions from its members and Franchisor will not be responsible to Franchisee if other franchisees in the advertising cooperative fail to pay contributions or to otherwise abide by the cooperative agreement or the decisions of the advertising cooperative. Franchisee acknowledges and agrees that Franchisor may collect amounts owed by Franchisee and its Affiliates to the advertising cooperative by electronic funds transfer under Section 4.12 after five days notice to Franchisee. Franchisor will have the authority to form, change, dissolve or merge advertising cooperatives.

All advertising or promotional programs and materials used by an advertising cooperative or furnished to the members of the advertising cooperative must be approved in advance by Franchisor under Section 10.5 and must comply with the other requirements of Section 10.5. Franchisor may require an advertising cooperative to work with Franchisor or an agency designated by Franchisor in coordinating and placing local, regional or national advertising for the members of the advertising cooperative.

Franchisee's failure to comply with its obligations for joint advertising or to an advertising cooperative as required under this Section, will constitute a material default under this Agreement. Franchisor may take action to enforce Franchisee's obligations under this Section and will be entitled to be paid its costs of enforcement for any such actions as provided in Section 17.4 of this Agreement.

### **10.5 Advertising by Franchisee; Approval of Advertising Materials.**

Franchisor will have the right to set advertising policies and procedures that Franchisee must follow. These advertising policies and procedures may include, but are not limited to, specific advertising strategy, promotional programs, media selection, timing requirements, limiting marketing to a certain area so that Franchisee is not directing marketing to another franchisee's area, and limiting the type of marketing that may be used by Franchisee.

All advertising by Franchisee in any medium, including signage, must be factual and dignified, must conform to the standards and specifications of Franchisor, and to the highest standards of ethical advertising practice, and must be approved by Franchisor in writing before it is used. No handwritten signs or otherwise non-conforming sign designs are allowed. No computer generated signs are allowed unless they have been provided by Franchisor or approved in writing by Franchisor. Franchisee must submit to Franchisor for approval all marketing and promotion materials, including signage, prepared by Franchisee for the Franchise Business and not prepared by or previously approved by Franchisor. These materials must be submitted at least 14 days before use. Franchisor will have the right to disapprove the use of any advertising materials by Franchisee at any time. Even if Franchisor previously approved the use of advertising materials, Franchisee must discontinue the use of advertising materials immediately after Franchisor requests in writing. Franchisee must not use any advertising materials not approved by Franchisor. Franchisee agrees to refrain from any

business or advertising that may be injurious to the business of Franchisor and the goodwill associated with the Franchise Marks and Franchise System and other Fitness Studios.

If specified by Franchisor, all of Franchisee's advertising must contain notices of: (a) Franchisor's website domain name or other Electronic Media specified by Franchisor; (b) Franchisor's toll-free telephone number; and/or (c) a statement regarding the availability of Fitness Studio franchises. To the extent possible, Franchisee must include language in all advertising that notifies the public that the Fitness Studio is independently owned and operated.

#### **10.6 Participation in Promotional Programs.**

Franchisee must participate in all promotional campaigns, prize contests, special offers, and other programs, national, regional, or local in nature (including the introduction of new products or services, new franchises or other marketing programs directed or approved in writing by Franchisor) specified by Franchisor in its sole discretion. Franchisee acknowledges that these promotional programs may include offering fee products or services from another franchise program operated by an Affiliate of Franchisor (e.g. buy a Fitness Studio gift card and receive a free gift card to be used at another business). Franchisee will be responsible for the costs of such participation, which may be payable to Franchisor, its Affiliates, or another Person designated by Franchisor. In addition, Franchisee must honor any coupons or other authorized promotional offers of Franchisor at Franchisee's sole cost unless otherwise specified in writing by Franchisor. Franchisee agrees to participate in any gift certificates or cards, electronic gift or money cards, frequency cards, customer loyalty programs, or other programs specified by Franchisor and to honor all such cards issued by Franchisor or by other franchisees in accordance with Franchisor's policies (see Section 9.10). Franchisee acknowledges and agrees that Franchisee's participation in those programs is integral to the Fitness Studio franchise system and to the success of those programs. Franchisor or a Person designated by Franchisor may administer those programs and may charge an administrative fee for those services. Franchisor will have the right to charge Franchisee a non-compliance fee of \$500 for each week that Franchisee fails to participate in any promotional campaign, prize contest, special offer, or other program specified by Franchisor. These non-compliance fees must be paid on the date specified by Franchisor in the manner described in Section 4.12.

#### **10.7 Limits on Franchisee's Local Advertising Obligations.**

Amounts spent by Franchisee for joint advertising, cooperative advertising, and promotional programs specified by Franchisor will apply to Franchisee's minimum local advertising obligation under Section 10.3. Except for pre-opening/grand opening advertising, Franchisee will not be required to spend more than the greater of five percent (5%) of Franchisee's Gross Sales or \$4,000 per month for local advertising, joint advertising, cooperative advertising, and promotional programs specified by Franchisor. This limit does not apply to advertising fund contributions paid to the Franchisor under Section 4.3.

#### **10.8 Use of Electronic Media, Digital Marketing, and Toll-Free Telephone Numbers.**

For purposes of this Agreement: (a) "Electronic Media" includes the Internet, email addresses, Internet domain names, homepages, electronic addresses, websites, social networks, wikis, podcasts, online forums, content sharing communities, blogging, or other social media accounts or participations (including but not limited to FaceBook, Twitter, LinkedIn, YouTube, Pinterest, and Instagram), and other digital media (such as mobile phones—SMS and MMS); and (b) "Digital Marketing" means the marketing of products and services using digital technologies, including digital coupons, search engine optimization, search engine marketing,

social media optimization, social media marketing, email marketing, mobile phone marketing, and marketing using other forms of digital media. Franchisee acknowledges that the use of Electronic Media, Digital Marketing, and toll-free telephone numbers in connection with the operation, advertising, and marketing of the Franchise Business is subject to the trademark, advertising, marketing, and other requirements of this Agreement and the Operations Manual. Without limiting the foregoing, Franchisee must not use any Electronic Media, Digital Marketing, or toll-free telephone numbers in connection with the Franchise Business, except with the written consent of Franchisor and then only in accordance with any policies and procedures specified by Franchisor. Franchisor reserves the right to control all Electronic Media, Digital Marketing, and toll-free telephone numbers used to promote Fitness Studios and/or associated with the Franchise Marks and may require Franchisee to only use Electronic Media, Digital Marketing, and toll-free telephone numbers through central accounts established by the Franchisor. Franchisee must provide Franchisor with login, password, administrative password, security codes, and other information necessary for Franchisor to access and use (including use for marketing to Franchisee's customers) Electronic Media and Digital Marketing accounts and participations of Franchisee. Franchisor will have the right to control all responses to postings by customers and/or the public on Electronic Media relating to the Franchise Business.

## **ARTICLE 11 - TRAINING**

### **11.1 Initial Training.**

Franchisor or its designated representative will make available an initial program to train Franchisee to operate the Franchise Business. Franchisor will provide, without additional charge, an initial training program for up to three individuals who are Designated Owners or the Manager, if a trained Designated Owner will not be the Manager. Franchisor will also provide, without additional charge, an initial training program for Franchisee's lead trainer and up to three additional trainers. If requested by Franchisee, Franchisor may, in its discretion, allow additional individuals to attend the initial training program or management or lead trainer training programs, but may, in that case, charge a reasonable fee for the training. Franchisee will be responsible for paying its and its personnel's compensation, expenses for travel, food and lodging incurred during the training programs. The individuals attending the training programs must sign an agreement relating to confidentiality and/or non-competition in the form specified by Franchisor before beginning the training program.

Franchisee will only be allowed to begin the initial training program after this Agreement is signed, the Franchise Location has been secured, and a lease is signed for the Franchise Location. Franchisee must provide Franchisor with written notice that Franchisee is ready to start the initial training program at least 30 days in advance of the time Franchisee desires to begin the initial training program. Franchisor does not guaranty that Franchisee will be able to start training after the 30 day period, but Franchisor will use reasonable efforts to schedule Franchisee for the initial training program as soon as possible after the 30 day period. Franchisee must complete the initial training program at least 21 days before Franchisee commences introductory classes at the Franchise Business. Franchisor reserves the right to waive a portion of the initial training program or alter the training schedule, if in Franchisor's sole discretion, the Designated Owner or the Manager has sufficient prior experience or training.

Franchisor will provide one representative to conduct five days of on-site training at the Franchise Location, at a mutually agreed upon time at or around opening (see Section 8.5), to assist Franchisee in the opening of the Franchise Business. However, Franchisor will not be

required to provide on-site training at the Franchise Location if Franchisee or an owner or Affiliate of Franchisee has previously operated or is currently operating a Fitness Studio. If Franchisee requests and Franchisor agrees, Franchisor will provide additional on-site assistance, but may charge Franchisee for that assistance.

Franchisee must not begin pre-opening sales of memberships, advertise the Franchise Business, or begin operating the Franchise Business until: (a) a Designated Owner (and the Manager, if a trained Designated owner will not be the Manager) have completed the initial training program to the satisfaction of Franchisor; and (b) Franchisee's lead trainer has completed the training program specified by Franchisor for lead trainers to the satisfaction of Franchisor.

If Franchisor determines that Franchisee has not completed the training requirements to Franchisor's satisfaction or that Franchisee or Franchisee's team of employees is not ready to open the Franchise Business to the public in accordance with Franchisor's standards, Franchisor may: (a) require Franchisee and/or Franchisee's employees designated by Franchisor to attend additional training before the Franchise Business opens to the public; and/or (b) require Franchisee to use additional assistance from Franchisor's representatives for a period of time during and after opening of the Franchise Business; or (c) terminate this Agreement. The additional training and/or assistance will be at Franchisee's expense.

### **11.2 Franchisee's Training Program for its Employees.**

After beginning operation of the Franchise Business, Franchisee must establish and maintain a continual program of training for management and staff personnel in accordance with Franchisor's specifications. Each employee of the Franchise Business must complete each part of the specified training program and Franchisee must not employ anyone who refuses or fails to complete each part of the specified training program.

### **11.3 Additional Training, Sales Programs and Meetings.**

A Designated Owner (or, if specified by Franchisor, the Manager or other management employees, and/or the lead trainer or other trainers) must, solely at Franchisee's expense, attend additional training, sales programs, and meetings reasonably specified by Franchisor, including monthly franchise meetings if specified by Franchisor. Franchisor will give reasonable notice of any additional specified training, sales programs or meetings. Franchisor may impose a reasonable charge on Franchisee for any training provided to Franchisee, its managers or employees beyond the initial training program described in Section 11.1. Any such fees will be uniform as to all individuals attending additional training at that time. Franchisor may require Franchisee to complete additional training before offering new products or services from the Franchise Business.

Franchisor may require that Franchisee's management level employees, including, without limitation, replacement Managers in the event any previously trained manager-level employees are no longer employed at the Franchise Business, satisfactorily complete Franchisor's training programs and additional training programs. Franchisor may charge reasonable fees for training Managers. Franchisee must employ a lead trainer that has completed Franchisor's lead trainer training program and all of Franchisee's successor lead trainers must satisfactorily complete Franchisor's lead trainer training program before they begin their employment duties. At least once every year (or less often if specified by Franchisor), Franchisee must send its lead trainer to complete Franchisor's then-current lead trainer training

program. Franchisor will not charge for this required annual lead trainer program, but Franchisee must pay its lead trainer's wages, travel, and living expenses.

If Franchisee fails to attend required additional training without Franchisor's consent, Franchisee will be charged a non-compliance fee of \$1,000, which will be paid on the date specified by Franchisor in the manner described in Section 4.12.

Franchisee will be responsible for paying its and its personnel's compensation, expenses for travel, food and lodging incurred during all training courses and programs. Franchisee agrees to assist Franchisor in training other Fitness Studio franchisees; provided that, Franchisor will reimburse Franchisee's out-of-pocket expenses for providing this assistance.

Franchisee understands and agrees that any specific ongoing training or advice Franchisor provides does not create an obligation (whether by course of dealing or otherwise) to continue to provide such specific training or advice, all of which Franchisor may discontinue and modify from time to time.

#### **11.4 Annual Convention.**

Franchisor may conduct, in Franchisor's sole discretion, a Fitness Studio annual convention at a location to be determined by Franchisor. The convention will not exceed four consecutive calendar days. The Designated Owner must attend the annual convention as long as Franchisor gives Franchisee at least 90 days prior written notice of the date and place of the convention. If the Designated Owner fails to attend two consecutive scheduled annual conventions, Franchisor will have the right to terminate this Agreement under Section 15.3. Franchisor may excuse the Designated Owner from attending an annual convention, but only if the Designated Owner shows good cause and is able to have a qualified person approved in advance, in the sole discretion of Franchisor, attend in place of the Designated Owner.

#### **11.5 Franchisee's Responsibilities Relating to Training Provided by Franchisor.**

Franchisee acknowledges and agrees that no compensation or other benefits will be paid by Franchisor to Franchisee, its principals, owners, managers or personnel for any services performed by Franchisee or its principals, owners, managers or personnel during training at any Fitness Studio operated by Franchisor, its Affiliates or any other Person. Franchisee will be responsible for compliance with all minimum wage and hour and other employment laws applicable to Franchisee's personnel attending training and/or providing services during training. Franchisee assumes all responsibility for any injuries sustained by Franchisee, its principals, owners, managers or personnel while attending training. Franchisee agrees to indemnify and hold harmless Franchisor and its Affiliates, agents and employees from any injuries or damages arising out of or related to attendance and participation in training by Franchisee or its principals, owners, managers or personnel.

### **ARTICLE 12 - CONFIDENTIAL INFORMATION AND PROPRIETARY RIGHTS**

#### **12.1 Confidential Information Defined.**

Franchisor possesses and uses, and on signing of this Agreement Franchisee will have the right to possess and use, certain proprietary and/or confidential information relating to

developing and operating a Fitness Studio (the “Confidential Information”). The Confidential Information includes, but is not limited to:

- (a) Operations Manuals, training methods, operations methods, and other techniques, processes, policies, procedures, systems and data;
- (b) Knowledge and experience relating to Fitness Studios;
- (c) Advertising, marketing techniques and advertising programs used in developing and operating Fitness Studios;
- (d) All information regarding the identities and business transactions of customers and suppliers;
- (e) The Franchise Technology that has been or may be developed by or for Franchisor or its agents, which is proprietary to Franchisor, including, without limitation, digital passwords and identifications and any source code of, and data, reports, and other printed materials generated by, the Franchise Technology;
- (f) Knowledge of the operating results and financial performance of Fitness Studios;
- (g) Other aspects of the Franchise System now or later revealed to Franchisee under this Agreement and all changes and enhancements in the Franchise System, even if developed by Franchisee.
- (h) Other property that Franchisor describes as being Confidential Information or trade secrets of the Franchise System.

## **12.2 Ownership and Use of Confidential Information.**

Franchisee acknowledges that Franchisor owns the Confidential Information and agrees that Franchisee will not acquire any interest in the Confidential Information, other than the right to use it as Franchisor specifies solely for the purpose of establishing and operating the Franchise Business during the term of this Agreement. Franchisee acknowledges and agrees that the Confidential Information is proprietary to Franchisor and is disclosed to Franchisee in confidence only on the condition that Franchisee and its Affiliates and the shareholders, officers, directors, members, partners, owners, investors, employees and agents of Franchisee and its Affiliates agree that they will:

- (a) Not use the Confidential Information in any business or capacity other than in the Franchise Business as authorized by this Agreement, both during the term of this Agreement and after expiration or termination of this Agreement for as long as the Confidential Information is not generally known in the industry;
- (b) Keep each item deemed to be part of Confidential Information absolutely confidential, both during the term of this Agreement and after expiration or termination of this Agreement for as long as the item is not generally known in the industry;

(c) Not make unauthorized copies of any Confidential Information disclosed via electronic medium or in written or other tangible form;

(d) Adopt and implement procedures to prevent unauthorized use or disclosure of Confidential Information, including, without limitation, restricting its disclosure to Franchisee's employees; and

(e) Require Franchisee's employees and agents to sign an agreement relating to confidentiality and/or non-competition in the form specified by Franchisor before revealing any aspect of the Confidential Information to the employee or agent. Franchisor has the right to be a third party beneficiary of those agreements with independent enforcement rights.

### **12.3 Development of New Confidential or Proprietary Information.**

All ideas, concepts, techniques, variations, improvements, marketing programs, techniques, materials or other intellectual properties that relate to or enhance the Franchise Business or the Franchise System, whether or not protectable intellectual property and whether created by or for Franchisor or by or for Franchisee, must be promptly disclosed to Franchisor and will be Franchisor's sole and exclusive property and works made-for-hire for Franchisor and, if specified by Franchisor, part of the Franchise System. Franchisee hereby permanently and irrevocably assigns ownership of the intellectual property, and all related rights to it, to Franchisor to the extent that any intellectual property does not qualify as a "work made-for-hire" for Franchisor. Franchisee agrees to take whatever action (including signing an assignment or other documents) that Franchisor requests to evidence Franchisor's ownership in the intellectual property.

### **12.4 Expiration, Termination or Transfer of this Agreement.**

Franchisee agrees that when this Agreement expires, is terminated, or on the Transfer of the Franchise Business, Franchisee will immediately cease using any and all of the Confidential Information in any business or otherwise, and return to Franchisor all copies of all Confidential Information that Franchisee has in its possession. Franchisee acknowledges and agrees that it will be liable to Franchisor for any use of the Confidential Information not authorized by this Agreement.

## **ARTICLE 13 – RESTRICTIONS ON COMPETITION**

### **13.1 Covenant Not to Compete During Term.**

Franchisee and its Affiliates and the past, present and future shareholders, officers, directors, members, partners, owners and investors of Franchisee and its Affiliates must not, during the term of this Agreement, engage in any activity in competition with the Franchisor or its franchisees, including but not limited to involvement, whether as an owner (except ownership of no more than 1% of a publicly traded entity), director, officer, manager, employee, consultant, lender, landlord, representative or agent, or in any other capacity, or otherwise in any business that is involved, in whole or in part, in a "Competing Business" (defined in Section 13.4), (except other Fitness Studios operated under franchise agreements entered into between Franchisee or its Affiliate and Franchisor), or in any business or entity that franchises, licenses, or otherwise grants to others the right to operate a Competing Business, without the prior written approval of Franchisor.



### **13.2 Covenant Not to Compete After Term.**

On the termination (including termination on Transfer), expiration or non-renewal of this Agreement, except termination by Franchisee for cause, Franchisee and its Affiliates and the past, present, and future shareholders, officers, directors, members, partners, owners, and investors of Franchisee and its Affiliates must not, for a period of two years commencing on the later of the effective date of termination, expiration or non-renewal, or the date of any Court order enforcing this provision, directly or indirectly, engage in any activity in competition with the Franchisor or its franchisees, including but not limited to involvement, whether as an owner (except ownership of no more than 1% of a publicly traded entity), partner, director, officer, manager, employee, consultant, lender, landlord, representative or agent, or in any other capacity in any business that is involved, in whole or in part, in a Competing Business (except other Fitness Studios operated under franchise agreements entered into between Franchisee or its Affiliate and Franchisor) or in any business or entity that franchises, licenses, or otherwise grants to others the right to operate a Competing Business within any Geographic Areas (defined in Section 13.4).

### **13.3 Other Restrictions.**

Franchisee and its Affiliates and the past, present, and future shareholders, officers, directors, members, partners, owners and investors of Franchisee and its Affiliates, must not, during the term of this Agreement and for a period of two years after termination, expiration, or non-renewal of this Agreement, directly or indirectly: (a) divert or attempt to divert any business or customer of the Franchise Business or any other Fitness Studio to any Competing Business by direct or indirect inducements or otherwise; (b) employ or seek to employ any individual who was, at the time, employed by Franchisor or its Affiliates or by another Fitness Studio, or directly or indirectly induce any individual to leave his or her employment with Franchisor or its Affiliates or with another Fitness Studio; (c) sponsor, appoint or encourage or influence or promote friends, relatives or associates to operate a Competing Business; or (d) employ any individual who is engaged or has arranged to become engaged in any activity in competition with Fitness Studios, including but not limited to involvement, either as an owner (except no more than 1% of the publicly traded securities of an entity), partner, director, officer, employee, consultant, lender, landlord, representative or agent, or in any other capacity, of any business that is involved, in whole or in part, in a Competing Business or in any business or entity that franchises, licenses or otherwise grants to others the right to operate a Competing Business. After the termination, expiration, or non-renewal of this Agreement, the restrictions in subsections (c) and (d) will only apply if the Competing Business is operated in the Geographic Areas.

### **13.4 Definitions of Competing Business and Geographic Areas.**

The following definitions will apply to this Agreement:

(a) "Competing Business" means any business activity involving any athletic or fitness center, health club, gymnasium, exercise or aerobics facility, a boot camp style fitness program, or a similar facility or business offering health and fitness training to the public through access to classes, training personnel, and/or fitness equipment.

(b) "Geographic Areas" means: (i) the Franchise Location; (ii) the area within five miles of the Franchise Location; and (iii) the areas within five miles of any other

Fitness Studio existing at the time Franchisee begins to operate the Competing Business.

### **13.5 Acknowledgements and Agreements Relating to Restrictions on Competition.**

Franchisee acknowledges and agrees that the length of the post-term restrictions and the geographical restrictions contained in this Article are fair and reasonable. The parties have attempted to limit Franchisee's right to compete only to the extent necessary to protect the reasonable competitive business interests of Franchisor and its franchisees. If the above restrictions or any part of these restrictions are invalid, this Article will be considered as imposing the maximum restrictions allowed under the applicable state law in place of the invalid restriction or part of the restriction. In addition, Franchisor reserves the right to reduce the scope of these provisions without Franchisee's consent, at any time, effective immediately on notice to Franchisee.

If Franchisee is not an individual, the owners of Franchisee (stockholders, partners, members, etc.) will be bound by this Article 13 and must, contemporaneously with signing this Agreement, sign the Obligations and Representations of Individuals Involved in the Franchise Business attached as Appendix B to this Agreement.

## **ARTICLE 14 - TRANSFERABILITY**

### **14.1 General Rule.**

This Agreement is personal to Franchisee or to the owners of Franchisee if Franchisee is a corporation, partnership, limited liability company or other entity. Accordingly, neither Franchisee nor any Person owning any direct or indirect ownership or equity interest in Franchisee, may, without Franchisor's prior written consent, directly or indirectly or contingently, whether voluntarily or by operation of law, sell, assign, transfer, convey, give away, pledge, mortgage or otherwise encumber any interest in: (a) this Agreement; (b) the Franchise Business or any of the assets of the Franchise Business; (c) the Franchise Location; or (d) any equity or voting interest in Franchisee. Any such act or event described above in this Section or any other act defined as a transfer elsewhere in this Agreement will be referred to as a "Transfer." Any permitted Transfer must only be made in accordance with the provisions of this Article 14. Franchisee does not have the right to sublicense any of the rights granted by this Agreement. Any attempted Transfer not in accordance with this Agreement will have no effect and will constitute a breach of this Agreement.

### **14.2 Notice of Proposed Transfer; Review Fee; Right of First Refusal.**

Franchisee or any Person owning an interest in Franchisee or any legal heir or devisee of any deceased Franchisee or Person owning an interest in Franchisee ("Seller") who receives and desires to accept a *bona fide* offer from a third party to engage in a Transfer, must notify Franchisor in writing of the offer ("Offer Notice") within ten days of receipt of the offer. The Offer Notice must describe the proposed Transfer in detail, including the name and address of the proposed purchaser, the nature of the Transfer, the consideration to be paid and all other material terms and conditions of the Transfer. In addition to the Offer Notice, the Seller must also deliver copies of all documents to be executed in conjunction with the Transfer and any financial or other information as Franchisor may specify to reasonably inform Franchisor of the financial condition of the Franchise Business, including but not limited to financial statements and tax returns of the Franchise Business.

At the time of delivery of the Offer Notice, Franchisee must also pay Franchisor a review fee in the amount of \$5,000. The review fee is to compensate the Franchisor for the review of the Offer Notice and the prospective transferee and is not refundable under any circumstances. If Franchisor does not exercise its right of first refusal and approves the proposed Transfer under Section 14.3, the review fee will be applied to the transfer fee due under Section 14.3(i).

The delivery of the Offer Notice to Franchisor will constitute a binding, irrevocable offer to sell to the Franchisor under the terms of the Offer Notice, modified as provided below. Franchisor will have, for a period of 30 days from the date of delivery of the information specified above, the right and option (“right of first refusal”), exercisable by written notice to the Seller, to purchase the Seller’s interest on the terms specified in the Offer Notice (modified as described below). Franchisor may designate a substitute purchaser to complete the Transfer. If the Transfer involves the purchase of stock or other ownership interests, Franchisor will have the option to purchase the assets of the Franchise Business instead for equivalent consideration. If the consideration, terms or conditions offered by the proposed purchaser are such that Franchisor may not reasonably be required to furnish the same, for example, if the consideration is not cash or cash equivalents, Franchisor may pay a reasonable equivalent in cash. If the Seller and Franchisor are not able to agree within a reasonable time on equivalent or substitute cash consideration, the determination will be made by appraisal using the method described in Section 20.3.

If Franchisor exercises its right of first refusal, the Transfer between Franchisor and Seller will be closed by the later of: (a) 90 days after exercise of the right of first refusal; or (b) 30 days after any necessary determinations of equivalent or substitute cash consideration. Franchisor will be entitled to customary warranties, closing documents and post-closing indemnifications.

If Franchisor does not exercise its right of first refusal and Franchisor consents to the proposed Transfer (subject to the conditions in Section 14.3 below), the Seller may complete the proposed Transfer, but only on the same terms as offered to Franchisor. However, the proposed Transfer must be completed within 90 days after the expiration of Franchisor’s 30 day option period. If the Transfer is not completed within the 90 day period, the Transfer will again become subject to Franchisor’s right of first refusal as set forth in this Section.

### **14.3 Conditions of Franchisor's Consent to Transfer.**

If Franchisor does not exercise its right of first refusal under Section 14.2, Franchisee may only engage in the proposed Transfer if Franchisor consents to the proposed Transfer. Before Franchisor consents to a proposed Transfer, the conditions listed below, as well as any other reasonable conditions specified by Franchisor, must be fulfilled. If these conditions are met, Franchisor will not unreasonably withhold its consent to a proposed Transfer of the type permitted by this Agreement.

Before Franchisor consents to a proposed Transfer, the following conditions must be fulfilled:

- (a) Franchisee must timely provide the Offer Notice to Franchisor along with the review fee.

(b) The proposed transferee must follow the same application procedures as a new franchisee and must meet the same standards of character, business experience, financial strength, credit standing, health, reputation, business ability, experience, etc. as Franchisor has set for any new franchisee.

(c) The terms of the proposed Transfer must not place unreasonable burdens on the proposed transferee.

(d) Franchisee must be in full compliance with all provisions of this Agreement and must pay Franchisor and all suppliers of the Franchise Business all monies owing.

(e) Franchisee must sign at the time of Transfer an agreement terminating this Agreement (unless this Agreement will be assigned to the transferee--see subsection (f) below) and must sign an agreement, in the form specified by Franchisor, releasing Franchisor and its Affiliates, owners, officers, directors, employees and agents from any and all claims and causes of action and agreeing to abide by the post-termination restrictions contained in Articles 12 and 13 and all other obligations under this Agreement that survive termination of this Agreement.

(f) The proposed transferee must satisfactorily complete Franchisor's initial training program. Franchisor may impose a reasonable charge for this training program.

(g) The proposed transferee must, at Franchisor's option: (i) sign with Franchisor a Franchise Agreement and related agreements on the standard forms in use by Franchisor at the time of Transfer (including guaranties), which agreements would have a term equal to the term remaining under this Agreement and may contain terms materially different than the terms of this Agreement, including different royalty and advertising fund contributions; or (ii) sign, with Franchisee, an assignment and assumption satisfactory to Franchisor, whereby the proposed transferee would be entitled to all of Franchisee's rights under this Agreement and assume all of Franchisee's obligations under this Agreement. The owners of the proposed transferee and their spouses and any Affiliates of the proposed transferee operating Fitness Studios must agree to be personally bound, jointly and severally, by all of the provisions of this Agreement.

(h) The proposed transferee must expressly assume Franchisee's obligations to the customers of the Franchise Business under the Cross Global Programs or otherwise, including Franchisee's obligations: (i) under gift cards issued by the Franchise Business; and (ii) to provide services based on memberships pre-paid to the Franchise Business. In addition, Franchisee and its guarantors will remain liable after the transfer for all obligations to customers of the Franchise Business existing at the time of transfer (including obligations under gift cards issued before the transfer and pre-paid memberships paid before the transfer) and must pay to Franchisor, on demand, any amounts owed to Franchisor or other franchisees for honoring those obligations to the extent those obligations are not paid by the proposed transferee.

(i) Franchisee or the proposed transferee must pay Franchisor a transfer fee in the amount equal to 25% of the initial franchise fee being charged by Franchisor at the

time of transfer. The transfer fee is due at the time of execution of a consent by Franchisor to the proposed Transfer and is not refundable.

(j) Franchisee or the proposed transferee must take any action specified by Franchisor to make the Franchise Business comply with current appearance, equipment and signage requirements.

(k) The proposed transferee and its Affiliates and their owners, shareholders, officers, directors, partners, members, investors, employees, and agents must not be an owner, shareholder, officer, director, partner, member, investor, employee, agent, or consultant of or to a Competing Business. On Franchisor's request, the transferee may be required to sign an acknowledgement of compliance with this prohibition.

(l) Franchisee's landlord allows the lease for the Franchise Location to be transferred to the transferee.

(m) Franchisee and the proposed transferee must comply with any other standard procedures specified by Franchisor.

Franchisee acknowledges that the conditions listed above are necessary for protection of the Franchise Marks and Franchise System and do not impose unreasonable restrictions on a Transfer.

#### **14.4 Transfer on Death or Incapacity.**

If Franchisee or the last surviving owner of Franchisee (if Franchisee is a corporation, partnership, limited liability company or other entity) dies or becomes incapacitated, Franchisee's or its owner's rights under this Agreement will pass to the estate, heirs, devisees or legal representatives of Franchisee or its owner (collectively referred to in this Agreement as the "estate"). The estate may continue operation of the Franchise Business if: (a) the Franchise Business is not closed for more than 7 business days and is thereafter operated in accordance with applicable law; (b) the estate provides a qualified individual acceptable to Franchisor to act as Manager for the Franchise Business on a full time basis; (c) the Manager attends and successfully completes Franchisor's training program at the estate's expense; and (d) the Manager assumes full time operation of the Franchise Business within 90 days of the date Franchisee or the last surviving owner dies or becomes incapacitated. If the estate fails to designate an acceptable Manager or the designated Manager fails to attend and satisfactorily complete the training program and to assume the full time operation of the Franchise Business within 90 days of the death or incapacity, then the estate must sell the estate's interest in the Franchise Business or in this Agreement within 180 days of the date of death or incapacity. Any sale is subject to Franchisor's right of first refusal under Section 14.2 and requires Franchisor's consent under Section 14.3

After the date of death or incapacity, until a trained Manager assumes full time operational control of the Franchise Business or until the estate's interest in the Franchise Business or in this Agreement is sold, Franchisor may, at its option, assume control of and operate the Franchise Business for a period of up 90 days. This 90 day period may be renewed as necessary in 90 day increments up to a total period of one year. During the period that Franchisor operates the Franchise Business, Franchisor will periodically discuss the status of the Franchise Business with the estate. During any period that Franchisor operates the

Franchise Business, Franchisor may deduct the management fee referred to in Section 4.4 and its expenses for payroll, travel, lodging, meals and all other expenses and fees from the Gross Sales of the Franchise Business. Any remaining Gross Sales of the Franchise Business, after paying all other operational expenses of the Franchise Business will be paid to the estate. Any deficiency in amounts due to Franchisor under this Section or any deficiencies from operation of the Franchise Business must be paid by the estate within 10 days of a notice of deficiency from Franchisor. Franchisor is not obligated to operate the Franchise Business. If Franchisor does operate the Franchise Business, Franchisor will not be responsible for any operational losses of the Franchise Business, nor will Franchisor be obligated to continue operation of the Franchise Business. Franchisee hereby irrevocably appoints and designates Franchisor as Franchisee's attorney-in-fact for the purpose of taking operational control of the Franchise Business as provided in this paragraph. This power of attorney will apply to all aspects of operation of the Franchise Business, including, without limitation, control over Franchisee's bank accounts and the premises and assets of the Franchise Business. Franchisee agrees and directs that third parties, including, without limitation, landlords, banks, vendors and employees may rely on this power of attorney.

#### **14.5 Transfers to Controlled Entities.**

If Franchisee is in full compliance with this Agreement, the Agreement may be assigned to a corporation, partnership or other entity in which Franchisee owns and will continue to own all the issued and outstanding stock, partnership interest, or other ownership interests and in which Franchisee will act as its principal executive officer or manager ("Controlled Entity"), provided that:

- (a) All owners of the Controlled Entity execute this Agreement and agree to be personally bound, jointly and severally, by all of the provisions of this Agreement;
- (b) The Controlled Entity agrees to be bound by all the provisions of this Agreement and to assume and discharge all of Franchisee's obligations under this Agreement; and
- (c) The Controlled Entity will have no right to engage in a Transfer except in accordance with the provisions of Article 14 of this Agreement.

#### **14.6 Assignment by Franchisor.**

This Agreement is fully assignable by Franchisor and will inure to the benefit of any assignee or other legal successor to the interests of Franchisor. Franchisor may sell, assign, discount or otherwise transfer any rights under this Agreement or any other assets of Franchisor or its owners, without notice to or approval of Franchisee or any other franchisee, at any time. However, Franchisor will remain liable for the performance of its obligations under this Agreement or will make provision for the performance of those obligations by the assignee, to the extent required by applicable law. Franchisee acknowledges and agrees that Franchisor may sell its assets, the Intellectual Property or the Franchise System to any third party of Franchisor's choice, including the operator of a competing franchise system; may offer its securities privately or publicly; may merge with or acquire other entities or be acquired by another entity; may undertake a refinancing, recapitalization, leveraged buyout, or other economic or financial restructuring; or may terminate or cease to exist or dissolve, in any such case without Franchisee's consent and, provided the transferee expressly assumes and undertakes to perform Franchisor's obligations in all material respects, free of any responsibility

or liability whatsoever to Franchisee after the transaction occurs. With regard to any of the above sales, assignment and dispositions, Franchisee expressly and specifically waives any claims, demands, or damages against Franchisor arising from or related to the transfer or assignment of this Agreement, the Intellectual Property or the Franchise System from Franchisor to any other party.

## **ARTICLE 15 – DEFAULT AND REMEDIES; TERMINATION**

### **15.1 Default by Franchisor; Termination by Franchisee.**

Franchisor will be considered in default of this Agreement if Franchisor breaches any material obligations of Franchisor under this Agreement and fails to cure that default within 60 days of written notice from Franchisee. As a remedy for a default by Franchisor, Franchisee may elect to terminate this Agreement, but only if: (a) Franchisee is in full compliance with all terms of this Agreement; (b) Franchisee provides written notice to Franchisor specifying the default by Franchisor and the proposed date of termination; and (c) Franchisor has committed the default and has not cured the default within 60 days of written notice from Franchisee of the default. Written notice from Franchisee of the default must specify in writing with particularity the nature of the default and the steps Franchisee requests that Franchisor take to cure the default. Franchisor will have not less than 60 days to cure the default. Failure of Franchisee to comply with the provisions of this Section will result in any attempt to terminate being deemed null and void and without legal effect.

### **15.2 Default by Franchisee.**

Franchisee will be considered in default of this Agreement on the occurrence of any of the events listed in Sections 15.3 or 15.4 below or otherwise listed as a default in this Agreement or if Franchisee breaches any other obligation of Franchisee under this Agreement.

### **15.3 Events of Default by Franchisee; No Right to Cure.**

Any of the following events will constitute a default by Franchisee and good cause for termination of this Agreement by Franchisor without affording Franchisee an opportunity to cure.

(a) Franchisee fails to acquire possession of a Franchise Location within the time period required under this Agreement.

(b) Franchisor determines that Franchisee cannot, will not, or has not completed Franchisor's pre-opening training programs to the satisfaction of Franchisor, or fails to demonstrate the qualities and abilities that Franchisor deems necessary for the successful operation of the Franchise Business.

(c) Franchisee is unable to obtain, without extraordinary administrative proceedings or litigation, any permit or license necessary to develop and open the Franchise Business.

(d) Any material misrepresentation or dishonesty by Franchisee or a Designated Owner or the perpetration by Franchisee or a Designated Owner of common law fraud against Franchisor or any of its customers, suppliers, agents, or Affiliates.

(e) A substantial number of complaints from customers relating to products or services provided by Franchisee or the acts or omissions of Franchisee.

(f) Any Transfer or attempted Transfer of this Agreement or the Franchise Business without complying with Article 14 of this Agreement.

(g) Franchisee or a Designated Owner is convicted of, or pleads guilty or no contest to or if Franchisor has reasonable proof that Franchisee or a Designated Owner has committed: (1) a crime, offense or misconduct for which the minimum penalty includes imprisonment for more than one year; or (2) any crime, offense or misconduct for which the minimum penalty includes imprisonment for one-year or less that involves sexual harassment or similar matters, fraud, or dishonesty, or is in any other way relevant to the operation of the Franchise Business or to the Franchise System or Franchise Marks or the goodwill associated therewith.

(h) Franchisee has received two or more prior notices of default and/or to terminate for the same or a similar default during any consecutive 12-month period.

(i) Franchisee has received three or more prior notices of default and/or to terminate, whether or not for the same or similar default, during any consecutive 12-month period.

(j) Any abandonment by Franchisee of the Franchise Business. Abandonment will be conclusively presumed if Franchisee fails to have the Franchise Business open and fully operational: (1) for a period of two consecutive business days without the prior written consent of Franchisor; or (2) for a total of five business days within a calendar year without the prior written consent of Franchisor.

(k) Franchisee operates the Franchise Business in a manner that presents a health or safety hazard to its customers, employees, or the public.

(l) Intoxication, illegal drug use or other substance abuse by Franchisee or a Designated Owner that interferes with the operation of the Franchise Business.

(m) Any conduct by Franchisee that reflects materially and adversely on the operation or reputation of the Marks or Systems.

(n) Franchisee is unable to pay its debts or obligations as they become due or files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent or makes an assignment for the benefit of creditors; or Franchisee files any petition or other pleading seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, or admitting or failure to contest the material allegations of a petition or other pleading filed against Franchisee in any such proceeding; or Franchisee seeks, consents to or acquiesces in the appointment of any trustee, receiver or liquidator of its business, or all or a substantial part of its assets, or fails to vacate the appointment of any trustee, receiver or liquidator for any such purpose within 30 days of appointment.



(o) Franchisee fails, within 30 days of the entry of a final judgment against Franchisee in any amount exceeding \$10,000, to discharge, vacate or reverse the judgment or to stay execution on the judgment pending appeal or to discharge any such judgment that is not vacated or reversed within 30 days after the expiration of the stay of execution, or Franchisee allows a levy of execution to be made on the Franchise Business.

(p) Franchisee has its lease terminated or mortgage foreclosed by reason of its failure to pay rent or mortgage payments or for any other cause for which Franchisee is responsible.

(q) Franchisee is assessed system standards fees under Section 4.9 three or more times in a 12 month period.

(r) Franchisee fails to meet the Minimum Sales Requirement for a year of operation as described in Section 9.2 of this Agreement.

(s) A breach by Franchisee of any of the representations contained in Section 18.8 of this Agreement.

(t) Franchisee fails to attend two consecutive annual conventions that it is required to attend under Section 11.4 of this Agreement.

(u) Franchisee submits on two or more occasions during the term of this Agreement a report, financial statement, tax return, schedule, or other information or supporting record that understates its Gross Sales by more than 3%, unless Franchisee demonstrates, to Franchisor's satisfaction, that the understatement resulted from inadvertent error.

(v) Franchisee fails, or refuses, to submit any report, financial statement, tax return, schedule or other information or supporting records required herein, or submits such reports more than five days late on two or more occasions during the term of this Agreement, unless due to circumstances beyond the control of Franchisee.

#### **15.4 Events of Default by Franchisee; Right to Cure.**

Any of the following events will constitute a default by Franchisee and good cause for termination of this Agreement by Franchisor if Franchisee fails to cure the default during the applicable cure period specified in Section 15.5 below.

(a) Failure of Franchisee to promptly pay its obligations to Franchisor, an Affiliate of Franchisor or third party suppliers as they become due, or the occurrence of any other default under a lease or finance agreement for the real or personal property involved in the Franchise Business.

(b) Failure of Franchisee to operate in accordance with the uniform standards of Franchisor, failure of Franchisee to meet current quality control standards according to the provisions of the Operations Manual or failure to permit quality control checks and inspections by Franchisor's representatives.

(c) Failure of Franchisee to purchase products and services for use in the Franchise Business from Designated or Approved Suppliers.

(d) If Franchisee is an entity, any dispute, disagreement or controversy between or among the stockholders, members, partners, directors, officers or managers of Franchisee, which materially and adversely affects the ownership, operation, management or business of the Franchise Business.

(e) Any other material breach by Franchisee or any of the owners of Franchisee or any Affiliate of Franchisee or any Affiliate of the owners of Franchisee, of any of the terms of this Agreement or any other agreement entered into with Franchisor or its Affiliates, including, but not limited to, breach of covenants of confidentiality, restrictions on competition or personal guaranties.

(f) The cancellation of any guaranty of the obligations of this Agreement by the owners of Franchisee.

### **15.5 Termination by Franchisor.**

Franchisor has the right to terminate this Agreement before its expiration only for good cause and only in accordance with the requirements of this Section. Good cause for termination of this Agreement by Franchisor includes any default of Franchisee as defined in this Article 15 or elsewhere in this Agreement.

(a) On the happening of any of the events specified in Section 15.3, Franchisor may, at Franchisor's option, terminate this Agreement effective on delivery of written notice to Franchisee without affording Franchisee an opportunity to cure (except as may be required by applicable law).

(b) On the happening of any of the events specified in Section 15.4 or elsewhere in this Agreement or for any other good cause, Franchisor may, at its option, terminate this Agreement effective on written notice to Franchisee and Franchisee's failure to cure the defaults during the applicable cure period. Written notice of termination from Franchisor must specify any defaults under this Agreement or other reasons for termination and the date the termination will be effective. The effective date of termination must be: (1) at least 10 days from the date of notice for defaults described in Sections 15.4(a), (b) and (c); and (2) at least 30 days from the date of notice in all other instances. Termination will be automatically effective without further action by Franchisor on the date specified in the notice as the effective date of termination unless Franchisee completely cures, before the date specified in the notice as the effective date of termination, all the defaults or other reasons for termination specified by Franchisor in the notice.

### **15.6 Right to Withhold Products and Support Services on Certain Defaults by Franchisee.**

If Franchisee fails to pay any amounts owed to Franchisor, its Affiliates or any Designated or Approved Suppliers or fails to comply with any other obligation under this Agreement within 10 days of written notice, then Franchisor will have the right to: (a) refuse to sell products to Franchisee and to cause Designated and Approved Suppliers to refuse to sell products to Franchisee; (b) withhold Franchisor's support services from Franchisee; (c) remove

the listing of the Franchise Business from the Franchisor's website and all advertising published or approved by Franchisor; (d) prohibit Franchisee from attending any meetings or seminars held or sponsored by Franchisor; (e) terminate access to any Franchise Technology provided to Franchisee by Franchisor; and/or (f) suspend or not permit Franchisee to vote or otherwise participate in decisions with respect to decisions of advertising cooperatives. Franchisor's actions as authorized in this Section may continue until Franchisee has cured its defaults and will not suspend or release Franchisee from any obligation that Franchisee owes to Franchisor or its Affiliates under this Agreement or otherwise. The remedies set forth in this Section will be in addition to all other rights and remedies of Franchisor for such defaults, including but not limited to, actions to enforce this agreement, seek damages and/or terminate this Agreement.

### **15.7 Other Remedies.**

The exercise of any remedy by Franchisor as described in this Article 15 or elsewhere in this Agreement and/or enforcement of the provisions of Article 16 on termination or expiration of this Agreement will not affect or prejudice any other rights or remedies of Franchisor for breach of this Agreement by Franchisee whether those rights and remedies are contained in this Agreement or otherwise provided by law or equity. Franchisor's other rights and remedies may include, but are not limited to, an action for specific enforcement of this Agreement or other injunctive relief or an action for damages caused by the breach.

## **ARTICLE 16 - EFFECT OF TERMINATION OR EXPIRATION**

### **16.1 Obligations of Franchisee.**

On expiration or termination of this Agreement for any reason (including termination on a Transfer), Franchisee's rights to use the Intellectual Property and the Franchise System and all other rights associated with being an authorized franchisee of Franchisor will cease and the following provisions will apply:

(a) Franchisee must immediately and permanently discontinue the use of the Intellectual Property, the Franchise System or any marks or names or logos confusingly similar to the Franchise Marks, or any other materials that may, in any way, indicate that Franchisee is or was a franchisee of Franchisor, or in any way associated with Franchisor.

(b) Franchisee must immediately discontinue all advertising placed or ordered. Franchisee must remove and deliver to Franchisor all sign faces, advertising and promotional material, stationery, letterhead, forms and any other items bearing the Intellectual Property. Franchisee must bear the cost of sign and other identification removal and the cost of shipping signs and other materials to Franchisor. If Franchisee remains in possession of the Franchise Location, Franchisee must alter the premises to distinguish the premises from the appearance of a Fitness Studio. Franchisee agrees that, if Franchisee fails to fulfill its obligations under this Section, Franchisor or a designated agent may enter on the Franchise Location at any time to make such changes at Franchisee's sole risk and expense and without liability for trespass. Franchisor will be entitled to acquire ownership of all sign faces and other exterior and interior signage not removed by Franchisee in consideration of Franchisor's expense incurred in removing the signage for the benefit of Franchisee.

(c) Franchisee must notify all customers of the Franchise Business immediately that the Franchise Business will cease to operate under the Franchise System and Marks. If this Agreement is being terminated or expiring without renewal, Franchisor may contact customers of the Franchise Business and offer those customers continued rights to use one or more other Fitness Studios on terms and conditions that Franchisor deems appropriate, which will not include assumption of any then existing liability arising out of or relating to any membership agreement of Franchisee or act or failure to act by Franchisee or the Franchise Business. If, at the time of termination or expiration of this Agreement, Franchisee has any outstanding gift cards or pre-paid memberships, Franchisee must immediately, on demand from Franchisor, pay the full amount of those outstanding gift cards and pre-paid memberships to Franchisor.

(d) Without limiting Franchisee's obligations to the Franchisor or to other franchisees or Franchisee's customers, Franchisee and its guarantors will remain liable for all obligations to the customers of the Franchise Business under the Cross Global Programs or otherwise existing at the time of expiration or termination (including gift card and pre-paid membership liability) and must pay to Franchisor, on demand, any amounts owed to Franchisor or other franchisees for honoring those customer obligations.

(e) Franchisee must cease using the Operations Manual and all proprietary business information provided by Franchisor and must return to Franchisor all copies of the Operations Manual and other materials received from Franchisor containing information about the Intellectual Property and Franchise Business.

(f) Franchisee must immediately and permanently cease to use all telephone and fax numbers, Electronic Media and other comparable electronic identifiers that have been used in the Franchise Business and if requested by Franchisor, must assign all such telephone and fax numbers, Electronic Media and other comparable electronic identifiers to Franchisor. Franchisee acknowledges that as between Franchisor and Franchisee, Franchisor has the sole rights to all telephone and fax numbers, Electronic Media and other comparable electronic identifiers used in the Franchise Business and all written and online directory listings associated with the Franchise Business and Franchisee authorizes Franchisor, and appoints Franchisor and any officer of Franchisor as its attorney-in-fact, to direct the applicable service providers and all listing agencies to transfer those items to Franchisor or its agent or assignee if Franchisee fails or refuses to do so. The applicable service providers and all listing agencies may accept the direction in this Agreement as conclusive evidence of the exclusive rights of Franchisor in such telephone and fax numbers, Electronic Media, other comparable electronic identifiers and directory listings and its authority to direct their transfer.

(g) Franchisee must cease using any business name containing any of the Franchise Marks and must file an abandonment or discontinuance of the name with the appropriate local, county or state agency.

(h) Franchisee must pay all sums and debts owing to Franchisor and its Affiliates at that time or that may accrue in the future, whether owned under this Agreement or arising from another obligation to Franchisor and its Affiliates, including amounts based on open account obligations, or that are evidenced by promissory note, invoice, bill or other writing, and notwithstanding the fact that such sums and debts may

not at that time be fully due and payable, such debts being accelerated automatically without further notice to Franchisee.

(i) Franchisee must sell to Franchisor all or part of Franchisee's inventory, products, equipment, or other items on hand as of the date of termination or expiration that are uniquely identified with Franchisor or that are branded with the Franchise Marks, as Franchisor may request in writing before or within 30 days after the date of termination or expiration. The sales price will be the current published prices then being charged by the manufacturer or supplier to authorized franchisees of Franchisor, not including any costs of storage or transportation paid by Franchisee to bring the goods initially to the Franchise Business, minus all costs incurred or to be incurred by Franchisor to restore the goods or the packaging of the goods to a saleable condition and minus a reasonable allowance for physical deterioration, obsolescence or damage to the extent not restored. Franchisee is prohibited from selling to the public any inventory, products, equipment, or other items on hand as of the date of termination or expiration that are uniquely identified with Franchisor or that are branded with the Franchise Marks.

## **16.2 Option to Assume Lease.**

Franchisor will have the option to be assigned all right, title and interest of Franchisee in and to the lease for the Franchise Location on: (a) a default by Franchisee under the lease for the Franchise Location; (b) the expiration or termination of this Agreement; or (c) Franchisee's abandonment of the Franchise Business operated at the Franchise Location. For this purpose, abandonment will be conclusively presumed if Franchisee fails to have the business open and fully operational for five consecutive days. Franchisor must give written notice of its intent to exercise this option no later than thirty (30) days after the event triggering the option. On the giving of notice of exercise by Franchisor, the lease, and all right, title and interest of Franchisee under the lease and to the Franchise Location will be automatically assigned to Franchisor without need of further instrument. Franchisee agrees to execute documents confirming this assignment in the form presented by Franchisor. If Franchisor exercises its option and takes an assignment of the Lease Franchisor will not be obligated to pay any amounts due under the lease prior to the date Franchisor takes an assignment of the lease and those amounts will be the sole obligation of Franchisee.

## **16.3 Option to Purchase Assets.**

If this Agreement expires or terminates for any reason, Franchisor will have the option, but not the obligation to purchase the assets of the Franchise Business. The purchase price will be the fair value of the assets as agreed by the parties or in the absence of an agreement, as determined by appraisal using the method described in Section 20.3. The purchase price will be reduced by any current and long-term liabilities of the Franchise Business that Franchisor agrees to assume and any amounts owed to Franchisor by Franchisee. Franchisor will have the right to exercise the option granted in this Section within 45 days following the expiration or termination of this Agreement. Franchisor may revoke its exercise of the option if the parties are not able to agree to a purchase price or Franchisor is not satisfied with the purchase price determined by appraisal. Closing of the sale must take place by the later of: (a) 90 days after the date of expiration or termination; or (b) 30 days after the determination of the purchase price. At closing, Franchisor and Franchisee agree to sign and deliver all documents necessary to vest title in the assets purchased by Franchisor free and clear of all liens and encumbrances, except any assumed by Franchisor. Franchisor reserves the right to assign its option to

purchase the assets of the Franchise Business or designate a substitute purchaser of the assets of the Franchise Business.

#### **16.4 Surviving Obligations.**

Termination or expiration of this Agreement will not affect Franchisee's obligations or liability to Franchisor for amounts owed to Franchisor under this Agreement or for Franchisor's damages attributable to the loss of bargain resulting from termination of this Agreement before its expiration. Also, termination of this Agreement will not affect Franchisee's obligations under Article 7 relating to the Intellectual Property, Section 9.19 relating to indemnification, Article 12 relating to confidentiality, Article 13 relating to restrictions on competition, Sections 16.2 and 16.3 relating to Franchisor's option to assume the lease for the Franchise Location and/or purchase the assets of the Franchise Business, Article 17 relating to dispute resolution and other obligations in this Agreement or any other agreements between the parties, which, by their terms or intent, survive termination or expiration of this Agreement.

### **ARTICLE 17 - ARBITRATION; LAW AND JURISDICTION; INJUNCTIVE RELIEF; COSTS OF ENFORCEMENT; WAIVER OF PUNITIVE DAMAGES AND JURY TRIAL; LIMITATIONS OF CLAIMS**

#### **17.1 Binding Arbitration.**

Except for actions described in Section 17.6, all controversies, disputes or claims between: (i) Franchisor and/or its Affiliates and their respective owners, officers, directors, members, managers, employees, agents, representatives, or guarantors; and (ii) Franchisee, and/or its Affiliates and their respective owners, officers, directors, members, managers, employees, agents, representatives, or guarantors; arising out of or related to (1) this Agreement or any other agreement between Franchisor and Franchisee or any provision of such agreement; (2) Franchisor's relationship with Franchisee; or (3) the scope and validity of this Agreement or any other agreement between Franchisee and Franchisor or any provisions or such agreements (including the validity and scope of the arbitration obligations under this Article, which the parties acknowledge is to be determined by an arbitrator and not a court); must be submitted for binding arbitration in accordance with the provisions of this Article 17 on the demand of either party. Except as otherwise provided in this Article 17, such arbitration proceeding must be conducted in accordance with the commercial arbitration rules (the "Rules") of the American Arbitration Association ("AAA"). The Federal Arbitration Act (9 U.S.C. §§ 1 et seq.) (the "Act") and not any state arbitration law will govern all matters relating to arbitration. This Agreement evidences a transaction involving commerce and, therefore, the Federal Arbitration Act, Title 9 of the United States Code is applicable to the subject matter contained herein. The provisions of this Article 17 are intended to benefit and bind certain third party non-signatories and will continue in full force and effect after and notwithstanding the expiration or termination of this Agreement.

**Franchisee acknowledges that it has read the terms of this binding arbitration provision and affirms that this provision is entered into willingly and voluntarily and without any fraud, duress or undue influence on Franchisor's part or the part of any of Franchisor's agents or employees.**

## **17.2 Arbitration Procedures.**

The arbitration will be administrated and conducted in the office of the AAA closest to the principal place of business of Franchisor at the time of the arbitration. Any matter will be adjudicated before one arbitrator unless Franchisor elects for the dispute to be decided before a panel of three arbitrators. The arbitrator or arbitrators will be agreed to by the parties or otherwise will be appointed under the Rules. Any arbitrator appointed must have at least 10 years' experience in franchise matters. The arbitrator will follow the Rules except as otherwise provided in this Section. The arbitrator will grant limited discovery consisting of written interrogatories and requests for production of documents eliciting only relevant evidence; will provide for the exchange of witness lists and exhibit copies; and will conduct a pretrial and rule on dispositive motions. The parties each will bear all of their own costs of arbitration; however, the fees of the arbitrator will be divided equally between the parties.

Franchisor and Franchisee agree to be bound by the provisions of any limitation on the period of time in which claims must be brought under applicable law or this Agreement, whichever expires earlier. Franchisor and Franchisee further agree that, in connection with any such arbitration proceeding, each must submit or file any claim that would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any such claim that is not submitted or filed as described above will be forever barred. The arbitrator will not consider any settlement discussions or offers that might have been made by either Franchisor or Franchisee.

Franchisor reserves the right, but has no obligation, to advance Franchisee's share of the costs of any arbitration proceeding in order for such arbitration proceeding to take place and by doing so will not be deemed to have waived or relinquished Franchisor's right to seek the recovery of those costs in accordance with Section 17.7.

Franchisor and Franchisee agree that arbitration will be conducted on an individual, not a class-wide, basis, and that an arbitration proceeding between Franchisor and its Affiliates, officers, directors, members, managers, employees, agents or representatives and Franchisee, or its Affiliates, officers, directors, members, managers, employees, agents or representatives, may not be consolidated with any other arbitration proceeding between them and any other Person. Notwithstanding the foregoing or anything to the contrary in this Section or elsewhere in this Agreement, if any court or arbitrator determines that all or any part of the preceding sentence is unenforceable with respect to a dispute that otherwise would be subject to arbitration under this Section, then the parties agree that this arbitration clause will not apply to that dispute and that such dispute will be resolved in a judicial proceeding.

## **17.3 Decision of Arbitrator.**

The arbitrator will complete the proceedings and render a decision within 90 days after submission of the dispute, unless both parties agree to an extension. Each party will cooperate with the arbitrator to comply with procedural time requirements, and the failure to do so will entitle the arbitrator to extend the arbitration proceedings accordingly, and to impose sanctions on the party responsible for the delay, payable to the other party. If the arbitrator does not fulfill his/her responsibilities on a reasonably timely basis, either party will have the right to require a replacement and the appointment of a new arbitrator, and may, for that purpose, invoke the jurisdiction of the Wayne County, Michigan Circuit Court or the Federal District Court for the Eastern District of Michigan.

The arbitrator will have the right to award or include in the award any relief that the arbitrator deems proper under the circumstances, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief and attorney's fees and costs, provided that the arbitrator may not declare any Franchise Mark generic or otherwise invalid or, except as expressly provided in Section 17.8, award exemplary or punitive damages against either party (Franchisor and Franchisee hereby waiving to the fullest extent permitted by law, except as expressly provided in Section 17.8, any right to or claim for any punitive or exemplary damages against the other). The decision of the arbitrator will be final and binding on the parties, subject only to appeal rights under the Act, and a judgment by a court of competent jurisdiction may be entered in accordance with the decision.

#### **17.4 Choice of Law.**

This Agreement will take effect only on its acceptance and execution by Franchisor (which will be deemed to be in Michigan), and, except for the applicability of the Federal Arbitration Act and other applicable federal law (including the U.S. Trademark Act of 1946 (Lanham Act, 115 U.S.C. 1051)), this Agreement and all controversies, disputes or claims arising from or relating to this Agreement or any other agreement between the parties, Franchisee's relationship with Franchisor or the validity of this Agreement or any other agreement between the parties will be interpreted and construed under the laws of Michigan. If there is any conflict of law, the laws of Michigan will prevail, without regard to the application of Michigan conflict-of-law rules. If, however, any provision of this Agreement would not be enforceable under the laws of Michigan, and if Franchisee's business is located outside of Michigan and such provision would be enforceable under the laws of the state in which Franchisee's business is located, then such provision will be interpreted and construed under the laws of that state. Notwithstanding the foregoing, any law regulating the offer or sale of franchises, business opportunities or similar interests or governing the relationship between Franchisor and Franchisee will not apply unless its jurisdictional requirements are met independently without reference to this Section.

#### **17.5 Consent to Venue and Jurisdiction.**

Subject to Section 17.2 above, any action brought by Franchisee against Franchisor must be brought exclusively, and any action brought by Franchisor against Franchisee may be brought, in the federal district court covering the location at which Franchisor has its principal place of business at the time the action is commenced; provided, however, that if the federal court would not have subject matter jurisdiction had the action been commenced in such court, then the action must (with respect to actions commenced by Franchisee), and may (with respect to actions commenced by Franchisor), be brought in the state court within the judicial district in which Franchisor has its principal place of business at the time the action is commenced. Franchisee and each owner of Franchisee irrevocably submit to the jurisdiction of such courts and waive any objection Franchisee, he or she may have to either jurisdiction or venue in such courts. Notwithstanding the foregoing, Franchisee and its owners agree that Franchisor may enforce this Agreement and any arbitration orders and awards in the courts of the state or states in which Franchisee, he or she is domiciled or located.

#### **17.6 Injunctive Relief.**

Franchisor will have the right, without the posting of any bond or security and without the need to prove irreparable injury, to obtain specific enforcement of the terms of this Agreement from a court of competent jurisdiction, by temporary or permanent injunctions or other equitable relief. Franchisor will have the right, without limitation, to obtain injunctive relief to prevent



Franchisee from engaging in the following acts, which Franchisee acknowledges would cause irreparable harm to Franchisor: (a) using any of the rights franchised by this Agreement in any manner not authorized in this Agreement; (b) engaging in operations in violation of the in-term and post-term restrictions on competition set forth in Article 13; (c) disclosing to any Person or using the Confidential Information in violation of the terms of this Agreement; (d) engaging in a Transfer or attempted Transfer without complying with this Agreement; (e) engaging in acts or practices in violation of applicable laws and regulations or that are fraudulent, dishonest or create health or other hazards to the public; or (f) significantly impairing the goodwill associated with Franchisor. The sole remedy of Franchisee, in the event of entry of an injunction, will be the dissolution of the injunction, if warranted, after notice and a hearing (all claims for damages by reason of the wrongful issuance of any injunction are being expressly waived by Franchisee). Franchisor's rights to obtain injunctive relief are in addition to all other remedies available to Franchisor under applicable law.

#### **17.7 Costs of Enforcement or Defense.**

Franchisee agrees to reimburse Franchisor for all expenses Franchisor reasonably incurs (including attorneys' fees): (a) to enforce the terms of this Agreement or any obligation owed to Franchisor by Franchisee or the Designated Owners or Franchisee's guarantors (whether or not Franchisor initiates a legal proceeding, unless Franchisor initiates and fails to substantially prevail in the court or formal legal proceeding); and (b) in defense of any claim Franchisee and/or a Designated Owner asserts against Franchisor on which Franchisor substantially prevails in court or other formal legal proceeding. Attorneys' fees will include paralegal fees, administrative costs, investigative costs, costs of expert witnesses, court reporter fees, sales and use taxes, if any, court cost, and all other charges billed by the attorneys to Franchisor (including all fees and expenses incident to appeals, bankruptcy, and post-judgment proceedings).

#### **17.8 Waiver of Punitive Damages and Jury Trial.**

EXCEPT FOR FRANCHISEE'S OBLIGATION TO INDEMNIFY FRANCHISOR AND THE OTHER INDEMNIFIED PARTIES UNDER SECTION 9.19 AND CLAIMS FRANCHISOR BRINGS AGAINST FRANCHISEE FOR UNAUTHORIZED USE OF THE FRANCHISE MARKS OR UNAUTHORIZED USE OR DISCLOSURE OF ANY CONFIDENTIAL INFORMATION, FRANCHISOR AND FRANCHISEE (AND FRANCHISEE'S OWNERS) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT, IN THE EVENT OF A DISPUTE BETWEEN FRANCHISOR AND FRANCHISEE, THE PARTY MAKING A CLAIM WILL BE LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL DAMAGES IT SUSTAINS.

EACH PARTY AND ITS OWNERS, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY OR AGAINST THE OTHER PARTY OR ITS OWNERS, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS, SUCCESSORS OR ASSIGNS.

#### **17.9 Limitations of Claims.**

ALL CLAIMS, EXCEPT FOR MONIES DUE TO FRANCHISOR, ARISING UNDER THIS AGREEMENT OR FROM THE RELATIONSHIP BETWEEN THE PARTIES ARE BARRED UNLESS AN ACTION IS FILED AND TIMELY SERVED ON THE OPPOSING PARTY BY THE EARLIEST OF: (1) WITHIN ONE YEAR FROM THE OCCURRENCE OF THE ACT OR

OMISSION GIVING RISE TO THE CLAIM; OR (2) WITHIN THE TIME PERIOD PROVIDED BY ANY APPLICABLE LAW OR STATUTE.

**17.10 No Class Action or Consolidation.**

Franchisor and Franchisee agree that any arbitration or litigation involving the parties will only be conducted on an individual, not a class-wide basis, and that an arbitration or litigation proceeding between Franchisor and Franchisee may not be consolidated with any other arbitration or litigation proceeding between the parties and any other person, corporation, limited liability company, partnership or other entity. The parties waive, to the fullest extent allowed by law, any right to pursue or participate as a lead plaintiff or a class representative in any claim on a class or consolidated basis.

**ARTICLE 18 – ACKNOWLEDGMENTS AND REPRESENTATIONS BY FRANCHISEE**

**18.1 Risk of Operations.**

Franchisee understands the risks of being involved in a Fitness Studio business and is able to bear such risks. Franchisee also acknowledges that the success of the Franchise Business depends primarily on Franchisee's efforts. In addition, other factors beyond the control of Franchisor or Franchisee may affect the success of Franchisee's business, including competition, economic conditions, business trends, costs, market conditions, and other conditions that may be difficult to anticipate, assess or even identify. Franchisee understands and acknowledges that the Franchise Business may lose money or fail.

**18.2 Representations by Franchisor.**

Franchisee acknowledges and agrees that, except as specifically set forth in this Agreement or the Franchisor's Franchise Disclosure Document or the attached "Acknowledgments by Franchisee," no representations or warranties, express or implied, have been made to Franchisee, either by Franchisor or anyone acting on its behalf or purporting to represent it, including, but not limited to, the prospects for successful operations, the level of business or profits that Franchisee might reasonably expect, or the desirability, profitability or expected traffic volume or profit of the Franchise Business. Franchisee acknowledges that all such factors are necessarily dependent upon variables beyond Franchisor's control, including, without limitation, the ability, motivation and amount and quality of effort expended by Franchisee. Franchisee acknowledges that neither Franchisor nor any of its agents or representatives have made or are authorized to make any oral, written or visual representations or projections of actual or potential sales, earnings, net or gross profits, operational costs or expenses, prospects or chances of success that are not contained in this Agreement or in the Franchisor's Franchise Disclosure Document. Franchisee agrees that it has not relied on and that Franchisor will not be bound by allegations of any representations as to earnings, sales, profits, costs, expenses, prospects or chances of success that are not contained in this Agreement or the Franchisor's Franchise Disclosure Document.

**18.3 Franchisor's Review of Business Plans or Other Materials.**

Franchisee understands and agrees that any business plan, pro-forma or other material prepared by Franchisee or its representatives and submitted to Franchisor is the sole responsibility of Franchisee. Any review by or comments from Franchisor or its representatives relating to those materials will be for discussion purposes only and will not constitute approval, endorsement or a guaranty of the information in those materials. No agent or employee of

Franchisor will have the authority to approve, endorse or guaranty any information in those materials. Franchisor will not be responsible or liable to Franchisee for any claims relating to information in any such materials and Franchisee waives and releases Franchisor from any such claims.

#### **18.4 Review of Materials and Consultation with Advisors.**

Franchisee acknowledges that it is familiar with and has made an independent investigation of the business to be conducted by the Franchise Business and has reviewed Franchisor's Franchise Disclosure Document. Franchisee acknowledges that it has read and understood this Agreement, the attachments to this Agreement, and the documents relating to this Agreement, if any, and has been given ample time and opportunity (and has been encouraged) to consult with an attorney or other professional advisor about the potential benefits and risks of entering into this Agreement. Franchisee acknowledges that it has been afforded an opportunity to ask any questions it has and to review any materials of interest to it concerning the Franchise Business, and that it has exhausted such efforts and has made the decision to enter into this Agreement without any influence by Franchisor.

#### **18.5 Restrictions on Sources of Products and Services.**

Franchisee acknowledges that Franchisor will restrict Franchisee's sources of products and services, as provided in various sections of this Agreement.

#### **18.6 Representative Capacity of Franchisor's Personnel and Agents.**

Franchisee acknowledges and agrees that in all of its dealings with Franchisor, Franchisor's owners, members, officers, directors, employees and agents act only in a representative, and not in an individual, capacity and that business dealings between Franchisee and them as a result of this Agreement are deemed to be only between Franchisee and Franchisor. Franchisee agrees that any claims it (or any of Franchisee's owners) may have against Franchisor's owners, members, officers, directors, employees or agents must be brought against Franchisor only, and not against such owners, members, officers, directors, employees or agents in their individual capacity.

#### **18.7 Independent Status of Contract; Non-Uniformity of Agreements.**

Franchisee understands and agrees that Franchisor is entering into this Agreement with Franchisee independently and separately from any franchise or license that Franchisor may grant to any other Person, and that Franchisee is not entering into this Agreement in reliance on or because of any other agreement that Franchisor may have entered into with a third party. Franchisee understands and agrees that the terms of Franchisor's agreements with third parties, now and in the future, may be materially different with respect to any terms and condition of this Agreement, including but not limited to, royalty fees, advertising fees, transfer fees, territorial exclusivity, renewals and training. These variations may be based on any factors or conditions that Franchisor deems to be in the best interest of the Fitness Studio franchise system or a particular Fitness Studio, including but not limited to, the knowledge, experience and financial status of a franchisee, peculiarities of a particular location, customer base, density, lease provisions, business potential, population of trade area, existing business practices or any other condition that Franchisor deems to be of importance to the operation of a specific Fitness Studio. Also, these variations may result from Franchisor, in its sole discretion, compromising, forgiving, or settling claims or disputes with or against other franchisees. Franchisee will not be entitled to require Franchisor to disclose or grant to Franchisee a like or similar variation.

## **18.8 Terrorist and Money Laundering Activities.**

Franchisee and its owners, officers, directors, members, partners and agents represent and warrant to Franchisor that: (a) they are not identified by name or alias, pseudonym or nickname, on the lists of “Specially Designated Nationals” or “Blocked Persons” maintained by the U.S. Treasury Department’s Office of Foreign Assets Control; (b) they are not directly or indirectly owned or controlled by the government of any country that is subject to a United States embargo; (c) they will not act directly or indirectly on behalf of the government of any country that is subject to a United States embargo; and (d) they are in full compliance with all laws proscribing money laundering and corrupt practices. Further, Franchisee and its owners, officers, directors, members, partners and agents represent and warrant to Franchisee that they have not violated and agree not to violate any law prohibiting corrupt business practices, money laundering or the aid or support of Persons who conspire to commit acts of terror against any Person or government, including acts prohibited by the USA Patriot Act, U.S. Executive Order 13244, or any similar law. The foregoing constitute continuing representations and warranties, and Franchisee and its owners, officers, directors, members, partners and agents must immediately notify Franchisor in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate or misleading.

## **18.9 Ownership of Franchisee; Guaranties.**

The name, entity classification, state of organization, owners and percentage of ownership of Franchisee are set forth on the Obligations and Representations of Individual Interested Parties attached as Appendix B. Franchisee represents that the information stated in Appendix B is accurate and complete. Franchisee must provide for each owner identified on Appendix B: (1) a copy of a photo identification (e.g. driver’s license or passport); and (2) a copy of the most recently filed federal income tax return. Franchisee agrees that it will immediately notify Franchisor (and comply with the provisions of Article 14 of this Agreement, if applicable) if there is any change in the information set forth in Appendix B. Failure to comply with this requirement will be a material default under this Agreement. Each of the owners of Franchisee and their spouses must personally guaranty Franchisee’s obligations to Franchisor by signing the Guaranty attached as Appendix D. Also, if an Affiliate of Franchisee operates a Fitness Studio, the Affiliate must guaranty all of Franchisee’s obligations to Franchisor by signing the Guaranty attached as Appendix D.

## **ARTICLE 19 – WAIVERS AND APPROVALS**

### **19.1 No Waivers.**

The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, will not affect the right of that party to require performance of that provision or to exercise any right under this Agreement. Franchisor will not waive any right, power or option under this Agreement (including, without limitation Franchisor’s right to demand exact compliance with every term, condition and covenant or to declare any breach to be a default and to terminate this Agreement before it expires) by reason of any of the following: (a) the failure or delay of Franchisor to require performance by another franchisee of any provision of its franchise agreement; (b) the existence of other franchise agreements which contain provisions different from those contained in this Agreement; (c) Franchisor’s acceptance of any payments due from Franchisee after any breach of this Agreement; or (d) any special or

restrictive legend of endorsement on any check or similar item given to Franchisor by Franchisee (Franchisor is authorized to remove or cancel any such legend or endorsement). Any waiver by any party of any breach of any provision of this Agreement is not a waiver of any continuing or later breach of that provision, a waiver of the provision itself, or a waiver of any right under this Agreement. No notice to or demand on any party in any case, of itself, entitles that party to any other notice or demand in similar or other circumstances.

### **19.2 Consents, Approvals and Satisfaction; Liability.**

Whenever Franchisor's consent or approval is required under this Agreement, consent or approval will not be unreasonably withheld or delayed unless specifically stated in this Agreement to the contrary. All consents or approvals required of Franchisor are not binding on Franchisor unless the consent or approval is in writing and signed by the president or a managing member of Franchisor. Franchisor's consent or approval, whenever required, may be withheld if Franchisee is in default under this Agreement. Where the satisfaction of Franchisor is required under this Agreement, unless the Agreement expressly states otherwise, the satisfaction is determined in Franchisor's sole discretion. Franchisor will not be liable to Franchisee in any manner for providing or failing to provide or for any delay in providing any waiver, approval, assistance, consent or suggestion to Franchisee. Franchisee waives any claims against Franchisor for such liability.

### **19.3 Franchisor's Reasonable Business Judgment.**

Whenever Franchisor has reserved in this Agreement a right to take or to withhold an action, or to grant or decline to grant Franchisee a right to take or omit an action, Franchisor may, except as otherwise specifically provided in this Agreement, make its decision or exercise its rights based on information readily available to Franchisor and Franchisor's judgment of what is in Franchisor's and/or the Fitness Studio franchise system's best interests at the time Franchisor's decision is made, without regard to either whether Franchisor could have made other reasonable or even arguably preferable alternative decisions or whether Franchisor's decision promotes its financial or other individual interest. Examples of items that will promote or benefit the Fitness Studio franchise system include, without limitation, enhancing the value of the Intellectual Property, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the Fitness Studio franchise system.

## **ARTICLE 20 – ADDITIONAL PROVISIONS**

### **20.1 Independent Contractor.**

Franchisee understands and agrees that it will be an independent contractor under this Agreement. Nothing in this Agreement may be construed to create a partnership, joint venture, or agency relationship of any kind. No employer or joint employer relationship exists between Franchisor and Franchisee or between Franchisor and Franchisee's employees. The parties acknowledge that this Agreement does not create a fiduciary relationship between the parties. Franchisee will not, without Franchisor's prior written approval, have any power to obligate Franchisor for any expenses, liabilities or other obligations, other than as specifically provided in this Agreement. Except as otherwise expressly authorized by this Agreement, neither party will make any express or implied agreements, warranties, guarantees or representations or incur any debt in the name of or on behalf of the other party, or represent that the relationship between Franchisor and Franchisee is other than that of franchisor and franchisee. Franchisor

does not assume any liability, and will not be considered liable, for any agreements, representations, or warranties made by Franchisee unless expressly authorized under this Agreement. Franchisor will not be obligated for any damages to any person or property that directly or indirectly arises from or related to the operation of the Franchise Business by Franchisee.

Franchisor does not have direct or indirect control of, or the right or authority to control, the Franchise's day-to-day operations or employment related decisions. Franchisee acknowledges and agrees that Franchisee alone will exercise day-to-day control over all employment decisions, operations, activities and elements of the Franchise Business and that under no circumstance will Franchisor do so or be deemed to do so. Franchisee further acknowledges and agrees that the various requirements, restrictions, prohibitions, specifications and procedures of the Franchise System, which Franchisee is required to comply with under this Agreement, whether contained in the Operations Manual or otherwise, do not directly or indirectly constitute, suggest, infer or imply that Franchisor controls any aspect or element of the employment decisions or other day-to-day operations of the Franchise Business, which Franchisee alone controls, but only constitute standards that Franchisee must adhere to when exercising control of the day-to-day operations of the Franchise Business.

None of Franchisee's employees will be considered employees of Franchisor. Neither Franchisee nor any of its employees whose compensation Franchisee may pay in any way, directly or indirectly, expressly or by implication, will be construed to be an employee of Franchisor for any purpose, including, without limitation, with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any local, state or federal governmental agency. Franchisor will not have the power to hire or fire Franchisee's employees. Franchisee expressly agrees that Franchisor's authority under this Agreement to certify certain of Franchisee's employees for qualification to perform certain functions for the Franchise Business does not directly or indirectly vest in Franchisor power to hire, fire, or control any such employee.

## **20.2 Definitions of Person and Affiliate.**

The following definitions apply to this Agreement:

(a) Person. A "Person" is any individual, trust, corporation, limited liability company, partnership, sole proprietorship, joint venture, business division, business trust, estate, cooperative, unincorporated association, or other entity, whether or not a legal entity, or any government or a department, instrumentality, political subdivision, or instrumentality of or exercising the authority of government.

(b) Affiliate. As applied to any Person as of the date of determination, an "Affiliate" is: (i) if the Person is a corporation, partnership, or limited liability company, then a shareholder, officer, director, partner, member, manager, or equity owner of the Person; (ii) if the Person is a holder of shares of stock, a partnership interest, a membership interest, or other equity constituting more than 10% of the outstanding equity of a privately held (or more than 5% of the outstanding equity of a publicly held) corporation, partnership, or limited liability company, as applicable, then that corporation, partnership, or limited liability company; (iii) another Person who, directly or indirectly, or through one or more intermediaries, controls or is controlled by or is under common control with that Person, where the term "control" means the power to direct or cause the

direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; (iv) another Person otherwise considered in a relationship with such Person within the meaning of Internal Revenue Code Section 267(b), including, without limitation, members of a family and certain trusts; and/or (v) an affiliate within the meaning of Rule 12b-2 under the Securities Exchange Act of 1934.

### **20.3 Appraisal Method.**

If a value is to be determined by appraisal as referred to in Sections 14.2 and 16.3, the following method will be used to determine the appraised value. If the parties are able to agree on an independent appraiser, that appraiser will determine the applicable value and his or her determination will be binding on the parties. If the parties are not able to agree on an independent appraiser within 15 days of the event triggering the appraisal, each party will select an independent appraiser qualified or certified to make the appraisal. The independent appraisers chosen will then select a third independent appraiser. The third independent appraiser will determine the applicable value and his or her determination will be binding on the parties. Franchisor and Franchisee agree to select their respective appraisers within 15 days after the event triggering the appraisal and the two appraisers chosen are obligated to appoint the third appraiser within 15 days after the date on which the last of the two party-appointed appraisers is appointed. Franchisor and Franchisee will bear the cost of their own appraisers and share equally the reasonable fees and expenses of the third appraiser. The parties will take reasonable actions to cause the appraiser to complete his or her appraisal within 30 days after the third appraiser's appointment.

### **20.4 Third Parties.**

Except as provided in this Agreement to the contrary for any Affiliates or franchisees of Franchisor, nothing in this Agreement, whether expressed or implied, is intended to confer any rights under this Agreement on any Person (including other Fitness Studio franchisees) other than the parties and their respective personal representatives, other legal representatives, heirs, successors and permitted assigns.

### **20.5 Cumulative Remedies.**

All remedies, either under this Agreement or by law or otherwise afforded, will be cumulative and not alternative.

### **20.6 Notices.**

Unless otherwise specified in this Agreement, notices under this Agreement must be in writing signed by the party serving the same and must be sent by: (a) registered or certified mail, return receipt requested, postage pre-paid, in which case the notice will be complete two days after mailing; or (b) overnight courier service, in which case the notice will be complete one day after delivery to the overnight courier. The notice must be sent to the address set forth below or at such address as designated by notice pursuant to this Section.

If to Franchisor: Red Effect International Franchise, LLC  
Attention: Allie T. Mallad  
4000 Page Ave.  
Michigan Center, Michigan 49254

If to Franchisee: See Item 6 of Appendix A.

### **20.7 Unavoidable Contingencies.**

Neither party will be responsible for any contingency that is unavoidable or beyond its control, such as strike, flood, war, rebellion, governmental limitation or Act of God.

### **20.8 Entire Agreement; Modifications.**

This Agreement and all appendices and other documents attached to this Agreement which are incorporated in this Agreement, will constitute the entire agreement between the parties. This Agreement supersedes and replaces any and all previous or contemporaneous written and oral agreements or understandings, promises, representations, inducements, or dealings between the parties. Franchisee agrees and understands that Franchisor will not be liable or obligated for any oral representations or commitments made prior to the execution of this Agreement or for claims of negligent or fraudulent misrepresentation, fraudulent inducement, or silent fraud based on any such oral representation or commitments, or non-disclosure of any information. However, nothing in this Section or otherwise in this Agreement is intended to disclaim or waive Franchisee's reliance on any statements made in the Franchise Disclosure Document delivered to Franchisee or in the exhibits and amendments to the Franchise Disclosure Document. This Agreement may not be amended or modified except in a writing signed by both parties, except Franchisor may unilaterally modify the Franchise System and its specifications as provided in this Agreement.

### **20.9 Severability.**

Each Section, part and provision of this Agreement will be considered severable. If any Section, part or provision is found unenforceable by a court of competent jurisdiction, that determination will not impair the operation or affect the validity of the remainder of this Agreement unless such unenforceability, in the opinion of Franchisor, materially alters the protection of the Intellectual Property or Franchisor's source of revenues. In that event, Franchisor may substitute for this Agreement, a new agreement without such unenforceable terms and such additional terms as may be appropriate under the circumstances.

### **20.10 Obligations Joint and Several.**

If there is more than one Person signing this Agreement as Franchisee, all such Persons are jointly and individually liable for Franchisee's obligations under this Agreement.

### **20.11 Signing by Franchisor.**

The submission of this Agreement is not an offer by Franchisor and Franchisor is not bound in any way until this Agreement is signed by an executive officer or an authorized representative of Franchisor.

### **20.12 Headings.**

Article, Section, and Subsection headings are for convenience of reference only and do not limit or affect the provisions of this Agreement.



**20.13 Supplemental Agreements.**

Franchisee must sign supplemental agreements, which are attached as Appendices to this Agreement, simultaneous with the signing of this Agreement, including the following:

(a) **Appendix A—Specifics.** This document describes Franchisee’s Franchise Location, Protected Area, the Designated Owners, and Franchisee’s address for notice as referenced in this Agreement.

(b) **Appendix B—Obligations and Representation of Individuals Involved in the Franchise Business.** The owners of Franchisee sign this document to agree to be personally bound by the provisions of this Agreement and to provide information about Franchisee and its owners.

(c) **Appendix C—Acknowledgements by Franchisee.** Franchisee completes and signs this document to provide information about representations and disclosures by Franchisor so that Franchisor may ensure that all applicable franchise rules and laws have been followed in the sale of the franchise to Franchisee.

(d) **Appendix D—Guaranty.** The owners of Franchisee sign this document to agree to be personally bound by the financial obligations of Franchisee to Franchisor.

(e) **Appendix E—Assignment of Telephone Numbers and Electronic Media.** Franchisee must sign this document now and any time in the future as Franchisor requests in order to acknowledge and agree to Franchisor’s right to assignment of the telephone and fax numbers, Electronic Media, and other comparable electronic identifiers and written and online directory listings that have been used in the Franchise Business. On the expiration or termination of this Agreement, Franchisor may, at its option, accept the assignment and deliver the assignment to the applicable service providers to complete the assignment.

(f) **Appendix F—Electronic Fund Transfer Authorization.** Franchisee signs this document to authorize Franchisor to withdraw funds from Franchisee’s account for payment of amounts owed to Franchisor.

Franchisor and Franchisee have signed this Agreement on the dates set forth beside their signatures to be effective as of the date set forth at the beginning of this Agreement.

RED EFFECT INTERNATIONAL  
FRANCHISE, LLC

Dated: \_\_\_\_\_

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of the RED EFFECT  
INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company.

Notary Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

FRANCHISEE

\_\_\_\_\_

Dated: \_\_\_\_\_

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of  
\_\_\_\_\_, a \_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

**APPENDIX A—SPECIFICS**

**ITEM 1:** The initial franchise fee referred to in Section 4.1 is \_\_\_\_\_  
\_\_\_\_\_ (\$ \_\_\_\_\_).

**ITEM 2:** The area in which the Franchise Business will be located as referred to in Section 8.1 is:

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

**ITEM 3:** The address of the Franchise Business (“Franchise Location”) as referred to in Sections 2.1 and 8.1 is *[Once the physical address of the Franchise Location is determined, Franchisor will insert the address in this Item.]*:

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

**ITEM 4:** The Protected Area referred to in Section 2.2 is *[Once the Franchise Location is determined, Franchisor will insert the Protected Area in this Item.]*:

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

**ITEM 5:** The Designated Owners referred to in Section 9.13 is/are:

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

**ITEM 6:** Franchisee’s address for purposes of notice under Section 20.6 is:

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

Red Effect International Franchise, LLC

\_\_\_\_\_  
Franchisee

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPENDIX B—OBLIGATIONS AND REPRESENTATIONS OF INDIVIDUAL INTERESTED PARTIES**

This is an Appendix to the Franchise Agreement between Red Effect International Franchise, LLC and the Franchisee named below dated \_\_\_\_\_, 20\_\_\_\_ (“Franchise Agreement”). All capitalized terms not defined in this Appendix will have the same meaning ascribed to them in the Franchise Agreement.

Each of the individuals signing below (each an “Interested Party”) is directly or indirectly beneficially interested in the Franchise Business as a shareholder, officer, director, partner, member, owner, investor, and/or affiliate of Franchisee. As such, each Interested Party hereby agrees to and shall be jointly, severally and personally bound by all the terms and provisions of the Franchise Agreement, other than those requiring the payment of money by Franchisee, to the same extent and in the same manner as Franchisee is bound, including but not limited to the confidentiality covenants, the noncompetition covenants, the non-solicitation covenants, and all other restrictive covenants set forth in Articles 12 and 13 of the Franchise Agreement, whether or not Interested Party’s status as a shareholder, officer, director, partner, member, owner, investor, and/or affiliate of Franchisee may change or cease during or after the term of the Franchise Agreement. This Appendix will not impair any separate instrument of guaranty that any Interested Party signing below has executed or may execute in the future.

Each Interested Party signing below represents and warrants to Franchisor that the following is correct and true:

**Legal Name of Franchisee:** \_\_\_\_\_

**Type of Entity and State of Organization** (sole proprietorship, corporation, partnership, limited liability company, etc.): \_\_\_\_\_

**d/b/a (if applicable):** \_\_\_\_\_

**Address of Franchisee:** \_\_\_\_\_

**Business Telephone:** \_\_\_\_\_

**Name, Address, Phone No., Email Address, Title and % of Ownership of each Interested Party:**

Name	_____
Address	_____
Telephone	_____
Email	_____
Title	_____ % Ownership _____

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email \_\_\_\_\_  
Title \_\_\_\_\_ % Ownership \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email \_\_\_\_\_  
Title \_\_\_\_\_ % Ownership \_\_\_\_\_

(Attach additional sheets if necessary)

Each Interested Party signing below must provide a copy of a photo identification (e.g. driver's license, passport) and his or her most recently filed federal income tax return.

**Acknowledged and Agreed by Each Undersigned Interested Party:**

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
*(Print Name Above)*

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
*(Print Name Above)*

\_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
*(Print Name Above)*

**APPENDIX C—ACKNOWLEDGEMENTS BY FRANCHISEE**

You are entering into a Franchise Agreement for the operation of a Fitness Studio franchise. The purpose of this document is to determine whether you were given a Franchise Disclosure Document as required by applicable law and whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading, and to be certain that you understand the limitations on claims that may be made by you by reason of the offer and sale of the franchise and operation of your Franchise Business. Please review each of the following questions carefully and provide honest responses to each question.

**Acknowledgements and Representations\*.**

1. Did you receive a copy of our Franchise Disclosure Document (and all exhibits and attachments) at least 14 days before you signed a binding agreement with, or paid any consideration to, us or our affiliates in connection with the proposed franchise sale? Check one:  Yes  No. If no, please comment: \_\_\_\_\_

\_\_\_\_\_

1A. If you are a resident of or your franchise will be located in **Iowa, New York, or Rhode Island**, did you receive a copy of our Franchise Disclosure Document at least by the earliest of: (a) at the time of your first personal meeting with us to discuss the franchise; or (b) 10 business days before you signed a binding agreement with, or made a payment to, us or our affiliates in connection with the proposed franchise sale? Check one:  N/A  Yes  No. If no, please comment: \_\_\_\_\_

\_\_\_\_\_

1B. If you are a resident of or your franchise will be located in **Michigan or Oregon**, did you receive a copy of our Franchise Disclosure Document at least 10 business days before you signed a binding agreement with, or made a payment to, us or our affiliates in connection with the proposed franchise sale? Check one:  N/A  Yes  No. If no, please comment: \_\_\_\_\_

\_\_\_\_\_

2. Were the terms and conditions of the Franchise Agreement presented to you for signing materially different from the Franchise Agreement contained in the Franchise Disclosure Document delivered to you: Check one:  Yes  No.

If yes, did you receive a copy of the Franchise Agreement in the form presented to you for signing at least seven calendar days before signing the Franchise Agreement? Check one:  Yes  No. If no, please comment: \_\_\_\_\_

\_\_\_\_\_

3. Was any oral, written or visual claim or representation made to you that contradicted the disclosures in the Franchise Disclosure Document? Check one:  Yes  No. If yes, please state in detail the oral, written or visual claim or representation:\_\_\_\_\_

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4. Except as may be stated in Item 19 of the Red Effect International Franchise, LLC Franchise Disclosure Document, did any employee or other person speaking on behalf of Red Effect International Franchise, LLC make any oral, written or visual claim, statement, promise or representation to you that stated, suggested, predicted or projected sales, revenues, expenses, earnings, income or profit levels at any Fitness Studio location or business, or the likelihood of success at your Franchise Business? Check one:  Yes  No. If yes, please state in detail the oral, written or visual claim or representation:\_\_\_\_\_

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5. Except as may be stated in Item 19 of the Red Effect International Franchise, LLC Franchise Disclosure Document, did any employee or other person speaking on behalf of Red Effect International Franchise, LLC make any statement or promise regarding the costs involved in operating a franchise that is not contained in the Franchise Disclosure Document or that is contrary to, or different from, the information contained in the Franchise Disclosure Document. Check one:  Yes  No. If yes, please comment:\_\_\_

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6. Do you understand that the Franchise Agreement contains the entire agreement between you and us concerning the franchise for the Franchise Business and that any prior oral or written statements not set out in the Franchise Agreement will not be binding? Check one:  Yes  No. If no, please comment:\_\_\_\_\_

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7. Do you understand that the success or failure of your Franchise Business will depend in large part upon your skills and experience, your business acumen, your location, the local market for services under the Red Effect International Franchise, LLC trademarks, interest rates, the economy, inflation, the number of employees you hire and their compensation, competition and other economic and business factors? Check one:  Yes  No. If no, please comment:\_\_\_\_\_

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

THE ABOVE QUESTIONS. IF MORE SPACE IS NEEDED FOR ANY ANSWER, CONTINUE ON A SEPARATE SHEET AND ATTACH.

**NOTE: IF THE RECIPIENT IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY, EACH OF ITS OWNERS MUST SIGN THIS ACKNOWLEDGEMENT.**

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

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

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

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

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

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

APPROVED ON BEHALF OF  
RED EFFECT INTERNATIONAL  
FRANCHISE, LLC

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

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

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

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

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

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

\*Such representations are not intended to nor will they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law.



## APPENDIX D--GUARANTY

Each of the persons signing this Guaranty (each a "Guarantor"), in order to induce RED EFFECT INTERNATIONAL FRANCHISE, LLC ("Franchisor") to enter into a Franchise Agreement, dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Franchise Agreement"), with \_\_\_\_\_ ("Franchisee"), unconditionally and absolutely guaranties payment when due, whether by stated maturity, demand, acceleration or otherwise, of all existing and future indebtedness ("Indebtedness") of Franchisee to Franchisor. Indebtedness includes without limit: any and all obligations or liabilities of Franchisee to Franchisor under the Franchise Agreement or any other agreement between the Franchisor and Franchisee or otherwise arising, whether absolute or contingent, direct or indirect, voluntary or involuntary, liquidated or unliquidated, joint or several, known or unknown; any and all indebtedness, obligations or liabilities for which Franchisee would otherwise be liable to Franchisor were it not for the invalidity, irregularity or unenforceability of them by reason of any bankruptcy, insolvency or other law or order of any kind, or for any other reason; any and all amendments, modifications, renewals and/or extensions of any of the above; and all costs of collecting Indebtedness, including, without limit, actual attorney fees. In addition, each Guarantor agrees as follows:

1. Guarantor hereby agrees to and will be jointly, severally and personally bound by all the terms and provisions of the Franchise Agreement to the same extent and in the same manner as Franchisee is bound, including but not limited to the terms and provisions of; Article 7—Use and Protection of Franchise Marks; Article 12—Confidential Information and Proprietary Rights; Article 13—Restrictions on Competition; and Article 17—Arbitration, Law and Jurisdiction, Injunctive Relief, Costs of Enforcement, Waiver of Punitive Damages and Jury Trial, and Limitations of Claims.

2. This Guaranty is a continuing guaranty of payment and not of collection and remains effective whether the Indebtedness is from time to time reduced and later increased or entirely extinguished and later reincurred.

3. Guarantor will pay to Franchisor all costs and expenses, including reasonable attorney fees, incurred in enforcing this Guaranty.

4. If any Indebtedness is guaranteed by two or more guarantors, the obligation of Guarantor will be several and also joint, each with all and also each with any one or more of the others, and may be enforced at the option of Franchisor against each severally, any two or more jointly, or some severally and some jointly. Franchisor, in its sole discretion, may release any one or more of the Guarantors for any consideration that it deems adequate, and may fail or elect not to prove a claim against the estate of any bankrupt, insolvent, incompetent or deceased Guarantor; and after that, without notice to any Guarantor, Franchisor may extend or renew any or all Indebtedness and may permit Franchisee to incur additional Indebtedness, without affecting in any manner the unconditional obligation of the remaining Guarantors. Guarantor acknowledges that the effectiveness of this Guaranty is not conditioned on any or all of the indebtedness being guaranteed by anyone else.

5. Guarantor, to the extent not expressly prohibited by applicable law, waives any right to require Franchisor to: (a) proceed against any person or property; (b) give notice of the terms, time and place of any public or private sale of personal property security held from

Franchisee or any other person, or otherwise comply with the provisions of Sections 9-611 or 9-621 of the Michigan or other applicable Uniform Commercial Code, as the same may be amended, revised or replaced from time to time; or (c) pursue any other remedy in Franchisor's power. Guarantor waives notice of acceptance of this Guaranty and presentment, demand, protest, notice of protest, dishonor, notice of dishonor, notice of default, notice of intent to accelerate or demand payment of any Indebtedness, any and all other notices to which Guarantor might otherwise be entitled, and diligence in collecting any Indebtedness, and agrees that Franchisor may, once or any number of times, modify the terms of any Indebtedness, compromise, extend, increase, accelerate, renew, or forbear to enforce payment of any or all Indebtedness, or permit Franchisee to incur additional Indebtedness, all without notice to Guarantor and without affecting in any manner the unconditional obligation of Guarantor under this Guaranty.

6. Guarantor unconditionally and irrevocably waives each and every defense and setoff of any nature which, under principles of guaranty or otherwise, would operate to impair or diminish in any way the obligation of Guarantor under this Guaranty, and acknowledges that each such waiver is by this reference incorporated into each security agreement, collateral assignment, pledge and/or other document from Guarantor now or later securing this Guaranty and/or the Indebtedness, and acknowledges that as of the date of this Guaranty no such defense or setoff exists.

7. This Guaranty is an absolute and continuing guarantee and will remain in effect unless revoked in writing by Guarantor.

8. As long as Franchisee owes any monies to Franchisor (other than payments that are not past due) Franchisee will not pay and Guarantor will not accept payment of any part of any indebtedness owed by Franchisee to Guarantor, either directly or indirectly, without the consent of Franchisor.

9. This Guaranty and the Franchise Agreement constitute the entire agreement of Guarantor and Franchisor with respect to the subject matter of this Guaranty and the Franchise Agreement. No waiver, consent, modification or change of the terms of the Guaranty will bind any of Guarantor or Franchisor unless in writing and signed by the waiving party or an authorized officer of the waiving party, and then this waiver, consent, modification or change will be effective only in the specific instance and for the specific purpose given. This Guaranty will inure to the benefit of Franchisor and its successors and assigns and will be binding on Guarantor and Guarantor's heirs, legal representatives, successors and assigns including, without limit, any debtor in possession or trustee in bankruptcy for Guarantor. Guarantor has knowingly and voluntarily entered into this Guaranty in good faith for the purpose of inducing Franchisor to enter into the Franchise Agreement with Franchisee, extend credit, or make other financial accommodations to Franchisee. If any provision of this Guaranty is unenforceable in whole or in part for any reason, the remaining provisions shall continue to be effective.

10. This Guaranty will be governed by and construed and enforced in accordance with the Laws of the State of Michigan (without reference to the conflict of laws provisions).

11. Guarantor acknowledges and agrees that all controversies, disputes or claims relating to the Franchise Agreement and this Guaranty will be subject to binding arbitration under the provisions of Article 17 of the Franchise Agreement and will also be subject to the choice of

law, venue and jurisdiction, and other provisions contained in Article 17 of the Franchise Agreement. **Guarantor acknowledges that it has read the terms of the binding arbitration and other provisions contained in Article 17 of the Franchise Agreement and affirms that these provisions are agreed to willingly and voluntarily and without any fraud, duress or undue influence on Franchisor’s part or the part of any of Franchisor’s agents or employees.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
GUARANTOR

Dated: \_\_\_\_\_

\_\_\_\_\_  
GUARANTOR

Dated: \_\_\_\_\_

\_\_\_\_\_  
GUARANTOR

\_\_\_\_\_  
Corporate, LLC or Partnership Guarantor

Dated: \_\_\_\_\_

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

Its: \_\_\_\_\_

## APPENDIX E—ASSIGNMENT OF TELEPHONE NUMBERS AND ELECTRONIC MEDIA

THIS ASSIGNMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee").

**1. Introduction.** Franchisee has obtained a license from Franchisor for the operation of a business using Franchisor's franchise business system ("Franchise System"), which business Franchisee acquired by signing a Franchise Agreement dated \_\_\_\_\_ (the "Franchise Agreement"). In consideration of Franchisor granting the license to Franchisee, Franchisee has agreed to assign all Telephone Numbers and Electronic Media (as defined below) that are associated with Franchisee's franchise business (the "Franchise Business") and/or the Franchise System to Franchisor. For purposes of this Agreement, "Telephone Numbers" includes all telephone numbers and fax numbers used in connection with the Franchise Business, including in connection with advertising and marketing for the Franchise Business. For purposes of this Agreement, "Electronic Media" means the Internet, email addresses, Internet domain names, homepages, electronic addresses, websites, social networks, wikis, podcasts, online forums, content sharing communities, blogging, or other social media (including but not limited to FaceBook, Twitter, LinkedIn, YouTube, Pinterest, Instagram), and other digital media (such as mobile phone—SMS and MMS) used in connection with the Franchise Business, including in connection with advertising and marketing for the Franchise Business.

**2. Assignment of Telephone Numbers/Power of Attorney.** Franchisee assigns all Telephone Numbers to Franchisor or its successor or assign. Franchisee hereby appoints an officer of Franchisor as Franchisee's attorney-in-fact to transfer the Telephone Numbers to Franchisor and to sign, on behalf of Franchisee, all documents necessary to accomplish the transfer.

**3. Assignment of Electronic Media/Power of Attorney.** Franchisee assigns all Electronic Media to Franchisor or its successor or assign. Franchisee also hereby appoints an officer of Franchisor as Franchisee's attorney-in-fact to transfer the Electronic Media to Franchisor and to sign, on behalf of Franchisee, all documents necessary to accomplish the transfer.

**4. Limited License; Responsibility for Costs.** Franchisor grants Franchisee a limited license to use the Telephone Numbers and Electronic Media in connection with the Franchise Business only during the term of the Franchise Agreement and only as long as Franchisee complies with the policies and procedures specified by Franchisor. On the expiration without renewal or termination of the Franchise Agreement, this limited license will terminate and Franchisee must cease all use of the Telephone Numbers and Electronic Media. On the termination of this license, Franchisee must cooperate with Franchisor and provide any authorizations as may be necessary for Franchisor to assert its rights in the Telephone Numbers and Electronic Media. While this limited license is in effect, Franchisee is responsible for all costs associated with the Telephone Numbers and Electronic Media and, unless otherwise specified by Franchisor, must pay those costs directly to the providers of the Telephone Numbers and Electronic Media.

5. **Access to Telephone Numbers and Electronic Media.** Franchisor will have the right to access all accounts relating to the Telephone Numbers and Electronic Media. Franchisee must provide to Franchisor all information necessary to allow Franchisor to access those accounts, including usernames, passwords, security codes, and all changes to any of that information.

6. **Consent.** Franchisee hereby consents and authorizes any and all telephone companies, telephone directory services, Internet companies and other public or private businesses using, authorizing or providing any of the Telephone Numbers and Electronic Media to immediately recognize this Assignment upon receipt of written notice from Franchisor. Franchisee agrees that a copy of this Assignment, certified by an officer of Franchisor, will be as valid and binding as the original.

7. **Notices.** Franchisor may give notice of its acceptance of the Assignment of the Telephone Numbers and Electronic Media by sending written notice by (a) registered or certified mail, return receipt requested, postage pre-paid, in which case the notice will be complete two days after mailing; or (b) overnight courier service, in which case the notice will be complete one day after delivery to the overnight courier. Notices may be sent in accordance with this Section to Franchisee and to all telephone companies, Internet companies and other businesses that are to recognize the Assignment.

8. **Miscellaneous.** If any part of this Agreement is found to be unenforceable, such findings will not invalidate the other parts of this Agreement. This Agreement expresses the entire understanding of the parties with respect to the subject matter herein. This Agreement will be construed in accordance with the laws of the State of Michigan, and will be deemed to have been made in the State of Michigan. This Agreement may not be changed orally, but only by an agreement in writing and signed by the party against whom enforcement of any change is sought.

Signed and effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

RED EFFECT INTERNATIONAL  
FRANCHISE, LLC

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of RED  
EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company.

Notary Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

\_\_\_\_\_  
FRANCHISEE

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on  
\_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of  
\_\_\_\_\_, a \_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

**APPENDIX F—ELECTRONIC FUND TRANSFER AUTHORIZATION**

**AUTHORIZATION TO HONOR CHARGES DRAWN BY AND  
PAYABLE TO RED EFFECT INTERNATIONAL FRANCHISE, LLC (“FRANCHISOR”)**

The depositor identified below (“Depositor”) authorizes Red Effect International Franchise, LLC and its designees (“Franchisor”) to initiate credit and debit entries electronically or otherwise to Depositor’s checking or savings account indicated below (the “Account”) and authorizes the depository or bank designated below (the Depository”) to credit and/or debit the same to the Account.

This authority is to remain in full force and effect until Depository has received joint written notification from Franchisor and Depositor of the Depositor’s termination of such authority in such time and in such manner as to afford Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, Depository shall provide Franchisor and Depositor with thirty (30) days’ prior written notice of the termination of this authority.

Depository (Bank) Name: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Transit/ABA Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

Depositor: (Please Print): \_\_\_\_\_

Acknowledged and Agreed: (Please Sign): \_\_\_\_\_

Name and Title of Person Signing: \_\_\_\_\_

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

## **APPENDIX G—FORM OF LEASE ADDENDUM**

Any lease signed by Franchisee for the Franchise Location must be amended by an Addendum in the form set forth below or must contain the provisions included in the Addendum set forth below (except to the extent Franchisor agrees to waive any particular provisions).

### **ADDENDUM TO LEASE**

This Addendum to Lease is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Lease Agreement dated the same date (the “Lease”) entered into by \_\_\_\_\_ (“Franchisee”) and \_\_\_\_\_ (“Landlord”) for premises located at \_\_\_\_\_ (the “Premises”).

**1. Introduction.** Franchisee has entered into a Franchise Agreement with Red Effect International Franchise, LLC (“Franchisor”). The Franchise Agreement requires Franchisee’s lease for the Premises to contain certain provisions. In consideration of the agreement of Franchisor to enter into a Franchise Agreement with Franchisee for a Fitness Studio franchise to be located at the Premises, Landlord and Franchisee agree that the provisions contained in this Addendum will be applicable to the Lease notwithstanding anything to the contrary contained in the Lease.

**2. Use.** The Premises must not be used for any purpose other than the operation of a Fitness Studio during the term of the Lease, including renewals.

**3. Assignment to Franchisor or another Fitness Studio Franchisee.** Franchisee may assign all right, title and interest of Franchisee in and to the Lease and the Premises to Franchisor (including an assignment under Section 4 below) or to another Fitness Studio franchisee approved by Franchisor without the prior approval of Landlord and without the payment to Landlord of any fees or expenses. Landlord must be provided written notice of the assignment within 30 days after the effective date of the assignment. Unless otherwise agreed by Landlord, on any such assignment of the Lease, Franchisee and any guarantors under the Lease will continue to be liable to Landlord for all obligations under the Lease.

**4. Franchisor’s Option.** Landlord and Franchisee grant to Franchisor the exclusive right, exercisable at the option of Franchisor, to be assigned all right, title and interest of Franchisee in and to the Lease and the Premises on: (a) a default by Franchisee under the Lease; (b) the expiration or termination of the Franchise Agreement; or (c) Franchisee’s abandonment of the Fitness Studio operated at the Premises. For this purpose, abandonment will be conclusively presumed if Franchisee fails to have the business open and fully operational for five consecutive days. Franchisor must give written notice of its intent to exercise this option no later than thirty (30) days after the event triggering the option. On the giving of notice of exercise by Franchisor, the Lease, and all right, title and interest of Franchisee under the Lease and to the Premises will be automatically assigned to Franchisor without need of further instrument or consent by the Landlord and without the payment of any fees or expenses to the Landlord. If Franchisor does not give notice of exercise within the thirty (30) day period, Franchisor will be deemed to have forfeited all its rights under this paragraph. Landlord and Franchisee agree to execute documents confirming this assignment in the form presented by Franchisor, including a short form of Lease suitable for recording. If Franchisor exercises its option and takes an assignment of the Lease: (i) Franchisor will not be obligated to pay any



amounts due to Landlord from Franchisee under the Lease prior to the date Franchisor takes an assignment of the Lease; those amounts will be the sole obligation of Franchisee and nonpayment will not be grounds for termination of the Lease; and (ii) Franchisor will have the right to re-assign the Lease to an affiliate of Franchisor or to a Fitness Studio franchisee approved by Franchisor, without Landlord's prior consent and without the payment of any fees to Landlord.

**5. Liability of Guarantors.** The guaranty of any guarantors of the Lease will only apply to obligations arising during the initial term of the Lease.

**6. Franchisor's Designated Architect and General Contractor.** Franchisee is required to use Franchisor's designated architect and general contractor to design and construct the build-out of the Premises. Landlord agrees that Franchisor's designated architect and general contractor are approved to provide those services for the build-out at the Premises.

**7. Franchisor's Access.** Landlord and Franchisee grant to Franchisor the right to enter the Premises to inspect and audit Franchisee's business or to make any modifications necessary to protect the Franchisor trademarks.

**8. Exclusivity.** If the Premises are part of a strip mall, shopping center or similar location, Landlord will not lease any other space in the mall or center to any business activity involving any athletic or fitness center, health club, gymnasium, exercise or aerobics facility, a boot camp style fitness program, or a similar facility or business offering health and fitness training to the public through access to classes, training personnel, and/or fitness equipment.

**9. Notice of Default and Right to Cure.** Landlord must give Franchisor written notice of any breach of Franchisee under the Lease and Franchisor will have thirty (30) days from the date of that notice to cure that default on behalf of Franchisee before Landlord exercises any remedy it may have under the Lease.

**10. Other Notices.**

(a) Landlord and Franchisee must give Franchisor 30 days prior written notice of: (i) the cancellation or termination of the Lease prior to the expiration date of the lease; (ii) an assignment or attempted assignment of the Lease by the Landlord or Franchisee; (iii) the sublease or attempted sublease of the Premises by Franchisee; and (iv) any modification of the Lease.

(b) Landlord and Franchisee must provide written notice to Franchisor within 15 days after: (i) Franchisee exercises any option to extend the Lease; (ii) Landlord and Franchisee renew the lease; and (iii) Landlord institutes any action against Franchisee, including an eviction action.

**11. Method or Providing Notices.** All notices sent to Franchisor pursuant to this Addendum to Lease must be sent by certified or registered mail, return receipt requested, or by overnight courier, to the following address, or to such other address as to which Franchisor has notified the Landlord and Franchisee:

Red Effect International Franchise, LLC  
Attention: Allie T. Mallad  
4000 Page Ave.  
Michigan Center, Michigan 49254

**12. Modification of Premises.** Landlord and Franchisee agree that the Premises will not be modified or redecorated in any manner without the prior written approval of Franchisor.

**13. Third Party Beneficiary.** Landlord and Franchisee agree that Franchisor is a third party beneficiary of this Addendum and has the right independently of Franchise to enforce the provisions of this Addendum.

**14. Legal Effect.** Except as modified by the Addendum, the Lease will remain in full force and effect. The provisions of this Addendum will control over any inconsistent provisions contained in the Lease.

LANDLORD:  
\_\_\_\_\_

FRANCHISEE:  
\_\_\_\_\_

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

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

**APPENDIX H—COLLATERAL ASSIGNMENT OF LEASE**

**FOR VALUE RECEIVED**, the undersigned, \_\_\_\_\_ a \_\_\_\_\_ corporation, ("Assignor"), hereby assigns to Red Effect International Franchise, LLC, a Michigan limited liability company ("Assignee") all of Assignor's right, title and interest as tenant in, to and under a Lease Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is attached hereto as Exhibit A (the "Lease"), relating to premises commonly known as \_\_\_\_\_ (the "Premises"). This Assignment is for collateral purposes only and except as specified herein, Assignee will have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment or the Lease unless Assignee takes possession of the Premises pursuant to the terms of this Collateral Assignment and assumes the obligations of Assignor under the Lease.

Assignor represents and warrants to Assignee that it has full power and authority to assign the Lease and its interest in the Lease and that Assignor has not previously, and is not obligated to, assign or transfer any of its interest in the Lease or the Premises.

Assignee will have the right, but not the obligation, and is hereby empowered to take possession of the Premises, expel Assignor from the Premises, and, in such event, Assignor will have no further right, title or interest in the Lease, on the happening of any of the following events: (a) a default by Assignor under the Lease; (b) the expiration or termination of the Franchise Agreement by and between Assignor and Assignee (the "Franchise Agreement"); or (c) Franchisee's abandonment of the Fitness Studio operated at the Premises. For this purpose, abandonment will be conclusively presumed if Franchisee fails to have the business open and fully operational for five consecutive business days.

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

Assignee: Red Effect International Franchise, LLC Assignor: \_\_\_\_\_

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT C**

**ADDENDUM TO FRANCHISE AGREEMENT FOR CO-BRAND LOCATION**

## **ADDENDUM TO FRANCHISE AGREEMENT FOR CO-BRAND LOCATION**

THIS ADDENDUM TO FRANCHISE AGREEMENT ("Addendum") is made effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and amends a Franchise Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Franchise Agreement") between RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company, ("Franchisor ") and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee").

**1. Introduction.** The Franchise Agreement authorizes Franchisee to develop and/or operate a Red Effect Infrared Fitness Studio franchise (the "Franchise Business") at a specified location (the "Franchise Location"). Franchisee or an affiliate of Franchisee has also entered into an agreement with a different person (the "Other Brand Owner") to develop and/or operate a business under the Other Brand Owner's brand (the "Other Brand"). Franchisee has requested authorization from Franchisor to develop and operate the Franchise Business at a Franchise Location that will be shared with the Other Brand (a "Co-Brand Location"). The Other Brand Owner, the Other Brand, and the Co-Brand Location are identified on Schedule 1 to this Addendum. Franchisor is willing to amend the Franchise Agreement to grant this authorization on the terms and conditions contained in this Addendum.

Accordingly, in consideration of the mutual covenants contained in this Addendum and the Franchise Agreement and other consideration, the receipt and sufficiency of which are acknowledged, the parties agree to amend the Franchise Agreement in the manner provided in this Addendum.

**2. Authorization.** Franchisor authorizes Franchisee to operate the Franchise Business from the Co-Brand Location, subject to the terms and conditions contained in this Addendum, the Franchise Agreement, and Franchisor's policies and procedures relating to the operation of a Red Effect Infrared Fitness Studio at a Co-Brand Location. This authorization only applies to the Co-Brand Location and is further subject to Franchisee entering into a franchise or other agreement with the Other Brand Owner, obtaining any necessary approvals from the landlord of the Co-Brand Location, and obtaining any applicable governmental licenses and approvals.

**3. Acknowledgments.** Franchisee represents that it has requested authorization to operate the Franchise Business at the Co-Brand Location based solely on its desire to pursue this opportunity. Franchisee acknowledges that: (a) Franchisor has not requested that Franchisee pursue this opportunity; (b) Franchisor has not made any representations concerning the viability of this opportunity; and (c) Franchisor does not have prototype plans or procedures for adapting a Franchise Location to host the Other Brand or to add the Franchise Business to the location of the Other Brand.

**4. Development and Operation of Co-Brand Location.** In addition to and not in any way a limitation on the rights of Franchisor as provided in the Franchise Agreement, Franchisee agrees as follows:

(a) **Approval of Plans.** Franchisee must obtain Franchisor's prior written approval of all plans and drawings relating to placement, development, construction, or remodeling of the Co-Brand Location to accommodate the Franchise Business and/or the Other Brand before proceeding with any required government approvals and any construction or remodeling of the Co-Brand Location.

(b) Approval of Signage. Franchisee must obtain Franchisor's prior written approval of all interior and exterior signage and point of purchase marketing materials relating to the Franchise Business and the Other Brand at the Co-Brand Location.

(c) Co-Branding. Franchisee acknowledges and agrees that, since the Co-Brand Location will house the Franchise Business and the Other Brand, the signage, build-out, décor, equipment set-up, counter set-up, POS system(s), staffing, uniforms, etc. to be utilized at the Co-Brand Location must be in accordance with the specifications of Franchisor and the Other Brand Owner and must be approved in advance in writing by Franchisor and the Other Brand Owner.

(d) Policies and Procedures. Franchisor has the right to specify policies, regulations, procedures, and standards of operation relating to the development and operation of a Red Effect Infrared Fitness Studio at a Co-Brand Location (that may be different than policies, regulation, procedures, and standards for Red Effect Infrared Fitness Studios that are not operated at Co-Brand Locations) and Franchisee must comply with any such policies, regulations, procedures, and standards on written notice from Franchisor.

(e) Products and Services. Franchisee must not sell any of the products and services of the Franchise Business at or from the Other Brand.

(f) Inspection and Audit. Franchisor's rights to inspect and audit the Franchise Business will include the right to inspect and audit the Other Brand to the extent necessary to ensure compliance with the terms and conditions of this Addendum and the Franchise Agreement.

**5. Term.** This Addendum will begin on the effective date noted at the beginning of this Addendum and will continue for and during the term of the Franchise Agreement or until the Franchise Agreement is terminated, if sooner. Franchisee acknowledges that the authorization contained in this Addendum is limited and that Franchisor is under no obligation to continue the authorization after expiration of the term of the Franchise Agreement or after termination of the Franchise Agreement. Any decision to continue the authorization contained in this Addendum will be made in the sole discretion of Franchisor.

**6. Termination.** A default by Franchisee of its obligations under this Addendum will constitute a default by Franchisee under the Franchise Agreement. If Franchisee is in default of its obligations under this Addendum, Franchisor may choose to terminate this Addendum (in accordance with the termination provisions of the Franchise Agreement) without terminating Franchisee's other rights and obligations under the Franchise Agreement. On termination or expiration of this Addendum, all rights of Franchisee under this Addendum will cease unless those rights are granted by other agreements or by other policies of Franchisor.

**7. Legal Effect.** Any terms defined in the Franchise Agreement will have the same meaning in this Addendum unless expressly stated otherwise. This Addendum and any rights of Franchisee under this Addendum will terminate on expiration or termination of the Franchise Agreement. The rights of Franchisee under this Addendum are not transferable to any other party. Except as modified by this Addendum, the Franchise Agreement will remain in full force and effect and is incorporated in this Addendum by reference.

The parties have signed this Addendum on the dates below their signatures to be effective on the date at the beginning of this Addendum.

RED EFFECT INTERNATIONAL  
FRANCHISE, LLC

\_\_\_\_\_

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**SCHEDULE 1 TO CO-BRAND ADDENDUM**

This is Schedule 1 to the Addendum to Franchise Agreement made effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Addendum") between RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan corporation, ("Franchisor") and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee").

As described in Section 1 of the Addendum:

The Other Brand Owner is: \_\_\_\_\_

The Other Brand is: \_\_\_\_\_

The Co-Brand Location is: \_\_\_\_\_

\_\_\_\_\_

RED EFFECT INTERNATIONAL  
FRANCHISE, LLC

\_\_\_\_\_

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



**EXHIBIT D**

**THREE UNIT ADDENDUM TO FRANCHISE AGREEMENTS**

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**  
**THREE UNIT ADDENDUM TO FRANCHISE AGREEMENTS**

THIS ADDENDUM is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee") and modifies the Franchise Agreements described in Section 1 below.

**1. Introduction.**

As of the date of this Addendum Franchisee and Franchisor are executing three Franchise Agreements (the "Franchise Agreements") for Red Effect Fitness Studio franchises ("Fitness Studios") to be operated in the following area(s) \_\_\_\_\_ (the "Development Area").

The purpose of this Addendum is to set the initial franchise fees due under the Franchise Agreements and to establish the schedule for the opening dates of the Fitness Studios required to be operated under the Franchise Agreements. The initial franchise fees and Fitness Studio opening schedule specified in this Addendum will supersede and control over any conflicting initial franchise fees and deadlines for opening Fitness Studios in the Franchise Agreements. All other provisions of the Franchise Agreements will remain in full force and effect.

**2. Initial Franchise Fees.**

Franchisee must pay Franchisor initial franchise fees in the total amount of \$\_\_\_\_\_ under the Franchise Agreements. These initial franchise fees must be paid at the time of signing of this Addendum and are non-refundable.

**3. Fitness Studio Opening Schedule.**

Franchisee must open the Fitness Studios under the Franchise Agreements no later than the following dates; provided that, all three Fitness Studios must be open no later than \_\_\_\_\_ months from the date of this Addendum ("Opening Schedule"):

<b>Fitness Studio Number</b>	<b>Date that Fitness Studio Must be Open</b>
First Fitness Studio	_____ months from the date of this Addendum
Second Fitness Studio	_____ months after the date of this Addendum
Third Fitness Studio	_____ months after the date of this Addendum

Except for the required opening dates for the Fitness Studios as set forth above, all site selection, construction and other opening requirements and procedures will be governed by the terms of the Franchise Agreements and the applicable standards and specifications of Franchisor in place at that time.

**4. Failure to Satisfy Fitness Studio Opening Schedule.**

If Franchisee fails to open any of the Fitness Studios in the Fitness Studio Opening Schedule or if Franchisee gives written notice to Franchisor that it is ceasing development of further Fitness Studios ("No Further Opening Notice"): (a) this Addendum will terminate automatically; (b) the Franchise Agreements for any of the Fitness Studios Franchisee has not opened by the applicable Fitness Studio opening date (or at the time Franchisee delivers the No Further Opening Notice) may, in Franchisor's discretion, be terminated by notice under and subject to the terms of those Franchise Agreements; (c) Franchisor will have no obligation to refund any initial franchise fees Franchisee has paid with respect to any terminated Franchise Agreements; and (d) the Franchise Agreements for the Fitness Studios Franchisee has opened and any other Franchise Agreements that Franchisor has not terminated will continue in effect in

accordance with their terms. If Franchisee ceases operating or transfers any Fitness Studio developed under the terms of this Addendum without Franchisor's prior written consent, that Fitness Studio will no longer count as a Fitness Studio opened for purposes of the Fitness Studio Opening Schedule.

Franchisee acknowledges that Franchisor has the right to vary its standards and specifications to accommodate circumstances of individual franchisees. Franchisee agrees that, in determining whether Franchisee is in compliance with the Franchise Agreements as of a required Fitness Studio opening date, Franchisor has no duty to waive any defaults or to modify any requirements based solely on the fact that Franchisor may have done so for another franchisee. Also, if Franchisor allows Franchisee to proceed to open Fitness Studios despite the existence of a default or noncompliance with any of the Franchise Agreements, Franchisor's decision will not constitute a waiver of the default or noncompliance.

#### **5. No Exclusivity.**

This Addendum does not grant Franchisee any exclusive rights in the Development Area. Franchisor may operate or authorize any other person to operate Fitness Studios in the Development Area, subject only to any limited exclusive rights of Franchisee in the Protected Area granted under each Franchise Agreement once the Franchise Location for the Fitness Studio to be operated under that Franchise Agreement has been identified and approved. Franchisee acknowledges that Franchisor may authorize other franchisees to develop Fitness Studios in the Development Area on a first-come, first-served basis and that this could limit the locations available to Franchisee in the Development Area

#### **6. Assignment.**

Franchisee may only assign its rights under this Addendum in connection with the assignment of all of the Franchise Agreements. Any assignment will be subject to all applicable provision of the Franchise Agreements.

#### **7. General Provisions.**

(a) Entire Agreement; Modifications. This Addendum constitutes the entire agreement between Franchisor and Franchisee concerning the initial franchise fees and schedule for opening Fitness Studios under the Franchise Agreements and supersedes all prior agreements (other than the Franchise Agreements) and all negotiations, correspondence, and representations concerning this subject matter. This Addendum may only be amended in a writing signed by the authorized officers of Franchisor and Franchisee.

(b) Construction. Any terms used in this Addendum that are defined in the Franchise Agreements will have the same meaning in this Addendum unless otherwise defined in this Addendum or the context clearly indicates otherwise.

(c) Waiver. Any delay by Franchisor to insist on strict compliance with any obligation or condition of this Addendum will be applicable only in the specific instance and will not constitute a waiver of Franchisor's right to demand strict compliance with the obligation or condition in the future.

RED EFFECT INTERNATIONAL FRANCHISE, LLC

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of the RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company.

Notary Signature: \_\_\_\_\_

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

Notary Public, \_\_\_\_\_, County, MI

Commission Expires: \_\_\_\_\_

Acting in the County of: \_\_\_\_\_

FRANCHISEE

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

Notary Signature: \_\_\_\_\_

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

Notary Public, \_\_\_\_\_, County, MI

Commission Expires: \_\_\_\_\_

Acting in the County of: \_\_\_\_\_

**EXHIBIT E**

**TEN UNIT ADDENDUM TO FRANCHISE AGREEMENTS**

**RED EFFECT INTERNATIONAL FRANCHISE, LLC  
TEN UNIT ADDENDUM TO FRANCHISE AGREEMENTS**

THIS ADDENDUM is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee") and modifies the Franchise Agreements described in Section 1 below.

**1. Introduction.**

As of the date of this Addendum Franchisee and Franchisor are executing ten Franchise Agreements (the "Franchise Agreements") for Red Effect Fitness Studio franchises ("Fitness Studios") to be operated in the following area(s) \_\_\_\_\_ (the "Development Area"). The purpose of this Addendum is to set the initial franchise fees due under the Franchise Agreements and to establish the schedule for the opening dates of the Fitness Studios required to be operated under the Franchise Agreements. The initial franchise fees and Fitness Studio opening schedule specified in this Addendum will supersede and control over any conflicting initial franchise fees and deadlines for opening Fitness Studios in the Franchise Agreements. All other provisions of the Franchise Agreements will remain in full force and effect.

**2. Initial Franchise Fees.**

Franchisee must pay Franchisor initial franchise fees in the total amount of \$\_\_\_\_\_ under the Franchise Agreements. These initial franchise fees must be paid at the time of signing of this Addendum and are non-refundable.

**3. Fitness Studio Opening Schedule.**

Franchisee must open the Fitness Studios under the Franchise Agreements no later than the following dates; provided that, all ten Fitness Studios must be open no later than \_\_\_\_\_ months from the date of this Addendum ("Opening Schedule"):

<b>Fitness Studio Number</b>	<b>Date that Fitness Studio Must be Open</b>
First Fitness Studio	_____ months from the date of this Addendum
Second Fitness Studio	_____ months after the date of this Addendum
Third Fitness Studio	_____ months after the date of this Addendum
Fourth Fitness Studio	_____ months after the date of this Addendum
Fifth Fitness Studio	_____ months after the date of this Addendum
Sixth Fitness Studio	_____ months after the date of this Addendum
Seventh Fitness Studio	_____ months after the date of this Addendum
Eighth Fitness Studio	_____ months after the date of this Addendum
Ninth Fitness Studio	_____ months after the date of this Addendum
Tenth Fitness Studio	_____ months after the date of this Addendum

Except for the required opening dates for the Fitness Studios as set forth above, all site selection, construction and other opening requirements and procedures will be governed by the terms of the Franchise Agreements and the applicable standards and specifications of Franchisor in place at that time.

**4. Failure to Satisfy Fitness Studio Opening Schedule.**

If Franchisee fails to open any of the Fitness Studios in the Fitness Studio Opening Schedule or if Franchisee gives written notice to Franchisor that it is ceasing development of further Fitness Studios ("No Further Opening Notice"): (a) this Addendum will terminate

automatically; (b) the Franchise Agreements for any of the Fitness Studios Franchisee has not opened by the applicable Fitness Studio opening date (or at the time Franchisee delivers the No Further Opening Notice) may, in Franchisor's discretion, be terminated by notice under and subject to the terms of those Franchise Agreements; (c) Franchisor will have no obligation to refund any initial franchise fees Franchisee has paid with respect to any terminated Franchise Agreements; and (d) the Franchise Agreements for the Fitness Studios Franchisee has opened and any other Franchise Agreements that Franchisor has not terminated will continue in effect in accordance with their terms. If Franchisee ceases operating or transfers any Fitness Studio developed under the terms of this Addendum without Franchisor's prior written consent, that Fitness Studio will no longer count as a Fitness Studio opened for purposes of the Fitness Studio Opening Schedule.

Franchisee acknowledges that Franchisor has the right to vary its standards and specifications to accommodate circumstances of individual franchisees. Franchisee agrees that, in determining whether Franchisee is in compliance with the Franchise Agreements as of a required Fitness Studio opening date, Franchisor has no duty to waive any defaults or to modify any requirements based solely on the fact that Franchisor may have done so for another franchisee. Also, if Franchisor allows Franchisee to proceed to open Fitness Studios despite the existence of a default or noncompliance with any of the Franchise Agreements, Franchisor's decision will not constitute a waiver of the default or noncompliance.

#### **5. No Exclusivity.**

This Addendum does not grant Franchisee any exclusive rights in the Development Area. Franchisor may operate or authorize any other person to operate Fitness Studios in the Development Area, subject only to any limited exclusive rights of Franchisee in the Protected Area granted under each Franchise Agreement once the Franchise Location for the Fitness Studio to be operated under that Franchise Agreement has been identified and approved. Franchisee acknowledges that Franchisor may authorize other franchisees to develop Fitness Studios in the Development Area on a first-come, first-served basis and that this could limit the locations available to Franchisee in the Development Area

#### **6. Assignment.**

Franchisee may only assign its rights under this Addendum in connection with the assignment of all of the Franchise Agreements. Any assignment will be subject to all applicable provision of the Franchise Agreements.

#### **7. General Provisions.**

(a) Entire Agreement; Modifications. This Addendum constitutes the entire agreement between Franchisor and Franchisee concerning the initial franchise fees and schedule for opening Fitness Studios under the Franchise Agreements and supersedes all prior agreements (other than the Franchise Agreements) and all negotiations, correspondence, and representations concerning this subject matter. This Addendum may only be amended in a writing signed by the authorized officers of Franchisor and Franchisee.

(b) Construction. Any terms used in this Addendum that are defined in the Franchise Agreements will have the same meaning in this Addendum unless otherwise defined in this Addendum or the context clearly indicates otherwise.

(c) Waiver. Any delay by Franchisor to insist on strict compliance with any obligation or condition of this Addendum will be applicable only in the specific instance and will

not constitute a waiver of Franchisor's right to demand strict compliance with the obligation or condition in the future.

RED EFFECT INTERNATIONAL FRANCHISE, LLC

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of the RED EFFECT INTERNATIONAL FRANCHISE, LLC, a Michigan limited liability company.

Notary Signature: \_\_\_\_\_

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

Notary Public, \_\_\_\_\_, County, \_\_\_\_\_

Commission Expires: \_\_\_\_\_

Acting in the County of: \_\_\_\_\_

FRANCHISEE

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

Its: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

Notary Signature: \_\_\_\_\_

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

Notary Public, \_\_\_\_\_, County, \_\_\_\_\_

Commission Expires: \_\_\_\_\_

Acting in the County of: \_\_\_\_\_



**EXHIBIT F**

**CONFIDENTIALITY AND NON-COMPETITION AGREEMENT**

**RED EFFECT FRANCHISE SYSTEM**  
**CONFIDENTIALITY AND NON-COMPETITION AGREEMENT**

I am an employee or trainee of \_\_\_\_\_  
(the "Company"). The Company operates or is developing a Red Effect Fitness Studio franchise under a Franchise Agreement between the Company and Red Effect International Franchise, LLC (the "Franchisor").

As an employee or trainee of the Company, I acknowledge that in the course of my employment by the Company and/or my training in the Red Effect Fitness Studio systems of operation, I will have access to certain Confidential Information, as defined below, about the Company's and the Franchisor's methods of establishing, developing, operating and maintaining Red Effect Fitness Studios that is confidential and not available to the public in general. I understand that the Company and the Franchisor have spent a great deal of time and money developing this Confidential Information and I acknowledge that the Company's and the Franchisor's reasonable competitive business interests would be severely and irreparably damaged if the Confidential Information that has been (or may be) revealed to me were to be disclosed to any third person, become available to the public in general, or used by me to compete with the Company or the Franchisor or any of its affiliates or franchisees. I, therefore, agree that the Company and the Franchisor have a need to protect the Company's and the Franchisor's valuable Confidential Information and I agree that in consideration of these factors, and in consideration of my employment or continuing employment with the Company and/or my training in the Red Effect Fitness Studio systems of operation, I promise and agree to be bound by the terms of this Agreement as follows:

1. I agree not to directly or indirectly disclose to any individual, sole proprietorship, company, partnership, corporation, limited liability company, joint venture or any other entity (collectively a "Person") or to use myself, any Confidential Information that I learn during my training and/or employment with the Company, except as necessary in the course of my employment with the Company. I agree that these restrictions will apply while I am in training and/or am employed by the Company and indefinitely after my training and/or employment is completed or my employment terminates.

I also agree that if my training ceases without my being employed by the Company or my employment with the Company terminates, I will immediately return to the Company or the Franchisor, all memoranda, notes and other electronic, written or printed information that is in my possession or under my control, which contains Confidential Information, including information, which although not confidential, belongs to the Company or the Franchisor or relates to the business or systems of the Company or the Franchisor. This obligation will apply regardless of whether the information was prepared by the Company, the Franchisor, a third party, or me.

The term "Confidential Information" as used in this Agreement means (i) "proprietary information," which includes techniques, processes, equipment, materials, computer programs or information, whether patentable or not, relating to the establishment, development, operation and maintenance of the Company's business or a Red Effect Fitness Studio and all related information and all other information that is confidential, unique and/or not generally known or available to the public, including but not limited to, information regarding the Company's or the Franchisor's methods, equipment and materials relating to the development or operation of the Company's business or a Red Effect Fitness Studio; (ii) "trade secret" information which includes any

knowledge, ideas, concepts, techniques, computer programs, systems manuals, installation guides, reports, technical manuals, operation manuals, and training programs relating to the establishment, development, operation and maintenance of the Company's business or a Red Effect Fitness Studio; (iii) "customer information" which includes information about current and prospective customers of the Company or the Franchisor, including any list that contains the names, addresses, telephone numbers, and other contact information of the Company's employees and/or current or prospective customers, and specific information about these customers or prospective customers; and (iv) "supplier information" which includes information about current and prospective carriers, suppliers, vendors, agencies or providers of the Company or the Franchisor, including the names, addresses and telephone numbers of any such suppliers and the terms of any contracts or arrangements between the Company or the Franchisor and such suppliers.

2. I will not, while I am in training or while I am employed by the Company, nor within two (2) years of the date that training ceases without my being employed by the Company or the date of termination of my employment by the Company:

(a) use, advise on the use of or in any manner enter into or be employed in any business that uses the Confidential Information;

(b) engage in any business that is in competition with the Company or the Franchisor or its franchisees, either directly or indirectly, as principal, agent on behalf of others, jointly with others, or as a stockholder, partner, director, officer, independent contractor, employee or advisor of or to any Person, within five miles of any Red Effect Fitness Studio;

(c) have a financial interest in, or aid or assist, financially or otherwise (as a lender, stockholder, or otherwise), any Person who is engaged in a competitive business within five miles of any Red Effect Fitness Studio;

(d) employ or seek to employ any individual who is or was employed by the Company or the Franchisor or a Red Effect Fitness Studio, or directly or indirectly induce any individual to leave their employment with the Company or the Franchisor or with a Red Effect Fitness Studio;

I also agree that I will not maliciously disparage or otherwise make harmful or unfavorable statements regarding the Company or the Franchisor or a Red Effect Fitness Studio or any of their services, operations, processes or methods to anyone else.

3. Pursuant to the federal Defend Trade Secrets Act of 2016, I have been notified and understand that I will not be held criminally or civilly liable under any federal or state trade secrets law for the disclosure of a trade secret that: (i) is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

4. I understand that the Franchisor is the exclusive owner of all rights relating to the Red Effect Fitness Studio systems and I agree that as a condition of my training and/or employment by the Company, the Franchisor has the exclusive rights to all ideas, improvements

and innovations relating to a Red Effect Fitness Studio business, which I conceive, develop or help develop during my training and/or employment.

5. I understand that the Company is an independently owned and operated Red Effect Fitness Studio franchisee and is my sole employer and solely responsible for the terms or my employment and my compensation. I further understand that the Franchisor is not directly or indirectly my employer and that the Franchisor is granted rights under this Agreement solely for the purpose of protecting the Red Effect Fitness Studio systems and brand.

6. My obligations under this Agreement will be binding on me and my heirs and personal representatives and will inure to the benefit of the Company and the Franchisor and their successors and assigns. My obligations arising out of this Agreement are in addition to and are not in any manner limitations on all obligations not to use or disclose the Company's or the Franchisor's Confidential Information as provided by law, whether expressly or by implication.

7. I acknowledge that the Company and/or the Franchisor will suffer irreparable harm if I violate or breach the promises I have made in this Agreement. I, therefore, agree that the Company and/or the Franchisor will be entitled to an injunction enjoining me and restraining me from performing and continuing to commit any violation or breach of this Agreement, in addition to any other rights and remedies it might have. Also, the Company and the Franchisor will be entitled to recover all damages and costs and expenses from me, including reasonable attorney fees and costs incurred in enforcing this Agreement. These remedies are cumulative and not alternative, and will be in addition to every remedy given under this Agreement, any other agreement between me and the Company, or now or later existing at law or in equity, by statute or otherwise. The election of one or more remedies will not constitute a waiver of the right to pursue other remedies.

8. Except as otherwise provided in this Agreement, if any provision of this Agreement or part thereof is determined by a court or agency of competent jurisdiction ("Court") to be contrary to law, the remainder of this Agreement will constitute the Agreement between me and the Company. If the Court holds all or part of this Agreement to be unreasonable or unenforceable because the restrictions imposed on me are too broad, I agree to be bound by a less restrictive covenant that imposes the maximum duty to the Company and the Franchisor permitted by law, as determined by the Court.

9. I have had an opportunity to review all the terms of this Agreement with my attorney and/or advisors and have read, understand and voluntarily accept all the terms of this Agreement.

10. I agree that any litigation will only be conducted on an individual, not a class-wide basis, and that a litigation proceeding between me and the Company or the Franchisor may not be consolidated with any other litigation proceeding between me and the Company or the Franchisor and any other person, corporation, limited liability company, partnership or other entity. I waive, to the fullest extent allowed by law, any right to pursue or participate as a lead plaintiff or a class representative in any claim on a class or consolidated basis.

11. AFTER CONSULTING WITH MY ATTORNEY OR HAVING THE OPPORTUNITY TO DO SO, I KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY (AND WITHOUT DURESS OR COERCION) WAIVE ANY RIGHT I MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS AGREEMENT OR BASED ON ANY COURSE OF CONDUCT, DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN)

OR ACTION RELATING TO THIS AGREEMENT. I WILL NOT SEEK TO CONSOLIDATE, BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS WILL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY ME OR THE COMPANY EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY ME AND THE COMPANY.

12. I agree that the Franchisor, although not a party to this Agreement, will be a third party beneficiary with the right to enforce my obligations under this Agreement.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Employee/Trainee

\_\_\_\_\_  
Type or Print Employee/Trainee Name

ACCEPTED:

\_\_\_\_\_  
The Company

Dated: \_\_\_\_\_

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

Its: \_\_\_\_\_

**EXHIBIT G**

**SALES AND RELATED DOCUMENTS FOR A TURN-KEY FRANCHISE**

**CLOSING DOCUMENTS CHECKLIST**

**SELLER:** \_\_\_\_\_  
**PURCHASER:** \_\_\_\_\_  
**LOCATION:** \_\_\_\_\_  
\_\_\_\_\_  
**EFFECTIVE DATE:** \_\_\_\_\_

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1. Agreement for Sale of Assets.
2. Bill of Sale (Exhibit A).
3. Assignment and Assumption of Lease (Exhibit B).
4. Promissory Note (Exhibit C).
5. Security Agreement (Exhibit D).
6. Personal Guaranty (Exhibit E).
7. Closing Statement (Exhibit F).
8. Closing Statement—Inventory (Exhibit G).

**AGREEMENT FOR SALE OF ASSETS**

THIS AGREEMENT is effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is made by \_\_\_\_\_, a \_\_\_\_\_ ("Seller") and \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser").

**1. Introduction.** Seller owns the assets of the Red Effect Infrared Fitness Studio (the "Business") operated or being developed at \_\_\_\_\_ (the "Location"). Seller desires to sell and Purchaser desires to purchase the assets of the Business on the terms and conditions described in this Agreement. Also, Seller desires to assign and Purchaser desires to assume the Lease for the Location on the terms and conditions described in this Agreement.

**2. Sale of Assets.** Subject to the terms of this Agreement, Seller will sell to Purchaser, as of the Effective Date (as defined in Section 18 below), the following assets of the Business:

- (a) The equipment and furniture at the Location;
- (b) The inventory at the Location;
- (c) Trade fixtures, signs and leasehold improvements at the Location (subject to the rights of the Landlord under the Lease for the Location);
- (d) The right to use any telephone and facsimile numbers in use at the Business;
- (e) Any and all customer lists, files, mailing lists and the like used and/or compiled by the Business;
- (f) Any and all marketing and advertising materials used by the Business and present at the Location, including without limitation brochures, displays and signage, but excluding any materials that contain the Seller's name and address;
- (g) Intangible assets and goodwill (subject to the rights of the franchisor, Red Effect International Franchise, LLC); and
- (h) Miscellaneous assets and supplies of the Business.

Notwithstanding the foregoing, the assets being transferred do not include cash, accounts receivable and any vehicle used in connection with the Business. The assets included in the sale are referred to in this Agreement as the "Purchased Assets".

On or before the Closing Date (defined in Section 18 below), Seller will sign a Bill of Sale in the form attached as Exhibit A to transfer the Purchased Assets to Purchaser. The Bill of Sale will be effective on the Effective Date.

**3. Assignment of Lease for Location.** Purchaser acknowledges that Seller is leasing the Location from \_\_\_\_\_ ("Landlord") under a lease dated \_\_\_\_\_, 20\_\_\_\_ (the "Lease"). As of the Effective Date, Seller will assign and Purchaser will assume all of Seller's rights and obligations under the Lease (including the



security deposit in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars paid under the Lease). On or before the Closing Date, Seller and Purchaser will sign an Assignment and Assumption of Lease in the form attached as Exhibit B. Purchaser acknowledges that the initial term of the Lease expires on \_\_\_\_\_, 20\_\_ and that there are \_\_\_\_\_-year options to renew the Lease.

**4. Operation of the Business as a Red Effect Infrared Fitness Studio Franchise.** On or before the Closing Date, Purchaser will enter into a Franchise Agreement with Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor"), which will authorize and obligate Purchaser to operate a Red Effect Infrared Fitness Studio franchise at the Location.

**5. Purchase Price and Payment; Allocation.** The purchase price to be paid by Purchaser for the Purchased Assets will be \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars plus the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars, which is the amount of the security deposit being held under the Lease plus the value of the inventory of the Business determined as described in Section 6 below. The purchase price will be paid as follows:

- (a) The value of the inventory will be paid in the manner described in Section 6 below.
- (b) The amount of \$ \_\_\_\_\_ will be paid at closing by cashier's check or wire transfer.
- (c) The remaining amount of \$ \_\_\_\_\_ will be paid pursuant to the terms of a Promissory Note that will be issued by Purchaser to Seller at closing. The Promissory Note will be in the form attached as Exhibit C.

The consideration will be allocated by the parties among the Purchased Assets as agreed to by the accountants of the parties. Seller and Purchaser agree to execute and file IRS Form 8594 as required by law and to file all other returns and reports in a manner consistent with the allocations agreed to by the accountants for the parties.

**6. Inventory.** A physical inventory of all inventory of the Business at the Location as of the Effective Date will be taken on or immediately before the Effective Date. The inventory will be valued at Seller's cost. Purchaser must pay the price for this inventory by check on the Effective Date.

**7. Security for Purchaser's Obligations.** As security for Purchaser's obligations to Seller under this Agreement and the Promissory Note, Purchaser will sign, at closing, a Security Agreement in the form attached as Exhibit D. Also, the owners of Purchaser must personally guaranty the obligations of Purchaser to Seller by signing a Personal Guaranty in the form attached as Exhibit E.

**8. Assumption of Seller's Obligations.** Purchaser is not assuming any liabilities or obligations of Seller, including any liabilities or obligations arising from the operation or development of the Business by Seller, except as specifically set forth in this Section or otherwise in this Agreement.

Purchaser will assume and be responsible for the following obligations relating to the Business (the "Assumed Contracts"):

- (a) Seller's obligations under any gift cards issued by the Business.
- (b) Seller's obligations to customers and members for memberships sold by the Business before the Effective Date.
- (c) \_\_\_\_\_.

**9. Representations, Warranties and Agreements of Seller.** Seller represents, warrants and agrees that:

(a) Organization. Seller is a \_\_\_\_\_. Seller has all requisite power and authority to own its properties and conduct its business as it is now being conducted.

(b) Authorization. Seller has all requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated under this Agreement. Seller has taken all necessary corporate action (including the approval of its Members) to approve the execution and performance of this Agreement. \_\_\_\_\_ has been authorized to execute this Agreement, as \_\_\_\_\_, on behalf of Seller.

(c) No Conflict. The execution and performance of this Agreement and the consummation of the transactions contemplated by this Agreement: (i) do not and will not violate any provisions of law applicable to the Seller or the Purchased Assets; (ii) do not and will not conflict with, result in a breach or termination of any provision of or constitute a default under (in each case whether with or without the getting of notice or the lapse of time or both), Seller's Articles of Organization or Operating Agreement or any mortgage, lease or other agreement or any order, judgment or arbitration award to which Seller is a party or by which Seller or the Purchased Assets are bound; and (iii) do not and will not result in the creation of any lien on the Purchased Assets.

(d) No Insolvency. No insolvency proceeding of any character, including bankruptcy, receivership, reorganization or arrangement with creditors, voluntary or involuntary, affecting Seller or any of the Purchased Assets is pending or to the best knowledge of Seller, threatened. Seller has not taken any action in contemplation of or that would constitute the basis for the institution of any insolvency proceedings.

(e) Permits and Licenses. Seller has all necessary permits, certificates, licenses, approvals, consents and other authorizations required to conduct the Business and to own, lease, use and operate the Business at the Location and in the manner in which the Business is conducted.

(f) No Employee Benefit Plans. Seller has not maintained any employee benefit plans for the Business, including collective bargaining agreements, pensions, bonuses, deferred compensation, retirement, severance, hospitalization, insurance, salary continuation, or other employee benefit plans or programs.

(g) Material Contracts. The Lease and any Assumed Contracts are in full force and effect and constitute legal, binding obligations of the Seller and the third party. Seller is not in breach of its obligations under the Lease or the Assumed Contracts. Seller is not aware of any breach by a third party under the Lease or Assumed Contracts and has no reason to believe there exists a claim for breach under the Lease or the Assumed Contracts. Except for the Lease and the Assumed Contracts, Seller is not a party to or bound by any agreement or commitment that affects the Purchased Assets or the Location that cannot be terminated by no more than 30 days notice.

(h) Title to Purchased Assets. Seller holds clear title to the Purchased Assets, free and clear of all claims, liens and encumbrances and will convey the Purchased Assets to Purchaser on the Effective Date free and clear of all claims, liens and encumbrances.

(i) Condition of Purchased Assets. THE PURCHASED ASSETS ARE SOLD "AS IS" AND SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING THE CONDITION OF THE PURCHASED ASSETS AND DISCLAIMS ANY SUCH REPRESENTATIONS AND WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE TO PURCHASER FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE CONDITION OF THE PURCHASED ASSETS.

(j) Condition of Location. THE LOCATION IS BEING DELIEVERD "AS-IS" AND SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING THE CONDITION OF THE LOCATION OR THE REAL ESTATE COMPRISING THE LOCATION AND DISCLAIMS ANY SUCH REPRESENTATIONS AND WARRANTIES. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE TO PURCHASER FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE CONDITION OF THE LOCATION.

(k) Taxes. For the purposes of this Agreement, "Tax" or "Taxes" will mean all federal, state, county, local and other taxes, including, without limitation, income taxes, single business taxes, excise taxes, sales taxes, use taxes, value added taxes, gross receipt taxes, franchise taxes, personal property taxes, transfer taxes, employment, unemployment and payroll related taxes, withholding taxes and governmental charges and assessments, and includes interest, additions to the taxes and penalties.

Seller has filed or will file all tax returns it is required to file under federal, state or local law, and has paid or will pay all Taxes for the period covered by those returns. No agreements have been made by or on behalf of Seller for any waiver or for the extension of any statute of limitations governing the time of assessment or collection of any Taxes. Seller has received no notice of any pending or threatened audit by the IRS or any state or local agency relating to Seller's tax returns or tax liability for any period.

(l) Litigation. There are no claims, disputes, actions, suits, proceedings or investigations pending or to the best knowledge of Seller, threatened against or affecting Seller, the Business or the Purchased Assets.

(m) Environmental Matters. Seller is not in violation of any federal, state or local environmental law and has not received any notice of non-compliance with

governmental regulations regarding storage, labeling and environmental protection or site maintenance and there have been no notices of violation of any applicable law, ordinance, rule, regulation or requirement or of any covenant or restriction affecting or relating to the use or occupancy of the Location.

(n) Compliance with Laws. At all times before the Effective Date, Seller has and will comply with all laws or regulations, rules, decrees and ordinances affecting to any extent or in any manner, any aspects of the Business or the Purchased Assets, including all health department regulations. Seller has not been investigated in the last year and is not currently under investigation by any governmental organization and has not received any notices of violations of any governmental laws or regulations that have not been completely corrected.

(o) Utilities and other Payables of the Business. Seller has paid or will pay, to the Effective Date, all utilities and other payables of the Business, including all fees for gas, water, electric, yellow pages and telephone usage on or before the Effective Date. Seller warrants that Purchaser will not be liable for any of these obligations of Seller.

(p) Operations in Ordinary Course. Until the Effective Date, Seller will: (i) continue to operate the Business in the same manner as currently conducted by Seller, including maintaining all current business insurance policies up to the Effective Date; (ii) not remove, or cause to be removed, any merchandise or other Purchased Assets, unless relating to inventory or in the ordinary course of business; (iii) not increase the compensation payable to any employee of the Business; (iv) not enter into any contract or agreement, written or oral, in relation to the Business binding Purchaser after the transfer of the Business to Purchaser, except normal and ordinary commitments for the purchase of equipment, merchandise and supplies.

(q) No Guaranty of Future Performance. SELLER HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR AGREEMENTS REGARDING FUTURE SALES, FUTURE PROFITABILITY, FUTURE EXPENSES OR OTHER FUTURE FINANCIAL MATTERS RELATING TO THE BUSINESS AND DISCLAIMS ANY SUCH REPRESENTATIONS AND WARRANTIES. SELLER DOES NOT GUARANTY THE FUTURE SUCCESS OR PROFITABILITY OF THE BUSINESS.

**10. Representations, Warranties and Agreements of Purchaser.** The Purchaser represents, warrants and agrees that:

(a) Organization. Purchaser is a validly existing \_\_\_\_\_.

(b) Authorization. Purchaser has all requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated under this Agreement. \_\_\_\_\_ has been authorized to execute this Agreement, as \_\_\_\_\_, on behalf of Purchaser.

(c) No Conflict. The execution and performance of this Agreement and the consummation of the transactions contemplated by this Agreement: (i) do not and will not violate any provisions of law applicable to the Purchaser; and (ii) do not and will not conflict with, result in a breach or termination of any provision of or constitute a default under (in each case whether with or without the getting of notice or the lapse of time or

both), Purchaser's Articles of Organization or Operating Agreement, any mortgage, lease or other agreement or any order, judgment or arbitration award to which Purchaser is a party or by which Purchaser is bound.

(d) No Insolvency. No insolvency proceeding of any character, including bankruptcy, receivership, reorganization or arrangement with creditors, voluntary or involuntary, affecting Purchaser is pending or to the best knowledge of Purchaser, threatened. Purchaser has not taken any action in contemplation of or that would constitute the basis for the institution of any insolvency proceedings.

(e) Litigation. There are no claims, disputes, actions, suits, proceedings or investigations pending or to the best knowledge of Purchaser, threatened against or affecting Purchaser or the transaction described in this Agreement.

(f) Condition of Purchased Assets. Purchaser acknowledges that SELLER IS SELLING THE PURCHASED ASSETS "AS IS" AND SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING THE CONDITION OF THE PURCHASED ASSETS AND DISCLAIMS ANY SUCH REPRESENTATIONS AND WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE TO PURCHASER FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE CONDITION OF THE PURCHASED ASSETS.

(g) Condition of Location. PURCHASER HAS INSPECTED THE LOCATION AND AGREES TO ACCEPT THE LOCATION UNDER THE LEASE "AS-IS." PURCHASER ACKNOWLEDGES THAT SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDITION OF THE REAL ESTATE COMPRISING THE LOCATION.

(q) No Guaranty of Future Performance. Purchaser acknowledges that SELLER HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR AGREEMENTS REGARDING FUTURE SALES, FUTURE PROFITABILITY, FUTURE EXPENSES OR OTHER FUTURE FINANCIAL MATTERS RELATING TO THE BUSINESS AND THAT SELLER DISCLAIMS ANY SUCH REPRESENTATIONS AND WARRANTIES. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER DOES NOT GUARANTY THE FUTURE SUCCESS OR PROFITABILITY OF THE BUSINESS.

**11. Access to Location and Employees of Business.** Purchaser and its counsel, accountants and other representatives have been given reasonable access to all of the Purchased Assets and the Location, as is needed to conduct a physical inspection of the Purchased Assets and Location to determine compliance with the terms of this Agreement. Purchaser will be given, on reasonable notice and request from Purchaser, reasonable access to the employees of the Business before the Effective Date.

**12. Pre-Closing Contingencies to Purchaser's Obligations.** The obligations of Purchaser under this Agreement are contingent on the completion of the following on or before the Effective Date:

(a) The representations and warranties of Seller are true as of the date of this Agreement and as of the Effective Date.

(b) Purchaser is able to confirm, by being provided access to the Location for a walk-through before the Effective Date, that all Purchased Assets are present at the Location.

(c) The signing of all required documents by Seller and the transfer of possession of the Purchased Assets and Location to Purchaser by the Effective Date.

Without prejudice to any of its other rights or remedies, Purchaser, in its discretion, may terminate this Agreement before the Closing Date on the failure of any contingency referred to in this Section.

**13. Pre-Closing Contingencies to Seller's Obligations.** The obligations of Seller under this Agreement are contingent on the completion of the following on or before the Effective Date:

(a) The representations and warranties of Purchaser are true as of the date of this Agreement and as of the Effective Date.

(b) The signing of all required documents by Purchaser by the Effective Date.

(c) The payment of all consideration by Purchaser by the Effective Date.

Without prejudice to any of its other rights or remedies, Seller, in its discretion, may terminate this Agreement before the Closing Date on the failure of any contingency referred to in this Section.

**14. Prorations and Adjustments.**

(a) Real and Personal Property Taxes. Real and Personal property taxes due in connection with the Business and Location in the calendar year of the Effective Date will be prorated between the Parties based on the number of days each party will be in possession of the Business during that calendar year. Each party will pay its proportion of those amounts when they become due.

(b) Rent. The rent for the Location for the calendar month in which the Effective Date takes place will be prorated between the Parties based on the number of days each party will be in possession of the Business during that calendar month.

(c) Utilities, Other Services and Assumed Contracts. Except as otherwise provided in this Agreement, all utilities (gas, electric, water, etc.), telephone fees, yellow pages obligations, alarm services, scavenger services and other services incurred at the Location on or before the Effective Date will be the responsibility of Seller. All utilities (gas, electric, water, etc.), telephone fees, yellow pages obligations, alarm services, scavenger services and other services incurred at the Location after the Effective Date will be the responsibility of Purchaser. If necessary, the utilities, telephone fees, yellow pages obligations, alarm services, scavenger services and other services will be ratably adjusted between the parties when the applicable bills or invoices are received by the parties.

(d) Customer Payments. Customers of the Business on a monthly pre-payment plan are debited on or near the 1<sup>st</sup> day of each month. Those amounts usually hit the accounts of the Business by the 4<sup>th</sup> or 5<sup>th</sup> day of each month. If the Effective Date takes place within the first four days of a calendar month, these monthly debit payments for the month in which the Effective Date takes place will belong to Purchaser and will not be prorated. If the Effective Date takes place after the first four days of a calendar month, then the monthly debit payments for the calendar month in which the Effective Date takes place will be prorated between the parties based on the number of days each party will be in possession of the Business during that calendar month.

**15. Accounts Receivable.** Except as otherwise provided in this Agreement, Seller will be entitled to receive all accounts receivable generated by the Business prior to the Effective Date. Purchaser will refer to places designated by Seller any payments on accounts offered by customers of the Business in full or partial satisfaction of their indebtedness to Seller.

**16. Indemnification.**

(a) Indemnification by Seller. Seller will indemnify, protect, defend (through attorneys reasonably acceptable to Purchaser) and hold harmless Purchaser and its successors and assigns from and against any and all claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) which may at any time following the Effective Date be asserted against or suffered by Purchaser arising out of or resulting from the following (whether accruing before or after the Effective Date):

(i) The operation of Business by Seller;

(ii) Seller's failure to pay any liabilities relating to the Business, its employees, past or present, or governmental liabilities; other than any liabilities assumed by Purchaser in this Agreement; and

(iii) Seller's breach of any of the representations, warranties or covenants Seller made under this Agreement.

(b) Indemnification by Purchaser. Purchaser will indemnify, protect, defend (through attorneys reasonably acceptable to Seller) and hold harmless Seller and their successors and assigns from and against any and all claims, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) which may at any time following the Effective Date be asserted against or suffered by Seller arising out of or resulting from the following (whether accruing before or after the Effective Date):

(i) The operation of the Business by Purchaser;

(ii) Purchaser's failure to pay any liabilities relating to the Business, its employees, past or present, or governmental liabilities, other than any liabilities accruing or arising on or before the Effective Date that are not assumed by Purchaser in writing; and

(iii) Purchaser's breach of any of the representations, warranties or covenants Purchaser made under this Agreement.

(c) The provisions of this Section will survive the closing of this transaction. If a party responsible under this Section to defend the other party fails, within a reasonable time after notice, to defend such action, the other party will have the right, but not the obligation, to undertake the defense of and to compromise or settle (exercising reasonable business judgment) a claim or other matter on behalf, for the account, and at the risk of the party responsible under this Section to defend the other party.

**17. Employees of Business.** The parties acknowledge that Purchaser is not obligated to hire any of the existing employees of the Business. If Purchaser elects to hire any existing employees, those employees will be considered new employees of Purchaser; and Seller will be responsible for termination and payment of any benefit and compensation plans and insurance policies existing before the Effective Date.

**18. Risk of Loss.** Before the Effective Date, Purchaser does not assume and will not in any event be responsible or liable for any loss or damage to the Purchased Assets or Location not caused by Purchaser or its agents and representatives.

**19. Closing; Signing of Documents.** The closing of this transaction will be completed by the parties signing and exchanging the necessary documents by email, courier service or in-person and payment of the consideration by wire transfer and check. These closing transactions will be completed on or before \_\_\_\_\_, 20\_\_\_\_ unless the Parties agree to another date (the actual date that these closing transactions are completed is referred to in this Agreement as the "Closing Date"). The closing will be effective and Purchaser will receive possession of the Purchased Assets and Location as of the open of business on \_\_\_\_\_, 20\_\_\_\_ unless the Parties agree to another date (the actual date that the closing is effective and Purchaser receives possession of the Purchased Assets and Location is referred to in this Agreement as the "Effective Date").

The parties agree, in connection with closing of this transaction, to perform all acts and execute all documents necessary or incidental to accomplish this sale and to further evidence this Agreement, including the following:

(a) Purchaser will sign (as applicable) and deliver to Seller's office, no later than the Closing Date, at least two copies signed by Purchaser of each of the following:

- (i) The Agreement for Sale of Assets;
- (ii) The Assignment and Assumption of the Lease for the Location;
- (iii) Insurance Certificates for the Location; and
- (iv) Closing Statements substantially in the form attached as Exhibit F and Exhibit G.

(b) Seller will sign (as applicable) and deliver to Purchaser's office, no later than the Closing Date, at least two copies signed by Seller of each of the following:

- (i) The Agreement for Sale of Assets;
- (ii) The Bill of Sale;



- (iii) The Assignment and Assumption of the Lease for the Location;
  - (iv) Closing Statements substantially in the form attached as Exhibit F and Exhibit G.
- (c) Purchaser will wire transfer payment to Seller in the amount of \$ \_\_\_\_\_ no later than the Effective Date.
- (d) Purchaser will deliver a check to Seller in the amount of the value of the inventory no later than the Effective Date.
- (e) On or before the Effective Date:
- (i) Seller will deliver all keys, lists of passwords and any other security data necessary to access the Location or to utilize the Purchased Assets;
  - (ii) Seller will provide confirmation that all security authorizations and designations have been changed with third party security companies per Purchaser's instructions.

**20. Notices.** Notices under this Agreement must be in writing signed by the party serving the same and must be sent by: (a) registered or certified mail, return receipt requested, postage pre-paid, in which case the notice will be complete two days after mailing; or (b) overnight courier service, in which case the notice will be complete one day after delivery to the overnight courier; to the parties at the addresses set forth below or at such address as designated by notice pursuant to this Section.

<u>Seller:</u>	<u>Purchaser:</u>
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**21. No Assignment.** Purchaser will have no right to assign or transfer its rights under this Agreement without the written consent of Seller. Any assignment or transfer by Purchaser without the written consent of Seller will be null and void.

**22. Applicable Law and Jurisdiction.** This Agreement and the construction of this Agreement will be governed by the laws of the State of Michigan (without reference to the conflict of laws provisions). Any legal proceedings between the parties may be brought and conducted in a state court located in Oakland County, Michigan or a federal court for the district covering Oakland County, Michigan, except that legal proceedings brought by Seller for injunctive relief or to obtain possession of real or personal property from Purchaser or to collect on a judgment may, at Seller's option, be brought in a state or federal court for the county in which Purchaser's business is located. Purchaser consents to and waives any objections to jurisdiction and venue in the courts specified in this Section.

**23. Miscellaneous.** The following additional provisions will apply to this Agreement:

(a) Agreement Binding. This Agreement and all the representations and warranties in this Agreement will survive the closing of the transaction and will be binding on the heirs, executors, administrators, successors, and assigns of the parties.

(b) Entire Agreement. This Agreement supersedes all prior written or oral agreements or understandings and contains the entire agreement by and between the parties with respect to the matters covered.

(c) Amendment or Modification. This Agreement may be amended or modified only by an agreement in writing between the parties.

(d) Waiver. The failure of any party to demand strict compliance with a covenant or condition of this Agreement will not be a waiver of its rights to demand strict compliance in the future.

(e) Titles and Captions. All paragraph titles or captions in this Agreement are for convenience only and will not be deemed part of the context of this Agreement.

(f) Counterparts; Signature by Facsimile or Email. This Agreement may be signed in two (2) or more counterparts, each of which will be deemed an original. A party may sign this Agreement and any agreements necessary to close this transaction by sending a copy of the agreement containing that party's signature to the other party by facsimile or email.

(g) Pronouns and Plurals. All pronouns and variations will be deemed to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person or persons may require.

The parties have signed this Agreement on the dates set forth below their signatures to be effective as of the date set forth at the beginning of this Agreement.

<p>_____</p> <p>By: _____</p> <p>_____</p> <p>Dated: _____</p>	<p>_____</p> <p>By: _____</p> <p>_____</p> <p>Dated: _____</p>
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**EXHIBIT A**

**BILL OF SALE**

**BILL OF SALE**

\_\_\_\_\_, a \_\_\_\_\_,  
\_\_\_\_\_, whose address is \_\_\_\_\_  
("Seller"), for valuable consideration paid by \_\_\_\_\_  
\_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_  
\_\_\_\_\_ ("Purchaser"), sells to Purchaser, its assigns and  
successors, the following assets of the ZIFit Infrared Fitness Studio business ("Business") operated  
or being developed at \_\_\_\_\_  
("Location"):

- (a) The equipment and furniture at the Location;
- (b) The inventory at the Location;
- (c) Trade fixtures, signs and leasehold improvements at the Location (subject to the rights of the Landlord under the Lease for the Location);
- (d) The right to use any telephone and facsimile numbers in use at the Business;
- (e) Any and all customer lists, files, mailing lists and the like used and/or compiled by the Business;
- (f) Any and all marketing and advertising materials used by the Business and present at the Location, including without limitation brochures, displays and signage, but excluding any materials that contain the Seller's name and address;
- (g) Intangible assets and goodwill (subject to the rights of the franchisor, ZIFit International Franchise, LLC); and
- (h) Miscellaneous assets and supplies of the Business.

Notwithstanding the foregoing, the assets being transferred do not include cash, accounts receivable and any vehicle used in connection with the Business.

This Bill of Sale is issued pursuant to an Agreement for Sale of Assets and is subject to the terms of that Agreement.

Seller has signed this Bill of Sale on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to be effective as of \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

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

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, a \_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

**EXHIBIT B**

**ASSIGNMENT AND ASSUMPTION OF LEASE**

**ASSIGNMENT AND ASSUMPTION OF LEASE**

This Assignment and Assumption of Lease ("Assignment") is made effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, a \_\_\_\_\_, whose address \_\_\_\_\_ ("Assignor") and \_\_\_\_\_, a \_\_\_\_\_, whose address is \_\_\_\_\_ ("Assignee").

**1. Introduction.** Assignor, as Tenant, and \_\_\_\_\_, as Landlord ("Landlord"), are parties to a Lease dated \_\_\_\_\_, 20\_\_ (the "Lease") for premises located at \_\_\_\_\_ (the "Premises"). Assignor desires to assign the Lease to Assignee in connection with the sale of the Red Effect Infrared Fitness Studio business at the Premises to Assignee.

**2. Assignment and Assumption.** Effective as of \_\_\_\_\_, 20\_\_ (the "Effective Date"), Assignor surrenders and assigns to Assignee and Assignee accepts the surrender and assignment from Assignor of all of Assignor's right, title and interest in, to and under the Lease, a copy of which, as amended to date, is attached to this Assignment. As of the Effective date, Assignee assumes and agrees to be bound by and pay and perform all of the obligations, terms, covenants and conditions that, pursuant to the Lease, are to be observed, kept and/or performed by the Tenant under the Lease from and after the Effective Date. Assignee agree to indemnify and hold harmless Assignor and its affiliates, members, employees and agents from and against any liability incurred by Assignor or its affiliates, members, employees and agents as a result of any obligations under the Lease arising from and after the Effective Date.

**3. Representations of Assignor.** Assignor represents and warrants that: (a) the Lease is in full force and effect; (b) Assignor has performed all of its obligations up to the Effective Date; (c) Assignor has full right and power to sign this Assignment; and (d) the Lease has not been modified, supplemented or amended except as provided in the attached Lease and amendments.

**4. Liability of Assignor after the Effective Date.** Assignor will remain liable for the Tenant's obligations under the Lease through \_\_\_\_\_, 20\_\_ ("Release Date"). Assignor will have no liability under the Lease for any obligations arising after the Release Date.

**5. Agreement Binding.** This Assignment will be binding on and will inure to the benefit of the parties and their successors and permitted assigns.

The parties have signed this Assignment on the dates set forth beside their signatures, to be effective as of the date set forth at the beginning of this Assignment.

\_\_\_\_\_

Dated: \_\_\_\_\_

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

---

Dated: \_\_\_\_\_

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



**EXHIBIT C**

**PROMISSORY NOTE**

**PROMISSORY NOTE**

\$ \_\_\_\_\_, 20\_\_

For value received, \_\_\_\_\_, a \_\_\_\_\_  
\_\_\_\_\_ ("Purchaser"), promises to pay to the order of \_\_\_\_\_  
\_\_\_\_\_, a \_\_\_\_\_ ("Seller") at \_\_\_\_\_  
\_\_\_\_\_, the principal sum of \_\_\_\_\_  
\_\_\_\_\_ (\$ \_\_\_\_\_) Dollars, plus interest from the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the rate of \_\_\_\_\_ percent (\_\_\_\_\_% ) per annum until paid. This note must be paid as follows: \_

\_\_\_\_\_. Payments will be applied first to any costs of enforcing this Note, second to the payment of interest due and third to the payment and reduction of principal.

This note may be prepaid at any time, in whole or in part, without penalty. Any installment not paid when due will be assessed a late charge of five percent (5%) of the installment. If Purchaser is in default under this Note and the default continues for a period of fifteen (15) days, then the entire indebtedness represented by this Note will become immediately due and payable at the option of the Holder. Purchaser agrees to pay reasonable attorneys' fees and disbursements and other reasonable expenses incurred by the Holder in connection with enforcement of this Note.

Except to the extent otherwise prohibited by law, Purchaser and each other person liable under this Note waives presentment, protest, notice of dishonor, demand for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, notice of sale and all other notices of any kind. Further, Purchaser agrees that Seller may (i) extend, modify or renew this Note or make a novation of the loan evidenced by this Note, and/or (ii) grant releases, compromises or indulgences with respect to any collateral securing this Note, or with respect to Purchaser or other person liable under this Note, all without notice to or consent of Purchaser and other such person, and without affecting the liability of Purchaser and other such person. The obligations of Purchaser under this Note (if there is more than one Purchaser or other person liable) are joint and several.

Purchaser will be considered in default under this Note if it fails to make any payment due under the terms of this Note or fails to comply with any other agreement between Purchaser and Seller, including but not limited to the Agreement for Sale of Assets, Assignment and Assumption of Lease and Security Agreement entered into by the parties. Purchaser will also be considered in default under this Note if it commits a default (and fails to cure that default during any applicable cure period) under any agreement between Purchaser and Red Effect International Franchise, LLC ("Franchisor"), including the Franchise Agreement entered into by Purchaser and Franchisor. This Note is issued in connection with an Agreement for Sale of Assets and is subject to the terms and conditions of that Agreement. This Note is also subject to the terms and conditions of the Security Agreement executed to provide security for the payment of Purchaser's obligations to Seller. Purchaser must pay to Seller all Seller's costs incurred in collecting the amounts owed under this Note, including actual attorneys' fees and court costs, and those amounts will be added to the amounts owed under this Note

This Agreement and the construction of this Agreement will be governed by the laws of the State of Michigan (without reference to the conflict of laws provisions). Any legal proceedings between the parties may be brought and conducted in a state court located in Oakland County, Michigan or a federal court for the district covering Oakland County, Michigan, except that legal proceedings brought by Seller for injunctive relief or to obtain possession of real or personal property from Purchaser or to collect on a judgment may, at Seller's option, be brought in a state or federal court for the county in which

Purchaser's business is located. Purchaser consents to and waives any objections to jurisdiction and venue in the courts specified in this Section.

\_\_\_\_\_

Dated: \_\_\_\_\_

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

**EXHIBIT D**

**SECURITY AGREEMENT**

## SECURITY AGREEMENT

THIS AGREEMENT is made effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("Seller") and \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser").

**1. Security Interest in Collateral.** Purchaser grants to Seller a continuing security interest in the following:

All personal and fixture property of every kind and nature including without limitation all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts (including health-care-insurance receivables), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to payment of money, insurance claims and proceeds, tort claims, and all general intangibles (including all payment intangibles) now or hereafter owned by the Purchaser wherever the collateral is located, including, but not limited to, the personal property and fixtures located at \_\_\_\_\_, and all proceeds and products arising from the sale, exchange or other disposition of any or all of the aforesaid types of properties, whether cash or non-cash in nature (all such property is hereinafter sometimes called the "Collateral").

This security interest is granted to secure payment of indebtedness represented by the Promissory Notes of Purchaser issued and payable to Seller pursuant to an Agreement for Sale of Assets and also any and all other indebtedness of Purchaser to Seller now existing or arising in the future, absolute or contingent, due or to become due, including, but not limited to all costs and expenses incurred in the collection of any of Purchaser's indebtedness to Seller and all future advances made by Seller to the Purchaser for taxes levied, insurance and repairs to or maintenance of the Collateral ("Indebtedness").

Purchaser agrees to sign financing statements and other documents and to take all other action that Seller deems necessary to perfect this security interest. Purchaser must, upon acquiring any new or additional assets, including commercial tort claims, promptly notify Seller of the acquisition of those assets, stating the nature, description, cost and amount of the fixed assets acquired and must execute and deliver to Seller any additional security agreements, financing statements or other documents with respect to the additional fixed assets as are deemed necessary by Seller.

This is a purchase money security interest.

**2. Authorization to File Financing Statements.** Purchaser irrevocably authorizes Seller at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of Purchaser or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of an applicable state or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the Uniform Commercial Code of the applicable state for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Purchaser is an organization, the type of organization and

any organization identification number issued to the Purchaser, and (ii) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Purchaser agrees to furnish any such information to Seller on request.

**3. Location of Collateral.** The Collateral will be kept at its present location. Purchaser will notify Seller of any proposed changes in location of the Collateral and will not remove the Collateral from its present location without the written consent of Seller.

**4. Restriction on Disposition of Collateral.** Purchaser must not sell or offer to sell or otherwise transfer, dispose of or encumber the Collateral without the written consent of Seller. The sale of inventory in the ordinary course of Purchaser's business will not be subject to the restrictions of this Paragraph as long as Purchaser is not in default under this Agreement. Seller's security interest will, however, attach to all proceeds of all sales or other disposition of Purchaser's inventory.

**5. Representations, Warranties and Agreements of Purchaser.** The Purchaser represents, warrants and agrees that:

(a) Purchaser has, and will maintain throughout the term of this Agreement, good and marketable title to all the Collateral, free and clear of all security interests, liens and encumbrances other than the security interest created by this Agreement or by other Security Agreements between the parties.

(b) Purchaser will use the Collateral only in its Red Effect Infrared Fitness Studio franchise business and will not misuse, abuse or waste the Collateral.

(c) Purchaser will not use the Collateral or permit the Collateral to be used in violation of any law or ordinance of any governmental authority.

(d) Purchaser will maintain the Collateral in good condition and repair, reasonable wear and tear alone excepted.

(e) If Purchaser is a corporation, limited liability company, limited partnership or entity formed by filing with a state government agency, Purchaser has delivered a copy of its organizational documents to Seller and Purchaser represents and warrants that the information in the organizational documents accurately and completely states: (i) the exact legal name of Purchaser, (ii) the jurisdiction of organization of Purchaser, (ii) the organizational identification number of Purchaser (if Purchaser has one), and (iv) Purchaser's place of business and mailing address if different.

(f) Without providing at least 30 days prior written notice to Seller, Purchaser will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one.

(g) If Purchaser does not have an organizational identification number and later obtains one, Purchaser will promptly notify Seller of such organizational number.

(h) Purchaser will not change its type of organization, jurisdiction or organization or other legal structure without the prior written consent of Seller.

6. **Insurance.** Purchaser must have and maintain at all times, with respect to the Collateral, policies of insurance against risks of fire, so called extended coverage and other risks customarily insured against by companies engaged in similar businesses to that of Purchaser. The insurance policies must be in an amount and must contain terms and be written by companies satisfactory to Seller. The insurance policies must be payable to Purchaser and Seller as their interests may appear. Purchaser must furnish Seller with certificates or other evidence of compliance with the provisions of this Paragraph. If Purchaser fails to procure, maintain or provide proof of the required insurance, Seller may insure the Collateral to its satisfaction and Purchaser must immediately repay Seller for the cost of the insurance.

7. **Possession.** Except as otherwise provided in this Agreement, until default Purchaser may have possession of the Collateral subject to this Security Agreement and may use it in any lawful manner not inconsistent with this Security Agreement.

8. **Inspection of Collateral and Records of Purchaser.** Seller may examine and inspect the Collateral subject to this Security Agreement and all the books and records of the Purchaser at any time during normal business hours, wherever the Collateral, books and records are located. Purchaser will deliver to Seller signed and/or certified financial statements when requested by Seller and Purchaser will keep records relating to the Collateral as required by Seller.

9. **Payment of Taxes and Assessments.** Purchaser must pay when due all taxes and assessments, which may become a lien on the Collateral and must promptly satisfy any and all liens that may attach to the Collateral by operation of law or otherwise.

10. **Seller's Performance of Purchaser's Obligations.** At its option, Seller may discharge taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral, may pay for the maintenance and preservation of the Collateral or may perform any other obligations of Purchaser under this Security Agreement. If Seller performs any of Purchaser's obligations, Purchaser must reimburse Seller, upon demand, for any expense incurred by Seller in performing those obligations and the expenses incurred by Seller will be included in the Indebtedness secured by this Agreement.

11. **Special Account.** If Purchaser is in default under this Agreement, then on Seller's demand, Purchaser must maintain a special bank account with Seller, over which Seller alone has power of withdrawal and Purchaser must deposit in the special account, upon receipt, checks, drafts, cash and other remittances in payment of inventory sold or in payment of or on account of Purchaser's receivables. Seller will hold the funds in the special account as security for the Indebtedness. The items deposited into the special account must be deposited in precisely the form received by Purchaser, except for the endorsement of Purchaser where necessary to permit collection of items, which endorsement Purchaser agrees to make and which Seller is also authorized to make on Purchaser's behalf. Pending deposit into the special account, Purchaser will not commingle any checks, drafts, cash or other remittances with any of Purchaser's funds or property, but will hold them separate and apart and as an express trust for Seller. Seller may, at least once a week, apply the whole or any part of the amounts in the special account against the principal and/or interest of the Indebtedness whether or not such obligation is then due. Any portion of the funds in the special account that Seller elects not to so apply may be paid over by Seller to Purchaser.

12. **Collection of Accounts.** If Purchaser is in default under this Agreement, then Seller will have the right to notify the account debtor obligated on any or all of Purchaser's receivables, to make payment directly to Seller, and to take control of all proceeds of any such

receivable, which rights Seller may exercise at any time, whether or not the Purchaser is then in default under this Agreement or was previously making collections on such receivables. Until such time as Seller elects to exercise the rights set forth in this Paragraph, by mailing to Purchaser written notice of exercise, Purchaser is authorized to collect and enforce its receivables. The costs of collection and enforcement of the receivables, including attorney fees and out-of-pocket expenses will be paid by Purchaser, whether Seller or Purchaser incurs those expenses.

**13. Default.** Purchaser will be in default under this Security Agreement on the happening of any of the following events or conditions:

(a) The failure of Purchaser to make any payment to Seller within fifteen (15) days of the date the payment is due including, but not limited to, any payments required under any Promissory Note issued by Purchaser to Seller;

(b) Any default by Purchaser under this Security Agreement, the Agreement for Sale of Assets, the Assignment and Assumption of Lease between Purchaser and Seller, or any other agreement between the parties, which default is not cured within fifteen (15) days after notice of said default is given to Purchaser;

(c) Any default by Purchaser under the Franchise Agreement or any other Agreement between Purchaser and Red Effect International Franchise, LLC;

(d) Any warranty, representation or statement made or furnished to Seller by or on behalf of the Purchaser proves to have been false in any material respect when made or furnished;

(e) The filing of a petition by or against Purchaser under the provisions of any state insolvency laws or under the provisions of the Federal Bankruptcy laws;

(f) Any assignment by the Purchaser for the benefit of any creditor;

(g) The appointment of a receiver over substantially all the assets of Purchaser or the initiation of any proceeding for the dissolution or full or partial liquidation of Purchaser;

(h) Seller deems the margin of Collateral insufficient or itself insecure, in good faith believing that the prospect of payment of the Indebtedness or the performance of this Security Agreement is impaired or fears deterioration, removal or waste of the Collateral, or any substantial portion thereof; or

(i) The loss, theft, damage, destruction, sale or encumbrance to or of any of the Collateral covered by this Security Agreement, or the making of any attachment, levy, garnishment or other judicial process of or on Purchaser or any of the Collateral.

**14. Remedies on Default.** In the event of default as set forth in Paragraph 13:

(a) Any and all liabilities of Purchaser to Seller will, at the option of Seller and notwithstanding any time or credit allowed by this Agreement or any other instrument, be immediately due and payable without notice or demand;

(b) Seller will have all the rights and remedies of a secured party under the Uniform Commercial Code as enacted and in force in the State of Michigan, and under any



other applicable statutory or common law, and in addition may enter any premises where the Collateral is stored and remove the Collateral, or may require Purchaser to assemble the Collateral and make it available to Seller at a place to be designated by Seller which is reasonably convenient to both parties;

(c) Seller may sell all of the Collateral or any part thereof at a public or private sale on ten (10) days prior written notice to Purchaser of the time and place of such sale. Seller may purchase the Collateral at such sale;

(d) Seller will have the right to settle or compromise disputed claims on the Collateral it collects directly; and

(e) Seller will be reimbursed by Purchaser for and/or may retain out of the proceeds of any sale of or collection on the Collateral, all costs and charges incurred in enforcing its rights under this Security Agreement or under any note or other obligation secured by this Security Agreement, including reasonable attorney fees, or expenses incurred for pursuing, reclaiming, seeking to reclaim, taking, keeping, removing, storing, selling and advertising the Collateral for sale, or expenses incurred in the discharge of any prior liens on the Collateral, including, but not limited to, liabilities due and owing to taxing authorities. Any balance received from the sale of or collection on the Collateral, after paying the charges set forth above, will be applied upon the obligations of Purchaser to Seller, and in the event of any deficiency Purchaser will remain liable to Seller. Any surplus will promptly be paid to Purchaser.

The remedies provided in this Paragraph are in addition to any other remedies provided in this Agreement or by law or equity.

**15. Notices.** Notices under this Agreement must be in writing signed by the party serving the same and must be sent by: (a) registered or certified mail, return receipt requested, postage pre-paid, in which case the notice will be complete two days after mailing; (b) overnight courier service, in which case the notice will be complete one day after delivery to the overnight courier; or (c) facsimile with proof of completion, in which case the notice will be complete one day after proof of completion; to the parties at the addresses set forth below or at such address as designated by notice pursuant to this Section.

Seller

Purchaser

**16. Controlling Law and Jurisdiction.** This Agreement and the construction of this Agreement will be governed by the laws of the State of Michigan (without reference to the conflict of laws provisions). Any legal proceedings between the parties may be brought and conducted in a state court located in Oakland County, Michigan or a federal court for the district covering Oakland County, Michigan, except that legal proceedings brought by Seller for injunctive relief or to obtain possession of real or personal property from Purchaser or to collect on a judgment may, at Seller's option, be brought in a state or federal court for the county in which Purchaser's business is located. Purchaser consents to and waives any objections to jurisdiction and venue in the courts specified in this Section.

17. **Miscellaneous.** The following additional provisions will apply to this Agreement:

(a) Agreement Binding. This Agreement will be binding upon the heirs, executors, administrators, successors and assigns of the parties. If any provision of this Agreement or any evidence of the Indebtedness is contrary to the laws of any State, the remainder of this Agreement shall remain in full force and effect.

(b) Entire Agreement. This Agreement contains the entire agreement of the parties as to the matters covered and supersedes any prior written or oral agreements.

(c) Amendment or Modification. This Agreement may be amended or modified only by an agreement in writing between all the parties.

(d) Waiver. The failure of any party to demand strict compliance with a covenant or condition of this Agreement will not be a waiver of its rights to demand strict compliance in the future.

(e) Titles and Captions. All Paragraphs, titles or captions contained in this Agreement are for convenience only and will not be deemed part of the context of this Agreement.

(f) Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original.

(g) Pronouns and Plurals. All pronouns and variations thereof will be deemed to refer to the masculine, feminine, singular or plural as the identity of the person or persons may require.

The parties have signed this Agreement on the dates set forth next to their signatures to be effective as of the date set forth at the beginning of this Agreement.

\_\_\_\_\_

Dated: \_\_\_\_\_

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

\_\_\_\_\_

Dated: \_\_\_\_\_

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

**EXHIBIT E**

**PERSONAL GUARANTY**

## PERSONAL GUARANTY

The persons signing below (each a "Guarantor"), in order to induce \_\_\_\_\_ ("Seller") to enter into financing transactions and other agreements with \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser"), unconditionally, jointly and severally:

1. Guaranty to Seller the prompt and full payment and performance of all obligations of Purchaser to Seller including, without limitation, all obligations arising out of the Promissory Note in the original principal amount of \$ \_\_\_\_\_ issued by Purchaser to Seller on \_\_\_\_\_, 20\_\_\_\_, the Agreement for Sale of Assets between Seller and Purchaser dated \_\_\_\_\_, 20\_\_\_\_, the Assignment and Assumption of Lease between Seller and Purchaser dated \_\_\_\_\_, 20\_\_\_\_, the Security Agreement between Seller and Purchaser dated \_\_\_\_\_, 20\_\_\_\_, or any other agreement between the parties and including all costs and expenses (including reasonable attorneys' fees), incurred in the enforcement of any of Purchaser's obligations to Seller, all without Seller first having to proceed against Purchaser, or otherwise enforce or commence to enforce payment of those obligations;
2. Agree to pay to Seller all costs and expenses, including reasonable attorney fees, incurred in enforcing this Guaranty;
3. Waive acceptance of this Guaranty by Seller and waive presentment, demand for payment, protest, notice of dishonor and any other notice or demand of any kind and the necessity of Seller instituting legal proceedings against the Seller;
4. Consent that Seller will have the right, without notice, to deal in any way at any time with Seller or any other guarantor, or to grant any such party any extensions of time for payment of any indebtedness, or to sell, release, surrender, exchange, substitute, settle, compromise, waive, subordinate or modify, with or without consideration and on such terms and conditions as may be acceptable to Seller, any and all collateral, security, guaranties, obligations, indebtedness, liabilities, notes, instruments or other evidence of indebtedness concerning which payment is guaranteed hereby, or grant any other indulgences or forebearances whatever, without in any way affecting Guarantor's liabilities under this Guaranty;
5. Agree that any indebtedness by the Seller to Guarantor, for any reason, currently existing, or which might arise after this Guaranty, will at all times be inferior and subordinate to any indebtedness owed by the Seller to Seller;
6. Agree that as long as the Seller owes any monies to Seller (other than payments that are not past due) the Seller will not pay and Guarantor will not accept payment of any part of any indebtedness owed by the Seller to Guarantor, either directly or indirectly, without the consent of Seller;
7. Agree that the liability of Guarantor is independent of any other guaranties at any time in effect with respect to all or any part of Seller's indebtedness to Seller, and that the liability created hereby may be enforced regardless of the existence of any other guaranties;
8. Agree that this Guaranty will be binding on the heirs, devisees, successors and assigns of Guarantor and will inure to the benefit of Seller's successor and assigns;
9. Agree that the obligations of the Guarantors under this Guaranty (if there is more than one Guarantor) are joint and several;

10. Agree that: (a) this Agreement and the construction of this Agreement will be governed by the laws of the State of Michigan (without reference to the conflict of laws provisions); (b) any legal proceedings between the parties may be brought and conducted in a state court located in Oakland County, Michigan or a federal court for the district covering Oakland County, Michigan, except that legal proceedings brought by Seller for injunctive relief or to obtain possession of real or personal property from Purchaser or to collect on a judgment may, at Seller's option, be brought in a state or federal court for the county in which Purchaser's business is located; and (c) Guarantors consent to and waive any objections to jurisdiction and venue in the courts specified in this Section; and

11. GUARANTOR ACKNOWLEDGES THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. GUARANTOR, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF HIS OR HER CHOICE, KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS GUARANTY OR THE INDEBTEDNESS COVERED BY THIS GUARANTY.

Guarantors:

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

Notary Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_

**EXHIBIT F**

**CLOSING STATEMENT**

**CLOSING STATEMENT**

**SELLER:** \_\_\_\_\_  
**PURCHASER:** \_\_\_\_\_  
**LOCATION:** \_\_\_\_\_  
\_\_\_\_\_  
**EFFECTIVE DATE:** \_\_\_\_\_

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PURCHASE PRICE (exclusive of inventory) \$ \_\_\_\_\_

**SELLER'S CREDITS**

Prorated Rent \$ \_\_\_\_\_  
Deposit under Lease \$ \_\_\_\_\_

TOTAL CREDITS TO SELLER \$ \_\_\_\_\_

TOTAL DUE TO SELLER \$ \_\_\_\_\_

**PURCHASER'S CREDITS**

\$ \_\_\_\_\_

TOTAL CREDITS TO PURCHASER \$ \_\_\_\_\_

NET DUE TO SELLER AT CLOSING \$ \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

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

\_\_\_\_\_

Dated: \_\_\_\_\_

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

**EXHIBIT G**

**CLOSING STATEMENT--INVENTORY**



**CLOSING STATEMENT--INVENTORY**

**SELLER:** \_\_\_\_\_  
**PURCHASER:** \_\_\_\_\_  
**LOCATION:** \_\_\_\_\_  
\_\_\_\_\_  
**EFFECTIVE DATE:** \_\_\_\_\_

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PURCHASE PRICE OF INVENTORY \$ \_\_\_\_\_

**SELLER'S CREDITS**

TOTAL CREDITS TO SELLER \$ \_\_\_\_\_

TOTAL DUE TO SELLER \$ \_\_\_\_\_

**PURCHASER'S CREDITS**

Reimbursement for gift card liability \$ \_\_\_\_\_

TOTAL CREDITS TO PURCHASER \$ \_\_\_\_\_

NET DUE TO SELLER AT CLOSING \$ \_\_\_\_\_

Dated: \_\_\_\_\_

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

Dated: \_\_\_\_\_

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

**EXHIBIT H**

**LOCAL ADVERTISING COOPERATIVE AGREEMENT**

**LOCAL ADVERTISING COOPERATIVE AGREEMENT**  
**FOR**  
**RED EFFECT FITNESS STUDIOS IN \_\_\_\_\_**

THIS LOCAL ADVERTISING COOPERATIVE AGREEMENT (this "Agreement") is made effective \_\_\_\_\_, 20\_\_ by the Members (individually, a "Member" and collectively, the "Members") of the Red Effect Local Advertising Cooperative for \_\_\_\_\_ (the "Cooperative"). The Members agree as follows:

**ARTICLE 1—ORGANIZATION**

**Section 1.1 Purposes.**

The Cooperative was formed to act as the Red Effect Local Advertising Cooperative for the area described as follows: \_\_\_\_\_ (the "Marketing Area"). The Cooperative was formed and has been administered under the terms and conditions of the Franchise Agreements that Red Effect International Franchise, LLC (the "Franchisor") has entered into with the owners of the Red Effect Fitness Studios in the Marketing Area (the "Franchise Agreements" and each a "Franchise Agreement"). Under the Franchise Agreements, the Red Effect Fitness Studios in the Marketing Area are required to adopt a cooperative agreement governing the organization and operation of the Cooperative. This Agreement will constitute the cooperative agreement for the Red Effect Fitness Studios in the Marketing Area.

**Section 1.2 Entity for Operation of the Cooperative.**

\_\_\_\_\_, a \_\_\_\_\_ (the "Company"), was formed on \_\_\_\_\_, 20\_\_ for operation of the Cooperative. All banks accounts, books and records, reporting, and contracts for the Cooperative are and will be in the name of the Company and actions on behalf of the Cooperative may be taken in the name of the Company.

**Section 1.3 Principal Address.**

The principal address of the Cooperative will be \_\_\_\_\_. The principal address may be changed from time to time by the Members.

**ARTICLE 2—MEMBERSHIP**

**Section 2.1 Members; Designated Owner.**

Each Red Effect Fitness Studio in the Marketing Area will be a Member of the Cooperative unless membership has been terminated as provided in this Agreement. This includes all Red Effect Fitness Studios in the Marketing Area, whether operated by a Red Effect Franchisee or by the Franchisor or any subsidiary or affiliate of the Franchisor. There will be one Membership for each Red Effect Fitness Studio in the Marketing Area regardless of whether the Store is owned by an individual, a group of individuals, or an entity that directly or indirectly controls one of more Red Effect Fitness Studios.

Each Member, whether that Member is an individual, a group of individuals, or an entity, will be represented by the individual designated as its Designated Owner in the Member's Franchise Agreement (the "Designated Owner"). A Member's Designated Owner may not be changed except with the prior written consent of the Franchisor. The Designated Owner of a Member is the only person allowed to attend meetings of the Cooperative on behalf of a Member.

## **Section 2.2 Membership Agreements.**

Each Member of the Cooperative must sign a Membership Agreement in the form attached to this Agreement as Exhibit A, which will obligate the Member to comply with the terms of this Agreement.

## **Section 2.3 Termination of Membership.**

The Cooperative may terminate a Member's membership in the Cooperative if the Member fails to pay required contributions and any other fees to the Cooperative within 10 days after written notice from the Cooperative, but only if the Franchisor consents to the termination. Also, a Member's membership in the Cooperative will automatically terminate if the Member ceases to own and operate at least one Red Effect Fitness Studio in the Marketing Area. On termination, the terminated Member will still be responsible for any contributions due as of the date of termination.

## **Section 2.4 Non-Cooperative Members.**

Only Members of the Cooperative may participate in Cooperative sponsored events or promotions unless otherwise approved by the Members.

## **Section 2.5 Changes to Cooperative by Franchisor.**

The Members acknowledge that the Cooperative has been formed in accordance with the Franchisor's rights under the Franchise Agreements to designate a local advertising cooperative. The Members also acknowledge that the Franchisor may, in the future, change, alter, amend, or terminate its designations concerning the Cooperative.

# **ARTICLE 3—CONTRIBUTIONS BY MEMBERS**

## **Section 3.1 Members' Contributions to the Cooperative.**

Each Member must make contributions to the Cooperative in the amount, at the times, and in the manner determined by a majority vote of the Members from time to time; provided that, each Member's monthly contributions to the Cooperative will not exceed the greater of: (a) Five Percent (5%) of the Member's monthly gross sales; or (b) Four Thousand Dollars (\$4,000). Any change in contributions determined by the Cooperative will be effective no earlier than 30 days after written notice of the change to the Members. The Members' contributions to the Cooperative will count toward the Members' minimum local advertising requirements under the Franchise Agreements.

Payment of each Member's contribution must be made by preauthorized automatic electronic funds transfer or other means specified by the Administrator. Each Member agrees to comply with procedures specified by the Administrator and/or perform such acts and deliver and execute all such documents, including authorization for direct debits from or credits to one or more accounts designated by the Member (the "Designated Accounts") as may be necessary to

assist in or accomplish payment by such method. Under this procedure, each Member will authorize the Administrator to initiate debit entries and/or credit entries to the Designated Accounts for payment of contributions and other amounts owed to the Cooperative. Each Member must ensure that adequate funds are available in the Designated Accounts for withdrawal by the Administrator by electronic funds transfer no later than the due date for payment.

### **Section 3.2 Default in Payment of Contributions.**

When any Member is in default in the payment of a contribution to the Cooperative for a period of three (3) days from the due date, the Administrator may, in its discretion: (a) deny that Member the right to vote on any matter submitted for a vote of the Cooperative until that Member pays the outstanding balance; and (b) deny that Member the right to participate in Cooperative sponsored activities until that Member pays the outstanding balance. During the period that any Member has lost the right to vote or to participate in Cooperative activities, that Member will remain bound by its regular contribution obligation. In addition, a default in payment of a contribution to the Cooperative will be a default under the Member's Franchise Agreement and could result in termination of the Franchise Agreement.

### **Section 3.3 Late Charges on Delinquent Contributions.**

Each Member must pay to the Cooperative, on demand, a late charge of \$50 for each Cooperative contribution not paid when due. Also, each Member must pay to the Cooperative, on demand, interest on all overdue payments from the date the payment was due until paid equal to the lesser of: (a) 1 1/2 percent per month; or (b) the maximum rate of interest permitted by law.

### **Section 3.4 Enforcement of Members' Obligations.**

The Cooperative may enforce the obligations of delinquent or terminated Members by such means as the Cooperative may determine to be appropriate, including, but not limited to, the commencement of any legal action in any court of record. In addition to the obligations set forth in this Agreement, the measure of recovery will include costs, interest, damages and attorneys' fees incurred by the Cooperative as a result of any such legal action commenced on behalf of the Cooperative. Also, the Members acknowledge that the Franchisor has a right under the Franchise Agreements to enforce a Member's obligations under this Agreement and a failure by a Member to comply with this Agreement will constitute a default under the Member's Franchise Agreement.

### **Section 3.5 Contributions Nonrefundable.**

No Member will be entitled to a refund of any part of its contribution to the Cooperative under any circumstances, including the termination of that Member's operation of any Red Effect Fitness Studio, unless otherwise agreed by a majority of the Members of the Cooperative. Any contributions not used in a fiscal year of the Cooperative will be held for use in the following fiscal year.

### **Section 3.6 Use of Contributions.**

All contributions to the Cooperative will be expended solely for advertising and marketing of Red Effect Fitness Studios in the Marketing Area and their products and services and any administrative costs incurred by or on behalf of the Cooperative or the Company. As used in this Agreement, "advertising and marketing" expenditures will mean direct costs of media for television advertising, including time charges, agency commissions and associated costs; newspaper and print advertising, direct mail, radio advertising, outdoor advertising (billboard or

transit), point of sale materials; marketing through the internet, websites, social networks, and other social media; other advertising approved by the Cooperative; and expenses incurred and related to the advertising and marketing for the Cooperative. As used in this Agreement, “administrative expenses” will mean all costs incurred in connection with the administration of the Cooperative and the Company, including, but not limited to, organizational, accounting and legal fees and expenses, filing of tax returns, payment or reimbursement of taxes, meeting room charges, photocopying, postage and shipping, payment of employees, agents, and consultants hired by the Cooperative, and administrative fees paid to the Administrator (see Article 5).

## **ARTICLE 4—MEETING OF MEMBERS**

### **Section 4.1 Management of the Cooperative.**

The Cooperative will be managed by or under the direction of the Members. The Administrator will manage the day-to-day operations of the Cooperative and the communication between the Cooperative and the Franchisor.

### **Section 4.2 Voting; Proxies.**

All Members will be entitled to vote on any matter submitted to a vote of Members. Each Member of the Cooperative will have one vote (i.e. there will be one vote for each Red Effect Fitness Studio operated in the Marketing Area). Each Member of the Cooperative is encouraged to vote at each meeting, either by having its Designated Owner present at the meeting or by proxy as provided below.

A Member may grant a proxy for voting at a meeting of the Members, but only to the Administrator or a Designated Owner of another Member. Proxies must be filed in writing with the Administrator at least three (3) days prior to the start of any meeting of the Members.

### **Section 4.3 Required Vote; Quorum.**

The act of a majority of the Members entitled to vote and present in person at a meeting at which a quorum is present will be the act of the Cooperative. A majority of all the Members entitled to vote or consent on a matter will constitute a quorum for purposes of a meeting of the Members.

### **Section 4.4 Annual Meeting and other Regular Meetings.**

The annual meeting of the Members for the purpose of electing the Administrator and for the transaction of such other business as may come before the meeting, will be held on a date and at the hour specified by the Administrator, which may be at the Red Effect National Franchise Convention. Regular meetings that have been established by the Members at a valid meeting may be held without further notice at the time and place specified by the Administrator.

### **Section 4.5 Special Meetings.**

Special meetings of the Members may be called either by the Administrator or by Members representing not less than 30% of the Members entitled to vote.

### **Section 4.6 Informal Action.**

Any action required to be taken at a meeting of the Members of the Cooperative, or any other action which may be taken at a meeting of the Members, may be taken without a meeting

if a consent in writing, setting forth the action so taken, is signed by all of the Members entitled to vote with respect to the subject matter thereof.

**Section 4.7 Place of Meeting.**

Meetings of Members will be held at a location in the Marketing Area designated by the Administrator or at the location of the Red Effect National Franchise Convention (if the meeting is held at the Red Effect National Franchise Convention), or such other location, either within or without the Marketing Area, as designated by the Administrator.

**Section 4.8 Notice of Meeting.**

Written or printed notice stating the place, day and hour of any meeting of Members will be delivered, either personally or by mail or email, to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of the meeting, by or at the direction of the Administrator or the Members calling the meeting. In case of a special meeting, the purposes for which the meeting is called will be stated in the notice. If all the Members meet at any time and place, either within or without the Marketing Area, and consent to the holding of a meeting, such meeting will be valid without call or notice and any Cooperative action may be taken at such meeting.

**ARTICLE 5—ADMINISTRATION OF COOPERATIVE**

**Section 5.1 Rights and Responsibilities of the Members.**

(a) The Members will appoint one of the Members to act as the Administrator of the Cooperative (the “Administrator”). The Administrator will manage the day-to-day operations of the Cooperative and will have the specific rights and responsibilities described in Section 5.2. The Members will decide on reasonable compensation for the Administrator, which will not exceed 15% of the total contributions of the Members to the Cooperative.

(b) The Members will approve the advertising and marketing budget and plan for the Cooperative on a periodic basis, but at least annually. The advertising and marketing budget and plan may include the hiring of employees, agents, and consultants to provide services to the Cooperative in connection with advertising and marketing for the Members of the Cooperative.

(c) The Members will determine the amount and times and manner of payment of the contributions of the Members to the Cooperative.

(d) The Members will have other rights and responsibilities as necessary to manage the Cooperative.

**Section 5.2 Rights and Responsibilities of the Administrator.**

(a) The Administrator will conduct the meetings of the Members of the Cooperative, including establishing agendas, sending required notices, and acting as chairperson at the meetings.

(b) The Administrator will propose advertising and marketing budgets and plans for the Cooperative for approval by the Members.

(c) The Administrator will implement the advertising and marketing budgets and plans approved by the Members of the Cooperative. These responsibilities will include oversight of all aspects of the advertising and marketing budgets and plans.

(d) The Administrator will have signature authority on the bank accounts of the Cooperative and will use those accounts to pay the expenses incurred by the Cooperative.

(e) The Administrator will have the authority to negotiate and sign contracts on behalf of the Cooperative as necessary to implement the advertising and marketing budgets and plans.

(f) The Administrator will have the authority to collect contributions owed by Members to the Cooperative.

(g) The Administrator will prepare a report for the Members, at least annually, of the receipts and disbursements of the Cooperative.

(h) The Administrator will have other rights and responsibilities as necessary to carry out the day-to-day operations of the Cooperative.

(i) The Administrator will be paid reasonable compensation for the services provided to the Cooperative, which will not exceed 15% of the total contributions of the Members to the Cooperative.

(j) The Administrator will be responsible for making any tax, corporate, or other governmental filings required to be made by the Cooperative and the Company. The Cooperative will be responsible for any filing or other fees and any tax liability incurred in connection with the Cooperative and the Company and the Administrator will be reimbursed by the Cooperative for any such amounts paid by the Administrator.

### **Section 5.3 Removal of Administrator.**

The Administrator may be removed by a vote of the Members of the Cooperative at any regular or special meeting, whenever in the Cooperative's sole judgment, the best interest of the Members would be served by the removal.

### **Section 5.4 Standard of Care: Liability.**

The Administrator must discharge his or her duties as administrator in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the Cooperative. The Administrator will not be liable for any monetary damages to the Cooperative or the Members for any breach of Administrator's duties except for receipt of a financial benefit to which the Administrator is not entitled or a knowing violation of the law.

### **Section 5.5 Exculpation of Liability.**

Unless otherwise provided by law or expressly assumed, a person who is a Member or Administrator, or both, will not be liable for the acts, debts or liabilities of the Cooperative or the Company.



## **Section 5.6 Indemnification of Members and Administrator.**

Any person who was or is involved or is threatened to be involved, as a party or otherwise, in any threatened, pending or completed action, suit or proceeding, including any appeal relating thereto, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Cooperative) by reason of the fact that he or she is or was a Member or Administrator of the Cooperative, will, in accordance with this Section, be indemnified by the Cooperative against expenses (including attorneys' fees and costs), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding or the defense thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Cooperative, and, with respect to any criminal act or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Provided, however, the foregoing indemnification will not apply unless, within a reasonable time after the institution of an action, suit or proceeding, the person seeking indemnity has given the Cooperative written notice thereof, together with a copy of the complaint or declaration filed therein.

## **ARTICLE 6—CONTRACTS**

### **Section 6.1 Execution.**

The Members of the Cooperative, by majority vote, may from time to time authorize the Administrator to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Cooperative and such authority may be general or confined to specific instances. No Member other than the Administrator has any authority to bind the Cooperative by entering into any contract or other instrument either in the Member's own name or in the name of the Cooperative.

## **ARTICLE 7—ADMINISTRATION OF FUNDS**

### **Section 7.1 Deposits.**

All funds of the Cooperative will be promptly deposited, from time to time, to the credit of the Cooperative, in such banks, trust companies or other depositories as the Administrator may select.

### **Section 7.2 Gifts.**

The Administrator may accept on behalf of the Cooperative, any contribution, gift, bequest, or devise made by any person to the Cooperative. If the contribution, gift, bequest, or devise is money, the Cooperative will use those funds for the general purposes or for any special purposes of the Cooperative. If the contribution, gift, bequest, or devise is something other than money (e.g. tickets to an event), the Administrator may use the items or distribute the items to Members in the sole discretion of the Administrator.

### **Section 7.3 Checks, Orders, Drafts.**

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Cooperative must be signed by the Administrator.

## **ARTICLE 8—BOOKS AND RECORDS**

### **Section 8.1 Record Keeping/Inspection.**

The Cooperative will keep accurate and complete books and records of account. All books and records of the Cooperative may be inspected by any Member, or his agent, or by a representative of Franchisor for any purpose at any reasonable time.

### **Section 8.2 Fiscal Year.**

The fiscal year of the Cooperative will be December 1 through November 30 unless otherwise specified by the Members.

## **ARTICLE 9—WAIVER OF NOTICE**

### **Section 9.1 Writing Required.**

Whenever any notice is required to be given under the provisions of this Agreement, a waiver thereof, in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, will be deemed equivalent to the giving of such notice.

## **ARTICLE 10—ADOPTION AND AMENDMENT OF AGREEMENT**

### **Section 10.1 Adoption.**

This Agreement may be adopted by a majority vote of the Members of the Cooperative.

### **Section 10.2 Amendment.**

This Agreement may be amended by a majority vote of the Members of the Cooperative. Ten days written notice will be given by the Administrator to all Members of the intention to alter, amend or repeal this Agreement at any meeting of the Members.

## **ARTICLE 11—MISCELLANEOUS PROVISIONS**

### **Section 11.1 Terms.**

Nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular and plural, as the identity of the person or persons, firm or corporation may in the context require.

### **Section 11.2 Article and Section Headings.**

The Article and Section headings contained in this Agreement have been inserted only as a matter of convenience and for reference, and in no way will be construed to define, limit or describe the scope or intent of any provision of this Agreement.

### **Section 11.3 Entire Agreement.**

This Agreement constitutes the entire agreement among the Members with respect to the matters covered in this Agreement. This Agreement supersedes any and all other agreements, either oral or written, between the Members with respect to the subject matter hereof.

**Section 11.4 Severability.**

The invalidity or unenforceability of any particular provision of this Agreement will not affect the other provisions of this Agreement, and this Agreement will be construed in all respects as if the invalid or unenforceable provisions were omitted.

**Section 11.5 Binding Effect.**

This Agreement will be binding on and will inure to the benefit of the Members, and their respective distributees, heirs, successors and assigns.

**Section 11.6 Governing Law.**

This Agreement will be governed by, construed and enforced in accordance with the laws of the State of \_\_\_\_\_, without reference to the conflict of laws provisions.

**CERTIFICATE OF ADMINISTRATOR**

I, the undersigned, certify that I am the duly elected, qualified and acting Administrator of the Cooperative and the above Agreement was duly adopted by a majority vote of the Members of the Cooperative on \_\_\_\_\_, 20\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, Administrator

**EXHIBIT A**  
**MEMBERSHIP AGREEMENT**

**MEMBERSHIP AGREEMENT**

IN CONSIDERATION of membership in the Red Effect Local Advertising Cooperative for \_\_\_\_\_ (the "Cooperative"), a Local Advertising Cooperative established by the owners and operators of Red Effect Fitness Studios in the area described as follows: \_\_\_\_\_

\_\_\_\_\_ (the "Marketing Area"), the person signing this Membership Agreement ("Member"), for the Red Effect Fitness Studio operated at \_\_\_\_\_

\_\_\_\_\_ (the "Red Effect Fitness Studio"), agrees to be bound by the Local Advertising Cooperative Agreement for Red Effect Fitness Studios Located in \_\_\_\_\_

as it now exists or as it may in the future be amended by the members of the Cooperative (the "Local Advertising Cooperative Agreement").

Without limiting Member's Obligations under the Local Advertising Cooperative Agreement, Member acknowledges and agrees as follows:

\_\_\_\_\_ a \_\_\_\_\_  
\_\_\_\_\_ (the "Company"), has been formed for operation of the Cooperative. All banks accounts, books and records, reporting, and contracts for the Cooperative will be in the name of the Company and actions on behalf of the Cooperative may be taken in the name of the Company.

Member, whether Member is an individual, a group of individuals, or an entity, will be represented by the individual designated as its Designated Owner in Member's Red Effect Franchise Agreement (the "Designated Owner"). Member's Designated Owner may not be changed except with the prior written consent of Red Effect International Franchise, LLC (the "Franchisor"). Only the Designated Owner will be allowed to attend meetings of the Cooperative on behalf of Member.

Member must make contributions to the Cooperative in the amounts, at the times, and in the manner determined by a majority vote of the members of the Cooperative from time to time; provided that, Member's monthly contributions to the Cooperative will not exceed the greater of: (a) Five Percent (5%) of the Member's monthly gross sales; or (b) Four Thousand Dollars (\$4,000). Any change in contributions determined by the Cooperative will be effective no earlier than 30 days after written notice of the change to Member.

Payment of Member's contributions to the Cooperative must be made by preauthorized automatic electronic funds transfer or other means specified by the Administrator. Member agrees to comply with procedures specified by the Administrator and/or perform such acts and deliver and execute all such documents, including authorization for direct debits from or credits to one or more accounts designated by Member (the "Designated Accounts") as may be necessary to assist in or accomplish payment by such method. Under this procedure, Member will authorize the Administrator to initiate debit entries and/or credit entries to the Designated Accounts for payments of contributions and other amounts owed to the Cooperative. Member must ensure that adequate funds are available in the Designated Accounts for withdrawal by the Administrator by electronic funds transfer no later than the due date for payment.

Member's contributions to the Cooperative are in addition to and not in lieu of any advertising fund contributions the Member is required to pay to the "Franchisor under Member's Franchise Agreement with Franchisor. Member's contributions to the Cooperative will count toward

Member's minimum local advertising requirements under Member's Franchise Agreement with Franchisor.

The fund established by contributions to the Cooperative will be administered by the Cooperative and the duly authorized and elected Administrator of the Cooperative and expended only pursuant to the Local Advertising Cooperative Agreement.

The Cooperative may enforce Member's obligations under the Local Advertising Cooperative Agreement by such means as the Cooperative may determine to be appropriate, including, but not limited to, the commencement of any legal action in any court of record. In addition to the obligations set forth in the Local Advertising Cooperative Agreement, the measure of recovery will include costs, interest, damages and attorneys' fees incurred by the Cooperative as a result of any such legal action commenced on behalf of the Cooperative. Also, Member acknowledges that Franchisor has a right under Member's Red Effect Franchise Agreement to enforce Member's obligations under the Local Advertising Cooperative Agreement and a failure by Member to comply with the Local Advertising Cooperative Agreement will constitute a default under Member's Franchise Agreement.

If Member is in default in the payment of a contribution to the Cooperative for a period of three (3) days from the due date, Member may lose the right to vote on any matter submitted for a vote of the Cooperative until Member pays the outstanding balance and may not be allowed to participate in Cooperative sponsored activities or promotions until Member pays the outstanding balance. During the period that Member has lost the right to vote or to participate in Cooperative sponsored activities or promotions, Member will remain bound by its regular contribution obligations.

Member has signed this Membership Agreement on the date set forth below.

Dated: \_\_\_\_\_

\_\_\_\_\_  
MEMBERS NAME (TYPED)

\_\_\_\_\_  
Authorized signature — Title

**EXHIBIT I**

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**EXHIBIT J**

**LIST OF RED EFFECT FITNESS STUDIOS**

**Red Effect International Franchise, LLC**  
**LIST OF FITNESS STUDIOS**  
April 30, 2024

<u>Company</u>	<u>Main Phone</u>	<u>Street</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>Affiliate</u>	<u>Not Open</u>
R3D Brands LLC	630-470-6100	1 South 550 Route 83	Oakbrook Terrace	IL	60181		
RE24 Dearborn LLC	313 942 9900	22444 Ford Road	Dearborn	MI	48127	X	

**EXHIBIT K**

**LIST OF FRANCHISEES THAT RECENTLY LEFT THE SYSTEM**

**LIST OF FRANCHISEES THAT RECENTLY LEFT THE SYSTEM**

The following are the names and last known addresses and telephone numbers of every franchisee who has had a franchise terminated, canceled, not renewed or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the calendar year 2023 or who have not communicated with us within 10 weeks of our application date (or the date of this Disclosure Document, if this Disclosure Document is not for use in a state requiring registration of franchises).

Michael Withrow  
Columbia, South Carolina  
770-309-8367  
(Closed a unit in South  
Carolina)

**EXHIBIT L**  
**FINANCIAL STATEMENTS**



## FINANCIAL STATEMENTS

SOME OF THE FOLLOWING FINANCIAL STATEMENTS MAY BE PREPARED WITHOUT AN AUDIT. INVESTORS IN OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT A CERTIFIED PUBLIC ACCOUNTANT HAS NOT AUDITED THE FIGURES ON UNAUDITED FINANCIAL STATEMENTS OR EXPRESSED AN OPINION WITH REGARD TO THE CONTENTS OR FORM OF UNAUDITED FINANCIAL STATEMENTS.

**RED EFFECT INTERNATIONAL  
FRANCHISE, LLC**

**FINANCIAL STATEMENTS**

**DECEMBER 31, 2023, 2022 AND 2021**

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## Independent Auditors' Report

To the Members of  
Red Effect International Franchise, LLC

### **Report on the Audits of the Financial Statements**

#### *Opinion*

We have audited the accompanying financial statements of Red Effect International Franchise, LLC which comprise the balance sheets as of December 31, 2023, 2022 and 2021, and the related statements of operations, changes in members' equity (deficit) and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Red Effect International Franchise, LLC as of December 31, 2023, 2022 and 2021, and the results of its operations and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary information listed in the table of contents is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

#### *Basis for Opinion*

We conducted our audits in accordance with auditing standards generally accepted in the United States of America ("GAAS"). Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audits of the Financial Statements section of our report. We are required to be independent of the Entity 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 Entity's ability to continue as a going-concern for one year following the date the financial statements are issued.

*Auditors' Responsibilities for the Audits 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 is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users made on the basis of these financial statements.

In performing audits in accordance with GAAS, we:

- i Exercise professional judgment and maintain professional skepticism throughout the audits.
- i 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.
- i Obtain an understanding of internal control relevant to the audits in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control. Accordingly, no such opinion is expressed.
- i 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.
- i Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Entity'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.

*Tama, Budaj & Raab, P.C.*

Farmington Hills, Michigan  
March 18, 2024

**RED EFFECT INTERNATIONAL FRANCHISE, LLC  
(A MICHIGAN LIMITED LIABILITY COMPANY)**

**BALANCE SHEETS  
DECEMBER 31, 2023, 2022 AND 2021**

ASSETS

	2023	2022	2021
<b>CURRENT ASSETS</b>			
Cash	\$ 79,256	\$ 353	\$ 3,444
Accounts receivable:			
Trade	-0-	-0-	1,616
Related parties	797,006	788,323	751,288
Other	-0-	-0-	26,313
Notes receivable - member	590,368	591,009	595,447
<b>TOTAL CURRENT ASSETS</b>	<b>1,466,630</b>	<b>1,379,685</b>	<b>1,378,108</b>
	<b>\$ 1,466,630</b>	<b>\$ 1,379,685</b>	<b>\$ 1,378,108</b>

LIABILITIES AND MEMBERS' EQUITY

<b>CURRENT LIABILITIES</b>			
Accounts payable	\$ 27,436	\$ 75,594	\$ 27,046
Deferred franchise fee revenue	507,215	623,525	777,148
Accrued payroll	-0-	-0-	861
Note payable - SBA/Paycheck Protection Program	-0-	-0-	98,800
<b>TOTAL CURRENT LIABILITIES</b>	<b>534,651</b>	<b>699,119</b>	<b>903,855</b>
<b>LONG-TERM LIABILITIES</b>			
Note payable - member	1,036,283	829,990	761,790
<b>TOTAL LONG-TERM LIABILITIES</b>	<b>1,036,283</b>	<b>829,990</b>	<b>761,790</b>
<b>MEMBERS' EQUITY</b>	<b>(104,304)</b>	<b>(149,424)</b>	<b>(287,537)</b>
	<b>\$ 1,466,630</b>	<b>\$ 1,379,685</b>	<b>\$ 1,378,108</b>

The accompanying notes are an integral part of these financial statements.

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**STATEMENTS OF OPERATIONS AND CHANGES IN MEMBERS' EQUITY  
FOR THE YEARS ENDED DECEMBER 31, 2023, 2022 AND 2021**

	2023	2022	2021
REVENUES	\$ 181,535	\$ 266,934	\$ 265,175
OPERATING EXPENSES	148,222	239,428	331,173
OPERATING INCOME (LOSS)	33,313	27,506	(65,998)
OTHER INCOME (EXPENSE)			
Interest income	11,807	11,807	11,807
PPP Loan Forgiveness	-0-	98,800	100,292
NET OTHER INCOME (EXPENSE)	11,807	110,607	112,099
NET INCOME (LOSS)	45,120	138,113	46,101
MEMBERS' EQUITY (DEFICIT)			
BEGINNING OF YEAR	(149,424)	(287,537)	(333,638)
END OF YEAR	\$ (104,304)	\$ (149,424)	\$ (287,537)

The accompanying notes are an integral part of these financial statements.

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2023, 2022 AND 2021**

	2023	2022	2021
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income (loss)	<u>\$ 45,120</u>	<u>\$ 138,113</u>	<u>\$ 46,101</u>
Changes in:			
Accounts receivable	-0-	1,616	45,796
Accounts receivable - related party	(8,683)	(37,035)	(212,621)
Accounts receivable - other	-0-	26,313	(26,313)
Accounts payable	(48,159)	48,548	(90,974)
Accrued expenses	-0-	(861)	-0-
Deferred franchise fee revenue	<u>(116,309)</u>	<u>(153,623)</u>	<u>(159,433)</u>
<b>TOTAL ADJUSTMENTS</b>	<u>(173,151)</u>	<u>(115,042)</u>	<u>(443,545)</u>
<b>NET CASH PROVIDED BY (USED BY) OPERATING ACTIVITIES</b>	<u>(128,031)</u>	<u>23,071</u>	<u>(397,444)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Loans from member	206,934	72,638	401,728
Loan Forgiveness - Paycheck Protection Program note payable	-0-	(98,800)	(100,292)
Proceeds from Paycheck Protection Program note payable	<u>-0-</u>	<u>-0-</u>	<u>98,800</u>
<b>NET CASH PROVIDED BY (USED BY) FINANCING ACTIVITIES</b>	<u>206,934</u>	<u>(26,162)</u>	<u>400,236</u>
<b>NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	78,903	(3,091)	2,792
<b>CASH AND CASH EQUIVALENTS - BEGINNING OF YEAR</b>	<u>353</u>	<u>3,444</u>	<u>652</u>
<b>CASH AND CASH EQUIVALENTS - END OF YEAR</b>	<u><u>\$ 79,256</u></u>	<u><u>\$ 353</u></u>	<u><u>\$ 3,444</u></u>

The accompanying notes are an integral part of these financial statements.

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2023, 2022 AND 2021**

1. ORGANIZATION AND BUSINESS ACTIVITY

Red Effect International Franchise, LLC's, a Michigan Corporation, operations consist of franchising and marketing of Red Effect facilities throughout the United States of America and the providing of start-up and support services to its franchisees.

The Company incorporated on April 19, 2016. There were 4, 5 and 10 franchise stores in operation as of December 31, 2023, 2022 and 2021, respectively.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The following significant accounting policies have been followed in the preparation of the financial statements:

Accounting Method

The accompanying financial statements have been prepared on the accrual basis of accounting and in accordance with accounting principles generally accepted in the United States of America.

Cash and Cash Equivalents

For purposes of reporting cash flows, the Company considers all short-term investments with an original maturity of three months or less to be cash equivalents. There were no cash equivalents at December 31, 2023, 2022 and 2021.

Accounts Receivable

Accounts receivable for royalties and system development fees are recorded at the amounts the Company expects to collect on balances outstanding at the end of the year. Management closely monitors balances and provides for estimates of uncollectible balances in an allowance for doubtful accounts.

Revenue Recognition

The Company's revenues consist of royalties based on a percent of sales, initial franchise fees, and area development fees.

Continued...



**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2023, 2022 AND 2021**

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Revenue Recognition (Continued)

ASC 606 provides that revenues are to be recognized when control of promised goods or services are transferred to a customer in an amount that reflects the consideration expected to be received for those goods or services. The standard does not change the recognition of royalties from facilities operated by franchisees, which are based on a percentage of sales and recognized at the time the underlying sales occur. The standard does change the timing in which the Company recognizes area development fees and initial fees from franchisees for new facility openings and new franchise terms. The Company's accounting policy through December 31, 2018 was to recognize area development fees and initial franchise fees upon a new facility opening. The Company adopted ASC 606 as of January 1, 2019, using the modified retrospective method. Beginning in January 2019, initial franchise fees have been recognized as the Company satisfies the performance obligation, either as the obligation is performed, or over the area development or franchise term, which are generally 10 years.

The Company recognized franchise fee revenue of \$116,310, \$187,823 and \$125,933 for the years ended December 31, 2023, 2022 and 2021, respectively. The recognized franchise fee revenue is presented in accordance with ASU Topic 606.

The Company recognized royalty fee revenue of \$50,021, \$49,849 and \$79,421 for the years ended December 31, 2023, 2022 and 2021, respectively.

Additional revenue is recognized for miscellaneous fees received from the franchisees which primarily consist of administrative support fees and point of sale software fees. The Company recognized revenue relating to these items of \$15,204, \$29,261 and \$59,820 for the years ended December 31, 2023, 2022 and 2021, respectively.

Advertising and Promotion Costs

The Company will expense costs for advertising and promotion as the costs are incurred. Advertising and promotion expense for the years ended December 31, 2023, 2022 and 2021 were \$3,525, \$4,133 and \$2,564, respectively.

Income Taxes

No provisions for income taxes (or benefits) are provided for in the Company's accounts since income taxes are the members' responsibility. The Company has elected to file its tax returns as an S Corporation for federal income tax purposes.

Continued...

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
DECEMBER 31, 2023, 2022 AND 2021**

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

3. ACCOUNTS RECEIVABLE

Accounts receivable of \$0, \$0 and \$1,616 at December 31, 2023, 2022 and 2021 respectively, are comprised of royalty, area development and franchise fees due from franchisees. There was no allowance for doubtful accounts recorded at December 31, 2023, 2022 and 2021.

Accounts receivable - other of \$0, \$0 and \$26,313 at December 31, 2023, 2022 and 2021 respectively is comprised of a federal refundable Employee Retention Credit.

4. DEFERRED REVENUE - FRANCHISE FEES

Deferred revenue - franchise fees of \$507,215, \$623,525 and \$777,148 as of December 31, 2023, 2022 and 2021, respectively, are composed of franchise fees collected but not yet recognized. The deferred revenue balance is presented in accordance with ASU Topic 606.

5. FRANCHISES IN OPERATION

The franchise activity for the years ended December 31, 2023, 2022 and 2021 were as follows:

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Operating at beginning of period	5	10	13
Franchises opened	0	0	0
Corporate franchises transferred	0	0	0
Franchises closed	<u>1</u>	<u>5</u>	<u>3</u>
Operating at end of period	<u><u>4</u></u>	<u><u>5</u></u>	<u><u>10</u></u>

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
DECEMBER 31, 2023, 2022 AND 2021**

**6. COMMITMENTS AND CONTINGENCIES**

Deferred Commissions

For the years ended December 31, 2023, 2022 and 2021, sales commissions paid to third-party brokers are recognized at the time the franchise agreements are signed. The Company had no deferred commissions at December 31, 2023, 2022 and 2021, respectively.

**7. RELATED PARTY TRANSACTIONS**

The Company has a promissory note receivable due from a member for deferred compensation due of \$590,368, \$591,009 and \$595,447 for the years ended December 31, 2023, 2022 and 2021 respectively. The note matures on December 31, 2025 with interest at 2%. The Company has recognized interest income of \$11,807, \$11,807 and \$11,807 related to this note for the years ended December 31, 2023, 2022 and 2021, respectively.

The Company has a loan payable balance due to a member of \$1,036,283, \$829,990 and \$761,790 for the years ended December 31, 2023, 2022 and 2021, respectively. At various points, the Company may have amounts due to or due from its member(s).

The Company has a loan receivable balance due from related companies of \$797,006, \$788,323 and \$751,288 for the years ended December 31, 2023, 2022 and 2021, respectively. At various points, the Company may have amounts due to or due from related companies.

**8. NOTE PAYABLE - SBA/PAYCHECK PROTECTION PROGRAM**

On March 15, 2021 and May 4, 2020, the Company received loan proceeds in the amounts of \$98,800 and \$100,292, respectively, under the Paycheck Protection Program ("PPP"). The loans accrued interest at a rate of 1% and had original maturity dates of two years. Payments were deferred during the Deferral Period. Accrued interest is not included in the financial statements as the loans were forgiven in full and interest expense was not incurred.

**9. CONCENTRATION OF CREDIT RISK**

The Company may have had funds exceeding the applicable FDIC insurable limit in a single financial institution.

**RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
DECEMBER 31, 2023, 2022 AND 2021**

**10. CONTINGENT LIABILITY - LITIGATION**

A franchisee had filed a lawsuit in February 2021 in Oakland County Circuit Court claiming a dispute arising out of the plaintiff's California franchise locations. The Company categorically denied any wrongdoing and filed a Motion to Dismiss the lawsuit. The Motion to Dismiss was ultimately granted in part. Thereafter, there was a trial and the Company prevailed with no damages being assessed and the case was dismissed. The plaintiffs have filed an appeal of the decision with the Michigan Court of Appeals that is still pending with no decision. The Company intends to vigorously litigate the claim.

**11. SUBSEQUENT EVENTS**

Subsequent to December 31, 2023, no new franchise locations opened for business.

In accordance with ASC Topic 855-10, the Company has analyzed its operations subsequent to December 31, 2023 to the date these financial statements were issued and has determined that it does not have any material subsequent events to disclose other than the events described above.

**EXHIBIT M**

**STATE SPECIFIC DISCLOSURES AND ADDENDA**

**ADDITIONAL STATE-SPECIFIC DISCLOSURES FOR THE  
MULTI-STATE FRANCHISE DISCLOSURE DOCUMENT OF  
RED EFFECT INTERNATIONAL FRANCHISE, LLC**

**The following are additional disclosures for the Franchise Disclosure Document of Red Effect International Franchise, LLC required by various state franchise laws. Each provision of these additional disclosures will not apply unless, with respect to that provision, the jurisdictional requirements of the applicable state franchise registration and disclosure law are met independently without reference to these additional disclosures.**

**CALIFORNIA**

1. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

2. IN ADDITION TO THE INFORMATION SET FORTH IN ITEM 3 OF THE DISCLOSURE DOCUMENT, NEITHER THE FRANCHISOR NOR ANY PERSON LISTED IN ITEM 2 OF THE DISCLOSURE DOCUMENT 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 USCA 78(a), ET SEQ., SUSPENDING OR EXPELLING SUCH PERSONS FROM MEMBERSHIP IN SUCH ASSOCIATION OR EXCHANGE.

3. THE FOLLOWING PARAGRAPHS ARE AN ADDITION TO THE DISCLOSURE CONTAINED IN ITEM 17 OF THE DISCLOSURE DOCUMENT.

(a) California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

(b) The Franchise Agreement contains a covenant not to compete that extends beyond termination of the franchise. That provision may not be enforceable under California law.

(c) The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under Federal Bankruptcy Law (11 USCA Sec. 101, et seq.).

(d) The Franchise Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

(e) The Franchise Agreement requires binding arbitration. The arbitration will occur in the office of the American Arbitration Association ("AAA") closest to the principal place of business of the franchisor, with the costs being borne equally by each parties and the fees of the arbitrator divided equally between the parties.

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

(f) Section 31125 of the California Corporations Code requires the Franchisor to give the Franchisee a disclosure document, in a form and containing such information as the Commissioner may by rule or order require, prior to solicitation of a proposed material modification of an existing franchise.

The URL address for the Red Effect International Franchise, LLC Website is [www.redeffectfitness.net](http://www.redeffectfitness.net). 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).

## **HAWAII**

1. The following is in addition to the disclosure in Item 8 of the Franchise Disclosure Document:

The requirement for you to purchase products from us or some other entity as we designate in writing, may be unlawful under Hawaii Law. If, and to the extent, that requirement is found to be unlawful, that requirement will be void (to the extent unlawful) and you must purchase those products from approved suppliers.

2. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

Any release signed by you as a condition of renewal or transfer will not exclude claims you may have under the Hawaii Investment Law

## **ILLINOIS**

1. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

The State of Illinois has imposed a financial assurance requirement because of our current financial condition as shown on the financial statements attached to this Disclosure Document. To comply with this requirement, we have elected to defer your initial franchise fees until we have satisfied our pre-opening obligations to you and you have commenced business operations. Once the initial franchise fee has been paid to us, the initial franchise fee will not be refundable.

2. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

The Franchise Agreement, as amended for the State of Illinois, provides that:

(a) Section 20 of the Illinois Franchise Disclosure Act of 1987 (the "Act") will control over any inconsistent provisions in the Agreement relating to renewal of the Agreement.

(b) Section 19 of the Act will control over any inconsistent provisions in the Agreement relating to termination of the Agreement.

(c) Illinois law governs the franchise agreements.

(d) Any provision of the Agreement specifying a state other than Illinois as the forum for litigation is void with respect to any cause of action that is otherwise enforceable in the State of Illinois.

(e) In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

3. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement; or (ii) disclaiming reliance on 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**

**1. REGISTRATION OF THIS FRANCHISE IN THE STATE OF INDIANA DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER.**

2. The following is in addition to the disclosure in Item 8 of the Franchise Disclosure Document:

The requirement for you to purchase products from us or some other entity as we designate in writing, may be unlawful under Indiana Law. Under the Franchise Agreement amended for use in Indiana, if, and to the extent, that requirement is found to be unlawful, that requirement will be void (to the extent unlawful) and you must purchase those products from approved suppliers.

3. The following is in addition to the disclosure in Item 12 of the Franchise Disclosure Document:

(a) Under the Franchise Agreement amended for use in Indiana, we are prohibited from establishing a Franchisor owned outlet engaged in a substantially identical business to that of the Franchise Business within your Protected Area, whether or not the business is operated under the Franchise Marks.

4. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

(a) Under the Franchise Agreement amended for use in Indiana, the post-termination non-competition covenant only applies to your Protected Area and does not include the areas within a 5 mile radius of any other Red Effect Studio location existing at the time you begin to operate the competing business.



(b) The Franchise Agreement amended for use in the State of Indiana specifies that the Agreement and the construction of the Agreement will be governed by the laws of the State of Michigan except that the Indiana Franchise Law (Indiana Code 23-2-2.5 and 23-2-2.7) will control where applicable.

## **MARYLAND**

1. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

ANY RELEASE CONTAINED IN THE FRANCHISE AGREEMENT OR ANY OTHER AGREEMENT REQUIRED AS A CONDITION OF THE SALE, RENEWAL OR TRANSFER OF THE FRANCHISE WILL NOT APPLY TO ANY LIABILITY UNDER THE MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW.

THE FRANCHISE AGREEMENT SPECIFIES THE APPLICATION OF MICHIGAN LAWS AND MICHIGAN VENUE FOR LITIGATION, HOWEVER, YOU MAY BRING AN ACTION UNDER THE MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW IN ANY COURT OF COMPETENT JURISDICTION IN MARYLAND.

ANY CLAIM ARISING UNDER THE MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW MUST BE BROUGHT WITHIN THREE YEARS AFTER THE GRANT OF THE FRANCHISE.

## **MINNESOTA**

1. The following is in addition to the disclosures in Item 6 of the Franchise Disclosure Document:

The franchisor will not charge a service charge for an NSF check that is in excess of the service charge allowed under Minnesota Statute 604.113, which generally puts a cap of \$30 on service charges for NSF checks.

2. The following is in addition to the disclosures in Items 13 and 17 of the Franchise Disclosure Document:

(a) MINN. STAT. SECTION 80C.21 and MINNESOTA RULES 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreements can abrogate or reduce: (1) any of the franchisee's rights as provided for in MINN. STAT. CHAPTER 80C; or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

(b) With respect to franchises governed by Minnesota law, the franchisor will comply with MINN. STAT. SECTION 80C.14 SUBD. 3-5, which require (except in certain specified cases):

(i) that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement; and

(ii) that consent to the transfer of the franchise will not be unreasonably withheld.

(c) MINNESOTA RULES 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release, other than with respect to the voluntary settlement of disputes between us.

(d) The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See MINNESOTA RULES 2860.4400(J) also, a court will determine if a bond is required.

(e) The Limitations of Claims section of the Franchise Agreement must comply with MINN. STAT. SECTION 80C.17 SUBD. 5.

3. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement; or (ii) disclaiming reliance on 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 A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21ST FLOOR, NEW YORK, NEW YORK 10005.**

**THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. The following is added 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 Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

6. The following language replaces the “Summary” section of Item 17(d), titled “Termination by franchisee”:

You may terminate the agreement on any grounds available by law.

7. The following is added to the end of the “Summary” section of Item 17(j), titled “Assignment of contract by franchisor”:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. The following is added to the end of the “Summary” sections of Item 17(v), titled “Choice of forum”, and Item 17(w), titled “Choice of law”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

## **NORTH DAKOTA**

1. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

### **THE SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (SECTION 51-19-09, N.D.C.C.):**

(a) Restrictive Covenants: Franchise disclosure documents which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to the statute.

(b) Situs of Arbitration Proceedings: Franchise agreements providing that the parties must agree to the arbitration of disputes at a location that is remote from the site of the franchisee’s business.

(c) Restrictions on Forum: Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.

(d) Liquidated Damages and Termination Penalties: Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.

(e) Applicable Laws: Franchise agreements, which specify that they are to be governed by the laws of a state other than North Dakota.

(f) Waiver of Trial by Jury: Requiring North Dakota franchises to consent to a waiver of a trial by jury.

(g) Waiver of Exemplary and Punitive Damages: Requiring North Dakota franchisees to consent to a waiver of exemplary and punitive damages.

(h) General Release: Franchise Agreements that require the franchisee to sign a general release on renewal of the franchise agreement.

(i) Limitation of Claims: Franchise Agreements that require the franchisee to consent to a limitation of claims. The statute of limitations under North Dakota law applies.

(j) Enforcement of Agreement: Franchise Agreements that require the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorneys' fees.

## **RHODE ISLAND**

1. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

§ 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."

## **VIRGINIA**

1. The following statements are added to Item 17 of the Franchise Disclosure Document:

(a) 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 do 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.

(b) Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Franchise Agreement involves the use of undue influence by the franchisor to induce a franchisee to surrender any rights given to him under the franchise, that provision may not be enforceable.

2. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement; or (ii) disclaiming reliance on any statement made by any franchisor, franchisee,

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**

1. The following is in addition to the disclosure in Item 5 of the Franchise Disclosure Document:

Based on the franchisor's financial condition, the Securities Division of the Washington Department of Financial Institutions has required a financial assurance. In order to comply with the financial assurance requirement, the franchisor has elected to defer all initial fees paid to the franchisor by the franchisee, including payments for goods and services received from the franchisor before the business opens, until the franchisor completes its initial pre-opening obligations to franchisee and the franchisee is open for business. With respect to a Multi-Unit Addendum, the initial fee will be prorated, such that the franchisee will pay the franchisor the fee proportionally on the opening of each unit franchise.

2. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

(a) In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

(b) RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination 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.

(c) 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.

(d) 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.

(d) Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

(e) 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.

(f) 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.

## **WISCONSIN**

1. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

Chapter 135, Stats., Wisconsin Fair Dealership Law, supersedes any provision of the Franchise Agreement or any other agreement inconsistent with that law.

**THE FOLLOWING PAGES IN THIS EXHIBIT ARE  
STATE SPECIFIC ADDENDA TO THE  
FRANCHISE AGREEMENT**



**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF HAWAII**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company (“Franchisor”) and \_\_\_\_\_ (“Franchisee”).

In recognition of the requirements of the Hawaii Franchise Investment Law, Haw. Rev. Stat. § 482E-1, et seq., the parties agree as follows:

1. Release on Renewal. Section 3.2(h) of the Franchise Agreement, is amended to read as follows:

(h) Franchisee has signed a general release, in a form specified by Franchisor, of any and all claims against Franchisor and its Affiliates, and their respective officers, directors, agents, members and employees, excluding only such claims as Franchisee may have under the Hawaii Investment Law.

2. Supplier Requirements. Section 9.7 of the Franchise Agreement is amended by adding the following:

If, and to the extent, the requirement for Franchisee to purchase products from a Designated Supplier is unlawful under Hawaii Law, that requirement will be void (to the extent unlawful) and Franchisee must purchase those products in accordance with Franchisor’s specifications and only from Approved Suppliers.

3. Release on Transfer. Section 14.3(d) of the Franchise Agreement, is amended to read as follows:

(d) Franchisee must sign at the time of Transfer an agreement terminating this Agreement (unless this Agreement will be assigned to the transferee--see subsection (f) below) and must sign an agreement, in the form specified by Franchisor, releasing Franchisor and its Affiliates, owners, officers, directors, employees and agents from any and all claims and causes of action, excluding only such claims as the Franchisee may have under the Hawaii Franchise Investment law, and agreeing to abide by the post-termination restrictions contained in Article 13 and all other obligations under this Agreement that survive termination of this Agreement.

4. Effectiveness of Amendment. Each provision of this Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Hawaii Franchise Investment Law are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF ILLINOIS**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company (“Franchisor”) and \_\_\_\_\_ (“Franchisee”).

In recognition of the requirements of the Illinois Franchise Disclosure Act, Ill. Comp. State. §§ 705/1 to 705/44 (the “Act”), the parties agree as follows:

1. Initial Franchise Fee. Section 4.1 of the Agreement is amended by adding the following paragraph:

Notwithstanding anything to the contrary contained in the Agreement, in accordance with the imposition of a financial assurance requirement by the Illinois Attorney General's office and the regulations under the Illinois Franchise Disclosure Act, the initial franchise fee will be deferred until Franchisor has satisfied its pre-opening obligations to Franchisee and Franchisee has commenced business operations. Once the initial franchise fee has been paid, no portion of the initial franchise fee is refundable.

2. Renewal. Section 3.2 of the Franchise Agreement is amended by adding the following paragraph:

Section 20 of the Act will control over any inconsistent provisions in this Agreement relating to renewal of the Agreement.

3. Termination. Article 15 of the Franchise Agreement is amended by the addition of the following Section 15.8:

15.8 Section 19 of the Act will control over any inconsistent provisions in this Agreement relating to termination of the Agreement.

4. Applicable Law. Section 17.4 of the Franchise Agreement is amended by adding the following:

Illinois law governs the franchise agreements.

5. Venue. Section 17.5 of the Franchise Agreement is amended by adding the following:

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

6. Illinois Franchise Disclosure Act. The Franchise Agreement is amended by the addition of the following paragraph as Section 20.14:

20.14 In conformance with Section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation, or provision purporting to bind any person acquiring any franchise to

waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

7. No statement, questionnaire, or acknowledgement signed or agreed to by Franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement; or (ii) disclaiming reliance on any statement made by Franchisor, franchise seller, or other person acting on behalf of Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF INDIANA**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the Indiana Deceptive Franchise Practices Act, Indiana Code 23-2-2.7, the parties agree as follows:

1. Limited Exclusivity. Section 2.2 of the Franchise Agreement is amended by adding the following:

Franchisor will not operate or authorize any other person to operate a substantially identical business to that of the Franchise Business within the Protected Area, whether or not the business is operated under the Franchise Marks.

2. Release on Renewal. Section 3.2(h) of the Franchise Agreement, is amended to read as follows:

(h) Franchisee has signed a general release, in a form specified by Franchisor, of any and all claims against Franchisor and its Affiliates, and their respective officers, directors, agents, members and employees, except those claims arising under the Indiana Deceptive Franchise Practices Law, Indiana Code 23-2-2.7.

3. Supplier Requirements. Section 9.7 of the Franchise Agreement is amended by adding the following:

If, and to the extent, the requirement for Franchisee to purchase products from a Designated Supplier is unlawful under Indiana Law, that requirement will be void (to the extent unlawful) and Franchisee must purchase those products in accordance with Franchisor's specifications and only from Approved Suppliers.

4. Restrictions on Competition. Section 13.4(b) of the Franchise Agreement is amended to read as follows:

(b) "Geographic Areas" means the Protected Area.

5. Release on Transfer. Section 14.3(d) of the Franchise Agreement, is amended to read as follows:

(d) Franchisee must sign at the time of Transfer an agreement terminating this Agreement (unless this Agreement will be assigned to the transferee--see subsection (f) below) and must sign an agreement, in the form specified by Franchisor, releasing Franchisor and its Affiliates, owners, officers, directors, employees and agents from any and all claims and causes of action, except those claims arising under the Indiana Deceptive Franchise Practices Law, Indiana Code 23-2-2.7, and agreeing to abide by the post-termination restrictions contained in Article 13 and all other obligations under this Agreement that survive termination of this Agreement.

6. Applicable Law. Section 17.4 of the Franchise Agreement is amended by adding the following at the end of that Section:

Notwithstanding the foregoing, the Indiana Franchise Law (Indiana Code 23-2-2.5 and 23-2-2.7) will control where applicable.

7. Effectiveness of Addendum. Each provision of this Addendum is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Indiana Deceptive Franchise Practices Law are met independently without reference to this Addendum.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF MARYLAND**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company (“Franchisor”) and \_\_\_\_\_ (“Franchisee”).

In recognition of the requirements of the Maryland Franchise Registration and Disclosure Law, Annotated Code of Maryland, Article-Business Regulation, Title 14, §§ 14-201 to 14-233, the parties agree as follows:

1. Release on Renewal. Section 3.2(h) of the Franchise Agreement is amended to read as follows:

Franchisee has signed a general release, in a form specified by Franchisor, of any and all claims against Franchisor and its Affiliates, and their respective officers, directors, agents and employees, except claims arising under the Maryland Franchise and Disclosure Law.

2. Release on Transfer. Section 14.3(d) of the Franchise Agreement is amended to read as follows:

(d) Franchisee must sign at the time of Transfer an agreement terminating this Agreement (unless this Agreement will be assigned to the transferee--see subsection (f) below) and must sign an agreement, in the form specified by Franchisor, releasing Franchisor and its affiliates, owners, officers, directors, employees and agents from any and all claims and causes of action, except claims arising under the Maryland Franchise Registration and Disclosure Law, and agreeing to abide by the post-termination restrictions contained in Article 12 and all other obligations under this Agreement that survive termination of this Agreement.

3. Limitations of Claims. Section 17.9 of the Franchise Agreement is amended by adding the following sentence at the end of the Section:

Notwithstanding the foregoing, Franchisee may bring a legal claim against Franchisor under the Maryland Franchise Registration and Disclosure Law within three years after the grant of the franchise.

4. Choice of Law; Jurisdiction and Venue. Article 17 of the Franchise Agreement is amended by adding the following as Section 17.10:

17.10 Notwithstanding anything to the contrary in this Article 17, Franchisee may bring a claim against Franchisor under the Maryland Franchise Registration and Disclosure Law in any Court of competent jurisdiction in the State of Maryland.

5. Acknowledgements of Franchisee. Article 18 of the Franchise Agreement is amended by adding the following Section 18.10 at the end of the Article:

18.10 The representations in this Article 18 are not intended to and will not act as a release, estoppel or waiver of any liability incurred under the Maryland

Franchise Registration and Disclosure Law. Franchisee acknowledges that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

6. Effectiveness of Amendment. Each provision of this Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_



**ADDENDUM TO THE RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF MINNESOTA**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the Minnesota Franchise Act, Minn. Stat., § 80C.01, et seq., and the Rules and Regulations promulgated under the Act by the Commissioner of Commerce, Minnesota Rule § 2860.4400, et seq., the parties agree as follows:

1. Release on Renewal. Section 3.2(h) of the Franchise Agreement is amended to read as follows:

Franchisee has signed a general release, in a form specified by Franchisor, of any and all claims against Franchisor and its Affiliates, and their respective officers, directors, agents, members and employees, excluding only such claims as Franchisee may have under the Minnesota Franchises Law and the Rules and Regulations promulgated by the Commissioner of Commerce.

2. Service Charge on NSF Checks. Section 4.11 of the Franchise Agreement is amended by adding the following:

Franchisor will not charge a service charge for an NSF check that is in excess of the service charge allowed under Minnesota Statute 604.113, which generally puts a cap of \$30 on service charges for NSF checks.

3. Release on Transfer. Section 14.3(d) of the Franchise Agreement is amended to read as follows:

Franchisee must sign at the time of Transfer an agreement terminating this Agreement (unless this Agreement will be assigned to the transferee--see subsection (f) below) and must sign an agreement, in the form specified by Franchisor, releasing Franchisor and its affiliates, owners, officers, directors, employees and agents from any and all claims and causes of action, excluding only such claims as the transferor may have under the Minnesota Franchises Law and the Rules and Regulations promulgated by the Commissioner of Commerce, and agreeing to abide by the post-termination restrictions contained in Article 13 and all other obligations under this Agreement that survive termination of this Agreement.

4. Renewal, Transfer and Termination. Article 15 of the Franchise Agreement is amended by adding the following paragraph:

Minnesota law provides franchisees with certain termination, non-renewal, and transfer rights. Minn. Stat. § 80.C.14, Subd. 3, 4, and 5 require, except in specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice of non-renewal of the Franchise Agreement, and that consent to the transfer of the franchise not be unreasonably withheld.

5. Applicable Law; Jurisdiction and Venue. Article 17 of the Franchise Agreement is amended by adding the following paragraph:

Minn. Stat. § 80.C.21, and Minn. Rule Part 2860.4400J prohibit franchisors from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in this Agreement can abrogate or reduce: (1) any of Franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or (2) Franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

6. Injunctive Relief. Section 17.6 of the Franchise Agreement is modified to read as follows:

Franchisor will have the right to request specific enforcement of the terms of this Agreement from a court of competent jurisdiction, by temporary or permanent injunctions or other equitable relief. Franchisor will have the right to request injunctive relief to prevent Franchisee from engaging in the following acts, which Franchisee acknowledges would cause irreparable harm to Franchisor: (a) using any of the rights franchised by this Agreement in any manner not authorized in this Agreement; (b) engaging in operations in violation of the in-term and post-term restrictions on competition set forth in Article 12; (c) disclosing to any Person or using the trade secrets or confidential information of Franchisor in violation of the terms of this Agreement; (d) transferring or assigning this Agreement or the assets of the Franchise Business without complying with this Agreement; (e) engaging in acts or practices in violation of applicable laws and regulations or that are fraudulent, dishonest or create health or other hazards to the public; or (f) significantly impairing the goodwill associated with Franchisor. Franchisor's rights to obtain injunctive relief are in addition to all other remedies available to Franchisor under applicable law.

7. Limitation of Claims. Section 17.9 of the Franchise Agreement is deleted.

8. No statement, questionnaire, or acknowledgement signed or agreed to by Franchisee in connection with the commencement of the franchise relationship shall have the effect of: (i) waiving any claims under any applicable state franchise law, including fraud in the inducement; or (ii) disclaiming reliance on any statement made by Franchisor, franchise seller, or other person acting on behalf of Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

9. Effectiveness of Amendment. Each provision of this Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Minnesota Franchise Act, Minn. Stat., §§ 80C.01 through 80C.22, and the Rules and Regulations promulgated under the Act by the Minnesota Commissioner of Commerce, Minn. Rule §§ 2860.0100 through 2860.9930, are met independently without reference to this Addendum.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO THE RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF NEW YORK**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the New York Franchise Law, Article 33 of the General Business Law of the State of New York, the parties agree as follows:

1. Release on Renewal and Transfer. Sections 3.2(h) and 14.3(d) of the Franchise Agreement are amended by adding the following proviso at the end of each Section:

Provided, however, that all rights enjoyed by Franchisee and any causes of action arising in Franchisee's favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued under that law will remain in force; it being the intent of this proviso that the non-waiver provisions of GBL 687.4 and 687.5 be satisfied.

2. Applicable Law. Section 17.4 of the Franchise Agreement is amended by adding the following sentence:

This choice of law provision will not be considered a waiver of a right of Franchisee under the provisions of Article 33 of the General Business Law of the State of New York.

3. Effectiveness of Amendment. This Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the New York Franchise Law, Article 33 of the General Business Law of the State of New York, are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_   
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF NORTH DAKOTA**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the North Dakota Franchise Investment Law, Chapter 51-19 of the North Dakota Century Code, the parties agree as follows:

1. **Covenants Not to Compete.** Article 13 of the Franchise Agreement is amended by adding the following paragraph:

The covenants not to compete stated in this Article are subject to Section 9-08-06 of the North Dakota Century Code.

2. **THE SECURITIES COMMISSIONER HAS HELD THE FOLLOWING TO BE UNFAIR, UNJUST OR INEQUITABLE TO NORTH DAKOTA FRANCHISEES (SECTION 51-19-09, N.D.C.C.):**

(a) **Restrictive Covenants:** Franchise disclosure documents which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to the statute.

(b) **Situs of Arbitration Proceedings:** Franchise agreements providing that the parties must agree to the arbitration of disputes at a location that is remote from the site of the franchisee's business.

(c) **Restrictions on Forum:** Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.

(d) **Liquidated Damages and Termination Penalties:** Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.

(e) **Applicable Laws:** Franchise agreements, which specify that they are to be governed by the laws of a state other than North Dakota.

(f) **Waiver of Trial by Jury:** Requiring North Dakota franchises to consent to a waiver of a trial by jury.

(g) **Waiver of Exemplary and Punitive Damages:** Requiring North Dakota franchisees to consent to a waiver of exemplary and punitive damages.

(h) **General Release:** Franchise agreements that require the franchisee to sign a general release on renewal of the franchise agreement.

(i) **Limitation of Claims:** Franchise Agreements that require the franchisee to consent to a limitation of claims. The statute of limitations under North Dakota law applies.

(j) Enforcement of Agreement: Franchise Agreements that require the franchisee to pay all costs and expenses incurred by the franchisor in enforcing the agreement. The prevailing party in any enforcement action is entitled to recover all costs and expenses including attorneys' fees.

3. Effectiveness of Amendment. Each provision of this Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the North Dakota Franchise Investment Law, N.D. Cent. Code §§ 51-19-17, are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF RHODE ISLAND**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, the parties agree as follows:

1. Applicable Law. Article 17 of the Franchise Agreement is amended by adding the following:

§ 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."

2. Effectiveness of Amendment. This Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT AND RELATED AGREEMENTS  
FOR USE IN THE STATE OF WASHINGTON**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement and related agreements of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the Washington Franchise Investment Protection Act, the parties agree as follows:

1. Fee Deferral. Based on the Franchisor's financial condition, the Securities Division of the Washington Department of Financial Institutions has required a financial assurance. In order to comply with the financial assurance requirement, the Franchisor has elected to defer all initial fees paid to the Franchisor by the Franchisee, including payments for goods and services received from the Franchisor before the business opens, until the Franchisor completes its initial pre-opening obligations to Franchisee and the Franchisee is open for business. With respect to a Multi-Unit Addendum, the initial fee will be prorated, such that the Franchisee will pay the Franchisor the fee proportionally on the opening of each unit franchise.

2. Washington Law. The Franchise Agreement is amended by adding the following paragraphs:

(a) In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

(b) RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination 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.

(c) 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.

(d) 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.

(d) Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.



(e) 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.

(f) 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.

3. Effectiveness of Amendment. Each provision of this Amendment is effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Washington Franchise Investment Protection Act are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ADDENDUM TO THE RED EFFECT INTERNATIONAL FRANCHISE, LLC  
FRANCHISE AGREEMENT FOR USE IN THE STATE OF WISCONSIN**

THIS ADDENDUM is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and modifies a Franchise Agreement of the same date entered into by Red Effect International Franchise, LLC, a Michigan limited liability company ("Franchisor") and \_\_\_\_\_ ("Franchisee").

In recognition of the requirements of the Wisconsin Fair Dealership Law, Ch. 135, Stats., the parties agree as follows:

1. Applicable Law. Section 17.4 of the Franchise Agreement is amended by adding the following sentence:

Chapter 135, Stats., Wisconsin Fair Dealership Law, supersedes any provision of the Franchise Agreement or any other agreement inconsistent with that law.

2. Effectiveness of Amendment. Each provision of this Addendum is effective only to the extent that the jurisdictional requirements of the Wisconsin Fair Dealership Law are met independently without reference to this Amendment.

RED EFFECT INTERNATIONAL FRANCHISE,  
LLC

\_\_\_\_\_  
FRANCHISEE

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT N**

**STATE EFFECTIVE DATES AND RECEIPTS**

## **STATE EFFECTIVE DATES**

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

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

<b><u>State</u></b>	<b><u>Effective Date or Status</u></b>
California	
Hawaii	
Illinois	
Indiana	
Maryland	
Michigan	June 1, 2024
Minnesota	
New York	
North Dakota	
Rhode Island	
South Dakota	
Virginia	
Washington	
Wisconsin	

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 other 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 Red Effect International Franchise, 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.

**Iowa, New York, and Rhode Island** require that Red Effect International Franchise, LLC give you this disclosure document at the earlier of the first personal meeting or 10 business days you sign a binding agreement or pay any consideration that relates to the franchise relationship.

**Michigan and Oregon** require that Red Effect International Franchise, LLC give you this disclosure document at least 10 business days before you sign a binding agreement or pay any consideration, whichever occurs first.

If Red Effect International Franchise, 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 the applicable state agency.

The name, principal business address and telephone number of each franchise seller offering the franchise *[you should write-in the names of any employees, agents or brokers of the franchisor if you have had significant contact with the person and the person is not otherwise listed]*:

Allie T. Mallad 4000 Page Ave. Michigan Center, MI 49254 Phone: (833) 227-5671	Carlos Guzman 4000 Page Ave. Michigan Center, MI 49254 Phone: (833) 227-5671	
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Red Effect International Franchise, LLC authorizes the respective state agencies identified on Exhibit A to receive service of process for it in the particular state.

Issuance Date: April 30, 2024.

I received a Franchise Disclosure Document dated April 30, 2024, which included the following Exhibits:

A	List of State Administrators and Agents for Service	H	Local Advertising Cooperative Agreement
B	Franchise Agreement	I	Table of Contents of Operations Manual
C	Co-Brand Addendum	J	List of Red Effect Studios
D	Three Unit Addendum to Franchise Agreements	K	List of Franchisees that Recently Left the System
E	Ten Unit Addendum to Franchise Agreements	L	Financial Statements
F	Confidentiality and Noncompetition Agreement	M	State Specific Disclosures and Addenda
G	Sales Documents for Turn-Key Franchises	N	State Effective Dates and Receipts

Please complete any applicable franchise seller information above and then sign and date this Receipt and mail it to Carlos Guzman at 4000 Page Ave., Michigan Center, MI 49254, or scan a copy of the signed and dated receipt and email it to Carlos Guzman at [cguzman@atm-brands.com](mailto:cguzman@atm-brands.com).

Dated: \_\_\_\_\_  
[do not leave blank]

\_\_\_\_\_  
[sign]

\_\_\_\_\_  
[print name (and title if applicable)]

\_\_\_\_\_  
[print name of entity if applicable]

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Dated: \_\_\_\_\_  
[do not leave blank]

\_\_\_\_\_  
[sign]

\_\_\_\_\_  
[print name (and title if applicable)]

\_\_\_\_\_  
[print name of entity if applicable]