



# FRED ASTAIRE

DANCE STUDIOS®

**FRANCHISE DISCLOSURE DOCUMENT**

**FADS USA, INC.  
(F/K/A MEGADANCE USA CORP.)**

## FRANCHISE DISCLOSURE DOCUMENT



Franchisor:  
FADS USA, Inc.  
A Delaware corporation  
151 Hazard Avenue, Suite 12-13  
Enfield, Connecticut 06082  
413-567-3200  
franchising@fredastaire.com  
[www.fredastaire.com](http://www.fredastaire.com)

FADS USA, Inc. (f/k/a Megadance USA Corp.) (“**FADSU**”) offers area representative businesses that solicit and screen prospective franchisees for, and assist FADSU in providing certain services to FRED ASTAIRE DANCE STUDIOS® franchises for the operation of dance and dance fitness class studios in a defined territory (an “**Area Business**”). The total investment necessary to begin operation of a FRED ASTAIRE DANCE STUDIOS® Area Business is \$218,150 to \$1,616,550. This includes \$192,000 to \$1,549,500 that must be paid to the franchisor or its affiliates.

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 fourteen (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 Disclosure Document.**

You may wish to receive your Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, please contact the Legal Department at 151 Hazard Avenue, Suite 12-13, Enfield, Connecticut 06082 (Tel: 413-567-3200) or at [legal@fredastaire.com](mailto:legal@fredastaire.com).

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

Buying a franchise is a complex investment. The information in this Disclosure Document can help you make up your mind. More information on franchising, such as “[A Consumer’s Guide to Buying a Franchise](#),” which can help you understand how to use this Disclosure Document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW., Washington, 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 be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: May 2, 2023

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibits F and G.
<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 E 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 Fred Astaire Dance Studios 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 Fred Astaire Dance Studios franchisee?</b>	Item 20 or Exhibits F and G 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 Franchise *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 delegates. These items may be more expensive than similar items you could buy or 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 the franchisor.** Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This Franchise*

Certain states require that the following risks 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 Connecticut. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost you more to mediate, arbitrate, or litigate with the franchisor in Connecticut than in your own state.
2. **Spousal Guaranty.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets, perhaps including your house, at risk if your franchise fails.

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

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

To simplify the language in this Disclosure Document, “we,” “us” or “our” means FADS USA, Inc., the franchisor. “You” or “your” means the person or persons who buy(s) the franchise. If you are a corporation, partnership, limited liability company or other legal entity, certain provisions of the Franchise Agreement will apply to your owners. This Disclosure Document will indicate when your direct and indirect owners are also covered by a particular provision (See **Item 15**).

### **Franchisor**

We are a Delaware corporation incorporated on January 10, 1995. We initially were formed under the name Megadance USA Corp., and we changed our name to FADS USA, Inc. We do business under our company name (FADS USA, Inc.) and under the trade and service mark FRED ASTAIRE DANCE STUDIOS® and related trademarks, service marks and logos listed in **Item 13** (the “**Marks**”). Our principal business address is 151 Hazard Avenue, Suite 12-13, Enfield, Connecticut 06082. Our agents for service of process and state administrators, if applicable, are listed in **Exhibit A** to this Disclosure Document.

Dance studios operating under the Marks are referred to in this Disclosure Agreement as “**Studios**.” Studios that are independently owned and operated by third party franchisees are referred to in this Disclosure Document as “**Franchised Studios**.” As of the date of this Disclosure Document, neither we nor any of our affiliates operate any company-owned or affiliate-owned Studios. As of December 31, 2022, there were 217 Franchised Studios operating in the United States and 8 Franchised Studios operating in 8 other countries. We are not engaged in any other business activities and have never offered franchises in any other lines of business, except our Subfranchisor Program (which we have discontinued) and our Area Representative Program and Studio program, (both are described below).

We also own and operate the Life’s Better When You Dance and Online Trophy System video platforms offering exercise, dance, technique, and curriculum-based videos to students and members of the public. In addition, we operate a Dance Store E-commerce website.

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

We are a wholly owned subsidiary of Fred Astaire Dance of North America, Inc., a Delaware corporation incorporated on February 8, 1993 (“**FADNA**”). FADNA is a wholly owned subsidiary of FADS Holding, LLC (“**FADS Holdco**”), a Delaware limited liability company. The name and principal business address of each of the companies that directly or indirectly control us, our affiliates and our parent company are:



<b>Name of Company</b>	<b>Principal Business Address</b>	<b>Ownership or Control of Company</b>
<u>Fred Astaire Dance of North America, Inc.</u> A Delaware corporation incorporated on February 8, 1993	151 Hazard Avenue Suite 12-13 Enfield, CT 06082	Wholly owned subsidiary of FADS Holding, LLC
<u>FADS Holding, LLC</u> A Delaware limited liability company formed on September 19, 2017	151 Hazard Avenue Suite 12-13 Enfield, CT 06082	Parent Company

Before we were formed on January 10, 1995, the franchisor for the Studios was our affiliate, Fred Astaire Dance Studios, Inc., a Florida corporation incorporated on September 17, 1964 (“**FADS IP Holder**”). FADS IP Holder was originally incorporated under the name Ronby Corp. In February 1995, FADS IP Holder assigned all of its interests in its existing franchise, subfranchise and area representative agreements to us. Before FADS IP Holder served as the franchisor for the Studios, Fred Astaire Dance Studios Corporation (“**FADSC**”), a Florida corporation incorporated on January 4, 1963, served as the franchisor. In 1969, FADSC assigned all of its interests in its existing franchise, subfranchise and all other agreements to FADS IP Holder.

Each of the affiliated entities shown in the table below was formed in order to hold certain assets of or perform certain activities on behalf of the FRED ASTAIRE DANCE STUDIOS® brand, as applicable. All of our affiliates maintain their offices at 151 Hazard Avenue, Suite 12-13, Enfield, Connecticut 06082 (Tel: 413-567-3200).

<b>Affiliate</b>	<b>Primary Purpose</b>
<u>Fred Astaire Dance Studios, Inc.</u> A Florida corporation incorporated on September 17, 1964	Holder of certain FRED ASTAIRE DANCE STUDIOS® intellectual property assets.
<u>Fred Astaire Dance International Corp.</u> A Florida corporation incorporated on February 9, 2011	Holder of certain FRED ASTAIRE DANCE STUDIOS® intellectual property assets and is the franchisor for Studios in certain foreign jurisdictions.
<u>FADS International, Inc.</u> A Delaware corporation incorporated on April 16, 2018	Conducts certain international business relating to the FRED ASTAIRE DANCE STUDIOS® brand.
<u>Fred Astaire Dance Board, Inc.</u> A Delaware corporation incorporated on April 16, 2018	Certifies and licenses third parties to use certain intellectual property to (i) examine, test and certify students; (ii) examine, test and certify instructors; and (iii) judge at FRED ASTAIRE DANCE STUDIOS® branded competitions and events according to our standards.

Affiliate	Primary Purpose
<u>FADS Distribution, Inc.</u> A Delaware corporation incorporated on April 16, 2018	Acts as approved supplier and/or vendor for certain items and services used in the operation of Studios and manages required and approved supplier and vendor arrangements
<u>FADS CHC, Inc. (“CHC”)</u>	In 2023, we are launching a prepaid lesson liability program and will form this entity. Once launched, unit franchisees must pay CHC to maintain an escrow account to be used for prepaid lesson refunds.
FADS CIG LLC (“CIG”)	In 2023, we are launching a prepaid lesson liability program and will form this entity. Once launched, unit franchisees must pay CIG for captive market insurance to cover refunds for pre-paid lessons.

Other than as described above, we have no affiliates, predecessors or parents required to be disclosed in this Item 1.

### **The Buyout Transaction**

On September 27, 2017, FADS Global, LLC completed a leveraged buyout transaction to acquire a controlling ownership interest in FADNA. As part of the buyout transaction, some of our assets and those of some of our affiliates (including payments under certain subfranchisor agreements) were pledged as security for repayment of notes.

### **The Business and Franchises Offered**

We are offering, under the terms of this Disclosure Document, the opportunity to operate an Area Business which uses the Marks and the FADS System (as defined below) to (i) recruit and screen individuals interested in purchasing Franchised Studios or in purchasing an Area Business (each a “**Prospect**”) in a designated territory (the “**Territory**”); and (ii) assist us in providing certain support and services to Franchised Studios located in the Territory (the “**Territory Franchisees**”). We refer to operators of an Area Business as “**Area Representatives.**”

If you become an Area Representative, you must sign our then-current form of Area Representative Agreement (the “**Area Representative Agreement**”). A copy of our current form of Area Representative Agreement is attached as **Exhibit B** to this Disclosure Document. If you are a corporation, limited liability company, partnership or other legal entity (each an “**Entity**”), you must designate an Owner with at least a 10% ownership interest in you as your “**Operating Principal.**” The Operating Principal must have authority over all business decisions related to your Area Business and must have the power to bind you in all dealings with us. All owners of a legal or beneficial interest in the Entity are referred to as “**Owners**” for purposes of this disclosure document.

In a separate Disclosure Document that discloses details about the terms of our Franchise Agreement (as defined below) and the operation of a Studio (the “**Studio FDD**”), we offer franchisees the right to develop and operate Studios operating under the FADS System (as defined below). A Studio specializes in dance and dance fitness classes led by our trained instructors

(“**Astaire Pros**”). We market our classes to customers of all ages and economic levels, but we target adults between the ages of 18 and 75. A Studio operates under the Marks. We may designate other trade names, service marks and trademarks as Marks.

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

#### *Operation of Pilot Studio*

As an Area Representative, you will be required to sign our then-current franchise agreement (the “**Franchise Agreement**”) and open one Franchised Studio within the Territory (the “**Pilot Studio**”) within 270 days from the effective date of your Area Representative Agreement. The Pilot Studio must be used as a prototype business and training facility. All Franchised Studios, including your Pilot Studio, are offered through the Studio FDD.

If we provide written consent waiving your obligation to maintain a Pilot Studio, you must comply with any and all of the conditions and obligations set forth in our written consent and in the Manuals. Failure to comply with any and all of the conditions and obligations stated in our written consent and the Manuals (i) automatically terminates our waiver of your obligation to maintain a Pilot Studio; and (ii) requires you to either operate a replacement Pilot Studio (which may require you to sign a new Franchise Agreement and open a new Franchised Studio within your Territory) or obtain a new written consent from us waiving your obligation to maintain a Pilot Studio.

#### *Solicitation and Sale of Franchisees*

As an Area Representative, you will be required to: (i) actively and diligently promote and grow the FRED ASTAIRE DANCE STUDIOS® concept in your Territory; and (ii) assist in the successful development of the FRED ASTAIRE DANCE STUDIOS® concept in your Territory in accordance with our FADS System Standards. You will be required to open and maintain in operation in the cumulative number of Studios in your Territory that are set forth in the development schedule specified in the Area Representative Agreement (the “**Development Schedule**”) by each deadline (the “**Development Deadline**”) set forth in the Development Schedule. Your Development Schedule obligations can be satisfied through: (a) sales to Prospects, regardless of who originally identified them or led them through the sales process; or (b) Studios

that you or your affiliates develop in accordance with Franchise Agreements that you or your affiliates sign with us.

We may, in our sole discretion, refer to you leads that we obtain for Prospects who would like to operate Franchised Studios in the Territory. If we refer a Prospect to you, you must lead the Prospect through the sales process steps from the identification of the Prospect to the Prospect executing Studio Agreements (as defined below) (the “**Sales Process**”). You must refer to us any inquiries from individuals or entities regarding the establishment of Franchised Studios outside of your Territory. If you identify any Prospects who would like to operate Franchised Studios in your Territory, you must lead such Prospects through the Sales Process, unless you request our assistance in writing and we agree to lead such Prospects through the Sales Process.

For any Prospects that you lead through the Sales Process, you will be required to screen Prospects according to our FADS System Standards, recommend to us those Prospects whom you deem qualified under our FADS System Standards and arrange for any Prospects that we approve to execute our Franchise Agreement (which we, not you, will execute). We will provide you with the Studio FDD and standard forms of the Franchise Agreement, Development Agreement and related agreements (collective, the “**Studio Agreements**”), which we may modify or change from time to time. You will be required to use our then-current form of Studio FDD and Studio Agreements without modification in connection with your solicitation of Prospects. You will not be authorized to enter into any agreements on our behalf.

You also may market to qualified Prospects the opportunity to develop multiple Franchised Studios as an area developer (“**Area Developer**”). If we approve a Prospect to serve as an Area Developer, you will be required to have the Prospect execute our then-current development agreement (the “**Development Agreement**”) and deliver an original signed copy to us for us to execute. Our current form of Development Agreement that you will be required to offer Prospects is provided in the Studio FDD.

#### *Support Services to Territory Franchisees*

As an Area Representative, you will be required to provide ongoing support services (the “**Support Services**”) on our behalf to Territory Franchisees in the manner, frequency and in the time periods that we prescribe and in accordance with our FADS System Standards, as set forth in the Manuals or otherwise in writing. The Support Services that you will be required to provide in accordance with our FADS System Standards, as set forth in the Manuals or otherwise in writing. The Support Services that you will be required to provide in accordance with our FADS System Standards include: conducting training for Territory Franchisees; maintaining vendor relationships; assisting Territory Franchisees in site selection and lease negotiations and the build out of Studios; assisting Territory Franchisees in grand opening and pre-opening activities; providing ongoing advice to Territory Franchisees; assisting Territory Franchisees in marketing strategies and the roll-out of new programs; and assisting Territory Franchisees in renewals, transfers and curing defaults.

## *Supervision of Territory Franchisees*

As an Area Representative, you will also be required to actively monitor on our behalf and report to us the compliance of each Territory Franchisee with all applicable FADS System Standards, applicable laws and Studio Agreements.

### **Subfranchisor Program**

We previously offered, and neither we nor any of our affiliates currently offer, qualified parties the opportunity to operate as a FRED ASTAIRE DANCE STUDIOS® subfranchisor (a “**Subfranchisor**”). A Subfranchisor operates a subfranchise business in accordance with a Subfranchisor Agreement with us. Subfranchisors recruit individuals interested in purchasing franchises from the Subfranchisor (a “**Subfranchise**”) pursuant to a Subfranchise Agreement. We plan to offer Subfranchisors the opportunity to convert to Area Representatives.

### **Competition**

Your competition is well developed and will include other franchisors and franchise brokers seeking prospective franchisees for franchise opportunities.

### **Industry Specific Regulations**

Both the Federal Trade Commission and many states regulate the sale of franchises and the relationship between franchisors and franchisees. You must comply with these laws when you act as our agent in soliciting Prospects in your Territory as part of the Sales Process and in providing the Support Services. You may not, for instance, solicit Prospects that reside in or desire to establish a Studio in any state that requires the registration of disclosure documents, unless we have a currently effective registration in that state. If we ask you to help us with the disclosure obligations under state and federal as part of the Sales Process, you must comply with the timing requirements of the Federal Trade Commission and applicable state law when providing our disclosure document to prospective franchisees.

Several state franchise disclosure and registration laws regard you to be our franchise broker in the Territory to which you are appointed. As a result, you must, at your expense, comply with those state laws, register as our franchise broker and provide us with proof of that registration if the laws in your Territory require broker registration. We will provide you with our current disclosure document and all amendments for you to use in soliciting Prospects in your Territory. You must notify us immediately of any material changes in the information that you give to us so we can comply with franchise disclosure laws.

If your activities as our area developer require you separately to register in your Territory as a subfranchisor, we will prepare the necessary documents (including disclosure documents similar to this disclosure document) and submit the relevant filings and you must pay for all costs arising from your obligations under the Area Representative Agreement. Despite the way certain laws and regulations may regard your role as an area developer, you are not authorized as our area developer to offer or sell franchises for us, approve prospective franchisees, or negotiate or sign franchise agreements on our behalf.

You will have to comply with the laws and regulations that are applicable to businesses generally, including, without limitation, workers' compensation, OSHA and the Americans with Disabilities Act.

In addition, you must comply with the terms and conditions of the Federal Trade Commission Modified Order, Docket No. 8560 (the "**FTC Modified Order**"). The FTC Modified Order is attached as **Exhibit F** to our current form of Area Representative Agreement, which is **Exhibit B** to this Disclosure Document.

Federal, state and local governmental laws and regulations periodically change. It is your responsibility to learn and comply with all federal, state and local governmental laws and regulations. You should investigate these laws and regulations, and you should consult with your attorney about laws and regulations that may affect your Area Business.

## **ITEM 2 BUSINESS EXPERIENCE**

### **Luann Pulliam: Chief Executive Officer, President & Board Member**

Ms. Pulliam, who is also known as Patricia Luann Pulliam-Triliegi, has been our Chief Executive Officer, President and a member of our Board of Directors since September 2017. From September 1996 to September 2010, Ms. Pulliam served as our one of our National Dance Directors. Ms. Pulliam has been a co-owner of ALX of Fort Walton Beach, Florida, Inc., which is based in Fort Walton Beach, FL and serves as our subfranchisor for certain territory in Florida, since January 1985. Ms. Pulliam was a co-owner of B J Corp. of Fort Walton Beach, Inc., which is based in Fort Walton Beach, FL and is one of our subfranchised studios, from January 1983 to September 2017. Additionally, Ms. Pulliam has been the owner and president of North Florida Coast Inc., which is based out of Shalimar, FL and serves as our subfranchisor for certain territory in Florida, from March 2021 to the present. Ms. Pulliam has been the owner and manager of South Citrus Coast LLC, which is based out of Shalimar, FL and serves as our subfranchisor for certain territory in Tampa Bay, FL from February 2022 to the present. Ms. Pulliam serves in her present capacities in Fort Walton Beach, FL.

### **Gaetano Noce: Vice President, Chief Operating Officer, Chief Development Officer & Board Member**

Mr. Noce, who is also known as John Gates, has been our Chief Operating Officer, Chief Development Officer, one of our Vice Presidents and a member of our Board of Directors since September 2017. From September 2013 to September 2017, Mr. Noce served as our National Competition Director. Mr. Noce previously served on the board of directors of our parent entity, Fred Astaire Dance of North America, Inc., from November 2016 to September 2017. Additionally, Mr. Noce has been a co-owner and a managing member of Dance Works of Wisconsin, LLC, which is based in Pewaukee, WI and serves as our subfranchisor for the State of Wisconsin, since January 2005. Mr. Noce serves in his present capacities in Pewaukee, WI.

**Stephen Knight: Vice President, Chief Dance Director & Class Experience Officer & Board Member**

Mr. Knight has been our Chief Dance Director & Class Experience Officer, one of our Vice Presidents and a member of our Board of Directors since September 2017. From September 2012 to September 2017, Mr. Knight served as our National Dance Director. Mr. Knight previously served on the board of directors of our parent entity, Fred Astaire Dance of North America, Inc., from November 2013 to October 2014. Additionally, Mr. Knight has been a co-owner and a managing member of Dance Works of Wisconsin, LLC, which is based in Pewaukee, WI and serves as our subfranchisor for the State of Wisconsin, since January 2005. Mr. Knight serves in his present capacities in Pewaukee, WI.

**John Dearing II: Chief Financial Officer**

Mr. Dearing has served as our Chief Financial Officer since September 2017. Mr. Dearing joined us in January 2012 and has held various positions within our financial department since that time. Mr. Dearing serves in his present capacities in Enfield, CT.

**Pahjmon Lipsey: Vice President of Franchising and Business Development**

Mr. Pahjmon Lipsey has been our Vice President of Franchising and Business Development since August 2019. From July 2004 to June 2019, Mr. Lipsey served as the chief executive officer and director of Jadcyn, Inc. in Humble, Texas. Mr. Lipsey serves in his present capacities in Houston, TX.

**Susan Clark: Director, Branding & Design**

Ms. Clark has been our Director, Branding & Design since March 2018. Ms. Clark joined us in November 2013 as our Art Director. From April 2011 to November 2013, Ms. Clark was Senior Graphic Designer for Nutmeg Exhibit Co., Inc., a company specializing in the design and fabrication of trade show displays based in Windsor, Connecticut. Ms. Clark serves in her present capacities in Enfield, CT.

**Jessica Lengenfelder: Director, Events & Competitions**

Ms. Lengenfelder has served as our Director, Events & Competitions since September 2017. Prior to that, Ms. Lengenfelder served as the Director of Operations of our affiliate, Fred Astaire Dance Studios, Inc., from February 2015 to September 2017. Ms. Lengenfelder has been the co-owner and president of In the Swing, Inc., which is based in West Hartford, CT and is one of our subfranchised studios, since May 2001. Ms. Lengenfelder serves in her present capacities in Enfield, CT.

**Tobias von Dein: Director, Studio eLearning**

Mr. von Dein has been our Director, Studio eLearning since March 2018. Mr. von Dein joined us in March 2014 as our Product Development Manager. Prior to that, Mr. von Dein served

as the Marketing Manager for Florian Properties LLC, a property management company based in Southington, CT, from November 2013 to March 2014. From September 2007 to November 2013, Mr. von Dein served as the Manager of In Harmony 2 LLC, which was the operating company for one of our Franchised Studios in South Windsor, CT. Mr. von Dein serves in his present capacities in Enfield, CT.

**Danny Joy: Director of World Cup Series Events and National Competition Director**

Mr. Joy has been our Director, World Cup Series Events and National Competition Coordinator since November 2018. Mr. Joy has served as the Chairman of Judges for all three Fred Astaire Dance Studios national events since April 2015, and since 1999 has been a member of the National Dance Council of America, Inc. Additionally, Mr. Joy was the owner of Tampa Bay Area Development Association, Inc., which was based in St. Petersburg, FL and served as our subfranchisor for certain territory in Florida, from December 2002 to December 2018. Mr. Joy serves in his present capacities in St. Petersburg, FL.

**Rae Aguila: Board Member**

Ms. Aguila, who is also known as Rae Josephs, has served on our Board of Directors since September 2017. Since November 2013, Ms. Aguila has previously served as a member of the board of directors of our parent entity, Fred Astaire Dance of North America, Inc., multiple times. Ms. Aguila has been the owner and chief executive officer of Great Lakes Franchising, Inc., which is based out of St. Charles, IL and serves as our subfranchisor for certain territory in Illinois, from January 2005 to the present. Additionally, Ms. Aguila has served as an adjudicator for the National Dance Council of America, Inc. from January 1998 to the present.

**Charles Penatello: Board Member**

Mr. Penatello has served on our Board of Directors since September 2017. Since November 2014, Mr. Penatello has previously served multiple times on the board of directors of our parent entity, Fred Astaire Dance of North America, Inc. Mr. Penatello has served as the co-owner, president and chief executive officer of CJ Dance Enterprises, LLC, which is based in East Stroudsburg, PA and serves as our subfranchisor for the State of New Jersey, since February 2009. Additionally, Mr. Penatello has served as an adjudicator for the National Dance Council of America, Inc. from March 1985 to the present, and Mr. Penatello has served as an international adjudicator for the World Dance Council, Ltd. from March 1985 the present.

**Elizabeth Joy: Board Member**

Ms. Joy has served on our Board of Directors since January 2019. Ms. Joy has served as the coowner and President of Tampa Bay Area Development Association Inc., which is based in St. Petersburg, Florida and served as our subfranchisor for the Tampa Bay, Florida Area, from September 2003 to December 2018. Additionally, Ms. Joy was a co-owner of Phupica Corporation which is based in St. Petersburg, FL and is one of our subfranchised studios, from May 1990 to March 2015. Since 1999, Ms. Joy has been a member of the National Dance Council. Ms. Joy serves in her present capacities in St. Petersburg, FL.



### ITEM 3 LITIGATION

#### Prior Actions

*Rick Lavinsky, et al. v. Fred Astaire Dance Studios, Inc., et al.*, Civil Action No. 2010-CV-01584 (Fairfield County, Ohio). On December 29, 2010, plaintiffs, Rick Lavinsky and Peggy Lavinsky, filed a complaint in Ohio state court against us and related entities, including a subfranchisor and a former franchisee. Plaintiffs were customers of a franchisee located in Lancaster, Ohio. The claims include: violation of the Ohio Consumer Sales Practices Act, fraud, negligent misrepresentation, violation of Ohio's RICO statute, civil conspiracy, and respondeat superior. Plaintiffs allege, among other things, that we were negligent and failed to prevent a former franchisee's allegedly wrongful acts with respect to the sale of dance services. Plaintiffs sought over \$100,000.00 in damages. Without any admission of liability, the parties have settled this litigation pursuant to a settlement agreement dated October 10, 2013. In exchange for the plaintiffs dismissing all claims, the subfranchisor paid \$150,000 to plaintiffs while we, along with FADS and FADNA, paid \$75,000 to plaintiffs.

#### Franchisor Initiated Litigation

*None*

#### Governmental Actions

##### *FTC Modified Consent Order*

The Fred Astaire Dance Studios Corporation ("**FADSC**"), one of our predecessors as a franchisor of the mark FRED ASTAIRE DANCE STUDIOS® and certain franchisees in the Washington, D.C. area, entered into a 1964 Cease and Desist Order, Docket No. 8560 (the "**1964 Order**") with the Federal Trade Commission (the "**FTC**") concerning sales practices related to the sale and refunding of prepaid dance lessons. In 1989 the FTC and Ronby Corporation, a successor to FADSC and a predecessor to FADS IP Holder (see **Item 1**), reached an understanding to modify the 1964 Order (the "**FTC Modified Order**"). The FTC Modified Order applies to us and our affiliates and places obligations on all Studios concerning, among other things, the handling of prepaid moneys and procedures for cancellation and refunding of prepaid moneys. The FTC Modified Order prohibits, among other things, certain sales techniques used to induce the purchase of dance instruction, including "relay salesmanship" and any promise that instruction will enable a student to achieve a given standard of dancing proficiency. The FTC Modified Order also requires, among other things, that Studios allow dance students to cancel dance instruction contracts and provide refunds, subject to terms set forth in the FTC Modified Order.

The FTC Modified Order is **Exhibit F** to the Area Representative Agreement, which is **Exhibit B** to this Disclosure Document.

## *Virginia Settlement Order*

On December 20, 2016, we entered into a Settlement Order (the “**Order**”) in Case No. SEC-2016-00057 (the “**Case**”) with the Commonwealth of Virginia, State Corporation Commission’s Division of Securities and Retail Franchising (the “**Division**”). The Case involved allegations that we had sold an unregistered franchise in Virginia during April 2015. Without admitting or denying the allegations, we agreed to pay the Commonwealth of Virginia \$4,500 in settlement and \$3,000 to defray the costs of the investigation. We also agreed to provide a copy of the Order to each Virginia Franchisee and further agreed not to violate the Virginia Retail Franchising Act in the future. In return, the Division has dismissed the Case.

Other than the above, no litigation is required to be disclosed in this Item.

### **ITEM 4      BANKRUPTCY**

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

### **ITEM 5      INITIAL FEES**

#### **Franchise Fee**

The initial area representative fee (the “**Area Representative Fee**”) for a single Area Business is \$40,000. The Area Representative Fee is due upon execution of the Franchise Agreement and is not refundable. We will waive the Area Representative Fee for any Subfranchisors who convert to an Area Business.

#### **Territorial Exclusivity Fee**

The territorial exclusivity fee (the “**Territorial Exclusivity Fee**”) for an Area Business ranges from \$150,000 to \$1,500,000 and will be determined by us on a case-by-case basis based upon the size and demographic characteristics of the Territory and the number of Studios we believe the Territory can sustain. The Territory will typically be a geographic area consisting of one or more counties within a state to a state’s borders. There is no specific minimum or maximum area that we must include in the Territory, but the Territory must be one contiguous area and confined to the borders of one state. We identify the Territory and Territorial Exclusivity Fee in the Area Representative Agreement before you sign it. Because the Territorial Exclusivity Fee is determined on a case-by-case basis, it is not uniform for all Area Representatives.

The Territorial Exclusivity Fee is due upon execution of the Area Representative Agreement. We have no obligation to refund the Territorial Exclusivity Fee, in whole or in part, for any reason. We, or one of our affiliates, may provide direct or indirect financing to you for the Territorial Exclusivity Fee (see **Item 10**). We will waive the Territory Exclusivity Fee for any Subfranchisors who convert to an Area Business.

During 2022, we charged Territory Exclusivity Fees ranging from \$273,584 to \$294,666.

## **Pilot Studio**

You will also be required to sign a Franchise Agreement to operate a Pilot Studio. Initial fees related to the Pilot Studio are described in our Studio FDD.

If we provide written consent waiving your obligation to maintain a Pilot Studio, you must comply with any and all of the conditions and obligations set forth in our written consent and in the Manuals. Failure to comply with any and all of the conditions and obligations stated in our written consent and the Manuals (i) automatically terminates our waiver of your obligation to maintain a Pilot Studio; and (ii) requires you to either operate a replacement Pilot Studio (which may require you to sign a new Franchise Agreement and open a new Franchised Studio within your Territory) or obtain a new written consent from us waiving your obligation to maintain a Pilot Studio.

## **Training Fee**

The initial training for up to 2 people is included in the Area Representative Fee. If you send more than 2 people to initial training, you must pay us \$2,500 for each additional person who attends training.

## **Required Purchases**

Before you open your Area Business, you will purchase approximately \$1,000 in supplies, marketing materials and equipment from us and our affiliates. In addition, you must purchase certain components of the Studio Management and Technology System. We estimate that the total cost to purchase the Studio Management and Technology System will range from approximately \$1,000 to \$3,000.

## **Opening Extension**

If you request our approval to open your Area Business after the Opening Deadline, and we approve your request, you must pay us an opening extension fee of \$500 for each month (or portion of a month) for which the Opening Deadline is extended. We may require you to execute a general release as a condition for us agreeing to such an extension. Your “**Opening Deadline**” is the earlier of: (a) 30 days after your Pilot Studio opens; or (b) 270 days after the effective date of your Area Representative Agreement.

The fees disclosed in this **Item 5** are not refundable under any circumstances. Except as described above, these fees are uniform for all franchisees and must be paid in a lump sum.

**ITEM 6 OTHER FEES**

<b>TYPE OF FEE<sup>(1)</sup></b>	<b>AMOUNT</b>	<b>DUE DATE</b>	<b>REMARKS</b>
Renewal Fee	50% of your original Area Representative Fee	Upon execution of a renewal Area Representative Agreement	Payable if you renew your Area Representative Agreement.
Advertising Fee	A specified percentage of your Royalty Compensation <sup>(2)</sup> for the preceding week, subject to change annually upon written notice to you. <sup>(3)</sup>	Weekly within seven calendar days after the end of each calendar week	The cap for the Advertising Fee is 2% of your Royalty Compensation for the preceding week.
Technology Fee	Currently, \$50 per month for the first year of the initial term; \$75 per month for the second year of the initial term; and \$100 per month for the third year and each subsequent year of the initial term, subject to change once annually in increments of \$25 upon written notice to you	Weekly	The Technology Fee currently includes fees related to your access to and usage of our proprietary studio operational software; our franchise relationship management software; our customer relationship management software; our proprietary learning management system; our FADS System website; server hosting and data protection; internet domain names and e-mail addresses; and any mobile applications that we develop. We may add, delete or otherwise modify the products and services that are included in the Technology Fee. The cap for the Technology Fee is \$250 per month without regard to the year of the initial term.
Initial Licensing Fees	Then-current fee	Within 10 days of demand	FADSD does not currently charge any fees for the acquisition or initial licensing of the studio management software or learning management system, but FADSD reserves the right to charge initial licensing fees in the future.
PCI Compliance Program	Then-current fee	Within 10 days of demand	You must participate in our designated Payment Card Industry (“PCI”) compliance program if we establish such a program and pay the then-current fee associated with such program.

TYPE OF FEE <sup>(1)</sup>	AMOUNT	DUE DATE	REMARKS
Transfer Fee	The greater of \$4,000 or 2% of the purchase price for any transfer resulting in a change of control; \$2,500 for non-change of control transfers and transfers to entities for convenience of ownership	\$4,000 non-refundable deposit due with written notice of proposed change of control transfer, and the balance is due at closing of the change of control; non-change of control transfer fees are due at closing of the transfer	No Transfer Fee is due for transfers to a trust or transfers upon death or incapacity.
Non-Compliance Fee	Up to \$150	Within 10 days of demand	Starting January 1, 2022, we may assess a non-compliance fee for violations of the Area Representative Agreement or the Manuals, and we reserve all other rights and remedies.
Interest and Late Fees	10% per annum (or the maximum rate permitted by law if less than 10%) calculated from the due date until paid and compounded weekly, plus \$25 for each week or portion of a week that a payment is paid after the due date for the payment specified	On demand when amount owed becomes past due	Required whenever a payment to us is made after its due date.
Initial Training for Additional or Replacement Trainees	Currently, \$2,500 per trainee	Within 10 days of demand	We provide initial training to 2 trainees as part of the Area Representative Fee. We require the initial training of your Operating Principal. We may charge you a fee for training (i) each person in excess of 2 trainees; (ii) each person who is repeating the course or replacing a person who did not pass; and (iii) each subsequent Operating Principal or employee who attends the course. We may increase the amount we charge for additional or replacement training upon 90 days' written notice to you. You are responsible for travel and living expenses incurred during training.

TYPE OF FEE <sup>(1)</sup>	AMOUNT	DUE DATE	REMARKS
Optional Training Programs	Varies based on program	Prior to attending any optional training program	We may charge you a reasonable fee for optional training programs that we may provide.
Remedial Training Fee	A reasonable, market-rate fee. Currently estimated at \$500 per day or partial day.	Within 10 days of demand	We may periodically require you, your employees or your Required Trainees to attend and complete to our satisfaction any supplemental, refresher or remedial training programs we provide.
Consulting Fee	A reasonable, market-rate fee. Currently estimated at \$500 per day or partial day, plus any travel and living expenses for each employee or agent	Within 10 days of demand	Payable if we (or one of our agents) provides requested consulting services in person at a place other than our offices (or the offices of one of our agents).
Continuing Business Education Fee	Reasonable, hourly market-rate fee. Currently estimated at \$250 per hour per person trained.	Within 10 days of demand	We require you and your Operating Principal to obtain twenty-four (24) hours of business education every 2 years following the completion of Initial Training. If you fail to obtain all 24 hours of business education, we may require you and your Operating Principal to attend business education classes provided by us or one of our affiliates. We may charge a reasonable, market-rate hourly fee for business education classes that we or our affiliates provide.
Required Conferences	Reasonable registration fee	Prior to attending any required conference; within 10 days of demand for failure to attend any required conference	We will charge a reasonable, market-rate registration fee for you and your Required Trainees for any conferences or meetings that we require you to attend. The amount may vary from conference to conference based on the costs and expenses that we expect to incur and the vendor contributions we expect to collect. You are responsible for the travel and living expenses of you and your employees.
Product, Service, Supplier and Service Provider Review	Our reasonable cost of the inspection and our actual cost of testing the proposed product or evaluating the proposed service or service provider, including personnel and travel costs	Within 10 days of demand	Payable if you wish to offer products or use any supplies, equipment or services that we have not approved or wish to purchase from a supplier or service provider that we have not approved, whether or not we approve the item, service, supplier or service provider.

TYPE OF FEE <sup>(1)</sup>	AMOUNT	DUE DATE	REMARKS
Insurance	Cost and expenses of the premium plus a reasonable fee for our services in procuring the insurance	Within 10 days of demand	Payable only if you fail to maintain the minimum insurance we require and if we choose to procure the required insurance for you.
Local Marketing Spending Requirement	2% of your Royalty Compensation for the previous calendar quarter	Payable by the end of the calendar quarter	In addition to your Advertising Fee, beginning in the first full month after the date your Area Business opens, you must spend 2% of your Royalty Compensation for the previous calendar quarter on local advertising and promotional activities. The local marketing is payable directly to third party vendors, which may include our affiliates. If you fail to pay the required amount in any month, we may require you to pay us the shortfall as an additional Advertising Fee or to pay us the shortfall for us to spend on local marketing for your Area Business.
Advertising Cooperative	If a cooperative is formed in your area, you must pay the then-current fee for your regional or local advertising cooperative	Established by us.	Your contributions to any regional or local advertising cooperatives will be credited toward your local marketing obligations.
Inspection	Our reasonable expenses incurred in inspecting your business (whether ourselves, through our employees, Area Representatives or agents), including travel and living expenses, wages and other expenses for our employees, Area Representatives and agents	Upon demand	Payable if inspection is necessitated by your repeated or continuing failure to comply with any provision of the Area Representative Agreement.

<b>TYPE OF FEE<sup>(1)</sup></b>	<b>AMOUNT</b>	<b>DUE DATE</b>	<b>REMARKS</b>
Audit	Our costs and expenses, including costs for an independent accountant and attorneys' fees and related travel and living expenses	Within 10 days of demand	Payable if (i) you failed to furnish reports, supporting records, other information or financial statements that you are required to submit to us; or (ii) you failed to furnish such reports, records, information or financial statements on a timely basis as required
Remedial Expenses	Our reasonable expenses incurred in correcting your operational deficiencies	Upon demand	Payable if we correct deficiencies that we have identified during a Site inspection and that you failed to correct within a reasonable time after notice from us.
Indemnification	Amount of our liabilities, fines, losses, damages, costs and expenses (including reasonable attorneys' fees)	Upon demand	Payable if we incur losses due to your breach of the Area Representative Agreement or any other action or inaction by you or any other person relating to your Area Business
Enforcement Expenses	Our reasonable costs and expenses (including reasonable attorneys' fees) incurred in enforcing our rights and remedies; our reasonable costs and expenses incurred in de-identifying your Area Business	Upon demand	Payable (i) if you breach your Area Representative Agreement, and we take steps to enforce our rights and remedies under the Area Representative Agreement; or (ii) if your Area Representative Agreement expires or is terminated and you fail to de-identify your Area Business, and we take steps to do so
Regional Competitions	\$20 for each entry from Studios outside of your Territory	Upon demand	We reserve the right to increase the fee charged per entry from Studios outside of your Territory upon 90 days' prior written notice to you.



TYPE OF FEE <sup>(1)</sup>	AMOUNT	DUE DATE	REMARKS
Interregional Competitions	Currently, \$500 application fee plus \$5 for each entry	Upon demand	We currently charge an application fee of \$500 that must be submitted with any application to organize and hold Interregional Competitions (as defined in the Franchise Agreement). You must also pay our then-current fees for each entry at your Interregional Competitions. We reserve the right to increase the Interregional Competition application fee, as well as the fee charged per entry at an Interregional Competition, upon 90 days' prior written notice to you.
Rewards Programs	Then-current fees	Upon demand	<p>If you would like for your Regional Competitions or Interregional Competitions to participate in any rewards programs or series that we offer to Astaire Pros or Studio students, you must notify us. We reserve the right to charge fees for your application or participation in any such program, including an application fee, entry fees or membership fees.</p> <p>We reserve the right (1) to increase or change the fee structure for participation in any such rewards program upon 90 days' prior written notice to you; (2) to modify or change the terms and conditions for participation in any such rewards program upon written notice to you; (3) offer multiple rewards programs concurrently; and (4) to terminate any such rewards program, upon written notice to you.</p>

NOTES:

- (1) All fees and expenses described in this **Item 6** are non-refundable and uniformly imposed; provided that we may waive or modify certain fees for existing Subfranchisors that convert to Area Representatives. Except as indicated in the chart above, we impose all of the fees and expenses listed, and they are payable to us. We may require you to pay any or all periodic or recurring fees to us by electronic funds transfer. You must furnish us and your bank with any necessary authorizations to make payment by methods we require.
- (2) We will pay you a weekly amount equal to 70% of the total amount of Royalty Fees (as defined in the applicable Franchise Agreement) that we receive from all Territory Franchisees for the previous week (the “**Royalty Compensation**”). If 30% or more of your Territory Franchisees qualify as Underperforming Studios for any calendar year or are not in substantial compliance with our FADS System Standards as of December 31, then, during the entire calendar year immediately following, we will pay you a Royalty Compensation equal to 65% of the total amount of Royalty Fees that we receive from such Underperforming Studios or non-compliant Territory Franchisees for the previous week. If 50% or more of your Territory Franchisees qualify as Underperforming Studios for any calendar year or are not in substantial compliance with our FADS System Standards as of

December 31, then, during the entire calendar year immediately following, we will pay you Royalty Compensation equal to 60% of the total amount of Royalty Fees that we receive from all Territory Franchisees in the Territory for the previous week. A Franchised Studio shall be designated as an “**Underperforming Studio**” if the Franchised Studio fails to meet its Performance Standard (as defined in the Franchise Agreement) for Year 2, Year 3, Year 4 or Year 5 and after.

- (3) The current Advertising Fee is 1% of your Royalty Compensation for each week during the 2023 calendar year. After the 2023 calendar year, we reserve the right to increase the Advertising Fees once annually to a maximum of 2% of your Royalty Compensation, in increments of no more than 0.25%, by providing you with written notice of any change at least 180 days prior to the implementation.

**ITEM 7 ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>TYPE OF EXPENDITURE</b>	<b>LOW ESTIMATE</b>	<b>HIGH ESTIMATE</b>	<b>PAYMENT METHOD</b>	<b>WHEN DUE</b>	<b>TO WHOM PAYMENT IS MADE</b>
Area Representative Fee <sup>(1)</sup>	\$40,000	\$40,000	Lump sum	On signing Area Representative Agreement	Us
Territorial Exclusivity Fee <sup>(2)</sup>	\$150,000	\$1,500,000	Lump sum or installments	On signing Area Representative Agreement	Us
Initial Training Fee <sup>(3)</sup>	\$0	\$5,000	Lump Sum	On signing Area Representative Agreement	Us
Travel Expenses to Training <sup>(4)</sup>	\$1,000	\$3,500	As incurred	As incurred	Airlines, hotels and restaurants
Vehicle Leasing <sup>(5)</sup>	\$0	\$1,800	As incurred	As incurred	Car dealership
Furniture, Fixtures and Equipment <sup>(6)</sup>	\$1,500	\$7,000	As incurred	As incurred	Third party vendors
Studio Management and Technology System	\$1,000	\$3,000	As incurred	As incurred	Third party vendors & FADS Distribution

TYPE OF EXPENDITURE	LOW ESTIMATE	HIGH ESTIMATE	PAYMENT METHOD	WHEN DUE	TO WHOM PAYMENT IS MADE
Signage and Graphics <sup>(7)</sup>	\$1,500	\$3,000	As incurred	As incurred	Third party vendors & FADS Distribution
Supplies and Accessories <sup>(8)</sup>	\$2,500	\$5,000	As incurred	As incurred	Third party vendors & FADS Distribution
Business Licenses <sup>(9)</sup>	\$500	\$2,500	As incurred	As incurred	Government Agencies
Technology Fee for 3 Months <sup>(10)</sup>	\$150	\$750	As incurred	As incurred	Us
Professional Fees <sup>(11)</sup>	\$2,500	\$10,000	As incurred	As incurred	Attorneys, bankers, accountants and other professionals
Insurance <sup>(12)</sup>	\$2,500	\$5,000	As incurred	Prior to opening	Insurance agent or carrier
Working Capital for 3 Months <sup>(13)</sup>	\$15,000	\$30,000	As incurred	As incurred	Employees, third party vendors, suppliers, us, etc.
<b>TOTAL<sup>(14)</sup></b>	<b>\$218,150</b>	<b>\$1,616,550</b>			

NOTES:

- (1) The Area Representative Fee for an Area Business is \$40,000.
- (2) The Territorial Exclusivity Fee will be determined by us on a case-by-case basis based upon the size and demographic characteristics of your Territory and the number of Studios we believe the Territory can sustain. The Territorial Exclusivity Fee may range from \$150,000 to \$1,500,000. See **Item 5**.
- (3) If you send more than 2 people to the initial training program, you must pay us a \$2,500 training fee per person. The high end assumes that you send 4 people to the initial training program.
- (4) This estimate is for the cost of two people to attend initial training in Connecticut. You are responsible for the travel and living expenses, wages and other expenses incurred by your trainees during initial training. The actual cost will depend on your point of origin, method of travel, class of accommodations and dining choices.
- (5) This estimate is the cost of leasing one vehicle to use in the Area Business. We anticipate that you will need a vehicle to allow you to visit Studios and Prospects, but we do not

establish specifications for such vehicles. Your costs may vary based on the lease terms and the type of vehicle you elect to lease or whether you already own a vehicle that you can use.

- (6) This estimate includes the furniture, fixtures and equipment to be used in the Area Business, including cabinetry, retail displays, lockers, benches, audio equipment, lighting systems, telephones, office furniture and appliances.
- (7) This estimate includes the cost of business cards, displays and signage throughout the Area Business. You will purchase certain marketing materials from FADS Distribution, and the remaining items will be purchased from third party suppliers.
- (8) This estimate includes the cost of purchasing an initial supply of office supplies and cleaning supplies, decorative items, bathroom accessories and other ancillary items used in the operation of the Area Business. You will purchase certain supplies from FADS Distribution, and the remaining items will be purchased from third party suppliers.
- (9) This estimate includes the cost of acquiring business licenses and permits. Your costs will vary depending upon your Area Business's location and the costs of required licenses and permits in your market.
- (10) This cost is the payment of the Technology Fee to us for your first 3 months of operation. The Technology Fee is described in **Item 6**.
- (11) This estimate includes the cost of professional fees that you may incur in establishing your business. Such costs may include fees paid to attorneys, accountants and finance originators.
- (12) This estimate includes the cost to obtain insurance for your Area Business that meets the minimum requirements established by the FADS System Standards (see **Item 8**). You must obtain insurance prior to opening your Area Business. You will need to check with your insurance carrier for actual premium quotes and costs, as well as for the actual amount of any deposit (if required). The cost of coverage will vary based upon the area in which your Area Business is located, your experience with the insurance carrier, the loss experience of the carrier, the amount of deductibles and of coverage and other factors beyond our control. You should check with your insurance agent or insurance broker regarding any additional insurance that you may wish to carry above our required minimums.
- (13) This estimate is an estimate of the amount of additional operating capital that you may need during the first 3 months after opening your business. This estimate includes additional funds you may need to pay employee wages and salaries (including payroll for pre-opening training of your staff and any payroll taxes), utilities, Advertising Fees, legal and accounting fees, additional advertising, health and workers' compensation insurance, bank charges, miscellaneous supplies and equipment, staff recruiting expenses, state tax and license fees, deposits, prepaid expenses and other miscellaneous items. The preceding list is not an exhaustive list of the possible expenses you may incur in your first 3 months.

- (14) The estimated initial investments shown are based primarily on the costs incurred by other Area Businesses. Your costs may vary based on a number of different factors, including, but not limited to, the geographic area in which you open your Area Business, your local market conditions, and your skills at operating a business. We strongly recommend that you use these categories and estimates as a guide to develop a business plan and budget. We also strongly recommend that you investigate the specific costs in your area. Your actual costs for each category and your actual total costs may be higher or lower than the costs estimated in this table. You should independently investigate the costs of opening a dance studio in the geographic area in which you intend to open an Area Business. You should review all of the figures and categories in this table carefully with a business advisor before you make a decision to purchase the franchise.

We may offer direct or indirect financing for your Territorial Exclusivity Fee (see **Item 10**). The availability and terms of financing with us, our affiliates or third party lenders and finance originators will depend on factors such as the availability of financing generally, your credit worthiness, the collateral which you may have available and policies of us, our affiliates or the lending and financial institutions concerning the type of business operated.

All payments to us outlined above are not refundable. The refundability of other payments will depend on arrangements you make with third parties.

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

### **Required Products and Services**

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

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

You must use and retain the services of a person who is a member of our affiliate, Fred Astaire Dance Board, Inc. (“**FADB**”), to examine, judge, qualify and/or certify your Astaire Pros and/or your customers against your dancing standards and manuals. You are required to pay such person a fee (including travel and living expenses) for their services examining, judging, qualifying and/or certifying your Astaire Pros and/or your customers. The size of the fee is determined by the

person whom you retain, and neither we nor FADB have any control over the size of the fee the person may charge you. Neither we nor FADB currently derive any revenue from your retention of members of FADB, but we and FADB reserve the right to receive revenue or commissions in the future.

You must hold Regional Competitions for your Territory Franchisees in accordance with our Manuals or as we specify otherwise in writing.

If you would like to organize and hold Interregional Competitions in your Territory for any and all Studios, you must submit to us a written application and comply with all of the policies, procedures and payment arrangements as outlined in our Manuals. We currently charge an application fee that must be submitted with any application to organize and hold Interregional Competitions. Upon acceptance and approval of your Interregional Competition application, and in consideration of our granting to you the right to hold an Interregional Competition, we reserve the right to charge you, and you agree to pay, fees for each entry at your Interregional Competitions. We currently charge for each entry at your Interregional Competitions. We reserve the right to increase the Interregional Competition application fee, as well as the fee charged per entry at an Interregional Competition, upon 90 days' prior written notice to you. During the Initial Term, you will not be required to organize or hold any Interregional Competition.

If you would like for your Regional Competitions or Interregional Competitions to participate in any rewards programs or series that we offer to Astaire Pros or Studio students, you must notify us. We reserve the right to charge fees for your application or participation in any such program, including an application fee, entry fees or membership fees. We reserve the right (1) to increase or change the fee structure for participation in any such rewards program upon 90 days' prior written notice to you; (2) to modify or change the terms and conditions for participation in any such rewards program upon written notice to you; (3) offer multiple rewards programs concurrently; and (4) to terminate any such rewards program, upon written notice to you.

## **Insurance**

You must obtain before you begin operating your Area Business, and must maintain at all times, the types of insurance and minimum policy limits specified in the Manuals. The types of insurance and minimum policy limits will include: (i) general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 in annual aggregate; (ii) workmen's compensation insurance; (iii) general property/casualty insurance, which must include certain endorsements as stated in the Manuals, covering the full replacement cost of your Area Business and inventory; (iv) employment practices liability insurance (whether as a standalone policy or as an endorsement to your general liability insurance) in the amount of \$100,000 per each occurrence and \$300,000 in the aggregate; and (v) automobile insurance. However, you may be required to acquire additional insurance by the laws in your territory. All of your insurance carriers must be rated A or higher by A.M. Best and Company, Inc. (or such similar criteria as we periodically specify). These insurance policies must be in effect on or before the deadlines we specify. All coverage must be on an "occurrence" basis, except for the employment practices liability insurance coverage, which is on a "claims made" basis. All policies shall apply on a primary and non-contributory basis to any other insurance or self-insurance that we or our affiliates maintain. We

must be named as an additional insured under each policy that we require. Upon our request or as specified in the Manuals, you must provide us with certificates of insurance, duplicate insurance policy, insurance policy endorsements and other evidence of compliance with these insurance requirements as we periodically require evidencing the required coverage. We may require additional types of coverage or increase the required minimum amount of coverage upon 90 days' notice to you.

### **Studio Management and Technology System**

You are required to purchase and use most of the components of the Studio Management and Technology System that we specify, including computer hardware and software, from suppliers that we approve or designate. If we require you to use any proprietary software or to purchase any software from a designated vendor, you must execute any software license agreements that we or the licensor of the software (who may be an affiliate of ours) require and any related software maintenance agreements.

Currently we require you to acquire and use a proprietary studio management software from our affiliate, FADSD. FADSD is the only approved supplier of our proprietary studio management software. FADSD does not currently charge any fees for the acquisition or initial licensing of the studio management software, but FADSD reserves the right to charge an initial licensing fee in the future.

Currently we require you to acquire and use a proprietary learning management system from our affiliate, FADSD. FADSD is the only approved supplier of our proprietary learning management system. FADSD does not currently charge any fees for the acquisition or initial licensing of the learning management system, but FADSD reserves the right to charge an initial licensing fee in the future.

Currently we require you to use the customer relations management and franchise relationship management software included in the internal franchising platform software system ("Internal Franchising Platform") and the Astaire Management Program ("AMP") through the Dance Store Kiosk. The costs of the AMP and Internal Franchising Platform are included within your Technology Fee (see **Item 6**).

### **Authorized Suppliers and Approval Process**

In addition to the above, we may require that you, at your expense, enter into agreements with suppliers approved by us. Currently you are required to purchase marketing materials (such as posters, banners, tables, clothes, plaques, and front door mats), certain electronic and computer equipment (such as servers, computers, software licenses, computer accessories and cabling products), manuals and equipment only from suppliers designated as required, recommended or approved by us. We also require you to purchase certain supplies, marketing materials and equipment from us or our affiliates. We may change approved and required suppliers from time to time, and we or our affiliates may be approved or designated suppliers for certain items.

We will provide you with a current list of approved suppliers (including required and recommended suppliers) through updates to the Manuals or other forms of communication, including through our intranet.

If you desire to offer products or to lease, purchase or use any supplies, Operating Assets or services that we either have not pre-approved or from a supplier or service provider that we have not pre-approved, you must submit to us sufficient written information about the proposed new supplier to enable us to approve or reject either the supplier or the particular items. We have the right to inspect the proposed supplier's facilities and test samples of the proposed products and to evaluate the proposed service provider and the proposed service offerings. You agree to pay us a charge not to exceed the reasonable cost of the inspection and our actual cost (including personnel and travel costs) of testing the proposed product or evaluating the proposed service or service provider whether or not the item, service, supplier or service provider is approved. We have the right to grant, deny or revoke approval of products, services, suppliers or service providers based solely on our judgment. We will notify you in writing of our decision as soon as practicable following our evaluation. If you do not receive our approval within 90 days after submitting all of the information that we request, our failure to respond will be deemed a rejection of the request.

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

We may limit the number of approved suppliers with whom you may deal, designate sources that you must use or refuse requests for alternative suppliers for any reason, including that we have already designated an exclusive source (which may be us or our affiliates) for any particular item or service if we believe doing so is in the best interests of our franchise system.

### **Proportion of Purchases Subject to Specifications**

We estimate that the cost to purchase or lease all equipment, inventory and other items and services that we require you to obtain from us or our affiliates, from designated suppliers or in accordance with our specifications ranges from 35% to 65% of the total cost to purchase or lease equipment, inventory and other items necessary to establish a Studio and 35% to 65% of the total cost to purchase or lease equipment, inventory and other items to operate a Studio.

### **Revenue from Purchases**

We or our affiliates may receive revenues or profits or other material consideration from the purchases you make from us or our affiliates. We intend to earn revenue from franchisees' and Area Representatives' purchase of apparel and merchandise, furniture, fixtures, equipment,



technology, signage and graphics, audio-visual equipment and other items from us or our affiliates that we may specify from time to time.

In our last fiscal year ending December 31, 2022, we received \$312,203 in revenue from all required purchases and leases of products and services by franchisees, including purchases of items to be resold in Franchised Studios. This was 2% of our total revenue of \$13,104,724 as reported in our audited financial statements (see **Exhibit E**). In our last fiscal year ending December 31, 2022, our affiliates did not receive any revenue from required purchases and leases of products and services by franchisees.

Some of our officers own a direct or indirect interest in FADS Holdco, the parent company of us and FADSD. No officer owns a material interest in any other supplier.

### **Revenue from Rebates**

We or our affiliates may negotiate with suppliers, service providers and manufacturers to receive rebates, commission or other consideration based on certain items that you purchase or lease. The rebate programs vary depending on the supplier and the nature of the product or service. We may currently earn compensation or rebates on account of franchisees' required purchases from certain approved suppliers. Not every supplier pays rebates or commissions.

We and our affiliates have the right to receive payments or other benefits like rebates, discounts and allowance from authorized suppliers based upon their dealings with you and other franchisees, and we may use the monies we receive without restriction for any purpose we deem appropriate or necessary. We may receive fees from a supplier as a condition of our approval of that supplier. In the last fiscal year, we received rebates from one authorized supplier of 15% of franchisee purchases. Suppliers may pay us based upon the quantities of products our franchisees purchase from them.

In our last fiscal year ending December 31, 2022, we received \$35,303 in revenue from commissions for services from certain approved service providers. This was 2.69% of our total revenue of \$13,104,724 as reported in our audited financial statements (see **Exhibit E**).

### **Cooperatives and Purchase Arrangements**

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

### **Material Benefits**

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

## **Issuance of Specifications and Standards**

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

## **ITEM 9 FRANCHISEE’S OBLIGATIONS**

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

	<b>Obligation</b>	<b>Section in Area Representative Agreement</b>	<b>Disclosure Document Item</b>
a.	Site selection and acquisition/lease	Not applicable	Item 11
b.	Pre-opening purchases/leases	Section 6.03(c)	Items 6, 7, 8 & 11
c.	Site development and other pre-opening requirements	Sections 6.03 and 6.05	Items 7, 8 & 11
d.	Initial and ongoing training	Section 10.01, 10.02, 10.03, 10.04, 10.07, and 10.08	Items 6, 7 & 11
e.	Opening	Section 6.05	Items 6 and 11
f.	Fees	Articles V and X; Sections 4.03, 6.03(c), 6.05(b), 6.12(c), 7.09(e), 9.06(b), 9.06(c), 13.04, 16.03, 16.04, and 16.05	Items 5, 6, 7 and 11
g.	Compliance with standards and policies/operating manual	Articles VI, V, IV, XI	Items 7, 8, 11, 13, 14, 15 and 16
h.	Trademarks and proprietary information	Articles XI and XII	Items 13, 14 and 17
i.	Restrictions on products/services offered	Section 6.14	Items 8 and 16
j.	Warranty and customer service requirements	Not applicable	Items 8 and 16
k.	Territorial development and sales quotas	Article VII	Items 6, 12 and 17
l.	Ongoing product/service purchases	Sections 6.03, 6.14	Items 8 and 16
m.	Maintenance, appearance and remodeling requirements	Not applicable	Items 7, 8 and 11

	<b>Obligation</b>	<b>Section in Area Representative Agreement</b>	<b>Disclosure Document Item</b>
n.	Insurance	Section 6.12	Items 7 and 8
o.	Advertising	Section 5.06, 7.03, 7.08, 7.09	Items 6, 7, 8 and 11
p.	Indemnification	Article XV; Section 11.11	Item 6
q.	Owner's participation/ management/staffing	Sections 6.03 and 6.04	Items 11 and 15
r.	Records and reports	Article XIII	Items 6 and 17
s.	Inspections and audits	Article XIII	Items 6 and 11
t.	Transfer	Article XVI	Items 6 and 17
u.	Renewal	Sections 4.02, 4.03, 4.04 and 5.03	Item 17
v.	Post-termination obligations	Article XVIII	Item 17
w.	Non-competition covenants	Article XIV	Item 17
x.	Dispute resolution	Articles XIX, XX	Item 17

## **ITEM 10 FINANCING**

We currently offer financing for qualified Area Representatives for their Territorial Exclusivity Fee. The amount of financing and period of repayment varies by circumstances and creditworthiness of the applicant. We will not finance any other costs or fees, including your Area Representative Fee. All decisions to provide financing are at our or our affiliate's sole and absolute discretion. Neither we nor any of our affiliates have any responsibility to provide you financing for your Territorial Exclusivity Fee.

If we approve you for financing, you and your Owners would be required to sign a promissory note and comply with other requirements specific to such promissory note, including, security agreements.

We do not advise you as to whether to finance your Territorial Exclusivity Fee through us, or a third party lender. We strongly encourage you to investigate several alternative sources of financing and to discuss each available financing program with a qualified accountant, legal, tax or other advisor to determine which program best suits your individual business needs.

### **Typical Qualifications**

We maintain our own underwriting criteria and reserve the right to approve or deny any application for credit based on its internal rules and guidelines. These criteria typically include, but are not limited to: acceptable pre-financing and anticipated post-financing cash flow, net worth and debt to equity (leverage); acceptable credit history; management and studio experience; the amount

proposed to be financed must be within certain approved parameters; the applicant must provide designated equity participation; an acceptable business and financial plan; certification that the applicant remains in compliance with its agreements with us; or completion of training programs, and other factors.

### **Typical Contractual Obligations**

Our standard financing documents are attached to this Disclosure Document as **Exhibit D** (the “**Sample Loan Documents**”). The Sample Loan Documents provide for the acceleration of principal and for the removal and sale of the collateral upon your default. The Sample Loan Documents also require you to waive defenses, notice, demand, protest, redemption, appraisal, suretyship rights, set-off, recoupment or counterclaim against us and our affiliates. A termination of your Area Representative Agreement or your Franchise Agreement for your Pilot Studio will constitute a default of your loan, and a default of your loan will constitute a default of your Area Representative Agreement or your Franchise Agreement for your Pilot Studio. You will also be required to waive all exemption and homestead laws and to consent to a non-jury trial (where not prohibited by law). Financing may not be transferable, and payment of principal and interest may be due upon the sale of your Area Business or your Pilot Studio. Late fees, attorneys’ fees and default interest will also be imposed if you default under the loan. The loan documents, and the loan terms in such documents, may change from time to time.

Each of your shareholders, owners and partners will be required to personally guarantee the obligations under the Sample Loan Documents. Financing is typically secured by perfected first priority liens against your business and personal assets, including, without limitation, real estate, improvements, equipment and signs. You may prepay your loan, and prepayment penalties will generally not be required. Interest income may be recognized under the “Rule of 78s” (precomputation of interest due over term of loan reflecting monthly principal balance). The specific provisions of individual contracts will vary based upon your circumstances and the creditworthiness of you and your Owners. You should check with third party lenders before you select financing with us or our affiliates. We strongly encourage you to review the terms and conditions and other required documents with an accountant, legal, tax or other advisor before executing any financing documents, whether with us or any third party lender.

Interest rates vary based on the cost of funds, credit quality, loan size and other considerations, including, without limitation, current market conditions. The number of payments varies depending on the amount of the loan. The interest rates and annual percentage rates displayed below were effective as of the date of this Disclosure Document are subject to change at any time without notice.

If the Territory currently contains one or more Franchised Studios, the minimum initial down payment must be greater than, or equal to, 7% of the gross revenues of such Franchised Studio(s) for the immediately preceding calendar year.

**30% Initial Down Payment**

<b>Term</b>	<b>Interest Rate</b>	<b>Closing Costs<sup>(1)</sup></b>	<b>Documentation Fees<sup>(2)</sup></b>	<b>Security Interest and Collateral</b>
5 Year <sup>(3)</sup>	2%	Depends on size and type of loan	Depends on the complexity of transaction and number of Owners	First priority security interest in all assets of your Entity and/or the borrower, and all of each Owner's assets. A personal guaranty is required from each Owner.
7 Year <sup>(3)</sup>	3%			
10 Year <sup>(4)</sup>	4%			

**20% Initial Down Payment**

<b>Term</b>	<b>Interest Rate</b>	<b>Closing Costs<sup>(1)</sup></b>	<b>Documentation Fees<sup>(2)</sup></b>	<b>Security Interest and Collateral</b>
5 Year <sup>(3)</sup>	3%	Depends on size and type of loan	Depends on the complexity of transaction and number of Owners	First priority security interest in all assets of your Entity and/or the borrower, and all of each Owner's assets. A personal guaranty is required from each Owner.
7 Year <sup>(3)</sup>	4%			
10 Year <sup>(4)</sup>	5%			

**10% Initial Down Payment**

<b>Term</b>	<b>Interest Rate</b>	<b>Closing Costs<sup>(1)</sup></b>	<b>Documentation Fees<sup>(2)</sup></b>	<b>Security Interest and Collateral</b>
5 Year <sup>(3)</sup>	4%	Depends on size and type of loan	Depends on the complexity of transaction and number of Owners	First priority security interest in all assets of your Entity and/or the borrower, and all of each Owner's assets. A personal guaranty is required from each Owner.
7 Year <sup>(3)</sup>	5%			
10 Year <sup>(4)</sup>	6%			

- (1) You are responsible for paying all closing costs, including attorneys' fees and costs, incurred by us or our affiliates associated with the financing.
- (2) You are responsible for paying all documentation, filing and recording fees (such as Uniform Commercial Code filing fees) associated with documenting and securitizing the financing.
- (3) If, as of the date of execution of the loan documents, the interest rate listed here is lower than the current applicable federal rate for mid-term loans published by the Internal Revenue Service in accordance with Sec. 1274(d) of the Internal Revenue Code, then the interest rate will be the then current applicable federal rate for mid-term loans.
- (4) If, as of the date of execution of the loan documents, the interest rate listed here is lower than the current applicable federal rate for long-term loans published by the Internal Revenue Service in accordance with Sec. 1274(d) of the Internal Revenue Code, then the interest rate will be the then current applicable federal rate for long-term loans.

It is not our practice or intent to sell, assign or discount to a third party all or part of the financing arrangement described above. We do not receive any consideration for placing financing with third party lenders.

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

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

### **Pre-Opening Obligations**

1. **Studio FDD and Studio Agreements.** We will provide you with our standard forms of Studio FDD and our standard forms of Studio Agreements. We will prepare and provide them to you at our own expense, and we may modify them periodically. (Area Representative Agreement – Section 8.02)
2. **Manuals.** We will provide you with copies of our Manuals. (Area Representative Agreement – Section 6.01)
3. **AR Training.** We will provide you with an initial training program for Area Representatives (“**AR Training**”). See “Training” below in this **Item 11**. (Area Representative Agreement – Section 10.01)

### **Continuing Obligations**

1. **Studio Agreement Provision Approval Rights.** With respect to any Territory Franchisees, we have the sole right and responsibility, among other approval rights, to approve (i) proposed amendments to, waivers of provisions of, transfers of or terminations of any Studios Agreements; (ii) the location, design, development and opening of any Franchised Studio; (iii) the use of any supplies, signs, equipment, uniforms, advertising or marketing materials or methods of operation not specified in the Manuals or otherwise approved in writing by us; (iv) the sale of any product or service which has not previously been approved in writing by us or which has been disapproved by us; or (v) the institution, defense or settlement of any legal proceedings involving the FADS System, the Marks, suppliers to the System, Prospects, Territory Franchisees, the Studio Agreements or the Studios. (Area Representative Agreement – Section 9.05)
2. **Selection and Approval of Prospects.** We will approve or disapprove of Prospects that you submit to us in writing. We will use our reasonable efforts to deliver such notices to you within 45 days after we receive the materials that we request from the Prospect. (Area Representative Agreement – Section 7.05)
3. **Payment of Initial Franchise Compensation.** We will pay you (i) 50% of the Franchise Fee (as defined in the applicable Franchise Agreement) paid to us for Franchised Studios located in the Territory for Prospects that you identified and led through the Sales Process to closing during the previous week; (ii) 30% of the Franchise Fee (as defined in the applicable Franchise Agreement) paid to us for Franchised Studios located in the Territory

for Prospects that you identified and we led through the Sales Process to closing during the previous week; and (iii) 30% of the Franchise Fee (as defined in the applicable Franchise Agreement) paid to us for Franchised Studios located in the Territory for Prospects that we identified and either we or you led through the Sales Process to closing during the previous week (collectively, the “**Franchise Compensation**”). The “**Sales Process**” includes the sales process steps from the identification of the Prospect to the Prospect executing Studio Agreements. (Area Representative Agreement – Section 5.04(a)).

4. **Payment of Royalty Compensation.** We will pay you a weekly amount equal to 70% of the total amount of Royalty Fees (as defined in the applicable Franchise Agreement) that we receive from your Territory Franchisees for the previous week (the “**Royalty Compensation**”). If 30% or more of your Territory Franchisees qualify as Underperforming Studios for any calendar year or are not in substantial compliance with our FADS System Standards as of December 31, then, during the entire calendar year immediately following, we will pay you a Royalty Compensation equal to 65% of the total amount of Royalty Fees that we receive from such Underperforming Studios or non-compliant Territory Franchisees for the previous week. (Area Representative Agreement – Section 5.04(b))
5. **Payment of Performance Compensation.** We will pay you, on a weekly basis, an amount equal to 50% of the total amount of all Performance Royalty Fees that we receive from your Territory Franchisees during the previous week (“**Performance Compensation**”). The “**Performance Royalty Fee**” is the total difference of Royalty Fees actually paid to us by a Franchised Studio and the amount of Royalty Fees a Franchised Studio would have paid to us if a Franchised Studio had met its Performance Standard. Notwithstanding the foregoing, we will not pay you, and you are not entitled to, Performance Compensation: (i) for any Territory Franchisee for which your Royalty Compensation was reduced pursuant to Note 4 above in the previous calendar year; and (ii) for any calendar year in which your Royalty Compensation was reduced for all of your Territory Franchisees pursuant to Note 4 above. (Area Representative Agreement – Section 5.04(c))
6. **Payment of Training Compensation.** We will pay you an amount equal to 50% of the total amount of all Initial Training Fees (as defined in the Franchise Agreement) that we receive from your Territory Franchisees during the previous week. (Area Representative Agreement – Section 5.04(d))
7. **Payment of Renewal Compensation.** We will pay you an amount equal to 50% of the total amount of any renewal fees that we receive from your Territory Franchisees during the previous week. (Area Representative Agreement – Section 5.04(e))
8. **Payment of Transfer Compensation.** We will pay you an amount equal to 50% of the total amount of transfer fees (which includes any non-refundable deposit paid to us by a Franchised Studio in your Territory when providing notice of a proposed Transfer) that we receive from your Territory Franchisees during the previous week. (Area Representative Agreement – Section 5.04(f))

9. **Payment of Management Compensation.** We will pay you an amount equal to 85% of the total amount of any management fees that we receive from your Territory Franchisees during the previous week for which we have appointed you as manager pursuant to the Territory Franchisee's Franchise Agreement. (Area Representative Agreement – Section 5.04(g))
10. **Payment of Independent Competition Compensation.** We will pay you an amount equal to 50% of the total amount of independent competition fees that we receive from your Territory Franchisees during the previous week. (Area Representative Agreement – Section 5.04(h))
11. **Payment of Relocation Compensation.** We will pay you an amount equal to 50% of the total amount of any relocation fees that we receive from your Territory Franchisees during the previous week. (Area Representative Agreement – Section 5.04(i))
12. **Payment of Extension Compensation.** We will pay you an amount equal to 50% of the total amount of any Franchised Studio opening extension fees that we receive from your Territory Franchisees during the previous week. (Area Representative Agreement – Section 5.04(j))
13. **Payment of Area Representative Fee Compensation.** We will pay you an amount equal to 50% of the Initial Area Representative Fee paid to us for Prospects that (i) you identify and you or we led through the Sales Process to closing during the previous week; and (ii) open an Area Business for a territory without a current Area Business or Area Representative. “**Initial Area Representative Fee**” means, respecting each Area Representative Agreement, the initial payment we receive for the grant of the Area Business license, less any amounts that we pay to brokers in connection with such sale, and does not include other payments received for territorial exclusivity, computer hardware and software and related services or equipment or tangible goods we or other affiliates provide to Area Representatives. (Area Representative Agreement – Section 5.04(k))
14. **Payment of Area Royalty Compensation.** We will pay you an amount equal to 10% of the total amount of Royalty Fees that we receive from each Franchised Studio in the territory of any Prospect that you identified that becomes an Area Representative for any territory without a current Area Business for the previous week (the “**Area Royalty Compensation**”). You will receive the Area Royalty Compensation for a period of 3 years from the effective date of the Prospect's applicable Area Representative Agreement. (Area Representative Agreement – Section 5.04(l))
15. **Initial Training of Territory Franchisees.** We will provide the classroom portion of the initial training for all Territory Franchisees, in accordance with the terms of our then current form of Franchise Agreement. We will provide the on-site portion of the initial training for your Pilot Studio, and you must participate in the on-site portion to the extent and in the manner that we specify. (Area Representative Agreement – Section 9.01(a))



16. **Additional Training.** We may periodically conduct mandatory or optional training programs for you, your Operating Principal or your employees at our office or another location that we designate. (Area Representative Agreement – Section 10.02)
17. **Remedial Training.** We may provide any necessary remedial training courses and require you to attend. We may charge you a reasonable fee for such training (see **Item 6**), and you must pay all expenses for you and your employees, including training materials, travel and living expenses. (Area Representative Agreement – Section 10.04)
18. **FADS Advertising Fund.** We will maintain and administer the general marketing and development fund (the “**FADS Advertising Fund**”). The FADS Advertising Fund is discussed in more detail below in this **Item 11**. (Area Representative Agreement – Section 7.08)
19. **Requested Consulting Services.** We may provide to you additional consulting services with respect to the operation of the Area Business upon your reasonable request and subject to the availability of our personnel at a mutually convenient time. We will make available to you information about new developments, techniques and improvements in the areas of merchandising, advertising, management, operations and Studio design. We may provide such additional consulting services through the distribution of printed or filmed material, an Intranet or other electronic forum (including e-learning modules), meetings or seminars, teleconferences, webinars or in person. If such services are rendered in person other than at our offices, you must pay us a fee and our travel and living expenses. (Area Representative Agreement – Section 10.06)
20. **FADS Conferences.** At the time and places we designate, we will host, and you, your Operating Principal, your managers or any of your representatives that we designate must attend FADS conferences, teleconferences, conventions, meetings and demonstrations (“**FADS Conferences**”) that we may require periodically in the Manuals or otherwise in writing. By October 1 of each calendar year during the Initial Term, we will identify any required FADS Conferences for the following calendar year that you, your Operating Principal, your managers or your employees must attend. In each year, you and your employees will not be required to attend in person more than three days of FADS Conferences that we organize. We will be responsible for arranging FADS Conferences and providing meeting materials. You are responsible for all costs, including travel and living expenses and any registration costs, associated with your, your Operating Principal’s, your managers’ or your employees’ attendance at any FADS Conference. (Area Representative Agreement – Section 10.07)
21. **Products and Supplies.** We will provide you with information regarding approved, required and preferred suppliers and evaluate suppliers proposed by you. (Area Representative Agreement – Section 6.14)

## **Advertising, Marketing and Promotion**

### *Our Marketing*

We may from time to time formulate, develop, produce and conduct, at our sole discretion, advertising or promotional programs in such form and media as we determine to be most effective. We may make available for you to purchase approved advertising and promotional materials, including, without limitation, signs, posters and collaterals, that we have prepared. Currently we require you to use only the materials that we have approved and that you purchase from an approved supplier. We may change this policy in the future at any time.

We have not conducted media advertising for the FRED ASTAIRE DANCE STUDIOS® concept. If we conduct media advertising, we may use direct mail, print, radio, Internet or television, which may be local, regional or national in scope. We may produce the marketing materials in-house or employ a local, regional or national advertising agency. We are not obligated to conduct any marketing or advertising programs within your Territory or market.

### *Local Marketing*

You must use your best efforts to promote the use of the Marks in your territory and market area. You must spend 2% of your Royalty Compensation for the previous calendar quarter on local advertising and promotional activities related to the Franchised Studios and the development of Prospects in the Territory (the “**Marketing Spending Requirement**”). Your Marketing Spending Requirement is in addition to your Advertising Fee. We have the right to designate in the Manuals the types of expenditures that will or will not count toward the Marketing Spending Requirement. At our request, you must submit appropriate documentation to verify compliance with the Marketing Spending Requirement. If you fail to spend (or prove that you spent) the Marketing Spending Requirement in any calendar quarter, then we may, in addition to and without limiting our other rights and remedies, require you to pay us the shortfall as an additional Advertising Fee or to pay us the shortfall for us to spend on local marketing for your Area Business.

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

You must submit to us in writing for our prior approval all sales promotional materials and advertising that have not been prepared by or previously approved by us. If our written approval is not received within 14 days from the date we received the material, the material is deemed

rejected. We will have the final decision on all creative development of advertising and promotional messages and are not required to approve any advertising materials that we have not created. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

### *FADS Advertising Fund*

Upon the opening of your Area Business, you must begin paying a weekly Advertising Fee (see **Item 6**) as a contribution to the FADS Advertising Fund. The current Advertising Fee is 1% of your Royalty Compensation for each week during the 2023 calendar year. After the 2023 calendar year, we reserve the right to increase the Advertising Fees once annually to a maximum of 2% of your Royalty Compensation, in increments of no more than 0.25%, by providing you with written notice of any change at least 180 days prior to the implementation. All Area Representatives that operate under a similar form of Area Representative Agreement will pay the same Advertising Fee. Contributions to the FADS Advertising Fund will be paid on a weekly basis via automatic debit from your bank operating account. We will maintain and administer the FADS Advertising Fund as follows:

1. The FADS Advertising Fund is intended to maximize general public recognition and acceptance of the Marks and to enhance the collective success of all Studios. We will direct all advertising programs produced using the FADS Advertising Fund, and we will have sole discretion to approve or disapprove the creative concepts, materials and media used in those programs, the placement of the advertisements and the allocation of the money in the FADS Advertising Fund to production, placement or other costs. In administering the FADS Advertising Fund, we and our affiliates undertake no obligation to make expenditures for you which are equivalent or proportional to your contribution or to ensure that you or any particular Studio benefits directly or pro rata from the placement of advertising.
2. The FADS Advertising Fund may be used to satisfy any and all costs associated with advertising (media and production), branding, marketing, public relations or promotional programs and materials, and any other activities that we believe would benefit the FRED ASTAIRE DANCE STUDIOS® brand or Studios generally, including, without limitation, local, regional or national advertising campaigns in various media; creation, maintenance and optimization of the Website or other websites; keyword or adword purchasing programs; conducting and managing social media activities; direct mail advertising; market research, including secret shoppers and customer satisfaction surveys; branding studies; employing advertising or public relations agencies; purchasing promotional items; conducting and administering promotions, contests, giveaways, public relations events and community involvement activities; providing promotional and other marketing materials and services to our franchisees; and soliciting interest in Franchised Studios. We have the right to direct all marketing programs with the final decision over creative concepts, materials and media used in the programs and their placement.
3. All sums paid to the FADS Advertising Fund will be maintained in a separate account by us and may be used to defray any of our administrative costs and overhead that we incur in

activities related to the administration or direction of the FADS Advertising Fund and advertising programs for franchisees and all Studios. The FADS Advertising Fund and its earnings will not otherwise inure to our benefit. The FADS Advertising Fund is operated solely as a conduit for collecting and expending the Advertising Fees.

4. In no event will we be deemed a fiduciary with respect to any Advertising Fees that we receive or administer. We have no fiduciary duty to you, or any other franchisees, or your Owners, or any Owners of other franchisees, with regard to the operation or administration of the FADS Advertising Fund. We are not required to have an independent audit of the FADS Advertising Fund completed. We will prepare an unaudited statement of contributions and expenditures for the FADS Advertising Fund make it available within 90 days after the close of our fiscal year. We may use monies in the FADS Advertising Fund to pay for an independent audit of the FADS Advertising Fund, if we elect to have it audited.
5. It is anticipated that all FADS Advertising Fund contributions will be expended for programs during the fiscal year in which such contributions are made. If excess amounts remain in the FADS Advertising Fund at the end of the year, all expenditures in the following fiscal year will be made first out of such excess amounts, including any interest or other earnings of the FADS Advertising Fund, and next out of current contributions. We may spend in any fiscal year an amount greater or less than the contributions to the FADS Advertising Fund in that fiscal year. The FADS Advertising Fund may borrow from us, one of our affiliates or other lenders to cover deficits of the FADS Advertising Fund. If we or our affiliates lend money to the FADS Advertising Fund, we may charge a reasonable rate of interest on the amount loaned.
6. Other Franchised Studios or Area Representatives may not be required to contribute to the FADS Advertising Fund, may be required to contribute to the FADS Advertising Fund at a different rate than you, or may be required to contribute to a different marketing fund. If we or our affiliates operate any Studios, we or our affiliates will contribute to the FADS Advertising Fund a percentage of the receipts of those Studios, on the same basis as required for Franchised Studios. If we reduce the FADS Advertising Fund contribution rate for Franchised Studios, we will reduce the contribution rate for company or affiliate-owned Studios by the same amount. If we establish separate marketing funds for contributions received from Area Representatives and Franchised Studios, contributions from company or affiliate-owned Studios will be allocated toward the fund established for Franchised Studios.
7. Although the FADS Advertising Fund is intended to be of perpetual duration, we may terminate the FADS Advertising Fund. If the FADS Advertising Fund is terminated, we have no obligation to return or refund any Advertising Fees you have paid into the FADS Advertising Fund.

We determine the use of monies in the FADS Advertising Fund. We are not required to spend any particular amount on marketing, advertising or promotions in the territory or market in which your Area Business is located. Funds from the FADS Advertising Fund may be used for

preparation of franchise sales solicitation materials. However, a brief statement about availability of information regarding the purchase of franchises may be included in advertising and other items produced or distributed using the FADS Advertising Fund.

During our last fiscal year ending December 31, 2022, we spent 36% of advertising fees on production, 10% of media placement, 10% on administrative expenses, and 44% on other costs.

### *Internet Website*

We have established and maintain an Internet website at the uniform resource locator [www.fredastaire.com](http://www.fredastaire.com) that provides information about the FADS System and FRED ASTAIRE DANCE STUDIOS® (the “**Website**”). We have enhanced our Website to include a series of interior pages that identify Studios by address and telephone number. We may (but are not required to) include at the Website an interior page containing additional information about your Pilot Studio. All information is subject to our approval before posting.

We will have sole discretion and control over the Website’s content and design. We have the sole right to approve any linking to, or other use of, the Website. We have no obligation to maintain the Website indefinitely, and we may discontinue it at any time without liability to you. Since we have no control over the stability or maintenance of the Internet generally, we are not responsible for damage or loss caused by errors of the Internet.

You may not establish or maintain any website or any type of presence on the Internet or World Wide Web that in any manner whatsoever uses the Marks without our prior written consent, which we may revoke at any time. You must ensure that none of your owners, managers or employees use our Marks on the Internet or World Wide Web, except in strict compliance with the social media policies that we establish from time to time in the Manuals or otherwise in writing.

### *Digital Marketing*

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

As part of our Digital Marketing, we or our affiliates have the right, but not the obligation, to offer daily deals or other discounted class promotions, coupons, vouchers or gift certificates on third party websites or apps (such as Groupon, Living Social, etc.) or other similar promotions designed to drive new customers to Studios (“**Deals**”). If we or our affiliates offer any Deals, we and our affiliates have the right to collect and retain any revenue from such Deals, including any customer payments to such third parties and we and our affiliates will pay all such amounts we and they receive into the FADS Advertising Fund. You must provide classes or other products or

services to any customers redeeming any vouchers, gift certificates or coupons related to such Deals in accordance with the standards and other terms that we periodically specify. You will not be entitled to receive any payment or reimbursement from us, our affiliates, customers who purchase Deals or third parties for any classes, products or services that you provide to customers who purchase Deals.

You have the right to offer Deals in your Territory. You must obtain our prior written permission before offering any Deal. If you do offer any Deal, you have the right to collect and retain any revenue from such Deals, including any customer payments to such third parties, and you must pay all such amounts you receive into a general marketing and development fund you administer for marketing and promotion in your Territory (the “**Area Advertising Fund**”). The Area Advertising Fund must be a segregated or independent fund. You must prepare an unaudited statement of contributions and expenditures for your Area Advertising Fund, and you must provide us with such statement within 90 days after the close of every calendar year. If any monies remain in the Area Advertising Fund at the end of a fiscal year, they will carry-over in the Area Advertising Fund into the next fiscal year. You may not make or arrange loans to the Area Advertising Fund. You must use the monies in the Area Advertising Fund in accordance with the Manuals, which may be updated from time to time. You may not use the Area Advertising Fund to pay for any of your general operating expenses.

Unless we consent otherwise in writing, you and your employees may not, directly or indirectly, conduct or be involved in any Digital Marketing that use the Marks or that relate to the Area Business, the Pilot Studio, our network of Studios or the FADS System. If we do permit you or your employees to conduct any Digital Marketing, you or your employees must comply with any policies, standards, guidelines or content requirements that we establish periodically and must immediately modify or delete any Digital Marketing that we determine, in our sole discretion, is not compliant with such policies, standards, guidelines or requirements. We may withdraw our approval for any Digital Marketing at any time.

You are not authorized to have a website for your Area Business or to have a webpage related to your Area Business in any third party website, including, without limitation, social networking sites. As part of our Digital Marketing, we (or one of our affiliates or designees) will operate and maintain the Website.

#### *Advertising Cooperatives*

We currently do not have any advertising cooperatives and have no plans to form such cooperatives in the immediate future. However, you must join and actively participate in any organizations or associations of franchisees or advertising cooperatives that we establish or that are established at our direction for the purpose of promoting, coordinating and purchasing advertising in local, regional or national areas where there are multiple Studios. We or members of the cooperative and their designated officials may be responsible for administering the cooperative. Studios that we or our affiliates own and operate are not obligated to participate in any cooperative we form or approve. Each cooperative must adopt written governing documents, which we have the right to mandate or approve. A copy of the governing documents of the cooperative (if one has been established) for your market area will be available upon request. If

you join an advertising cooperative, the advertising cooperative may require you to spend additional funds on marketing programs conducted by the advertising cooperative, which may be in addition to your Advertising Fees, but will be counted toward your Marketing Spending Requirement. The cooperative will determine the amount of your contribution; provided that if the cooperative is unable or unwilling to designate the amount of the contribution, we may designate the contribution amount.

### *Advertising Councils*

We currently have no advertising council composed of franchisees to advise us on our advertising policies. We may decide to implement an advertising council in the future, using a form and process set forth in the Manuals. If we establish an advertising council, the council will have an advisory role but not any operational or decision-making power. We may change the structure and process of the council or dissolve the council at any time. If we establish a council, you must participate in all council-related activity that either the council or we determine are mandatory activities.

### **Computer System**

You must obtain, maintain and use the Studio Management and Technology System that we specify periodically in the Manuals for all sales processing, inventory, customer relations management, accounting, operations and other functions as we may otherwise require in the Manuals and as we may from time to time otherwise prescribe in writing. Among other functions, the Studio Management and Technology System may include the use of remote servers, off-site electronic information storage and Internet connections. You will use the computer systems we prescribe and will sign any necessary licensing agreements with third party developers or manufacturers of those systems. The Studio Management and Technology System will use third party software from our approved vendors. For any proprietary software or third party software that we require you to use, you must execute and be responsible for the fees associated with any software license agreements or any related software maintenance agreements that we or the licensor of the software require.

Currently we require you to install and maintain one computer, one printer and related equipment. Components of the Studio Management and Technology System must be connected to the Internet via a high-speed Internet connection.

We are currently in the process of implementing the Studio Management and Technology System. As of the issuance date of this Disclosure Document, we estimate that the Studio Management and Technology System will cost approximately \$1,000 to \$3,000, which includes the cost of the hardware, software licenses, related equipment and network connections, including related costs. Our affiliate, FADS Distribution, currently acts as the sole approved supplier for several of the components of the Studio Management and Technology System, including the software used to manage and operate your Area Business.

You must maintain the Studio Management and Technology System at your expense and must purchase any hardware or software maintenance or technical support programs that we

require. You must replace, upgrade or update the Studio Management and Technology System as we may require from time to time. We estimate the cost of optional or required maintenance, updates and upgrades will be \$0 to \$2,000 per year. We will establish reasonable deadlines for implementation of any changes to our Studio Management and Technology System requirements, but there are no contractual limitations on our right to require you to enter into maintenance, updating, upgrading or support contracts related to the Studio Management and Technology System. Vendors may be able to offer optional maintenance, updating, upgrading or support contracts to you, but the charges would vary by vendor and cannot be reasonably estimated by us. FADSD will provide certain helpdesk services for the Studio Management and Technology System. We, our affiliates, and third-party suppliers are not currently required to provide any other ongoing maintenance, repairs, upgrades or updates to you.

You must, at all times, give us unrestricted and independent electronic access (including user IDs and passwords, if necessary) to the Studio Management and Technology System for the purposes of obtaining the information relating to your Area Business. You must permit us to download and transfer data via a high-speed Internet connection or such other connection that we specify on a real-time basis. We may access and retrieve daily any information concerning the Studio stored on the Studio Management and Technology System or any off-site server, including information regarding gross revenues, customer information, inventory, expenditures, marketing information and such other information contained or stored on the Studio Management and Technology System. It will be a material event of default under the Franchise Agreement if you fail to make electronic access to the Studio Management and Technology System accessible to us at all times throughout the term of the Franchise Agreement. There are no contractual limitations on our right to access data stored in the Studio Management and Technology System.

You must comply with all laws and payment card provider standards relating to the security of the Studio Management and Technology System, including, without limitation, the Payment Card Industry Data Security Standards. You must participate in our designated Payment Card Industry (“PCI”) compliance program if we establish such a program and pay the then-current fee associated with such program.

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

### **Site Selection**

We do not provide site selection specifications or advice relating to your Area Business office. You may operate your office from your residence, your Pilot Studio or any office location. Your residence must be within 50 miles of your Pilot Studio. We will evaluate the site approval packages submitted by Territory Franchisees in accordance with their Franchise Agreements.



## **Time to Opening**

We estimate that the typical length of time between the signing of the Franchise Agreement or the first payment of any consideration for the franchise (whichever occurs first) and the opening of your Area Business is approximately 7 months. Factors that may affect this period include whether you have opened your Pilot Studio, your ability to install fixtures, equipment and signs, your ability to meet local requirements, whether you have scheduled and successfully completed AR Training and similar factors.

You must open your Area Business no later than the Opening Deadline. You may not open your Area Business until you have received our written approval. If you fail to begin operations by the Opening Deadline, we may terminate the Franchise Agreement.

## **Manuals**

As of the issuance date, we do not have Manuals for the Area Business. We are currently in the process of drafting those Manuals. Once the Manuals are complete and after you sign the Area Representative Agreement, we will provide you with electronic access to a copy of our Manuals. The Table of Contents of the Franchisee Manual is attached as Exhibit H to this Disclosure Document. As of the issuance date of this Disclosure Document, the Franchisee Manual consists of 403 pages. We may amend, modify or supplement the Manuals at any time, so long as such amendments, modifications or supplements will, in our good faith opinion, benefit us and our existing and future franchisees or will otherwise improve the FADS System. You must promptly comply with revised standards and procedures after we transmit the updates.

## **Initial Training**

Your Required Trainees must personally attend and satisfactorily complete our AR Training before you open your Area Business. AR Training currently consists of 5 consecutive days of training to be held at our offices (or such other location that we designate in writing), at least 10 days prior to your Opening Deadline. The AR Training may also include e-learning modules. We hold AR Training sessions by appointment only, and your AR Training will be provided as soon as practicable after you sign your Area Representative Agreement and schedule your AR Training session. We reserve the right to modify the length, location and timing of the AR Training. We may waive a portion of AR Training or alter the training schedule if we determine that your Required Trainees have sufficient prior experience or training. You are responsible for the travel and living expenses incurred by the Required Trainees, and any other trainees who you send, in connection with AR Training.

We will provide instructors, facilities and materials for AR Training for up to two of your representatives (including your Required Trainees) for no additional fee, provided that all of your trainees are trained during the same training session. If space is available, you may bring more than two representatives to AR Training. We reserve the right to charge a training fee of \$2,500, which we may increase upon 90 days' written notice to you, for (i) each person in excess of two trainees who attends AR Training; (ii) each person who is repeating the course or replacing a

person who did not pass; and (iii) each subsequent Operating Principal, manager or employee who attends the course.

We are currently in the process of revising the AR Training program. As of the issuance date of this Disclosure Document, the AR Training currently consists of the following:

**TRAINING PROGRAM**

Subject	Hours of Classroom Training	Hours of On-Site Training	Location
Introduction, mission and vision	0.75	0	Classroom training at our headquarters in Enfield, CT * and on-site training at another franchised Studio or your Area Representative’s Studio
Overview & getting started timeline	0.25	0	
Area representative duties	5	0	
Franchise sales & lead generation	2	0	
Franchise sales legal compliance	2	0	
Territory Franchisee training program	3	0	
Territory Franchisee relationship management	2	0	
Studio development overview	1	0	
Site selection, LOIs & leases	2	0	
Construction & design	1	0	
Marketing support	2	0	
Grand opening marketing	1	0	
Brand standards	2	0	
Studio operations	2	0	
Studio atmosphere & class experience	1	0	
AMP tutorial	2	0	
Software tutorial	4	0	
Reporting & metrics	1	0	
Accounting & royalties	1	0	
Staff recruiting & human resources	2	0	
Q&A	1	0	
<b>TOTAL</b>	<b>38</b>	<b>0</b>	

\*Portions of the AR Training program may be provided via online “e-learning” modules.

The time periods allocated to the subjects listed above are approximations, and the time actually spent by you and your personnel may vary based on the experience and performance of those persons begin trained. The instructional materials used in the AR Training program will consist primarily of our Manuals, PowerPoint presentations, marketing and promotional materials, videos and other handouts. Our AR Training is conducted by the following employees. Their experience relating to the subjects taught and with respect to the operation of Area Businesses and Studios are as follows:

**Luann Pulliam** has been our President and Chief Executive Officer since September 2017. She has over 25 years of experience in the subjects she is teaching.

**Gaetano Noce**, who is also known as John Gates, has been one of our Vice Presidents, our Chief Operating Officer and our Chief Development Officer since September 2017. He has over 25 years of experience in the subjects he is teaching.

**Stephen Knight** has been one of our Vice Presidents and our Chief Dance Director & Class Experience Officer since September 2017. He has over 25 years of experience in the subjects he is teaching.

**John Dearing** has been our Chief Financial Officer since September 2017. He has approximately 10 years of experience in the subjects he is teaching.

**Susan Clark** has been our Director, Branding & Design since March 2018. She has approximately 12 years of experience in the subjects she is teaching.

**Jessica Lengenfelder** has been our Director, Events & Competitions since September 2017. She has approximately 18 years of experience in the subjects she is teaching.

**Tobias von Dein** has been our Director, Studio eLearning since March 2018. He has approximately 5 years of experience in the subjects he is teaching.

Additional employees who have experience in some facet of the operation of an Area Business or Studio (for example, opening, operations or systems management) may also assist in training. Such persons have a minimum of at least 12 months' experience with our system or have numerous years of training in a corporate or franchise capacity. See **Exhibit I** for the training experience of our Area Representatives.

We will determine, in our discretion, what constitutes successful completion of AR Training. If your Required Trainees are unable to successfully complete AR Training to our satisfaction for any reason, as determined by us in our sole discretion, your Required Trainees must repeat AR Training, or you must send replacement Required Trainees to complete AR Training. Your Required Trainees must successfully complete AR Training at least 10 days before the Opening Deadline. If your Required Trainees fail to successfully complete AR Training, we may terminate the Area Representative Agreement, and we will not refund any initial fees paid by you.

### **Additional Training**

We may periodically conduct mandatory or optional training programs for your Required Trainees or your employees at our office or another location that we designate. Except as described below, there will be no charge for training programs that we require you or your employees to attend, but we may charge you a reasonable fee for optional training programs. We may provide

additional training in person or via recorded media, teleconference, videoconference, the Internet, webinar or any other means as we determine. As of the Issuance Date, we require your Operating Principal or Key Manager(s) to attend our annual Fred Astaire Conference & Training. We reserve the right to change or modify which FADS Conference is required.

We may require your Required Trainees or employees to satisfactorily complete any additional training programs that we specify. We may require your Required Trainees to participate in refresher or advanced training each year.

If, in our sole judgment, you fail to maintain the quality and service standards set forth in the Manuals, we may, in addition to all of our other rights and remedies, require you, your Operating Principal or managers to repeat AR Training or attend additional training programs at a location we designate. We may charge a reasonable fee for each trainer assigned to your Area Business and any remedial training.

### **Training by You**

You or your Operating Principal and your managers are responsible for training all of your other employees (and subsequent managers) in accordance with our standards and training programs. If, in our sole judgment, you fail to properly train your employees in accordance with our standards, we may require you to delay the opening of your Area Business, prohibit you from training additional employees or require you to complete remedial training.

## **ITEM 12 TERRITORY**

**Territory.** Your license is for the specific Territory that we approve. Typically, a Territory will consist of a geographic area ranging from a city's limits to a state's boundaries and will be determined based upon a combination of factors, including: population, geographic area, demographics, median household income data and the number of Studios we believe the market can sustain.

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

During the term of the Area Representative Agreement, provided (i) you are not in default under the Area Representative Agreement (including your obligation to meet your territorial development obligations); and (ii) you have paid your Territorial Exclusivity Fee, we will not (a) operate, or license others to operate, an Area Business in your Territory; or (b) operate a Studio using the FADS System and the Marks inside the Territory. As long as you are in compliance with the Area Representative Agreement (including your obligation to meet your territorial development obligations), your rights in the Territory will not be modified for any reason, except by mutual agreement signed by both parties.

We will not reduce the size of your Territory even if the population in your Territory decreases or the demographics of your Territory change. However, if you fail to meet your territorial development obligations for two consecutive years, then we may either (a) reduce the scope of the geographic area comprising the Territory in which you will have rights; (b) terminate the Area Representative Agreement; or (c) require you and your Operating Principal to attend and successfully complete remedial training.

You have a right of first refusal to acquire Territory Franchisees before we may exercise our right of first refusal to any Franchised Studio in your Territory.

**Reserved Rights.** We and our affiliates reserve all rights not specifically granted to you under the Franchise Agreement. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. For the sake of example, without limitation, we and our affiliates have the right, directly or indirectly, without compensation to you, to:

- a) solicit and recruit Prospects in any manner to establish Franchised Studios anywhere;
- b) engage the services of franchise brokers, lead referral sources and other organizations and facilities for the identification, evaluation and referral of leads for Prospects;
- c) establish, or license to third parties the right to establish, Studios outside of the Territory;
- d) offer, promote and sell the products and services that Studios offer, promote, sell or use the FADS System or elements of the FADS System under any names, symbols, trademarks or service marks, including the Marks, through similar or dissimilar channels of distribution (other than the operation of a Studio) anywhere, including within and outside your Territory;
- e) establish, or license to third parties the right to establish, Area Businesses anywhere outside your Territory;
- f) provide services and support to Studios located anywhere, including to your Territory Franchisees;
- g) sell or offer, or license others to sell or offer, any products, services, or classes using the Marks or other marks through any alternative distribution channel, including through e-commerce, in retail stores, via recorded media, via online videos, or via broadcast media, anywhere, including inside the Territory;
- h) advertise, or authorize others to advertise, using the Marks anywhere, including inside the Territory and on the Internet (or other existing or future force of electronic commerce) and to create, operate, maintain and modify or discontinue the use of website and Digital Marketing using the Marks;

- i) acquire, be acquired by, or merge with other companies with existing dance or fitness facilities, businesses, or studios anywhere (including inside the Territory) and (i) if such businesses are not located in the Territory, convert the other businesses to the FRED ASTAIRE DANCE STUDIOS® name; (ii) permit the other businesses to continue to operate under another name and offer unit franchises and area franchises in such other system (subject to the restriction on developing and offering ballroom dance instruction franchise concepts described below); or (iii) permit the businesses to operate under another name;
- j) develop and offer franchise concepts that (i) do not use any of the Marks; (ii) do not offer ballroom dance instruction; and (iii) may offer, promote and sell products and services similar or complementary to the products and services that Studios offer; and
- k) acquire an existing Franchised Studio in your Territory and operate it; provided that we first notified you of the potential opportunity to purchase such Franchised Studio and you were either unwilling or unable to enter into a purchase agreement for the Franchised Studio within 60 days after we notified you.

As noted above, we have the right to acquire or merge with a company with existing dance facilities, businesses or studios (each a “**Transaction**”), and, as also described above, we have the right to develop and offer franchise concepts that do not involve the Marks and do not offer ballroom dance instruction (each a “**New Development**”). If a Transaction or New Development occurs during the next 10 years, we will offer you the right of first refusal (the “**ROFR**”) to be an area representative for the franchises, dance facilities, businesses or studios involved in the Transaction or New Development (the “**New Brand Studios**”). Within 180 days following the closing of a Transaction, we will provide you with a copy of its then-current area representative franchise disclosure document for the New Brand Studios (the “**New Brand Area Representative FDD**”). You will have the right and option, exercisable within 90 calendar days after receipt of the New Brand Area Representative FDD, to sign our then-current area representative agreement for the New Brand Studios for the right to operate an area representative business in the same territory as the Territory, and pay us all applicable fees, including the initial fee, provided that we will offer you a 50% discount off the then-current initial fee. You may exercise this ROFR only if you are in good standing under, and in compliance with, the Area Representative Agreement at the time the New Brand Area Representative FDD is provided and at the time the area representative agreement for the New Brand Studios is signed. If you elect not to exercise your ROFR by failing to meet all of the conditions described in this paragraph, (i) your ROFR to acquire an area representative franchise for the New Brand Studios in the Territory will automatically terminate; and (ii) you will have no ROFR to acquire an area representative franchise for the New Brand Studios.

Neither we nor our affiliates currently operate or franchise competitive concepts, but we may in the future. Such franchise competitive concepts may be established in close proximity to your Area Business or inside your Territory.

We will not compensate you for any actions we take in your Territory.

You may locate, and relocate, your office at any location, including your residence or your Pilot Studio. You must live within 50 miles of your Pilot Studio.

**Franchisee Territories.** Under separate franchise agreements, each individual FADS franchisee will be granted the right to develop and operate their Studio from a specific location. The franchisee is first granted a non-exclusive site selection area to locate the site for their Studio. Once the franchisee has secured a location for the Studio, the franchisee is granted a limited protected territory (“Franchisee Territory”) that, during the term of the agreement and so long as the franchisee is not in default of their franchise agreement, we will not operate, or license others to operate, a Studio using the FADS System and the Marks inside the Franchisee Territory. The territory of another Franchised Studio may overlap with the franchisee’s Franchisee Territory, but other Franchised Studios will not be located inside another franchisee’s Franchisee Territory.



**ITEM 13 TRADEMARKS**

**Principal Mark**

We grant you the right to use certain trademarks, service marks and other commercial symbols in operating your Area Business. The primary trademark we use is “FRED ASTAIRE DANCE STUDIOS®.”

**Trademark Registration**

The status of the registration of the principal trademarks on the Principal Register of the United States Patent and Trademark Office (the “USPTO”) is as follows:

Mark	Registration or Serial No.	Registration or Application Date	Use
FRED ASTAIRE DANCE STUDIOS	0833115	August 1, 1967	Dance instruction
	2910230	December 14, 2004	Dance studio instructional services; organization and running of dance contests, recitals and competitions
	3121190	July 25, 2006	Clothing used in the field of dance classes, performances and competitions

<b>Mark</b>	<b>Registration or Serial No.</b>	<b>Registration or Application Date</b>	<b>Use</b>
ASTAIREWEAR	2952642	May 17, 2005	Clothing used in the field of dance classes, performances and competitions
SHARE THE EXPERIENCE	3076492	April 4, 2006	Dance events, instruction and schools
INTEGRITY IN ACTION	3240615	May 8, 2007	Dance events, instruction and schools; production of AV works for dance instruction
LIFE'S BETTER WHEN YOU DANCE	6165096	September 29, 2020	Dance events, instruction and schools; production of AV works for dance instruction and various promotional items

We have filed all required affidavits in connection with the registration of the principal trademarks described above, and we intend to file all renewal registrations for the marks as required by law.

The following principal trademarks are not registered on, nor have applications been submitted for registration on, the (i) Principal Register or the Secondary Register of the USPTO; or (ii) any state trademark administrative body:

Fred Astaire

Astaire

For the Love of Dance

Freddy Ball

Trophy Ball

Trophy System

Astaire Pro

Share the Romance, Share the Dance

To Be the Best, Learn from the Best

To Be the Best, Join the Best



Cross Country Dance Championships

A Dance to Remember

Team Astaire

One Team, One Dream

Marriage is Better When You Dance

The World is Better When You Dance

Romance is Better When you Dance

Health is Better When you Dance

We do not have a federal registration for the principal trademarks listed above, as well as those listed in the above table as “application pending.” Therefore, these principal trademarks do not have as many legal benefits and rights as a federally registered trademark. If our right to use any of the above trademarks is challenged, you may have to change to an alternative trademark, which may increase your expenses.

### **License Agreement**

We do not own the Marks. All of the Marks are owned by our affiliate FADS IP Holder (see **Item 1**) and licensed to us pursuant to a License Agreement, dated March 1, 1995 and renewed March 1, 2015 (the “**License Agreement**”). In the License Agreement, FADS IP Holder authorized us to use the Principal Mark and other related Marks in connection with the offer, sale and support of Studios. The License Agreement does not contain any significant limitations on our right to use or license the Marks to you and has a term of 20 years. Upon any expiration or termination of the License Agreement, we must immediately discontinue the use of the Marks, and FADS IP Holder may unilaterally assume all of our Area Representative Agreements licensing the use of the Marks. FADS IP Holder has agreed to assume all obligations under such agreements arising from and after their assignment.

Other than the License Agreement, there currently are no agreements that significantly limit our rights to use or license the use of the Marks in the United States in a manner material to the franchise.

### **Material Determinations**

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, nor are there any pending infringements, opposition or cancellation proceedings or material litigation involving our principal marks. All required affidavits have been filed.

## **Use of the Marks**

You must follow our rules when you use the Marks. Your right to use the Marks (including any additional trademarks or service marks we authorize you to use) is derived solely from the Area Representative Agreement. Your right to use the Marks is limited to the operation of your Area Business in accordance with the terms of the Area Representative Agreement and the Manuals. You may not use any of our company names or Marks as part of any corporate or legal business name or with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos we license to you). For example, your business name may not include any of our company names or Marks or any variation of them (like “FADS,” “Fred Astaire,” “Fred Astaire Dance” or “Fred Astaire Dance Studios”). You may not use your name in connection with our Marks in advertising your Area Business (like “John Smith’s Fred Astaire Dance Studios”). You may not use any Mark in any other manner we have not expressly authorized in writing. The Marks may only be used by you for the purpose of operating a Studio and cannot be used for any purpose or in any manner not authorized by us. You may only use our Marks on vehicles if you obtain our prior written consent.

Your employees do not have rights to use the Marks unless approved by us in writing. It is your obligation to protect the use of the Marks and notify your employees of such policies.

## **Notice of Contractor Status**

You must display in a conspicuous location in or upon the Pilot Studio, or in a manner that we specify, a sign containing the following notice (or an alternative notice that we specify): “This business is independently owned and operated by [name of franchisee] as an authorized licensed user of the trademark “Fred Astaire Dance Studios®”, which is a registered trademark owned by Fred Astaire Dance Studios, Inc. and licensed to us by FADS USA, Inc.” You must include this notice, or similar language that we specify, on all forms, advertising, promotional materials, business cards, receipts, letterhead, contracts, stationary and other written materials that we designate.

## **Infringements**

You must promptly notify us if any other person or Entity attempts to use any of the Marks or any colorable imitation of any of the Marks. You must immediately notify us of any infringement of or challenge to your use of any of the Marks. We will have the right to take any action that we deem appropriate, but the Area Representative Agreement does not require us to take any action to protect your right to use any of the Marks or to participate in your defense or indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving any of the Marks. We will have the right to control any administrative proceeding or litigation related to the Marks. We will be entitled to retain any and all proceeds, damages, and other sums, including attorneys’ fees, recovered or owed to us or our affiliates in connection with any such action. You agree to execute all documents and, render any other assistance we may deem necessary to any such proceeding or any effort to maintain the continued validity and enforceability of the Marks. We are not currently aware of any superior prior rights or infringing uses that could materially affect your use of the Marks.

## **Indemnification**

If (i) you are using any of the Marks according to the terms of the Area Representative Agreement and our Manuals; (ii) you are not otherwise in breach of your Area Representative Agreement; and (iii) you timely notify us of any claim, we will indemnify, defend and hold you harmless from and against, and reimburse you for, all damages for which you are held liable to third parties in any proceeding arising out of your authorized use of any of the Marks.

We will not indemnify you against the consequences of your use of the Marks unless your use of the Marks is authorized and in accordance with your Area Representative Agreement. We have the right to control the defense of any proceeding arising from your use of any Mark, including the right to compromise, settle or otherwise resolve the claim and to determine whether to appeal a final determination of the claim.

## **Changes to the Marks**

If we decide that you should modify or discontinue using any of the Marks, or if we decide that you should use one or more additional or substitute service marks or trademarks, you must comply with our directions in the time that we reasonably specify. Neither we nor any of our affiliates will have any obligation to reimburse you for the cost of comply with our directions.

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

### **Patents**

No patents are required to be disclosed in this Item.

### **Copyrights**

We do not own the below registered copyrights (collectively, the “**Registered Copyrights**”). All of the Registered Copyrights are owned by our affiliate FADS IP Holder (see **Item 1**) and licensed to us pursuant to the License Agreement described in **Item 13**. The status of the registration of the Registered Copyrights with the United States Copyright Office (“**USCO**”) is as follows:

<b>Title</b>	<b>Registration No.</b>	<b>Registration or Application Date</b>
Ballroom Dancing	PA0000751638	March 15, 1995
Bronze Dance Series	PAu002259952	December 8, 1997
Bronze Syllabus Dance Manual	TXu000832705	December 12, 1997
Fred Astaire Franchised Dance Studios Advanced Bronze Syllabus Dance Manual	TX0006142097	April 1, 2005

<b>Title</b>	<b>Registration No.</b>	<b>Registration or Application Date</b>
Fred Astaire Franchised Dance Studios Associate Major Silver Manual, version 2	TX0006142096	April 1, 2005
Fred Astaire Dance Studios Bronze Dance Manual	TX0001403681	August 8, 1984
Fred Astaire Franchised Dance Studios Bronze Course Plan	TX0006140315	April 1, 2005
Fred Astaire Franchised Dance Studios Course Plan: Advanced Foundation Program	TX0006140318	April 1, 2005
Fred Astaire Franchised Dance Studios Course Plan: Beginning Chart	TX0006140316	April 1, 2005
Fred Astaire Franchised Dance Studios Course Plan: Social Foundation Program	TX0006140317	April 1, 2005
Fred Astaire Franchised Dance Studios: Country Western Dancing	PA0000751633	March 15, 1995
Fred Astaire Franchised Dance Studios: Latin Dancing	PA0000751635	March 15, 1995
Fred Astaire Franchised Dance Studios: The Swing Dancing	PA0000751634	March 15, 1995
Fred Astaire Franchised Dance Studios: Top 40 Dancing	PA0000751632	March 15, 1995
Fred Astaire Franchised Dance Studios Gold Course Plan	TX0006140320	April 1, 2005
Fred Astaire Franchised Dance Studios Silver Course Plan	TX0006140319	April 1, 2005
Fred Astaire Gold DanceSport Syllabus	PA0001274017	April 1, 2005
The Silver Program	PA0001274016	April 1, 2005
Social & Dancesport Silver Syllabus Dance Manual	TX0005949685	January 13, 2004
Social Foundation Dance Series	PAu002260351	December 12, 1997
Syllabus Dance Manual	TXu000829617	December 12, 1997

Title	Registration No.	Registration or Application Date
Theatre Arts, Exhibition Ballroom Dancing	A86627	September 2, 1968
Theatre Arts Manual Incorporating Theatre Arts Dancing, Exhibition Ballroom Dancing, Open International Latin Dancing	TX000280339	February 2, 1978

We claim copyright ownership with respect to our advertising materials and Manuals, as well as other materials we may periodically develop (collectively, the “**Unregistered Copyrights**” and, together with the Registered Copyrights, the “**Copyrights**”).

Any Copyrights used by you in the Area Business or your Pilot Studio, including with respect to advertising your Pilot Studio, belong solely to us or our affiliates.

#### *License Agreement*

Other than the License Agreement (see **Item 13**), there currently are no agreements that significantly limit our rights to use or license the use of the Copyrights in the United States in a manner material to the franchise.

#### *Material Determinations*

There are no currently effective material determinations of the USCO, any state court or any federal court, nor are there any pending infringements, opposition or cancellation proceedings or material litigation involving the Copyrights, including any of the Registered Copyrights. All required affidavits have been filed.

#### *Your Use of Copyrights*

You must follow our rules when you use the Copyrights. Your right to use the Copyrights (including any additional copyrights we authorize you to use) is derived solely from the Franchise Agreement. Your right to use the Copyrights is limited to the operation of your Area Business in accordance with the terms of the Franchise Agreement and the Manuals. You may not use any of the Copyrights in any other manner we have not expressly authorized in writing. The Copyrights may only be used by you for the purpose of operating a Studio and cannot be used for any purpose or in any manner not authorized by us.

#### *Infringements and Indemnification*

You must promptly notify us if any other person or Entity attempts to use any of the Copyrights or any colorable imitation of any of the Copyrights. You must immediately notify us in writing of any infringement of or challenge to, or any suspected infringement of or challenge to, your use of any of the Copyrights. We will have the right to take any action that we deem appropriate, but the Area Representative Agreement does not require us to take any action to protect your right to use any of the Copyrights or to participate in your defense or indemnify

you for expenses or damages if you are a party to an administrative or judicial proceeding involving any of the Copyrights. We will have the exclusive right to control any administrative proceeding or litigation related to the Copyrights. We will have the exclusive right to retain any and all proceeds, damages, and other sums, including attorneys' fees, recovered or owed to us or our affiliates in connection with any such action. You agree to execute all documents and, render any other assistance we may deem necessary to any such proceeding or any effort to maintain the continued validity and enforceability of the Copyrights. We are not currently aware of any infringing uses that could materially affect your use of the Copyrights.

### *Changes to the Copyrights*

If we decide that you should modify or discontinue using any of the Copyrights, or if we decide that you should use one or more additional or substitute copyrights, you must comply with our directions in the time that we reasonably specify. Neither we nor any of our affiliates will have any obligation to reimburse you for the cost of comply with our directions. If so requested by us, you will discontinue the use of the subject matter covered by any copyright used in with your Area Business.

### **Authorized Images**

The License Agreement (see **Item 13**) permits us a non-exclusive right to use certain pictures and images of Fred Astaire (such pictures and images, the “**Authorized Images**”). You must follow our rules when you use the Authorized Images.

### *Your Right to Use Authorized Images*

Your right to use the Authorized Images is derived solely from the Franchise Agreement. Your right to use the Authorized Images is limited to the operation of your Area Business in accordance with the terms of the Area Representative Agreement and the Manuals. You may not use any of the Authorized Images in any other manner we have not expressly authorized in writing. The Authorized Images may only be used by you for the purpose of operating a Studio and cannot be used for any purpose or in any manner not authorized by us.

### *License Agreement*

Other than the License Agreement, there currently are no agreements that significantly limit our rights to use or license the use of the Authorized Images in the United States in a manner material to the franchise.

### *Material Determinations*

There are currently no effective determinations by any state or federal court regarding the Authorized Images.

### *Infringement and Indemnification*

You must immediately notify us in writing of any infringement of or challenge to, or any suspected infringement of or challenge to, your use of any of the Authorized Images. We will have the right to take any action that we deem appropriate, but the Area Representative Agreement does not require us to take any action to protect your right to use any of the Authorized Images or to participate in your defense or indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving any of the Authorized Images. We will have the exclusive right to control any administrative proceeding or litigation related to the Authorized Images. We will have the exclusive right to retain any and all proceeds, damages, and other sums, including attorneys' fees, recovered or owed to us or our affiliates in connection with any such action. You agree to execute all documents and, render any other assistance we may deem necessary to any such proceeding or any effort to maintain the continued validity and enforceability of the Authorized Images.

### *Changes to the Authorized Images*

If we decide that you should modify or discontinue using any of the Authorized Images, or if we decide that you should use one or more additional or substitute pictures or images, you must comply with our directions in the time that we reasonably specify. Neither we nor any of our affiliates will have any obligation to reimburse you for the cost of comply with our directions.

### **Development of New Concepts**

If you or any of your Owners or employees develop any new concept, process, product or improvement in operating or promoting the Area Business or a Studio, you must promptly notify us and give us all necessary information about the new process or improvement. You and your Owners agree that any of these concepts, processes or improvements will become our property, and we may use or disclose them to other Studios as we determine appropriate.

### **Proprietary Information**

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

unauthorized disclosure of Proprietary Information by any person to whom you have disclosed Proprietary Information.

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

If you are an Entity, you must appoint an individual owner as your Operating Principal. Your Operating Principal must have at least a 10% ownership interest in your Entity, must have authority over all business decisions related to your Area Business and must have the power to bind you in all dealings with us. We must approve the Operating Principal. You must provide us with written notice of your Operating Principal at least 60 days prior to opening and may not change your Operating Principal without our prior approval.

You and your Operating Principal must devote your best efforts toward the management of your Area Business. You or your Operating Principal must attend at least 2 National Competitions and Regional Competitions each year. At all times, you must employ a sufficient number of trained staff in your office to fully support your Area Business and the Territory Franchisees. You are solely responsible for all labor and employment related matters and decisions related to your Area Business, including, without limitation, the hiring, firing, promoting, demoting and compensating (including through wages, bonuses or benefits) your employees. You must ensure that your employees are qualified to perform their duties in accordance with our FADS System Standards. We do not require you to implement any employment related policies or procedures or security related policies or procedures that we (at our option) may make available to you in the Manuals or otherwise for your optional use. You shall determine to what extent, if any, these policies and procedures may be applicable to your operations at the Area Business.

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

Each Owner, including the Operating Principal, must sign the Personal Payment and Performance Guaranty (the "**Guaranty**"), which is attached **Exhibit D** to our current form of Area Representative Agreement, which is **Exhibit B** to this Disclosure Document. We may also require the spouse of any Owner to also sign the Guaranty. By signing the Guaranty, each guarantor is agreeing to assume and discharge all obligations of the franchisee under the Area Representative Agreement and agreeing to comply with the confidentiality, indemnification, covenants not to compete and assignment provisions of the Area Representative Agreement.

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

You must use your reasonable commercial efforts to: (i) actively and diligently promote and grow the FRED ASTAIRE DANCE STUDIOS® concept in your Territory; and (ii) assist in the successful development of the FRED ASTAIRE DANCE STUDIOS® concept in your Territory. You must actively market Franchised Studios to qualified Prospects in your Territory in accordance with our FADS System Standards. You may use Brokers to identify Prospects, unless



we consent in writing. You must refer to us any inquiries from individuals or entities regarding the establishment of Franchised Studios or Area Businesses outside of your Territory.

You may not sell products or equipment or offer additional services other than the Support Services that you are required to provide to your Territory Franchisees, unless you obtain our written consent, which we may withhold for any reason. You may not obtain compensation or collect monies or payments from any Franchisee without our prior written consent. If we do allow you to offer additional products or services to Territory Franchisees and obtain compensation for it, we may require you to report to us the earnings that you receive from Territory Franchisees at the time and in the manner that we prescribe and require you to pay us a portion of such compensation. You may not offer products or services in connection with the Marks on any website on the Internet or any other electronic communications network or device.

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

**THE AREA REPRESENTATIVE RELATIONSHIP**

The table below lists certain important provisions of our Area Representative Agreement. You should read these provisions in our current form of Area Representative Agreement, which is attached to this Disclosure Document as Exhibit B.

	<b>Provision</b>	<b>Section in Area Representative Agreement</b>	<b>Summary</b>
a.	Length of franchise term	Section 4.01	Ten years from the effective date of your Area Representative Agreement
b.	Renewal or extension of the term	Section 4.02	If you meet the conditions, you may enter into one successor ten year renewal term, which may contain materially different terms that the Area Representative Agreement
c.	Requirements for franchisee to renew or extend	Section 4.03	You notified us in writing at least six, but no more than twelve, months in advance. You signed and delivered to us our then current form of Area Representative Agreement, which may contain terms materially different than those your original Area Representative Agreement. You and we have mutually agreed on a revised Development Schedule. You signed and delivered a general release in favor of us and our affiliates. You and your Operating Principal completed all of our then current training requirements. You substantially and timely complied with the terms and conditions of your Area Representative Agreement during the initial term. No Event of Default (as defined in our current form of Area Representative Agreement), or event which with the giving of notice or passage of time would constitute an Event of Default, exists. You paid us the Renewal Fee thirty days before the end of your initial term.

	<b>Provision</b>	<b>Section in Area Representative Agreement</b>	<b>Summary</b>
d.	Termination by franchisee	Section 17.03	If we commit a material breach of the Area Representative Agreement and fail to cure the breach or take reasonable steps to cure the breach within 60 days after we receive written notice from you, you may terminate the Area Representative Agreement.
e.	Termination by franchisor without cause	Section 17.01	If we determine that it is impossible, economically impractical, or excessively risky for us to continue to offer Franchises in your Territory due to applicable laws or administrative or judicial orders in your Territory.
f.	Termination by franchisor with cause	Section 17.02	We can terminate the Area Representative Agreement only if you default (see <b>(g)</b> and <b>(h)</b> of this table below).
g.	“Cause” defined – curable defaults	Section 17.01	10 business days to cure a failure to communicate with us after we send you written notice of our attempts to contact you; 30 days to cure any violation of the Modified Order; 30 days to cure failure to obtain CBE Requirements either from us or third parties; 10 days to cure non-payment of any amounts owed to us or our affiliates or your failure to make sufficient funds available to us; 3 months from the date of notice of the violation to cure a violation of any Applicable Law relating to franchise sales in your Territory; 10 days to cure a failure to give us access to the information contained in your Management and Technology System; and 30 days to cure a failure comply with any other provision of the Franchise Agreement that is not described here or in <b>(h)</b> of this table below.
h.	“Cause” defined – non-curable defaults	Section 17.01	You make a material misrepresentation or omission to us; your Required Trainees fail to satisfactorily complete AR Training; you fail to meet your Development Schedule; you open your Area Business without our consent; you fail to open your Area Business or Pilot Studio in the prescribed time; you fail to rebuild your Pilot Studio after its destruction; your Pilot Studio closes; you fail to timely refurbish your Pilot Studio; you suspend operations of your Area Business for more than 10 consecutive business days without our written consent; you or your Operating Principal miss two or more required conferences; you default under any other franchise agreement or other agreement with us if the default would permit the termination of the other franchise agreement or other agreement; you abandon or surrender your Area Business; you or any of your Owners, officers or directors is charged with, convicted of or pleads nolo contendere to a felony, a crime involving moral turpitude or consumer fraud or any other crime or offense that impairs the goodwill associated with our Marks, or engages in activities or commits any act that impairs the good will associated with our Marks; you or any of your Owners, officers or directors has, in our reasonable opinion, committed any act of dishonest, theft, fraud, unethical business conduct or other misconduct of a serious nature; you or any of your Owners, officers or directors

	Provision	Section in Area Representative Agreement	Summary
			engages in harassing or offensive conduct resulting in a complaint to us, our affiliates or a local, state or federal agency or authority that we reasonably determine is meritorious; you misuse the Marks; you use unapproved marketing materials; you fail to participate in required marketing programs; you disclose Confidential Information (as defined in our current form of Area Representative Agreement); you or your Owners make an improper transfer; you or your Owners violate the noncompete covenants of the Area Representative Agreement; you become insolvent or bankrupt, you make an assignment for the benefit of your creditors, or a suit to foreclose any lien or mortgage against you is not dismissed within 30 days; certain percentage of your Territory Franchisees are in default under their franchise agreements, depending on the number of Territory Franchisees in your Territory; you fail to consistently communicate with us or your Territory Franchisees; you allow one of your Territory Franchisees to sign a lease without our approval; you modify our Studio FDD or any of the Studio Agreements without our written consent; you represent to a Territory Franchisee that you have authority to bind us to an agreement or a commitment; you receive unauthorized monies or payment from a Territory Franchisee; you make a material misrepresentation or unauthorized representation to a Prospect or Franchised Studio; you fail to make required visits or inspections three or more times in a 12 month period; you fail to timely file any required periodic report three or more times in a 12 month period; you fail to pay suppliers and trade creditors an amount exceeding \$2,000 for more than 60 days; you fail to pay your taxes; you fail to permit us to inspect or audit your books and records; and you are in default three or more time in any 12 month period or received 2 notices of nonpayment within the last 12 months.
i.	Franchisee's obligations on termination/non-renewal	Article XVIII	Pay all amounts due to us or our affiliates; discontinue use of the Marks and the FADS System; return Confidential Information, customer data and Manuals; close vendor accounts; cancel assumed name registration; cancel or transfer telephone number, post office boxes, domain names, social media accounts and directory listings; complete de-identification of the Site; reimburse customers; refrain from disclosing Confidential Information; and comply with the noncompete covenants (see <b>(o)</b> and <b>(r)</b> of this table below).
j.	Assignment of contract by franchisor	Section 16.01	We may assign your Area Representative Agreement to any person or entity that we choose in our sole discretion.

	<b>Provision</b>	<b>Section in Area Representative Agreement</b>	<b>Summary</b>
k.	“Transfer” by franchisee – defined	Section 16.02	Includes the sale, assignment, pledge or encumbrance of the Area Representative Agreement, the Area Business, substantially all of the assets of the Area Business or, if you are an Entity, ownership in you.
l.	Franchisor approval of transfer by franchisee	Section 16.03	You must obtain our consent before any transfer.
m.	Conditions for franchisor approval of transfer	Section 16.04 & Section 16.05	The following conditions may apply: you must pay us a non-refundable deposit to review the transfer, you must pay us the Transfer Fee; all of your monetary obligations are satisfied; you are not in default; you and your Owners sign a general release; you and your Owners remain liable for obligations incurred or arising prior to the transfer; you comply with the noncompete covenants and confidentiality obligations; your landlord consents to the transfer of your Pilot Studio; the new area representative agrees to discharge all of your obligations; the new area representative qualifies as an area representative, meets our training requirements and signs our then current form of Area Representative Agreement; the new area representative upgrades the Pilot Studio to our then current image and specifications; the new area representative covenants to continue to operate the Pilot Studio under the Marks; the Pilot Studio and related Franchise Agreement are transferred to the new area representative; the area representative’s owners execute our then current form of Guaranty; and we determine the purchase price is acceptable and financing arrangements are subordinate to our interests.
n.	Franchisor’s right of first refusal to acquire franchisee’s business	Section 16.08	We can match any offer for your Area Business, your Area Business’s assets or any ownership interest, except for certain transfers to spouses, trusts, children or existing Owners.
o.	Franchisor’s option to purchase franchisee’s business	Section 18.06	Upon expiration or termination of the Area Representative Agreement, we can purchase any or all of the inventory, supplies, Purchased Assets (as defined in our current form of Area Representative Agreement) and other assets related to the operation of your Area Business for the fair market value of the assets, less any amounts then owed to us by you. We may also assume your lease or sublease or purchase or lease the premises from you or your affiliates if you or your affiliates own the premises.
p.	Death or disability of franchisee	Section 17.08	Executor or representative must transfer your interest to a third party approved by us within 120 days. No Transfer Fee is required. If the deceased or incapacitated person is you or the Operating Principal.

	<b>Provision</b>	<b>Section in Area Representative Agreement</b>	<b>Summary</b>
q.	Non-competition covenants during the term of the franchise	Section 14.01	You and your Owners may not: own, manage, engage in, be employed by, advise, make loans to or have any other interest in (i) any business, including, without limitation, any gymnasium, studio, athletic club, exercise or aerobics facility or similar facility or business, that offers dance, dance fitness or performing arts products or services or any other product or service that we authorize you to provide using our Marks; or (ii) any entity that grants franchises or licenses for any of these types of businesses (a “ <b>Competitive Business</b> ”) at any location in the United States; divert or attempt to divert any business or customer or potential business or customer of any Studio to any Competitive Business by direct or indirect inducement; perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the FADS System; use any vendor relationship established through your associate with us for any purpose other than to purchase products or equipment for use or retail in your Area Business; or directly or indirectly solicit for employment any individual who is currently, or who at any time within the immediate past 12 months has been, employed as an officer, manager, or director of us, any of our affiliates or any Area Representative.
r.	Non-competition covenants after the franchise is terminated or expires	Section 14.02	For 2 years after the Area Representative Agreement expires or terminates, you and your Owners may not be involved in any Competitive Business that is (or is intended to be) located within your former Territory, the territory of any other Area Business, or within a 25-mile radius of any Studio that is operating or under development at the time of such expiration or termination, and may not directly solicit for employment any officer, manager, director, or Astaire Pro who at any time within the immediate past 12 months has been employed by us, our affiliates, an Area Representative or our franchisees. Solicitation of individuals by general employment advertisements is not prohibited.
s.	Modification of the agreement	Section 19.04	Except for modifications to the Manuals, modifications to the Area Representative Agreement may only be made by a written document signed and agreed to by both parties.
t.	Integration/merger clause	Section 19.01	Only the terms of the Area Representative Agreement are binding (subject to state law). Any other promises made outside of the Disclosure Document and the Area Representative Agreement may not be enforceable.

	<b>Provision</b>	<b>Section in Area Representative Agreement</b>	<b>Summary</b>
u.	Dispute resolution by arbitration or mediation	Section 20.01 & 20.08	Prior to filing most proceedings, each party must submit the dispute to non-binding mediation at a mutually agreeable location. If we and you cannot agree on a location, the mediation will be conducted in the city where our then current headquarters is located, subject to applicable state law. You cannot create or join a class or group to bring any claims against us or our affiliates.
v.	Choice of forum	Section 20.03	Subject to applicable state laws, you and your Owners must, and we may, bring claims in federal or state courts located in the state where our then current headquarters is located. Currently, our headquarters is located in Connecticut.
w.	Choice of law	Section 20.02	Subject to applicable state laws, you and your Owners agree that the Franchise Agreement is governed by the law of the state where our then current headquarters is located without regard to conflicts or choice of law provisions. Currently, our headquarters is located in Connecticut.

## **ITEM 18 PUBLIC FIGURES**

The License Agreement (see **Item 13**) permits us to use the name and likeness of Fred Astaire in our trade name, trademarks, service marks, logos, designs, etc. and to use certain Authorized Images (see **Item 14**) for marketing and promoting dance services and activities. The Estate of Fred Astaire is not involved in our management or control and has no financial investment or ownership in us or any of our parents or affiliates.

In November 2018, we entered into an influencer agreement with Driton “Tony” Dovolani (the “Influencer Agreement”) to promote the FRED ASTAIRE DANCE STUDIOS® brand. Although the parties are no longer bound by the Influencer Agreement, we have agreed to pay Mr. Dovolani \$60,000 annually to participate in promotional events. Mr. Dovolani does not manage or own an interest in us.

Other than the above, no public figures are required to be disclosed in this Item.

## **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 this 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 financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting the Legal Department, 151 Hazard Avenue, Suite 12-13, Enfield, Connecticut 06082, (413) 567-3200, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20 OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1  
System-Wide Area Business Summary for Years 2020 to 2022**

<b>Area Businesses Type</b>	<b>Year</b>	<b>Area Businesses at the Start of the Year</b>	<b>Area Businesses at the End of the Year</b>	<b>Net Change</b>
<b>Franchised</b>	2020	17	22	+5
	2021	22	25	+3
	2022	25	27	+2
<b>Company-Owned</b>	2020	0	0	0
	2021	0	0	0
	2022	0	0	0
<b>Total Area Businesses</b>	2020	17	22	+5
	2021	22	25	+3
	2022	25	27	+2

**Table No. 2  
Transfers of Area Businesses from Area Representatives to New Owners (other than Franchisor) for Years 2020 to 2022**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
<b>Total</b>	2020	0
	2021	0
	2022	0

**Table No. 3  
Status of Area Businesses for Years 2020 to 2022**

State	Year	Area Businesses at Start of Year	Area Businesses Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Area Businesses at End of the Year
Arkansas	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
California (1)	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Colorado	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Connecticut(4)	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Florida	2020	3	0	0	0	0	0	3
	2021	3	1	2	0	0	0	2
	2022	2	0	0	0	0	0	2
Georgia	2020	0	1	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Illinois	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Indiana (2)	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Maine (3)(4)	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Massachusetts(4)	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Michigan	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
New Jersey	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
New York	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
North Carolina	2020	0	2	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2



State	Year	Area Businesses at Start of Year	Area Businesses Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Area Businesses at End of the Year
Oregon	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Pennsylvania	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
Rhode Island(4)	2020	0	0	0	0	0	0	0
	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Tennessee	2020	1	1	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Texas	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Virginia	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
Wisconsin	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
<b>Totals</b>	<b>2020</b>	<b>17</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>22</b>
	<b>2021</b>	<b>22</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>25</b>
	<b>2022</b>	<b>25</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>27</b>

- (1) One of the Area Representatives in California also operates in Nevada.
- (2) The Area Representative in Indiana also operates in certain areas of Kentucky and Iowa.
- (3) The Area Representative in Maine also operates in New Hampshire and Vermont.
- (4) The Area Representatives in Connecticut, Maine, Massachusetts and Rhode Island all converted from Subfranchisors.

**Table No. 4**  
**Status of Company Owned Area Businesses for Years 2020 to 2022**

State	Year	Area Businesses at Start of Year	Area Businesses Opened	Area Businesses Reacquired from Area Representative	Area Businesses Closed	Area Businesses Sold to Area Representative	Area Businesses at End of the Year
<b>Totals</b>	<b>2020</b>	0	0	0	0	0	0
	<b>2021</b>	0	0	0	0	0	0
	<b>2022</b>	0	0	0	0	0	0

**Table No. 5**  
**Projected New Area Businesses as of December 31, 2022**

State	Area Representative Agreements Signed but Area Business Not Opened	Projected New Area Businesses in the 2020 Fiscal Year	Projected New Company Owned Area Businesses in the 2020 Fiscal Year
Maryland	0	2	0
Nevada	0	1	0
<b>TOTALS</b>	<b>0</b>	<b>3</b>	<b>0</b>

**Current and Former Area Representatives**

**Exhibit F** to this Disclosure Document lists the names of all current area representatives and the address and telephone number of each other Area Businesses.

**Exhibit G** to this Disclosure Document lists the names, city and state and the current business telephone number, or, if unknown, the last known home telephone number of every franchisee who had an Area Business terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under any Area Representative Agreement during the most recently completed fiscal year or who has not communicated with us within 10 weeks of this Disclosure Document’s issuance date.

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

**Trademark Specific Franchisee Organizations**

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

**Confidentiality Agreements**

During our last three fiscal years, we have not signed confidentiality agreements with current or former franchisees or area representatives that would the ability of current or former franchisees or area representatives from speaking openly with you about their experiences with our franchise system.

**ITEM 21 FINANCIAL STATEMENTS**

Attached as **Exhibit E** to this Disclosure Document is a copy of our audited financial statements for the fiscal years ended December 31, 2020, December 31, 2021 and December 31, 2022. Also attached as **Exhibit E** are our unaudited financial statements as of March 31, 2023.

## ITEM 22      CONTRACTS

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

<b>Agreement Name</b>	<b>Exhibit</b>
Area Representative Agreement	Exhibit B
Personal Payment and Performance Guaranty	Exhibit D to the Area Representative Agreement
Electronic Transfer of Funds Authorization	Exhibit E to the Area Representative Agreement
State-Required Area Representative Agreement Riders	Exhibit C
Sample Loan Documents	Exhibit D

## ITEM 23      RECEIPTS

The very last two (2) pages of this Disclosure Document (**Exhibit I**) are your and our copies of the Receipt of this Disclosure Document. The very last page of this Disclosure Document should be detached and returned to us acknowledging your receipt of this Disclosure Document. The next to last page is a duplicate receipt to be kept by you for your records. If these two (2) pages or any other pages or exhibits are missing from your copy of the Disclosure Document, please contact us at the following address or telephone number:

FADS USA, Inc.  
Attn: Legal Department  
151 Hazard Avenue, Suite 12-13  
Enfield, Connecticut 06082  
(413) 567-3200  
legal@fredastaire.com

**EXHIBIT A  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

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

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

STATE	STATE ADMINISTRATOR/AGENT	ADDRESS
California	Commissioner of Financial Protection and Innovation California Department of Financial Protection and Innovation	320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013-2344 1-866-275-2677
Maryland (State Administrator)	Office of the Attorney General Division of Securities	200 St. Paul Place Baltimore, MD 21202-2020
Maryland (Agent)	Maryland Securities Commissioner	200 St. Paul Place Baltimore, MD 21202-2020
New York (State Administrator)	NYS Department of Law Investor Protection Bureau	28 Liberty Street, 21 <sup>st</sup> Floor New York, NY 10005 212-416-8236
New York (Agent)	New York Department of State	One Commerce Plaza 99 Washington Avenue, 6th Floor Albany, NY 12231-0001 518-473-2492
Wisconsin	Commissioner of Securities	Department of Financial Institutions Division of Securities 4822 Madison Yards Way, North Tower Madison, WI 53705

**EXHIBIT B  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT  
AREA REPRESENTATIVE AGREEMENT**



# FRED ASTAIRE

## DANCE STUDIOS.

**FRED ASTAIRE DANCE STUDIOS®**  
**AREA REPRESENTATIVE AGREEMENT**

by and among

**FADS USA, INC.**

*as Franchisor*

and

**[Area Representative Individual or Company Name]**

*as Area Representative*

and

**[Names Individual Owners of Area Representative Company]**

*as Owner[s]*

effective as of

**[Month] [Day], [Year]**

Area Representative ID: \_\_\_\_\_

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- Exhibit A: Area Representative Information
- Exhibit B: Territory & Development Schedule
- Exhibit C: Marks
- Exhibit D: Personal Payment and Performance Guaranty
- Exhibit E: Electronic Transfer of Funds Authorization
- Exhibit F: FTC Order
- Exhibit G: Area Representative Acknowledgment

## FRED ASTAIRE DANCE STUDIOS® AREA REPRESENTATIVE AGREEMENT

This Fred Astaire Dance Studios® Area Representative Agreement (together with all Schedules and Exhibits hereto, this “**Agreement**”), effective as of [\_\_\_\_\_ \_\_, \_\_\_\_] (the “**Effective Date**”, regardless of the dates of the Parties’ signatures), by and among FADS USA, Inc. (f/k/a Megadance USA Corp.), a Delaware corporation with its principal office in Enfield, Connecticut (“**FUSA**”, “**we**”, “**us**” or “**Our**”), and [Area Representative Company], a [State] [limited liability company/corporation] with its principal office in [City, State] (“**Area Representative**”, “**you**” or “**your**”), and, as applicable, [Name of Owner], a resident of the State of [State Name] (the “**Owner**” and, together with FUSA and Area Representative, the “**Parties**”).

### RECITALS

- A.** We and our affiliates have accumulated knowledge and experience in the dance industry. On this basis we and our affiliates have expended considerable time, skill, effort and money to originate and develop (and continue to develop and modify) a unique and proprietary plan, method, specifications and operating procedures (collectively, the “**FADS System**”) for the operation of, sale of and support of studios offering dance instruction under the Fred Astaire Dance Studios® and Fred Astaire Dance Franchised Studios® marks.
- B.** The distinguishing characteristics of the FADS System include, but are not limited to, our studio designs, layouts and identification schemes (collectively, the “**Trade Dress**”), our specifications for equipment, inventory, and accessories; our dance programs and classes; our website or series of websites for the studios (the “**System Website**”); our relationships with vendors; our software and computer programs; our customer database; the accumulated experience reflected in our training and instruction programs, operating procedures, customer service standards, methods and marketing techniques; and the mandatory and suggested policies, procedures, standards, specifications, rules, and requirements (collectively, the “**FADS System Standards**”) set out in our manuals for the operation of studios (the “**Franchisee Manuals**”) and otherwise in writing. We may change, improve, add to and further develop the elements of the FADS System from time to time.
- C.** We identify the businesses operating under the FADS System by means of the mark “Fred Astaire Dance Studios®” and certain other trademarks, service marks, trade names, signs, associated designs, artwork, and logos as set forth on **Exhibit C** (collectively, the “**Marks**”). We may designate for your use other trade names, service marks, and trademarks as Marks from time to time. These marks which will also be included in the term the “**Marks**.” We use and sublicense the Marks, Copyrights and Authorized Images with the permission of our affiliate, Fred Astaire Dance Studios, Inc., the owner of the Marks.
- D.** The dance studios operating under the FADS System and the Marks are referred to as “**Studios**” and those Studios owned and operated by third party franchisees are referred to as “**Franchised Studios**”. As of this time, we do not own or operate any Studio directly. Any reference to Studios includes Franchised Studios.

- E.** We have developed a franchise program in which we offer qualified third party franchisees the opportunity to enter into a franchise agreement with us (a “**Franchise Agreement**”) in which we grant the right (the “**Franchise License**”) to establish and operate a Franchised Studio using the Marks and the FADS System.
- F.** You wish to establish and operate a Fred Astaire Dance Studios® Area Representative business (the “**Area Business**”) in the territory described in **Exhibit B** (the “**Territory**”) in which you, as a Fred Astaire Dance Studios® Area Representative, will have the right to use the Marks and the FADS System (i) to recruit and screen individuals interested in purchasing a Franchise License and operating a Franchised Studio in the Territory or in purchasing an Area Business (collectively, “**Prospects**”); and (ii) to assist us in providing certain support and services to Franchised Studios located in your Territory (Franchised Studios in your Territory, collectively, the “**Territory Franchisees**”). We are willing to grant to you a license to establish and operate an Area Business on the terms and conditions of this Agreement.

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

## **ARTICLE I DEFINITIONS**

**Section 1.01. Definitions.** The following terms used in this Agreement, and not otherwise defined, shall have the meanings given to them below:

(a) “**Adjusted Territory**” means a reduced area of the Territory that we believe you are able to adequately supervise.

(b) “**Advertising Cooperative**” means any organizations or associations of area businesses, franchisees or advertising cooperatives that we establish or approve for the purpose of promoting, coordinating and purchasing advertising in local, regional or national areas where there are multiple Area Businesses or Studios.

(c) “**Anti-Terrorism Laws**” means, collectively, Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act and all other present and future federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war.

(d) “**Applicable Laws**” means all applicable federal, state, and local laws, rules, regulations and ordinances.

(e) “**AR Training**” means the initial training program for Area Representatives we require you (or your Operating Principal, if you are an Entity) and any Required Trainees to attend prior to operating your Area Business.

(f) “**Area Advertising Fund**” means a general marketing and development fund that you maintain for marketing and promotion in the Territory, as described in **Section 7.09(c)(iii)(B)** (Your Daily Deals).

(g) “**Area Advisory Council**” means an advisory council of Area Representatives that we may establish.

(h) “**Area Business**” has the meaning set forth in the Recitals.

(i) “**Area Representative**” has the meaning set forth in the Preamble.

(j) “**Astaire Pro**” means any class instructor that successfully completes our training programs in accordance with our FADS System. Different levels of Astaire Pros exist, are detailed in our Manuals, and are based upon level of certification.

(k) “**Authorized Images**” means certain images, photographs, videos, pictures or likenesses of Mr. Fred Astaire authorized for use by us.

(l) “**Competition**” means any competition, contest, challenge, tournament or other “entry based” activity in which individuals or couples compete against one another.

(m) “**Competitive Business**” means, collectively, (i) any gymnasium, studio, athletic club, exercise or aerobics facility, or similar facility or business that offers dance and performing arts instruction and services; or (ii) any entity that grants franchises or licenses for any of these types of businesses.

(n) “**Confidential Information**” has the meaning set forth in **Section 12.01** (Nature of Information).

(o) “**Control Transfer**” means any Transfer of (i) this Agreement or any interest in this Agreement; (ii) your Studio or all or substantially all of your Studio’s assets; or (iii) any Controlling Ownership Interest in you (if you are an Entity), whether directly or indirectly through a transfer of legal or beneficial ownership interests in any Owner that is an Entity, and whether in one transaction or a series of related transactions, regardless of the time period over which these transactions take place.

(p) “**Controlling Ownership Interest**” means either (i) 20% or more of your direct or indirect legal or beneficial ownership interests in your Entity; or (ii) an interest that the acquisition of which grants the power (whether directly or indirectly) to direct or cause the direction of management and policies of you or the Studio to any individual or Entity, or group of individuals or Entities, that did not have that power before that acquisition.

(q) “**Copyrights**” means, collectively, any and all present or future copyrights relating to the FADS System or the FRED ASTAIRE DANCE STUDIOS® concept, including, but not limited to, the Manuals and marketing materials.

(r) “**Deals**” means, collectively, daily deals or other discounted class promotions, coupons, vouchers, or gift certificates on third-party websites or apps, such as Groupon and Living Social, or other similar promotions designed to drive new customers to Studios.

(s) “**Development Schedule**” means the Development Schedule set out in **Exhibit B** to this Agreement.



(t) “**Digital Marketing**” means, collectively, websites, social media accounts (such as Facebook, Twitter, Instagram, Pinterest, etc.), applications, keyword or adword purchasing programs, accounts with websites featuring gift certificates or discounted coupons (such as Groupon, Living Social, etc.), mobile applications, or other means of digital advertising on the Internet or any electronic communications network.

(u) “**Disclosure Document**” mean our standard forms of the Franchise Disclosure Document.

(v) “**Documentation**” means the set documents we offer Prospects, including without limitation, franchise agreements, franchise disclosure documents and related or ancillary documents necessary to offer or sell Franchise Licenses, or register the franchise offering in compliance with state and federal franchise or business opportunity laws

(w) “**Entity**” has the meaning set forth in **Section 2.08(a)** (Ownership and Guaranty).

(x) “**Event of Default**” has the meaning set forth in **Section 17.01** (Events of Default).

(y) “**Exhibition**” means any showcase, spotlight, trophy ball, dance camp, mini-match and other “entry based” activity in which individuals or couples exhibit their skills in a non-competitive format.

(z) “**FADS Advertising Fund**” means the general marketing and development fund that we maintain, as described in **Section 5.06(b)** (Accounting of Advertising Fees) and **Section 7.08** (FADS Advertising Fund).

(aa) “**FADS Conferences**” means FRED ASTAIRE DANCE STUDIOS® conferences, teleconferences, conventions, meetings and demonstrations.

(bb) “**FADS System**” has the meaning set forth in the Recitals.

(cc) “**FADS System Standards**” has the meaning set forth in the Recitals.

(dd) “**Franchise Agreement**” has the meaning set forth in the Recitals.

(ee) “**Franchise License**” has the meaning set forth in the Recitals.

(ff) “**Franchised Studio**” has the meaning set forth in the Recitals.

(gg) “**Franchisee Approval Process**” means the process for reviewing, screening and approving Prospects as detailed in our Manual.

(hh) “**FTC Order**” means the Federal Trade Commission Modified Order, Docket #8560, attached to this Agreement as **Exhibit F**.

(ii) “**Gross Revenue**” means all revenue that you receive or otherwise derive from operating your Studio, whether from cash, check, credit or debit card, gift card or gift certificate, or other credit transactions, and regardless of when you actually provide the products or services

in exchange for the revenue. Gross Revenue does not include (i) promotional allowances or rebates paid to you in connection with your purchase of products or supplies; (ii) any bona fide returns and credits that are actually provided to customers; and (iii) any sales or other taxes that you collect from customers and pay directly to the appropriate taxing authority. You may not deduct payment provider fees (i.e., bank or credit card company fees and gift card vendor fees) from your Gross Revenue calculation.

**(jj)** “**Guaranty**” means the “Personal Payment and Performance Guaranty” that is attached to this Agreement as **Exhibit C**.

**(kk)** “**Identifiers**” means all authorized and unauthorized domain names, social media accounts, telephone numbers, post office boxes, and classified and other directory listings relating to, or used in connection with, your Studio or the Marks.

**(ll)** “**Indemnified Parties**” means us, our affiliates, our Area Representatives, our franchisees, and our and their respective owners, directors, officers, employees, agents, representatives, successors, and assignees.

**(mm)** “**Independent Competition**” means any Competition that is not organized or sponsored by us, our affiliates or one of our Area Representatives.

**(nn)** “**Initial Area Representative Fee**” means, respecting each Area Representative Agreement, the initial payment we receive for the grant of an Area Business license, less any amounts that we pay to Brokers in connection with such sale, and does not include other payments received for territorial exclusivity, computer hardware and software and related services or equipment and other tangible goods we or other affiliates provide to Area Representatives.

**(oo)** “**Initial Term**” has the meaning set forth in **Section 4.01** (Term).

**(pp)** “**Innovation**” means, collectively, all ideas, concepts, techniques or materials relating to a FRED ASTAIRE DANCE STUDIOS® Studio or the FADS System.

**(qq)** “**Intellectual Property**” means, collectively, (i) the Marks, (ii) the Trade Dress, (iii) the Copyrights and (iv) any trade secrets, methods, or procedures that are part of the FADS System.

**(rr)** “**Interregional Competition**” means any Competitions that you organize and hold in your Territory for participation by all Studios.

**(ss)** “**Launch Training**” means the on-site portion of the initial training we provide to you and Required Trainees.

**(tt)** “**License**” means a non-exclusive license to operate an Area Business using the Marks and the FADS System according to the terms of this Agreement.

**(uu)** “**Losses**” means any and all losses, expenses, obligations, liabilities, damages (actual, consequential, or otherwise), and reasonable defense costs that an Indemnified Party incurs, including accountants’, arbitrators’, mediators’, attorneys’, and expert witness fees, costs

of investigation and proof of facts, interest, court costs, travel and living expenses, and other expenses of litigation, arbitration, or alternative dispute resolution, regardless of whether litigation, arbitration, or alternative dispute resolution is commenced.

(vv) “**Manuals**” has the meaning set forth in the Recitals.

(ww) “**Marks**” has the meaning set forth in the Recitals.

(xx) “**Opening Deadline**” means the earlier of: (i) 330 days after the Effective Date; or (ii) thirty (30) days after you open your Pilot Studio.

(yy) “**Operating Assets**” means, collectively, all fixtures, furnishings, signs and equipment of and related to your Area Business.

(zz) “**Operating Principal**” means the individual owner, if you are an Entity, who you must appoint to have authority over all business decisions related to your business and to have the power to bind you in all dealings with us.

(aaa) “**Package**” means any student or Astaire Pro with amateur entries at a Competition and does not include any individuals with only professional entries.

(bbb) “**Personal Information**” means names, contact information, financial information and other personal information of or relating to (i) the customers, members, and prospective customers and members of Territory Franchisees; (ii) Prospects and their owners and employees; and (iii) Territory Franchisees and their owners and employees.

(ccc) “**Pilot Studio**” means the first Franchised Studio you open under this Agreement within your Territory.

(ddd) “**Proceedings**” means, collectively, any and all claims asserted or inquiries made (formally or informally), or legal actions, investigations, or other proceedings brought, by a third party and directly or indirectly arising out of or relating to any matter described in **Section 15.01** (Indemnification by You) against an Indemnified Party.

(eee) “**Prospects**” has the meaning set forth in the Recitals.

(fff) “**Regional Competitions**” means any Competitions that you organize and hold in your Territory for participation by your Territory Franchisees.

(ggg) “**Regional Package Fee**” means the total fee owed by a Territory Franchisee for failing to send, in any calendar year, the total required number, in the aggregate for that calendar year, of Packages to your Regional Competitions.

(hhh) “**Renewal Term**” has the meaning set forth in **Section 4.02** (Renewal).

(iii) “**Required Trainees**” means you (or your Operating Principal, if you are an Entity) and your Key Manager.

**(jjj)** “**Sales Process**” means the detailed steps you will take to make a sale that begins with the identification of the Prospect and finishes with the Prospect executing Studio Agreements and as described in **Section 7.04** (Franchise Sales), **Section 7.05** (Screening Process) and **Section 7.06** (Executing Agreements).

**(kkk)** “**Support Services**” means the ongoing services you provide to your Territory Franchisees on our behalf.

**(lll)** “**Studio Management and Technology System**” means, collectively, the hardware, software, other equipment, and network connections that we specify periodically in the Manuals necessary to operate our designated technology platform, the music system, the point of sale system, the customer relationship management system, the online reservation system, and the franchise relationship management system.

**(mmm)** “**Studio Agreements**” means our standard forms of Franchise Agreement, Development Agreement and related agreements collectively.

**(nnn)** “**Studios**” has the meaning set forth in the Recitals.

**(ooo)** “**System Website**” has the meaning set forth in the Recitals.

**(ppp)** “**Term**” means, collectively, the Renewal Term and the Initial Term.

**(qqq)** “**Territory**” means the protected area listed on **Schedule 1 to Exhibit A** to this Agreement.

**(rrr)** “**Territory Franchisees**” has the meaning set forth in the Recitals.

**(sss)** “**Trade Dress**” has the meaning set forth in the Recitals.

**(ttt)** “**Trademark Indemnified Parties**” means, collectively, you and your Owners, directors, officers, employees, agents, successors, and assigns.

**(uuu)** “**Transfer**” as a verb means to sell, assign, give away, transfer, pledge, mortgage, or encumber, either voluntarily or by operation of law (such as through divorce or bankruptcy proceedings), any interest in this Agreement, your Studio, substantially all the assets of your Studio, or in the ownership of the franchisee (if you are an Entity). “**Transfer**” as a noun means any such sale, assignment, gift, transfer, pledge, mortgage, or encumbrance.

**Section 1.02. Certain Terms.** The term “affiliate” is applicable to any company that, directly or indirectly, owns or controls, is owned or controlled by or under common control with another person. If two or more persons are at any time the franchisee, whether or not as partners or joint venturers, their obligations and liabilities to us are joint and several. The term “person” includes individuals and all business entities.

**Section 1.03. Interpretation.** For purposes of this Agreement, (a) the words “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation” and the terms following such words shall be interpreted as examples of, and not an exhaustive list of,

the appropriate subject matter; (b) the word “or” is not exclusive; and (c) the words “herein”, “hereof”, “hereby”, “hereto” and “hereunder” refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Unless the context otherwise requires, references in this Agreement to: (i) Articles, Sections and Exhibits mean the Articles and Sections of, and the Exhibits attached to, this Agreement; (ii) an agreement, instrument or other document means such agreement, instrument or other document, as amended, supplemented and modified from time to time to the extent permitted by the provisions of such agreement, instrument or document; and (iii) a statute means such statute as amended from time to time and includes any successor legislation and any regulation promulgated thereunder.

## **ARTICLE II RIGHTS GRANTED**

**Section 2.01. Grant of Area Representative Rights.** Upon the terms and conditions of this Agreement, we grant to you a License to operate one Area Business in the Territory. Your License gives you the following rights:

(a) to actively and continually solicit Prospects to purchase Franchises to be located in the Territory in accordance with (i) the Development Schedule and (ii) the Franchisee Approval Process;

(b) to actively and continually solicit Prospects to purchase Area Businesses for territories in which we currently have no Area Representative in accordance with the Franchisee Approval Process;

(c) to assist us in providing the support and supervisory services specified in **Article IX** (Your Obligations) to your Territory Franchisees;

(d) to advertise to the public that your Area Business and Territory Franchisees are Fred Astaire Dance Studios®; and

(e) to use the Marks and the FADS System solely in pertaining to your duties under the Agreement.

You have no right to (x) sublicense the Marks or the FADS System to any other Person; (y) use the Marks or the FADS System at any location outside the Territory; or (z) to use the Marks or the FADS System in any wholesale, e-commerce or other channel of distribution.

### **Section 2.02. Area Representative Rights Personal.**

(a) You acknowledge that the License, and the rights associated with the License, is being granted upon the special relationship of trust and confidence that we and our affiliates have in your Owners. This special relationship is based upon your Owners’ (i) reputation and character; (ii) demonstrated skills, ability, knowledge and experience related to the management and operation of a business; and (iii) understanding of the importance of the Marks, the Intellectual Property and the FADS System Standards.

(b) You and your Owners acknowledge that the License, and the rights associated with the License, is granted to Area Representative only and to no other person. You may not, except as expressly permitted by this Agreement, Transfer to any other person by assignment, will or operation of Applicable Law the License or any of the rights associated with the License.

**Section 2.03. No Grant; No Authority.** For the avoidance of doubt, no License, or any rights associated with the License, is granted to any Owner. No Owner will make any agreement, guaranty or representation on behalf of us or our affiliates to a third party.

**Section 2.04. Acceptance; Strict Conformance.** You hereby accept the License and agree to operate your Area Business in strict accordance with the terms and conditions of this Agreement for the Term. You will perform your obligations under this Agreement strictly in accordance with the terms and provisions of this Agreement and our policies as they may be developed, modified and supplemented from time to time.

**Section 2.05. Exclusivity; Territorial Protection.** Except as provided **Section 2.06** (Reservation of Rights), as long as you are in compliance with this Agreement (including, without limitation, your territorial development obligations in **Section 7.02** (Territory Development) and payment of Territorial Exclusivity Fee) we and our affiliates will not (a) license a third party to operate an Area Business within your Territory; or (b) open, or license a third party to open, a Studio within your Territory.

**Section 2.06. Reservation of Rights.** We and our affiliates reserve all rights not specifically granted to you by the License. For the sake of example, without limitation, we and our affiliates have the right, directly or indirectly, to:

(a) solicit and recruit Prospects in any manner to establish Franchised Studios anywhere;

(b) engage the services of franchise brokers, lead referral sources and other organizations and facilities for the identification, evaluation and referral of leads for Prospects (collectively, “**Brokers**”);

(c) establish, or license to third parties the right to establish, Studios outside of the Territory;

(d) offer, promote and sell the products and services that Studios offer, promote, sell or use the FADS System or elements of the FADS System under any names, symbols, trademarks or service marks, including the Marks, through similar or dissimilar channels of distribution (other than the operation of a Studio) anywhere, including within and outside your Territory;

(e) establish, or license to third parties the right to establish, Area Businesses anywhere outside your Territory;

(f) provide services and support to Studios located anywhere, including to your Territory Franchisees;

(g) sell or offer, or license others to sell or offer, any products, services or classes using the Marks or other marks through any alternative distribution channel, including through e-commerce, in retail stores, via recorded media, via online videos or via broadcast media, anywhere, including inside the Territory;

(h) advertise, or authorize others to advertise, using the Marks anywhere, including inside the Territory and on the Internet (or other existing or future force of electronic commerce) and to create, operate, maintain and modify or discontinue the use of website and Digital Marketing using the Marks; and

(i) acquire, be acquired by, or merge with other companies with existing dance or fitness facilities, businesses, or studios anywhere (including inside the Territory) and (i) if such businesses are not located in the Territory, convert the other businesses to the FRED ASTAIRE DANCE STUDIOS® name; (ii) permit the other businesses to continue to operate under another name and offer unit franchises and area franchises in such other system (subject to the restriction on developing and offering ballroom dance instruction franchise concepts in **Section 2.07** below); or (iii) permit the businesses to operate under another name; and

(j) develop and offer franchise concepts that (i) do not use any of the Marks; (ii) do not offer ballroom dance instruction; and (iii) may offer, promote and sell products and services similar or complementary to the products and services that Studios offer; and

(k) acquire an existing Franchised Studio in your Territory and operate it; provided that we first notified of you of the potential opportunity to purchase said Franchised Studio and you were either unwilling or unable to enter into a purchase agreement for the Franchised Studio within sixty (60) days after we notified you.

**Section 2.07. Right of First Refusal for Certain Transactions.** Pursuant to **Section 2.06(i)**, we have the right to acquire or merge with a company with existing dance facilities, businesses or studios (each a “**Transaction**”), and, pursuant to **Section 2.06(j)**, we have the right to develop and offer franchise concepts that do not involve the Marks and do not offer ballroom dance instruction (each a “**New Development**”). If a Transaction or New Development occurs during the next ten (10) years, we will offer you the right of first refusal (the “**ROFR**”) to be an area representative for the franchises, dance facilities, businesses or studios involved in the Transaction or New Development (the “**New Brand Studios**”). Within 180 days following the closing of a Transaction, we will provide you with a copy of its then-current area representative franchise disclosure document for the New Brand Studios (the “**New Brand Area Representative FDD**”). You will have the right and option, exercisable within ninety (90) calendar days after receipt of the New Brand Area Representative FDD, to sign our then-current area representative agreement for the New Brand Studios for the right to operate an area representative business in the same territory as the Territory, and pay us all applicable fees, including the initial fee, provided that we will offer you a 50% discount off the then-current initial fee. You may exercise this ROFR only if you are in good standing under, and in compliance with, this Agreement at the time the New Brand Area Representative FDD is provided and at the time the area representative agreement for the New Brand Studios is signed. If you elect not to exercise your ROFR by failing to meet all of the conditions described in this **Section 2.07**, (i) your ROFR to acquire an area representative franchise for the New Brand Studios in the Territory will automatically terminate; and (ii) you will have no ROFR to acquire an area representative franchise for the New Brand Studios.

#### **Section 2.08. Ownership and Guaranty.**

(a) Owners. If you are an Entity, corporation, limited liability company, partnership or other legal entity (collectively, an “**Entity**”), all of your owners of a legal or beneficial interest in the Entity (collectively, the “**Owners**”) are listed in the **Preamble** and in **Exhibit A**.

(b) Operating Principal. Your Operating Principal must have at least a 10% ownership interest in your Entity. We must approve your Operating Principal and the Operating Principal must satisfactorily complete training we require. Your Operating Principal is listed on **Exhibit A**. You must provide us with written notice of your Operating Principal at least sixty (60) days prior to opening your Area Business and may not change your Operating Principal without our prior written approval.

(c) Guaranty. If you are an Entity, each of your Owners must execute, and each of your Owners' spouses must consent to, the Guaranty. We may also require the spouse of any Owner to sign the Guaranty. By executing the Guaranty, each Owner will be bound by the provisions contained in this Agreement, including, without limitation, the restrictions set forth in **Article XIV** (Covenant Not to Compete). By consenting to the Guaranty, each Owners' spouse acknowledges, understands and agrees (i) that the Owner will be bound by the provisions contained in this Agreement and (ii) that the spouse will be individually liable for the Owner's financial obligations under this Agreement, whether or not the spouse is involved in the operation of your Area Business. Further, a violation of any of the provisions of this Agreement, including the covenants contained in **Article XIV**, by any Owner, or the spouse of any Owner, will also constitute a violation by you of your obligations under this Agreement. You represent and warrant to us that the individuals executing this Agreement under the Guaranty represent that they are your sole Owners.

(d) Governing Documents. If you are (or Transfer this Agreement to) an Entity, you agree to furnish us with the documents set forth in **Section 2.08(d)(i)-(x)**, which includes, but is not limited to, a list of holders of direct or indirect equity interests and their percentage interests, as well as copies of your governing documents and any other corporate documents, books or records, including certificates of good standing from your state, at least nine (9) calendar days before you execute this Agreement. You must provide us certified copies of any changes to your articles of incorporation and/or formation, and any amendments or restatements of any governing documents. The Owners may not enter into any shareholders' agreement, management or operating agreement, voting trust or other arrangement that gives a third party the power to direct and control your affairs without our prior written consent. During the Term, your governing documents must provide that no Transfer of any ownership interest may be made, except in accordance with **Article XVI** (Transfer and Assignment) of this Agreement. Any securities that you issue must bear a conspicuous printed legend stating such restriction, and you agree to provide us a copy of any form of printed security that you issue.

(i) Certified Articles of Formation or Incorporation.

(ii) If the Studio will be operated in a state other than the state the Franchisee is formed or incorporated, the Certificate of Authorization to do business in the state the Studio will be operated.

(iii) Operating Agreement, Bylaws, Shareholder Agreement, Partnership Agreement, and any and all amendments thereto.

(iv) If not in the entity documents, a summary of the individuals or entities who will have an ownership interest in the Franchisee, including the following information about each owner: name, respective ownership interest, title, home address, home



telephone number. If any ownership interest is held by an Entity, a summary of the ownership interests in that Entity and the entity documents for that Entity.

(v) Any agreements between the members, owners or shareholders (including any agreements to transfer ownership interests).

(vi) If applicable, copies of all stock or membership certificates, which include the transfer restrictions set forth in the Agreement.

(vii) If applicable, a copy of the resolution regarding the Franchisee's entry into and performance of a Franchise Agreement and identification of the Operating Principal and Key Manager.

(viii) If the Entity was formed more than six (6) months prior to the execution of the Franchise Agreement, a certificate of good standing from the state of formation or incorporation, and, if applicable, the state where the Studio will operate.

(ix) Any other governing document(s) of the Franchisee.

### **ARTICLE III MATERIAL INDUCEMENTS**

**Section 3.01. Representations and Warranties.** We are presenting this Agreement to you because you expressed the desire to own and operate an Area Business. You and your Owners understand that the terms and conditions of this Agreement are reasonably necessary to maintain our high standards of quality and service and the uniformity of those standards at each Studio and to protect and preserve the goodwill of the Marks. By signing this Agreement, you and your Owners represent, warrant, acknowledge and agree:

(a) to the importance of operating your Area Business in strict conformity with the Manuals and FADS System;

(b) that you and your Owners have conducted an independent investigation of the business venture contemplated by this Agreement and recognize that it involves business risks and that your results will be largely dependent upon your own efforts and ability. You and your Owners have been accorded ample time to consult with your own legal counsel and other advisors about the potential risks and benefits of entering into this Agreement, and we have advised you and your Owners to do so;

(c) that an investment in an Area Business involves business risks;

(d) that the success of this business venture is primarily dependent on your business abilities and efforts;

(e) that you and your Owners will comply with or assist us to the fullest extent possible in our efforts to comply with the Anti-Terrorism Laws;

(f) that neither you nor your Owners, employees or agents, property or interests are subject to being "blocked" under any of the Anti-Terrorism Laws and that neither you nor they are otherwise in violation of any of the Anti-Terrorism Laws;

(g) that you and your Owners have received an execution ready copy of this Agreement at least seven (7) calendar days before you and your Owners executed this Agreement or any related agreements or paid any consideration to us. You and your Owners have also received a Franchise Disclosure Document required by applicable state or federal laws, including a form of this Agreement, at least fourteen (14) calendar days (or such longer time period as required by Applicable Law) before you and your Owners executed this Agreement or any related agreements or paid any consideration to us. You and your Owners have reviewed this Agreement and the Franchise Disclosure Document and have been given ample opportunity to consult with, and ask questions of, our representatives regarding the documents. You and your Owners have no knowledge of any representations made about the Fred Astaire Dance Studios® franchise opportunity by us, our affiliates, or any of our or their officers, directors, owners, or agents that are contrary to the statements made in our Franchise Disclosure Document or to the terms and conditions of this Agreement. You and your Owners have read this Agreement and our Franchise Disclosure Document and understand and accept that the terms and covenants in this Agreement are reasonable and necessary for us to maintain our high standards of quality and service, as well as the uniformity of those standards at each Area Business, and to protect and preserve the goodwill of the Marks;

(h) that the information (including, without limitation, all personal and financial information) that you and your Owners have furnished or will furnish to us relating to the subject of this Agreement is true and correct in all material respects and includes all material facts necessary to make such information not misleading in light of the circumstances when made;

(i) that this Agreement and all business dealings between you and your Owners and us, including our officers, directors, employees and agents, as a result of this Agreement are solely between you and your Owners and us;

(j) that this Agreement has been duly authorized and executed by you and your Owners or on your or your Owners' behalf and constitutes your and your Owners' valid and binding obligation, enforceable in accordance with its terms, subject to applicable bankruptcy, moratorium, insolvency, receivership, and other similar laws affecting the rights of creditors generally;

(k) that you and your Owners have made no misrepresentations in obtaining your License under this Agreement, including in the application that you and your Owners provided to us; and

(l) that you and your Owners understand and acknowledge that the Manuals and any policies, including the FADS System, that we adopt and implement may be changed by us from time to time.

**Section 3.02. No Guaranties.** We expressly disclaim the making of, and you and your Owners acknowledge and agree that you have not received or relied upon, any warranty or guaranty, express or implied, as to the revenues, sales, profits or success of the business venture contemplated by this Agreement or the extent to which we will continue to develop and expand the network of Area Businesses. You and your Owners represent, warrant, acknowledge and agree that:

(a) any statements regarding the potential or probable revenues, sales or profits of the business venture, if any, are made solely in the franchise disclosure document, if any, delivered to you and your Owners prior to signing this Agreement;

(b) any statements regarding the potential or probable revenues, sales or profits of the business venture or statistical information regarding any existing Area Business or any Franchised Studio that is not contained in our franchise disclosure document is unauthorized, unwarranted and unreliable, and should be reported to us immediately;

(c) any information you or your Owners obtained from other owners of Area Businesses or of any Franchised Studio relating to revenues, sales, profits or otherwise does not constitute information obtained from us, and we do not warrant or guaranty the accuracy of any such information; and

(d) you and your Owners have not received or relied on any representations about an Area Business made by us, or our officers, directors, employees or agents, that are contrary to the statements made in our Franchise Disclosure Document or to the terms of this Agreement.

#### **ARTICLE IV TERM AND RENEWAL**

**Section 4.01. Term.** Unless terminated pursuant to **Article XVII** (Termination and Default), the initial term of the License under this Agreement begins on the Effective Date and extends for an initial ten (10) year period (the “**Initial Term**”).

**Section 4.02. Renewal.** Upon the expiration of the Initial Term and if you (i) are not in default under this Agreement; (ii) have substantially complied with this Agreement throughout the Term; (iii) have satisfied your Development Schedule; (iv) have timely paid all monies due to us or our affiliates; and (v) comply with **Section 4.03** (Renewal Procedures), you may, at your option, obtain from us one (1) additional consecutive ten (10) year renewal term (the “**Renewal Term**”).

**Section 4.03. Renewal Procedures.** You may exercise your right to a Renewal Term by:

(a) giving us written notice of your desire to renew the License under this Agreement at least six (6), but no more than twelve (12), months before the expiration of the Initial Term;

(b) mutually agreeing with us on a revised Development Schedule for the Renewal Term;

(c) delivering to us a fully executed Area Representative Agreement on our then current form of Area Representative Agreement, which (i) will contain a right of renewal for a renewal term of no less than ten (10) years, provided that you meet the renewal conditions described in that Area Representative Agreement; and (ii) you and your Owners understand and acknowledge that a fully executed Area Representative Agreement on our then current form of Area Representative Agreement may contain terms materially different than those contained in this Agreement, including material changes to compensation percentages or termination provisions;

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

(e) substantially and timely complying with the terms and conditions of this Agreement and any other agreement with us, our affiliates or your landlord or any financial institution throughout the Initial Term; not receiving more than two (2) notices of default in the previous

twelve (12) month period, even if the defaults were similar or were cured; and having no Event of Default, or event which with the giving of notice or passage of time would constitute an Event of Default, in existence as of the expiration of the Initial Term; and

(f) paying to us the Renewal Fee (as defined in **Section 4.03** (Renewal Fee)) at least thirty (30) days before the end of the Initial Term.

**Section 4.04. Delays for Government Regulatory Requirements.** If we are unable to grant you a Renewal Term at the time required as described above due to federal or state governmental requirements regarding the offering and sale of franchises and, at such time, all of the conditions contained in **Section 4.03** (Renewal Procedures) have been met (other than **Section 4.03(b)**), then this Agreement will continue to be in effect until you give us, at least thirty (30) days in advance, written notice of your intent to terminate this Agreement or you fail to enter into a Renewal Agreement after we have given you a thirty (30) day-period in which to do so. We will offer you the right to enter into a Renewal Term (which will terminate on the same date it would have terminated had there been no delay) as soon as we are legally permitted to do so.

## **ARTICLE V FEES AND COMPENSATION**

**Section 5.01. Area Representative Fee.** You must pay to us a nonrefundable area representative fee of \$40,000 (the “**Area Representative Fee**”) upon execution of this Agreement. The Area Representative Fee is paid in consideration of the rights granted in **Article II** (Rights Granted) (excluding **Section 2.05** (Exclusivity; Territorial Protection)) and will be deemed fully earned at the time paid. You and your Owners acknowledge and understand that we have no obligation to refund the Area Representative Fee, in whole or in part, for any reason.

**Section 5.02. Territorial Exclusivity Fee.** In consideration of the grant of rights in **Section 2.05** (Exclusivity; Territorial Protection), you must pay to us an exclusive territory fee as set forth on **Exhibit B** (the “**Territorial Exclusivity Fee**”) upon execution of this Agreement. The Territorial Exclusivity Fee is based upon our business determination of the number of Franchised Studios your Territory can support. The Territorial Exclusivity Fee will be deemed fully earned at the time paid. You and your Owners acknowledge and understand that we have no obligation to refund the Territorial Exclusivity Fee, in whole or in part, for any reason.

**Section 5.03. Renewal Fee.** Upon your execution of a renewal Area Representative Agreement pursuant to **Section 4.03** (Renewal Procedures), you will pay to us a renewal fee equal to fifty percent (50%) of the original Area Representative Fee (the “**Renewal Fee**”).

### **Section 5.04. Compensation to You.**

(a) Franchise Fee Compensation. We will pay you (i) 50% of the Franchise Fee (as defined below) paid to us for Franchised Studios located in the Territory for Prospects that you identified and led through the Sales Process to closing during the previous week; (ii) 30% of the Franchise Fee paid to us for the Franchised Studios located in the Territory for Prospects that you identified and we led through the Sales Process to closing during the previous week; and (iii) 30% of the Franchise Fee paid to us for the Franchised Studios located in the Territory for Prospects that we identified and either we or you led through the Sales Process to closing during the previous week (collectively, the “**Franchise Compensation**”). “**Franchise Fee**” means, respecting each

Franchise Agreement, the initial payment we receive for the grant of the Franchised Studio, including any development fees paid for the right to open multiple Franchised Studios in the Territory, less any amounts that we pay to Brokers in connection with such sale, and does not include other payments received for computer hardware and software and related services or equipment and other tangible goods we or our affiliates provide to Franchised Studios.

(b) Royalty Compensation.

(i) We will pay you a weekly amount equal to 70% of the total amount of Royalty Fees (as defined in each applicable Franchise Agreement) that we receive from your Territory Franchisees for the previous week (the “**Royalty Compensation**”).

(ii) If 30% of your Territory Franchisees qualify as Underperforming Studios for any calendar year or are not in substantial compliance with our FADS System Standards as of December 31, then, during the entire calendar year immediately following, we will pay you Royalty Compensation equal to 65% of the total amount of Royalty Fees that we receive from such Underperforming Studios or non-compliant Territory Franchisees in your Territory in the previous week.

(iii) If 50% or more of your Territory Franchisees qualify as Underperforming Studios for any calendar year or are not in substantial compliance with our FADS System Standards as of December 31, then, during the entire calendar year immediately following, we will pay you Royalty Compensation equal to 60% of the total amount of Royalty Fees that we receive from all Territory Franchisees in your Territory in the previous week.

(iv) A Franchised Studio shall be designated as an “**Underperforming Studio**” if the Franchised Studio fails meet its Performance Standard (as defined in the Franchise Agreement) for Year 2, Year 3, Year 4 or Year 5 and after.

(c) Performance Royalty Compensation. We will pay you, on a weekly basis, an amount equal to 50% of the total amount of all Performance Royalty Fees that we receive from your Territory Franchisees during the previous week (“**Performance Compensation**”). The “**Performance Royalty Fee**” is the total difference of Royalty Fees actually paid to us by a Franchised Studio and the amount of Royalty Fees a Franchised Studio would have paid to us if a Franchised Studio had met its Performance Standard. Notwithstanding the foregoing, we will not pay you, and you are not entitled to, Performance Compensation: (i) for any Territory Franchisee for which your Royalty Compensation was reduced pursuant to Section 5.04(b)(ii) in the previous calendar year; or (ii) for any calendar year in which your Royalty Compensation was reduced pursuant to Section 5.04(b)(iii).

(d) Initial Training Compensation. We will pay you an amount equal to 50% of the total amount of all Initial Training Fees (as that term is defined in each applicable Franchise Agreement) that we receive from your Territory Franchisees during the previous week (the “**Training Compensation**”).

(e) Renewal Compensation. We will pay you an amount equal to 50% of the total amount of any renewal fees that we receive from your Territory Franchisees during the previous week.

(f) Transfer Compensation. We will pay you an amount equal to 50% of the total amount of transfer fees (which includes any non-refundable deposit paid to us by a Franchised Studio in your Territory when providing notice of a proposed Transfer) that we receive from your Territory Franchisees.

(g) Management Compensation. We will pay you an amount equal to 85% of the total amount of any management fees that we receive from your Territory Franchisees during the previous week for which we have appointed you as manager pursuant to the Territory Franchisee's Franchise Agreement.

(h) Independent Competition Compensation. We will pay you an amount equal to 50% of the total amount of independent competition fees that we receive from your Territory Franchisees during the previous week.

(i) Relocation Compensation. We will pay you an amount equal to 50% of the total amount of any relocation fees that we receive from your Territory Franchisees during the previous week.

(j) Extension Compensation. We will pay you an amount equal to 50% of the total amount of any opening extension fees that we receive from your Territory Franchisees during the previous week.

(k) Area Representative Fee Compensation. We will pay you 50% of the Initial Area Representative Fee paid to us for an Area Business located in a territory without a current Area Business or Area Representative for Prospects that you identified and you or we led through the Sales Process to closing during the previous week (the "**Area Fee Compensation**").

(l) Area Royalty Compensation. We will pay you 10% of the total amount of Royalty Fees that we receive from each Franchised Studio in the territory of any Prospect that you identified that becomes an Area Representative for any territory without a current Area Business or Area Representative (the "**Area Royalty Compensation**"). You will receive the Area Royalty Compensation for a period of three (3) years from the Effective Date of the Prospect's applicable Area Representative Agreement. For the sake of example, if you identify a Prospect that signs an Area Representative Agreement with an Effective Date of January 1, 2020, then you will receive (i) a one-time payment for the Area Fee Compensation; and (ii) quarterly payments for the Area Royalty Compensation through December 31, 2022.

(m) Payment Date. Our weeks run on a Saturday to Friday basis. We collect Royalty Fees from all Franchised Studios each Friday for the week ending the previous Friday. We will pay you all compensation due to you pursuant to **Section 5.04(a)** through **Section 5.04(n)** within fourteen (14) days (the "**Payment Date**"). For example, if we collect Royalty Fees on Friday, January 15, for the week ending Friday, January 8, your Payment Date is January 29. We reserve the right to pay you earlier than your Payment Date.

**Section 5.05. Transfer Fee**. If you Transfer your Area Business or this Agreement, you or your Owners must pay us a Transfer Fee as specified in **Section 16.03** (Control Transfer), **Section 16.04** (Non-Control Transfers) and **Section 16.05** (Transfer to an Entity).

## **Section 5.06. Advertising Fees.**

(a) Payment of Fees. You will pay to us aggregate advertising and marketing fees (the “**Advertising Fees**”) with respect to each calendar week (or any portion of a week). The current Advertising Fee is one percent (1%) of your Royalty Compensation for each week during the 2023 calendar year. After the 2023 calendar year, we reserve the right to increase the Advertising Fees once annually to a maximum of two percent (2%), in increments of no more than one-quarter of one percent (0.25%), by providing you with written notice of any change at least one hundred eighty (180) days prior to the implementation.

(b) Accounting of Advertising Fees. The Advertising Fees will be paid into the FADS Advertising Fund, a segregated or independent fund into which all Advertising Fees will be paid. The FADS Advertising Fund is not a trust or escrow account. In no event will we be deemed a fiduciary with respect to any Advertising Fees we receive or administer. We are not required to have an independent audit of the FADS Advertising Fund completed. We must prepare an unaudited statement of contributions and expenditures for the FADS Advertising Fund, and we must make it available within ninety (90) days after the close of our fiscal year to you. If any monies in the FADS Advertising Fund remain at the end of a fiscal year, they will carry-over in the FADS Advertising Fund into the next fiscal year. We or one of our affiliates may make or otherwise arrange loans to the FADS Advertising Fund in any year in which the balance of the FADS Advertising Fund is negative and charge a reasonable rate of interest. The amounts loaned to the FADS Advertising Fund will be repaid from future contributions to the FADS Advertising Fund in the year the loan is made or in subsequent years.

(c) Use of Advertising Fund. Please see **Section 7.08(a)** (Use of Fund) for an explanation as to how we may and may not use the monies in the FADS Advertising Fund.

**Section 5.07. Technology Fee.** You will pay to us, an affiliate or a third party that we designate a technology fee for various technology services that we will provide or arrange for our affiliates or third parties to provide, which services are subject to change over time (a “**Technology Fee**”). The current Technology Fee is (A) \$50 per month for the first year of the Initial Term; (B) \$75 per month for the second year of the Initial Term; and (C) \$100 per month for each subsequent year of the Initial Term. We reserve the right to increase the Technology Fee once annually in increments of \$25 to a maximum of \$250 per month, by providing you with written notice of any change at least one hundred eighty (180) days prior to the implementation of the new fee amount. The Technology Fee currently includes, for the sake of example and not limitation, fees related to (i) our proprietary studio operational software; (ii) our intranet and FADS System software and applications; (iii) internet domain names and e-mail addresses; and (iv) server hosting and data protection. We may add, delete or otherwise modify the products and services that are included in the Technology Fee at any time. We will begin to assess the Technology Fee starting on the date that you begin operating your Area Business, with the first week assessed on a pro rata basis from such date.

**Section 5.08. Non-Compliance Fee.** If we determine that you have violated any of your obligations under this Agreement, including any failure to comply with any standards set forth in the Manuals, we may send you a notice of violation and assess a fee in an amount up to \$150 (the “**Non-Compliance Fee**”), which must be paid within fifteen (15) days from your receipt of an invoice from us. The Non-Compliance Fee applies for each notice of violation that we send to you,

even if the violation is of the same provision of the Agreement or same standard set forth in the Manuals for which you previously received a notice of violation from us. We reserve all other rights and remedies available to us under this Agreement and any other agreement you may have with us or our affiliates.

**Section 5.09. Method of Payment.** All other fees and payments due to us must be paid to us within fifteen (15) calendar days of your receipt of an invoice from us. You must make all payments to us by the method or methods that we specify from time to time in the Manuals, which may include payment via wire transfer or electronic debit to your business checking account. You must furnish us and your bank with all authorizations necessary to effect payment by the methods we specify. We currently require you to make payment by electronic debit from your business checking account. Before you begin operating your Area Business, you agree to sign and deliver to us the authorization agreement in the form of **Exhibit E** (the “**Electronic Transfer of Funds Agreement**” or “**ETFA**”) to authorize us to debit your business checking account automatically for all payments and amounts due to us under this Agreement. We will auto-debit all fees and payments you owe us and our affiliates. We will debit your business checking account for these amounts on their due dates. Funds must be available in your business checking account to cover our withdrawals.

**Section 5.10. Interest; Late Fees.** If any payment due to us is not received in full by the due date, you agree to pay us daily interest on the amount owed, calculated from the due date until paid, at the rate of 10% per annum (or the maximum rate permitted by Applicable Law, if less than 10%) and compounded weekly. You also agree to pay us a late fee in the amount of \$25 for each week that a payment is paid after the applicable due date. This late fee is subject to increase upon sixty (60) days’ prior written notice, but it will not be increased more than once in any twelve (12) month period. You and your Owners agree to reimburse us for any fees or costs incurred by or charged to us if your business checking account does not have the necessary funds to cover our withdrawal of fees and payments you owe us or our affiliates. You and your Owners acknowledge, understand and agree that this **Section 5.10** is not our agreement to accept any payments after they are due and that late payments are a default under this Agreement.

**Section 5.11. Taxes.** You are responsible for all taxes, assessments, and government charges levied or assessed on you in connection with your business activities under this Agreement. All payments by you to us under this Agreement must be made without set-off or deduction, except for taxes or fees required to be deducted or withheld by taxing authorities. If you fail to deduct or withhold such taxes or fees, unless requested or instructed by us not to deduct or withhold such taxes or fees, you must indemnify us for the full amount of such taxes or fees, and for any loss or liability (including penalties, interest, and expenses) occasioned by your failure to deduct or withhold such taxes or fees.

**Section 5.12. Set-Off.** We may set-off any sums that we owe to you against any sums that you owe to us or our affiliates. You may not, under any circumstances, set off, deduct or otherwise withhold any fees, interest charges, or any other monies payable under this Agreement on grounds of our alleged non-performance of any obligations or for any other reason.



**ARTICLE VI**  
**AREA BUSINESS OPERATIONS**

**Section 6.01. Manuals.**

(a) Compliance. We will furnish you with electronic access to our Manuals, on loan for as long as this Agreement or a successor franchise agreement remains in effect. We reserve the right to furnish all or part of the Manuals to you in electronic form and to establish terms of use for access to any restricted portion of our website. The Manuals will contain mandatory and suggested specifications, standards and operating procedures that we develop for the FADS System and Area Businesses, and information relating to your other obligations. Any required specifications, standards and operating procedures exist to protect our interests in the FADS System and the Marks and to create a uniform customer experience, and not for the purpose of establishing any control or duty to take control over those matters that are reserved to you. You must comply with and abide by each required FADS System Standard contained in the Manuals as they may be amended, modified or supplemented periodically and such other written or electronically transmitted FADS System Standards that we may issue periodically. You acknowledge that we may amend, modify or supplement the Manuals at any time, so long as such amendments, modifications, or supplements will, in our good faith opinion, benefit us and our existing and future Area Businesses and Franchised Studios or will otherwise improve the FADS System. The terms of the Manual may not contradict, amend or supersede the terms of this Agreement in any material respect. You must promptly comply with revised FADS System Standards.

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

**Section 6.02. Pilot Studio.** You must sign a Franchise Agreement and open the Pilot Studio no later than 270 days after the Effective Date. The Pilot Studio must be used as a prototype business and training facility for your Territory and must meet our requirements for a training facility, which may add expense to your construction and operating costs. You must operate the Pilot Studio or a replacement Pilot Studio at all times during the Term unless you obtain our written consent. If we provide written consent waiving your obligation to maintain a Pilot Studio, you must comply with any and all of the conditions and obligations set forth in our written consent and in the Manuals. You understand and agree that failure to comply with any and all of the conditions and obligations stated in our written consent and the Manuals (i) automatically terminates our waiver of your obligation to maintain a Pilot Studio; (ii) requires you to operate a replacement Pilot Studio (which may require you to sign a new Franchise Agreement and open a new Franchised Studio within your Territory); and (iii) requires you to obtain a new written consent from us waiving your obligation to maintain a Pilot Studio.

### **Section 6.03. Operation of Area Business.**

(a) Location. At all times during the Term, you or your Operating Principal must maintain your or their primary residence within fifty (50) miles of your Pilot Studio. You must maintain your Area Business's office within the boundaries of your Territory at your residence, the Pilot Studio or any other suitable commercial space.

(b) Staffing. You and your Operating Principal must devote your best efforts towards the management of your Area Business. You must at all times employ sufficient trained staff in your office to fully support your Area Business and the Territory Franchisees. You are solely responsible for all labor and employment-related matters and decisions related to your Area Business, including hiring, firing, promoting, demoting and compensating (including through wages, bonuses or benefits) your employees. You must ensure that your employees are qualified to perform their duties in accordance with our FADS System Standards. We do not require you to implement any employment-related policies or procedures or security-related policies or procedures that we may make available to you in the Manuals or otherwise for your optional use. You shall determine to what extent, if any, these policies and procedures may be applicable to your operations at your Area Business.

(c) Studio Management and Technology System.

(i) Acquisition and Updates. You must obtain, maintain and use the Studio Management and Technology System. You must use the Studio Management and Technology System to manage, track and provide services to your Territory Franchisees pursuant to your obligations in this Agreement. If we require you to use any proprietary software or to purchase any software from a designated vendor, you must execute and pay any fees associated with any software license agreements or any related software maintenance agreements that we or the licensor of the software require. You and your Owners acknowledge, understand and agree that you must replace, upgrade, or update at your expense the Studio Management and Technology System as we may require periodically without limitation. We will establish reasonable deadlines for implementation of any changes to our Studio Management and Technology System requirements.

(ii) Use of Studio Management and Technology System. You agree: (i) that your Studio Management and Technology System will be dedicated for business uses relating to the operation of your Area Business; (ii) to use the Studio Management and Technology System in accordance with our policies and operational procedures; (iii) to transmit financial and operating data to us as required by the Manuals; (iv) to review financial and operating data transmitted to us by your Territory Franchisees as required by the Manuals; (v) to do all things necessary to give us unrestricted access to the Studio Management and Technology System at all times (including users IDs and passwords, if necessary) so that we may independently download and transfer data via a modem or other connection that we specify; (vi) to maintain the Studio Management and Technology System in good working order at your own expense; (vii) to ensure that your employees are adequately trained in the use of the Studio Management and Technology System and our related policies and procedures; and (viii) not to load or permit any unauthorized programs or games on any hardware included in the Studio Management and Technology System. You are responsible for any and all consequences that may arise if the system is not properly operated, maintained and upgraded or if the Studio Management and Technology System (or any of its components) fails to operate on a continuous basis or as we or you expect. You are solely

responsible for protecting yourself from disruptions, Internet access failures, Internet content failures, and attacks by hackers and other unauthorized intruders and you waive any and all claims you may have against us as the direct or indirect result of such disruptions, failures or attacks.

(iii) **Other Technology.** To the fullest extent permitted by Applicable Law, we may provide you in our Manuals, or otherwise in writing with specifications and other requirements for technology, products, supplies, equipment and suppliers that you must use in your Area Business, including specifying a specific technology, hardware, software, equipment or supplier, which may be us, our affiliates or a third party. We and our affiliates may negotiate technology, software as a service or purchasing arrangements under which third parties agree to make technology, software, hardware, equipment, products, supplies and services available to you. We and our affiliates may earn income on direct sales of technology, software, hardware, equipment, products, supplies and equipment to you or Territory Franchisees. If we or our affiliates receive any rebates, commissions or other payments from third party suppliers based on your or Territory Franchisees purchases from them, we may use the rebates, commissions or other payments for any purpose. We and our affiliates have no obligation to share such rebates, commissions or other payments from third-party suppliers with you.

(iv) **Modifications to Technology.** To the fullest extent permitted by Applicable Law, we may modify our Manuals or FADS System applicable to technology and related equipment from time to time, and you will (A) purchase for use in the Pilot Studio and your Area Business; and (B) require your Territory Franchisees to purchase for their Franchised Studios any new or modified technology, software, hardware, equipment or other similar items necessary to comply with such modified Manuals or FADS System. We will cooperate with you in determining a schedule for the implementation among your Territory Franchisees.

**Section 6.04. Notice of Independent Contractor Status.** During the Term, you agree to hold yourself out to the public as an independent contractor operating your Area Business under the License from us, and you must display in a conspicuous location in or upon your offices, or in a manner that we specify, a sign containing the following notice or an alternative notice that we specify: “This business is independently owned and operated by [name of Area Representative] as an authorized licensed user of the trademark “Fred Astaire Dance Studios®”, which is licensed to us by FADS USA, Inc.” You must include this notice, or other similar language that we specify, on all forms, advertising, promotional materials, business cards, receipts, letterhead, contracts, stationary and other written materials that we designate.

#### **Section 6.05. Opening Deadline.**

(a) You may not begin operating your Area Business (including conducting any advertising or soliciting potential Prospects) until you have received our written approval, which we will not provide until you have successfully opened your Pilot Studio and completed AR Training to our satisfaction. You must begin operating your Area Business by the Opening Deadline, unless we grant you an extension in writing.

(b) You agree to pay to us an extension fee of \$500 for each month (or portion of a month) for which the Opening Deadline is extended, and you and your Owners agree to execute a general release as a condition of us agreeing to grant such extension.

**Section 6.06. No Other Business.** Without our prior written consent, you shall not, directly or indirectly, enter into any other dance or dance-related business, whether or not related

to your Area Business. The restriction contained in this **Section 6.06** does not apply to your Pilot Studio or any other Franchised Studio that you own and operate.

**Section 6.07. Area Advisory Council.** We may establish an Area Advisory Council, using a form and process set forth in the Manuals, to advise us on various issues and strategies. The Area Advisory Council will have an advisory role but no operational or decision-making power. We may change the structure and process of the Area Advisory Council or dissolve the Area Advisory Council at any time. If we establish an Area Advisory Council, you must participate in all council-related activities that either the Area Advisory Council or us determine are mandatory activities.

**Section 6.08. Compliance with Laws.** You must comply with all Applicable Laws. You will obtain and maintain in good standing any and all licenses, permits and consents necessary for you to lawfully operate your Area Business. You have sole responsibility for such compliance despite any information or advice that we may provide. You must in all dealings with Territory Franchisees, Prospects, your suppliers, us and the public adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. You agree to refrain from any business or advertising practice which might injure our business or the goodwill associated with the Marks or other Area Businesses or Studios.

**Section 6.09. Compliance with FTC Order.** You must comply with the terms and provisions of the FTC Order, and your attention is specifically drawn to how the FTC Order states the pro rata portion for refunds for prepaid dance instruction should be handled. You must comply with those provisions in the Manuals, as they may be updated and modified from time to time, related to the FTC Order. We will provide you with thirty (30) days' prior written notice of any such updates or modifications.

**Section 6.10. Separateness.** You and your Owners agree that none of your Owners will: (i) institute proceedings to have you be adjudicated bankrupt or insolvent; (ii) consent to the institution of bankruptcy or insolvency proceedings against you; (iii) file a petition seeking, or consent to, a reorganization or relief with respect to you under any Applicable Law relating to bankruptcy; (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of you or a substantial part of your property; (v) make any assignment for the benefit of your creditors; (vi) admit in writing your inability to pay your debts generally as they become due; or (vii) take action related to the previous items. If your Owner is a company, limited liability company, partnership or other legal entity, then each of your Owners will: (x) maintain separate books, records and bank accounts; (y) hold itself out as a separate legal entity; and (z) strictly comply with all organizational formalities to maintain its separate existence.

**Section 6.11. Notices and Pleadings.** Within three (3) days after the commencement of any action, suit or proceeding or the issuance of any inquiry, subpoena, order, writ, injunction, award or decree of any court, agency or other governmental instrumentality (a) in connection with the operation or financial condition of your Area Business, including any criminal action or proceeding brought by you against any employee or other person, or vice versa; or (b) in connection with, relating to or arising out of this Agreement, any Territory Franchisee, any Operating Principal or any Franchised Studio in your Territory, you and your Owners shall promptly notify us in writing and provide copies to us of all such documents.

## **Section 6.12. Insurance.**

(a) Policies. During the Term you will acquire and continuously maintain, at your sole cost and expense, insurance coverage and policies for your Area Business in the amounts, covering the risks and containing only the exceptions and exclusions that we periodically specify in the Manuals for all similarly situated Area Businesses. Your insurance policies must be with insurance companies rated at least A or higher in the most recent edition of A.M. Best's Insurance Guide. All coverage must be on an "occurrence" basis, except for the employment practices liability insurance coverage, which is on a "claims made" basis.

(b) Primary and Not Contributory. You will cause all policies to apply on a primary and not contributory basis with respect to any other insurance that we or our affiliates maintain. All general liability and workers' compensation coverage must provide for waiver of subrogation in favor of us and our affiliates. We may, upon at least ninety (90) days' notice to you, periodically increase the amounts of coverage required or require different or additional insurance coverage at any time to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards or other relevant changes in circumstances. All insurance policies must name us and any of our designated affiliates as an additional insured and provide for thirty (30) days' prior written notice to us of a policy's material modification or cancellation.

(c) Proof of Insurance. You agree to send us annually, and upon our request, a valid certificate of insurance, duplicate insurance policy, insurance policy endorsements and other evidence of compliance with these insurance requirements as we periodically require evidencing that you have maintained the required coverage and paid the applicable premiums. If you fail to obtain or maintain (or to prove that you have obtained or maintained) the insurance we specify, in addition to our other remedies, we may (but are not required to) obtain such insurance for you and your Area Business on your behalf, in which event you shall cooperate with us and reimburse us for all premiums, costs and expenses we incur in obtaining and maintaining the insurance and pay us a reasonable fee for such services.

(d) Purpose of Coverage. Your obligation to obtain and maintain the insurance policies in the amounts required by us shall not be limited in any way by reason of any insurance that we may maintain, nor does your procurement of required insurance relieve you of liability under the indemnity obligations described in **Article XV** (Indemnification). Your insurance procurement obligations under this **Section 6.12** (Insurance) are separate and independent of your indemnity obligations. We do not represent or warrant that any insurance that you are required to purchase will provide adequate coverage for you. The minimum requirements of insurance specified in this Agreement and the Manuals are for our protection. You should consult with your own insurance agents, brokers, attorneys and other insurance advisors to determine the level of insurance protection you need and desire, in addition to the coverage and limits required by us.

**Section 6.13. Compliance Certificate**. You will deliver to us within forty-five (45) days after the end of each calendar year a certificate from your Operating Principal stating whether or not, after due inquiry, your Operating Principal knows of any Event of Default, or any event that with notice or passage of time (or both) would constitute an Event of Default. If your Operating Principal does know of any Event of Default, the certificate shall provide a description of the Event of Default, including its status.

**Section 6.14. Supplier Approval.** We have the right to require that products, supplies, and services that you purchase or lease for use in your Area Business: (i) meet specifications that we establish from time to time; (ii) be a specific brand, kind, or model; (iii) be purchased or leased only from suppliers or service providers that we have expressly approved; or (iv) be purchased or leased only from a single source that we designate (which may include us or our affiliates or a buying cooperative organized by us or our affiliates). To the extent that we establish specifications, require approval of suppliers or service providers, or designate specific suppliers or service providers for particular items or services, we will publish our requirements in the Manuals. You and your Owners acknowledge and agree that we or our affiliates may derive revenue based on your purchases and leases, including from charging you for products and services we or our affiliates provide to you and from promotional allowances, volume discounts and other payments made to us by suppliers or distributors that we designate or approve for some or all of our franchisees. We and our affiliates may use all amounts received from suppliers or distributors, whether or not based on your or other franchisees' actual or prospective dealings with them, without restriction for any purposes we or our affiliates deem appropriate. You and your Owners acknowledge and agree that we or our affiliates may derive revenue based on your purchases and leases, including from charging you for products and services we or our affiliates provide to you and from promotional allowances, volume discounts, and other payments made to us by suppliers or distributors that we designate or approve for some or all of our franchisees. We and our affiliates may use all amounts received from suppliers or distributors, whether or not based on your or other franchisees' actual or prospective dealings with them, without restriction for any purposes we or our affiliates deem appropriate.

## **ARTICLE VII DEVELOPMENT AND PERFORMANCE STANDARDS**

**Section 7.01. Best Efforts.** During the Term, you must at all times faithfully, honestly and diligently perform your obligations and exert your best efforts to (a) promote, grow and enhance the Fred Astaire Dance Studios® concept and Marks in your Territory; (b) assist in the successful development of the Fred Astaire Dance Studios® concept in the Territory; and (c) sell, develop and service Franchised Studios or Territory Franchisees within your Territory. You must actively market the Franchise License and Franchised Studios to qualified Prospects in your Territory in accordance with our FADS System Standards.

### **Section 7.02. Territory Development.**

(a) Development Schedule. You must open and maintain in operation the cumulative number of Franchised Studios in your Territory as specified in the Development Agreement and the Development Schedule set out in **Exhibit B** to this Agreement **Development Schedule** by each deadline (“**Development Deadline**”) set forth in the Development Schedule. You may satisfy the Development Schedule through (i) sales to Prospects, regardless of who originally identified them or led them through the sales process; or (ii) Studios that you or your affiliates develop in accordance with Franchise Agreements that you sign with us. If a Franchise License terminates or expires within the Territory, you must replace such Franchise License in order to remain in compliance with the Development Schedule. You and your Owners understand and agree that your failure to satisfy your Development Schedule for two consecutive years (i) constitutes an Event of Default; and (ii) is subject to the terms of **Section 7.02(d)** (Effect of Failure).

(b) Referral of Prospects. We will refer to you leads that we obtain for Prospects who would like to operate Franchised Studios in your Territory. If we refer a Prospect to you, you must lead the Prospect through the Sales Process. You must refer to us any inquiries from individuals or entities regarding the establishment of Franchised Studios outside of your Territory. If you identify any Prospects who would like to operate Franchised Studios in the Territory, you must lead such Prospects through the Sales Process, unless (i) you request our assistance in writing; and (ii) we agree in writing to lead such Prospects through the Sales Process.

(c) Business Plan. You must furnish to us within sixty (60) days after the end of each calendar year a business plan detailing the objectives and actions to be executed in connection with your development of the Territory. The business plan must include projected gross revenues, income and expenses you anticipate, cash flow forecasts, a marketing plan and such other key performance indicators as we may designate. You may not implement the business plan until we have approved it in writing.

(d) Effect of Failure. If you do not meet or exceed the Development Schedule for two consecutive years, we may (but are not required to):

(i) reduce the Territory to an Adjusted Territory, which may result in ending your rights to service some Franchised Studios you have been servicing and assigning those servicing obligations and the related compensation to others or assuming them ourselves;

(ii) terminate this Agreement in accordance with its terms; or

(iii) require you and your Operating Principal to attend and successfully complete remedial training, as described in **Section 10.04** (Remedial AR Training).

(e) Adjusted Territory. If we reduce the Territory to an Adjusted Territory, then:

(i) you will continue to perform all of your duties and obligations under this Agreement with respect to all Territory Franchisees prior to adjustment until further notice from us;

(ii) you will no longer market Franchised Studios or solicit Territory Franchisees for the purchase of Fred Astaire Dance Studios® or provide related services outside of the Adjusted Territory; and

(iii) you will not be paid any compensation pursuant to **Section 5.04** (Compensation to You) for the performance of your duties and obligations under this Agreement for Franchised Studios located outside of the Adjusted Territory after the date of the adjustment.

### **Section 7.03. Marketing Franchised Studios.**

(a) Marketing to Prospects. You must conduct an on-going marketing campaign soliciting interest in Franchised Studios. You must conduct all advertising and marketing to Prospects in a dignified manner and conform to the FADS System Standards we specify. In marketing Franchised Studios, you may use only the materials (including sales promotion materials, advertising, presentations, or franchise recruitment materials) that we provide to you for that purpose or that we approve in writing. You must obtain our advance written approval prior to (i) using or producing any materials using any of the Marks or relating to the Franchised Studios that have not been prepared by or previously approved by us; (ii) marketing at any franchise or business exhibitions, trade shows, or conferences; and (iii) placing advertisements in periodicals, websites, and other publications. You must attend and market Franchised Studios at any franchise

or business exhibitions, trade shows, or conferences within your Territory that we specify. We will have the final decision on all creative development of advertising and promotional messages. If our written approval is not received within fourteen (14) days from the date we received the material, the material is deemed approved. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

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

(c) Minimum Marketing Expenditure. Beginning in the first full month after the opening of your Area Business, you must spend two percent (2%) of the Royalty Compensation of your Area Business for the previous calendar quarter on local advertising and promotional activities related to the development of Prospects in your Territory (the “**Area Marketing Requirement**”). We have the right to designate in the Manuals the types of expenditures that will or will not count toward the Area Marketing Requirement. At our request, you must submit appropriate documentation to verify compliance with the Area Marketing Requirement. If you fail to spend (or prove that you spent) the Area Marketing Requirement, then we may, in addition to and without limiting our other rights and remedies, require you to pay us the shortfall, which we may, at our option, contribute to the FADS Advertising Fund or use on local marketing in your Territory.

#### **Section 7.04. Franchise Sales.**

(a) Recruiting. You are responsible for advertising for, recruiting, soliciting and screening Prospects within the Territory according to the standards, policies and procedures we develop and announce from time to time which also may be specified in the Manual. You must only use the application forms and other documents we specify for each Prospect.

(b) Compliance with Franchise Sales Laws. Pursuant to **Article VIII** (Disclosure and Representation), you must comply with all Applicable Laws related to the marketing and sale of franchises.

#### **Section 7.05. Screening Process.**

(a) Your Review. You must screen Prospects according to our FADS System Standards and Manuals, as they may be updated from time to time, and must keep an accurate log of all inquiries that you receive from Prospects, including their contact information. You must promptly recommend to us those Prospects whom you deem qualified under our FADS System Standards, by submitting to us reports, applications and other documentation in the form we prescribe. You must perform background and credit checks on all Prospects that meet our FADS System Standards. You may only reject Prospects if you reasonably believe they do not meet our FADS System Standards. You may not reject a Prospect on the basis that the Prospect has no previous affiliation with the FADS System or that the Prospect has no ballroom dance experience.



(b) Our Approval. We will approve or disapprove Prospects that you submit to us in writing. We may reject any Prospect for any reason. We will use our reasonable efforts to deliver such notices to you within thirty (30) days after we receive the materials that we request from the Prospect. We may condition approval by requiring an acceptable personal interview of a Prospect, which we may conduct or may require you to conduct. Our decision to grant a Franchise License will be evidenced by our signing and delivery of a Franchise Agreement, after we have received it signed by the Prospect and payment of the appropriate fees.

**Section 7.06. Executing Agreements.** If we approve a Prospect, you must use reasonable commercial efforts to have the Prospect promptly execute our then-current Studio Agreements and deliver an original signed copy of them to us. If you propose to alter the terms of our Studio Agreements for a particular Prospect, you must submit the proposed revisions to us for our review prior to the execution of the agreements by the Prospect. We have the right, in our sole discretion, to approve or disapprove the final form of any Studio Agreement prior to execution by the Prospect. You are not authorized to enter into any agreements on our behalf or to agree to any changes, additions or deletions of any kind. Any agreements are not binding on us until we sign them, which we can refuse to do so at any time.

**Section 7.07. Opening Franchised Studios.** You may not permit a Territory Franchisee to open a Franchised Studio until you have received our written approval, which will not be unreasonably withheld.

**Section 7.08. FADS Advertising Fund.**

(a) Use of Fund. We may use monies in the FADS Advertising Fund and any earnings on the FADS Advertising Fund account for any costs associated with advertising (media and production), branding, marketing, public relations or promotional programs and materials, and any other activities we believe would benefit the Fred Astaire Dance Studios® brand and soliciting interest in Franchised Studios or the Studios generally, including advertising campaigns in various media; creation, maintenance, and optimization of the FADS System Website or other websites; keyword or adword purchasing programs; conducting and managing social media activities; direct mail advertising; market research, including secret shoppers and customer satisfaction surveys; branding studies; employing advertising or public relations agencies; purchasing promotional items; conducting and administering promotions, contests, giveaways, public relations events, and community involvement activities; and providing promotional and other marketing materials and services. We will not use any contributions to the FADS Advertising Fund to defray our general operating expenses, including the pro-rata amount of salaries of our personnel for time which is not devoted to FADS Advertising Fund activities and FADS Advertising Fund-supported programs and except for reasonable administrative costs and overhead we incur in activities reasonably related to the administration of the FADS Advertising Fund or the management of FADS Advertising Fund-supported programs. We may use monies in the FADS Advertising Fund to pay for an independent audit of the FADS Advertising Fund, if we elect to have it audited. We do not guaranty, and we do not represent or warrant, that you will benefit from the FADS Advertising Fund in proportion to your contributions to the FADS Advertising Fund.

(b) Control of Fund. We may consult with, in our sole discretion, an area representative or franchisee advisory council selected by area representatives selected by area representatives or a committee of area representatives or franchisees that we appoint regarding marketing programs.

However, we have the right to direct all marketing programs and uses of the FADS Advertising Fund, with the final decision over creative concepts, materials, and media used in the programs and their placement.

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

(d) Other Contributions. You acknowledge that our other Franchised Studios or Area Representatives may not be required to contribute to the FADS Advertising Fund, may be required to contribute to the FADS Advertising Fund at a different rate than you, or may be required to contribute to a different marketing fund. If we or our affiliates operate any Studios, we or our affiliates will contribute to the FADS Advertising Fund a percentage of the receipts of those Studios, on the same basis as required for Franchised Studios. If we reduce the FADS Advertising Fund contribution rate for Franchised Studios, we will reduce the contribution rate for company or affiliate-owned Studios by the same amount. If we establish separate marketing funds for contributions received from Area Representatives and Franchised Studios, contributions from company or affiliate-owned Studios will be allocated toward the fund established for Franchised Studios.

#### **Section 7.09. Local and Digital Marketing for Studio Leads.**

(a) Local Studio Leads Marketing Requirements. You must participate in such advertising, promotional and community outreach programs that we may specify from time to time at your own expense. You must use your best efforts to promote the use of the Marks in your Territory. We may require you to use only the advertising or promotional programs or materials that we produce. If we do permit you to conduct your own advertising, you must ensure that all of your advertising, marketing, promotional, customer relationship management, public relations and other brand related programs and materials that you or your agents or representatives develop or implement relating to your Area Business and your Territory Franchisees is completely clear, factual and not misleading, complies with all Applicable Laws and conforms to the highest ethical standards and the advertising and marketing policies that we periodically specify, whether in the Manuals or otherwise. Any media advertising or direct mail marketing that you conduct must be predominantly focused within your Territory, unless we agree in writing otherwise.

(b) Approval of Advertising Materials. You do not need to seek prior approval to use or produce any advertising or marketing materials that have been either prepared or previously approved by us. Prior to using or producing any advertising or marketing materials that we have not prepared or previously approved, you must submit specimens of said materials for our written approval, which we may grant or withhold in our sole discretion. We may require you to use only the advertising or promotional programs or materials that we produce. If we do permit you to conduct your own advertising, you must do so in a dignified manner and conform to any standards and requirements we specify in the Manuals. We will have the final decision on all creative development of advertising and promotional messages. If our written approval is not received within fourteen (14) days from the date we received the material, the material is deemed approved. We reserve the right to require you to discontinue the use of any advertising or marketing materials.

(c) Digital Marketing.

(i) Restrictions. We or our affiliates may, in our sole discretion, establish and operate all Digital Marketing that are intended to promote the Marks, your Studio and the entire network of Studios. We will have the sole right to control all aspects of any Digital Marketing, including those related to your Area Business and Territory Franchisees. Unless we consent otherwise in writing, you and your employees may not, directly or indirectly, conduct or be involved in any Digital Marketing that use the Marks or that relate to your Area Business, your Territory Franchisees or the network. If we do permit you or your employees to conduct any Digital Marketing, you or your employees must comply with any policies, standards, guidelines, or content requirements that we establish periodically and must immediately modify or delete any Digital Marketing that we determine, in our sole discretion, is not compliant with such policies, standards, guidelines or requirements. We may withdraw our approval for any Digital Marketing at any time.

(ii) System Website. As part of our Digital Marketing, we or one of our designees will operate and maintain a System Website, which will include basic information related to Studios, the ability for customers to purchase classes at your Territory Franchisees and access to the reservation system for your Territory Franchisees. You must promptly provide us with any information that we request regarding your Territory Franchisees for inclusion on the System Website. We will make reasonable efforts to ensure the continuing operation of the System Website, but we shall have no liability for System Website downtime, including downtime due to technological maintenance, repair or other causes beyond our control.

(iii) Daily Deals.

**A. Our Daily Deals.** As part of our Digital Marketing, we or our affiliates have the right, but not the obligation to, offer Deals. If we or our affiliates offer any Deals, we and our affiliates have the right to collect and retain any revenue from such Deals, including any customer payments to such third parties, and we and our affiliates will pay all such amounts we and they receive into the FADS Advertising Fund. Your Territory Franchisees must provide classes or other products or services to any customers redeeming any vouchers, gift certificates or coupons related to such Deals in accordance with the standards and other terms that we periodically specify. Except as we otherwise approve, your Territory Franchisees must treat customers who purchase Deals in the same manner as any other customer and must not limit their access to their Studio or classes. Your Territory Franchisees will not be entitled to receive any payment or reimbursement from us, our affiliates, customers who purchase Deals or third parties for any classes, products or services that your Territory Franchisees provide to customers who purchase Deals.

**B. Your Daily Deals.** As part of your License, you have the right, but not the obligation, to offer Deals in your Territory. You must obtain our prior written permission before offering any Deal. If you do offer any Deal, you have the right to collect and retain any revenue from such Deals, including any customer payments to such third parties, and you must pay all such amounts you receive into the Area Advertising Fund, a segregated or independent fund. You will not be deemed a fiduciary with respect to the Area Advertising Fund. You must prepare an unaudited statement of contributions and expenditures for your Area Advertising Fund, and you must provide us with such statement within ninety (90) days after the close of every calendar year. If any monies remain in the Area Advertising Fund at the end of a fiscal year, they will carry-over in the Area Advertising Fund into the next fiscal year. You may not make or arrange

loans to the Area Advertising Fund. You must use the monies in the Area Advertising Fund in accordance with the Manuals, which may be updated from time to time. You may not use the Area Advertising Fund to pay for any of your general operating expenses. Neither you nor your Owner represent or warrant to us that your Territory Franchisees will benefit equally from the Area Advertising Fund.

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

(e) Advertising Cooperatives. You agree to join and actively participate Advertising Cooperatives and to abide by the bylaws, rules and regulations duly required by the Advertising Cooperative, which we have the right to mandate or approve. If you join an Advertising Cooperative, the Advertising Cooperative may require you to spend additional funds on marketing programs conducted by the Advertising Cooperative, which will be in addition to your Advertising Fee but will be credited towards your Area Marketing Requirement. We shall have the right to approve any marketing materials or marketing programs developed by any Advertising Cooperative in the same manner as specified in **Section 7.09(b)** (Approval of Advertising Materials).

## **ARTICLE VIII DISCLOSURE AND REPRESENTATION**

**Section 8.01. Franchise Documentation.** You will review the Documentation in detail so that you are fully familiar with them. You recognize that we may modify or amend the Documentation at any time without notice or obligation to you, and we will promptly send you copies.

**Section 8.02. Forms.** We will provide you with our Disclosure Document and our Studio Agreements, which we will prepare and provide to you at our own expense and may modify periodically. We may modify or amend any of these documents at any time, in our sole discretion.

**Section 8.03. Registration.** If your activities as an Area Representative require the preparation, amendment, registration or filing of any Documentation or other documents under applicable franchise, business opportunity or related laws, then you must not solicit Prospects until we have: (a) registered the Franchise in the applicable jurisdictions; (b) provided you with the Documentation necessary for you to solicit Prospects; and (c) notified you that the registration is in effect. You must stop soliciting Prospects immediately at any time that we notify you that the registration of the Franchise is not then in effect or the Documentation is not in compliance with Applicable Law. We will prepare the Documentation. If you need to register as a broker or sub-franchisor under applicable law, you must file any Documentation and file any materials to be registered with the applicable regulatory agencies. You will bear the costs of those registrations and filings.

**Section 8.04. Delays.** If we have not completed the annual update of, or any applicable material amendment to, the Franchise Disclosure Document or, if we are required but have not filed applications (or amendment or renewals, as applicable) to offer and sell Franchises in any state in the Territory that requires franchise sales registration as of the Effective Date of this Agreement, for 60 or more consecutive days, then the Development Schedule will be modified to provide you with additional time (on a pro rata basis) for you to comply with the Development Schedule for that particular Franchise (for example, if we have not registered a Franchise in a particular state that requires it for 180 consecutive days, then the Development Schedule pertaining to that Franchise will be extended 120 days). If we, through no fault of yours, lose our rights to solicit or sell Franchises in any state in the Territory, we will modify the Development Schedule to accommodate you for the lost opportunity in that state. However, you acknowledge and understand that it is common for temporary lapses in the ability to offer and sell Franchises due to the need for periodic modifications, updates and regulatory approvals. Thus, you agree that lapses of consecutive time periods of 90 days or less will not require any modification of the Development Schedule.

**Section 8.05. Information Requirements.** In connection with fulfilling legal and other franchise requirements, you must:

(a) provide to us all information reasonably required by us to prepare all Documentation, including requisite franchise disclosure documents and ancillary documents for the offering of Franchises in the Territory;

(b) sign and return to us all Documentation reasonably required by us, or our designee, for the purpose of registering the offer of Franchises throughout the Territory;

(c) review all Documentation materials we prepare on your behalf. We are not liable for any errors or omissions which may occur in the preparation of those materials that relate to information you provided to us or that, to your knowledge, violate any laws of the state(s) where your Territory is located, as long as you have approved them in writing; and

(d) before you solicit any Prospects, take reasonable steps to confirm that the information contained in our Documentation that you provided to us is accurate and not misleading and that the Documentation complies, to your knowledge, with the laws of the state(s) where your Territory is located. If you notify us of any errors in the Documentation, we have a reasonable period of time to attempt to correct any deficiencies, misrepresentations, inaccuracies or omissions.

**Section 8.06. Broker Registration.** You (and, if necessary, your Operating Principal and officers, if any) will register or obtain licensure as a franchise broker, real estate broker, business broker or otherwise in any jurisdiction in which you are required to do so and maintain such registrations or licenses throughout the Term, at your sole cost and expense. You must not solicit prospective franchisees until: (a) such registration or license, if necessary, is effective; and (b) you have provided to us documentary proof of its effectiveness. You must not engage or utilize any franchise brokers for any reason without our prior written approval, but we reserve the right to do so in our sole discretion.

**Section 8.07. Disclosure Documents.** You must comply with all applicable federal and state laws, rules and regulations governing the offering of franchises in your Territory. You must:

(a) furnish to prospective franchisees only Documentation we designate, including the then-current form of Disclosure Document we have authorized for use within your Territory, along with such promotional material that we have previously approved;

(b) comply with all requirements for timing of delivery of the Documentation and obtaining and delivering to us the original signed acknowledgment of receipt for each Disclosure Document you deliver to any Prospect;

(c) make no representations or other statements that conflict with any of the information contained in the Disclosure Document delivered to the Prospect and within our then-current Franchise Agreement;

(d) make no financial performance representations, earnings claims, or projections, or provide any information with regard to sales, revenues or income relating to any Franchise or any individual Fred Astaire Dance Studios® Studio unless in accordance with the provisions of the Disclosure Document to be provided to Prospects;

(e) promptly notify us of any material information or event which comes to your attention that may require disclosure in the Disclosure Document;

(f) use, display, publish and distribute for purposes of soliciting Prospects, only advertising, marketing and promotional materials that we have previously approved as acceptable for use in your Territory; and

(g) provide us with copies of any business or franchise registrations, licenses or permits you are required to obtain under Applicable Laws related to the establishment or operation of your Area Business, and assist us with collecting copies of any business registrations, licenses, or permits that Territory Franchisees are required to obtain.

**Section 8.08. Franchise Agreements.** When providing information to Prospects and in assisting in the closing of any sale of a Franchise License, you must only provide our then-current form of Disclosure Document, Studio Agreements and any ancillary Documentation that we have approved for use within your Territory. You have no authority to make any changes, additions or deletions of any kind to them or to agree to any changes, additions or deletions of any kind. You must not make any financial projections or financial performance representations to Prospects or review or comment on any prepared or submitted by Prospects. The only financial disclosures, if any, made to Prospects are contained in the Disclosure Document. You have no authority to, and agree not to, assist, advise or solicit any Territory Franchisee's efforts to operate any Franchised Studio in any method inconsistent with the FADS System. You are not authorized to enter into Studio Agreements, including Franchise Agreements, on our behalf without our written permission. Studio Agreements, including Franchise Agreements, are not binding until we sign the Studio Agreements, and we can refuse to do so at any time. You must send us copies of all correspondence with Territory Franchisees that is material to the franchise relationship concurrently with its being sent or received by you.

## ARTICLE IX YOUR OBLIGATIONS

### **Section 9.01. Training of Territory Franchisees.**

(a) Classroom Training. We will provide the “classroom” training portion of the initial training for all Territory Franchisees, in accordance with the terms of our then-current form of Franchise Agreement. The time and place of training will be at our absolute discretion, and you will assist us in scheduling all initial training for your Territory Franchisees.

(b) Launch Training. We will provide Launch Training for your Pilot Studio at a location that we designate; however, you must participate in the Launch Training to the extent and in the manner that we specify. You will be responsible, at your expense, for all Launch Training for Territory Franchisees as of the second Franchised Studio opening in the Territory following the Effective Date of this Agreement. Subject to your compliance with the preceding sentence, you will be entitled to the Franchise Compensation for such Territory Franchisees.

(c) Territory Franchisee Training. You must provide to all of your Territory Franchisees any initial and additional training programs at your Pilot Studio or at Franchised Studios that we require from time to time in the Manuals or otherwise in writing in accordance with the FADS System Standards that we establish. If we determine that you have not trained a Territory Franchisee to our satisfaction and we provide the training ourselves or arrange for someone else to do so, then (i) we will charge you an amount equal to our actual expenditures (including wages, travel and living expenses) to provide such training, which shall be due on receipt of invoice; (ii) require you to forfeit any Franchise Compensation and Training Compensation for such Territory Franchisee; and (iii) require you and your Required Trainees to attend remedial AR Training at your expense pursuant to **Section 10.04** (Remedial AR Training).

(d) Territory Franchisee Conferences. You must arrange conferences, meetings or teleconferences for your Territory Franchisees as required under the Franchise Agreements or as we may require periodically in the Manual or otherwise in writing. You will be responsible for all costs related to arranging meetings and providing meeting materials.

(e) Training Expenses. You are responsible for all expenses related to conducting training programs for your Territory Franchisees, other than the portions of Launch Training that we provide. You are responsible for any travel and living expenses (including meals, transportation, and accommodations), wages and other expenses incurred by your trainers relating to any training programs.

**Section 9.02. Support Services for Territory Franchisees.** During the Term, you must provide Support Services. You must provide such Support Services in the manner, frequency, and in the time periods that we prescribe and in accordance with our FADS System Standards, as set forth in the Manuals or otherwise in writing. We may modify the Support Services that you must provide from time to time. The Support Services that you must provide in accordance with our FADS System Standards include:

(a) conducting the training programs and services described in **Section 9.01** (Training of Territory Franchisees);

(b) creating and maintaining relationships with landlords, local vendors, real estate brokers, architects, lenders and financing institutions, contractors, payroll vendors, marketing and

public relations firms, and equipment maintenance service providers in the Territory which can be shared with your Territory Franchisees (subject to our approval rights in the applicable Franchise Agreement);

**(c)** familiarizing yourself with Applicable Laws in your Territory relating to the operation of a Franchised Studio, including laws relating to dance studios, dance instruction, health or fitness studios (if dance studios constitute health or fitness studios under the Applicable Laws in the Territory), venue rental facilities, dance instructors, membership contracts and the operation and development of businesses;

**(d)** advising Territory Franchisees on site selection and lease negotiation issues, provided that you shall not have the right to approve any sites or any lease terms;

**(e)** assisting Territory Franchisees in properly designing, building out and equipping their Franchised Studios;

**(f)** assisting Territory Franchisees in developing and conducting their grand opening marketing program and in conducting pre-sale marketing activities;

**(g)** providing Territory Franchisees with supervisory assistance and guidance in connection with the opening and initial operations of their Franchised Studios;

**(h)** providing ongoing technical, managerial, and administrative advice and assistance by telephone, email, other forms of communication, or in-person, as the Territory Franchisees, or we, may reasonably request or require;

**(i)** advising Territory Franchisees in developing and implementing marketing strategies;

**(j)** assisting Territory Franchisees in implementing the roll-out of new programs that we establish from time to time, including new products or services, new classes, new marketing programs, new training programs, new promotions, new vendor programs, new logos, new equipment and new computer hardware and software;

**(k)** assisting Territory Franchisees by providing guidance and logistical support during transfers or renewals of their Franchised Studios, including working with them and us to execute the necessary legal documents;

**(l)** modifying our template forms of customer agreements, membership agreements and waivers to comply with Applicable Laws in the Territory, obtaining our written consent of such modifications prior to using them, and making such modified forms available to Territory Franchisees for use in their Franchised Studios;

**(m)** working with Territory Franchisees to assist them in avoiding and curing any defaults under their Studio Agreements;

**(n)** satisfying all of our other obligations under the Studio Agreements with the Territory Franchisees that we delegate to you from time to time; and

**(o)** pay to us an amount equal to our actual expenditures (including wages, travel and living expenses) for work and expenses incurred by us in performing services to your Territory Franchisees which you are required to perform under this Agreement that you have failed to perform, if you have failed to cure such failure to perform to our satisfaction within thirty (30) days of our written notice to you that you failed to perform services, and you and your Owners



recognize, acknowledge, understand and agree that a failure to perform constitutes an Event of Default.

**Section 9.03. Restrictions.** You may not sell products or equipment or offer additional services other than the Support Services that you are required to provide under this Agreement to Territory Franchisees, unless you obtain our written consent, which we may withhold for any reason. Except as stated in this Agreement, you may not obtain compensation or collect monies or payments from any Territory Franchisee without our prior written consent. If we do allow you to offer additional products or services to Territory Franchisees and obtain compensation for it, we may require you to report to us the earnings that you receive from Territory Franchisees at the times and in the manner that we prescribe and require you to pay us a portion of such compensation. You may not offer products or services in connection with the Marks on any website on the Internet or any other electronic communications network or device

**Section 9.04. Monitoring and Supervision of Territory Franchisees.** You must actively monitor and supervise on our behalf and report to us the compliance of each of your Territory Franchisees with all applicable FADS System Standards, Applicable Laws and Studio Agreements as described in the Manuals or otherwise in writing. These obligations include:

(a) assist Territory Franchisees with the layout of the premises of the Franchised Studio, including placement of the various rooms and authorized equipment for the use at the Franchised Studio in accordance with our then-current plans and specifications for Franchised Studios, and assist in supervising the build-out for the Franchised Studios in your Territory, including the submission of periodic reports to us as we may prescribe from time to time. These obligations commence once the lease for the Franchised Studio has been signed and we have approved the plans for the site. You will ensure that construction plans meet our specifications, that the Territory Franchisee has obtained all required permits and approvals; and that the Territory Franchisee and its contractor(s) are following the construction plans without any changes or deviations not approved by us in writing. You shall conduct inspections every other week and take photographs to send to us showing the progress of construction and development of the Franchised Studio. You must provide any and all photographs and other information requested by us, and complete any checklists and sign any certifications that we require, before we will approve the Franchised Studio to be opened for business;

(b) visit Franchised Studios (i) at least once during the first week following such Franchised Studio's opening and (ii) at least once per month for the second and third months following such Franchised Studio's opening to provide continuing support and advice;

(c) inspect the management and operations of each Franchised Studio at least monthly and conduct an in-depth, on-site audit of the operations of each Franchised Studio at least quarterly. In addition, you must conduct an inspection or visit of a Franchised Business within 72 hours of your receipt of our request to do so. If issues are identified at a Franchised Studio that require resolution or follow-up inspection or training, you must notify us and, upon our request or as we otherwise specify in writing, conduct follow-up visits at a particular Franchised Studio in addition to your regular field visits. Within ten (10) days of each inspection, audit or visit, you must furnish reports to us on such forms, and containing such information, as we may reasonably request, concerning your findings during each visit or any follow-up visits necessary to verify the correction of deficiencies;

(d) participate in and implement any quality assurance programs that we develop at the times and in the manner that we specify;

(e) monitor the compliance of your Territory Franchisees with the terms and conditions of the FTC Order; train your Territory Franchisees on how to comply with the FTC Order, including, without limitation, the provisions relating to the refunding of a pro rata portion of prepaid lessons; and require each of your Territory Franchisees to maintain an escrow account for sums relating to prepaid and unused lessons and, if required by the Applicable Law in your Territory, a surety bond;

(f) monitor the marketing efforts of your Territory Franchisees and any local advertising to ensure that they are actively and diligently promoting Fred Astaire Dance Studios® in accordance with the terms of the applicable Franchise Agreements and FADS System Standards;

(g) monitor and report the sales volume and other key performance indicators, including, without limitation Gross Revenues as we determine from time to time, for Franchised Studios located in the Territory, and ensure that Territory Franchisees comply with, and are held accountable for, the performance requirements under their Franchise Agreements;

(h) collect and provide to us copies of any business registrations, licenses, or permits or insurance policies that Territory Franchisees are required to obtain;

(i) ensure that each Territory Franchisee that accepts any cashless payments (including credit or debit cards) adheres to the then current PCI (Payment Card Industry) Standards, or any equivalent thereof or any substitute therefore, and participates in any compliance program we designate. You will pay for any audit with the PCI Standards. If the audit finds deficiencies or problems with PCI Standards compliance for a Territory Franchisee, we will charge the cost of the audit to the Territory Franchisee and reimburse you for the cost. You will, and will cause your Territory Franchisees to, provide to us evidence of PCI Standards compliance at our request and provide, or make available, to us copies of any audit, scanning results or related documents relating to PCI Standards compliance. You will notify us within twenty-four (24) hours if you suspect, or have been notified by any third party of, a possible security breach related to the cashless system (or related cashless data) used in any Franchised Studio;

(j) assist us in the enforcement of all provisions of any Studio Agreement;

(k) advise us of any Applicable Laws governing the Franchised Studios in your Territory and alert us as to legal developments as they arise from time to time from your Territory that may impact Territory Franchisees or the operation of Franchised Studios;

(l) notify us immediately of any concerns regarding the operation or financial condition of any Territory Franchisee or any defaults under any Studio Agreements that you identify;

(m) notify us of any Franchised Studio that ceases to do business for any reason whatsoever as soon as practical after learning of the closure;

(n) assist us with the roll-out of programs that we establish from time to time, including, without limitation, new products, training protocols and curricula, marketing programs, promotions, vendor programs, logos, equipment, technology and computer hardware and software;

(o) notify us in writing within three (3) days after the commencement of any action, suit, arbitration, proceeding, or investigation, or the issuance of any order, writ, injunction, award,

or decree, by any court, agency or other governmental instrumentality, or arbitration agency, which names or relates to a Territory Franchisee or a Franchised Studio;

(p) as we may require from time to time, collect financial statements from Territory Franchisees and provide such statements, together with your financial statements, to us within sixty (60) days after the end of each quarter and ninety (90) days after the end of each calendar year;

(q) ensure the timely completion and submission of a business plan for each of the Territory Franchisees on a per-Franchised Studio basis;

(r) ensure the strict compliance of each Territory Franchisee with all Manuals, Franchise Agreements and FADS System Standards; and

(s) upon our request, provide periodic written reports of additional reasonable information concerning the Franchised Studios in your Territory.

**Section 9.05. Consent Required.** With respect to any Territory Franchisees, we have the sole right and responsibility, among other approval rights, to approve (i) proposed amendments to, waivers of provisions of, transfers of or terminations of any Studio Agreements; (ii) the location, design, development and opening of any Franchised Studio; (iii) the use of any supplies, signs, equipment, uniforms, advertising or marketing materials or methods of operation not specified in the Manuals or otherwise approved in writing by us; (iv) the sale of any product or service which has not previously been approved in writing by us or which has been disapproved by us; or (v) the institution, defense or settlement of any legal proceedings involving the System, the Marks, suppliers to the System, Prospects, Territory Franchisees, the Studio Agreements or the Studios.

#### **Section 9.06. Area Competitions.**

(a) Regional Competitions. You must organize and hold Regional Competitions in your Territory for your Territory Franchisees as outlined in and in conformance with the Manual. If you would like to organize and hold a Regional Competition outside of your Territory, you must obtain our prior written permission. If you organize and hold a Regional Competition at which you accept entries from Studios outside of your Territory, payments to us shall follow the fee schedule set forth in the Manuals. We reserve the right to increase the fee charged per entry from Studios outside of your Territory upon ninety (90) days' prior written notice to you. In no event will you be required to organize and hold more than six (6) Regional Competitions for your Territory Franchisees per calendar year, and you are not required to accept entries from Studios outside of your Territory at your Regional Competitions.

(b) Interregional Competitions. If you would like to organize and hold Interregional Competitions in your Territory for participation by any and all Studios, you must submit to us a written application and comply with all of the policies, procedures and payment arrangements as outlined in the Manual. We currently charge an application fee that must be submitted with any application to organize and hold Interregional Competitions. Upon acceptance and approval of your Interregional Competition application, and in consideration of our granting to you the right to hold an Interregional Competition, we reserve the right to charge you, and you agree to pay, fees for each entry at your Interregional Competitions. Payment to us for each entry at your Interregional Competitions shall follow the fee schedule set forth in the Manuals. We reserve the right to increase the Interregional Competition application fee, as well as the fee charged per entry

at an Interregional Competition, upon ninety (90) days' prior written notice to you. During the Initial Term, you will not be required to organize or hold any Interregional Competition.

(c) **Rewards Programs.** If you would like for your Regional Competitions to participate in any rewards programs or series that we offer to Astaire Pros or Studio students for Competitions, you must submit to us written notice of your intention to participate in any such program. We reserve the right to charge fees for your application or participation in any such program, including an application fee, entry fees or membership fees. You agree to abide the terms and conditions for participation in any such program. Currently, we offer the Fred Astaire Dance Studios® World Cup Series. No application or recurring monthly, quarterly or annual membership or subscription fee is currently charged for the Fred Astaire Dance Studios® World Cup Series. We currently charge \$1 for each entry, regardless of whether that entry is from one of your Territory Franchisees or a Studio from outside your Territory, at your Regional Competitions and any of your Interregional for your participation in the Fred Astaire Dance Studios® World Cup Series. We reserve the right (1) to increase or change the fee structure for participation in any such rewards program, including the Fred Astaire Dance Studios® World Cup Series, upon ninety (90) days' prior written notice to you; (2) to modify or change the terms and conditions for participation in any such rewards program, including the Fred Astaire Dance Studios® World Cup Series, upon written notice to you; (3) offer multiple rewards programs concurrently; and (4) to terminate any such rewards program, including the Fred Astaire Dance Studios® World Cup Series, upon written notice to you. During the Initial Term, you will not be required to participate in any such rewards program.

## **ARTICLE X TRAINING**

### **Section 10.01. Training We Provide You.**

(a) **Initial AR Training.** Prior to operating your Area Business, you (or your Operating Principal, if you are an Entity) and any Required Trainees must personally attend and satisfactorily complete the AR Training. We or our affiliates will provide AR Training as soon as practicable after the execution and delivery of this Agreement at our offices, currently in Enfield, Connecticut (which location is subject to change in our sole discretion) or at any other location that we designate. We may waive a portion of AR Training or alter the training schedule if we determine that you have sufficient prior experience or training. Each subsequent Operating Principal or manager must attend and satisfactorily complete our AR Training unless we otherwise agree in writing, but we may permit them to attend AR Training remotely via recorded media, teleconference, videoconference, the Internet, webinar, or any other means, as we determine.

(b) **Cost.** We will provide instructors, facilities, and materials for up to two (2) of your representatives to attend AR Training for no additional fee, provided that all of your trainees are trained during the same training session. If space is available, you may bring more than two representatives to AR Training. We and our affiliates reserve the right to charge a training fee of \$2,500, which we may increase upon ninety (90) days' written notice to you, for (i) each person in excess of two trainees; (ii) each person who is repeating the course or replacing a person who did not pass; and (iii) each subsequent Operating Principal, manager or employee who attends the course.

(c) Completion of AR Training. If your Required Trainees are unable to successfully complete, in our sole discretion, the AR Training for any reason, your Required Trainees must repeat AR Training or you must send replacement trainees to complete AR Training. Your Required Trainees must successfully complete AR Training before you may begin operating your Area Business. We will not refund any initial Area Representative Fee paid by you if your Required Trainees fail to successfully complete AR Training. If you and your personnel satisfactorily complete our AR Training and you do not expressly inform us at the end of AR Training that you feel that you or they have not been adequately trained, then you and they will be deemed to have been trained sufficiently to operate an Area Business.

(d) Pilot Studio Training. In addition to AR Training, prior to operating your Area Business, you and your trainees must satisfactorily complete our initial training program for Franchised Studios and pay the applicable training fee, as set forth the in the Franchise Agreement for your Pilot Studio.

**Section 10.02. Additional AR Training by Us.** We may periodically conduct mandatory training programs for you, your Operating Principal or your employees at our office or another location that we designate. There will be no charge for training programs that we require you or your employees to attend after AR Training. You will be responsible for all costs and expenses (including expenses for travel, food and lodging) incurred by you to attend any mandatory additional training. We may provide additional training in person or via recorded media, teleconference, videoconference, the Internet, webinar or any other means as we determine. We may require your trainees or employees to satisfactorily complete any additional training programs that we specify. We may require your trainees to participate in refresher or advanced training in each year of the Term.

### **Section 10.03. Continuing Business Education.**

(a) You and your Operating Principal are required to obtain twenty-four (24) hours of business education for every two (2) year period following completion of Initial Training (the “**CBE Requirement**”). You may satisfy your CBE Requirement by attending optional training programs that we provide or third-party training programs focused on general business issues, business ethics or franchising issues. Other than your Initial Training, any mandatory training programs that we require pursuant to **Section 10.02** (Additional AR Training by US) will count toward your CBE Requirement.

(b) If you fail to satisfy your CBE Requirement within thirty (30) days after the end of any two (2) year period, we may (but are not required to) (i) require you or your Operating Principal to attend training provided by us or our affiliates for continuing business education hours you or your Operating Principal are missing for that two (2) year period at a reasonable, market-rate hourly training fee; or (ii) submit proof, within forty-five (45) days, that you or your Operating Principal have obtained the missing continuing business education hours from a third-party.

**Section 10.04. Remedial AR Training.** If, in our sole judgment, you fail to maintain the quality and service standards set forth in the Manuals, we may, in addition to all of our other rights and remedies, assign trainers to your Area Business to retrain employees and restore service levels or require you or your employees to repeat AR Training or attend additional training programs at a location that we designate. We may charge a reasonable, market-rate fee for each trainer assigned to you and any remedial training.

**Section 10.05. Ongoing Assistance.** We will provide you with limited ongoing technical, managerial and administrative advice and guidance by telephone, email, and other forms of communication from our office, as you may from time to time reasonably request in order for you to perform your duties under this Agreement. We will also consult with you regarding criteria for Prospects.

**Section 10.06. Requested Consulting Services.** We will provide to you additional consulting services with respect to the operation of your Area Business upon your reasonable request and subject to the availability of our personnel. We will make available to you information about new developments, techniques and improvements in the areas of merchandising, advertising, management, operations and franchise sales. We may provide such additional consulting services through the distribution of printed or filmed material, an intranet or other electronic forum, meetings or seminars, teleconferences, webinars or in person. If such services are rendered in person other than at our offices, we will charge you a reasonable, market-rate fee for each of such employees or agents for each day, or partial day, services are rendered. Such additional consulting services will be rendered at a mutually convenient time.

**Section 10.07. FADS Conferences.** You, your Operating Principal, your managers or your employees must attend FADS Conferences that we may require in the Manuals or otherwise in writing. Currently, we require your Operating Principal attend our annual Fred Astaire conference and training (“University of Dance”). We reserve the right to change or modify which FADS Conference is required. We, in our sole discretion, will designate the time and place of any FADS Conferences, which may be held in-person or remotely via teleconference or webinar. By October 1 of each calendar year during the Initial Term, we shall identify any required FADS Conferences for the following calendar year that you, your Operating Principal, your managers or your employees must attend. In each year, you and your employees shall not be required to attend in person more than three days of FADS Conferences that we organize. We will be responsible for arranging FADS Conferences and providing meeting materials. You are responsible for all costs, including travel and living expenses and any registration costs, associated with your, your Operating Principal’s, your managers’ or your employees’ attendance at any FADS Conference. Failure to attend required FADS Conferences for two consecutive years constitutes an Event of Default.

For the avoidance of doubt, any Competitions and any Exhibitions that we, our affiliates or any of our Area Representatives sponsor and organize do not constitute FADS Conferences under this **Section 10.07**. We reserve the right to hold FADS Conferences concurrently with Competitions or Exhibitions.

**Section 10.08. Training Expenses.** You are responsible for any travel and living expenses (including meals, transportation, and accommodations), wages and other expenses incurred by your trainees relating to any training programs or FADS Conferences. You are responsible for reimbursing us for any travel and living expenses incurred by our employees or agents related to providing any additional training, remedial training, or consulting services at your Area Business.

## ARTICLE XI INTELLECTUAL PROPERTY

### **Section 11.01. Marks and Trade Dress.**

(a) Acknowledgements. You and your Owners acknowledge that we or our affiliates are the owner of the Marks and the Trade Dress, that you and your Owners have no interest in the Marks and the Trade Dress beyond the non-exclusive License granted to you herein, and that, as between we or our affiliates and you and your Owners, we or our affiliates have the exclusive right and interest in and to the Marks and the Trade Dress and the goodwill associated with and symbolized by them. Upon the expiration or termination of this Agreement, no monetary amount will be attributable to goodwill associated with your activities as an Area Representative under this Agreement or otherwise. You and your Owners acknowledge that any unauthorized use of the Marks or Trade Dress by you or your Owners constitutes (i) an infringement of our or our affiliates' rights in and to the Marks and Trade Dress; and (ii) an Event of Default under this Agreement.

(b) Rights. Your right to use the Marks and the Trade Dress applies only to your Area Business as expressly provided in this Agreement. You may only use in your Area Business the Marks and the Trade Dress we designate, and only in strict compliance with written rules that we prescribe from time to time. You and your Owners must not use any Mark (i) as part of any corporate or legal business name; (ii) with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos we have licensed to you); (iii) in selling any unauthorized services or products; (iv) as part of any domain name, electronic address, metatag, social media account, or otherwise in connection with any website or other electronic medium without our consent; or (v) in any other manner we have not expressly authorized in writing. No materials on which any of the Marks or the Trade Dress appears will be used by you without our prior written approval, which we may revoke at any time upon reasonable notice to you. You must display the Marks in a manner that we specify on signage at your Area Business office, Pilot Studio and on all written materials, forms, advertising, promotional materials, supplies, employee uniforms, business cards, receipts, letterhead, contracts, stationary, and other materials we designate. Your employees, contractors, representatives and agents may not use the Marks or Trade Dress in any manner without our prior written approval or as specifically authorized in the Manuals. You and your Owners understand and agree that, as an Area Representative, you do not have the right to approve use of the Marks by Territory Franchisees or by their employees or your employees. You agree to communicate and enforce any and all policies and restrictions on usage to your employees, agents and representatives.

**Section 11.02. Copyrights.** You and your Owners acknowledge that as between you and your Owners and us, any and all Copyrights belong solely and exclusively to us or our affiliates. You and your Owners have no interest in the Copyrights beyond the non-exclusive License granted to you in this Agreement.

**Section 11.03. Authorized Images.** You and your Owners may not, under any circumstances, use any images, photographs, videos, pictures or likenesses of Mr. Fred Astaire without our prior written permission. Your right to use the Authorized Images is limited to the operation of your Studio in accordance with this Agreement and the Manuals. You may not use any of the Authorized Images in any manner other than those expressly authorized by us in writing,

whether in the Manuals or otherwise. You and your Owners have no interest in the Authorized Images beyond the non-exclusive License granted to you in this Agreement.

**Section 11.04. No Contesting Our Rights.** During the Term of this Agreement and after its expiration or termination, you and your Owners agree not to, directly or indirectly, contest our or our affiliates' ownership, title, right or interest in or to, or our license to use, or the validity of the Intellectual Property, or contest our sole right to register, use or license others to use the Intellectual Property.

**Section 11.05. Changes to Intellectual Property.** We have the right, upon reasonable notice to you, to change, discontinue, or substitute for any of the Intellectual Property and to adopt entirely different or new Intellectual Property for use with the FADS System without any liability to you or your Owners, in our sole discretion. You agree to implement any such change at your own expense within the time we reasonably specify.

**Section 11.06. Third-Party Challenges.** You and your Owners agree to notify us within three (3) days of any unauthorized use of the Intellectual Property of which you have knowledge. You also agree to inform us promptly of any challenge by any person or Entity to the validity of our or our affiliate's ownership of or our right to license others to use any of the Intellectual Property. We have the right, but no obligation, to initiate, direct, and control any litigation or administrative proceeding relating to the Intellectual Property, including any settlement. We will be entitled to retain any and all proceeds, damages, and other sums, including attorneys' fees, recovered or owed to us or our affiliates in connection with any such action. You and your Owners agree to execute all documents and, render any other assistance we may deem necessary to any such proceeding or any effort to maintain the continued validity and enforceability of the Intellectual Property.

**Section 11.07. Post Termination or Expiration.** Upon the expiration or termination of this Agreement for any reason, all of your rights to use the Intellectual Property will automatically revert to us without cost and without the execution or delivery of any document. Upon our request, you and your Owners must execute all documents that we require to confirm such reversion.

**Section 11.08. Specimens.** You will submit specimens of all signage, uniforms, packaging, materials, stationary, business cards and other materials displaying, using or bearing the Intellectual Property or relating to the Franchised Studios, at your sole expense, for our review and approval prior to your or any of your Territory Franchisee's manufacture, printing, production, use, display, broadcast, distribution or sale of any of the foregoing and in accordance with procedures established by us for such purposes from time to time. If we fail to grant any required approval within fourteen (14) days of submission, the submission shall be deemed disapproved.

**Section 11.09. Registration.** You and your Owners will cooperate with us and our affiliates in (i) registering this Agreement or a summary version with any applicable government authority to the extent required or desirable to fully protect our and our affiliates' rights in the Intellectual Property under Applicable Law; (ii) maintaining or perfecting such registration; and (iii) canceling such registration upon termination or expiration of this Agreement. We are authorized by you and your Owners to cancel the registration of this Agreement with any applicable government authority upon the termination or expiration of this Agreement, for any



reason, independent of any action by you or your Owners before any government authorities. You, your Owners or your Operating Principal shall execute on behalf of itself/themselves and deliver such documentation as may be necessary or desirable in connection with the foregoing, including any power of attorney as may be required by Applicable Law. You shall bear all costs that may be incurred by FUSA or its representatives in registering, perfecting, maintaining and canceling the registration of this Agreement as stated in this **Section 11.09**.

**Section 11.10. Innovation.** All Innovations, whether or not protectable intellectual property and whether created by or for you or your Owners, employees, or contractors, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the FADS System and the Intellectual Property, and works made-for-hire for us. To the extent any Innovation does not qualify as a work made-for-hire for us, by this **Section 11.10** you assign ownership of that Innovation, and all related rights to that Innovation, to us and agree to sign (and to cause your Owners, employees, and contractors to sign) whatever assignment or other documents we request to evidence our ownership or to help us obtain intellectual property rights in the Innovation. You may not use any Innovation in operating your Area Business or otherwise without our prior approval.

**Section 11.11. Indemnification by Us.** Provided you and your Owners comply with the provisions of this **Article XI**, we will indemnify, defend and hold harmless the Intellectual Property Indemnified Parties against, and reimburse all of the Intellectual Property Indemnified Parties for, any claims asserted against or incurred by the Intellectual Property Indemnified Parties in any Intellectual Property infringement proceeding disputing your authorized use of any Intellectual Property under this Agreement if, provided further, (i) you have timely notified us of the proceeding and (ii) you comply with our reasonable directions in responding to the proceeding. Notwithstanding the foregoing, we will indemnify, defend, or hold harmless the Intellectual Property Indemnified Parties solely for use of Intellectual Property that was authorized or approved by the Manuals or us in writing. Use of Intellectual Property in advertising that is approved or used without our written approval is excluded from indemnification under this Section. We may control the defense of any proceeding arising from your use of any Intellectual Property under this Agreement. This indemnification will continue in full force and effect notwithstanding the termination or expiration of this Agreement.

## **ARTICLE XII CONFIDENTIAL INFORMATION**

**Section 12.01. Nature of Information.** You and your Owners acknowledge that prior to or during the Term, we may disclose in confidence to you, either orally or in writing, certain trade secrets, know-how, and other confidential information relating to the FADS System, our business, our vendor relationships, our franchise relationships, our classes, or the construction, management, operation, or promotion of Area Businesses or the Studios (collectively, the “**Confidential Information**”), including (i) site selection criteria and methodologies; (ii) methods, formats, systems, FADS System Standards, sales and marketing techniques, knowledge and experience used in developing and operating Area Businesses and Studios, including information in the Manuals; (iii) marketing research and promotional, marketing, advertising, public relations, customer relationship management and other brand-related materials and programs for Area Businesses and Studios; (iv) knowledge of specifications for and suppliers of, and methods of

ordering, certain items that Area Businesses or Studios use or sell; (v) knowledge of the operating results and financial performance of other Area Businesses or Studios; (vi) customer communication and retention programs, along with data used or generated in connection with those programs; (vii) knowledge of lead generation strategies and processes; (viii) Personal Information; and (ix) any other information we reasonably designate from time to time as confidential or proprietary. **Confidential Information** does not include (a) information that is part of the public domain or becomes part of the public domain through no fault of you or your Owners; (b) information disclosed to you by a third party having legitimate and unrestricted possession of such information; or (c) information that you can demonstrate by clear and convincing evidence was within your legitimate and unrestricted possession when the Parties began discussing the sale of the Area Business.

**Section 12.02. Nondisclosure.** You and your Owners agree that the Confidential Information is proprietary, includes our trade secrets and is disclosed to you and your Owners solely on the condition that you and your Owners agree as follows: (a) that you will not use the Confidential Information in any other business or capacity; (b) you will maintain the absolute confidentiality of the Confidential Information during and after the Term; (c) you will not make unauthorized copies of any portion of the Confidential Information regardless of whether it is disclosed in electronic medium, written or other tangible or intangible form; and (d) you will adopt and implement all reasonable procedures prescribed by us from time to time to prevent unauthorized use or disclosure of the Confidential Information including restrictions on disclosure to your employees or agents and use of non-disclosure and non-competition agreements in form and substance approved by us which we may provide for your employees or agents who have or whom we or you deem likely to have access to the Confidential Information.

**Section 12.03. Personal Information.**

(a) Protection of Personal Information. You and your Owners must comply with our FADS System Standards, other directions from us, and all Applicable Laws regarding the organizational, physical, administrative and technical measures and security procedures to safeguard the confidentiality and security of Personal Information on your computer system or otherwise in your possession or control and, in any event, employ reasonable means to safeguard the confidentiality and security of Personal Information. If there is a suspected or actual breach of security or unauthorized access involving your Personal Information or related to your Area Business, Pilot Studio or any Territory Franchisee, you must notify us immediately after becoming aware of such actual or suspected occurrence, and you must specify the extent to which Personal Information was compromised or disclosed. You and your Owners must comply with any breach response policy that we periodically establish in the Manuals or otherwise in writing. You are responsible for any financial losses you incur or remedial actions that you must take as a result of a breach of security or unauthorized access to Personal Information in your control or possession.

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

(c) Use of Personal Information. You have the right to use Personal Information while this Agreement or a successor franchise agreement is in effect, but only to market Fred Astaire Dance Studios® products and services and Franchises and provide services to Territory Franchisees in accordance with the policies that we establish periodically and Applicable Law. You may not sell, transfer, or use Personal Information for any purpose other than marketing Fred Astaire Dance Studios® products and services. We and our affiliates may use Personal Information in any manner or for any purpose, except, during the Term, we and our affiliates will not use the Personal Information that we or they derive from your Area Business to market dance instruction, fitness and exercise classes or franchises for another brand that competes directly with the Studios. You must secure from your Prospects, Territory Franchisees, and others all consents and authorizations, and provide them all disclosures, that Applicable Law requires (i) to transmit Personal Information to us and our affiliates and (ii) for us and our affiliates to use that Personal Information, in the manner that this Agreement contemplates.

### **ARTICLE XIII REPORTS, RECORDS, AUDITS AND INSPECTIONS**

**Section 13.01. General Reporting.** You agree to keep complete and accurate books, records, and accounts of all business conducted under this Agreement in accordance with generally accepted accounting principles. You and your Owners must preserve all of your books and records in hard copy or in a format from which hard copies can be readily generated for at least seven (7) years from the date of preparation or such longer period as may be required by Applicable Laws. You must maintain such information and records on the Studio Management and Technology System as we may require from time to time in the Manuals, and you acknowledge and agree that we will have access to that data remotely via a network connection that we will specify. At our request, you must retain and use, at your expense, the services of an accountant or accounting firm that we approve.

**Section 13.02. Reports and Financial Statements.** You agree to submit financial and operational reports and records to us at the times and in the manner specified in the Manuals. By March 30 of each year, you must submit your balance sheet and income statement for the previous calendar year. With respect to your year-end income statement and balance sheet, you or the Operating Principal must certify that the income statement and balance sheet are correct and complete and that they have been prepared in accordance with generally accepted accounting principles. We have the right to demand audited financial statements if an Event of Default has occurred within the last calendar year. In addition, you must provide us exact copies of federal and state income and other tax returns for your Area Business within 180 days after the end of the calendar year. You must provide us exact copies of any other forms, records, books, reports and other information that we periodically require relating to your Area Business or you.

**Section 13.03. Additional Information.** You shall respond promptly to requests from us for clarification or additional information regarding any matter entrusted to you under this Agreement. We may from time to time require information about your financial condition, earnings, sales, profits, costs, expenses, and performance to provide a basis for providing our prospective area representatives with information concerning actual or potential earnings or to comply with Applicable Laws governing the sale of franchises. You will provide such information

promptly upon our request, and you will certify that such information is true and complete in all material respects.

**Section 13.04. Inspection.** We have the right, through our employees and any agents we designate, at any time during business hours and without prior notice to you to: (i) inspect your Area Business office for compliance with the Manuals; (ii) videotape, photograph or otherwise record the operation of your Area Business and your employees; (iii) interview your employees, landlord, and Territory Franchisees; (iv) examine or request that you send copies of the records, invoices, payroll records, check stubs, tax records and returns, and other supporting records and documents of your Area Business; and (v) examine or request that you send copies of your income tax records and any other information, records or properties relating to the ownership, management, or operation of your Area Business. Our right to inspect your business records includes records maintained electronically or off-site. You must cooperate with such inspections by giving our representatives unrestricted access and rendering such assistance as our representatives may reasonably request. If we notify you of any deficiencies after the inspection, you must promptly take steps to correct them. If you fail to correct any deficiencies within a reasonable time, not to exceed thirty (30) days, we have the right to correct such deficiencies and charge you a reasonable fee plus our costs and expenses incurred in such inspection. Any inspections will be made at our expense, unless the inspection is necessitated by your failure to comply with any provision of this Agreement, in which case we may charge you the costs of making such inspection, including the wages and cost of travel and living expenses for our representatives.

**Section 13.05. Audit.**

(a) Right to Audit. Without limiting the foregoing, we may audit or cause to be audited any business records, bookkeeping and accounting records, business license applications, sales and income tax (if any) records and returns required to be maintained pursuant to **Section 13.01** (General Reporting), **Section 13.02** (Reports and Financial Statements) or **Section 13.03** (Additional Information), and we may review, or cause to be reviewed, the records maintained by any bank or other financial institution used by you in connection with your Area Business. You will cooperate fully with our representatives and independent accountants hired to conduct any inspection or audit. If the records and information are in the possession of a third party, you will either obtain the records or information or provide an authorization from the third party allowing us to perform the inspection and audit at the third party's location.

(b) Reimbursement. If the inspection or audit is because (i) you failed to furnish reports, supporting records, other information or financial statements that you are required to submit to us under this Agreement, the Manuals or the FADS System; or (ii) you failed to furnish such reports, records, information or financial statements on a timely basis as required under this Agreement, the Manuals or the FADS System, we may, at our option, require you to reimburse us for the actual costs and expenses of the inspection or audit, including all costs and expenses for our employees, attorneys and accountants, including the travel expenses, room and board and applicable per diem charges for such persons. These remedies are in addition to any other rights and remedies we have under this Agreement or Applicable Law.

**ARTICLE XIV  
COVENANT NOT TO COMPETE**

**Section 14.01. During the Term.** You and your Owners acknowledge and agree that you and your Owners will receive valuable, specialized training and confidential information regarding the manufacturing, operational, sales, promotional and marketing methods of the Fred Astaire Dance Studios® concept. During the Term, you and your Owners will not, without our prior written consent, either directly or indirectly, for themselves, or through, on behalf of, or in conjunction with any other person or Entity:

(a) own, manage, engage in, be employed by, advise, make loans to, or have any other interest in (i) any gymnasium, studio, athletic club, exercise or aerobics facility, or similar facility or business that offers dance and performing arts instruction and services, or (ii) a Competitive Business at any location in the United States;

(b) divert or attempt to divert any business, customer, or franchisee or potential business, customer, or franchisee of any Area Business or Studio to any Competitive Business, by direct or indirect inducement or otherwise;

(c) solicit for purposes of employment any officer, manager or director of us, any of our affiliates or any other Area Business who is then employed by, or who has within the last twelve (12) months been employed as an officer by us, any of our affiliates or any other Area Business;

(d) perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System; or

(e) use any vendor relationship established through your association with us for any purpose other than to purchase products or equipment for use or retail sale in your Area Business or Studios.

**Section 14.02. After Termination, Expiration or Transfer.** For two (2) years after the expiration or termination of this Agreement or an approved Transfer to a new Area Representative, you and your Owners may not, without our prior written consent, (i) directly or indirectly own, manage, engage in, be employed in a managerial position by, advise, make loans to, or have any other interest in any Competitive Business that is (or is intended to be) located within your former Territory, the territory of any other Area Business, or within a 25-mile radius of any Studio that is operating or under development at the time of such expiration, termination, or Transfer; or (ii) directly solicit for employment any officer, manager, director or Astaire Pro who at any time within the immediate past twelve (12) months has been employed by us, our affiliates, our Area Businesses or our Franchised Studios; provided, however, that the foregoing subsection (ii) shall not prevent any employment solicitation of a general and not direct nature that is a public solicitation of prospective employees and not directed specifically to any such officer, manager, director or Astaire Pro. With respect to the Owners, the Owners agree that the time period in this **Section 14.02** will run from the expiration, termination, or Transfer of this Agreement or from the termination of the Owner's relationship with you, whichever occurs first.

**Section 14.03. Publicly Traded Corporations.** Ownership of less than ten percent (10%) of the outstanding voting stock of any class of stock of a publicly traded corporation will not, by itself, violate this **Article XIV**.

**Section 14.04. Covenants of Owners and Managers.** The Owners personally bind themselves to this **Article XIV** by signing this Agreement or the attached Guaranty. We may, in our sole discretion, require you to obtain from your officers, directors, managers, Owners' spouses, and other individuals that we may designate, in our reasonable discretion, executed agreements containing nondisclosure and noncompete covenants similar in substance to those contained in this **Article XIV** as we prescribe in the Manuals or otherwise. The agreements must be in a form acceptable to us and specifically identify us as having the independent right to enforce them.

**Section 14.05. Enforcement of Covenants.**

(a) Restrictions Reasonable. You and your Owners acknowledge and agree that (i) the time, territory, and scope of the covenants provided in this **Article XIV** are reasonable and necessary for the protection of our legitimate business interests; (ii) you and your Owners have received sufficient and valid consideration in exchange for those covenants; (iii) enforcement of the same would not impose undue hardship; and (iv) the period of protection provided by these covenants will not be reduced by any period of time during which you or your Owners are in violation of the provisions of those covenants or any period of time required for enforcement of those covenants.

(b) Blue Pencil. To the extent that this **Article XIV** is judicially determined to be unenforceable by virtue of its scope or in terms of area or length of time but may be made enforceable by reductions of any or all thereof, the same will be enforced to the fullest extent permissible. You and your Owners agree that the existence of any claim you or your Owners may have against us, whether or not arising from this Agreement, will not constitute a defense to our enforcement of the covenants contained in this **Article XIV**. You and your Owners acknowledge that any breach or threatened breach of this **Article XIV** will cause us irreparable injury for which no adequate remedy at law is available, and you and your Owners' consent to the issuance of an injunction prohibiting any conduct violating the terms of this **Article XIV**. Such injunctive relief will be in addition to any other remedies that we may have.

**ARTICLE XV  
INDEMNIFICATION**

**Section 15.01. Indemnification by You.** You and your Owners agree to indemnify and hold harmless the Indemnified Parties against, and to reimburse any one or more of the Indemnified Parties for, all Losses directly or indirectly arising out of or relating to: (i) the operation of your Area Business; (ii) the business you conduct under this Agreement; (iii) your or your Owners' breach of this Agreement; (iv) your or your Owners' noncompliance or alleged noncompliance with any Applicable Laws, including any allegation that we or another Indemnified Party is a joint employer or otherwise responsible for your acts or omissions relating to your employees; or (v) claims alleging either intentional or negligent conduct, acts or omissions by you (or your contractors or any of your or their employees, agents or representatives), or by us or our affiliates (or our or their contractors or any of our or their employees, agents or representatives), subject to **Section 15.03** (Willful Misconduct or Gross Negligence).

**Section 15.02. Indemnification Procedure.** You and your Owners agree to defend the Indemnified Parties against any and all Proceedings, including those alleging the Indemnified Party's negligence, gross negligence, willful misconduct or willful wrongful omissions. Each

Indemnified Party may at your and your Owners' expense defend and otherwise respond to and address any claim asserted or inquiry made, or Proceeding brought, that is subject to this **Article XV** (instead of having you defend it as required above), and agree to settlements or take any other remedial, corrective, or other actions, for all of which defense and response costs and other Losses you or your Owners are solely responsible, subject to **Section 15.03** (Willful Misconduct or Gross Negligence). An Indemnified Party need not seek recovery from any insurer or other third party, or otherwise mitigate its Losses, in order to maintain and recover fully a claim against you or your Owners, and you and your Owners agree that a failure to pursue a recovery or mitigate a Loss will not reduce or alter the amounts that an Indemnified Party may recover from you or your Owners under this **Article XV**. Your and your Owners' obligations in this **Article XV** will survive the expiration or termination of this Agreement.

**Section 15.03. Willful Misconduct and Gross Negligence.** Despite **Section 15.01**, you and your Owners have no obligation to indemnify or hold harmless an Indemnified Party for, and we will reimburse you and your Owners for, any Losses (including costs of defending any Proceeding under **Section 15.02** (Indemnification Procedure)) to the extent such losses are determined in a final, unappealable ruling issued by a court or arbitrator with competent jurisdiction to have been caused solely and directly by the Indemnified Party's willful misconduct or gross negligence and so long as the claim to which those Losses relate is not asserted on the basis of theories of vicarious liability (including agency, apparent agency, or employment) or our failure to compel you or your Owners to comply with this Agreement. However, nothing in this **Section 15.03** limits your and your Owners' obligation to defend us and the other Indemnified Parties under **Section 15.02**.

**Section 15.04. Contribution.** If we bring legal action to enforce our rights under, or to defend claims relating to, any Franchise Agreements for your Territory Franchisees, you or your Owners must reimburse us for fifty percent (50%) of the reasonable attorneys' fees and costs we incurred in doing so. We may setoff these amounts against compensation otherwise due you. If we do not offset such reimbursement, you or your Owners must pay us within thirty (30) days of receipt of our invoice. Notwithstanding the foregoing, you have no obligation to reimburse us for any attorneys' fees and costs that we incur as a result of appealing a judgment from an intermediate appellate court to a court of last resort to obtain a final, non-appealable judgment.

## **ARTICLE XVI TRANSFER AND ASSIGNMENT**

**Section 16.01. Transfer by Us.** We may assign this Agreement and all of our rights, duties, and obligations under this Agreement to any person or Entity that we choose in our sole discretion. Upon any such assignment, we will be released from all of our duties and obligations hereunder, and you and your Owners will look solely to our assignee for the performance of such duties and obligations.

**Section 16.02. No Transfer without Consent.** This Agreement and the License are personal to you, and we have granted the License in reliance on your (and, if you are an Entity, your Owners') business skill, financial capacity, and personal character. Accordingly, neither you nor any of your Owners or any successors to any part of your interest in this Agreement or the License may make any Transfer or permit any Transfer to occur without obtaining our prior written consent, except as provided in **Section 16.06** (Permitted Transfers). If you or any of your Owners

desire to make a Transfer, you must promptly provide us with written notice. Any purported Transfer, without our prior written consent, will be null and void and will constitute an Event of Default (as herein defined), for which we may terminate this Agreement without opportunity to cure. We have sole and absolute discretion to withhold our consent, except as otherwise provided in **Sections 16.03** through **16.07**. We have the right to communicate with both you, your counsel, and the proposed transferee on any aspect of a proposed Transfer. You agree to provide any information and documentation relating to the proposed Transfer that we reasonably require. No Transfer that requires our consent may be completed until at least sixty (60) days after we receive written notice of the proposed Transfer. Our consent to a Transfer does not constitute a waiver of any claims that we have against the transferor, nor is it a waiver of our right to demand exact compliance with the terms of this Agreement. If your Area Business is not open and operating, we will not consent to your Transfer of this Agreement, and we are under no obligation to do so.

**Section 16.03. Control Transfer.** For a proposed Control Transfer, the following terms and conditions apply (unless waived by us in writing):

(a) When you provide written notice of the proposed Transfer, we may require that you pay to us a non-refundable deposit of \$4,000 to cover our administrative costs incurred in reviewing the proposal. The deposit will be applied towards your Transfer Fee in the event that the Transfer is completed.

(b) You or your transferee must pay to us a Transfer Fee equal to the greater of \$4,000 or two percent (2.00%) of the purchase price for the Control Transfer. You must make such payment by wire transfer from the proceeds of the sale at the closing. For the avoidance of confusion, your non-refundable deposit of \$4,000 in **Section 16.03(a)** is applied to the Transfer Fee you owe at closing. If, for example, your Transfer Fee would be \$4,000, you would not owe any further sums for the Transfer Fee at closing; however, if, for example, your Transfer Fee would be \$6,000, you must make a payment of \$2,000 by wire transfer from the proceeds of the sale at the closing.

(c) Your purchase price for the Control Transfer may not be less than sum of the then-current (i) Area Representative Fee; and (ii) Territorial Exclusivity Fee for the Territory.

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

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

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

(g) You and your Owners must continue to be bound by the provisions of **Article XI** (Intellectual Property), **Article XII** (Confidential Information), **Article XIV** (Covenant not to



Compete), and **Article XV** (Indemnification) as if they were the Area Representative and this Agreement had expired or terminated as of the effective date of the Transfer.

**(h)** You must provide us with written notice from your landlord indicating that your landlord has agreed to transfer the site lease for your Pilot Studio to your transferee.

**(i)** Your proposed transferee (or, if the transferee is not an individual, all owners of any legal or beneficial interest in the transferee) must demonstrate to our satisfaction that the proposed transferee meets all of our then-current qualifications to become a Fred Astaire Dance Studios® Area Representative. Your proposed transferee may not have any involvement with a Competing Business. If your proposed transferee is already a Fred Astaire Dance Studios® Area Representative or a franchisee, the proposed transferee (i) must not be in default under any of their agreements with us; and (ii) must have a good record of customer service and compliance with our FADS System Standards.

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

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

**(l)** Your proposed transferee (and, if the transferee is not an individual, such owners of a legal or beneficial interest in the transferee as we may request) must execute, for an Initial Term of not less than ten (10) years, our then-current area representative agreement for new area representatives and such other agreements as we may require, which agreements (i) will supersede this Agreement in all respects; and (ii) will contain a right of renewal for a renewal term of no less than ten (10) years, provided that your proposed transferee meets the renewal conditions described in that area representative agreement. The terms of the new area representative agreement may differ significantly from the terms of this Agreement. The prospective transferee will not be required to pay any Area Representative Fee.

**(m)** Your proposed transferee must make arrangements to modernize, renovate or upgrade the Pilot Studio, at its expense, to conform to our then-current FADS System Standards for new Studios.

**(n)** Your proposed transferee must covenant that it will continue to operate your Area Business and the Pilot Studio under the Marks and using the FADS System.

**(o)** The Pilot Studio and related Franchise Agreement must be transferred to the proposed transferee in accordance with the Franchise Agreement or the proposed transferee must already operate or enter into a Franchise Agreement with us to operate, a Franchised Studio in the Territory to serve as the Pilot Studio.

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

**Section 16.04. Non-Control Transfers.** For any Transfer that does not result in a Control Transfer, you must give us advance notice and submit a copy of all proposed contracts and other information concerning the Transfer and transferee that we may request. We will have the right to require you to pay a Transfer Fee that is equal to \$2,500. We will have a reasonable time (not less than thirty (30) days) after we have received all requested information to evaluate the proposed Transfer. You and/or your transferee must satisfy, in addition to others that we may specify, the conditions in **Sections 16.03(c)** (Comply with Obligations), **16.03(d)** (Sign General Release), **16.03(e)** (Remain Liable For Pre-Transfer Obligations), **16.03(f)** (Remain Bound To Certain Provisions), **16.03(h)** (transferee meets qualifications), and **16.03(j)** (Sign Assignment And Guaranty). You and your Owners must sign the form of agreement and related documents that we then specify to reflect your new ownership structure. We may withhold our consent on any reasonable grounds or give our consent subject to reasonable conditions.

**Section 16.05. Transfer to an Entity.** If you are not an Entity, we will consent to the assignment of this Agreement to an Entity that you form for the convenience of ownership, provided that: (i) the Entity has and will have no other business besides operating an Area Business; (ii) you satisfy the conditions in **Sections 16.03(c)** (comply with obligations), **16.03(d)** (sign general release), **16.03(e)** (remain liable for pre-Transfer obligations), **16.03(f)** (remain bound to certain provisions), and **15.04(j)** (sign assignment and guaranty); (iii) the Owners hold equity interests in the new Entity in the same proportion shown on **Exhibit A**; and (iv) you pay a Transfer Fee that is equal to \$2,500.

**Section 16.06. Permitted Transfers.** The other provisions in this **Article XVI** do not apply, including our right of first refusal and right of approval, to the following Transfers:

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

(b) Transfer to a Trust. Any Owner who is an individual may Transfer his or her ownership interest in you (or any of your Owners that is an Entity) to a trust that he or she establishes for estate planning purposes, as long as (i) he or she is a trustee of the trust and otherwise controls the exercise of the rights in you (or your Owner) held by the trust and (ii) you notify us in writing of the Transfer at least ten (10) days before its anticipated effective date. Dissolution of or transfers from any trust described in this **Section 16.06(b)** are subject to all applicable terms and conditions of this **Article XVI**.

**Section 16.07. Transfer upon Death or Incapacity.** If you or any Owner dies, becomes incapacitated, or enters bankruptcy proceedings, that person's executor, administrator, personal representative, or trustee must apply to us in writing within three (3) months after the event (death, declaration of incapacity, or filing of a bankruptcy petition) for consent to Transfer the person's interest. The Transfer will be subject to the provisions of this **Article XVI**, as applicable, except there shall be no Transfer Fee due. In addition, if the deceased or incapacitated person is you or the Operating Principal, we will have the right (but not the obligation) to take over operation of your Area Business until the Transfer is completed and to charge a reasonable management fee for

our services. For purposes of this **Article XVI**, “**incapacity**” means (i) any physical or mental infirmity that will prevent the person from performing his or her obligations under this Agreement for a period of ninety (90) or more consecutive days or (ii) for 120 or more total days during a calendar year. In the case of Transfer by bequest or by intestate succession, if the heirs or beneficiaries are unable to meet the conditions of **Section 16.03(h)** (Transferee Meets Qualifications), the executor may transfer the decedent’s interest to another successor that we have approved, subject to all of the terms and conditions for Transfers contained in this Agreement. If an interest is not disposed of under this **Section 16.07** within 120 days after the date of death or appointment of a personal representative or trustee, we may terminate this Agreement under **Section 17.02** (Our Remedies).

#### **Section 16.08. Right of First Refusal.**

(a) Our Right. We have the right, exercisable within thirty (30) days after receipt of the notice of your intent to Transfer and such documentation and information that we require, to send written notice to you that we intend to purchase the interest proposed to be Transferred on the same economic terms and conditions offered by the third-party or, at our option, the cash equivalent thereof. If you and we cannot agree on the reasonable equivalent in cash or if the Transfer is proposed to be made by gift, we will designate, at our expense, an independent appraiser to determine the fair market value of the interest proposed to be transferred. We may purchase the interest at the fair market value determined by the appraiser or may elect at that time to not exercise our rights. We must receive, and you and your Owners agree to make, all customary representations, warranties and indemnities given by the seller of the assets of a business or ownership interests in an Entity, as applicable, including representations and warranties regarding ownership and condition of, and title to, assets and (if applicable) ownership interests, liens and encumbrances on assets, validity of contracts and agreements, and the liabilities, contingent or otherwise, relating to the assets or ownership interests being purchased, and indemnities for all actions, events and conditions that existed or occurred in connection with your Area Business prior to the closing of our purchase. Closing on our purchase must occur within ninety (90) days after the date of our notice to the seller electing to purchase the interest. We may assign our right of first refusal to another Entity or person either before or after we exercise it. However, our right of first refusal will not apply with regard to Transfers to an Entity under **Section 16.06** (Permitted Transfers) or **Section 16.07** (Transfer Upon Death or Incapacity) or Transfers to your spouse, son, or daughter.

(b) Declining Our Right. If we elect not to exercise our rights under this **Section 16.08**, the transferor may complete the Transfer after complying with the applicable provisions in **Article XVI**. Closing of the Transfer must occur within 90 days of our election (or such longer period as Applicable Law may require); otherwise, the third-party’s offer will be treated as a new offer subject to our right of first refusal. Any material change in the terms of the offer from a third-party after we have elected not to purchase the seller’s interest will constitute a new offer subject to the same right of first refusal as the third party’s initial offer. The Transfer is conditional upon our determination that the Transfer was on terms substantially the same as those offered to us.

**ARTICLE XVII**  
**TERMINATION AND DEFAULT**

**Section 17.01. Events of Default.** Any one or more of the following constitutes an “**Event of Default**” under this Agreement. We have the right to terminate this Agreement, effective upon delivery of written notice of termination to you, if:

(a) You or any Owner make any material misrepresentations or omissions in connection with your application to us for the Franchise, your Area Business, this Agreement, or any related documents, including, without limitation, the Development Agreement, or you submit to us any report or statement that you know or should know to be false or misleading;

(b) You fail to satisfactorily complete AR Training, fail to open your Pilot Studio or fail to begin operating your Area Business by the Opening Deadline;

(c) Your Pilot Studio closes;

(d) You voluntarily suspend operation of your Area Business or the Pilot Studio without our prior written consent for ten (10) or more consecutive business days on which you were required to operate, unless we determine, in our sole discretion, that the failure was beyond your control;

(e) After multiple attempts to reach you via telephone, e-mail, or other written correspondence, you fail to communicate with us within ten (10) business days after we send you a written communication in accordance with **Section 19.13** (Notices) notifying you of our attempts to reach you and our need to receive a response from you;

(f) You, your Operating Principal, your manager(s) or any of your representatives that we designate fail to attend or participate in two or more required Conferences as required in **Section 10.07** during any twelve (12) month period, without our prior written consent;

(g) You fail to have open and operating in the Territory the number of Studios specified in the Development Schedule at any Development Deadline, provided that such failure is not due to us unreasonably withholding approval of a Prospect or unreasonably delaying the closing of a sale to an approved Prospect;

(h) You make a material default under any related documents to this Agreement, including, for the sake of example only, the Guaranty or the Development Agreement;

(i) You make any material misrepresentations, omissions, or unauthorized representations to a Prospect or Territory Franchisee, including, without limitation, making unauthorized financial performance representations;

(j) You violate any Applicable Laws relating to franchise sales in your Territory and fail to cure the violation with the applicable regulatory authority within three (3) months from the date of notice of the violation or you take any actions which would interfere with our ability to lawfully offer and sell franchises in your Territory;

(k) You violate the FTC Order and fail to cure the violation within thirty (30) days from the date of notice of the violation;

(l) You (i) fail to provide satisfactory evidence that you have met your CBE Requirements and fail to provide such proof within thirty (30) days from the date of notice to you;

or (ii) fail to obtain from us at your expense your CBE Requirements in accordance with **Section 10.03** (Continuing Business Education) within thirty (30) days from the date of notice to you;

(m) You modify the Disclosure Document or any of the Studio Agreements without our prior written consent;

(n) You represent to a Territory Franchisee that you have the authority to enter into a binding agreement or commitment on our behalf, unless we consent otherwise in writing;

(o) You receive any monies or payments from Prospects or Territory Franchisees not authorized by this Agreement, unless we have otherwise agreed in writing;

(p) We determine, in our reasonable discretion, that it is impossible, economically impractical, or excessively risky for us to continue to offer Franchises in your Territory due to Applicable Laws or administrative or judicial orders in your Territory;

(q) You abandon, surrender, transfer control of or fail to actively operate your Area Business;

(r) You allow one of your Territory Franchisee to sign a lease without our approval; provided, however, that if one of your Territory Franchisees signs a lease against your direct written instruction, which written instruction was concurrently provided to us, then an Event of Default will not occur;

(s) You fail to consistently communicate with us or your Territory Franchisees, and you fail to provide copies of all correspondence material to the franchise relationship for our files;

(t) We determine, in our reasonable discretion, that (i) 100% of your Territory Franchisees, if you have two (2) or less Territory Franchisees; (ii) 50% of your Territory Franchisees, if you have between three (3) to five (5) Territory Franchisees; or (iii) 33% of your Territory Franchisees, if you have six (6) or more Territory Franchisees are in default of our FADS System Standards and have received a written notice of default; provided, however, that we shall not count any Territory Franchisee that is in default of our FADS System Standards toward the totals in the preceding clause if (x) you have written to us stating the grounds for termination of said Territory Franchisee's franchise agreement; and (y) we elect not to terminate said Territory Franchisee within thirty (30) days of receipt of your written notice;

(u) You, any Owner, or any of your officers or directors are charged with, convicted of or plead nolo contendere to a felony, a crime involving moral turpitude or consumer fraud, or any other crime or offense that we believe is likely to have an adverse effect on our franchise system, the Marks and any associated goodwill, or the Fred Astaire Dance Studios® concept (an "**Adverse Effect**");

(v) You, any Owner, or any of your officers or directors has, in our reasonable opinion, committed any act of dishonesty, theft, fraud, unethical business conduct, or other misconduct of a serious nature, or other conduct that results or could result in an Adverse Effect;

(w) You, any Owner, or any of your officers or directors has engaged in harassing, offensive, or other conduct which results in a complaint to us or our affiliates or a local, state, or federal government agency or authority and which is reasonably determined by us to be meritorious;

(x) You use any of the Marks or any other identifying characteristic of us other than in the operation or promotion of your Area Business or Studios;

(y) You or any of your Owners, directors, or officers disclose or divulge the contents of the Manuals or other Confidential Information contrary to the terms of this Agreement;

(z) Any Transfer occurs that does not comply with **Article XVI** (Transfer and Assignment), including a failure to transfer to a qualified successor after death or disability within the time allowed by **Section 16.07** (Transfer Upon Death or Incapacity);

(aa) You or any Owner violates the noncompete covenants in this Agreement;

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

(cc) You (i) fail, refuse, or neglect to pay any monies owing to us or our affiliates or fail to make sufficient funds available to us as provided in **Section 5.09** (Method of Payment) within ten (10) days after receiving written notice of your default; or (ii) have previously been given at least two (2) notices of nonpayment for any reason within the last twelve (12) months and you subsequently fail to timely pay when due any monies;

(dd) You are more than sixty (60) days past due on your obligations to suppliers and trade creditors in an amount exceeding \$2,000, unless you have given us prior written notice that the failure to pay is as a result of a bona fide dispute with such supplier or trade creditor that you are diligently trying to resolve in good faith;

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

(ff) You refuse to permit, or try to hinder, an examination, inspection, or audit of your books and records or your Area Business operations as required by this Agreement;

(gg) You fail to make any visits, inspections, or audits required in this Agreement or the Manuals three or more times in a twelve (12) month period, whether or not you subsequently cure the default;

(hh) You fail to timely file any periodic report required in this Agreement or the Manuals three (3) or more times in a twelve (12) month period, whether or not you subsequently cure the default; provided, however, that (i) if one of your Territory Franchisees actively prevents you from filing any required periodic report; and (ii) if you have communicated to us in writing that one of your Territory Franchisees is actively preventing you from filing any required periodic report, then an Event of Default will not occur;

(ii) You fail to do all things necessary to give us access to the information contained in your Studio Management and Technology System pursuant to **Section 6.03(c)** (Studio Management and Technology System) within ten (10) days after receiving written notice;

(jj) You default under any other Area Representative Agreement, Franchise Agreement or other agreement between you and us or our affiliates, provided that the default would permit us or our affiliate to terminate that agreement;

(kk) You breach, or fail to comply with, any other covenant, agreement or FADS System Standard prescribed by us, whether contained in this Agreement, in the Manuals or otherwise in writing and fail to cure such breach or failure to our satisfaction within thirty (30) days after we provide you with written notice of the default; or

(ll) You are in default three or more times within any twelve (12) month period, whether or not the defaults are similar and whether or not they are cured.

If the Applicable Law in your Territory provides for a cure period for any Event of Default that is possible of cure longer than what is provided above, the Applicable Law shall control.

### **Section 17.02. Our Remedies.**

(a) Right to Terminate. If an Event of Default occurs, we may, at our sole election and without notice or demand of any kind, declare this Agreement and any and all other rights granted under this Agreement to be immediately terminated and, except as otherwise provided herein, of no further force or effect. Upon expiration or termination of this Agreement, you will not be relieved of any of your obligations, debts, or liabilities under this Agreement, including without limitation any debts, obligations, or liabilities that you accrued prior to such expiration or termination.

(b) Other Remedies. If an Event of Default occurs, we may, at our sole election and upon delivery of written notice to you, take any or all of the following actions without terminating this Agreement:

(i) temporarily or permanently suspend your right to solicit Prospects to purchase Franchises in the Territory, in which case you will still be obligated to provide Support Services and supervisory services to existing Territory Franchisees for the duration of the Term, but we will have the right to license other Area Representatives to solicit new Prospects or to provide Support Services and supervisory services to new Territory Franchisees;

(ii) suspend your right to participate in one or more programs or benefits that the Marketing Fund provides;

(iii) suspend or terminate any temporary or permanent fee reductions or adjustments to which we might have agreed (whether as a policy, in accordance with this Agreement, in an amendment to this Agreement, or otherwise);

(iv) suspend our or our affiliates' performance of, or compliance with, any of our or their obligations to you under this Agreement or other agreements, including any services relating to the Studio Management and Technology System; or

(v) undertake or perform on your behalf any obligation or duty that you are required to, but fail to, perform under this Agreement. You will reimburse us upon demand for (A) 125% of all costs and expenses, including travel, lodging and reasonable, market-rate hourly fees for our personnel, agents or employees, that we reasonably incur in performing any such obligation or duty; and (B) all reasonable professional fees and costs, including reasonable accountants' and attorneys' fees, that we reasonably incur in performing any such obligation or duty.

(c) Exercise of Other Remedies. Our exercise of our rights under **Section 17.02(b)** (Other Remedies) will not (i) be a defense for you to our enforcement of any other provision of

this Agreement or waive or release you or your Owners from any of your or your Owners' other obligations under this Agreement; (ii) constitute an actual or constructive termination of this Agreement; or (iii) be our sole or exclusive remedy for your or your Owners' default. You and your Owners must continue to comply with all of your respective obligations under this Agreement following our exercise of any of these rights. If we exercise any of our rights under **Section 17.02(b)** (Other Remedies), we may thereafter terminate this Agreement without providing you or your Owners any additional corrective or cure period, unless the default giving rise to our right to terminate this Agreement has been cured to our reasonable satisfaction.

**Section 17.03. Termination by You.** You may terminate this Agreement only if: (i) we commit a material breach of this Agreement; (ii) you give us written notice of the breach; (iii) we fail to cure the breach, or to take reasonable steps to begin curing the breach, within sixty (60) days after receipt of your notice; and (iv) you are in full compliance with your obligations under this Agreement. If we cannot reasonably correct the breach within this sixty (60) day period but provide you, within this sixty (60) day period, with reasonable evidence of our effort to correct the breach within a reasonable time period, then the cure period shall run through the end of such reasonable time period. Termination will be effective no less than ten (10) days after you deliver to us written notice of termination for failure to cure within the allowed period. Any attempt to terminate this Agreement without complying with this **Section 17.03** (including by taking steps to de-identify your Area Business or otherwise cease operations under this Agreement) will constitute an Event of Default by you.

## **ARTICLE XVIII YOUR OBLIGATIONS UPON TERMINATION OR EXPIRATION**

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

**Section 18.01. Payment of Costs and Amounts Due.** You and your Owners will pay upon demand all sums owing to us and our affiliates. If this Agreement is terminated due to an Event of Default, you and your Owners must promptly pay all damages, costs, and expenses, including reasonable accountants' and attorneys' fees and costs, incurred by us as a result of your Event of Default. These payment obligations will give rise to and remain, until paid in full, a lien in favor of us against your Area Business premises and any and all of the personal property, fixtures, equipment, and inventory that you own at the time of the occurrence of the Event of Default. We are hereby authorized at any time after the Effective Date to make any filings and to execute such documents on your and your Owners' behalf to perfect the lien created hereby. You and your Owners also must pay to us all damages, costs and expenses, including reasonable accountants' and attorneys' fees and costs that we incur after the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provision of this **Article XVIII** (Your Obligations Upon Expiration or Termination). You will no longer be entitled to receive any compensation payable to you under this Agreement, including compensation paid to you pursuant to **Section 5.04** (Compensation to You).

**Section 18.02. Discontinue Use of FADS System.** You must immediately cease using, by advertising or in any other manner, (i) the Intellectual Property (including the Marks and the Trade Dress); (ii) the FADS System and all other elements associated with the FADS System; and (iii) any colorable imitation of any of the Intellectual Property or any trademark, service mark,



trade dress or commercial symbol that is confusingly similar to any of the Marks or the Trade Dress.

**Section 18.03. Cease to Solicit Prospects and Service Territory Franchisees.** You must: (i) immediately cease soliciting for Prospects; (ii) cease contact with existing Territory Franchisees or Prospects, except as we direct; and (iii) not exercise any right or perform any obligation under the Studio Agreements except with our prior written consent. You will have no ongoing rights with respect to existing Territory Franchisees or Prospects.

**Section 18.04. Return of Information.** You and your Owners must immediately return to us, at your expense, all copies of the Manuals, all of your Personal Information and all other Confidential Information (and all copies thereof) in your direct or indirect control or possession and refrain from disclosing such materials to third parties. You and your Owners may not use any Confidential Information or sell, trade or otherwise profit in any way from any Confidential Information at any time following the expiration or termination of this Agreement.

**Section 18.05. Cease Identification.** You and your Owners must immediately take all action required (i) to cancel all assumed name or equivalent registrations relating to your use of the Marks as an Area Representative and (ii) to cancel or transfer to us or our designee all Identifiers. You acknowledge that as between you and your Owners and us, we have the sole rights to and interest in all Identifiers. If you and your Owners fail to comply with this **Section 18.05**, you hereby authorize us and irrevocably appoint us or our designee as your and your Owners' attorney-in- fact to direct the telephone company, postal service, registrar, Internet Service Provider and all listing agencies to transfer such Identifiers to us. The telephone company, the postal service, registrars, Internet Service Providers and each listing agency may accept such direction by us pursuant to this Agreement as conclusive evidence of our exclusive rights in such Identifiers and our authority to direct their transfer.

**Section 18.06. Our Right to Purchase Assets.**

(a) Exercise of Option. Upon termination of this Agreement for any reason (other than your termination in accordance with **Section 17.03** (Termination by You)) or expiration of this Agreement without our and your signing a successor franchise agreement, we have the option, exercisable by giving you written notice within fifteen (15) days after the date of termination or expiration (the "**Exercise Notice**"), to purchase the Operating Assets of your Area Business that we designate (the "**Purchased Assets**"). We have the unrestricted right to exclude any Operating Assets or other assets we specify relating to your Area Business from the Purchased Assets and not acquire them. You agree to provide us the financial statements and other information we reasonably require, and to allow us to inspect your Area Business and its assets, including its Operating Assets, to determine whether to exercise our option under this **Section 18.06**.

(b) Operations Pending Purchase. While we are deciding whether to exercise our option under this **Section 18.06** (Our Right to Purchase), and, if we do exercise that option, during the period beginning with our delivery of the Exercise Notice and continuing through the closing of our purchase or our decision not to complete the purchase, you must continue to operate your Area Business in accordance with this Agreement. However, we may, at any time during that period, assume the management of your Area Business ourselves or appoint a third party (who may be our affiliate) to manage your Area Business. If we do appoint a third party to manage your

Area Business, you shall reimburse us for all actual costs and expenses incurred by us to obtain the third party manager.

(c) Purchase Price. The purchase price for the Purchased Assets will be their fair market value for use in the operation of a Competitive Business (but not a Fred Astaire Dance Studios® Area Business). However, the purchase price will not include any value for any rights granted by this Agreement, goodwill attributable to the Marks, our brand image, any Proprietary Information or our other intellectual property rights, or participation in the network of Area Businesses and Studios. For purposes of determining the fair market value of all Operating Assets (including the Studio Management and Technology System) used in operating your Area Business, the equipment's useful life shall be determined to be no more than three (3) years. If we and you cannot agree on fair market value for the Purchased Assets, we will select an independent appraiser after consultation with you, and his or her determination of fair market value will be the final and binding purchase price. Additionally, if the termination is the result of an Event of Default, you and your Owners agree that we may purchase the Purchased Assets at a twenty-five percent (25%) discount of the fair market value of the Purchase Assets as determined by an independent appraiser.

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

(e) Assignment. We may assign our rights under this **Section 18.06** (Our Right to Purchase) to any Entity (who may be our affiliate), and that Entity will have all of the rights and obligations under this **Section 18.06**.

**Section 18.07. De-identification**. You will make such modifications or alterations to your Area Business' office and vehicles immediately upon termination or expiration of this Agreement that we deem necessary to distinguish the appearance from a Fred Astaire Dance Studios® Area Business, including removing the signs, the Marks and any Trade Dress so as to indicate to the public that you are no longer associated with us. If you do not comply with the requirements of this **Section 18.07**, we may enter your Area Business office without being guilty of trespass or any other tort for the purpose of making, or causing to be made, any required changes. You and your Owners agree to reimburse us on demand for our expenses in making such changes.

**Section 18.08. Promote Separate Identity.** You and your Owners will not, directly or indirectly, in any manner, identify yourself, or any individual connected with you, as a former Fred Astaire Dance Studios® Area Representative or as otherwise having been associated with us, or use in any manner or for any purpose any of the Marks.

**Section 18.09. Duty to Cooperate.** You must fully cooperate with us in transitioning Support Services and notifying Territory Franchisees of the change in Support Services. We must approve in writing the content of any communication about the change in Support Services or to any Territory Franchisees or Franchised Studios. You and your Owners also must fully cooperate with us in any litigation, dispute or proceeding related to, or arising out of, your Area Business, any Territory Franchisee or this Agreement.

**Section 18.10. Comply with Noncompete.** You and your Owners must comply with the covenant not to compete in this Agreement.

**Section 18.11. Injunctive and Other Relief.** You and your Owners acknowledge that your respective failure to abide by the provisions of this **Article XVIII** (Your Obligations Upon Expiration or Termination) will result in irreparable harm to us, and that our remedy at law for damages will be inadequate. Accordingly, you and your Owners agree that if you breach any provisions of this **Article XVIII**, we are entitled to injunctive relief (including the remedy of specific performance) in addition to any other remedies available at law or in equity.

## **ARTICLE XIX GENERAL PROVISIONS**

**Section 19.01. Entire Agreement.** This Agreement and the documents referred to herein constitute the entire agreement between you, your Owners and us with respect to your Area Business and supersede all prior discussions, understandings, representations, and agreements concerning the same subject matter. Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require you or your Owners to waive reliance on any representations that we made in the most recent Franchise Disclosure Document that we delivered to you, your Owners or your representatives. This Agreement includes the terms and conditions on **Exhibit B**, which are incorporated into this Agreement by this reference.

**Section 19.02. Relationship of Parties.** This Agreement does not create, nor does any conduct by us create, a fiduciary or other special relationship or make you, your Owners or us an agent, legal representative, joint venturer, partner, employee or servant of each other for any purpose. You and your Owners are not authorized to make any contract, agreement, warranty or representation on our behalf, or to create any obligation, express or implied, on our behalf. You are, and shall remain, an independent contractor responsible for all obligations and liabilities of, and for all loss or damage to, your Area Business, including any personal property or real property and for all claims or demands based on damage or destruction of property or based on injury, illness or death of any person or persons, directly or indirectly, resulting from the operation of your Area Business. Further, we and you and your Owners are not and do not intend to be partners, associates, or joint employers in any way, and we shall not be construed to be jointly liable for any of your or your Owners' acts or omissions under any circumstances. **WE HAVE NO RELATIONSHIP WITH YOUR EMPLOYEES, AND YOU HAVE NO RELATIONSHIP WITH OUR EMPLOYEES.**

**Section 19.03. No Joint Employer or Implied Employment Relationship.** This Agreement shall not create any employment relationship between us, on the one hand, and you or any of your Owners, on the other hand, or your personnel, employees or any independent contractor hired by you. **YOU AND YOUR OWNERS ASSUME ALL OBLIGATIONS AND RESPONSIBILITIES WITH RESPECT TO THEIR RESPECTIVE EMPLOYEES UNDER LOCAL LABOR OR SOCIAL SECURITY LAWS AND ALL OTHER APPLICABLE LAW.**

**Section 19.04. Amendment and Modification.** This Agreement may be amended or modified only by a written document signed by each party to this Agreement. The Manuals and any policies, including the FADS System, that we adopt and implement may be changed by us from time to time.

**Section 19.05. Severability.** Each provision of this Agreement is severable from the others. If any provision of this Agreement, or any of the documents executed in conjunction with this Agreement, is for any reason determined by a court to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability will not affect any other remaining provisions of this Agreement or any other document. The remaining provisions will continue to be given full force and effect and bind us and you and your Owners.

**Section 19.06. Construction.** The headings in this Agreement are for convenience of reference and are not a part of this Agreement and will not affect the meaning or construction of any of its provisions.

**Section 19.07. Timely Performance Crucial.** Time is of the essence in this Agreement.

**Section 19.08. Survival.** Each provision of this Agreement that expressly, or by reasonable implication, is to be performed, in whole or in part, after the expiration, termination or Transfer of this Agreement will survive such expiration, termination or Transfer, including **Article XI** (Intellectual Property), **Article XII** (Confidential Information), **Article XIV** (Covenant Not to Compete), **Article XV** (Indemnification), **Article XIX** (General Provisions) and **Article XX** (Dispute Resolution).

**Section 19.09. Our Approval and Consent.** Whenever our prior written approval or consent is required under this Agreement, you and your Owners agree to make a timely written request to us for such consent. Our approval or consent must be in writing and signed by an authorized officer to be effective.

**Section 19.10. Waiver.** Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit of the term or condition, but such waiver must be in writing. No course of dealing or performance by any party, and no failure, omission, delay, or forbearance by any party, in whole or in part, in exercising any right, power, benefit, or remedy, will constitute a waiver of such right, power, benefit, or remedy. Our waiver of any particular default does not affect or impair our rights with respect to any subsequent default you or your Owners may commit. Our waiver of a default by another Area Representative does not affect or impair our right to demand your and your Owners' strict compliance with the terms of this

Agreement. We have no obligation to deal with similarly situated Area Representatives in the same manner. Our acceptance of any payments due from you does not waive any prior defaults.

**Section 19.11. No Third Party Beneficiaries.** Except as expressly otherwise provided herein, no third party shall have the right to claim any of the benefits conferred under this Agreement.

**Section 19.12. Counterparts.** This Agreement may be executed and delivered in one or more counterparts, and by the different Parties hereto in separate counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. This Agreement shall not be binding on either party until it is executed by all Parties.

**Section 19.13. Notices.** All notices and other communications required or permitted under this Agreement will be in writing and will be given by one of the following methods of delivery: (i) personally; (ii) by certified or registered mail, postage prepaid; (iii) by overnight delivery service; (iv) by electronic mail; or (v) by facsimile (if the sender receives machine confirmation of successful transmission). Notices to you will be sent to the address set forth on **Exhibit A**. Notices to us must be sent to:

FADS USA, Inc.  
151 Hazard Avenue, Suite 12-13  
Enfield, Connecticut 06082  
Attn: Legal Department  
Fax: (413) 565-2298  
E-mail: legal@fredastaire.com

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

**Section 19.14. Criminal or Civil Penalties.** No Party shall engage in any activity that would expose any other Party to a risk of criminal or civil penalties under Applicable Law.

**Section 19.15. Successors and Assigns.** Except as expressly otherwise provided herein, this Agreement is binding upon and will inure to the benefit of the parties and their respective heirs, executors, legal representatives, successors, and permitted assigns.

**Section 19.16. Dispute Resolution.** You and your Owners agree that you and your Owners must participate in any mediation or arbitration proceedings between or involving you and your Owners and any of our franchisees, including your Territory Franchisees, and to the extent we require, us and any of our franchisees, including your Territory Franchisees, pursuant to **Article XX** (Dispute Resolution).

**Section 19.17. Force Majeure.** Neither of the Parties will be liable for loss or damage or deemed to be in breach of this Agreement if failure to perform obligations results from: (a) compliance with any law, ruling, order, regulation, requirement or instruction of any federal,

state or municipal government or a department or agency thereof; (b) acts of God, war or terror; and (c) acts or omissions of a similar event or cause. However, such delays or events do not excuse payments of amounts owed at any time.

**Section 19.18. Exercise of Business Judgment.** We have the right, in our sole judgment, to operate, develop and change the FADS System in any manner that is not specifically prohibited by this Agreement. Whenever we have reserved in this Agreement a right to take or withhold an action, or to grant or decline to grant you a right to take or omit an action, we may, except as otherwise specifically provided in this Agreement, make our decision or exercise our rights based on the information readily available to us and our judgment of what is in our or our franchise network's best interests at the time our decision is made, regardless of whether we could have made other reasonable or even arguably preferable alternative decisions or whether our decision or the action we take promotes our financial or other individual interest.

**Section 19.19. Varying Standards.** Because complete and detailed uniformity under many varying conditions may not be possible or practical, we specifically reserve the right and privilege, in our sole and absolute discretion, and as we may deem in the best interests of all concerned in any specific instance, to vary standards and license agreement provisions for any area representative or prospective area representative based upon the peculiarities of a particular site or circumstance, density of population, business potential, population or trade area, existing business practices or any other condition which we deem to be of importance to the successful operation of such Area Representative's business. You and your Owners agree that you will not have the right to complain about a variation from standard specifications and practices granted to any other Area Representative and will not be entitled to require us to grant you a like or similar variation.

## **ARTICLE XX DISPUTE RESOLUTION**

**Section 20.01. Mandatory Mediation.** We, you and your Owners acknowledge that during the Term of this Agreement disputes may arise between the Parties that may be resolvable through mediation. To facilitate such resolution, the Parties agree that, prior to filing any judicial or arbitration proceeding, except injunctive and related relief as provided in this **Article XX**, each Party shall submit the dispute between them for non-binding mediation at a mutually agreeable location. If the Parties cannot agree on a location, the mediation will be conducted in the city where our then current headquarters is located. The mediation will be conducted under the "Fast Track Mediation Rules" of the International Institute for Conflict Prevention and Resolution (the "**CPR Institute**"). The mediator shall be selected by the CPR Institute. The Parties agree that statements made by us, you, your Owners or any other party in any such mediation proceeding will not be admissible in any future litigation, arbitration or other legal proceeding. Each Party shall bear its own costs and expenses of conducting the mediation and share equally the costs of any third parties who are required to participate in the mediation. It is the intent of the Parties that any dispute between the parties be resolved through mediation within fifteen (15) days following the appointment of the mediator. The mediation obligations of this **Section 20.01** shall not apply to claims by either Party relating to the Marks, the non-payment or underpayment of any monies due under this Agreement, the noncompetition covenants or requests for temporary restraining orders, preliminary injunctions or other procedures in a court of competent jurisdiction to obtain interim

relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending the resolution of the actual dispute.

**Section 20.02. Governing Law.** UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW, THIS AGREEMENT AND OUR RELATIONSHIP WITH YOU AND YOUR OWNERS ARE GOVERNED BY THE LAW OF THE STATE WHERE OUR THEN CURRENT HEADQUARTERS IS LOCATED WITHOUT REGARD TO ITS CONFLICT OF LAWS PROVISIONS. REFERENCES TO ANY LAW OR REGULATION ALSO REFER TO ANY SUCCESSOR LAWS OR REGULATIONS AND ANY IMPLEMENTING REGULATIONS FOR ANY STATUTE, AS IN EFFECT AT THE RELEVANT TIME. REFERENCES TO A GOVERNMENTAL AGENCY ALSO REFER TO ANY SUCCESSOR REGULATORY BODY THAT SUCCEEDS TO THE FUNCTION OF SUCH AGENCY.

**Section 20.03. Jurisdiction.** UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW, YOU, YOUR OWNERS AND WE CONSENT AND IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED IN SUCH STATE OR FEDERAL COURT CLOSEST TO OUR THEN CURRENT HEADQUARTERS. YOU, YOUR OWNERS AND WE WAIVE ANY OBJECTION TO THE JURISDICTION AND VENUE OF SUCH COURTS. NOTWITHSTANDING THE FOREGOING, WE MAY BRING AN ACTION FOR A TEMPORARY RESTRAINING ORDER OR FOR TEMPORARY OR PRELIMINARY INJUNCTIVE RELIEF, OR TO ENFORCE AN ARBITRATION AWARD, IN ANY FEDERAL OR STATE COURT IN THE STATE IN WHICH YOU OR YOUR OWNERS RESIDE OR IN WHICH THE STUDIO IS LOCATED.

**Section 20.04. Our Right to Injunctive Relief.** Nothing in this Agreement bars our right to obtain injunctive or declaratory relief against a breach or threatened breach of this Agreement that will cause us loss or damage. You and your Owners agree that we will not be required to prove actual damages or post a bond in excess of \$1,000 or other security in seeking or obtaining injunctive relief (both preliminary and permanent) or specific performance with respect to this Agreement.

**Section 20.05. Waiver of Jury Trial.** YOU, YOUR OWNERS AND WE EACH IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER YOU, YOUR OWNERS OR US.

**Section 20.06. Waiver of Punitive Damages.** EXCEPT WITH RESPECT TO INDEMNIFYING THE OTHER PARTY PURSUANT TO THE TERMS OF THIS AGREEMENT FOR CLAIMS OF OTHERS SEEKING TO RECOVER PUNITIVE OR EXEMPLARY DAMAGES, AND EXCEPT FOR CLAIMS FOR UNAUTHORIZED USE OF THE MARKS OR MISAPPROPRIATION OR CONVERSION OF ANY CONFIDENTIAL INFORMATION, WE, YOU AND YOUR 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 YOU, YOUR OWNERS AND US, THE PARTY MAKING A CLAIM WILL BE

LIMITED TO EQUITABLE RELIEF AND TO RECOVERY OF ANY ACTUAL OR DIRECT DAMAGES HE, SHE OR IT SUSTAINS.

**Section 20.07. Limitations of Claims.** EXCEPT FOR CLAIMS ARISING FROM (A) YOUR OR YOUR OWNERS' NON-PAYMENT OF AMOUNTS DUE UNDER THIS AGREEMENT; (B) ENFORCEMENT OF OUR AUDIT OR INSPECTION RIGHTS UNDER **SECTION 13.04** AND **SECTION 13.05**; OR (C) ENFORCEMENT OF THE RESTRICTIVE COVENANTS CONTAINED IN **ARTICLE XIV** (COVENANT NOT TO COMPETE), ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR OUR RELATIONSHIP WITH YOU AND YOUR OWNERS WILL BE BARRED UNLESS A PROCEEDING IS COMMENCED WITHIN ONE (1) YEAR FROM THE DATE ON WHICH THE PARTY ASSERTING SUCH CLAIM KNEW, OR SHOULD HAVE KNOWN, OF THE FACTS GIVING RISE TO SUCH CLAIM(S).

**Section 20.08. No Class or Group Actions.** YOU AND YOUR OWNERS AGREE THAT FOR THE FADS SYSTEM TO FUNCTION PROPERLY WE AND OUR AFFILIATES CANNOT BE BURDENED WITH THE COSTS OF LITIGATING NETWORK-WIDE DISPUTES. YOU AND YOUR OWNERS AGREE THAT ANY DISPUTE BETWEEN YOU, YOUR OWNERS AND US OR OUR AFFILIATES IS UNIQUE AS TO ITS FACTS, MUST BE RESOLVED ON AN INDIVIDUAL BASIS AND THAT YOU AND YOUR OWNERS WILL NOT INSTITUTE, JOIN OR PARTICIPATE IN ANY CLASS OR GROUP ACTION AGAINST US OR OUR AFFILIATES.

**Section 20.09. Attorneys' Fees and Costs.**

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

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

*- Signature Pages Follow -*



**SIGNATURE PAGE TO  
AREA REPRESENTATIVE AGREEMENT**

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**EXHIBIT A  
TO THE  
AREA REPRESENTATIVE AGREEMENT**

**AREA REPRESENTATIVE SPECIFIC INFORMATION**

1. **Area Representative Agreement Effective Date:** \_\_\_\_\_

2. **Area Representative Name:** \_\_\_\_\_

3. **State of Incorporation/Organization:** \_\_\_\_\_

4. **Ownership of Area Representative:**

If the area representative is an Entity (as defined in the Agreement), the following persons constitute all of the owners of a legal or beneficial interest in the franchisee:

Name	Ownership %	Address	Phone #	Personal Email

5. **Area Representative (if applicable):** \_\_\_\_\_

6. **Operating Principal:** \_\_\_\_\_

7. **Opening Deadline:** \_\_\_\_\_

8. **Address, E-Mail Address and Fax Number for Notices to Area Representative:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. **Additional or Inconsistent Terms to the Agreement (if any):**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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*- Signature Pages to this Exhibit A Follow -*

**SIGNATURE PAGE TO  
EXHIBIT A**

**AREA REPRESENTATIVE SPECIFIC INFORMATION**

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**EXHIBIT B  
OF THE  
AREA REPRESENTATIVE AGREEMENT**

**TERRITORY AND DEVELOPMENT SCHEDULE**

**1. Territory:** \_\_\_\_\_

The Territory referred to in the Agreement is the geographic area described above and identified in the map attached as **Schedule 1-B**.

**2. Territorial Exclusivity Fee:** \_\_\_\_\_

**3. Development Schedule:**

<b>Development Year</b>	<b>Cumulative Number of Studios Operating in the Territory</b>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

**4. Development Commencement Date.** Year 1 begins on the earlier of the date your Initial Studio opens for business or eight (8) months after the Effective Date of your Area Representative Agreement (the "**Development Commencement Date**").

**5. Development Deadline.** Your "**Development Deadline**" for Year 1 ends on the first December 31 to occur after the Development Commencement Date. Thus, your first Development Year could be shorter or longer than twelve (12) months. Each subsequent Development Year begins on January 1 and ends on December 31, and each subsequent Development Deadline is December 31 for that respective Development Year.

FADS USA, Inc. and [Area Representative] agree that, effective as of the later of the dates written below, (i) the area listed above under "**Territory**" is the Territory pursuant to the Area Representative Agreement; (ii) the amount listed above under "**Territorial Exclusivity Fee**" is the Territorial Exclusivity Fee pursuant to **Section 5.02** (Territorial Exclusivity Fee) of the Area Representative Agreement; and (iii) the schedule listed above under "**Development Schedule**" and deadlines identified above under "**Development Deadline**" are, respectively, the Development Schedule and Development Deadline pursuant to **Section 7.02(a)** (Development Schedule) of the Area Representative Agreement.

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date



**SCHEDULE 1-B  
TO EXHIBIT B  
OF THE  
AREA REPRESENTATIVE AGREEMENT**

**TERRITORY MAP**

**EXHIBIT C  
TO THE  
AREA REPRESENTATIVE AGREEMENT**

**MARKS**

The status of the registration of the principal trademarks on the Principal Register of the United States Patent and Trademark Office (the “USPTO”) is as follows:

Mark	Registration or Serial No.	Registration or Application Date	Use
FRED ASTAIRE DANCE STUDIOS	0833115	August 1, 1967	Dance instruction
	2910230	December 14, 2004	Dance studio instructional services; organization and running of dance contests, recitals and competitions
	3121190	July 25, 2006	Clothing used in the field of dance classes, performances and competitions
ASTAIREWEAR	2952642	May 17, 2005	Clothing used in the field of dance classes, performances and competitions
SHARE THE EXPERIENCE	3076492	April 4, 2006	Dance events, instruction and schools
INTEGRITY IN ACTION	3240615	May 8, 2007	Dance events, instruction and schools; production of AV works for dance instruction
LIFE’S BETTER WHEN YOU DANCE	6165096	September 29, 2020	Dance events, instruction and schools; production of AV works for dance instruction and various promotional items



The following principal trademarks are not registered on, nor have applications been submitted for registration on, the (i) Principal Register or the Secondary Register of the USPTO; or (ii) any state trademark administrative body:

Fred Astaire

Astaire

For the Love of Dance

Freddy Ball

Trophy Ball

Trophy System

Astaire Pro

Share the Romance, Share the Dance

To Be the Best, Learn from the Best

To Be the Best, Join the Best

Cross Country Dance Championships

A Dance to Remember

Team Astaire

One Team, One Dream

Marriage is Better When You Dance

The World is Better When You Dance

Romance is Better When you Dance

Health is Better When you Dance

**EXHIBIT D  
TO THE  
AREA REPRESENTATIVE AGREEMENT**

**FORM OF FADS USA, INC.  
PERSONAL PAYMENT AND PERFORMANCE GUARANTY**

In consideration of, and as an inducement to, the execution by FADS USA, Inc. (f/k/a Megadance USA Corp.) (“**Franchisor**”) of that certain Fred Astaire Dance Studios® Area Representative Agreement, effective \_\_\_\_\_, 20\_\_ (as the same from time to time may be amended, modified, extended or renewed, the “**Area Agreement**”), by and between [\_\_\_\_\_] (“**Area Representative**”) and Franchisor, the undersigned (the undersigned, collectively, the “**Guarantor**”), for (i) the term of the Area Agreement and any extension or renewal thereof, and (ii) after the Term of the Area Agreement until all obligations of Area Representative to Franchisor under the Area Agreement have been satisfied, does hereby personally, absolutely, and unconditionally covenant and agree as follows:

**Section 1.** Guarantor absolutely and unconditionally guarantees to Franchisor and its affiliates: (a) the full and punctual payment of all sums payable by Area Representative to Franchisor, when and as the same shall become due and payable; and (b) the full and prompt performance and observance by Area Representative of each and all of the covenants and agreements required to be performed or observed by Area Representative, whether direct or indirect, absolute or contingent, of every kind and nature, whether now existing or incurred from time to time hereafter, whether incurred pursuant to the Area Agreement, any franchise or other agreement, any promissory note or otherwise (collectively, the “**Agreements**”), together with any extension, renewal, or modification thereof in whole or in part (all of the foregoing collectively referred to as the “**Guaranteed Obligations**”).

For the sake of clarity, and not by way of limitation or exclusion, the Guarantor acknowledges, understands and agrees that the provisions of **Article IX** (Reports, Records, Audits & Inspections), **Article X** (Intellectual Property), **Article XI** (Confidential Information), **Article XIII** (Covenant Not to Compete) and **Article XIV** (Indemnification) of the Area Agreement are Guaranteed Obligations. Guarantor further acknowledges, understands and agrees that the Guarantor will comply will the Guaranteed Obligations, including, without limitation, the aforementioned articles, as though the Guarantor was the “Area Representative” named in the Area Agreement.

The Guarantor agrees to take any and all actions as may be necessary or appropriate to cause Area Representative to comply with the Agreements and the Guaranteed Obligations, and the Guarantor agrees not to take any action that would cause Area Representative to be in breach of the Agreements.

**Section 2.** It is the intent of the Guarantor that this Guaranty is a guaranty of payment and performance and not merely one of collection. Guarantor agrees that its obligations hereunder shall be binding upon Guarantor and its respective heirs, personal representatives, successors and assigns and shall remain in full force and effect irrespective of:

(a) any modification, amendment, renewal, extension, assignment or other alteration of the Agreements, or any release by Franchisor of any other party liable for the Guaranteed Obligations;

(b) any failure or lack of diligence in collection or protection, failure in presentment or demand, protest, notice of protest, notice of default and of nonpayment, any failure of notice of acceptance of this Guaranty, any failure to give notice of failure of Area Representative or any other person or entity to keep and perform any covenant or agreement under the terms of the Agreements, or failure to resort, for payment, to Area Representative or to any other guarantor or other rights or remedies, and Guarantor hereby expressly waives all of the foregoing;

(c) any defense that Area Representative or any other person or entity might have by reason of any action in bankruptcy or other statutory or common law proceedings for debtor relief by Area Representative or any other guarantor to the payment of the Guaranteed Obligations (other than payment thereof), or to the performance or observance of any provisions of any of the Agreements; and

(d) any act or failure to act with regard to the Agreements or any of the Guaranteed Obligations or anything which might vary the risk of Guarantor; provided that the specific enumeration of the above-mentioned acts, failures or omissions shall not be deemed to exclude any other acts, failures or omissions, though not specifically mentioned above, it being the purpose and intent of this Guaranty that the Guaranteed Obligations of Guarantor shall be absolute and unconditional and shall not be discharged, impaired or varied except by the payment and performance of all Guaranteed Obligations when due.

**Section 3.** Guarantor agrees to indemnify and hold Franchisor harmless for any loss, liability, damage or expense (including reasonable attorney's fees, court costs and expenses) arising from (i) the failure of Area Representative to perform the Guaranteed Obligations; or (ii) the enforcement of this Guaranty against Guarantor. Upon Area Representative's default under the Agreements and, within five (5) business days after notice from Franchisor, Guarantor shall pay or perform the Guaranteed Obligations in default, as applicable, without offset, deduction or counterclaim.

**Section 4.** Guarantor waives presentment, demand, notice of dishonor, protest, and all other notices whatsoever, including without limitation notices of acceptance hereof, of the existence or creation of any Guaranteed Obligations, of the amounts and terms thereof, of all defaults, disputes, or controversies between Franchisor and Area Representative and of the settlement, compromise, or adjustment thereof. Guarantor specifically waives any rights that may be conferred upon Guarantor as a guarantor or surety under the applicable law of any state. This Guaranty is primary and not secondary, and this Guaranty will be enforceable without Franchisor having to proceed first against Area Representative or against any or all of the Guarantors or against any other security for the Guaranteed Obligations. Franchisor shall not be required to pursue any remedies that it may have against Area Representative or other parties as a condition to the enforcement of this Guaranty, it being intended that Guarantor's obligations under this Guaranty shall be independent of, and in addition to, the Guaranteed Obligations. It is understood that Guarantor may be joined in any action against Area Representative and that recovery may be had against

Guarantor in such action, or in any independent action of Guarantor. The remedies provided herein shall be nonexclusive and cumulative of all other rights, powers and remedies provided under the Area Agreement or by law or in equity.

**Section 5.** Until all Guaranteed Obligations of Area Representative to Franchisor have been satisfied, this Guaranty of the Guaranteed Obligations shall remain in full force and effect. If at any time payment of any of the Guaranteed Obligations is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Area Representative, the obligations of Guarantor with respect to such payment shall be reinstated at such time as though such payment had not been made. The Guarantor expressly acknowledges that the Guaranteed Obligations hereunder may survive the termination of the Agreements.

**Section 6.** Guarantor agrees that this Guaranty shall be a continuing guaranty and shall inure to the benefit of and may be enforced by Franchisor and any assignee of Franchisor. Guarantor hereby consents to any assignment or transfer of the Agreements without notice. Guarantor agrees this Guaranty shall be binding upon and enforceable against Guarantor and its respective heirs, personal representatives, successors and assigns.

**Section 7.** No delay or failure on the part of Franchisor in the exercise of any right or remedy will operate as a waiver thereof, and no single or partial exercise by Franchisor of any right or remedy will preclude other further exercise of such right or any other right or remedy. Franchisor's failure to enforce all or any portion of its rights under this Guaranty shall not constitute a waiver of its ability to do so at any point in the future.

**Section 8.** The Guarantor represents and agrees that the Guarantor has reviewed a copy of the Agreements, including the Area Agreement, and has had the opportunity to consult with counsel to understand the meaning and import of the Agreements and this Guaranty.

**Section 9.** **Article XIX** (Dispute Resolution) of the Area Agreement is hereby incorporated herein by reference and will be applicable to any and all disputes between Franchisor and Guarantor. Guarantor acknowledges, understands and agrees that the Guarantor will comply with the provisions of **Article XIX** (Dispute Resolution) of the Area Agreement, as though the Guarantor was the "Area Representative" named in the Area Agreement.

Nothing in this Guaranty is intended to invoke the application of any franchise, business opportunity, antitrust, "implied covenant", unfair competition, fiduciary or other doctrine of law of any state, which would not otherwise apply. Any litigation initiated under this Guaranty shall be instituted exclusively at Franchisor's discretion in the most immediate state judicial district and court encompassing Franchisor's headquarters and having subject matter jurisdiction thereof or the United States District Court encompassing Franchisor's headquarters. Guarantor expressly agrees that Guarantor is subject to the jurisdiction and venue of those courts for purposes of such litigation. Guarantor hereby waives and covenants never to assert any claim that Guarantor is not subject to personal jurisdiction in those courts or that venue in those courts is for any reason improper, inconvenient, prejudicial or otherwise inappropriate (including, without limitation, any claim under the judicial doctrine of *forum non conveniens*).

**Section 10.** To the fullest extent permitted by law, Guarantor also waives all rights to a trial by jury in any action related to this Guaranty. If this Guaranty is enforced by suit or otherwise or if Franchisor exercises any of its remedies under the Agreements, Guarantor shall reimburse Franchisor, upon demand, for all reasonable expenses incurred in connection therewith, including reasonable attorneys' fees, court costs and expenses.

**Section 11.** Guarantor (or each Guarantor if multiple Guarantors) represents and warrants that he, she or it has the legal right and capacity to execute this Guaranty, and Guarantor (or each Guarantor if multiple) waives the benefit of Guarantor's homestead exemption. If multiple Guarantors, the obligations of each Guarantor shall be joint and several. The release of any one or more Guarantors shall not affect the liability of any remaining Guarantor not expressly released. Franchisor may proceed against one or more Guarantors without releasing the remaining Guarantors.

*- Signature Page Follows -*

**PRIOR TO SIGNING THIS GUARANTY, GUARANTOR HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS GUARANTY. GUARANTOR AGREES TO THE TERMS OF THIS GUARANTY AND ACKNOWLEDGES GUARANTOR HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL TO UNDERSTAND THE MEANING AND IMPORT OF THE AGREEMENTS, INCLUDING THE FRANCHISE AGREEMENT, AND THIS GUARANTY.**

IN WITNESS WHEREOF, the undersigned Guarantor have caused this Personal Payment and Performance Guaranty to be duly executed as of the day and year first written above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

*[To be signed by all owners of the Area Business and their spouses]*

**EXHIBIT E  
TO THE  
AREA REPRESENTATIVE AGREEMENT**

**ELECTRONIC TRANSFER OF FUNDS AUTHORIZATION**

**Taxpayer Name:** \_\_\_\_\_

**Federal Employer Identification Number:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

*The undersigned hereby authorizes FADS USA, Inc. (f/k/a Megadance USA Corp.), its parent company or any affiliated entity (collectively, "FADS"), to initiate weekly account clearing house ("ACH") debit or credit entries against or toward the bank account described as follows:*

**Financial Institution Name:** \_\_\_\_\_

**Financial Institution Address:** \_\_\_\_\_

**Account Name:** \_\_\_\_\_

**Account Number:** \_\_\_\_\_ **Routing Number:** \_\_\_\_\_

Type of Account (*circle one*):                      CHECKING                                      SAVINGS

**\*\*\* ATTACH A VOIDED CHECK OR OTHER ACCOUNT VERIFICATION \*\*\***

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The undersigned authorizes FADS to initiate weekly debit entries (withdrawals) or credit entries (deposits) on the bank account at the financial institution identified above. Withdrawals will be made by ACH debit entries in payment for amounts that become payable by the undersigned to FADS. Deposits will be made by ACH credit entries in payment for amounts that become payable to the undersigned by FADS pursuant to the Franchise Agreement and all other agreements between the above referenced taxpayer and FADS or any affiliate of FADS. The dollar amount to be debited or credited will vary.

Subject to this authorization, you are hereby directed to honor any such ACH debit or credit entry initiated by FADS. This authorization is binding and will remain in full force and effect until 90 days prior written notice has been given to you by me/us on behalf of the undersigned. The undersigned is responsible for, and must pay on demand, all costs or charges relating to the handling of ACH debit or credit entries pursuant to this authorization. Please honor ACH debit or credit entries initiated in accordance with this authorization, subject to there being sufficient funds in the account to cover any such ACH debit entries.

**AUTHORIZED BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

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

**EXHIBIT F  
OF THE  
AREA REPRESENTATIVE AGREEMENT**

**FTC ORDER**



**FTC ORDER**

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**

Daniel Oliver, Chairman  
Terry Calvani  
Mary L. Azcuenaga  
Andrew J. Strenio, Jr.  
Margot E. Machol

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In the Matter of	)	
	)	
RONBY CORPORATION, et al.	)	Docket No. 8560
	)	

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**ORDER MODIFYING ORDER TO CEASE AND DESIST**

The Commission on January 26, 1989, issued its order to show cause why this proceeding should not be reopened and its order of March 12, 1964 (“the Commission order of 1964”), modified.

Ronby Corporation, Chester F. Casanave and Charles L. Casanave having consented to the reopening of this proceeding, to being added as parties respondent thereunder and to the modification of the Commission order of 1964, as set forth in the show cause order, and the Commission having placed the show cause order on the public record for thirty (30) days and no comments having been filed by interested Persons,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Commission order of 1964 be, and it hereby is, modified as follows:

1. by inserting a Roman numeral one (I) before the It is ordered preamble of the 1964 order;
2. by substituting revised language in the It is ordered preamble of the 1964 order, as provided below;
3. by substituting revised language in numbered paragraphs 1., 4., 5., 6., 7. and 9. of the newly designated Part I of the order, as provided below;
4. by deleting paragraphs 3. and 8. thereof;

5. by renumbering paragraphs 4., 5., 6., 7. and 9. thereof as paragraphs 3., 4., 5., 6. and 7., respectively; and

6. by adding new Parts II, III, IV, V, VI and VII, as provided below.

IT IS FURTHER ORDERED that RONBY CORPORATION, a corporation, CHESTER F. CASANAVE and CHARLES L. CASANAVE be, and they hereby are, joined as respondents in this matter.

IT IS FURTHER ORDERED, that this matter be styled as The Matter of RONBY CORPORATION, et al.

#### ORDER I

IT IS ORDERED that respondents RONBY CORPORATION, a corporation, and CHESTER F. CASANAVE and CHARLES L. CASANAVE, individually, and as officers of said corporation, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any area franchisor, franchise, or licensee, or any corporate or other device, in connection with the solicitation, advertising or sale of any dance instruction or dance instruction service in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. representing, directly or by implication, that a course of dancing instruction or a specified number of dancing lessons, or a dance instruction service or any other service or thing of value, will be furnished, unless the period or periods of bona fide dancing instruction or other service or thing of value is in fact furnished as represented;

2. refusing to honor the terms and provisions of any offer or promise;

3. requesting any student or prospective student to sign an uncompleted contract or agreement, or misrepresenting to any student or prospective student what is or will be due or payable;

4. using in any single day “relay salesmanship,” that is consecutive sales talks or efforts of more than one representative, with or without the employment of hidden listening devices, to induce the purchase of dancing instructions;

5. representing in any manner that a dancing instructor job is obtainable at a studio where the purpose of such a representation is to induce an applicant to purchase a course of instruction, or misrepresenting what such an instructor will be paid;

6. falsely assuring or representing to any student or prospective student that a given course of dancing instruction will enable him or her to achieve a given standard of dancing proficiency;

7. using any technique or practice similar to those set out in paragraphs 3 through 6 hereof to mislead, coerce, or induce by other unfair or deceptive means the purchase of dance instruction or dance instruction service.

## ORDER II

IT IS FURTHER ORDERED, that respondents RONBY CORPORATION, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any area franchisor, franchisee, or license, or any corporate or other device, in connection with the solicitation, advertising or sale of any dance instruction service in commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. failing to disclose, clearly and conspicuously, in each dance instruction contract or dance instruction service contract, the following statement:

### DEFINITIONS

For purposes of this contract the following definitions apply:

“Total contract price” shall mean the total cash price paid or to be paid by the student or prospective student for the dance instruction or dance instruction service which is the subject of the contract or written agreement.

“Notice of cancellation” shall be deemed to have been provided by a student or prospective student by mailing or delivering to the studio a written notification canceling the contract or written agreement.

“Reasonable and fair service fee” shall mean no more than 10% of the total contract price for contracts of up to \$1,000. For contracts over \$1,000, “reasonable and fair service fee” shall mean no more than \$100 plus an amount equal to 5% of the contract price over \$1,000. “Reasonable and fair service fee” shall not be exceed \$250 in total.

“Dance instruction service” shall mean any service or a thing of value, including a contest or a competition, other than dance instruction, sold, organized, sponsored or promoted by any dance studio, or by its employee or agent, including any Person or organization associated or affiliated with the franchise operation, franchisee, employee or agent.

### STUDENT CANCELLATION AND REFUND RIGHT

You, the student, have the right to cancel this contract at any time by a notice in writing mailed or delivered to the studio. If the studio refuses or fails to give you the refund, or the studio closes, you should mail a copy of the cancellation notice to the area franchisor whose full name and address are \_\_\_\_\_

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and to Ronby Corporation, the national licensor of the trade name Fred Astaire Dance Studios, at 11945 Southwest 140<sup>th</sup> Terrace, Miami, Florida 33186. No special format or notarization is necessary.

THIS CONTRACT IS INVALID IF THE FULL NAME AND ADDRESS OF THE AREA FRANCHISOR ARE NOT PROVIDED.

If this agreement is cancelled within three (3) business days, the studio will refund within not more than thirty (30) days all payments made under the agreement.

After three (3) business days, the studio will only charge you for the dance instruction and dance instruction service received under the agreement, or prearranged but not attended before the day you cancel, plus a reasonable and fair service fee, as defined above, and refund the balance in three (3) equal monthly installments, within not more than ninety (90) days.

provided, however, that a departure from this exact language\* to afford a greater right to a student than any right under this order, or to correctly provide the name and address of the national licensor or its equivalent, shall not be deemed a violation of this requirement of the order.

2. a. entering into a contract or other written agreement for any dance instruction or dance instruction service unless the contract or other written agreement contains the definitions, terms and conditions recited in paragraph 1., above, in the exact language mandated by said paragraph and unless the contract or written agreement discloses clearly and conspicuously the rate charged per lesson for each type of dance instruction selected and the length of each lesson;

b. failing to refund a student or prospective student who cancels any contract or written agreement within three (3) business days from the date on which the contract or written agreement was executed all payments made by the student or prospective student. Such refunds shall be provided, and any evidence of indebtedness cancelled and returned, within thirty (30) days after receiving notice of cancellation.

c. receiving, demanding, or retaining more than a pro rata portion of the total contract price plus a reasonable and fair service fee where a student or prospective student cancels any contract or written agreement after three (3) business days from the date on which the contract or written agreement was executed and within the Term of the said contract or written agreement; and failing to refund the balance in three (3) equal monthly installments, within not more than ninety (90) days after receiving notice of cancellation, or failing to cancel that portion of the student's or prospective student's indebtedness that exceeds the amount due;

The pro rata portion shall be calculated in the following manner:

(1) For the time period preceding notice of cancellation, total the number of hours or lessons of dance instruction that were received, or prearranged but not attended, by the student pursuant to the contract written agreement,

(2) Divide this number by the total number of hours or lessons of dance instruction which are the subject of the contract or written agreement,

(3) Apply the resulting percentage against the total contract price.

(4) For contracts combining a course of dance instruction with dance instruction services, separate prices for the dance instruction and the dance instruction service portions must be designated and the pro rata portion of the total contract price shall be the sum of the separate pro rata obligations for the dance instruction portion and the dance instruction service portion;

provided, however, that the modified order does not create any private right of action against RONBY CORPORATION, CHESTER F. CASANAVE or CHARLES L. CASANAVE, by any student under any student contract.

d. misrepresenting in any manner to any student or prospective student any of the provisions of this consent order.

3. failing to subject any promissory note, instrument or evidence of indebtedness, given by a student pursuant to any contract for dance instruction or dance instruction services, to the students' cancellation and refund rights provided in paragraph 2. above, in such a manner that such student rights are legally binding on any third Person who may acquire any right under any such note, instrument or evidence of indebtedness.

4. attempting to obtain or obtaining from a student a waiver of the student's cancellation or refund right.

5. failing to discontinue dealing with or terminate the use or engagement of any area franchisor who (1) continues, after notice, to engage in a course of conduct of acts or practices prohibited by this modified order, or (2) fails to discontinue dealing with or terminate the use or engagement of any franchisee or licensee who continues, after notice, to engage in a course of conduct of acts or practices prohibited by this modified order;

provided, however, that RONBY CORPORATION and area franchisors may effect such termination in accordance with applicable law.

6. failing to implement, within one hundred twenty (120) days from the date of service of this order, a program of surveillance adequate to reveal whether the business operation of each license or area franchisor conforms to the requirements of the modified order, and failing to maintain records of such surveillance program which shall be made available for inspection and copying to the Commission, upon reasonable notice and at reasonable times.

7. a. failing to deliver a copy of this modified order to each present and future area franchisor and franchisee, with directions that each such Person promulgate and enforce the terms of the modified order in the operations of each studio, including the sales efforts of any independent contractor engaged by the studio for the selling of dance instruction or dance instruction service;

b. failing to obtain from each Person described in subsection 7.a. above, a signed statement setting forth his or her intention to conform his or her business practices to the requirements of this modified order;

c. failing to notify the Commission of the name and address of any Person from whom respondent is unable to obtain such a signed statement; and

d. failing to keep each such agreement for a period of five (5) years after the termination of any such relationship; and failing to transmit to the Commission or its designated staff complete and legible copies of the same within fourteen (14) business days of receiving a request for copies thereof;

#### ORDER III

IT IS FURTHER ORDERED that respondents RONBY CORPORATION, CHESTER F. CASANAVE and CHARLES L. CASANAVE, shall report the discontinuance of their present business or their affiliation with any other business offering any dance instruction or service, such notice to include a description of respondent's new business or employment; and should either CHESTER F. CASANAVE or CHARLES L. CASANAVE create or become affiliated in any way with any corporation, partnership or other venture or business offering any dance instruction or service, such a corporation, partnership, venture or business shall be bound by the provisions of this modified order.

#### ORDER IV

IT IS FURTHER ORDERED that respondent RONBY CORPORATION shall notify the Commission at least thirty (30) days prior to any proposed or contemplated reorganization, dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creating or dissolution of a subsidiary or any other change in the corporate structure of such corporate respondent that may affect compliance obligations arising out of this order.

#### ORDER V

IT IS FURTHER ORDERED that respondents CHESTER F. CASANAVE and CHARLES L. CASANAVE each shall be relieved from any further obligation under Parts I and III of this order upon completely ceasing his involvement with any dance instruction, or dance instruction service, including licensing or franchising of the same, until such time as he resumes such activity in the future.

ORDER VI

IT IS FURTHER ORDERED that respondents RONBY CORPORATION, CHESTER F. CASANAVE and CHARLES L. CASANAVE, within one hundred twenty (120) days after the date of service upon each of them of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

ORDER VII

IT IS FURTHER ORDERED that respondent RONBY CORPORATION shall file or cause to be filed one (1) year after the date of service of this order a further detailed report on measures undertaken to protect the prepaid moneys of students.

By direction of the Commission, Commissioner Strenio dissenting.

\_\_\_\_\_/s/  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Donald S. Clark  
Secretary

(SEAL)

Issued: April 27, 1989

**EXHIBIT G  
OF THE  
AREA REPRESENTATIVE AGREEMENT**

**AREA REPRESENTATIVE COMPLIANCE QUESTIONNAIRE**

(see attached)



**AREA REPRESENTATIVE COMPLIANCE QUESTIONNAIRE**

DO NOT SIGN OR DATE THIS AREA REPRESENTATIVE COMPLIANCE QUESTIONNAIRE THE SAME DAY AS THE RECEIPT FOR THE DISCLOSURE DOCUMENT. YOU SHOULD SIGN AND DATE THIS QUESTIONNAIRE AFTER THE RECEIPT FOR THE DISCLOSURE DOCUMENT AND BEFORE YOU SIGN THE AREA REPRESENTATIVE AGREEMENT.

You are preparing to enter into a FRED ASTAIRE DANCE STUDIOS® Area Representative Agreement (the "**Area Agreement**") with FADS USA, Inc. (f/k/a Megadance USA Corp.) ("**we**" or "**us**"). The purpose of this Area Representative Compliance Questionnaire (this "**Questionnaire**") is to confirm that you understand the terms of the contract and that no unauthorized statements or promises have been made to you. Please review each of the following questions and statements carefully and provide honest and complete responses to each. In this Questionnaire, our "**representatives**" include our officers, directors, employees, agents, sales brokers, area representatives or any other representatives working on our behalf.

1. When and where did you have your first face-to-face meeting with our representatives regarding this Franchise Agreement?

Approximate date of first meeting: \_\_\_\_\_

Place of meeting: \_\_\_\_\_

2. Which of our representative(s) have you been dealing with?

Name(s): \_\_\_\_\_

3. Have you personally read the FRED ASTAIRE DANCE STUDIOS® Disclosure Document (our "**FDD**")?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Did you give us a signed receipt for the copy of the FDD that we furnished to you?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, on what date did you give us a signed receipt? \_\_\_\_\_

5. Did you receive the FDD at least 14 days before completing this Questionnaire, signing the Area Agreement, signing any related agreement or paying any money to us?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. Do you understand all of the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

If you did not understand all of the information in the FDD, what parts did you not understand? Please attach additional pages if necessary.

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7. Have you personally read the Area Agreement?

Yes \_\_\_\_\_ No \_\_\_\_\_

8. Do you understand all of the information contained in the Area Agreement and related agreements?

Yes \_\_\_\_\_ No \_\_\_\_\_

If you did not understand all of the information in the Area Agreement and related agreements, what parts did you not understand? Please attach additional pages if necessary.

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9. Have any of our representatives recommended that you have the FDD, Area Agreement and related agreements reviewed by an attorney or other professional service?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. Have you, in fact, discussed the FDD, the Area Agreement, the related agreements and the benefits and risks of operating a FRED ASTAIRE DANCE STUDIOS® area representative business with an attorney, accountant or other professional advisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide the name and profession of the professional advisor(s):

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If no, do you want more time so that you may consult with a professional advisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

11. Other than the information contained in **ITEM 19** of the FDD, has any of our employees, representatives or any other person speaking on our behalf (this does not include franchisees whom you contact on your own) made any statement or representation (oral, written or visual) regarding:

a. The amount of money that others have made or that you might make as a FRED ASTAIRE DANCE STUDIOS® area representative business?

Yes \_\_\_\_\_ No \_\_\_\_\_

b. The revenue or profits that a FRED ASTAIRE DANCE STUDIOS® area representative business will generate?

Yes \_\_\_\_\_ No \_\_\_\_\_

c. Any other financial performance information about FRED ASTAIRE DANCE STUDIOS® area representative business?

Yes \_\_\_\_\_ No \_\_\_\_\_

12. If you answered "Yes" to any part of Question 11, please describe the statement(s) or representation(s). Please include as much information as possible, including when, where and by whom the statement(s) or representation(s) was made. Please provide full details in the following space. Please attach additional pages if necessary.

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13. Have you contacted any of our existing area representative businesses or franchisees on your own about their financial performance?

Yes \_\_\_\_\_ No \_\_\_\_\_

14. If you answered "Yes" to Question 13, please describe the information that they shared with you in the following space. You do not need to identify the area representative businesses or franchisees with whom you spoke. Please attach additional pages if necessary.

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15. Please think about the statements or promises made to you by our employees or representatives (or by any other person purporting to speak on our behalf) concerning the advertising, marketing, training, support or assistance that we will provide to you. Were any of these statements or promises contrary to, or different from, the information contained in the FDD?

Yes \_\_\_\_\_ No \_\_\_\_\_

16. If you answered "Yes" to Question 15, please provide full details in the following space. Please attach additional pages if necessary.

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17. Have you entered into any agreement with us before today concerning our area representative opportunity?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe the agreement(s):

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18. Have you paid any money to us before today in connection with our area representative opportunity?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe the payment(s):

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19. In entering into the Area Agreement, are you relying on any statement, promise or assurances by us or anyone speaking or purporting to speak on our behalf, other than the terms of the Area Agreement itself?

Yes \_\_\_\_\_ No \_\_\_\_\_

20. If you answered "Yes" to Question 19, please provide full details about the statements, promises or assurances made to you, including when, where and by whom the statements, promises or assurances were made. Please provide full details in the following space. Please attach additional pages if necessary.

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21. Do you agree that the success or failure of your FRED ASTAIRE DANCE STUDIOS® area representative business depends, in large part, upon your own skills and abilities, competition from other businesses, the size of your market and other economic and business factors?

Yes \_\_\_\_\_ No \_\_\_\_\_

22. Do you acknowledge and understand that no parent or affiliate of ours promises to financially support us, guarantees our performance or commits to perform post-sale obligations for us?

Yes \_\_\_\_\_ No \_\_\_\_\_

23. In which state do you reside? \_\_\_\_\_

24. In which state do you intend to operate the FRED ASTAIRE DANCE STUDIOS® area representative business?

\_\_\_\_\_

25. Have you selected a specific site at which you propose to open your FRED ASTAIRE DANCE STUDIOS® Initial Studio?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please specify the location of the site:

\_\_\_\_\_

\_\_\_\_\_

26. Do you have personal knowledge of the market area in which you will operate your FRED ASTAIRE DANCE STUDIOS® area representative business?

Yes \_\_\_\_\_ No \_\_\_\_\_

27. Did you obtain advice from anyone other than our representatives in selecting your site?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide the name of the advisor:

\_\_\_\_\_

If no, do you want more time to do so:

\_\_\_\_\_

28. Have all of your questions about your proposed investment in a FRED ASTAIRE DANCE STUDIOS® area representative business been answered to your satisfaction?

Yes \_\_\_\_\_ No \_\_\_\_\_

\* \* \* \* \*

**NOTE FOR RESIDENTS OF THE STATE OF ILLINOIS OR MARYLAND AND FRANCHISED BUSINESSES LOCATED IN ILLINOIS OR MARYLAND:**

Any representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to, nor shall they act as, a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or under the Maryland Franchise Registration and Disclosure Law.

\* \* \* \* \*

**IF THE AREA REPRESENTATIVE IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY, AN OFFICER AND EACH OF THE ENTITY'S OWNERS MUST EXECUTE A SEPARATE QUESTIONNAIRE.**

\* \* \* \* \*

For California prospective franchisees: You are not required to sign this Questionnaire.

For Maryland prospective franchisees: Do not sign this Questionnaire.

Please understand that your responses to these questions are important to us and that we rely on them. By signing this Questionnaire, you are representing to us that you have responded truthfully to the above questions.

**AREA REPRESENTATIVE APPLICANT**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
DATE

61578785v2

**EXHIBIT C  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**STATE SPECIFIC ADDENDA AND RIDERS**



## CALIFORNIA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the California Franchise Investment Law, Cal. Corp. Code §§ 31000-31516 or the California Franchise Relations Act, Cal. Bus. & Prof. Code §§20000-20043 applies, the terms of this Addendum apply.

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.

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AND COMPLAINTS CONCERNING THE CONTENTS OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [WWW.DFPI.CA.GOV](http://WWW.DFPI.CA.GOV).

SECTION 31125 OF THE CALIFORNIA CORPORATIONS CODE REQUIRES US TO GIVE YOU A DISCLOSURE DOCUMENT, IN A FORM CONTAINING THE INFORMATION THAT THE COMMISSIONER MAY BY RULE OR ORDER REQUIRE, BEFORE A SOLICITATION OF A PROPOSED MATERIAL MODIFICATION OF AN EXISTING FRANCHISE.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

### Item 3, Additional Disclosure:

Neither we nor any person described 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 U.S.C.A. 78a et seq. suspending or expelling such persons from membership in such association or exchange.

### Item 6, Additional Disclosure:

The highest interest rate allowed by law in California is 10% annually.

### Item 17, Additional Disclosures:

The Area Representative Agreement requires franchisee to execute a general release of claims upon renewal or transfer of the Area Representative Agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order there under is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section

20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 – 20043).

The Area Representative Agreement requires application of the laws of the state where our then current headquarters is located. This provision may not be enforceable under California law.

California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination, transfer or non-renewal of a franchise. If the Area Representative Agreement contains a provision that is inconsistent with the law, the law will control.

The Area Representative Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. §101 et seq.)

The Area Representative Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

## CALIFORNIA ADDENDUM TO AREA REPRESENTATIVE AGREEMENT

To the extent the California Franchise Investment Law, Cal. Corp. Code §§ 31000-31516 or the California Franchise Relations Act, Cal. Bus. & Prof. Code §§20000-20043 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Area Representative Agreement, to the extent that the Area Representative Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

The Area Representative Agreement requires franchisee to execute a general release of claims upon renewal or transfer of the Area Representative Agreement. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of that law or any rule or order there under is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 – 20043).

The Area Representative Agreement requires application of the laws of the state where our then current headquarters is located. This provision may not be enforceable under California law.

California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. The Federal Bankruptcy Code also provides rights to franchisee concerning termination of the Area Representative Agreement upon certain bankruptcy-related events. If the Area Representative Agreement is inconsistent with the law, the law will control.

The Area Representative Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Representative Agreement.

3. Except as expressly modified by this Addendum, the Area Representative Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Area Representative Agreement. In the event of any conflict between this Addendum and the Area Representative Agreement, the terms and conditions of this Addendum shall apply.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

## ILLINOIS ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the Illinois Franchise Disclosure Act, 815 ILCS 705/1-44 applies, the terms of this Addendum apply.

Item 17, Additional Disclosures. The following statements are added to Item 17:

Illinois law governs the Area Representative Agreement.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.

Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## ILLINOIS ADDENDUM TO AREA REPRESENTATIVE AGREEMENT

To the extent the Illinois Franchise Disclosure Act, 815 ILCS 705/1-44 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Area Representative Agreement, to the extent that the Area Representative Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

Illinois law governs the Area Representative Agreement.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.

Section 41 of the Illinois Franchise Disclosure Act provides that any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

Your rights upon termination and non-renewal of a franchise agreement are set forth in section 19 and 20 of the Illinois Franchise Disclosure Act.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Representative Agreement.

3. Except as expressly modified by this Addendum, the Area Representative Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Area Representative Agreement. In the event of any conflict between this Addendum and the Area Representative Agreement, the terms and conditions of this Addendum shall apply.

*[Signature page to follow]*

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

## MINNESOTA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the Minnesota Franchise Act, Minn. Stat. §§80C.01 – 80C.22 applies, the terms of this Addendum apply.

### State Cover Page and Item 17, Additional Disclosures:

Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside of 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 Disclosure Document shall abrogate or reduce any of your rights as provided for in Minn. Stat. Sec. 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

Franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. A court will determine if a bond is required.

### Item 6, Additional Disclosure:

NSF checks are governed by Minn. Stat. 604.113, which puts a cap of \$30 on service charges.

### Item 13, Additional Disclosures:

The Minnesota Department of Commerce requires that a franchisor indemnify Minnesota Franchisees against liability to third parties resulting from claims by third parties that the franchisee's use of the franchisor's trademark infringes upon the trademark rights of the third party. The franchisor does not indemnify against the consequences of a franchisee's use of a franchisor's trademark except in accordance with the requirements of the Area Representative Agreement, and as the condition to an indemnification, the franchisee must provide notice to the franchisor of any such claim immediately and tender the defense of the claim to the franchisor. If the franchisor accepts tender of defense, the franchisor has the right to manage the defense of the claim, including the right to compromise, settle or otherwise resolve the claim, or to determine whether to appeal a final determination of the claim.

### Item 17, Additional Disclosures:

Any condition, stipulation or provision, including any choice of law provision, purporting to bind any person who, at the time of acquiring a franchise is a resident of the State of Minnesota or in the case of a partnership or corporation, organized or incorporated under the laws of the State of Minnesota, or purporting to bind a person acquiring any franchise to be operated in the State of Minnesota to waive compliance or which has the effect of waiving compliance with any provision of the Minnesota Franchise Law is void.

We will comply with Minn. Stat. Sec. 80C.14, subs. 3, 4 and 5, which requires, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60



days to cure), 180 days' notice for nonrenewal of the Area Representative Agreement, and that consent to the transfer of the franchise will not be unreasonably withheld.

Minnesota Rule 2860.4400D prohibits a franchisor from requiring a franchisee to assent to a general release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§80C.01 – 80C.22.

The limitations of claims section must comply with Minn. Stat. Sec. 80C.17, subd. 5.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## MINNESOTA ADDENDUM TO AREA REPRESENTATIVE AGREEMENT

To the extent the Minnesota Franchise Act, Minn. Stat. §§80C.01 – 80C.22 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Area Representative Agreement, to the extent that the Area Representative Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

With respect to franchises governed by Minnesota Franchise Law, franchisor shall comply with Minn. Stat. Sec. 80C.14, subd. 4 which requires that except for certain specified cases, that franchisee be given 180 days' notice for non-renewal of this Area Representative Agreement.

The Minnesota Department of Commerce requires that franchisor indemnify franchisees whose franchise is located in Minnesota against liability to third parties resulting from claims by third parties that the franchisee's use of franchisor's trademarks ("Marks") infringe upon the trademark rights of the third party. Franchisor does not indemnify against the consequences of a franchisee's use of franchisor's trademark but franchisor shall indemnify franchisee for claims against franchisee solely as it relates to franchisee's use of the Marks in accordance with the requirements of the Area Representative Agreement and franchisor's standards. As a further condition to indemnification, the franchisee must provide notice to franchisor of any such claim immediately and tender the defense of the claim to franchisor. If franchisor accepts tender of defense, franchisor has the right to manage the defense of the claim, including the right to compromise, settle or otherwise resolve the claim, or to determine whether to appeal a final determination of the claim.

Franchisee will not be required to assent to a release, assignment, novation, or waiver that would relieve any person from liability imposed by Minnesota Statute §§ 80C.01 – 80C.22.

With respect to franchises governed by Minnesota Franchise Law, franchisor shall comply with Minn. Stat. Sec. 80C.14, subd. 3 which requires that except for certain specified cases, a franchisee be given 90 days' notice of termination (with 60 days to cure). Termination of the franchise by the franchisor shall be effective immediately upon receipt by franchisee of the notice of termination where its grounds for termination or cancellation are: (1) voluntary abandonment of the franchise relationship by the franchisee; (2) the conviction of the franchisee of an offense directly related to the business conducted according to the Area Representative Agreement; or (3) failure of the franchisee to cure a default under the Area Representative Agreement which materially impairs the goodwill associated with the franchisor's trade name, trademark, service mark, logo type or other commercial symbol after the franchisee has received written notice to cure of at least twenty-four (24) hours in advance thereof.

According to Minn. Stat. Sec. 80C.21 in Minnesota Rules or 2860.4400J, the terms of the Area Representative Agreement shall not in any way abrogate or reduce your rights as provided for in Minn. Stat. 1984, Chapter 80C, including the right to submit certain matters to the jurisdiction of the courts of Minnesota. In addition, nothing in this Area Representative Agreement shall abrogate or reduce any of franchisee's rights as provided for in Minn. Stat. Sec. 80C, or your rights to any procedure, forum or remedy provided for by the laws of the State of Minnesota.

Any claims franchisee may have against the franchisor that have arisen under the Minnesota Franchise Laws shall be governed by the Minnesota Franchise Law.

The Area Representative Agreement contains a waiver of jury trial provision. This provision may not be enforceable under Minnesota law.

Franchisee consents to the franchisor seeking injunctive relief without the necessity of showing actual or threatened harm. A court shall determine if a bond or other security is required.

Any action pursuant to Minnesota Statutes, Section 80C.17, Subd. 5 must be commenced no more than 3 years after the cause of action accrues.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Representative Agreement.

3. Except as expressly modified by this Addendum, the Area Representative Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Area Representative Agreement. In the event of any conflict between this Addendum and the Area Representative Agreement, the terms and conditions of this Addendum shall apply.

*[Signature page to follow]*

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

## NEW YORK ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the New York General Business Law, Article 33, §§680 - 695 applies, the terms of this Addendum apply.

### Cover Page, Additional Disclosure.

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, INVESTOR PROTECTION BUREAU, 28 LIBERTY STREET, 21<sup>ST</sup> 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.

Item 3, Additional Disclosure. The last sentence in Item 3 is deleted and replaced with the following:

Neither we, nor any of our predecessors, nor any person identified in Item 2 above, nor any affiliate offering franchises under our trademark, has any administrative, criminal, or a material civil or arbitration action pending against him alleging a violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property, or comparable allegations.

Neither we, nor any of our predecessors, nor any person identified in Item 2 above, nor any affiliate offering franchises under our trademark, has been convicted of a felony or pleaded nolo contendere to any other felony charge or, during the ten-year period immediately preceding the application for registration, been convicted of a misdemeanor or pleaded nolo contendere to any misdemeanor charge or been found liable in an arbitration proceeding or a civil action by final judgment, or been the subject of any other material complaint or legal or arbitration proceeding if such misdemeanor conviction or charge, civil action, complaint, or other such proceeding involved a violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property, or comparable allegation.

Neither we, nor any of our predecessors, nor any person identified in Item 2 above, nor any affiliate offering franchises under our trademark, is subject to any currently effective injunctive or restrictive order or decree relating to franchises, or under any federal, state, or Canadian franchise, securities, antitrust, trade regulation, or trade practice law as a result of 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.

Item 4, Additional Disclosure. Item 4 is deleted and replaced with the following:

Neither we nor any of our predecessors, affiliates, or officers, during the 10-year period immediately before the date of the Disclosure Document: (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 one year after the officer or general partner of the franchisor held this position in the company or partnership.

Item 17, Additional Disclosures.

The following is added to the Summary sections of Item 17(c) and 17(m): 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 Section 687.4 and 687.5 be satisfied.

The Summary section of Item 17(d) is deleted and replaced with the following language: You may terminate the agreement on any grounds available by law.

The following is added to the Summary section of Item 17(j): 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 Area Representative Agreement.

The following is added to the Summary sections of Items 17(v) and 17(w): 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.

## NEW YORK ADDENDUM TO AREA REPRESENTATIVE AGREEMENT

To the extent the New York General Business Law, Article 33, §§680 - 695 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Area Representative Agreement, to the extent that the Area Representative Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

Any provision in the Area Representative Agreement that is inconsistent with the New York General Business Law, Article 33, Section 680 - 695 may not be enforceable.

Any provision in the Area Representative Agreement requiring franchisee to sign a general release of claims against franchisor does not release any claim franchisee may have under New York General Business Law, Article 33, Sections 680-695.

The New York Franchise Law shall govern any claim arising under that law.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Representative Agreement.

3. Except as expressly modified by this Addendum, the Area Representative Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Area Representative Agreement. In the event of any conflict between this Addendum and the Area Representative Agreement, the terms and conditions of this Addendum shall apply.

*[Signature page to follow]*

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date



## VIRGINIA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the Virginia Retail Franchising Act, Va. Code §§13.1-557 – 13.1-574 applies, the terms of this Addendum apply.

### Item 17, Additional Disclosures:

Any provision in any of the contracts that you sign with us which provides for termination of the franchise upon the bankruptcy of the franchisee may not be enforceable under federal bankruptcy law (11 U.S.C. 101 et. seq.).

“According to Section 13.1 – 564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.”

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving 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.

## VIRGINIA ADDENDUM TO AREA REPRESENTATIVE AGREEMENT

To the extent the Virginia Retail Franchising Act, Va. Code §§13.1-557 – 13.1-574 applies, the terms of this Addendum apply.

1. Notwithstanding anything to the contrary contained in the Area Representative Agreement, to the extent that the Area Representative Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

“According 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 ground for default or termination stated in the franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.”

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving 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.

2. Any capitalized terms that are not defined in this Addendum shall have the meaning given them in the Area Representative Agreement.

3. Except as expressly modified by this Addendum, the Area Representative Agreement remains unmodified and in full force and effect.

This Addendum is being entered into in connection with the Area Representative Agreement. In the event of any conflict between this Addendum and the Area Representative Agreement, the terms and conditions of this Addendum shall apply.

*[Signature page to follow]*

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date Franchisor signs below.

**FRANCHISOR**

FADS USA, Inc.

\_\_\_\_\_

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

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

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

**OWNER(S)**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**AREA REPRESENTATIVE**

If Entity:

\_\_\_\_\_  
Name of Entity

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

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

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

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

If Individual(s):

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

## WASHINGTON ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the Washington Franchise Investment Protection Act, Wash. Rev. Code §§19.100.010 – 19.100.940 applies, the terms of this Addendum apply.

### Item 17, Additional Disclosure:

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.

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.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

WASHINGTON ADDENDUM TO AREA REPRESENTATIVE AGREEMENT,  
FRANCHISEE COMPLIANCE QUESTIONNAIRE, AND RELATED AGREEMENTS

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 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 area representative agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

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 area representative 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.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the area representative agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the area representative agreement or elsewhere are void and unenforceable in Washington.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement,

or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The undersigned does hereby acknowledge receipt of this addendum.

**FRANCHISOR**

**AREA REPRESENTATIVE**

FADS USA, Inc.

If Entity:

\_\_\_\_\_

\_\_\_\_\_  
Name of Entity

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

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

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

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

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

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

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

**OWNER(S)**

If Individual(s):

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT D  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**SAMPLE LOAN DOCUMENTS**

The current form of secured promissory note is attached as **Exhibit D-1**.

The current form of guaranty agreement is attached as **Exhibit D-2**.

The current form of security agreement is attached as **Exhibit D-3**.



**EXHIBIT D-1  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**FORM OF PROMISSORY NOTE**

**SECURED PROMISSORY NOTE**

\$[\_\_\_\_\_]

[Longmeadow, Massachusetts]

FOR VALUE RECEIVED, this Secured Promissory Note (this “**Note**”) is made as of the [\_\_\_\_\_] day of [\_\_\_\_\_], 20[\_\_\_], by [Area Representative Entity Name], a [State Name][corporation / limited liability company / other entity type] (the “**Maker**”) in favor of FADS USA, Inc., a Delaware corporation (the “**Holder**”).

1. Promise to Pay. For value received, Maker hereby promises to pay to the order of Holder the principal sum of [\_\_\_\_\_] and [\_\_\_]/100 Dollars (\$[\_\_\_\_\_]), plus interest on the unpaid principal amount of this Note as provided herein and all other amounts set forth in this Note. This Note is given in relation to that certain FRED ASTAIRE DANCE STUDIOS® Area Representative Agreement of even date herewith (as amended, supplemented or otherwise modified or replaced from time to time, the “**Area Representative Agreement**”), by and between the Maker, the Holder and, only as to certain provisions, the Owners party thereto. Capitalized terms used but not defined herein shall have the meanings provided to them in the Area Representative Agreement.

2. Interest Rate. Interest shall accrue on the unpaid principal amount of this Note at the rate of [\_\_\_\_\_] percent ([\_\_\_]%) per annum (the “**Interest Rate**”) beginning as of the date hereof and continuing until this Note shall have been paid in full. Interest under this Note shall be due and payable in arrears in accordance with **Section 3**. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any insolvency or bankruptcy proceeding. Interest under this Note shall be computed on the actual number of days elapsed hereunder on the basis of a three hundred sixty-five (365) day year.

3. Payment of Principal and Interest. The Maker shall make [\_\_\_\_\_] payments of principal, plus the accrued and unpaid interest, on this Note in accordance with the amortization schedule attached hereto as **Schedule 1**. If any payment date on **Schedule 1** is not a Business Day, then the payment date shall be the next Business Day immediately following the payment date stated on **Schedule 1**. A “**Business Day**” shall mean any day except Saturday, Sunday or any other day on which commercial banks in the city where the headquarters of Holder is then located are authorized or required by applicable Law to be closed for business. Notwithstanding anything to the contrary herein, all outstanding obligations under this Note, including without limitation all principal and accrued interest, shall be due and payable on [\_\_\_\_\_, 20\_\_]. All payments by the Maker to the Holder hereunder shall be made to the Holder in full without set-off or counterclaim and free and clear of and exempt from, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties or charges of whatsoever nature imposed by any government or any political subdivision or taxing authority thereof. Maker shall reimburse Holder for any taxes imposed on or withheld from such payments (other than (i) taxes imposed on the Holder’s income, branch profits taxes and franchise taxes imposed on the Holder, by the jurisdiction under the laws of which the Holder is organized (or in which its applicable lending office is located) or any political subdivision thereof and (ii) U.S. federal withholding taxes

imposed on amounts payable to or for the account of the Holder with respect to its interest in this Note pursuant to a Law in effect on the date hereof).

4. Prepayment. Amounts paid or prepaid on this Note may not be reborrowed. This Note may be prepaid in whole or in part at any time without penalty, and all such payments shall be applied first to accrued but unpaid interest, followed by principal; provided, however, that no prepayment shall postpone or extend the due date of any subsequent payment; and that all prepayments shall be in multiples of \$500 (or, if less, the entire amount outstanding).

5. Security. This Note is (i) guaranteed by that certain Guaranty Agreement, of even date herewith, by [Names of Guarantors] (whether one or more, collectively, the “**Guarantor**”) in favor of Holder (the “**Guaranty**”); and (ii) secured by that certain Security Agreement, of even date herewith, by Maker in favor of Holder (the “**Security Agreement**”). The Guaranty, the Security Agreement and all other documents, agreements or instruments related to or securing or guaranteeing this Note or executed and delivered in connection therewith or herewith, in each case as amended, supplemented or otherwise modified from time to time, are hereinafter referred to as the “**Loan Documents**”.

6. Place of Payment; Application of Payments. All payments under this Note shall be made by Maker at Holder’s address above, or at such other address as may be designated from time to time by Holder by written notice to Maker. All payments on account of the indebtedness represented by this Note shall be applied *first* to any late charges due, *second* to the accrued and unpaid interest, any due and payable fees and any other non-principal amounts owed hereunder, *third* to principal and *last* to the Maker or as otherwise required by law.

7. Qualification of Payments. Each and every payment made by or on behalf of Maker on account of the indebtedness represented by this Note shall be payments incurred in the ordinary course of business or financial affairs of the Maker, and each and every payment shall be made in the ordinary course of business or financial affairs of the Maker and the Holder. Holder’s acceptance of this Note does not represent (i) a cure, satisfaction or discharge of any of Maker’s obligations under the Area Representative Agreement; or (ii) a waiver or relinquishment of any rights or remedies that Holder may have under the Area Representative Agreement.

8. Events of Default. Each of the following shall constitute an event of default (an “**Event of Default**”) under this Note:

a. Maker fails to pay, when due, any amount due under this Note or balance due hereunder and the same remains unpaid fifteen (15) calendar days after such payment due date;

b. Maker becomes unable to pay its debts as they become due, or makes an assignment for the benefit of its creditors;

c. Maker files a petition, or answers a petition, seeking relief under or takes advantage of any bankruptcy, other arrangement or readjustment, debt, insolvency or receivership law or statute;

d. The occurrence of an “Event of Default” (or equivalent term) by Maker under the Area Representative Agreement after the date of this Note that is not cured, if possible of cure, under the terms of the Area Representative Agreement;

e. Maker’s, any Guarantor’s (as defined in the Guaranty) or any Debtor’s (as defined in the Security Agreement) failure to perform any agreement contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) calendar days;

f. There is commenced against Maker or the Guarantor an involuntary case under Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor statute, or other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect, or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over the Maker or the Guarantor, or over all or a substantial part of its property, shall have been entered, or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of the Maker or the Guarantor for all or a substantial part of its property, or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of the Maker or the Guarantor, and any such event shall continue for sixty (60) calendar days without having been dismissed, bonded or discharged;

g. Maker shall or shall seek to liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution);

h. Any Guarantor (i) if such Guarantor is a natural person, shall die or become legally incompetent, (ii) if such Guarantor is a trust, shall have a trustor that dies or becomes legally incompetent, (iii) if such Guarantor is a partnership, shall have any general partner that dies or becomes legally incompetent or (iv) if such Guarantor is a corporation, limited liability company or other type of entity not specifically addressed in the foregoing, shall liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution);

i. Maker shall fail to pay when due any indebtedness under, or shall fail to perform or observe any material term, covenant or condition under, or there shall otherwise occur any default or event of default under, any instrument or agreement relating to (i) borrowed money, (ii) reimbursement obligations with respect to bonds, letters of credit or acceptances, (iii) the deferred purchase price of property or services, or (iv) any capital lease; having individually or in the aggregate for all such items in the foregoing **clauses (i) through (iv)**, an outstanding principal amount equal to or greater than \$2,000;

j. This Note or any other Loan Document at any time after its execution and delivery and for any reason, other than as expressly permitted hereunder or thereunder, ceases to be in full force and effect; or Maker or any Guarantor contests in any manner the validity or enforceability of any Loan Document; or Maker or any Guarantor denies that it has any or further

liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document;

k. There is entered against Maker or any Guarantor one or more final judgments or orders for the payment of money in an aggregate amount exceeding \$2,000 and (i) enforcement proceedings are commenced by any creditor upon such judgment or order or (ii) there is a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect, or such judgment is not discharged or satisfied; or

l. Any “Event of Default” shall occur under the Security Agreement.

As used in this Note, “**Default**” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

9. Remedies Upon Event of Default. Holder may pursue any of the following remedies upon the occurrence of an Event of Default:

a. Right of Acceleration. Declare the principal sum above mentioned, together with all unpaid interest thereon, immediately due and payable, without notice, and collectible immediately or at any time after such Event of Default;

b. Interest After Default. Elect to have interest accrue on the aggregate unpaid principal amount outstanding under this Note at a rate per annum equal to the Interest Rate *plus* five percent (5.00%) per annum (provided that in no event shall the interest rate under this Note exceed the highest rate permitted by Law); or

c. Late Payment Fees. With respect to any principal amount due under this Note which has not been paid in full when due, elect to charge a late payment fee of five percent (5.00%) of the principal amount due.

d. Remedies. Exercise all rights and remedies available to it under the Loan Documents or applicable Law or equity.

10. Remedies Cumulative; Waiver. The remedies of the Holder as provided herein shall be cumulative and concurrent, and at the sole discretion of the Holder, may be pursued singularly, successively or together, and may be exercised as often as occasion therefor shall arise. A waiver or release with reference to any one default shall not be construed as continuing, as a bar to or as a waiver or release of any subsequent right, remedy or recourse as to a subsequent event or default.

11. Certain Covenants. Maker covenants and agrees as follows:

a. Maker shall not make or incur loans (other than the loan represented by this Note) without the written approval of the Holder during the term of this Note.

b. Maker shall not permit distribution payments to be made to its members or shareholders during the existence of any Default, Event of Default or like event under any of this Note, the Guaranty, the Security Agreement or any other Loan Document, except for such amounts as are necessary to pay taxes.

c. Maker hereby subordinates payment of any and all debt owed by the Maker to its members (or shareholders, as the case may be) to the obligations contained in this Note.

d. Maker agrees to pay to Holder all costs of Holder, including, without limitation, Holder's reasonable attorneys' fees and legal expenses, at any time paid or incurred by Holder for the collection or enforcement of payment or performance of this Note, the Guaranty or the Security Agreement or any other Loan Document, whether suit be brought or not.

e. Maker authorizes Holder to file one or more financing or continuation statements, and amendments thereto, related to this Note, the Guaranty, the Security Agreement and/or any other Loan Document and any collateral listed in said agreements without Maker's signature where permitted by law, in each case in such form and substance as Holder may determine. Maker agrees to pay to Holder all filing, registration and recording fees and taxes, duties, imports, assessments and charges arising out of or in connection with the execution and delivery of this Note, the Guaranty, the Security Agreement or any other Loan Document, any supplemental hereto, any financing statements and any instruments of further assurance.

f. Maker hereby waives presentment, protest and demand, delinquency, notice of protest, demand and dishonor and any other notice otherwise required to be given by law in connection with the delivery, acceptance, performance, default, enforcement or collection of this Note, and Maker expressly agrees that this Note, or any payment hereunder, may periodically be extended or subordinated, without affecting the liability of Maker.

12. Notice. Any notice of default or other notice, demand or communication, if any, which may be required or permitted to be served by either party hereto upon or to the other shall be sufficiently served by delivering the same personally, or by depositing the same in the United States mail via certified mail, postage prepaid, or with an express courier, freight charges paid, addressed to the respective party at the address set forth below, or such other address as either party may, from time to time designate by like notice to the other. Any notice so sent shall be deemed to have been given one (1) Business Day after the date of its sending.

If to Holder:

FADS USA, Inc.  
Attn: Legal Department  
151 Hazard Avenue, Suite 12-13  
Enfield, CT 06082

If to Maker:

[Name of Maker]

With a Copy To:

[Name of Law Firm of Maker]

Attn: [Name]  
[Address of Maker]  
[City, State Zip Code]

Attn: [Name]  
[Address of Law Firm]  
[City, State Zip Code]

13. Indemnity. Maker shall indemnify the Holder and any of its affiliates and their respective officers, directors, employees, agents, advisors and other representatives (each, an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, disbursements and other charges of counsel), incurred by any Indemnitee or asserted against any Indemnitee by any person, entity or governmental authority (including Maker) arising out of, in connection with, or as a result of (i) the execution or delivery of this Note or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or the administration of this Note and the other Loan Documents, (ii) the use or proposed use of the proceeds of the loan evidenced by this Note or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Maker and/or any of its affiliates, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. The provisions of this **Section 13** shall survive termination of the commitments hereunder and repayment, satisfaction and discharge of the loan and all other obligations hereunder or under any of the Loan Documents.

14. Severability. If any phrase, clause or provision of this Note is declared invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such phrase will not affect any other provisions of this Note, which shall remain in full force and effect. If any restriction or limitation on this Note is deemed to be invalid, unenforceable, unreasonable, onerous and/or unduly restrictive by a court of competent jurisdiction, Maker intends and believes that each provision in this Note comports with all applicable local, state and federal laws, statutes, rules, regulations, ordinances and administrative and judicial orders and decisions (“**Law**”). However, if any provision (or portion thereof) in this Note is found by a court to be in violation of any applicable Law or public policy, and if such court should declare such provision (or portion thereof) of this Note to be unenforceable as written, then it is the intent of Maker and the Holder that such provision (or portion thereof) shall be given force to the fullest extent possible without being unenforceable, and the court shall have the authority to amend, modify or excise such provision so that it shall remain effective to the maximum extent permissible by Law.

15. Successors to Holder. The term “**Holder**” as used herein shall mean the original payee of this Note or, if this Note is transferred, the then holder of this Note, except that until written notice is given to Maker designating another party as Holder, Maker may consider the Holder to be the original payee or the party last designated by Holder in a written notice to Maker. Maker may not assign any of its obligations under this Note, except by operation of law.

16. Governing Law. Regardless of the place of its execution, this Note shall be construed and enforced in accordance with the laws of the state where Holder's then current headquarters is located, without regard to such state's conflict of laws principles or rules. Maker hereby irrevocably consents to the jurisdiction of any federal or state court sitting in the state where Holder's then current headquarters is located for purposes of any action or proceeding relating to or arising out of this Note and irrevocably waives any objection to personal jurisdiction and the laying of venue in any such court.

17. Time is of the Essence. THE MAKER HEREBY ACKNOWLEDGES AND AGREES THAT TIME IS OF THE ESSENCE UNDER THIS NOTE.

18. Waiver of Jury Trial. THE HOLDER AND MAKER, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, EACH KNOWINGLY, VOLUNTARILY AND INTENTIONALLY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS NOTE, THE GUARANTY OR THE SECURITY AGREEMENT, ANY OTHER DOCUMENTS RELATED THERETO, ANY OF THE OTHER OBLIGATIONS, THE COLLATERAL OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED, OR WHICH MAY IN THE FUTURE BE DELIVERED, IN CONNECTION HEREWITH OR THEREWITH OR ARISING FROM ANY LENDING RELATIONSHIP EXISTING IN CONNECTION WITH ANY OF THE FOREGOING OR THE AREA REPRESENTATIVE AGREEMENT, OR ANY COURSE OF CONDUCT OR COURSE OF DEALING IN WHICH HOLDER AND MAKER ARE ADVERSE PARTIES, AND EACH AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER GRANTING ANY FINANCIAL ACCOMMODATION TO MAKER.

19. Construction. The language in all parts of this Note shall in all cases be construed simply according to its fair meaning and not strictly for or against any party. All words used herein in the singular number shall extend to and include the plural number. All words used herein in the plural number shall extend to and include the singular number. All words used in any gender, male, female or neuter shall extend to and include all genders as may be applicable in any particular context. Captions and headings contained in this Note are inserted only as a matter of convenience, and in no way define, limit, extend or describe the scope of this Note or the intent of any provisions of this Note. The captions of the sections hereof are for convenience only and shall not be considered in interpreting the provisions hereof.

20. Usury Savings Clause. Notwithstanding anything to the contrary contained herein, the interest paid or agreed to be paid hereunder shall not exceed the maximum rate of non-usurious interest permitted by the applicable Law (the "**Maximum Rate**"). If Holder shall receive interest in an amount that exceeds the Maximum Rate, the excessive interest shall be applied to the principal of this Note or, if it exceeds the unpaid principal, refunded to Maker. In determining whether the interest contracted for, charged, or received by Holder exceeds the Maximum Rate, Holder may, to the extent permitted by applicable Law, (i) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (ii) exclude voluntary prepayments



and the effects thereof and (iii) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the stated term of this Note.

**PRIOR TO SIGNING THIS NOTE, MAKER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. MAKER AGREES TO THE TERMS OF THIS NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS NOTE.**

*- Signature Page Follows -*

**PRIOR TO SIGNING THIS NOTE, MAKER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. MAKER AGREES TO THE TERMS OF THIS NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS NOTE.**

IN WITNESS WHEREOF, the undersigned has executed this Secured Promissory Note in favor of Holder as of the date first above written.

**MAKER**

[NAME OF MAKER]

\_\_\_\_\_ (SEAL)

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

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

**NOTARY ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared [name of authorized individual], known personally to me (or satisfactorily proven) to be the [title of officer or agent] of [name of entity], a [State] [limited liability company / corporation / other entity type], on behalf of [name of entity]. [Name of authorized individual] acknowledged that [he / she] executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

SEAL

\_\_\_\_\_

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

Commission Expires: \_\_\_\_\_

**ACCEPTED AND AGREED:**

**FADS USA, INC.**

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

Name:

Title:

**SCHEDULE 1  
TO THE  
SECURED PROMISSORY NOTE**

**AMORTIZATION SCHEUDLE**

**EXHIBIT D-2  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**FORM OF GUARANTY AGREEMENT**

## GUARANTY AGREEMENT

[This Guaranty Agreement (this “**Guaranty**”) dated as of \_\_\_\_\_], 20[\_\_\_] by the undersigned individuals (whether one or more, collectively, the “**Guarantor**”) for the benefit of FADS USA, Inc., a Delaware corporation (the “**Lender**”). In consideration of any credit or other financial accommodation previously, now, or hereafter granted by FADS USA, Inc., a Delaware corporation (the “**Lender**”), to [Area Representative Entity Name], a [State] [corporation / limited liability company / other entity type] (the “**Borrower**”), the undersigned individuals (whether one or more, collectively, the “**Guarantor**”) hereby unconditionally guarantee and promise to pay promptly to Lender, or order, in lawful money of the United States, any and all Guaranteed Obligations (as hereinafter defined) when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter.

**WHEREAS**, the Borrower is indebted to Lender with respect to a loan (the “**Loan**”) pursuant to that certain secured promissory note dated of even date herewith, payable to the order of Lender in the original principal amount of \_\_\_\_\_ and \_\_\_/100s Dollars (\$\_\_\_\_\_) (together with all renewals, modifications, increases and extensions thereof, the “**Note**”), which is secured by that certain security agreement of even date herewith executed by the Borrower in favor of the Lender (as amended, supplemented or otherwise modified from time to time, the “**Security Instrument**”), and further evidenced, secured or governed by the other Loan Documents (as defined in the Security Instrument);

**WHEREAS**, Lender is unwilling to make the Loan to Borrower unless Guarantor unconditionally guarantees payment and performance to Lender of the Guaranteed Obligations (as hereinafter defined); and

**WHEREAS**, Guarantor [is the owner, or the spouse of an owner, of a direct interest in Borrower, and Guarantor] will directly benefit from Lender’s making the Loan to Borrower. Unless otherwise defined in this Guaranty, all initially capitalized terms used herein shall have the meaning given to them in the Security Instrument.

**NOW, THEREFORE**, as an inducement to Lender to make the Loan to Borrower under the Note, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged and agreed, the parties do hereby agree as follows:

### **Article I Nature and Scope of Guaranty**

**Section 1.01 Guaranty of Obligation.** In consideration of Lender’s making the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of inducing Lender to make the Loan, Guarantor hereby irrevocably and unconditionally guaranties to Lender (and its successors and assigns), the full, punctual and prompt payment and performance of the Obligations and all other sums payable and obligations under the terms of the Loan Documents as and when the same shall be due, whether by lapse of time, by acceleration of maturity, or otherwise (the “**Guaranteed Obligations**”). Guarantor shall also be liable for, and shall indemnify, defend, and hold Lender harmless from and

against, any and all claims, liabilities, costs of collection and attorneys' fees incurred or suffered by Lender and arising out of or in connection with the Guaranteed Obligations.

**Section 1.02 Nature of Guaranty.** This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance, is joint and several with each other person or entity that may be or become liable, directly or indirectly, for the Guaranteed Obligations and is not merely a guaranty of collection. This Guaranty shall continue to be effective with respect to any Guaranteed Obligations arising or created after any attempted revocation by Guarantor and after (if Guarantor is a natural person) Guarantor's death (in which event this Guaranty shall be binding upon Guarantor's estate and Guarantor's legal representatives and heirs). The fact that at any time or from time to time the Guaranteed Obligations may be increased or reduced shall not release or discharge the obligation of Guarantor to Lender with respect to Guaranteed Obligations. This Guaranty may be enforced by Lender and any subsequent holder of the Note and shall not be discharged by the assignment or negotiation of all or part of the Note. This Guaranty is a primary obligation of the Guarantor.

**Section 1.03 Guaranteed Obligations Not Reduced by Offset.** The Guaranteed Obligations and the liabilities and obligations of Guarantor to Lender hereunder, shall not be reduced, discharged or released because or by reason of any existing or future offset, claim or defense of Borrower, or any other party, against Lender or against payment of the Guaranteed Obligations, whether such offset, claim or defense arises in connection with the Guaranteed Obligations (or the transactions creating the Guaranteed Obligations) or otherwise.

**Section 1.04 Payment by Guarantor.** If all or any part of the Guaranteed Obligations shall not be punctually paid when due, whether at maturity or earlier by acceleration or otherwise, Guarantor shall, immediately upon demand by Lender, and without presentment, protest, notice of protest, notice of non-payment, notice of intention to accelerate the maturity, notice of acceleration of the maturity, or any other notice whatsoever, pay in lawful money of the United States of America, the amount due on the Guaranteed Obligations to Lender at Lender's address as set forth in **Section 6.02**. Such demand(s) may be made at any time coincident with or after the time for payment of all or part of the Guaranteed Obligations and may be made from time to time with respect to the same or different items of Guaranteed Obligations. Such demand shall be deemed made, given and received in accordance with the notice provision hereof.

**Section 1.05 No Duty to Pursue.** It shall not be necessary for Lender (and Guarantor hereby waives any rights which Guarantor may have to require Lender), in order to enforce this Guaranty against Guarantor, first to (i) institute suit or exhaust its remedies against Borrower or others liable on the Loan or the Guaranteed Obligations or any other person; (ii) enforce Lender's rights against any collateral which shall ever have been given to secure the Loan; (iii) enforce Lender's rights against any other guarantors of the Guaranteed Obligations; (iv) join Borrower or any others liable on the Guaranteed Obligations in any action seeking to enforce this Guaranty; (v) exhaust any remedies available to Lender against any collateral which shall ever have been given to secure the Loan; or (vi) resort to any other means of obtaining payment of the Guaranteed Obligations. Lender shall not be required to mitigate damages or take any other action to reduce, collect or enforce the Guaranteed Obligations.

**Section 1.06 Waivers.** Guarantor hereby waives notice of (i) any loans or advances made by Lender to Borrower; (ii) acceptance of this Guaranty; (iii) any amendment or extension of the Note or of any other Loan Documents; (iv) the execution and delivery by Borrower and Lender of any other loan or credit agreement or of Borrower's execution and delivery of any promissory notes or other documents arising under the Loan Documents; (v) the occurrence of any breach by Borrower or Event of Default (as defined in the Loan Documents); (vi) Lender's transfer or disposition of the Guaranteed Obligations, or any part thereof; (vii) sale or foreclosure (or posting or advertising for sale or foreclosure) of any collateral for the Guaranteed Obligations; (viii) protest, proof of non-payment or default by Borrower; or (ix) any other action at any time taken or omitted by Lender, and, generally, all demands and notices of every kind in connection with this Guaranty, the Loan Documents, any documents or agreements evidencing, securing or relating to any of the Guaranteed Obligations and any and all other obligations under the Loan Documents.

**Section 1.07 Payment of Expenses.** In the event that Guarantor should breach or fail to timely perform any provisions of this Guaranty, Guarantor shall, immediately upon demand by Lender, pay Lender all costs and expenses (including court costs, appraiser's costs, environmental engineer's costs and reasonable attorneys' fees) incurred by Lender in the enforcement hereof or the preservation of Lender's rights hereunder. The covenant contained in this section shall survive the payment and performance of the Guaranteed Obligations.

**Section 1.08 Effect of Bankruptcy.** This Guaranty will continue to be effective, or will be automatically reinstated, as the case may be, if at any time payment of all or any part of the Guaranteed Obligations is rescinded or must otherwise be restored or returned by the Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower, Guarantor or any other Loan Party, or upon, or as a result of, the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to the Borrower, the Guarantor, any other Loan Party or any other applicable party or any substantial part of the Borrower's or any other applicable party's property, or for any other reason, all as though such payments had not been made. If an event permitting the acceleration of any of the Guaranteed Obligations will at any time have occurred and be continuing and such acceleration of the Guaranteed Obligations will at such time be prevented by reason of the pendency against the Borrower, the Guarantor, any other Loan Party or any other applicable person of a case or proceeding under a bankruptcy or insolvency law, the Guarantor agrees that, for purposes of this Guaranty and the Guarantor's obligations under this Guaranty, the Guaranteed Obligations will be deemed to have been declared in default and accelerated hereunder with the same effect as if the Guaranteed Obligations were declared in default and accelerated in accordance with terms thereof, and the Guarantor will immediately pay the amounts specified by the Lender to be paid.

**Section 1.09 Deferment of Rights of Subrogation, Reimbursement and Contribution.** Notwithstanding any payment or payments made by any Guarantor hereunder, no Guarantor will assert or exercise any right of Lender or of such Guarantor against Borrower or any other Guarantor to recover the amount of any payment made by such Guarantor to Lender by way of subrogation, reimbursement, contribution, indemnity, or otherwise arising by contract or operation of law, and such Guarantor shall not have any right of recourse to or any claim against



assets or property of Borrower or any other Guarantor, whether or not the obligations of Borrower or such other Guarantor have been satisfied, all of such rights being herein expressly waived by such Guarantor. If any amounts shall nevertheless be paid to a Guarantor by Borrower or another Guarantor prior to payment in full of the Guaranteed Obligations, such amount shall be held in trust for the benefit of Lender and shall forthwith be paid to Lender to be credited and applied to the Guaranteed Obligations, whether matured or unmatured. The provisions of this paragraph shall survive the termination of the Guaranty, and any satisfaction and discharge of Borrower by virtue of any payment, court order or any applicable law.

**Section 1.10 Bankruptcy Code Waiver.** Any indebtedness of Borrower to Guarantor now or hereafter existing (including, but not limited to, any rights to subrogation Guarantor may have as a result of any payment by Guarantor under this Guaranty), together with any interest thereon, shall be, and such indebtedness is, hereby deferred, postponed and subordinated to the prior payment in full of the Guaranteed Obligations. Until payment in full of the Guaranteed Obligations (and including interest accruing on the Note after the commencement of a proceeding by or against Borrower under the Bankruptcy Reform Act of 1978, as amended, 11 U.S.C. Section 101 *et seq.*, and the regulations adopted and promulgated pursuant thereto (collectively, the “**Bankruptcy Code**”) which interest the parties agree shall remain a claim that is prior and superior to any claim of Guarantor notwithstanding any contrary practice, custom or ruling in cases under the Bankruptcy Code generally), Guarantor agrees not to accept any payment or satisfaction of any kind of indebtedness of Borrower to Guarantor and hereby assigns such indebtedness to Lender, including the right to file a proof of claim and to vote thereon in connection with any such proceeding under the Bankruptcy Code, including the right to vote on any plan of reorganization.

**Section 1.11 Term of Guaranty.** This Guaranty shall continue in full force and effect until the date on which the Guaranteed Obligations are fully paid, performed and discharged. This Guaranty covers the Guaranteed Obligations whether presently outstanding or arising subsequent to the date hereof including all amounts advanced by the Lender or any holder of the Guaranteed Obligations in stages or installments.

**Section 1.12 Taxes.** All payments by the Guarantor hereunder shall be paid in full, without setoff or counterclaim or any deduction or withholding whatsoever, including, without limitation, for any and all present and future taxes. If the Guarantor makes a payment under this Guaranty to which withholding tax applies or if any taxes (other than taxes on net income imposed by any governmental authority and measured by the taxable income the Lender would have received if all payments under or in respect of this Guaranty were exempt from taxes levied by such governmental authority) are at any time imposed on any payments under or in respect of this Guaranty including, but not limited to, payments made pursuant to this paragraph, the Guarantor shall pay all such taxes to the relevant authority in accordance with applicable law such that the Lender receives the sum it would have received had no such deduction or withholding been made (or, if the Guarantor cannot legally comply with the foregoing, the Guarantor shall pay to the Lender such additional amounts as will result in Lender receiving the sum it would have received had no such deduction or withholding been made). Further, the Guarantor shall also pay to the Lender, on demand, all additional amounts that the Lender specifies as necessary to preserve the after-tax yield the Lender would have received if such taxes had not been imposed. The Guarantor

shall promptly provide the Lender with an original receipt or certified copy issued by the relevant authority evidencing the payment of any such amount required to be deducted or withheld.

**Section 1.13 Interest.** Any obligations due and owing hereunder by the Guarantor shall bear interest at a rate of interest per annum equal to the rate applicable to the applicable Guaranteed Obligations. For greater certainty, the interest payable by the Guarantor is in place of and is not in addition to the interest payable by the Borrower.

## **Article II Event and Circumstances Not Reducing or Discharging Guarantor's Obligations.**

Guarantor hereby consents and agrees to each of the following, and Guarantor hereby consents and agrees that Guarantor's obligations under this Guaranty shall not be released, diminished, impaired, reduced or adversely affected by any of the following, and Guarantor waives any common law, equitable, statutory or other rights (including, without limitation, rights to notice) which Guarantor might otherwise have as a result of, or in connection with, the following:

**Section 2.01 Modifications.** Any renewal, extension, increase, modification, alteration, or rearrangement of all or any part of the Guaranteed Obligations, the Note, the other Loan Documents, or other documents, instrument, contract, or understanding between Borrower and Lender, or any other parties, pertaining to the Guaranteed Obligations or any failure of Lender to notify Guarantor of any such action.

**Section 2.02 Adjustment.** Any adjustment, indulgence, forbearance, or compromise that might be given by Lender to Borrower or any Guarantor.

**Section 2.03 Condition of Borrower or Guarantor.** The insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution, or lack of power of Borrower, Guarantor, or any other party at any time liable for the payment of all or part of the Guaranteed Obligations; or any dissolution of Borrower or Guarantor, or any sale, lease, or transfer of any or all of the assets of Borrower or Guarantor, or any changes in the shareholders, partners, or members of Borrower or Guarantor; or any reorganization of Borrower or Guarantor.

**Section 2.04 Invalidity of Guaranteed Obligations.** The invalidity, illegality, or unenforceability of all or any part of the Guaranteed Obligations, or any document or agreement executed in connection with the Guaranteed Obligations, for any reason whatsoever, including without limitation the fact that (i) the Guaranteed Obligations, or any part thereof, exceed the amount permitted by law; (ii) the act of creating the Guaranteed Obligations or any part thereof, is *ultra vires*; (iii) the officers or representatives executing the Note or the other Loan Documents or otherwise creating the Guaranteed Obligations acted in excess of their authority; (iv) the Guaranteed Obligations violate applicable usury laws; (v) Borrower has valid defenses, claims, or offsets (whether at law, in equity, or by agreement) which render the Guaranteed Obligations wholly or partially uncollectible from Borrower; (vi) the creation, performance, or repayment of the Guaranteed Obligations (or the execution, delivery, and performance of any documents or instrument representing part of the Guaranteed Obligations or executed in connection with the Guaranteed Obligations, or given to secure the repayment of the Guaranteed Obligations) is illegal,

uncollectible, or unenforceable; or (vii) the Note or any of the other Loan Documents have been forged or otherwise being irregular or not genuine and authentic, it being agreed that Guarantor shall remain liable hereon regardless of whether Borrower or any other person be found not liable on the Guaranteed Obligations or any part for any reason.

**Section 2.05 Release of Obligors.** Any full or partial release of the liability of Borrower on the Guaranteed Obligations, or any part thereof, or of any co-guarantors, or any other person or entity now or hereafter liable, whether directly or indirectly, jointly, severally, or jointly and severally, to pay, perform, guarantee, or assure the payment of the Guaranteed Obligations, or any part thereof, it being recognized, acknowledged and agreed by each Guarantor that such Guarantor may be required to pay the Guaranteed Obligations in full without assistance or support of any other party. Guarantor has not been induced to enter into this Guaranty on the basis of a contemplation, belief, understanding or agreement that other parties will be liable to pay or perform the Guaranteed Obligations, or that Lender will look to other parties to pay or perform the Guaranteed Obligations.

**Section 2.06 Other Collateral.** The taking or accepting of any other security, collateral, guaranty, or other assurance of payment for all or any part of the Guaranteed Obligations.

**Section 2.07 Release of Collateral.** Any release, surrender, exchange, subordination, deterioration, waste, loss, or impairment (including, without limitation, negligent, willful, unreasonable or unjustifiable impairment) of any collateral, property or security, at any time existing in connection with, or assuring or securing payment of, all or any part of the Guaranteed Obligations.

**Section 2.08 Care and Diligence.** The failure of Lender or any other party to exercise diligence or reasonable care in the preservation, protection, enforcement, sale, or other handling or treatment of all or any part of the collateral, property, or security securing the Guaranteed Obligations, including but not limited to any neglect, delay, omission, failure, or refusal of Lender (i) to take or prosecute any action for the collection of any of the Guaranteed Obligations; or (ii) to foreclose, or initiate any action to foreclose, or, once commenced, prosecute to completion any action to foreclose upon any security therefor; or (iii) to take or prosecute any action in connection with any instrument or agreement evidencing or securing all or any part of the Guaranteed Obligations.

**Section 2.09 Unenforceability.** The fact that any collateral, security, security interest or lien contemplated or intended to be given, created or granted as security for the repayment of the Guaranteed Obligations, or any part thereof, is not properly perfected or created, or shall prove to be unenforceable or subordinate to any other security interest or lien, it being recognized and agreed by Guarantor that Guarantor is not entering into this Guaranty in reliance on, or in contemplation of the benefits of, the validity, enforceability, collectability or value of any of the collateral for the Guaranteed Obligations.

**Section 2.10 Offset.** The failure of the Note, the Guaranteed Obligations and the liabilities and obligations of Guarantor to Lender hereunder to be reduced, discharged or released because of or by reason of any existing or future right of offset, claim, or defense of Borrower

against Lender, or any other party, or against payment of the Guaranteed Obligations, whether such right of offset, claim, or defense arises in connection with the Guaranteed Obligations, or the transactions creating the Guaranteed Obligations, or otherwise.

**Section 2.11 Merger.** The reorganization, merger or consolidation of Borrower into or with any corporation or other form of entity.

**Section 2.12 Preference.** The treatment of any payment by Borrower to Lender as a preference under bankruptcy laws or any other requirement that Lender refund such payment or pay such amount to Borrower or to someone else.

**Section 2.13 Other Actions Taken or Omitted.** Any other action taken or omitted to be taken with respect to the Loan Documents, the Guaranteed Obligations, or the security and collateral therefor, whether or not such action or omission prejudices Guarantor or increases the likelihood that Guarantor will be required to pay the Guaranteed Obligations pursuant to the terms hereof, it being the unambiguous and unequivocal intention of Guarantor that Guarantor shall be obligated to pay the Guaranteed Obligations when due, notwithstanding any occurrence, circumstance, event, action, or omission whatsoever, whether or not contemplated, and whether or not otherwise or particularly described herein, which obligation shall be deemed satisfied only upon the full and final payment and satisfaction of the Guaranteed Obligations.

### **Article III Representations and Warranties.**

To induce Lender to enter into the Loan Documents and extend credit to Borrower, Guarantor represents and warrants to Lender as follows:

**Section 3.01 Benefit.** Guarantor is the owner [or the spouse of an owner], of a direct interest in Borrower, and has received, or will receive, direct or indirect benefit from the making of this Guaranty with respect to the Guaranteed Obligations.

**Section 3.02 Familiarity and Reliance.** Guarantor is familiar with, and has independently reviewed books and records regarding, the financial condition of Borrower and is familiar with the value of any and all collateral intended to be created as security for the payment of the Note or Guaranteed Obligations; provided, however, Guarantor is not relying on such financial condition or the collateral as an inducement to enter into this Guaranty.

**Section 3.03 No Representation by Lender.** Neither Lender nor any other party has made any representation, warranty or statement to Guarantor in order to induce Guarantor to execute this Guaranty and Guarantor is executing this Guaranty as his/her own free act and deed.

**Section 3.04 Guarantor's Financial Condition.** As the date hereof, and after giving effect to this Guaranty and the contingent obligation evidenced hereby, Guarantor is, and will be, solvent, and has and will have assets which, fairly valued, exceed its obligations, liabilities (including contingent liabilities) and debts, and has and will have property and assets sufficient to satisfy and repay its obligations and liabilities.

**Section 3.05 Legality.** The execution, delivery and performance by Guarantor of this Guaranty and the consummation of the transactions contemplated hereunder do not, and will not, contravene or conflict with any law, statute or regulation whatsoever to which Guarantor is subject or constitute a default (or an event which with notice or lapse of time or both would constitute a default) under, or result in the breach of, any indenture, mortgage, deed of trust, charge, lien, or any contract, agreement or other instrument to which Guarantor is a party or which may be applicable to Guarantor. This Guaranty is a legal and binding obligation of Guarantor and is enforceable in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights.

**Section 3.06 Survival.** All representations and warranties made by Guarantor herein shall survive the execution hereof.

**Section 3.07 Review of Documents.** The Guarantor has examined the Note and all of the Loan Documents.

**Section 3.08 Litigation.** Except as otherwise disclosed to Lender, there are no proceedings pending or, so far as Guarantor knows, threatened before any court or administrative agency which, if decided adversely to Guarantor, would materially adversely affect the financial condition of Guarantor or the authority of Guarantor to enter into, or the validity or enforceability of this Guaranty.

**Section 3.09 Tax Returns.** Guarantor has filed all required federal, state and local tax returns and has paid all taxes as shown on such returns as they have become due. No claims have been assessed and are unpaid with respect to such taxes.

**Section 3.10 Residency.** Guarantor is a resident of the State of [\_\_\_\_\_] and has not, while married, resided in Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington or Wisconsin (the "**Specified Jurisdictions**").

**Section 3.11 Ownership of Property.** Title (whether fee simple or leasehold) to all real and personal property (excluding intellectual property) necessary or used in the ordinary conduct of the Borrower's business is owned by the Borrower and not by Guarantor.

#### **Article IV Subordination of Certain Indebtedness.**

**Section 4.01 Subordination of All Guarantor Claims.** As used herein, the term "**Guarantor Claims**" shall mean all debts and liabilities of Borrower to Guarantor or, if applicable, of a Guarantor to another Guarantor, whether such debts and liabilities now exist or are hereafter incurred or arise, or whether the obligations of Borrower or another Guarantor, as applicable, thereon are direct, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such debts or liabilities be evidenced by note, contract, open account, or otherwise, and irrespective of the person or persons in whose favor such debts or liabilities may, at their inception, have been, or may hereafter be, created, or the manner in which they have been or may hereafter be acquired by Guarantor. The Guarantor Claims shall include, without limitation, all rights and claims of Guarantor against Borrower or another Guarantor, as

applicable (arising as a result of subrogation or otherwise), as a result of Guarantor's payment of all or a portion of the Guaranteed Obligations to the extent the provisions of **Section 1.03** hereof are unenforceable. Upon the occurrence of an Event of Default or the occurrence of an event which would, with the giving of notice or the passage of time, or both, constitute an Event of Default, Guarantor shall not receive or collect directly or indirectly from Borrower, any other Guarantor or any other party any amount upon the Guarantor Claims.

**Section 4.02 Claims in Bankruptcy.** In the event of receivership, bankruptcy, reorganization, arrangement, debtor's relief, or other insolvency proceedings involving Guarantor as debtor, Lender shall have the right to prove its claim in any such proceeding so as to establish its rights hereunder and receive directly from the receiver, trustee or other court custodian dividends and payments which would otherwise be payable upon Guarantor Claims. Guarantor hereby assigns such dividends and payments to Lender. Should Lender receive for application upon the Guaranteed Obligations, any such dividend or payment which is otherwise payable to Guarantor, and which, as between Borrower or another Guarantor, as applicable, and Guarantor, shall constitute a credit upon the Guarantor Claims, then upon payment to Lender in full of the Guaranteed Obligations, Guarantor shall become subrogated to the rights of Lender to the extent that such payments to Lender on the Guarantor Claims have contributed toward the liquidation of the Guaranteed Obligations, and such subrogation shall be with respect to that portion of the Guaranteed Obligations which would have been unpaid if Lender had not received dividends or payments upon the Guarantor Claims.

**Section 4.03 Payments Held in Trust.** In the event that, notwithstanding anything to the contrary in this Guaranty, Guarantor should receive any funds, payment, claim or distribution which is prohibited by this Guaranty, Guarantor agrees to hold in trust for Lender an amount equal to the amount of all funds, payments, claims or distributions so received, and agrees that it shall have absolutely no dominion over the amount of such funds, payments, claim or distributions so received except to pay them promptly to Lender, and Guarantor covenants promptly to pay the same to Lender.

**Section 4.04 Liens Subordinate.** Guarantor agrees that any liens, security interests, judgment liens, charges or other encumbrances upon Borrower's assets securing payment of the Guarantor Claims shall be and remain inferior and subordinate to any liens, security interests, judgment liens, charges or other encumbrances upon Borrower's assets securing payment of the Guaranteed Obligations, regardless of whether such encumbrances in favor of Guarantor or Lender presently exist or are hereafter created or attach. Without the prior written consent of Lender, Guarantor shall not (i) exercise or enforce any creditor's right it may have against Borrower, or (ii) foreclose, repossess, sequester or otherwise take steps or institute any action or proceedings (judicial or otherwise, including without limitation the commencement of, or joinder in, any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any liens, mortgages, deeds of trust, security interest, collateral rights, judgments or other encumbrances on assets of Borrower held by Guarantor.

## **Article V      Covenants.**

**Section 5.01 Tax Returns.** As soon as available, but in no event later than one hundred twenty (120) days after the end of each calendar year, Guarantor shall furnish Lender Guarantor's Federal and other governmental tax returns for such calendar year. If Guarantor files for an extension to any applicable filing deadline, Guarantor shall provide Lender with a copy of such extension request and shall provide Lender the applicable tax return before the deadline as so extended.

**Section 5.02 Financial Statements.** As soon as available, but in no event later than one hundred twenty (120) days after the end of each calendar year, Guarantor shall provide Lender with Guarantor's personal financial statements for such calendar year.

**Section 5.03 Specified Jurisdictions.** In the event that Guarantor resides in a Specified Jurisdiction at any point while this Guaranty remains in effect, Guarantor shall, upon request of the Lender, cause [his]/[her] spouse, if any, to execute and deliver an acknowledgement and consent to this Guaranty in form and substance satisfactory to the Lender. Guarantor shall promptly notify the Lender if Guarantor changes his residence such that [he]/[she] resides in a Specified Jurisdiction.

## **Article VI      Miscellaneous.**

**Section 6.01 Waiver.** No failure to exercise, and no delay in exercising, on the part of Lender, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. The rights of Lender hereunder shall be in addition to all other rights provided by law. No modification or waiver of any provision of this Guaranty, nor consent to departure therefrom, shall be effective unless in a writing signed by the parties hereto and no such consent or waiver shall extend beyond the particular case and purpose involved. No notice or demand given in any case shall constitute a waiver of the right to take other action in the same, similar or other instances without such notice or demand.

**Section 6.02 Notices.** All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged; (ii) one (1) Business Day (as defined in the Note) after having been deposited for overnight delivery with any reputable overnight courier service that keeps records of deliveries; or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows:

If to Lender:

FADS USA, Inc.  
Attn: Legal Department  
151 Hazard Avenue, Suite 12-13  
Enfield, CT 06082

If to Guarantor:

[Name of Guarantor]  
[Address]  
[City, State Zip Code]

With a Copy To:

[Name of Law Firm of Guarantor]  
Attn: [Name]  
[Address of Law Firm]  
[City, State Zip Code]

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

**Section 6.03 Governing Law; Jurisdiction.** Regardless of the place of its execution, this Guaranty shall be construed and enforced in accordance with the laws of the state where Lender's then current headquarters is located, without regard to such state's conflict of laws principles or rules. Guarantor hereby irrevocably consents to the jurisdiction of any federal or state court sitting in the state where Lender's then current headquarters is located for purposes of any action or proceeding relating to or arising out of this Guaranty and irrevocably waives any objection to personal jurisdiction and the laying of venue in any such court.

**Section 6.04 Invalid Provisions.** If any provision of this Guaranty is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Guaranty, such provision shall be fully severable, and this Guaranty shall be construed and enforced as if such illegal, invalid, or unenforceable provision has never been a part of this Guaranty, and the remaining provisions of this Guaranty shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Guaranty, unless such continued effectiveness of this Guaranty, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

**Section 6.05 Amendments.** This Guaranty may be amended only by an instrument in writing executed by the party, or an authorized representative of the party, against whom such amendment is sought to be enforced.

**Section 6.06 Parties Bound; No Assignment.** This Guaranty shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, assigns and legal representatives; provided, however, that Guarantor may not, without the prior written consent of Lender, assign any of its rights, powers, duties, or obligations hereunder.

**Section 6.07 Headings.** Section headings are for convenient reference only and shall in no way affect the interpretation of this Guaranty.



**Section 6.08 Recitals.** The recitals and introductory paragraphs hereof are a part hereof, form a basis for this Guaranty and shall be considered *prima facie* evidence of the facts and the documents referred to therein.

**Section 6.09 Counterparts.** To facilitate execution, this Guaranty may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary to making proof of this Guaranty to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages.

**Section 6.10 Rights and Remedies.** If Guarantor becomes liable for any indebtedness owing by Borrower to Lender, by endorsement or otherwise, other than under this Guaranty, such liability shall not be in any manner impaired or affected hereby and the rights of Lender hereunder shall be cumulative of any and all other rights that Lender may ever have against Guarantor. The exercise by Lender of any right or remedy hereunder or under any other instrument, or at law or in equity, shall not preclude the concurrent or subsequent exercise of any other right or remedy.

**Section 6.11 [Obligations of Married Persons. [\_\_\_\_\_].]**<sup>1</sup>

**Section 6.12 Entirety.** THIS GUARANTY EMBODIES THE FINAL, ENTIRE AGREEMENT OF GUARANTOR AND LENDER WITH RESPECT TO GUARANTOR'S GUARANTY OF THE GUARANTIED OBLIGATIONS AND SUPERSEDES ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF. THIS GUARANTY IS INTENDED BY GUARANTOR AND LENDER AS A FINAL AND COMPLETE EXPRESSION OF THE TERMS OF THE GUARANTY, AND NO COURSE OF DEALING BETWEEN GUARANTOR AND LENDER, NO COURSE OF PERFORMANCE, NO TRADE PRACTICE, AND NO EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OR OTHER EXTRINSIC EVIDENCE OF ANY NATURE SHALL BE USED TO CONTRADICT, VARY, SUPPLEMENT, OR MODIFY ANY TERM OF THIS GUARANTY. THERE ARE NO ORAL AGREEMENTS BETWEEN GUARANTOR AND LENDER.

**Section 6.13 Waiver of Jury Trial.** GUARANTOR HEREBY ACKNOWLEDGES THAT THIS GUARANTY ARISES IN CONNECTION WITH A COMMERCIAL TRANSACTION. TO THE EXTENT PERMITTED BY APPLICABLE LAWS, GUARANTOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF

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<sup>1</sup> Note: If a Guarantor is a married individual who resides in Arizona, Idaho, New Mexico, Washington or Wisconsin, the appropriate provision from Annex A is inserted.

RIGHT TO A JURY AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS GUARANTY, THE SECURITY INSTRUMENT, OR THE OTHER LOAN DOCUMENTS OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY GUARANTOR AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY GUARANTOR.

**Section 6.14 Waiver of Right to Homestead Exemption.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE GUARANTOR HEREBY WAIVES ANY RIGHT THAT GUARANTOR MAY HAVE TO ANY HOMESTEAD EXEMPTION.

*- Signature Pages Follow -*

**IN WITNESS WHEREOF**, the parties executed this Guaranty as of the day and year first above written intending to create an instrument executed under seal.

**GUARANTOR:**

\_\_\_\_\_ (SEAL)  
[Name], individually

\_\_\_\_\_ (SEAL)  
[Name], individually

\_\_\_\_\_ (SEAL)  
[Name], individually

**NOTARY ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared the above named individuals, known personally to me (or satisfactorily proven) to be the persons whose names are subscribed to this Guaranty, and acknowledged that they executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

SEAL

\_\_\_\_\_

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

Commission Expires: \_\_\_\_\_

**ACCEPTED AND AGREED:**

**FADS USA, INC.**

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

Name:

Title:

**SPOUSAL CONSENT**

I, [\_\_\_\_\_], am the spouse of [\_\_\_\_\_]. My spouse has provided the foregoing Guaranty Agreement. I have reviewed the Guaranty Agreement and any related documents and have had the opportunity to discuss with counsel. I acknowledge that the obligations of my spouse pursuant to the foregoing document and any related documents and instruments are undertaken in the interest of and for the benefit of our marriage and our family. I consent to the foregoing documents and the obligations which are the subject of the foregoing documents. I acknowledge and agree that under the Guaranty Agreement, recourse may be had against any and all property held by my spouse individually and my spouse and me jointly, including any and all property held by us as community property, to the extent applicable.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Spousal Consent as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_(SEAL)  
[Name], individually

[If a married Guarantor residing in Arizona, then the following is used:]

[Guarantor] and [Spouse] are married to each other. [Spouse] (a) consents to all of the terms and conditions of the foregoing Guaranty Agreement, (b) agrees that this Guaranty benefits or is expected to benefit the marital community, and (c) agrees that under this Guaranty recourse may be had against the separate and community property of [Guarantor], but recourse may be had only against the community property of [Spouse].

\_\_\_\_\_  
[Name]

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

[If a married Guarantor residing in New Mexico, then the following is used:]

[Guarantor] and [Spouse] are married to each other. [Spouse] (a) consents to all of the terms and conditions of the foregoing Guaranty Agreement, (b) agrees that this Guaranty benefits or is expected to benefit the marital community, and (c) agrees that under this Guaranty recourse may be had against the separate and community property of [Guarantor], but recourse may be had only against the community property of [Spouse]. [Spouse] is executing this Spousal Consent solely in order to allow his or her interest in the marital residence to be used to satisfy the obligations under this Guaranty.

\_\_\_\_\_  
[Name]

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

[If a married Guarantor residing in Wisconsin, then the following is used:]

The undersigned is the spouse of [Guarantor], who executed the foregoing Guaranty Agreement, which Guaranty Agreement I have either reviewed or I hereby decline to do so. I consent to the execution by my spouse of the Guaranty Agreement. I acknowledge that the obligations undertaken by my spouse pursuant to the Guaranty Agreement are undertaken in the interest of and for the benefit of our marriage and our family and that there is no Marital Property Agreement, Unilateral Statement under Section 766.59, Wisconsin Statutes, or a Court Decree under Section 766.70, Wisconsin Statutes, that adversely affects the liability recognized under the Guaranty Agreement to the Lender. By executing and delivering this consent I am not agreeing to be a guarantor under the Guaranty Agreement, and I am not undertaking any personal liability whatsoever.

\_\_\_\_\_  
[Name]

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

**MARITAL PURPOSE STATEMENT**

I, [\_\_\_\_\_], represent that I am a married resident of the State of [\_\_\_\_\_]. I acknowledge and agree that my obligations under the foregoing Guaranty Agreement are incurred in the interest of and for the benefit of my marriage and my family.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Marital Purpose Statement as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name], individually (SEAL)

Annex A

Section 6.11 Inserts

If Guarantor is a married individual living in Arizona:

1. If both spouses are Guarantors:

[Guarantor 1] and [Guarantor 2] are married to each other and each expressly agrees that this Guaranty benefits the marital community, and that this Guaranty binds the marital community and community property, as well as each such Guarantor's sole and separate property.

2. If Guarantor's spouse is not a Guarantor but will sign the Spousal Consent:

[Guarantor] and [Spouse] are married to each other, and each hereby agrees that this Guaranty benefits or is expected to benefit the marital community, and that under this Guaranty recourse may be had against the separate and community property of [Guarantor], but recourse may be had only against the community property of [Spouse].

If Guarantor is a married individual living in Idaho:

1. If both spouses are Guarantors:

[Guarantor 1] and [Guarantor 2] are married to each other and each expressly agrees that this Guaranty benefits the marital community, and that this Guaranty binds the marital community and community property, as well as each such Guarantor's sole and separate property.

2. If Guarantor's spouse is not a Guarantor:

[Guarantor] is married and hereby expressly agrees that such Guarantor is acting on behalf of such Guarantor's marital community, that this Guaranty benefits or is expected to benefit the community, and that recourse may be had against both such Guarantor's separate property and the community's property.

If Guarantor is a married individual living in New Mexico:

1. If both spouses are Guarantors:

[Guarantor 1] and [Guarantor 2] are married to each other and each expressly agrees that this Guaranty benefits the marital community, and that this Guaranty binds the marital community and community property, as well as each such Guarantor's sole and separate property.



2. If Guarantor's spouse is not a Guarantor but will sign the Spousal Consent:

[Guarantor] and [Spouse] are married to each other, and each hereby agrees that this Guaranty benefits or is expected to benefit the marital community, and that under this Guaranty recourse may be had against the separate and community property of [Guarantor], but recourse may be had only against the community property of [Spouse]. [Spouse] is executing a Spousal Consent solely in order to allow his or her interest in the marital residence to be used to satisfy the obligations under this Guaranty.

If Guarantor is a married individual living in Washington:

1. If both spouses are Guarantors:

[Guarantor 1] and [Guarantor 2] are married to each other and each expressly agrees that this Guaranty benefits the marital community, and that this Guaranty binds the marital community and community property, as well as each such Guarantor's sole and separate property.

2. If Guarantor's spouse is not a Guarantor:

[Guarantor] is married and hereby expressly agrees that such Guarantor is acting on behalf of such Guarantor's marital community, that this Guaranty benefits or is expected to benefit the community, and that recourse may be had against both such Guarantor's separate property and the community's property.

If Guarantor is a married individual living in Wisconsin:

1. If both spouses are Guarantors:

[Guarantor 1] and [Guarantor 2] are married to each other and each expressly agrees that this Guaranty and such Guarantor's obligations hereunder are incurred in the interest of the marriage or the family of Guarantor, and that this Guaranty binds the marital community and marital property, as well as each such Guarantor's sole and separate property.

2. If Guarantor's spouse is not a Guarantor:

[Guarantor] is married and hereby expressly agrees that this Guaranty and Guarantor's obligations hereunder are incurred in the interest of the marriage or the family of Guarantor, and that recourse may be had against both such Guarantor's separate property and the marital property.

**EXHIBIT D-3  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**FORM OF SECURITY AGREEMENT**

## SECURITY AGREEMENT

This Security Agreement (this “**Agreement**”) dated as of [\_\_\_\_], 20[\_\_\_] by [Name], a [State] [Entity type] with an address and place of business of [\_\_\_\_\_] (“**Debtor**”), in favor of FADS USA, Inc., a Delaware corporation, with its place of business as of the date hereof being located at 151 Hazard Avenue, Suite 12-13, Enfield, Connecticut 06082 (the “**Secured Party**”).

In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged and agreed, Debtor and Secured Party, intending to be legally bound, agree as follows:

**Section 1 Definitions.** Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings ascribed to such terms in the Note, except that all terms which are defined in the Uniform Commercial Code (as hereinafter defined) in effect from time to time shall have the meanings ascribed to such terms therein (provided, however, that the term “instrument” shall have the meaning ascribed to such term in Article 9 of the Uniform Commercial Code rather than Article 3). In addition, the following terms shall have the meanings set forth below:

A. “**Loan Documents**” means, collectively, (i) the Note, (ii) that certain Guaranty Agreement of even date herewith from [Name(s) of Guarantor(s)] to Secured Party, (iii) this Agreement and (iv) all other documents, agreements or instruments related to or securing or guaranteeing the Note or executed and delivered by the Debtor, any guarantor or any other obligor in connection therewith or herewith, in each case as amended, supplemented or otherwise modified from time to time.

B. “**Loan Parties**” means [Name(s) of Borrower, Guarantor(s) and, if not included, the Debtor].

C. “**Note**” means that certain Secured Promissory Note of even date herewith, in the original principal amount of [\_\_\_\_\_] and [\_\_\_]/100s Dollars (\$[\_\_\_\_\_] ), from Debtor to Secured Party, as amended, supplemented or otherwise modified from time to time.

D. “**Obligations**” means any and all obligations, indebtedness, liabilities, guaranties, covenants and duties owing by the Loan Parties to Secured Party (i) including without limitation, all indebtedness and other obligations under the Note and the other Loan Documents; and (ii) generally, whether due or to become due, absolute or contingent, now existing or hereafter incurred or arising, whether or not otherwise guaranteed or secured and whether evidenced by any note or draft or documented on the books and records of Secured Party or otherwise on open account, including without limitation, all costs, expenses, fees, charges and attorneys’ and other professional fees incurred by Secured Party in connection with, involving or related to the administration, protection, modification, collection, enforcement, preservation or defense of any of Secured Party’s rights with respect to any of the obligations under the Loan Documents, the Collateral, or any agreement, instrument or document evidencing, governing, securing or relating to any of the foregoing, or any other agreement between Debtor and Secured Party, including

without limitation, all costs and expenses incurred in inspecting or surveying mortgaged real estate, if any, or conducting environmental studies or tests, and in connection with any “workout” or default resolution negotiations involving legal counsel or other professionals and any renegotiation or restructuring of any of the foregoing obligations.

E. “**State**” means the state where Secured Party’s headquarters is then located.

F. “**Uniform Commercial Code**” means the Uniform Commercial Code of the State in effect from time to time (except when used in connection with the perfection of any Collateral, and then the Uniform Commercial Code of the applicable jurisdiction with respect to such affected Collateral).

**Section 2 Grant of Security Interest.** To secure the payment and performance in full when due, whether by lapse of time, acceleration, mandatory prepayment or otherwise, of all of the Obligations, Debtor hereby grants, pledges and assigns to Secured Party a continuing security interest in all properties, assets and rights of Debtor in and to the following, together, in each instance, with the renewals, substitutions, replacements, additions, rental payments, products and proceeds thereof, wherever located, whether now owned or hereafter acquired or arising: all goods, inventory, equipment, instruments (including promissory notes), money, fixtures, documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, securities accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims set forth on **Schedule A** (as supplemented from time to time in accordance with **Section 3(B)** hereof), securities, equity interests and all other investment property, supporting obligations, other contract rights, payment intangibles, vehicles, and all general intangibles including, without limitation, all payment intangibles, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications software, engineering drawings, service marks, customer lists, goodwill, and all licenses, permits, agreements of any kind or nature pursuant to which Debtor possesses, uses or has authority to possess or use property (whether tangible or intangible) of other or others, and all recorded data of any kind or nature, regardless of the medium of recording, including, without limitation, all software, writings, plans, specifications and schematics, all books and records pertaining to any of the foregoing, all accessions, proceeds and products of any and all of the foregoing and all other personal property of any kind or type whatsoever now or hereafter owned by Debtor or as to which Debtor now or hereafter has the power to transfer interest therein (collectively, the “**Collateral**”).

Debtor expressly acknowledges that the security interest granted hereunder shall remain as security for payment and performance of the Obligations, whether now existing or which may hereafter be incurred by future advances, or otherwise. The notice of the continuing grant of this security interest therefore shall not be required to be stated on the face of any document representing any such Obligations, nor otherwise identify it as being secured hereby.

**Section 3 Other Actions.** Further to ensure the attachment, perfection and first priority of, and the ability of the Secured Party to enforce the Secured Party’s security interest in the Collateral, Debtor agrees, in each case at the Debtor’s own expense, until such time as the Obligations have been indefeasibly paid in full and the Secured Party has no further commitments to extend credit

to the Debtor under the Note and the other Loan Documents, to take the following actions with respect to the following Collateral:

A. Investment Property. To endorse, assign and deliver any certificated securities to the Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as the Secured Party may from time to time specify. If any securities now or hereafter acquired by the Debtor are uncertificated and are issued to the Debtor or its nominee directly by the issuer thereof, the Debtor shall immediately notify the Secured Party thereof and, at the Secured Party's request and option, pursuant to an agreement in form and substance satisfactory to the Secured Party, either (i) cause the issuer to agree to comply with instructions from the Secured Party as to such securities, without further consent of the Debtor or such nominee; or (ii) arrange for the Secured Party to become the registered owner of the securities. If any securities, whether certificated or uncertificated, or other investment property now or hereafter acquired by the Debtor are held by the Debtor or its nominee through a securities intermediary or commodity intermediary, the Debtor shall immediately notify the Secured Party thereof and, at the Secured Party's request and option, pursuant to an agreement in form and substance satisfactory to the Secured Party, either (a) cause such securities intermediary or commodity intermediary (as the case may be) to agree to comply with entitlement orders or other instructions from the Secured Party to such securities intermediary as to such securities or other investment property, or to apply any value distributed on account of any commodity contract as directed by the Secured Party to such commodity intermediary (as the case may be), in each case without further consent of the Debtor or such nominee; or (b) in the case of financial assets or other investment property held through a securities intermediary, arrange for the Secured Party to become the entitlement holder with respect to such investment property, with the Debtor being permitted, only with the consent of the Secured Party, to exercise rights to withdraw or otherwise deal with such investment property. Secured Party agrees with the Debtor that Secured Party shall not give any such entitlement orders or instructions or directions to any such issuer, securities intermediary or commodity intermediary, and shall not unreasonably withhold its consent to the exercise of any withdrawal or dealing rights by the Debtor, unless an Event of Default has occurred, or, after giving effect to any such investment and withdrawal rights not otherwise permitted by the Loan Documents, would occur. The provisions of this paragraph shall not apply to any financial assets credited to a securities account for which the Secured Party is the securities intermediary.

B. Commercial Tort Claims. Promptly forward to the Secured Party an updated **Schedule A** listing any and all commercial tort claims by or in favor of the Debtor seeking damages in excess of \$2,000 in any individual instance and \$4,000 in the aggregate for all commercial tort claims of the Debtor not subject to a lien in favor of the Secured Party and execute and deliver such statements, documents and notices and do and cause to be done all such things as may be reasonably required by the Secured Party, or required by applicable laws to create, preserve, perfect and maintain the Secured Party's security interest in any commercial tort claims initiated by or in favor of the Debtor.

C. Control. Execute and deliver all agreements, assignments, instruments or other documents as reasonably requested by the Secured Party for the purpose of obtaining and maintaining control with respect to any Collateral consisting of (i) deposit accounts, (ii) investment property, (iii) letter-of-credit rights and (iv) electronic chattel paper.

D. Certain Tangible Collateral. If any amount in excess of \$2,000 in any individual instance or \$4,000 in the aggregate payable under or in connection with any of the Collateral shall be or become evidenced by any instrument or tangible chattel paper, or if any property constituting Collateral shall be stored or shipped subject to a document, ensure that such instrument, tangible chattel paper or document is either in the possession of the Debtor at all times or, if requested by the Secured Party to perfect its security interest in such Collateral, is delivered to the Secured Party duly endorsed in a manner satisfactory to the Secured Party. The Debtor shall ensure that any Collateral consisting of tangible chattel paper is marked with a legend acceptable to the Secured Party indicating the Secured Party's security interest in such tangible chattel paper.

E. Further Assurances. Debtor further agrees to take any other action reasonably requested by the Secured Party to ensure the attachment, perfection and first priority of, and the ability of the Secured Party to enforce, the Secured Party's security interest in any and all of the Collateral including, without limitation, (i) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the Uniform Commercial Code, to the extent, if any, that the Debtor's signature thereon is required therefor; (ii) causing the Secured Party's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or first priority of, or ability of the Secured Party to enforce, the Secured Party's security interest in such Collateral; (iii) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or first priority of, or ability of the Secured Party to enforce, the Secured Party's security interest in such Collateral; (iv) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Collateral; (v) obtaining waivers from mortgagees and landlords in form and substance satisfactory to the Secured Party; and (vi) taking all actions required by any earlier versions of the Uniform Commercial Code or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

**Section 4 Debtor's Representations and Warranties.** Debtor represents and warrants to Secured Party as follows:

A. Qualification; Legal Capacity. Debtor is duly organized, validly existing and in good standing under the laws of the state of its formation and has all requisite power and authority to own and operate its businesses and to carry on its businesses as now being conducted. Debtor is duly qualified to do business in each jurisdiction where the nature of its business or the character of its property requires such qualification.

B. Authority. Debtor has full power and authority to enter into and perform the obligations under this Agreement, to execute and deliver the Loan Documents to which it is a party and to incur the obligations provided for herein and therein, all of which have been duly authorized by all necessary and proper company action. No other consent or approval or the taking of any other action is required as a condition to the validity or enforceability of this Agreement or any of the other Loan Documents.

C. Binding Agreements. This Agreement and the other Loan Documents constitute the valid and legally binding obligations of the Debtor, enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

D. Litigation. To the best of Debtor's knowledge, there are no actions, suits, proceedings or investigations pending or threatened against the Debtor before any court or administrative agency, which either in any case or in the aggregate, if adversely determined, would materially and adversely affect the financial condition, assets or operations of the Debtor, or which question the validity of this Agreement or any of the other Loan Documents, or any action to be taken in connection with the transactions contemplated hereby or thereby.

E. No Conflicting Law or Agreements. The execution, delivery and performance by the Debtor of this Agreement and the other Loan Documents: (i) do not violate any order, decree or judgment, or any provision of any statute, rule or regulation; (ii) do not violate or conflict with, result in a breach of or constitute (with notice or lapse of time, or both) a default under any agreement, mortgage, indenture, contract to which the Debtor is a party, or by which any of Debtor's properties are bound; or (iii) except for the lien granted hereunder, do not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any property or assets of the Debtor.

F. Financial Statements. The financial information of the Debtor, including, but not limited to, tax returns, balance sheets, statements of earnings, retained earnings, contributed capital and cash flow statements, heretofore submitted to Secured Party, is complete and correct and fairly presents the financial condition of the Debtor as of the dates of said information and the results of its operations and its cash flows for the periods referred to therein in accordance with generally accepted accounting principles, consistently applied. Since the submission of said information to Secured Party, there has been no material adverse change in the financial condition or business of the Debtor. Debtor has no material contingent obligations except as disclosed in such financial statements.

G. Taxes. With respect to all taxable periods of the Debtor, the Debtor has filed all tax returns which are required to be filed and all federal, state, municipal, franchise, corporate and other taxes shown on such filed returns have been paid as due or have been reserved against, if not yet due, as required by generally accepted accounting principles, consistently applied, and the Debtor knows of no unpaid assessments against Debtor.

H. Compliance. Debtor is not in default with respect to or in violation of any order, writ, injunction or decree of any court or of any federal, state, municipal or other governmental department, commission, board, bureau, agency, authority or official, or in violation of any law, statute, rule or regulation to which Debtor or Debtor's properties is or are subject, where such default or violation would materially and adversely affect the financial condition of the Debtor. Debtor represents that Debtor has not received notice of any such default or violation from any party. Debtor is not in default in the payment or performance of any of Debtor's obligations to any third parties or in the performance of any mortgage, indenture, lease, contract or other agreement

to which Debtor is a party or by which any of Debtor's assets or properties are bound, where such default would materially and adversely affect the financial condition of the Debtor.

I. Real Property.

(i) Real Property Locations. Set forth on **Schedule B** is a list of all real property that is owned or leased by the Debtor (with a designation as to whether each such listed property is owned or leased).

(ii) Office. The chief executive office and the office where Debtor's books and records concerning Collateral are kept are set forth in the first paragraph of this Agreement (the "**Debtor Office**").

(iii) Places of Business. The Debtor has no other places of business and locates no Collateral, specifically including books and records, at any location other than at the Debtor Office.

J. Contingent Liabilities. The Debtor is not a party to any suretyship, guarantyship, or other similar type agreement; nor has Debtor offered its endorsement to any individual, concern, corporation or other entity or acted or failed to act in any manner which would in any way create a contingent liability (except for endorsement of negotiable instruments in the ordinary course of business).

K. Licenses. Debtor has all licenses, permits and other permissions required by any government, agency or subdivision thereof, or from any licensing entity necessary for the conduct of Debtor's business, all of which the Debtor represents to be in good standing and in full force and effect.

L. Collateral.

(i) Debtor is and shall continue to be the sole owner of the Collateral free and clear of all liens, encumbrances, security interests and claims, except as set forth in this Agreement; Debtor is fully authorized to sell, transfer, pledge and/or grant a security interest in each and every item of the Collateral to Secured Party; all documents and agreements related to the Collateral shall be true and correct and in all respects what they purport to be; all signatures and endorsements that appear thereon shall be genuine, and all signatories and endorsers shall have full capacity to contract; none of the transactions underlying or giving rise to the Collateral shall violate any applicable state or federal laws or regulations; all documents relating to the Collateral shall be legally sufficient under such laws or regulations and shall be legally enforceable in accordance with their terms; and the Debtor agrees to defend the Collateral against the claims of all persons other than Secured Party.

(ii) This Agreement creates a valid security interest in favor of the Secured Party in the Collateral and, when properly perfected by filing, shall constitute a valid and perfected, first priority security interest in such Collateral (including all uncertificated securities



consisting of partnership or limited liability company interests that do not constitute securities), to the extent such security interest can be perfected by filing under the Uniform Commercial Code. The taking of possession by the Secured Party of the certificated securities (if any) constituting Collateral and all other instruments constituting Collateral will perfect and establish the first priority of the Secured Party's security interest in all the Collateral evidenced by such certificated securities and such instruments. With respect to any Collateral consisting of a deposit account, security entitlement or assets held in a securities account, upon execution and delivery by the Debtor, the bank or securities intermediary, as applicable, and the Secured Party of an agreement granting control to the Secured Party over such Collateral, the Secured Party shall have a valid and perfected, first priority security interest in such Collateral.

M. Environmental, Health & Safety Laws. Debtor has not received any notice, order, petition or similar document in connection with or arising out of any violation of any environmental, health or safety law, regulation, rule or order, and Debtor knows of no basis for any claim of such violation or of any threat thereof.

N. Commercial Tort Claims. As of the date hereof, Debtor does not have any commercial tort claims seeking damages in excess of \$2,000 in any individual instance or \$4,000 in the aggregate when taken together with all commercial tort claims of the Debtor, other than as set forth on **Schedule A** hereto.

O. Ownership of Property. Debtor has good record and marketable title in fee simple to, or valid leasehold interests in, all real and personal property (excluding intellectual property) necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a material adverse effect.

**Section 5 Affirmative Covenants of Debtor.** Debtor covenants and agrees that, until such time as the Obligations have been indefeasibly paid in full and the Secured Party has no further commitments to extend credit to the Debtor under the Note or the other Loan Documents, Debtor shall:

A. Financial Information. Deliver to Secured Party (i) promptly upon Secured Party's request, such documentation and information about the Debtor's financial condition, business and/or operations as Secured Party may, at any time and from time to time, request, including without limitation, business and/or personal financial statements, copies of federal and state income tax returns and all schedules thereto, aging reports of Debtor's accounts and accounts payable, and a listing of Debtor's inventory and equipment, all of which shall be in form, scope and content satisfactory to Secured Party, in its sole discretion; and (ii) promptly upon becoming aware of any Event of Default or any occurrence which but for the giving of notice or the passage of time would constitute an Event of Default, notice thereof in writing.

B. Insurance and Endorsement. Keep the Collateral and Debtor's other properties insured against loss or damage by fire and other hazards (so-called "All Risk" coverage) in amounts and with companies satisfactory to Secured Party to the same extent and covering such risks as is customary in the same or a similar business; maintain public liability coverage, including

without limitation, products liability coverage, against claims for personal injuries or death; and maintain all worker's compensation, employment or similar insurance as may be required by applicable law. All insurance shall contain such terms, be in such form, and be for such periods satisfactory to Secured Party, and be written by such carriers duly licensed by the State of and satisfactory to Secured Party. Without limiting the generality of the foregoing, such insurance must provide that it may not be canceled without ten (10) days prior written notice to Secured Party. Debtor shall cause Secured Party to be endorsed (i) on all property insurance policies as lender's loss payee with a long form Lender's Loss Payable Clause and (ii) on all liability insurance policies as additional insured, in each case in form and substance acceptable to Secured Party. In the event of a failure to provide and maintain insurance as herein provided, Secured Party may, at its option, provide such insurance and charge the amount thereof to the Debtor. The Debtor shall furnish to Secured Party certificates, endorsements or other satisfactory evidence of compliance with the foregoing insurance provisions. The Debtor hereby irrevocably appoints Secured Party as its attorney-in-fact, coupled with an interest, to make proofs of loss and claims for insurance, and to receive payments of the insurance and execute all documents, checks and drafts in connection with payment of the insurance. Any proceeds received by Secured Party shall be applied to the Obligations in such order and manner as Secured Party shall determine in its sole discretion, or shall be remitted to the Debtor, in either event at Secured Party's sole discretion.

C. Tax and Other Liens. Comply with all statutes and government regulations and pay all taxes (including withholdings), assessments, governmental charges or levies, or claims for labor, supplies, rent and other obligations made against it or its property which, if unpaid, might become a lien or charge against the Debtor or its properties.

D. Place of Business. Maintain its executive offices at the Debtor Office.

E. Inspection. Upon reasonable notice and during normal business hours, allow Secured Party by or through any of their officers, and/or accountants designated by Secured Party, to enter the offices and plants of the Debtor to examine or inspect any of the properties, books and records or extracts therefrom relating to Debtor's financial or business conditions, to make copies of such books and records or extracts therefrom, and to discuss the affairs, finances and accounts thereof with the Debtor all at such reasonable times and as often as Secured Party or any such representative of Secured Party may reasonably request.

F. Litigation. Promptly advise Secured Party of the commencement or threat of litigation, including arbitration proceedings and any proceedings before any governmental agency which is instituted against the Debtor.

G. Maintenance of Existence. Maintain its existence as a [entity type] and comply with all valid and applicable statutes, rules and regulations, and maintain its properties in good repair, working order and operating condition. The Debtor shall immediately notify Secured Party of any event causing material loss in the value of its assets.

H. Collateral Duties. Cause all Collateral to be subject at all times to a first priority, perfected security interest in favor of the Secured Party and do whatever Secured Party may request from time to time by way of obtaining, executing, delivering and filing financing statements,

assignments, landlord's or mortgagee's waivers, and other notices and amendments and renewals thereof, and take any and all steps and observe such formalities as Secured Party may request in order to create and maintain a valid and enforceable lien upon, pledge of, and first priority security interest in, any and all of the Collateral. Debtor hereby irrevocably authorizes the Secured Party at any time and from time to time to file in any jurisdiction, without Debtor's signature, any initial financing statements and amendments thereto that (i) indicate the Collateral (a) as all assets of the Debtor 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; or (b) as being of an equal or lesser scope or with greater detail; and (ii) contain any other information required by part 5 of Article 9 of the Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement or amendment, including (a) whether the Debtor is an organization, the type of organization and any organization identification number issued to the Debtor; and (b) in the case of a financing statement filed as a fixture filing or indicating Collateral as extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. The Debtor agrees to furnish any such information to the Secured Party promptly upon request. All charges, expenses and fees Secured Party may incur in filing any of the foregoing, together with reasonable costs and expenses of any lien search required by Secured Party, and any taxes relating thereto, shall be charged to the Debtor and added to the Obligations.

I. Key Man Life Insurance. (a) Obtain an aggregate amount of not less than \$[\_\_\_\_\_]² of "key man" life insurance on the lives of one or more officers or owners of the Debtor from carriers rated "A" or better by A.M. Best Co. (the "Key Man Insurance"), each of which life insurance policies names the Debtor as the sole beneficiary thereof and has other terms reasonably acceptable to the Secured Party, and (b) provide a collateral assignment with respect to the Key Man Insurance in favor of the Secured Party on the standard form of each carrier thereof, each of which shall be reasonably acceptable to the Secured Party.

**Section 6 Negative Covenants of Debtor.** The Debtor covenants and agrees that, until such time as the Obligations have been indefeasibly paid in full and the Secured Party has no further commitments to extend credit to the Debtor under the Note or the other Loan Documents, the Debtor shall not:

A. Encumbrances. Incur or permit to exist any lien, mortgage, charge or other encumbrance against any of the Collateral (except for the security interest granted to the Secured Party under this Agreement), whether now owned or hereafter acquired.

B. Consolidation or Merger. Merge into or consolidate with or into any entity or in any way change its existence from a [entity type].

C. Sale and Lease of Assets. Sell, lease or otherwise dispose of any of its assets, except for sales of inventory in the ordinary course of business.

D. Name Changes. Change its name or conduct business under any trade name or style other than as set forth in this Agreement or that certain Area Representative Agreement, of even

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² NTD: Insert the amount of the Note.

date herewith, by and between the Debtor, Secured Party and the Owners (as that term is defined therein) (the “**Area Representative Agreement**”).

E. Maintenance of Collateral. Permit to incur or suffer any loss, theft, substantial damage or destruction of any of the Collateral which is not immediately replaced with Collateral of equal or greater value, or which is not fully covered by insurance, the proceeds of which shall have been endorsed over to Secured Party in accordance with **Section 5(B)** hereof.

F. State of Formation/Incorporation Changes. Without providing the Secured Party thirty (30) days’ prior written notice thereof, change its state of formation or incorporation.

**Section 7     Securities and Deposits.** The Secured Party may, at any time following an Event of Default (as hereinafter defined), at its option, transfer to itself or any nominee any securities constituting Collateral, receive any income thereon and hold such income as additional Collateral or apply it to the Obligations. Whether or not any Obligations are due, the Secured Party may, following an Event of Default, demand, sue for, collect, or make any settlement or compromise which it deems desirable with respect to the Collateral. Regardless of the adequacy of Collateral or any other security for the Obligations, any deposits or other sums at any time credited by or due from the Secured Party to the Debtor may at any time be applied to or set off against any of the Obligations then due and owing.

**Section 8     Notification to Account Debtors and Other Persons Obligated on Collateral.** If an Event of Default shall have occurred, Debtor shall, at the request of the Secured Party:

A. Notify account debtors and other persons obligated on any of the Collateral of the security interest of the Secured Party in any account, chattel paper, general intangible, instrument or other Collateral and that payment thereof is to be made directly to the Secured Party or to any financial institution designated by the Secured Party as the Secured Party’s agent therefor;

B. Assign or endorse the accounts to Secured Party, and notify account debtors that the accounts have been assigned and should be paid directly to Secured Party;

C. Turn over to Secured Party all inventory returned in connection with any of the accounts;

D. Mark or stamp each of its individual ledger sheets or cards pertaining to its accounts with the legend “Assigned to FADS USA, Inc.”, or to the then holder of the Note as applicable, and stamp or otherwise mark and keep its books, records, documents and instruments relating to the accounts in such manner as Secured Party may require; and

E. Mark or stamp all invoices with a legend satisfactory to Secured Party so as to indicate that the same should be paid directly to Secured Party.

Secured Party may itself, if an Event of Default shall have occurred, without notice to or demand upon the Debtor, so notify account debtors and other persons obligated on Collateral and instruct such account debtors or other persons to make all payments in respect of the applicable

Collateral directly to the Secured Party. After the making of such a request or the giving of any such notification, the Debtor shall hold any proceeds of collection of accounts, chattel paper, general intangibles, instruments and other Collateral received by the Debtor as trustee for the Secured Party without commingling the same with other funds of the Debtor and shall turn the same over to the Secured Party in the identical form received, together with any necessary endorsements or assignments. The Secured Party shall apply the proceeds of collection of accounts, chattel paper, general intangibles, instruments and other Collateral received by the Secured Party to the Obligations, such proceeds to be immediately entered after final payment in cash or other immediately available funds of the items giving rise to them.

## **Section 9      Power of Attorney.**

A.      Appointment and Powers of Secured Party. Debtor hereby irrevocably constitutes and appoints the Secured Party and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of the Debtor or in the Secured Party's own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives said attorney the power and right, on behalf of the Debtor, without notice to or assent by the Debtor, to do the following:

i.        Upon the occurrence of an Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral in such manner as is consistent with the Uniform Commercial Code and as fully and completely as though the Secured Party were the absolute owner thereof for all purposes, and to do so at the Debtor's expense, at any time, or from time to time, all acts and things which the Secured Party deems necessary to protect, preserve or realize upon the Collateral and the Secured Party's security interest therein, in order to effect the intent of this Agreement, all as fully and effectively as the Debtor might do, including without limitation, (a) the filing and prosecuting of registration and transfer applications with the appropriate federal or local agencies or authorities with respect to trademarks, copyrights and patentable inventions and processes, (b) upon written notice to the Debtor, the exercise of voting rights with respect to voting securities, which rights may be exercised, if the Secured Party so elects, with a view to causing the liquidation in a commercially reasonable manner of assets of the issuer of any such securities, and (c) the execution, delivery and recording, in connection with any sale or other disposition of any Collateral, of the endorsements, assignments or other instruments of conveyance or transfer with respect to such Collateral; and

ii.        To the extent that the Debtor's authorization given is not sufficient, to file such financing statements with respect hereto, with or without the Debtor's signature, or a photocopy of this Agreement in substitution for a financing statement, as the Secured Party may deem appropriate and to execute in the Debtor's name such financing statements and amendments thereto and continuation statements which may require the Debtor's signature.

B.      Ratification by Debtor. To the extent permitted by law, Debtor hereby ratifies all that said attorneys shall lawfully do or cause to be done in accordance herewith. This power of attorney is a power coupled with an interest and shall be irrevocable.

**Section 10 No Duty on Secured Party.** The powers conferred on Secured Party hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon it to exercise any such powers. The Secured Party shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible to the Debtor for any act or failure to act, except for the Secured Party's own gross negligence or willful misconduct.

**Section 11 Rights of Secured Party.** Upon the occurrence of any Event of Default, Secured Party shall have the right to declare the Obligations to be immediately due and payable and shall then have all of the rights and remedies provided under this Agreement and the other Loan Documents and of a secured party under the Uniform Commercial Code or under any other applicable law, including, without limitation, the right to take possession of the Collateral and, in addition thereto, the right to enter upon any premises on which the Collateral or any part thereof may be situated and remove the same therefrom and the right to occupy the Debtor's premises for the purposes of liquidating Collateral, including without limitation, conducting an auction thereon. Secured Party may require the Debtor to make the Collateral (to the extent the same is moveable) available to Secured Party at a place to be designated by Secured Party. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party will give the Debtor at least ten (10) days' prior written notice at the Debtor Office (or at such other address or addresses as the Debtor shall specify in writing to Secured Party) of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. Any such notice shall be deemed to meet any requirement hereunder or under any applicable law (including the Uniform Commercial Code) that reasonable notification be given of the time and place of such sale or other disposition. After deducting all costs and expenses of collection, storage, custody, sale or other disposition and delivery (including reasonable attorneys' fees) and all other reasonable charges against the Collateral, the residue of the proceeds of any such sale or disposition shall be applied to the payment of the Obligations in such order as Secured Party shall determine and any surplus shall be returned to the Debtor or to any person or party lawfully entitled thereto. In the event the proceeds of any sale, lease or other disposition of the Collateral hereunder, including without limitation, the proceeds from the collection of accounts, are insufficient to pay all of the Obligations in full, the Debtor will be liable for the deficiency, together with interest thereon, at the maximum rate allowable by law, and the costs and expenses of collection of such deficiency, including (to the extent permitted by law) without limitation, attorneys' fees, expenses and disbursements.

**Section 12 Right of Secured Party to Use and Operate Collateral.** Upon the occurrence of any Event of Default, Secured Party shall have the right and power to take possession of all or any part of the Collateral and to enter into and remain upon the various premises of the Debtor (without cost or charge to the Secured Party), and to exclude the Debtor and all persons claiming under the Debtor wholly or partly therefrom, and thereafter to hold, store, and/or use, operate, manage and control the same. Upon any such taking of possession, Secured Party may, from time to time, at the expense of the Debtor, make all such repairs, replacements, alterations, additions and improvements to the Collateral as Secured Party may deem proper. In any such case Secured Party shall have the right to manage and control the Collateral and to carry on the business and to exercise

all rights and powers of the Debtor in respect thereto as Secured Party shall reasonably deem best, including the right to enter into any and all such agreements with respect to the operation of the Collateral or any part thereof as Secured Party may see fit; and Secured Party shall be entitled to collect and receive all issues, profits, fees, revenues and other income of the same and every part thereof. Such issues, profits, fees, revenues and other income shall be applied to pay the expenses of holding and operating the Collateral and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which Secured Party may be required or may elect to make, if any, for taxes, assessments, insurance and other charges upon the Collateral or any part thereof, and all other payments which Secured Party may be required or authorized to make under any provision of this Agreement (including legal costs and attorneys' fees). The remainder of such issues, profits, fees, revenues and other income shall be applied to the payment of the Obligation. Without limiting the generality of the foregoing, Secured Party shall have the right to apply for and have a receiver appointed by a court of competent jurisdiction in any action taken by Secured Party to enforce its rights and remedies hereunder in order to manage, protect and preserve the Collateral and continue the operation of the business of the Debtor and to collect all revenues and profits thereof and apply the same to the payment of all expenses and other charges of such receivership including the compensation of the receiver and to the payment of the Obligations as aforesaid until a sale or other disposition of such Collateral shall be finally made and consummated. Additionally, upon the occurrence of any Event of Default, the Secured Party may exercise control pursuant to any control agreement governing a deposit account constituting Collateral.

**Section 13 Advances.** On failure of the Debtor to perform any of the covenants and agreements contained herein or in any other Loan Document, the Secured Party may, at its sole option and in its sole discretion, perform the same and in so doing may expend such sums as the Secured Party may reasonably deem advisable in the performance thereof, including, without limitation, the payment of any insurance premiums, the payment of any taxes, a payment to obtain a release of a lien or potential lien, expenditures made in defending against any adverse claim and all other expenditures which the Secured Party may make for the protection of the security hereof or which may be compelled to make by operation of law. All such sums and amounts so expended shall be repayable by the Debtor promptly upon timely notice thereof and demand therefor, shall constitute additional Obligations and shall bear interest from the date said amounts are expended at the rate set forth in Section 9(b) of the Note. No such performance of any covenant or agreement by the Secured Party on behalf of the Debtor, and no such advance or expenditure therefore, shall relieve the Debtor of any Event of Default. The Secured Party may make any payment hereby authorized in accordance with any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien, title or claim except to the extent such payment is being contested in good faith by the Debtor in appropriate proceedings and against which adequate reserves are being maintained in accordance with generally accepted accounting principles.

**Section 14 Events of Default.** The Debtor shall be in default under this Agreement upon the happening of any of the following events or conditions (each individually an “**Event of Default**”):

A. **Payment Default.** Any Loan Party fails to make any payment when due on any of the Obligations or under any Loan Document, subject to any applicable grace and cure period.

B. Other Defaults. Any Loan Party fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Loan Documents or the Area Representative Agreement, or to comply with or to perform any term, obligation, covenant or condition contained in any other existing or future agreement between Secured Party and any Loan Party, if such failure constitutes an “event of default” (or equivalent term) as defined in any such other agreement, and beyond any applicable grace and cure period as may be set forth in such other agreement.

C. False Statements. Any warranty, representation or statement made or furnished to Secured Party by any Loan Party or on any Loan Party’s behalf under this Security Agreement, the Loan Documents or the Area Representative Agreement was false or misleading in any material respect at the time made or furnished.

D. Insolvency. If any Loan Party (i) makes a general assignment for the benefit of creditors, (ii) fails to pay its debts generally as such debts become due, (iii) is found to be insolvent by a court of competent jurisdiction, (iv) voluntarily files a petition in voluntary bankruptcy or a petition or answer seeking a readjustment of debts under any federal bankruptcy law, or (v) has any such petition filed against any Loan Party which is not vacated or dismissed within sixty (60) days after the filing thereof.

E. Defective Collateralization. This Agreement or any of the Loan Documents ceases to be in full force and effect (including the failure of this Agreement or any other collateral or security document constituting a Loan Document to create a valid, perfected and first priority (to the extent required herein) security interest in the Collateral) at any time and for any reason.

F. Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of any Loan Party or by any governmental agency against any collateral securing the Obligations. This includes a garnishment of any of any Loan Party’s accounts, including deposit accounts, with Secured Party. However, this Event of Default shall not apply if there is a good faith dispute by the Loan Parties as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if the Loan Parties give Secured Party written notice of the creditor or forfeiture proceeding and deposits monies or provides a surety bond for the creditor or forfeiture proceeding, in an amount determined by Secured Party, in its sole discretion, as being an adequate reserve or bond for the dispute.

G. Failure to Account. Debtor’s failure to account, to Secured Party’s satisfaction, at such time or times as Secured Party may require, for any of the Collateral, or proceeds thereof, coming into the control of the Debtor.

H. Litigation. The institution of any suit affecting the Loan Parties deemed by Secured Party to affect adversely its interest hereunder in the Collateral or otherwise.



I. Insecurity. Secured Party in good faith believes the prospect of payment of the Note is substantially impaired due to acts or events bearing upon the financial condition or results of operations of the Loan Parties, on a consolidated basis if applicable.

J. Material Adverse Change. The Loan Parties shall incur or permit to exist a material adverse change in its financial condition or results of operations, on a consolidated basis if applicable.

**Section 15 Waivers.** Debtor hereby waives presentment, demand, notice, protest and all other demands and notices in connection with this Agreement or the enforcement of Secured Party's rights hereunder or in connection with any Obligation or any Collateral; consents to and waives notice of: (a) the granting of renewals, extensions of time for payment or other indulgences to the Debtor or to any account debtor in respect of any account receivable of the Debtor; (b) substitution, release or surrender of any Collateral; (c) the addition or release of persons primarily or secondarily liable on the Obligations or on any account receivable or other Collateral; and (d) the acceptance of partial payments on the Obligations or on any account receivable or other Collateral and/or the settlement or compromise thereof. No delay or omission on the part of Secured Party in exercising any right hereunder shall operate as a waiver of such right or of any other right hereunder. Any waiver of any such right on any one occasion shall not be construed as a bar to or waiver of any such right on any such future occasion.

**Section 16 Termination; Assignment.** This Agreement and the security interest in the Collateral created hereby shall terminate when the Obligations under the Loan Documents have been indefeasibly paid and finally discharged in full and the Secured Party has no obligation to extend further credit thereunder. No waiver by Secured Party or by any other holder of the Obligations of any default shall be effective unless in writing signed by Secured Party nor shall any waiver granted on any one occasion operate as a waiver of any other default or of the same default on a future occasion. In the event of a sale or assignment by Secured Party of all or any of the Obligations held by Secured Party, Secured Party may assign or transfer its respective rights and interests under this Agreement in whole or in part to the purchaser or purchasers of such Obligation, whereupon such purchaser or purchasers shall become vested with all of the powers and rights hereunder, and Secured Party shall thereafter be forever released and fully discharged from any liability or responsibility hereunder with respect to the rights and interests so assigned except that Secured Party shall be liable for damages suffered by the Debtor as a result of actions taken by Secured Party in bad faith or with willful misconduct.

**Section 17 Notices.** Except as otherwise provided herein, all notices required or permitted to be given under this Agreement shall be in conformance with Section 14 of the Note.

**Section 18 Waiver of Jury Trial.** DEBTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY COURT IN ANY SUIT, ACTION OR PROCEEDING ON ANY MATTER ARISING IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS AGREEMENT, THE NOTE, ANY OTHER LOAN DOCUMENT OR ANY OF THE TRANSACTIONS RELATING HERETO OR THERETO AND/OR THE ENFORCEMENT OF ANY OF SECURED PARTY'S RIGHTS AND REMEDIES, INCLUDING WITHOUT LIMITATION, TORT CLAIMS. THE DEBTOR

ACKNOWLEDGES AND AGREES THAT DEBTOR MAKES THIS WAIVER VOLUNTARILY, INTELLIGENTLY, KNOWINGLY, WITHOUT DURESS AND ONLY AFTER EXTENSIVE CONSIDERATION OF THE RAMIFICATIONS THEREOF.

**Section 19 Miscellaneous.** This Agreement shall inure to the benefit of and be binding upon Secured Party and the Debtor and their respective successors and assigns. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. This Agreement may be executed in any number of counterparts and hereto on separate counterparts, each original, but all of which together shall constitute one instrument.

**Section 20 Governing Law.** Regardless of the place of its execution, this Agreement shall be construed and enforced in accordance with the laws of the state where Secured Party's then current headquarters is located, without regard to such state's conflict of laws principles or rules. Debtor hereby irrevocably consents to the jurisdiction of any federal or state court sitting in the state where Secured Party's then current headquarters is located for purposes of any action or proceeding relating to or arising out of this Agreement and irrevocably waives any objection to personal jurisdiction and the laying of venue in any such court. The loan transaction that is evidenced by the Note and this Agreement has been applied for, considered, approved and made, and all necessary loan documents have been accepted by Secured Party in the Commonwealth of Massachusetts.

*- Signature Page Follows -*

**IN WITNESS WHEREOF**, this Security Agreement has been executed by Debtor in favor of Secured Party as of the day and year first above written.

**DEBTOR**

[NAME OF DEBTOR]

\_\_\_\_\_

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

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

**NOTARY ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared [name of authorized individual], known personally to me (or satisfactorily proven) to be the [title of officer or agent] of [name of entity], a [State] [limited liability company / corporation / other entity type], on behalf of [name of entity]. [Name of authorized individual] acknowledged that [he / she] executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

SEAL

\_\_\_\_\_

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

Commission Expires: \_\_\_\_\_

**ACCEPTED AND AGREED:**

**FADS USA, INC.**

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

Name:

Title:

SCHEDULE A

Commercial Tort Claims

[Debtor to list.]/[None.]

SCHEDULE B

Real Property Locations

[Debtor to list.]

**EXHIBIT E  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**FINANCIAL STATEMENTS**

**FADS USA, INC. AND SUBSIDIARIES**

**CONSOLIDATED FINANCIAL STATEMENTS  
WITH SUPPLEMENTARY  
INFORMATION**

for the years ended December 31, 2022, 2021, and 2020





## INDEPENDENT AUDITORS' REPORT

To the Board of Directors of  
FADS USA, Inc. and Subsidiaries

### *Opinion*

We have audited the accompanying consolidated financial statements of FADS USA, Inc. and Subsidiaries (the Company) which comprise the balance sheets as of December 31, 2022, 2021, and 2020, and the related statements of income, stockholders' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of FADS USA, Inc. and Subsidiaries as of December 31, 2022, 2021, and 2020, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### *Basis for Opinion*

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of FADS USA, Inc. and subsidiaries and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### *Responsibilities of Management for the Financial Statements*

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about FADS USA, Inc.'s and subsidiaries ability to continue as a going concern within one year after the date that the consolidated financial statements are available to be issued.

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

Our objectives are to obtain reasonable assurance about whether the consolidated 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 generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

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

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of FADS USA, Inc.'s and subsidiaries internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about FADS USA, Inc.'s and subsidiaries ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

### ***Report on Supplementary Information***

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary schedules presented on pages 23 through 27, which is the responsibility of management, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we do not express an opinion or provide any assurance on it.

### ***Other Information Included in the Franchise Disclosure Document***

Management is responsible for the other information included in the Franchise Disclosure Document (“FDD”). The other information comprises the information included in the FDD, but does not include the financial statements and our auditors’ report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

  
Springfield, Massachusetts  
May 2, 2023

# FADS USA, INC. AND SUBSIDIARIES

## CONSOLIDATED BALANCE SHEETS

December 31, 2022, 2021, and 2020

	<u>2022</u>	<u>2021</u>	<u>2020</u>
<b>ASSETS</b>			
<b>Current assets</b>			
Cash and cash equivalents.....	\$ 3,864,809	\$ 1,742,731	\$ 734,273
Accounts receivable, net.....	140,745	150,764	310,050
Income tax receivable.....	227,415	227,415	227,415
Inventories.....	36,579	13,344	35,603
Investments.....		935,840	433,220
Prepaid expenses.....	18,437	6,800	17,003
Prepaid income taxes.....		23,662	
Due from related party.....		104,742	104,348
Notes receivable - stockholder, current .....	10,561	10,047	
Notes receivable, current portion.....	<u>377,039</u>	<u>252,754</u>	<u>242,869</u>
Total current assets.....	4,675,585	3,468,099	2,104,781
Property, plant and equipment, net.....	97,074	136,655	189,303
Intangibles, net.....	1,306,223	1,503,603	1,701,637
Goodwill.....	10,300,000	10,300,000	10,300,000
Investments.....	48,974	48,974	48,974
Deferred tax asset.....	301,100	560,600	
Notes receivable - stockholder, non-current portion.....	102,906	114,327	86,341
Notes receivable, non-current portion.....	<u>1,819,480</u>	<u>1,519,156</u>	<u>1,743,126</u>
Total assets.....	<u>\$ 18,651,342</u>	<u>\$ 17,651,414</u>	<u>\$ 16,174,162</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>			
<b>Current liabilities</b>			
Accounts payable.....	\$ 548,763	\$ 93,636	\$ 241,818
Deferred revenue, current portion.....	476,849	389,874	503,837
Notes payable, current portion.....	5,488,317	1,177,887	857,963
Accrued expenses.....	269,310	232,397	49,031
Accrued income taxes.....	218,857		
Dividends payable.....			30,000
Accrued interest payable, current portion.....	575,708		
Accrued compensation and related taxes, current portion.....	<u>127,215</u>	<u>118,415</u>	<u>118,415</u>
Total current liabilities.....	7,705,019	2,012,209	1,801,064
Notes payable, non-current portion.....	198,731	5,690,915	6,592,567
Accrued interest payable, non-current portion.....		513,208	363,208
Deferred revenue, non-current portion.....	2,942,989	2,557,343	2,954,178
Accrued compensation and related taxes, non-current portion.....		<u>1,063,547</u>	<u>1,182,454</u>
Total liabilities.....	<u>10,846,739</u>	<u>11,837,222</u>	<u>12,893,471</u>
<b>Stockholders' Equity</b>			
FADS USA, Inc. stockholders' equity			
Retained earnings.....	13,697,910	12,130,173	9,139,487
Paid in capital.....	49,990	49,990	49,990
Common stock, \$.01 par value, 1000 shares authorized, issued, and outstanding.....	<u>10</u>	<u>10</u>	<u>10</u>
Total FADS USA, Inc. stockholders' equity.....	13,747,910	12,180,173	9,189,487
Non-controlling interests in variable interest entities.....	<u>(5,943,307)</u>	<u>(6,365,981)</u>	<u>(5,908,796)</u>
Total stockholders' equity.....	<u>7,804,603</u>	<u>5,814,192</u>	<u>3,280,691</u>
Total liabilities and stockholders' equity.....	<u>\$ 18,651,342</u>	<u>\$ 17,651,414</u>	<u>\$ 16,174,162</u>

*See notes to consolidated financial statements.*

**FADS USA, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF INCOME**  
**for the years ended December 31, 2022, 2021, and 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Revenues.....	\$ 13,104,724	\$ 10,019,052	\$ 4,677,317
Cost of revenues.....	<u>7,721,378</u>	<u>5,557,970</u>	<u>2,358,934</u>
Gross profit.....	5,383,346	4,461,082	2,318,383
General and administrative expenses.....	<u>2,440,573</u>	<u>1,883,962</u>	<u>2,217,109</u>
Income from operations.....	<u>2,942,773</u>	<u>2,577,120</u>	<u>101,274</u>
Non-operating (expense) income, net			
Miscellaneous expense, net.....	(71,923)	(48,350)	(57,962)
Interest expense, net.....	(117,327)	(120,143)	(170,677)
Investment loss, net .....	(5,112)	(2,154)	(1,943)
PPP grant revenue.....	<u>                    </u>	<u>                    </u>	<u>331,800</u>
Total non-operating (expense) income, net.....	<u>(194,362)</u>	<u>(170,647)</u>	<u>101,218</u>
Income before income taxes.....	2,748,411	2,406,473	202,492
Income tax expense (benefit).....	<u>718,000</u>	<u>(167,028)</u>	<u>(196,515)</u>
Net income.....	2,030,411	2,573,501	399,007
Amount attributable to non-controlling interests.....	<u>462,674</u>	<u>(417,185)</u>	<u>(250,051)</u>
Net income attributable to FADS USA, Inc.....	<u>\$ 1,567,737</u>	<u>\$ 2,990,686</u>	<u>\$ 649,058</u>

*See notes to consolidated financial statements.*

**FADS USA, INC. AND SUBSIDIARIES**

**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

**for the years ended December 31, 2022, 2021, and 2020**

	<b>Common Stock</b>	<b>Paid in Capital</b>	<b>Retained Earnings</b>	<b>Total Equity</b>	<b>Noncontrolling Interests</b>	<b>Total</b>
Balance at December 31, 2019, as restated.....	\$ 10	\$ 49,990	\$ 8,490,429	\$ 8,540,429	\$ (5,618,745)	\$ 2,921,684
Net income (loss).....			649,058	649,058	(250,051)	399,007
Dividends paid.....					(40,000)	(40,000)
Balance at December 31, 2020.....	10	49,990	9,139,487	9,189,487	(5,908,796)	3,280,691
Net income (loss).....			2,990,686	2,990,686	(417,185)	2,573,501
Dividends paid.....					(40,000)	(40,000)
Balance at December 31, 2021.....	10	49,990	12,130,173	12,180,173	(6,365,981)	5,814,192
Net income.....			1,567,737	1,567,737	462,674	2,030,411
Dividends paid.....					(40,000)	(40,000)
Balance at December 31, 2022.....	\$ 10	\$ 49,990	\$ 13,697,910	\$ 13,747,910	\$ (5,943,307)	\$ 7,804,603

*See notes to consolidated financial statements.*

**FADS USA, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**for the years ended December 31, 2022, 2021, and 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
<b>Cash flows from operating activities</b>			
Net income.....	\$ 2,030,411	\$ 2,573,501	\$ 399,007
Adjustments to reconcile net income to net cash provided by (used in) operating activities:			
Depreciation.....	57,365	55,835	55,760
Amortization.....	197,380	198,034	198,034
Deferred taxes.....	259,500	(560,600)	
(Increase) decrease in operating assets:			
Accounts receivable.....	10,019	159,286	(125,133)
Income tax receivable.....			(227,415)
Inventories.....	(23,235)	22,259	(5,400)
Due from related party.....	104,742	(394)	(14,466)
Prepaid income taxes.....	23,662	(103,200)	
Prepaid expenses.....	(11,637)	10,203	3,946
Increase (decrease) in operating liabilities:			
Accounts payable.....	455,127	(148,182)	(252,375)
Accrued expenses.....	36,913	183,366	(19,588)
Interest payable.....	62,500	150,000	63,208
Accrued income taxes.....	218,857	79,538	
Deferred revenue.....	(214,629)	(118,907)	47,251
Accrued compensation and related taxes.....	(1,054,747)	(510,798)	(202,493)
Net cash provided by (used in) operating activities .....	<u>2,152,228</u>	<u>1,989,941</u>	<u>(79,664)</u>
<b>Cash flow from investing activities</b>			
Investments, net change.....	935,840	(502,620)	
Net change in loans to stockholder.....	10,907	(38,033)	(40,387)
Payments received on notes receivable.....	262,641	214,085	380,631
Purchase of property, plant, and equipment.....	(17,784)	(3,187)	(3,173)
Net cash provided by (used in) investing activities.....	<u>1,191,604</u>	<u>(329,755)</u>	<u>337,071</u>
<b>Cash flows from financing activities</b>			
Payments on notes payable.....	(1,181,754)	(1,050,981)	(670,567)
Dividends paid.....	(40,000)	(40,000)	(40,000)
Proceeds from notes payable.....		469,253	159,900
Dividends payable.....		(30,000)	30,000
Net cash used in financing activities.....	<u>(1,221,754)</u>	<u>(651,728)</u>	<u>(520,667)</u>
Net change in cash.....	2,122,078	1,008,458	(263,260)
Cash and cash equivalents, beginning of year.....	<u>1,742,731</u>	<u>734,273</u>	<u>997,533</u>
Cash and cash equivalents, end of year.....	<u>\$ 3,864,809</u>	<u>\$ 1,742,731</u>	<u>\$ 734,273</u>

*See notes to consolidated financial statements.*

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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#### 1. Organization and Summary of Significant Accounting Policies

##### *Nature of Operations*

FADS USA, Inc. (formerly known as Megadance USA Corp.), holds a perpetual and exclusive license to use and sublicense certain intellectual property related to Fred Astaire Dance Studios®. FADS USA, Inc. engages in unit and area representative franchise programs and organizes and manages certain Fred Astaire Dance Studios® branded dance competitions throughout the United States.

FADS Holding, LLC (Holding) is a holding company whose subsidiaries are engaged in the business of dance instruction, dance competition, dance merchandise and related activities, and the selling and opening of dance franchises. FADS Holding, LLC was created in September 2017.

Fred Astaire Dance of North America, Inc. (FADNA) is a wholly-owned subsidiary of FADS Holding, LLC that provides consulting services to the other related entities.

Fred Astaire Dance Studios, Inc. (FADS), a wholly-owned subsidiary of Fred Astaire Dance of North America, Inc., is an intellectual property holding company that holds certain domestic and international intellectual property registrations related to the Fred Astaire Dance Studios® brand.

Fred Astaire Dance International Corp. (FADI), a wholly-owned subsidiary of Fred Astaire Dance of North America, Inc., engages in unit and area representative franchise programs and holds certain international intellectual property registrations related to the Fred Astaire Dance Studios® brand.

On April 16, 2018, FADS Holding, LLC created three new subsidiaries: FADS Distribution, Inc. (Distribution), FADS International, Inc. (International), and Fred Astaire Dance Board, Inc. (Board).

Distribution acts as approved supplier for certain items used in the operation of Fred Astaire Dance Studios and manages required and approved supplier and vendor arrangements.

International conducts certain international business relating to the Fred Astaire Dance Studios brand.

Board certifies and licenses third parties to use certain intellectual property to (i) examine, test, and certify students, (ii) examine, test, and certify instructors, and (iii) judge at Fred Astaire Dance Studios branded competitions and events according to our standards.

On January 31, 2019, FADS Events, LLC (Events) was created and is a wholly owned subsidiary of FADS USA, Inc. Events organizes certain Fred Astaire Dance Studios branded competitions, events, conferences, and related activities.



## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

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#### *Principles of Consolidation*

The financial statements include the accounts of FADS USA, Inc. and its wholly owned subsidiary FADS Events, LLC, and its variable interest entities Holding, FADNA, FADS, FADI, Distribution, International and Board. All significant inter-company balances and transactions have been eliminated in consolidation. Herein, FADS USA, Inc., Events, Holding, FADNA, FADS, FADI, Distribution, International, and Board are referred to as “the Company.”

FADS USA, Inc. financially supports Holding, FADNA, FADS, FADI, Distribution, International, and Board. These circumstances and the common ownership of the companies qualify Holding, FADNA, FADS, FADI, Distribution, International, and Board to be variable interest entities of FADS USA, Inc. as defined by the Consolidation topic of the FASB Accounting Standards Codification.

#### *Use of Estimates*

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

#### *Cash and Cash Equivalents*

The Company considers all highly liquid investments with a maturity of 90 days or less to be cash equivalents.

#### *Concentration of Credit Risk*

At times, the Company maintains deposits in federally insured financial institutions in excess of federally insured limits. Management believes that there is no significant risk with respect to these deposits. Total uninsured cash at December 31, 2022 was approximately \$3,535,000.

#### *Accounts Receivable, Trade*

Accounts receivable are stated at the amount management expects to collect from outstanding balances. Management provides for probable uncollectible amounts through a charge to earnings and a credit to the allowance for doubtful accounts. Balances that are still outstanding after management has used reasonable efforts are written off through a charge to the allowance and a credit to accounts receivable. Management will replenish the allowance as necessary throughout the year through a charge to bad debt expense and a credit to the allowance. Allowance for doubtful accounts was \$76,698 at December 31, 2022, 2021, and 2020, each year.

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

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#### *Inventory*

Inventory is stated at the lower of cost (first-in, first-out method) or market.

#### *Property and Equipment*

Property and equipment are stated at cost less accumulated depreciation. Maintenance and repairs are charged to expense as incurred. Additions and betterments are capitalized. Costs of assets sold or retired and the related amounts of accumulated depreciation are eliminated from the accounts in the year of disposal and any resulting gains or losses are reflected in income.

Depreciation is computed using the straight-line method over the estimated useful life of the asset.

#### *Investments*

Investments are comprised of marketable securities and are classified as available for sale and reported at fair market value. Fair market value is determined using market quotations. Realized gains or losses, determined using the first-in, first-out method, are included in earnings.

#### *Goodwill and Intangible Assets*

Goodwill resulted from a certain purchase and merger agreement dated September 27, 2017. Annual impairment testing is required for goodwill with impairment being recorded if the carrying amount of goodwill exceeds its implied fair value. It has been determined by management that there was no impairment of goodwill at December 31, 2022, 2021, and 2020.

Intangible assets consist of reorganization costs and franchise acquisition costs. They are initially measured at fair value and then amortized over their estimated useful lives between 5 and 40 years.

#### *Debt*

The Company accounts for loans that meet the criteria to be forgiven as a government grant under *IAS 20 – Accounting for Government Grants*. The proceeds received from these loans are recorded as a deferred income liability and income is recorded as qualified expenses are incurred. The grant revenue is included in other income on the consolidated statement of income.

#### *Advertising and Promotion*

The Company expenses advertising and promotion costs as incurred. The advertising and promotion expense for the years ended December 31, 2022, 2021 and 2020 was \$130,152, \$99,575, and \$61,435, respectively.

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

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#### *Shipping and Handling*

The Company classifies fees charged to customers as sales and the related shipping and handling costs as cost of sales.

#### *Revenue Recognition*

The Company considers certain pre-opening services as one performance obligation as allowed under ASU 2021-02. Revenue from sales of individual franchises is recognized, when this single performance obligation has been met, which includes assistance in site selection and studio design, training personnel, and providing proprietary operating manuals containing the Fred Astaire programs. Generally, this single performance obligation is considered complete and initial fee revenue is recognized on the date the studio opens for business to the general public.

Revenue from area exclusivity fees are recognized over the life of the franchise agreement, which can be up to 10 years.

Continuing franchise fees are earned based on a percentage of the gross receipts of each individual franchisee, including fees from franchises owned by a related entity and remitted to the Company pursuant to a management agreement.

Revenue from events are recognized when the event takes place.

Revenue from merchandise is recognized when shipped, and revenue from services provided is recognized when the services are performed.

#### *Deferred Revenue*

Revenue not meeting the above performance obligations is deferred to a future period.

#### *Income Taxes*

FADS USA, Inc., Fred Astaire Dance of North America, Fred Astaire Dance Studios, Fred Astaire Dance International, FADS Distributions, FADS International, and Fred Astaire Dance Board are C-corporations. FADS Holding LLC, has elected to be treated as a C corporation for income tax purposes. FADS Events, LLC is considered a disregarded entity for income tax purposes and all activity is included with FADS USA, Inc. The provision for corporate taxes includes federal and state corporation taxes currently payable and deferred taxes arising from temporary differences in the basis of assets and liabilities for financial reporting and income tax reporting. The deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be taxable or deductible when the assets or liabilities are recovered or settled. These differences relate to items such as accounts receivable reserves, depreciable assets, accrued expenses, deferred revenue, and net operating losses.

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

#### *Income Taxes, Continued*

The Company evaluates all significant tax positions as required by generally accepted accounting principles in the United States. As of December 31, 2022, the Company does not believe that they have taken any tax positions that would require the recording of any additional tax liability nor do they believe that there are any unrealized tax benefits that would either increase or decrease within the next twelve months. The Company's income tax returns are subject to examination by the appropriate taxing jurisdictions. As of December 31, 2022, the Company's federal and various state tax returns generally remain open for the last 3 years.

There is a federal income tax receivable in the amount of \$227,415 at December 31, 2022, 2021, and 2020 for an amended tax return relating to 2018.

#### 2. *Inventories*

Inventories consist of the following at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Dance shoes			\$ 341
Dance apparel		\$ 175	175
Accessories and supplies	\$ 36,579	13,169	35,087
	<u>\$ 36,579</u>	<u>\$ 13,344</u>	<u>\$ 35,603</u>

#### 3. *Due from Related Party*

The Company had an amount due from a consultant, a related party, in the amount of \$104,742 as of December 31, 2021, (2020 - \$104,348). The Company paid expenses for development of a new business venture on behalf of the consultant. In 2022, the amount was written off as the business venture was not developed.

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

#### 4. Notes Receivable

Notes receivable consists of the following at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
On October 19, 2018, the Company entered into a note with an Area Representative in the amount of \$58,990. Monthly payments of \$1,325 were due, including interest at 3.0%. In April 2020, this note was amended and \$135,027 was added to the principal balance. New payment terms are monthly payments of principal and interest of \$2,199, interest charged at 7.00%, matures April 2030.	\$ 135,997	\$ 166,227	\$ 180,431
On December 14, 2018, the Company entered into a note with an Area Representative in the amount of \$521,870. Monthly payments of \$2,913 are due, which includes interest at 3.07%, a balloon payment of \$376,205 due on December 14, 2025.	441,414	462,462	482,875
On July 31, 2019, the Company entered into a note with an Area Representative in the amount of \$169,874. Monthly payments of \$1,972 are due, which includes interest at 7.0%, maturing August 1, 2028.	145,324	158,249	161,860
On August 5, 2019, the Company entered into a note with an Area Representative in the amount of \$153,964. Monthly payments of \$2,704 are due, which includes interest at 2.08%, maturing August 1, 2024.	53,109	84,102	114,458
On October 15, 2019, the Company entered into a note with an Area Representative in the amount of \$437,152. Monthly payments of \$5,777 are due, which includes interest at 10.0%, maturing October 15, 2029.	400,077	429,405	426,266
On November 25, 2019, the Company entered into a note with an Area Representative in the amount of \$242,302. Monthly payments of \$4,354 are due, which includes interest at 3.0%, maturing November 25, 2024.	97,196	145,734	200,554
On November 25, 2019, the Company entered into a note with an Area Representative in the amount of \$197,435. Monthly payments of \$3,548 are due, which includes interest at 3.0%, maturing November 25, 2024.	79,198	118,750	163,417
On February 21, 2020, the Company entered into a note with an Area Representative in the amount of \$60,316. Monthly payments of \$797 are due, which includes interest at 10.0%, maturing February 21, 2030.	48,798	53,239	57,259
On April 6, 2020, the Company entered into a note with an Area Representative in the amount of \$228,714. Monthly payments of \$3,910 are due, which includes interest at 1.0%, maturing April 6, 2025.	108,156	153,742	198,875
On November 9, 2022, the Company entered into a note with an Area Representative in the amount of \$294,666. Monthly payments of \$5,037 are due, which includes interest at 1.0%, maturing December 1, 2027.	294,666		
On November 11, 2022, the Company entered into a note with an Area Representative in the amount of \$119,000. Monthly payments of \$1,149 are due, which includes interest at 3.0%, maturing December 1, 2032.	119,000		
On December 14, 2022, the Company entered into a note with an Area Representative in the amount of \$273,584. Monthly payments of \$4,916 are due, which includes interest at 3.0%, maturing December 1, 2027.	273,584		
	2,196,519	1,771,910	1,985,995
Less current portion	377,039	252,754	242,869
	\$ 1,819,480	\$ 1,519,156	\$ 1,743,126

**FADS USA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued**

**5. Notes Receivable – Shareholder**

In July 2021, the Company entered into a new note with one of the shareholders that assumed the debt below and the note also included new amounts owed to the Company. The amount of the note was \$126,000. Monthly payments of principal and interest in the amount of \$1,336 are due for 120 months with interest charged at 5.00%. The balance of the note at December 31, 2022 was \$113,467 (current - \$10,561 and long term - \$102,906). The balance of the note at December 31, 2021 was \$124,374 (current - \$10,047 and long term - \$114,327).

In 2020, the Company had notes for payment of royalties with a former shareholder. The balance at December 31, 2020 was \$86,341, which was recorded as long term, as payment was not expected to be received in 2021.

**6. Intangibles**

Intangible assets consist of the following at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Franchise costs	\$ 5,941,919	\$ 5,941,919	\$ 5,941,919
Legal costs	129,100	129,100	129,100
Reorganization costs	<u>485,622</u>	<u>485,622</u>	<u>485,622</u>
	6,556,641	6,556,641	6,556,641
Less accumulated amortization	<u>5,250,418</u>	<u>5,053,038</u>	<u>4,855,004</u>
	<u>\$ 1,306,223</u>	<u>\$ 1,503,603</u>	<u>\$ 1,701,637</u>

Amortization expense for the years ended December 31, 2022, 2021, and 2020 was \$197,380, \$198,034, and \$198,034, respectively.

**FADS USA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued**

**Intangibles, Continued**

Amortization expense for each of the next five years and thereafter is as follows:

2023	\$	197,381
2024		197,381
2025		196,731
2026		192,382
2027		192,380
Thereafter		<u>329,968</u>
	\$	<u><u>1,306,223</u></u>

**7. Property, Plant, and Equipment**

Property, plant, and equipment consists of the following at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Leasehold improvements	\$ 131,165	\$ 131,165	\$ 131,165
Equipment, furniture and fixtures	<u>1,181,751</u>	<u>1,163,967</u>	<u>1,160,780</u>
	1,312,916	1,295,132	1,291,945
Less accumulated depreciation	<u>1,215,842</u>	<u>1,158,477</u>	<u>1,102,642</u>
	<u><u>\$ 97,074</u></u>	<u><u>\$ 136,655</u></u>	<u><u>\$ 189,303</u></u>

Depreciation expense for the year ended December 31, 2022 was \$57,365 (2021 - \$55,835 and 2020 - \$55,760).

**FADS USA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued**

**8. Notes Payable**

Notes payable consists of the following at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Term note payable to a bank, due in monthly installments of \$9,350, including interest at 3.50%. This note matures in March of 2024.	\$ 167,533	\$ 271,747	\$ 372,332
In 2017, the Company entered into a note payable to an individual (a former shareholder) as part of a purchase agreement. The note is payable in annual installments of \$110,000, including interest at 10%. Payments will be offset against royalties due from this individual. The note matured in December 2022.		100,000	200,000
In 2017, the Company entered into a note payable with two individuals (former shareholders) as part of a purchase agreement. Beginning January 2018, the note is payable in monthly installments of \$60,555 for the first 24 months and then beginning January 2020, monthly installments of \$81,388 for the remaining 36 months, including interest at 6%. The note matures in December 2022, at which time a final balloon payment will be due for \$5,000,000. On June 28, 2020 this note agreement was amended, monthly payments were modified to \$55,024 through May 2022, then payments increase to \$74,040 through May 2023, and interest is now charged at 3.00%. A balloon payment of \$5,615,184 is due June 2023, which includes accrued deferred interest.	5,348,480	5,975,429	6,583,872
In 2019, the Company entered into a note payable with LEAF Capital Funding in the amount of \$228,938 in order to purchase equipment. The note is payable in monthly installments of \$4,479 for 60 months, with interest at 6.50%. The note matures in January 2023.	26,883	80,636	134,426
In 2020, the Company received the Economic Injury Disaster Loan from the U.S. Small Business Administration (SBA) in the amount of \$159,900. The loan will be payable over 30 years, beginning June 2021, monthly payments of principal and interest in the amount of \$731, interest is charged at 3.75%.	144,152	144,883	159,900
On January 1, 2021, the Company entered into a promissory note with a vendor in the amount \$469,253, monthly payments are due in the amount of \$14,429, which began January 15, 2021 and a final payment in the amount of \$137,389 was due December 15, 2022. There was no interest charged on this note.		296,107	
	5,687,048	6,868,802	7,450,530
Less current portion	5,488,317	1,177,887	857,963
	<u>\$ 198,731</u>	<u>\$ 5,690,915</u>	<u>\$ 6,592,567</u>



## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

#### Notes Payable, Continued

The aggregate principal repayments for notes payable for each of the next five years and thereafter are as follows:

2023	\$ 5,488,317
2024	61,482
2025	3,650
2026	3,789
2027	3,934
Thereafter	125,876
	<u>\$ 5,687,048</u>

The line of credit and the above notes have limited personal guarantees from some of the Company stockholders.

In accordance with the term note agreement, the Company is required to maintain a debt service ratio of 1.15. The Company was in compliance with this covenant at December 31, 2022.

#### **9. Line of Credit**

The Company has a \$50,000 demand line of credit with a bank. The interest rate is Prime plus 1.25%. There was no balance on this line as of December 31, 2022, 2021, and 2020.

#### **10. Forgivable Loan Received Under the Small Business Administration Paycheck Protection Program**

In response to the coronavirus (COVID-19) outbreak in 2020, the U.S. Federal Government enacted the Coronavirus Aid, Relief, and Economic Security Act that, among other economic stimulus measures, established the Paycheck Protection Program (PPP) to provide small business loans. In April 2020, the Company obtained a PPP loan in the amount of \$331,800. The Company used all of the proceeds from the note for qualifying expenses and thus expected to receive approval of its application for the loan to be forgiven in the future. As such, the full amount of the loan was recorded in the statement of income as grant revenue as of December 31, 2020. The loan was fully forgiven by the SBA on August 30, 2021.

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

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#### 11. Fair Value of Financial Instruments

The Fair Value Measurements and Disclosure topic 820, of the FASB Accounting Standards Codification (ASC) provides the framework for reporting fair value. This framework provides a hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority given to unobservable inputs (level 3 measurements). The three levels of the fair value hierarchy are described as follows:

Level 1      Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Company has the ability to access.

Level 2      Inputs to the valuation methodology include:

- Quoted prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets or liabilities in inactive markets;
- Inputs other than quoted prices that are observable for the asset or liability;
- Inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the assets or liabilities have a specified (contractual) term, the level 2 input must be observable for substantially the full term of the asset or liability.

Level 3      Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

Following is a description of the valuation methodologies used for assets and liabilities measured at fair value. There has been no change in the methodology used at December 31, 2022, 2021, or 2020.

**Goodwill:** Management tests goodwill at the reporting unit level for impairment on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount.

**FADS USA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued**

**Fair Value of Financial Instruments, Continued**

**Registered investment Company:** Invested primarily in mutual funds, short-term instruments, and money market funds. Mutual funds and short-term instruments are valued using market quotations or prices obtained from independent pricing sources, typically valued at the net asset value (NAV) of shares held by the Company at year end. Money market funds are valued at amortized cost.

The following table summarizes the Company's financial assets and liabilities that were accounted for at fair value on a recurring basis at December 31:

<u>Description</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total 2022</u>
Goodwill			\$ 10,300,000	\$ 10,300,000
Investments				
Common stock	\$ 48,974	_____	_____	48,974
	<u>\$ 48,974</u>	<u>                    </u>	<u>                    </u>	<u>\$ 48,974</u>

<u>Description</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total 2021</u>
Goodwill			\$ 10,300,000	\$ 10,300,000
Investments				
Cash and cash equivalents	\$ 935,840	_____	_____	935,840
Common stock	48,974	_____	_____	48,974
	<u>\$ 984,814</u>	<u>                    </u>	<u>                    </u>	<u>\$ 984,814</u>

<u>Description</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total 2020</u>
Goodwill			\$ 10,300,000	\$ 10,300,000
Investments				
Cash and cash equivalents	\$ 433,220	_____	_____	433,220
Common stock	48,974	_____	_____	48,974
	<u>\$ 482,194</u>	<u>                    </u>	<u>                    </u>	<u>\$ 482,194</u>

## FADS USA, INC. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued

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#### 12. Employment Agreements/Deferred Compensation Plan/ and Accrued Compensation

On September 27, 2017, the Company signed an employment agreement with a former shareholder that ended December 31, 2018. Under this agreement, the Company paid the employee \$200,000 in 2018. Upon termination of the employment contract as of December 31, 2018, the Company will pay the individual or his beneficiaries' severance payments totaling \$550,000. These payments will be made in annual installments of \$110,000 over the next five years, including employer payroll taxes.

On September 27, 2017, the Company created a deferred compensation plan for the benefit of four officers. Benefits under the plan are payable according to the amounts designated in the plan document from the Company's general assets. The Company paid all administrative expenses of the plan. The plan was amended on June 28, 2020, under this amendment the four officers did not receive a salary for deferral for the period June 15, 2020 through May 15, 2022. On December 31, 2021, the shareholders voted to terminate the plan as of that same date, and participants can take distributions from the plan on or after December 31, 2022, but before March 15, 2023, as such, total plan assets were distributed to the shareholders on December 31, 2022. There was no deferred compensation expense for the years ended December 31, 2022 or 2021. Deferred compensation expense for the year ended December 31, 2020 was \$155,840.

As of December 31, 2022, total accrued compensation was \$127,215 (current portion – \$118,415 long term portion – \$8,800). As of December 31, 2021, total accrued compensation was \$1,181,962 , (current portion – \$118,415, long term portion – \$1,063,547). As of December 31, 2020, total accrued compensation was \$1,300,869, (current portion – \$118,415, long term portion – \$1,182,454).

#### 13. Leases

In June 2020, the Company entered into an operating lease agreement for new office space in Enfield, CT. The term of the lease began June 15, 2020 and ended June 30, 2022. On July 1, 2022, the lease became month-to-month. Rent is charged at a monthly rate of \$2,800.

In 2020, the Company leased office space in Longmeadow, MA under an operating lease on a month to month basis. Rental expense was \$7,909 per month.

Total rental expense for each of the years ended December 31, 2022 and 2021 for the Enfield lease was \$33,600. Rent expense for both of the above leases was \$73,560 for the year ended December 31, 2020.

**FADS USA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued**

**14. Supplemental Disclosure of Cash Flow Information**

Supplemental cash flow information is as follows for the year ended December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Cash paid during the year for:			
Interest	\$ 165,427	\$ 78,302	\$ 171,193
Taxes	215,981	450,000	34,026
Non-cash transactions:			
Issuance of notes receivable for area exclusivity fee	687,250		424,057

**15. Deferred Revenue**

Deferred revenue represents initial franchise sales for which substantially all services to be performed by the Company have not yet been performed, area exclusivity fees that will be recognized over the life of the contract, and events where fees have been collected, but the event has not taken place. Deferred revenue is as follows for the years ended December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Area exclusivity fees	\$ 3,419,838	\$ 2,947,217	\$ 3,344,052
Initial area/unit opening fees			90,000
Events			23,963
	3,419,838	2,947,217	3,458,015
Less current portion	476,849	389,874	503,837
	<u>\$ 2,942,989</u>	<u>\$ 2,557,343</u>	<u>\$ 2,954,178</u>

**16. Simple IRA Retirement Plan**

The Company has a Simple IRA retirement plan for employees who meet certain longevity and compensation requirements. The Company matches the employees' salary reduction up to 3% of the employees' wages, subject to annual limits set by the Internal Revenue Service. The Company's total contribution expense for the year ended December 31, 2022 was \$20,035 (2021 – \$6,268 and 2020 – \$14,619).

**FADS USA, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS, Continued**

**17. Income taxes**

The provision for income taxes is as follows as of December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Current expense (benefit) - federal	\$ 362,300	\$ 271,800	\$ (227,415)
Current expense - state	96,200	121,772	30,900
Deferred tax expense (benefit) - federal	187,900	(406,000)	
Deferred tax expense (benefit) - state	71,600	(154,600)	
Total income tax expense (benefit)	\$ 718,000	\$ (167,028)	\$ (196,515)

The components of the deferred tax asset are as follows at December 31:

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Deferred tax assets			
Accrued interest payable	\$ 166,900	\$ 148,800	\$ 105,300
Accrued severance payable	36,900	71,400	105,900
Deferred compensation		271,400	271,400
Deferred exclusivity fee	97,300	69,000	40,700
Net operating loss deduction			272,100
Gross deferred tax assets	301,100	560,600	795,400
Less valuation allowance			(795,400)
Net deferred tax asset	\$ 301,100	\$ 560,600	\$

**18. Contingency**

As a result of the spread of COVID-19 coronavirus, economic uncertainties have arisen. The financial impact to the Company, our franchisees, and others is unknown at this time. The Company continues to operate in accordance with all federal, state, and local regulatory restrictions imposed to reduce the spread of the coronavirus. Currently management does not believe there is a significant negative impact to its financial assets.

**19. Subsequent Events**

The Company has evaluated subsequent events through May 2, 2023, the date the financial statements were available to be issued. The following was noted –

- On April 19, 2023, the Company entered into an agreement with the former owners to reduce the balloon payment due on the note payable and accrued interest in June 2023 by \$300,000, see note 8.

**FADS USA, INC. AND SUBSIDIARIES**

**CONSOLIDATED SCHEDULES OF REVENUES**

**for the years ended December 31, 2022, 2021, and 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Sub franchise royalties.....	\$ 844,727	\$ 991,031	\$ 695,355
Franchise royalties.....	4,663,649	2,437,173	1,011,986
WCDC.....	7,463		
VIC.....	114,132	227,062	
NDC.....	1,603,426	1,439,048	645,636
NVSC.....	32,634	34,129	58,795
FAWC.....	1,039,210	1,428,297	
CCDC.....	1,011,431	777,591	409,855
LBWYD.....	11,460	11,892	
WCS.....	554,760	424,728	155,410
Initial area/unit opening fees.....	897,455	550,000	417,500
Dancelife shoe .....			1,028
AMP income .....			6,318
Dance store income .....	73,342	70,634	109,950
Miscellaneous .....	207,459	32,440	60,046
Competition - outside entries.....	12,246	105,284	165,094
Curriculum income.....	9,270	4,663	3,887
Longevity award.....	7,820	8,135	1,250
International royalties .....	33,689	16,087	
Royalties interest.....	717	66,872	67,425
Area exclusivity fees.....	509,198	389,874	380,727
Advertising fee income.....	232,600	209,455	51,400
Conference fee income.....	34,000		
Transfer fee.....	44,450	24,000	8,000
Consulting fees.....			4,000
FADS Million Mask movement.....			47,414
Preferred vendor income.....	229,691	159,516	17,566
Technology fee.....	856,510	561,542	304,055
Access revenue.....	64,962	40,974	49,196
Admin fee.....	8,423	8,625	5,424
	<u>13,104,724</u>	<u>10,019,052</u>	<u>4,677,317</u>
Total revenues.....	<u>\$ 13,104,724</u>	<u>\$ 10,019,052</u>	<u>\$ 4,677,317</u>

**FADS USA, INC. AND SUBSIDIARIES**

**CONSOLIDATED SCHEDULES OF COST OF REVENUES**

**for the years ended December 31, 2022, 2021, and 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
NDC.....	\$ 981,325	\$ 720,879	\$ 354,582
CCDC.....	644,595	344,956	170,947
NVSC.....	3,274	4,924	5,404
FAWC.....	748,184	755,461	
VIC.....	53,866	101,567	
WCS.....	470,021	482,554	260,344
Consulting .....	244,655	177,613	75,154
Technology.....	638,781	1,010,785	610,104
Access expense.....	7,745	9,876	17,061
Shoes .....			4,565
Professional awards.....	111,000	114,830	56,425
Top teacher .....	90,400	91,600	50,750
Dance store .....	324,627	183,593	65,054
Franchisee training .....	46,889	13,909	21,091
Curriculum expense .....	15,570	17,442	
Travel and lodging .....	7,430	2,179	9,946
Opening kit .....	29,521	23,564	204
Professional show .....	3,256	7,114	3,054
Hot seminar .....			8,943
FACT seminar.....	10,914	57	1,675
AREA seminar.....	5,345		659
Other seminar expense.....	11,727		23,737
Refunds .....		4,880	15,253
Evaluation expense .....			16,600
Miscellaneous.....	8,963	5,897	17,281
Royalty compensation.....	3,194,987	1,431,283	521,598
Dance council expense.....	3,072	2,780	17,751
Competition expense - outside entries.....	65,231	50,227	30,752
	<u>\$ 7,721,378</u>	<u>\$ 5,557,970</u>	<u>\$ 2,358,934</u>
Total cost of revenues.....	<u>\$ 7,721,378</u>	<u>\$ 5,557,970</u>	<u>\$ 2,358,934</u>



**FADS USA, INC AND SUBSIDIARIES**

**CONSOLIDATED SCHEDULES OF  
GENERAL AND ADMINISTRATIVE EXPENSES**

**for the years ended December 31, 2022, 2021, and 2020**

	<u>2022</u>	<u>2021</u>	<u>2020</u>
Payroll.....	\$ 1,139,293	\$ 902,863	\$ 1,077,415
Legal fees.....	256,486	67,400	131,972
Advertising and promotion .....	130,152	99,575	(32,565)
Rent .....	34,644	33,600	73,560
Payroll taxes.....	99,429	72,115	103,869
Credit card and bank charges .....	59,690	46,175	20,877
Insurance .....	176,443	153,422	143,623
Amortization.....	197,380	198,034	198,034
Depreciation .....	57,365	55,835	55,760
SIMPLE expense .....	20,035	6,268	14,619
Taxes-other.....	7,349	7,641	15,307
Postage.....	(477)	(6,431)	(1,781)
Office expenses .....	9,389	22,221	27,616
Utilities .....	4,685	6,454	7,976
Professional fees.....	80,050	83,230	79,500
Meals and entertainment .....	4,714		1,706
Repairs and maintenance.....	4,132	5,084	5,602
Dues and subscriptions .....	68,237	80,747	66,542
Telephone .....	7,333	6,583	6,766
Printing .....	5,247	4,935	4,782
Employee training .....	5,858	1,834	3,423
Penalties .....	39		3,838
Payroll processing fee.....	5,532	5,155	5,278
Recruiting.....	3,314	536	338
Miscellaneous.....	38,426		
Deferred compensation.....	12,039		155,840
Promotional supplies.....	13,789	30,686	44,916
Temporary labor.....			2,296
Total general and administrative expenses.....	\$ 2,440,573	\$ 1,883,962	\$ 2,217,109

**FADS USA, INC. AND SUBSIDIARIES**

**CONSOLIDATING BALANCE SHEET**

**December 31, 2022**

	FADS USA, Inc.	FADS Events LLC	Eliminations	FADS USA, Inc. and wholly owned subsidiary	FADS Holding, LLC	Fred Astaire Dance of North America	Fred Astaire Dance International Corp	Fred Astaire Dance Studios, Inc.	FADS Distribution, Inc.	Fred Astaire Dance Board, Inc.	FADS International, Inc.	Eliminations	Consolidated Total
<b>ASSETS</b>													
<b>Current assets</b>													
Cash and cash equivalents.....	\$ 2,192,187	\$ 993,036		\$ 3,185,223			\$ 547		\$ 679,039				\$ 3,864,809
Accounts receivable, net.....	39,302	24,724		64,026			22,761		53,958				140,745
Income tax receivable.....	227,415			227,415									227,415
Inventories.....	30,254			30,254					6,325				36,579
Prepaid expenses.....	7,100	11,337		18,437									18,437
Notes receivable - stockholder, current.....	10,561			10,561									10,561
Notes receivable, current portion.....	377,039			377,039									377,039
Total current assets.....	2,883,858	1,029,097		3,912,955			23,308		739,322				4,675,585
Property, plant and equipment, net.....	92,183			92,183					4,891				97,074
Intangibles, net.....	1,306,223			1,306,223									1,306,223
Goodwill.....	10,300,000			10,300,000									10,300,000
Due from affiliates.....	4,055,654	2,639,987		6,695,641			128,761	\$ 1,044,645				\$ (7,869,047)	
Investments.....	48,974			48,974									48,974
Investment in subsidiary.....	3,289,932		\$ (3,289,932)										
Deferred tax asset.....	301,100			301,100									301,100
Notes receivable - stockholder, non-current portion.....	102,906			102,906									102,906
Notes receivable, non-current portion.....	1,819,480			1,819,480									1,819,480
Total assets.....	<u>\$ 24,200,310</u>	<u>\$ 3,669,084</u>	<u>\$ (3,289,932)</u>	<u>\$ 24,579,462</u>	<u>\$</u>	<u>\$</u>	<u>\$ 152,069</u>	<u>\$ 1,044,645</u>	<u>\$ 744,213</u>	<u>\$</u>	<u>\$</u>	<u>\$ (7,869,047)</u>	<u>\$ 18,651,342</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>													
<b>Current liabilities</b>													
Accounts payable.....	\$ 395,737	\$ 145,452		\$ 541,189					\$ 7,574				\$ 548,763
Deferred revenue, current portion.....	476,849			476,849									476,849
Notes payable, current portion.....	5,488,317			5,488,317									5,488,317
Accrued income taxes.....	218,857			218,857									218,857
Accrued expenses.....	27,997	233,700		261,697					7,613				269,310
Accrued interest payable.....	575,708			575,708									575,708
Accrued compensation and related taxes, current portion.....	127,215			127,215									127,215
Total current liabilities.....	7,310,680	379,152		7,689,832					15,187				7,705,019
Notes payable, non-current portion.....	198,731			198,731									198,731
Due to affiliates.....					\$ 5,040,875	\$ 535,247			2,292,925			\$ (7,869,047)	
Deferred revenue, non-current portion.....	2,942,989			2,942,989									2,942,989
Total liabilities.....	<u>10,452,400</u>	<u>379,152</u>		<u>10,831,552</u>	<u>5,040,875</u>	<u>535,247</u>			<u>2,308,112</u>			<u>(7,869,047)</u>	<u>10,846,739</u>
<b>Stockholders' Equity</b>													
<b>FADS USA, Inc. stockholders' equity</b>													
Retained earnings.....	13,697,910	3,289,932	\$ (3,289,932)	13,697,910									13,697,910
Paid in capital.....	49,990			49,990									49,990
Common stock, \$.01 par value, 1000 shares authorized, issued, and outstanding.....	10			10									10
Total FADS USA, Inc. stockholders' equity.....	13,747,910	3,289,932	(3,289,932)	13,747,910									13,747,910
Non-controlling interests in variable interest entities.....					(5,040,875)	(535,247)	152,069	1,044,645	(1,563,899)				(5,943,307)
Total stockholders' equity.....	<u>13,747,910</u>	<u>3,289,932</u>	<u>(3,289,932)</u>	<u>13,747,910</u>	<u>(5,040,875)</u>	<u>(535,247)</u>	<u>152,069</u>	<u>1,044,645</u>	<u>(1,563,899)</u>				<u>7,804,603</u>
Total liabilities and stockholders' equity.....	<u>\$ 24,200,310</u>	<u>\$ 3,669,084</u>	<u>\$ (3,289,932)</u>	<u>\$ 24,579,462</u>	<u>\$</u>	<u>\$</u>	<u>\$ 152,069</u>	<u>\$ 1,044,645</u>	<u>\$ 744,213</u>	<u>\$</u>	<u>\$</u>	<u>\$ (7,869,047)</u>	<u>\$ 18,651,342</u>

**FADS USA, INC. AND SUBSIDIARIES**  
**CONSOLIDATING STATEMENT OF INCOME**  
**for the year ended December 31, 2022**

	<u>FADS USA, Inc.</u>	<u>FADS Events LLC</u>	<u>Eliminations</u>	<u>FADS USA, Inc. and wholly owned subsidiary</u>	<u>FADS Holding, LLC</u>	<u>Fred Astaire Dance of North America</u>	<u>Fred Astaire Dance International Corp</u>	<u>Fred Astaire Dance Studios, Inc.</u>	<u>FADS Distribution, Inc.</u>	<u>Fred Astaire Dance Board, Inc.</u>	<u>FADS International, Inc.</u>	<u>Eliminations</u>	<u>Consolidated Total</u>
Revenues.....	\$ 7,359,133	\$ 4,415,697		\$ 11,774,830			\$ 95,927		\$ 1,233,967				\$ 13,104,724
Cost of revenues.....	3,679,116	3,205,644		6,884,760					836,618				7,721,378
Gross profit.....	3,680,017	1,210,053		4,890,070			95,927		397,349				5,383,346
General and administrative expenses.....	2,379,500	32,158		2,411,658			5,254		23,661				2,440,573
Income from operations.....	1,300,517	1,177,895		2,478,412			90,673		373,688				2,942,773
Non-operating income (expense), net													
Miscellaneous expense, net.....	(64,770)	(6,345)		(71,115)					(808)				(71,923)
Interest expense, net.....	(117,327)			(117,327)									(117,327)
Income from subsidiary.....	1,171,550		\$ (1,171,550)										
Investment loss, net.....	(4,233)			(4,233)			(879)						(5,112)
Total non-operating income (expense), net.....	985,220	(6,345)	(1,171,550)	(192,675)			(879)		(808)				(194,362)
Income before income taxes.....	2,285,737	1,171,550	(1,171,550)	2,285,737			89,794		372,880				2,748,411
Income tax expense.....	718,000			718,000									718,000
Net income.....	1,567,737	1,171,550	(1,171,550)	1,567,737			89,794		372,880				2,030,411
Less amount attributable to non-controlling interests.....							89,794		372,880				462,674
Net income attributable to FADS USA, Inc.....	\$ 1,567,737	\$ 1,171,550	\$ (1,171,550)	\$ 1,567,737	\$	\$	\$	\$	\$	\$	\$	\$	\$ 1,567,737

Unaudited Balance Sheet  
and Profit and Loss  
as of March 31, 2023

THESE FINANCIAL STATEMENTS HAVE BEEN PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED AN OPINION WITH REGARD TO THEIR CONTENT OR FORM.

# FADS USA, Inc

## Balance Sheet

Reporting Book:

ACCRUAL

As of Date:

03/31/2023

Year To Date

03/31/2023

### Assets

#### Current Assets

Cash and Cash Equivalents	5,346,728.03
Short Term Investments	0.03
Accounts Receivable, Net	
Accounts Receivable	499,959.74
Allowance for Doubtful Accounts	76,698.43
Total Accounts Receivable, Net	423,261.31
Inventory	53,363.37
Prepaid Expenses	17,987.00
Intercompany Receivable	12,952,882.14
Deferred Tax Assets	301,100.00
Total Current Assets	<u>19,095,321.88</u>

#### Fixed Assets, Net

Fixed Assets	1,316,514.64
Accumulated Depreciation	1,215,841.95
Total Fixed Assets, Net	<u>100,672.69</u>

#### Intangible Assets, Net

Intangible Assets	6,556,639.95
Goodwill	10,300,000.00
Amortization	5,250,418.72
Total Intangible Assets, Net	<u>11,606,221.23</u>

#### Investments

Long Term Investments	48,973.75
Total Investments	<u>48,973.75</u>

#### Other Assets

Other Assets	2,215,259.06
Total Other Assets	<u>2,215,259.06</u>

### Total Assets

\$ 33,066,448.61

### Liabilities and Equity

#### Current Liabilities

Accounts Payable	262,501.51
Accrued Taxes	162,898.38
Income Tax Payable	(217,920.66)

Intercompany Payable	12,886,467.78
Other Current Liabilities	<u>227,649.21</u>
Total Current Liabilities	<u>13,321,596.22</u>
Long Term Liabilities	
Note Payable - Long Term	6,379,537.10
Loans	255,165.64
Long Term Debts	<u>0.00</u>
Total Long Term Liabilities	<u>6,634,702.74</u>
Other Liabilities	
Deferred Revenue	<u>3,419,837.98</u>
Total Other Liabilities	<u>3,419,837.98</u>
Stockholders Equity	
Partners Equity	380,853.75
Preferred Stock	(232,060.00)
Common Stock	(598,460.00)
Dividend Paid	120,000.00
Retained Earnings	8,364,269.17
Net Income (Loss)	<u>1,895,708.75</u>
Total Stockholders Equity	<u>9,690,311.67</u>
<b>Total Liabilities and Equity</b>	<b><u><u>\$ 33,066,448.61</u></u></b>

# FADS USA, Inc

## Profit and Loss - Previous Period Comparison

Reporting Book: ACCRUAL

As of Date: 03/31/2023

Year To Date

03/31/2023

### Revenue

Revenue - Services	1,778,926.58
Revenue - Products	105,459.40
Revenue - Sales	182,925.28
Revenue - Supports	321,892.00
Revenue - Other	<u>1,523,071.88</u>
Total Revenue	<u>3,912,275.14</u>

### Cost of Revenue

Cost of Sales Revenue	947,763.62
Cost of Products Revenue	72,099.49
Cost of Services Revenue	4,136.52
Cost of Supports Revenue	142,073.30
Cost of Consulting Revenue	12,500.04
Cost of Other Revenue	<u>247,786.46</u>
Total Cost of Revenue	<u>1,426,359.43</u>

Gross Profit 2,485,915.71

### Operating Expenses

#### General and Administrative Expenses

Copying and Printing	635.91
Due and Subscriptions	2,898.74
Education	428.00
Legal and Accounting	23,778.99
Travel Expenses	10,043.21
Meals and Entertainment	988.71
Office Supplies	3,701.81
Postage and Delivery	447.95
Total General and Administrative Expenses	42,923.32
Advertising and Promotion	18,599.87
Telecommunication	1,399.05

#### Payroll and Related Expenses

Benefits	25,252.53
Payroll Expenses	336,339.30
Payroll Taxes	34,365.37
Total Payroll and Related Expense	395,957.20

#### Utilities and Facilities

Rent	9,026.64
Repairs and Maintenance	870.04
Utilities	1,757.81
Total Utilities and Facilities	11,654.49

Operating and Maintenance Expenses	
Credit Card and Other Service Charges	16,682.82
Professional Services	16,450.00
Shipping	3,333.87
Total Operating and Maintenance Expenses	36,466.69
Taxes and Insurance	
Insurance	23,633.45
Taxes	2,665.06
Total Taxes and Insurance	<u>26,298.51</u>
Total Operating Expenses	<u>533,299.13</u>
<b>Other Income (Expense)</b>	
Interest Income	26,047.03
Foreign Currency Exchange Gain / Loss	1,966.91
Other Income	341,715.30
Interest Expenses	(82,452.77)
Other Expenses	<u>(333,876.60)</u>
Total Other Income (Expense)	<u>(46,600.13)</u>
<b>Income Taxes</b>	
State and Local Taxes	10,307.70
<b>Net Income (Loss)</b>	<u><u>\$ 1,895,708.75</u></u>



**EXHIBIT F  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**LIST OF CURRENT AREA REPRESENTATIVES**

**LIST OF CURRENT AREA REPRESENTATIVES**

The following is a list of area representatives with Area Businesses open as of December 31, 2022:

<b>Entity Name</b>	<b>Operating Principal</b>	<b>Salesperson(s)</b>	<b>Business Address</b>	<b>Telephone Number</b>	<b>Territory Description</b>
<b>Northern Arkansas</b>					
Arkansas Dance Productions LLC	Mira Jensen	Mira Jensen and Morten Jensen	1906SW Cypress Street, Bentonville, AR 72713	203-814-2681 860-331-9318	Benton, Washington, Crawford, Sebastian, Scott, Logan, Franklin, Madison, Carroll, Boone, Newton, Johnson, Pope, Yell, Perry, Conway, Faulkner, White, Woodruff, St. Francis, Cross, Crittenden, Jackson, Poinsett, Mississippi, Craighead, Greene, Clay, Randolph, Lawrence, Independence, Cleburne, Van Buren, Searcy, Marion, Baxter, Fulton, IZard, Sharp, and Stone Counties in Arkansas
<b>Georgia</b>					
AAA Dance, Inc.	Tim Brooks and Kristin Brooks	Tim Brooks and Kristin Brooks	4317 Abbotts Bridge Road, Suite 3, Duluth, GA 30097	860-970-1802	Fannin, Gilmer, Dawson, Forsyth, Gwinnett, Rockdale, Henry, Spalding, Fayette, Coweta, Heard, Carroll, Haralson, Polk, Chattooga, Floyd, Dade, Walker, Catoosa, Whitfield, Murray, Gordon, Bartow, Paulding, Douglas, Fulton, Clayton, Dekalb, Cobb, Pickens, and Cherokee Counties in Georgia
<b>Eastern Pennsylvania</b>					
IDance Group LLC	Vladislav Ivanov	Vladislav Ivanov & Karina Moskaleva	118 Mill Street Fayetteville, NY 13066	646-327-8830	Montgomery, York, Delaware, Berks, Bucks, Chester, Lancaster, Lehigh and Philadelphia Counties in Pennsylvania.
<b>Houston, San Antonio &amp; Ft. Worth</b>					
M3 Entertainment LLC	Mark Adler	Mark Adler, Stephanie Schlueter & Erica Hur	1925 Hughes Landing Blvd. Ste. 400 The Woodlands, TX 77381	281-367-0005	Harris; Galveston; Fort Bend; Montgomery; Brazoria; Bexar; Comal; Tarrant; Denton; Dallas; Parker; Wise; Travis; Hays; and Williamson Counties in Texas
<b>Indiana</b>					
DLR Dance Franchising LLC	Daniel Rutherford	Daniel Rutherford & Nicole Carroll-Rutherford	820 E 116 <sup>th</sup> Street Suite 660 Carmel, IN 46032	317-846-3237	City limits of: Indianapolis, IN Schererville, IN Valparaiso, IN Bloomington, IN Ft. Wayne, IN
<b>Los Angeles County</b>					
Torrance FADS, LLC	Tomasz Lewandowski	Tomasz Lewandowski Izabella Lewandowski	1650 S Pacific Coast Highway, Suite 110 Redondo Beach, CA 90277	310-316-5800	5 mile radius of city limits of: Chino Hills, Huntington Beach, Los Angeles, Laguna Hills and Arcadia, CA

<b>Entity Name</b>	<b>Operating Principal</b>	<b>Salesperson(s)</b>	<b>Business Address</b>	<b>Telephone Number</b>	<b>Territory Description</b>
<b>Long Island</b>					
LI Dance Works, LLC	Sasha Bylim	Sasha Bylim Olga Bylim	30 Wyldwood Drive Tarrytown, NY 10591	914-861-4641	Nassau, Suffolk and Queens Counties in New York
<b>Michigan</b>					
MTN Michigan, LLC	Evan Mountain	Evan Mountain	2172 Franklin Rd Bloomfield, MI 48302	248-454-1715	State of Michigan
<b>New Jersey</b>					
In Dance Creations, Inc.	Ilya Iffraimov	Ilya Iffraimov Nadia Goulina	9 Sherbrooke Drive Lincoln Park, NJ 07035	973-917-3034	State of New Jersey
<b>Oregon</b>					
C OR D, LLC	Alexander Aillon	Alexander Aillon Jessica Aillon	6520 SW Rosewood St Lake Oswego, OR 97035	971-755-1918	State of Oregon
<b>San Diego County</b>					
Papalone Inc.	Joseph Fusina	Joseph Fusina	8303 Clairemont Mesa Blvd Suite 205 San Diego, CA 92111	858-499-0180	San Diego County in California
<b>Tampa Bay Area</b>					
PLG Dance, Inc.	Linda Goethche	Linda Goethche Peter Goethche	4707 Ranchway Ct Tampa, FL 33624	414-405-4914	Pinellas, Pasco, Hernando, Hillsborough and Polk Counties in Florida
<b>Western Tennessee</b>					
Dance Tennessee, LLC	Evan Wellemeier	Evan Wellemeier	1115 Stanton Hall Road, Collierville, TN 38017	860-867-7771	Henry, Hardin, Decatur, Benton, Carroll, Henderson, McNairy, Chester, Madison, Hardeman, Fayette, Shelby, Tipton, Lauderdale, Haywood, Crockett, Gibson, Weakley, Obion, Dyer and Lake Counties in Tennessee
<b>Central Tennessee</b>					
Dance Tennessee, LLC	Evan Wellemeier	Evan Wellemeier	6645 Poplar Ave, Suite 206, Germantown, TN 38138	860-867-7771	Robertson, Cheatham, Williamson, Maury, Giles, Franklin, Marion, Grundy, Warren, White, Putnam, Van Buren, Overton, Clay, Jackson, Macon, Sumner, Davidson, Marshall, Bedford, Moore, Lincoln, Coffee, Rutherford, Wilson, Trousdale, Smith, Dekalb, and Cannon Counties in Tennessee
<b>Colorado</b>					
Colorado Dance Machine Inc.	Mary Jo Hansen	Mary Jo Hansen	2394 Cubs Pt., Apt. 101, Highlands Ranch, CO 80129	303-482-5429	State of Colorado

Entity Name	Operating Principal	Salesperson(s)	Business Address	Telephone Number	Territory Description
<b>South Virginia</b>					
SDance Promotions, LLC	Yuriy Simakov	Yuriy Simakov & Oksana Klyuchnyk	4702 Garrett Road, Durham, NC 27707	919-597-9109	The following counties in the state of Virginia: Lee, Wise, Norton City, Scott, Washington, Bristol City, Russell, Dickenson, Buchanan, Tazewell, Smyth, Wythe, Bland, Giles, Pulaski, Radford City, Montgomery, Floyd, Carroll, Galax City, Grayson, Patrick, Martinsville City, Henry, Danville City, Pittsylvania, Franklin, Salem City, Roanoke City, Roanoke, Craig, Botetourt, Alleghany, Covington City, Bedford, Campbell, Lynchburg City, Amherst, Rockbridge, Buena Vista City, Lexington City, Halifax, Mecklenburg, Brunswick, Greensville, Southampton, Franklin City, Emporia City, Suffolk City, Isle of Wight, Chesapeake City, Virginia Beach City, Norfolk City, Portsmouth City, Hampton City, Newport News City, Poquoson City, York, James City, Williamsburg City, Surry, Sussex, Dinwiddie, Lunenburg, Charlotte, Appomattox, Prince Edward, Nottoway, Prince George, Hopewell City, Chesterfield, Petersburg City, Colonial Heights City, Amelia, Cumberland, Buckingham, Powhatan, Richmond City, Henrico, Charles City, Hanover, Goochland, New Kent, Mathews, Gloucester, Nelson, Fluvanna, King William, King and Queen, Middlesex.
<b>East North Carolina</b>					
SDance Promotions, LLC	Yuriy Simakov	Yuriy Simakov & Oksana Klyuchnyk	4702 Garrett Road, Durham, NC 27707	919-597-9109	The following counties in the state of North Carolina: Caswell, Alamance, Chatham, Moore, Scotland, Hoke, Robeson, Columbus, Brunswick, New Hanover, Pender, Bladen, Cumberland, Harnett, Lee, Orange, Person, Granville, Durham, Wake, Johnston, Sampson, Duplin, Onslow, Carteret, Dare, Hyde, Craven, Jones, Lenoir, Wayne, Wilson, Nash, Franklin, Vance, Warren, Halifax, Northampton, Hertford, Gates, Pasquotank, Camden, Currituck, Perquimans, Chowan, Tyrrell, Washington, Bertie,

Entity Name	Operating Principal	Salesperson(s)	Business Address	Telephone Number	Territory Description
					Edgecombe, Martin, Pitt, Greene, Beaufort and Pamlico.
<b>West North Carolina</b>					
Dance NC, Inc.	Alosha Anatoliy	Alosha Anatoliy & Oleksandr Tsyhankov	1500 Mill Street, Unit 105, Greensboro, NC 27408	336-420-2707 & 919-641-8164	The following counties in the State of North Carolina: Richmond, Montgomery, Randolph, Guilford, Rockingham, Anson, Stanly, Davidson, Forsyth, Stokes, Surry, Yadkin, Davie, Rowan, Cabarrus, Mecklenburg, Union, Gaston, Lincoln, Catawba, Iredell, Alexander, Wilkes, Alleghany, Ashe, Watauga, Caldwell, Avery, Burke, McDowell, Mitchell, Yancey, Rutherford, Cleveland, Polk, Henderson, Buncombe, Madison, Haywood, Transylvania, Jackson, Swain, Graham, Cherokee, Clay and Macon.
<b>Wisconsin</b>					
Dance Works of Wisconsin, LLC	John Gates	Stephen Knight	615 Ryan Street Suite 100, Pewaukee, WI 53072	262-691-9121	State of Wisconsin
<b>Chicago, Illinois Metro</b>					
Great Lakes Franchising, Inc.	Rae Aguila	Rae Aguila	2400 E Main St, Suite 107B, St. Charles, IL 60174	630-945-3275	The following counties in the State of Illinois: Cook, Lake, DuPage, Will, McHenry, Kendall and Kane.
<b>North Florida Coast</b>					
North Florida Coast Inc.	Luann Pulliam	Angela Schultz	915 Sara Drive, Shalimar, FL 32579	850-368-4480	The following counties in the state of Florida: Brevard, DeSoto, Duval, Flagler, Hardee, Highlands, Indian River, Manatee, Nassau, Okeechobee, Sarasota, St. Johns, St. Lucie, Volusia, Escambia, Santa Rosa, Okaloosa, Walton, Washington, Jackson, Calhoun, Bay, Gulf, Gadsen, Leon, Wakulla, Franklin, Jefferson, Madison, Taylor, Citrus, Lake, Levy and Marion.
<b>Connecticut</b>					
T D Dance, LLC	Driton Dovolani	Driton Dovolani	2 Woods End LN, Weston, CT 06883	845-494-9263	The following counties in the state of Connecticut: Litchfield, Hartford, Tolland, Windham, New Haven, Middlesex and New London counties in the State of Connecticut. The following towns in Fairfield County are also included in the Territory: Monroe, Shelton, Stratford, Bridgeport, Easton, Trumbull, Fairfield and Southport.

<b>Entity Name</b>	<b>Operating Principal</b>	<b>Salesperson(s)</b>	<b>Business Address</b>	<b>Telephone Number</b>	<b>Territory Description</b>
<b>Massachusetts</b>					
Dance Alliance 2021 LLC	Boris Spitchka, Aleksandra Spitchka and Driton Dovolani	Driton Dovolani	595 New London Road, #262, Latham NY 12110	518-330-8911	State of Massachusetts
<b>Rhode Island</b>					
Life Through Dance, LLC	Rogelio Garcia and Juliet Garcia	Rogelio Garcia	110 Hamilton Drive, East Greenwich, I 02818	860-670-3801	State of Rhode Island
<b>Northern New England</b>					
Achieve Creativity LLC	Adam Fox and Michelle Fox	Adam Fox	13 Rockridge Road, Hopedale, MA	617-206-0239	States of Vermont, Maine and New Hampshire
<b>Western Pennsylvania</b>					
IDance Group LLC	Vladislav Ivanov	Vladislav Ivanov	8045 Shadowrock Road, Manlius, New York, 13104	646-327-8830	The following counties in the state of Pennsylvania: Potter, Clinton, Centre, Huntingdon, Fulton, Mckean, Cameron, Elk, Forest, Warren, Erie, Crawford, Venago, Mercer, Clarion, Butler, Lawrence, Beaver, Allegheny, Washington, Greene, Fayette, Westmoreland, Armstrong, Jefferson, Indiana, Clearfield, Cambira, Blair, Somerset and Bedford
<b>Northern Virginia</b>					
SDance Promotions, LLC	Oksana Klyuchnyk	Oksana Klyuchnyk	4702 Garrett Road, Durham, North Carolina 27707	919-597-9109	The following counties in the state of Virginia: Augusta, Waynesboro City, Staunton City, Highland, Louisa, Caroline, Essex, Richmond, Northumberland, Lancaster, Northampton, Accomack, Westmoreland, King George, Spotsylvania, Stafford, Fredericksburg City, Orange, Culpeper, Fauquier, Madison, Greene, Rockingham, Harrisonburg City, Shenandoah, Page, Rappahannock, Warren, Winchester City, Frederick, Clarke, Loudoun, Alexandria City, Arlington, Falls Church City, Fairfax City, Fairfax, Prince William, Manassas Park City, and Manassas City

**EXHIBIT G  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**LIST OF AREA REPRESENTATIVES WHO HAVE LEFT THE FADS SYSTEM**

**LIST OF AREA REPRESENTATIVES WHO HAVE LEFT THE FADS SYSTEM**

**As of December 31, 2022**

**None**

**If you buy this franchise, your contact information may be disclosed to other potential franchisees when you leave the FADS System.**



**EXHIBIT H  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**TABLE OF CONTENTS OF CONFIDENTIAL FRANCHISEE MANUAL**

<b>Chapter</b>	<b>Number of Pages Per Chapter</b>
Introduction	4
Studio Setup	13
Competitions	9
Receptionist Responsibilities	20
SWAR Reports	21
Financials Presentations	8
Enrollment Department	16
Master Booking Sheet and Cards	12
Master Class Calendar	3
Cancellation and DNS Procedures	8
Daily Reports	29
Ledger Cards	16
Marketing/Advertising	26
Internet	10
Management	41
Managers	10
Owners	14
Training	14
Accounting	28
Past Due Payments	1
Teaching Model	3
Co-Companies	7
Customer Service/Students and Staff	3
Fred Astaire International Dance Council	76
Fred Astaire Dance Studios Platforms (Internal)	6
Area Business Guidelines	5
<b>TOTAL</b>	<b>403</b>

**EXHIBIT I  
TO THE  
FRANCHISE DISCLOSURE DOCUMENT**

**STATE EFFECTIVE DATES AND RECEIPTS**

### **State Effective Dates**

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

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
California	Pending
Maryland	Pending
New York	Pending
Wisconsin	Pending

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

**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 FADS USA, Inc. ("FADS") offers you a franchise, FADS must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, FADS or its affiliate in connection with the proposed franchise sale. Iowa and New York require that FADS gives you this disclosure document at the earlier of the first personal meeting or 10 business days (or 14 calendar days in Iowa) before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that FADS gives you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If FADS 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 those state administrators listed on Exhibit A.

Issuance Date: May 2, 2023

The franchisor is FADS USA, Inc., located at 151 Hazard Avenue, Suite 12-13, Enfield, Connecticut 06082. Its telephone number is (413) 567-3200.

FADS's franchise sellers involved in offering and selling the franchise is listed below (with address and telephone number), or will be provided to you separately before you sign a franchise agreement: \_\_\_\_\_

FADS authorizes the respective state agencies identified on Exhibit A to receive service of process for FADS in the particular state.

I have received a disclosure document with an issuance date of May 2, 2023, that included the following Exhibits:

- A. List of State Agencies/Agents for Service of Process
- B. Area Representative Agreement (and Exhibits)
- C. State Specific Addenda and Riders
- D. Sample Loan Documents
- E. Financial Statements
- F. List of Current Area Representatives
- G. List of Area Representatives Who Have Left the FADS System
- H. Table of Contents of Confidential Franchisee Manual
- I. State Effective Dates and Receipts

Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
(Print Name of Prospective Franchisee (For Entity))

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

Its: \_\_\_\_\_

Signature \_\_\_\_\_

Copy for Franchisee

**RECEIPT**

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Date: \_\_\_\_\_  
(Do not leave blank)

\_\_\_\_\_  
(Print Name of Prospective Franchisee (For Entity))

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

Its: \_\_\_\_\_

Signature \_\_\_\_\_

Please sign and date both copies of this receipt, keep one copy (the previous page) for your records, and mail one copy (this page) to the address listed on the front page of this disclosure document or send to the Legal Department by email to legal@fredastaire.com or by fax to (413) 565-2298.

Copy for FADS USA, Inc.