

## FRANCHISE DISCLOSURE DOCUMENT

**WAXING THE CITY**

Waxing the City Worldwide, LLC  
a Minnesota limited liability company  
111 Weir Drive  
Woodbury, MN 55125  
866-956-4612 [ph]  
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www.waxingthecity.com

Waxing the City Worldwide, LLC is offering franchises for the use of the trademark “WAXING THE CITY®” and related trademarks and service marks for the operation of a business offering a studio experience focused on body and facial waxing for men and women and the sale of related products and services (“**Waxing Studio**”).

The total investment necessary to begin operation of a Waxing the City franchise ranges from \$204,323 to \$449,676. This includes \$89,822 to \$159,362 that must be paid to the franchisor or its affiliates. If you sign an Area Development Agreement, you will pay to the franchisor a Development Fee based upon the number of Waxing Studios you agree to open, which replaces the Initial Franchise Fee you would have paid for these Waxing the City franchises.

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

You may wish to receive your Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact your sales representative at 111 Weir Drive, Woodbury, Minnesota 55125, telephone 866-956-4612.

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

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

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

ISSUANCE DATE: March 30, 2021.

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit C.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit D includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only WAXING THE CITY® 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 WAXING THE CITY® franchisee?</b>	Item 20 or Exhibit C lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

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

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

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

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

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

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

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

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

### **Some States Require Registration**

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

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

### **Special Risk(s) to Consider About *This* Franchise**

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

1. **Out-of-State Dispute Resolution.** The Franchise Agreement and Area Development Agreement require you to resolve disputes with the franchisor by mediation at a place selected by the mediator more than 100 miles from your principal office, by arbitration in Minnesota (or if franchisor's principal office is not in Minnesota, at the office of the American Arbitration Association located closest to its principal office) and/or by litigation only in Minnesota. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Minnesota than in your own state.
2. **Minimum Fees.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.

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

**NOTICE MANDATED BY SECTION 8 OF  
MICHIGAN'S FRANCHISE INVESTMENT ACT**

The following is applicable to you if you are a Michigan resident or your franchise will be located in Michigan.

**The state of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in these franchise documents, the provisions are void and cannot be enforced against you.**

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

- (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.
- (h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).
- (i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

**The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.**

If the franchisee has any questions regarding this notice, those questions should be directed to the Michigan Department of Attorney General, Consumer Protection Division, Attn.: Franchise, 525 West Ottawa Street, Lansing, Michigan 48909, telephone: (517) 373-7117.

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

To simplify the language in this Franchise Disclosure Document “**Waxing the City**” or “**we,**” “**us,**” or “**our**” means Waxing the City Worldwide, LLC, the “**Franchisor.**” “**You**” or “**your**” means the person, corporation, limited liability company, partnership or other business entity that buys the franchise, the “**Franchisee.**” If you are a corporation, limited liability company, partnership or other entity, “**you**” includes the franchisee’s owners.

**The Franchisor**

We are a Minnesota limited liability company formed on September 28, 2012. Our principal business address is 111 Weir Drive, Woodbury, Minnesota 55125. We do business under our corporate name and as “Waxing the City,” and under no other names. We began operating our own Waxing the City studios in December 2012, and we began offering franchises for the operation of Waxing Studios in April 2013. We do not conduct business in any other line of business nor do we offer franchises in any other line of business.

Our agents for service of process are disclosed on Exhibit A.

**The Business**

We offer franchises for the establishment, development and operation of businesses offering facial and body waxing services for men and women, as well as other related products and services, such as skincare, eyelash, beauty and brow enhancement, under the “WAXING THE CITY<sup>®</sup>” trademark and other trademarks, trade names, service marks, and commercial symbols we may authorize (“**Marks**”). These businesses are referred to in this Disclosure Document as a “**Waxing Studio**”. You will operate using a unique system with high standards of service, including valuable know-how, information, trade secrets, confidential information, training methods, standards, designs, methods of trademark usage, copyrights, sources and specifications, confidential electronic and other communications, methods of Internet usage, the sale of proprietary products, and research and development connected with the operation and promotion of Waxing Studios (“**System**”). We can change or otherwise modify the System at any time as we see fit.

You must construct and operate your Waxing Studio per our standard business operating practices and sign our standard franchise agreement (“**Franchise Agreement**”). Your Waxing Studio must offer authorized services and products, specifically including facial and body waxing services, and the sale of related products and services, offer the various types of memberships we specify, and must follow our policies and procedures. Your Waxing Studio must be open for business a minimum of 6 days a week. We reserve the right to add, modify, or delete any services or products that you must offer or sell at your Waxing Studio at any time in our sole discretion, and change and modify our policies.

You will have the right to operate a single Waxing Studio at a location we specify in your Franchise Agreement. We also offer qualified people the right to develop multiple Waxing Studios within a specific territory under the terms of an Area Development Agreement. If you sign an Area Development Agreement, you will sign a separate Franchise Agreement for each Waxing Studio you develop under your Area Development Agreement. You will sign the Franchise Agreement when you sign the Area Development Agreement. The form of that agreement will be the form attached to this Disclosure Document. Later Franchise Agreements you sign will be in the form of agreement we use at the time you sign the agreement. The terms of those agreements may differ from the form attached to this Disclosure Document.

We retain the right, in our sole discretion, to choose to award or not to award a franchise to any prospective franchisee, and to cease discussions regarding the awarding of a franchise at any time, regardless of the stage of the franchise award process or the time and money spent by you or any other prospective franchisee.

### **Our Parent, Predecessor and Affiliates**

We have one predecessor, Waxing the City Franchising, LLC, a Colorado limited liability company, that was formed on February 13, 2010 (“**WTC Franchising**”). WTC Franchising has a principal address of 1221 Eastlake Court, Loveland, Colorado 80537. WTC Franchising began offering franchises under the “Waxing the City” name in May 2010. In October 2012, we purchased substantially all of the assets of WTC Franchising. When we acquired the assets, there were 5 Waxing the City franchises in operation, 4 of which were indirectly owned by the members of WTC Franchising. WTC Franchising no longer offers franchises for this business, and has never offered franchises in any other line of business.

A majority interest in our company is owned by Self Esteem Brands, LLC (“**SEB**”). SEB is owned by Anytime Worldwide, LLC (“**Anytime Worldwide**”). The majority of Anytime Worldwide is owned by Anytime Holdings, Inc. The principal business address of each of these parent companies is 111 Weir Drive, Woodbury, Minnesota 55125. We do not have any other parent companies.

We have 3 affiliates that offer franchises in other lines of business as discussed below. None of these affiliates have conducted the type of business that a Waxing the City franchisee will operate nor have they offered franchises for the type of business a Waxing the City franchisee will operate. All of these affiliates have the same principal business address as we do.

Our affiliate, Anytime Fitness, LLC (“**Anytime Fitness**”), began offering franchises for the operation of fitness centers designed to operate with minimal overhead and labor costs under the trademark, “Anytime Fitness<sup>®</sup>” in October 2002, and “Anytime Fitness Express<sup>®</sup>” in October 2006. Anytime Fitness began operating its own Anytime Fitness centers in January 2005, and its own Anytime Fitness Express center in October 2006. (It no longer operates any Anytime Fitness Express centers.) As of December 31, 2020, Anytime Fitness had 2,361 franchised centers in operation in the United States and 13 company-owned centers.

We also have an affiliate that is beginning to offer franchises for sale in the fitness industry, Basecamp Fitness, LLC (“**Basecamp Fitness**”). Basecamp Fitness is a wholly-owned subsidiary of SEB. Basecamp Fitness purchased the assets of Dethrone Corporate, LLC d/b/a Basecamp Fitness on October 22, 2018. Basecamp Fitness is in the business of operating studio fitness centers that offer memberships allowing members to take short, regularly scheduled group training classes designed using High Intensity Interval Training strategies. As of December 31, 2020, Basecamp Fitness had 2 franchised studios operating in the United States and 6 company-owned studios.

Our affiliate, The Bar Method Franchising, LLC (“**The Bar Method Franchising**”), offers franchises for the operation of boutique fitness studios that offer barre-based exercise classes using proprietary and non-proprietary instructional techniques, formats and methods designed to provide fitness training in an attractive atmosphere. As of December 31, 2020, The Bar Method Franchising had 91 franchised studios in operation in the United States. The Bar Method, LLC (“**TBM**”) offered rights for Bar Method studios from June 2003 until October 2007 and assigned those agreements to The Bar Method Franchising in January 2008 at which time The Bar Method Franchising began offering Bar Method franchises.

We have two affiliates that sell goods or services to our franchisees. ProVision Security Solutions, LLC (“**ProVision**”) sells information technology services, technology, and security systems, including computers, sound systems, software and other related components to our franchisees and can provide

technology support, monitoring, and installation services for your Waxing Studio. SEB Distribution, LLC sells Waxing the City branded and other products for use and retail sale in your Waxing Studio. The principal business address of these affiliates is 111 Weir Drive, Woodbury, Minnesota 55125.

## **Market Competition**

You will sell body and facial waxing services to the general public, as well as other related products and services, such as skincare, eyelash, beauty and brow enhancement. The market for hair removal and beauty enhancement services and products is developed and competitive. As such, you will be competing for customers with other companies and organizations who offer hair removal products and beauty enhancement services, including waxing and laser technology. Competitors may include individuals and small to medium size companies, as well as similar franchise systems and large corporations.

## **Regulations**

Your Waxing Studio will be subject to national, state and local regulations that apply to all businesses, such as the Americans With Disabilities Act, wage and hour laws, occupational health and safety, equal employment opportunity, taxes, hazardous material communication to employees, data privacy, and business licensing requirements. In addition, you must comply with all zoning laws and regulations applicable to the Waxing Studio. Because you will accept credit cards, you will also have to comply with any general laws and regulations relating to the acceptance of credit cards, including the Payment Card Industry (“PCI”) Data Security Standard (“DSS”). Compliance with the PCI DSS is your responsibility. You must also comply with personal information, data protection and data privacy laws that affect the safekeeping of member information, and regulations that apply to electronic marketing, like faxes, emails, text messaging and telemarketing. Your business is subject to state and federal regulations that allow the government to restrict travel, require businesses to close or otherwise restrict business operations during state or national emergencies.

A number of states have licensing and permitting laws and regulations that may be applicable to the Waxing Studio. For example, many jurisdictions have laws which require aesthetician licensing, cosmetologist licensing, other related licensing, bonding, insurance, compliance with certain building codes, safety regulations, health requirements and other similar requirements. Your Waxing Studio may be required to comply with one or more of these requirements in your jurisdiction. You and your employees must obtain all required licenses and permits and ensure that your employees and others providing products and services to customers on behalf of your Waxing Studio have all required licenses and permits.

In addition, clients of Waxing the City studios have the ability to purchase memberships or pre-paid service packages. Our membership program is offered through the entire system and your participation is required. Some states have laws regulating the sale of memberships or pre-paid service packages and the offering of financing arrangements used in purchasing memberships or pre-paid service packages, which may require registration and acquisition of a permit to engage in such activity. These laws are designed to protect the public from being taken advantage of with respect to financing fees and terms, but some laws apply even if no financing terms apply. Compliance with escheat laws may also be required. We require you to obtain a surety bond to protect customers who purchase memberships or pre-paid service packages.

You should investigate whether there are any regulations and requirements that may apply in the geographic area in which you are interested in locating your Waxing Studio, and you should consider both their effect and the cost of compliance. You may also be required to register your business location with a state agency. You should also investigate state sales tax obligations that may affect your Waxing Studio.

**ITEM 2**  
**BUSINESS EXPERIENCE**

**President, Secretary, and Governor – Dave Mortensen**

Dave Mortensen has been the President and Secretary of our company, as well as a Governor, since our formation in September 2012. He is also one of the founders of Anytime Fitness, and has served as the Secretary and a Governor of Anytime Fitness since December 2009 and as its President since January 2013. In August 2007, he was elected a Director of our affiliate, ProVision, and he was appointed as President, Chief Financial Officer/Treasurer and Secretary of ProVision in October 2009. In December 2009, he was appointed as Secretary and a Governor of ProVision. Mr. Mortensen has been the Vice President and a Governor of Basecamp Fitness since August 2018, and the Vice President of The Bar Method Franchising since September 2019.

**Chief Executive Officer and Governor – Charles Runyon**

Chuck Runyon has been the Chief Executive Officer and Governor of our company, as well as a Governor, since our formation in September 2012. He is also one of the founders of Anytime Fitness, and has served as a Director of Anytime Fitness since February 2002, until he was appointed as a Governor, President and Chief Manager in December 2009. In January 2013, he transitioned from the role of President to Chief Executive Officer of Anytime Fitness. Mr. Runyon has been the President and a Governor of Basecamp Fitness since August 2018, and the President of The Bar Method Franchising since September 2019.

**Chief Development Officer – Jedidiah Schmidt**

Jedidiah (Jed) Schmidt has been our Chief Development Officer since January 2020. He serves in the same capacity for Anytime Fitness, The Bar Method, and Basecamp Fitness. He leads the Franchise Sales, Real Estate and Market Development teams. Mr. Schmidt joined SEB in June 2016 and served in various roles: from June 2016 to October 2018 he was President of ProVision and from October 2018 to January 2020 he was Brand President of Basecamp Fitness. From August 2013 to June 2016, Mr. Schmidt was Global Vice President of Sales and Marketing for Playerlync, LLC in Denver, Colorado.

**Director of Distribution and Governor – Marilyn Hartshorn**

Marilyn Hartshorn has served as our Director of Distribution, as well as a Governor, since October 2012, and is one of the founders of the Waxing the City brand. She has also served as the Chief Financial Officer and Controller of WTC Franchising since its formation in February 2010. Ms. Hartshorn also has served as the Chief Financial Officer and Controller of MARS Holding Company from April 2010 until July 2016, of MARS Dallas since September 2009, and as the Controller of MARS Ventures from September 2003 from until July 2016.

**Governor – Robin Schoh**

Robin Schoh is one of the founders of the Waxing the City Brand and has served as a Governor of our company since October 2012. Since January 2018, Ms. Schoh has been the President of Schoh Holdings, Inc., in Windsor, Colorado. From October 2014 until January 2018, Ms. Schoh was our Director of Franchise Development and from October 2012 until October 2014, she was our Senior Vice President of Operations. Ms. Schoh also has served as the President and Chief Executive Officer of MARS Holding Company, LLC (“**MARS Holding**”) in Loveland, Colorado since April 2010, of MARS Dallas, LLC (“**MARS Dallas**”) in Loveland, Colorado, which has been operating one Waxing the City business in Texas

since September 2009, and of MARS Ventures, LLC (“**MARS Ventures**”) in Loveland, Colorado, which operated Waxing the City studios in Colorado from September 2003 until July 2016.

**Chief Financial Officer/Treasurer – R. John Pindred**

Mr. Pindred was appointed as our Chief Financial Officer/Treasurer in November 2014. Mr. Pindred has been the Chief Financial Officer/Treasurer of Anytime Fitness since November 2014 and of Basecamp Fitness since August 2018 and the Chief Financial Officer of The Bar Method Franchising since September 2019.

**Chief Operating Officer – Angela Jaskolski**

Angela Jaskolski has been our Chief Operating Officer since September 2020. From September 2019 to September 2020, she was our Studio Division President. From August 2016 to September 2019, she was the Brand President of Waxing the City. Ms. Jaskolski was our Senior Vice President of Strategic Operations from April 2016 to August 2016. From April 2013 to April 2016 Ms. Jaskolski was the Vice President of Corporate Operations for Regis Corporation, based in Minneapolis, MN.

**Chief Marketing Officer – April Anslinger**

April Anslinger has been the Chief Marketing Officer of SEB since March 2021. She serves in the same capacity for Anytime Fitness, The Bar Method and Basecamp Fitness. Prior to joining SEB, from February 2018 to January 2021, she served as the Senior Vice President, General Manager of North America Aveda for the Estee Lauder Companies. From April 2016 to October 2017 she was the Chief Growth Officer for the Schwan Food Company, located in Marshall, Minnesota.

**Brand President – Nicholas Herrild**

Nicholas Herrild has served as our Brand President since September 2019. He joined us in December 2017 as our Vice President of Franchise Support and served in that role until September 2019. From March 2016 to December 2017, he was the Senior Director of Operations for Caribou Coffee in Minneapolis, MN. Between January 2013 and March 2016, he was the Director of Co-brand Operations Support and Development and Director of Operations for Caribou Coffee.

**Director of Franchise Support – Derrick Martini**

Derrick Martini has served as our Director of Franchise Support since February 2020. He was the Senior Franchise Business Consultant Manager with Anytime Fitness from June 2017 to February 2020. Prior to his Senior Manager role, he was a Franchise Business Consultant with Anytime Fitness from December 2014 to June 2017.

**Director of Education & Training – Summer Hartshorn Vasilas**

Summer Hartshorn Vasilas has served as a Director of Education and Training since we began operating in October 2012 and is one of the founders of the Waxing the City brand. She has also served as Chief Technical Officer and an aesthetician for WTC Franchising since February 2010. Ms. Hartshorn Vasilas also served as a Chief Technical Officer of MARS Holding from April 2010 until July 2016, of MARS Dallas since September 2009, and as an aesthetician and owner of MARS Ventures from November 2003 until July 2016.

### **Director of Education & Training – Alexandria Arlotta**

Alexandria Arlotta has served as a Director of Education and Training since April 2014. Prior to that, she served as a Director of Training since we began operating in October 2012. Ms. Arlotta is one of the founders of the Waxing the City brand. She has also served as the Chief Technical Officer and an aesthetician for WTC Franchising since February 2010. Ms. Arlotta has also served as a Chief Technical Officer of MARS Holding from April 2010 until July 2016 and of MARS Dallas since September 2009, and as an aesthetician and owner of MARS Ventures from November 2003 until July 2016.

### **Senior Vice President of Franchise Administration – Jennifer Yiangou**

Jennifer Yiangou has been our Senior Vice President of Franchise Administration since September 2020. She serves in the same capacity for The Bar Method, Anytime Fitness and Basecamp Fitness. From October 2012 to September 2020 she was our Vice President of Franchise Administration. She also served as the Vice President of Franchise Administration of Anytime Fitness from January 2008 to September 2020, with Basecamp Fitness from August 2018 to September 2020, and with The Bar Method from September 2019 to September 2020.

### **Chief Technology Officer – Ryan Masanz**

Ryan Masanz has been our Chief Technology Officer since October 2012. He has also served as the Chief Technology Officer of Anytime Fitness since April 2007, and the Chief Technology Officer for Basecamp Fitness since August 2018, and the Chief Technology Officer for The Bar Method since September 2019.

### **Chief Information Officer – Tammylynne Jonas**

Tammylynne Jonas has been our Chief Information Officer since May 2019 and she serves in the same role for Anytime Fitness, Basecamp Fitness and The Bar Method. From 2017 to 2019, she was the Chief Information Officer for Holiday Companies, and while in that role, from 2018 to 2019, she simultaneously served as Senior Director of the Global Technology Team for Couche-Tard. From 2012 to 2017, Ms. Jonas was Vice President for Technology: Vendor Management, Sourcing, Enterprise Services, and Application Development for Kohl's.

### **General Counsel – James Goniea**

Jim Goniea joined us in October 2017 as our General Counsel. He has also served as the General Counsel for Anytime Fitness since October 2017 and for Basecamp Fitness since August 2018 and as the General Counsel and Secretary of The Bar Method Franchising since September 2019. From January 2016 to September 2017, he was a partner at Einbinder Dunn & Goniea LLP (now Einbinder & Dunn LLP) a law firm in New York, New York.

### **Chief Self Esteem Officer – Carol Grannis**

Carol Grannis joined us in August 2017 as our Chief Self Esteem Officer. She has served in this same capacity with Anytime Fitness since August 2017, Basecamp Fitness since August 2018 and The Bar Method since September 2019. She founded Leading Edge Talent Solutions (“Leading Edge”) in January 2003 based in Woodbury, Minnesota, and operated Leading Edge through July 2017. Through Leading Edge, she was a consultant for us from March 2010 to July 2017.

### **Executive Vice President of International Franchise Operations – Rajat Kumar**

Rajat Kumar joined us in April 2018 as Executive Vice President of International Franchise Operations. He has served in this same capacity with Anytime Fitness since April 2018, with Basecamp Fitness since August 2018, and with The Bar Method since September 2019. From January 2016 to February 2018, Mr. Kumar was the Global Head of New Business Development at Tata Global Beverages in Singapore.

### **Vice President of Sales – Tony Nicholson**

Mr. Nicholson has been Vice President of Sales for SEB since January 2021. Mr. Nicholson joined SEB in February 2012 and has held various roles in the organization; initially as Director of Services and Personal Training for Anytime Fitness, from February 2012 to August 2014. From August 2014 to May 2016, Mr. Nicholson served as Director of Anytime Health, Anytime Fitness' health and wellness platform. From May 2016 to January 2021, Mr. Nicholson served as Director of Sales of SEB.

### **Vice President of Real Estate – Mark Norman**

Mark Norman joined us in September 2019 as Vice President of Real Estate. He serves in the same capacity for Anytime Fitness, Basecamp Fitness and The Bar Method. From April 2017 to September 2019, Mr. Norman served as Vice President of Real Estate for Regis Corporation in Minneapolis, Minnesota. From September 2016 to April 2017 he was Associate Vice President of Real Estate at Regis Corporation in Minneapolis, Minnesota and was a Real Estate Director with Regis from November 2010 to September 2016.

### **Director of Financing – Timothy Smith**

Timothy Smith has been our Director of Financing since we began operating in October 2012. He has also served as the Director of Financing of Anytime Fitness since December 2009, and has served in the same role for Basecamp Fitness since August 2018, and for The Bar Method since September 2019. From February 2013 to present has been President of our affiliate Franchise Financial, LLC.

## **ITEM 3 LITIGATION**

Remarck Partners, LLC vs. Gibson Center, L.P., et al. Superior Court for the State of California, Yolo County, Case No. CV-17-1747, filed October 24, 2017. Plaintiff Remarck Partners, bought a shopping center in which an Anytime Fitness franchisee had planned to lease space to develop an Anytime Fitness center. Plaintiff sued the seller, Gibson Center, L.P., along with Anytime Fitness and Franchise Real Estate LLC (“FRE”), our affiliate that formerly offered site selection assistance and lease negotiation services, for allegedly fraudulently failing to disclose that the Franchisee was trying to get out of the lease and could not move forward with opening a club due to significantly changed financial circumstances. Plaintiff subsequently filed an Amended Complaint on or about January 11, 2018 adding claims against the Franchisee. Anytime Fitness and FRE filed a motion to dismiss all claims brought against both entities, but that motion was denied. In November, 2019 we entered into a settlement agreement with the plaintiff. The settlement agreement resolved all claims against Anytime Fitness and FRE, except for certain cross-claims by Gibson Center, a former owner of the shopping center at issue. Those cross claims are still pending. The final settlement agreement provides that neither Anytime Fitness nor FRE will pay any amount, but they will dismiss their claims against Remarck in exchange for Remarck's dismissal of its claims against Anytime Fitness and FRE. We are not a party to this litigation.

The following disclosures relate to our affiliate, TBM and The Bar Method Franchising, in connection with the offering of boutique fitness studios that offer barre-based exercise classes under the name The Bar Method®:

Illinois v. The Bar Method Franchising Inc. and The Bar Method Inc. (Case No. 2009CH 0125, Seventh Judicial Circuit of Illinois, filed February 9, 2009). The Illinois Attorney General brought this action against The Bar Method Franchising and TBM alleging the agreement between TBM and an Illinois resident that TBM assigned to The Bar Method Franchising in January 2008 constituted a franchise that was not registered under the Illinois Franchise Disclosure Act, and that TBM did not provide a franchise disclosure document to the operator as that statute requires. On February 9, 2009, The Bar Method Franchising and TBM agreed to the entry of a Final Judgment and Consent Decree in which, while not admitting any liability for any violations, The Bar Method Franchising and TBM agreed to the entry of a permanent injunction prohibiting The Bar Method Franchising and TBM from offering or selling franchises in Illinois without being registered as a franchisor or failing to provide the franchise disclosure document to residents of Illinois as the Illinois Franchise Disclosure Act requires. The Bar Method Franchising also agreed to offer rescission of the agreement to the Illinois operator and to the payment of penalties and costs to the State of Illinois in the amount of \$5,000. The Illinois operator did not accept the offer of rescission and its agreement continues in effect.

In the Matter of the Investigation by Andrew Cuomo, Attorney General of the State of New York, of The Bar Method Inc. and Carl Diehl (Assurance No. 08-108). On April 2, 2009, TBM and Mr. Diehl, as its Vice President, entered into an Assurance of Discontinuance (“AOD”) under which, without admitting any violation of the law, they agreed to offer rescission of an agreement that TBM signed in New York without being registered to sell franchises in that state. As part of the AOD, TBM and Mr. Diehl agreed to comply with the provisions of the New York Franchises Act and not to sell franchises in New York without a current registration. TBM also paid to the State of New York the sum of \$2,500. The New York operator did not accept the offer of rescission and she continues to operate her studio under the agreement.

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

#### **ITEM 4 BANKRUPTCY**

Except as set forth below, no bankruptcy information is required to be disclosed in this Item.

Our Chief Financial Officer, R. John Pindred, was an officer of Family Christian, LLC, 5300 Patterson Avenue Southeast, Grand Rapids, Michigan 49530, from August 2004 until September 2014. On February 11, 2015, about 5 months after Mr. Pindred left that company, Family Christian, LLC, filed for protection under Chapter 11 of the United States Bankruptcy Code, Case No. 15-00643, United States Bankruptcy Court, Western District of Michigan. The deadline for filing claims passed on June 9, 2015. On August 11, 2015, Family Christian, LLC’s Chapter 11 Plan of Liquidation, involving a sale of assets and continuity of operations, was confirmed. On August 1, 2016, the court issued a final decree closing the case.

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

##### Standard Franchises

You must pay us an initial franchise fee (“**Initial Franchise Fee**”) for a single Waxing Studio payable when you sign your Franchise Agreement.

The Initial Franchise Fee for a single Waxing Studio is \$42,500. However, we offer other pricing options for veterans, existing franchisees who are not in default under their existing Franchise Agreement(s) with us, and for prospects signing an Area Development Agreement to operate multiple franchises. A schedule of the various pricing options and fees follows:

<b>Franchise Agreement Pricing</b>	<b>New Franchisee</b>	<b>New Franchisee Who Meets Veteran Requirements<sup>1</sup></b>	<b>Existing Franchisee<sup>2</sup></b>	<b>Existing Franchisee Who Meets Veteran Requirements<sup>1, 2</sup></b>
Waxing the City Franchise	\$42,500	\$35,000	\$32,500	\$30,000

1. To qualify for a veteran fee, you must be a current member of the United States military, or a veteran who received an honorable discharge from a branch of the United States military.

2. We offer a pricing option for existing franchisees of ours or of our affiliates, Anytime Fitness, The Bar Method and Basecamp Fitness, that are open and operating, and are in good standing, i.e. not subject to any uncured default notice.

3. If you contribute to our designated charitable contribution program, currently the HeartFirst Charitable Foundation, offered to all new franchisees, we will reduce your Initial Franchise Fee by \$2,000 for the first franchise you purchase from us, and \$500 for each subsequent one, if you agree to pay a charitable contribution of \$100 per month from the date you open each Waxing Studio through the term of the Franchise Agreement, that we will contribute directly to the HeartFirst Charitable Foundation on your behalf, or another charity or charities we designate on your behalf. Each of your Waxing Studios that participate in this program will also be designated as a Waxing the City studio participating in our charitable contribution program, and will be able to include this designation in all advertising and promotional materials you distribute.

In each case, the different Initial Franchise Fees only apply to Franchise Agreements you enter into with us during the time they are offered, and do not apply to Development Fees that are payable under an Area Development Agreement. We have the right to modify or terminate any of these programs at any time. In all cases, the Initial Franchise Fee is due in full when you sign the Franchise Agreement, deemed fully earned by us once paid and is non-refundable.

You will have 12 months from the date you sign the Franchise Agreement to open and begin operating your Waxing Studio. If you want to extend that time for an additional 3 months, and we agree to allow you to do so, you must pay a \$500 extension fee to us as a condition to our granting the extension. (However, we will waive this extension fee if you are actively working with our real estate team in locating a site.) After 12 months from the date you sign the Franchise Agreement, you must begin paying the Minimum Royalty Fee (see Item 6) to us, whether or not your Waxing Studio is open. If you are actively working with our real estate team in locating a site or have signed a lease with the assistance of our real estate team, we will waive the Minimum Royalty Fee until your Waxing Studio is open. The extension fee also applies if we agree to allow you to extend the date for opening of any Waxing Studio that you agree to open under your Area Development Agreement. We are not, however, obligated to grant these extensions, and we have the right to condition our consent on other requirements. Extension fees are not refundable and are not credited against any other obligation you may have to us.

During 2020, we received Initial Franchise Fees ranging from \$20,000 to \$37,500.

## Area Development

We also offer Area Development Agreements to develop multiple Waxing Studios.

### *Initial Franchise Fees*

You must pay an Initial Franchise Fee in connection with each Franchise Agreement you sign under the Area Development Agreement. We offer pricing options for people who are new franchisees, veterans, and existing franchisees who are not in default under their existing Franchise Agreement(s) with us, as follows:

<b>Initial Franchise Fee Pricing under Area Development Agreements</b> (Standard Waxing the City Franchise)	<b>New Franchisee</b>	<b>New Franchisee Who Meets Veteran Requirements</b>	<b>Existing Franchisee</b>	<b>Existing Franchisee Who Meets Veteran Requirements</b>
2 locations	\$70,000	\$60,000	\$65,000	\$57,500
3 locations	\$95,000	\$82,500	\$95,000	\$80,000
4 locations	\$125,000	\$107,500	\$125,000	\$105,000
5 locations	\$155,000	\$132,500	\$155,000	\$130,000
Additional locations	+\$30,000 each	+\$25,000 each	+\$30,000 each	+\$25,000 each

If you sign an Area Development Agreement, the initial franchise fee is referred to as a Development Fee, and you pay it in full for all the Waxing Studios you commit to open, when you sign the Development Agreement. In all other cases, the initial franchise fee is due in full when you sign the Franchise Agreement. All portions of the initial franchise fee (and Development Fee) are deemed fully earned by us once paid and are non-refundable.

In all cases, the fees described above only apply to Area Development Agreements you enter into with us during the time we offer the programs. We have the right to modify or terminate any of these programs at any time.

The number of Waxing Studios we will allow you to open under an ADA may be limited by various factors, including the capacity of the DMA in which you choose to develop. For example, we will not sell a 10-location Area Development Agreement in a DMA that has a holding capacity of 5 Waxing Studios at the time you purchase. We may not allow a single franchisee to purchase more than 70% of the potential or existing locations within any given DMA.

### Initial Supplies and Retail Product Package

Before you begin operating, you must purchase initial supplies and a package of retail products to offer for sale in your Waxing Studio from us. This includes an initial inventory of body waxing and service offering supplies and retail products will include branded products for retail sale, wax, applicators, gloves, linens and other supplies and products as described in the Operations Manual. The cost of the package is approximately \$10,327 and is non-refundable.

### Compliance Drawing and Construction Documents

We create a specific studio layout/design (“**Compliance Drawing**”) of your Waxing Studio using the as-built drawings, surveys, technical data, and site plans you provide. We provide one Compliance Drawing per franchise agreement. If additional Compliance Drawings are needed, you will pay us \$250

per Compliance Drawing. The Compliance Drawing documents the design of your Waxing Studio, but is not sufficient for construction and permitting.

You will be required to retain an architectural vendor to create a complete set of detailed construction documents and to complete construction of your facility in compliance with the Compliance Drawing and our mandatory specifications (“**Construction Documents**”), and to obtain any required permits, and conform the premises to local ordinances or building codes. If you do not use our designated architectural vendor to create the Construction Documents, we will charge you a fee of \$2,700 to review the Construction Documents created by another vendor. If this is your first Waxing Studio, we may require you to obtain your Construction Documents from our designated architectural vendor.

### Studio Design Package

You are required to purchase all of the components that you will need to build-out your Waxing Studio. We offer a Studio Design Package that contains all these components, including some or all of the following: (i) the furniture, fixtures, and merchandising hardware kit for your Waxing Studio, including for your waxing treatment rooms, your waiting area, and your retail cash wrap counter; and (ii) interior signage and design elements. We expect you will order all these items as a package from us through our on-line portal and we estimate that the total payments for the Studio Design Package will range from \$47,000 to \$59,000. The actual amount you pay for these components will vary based on how many non-mandatory items you purchase from us, the requirements of your particular Waxing Studio, how many treatment rooms you include as part of your Waxing Studio, what products we are offering at the time of your purchase, and which of the non-mandatory products you choose to obtain from an alternate supplier. These fees are not refundable. If we find any deficiencies, you will be required to fix those deficiencies before you open your Waxing Studio.

If you choose to purchase any non-mandatory components of the Studio Design Package for your studio from a different source, then you must pay us a fee to have someone inspect the opening design of your studio before your open to confirm that the components and their installation in your Waxing Studio complies with our manual. Currently, we have a designated vendor who provides millwork and fixtures for your Waxing Studio as a part of your Studio Design Package. If you choose to use a vendor other than our designated vendor to supply the millwork and fixtures for your Waxing Studio, you must pay us a fee of \$2,700 to review the fabrication drawings of the vendor. You must provide us with detailed fabrication drawings for review prior to fabrication, and the millwork must match the material and fabrication techniques used by our designated vendor. The vendor must also provide all of the value-added services as our designated vendor, including the stocking of vinyl bases and stools.

We also have a designated vendor who provides the interior and exterior signage for your Waxing Studio as a part of your Studio Design Package. If you choose to use a vendor other than our designated vendor, you must pay us a fee of \$1,900 to review the signage fabrication drawings. You must provide us with detailed fabrication drawings and material samples prior to fabrication. All signage and graphics must meet the same quality, resolution, material and fabrication standards and techniques used by the designated vendor.

### Computers and Technology

You are required to purchase information technology services, technology, and network hardware including tablet or mobile devices, computers, sound systems, software and other related components from our affiliate, ProVision. ProVision will provide you with technology support, monitoring, and installation services for your Waxing Studio. If you use tablets or mobile devices in treatment rooms you are required to purchase them and mobile device management software through ProVision and you are required to

purchase, install and maintain mobile device management services for those devices also through ProVision. ProVision offers three packages, which range in cost between \$4,495 and \$14,485. The required package, which costs approximately \$4,495, includes all of the technology components we require you to have to operate your Waxing Studio. The additional packages include optional components that you may choose to purchase and install, but which are not required by us. This range does not include taxes which we estimate will cost an additional 10% of the package cost or the cost of shipping or installation, which we estimate will cost an additional approximately 45% of the package cost. This cost may be financed through a third party. These payments are not refundable.

Grand Opening and Ramp Up Plan

You must spend at least \$25,000 on your approved Grand Opening and Ramp Up Program as described in Items 6 and 11. You will not pay these amounts to us but if you fail to spend the minimum required amount, we may require you to pay the difference between what you should have spent on your Grand Opening and Ramp Up Program and what you actually spent, into the General Advertising and Marketing Fund. This amount would not be refundable.

**ITEM 6.  
OTHER FEES**

<b>Type of Fee</b>	<b>Amount (Note 1)</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fee (Note 2)	Greater of (a) the Minimum Royalty Fee (\$100/week), or (b) 6% of Gross Revenue.	Payable on the first Monday of each week for the prior week. (Note 3)	Gross Revenue, also referred to as Net Collections, includes all monies generated by your Waxing Studio, including by the sale of gift cards or membership package sales (counted at time of sale), and excluding bona fide refunds, credits given or allowed to customers for the return of merchandise and amounts collected from customers and remitted by you to any governmental taxing authority in satisfaction of sales taxes. Chargebacks are not deducted from collections.
General Advertising and Marketing Fund Contributions	Currently 2% of your Gross Revenue each month.	Payable on the first Monday of each month for the prior month. (Note 3)	We reserve the right to increase the General Advertising and Marketing Fund Contribution upon 60 days' written notice to you, provided that it will not exceed 3% of monthly Gross Revenue.
Ongoing Purchases of Wax & Service Offering Products	Will vary under the circumstances	Before shipment.	We are the sole source of supply for the hard and soft wax, and waxing strips, that you will use in your Waxing Studio, and for other retail and other service-related products you will sell in your Waxing Studio.
Technology Fee (Note 4)	Currently \$399 per month, plus \$50 to \$100 per month for optional mobile device management services	Payable monthly on the first business day of each month upon activation of your studio management software account.	You pay this fee to us. We pay most of it to the studio management software provider that will license this software to you. The fee also covers email hosting and our website maintenance. We may increase the Technology Fee upon written notice to you.

<b>Type of Fee</b>	<b>Amount (Note 1)</b>	<b>Due Date</b>	<b>Remarks</b>
Charitable Contribution	\$100 per month	On or before the first day of each month.	This is a voluntary contribution you will make once you open your Waxing Studio, but only if you decide to participate in our Charitable Contribution Program. See Item 5 for additional information.
Marketing Materials	Variable, but currently sold at our cost plus shipping.	When incurred.	You must purchase marketing materials for brand level promotion. We may prescribe minimum amounts you must purchase.
Conference Fee	Currently, \$499 for early registration, increasing to \$729 at the Conference	When you register for the Conference	You must pay this fee for one studio, regardless of how many studios you open, even if you do not register for our Conference. Payment of this fee covers registration for a Principal Owner of your Waxing Studio to attend our Conference. (Note 5)
Continuing Engagement Credit Fees	Up to \$1,200 per Waxing Studio for each year you fail to complete 1,200 continuing engagement credits, as outlined in our Operations Manual.	During the first quarter of each calendar year.	We will contribute these fees to the General Advertising and Marketing Fund. We will prorate the requirement, and the fee, during the first year you operate.
No Show Fees	Currently, \$500, or the actual costs of rescheduling travel, whichever is greater.	Immediately after notice from us.	There is no fee for most of our training programs. However, if you are scheduled for an on-site visit by a franchise business consultant or register for a training program, and you cancel, fail to attend, fail to have the appropriate parties attend, or fail to stay for the entire program, and you did not provide us at least 2 weeks' notice that you would not be attending, then you must pay this fee.
Training Compliance Fee	Currently, \$500 - \$2,500	Immediately after notice from us.	You only pay this fee if you or any of your aestheticians perform waxing services prior to training for those specific services, such as additional services training (\$500 fee), or if you open your studio before completing your pre-opening obligations and have not obtained our consent to open (\$2,500 fee).
Training for Each New Aesthetician (Note 6)	Currently no charge for aestheticians who attend virtual training. If training is provided in-person at any location, we will not charge per aesthetician, but rather will charge \$500 - \$1,000 per day, plus actual travel and lodging expenses per trainer.	Payable before training begins.	If applicable, you are also responsible for the cost of all travel and living expenses incurred for your aestheticians to attend this training.

Type of Fee	Amount (Note 1)	Due Date	Remarks
Additional Services Training	Currently, no charge for aestheticians who attend virtual training, if offered. \$250 per aesthetician for in-person training attended at our corporate office. If training is provided at a location other than our corporate offices, we will not charge per aesthetician, but rather will charge \$500 - \$1,000 per day, plus actual travel and lodging expenses per trainer. Lash Lift training is conducted by a third party vendor and the cost varies.	Immediately after notice from us.	You are responsible for the cost of all travel and living expenses incurred for your aestheticians to attend any additional services training.
Wax Ed	Currently, we do not charge a fee to attend but may charge a fee in the future	Immediate after notice from us.	You are responsible for all travel and living expenses that your employees incur to attend this optional training program.
Retail Recharge	Currently, we do not charge a fee to attend but may charge a fee in the future	Immediate after notice from us.	You are responsible for all travel and living expenses that your employees incur to attend this optional training program.
Peer Compliance Committee Default Fee	Up to \$1,000 per violation	Immediately after notice from us.	If you breach certain provisions of your Franchise Agreement, we can submit the default to a "Peer Compliance Committee" made up of other franchisees. If they determine a breach occurred, they may levy a fine against you of up to \$500. If you do not timely cure, or breach the provisions again, the next fine can be up to \$1,000. We donate all fines to a charity. Any fines the Peer Compliance Committee may assess are in addition to the standard default fee described below and any damages or costs we may incur as a result of the default.
Renewal Fee	\$6,000, reduced to \$5,000 if we receive the fee, and all your signed renewal documents, at least 30 days before your franchise expires.	At least 15 days before the term of your Franchise Agreement expires.	You only pay this fee if you want to renew your franchise.
Transfer Fee	\$7,500 or \$12,000 (Note 7)	Before you transfer the franchise.	You only pay this fee if you sell your franchise or your interest in it.

<b>Type of Fee</b>	<b>Amount (Note 1)</b>	<b>Due Date</b>	<b>Remarks</b>
Relocation Fee	\$1,500 plus our expenses	When you submit a request to move your Waxing Studio.	You only pay this fee if you want to relocate your studio. If we do not approve your request, we will refund the fee. It is currently our policy to waive the fees if you work with our real estate team to obtain a new site.
Audit	Cost of audit	30 days after billing	Payable only if audit shows an understatement of at least 2% of Gross Revenue for any reporting period.
Inspection Fee	Currently, up to \$500 per failed inspection.	Immediately after notice from us.	We will have someone conduct an inspection of your studio on a periodic basis, no more than annually. If you fail the inspection based on our criteria, we will re-inspect within 120 days and you will be required to pay this fee to cover our costs of re-inspection. If you pass the inspection, you will not incur this cost.
Additional On-site Operations Training	Currently, \$500 - \$1,000 per day plus travel costs and expenses, per trainer.	Immediately after notice from us.	(See Note 8)
Standard Default Fee	Up to \$250 per violation.	Immediately after notice from us.	In addition to our right to terminate the Franchise Agreement, if you breach certain provisions of your Franchise Agreement, and you fail to cure the default during the cure period provided, you must pay us a fee of up to \$250 per month until the default is cured in order to offset our costs incurred to address the default. This standard default fee is in addition to any fines that may be assessed through the Peer Compliance Committee and any damages or costs we may incur as a result of the default.
Insurance Handling Fees	Currently \$100	Immediately after notice from us.	You only pay this fee to us if you fail to obtain insurance, and we obtain the insurance coverage for you. This fee does not include the cost of insurance premiums, for which you must also reimburse us.
Indemnification	Will vary under circumstances	As incurred	You must reimburse us if we are held liable for claims arising from your Waxing Studio.
Liquidated Damages	\$10,000	If you fail to develop a Waxing Studio by the deadline provided in an Area Development Agreement that you sign.	This fee only applies if you sign an Area Development Agreement, and it then applies for each Waxing Studio you fail to develop under that agreement.

<b>Type of Fee</b>	<b>Amount (Note 1)</b>	<b>Due Date</b>	<b>Remarks</b>
Cost of Enforcement or Defense	All costs including accounting and attorneys' fees, will vary under the circumstances.	Immediately after notice from us.	You only pay this amount if we are successful in any legal action we bring against you, or in defending any claim you bring against us.
Interest	Lesser of 1.5% per month or highest rate of interest allowed by applicable law.	As incurred	Payable on all overdue amounts.
Late Report Fee	\$100 per violation	As incurred	Payable only if a required report or financial statement is not delivered when due.
Insufficient Funds Fee	\$100 per check that you submit to us that is returned for insufficient funds, and \$100 each time that we are unable to collect via EFT due to insufficient funds.	As incurred	
Re-Sale Assistance Program	\$549, plus \$99 per month until you sell your business or decide to terminate your participation in the program. These prices are per Waxing Studio.	As incurred	If you want to sell your Waxing Studio, we currently have a program to assist franchisees in marketing their Waxing Studios. We do not require you to participate in this program. If you do not want our assistance but do want access to our forms, you must pay us a form fee of \$999, plus an additional \$199 for each additional location.
Re-Invention Program	\$0.25 per square foot per month.	Each month after you begin operating.	These are funds that we recommend you set aside to remodel your Waxing Studio to current standards before you can renew your franchise. However, we have the right to require you to pay these amounts to us to hold for you. (Note 9)
Recertification Training Fee	\$500 - \$1,000 per day, plus actual travel and lodging expenses per trainer	Six to 12 months after your studio opens and annually thereafter	We do not currently charge this fee, but reserve the right to begin doing so in the future. (Note 10)
Additional Email Addresses	\$20 per month for each additional package of 5 email addresses and mailboxes	As incurred	
Grand Opening and Ramp Up Plan	Up to \$25,000	As incurred	You must spend at least \$25,000 on local marketing/advertising and community outreach marketing activities during the period between the date the lease is signed and 90 days following opening. You will not pay these amounts to us but we may require you to submit receipts to verify you met this requirement. If you fail to meet this requirement we may require you to pay the difference into the General Advertising and Marketing Fund.

Type of Fee	Amount (Note 1)	Due Date	Remarks
Local Advertising	Up to \$1,500 per month	As incurred	After the Grand Opening and Ramp Up Plan, you must spend at least \$1,500 per month on approved local advertising. You do not pay these amounts to us but we may require you to submit receipts to us to verify that you have met this requirement. If you fail to meet this requirement we may require you to pay the difference into the General Advertising and Marketing Fund.

Except as otherwise stated, all fees paid to us or our affiliates are non-refundable under any circumstances, and are uniform for all new franchisees. You must pay fees and other amounts due to us via electronic funds transfer or other similar means. You must comply with our procedures and perform all acts and deliver and sign all documents, including authorization (in the form attached to this Disclosure Document or other form that we may require) for direct debits from your business bank operating account, which may be necessary to assist in or accomplish payment by this method. Under this procedure you authorize us to initiate debit entries and/or credit correction entries to a designated checking or savings account for payments of fees and other amounts payable to us and any interest that may be owing. You will make the funds available to us for withdrawal by electronic transfer no later than the payment due date. If you have not timely reported the Gross Revenue for your Waxing Studio to us for any reporting period, then we will be authorized, at our option, to debit your account for (a) 110% of the fees transferred from your account for the last reporting period for which a report of the Gross Revenue was provided to us; or (b) the amount due based on information we have retrieved from your operating system.

Notes:

- (1) If your state, or any governmental body in your state, charges a tax on any fee you owe to us or to our affiliates, then you are required to pay an additional amount equal to the amount of this tax. This does not apply to any federal or Minnesota income taxes we or our affiliates have to pay.
- (2) The Minimum Royalty Fee will not begin until the earlier of: (i) the first full month of the month after you open your Waxing Studio; or (ii) the date that is 12 months from the date you signed your Franchise Agreement. If you are working with our real estate team in locating a site or have signed a lease with the assistance of our real estate team, we will waive the Minimum Royalty Fee until your Waxing Studio is open.
- (3) If Monday is a banking holiday, the payment will be due on Tuesday.
- (4) This fee is paid for support of your studio management / POS software and its updates. The Technology Fee does not include support for any other third party software, such as malicious software protection. You will start paying the fee on the first business day of the month after your studio management software account is activated before your Waxing Studio opens for business. If you choose to implement our optional mobile POS program you will also be required to purchase a mobile device management software subscription that costs an additional \$50 to \$100 per month depending on the number of mobile devices covered. These fees are paid to our affiliate, ProVision.
- (5) A person owning a 10% or greater interest in you or your Waxing Studio (“**Principal Owner**”), is required to attend our Conference when offered, typically every other year. If they do not register

for a Conference, we will bill you for the “early bird” minimum conference fee after the Conference.

- (6) Each of your aestheticians must complete our Cerologist™ CORE training program (“**Initial Cerology Training**”) and may not provide waxing or other services at your Waxing Studio until they have completed this training. We provide initial training in a virtual format for each of your aestheticians before you begin operating and we do not charge a fee for this training. At our sole discretion, and subject to trainer availability, we may offer Initial Cerology Training at your Waxing Studio, at our corporate office, or in another location which we may designate in our discretion. If training is provided in-person at any location, we will not charge per aesthetician, but rather we will charge \$500 or \$1,000 per day, plus travel and lodging expenses, per trainer. We will charge \$500 per day for a trainer and \$1,000 per day if you request that such training be provided by a “Master Trainer” (See Item 11 for description). Training provided by a Master Trainer is subject to availability. If applicable, you are also responsible for any travel and living expenses that your employees incur to attend training.
- (7) If you transfer the franchise before you open the Waxing Studio, the fee will be \$12,000. If you transfer the franchise after you open, the transfer fee is \$7,500.
- (8) If you require additional on-site assistance, including the additional on-site operations training currently referred to as “Re-GO Training”, you can request that we send a representative to provide further assistance to you, subject to our representatives’ availability. We may also require you to receive additional assistance if you are not meeting our requirements, if we determine, in our sole discretion, additional pre-opening or post-opening assistance is required, or if we determine that it is necessary for us to provide additional assistance to you to keep the System competitive or correct any deficiencies in your business. Our current rate for this additional assistance is \$1,500 per trainer, but we reserve the right to adjust that rate periodically in our Operations Manual. If you request that training be provided by a Master Trainer then we charge \$2,500 per Master Trainer and we reserve the right to adjust this rate periodically in our Operations Manual. Training provided by a Master Trainer is subject to availability.
- (9) You are required to upgrade your Waxing Studio as a condition to renew your franchise. These amounts should give you the majority of the funds you will need to do the necessary remodeling of your Waxing Studio. The actual costs you incur will vary, depending on the condition of your Waxing Studio, construction and other costs in your market, and our requirements at that time.
- (10) We may require your Cerologists to participate in Recertification Training, which will include a review of your Cerologists’ technical skills and the providing of additional Initial Cerology Training as needed. At our discretion, this training may be provided in person, online or in another virtual format. While we do not currently require Recertification Training, we reserve the right to do so upon 90 days’ written notice to you and will charge \$500 or \$1,000 per day, plus travel and lodging expenses, per trainer. We will charge \$500 per day for a trainer and \$1,000 per day if you request that such training be provided by a Master Trainer. Training provided by a Master Trainer is subject to availability.

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

<b>YOUR ESTIMATED INITIAL INVESTMENT</b>					
<b>Type of Expenditure (Note 1)</b>	<b>Low Amount</b>	<b>High Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be Made</b>
Initial Franchise Fee (Note 2)	\$30,000	\$42,500	Lump sum	Upon signing the Franchise Agreement	Us
Travel and Living Expenses While Training (Note 3)	\$1,225	\$1,225	As incurred	As incurred during training	Airlines, hotels, restaurants
Real Estate and Leasehold Improvements (Note 4)	\$7,741	\$211,061	Varied times	Before Opening	Landlord and building contractor
Architect/Design Fees (Note 5)	\$6,000	\$8,000	As specified in contract	At time of design	Architect
Furniture, Fixtures and Equipment (Note 6)	\$32,000	\$40,000	As agreed	Varied times	Us or vendors
Office Supplies (Note 7)	\$3,500	\$4,500	As agreed	Varied times	Us or vendors
Technology Expenses and Licenses (Note 8)	\$6,670	\$21,003	Lump sum	Before opening	Us, our affiliate and vendors
Signage (Note 9)	\$15,000	\$19,000	Lump sum	Before opening	Us or vendors
Initial Inventory (Note 10)	\$10,327	\$10,327	As agreed	At delivery	Us or vendors
Grand Opening Advertising (Note 11)	\$25,000	\$25,000	Lump sum	Before opening	Us or vendors
Insurance	\$2,450	\$2,650	As incurred	Varied times	Third parties
Miscellaneous Expenses (Note 12)	\$7,310	\$7,310	As agreed	Varied times	Vendors
Additional Funds and Working Capital for First 3 Months (Note 13)	\$57,100	\$57,100	As incurred	Varied times	Vendors or third parties
<b>TOTAL (Note 14)</b>	<b>\$204,323</b>	<b>\$449,676</b>			

**Notes:**

- (1) The high and low ranges in the table are based on a 6 treatment room Waxing Studio. Our estimates assume you will build out your studio space for 6 rooms and that you initially order equipment, furniture and supplies for 6 treatment rooms. These fees are non-refundable unless otherwise noted.
- (2) The Initial Franchise Fee is described in Item 5. If you sign an Area Development Agreement, you must commit to opening more than one Waxing Studio, and you will pay the Development Fee at the time you sign the Area Development Agreement. The Development Fee will be credited to the Initial Franchise Fee due under each Franchise Agreement you or your affiliate signs for each

Waxing Studio developed under the Area Development Agreement. The Development Fee is described in Item 5.

- (3) The person you designate as the “Principal Operator” of your Waxing Studio must attend mandatory training in a virtual format or at a location(s) we designate. We also may require the Principal Operator and/or a Principal Owner to spend up to 5 days training in an existing Waxing Studio owned by us or an existing franchisee. If your Principal Operator is not also a Principal Owner, then this individual must attend the training, and must sign a confidentiality and non-disclosure agreement that meets our requirements and you must provide a copy to us before they attend training. In addition, if your Principal Operator is not also a Principal Owner, then a Principal Owner must also attend and complete this training to our satisfaction before you open your Waxing Studio. While we do not currently charge for this training, if applicable, you must pay all travel and living expenses for your attendees

We will also conduct Initial Cerology Training (also referred to as “Cerologist CORE Training”) for each of your aestheticians in a virtual format, or at another location that we designate, at our discretion, before you open for business. There currently is no fee for this training if attended in a virtual format, however, if applicable, you must pay all travel and living expenses for your attendees. Your costs will differ if your aestheticians attend Initial Cerology Training at a location other than in a virtual format (see Item 6).

- (4) Our estimate for initial expenses for real estate and improvements assumes you will lease space for your Waxing Studio. Waxing Studios are generally located in commercial retail areas. The typical size of a Waxing Studio is approximately 1,800 square feet. The cost for build-out is approximately \$115 per square foot, which, at a minimum, includes rooms that will work as waxing treatment rooms, concrete floors, demised exterior walls, HVAC, roof, and utilities stubbed to the premises sufficient for a Waxing Studio. The high estimate assumes you will pay for the full build-out without receiving any tenant improvement allowance from your landlord. The low estimate assumes that your landlord pays for the full build out cost for your Waxing Studio. However, there is no assurance your landlord will agree to do so. Rent for these locations will typically vary from per square foot per year, not including CAM or tax expenses. Our estimate assumes you must only pay first month rent and an additional month as a security deposit.

As described in Item 8, we offer a “Construction Management Services” program through our approved vendor to oversee the construction of your Waxing Studio. As of the issuance date of this Disclosure Document, the Construction Management Services are optional.

The amount of your leasehold improvements will likely vary substantially based on existing conditions, size, design, including the availability and prices of labor and materials. The amounts do not include the costs of any necessary site development or site engineering work, nor do they include capitalized costs of rent or other occupancy costs, over either the life of the lease or the life of your investment. In addition, these amounts do not reflect costs for the purchase of unimproved land and construction of a free-standing Waxing Studio, which also would result in a significantly greater initial investment. You should carefully investigate all of these costs in the area where you wish to establish your Waxing Studio. In addition, we assumed the general contractor will include permitting fees in the construction costs.

If you are receiving a tenant improvement allowance from your landlord, the landlord may require you to show them that you paid for the leasehold improvements before giving you the money. In the exercise of our sole discretion, we may provide a short term loan to qualified franchisees for tenant improvements, so that you can pay for those improvements, pending receipt of money from

your landlord. The maximum amount we will finance for any franchisee is \$150,000. We require you to pay us a 6% origination fee, but we do not charge interest on the loan, unless it is in default. The loan must be repaid at the earlier of (i) when the landlord pays the tenant improvement money, (ii) 90 days after the last cash distribution is made to you under the loan documents, or (iii) 30 days after you open your Waxing Studio. See Item 10 for additional details.

- (5) You will be required to retain an architectural vendor to create a complete set of detailed Construction Documents. See Item 5. We will provide one Compliance Drawing for you at no charge, but you will be required to pay us \$250 for each additional Compliance Drawing as needed. You will also be required to pay a fee of \$2,700 if you do not use our designated architectural vendor to create the Construction Documents. We do not construct, remodel or decorate your premises. The estimates assumes standard tenant improvements within a structure, designed for commercial use, and excludes items such as structural modifications, site work, energy studies, surveys and/or exterior improvements. The estimates do not include the fee for additional Compliance Drawings or the fee for not using our designated architectural vendor.
- (6) This estimate is for the total cost to purchase furniture, fixtures and equipment for the reception area, common areas, 6 waxing treatment rooms and the employee break room. The Retail Product Package and waxing supplies components of the Studio Design Package will be purchased from us, and the rest may be purchased from third party vendors. If you choose to use a vendor to supply the millwork and fixtures for your Waxing Studio, you must pay us a fee of \$2,700 to review the fabrication drawings of the vendor.
- (7) Before beginning operations, you must purchase equipment and supplies as described in the Operations Manual, including intake forms, postcards, membership brochures, posters, and shopping bags. This estimate also includes additional marketing materials, like branded promotional products, printed materials, large format indoor or outdoor signage for tradeshow, and similar items, which you may purchase through our marketing portal. You may purchase initial supplies from us (see Item 5) or from a third party vendor.
- (8) This estimate assumes you purchase the required technology package offered by ProVision, and the remaining items are purchased from third party vendors.
- (9) The total cost for the signage varies depending on the size of the signs, quantity, whether the signs are illuminated, and the requirements of the landlord and governing authority. If you choose to use a vendor other than our designated vendor, you must pay us a fee of \$1,900 to review the signage fabrication drawings.
- (10) Your initial inventory of body waxing and service offering supplies and retail products will include branded products for retail sale, wax, applicators, gloves, linens and other supplies and products as described in the Operations Manual. We have the right to change the inventory requirements at any time. Studios can expect to spend on average approximately \$1,100 on waxing supplies during the start-up phase of business and approximately \$4,000 per month after the start-up phase. Studios can expect to spend on average approximately \$1,000 on retail products during the start-up phase and approximately \$2,000 after the start-up phase.
- (11) The estimate also includes the \$25,000 we require you spend to advertise your Waxing Studio for the Grand Opening and Ramp Up Plan described in Item 11. You may spend more than this amount. Factors that may affect the actual amount you spend include the type of media used, the location of your Waxing Studio, the size of the area you are advertising to, local media cost, and the time of year. You will not pay these amounts to us but we may require you to submit receipts to verify

you met this requirement. If you fail to meet this requirement we may require you to pay the difference into the General Advertising and Marketing Fund. We do not guarantee that you will achieve any particular results from this spend, as your results depend on many factors, including your engagement and execution.

- (12) This amount assumes utility costs at a rate of \$800 per month, licensing fees of \$300, criminal background checks on all your initial employees at a cost of \$100, uniforms for 6 initial employees at \$550, licensing and permitting fees of \$3,450 and professional expenses such as legal and accounting at a combined cost of \$1,900. These costs can vary significantly depending on the location of the studio and how many initial employees you have.
- (13) This amount includes estimated operating expenses you should expect to incur during the first 3 months of operations, not including any revenue generated by your Waxing Studio. These figures include estimated rent and CAM charges based on a 1,762 square foot studio, and gross rent paid (including CAM) of \$35.77 per square foot. It assumes you will pay monthly royalties, general advertising fund fees, and technology fees. This estimate does not include any taxes or other permitting or licensing fees that you may pay. The estimate assumes you pay no rent the first month and that you pay rent in the second and third month for a studio with approximately 1,800 square feet. The estimates also assume you pay credit card processing fees of 2% on your gross revenues, and that you pay wages and payroll for 3 Cerologists each working 36 hours per week at \$12.00 per hour and for 2 Waxing Studio Coordinators each working 33 hours per week at \$11.00 per hour. These estimates do not include payroll taxes or benefits. Some of our studios also pay their Cerologists commission on product sales. It is up to you to determine how to pay your employees
- (14) These figures are estimates only. We have relied on our experience in operating company-owned Waxing Studios in the Minneapolis-St. Paul metropolitan area, and the experience of the franchised locations in various states during 2018, 2019, and 2020 to compile these estimates. This is only an estimate of your initial investment. You must bear any deviation or escalation in costs from the estimates that we have given. You should review these figures carefully with a business and a legal advisor before making any decision to purchase a franchise. Many factors that are unique to your location can make a dramatic difference in the estimates provided. We also recommend that franchisees set aside at least \$0.25 per month per sq. ft. to use to upgrade their Waxing Studio between the fifth and sixth year after they begin operating. Except as specifically stated, we do not offer financing for any part of the initial investment. The availability and terms of financing will depend on factors like the availability of financing generally, your credit worthiness, your relationship with local banks, your experience in the waxing industry, and any additional collateral you may offer to a lender to secure the loan. Our estimates do not include any finance charges or fees, interest or debt service obligations.

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

All branded items, marketing, equipment, furnishings, fixtures, signs, software, software support, supplies, insurance and products you purchase for use or sale in your Waxing Studio must meet our specifications. Those specifications may include minimum standards for delivery, performance, design, appearance, and quality. We will issue the specifications to you before you begin operating. We may include these specifications in the manual that we provide to you on-line, or we may issue them separately. While we do not have specifications for local advertising you create to promote your studio, we do require that you obtain our prior approval to the use of any advertising materials you prepare, and before establishing or having established any website, web page, social media and/or social networking site, profile or account, relating to or making reference to us, your Waxing Studio, or to the Waxing the City system.

You can expect that the items you purchase to meet our specifications will represent over 90% of the total purchases you will make to begin operations. Once you begin operating, we expect the items you purchase that meet our specifications will represent between 70% and 90% of your total expenses.

If you want to purchase items for your Waxing Studio that we have not previously approved, or items that differ from our specifications, you must notify us in writing. If we request, you must submit samples and other information we require for testing or to otherwise determine whether the product, material or supply meets our specifications and quality standards. Except as provided below, we do not impose any fee for our consideration.

We may require you to purchase certain furniture, equipment, inventory, supplies, services and other products used or offered at your studio from vendors we approve, in which case we will provide you with a list of approved suppliers. These will include mandatory vendors (persons from whom you must purchase certain items or services), designated vendors (for items or services that must be purchased from vendors we approve), and preferred vendors (for vendors we have approved, but in categories where we do not require you obtain our approval of the vendor). These suppliers may pay vendor rebates to us and they may include our company and affiliates of ours. We may modify our mandatory, designated, and/or preferred vendor(s) at any time.

As of the issuance date of this Disclosure Document, we have the following mandatory vendors:

1. We and our affiliate SEB Distribution, LLC are currently the sole suppliers of the hard and soft wax, other service offering products and supplies for other service offerings, and all retail products for resale that you will use in your Waxing Studio. We are also currently a designated vendor for business supplies, and marketing materials, and we or our affiliates may be a mandatory, designated and/or preferred vendor for other items in the future.
2. We have a sole supplier for financial management and processing software. We reserve the right to designate a vendor for bookkeeping software at any time.
3. We have a sole supplier for POS transaction processing, studio management, marketing (CRM) and scheduling software. You will be required to purchase the computer hardware and internet connectivity necessary to run it. The cost of the software license, however, is included in the Technology Fee you pay to us.
4. ProVision is an affiliate of ours and is currently our mandated vendor for the technology services, network hardware and required technology package, including tablet or mobile devices, computers, sound systems, software and other related components, which you are required to purchase to operate your Waxing Studio.
5. You must purchase uniforms for your employees from our designated uniform vendor.

You must use our preferred vendors for your Grand Opening and Ramp Up Plan for your Waxing Studio, and we may require you to submit your grand opening plans and local marketing plans for our prior approval, submit receipts to verify you have met minimum spend requirements, and show proof of performance of your advertising activity. Our preferred vendor, SEB Distribution, LLC, will sell Waxing the City branded and other products for use and retail sale in your Waxing Studio.

You must obtain a Compliance Drawing from us. We will provide one Compliance Drawing per franchise agreement. We anticipate this Compliance Drawing will be sufficient to provide to an architectural vendor

to create your Construction Documents. If additional Compliance Drawings are needed, you will pay us \$250 per Compliance Drawing.

We currently have a designated architectural vendor who provides the Construction Documents. If you choose to use a vendor other than our designated architectural vendor for the creation of your Construction documents, you will pay us \$2,700 to review your Construction Documents. See Item 5. The Construction Documents supplied by the alternate service provider must provide the same level of information and detail as the prototypical Construction Documents created by our designated architectural vendor and use the same format, style and structure. The service provider will be responsible for distribution and coordination of documents to all designated vendors that utilize the Construction Documents as part of the development process. If this is your first Waxing Studio, we may require you to obtain your Construction Documents from our designated architectural vendor.

We currently offer construction management services through an approved third-party vendor to assist franchisees with the build-out of Waxing the City studios (“**Construction Management Services**”). Construction Management Services generally include consulting services regarding construction-related lease requirements, construction estimates, general contractor bidding and selection (you select the general contractor), the exterior sign review and approval process, utilities set up, obtaining building permits, site conditions and work progress, FF&E operation, maintenance and trouble-shooting; providing a punch list of open issues; construction warranty work; and obtaining occupancy approval. As of the issuance date of this Disclosure Document, the Construction Management Services are optional.

We also have a designated software platform, currently Zenoti, that you must use if you wish to conduct mass marketing to members or prospective members via email or text messages.

As further described above, we have the right to designate a single source or sources from whom you must purchase any required products and services, and we and/or our affiliates may be that single source or one or more of the sources. Except as described above, as of the issuance date of this Disclosure Document, neither we nor our affiliate are the only approved suppliers of any required products and services.

When we have a designated vendor (other than a mandatory vendor), if you want to purchase from other vendors the items or services for which that vendor has been designated, you must notify us in writing and obtain our approval. If you seek approval of a new supplier (or if the supplier applies directly to us for approval), we will require the supplier pay us a nonrefundable fee of \$300 before we will consider approving their application. This fee is intended to defer our cost of reviewing the supplier. (We do not require you to pay any fee.) We may also require the supplier to sign a supplier agreement with us.

We may also negotiate preferred vendor contracts with vendors. The preferred vendor contracts will usually provide favorable pricing to our franchisees. A list of current preferred vendor contracts will be available to you from us at any time after you sign your Franchise Agreement.

In reviewing prospective suppliers, we consider whether the product or service is consistent with our concept and brand; how they and/or their products or services would enhance our brand and make it more attractive to customers or franchisees; how the product or service would improve the studio experience of a customer; how the product or service would increase revenue of a franchisee’s business; how the product or service would increase the efficiency of a franchisee; if the product or service is already available through other sources, would approval of another vendor enhance competition or dilute our ability to maximize pricing benefits for our franchisees; is the product of a commercial quality with a proven record of durability; does the supplier support our values and reflect our commitment to diversity, equity and inclusion; and other factors. In addition, we consider demand from franchisees, the need for the vendor based on business trends, and the ability of the vendor to serve franchisees throughout the United States.

(The criteria is posted on our website for potential vendors.) We will generally notify you and the supplier of our approval or disapproval within 45-60 days of our receipt of all the information and samples we request. If we revoke approval of any supplier or any item offered by a supplier, we will send you written notice of our revocation of an approved supplier or item.

In the future, we may derive revenue from your purchases or leases of goods, services, supplies, fixtures, equipment, inventory and products from our mandatory, designated or preferred suppliers. These rebates will generally range from 5% - 20% of the purchases you make from the vendor. There are also some vendors that may pay us fixed rebates on supplies and services. There are no caps or limitations on the maximum amount of rebates we may receive from our suppliers as the result of franchisee purchases. During our last fiscal year, which ended December 31, 2020, we received \$4,644,702 in revenue from the sale of goods or services to our franchisees, or 44% of our total revenues of \$10,589,085. The only one of our affiliates that received any revenues for the sale of goods and services to franchisees for the fiscal year ending December 31, 2020 was ProVision, and it received \$99,744.

We do not have any purchasing or distribution cooperatives as of the issuance date of this Disclosure Document although we reserve the right to create them in the future and may require your participation in them. We may negotiate purchase arrangements with suppliers and distributors of approved products for the benefit of our franchisees and we reserve the right to receive rebates on volume discounts from our purchase of products that we may re-sell to you. We do not provide material benefits, such as renewing or granting additional franchises to franchisees, based on their use of designated or approved suppliers and distributors.

None of our officers own any interest in any of our other suppliers, other than us and our affiliates.

## ITEM 9 FRANCHISEE’S OBLIGATIONS

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

Obligation	Section in Franchise Agreement	Section in Development Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	Sections 1, 7, 8 and 9	Sections 1 and 3.A	Items 7 and 11
b. Pre-opening purchases/leases	Sections 1, 7 and 9	Section 1.C	Items 5, 7 and 8
c. Site development and other pre-opening requirements	Sections 1, 7 and 9	Sections 1,3 and Rider	Items 7 and 11
d. Initial and ongoing training	Section 8	Not Applicable	Item 11
e. Opening	Section 7.A	Section 3 and Rider	Items 7, 11 and 12
f. Fees	Sections 2.B, 4 – 9, 11, 12.A, 13.B.9, 14.C, 18.A, and Rider	Sections 2 and 6.B, and Rider	Items 5 and 6
g. Compliance with standards and policies/operating manual	Sections 6 – 9	Section 8	Items 8, 11, 14, and 16
h. Trademarks and proprietary information	Sections 3, 9, 10 and Rider	Not Applicable	Items 13 and 14
i. Restrictions on products/services offered	Section 9	Not Applicable	Items 8, 11, and 16

Obligation	Section in Franchise Agreement	Section in Development Agreement	Disclosure Document Item
j. Warranty and customer service requirements	Section 9	Not Applicable	Not Applicable
k. Territorial development and sales quotas	Not Applicable	Sections 1 and 3 and Rider	Item 12
l. Ongoing product/service purchases	Section 9	Section 8	Item 8
m. Maintenance, appearance and remodeling requirements	Sections 2.B.3 and 9.D	Not Applicable	Item 6
n. Insurance	Section 11.A	Not Applicable	Item 7
o. Advertising	Sections 3, 6, and 9.G	Not Applicable	Items 6, 7, and 11
p. Indemnification	Section 11	Section 9	Item 6
q. Owner's participation/management/staffing	Section 9.M	Not Applicable	Item 15
r. Records and reports	Section 12	Not Applicable	Not Applicable
s. Inspections and audits	Sections 8.J, 9 and 12.A	Not Applicable	Not Applicable
t. Transfer	Section 13	Section 7	Item 17
u. Renewal	Section 2.B	Not Applicable	Item 17
v. Post-termination obligations	Sections 16 and 17.B	Section 6	Item 17
w. Non-competition covenants	Sections 9.M, 16.H, and 17	Section 9	Items 15 and 17
x. Dispute resolution	Section 18	Section 9	Item 17
y. Other: guaranty of franchise obligations (Note 1)	Personal Guaranty (which follows the Franchise Agreement)	Personal Guaranty (which follows the Area Development Agreement)	Item 15

**Notes:**

- (1) Each individual who is an owner of any business entity that is the franchisee, and their spouse, must sign a personal guaranty of all the obligations of the franchisee. This Guaranty also includes an agreement to be bound by the confidentiality and noncompete provisions of the Franchise Agreement.

**ITEM 10  
FINANCING**

We do not offer, directly or indirectly, any financing to you to help you establish your business, except as set forth at the end of this Item 10. However, we do have arrangements with a number of third-party equipment lenders who provide financing to our franchisees. We do not participate in any underwriting or lending determinations with respect to any of the financing options made available by any of the lenders listed below. Our current lender relationships, as of the date of this Disclosure Document, are described below:

1. Geneva Capital, LLC (“**Geneva**”), offers financing of up to \$100,000 for a new location, including, among others, tangible equipment, security system, and signage (but excluding your initial franchise fee and working capital), based on credit approvals. Financing is offered as a lease that typically requires 1 advance payment of up to 20%. Geneva also collects a security deposit equal to 1 month’s lease payment. Lease terms vary from 12 to 36 months. Geneva offers both true tax and capital leases. Fixed equivalent interest rates typically vary from 7.99%, to 11.99% per annum, based on your financial and credit worthiness. Geneva will not require you to pledge any other assets to secure the lease, but you must

provide a personal guaranty. The amount of your lease payments will depend on the amount financed, the term of the lease, and the interest rate. You will have the right to purchase the equipment at the end of the lease at fair market value, typically capped at 10% of the original equipment cost, assuming you have not defaulted under the lease. The ability to prepay your obligations is negotiated on a case by case basis.

You will be in default under Geneva's lease documents if you fail to pay amounts owed when due or you breach any other provision of the lease documents. If you commit a payment default, you must pay a late charge of 15% of the payment which is late or \$25.00, whichever is greater or, if less, the maximum charge allowed by law. Regardless of the type of default, Geneva may retain your security deposit, elect not to renew any or all time-out controls programmed within the equipment, terminate or accelerate the lease and require that you pay the remaining balance of the lease (discounted at 3% per annum), and any purchase option due, and/or return the equipment to Geneva. Geneva may recover interest on the unpaid balance at the rate of 18% per annum or, if less, the highest rate permitted by law. It may also exercise any remedies available to it under the Minnesota Uniform Commercial Code or the law of its assignee's principal place of business. It may also file criminal charges against you and prosecute you to the fullest extent of the law if any information supplied by you on your credit application or during the credit process is found to have been falsified or misrepresented. You must also pay Geneva's reasonable attorneys' fees and actual court costs. If Geneva has to take possession of the equipment, you must pay the cost of repossession including damage to the equipment or real property as a result of repossession.

Under the personal guaranty, which is contained in Geneva's equipment lease agreement, you waive all notices. If you default under the lease agreement, Geneva may obtain and use consumer credit reports to determine acceptable means of remedies, and you waive any right or claim you may otherwise have under the Fair Credit Reporting Act (Equipment Lease Agreement – Section 12). Because the lease is a noncancelable net lease you are not entitled to any reduction of rent or any setoff for any reason, nor will the lease terminate or will your obligations be affected by any defect in, damage to or loss of possession or use of any of the equipment (Equipment Lease Agreement – Section 2). You waive any and all rights or remedies not in the lease (Equipment Lease Agreement – Section 14) and you and your guarantors, consent to personal jurisdiction in the state that Geneva or its assignee, as applicable, has its principal place of business and you and your guarantors waive trial by jury. If Geneva transfers the lease the transferee will not have to perform any of Geneva's obligations and the rights of the transferee will not be subject to any claims you have against Geneva (Equipment Lease Agreement – Section 11). A copy of the current Geneva lease documents as of the date of this Disclosure Document is attached as Exhibit I-1.

We have signed a separate agreement with Geneva, under which we agreed to assume certain obligations if you default under your lease, including an obligation to assist Geneva in remarketing your equipment. Under that agreement, we also agreed to establish a pool to compensate Geneva for certain amounts of the losses it incurs, and to guaranty payment of certain amounts of those losses. This agreement also provides for a percentage of the lease amount to us as a referral fee and for a percentage of the lease amount added to the guaranty pool. There is no direct affiliation between Geneva Capital and us.

2. Guidant Financial (“**Guidant**”) offers a program that allows you to use your retirement funds to buy your business without incurring tax penalties or getting a loan. Known as 401(k) business financing (or formally Rollovers for Business Start-ups), Guidant charges a fee of \$4,995 for this service, which includes filing your business entity, designing a company 401(k) plan, helping you roll all (or a portion of) your existing retirement funds from your current custodian account to the new 401(k), and providing you with 2 consultations with a tax attorney to review the transaction. In addition, they provide ongoing, annual administration to your 401(k) plan for \$139 per month. The form of agreement you would sign with them is attached as Exhibit I-2. Guidant can also help you secure an SBA loan for your business. A consulting fee of \$2,500 applies, however, this does come with a fully refundable guarantee should

Guidant not be able to secure you funding. You may also use 401(k) business financing as the down payment for your SBA loan through Guidant.

Guidant further offers unsecured financing. This program allows you to secure up to \$125,000 in capital pending credit score and debt utilization. Minimum credit score of 680 is required. There is 9% fee of whatever amount you draw against for this service.

Guidant can also secure equipment leasing for you. New locations require 10% down. Interest rates vary from 6.99% to 13.90% pending credit score. Lease term up to 60 months. New business requires a 700 credit score while existing business require a 650 or higher credit score. There is a fee associated with this service and it can range from \$250 to \$500.

Guidant also offers Portfolio Loans. This is a way to leverage your non-retirement stocks, bonds and mutual funds up to 80% of its value. Portfolios must be worth at least \$85,000. No minimum credit score is required. The fee associated with this program is 2% to 3% of what you loan against. Start-up locations can also elect to defer payments for up to 2 years.

We have a separate agreement with Guidant Financial Group which requires that we are paid \$1,000 as a referral fee for each client that engages in their retirement rollover program. There is no direct affiliation between Guidant Financial Group and us.

3. At our discretion, we occasionally offer a bridge financing program to qualifying new franchisees to pay a part of the tenant improvement costs that will ultimately be expected to be reimbursed by the landlord. You may not be offered such financing. The maximum amount of this loan is \$150,000. You must pay us a 6% origination fee at the time you sign the loan agreement, but you do not have to pay any interest on the loan unless you fail to repay it when it is due (and then it accrues interest at 12% per annum). The loan is due at the earlier of 90 days after the last cash distribution is made to you under the loan documents, or 30 days after you open your Waxing Studio. You can prepay the loan at any time, without penalty, and you must pay any proceeds you receive from your landlord against the loan. As a condition to our making the loan, we have the right to choose or approve your contractor, and you must escrow an amount equal to 10% of your contractor's construction bid. You also must sign a Lease Rider, which among other provisions, requires that the landlord escrow any tenant improvement monies it owes you, and pay that money to us to offset your loan obligation. (Any excess will be paid to you.) You must sign a promissory note (and if you are an entity, all your owners must sign the note) and give us a security interest in the assets of your Waxing Studio. The note provides that if you default, we can accelerate the balance. You are also liable for attorneys' fees if you default. In addition, the Franchise Agreement has a cross default clause that applies if you fail to pay any obligations you owe to us or our affiliates, and therefore, if you fail to pay this note, we can terminate your Franchise Agreement. The note also contains waivers from all defenses except for payment. We do not require you to pledge any other assets to secure the loan, but you must provide a personal guaranty. A copy of the loan agreement, promissory note, personal guaranty, security agreement and Lease Rider to be signed for this financing is attached as Exhibit I-3.

4. Wells Fargo SBA Lending, a division of Wells Fargo Bank, N.A., offers United States Small Business Administration ("SBA")-backed financing programs for new start-up franchises including tenant improvements, equipment, fixtures, working capital, the initial franchisee fee, and other start-up costs. Wells Fargo SBA Lending also offers financing programs for the expansion of locations, the acquisition of new locations, and the reinvention of existing locations. Financing is offered in the form of a promissory note. You will also have to pledge a first security interest in all the assets of your business. You may also have to give the lender a lien on your personal residence. You will be required to insure the collateral. You will also be required to personally and unconditionally guaranty the loan. The SBA may

impose other collateral, guaranty and additional requirements for SBA-guaranteed loans which will be disclosed to and discussed with you by Wells Fargo SBA Lending.

If this is financing for an expansion or reinvention, you must have an equity investment of at least 10% of the project amount. If it is for a Waxing Studio, or one you acquire, you will need an equity investment of at least 15% of the project amount. The actual equity required will vary, depending on a number of factors, including your credit. Wells Fargo SBA Lending offers variable or fixed rates for terms of up to 10 years with no prepayment penalty. The interest rates will depend on your credit and current market rates, but for fixed rates, the current maximum rate as of the date of this Disclosure Document is 8.72% per annum, and the current maximum rate for a variable rate loan is 6.50% per annum. The maximum amount they will loan to you (assuming you do not own the real estate for the studio) is \$550,000 per location. Your monthly payment amount will depend on the amount financed, the term of the loan, and the interest rate. All financing is subject to credit approval and determination of SBA eligibility by Wells Fargo SBA Lending.

You will be in default under your promissory note and the personal unconditional guaranty if you fail to make a payment when due, you fail to preserve the collateral, or if you fail to do anything required by the promissory note, personal unconditional guaranty, or other loan documents. If you default, Wells Fargo SBA Lending may require the immediate payment of all amounts remaining under the note, obtain a judgment against you, take possession of the collateral, and sell, lease, or otherwise dispose of the collateral. You will waive all notices under the note and personal unconditional guaranty. You will also pay all costs and expenses incurred by Wells Fargo SBA Lending to collect any amounts owed, including attorneys' fees. The promissory note may include a confession of judgment that allows Wells Fargo SBA Lending to enter judgment against you in any court without notice and without the filing of a lawsuit against you. In states that do not permit confession of judgment clauses in promissory notes, Wells Fargo SBA Lending will have the right to initiate an arbitration action against you. The loan documents will typically be governed by the laws of Minnesota, except that any real estate documents will be governed by the laws of the state where the real estate is located. When the SBA is the holder of the Note, the Note will be interpreted and enforced under federal laws, including SBA regulations. Wells Fargo SBA Lending or the SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. A copy of the current Wells Fargo SBA Lending loan documents as of the date of this Disclosure Document is attached as Exhibit I-4.

Except as noted above, we do not guarantee any note, lease or other obligation you incur. We and our affiliates have the right to sell, assign or discount to a third party all or part of any amounts you may owe to us or to our affiliates.

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

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

Before you open your Waxing Studio, we will:

- (1) Designate a Market Area (“**DMA**”) in which you may look for a site location for your Waxing Studio (Franchise Agreement – Section 1 and Rider).
- (2) Once you have chosen a site location for your Waxing Studio, either approve or disapprove that location (Franchise Agreement – Section 1.C).

(3) Once we approve a site location for your Waxing Studio, provide you with a Protected Territory for your Waxing Studio (Franchise Agreement – Sections 1.E and 1.F and Rider).

(4) Provide you online access to our operations manual that contains mandatory and suggested specifications, standards and procedures (the “Operations Manual”). The Operations Manual consists of one or more manuals, technical bulletins or other written materials available electronically and may be modified by us periodically in our discretion. (Franchise Agreement – Sections 8 and 9). The manual may be made available to you electronically, and currently contains approximately 43 pages. A copy of the table of contents of the Operations Manual is attached to this Disclosure Document as Exhibit B.

(5) Provide you with a prototype floor plan, as well as a list of the equipment, displays, fixtures and furnishings for setting up or remodeling your studio (Franchise Agreement – Section 8.B).

(6) Create a specific studio layout/design for your Waxing Studio (a “**Compliance Drawing**”) (Franchise Agreement – Section 9.A). If, however, you want to make changes in the Compliance Drawing, you will have to pay the vendor directly for the cost of those changes.

(7) Provide, at our expense, the Initial Training Program (currently referred to as “**New Franchisee Training**”) for you, or if you are a legal or business entity, a Principal Owner and one additional person (the Principal Operator). This training may be provided in a virtual format, in-person at our corporate offices in Woodbury, Minnesota, at another location designated by us, or in any combination of these, at our discretion. We may also require you to spend up to 5 days training in an operating Waxing Studio owned by us or an existing franchisee (Franchise Agreement - Section 8.C). You are expected to successfully complete this training program at least 60 days before you open your Waxing Studio as we determine. If you purchase an existing Waxing Studio or convert an existing business to a Waxing Studio, you are required to attend training within 30 days after you sign the Franchise Agreement. You will be responsible for all travel expenses for all participants attending the Initial Training Program, including airfare, lodging, meals, ground transportation and personal expenses, if applicable. If you will not be directly involved in the daily operation of your Waxing Studio, we will require that your Principal Operator also complete this training. In order for your Principal Operator to complete this training, and you and your Principal Operator will need to sign the a confidentiality and non-disclosure agreement in a form acceptable to us and provide us with a copy.

(8) Provide the Initial Cerology Training Program (currently referred to as “**Cerologist CORE Training**”). This training may be provided in a virtual format, or in-person at a location designated by us, at our discretion. (Franchise Agreement - Section 8.D). Your aesthetician(s) are expected to successfully complete this training program before you open your Waxing Studio as we determine. We will not charge you for this training for any training sessions provided in a virtual format. If we provide Initial Cerology Training in-person, the cost will be \$500 - \$1,000 per day, plus travel and lodging expenses per trainer. You will still be responsible for paying any travel, lodging or other expenses for your aestheticians to attend such training.

(9) Sell to you, or have our affiliate sell to you, a variety of materials and items to operate and promote your Waxing Studio, including, for example, business cards, thank you notes, studio intake forms and appointment reminder cards, and other start-up materials as described in the Operations Manual. (Franchise Agreement – Section 6.B).

(10) Sell to you a retail product package of retail products to offer for sale in your Waxing Studio. (Franchise Agreement – Section 6.D).

(11) Offer to sell to you a Studio Design Package, which includes certain components you will need to build out your Waxing Studio. (Franchise Agreement - Section 9.A).

(12) If you are signing an Area Development Agreement, identify a market area within which you will open the number of Waxing Studios you and we agree on. (Area Development Agreement Sections 1, 3 and Rider).

During the term of the Franchise Agreement, we will:

(1) Make a representative reasonably available to speak with you on the telephone, or at our option, online or via email during normal business hours to discuss your operational issues and support needs. (Franchise Agreement – Section 8.L).

(2) Provide you with a program called “Go Training,” which consists of on-site studio operations and customer experience training within 60 days after your Waxing Studio opens as described further below. (Franchise Agreement – Section 8.C)

(3) Arrange a mystery shopping service to shop your Waxing Studio as needed, and at our discretion, during the term of your Franchise Agreement, and provide the results to you (Franchise Agreement – Section 8.K).

(4) Establish and maintain an Internet website or Home Page for you, provide a link from our Home Page to your webpage, and provide templates to you for your web page (Franchise Agreement – Section 9).

(5) Make available additional services training that we feel is necessary to familiarize you and your management team on changes and updates in the franchise system (Franchise Agreement – Section 8.G) and additional training for new aestheticians (Franchise Agreement – Section 8).

(6) Maintain and administer the General Advertising and Marketing Fund (Franchise Agreement – Section 5.B).

(7) Assist you in reselling your business. If you want to sell your business and we have a preferred vendor that offers brokerage services, we will refer you to that vendor. However, we also currently maintain a re-sale assistance program that creates an offering profile of your studio, which we distribute to franchisees in the region and other targeted groups. We link this profile with several business listing websites and will provide to you our document library with forms you can use in the sale of your business. The program also offers workshops and personal assistance in listing and selling your business. You do pay us an extra fee if you want to use this service. (Re-Sale Assistance Agreement – Exhibit K.)

## **Training**

### Initial Training Program

Before the opening of your Waxing Studio, we provide an initial training program (“**Initial Training Program**”). The Initial Training Program, currently referred to as “New Franchisee Training,” is provided in a virtual format and may be provided in-person at our corporate offices in Woodbury, Minnesota, at another location designated by us, or in any combination of these, at our discretion. The training is held as needed to accommodate demand. There is no charge to you for this training, but you are responsible for all travel and living expenses you and your employees incur in attending the training, if applicable. The Principal Operator of your business must attend and complete this training program to our

satisfaction before you open your Waxing Studio. In addition, if your Principal Operator is not also a Principal Owner, then a Principal Owner of your business must also attend and complete this training to our satisfaction before your open your Waxing Studio. (Franchise Agreement – Section 8.C).

The following represents a summary of our Initial Training Program as of the issuance date of this Disclosure Document:

### INITIAL TRAINING PROGRAM

Subject	Hours of Classroom Training	Hours Of On-The-Job Training	Location
Introduction to Waxing the City	4	0	Virtual or at a location we designate
IT / Operations/Construction	7	0	Virtual or at a location we designate
Human Capital	4	0	Virtual or at a location we designate
Sales / Marketing	4	0	Virtual or at a location we designate
Financial/Accounting	1	0	Virtual or at a location we designate
Procurement (Vendors/Suppliers)	1	0	Virtual or at a location we designate
Legal / Strategic Planning	3	0	Virtual or at a location we designate
<b>Total Training Time</b>	<b>24</b>	<b>0</b>	

The Initial Training Program instruction will be provided by multiple facilitators, including co-founders, Marilyn Hartshorn, Alexandria Arlotta and Summer Vasilas. Additional people will be involved in the initial training program. These people will have at least one year of experience in the subject they teach.

Marilyn Hartshorn is a founder of the Waxing the City brand, and has served as our Director of Distribution since we began operating in October 2012. She has over 21 years of software and accounting experience in the distribution and manufacturing arenas, and has previously operated her own consulting business, implementing software programs for businesses in the Denver, Colorado area.

Alexandria Arlotta is presently a Director of Education and Training. She is one of the founders of the Waxing the City brand and has served in multiple roles within the organization, most recently as Director of Studio Operations. Ms. Arlotta also served as an aesthetician for WTC Franchising, and predecessors and affiliates from November 2003 until July 2016.

Summer Hartshorn Vasilas is a founder of the Waxing the City brand, and has served as a Director of Education and Training since we began operating in October 2012. She has served in multiple roles, including as and an aesthetician of WTC Franchising, and its predecessors and affiliates, from November 2003 until July 2016.

Other members of our training staff at our designated training center may conduct training as necessary, and we may delegate our duties and share our training responsibilities.

The Operations Manual serves as our primary instructional material during the Initial Management Training Program.

If you have more than one Franchise Agreement with us, we may, at our option, provide this training one time for multiple agreements.

### Initial Cerology Training Program

In addition to the Initial Management Training Program, we provide an “Initial Cerology Training Program,” also referred to as “Cerologist CORE Training.”

Before the opening of your Waxing Studio, at least one aesthetician that you employ must attend and complete to our satisfaction our Initial Cerology Training Program, also referred to as Cerologist CORE Training, and obtain our Cerologist™ certification. The training begins is offered in a virtual format and, at our discretion, may be offered in person at a location we may designate. There is no charge for this training if attended in a virtual format. You are responsible for the travel and living expenses of all individuals who attend this training, if applicable. Each individual you employ in your Waxing Studio as an aesthetician must attend our Initial Cerology Training Program and obtain our Cerologist™ certification. At our sole discretion, and subject to trainer availability, we may offer Initial Cerology Training in person at your Studio or in another location which we may designate in our discretion. If training is provided in-person at a location we designate we will not charge per aesthetician, but rather we will charge \$500 or \$1,000 per day, plus travel and lodging expenses, per corporate trainer. We charge \$500 per day for a trainer and \$1,000 per day if you request that training be provided by a Master Trainer. Training provided by a Master Trainer is subject to availability. (Franchise Agreement – Section 8.D).

The following represents a summary of our Initial Cerology Training Program, also referred to as Cerologist CORE Training, as of the issuance date of this Disclosure Document:

### **INITIAL CEROLGY TRAINING PROGRAM**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours Of On-The-Job Training</b>	<b>Location</b>
Soft Skills	2-3	0	Virtual or at a location we designate
Facial Waxing	2	8	Virtual or at a location we designate
Body Waxing	2	8	Virtual or at a location we designate
Bikini/Brazilian Waxing	2	8	Virtual or at a location we designate
Mock Day	0	16	Virtual or at a location we designate
<b>Total Training Time</b>	<b>8-9</b>	<b>40</b>	

\*All classroom training is provided in a virtual format.

Our Directors of Education and Training, Summer Hartshorn Vasilas and Alexandria Arlotta will oversee this portion of the training program. See above for Ms. Vasilas’ and Ms. Arlotta’s biographies. If this training program is held at another location we designate, which, at our discretion, may include your

Waxing Studio, the training will be overseen by a “Master Trainer,” who has significant experience training Cerologists and met our standards to perform Initial Cerology Training, as we determine from time to time.

Other members of our staff may conduct training as necessary, and we may delegate our duties and share our training responsibilities. The Operations Manual and our other manuals serve as our primary instructional material during the Initial Cerology Training Program.

### Continuing Education Programs

#### *Go Training*

We currently provide franchisees a required training program called “Go Training” which is available within the first 60 days after the opening of your Waxing Studio. For this training we will send a representative to your Waxing Studio for 2 days to provide you and your staff with on-site studio operations and customer experience training. There is no cost to you for this training when we provide it in connection with the opening of your Waxing Studio. We reserve the right to charge for, or discontinue, the Go Training program at any time. (Franchise Agreement – Section 8.C).

#### *Re-Go Training*

We currently provide franchisees who are purchasing an existing Waxing Studio an optional training program called “Re-Go Training” which is available within the first 60 days after the closing on your purchase of an existing Waxing Studio. For this training we will send a representative to your Waxing Studio for 2 days to provide you and your staff with on-site studio operations and customer experience training. The cost of this training is currently \$1,500 per trainer, but we reserve the right to adjust that rate periodically in our Operations Manual. We charge \$2,500 per Master Trainer if you request that training be provided by a Master Trainer and we reserve the right to adjust this rate periodically in our Operations Manual. Training provided by a Master Trainer is subject to availability. (Franchise Agreement – Section 8.O).

#### *Retail Recharge*

Retail Recharge is an optional two day training geared for Cerologists and Studio Coordinators that focuses on retail sales training and education about the retail products we offer for sale. The course is offered at various times throughout the year in regional locations or at the corporate offices in Woodbury, Minnesota. The same people who provide the initial training, and are responsible for the initial training, will primarily be responsible for this training. We currently do not charge for this training, but you are responsible for travel costs, room and board, and the salaries, fringe benefits, and other expenses you and your employees incur in attending these programs, if applicable. We reserve the right to charge for this training in the future. The materials we use for this training are developed each time from a variety of sources. (Franchise Agreement – Section 8.G).

#### *Additional Service Offering Training*

We currently offer training programs for additional service offerings, including, male Brazilian wax, brow and lash tinting, brow henna, and other beauty enhancement services that we currently offer. Additional service offering trainings will be added as additional services are integrated into the system. There is currently no charge for additional service training programs that are provided in a virtual format. Except as noted below, and in the Operations Manual, the typical cost for additional service offering training conducted by us in any format other than a virtual format is currently \$250 per person, although we reserve the right to change the cost, type and manner of additional service training programs at any time. In

addition, you are responsible for the travel and living expenses of all individuals who attend this training, if applicable. Additional service offering training sessions may be offered in a virtual format, at our corporate offices in Woodbury, Minnesota or, at another location we designate, at our discretion. If in-person training is provided at a location other than our corporate offices, we will charge a training fee, currently \$500 or \$1,000 per day, per trainer, plus the cost of travel, lodging and meals. We charge \$500 per day for a trainer and \$1,000 per day if you request that training be provided by a Master Trainer. Training provided by a Master Trainer is subject to availability. Our current training programs for the lash lift service offering and the lash lift master trainer program are virtual programs offered by a third party vendor and the cost for those programs (paid to the third party vendor) varies. (Franchise Agreement – Section 8.H).

We recommend that training for additional service offerings take place no less than 6 weeks after an aesthetician’s completion of the Initial Cerology Training Program.

#### *Additional Customer Experience / Operations Training*

If you require additional operations or customer experience training beyond what is provided by us, you can request that we send a representative to provide further assistance to you. If we provide additional assistance at your request, we must agree in advance to the charges you will pay and the length of the visit. The cost of additional assistance will depend on your needs and the amount of assistance you desire. We may also require you to receive additional assistance if you are not meeting our requirements, if we determine, in our sole discretion, additional pre-opening or post-opening assistance is required, or if we determine that it is necessary for us to provide additional assistance to you to keep the System competitive. Such additional assistance will be at your expense as described above. Our current published rate for additional assistance is \$500 per day, per representative, plus the cost of travel, lodging and meals, but we reserve the right to adjust that rate periodically in our Operations Manual. (Franchise Agreement – Section 8.L).

#### *Annual Recertification Training*

We may require your Cerologists to participate in Recertification Training, which will include a review of your Cerologists’ technical skills and provision of additional Initial Cerology Training as needed. At our discretion, this training may be provided on-site, online or in another virtual format. While we do not currently require Recertification Training, we reserve the right to do so upon 90 days’ written notice to you. You must pay us \$500 or \$1,000 per day for Recertification training, plus the cost of travel, lodging and meals. We will charge \$500 per day for a trainer and \$1,000 per day if you request that this training be provided by a Master Trainer. Training provided by a Master Trainer is subject to availability. (Franchise Agreement – Section 8.N).

#### *Conference*

We may hold a conference on a regular basis (currently, every other year) to discuss sales techniques, new services and products, training techniques, bookkeeping, accounting, performance standards, advertising programs, merchandising procedures, aesthetician training, and other topics. This conference may be live or a virtual event. You must pay the conference fee, if any (currently \$499, based on early registration), and, if applicable, all travel and living expenses to attend. We require a Principal Owner to attend these conferences. If that person does not attend, they will be billed for the “early bird” Conference Fee following the Conference. The conferences will be held at various locations that we will designate. (Franchise Agreement - Section 8.F).

### *Vitals Training*

During the time you operate your Waxing Studio, there is additional training that we require you to attend in order to stay current on the policies, procedures, and techniques of operating a Waxing the City studio. These programs are intended to maximize the profitability of your business. During the first 12 months following the opening of your Waxing Studio, a Principal Owner of your business must attend either our Conference or the “Vitals” program we offer. In the years that we do not offer a Conference, you must send a representative to a “Vitals” program. The program typically includes 2 to 3 hours of training in two or more of the following areas: marketing, client engagement, customer service, and other topics that we designate from time to time. The program may be held in a virtual format or in person, at a hotel in one or more geographic regions, at our discretion. We offer this training generally every other year in those years in which we do not have a Conference scheduled. The same people who provide the initial training, and are responsible for the initial training, will primarily be responsible for this training. We currently do not charge you to attend the Vitals program, but you are responsible for travel costs, room and board, and the salaries, fringe benefits, and other expenses you and your employees incur in attending these programs, if applicable. We reserve the right to charge for this training in the future. (Franchise Agreement – Section 8.E).

### *Wax Ed*

Wax Ed is an optional, 1 to 2 day soft-skills development training geared for Cerologists and Studio Coordinators. A Studio Coordinator manages the front of the Studio, including the front desk and booking. It covers topics such as teamwork, building client rapport, and developing sales skills. The course is offered at various times throughout the year. It may be offered in a virtual format, in regional locations, or at the corporate offices in Woodbury, MN, at our discretion. The same people who provide the initial training, and are responsible for the initial training, will primarily be responsible for this training. We currently do not charge for this training, but you are responsible for travel costs, room and board, and the salaries, fringe benefits, and other expenses you and your employees incur in attending these programs, if applicable. We reserve the right to charge for this training in the future. The materials we use for this training are developed each time from a variety of sources. (Franchise Agreement – Section 8.G).

### *Continuing Engagement Credits*

Each calendar year, your business must obtain at least 1,200 continuing engagement credits within our system. The credits are not tied to hours, but to specific events or participation you have in our system. As outlined in the Operations Manual, there are currently 4 topic areas in which points may be earned and you must earn points in each topic area, each year, to fulfill this requirement.

There are no additional fees for receiving continuing engagement credits, or taking additional training, but you are responsible for any expenses you or your employees incur in completing any activity. We do not currently, but in the future may offer you the opportunity to take virtual or other online training to receive continuing engagement credits. We encourage you to earn more than 1,200 credits annually and we will explore options to reward and recognize top performers. However, if you fail to meet the minimum requirements in any year, you must pay us a fee of \$1.00 per Waxing Studio for each credit deficiency, which we will deposit in the General Advertising and Marketing Fund. Thus, as an example, if you have 1 Waxing Studio, and you achieved only 1,000 credits for the year, you would pay us a fee of \$200, but if you had multiple Waxing Studios, you would pay \$200 for each of those Waxing Studios. The credits required are prorated for any partial year you are open. This fee is due to us on February 1 following any year in which you fail to meet the minimum requirement.

In addition, if you register for certain training, do not cancel within 2 weeks of the training, and fail to attend, or leave early, then you must pay us a “no show” fee. The materials we use for this training are developed each time from a variety of sources (Franchise Agreement – Sections 8.E and 8.P).

## **Advertising Programs**

### General Advertising and Marketing Fund

Under the Franchise Agreement, each franchisee must contribute amounts to the Waxing the City General Advertising and Marketing Fund (the “**General Advertising and Marketing Fund**” or the “**Fund**”) currently equal to 2% of monthly Gross Revenue. You must contribute to this Fund on a monthly basis, based on the amount of Gross Revenue you generated in the previous reporting period. We require all our franchisees to contribute to this fund (except that some franchisees signing a Franchise Agreement before the date of this Disclosure Document received a waiver of these fees for the first 24 months after they began operating their studios), and our company-owned studios contribute to the General Advertising and Marketing Fund at the same percentage rate as franchisees. We may periodically increase the General Advertising and Marketing Fund Contribution; provided that the General Advertising and Marketing Fund Contribution will not exceed 3% of monthly Gross Revenue.

We account for the contributions to the Fund separately from our other revenues, and we do not use them to pay any of our general operating expenses other than our costs of administering the Fund, including salaries and overhead in administering the Fund, and all other reasonable direct or indirect expenses that may be incurred by us or our authorized representatives and associated with the programs funded by the Fund, such as salaries, administrative costs, travel expenses and overhead like rent and utilities. We may also reimburse ourselves, our authorized representatives or our affiliates from the Fund for any expenses we incur related to the promotion of the Waxing the City brand, the Marks or the System, including conducting market research, preparing advertising, promotion and marketing materials and collecting and accounting for contributions to the Fund, administrative costs, independent audits, reasonable accounting, bookkeeping, reporting and legal expenses, taxes.

The purpose of the Fund is to develop marketing and advertising programs that maximize general public recognition and acceptance of our brand. This means we may use monies in the Fund for any purpose that promotes the System or the Marks, including the creation, production and placement of consumer advertising; agency costs and commissions; costs of preparing, producing and conducting local, regional or national media of our choice, including: television, radio, internet, magazine, direct mail and newspaper, billboard, social media and digital advertising, and direct mail campaigns, and other public relations activities; developing and/or hosting maintaining and optimizing our website, other websites, and other applications or similar activities; implementing keyword or adword purchasing programs; administering regional and multi-regional advertising programs, and other media advertising; in-house staff assistance and related administrative costs; local and regional promotions; public relations campaigns including the cost of retaining public relations firms and other advertising, promotion or marketing agencies; developing marketing and advertising training programs and conducting market research (including sampling) and secret shopper programs; and other advertising, promotion and marketing activities, including participating at trade shows. Advertising may be placed in local, regional or national media of our choice. We do not guarantee that advertising expenditures from the General Advertising and Marketing Fund will benefit you or any other franchisee directly, on a pro rata basis, or at all.

We have an in-house marketing department, and also work with national, regional and local agencies. It is our responsibility to determine how monies in the Fund are spent. We will direct all advertising or other promotional programs produced using monies from the Fund and have the sole right to approve or disapprove creative concepts, materials and media used in those programs, the placement of the

advertisements and the allocation of money in the Fund to production, placement or cost. We are not required to use monies in the Fund to benefit you or any individual market or location, or on a pro rata or other basis. However, we will not spend any portion of these monies for advertising principally designed to solicit the sale of franchises.

During 2020, these monies were spent for the following purposes:

Item	Percent of Total Expenditures
Brand-level marketing, distributed regionally/locally – administrative, production, paid media	78%
PR, research, technology and other expenses	22%

We may reimburse ourselves, our authorized representatives or our affiliates from the General Advertising and Marketing Fund for any expenses we incur related to the promotion of the Waxing the City brand, the Marks or the System, including administrative costs, independent audits, reasonable accounting, bookkeeping, reporting and legal expenses, taxes and all other reasonable direct or indirect expenses that may be incurred by us or our authorized representatives and associated with the programs funded by the General Advertising and Marketing Fund. Any unused funds in any calendar year will be applied to the following year’s funds. Any interest the Fund earns will be used for advertising before we use any principal. At your request, we will make available to you an annual accounting for the General Advertising and Marketing Fund that shows how the Fund proceeds were spent for the previous year, but these statements will not be audited. We have no fiduciary duty to you or any other party regarding the operation or administration of the Fund. We may loan funds to the Fund. If we do, the terms of repayment and any interest charged will be as we determine.

It is our intention to solicit input on the development of advertising from franchisees who must contribute to the Fund on the development of the advertising. However, this input will be advisory only, and we will have the right to make all final decisions about how these monies are spent. We do not have any franchisee-formed local advertising cooperatives as of the issuance date of this Disclosure Document, although we reserve the right to create them in the future and may require your participation in them.

Advertising Cooperatives

Although we currently do not, in the future we may establish local advertising cooperatives in market areas in which 2 or more Waxing the City studios are operating. If we establish a cooperative in your area, or there is an existing cooperative in your area when you become a franchisee, you must participate and contribute your share to the cooperative. These cooperatives will, with our approval, administer advertising programs and develop advertising, marketing and promotional materials for the area the cooperative covers. We may require the cooperative to use an advertising agency or other partner we chose.

The amount of the contribution you must contribute will be determined at the time we establish the cooperative but will not be more than 2% of your monthly Gross Revenue. All franchisees and company-owned Waxing the City studios in the market area will be expected to contribute at the same rate to the cooperative. Each Waxing the City studio contributing to a cooperative will have one vote on matters involving the activities of the cooperative. But the cooperative may not produce or use any advertising, marketing or promotional plans that have not be approved by us.

The cooperative will operate from written governing documents. Each cooperative will prepare annual financial statements which will be available for review by a franchisee participating in the cooperative, upon request of that franchisee. We may change, dissolve or merge any cooperative at any time.

#### Local Advertising Spend Requirement

You must spend a minimum of \$1,500 per month on local advertising, after completion of the Grand Opening and Ramp Up Plan (described below), to promote your Waxing Studio. We recommend that you spend more than \$1,500 per month during peak times for the waxing industry, such as spring and summer. We may require you to submit your local marketing plans for our prior approval, submit receipts to verify you have met minimum spend requirements, and show proof of performance of your advertising activity. If you fail to meet the minimum local advertising spend requirement, we may require you to pay the difference between what you should have spent, and what you actually spent, into the General Advertising and Marketing Fund. We reserve the right to audit your records upon request to determine compliance with this requirement. The amounts you spend on local advertising are in addition to the General Advertising and Marketing Fees that you must pay to us. Local advertising spend is the amounts spent by you for advertising media, including television, radio, internet, social media, newspaper, billboard, print media, promotional items, advertising on public vehicles, and, if not provided by us, the costs of producing approved materials necessary to participate in these media. Advertising expenditures do not include items which we, in our reasonable judgement deem inappropriate for meeting the minimum advertising requirement, including: permanent on-premises signs, vehicles (even if they display the Marks), personnel salaries or administrative costs, and the value of discounts, free offers, or other incentive programs.

#### Grand Opening and Ramp Up Plan

We require you to invest a total minimum of \$25,000 on local marketing/advertising and local community engagement/outreach marketing activities as part of a “Grand Opening and Ramp Up Plan.” Activities in the plan may start as early as your lease is signed (up to 120 days pre-open) and will extend up to 90 days post-opening. You may choose to spend more than the minimum investment amount and you may not be able to achieve your pre-opening and post-opening booking goals if you spend only the minimum required amount. The total cost of the Grand Opening and Ramp Up Plan will be determined by the advertising costs in your area, the time of year that you are opening, the type of media used and the competitive landscape. The Grand Opening and Ramp Up Plan is intended to be a holistic and localized program that includes guides, timelines, tools, and resources we have developed along with agency and corporate staff support to assist new studios in driving awareness and traffic to their new studio location. The Grand Opening and Ramp Up Plan may include digital media, print media, television advertising, radio advertising, billboards or other outdoor signage. The amounts you spend on the Grand Opening and Ramp Up Plan are in addition to the General Advertising and Marketing Fees that you must pay to us. You must use our preferred vendors for your Grand Opening and Ramp Up Plan for your Waxing Studio, and we may require you to submit your grand opening plans for our prior approval, submit receipts to verify you have met minimum spend requirements, and show proof of performance of your advertising activity. We do not guarantee that you will achieve any particular results as a result of this spend, and your results depend on many factors, including your engagement and execution. If you fail to spend the minimum required amount, we may require you to pay the difference between what you should have spent, and what you actually spent, into the General Advertising and Marketing Fund.

You must also purchase branded promotional products through our marketing portal as described in Item 5. Some of the costs purchased through the marketing portal may count toward the required minimum expenditures for the Grand Opening and Ramp-Up Plan.

## Marketing Resources, Pre-Approvals For Marketing Materials

You must order sales and marketing materials from our approved suppliers and per our standards and specifications. If you desire to use your own advertising materials for any marketing activity, you must obtain our prior approval, which may be granted or denied in our sole discretion. Use of logos, Marks and other name identification materials must be consistent with our approved standards. You may not use our logos, Marks and other name identification materials on items to be sold or services to be provided without our prior written approval. You must also obtain our approval before establishing, or having established on your behalf, any websites, profiles or accounts relating to us, your Waxing Studio, or to the Waxing the City system. You are ultimately responsible for ensuring that your advertising complies with all applicable laws before using it.

### **Site Selection and Opening**

You will be given the right to open a Waxing Studio in a DMA that we agree on at the time you sign your Franchise Agreement. You will have until the Required Opening Date on the Rider to your Franchise Agreement, but in no event more than 12 months from the date you sign the Franchise Agreement, to secure a location we approve in the DMA and open and begin operating your Waxing Studio. However, if you are converting an existing waxing business to a Waxing the City® studio, you must complete all remodeling and open your Waxing Studio within 90 days of the date you sign the Franchise Agreement. We will provide you with consulting services to assist you in evaluating and selecting a site for your Waxing Studio in this DMA and may provide you recommendations on sites in this DMA. It is your obligation to select a site for your studio and obtain our approval of that site. While we will assist you, and we may identify various potential sites in your market area, we have no obligation to locate or select a site for you, or negotiate the purchase or lease of a site, and we do not own the premises and lease them to you. Before you acquire any site, you must submit to us information and materials we require and obtain our approval to your site. The factors we take into account in approving a site are the visibility of the site, the retail feel of the site, the location of competitors, whether the site is easily accessible, surrounding businesses and various other factors. A Waxing Studio should have at least 1,200 square feet, but we recommend having 1,500 to 1,800 square feet, with 6 waxing treatment rooms. We will generally tell you within 30 days whether or not we approve your proposed site. If you and we are unable to agree on a site for your Waxing Studio, the opening of your Waxing Studio may be delayed.

As described in Items 7 and 8, we offer Construction Management Services for the build-out of your Waxing Studio. As of the issuance date of this Disclosure Document, we do not require that you participate in the Construction Management Services program. However, we may transition the Construction Management Services program to a mandatory program. If this occurs, you will be required to purchase Construction Management Services if you have not already signed a Franchise Agreement with us or have not commenced the construction of your Waxing Studio.

You may not open your Waxing Studio until: (1) we notify you in writing that all of your pre-opening obligations have been fulfilled; (2) initial training is completed to our satisfaction; (3) all amounts due to us have been paid; (4) we have been furnished with copies of all insurance policies and certificates required by the Franchise Agreement, or other documentation of insurance coverage and payment of premiums that we request; (5) you notify us that all approvals and conditions set forth in the Franchise Agreement have been met; (6) you have received all required permits and licenses; and (7) you have ordered, received and installed your equipment, supplies, inventory and computer system. You must be prepared to begin operating your Waxing Studio immediately after we state that your Waxing Studio is ready for opening. If you open your Waxing Studio prior to obtaining our consent, you will be charged a fee of \$2,500.

We estimate that the typical length of time between the signing of the Franchise Agreement and the opening of your Waxing Studio will be 6 to 12 months. Some factors which may affect this timing are the competition for sites in your DMA, your ability to acquire space for your Waxing Studio through lease or purchase negotiations, your ability to secure any necessary financing, your ability to comply with local zoning and other ordinances, your ability to obtain any necessary permits and certifications, the timing of the delivery of equipment, tools and inventory and the time to convert, renovate or build the facility. Your failure to open your Waxing Studio on or before the Required Opening Date will constitute a default of your Franchise Agreement and allow us to terminate your Franchise Agreement.

Under the Area Development Agreement, you will have the right to develop, open, and operate multiple Waxing Studios. Each Waxing Studio must be developed and opened according to our then-current System standards and other approval requirements, and you must open your Waxing Studio on or before the date provided in the Development Schedule. You or your affiliates must sign our then-current form of Franchise Agreement for each Waxing Studio you develop and open under the Area Development Agreement, which may contain materially different terms and conditions than the Franchise Agreement attached to this Disclosure Document. We will determine or approve the location of future Waxing Studios and any protected territories for those Waxing Studios based on our then-current System standards for sites and protected territories.

## **Software and Computer Equipment**

### Computer Hardware

You must purchase from ProVision and use the POS system, computer and network hardware and software that we periodically designate for the operation of your Waxing Studio.

ProVision offers 3 technology packages which meet or exceed our minimum requirements. You are required to purchase at least the required technology package from ProVision. Instead of the required package, at your option, you may purchase either of the 2 additional packages offered, both of which exceed our required minimum technology standards. Each package generally includes the following components: network and rack equipment, 3 computers, 2 tablets, and surveillance cameras and related security equipment. The larger, optional packages also include: audio equipment for your studio lobby and treatment rooms. If you use tablet or mobile devices in treatment rooms you are required to purchase them through ProVision and you are required to purchase, install and maintain mobile device management services for those devices through ProVision. The mobile device management services fees are approximately \$50 to \$100 per month and are paid to ProVision. As of the date of this Disclosure Document, the technology package costs range from \$4,495 for the required package to \$14,485 for the largest (optional) package. Package prices do not include shipping or installation, which we estimate will cost an additional approximately 45% of the package cost. Package costs also do not include taxes. Equipment provided by ProVision typically has a warranty of 12 months on parts and labor from the date of installation on core hardware components only (excluding software).

### Computer Software

Much of the software that you will use for your computer is standard software that you will order with your computer, including the desktop version of QuickBooks Online, provided by our mandated vendor. In addition, you must use our designated financial management and reporting software, which is used with QuickBooks Online.

We will arrange for you to obtain a license to use studio management and point of sale (“POS”) software that has been customized for use in Waxing studios. The cost for this license is included in the

monthly Technology Fee you pay to us. The Technology Fee is currently \$399 per month, but we reserve the right to increase it upon written notice to you. This software is a proprietary product that has been customized for our System and we have not approved any compatible equivalent software. In connection with this software we may require you to implement add-on software to your POS system. We may also require you to use this or any other software we designate to conduct mass marketing via email and/or text messages to members or prospective members. We and the software vendor will provide the continuing monthly support you need to operate this studio management software. We also intend to provide software updates at no cost to you as part of the Technology Fee, but we are not obligated to do so, and whether we do so or not is likely to depend on the extent of any upgrades. We do not provide support for any other third-party software.

As part of the Technology Fee you pay to us, we will also provide website hosting and provide to you Microsoft Exchange Email hosting and support (including up to 5 @waxingthecity.com email addresses, and set up of an additional email mailbox). You may purchase additional email addresses and mailboxes in packages of 5, for an additional fee of \$20 per month.

#### Ongoing Maintenance and Use

Neither we, nor any affiliate nor to our knowledge, any third party, is obligated to provide you with ongoing maintenance, repairs, upgrades or updates to your computer hardware or software. We may require you to upgrade or update the computer system (including hardware and software) during the term of the franchise, and we anticipate that you will be required to do so. You may be required to pay initial and/or ongoing license, support or service fees associated with such upgrades or updates. There are no contractual limitations on the frequency and cost of the obligation. Other than as described above, we do not have any contractual obligation to upgrade or update any of your hardware or software, during the term of this franchise.

You must have sufficient computer skills to be able to operate your computer system, including mobile applications, and to access e-mail and the Internet. You must have access to the Internet and maintain an email account that allows us to communicate with you on a regular basis. You will use your computer and mobile applications for appointment scheduling, customer management, point-of-sale transactions, employee management and education, eCommerce, inventory management, business and payroll reporting, marketing, and social media integration. Our software will also give you access to our online franchisee support center, ongoing product development and online education.

We have the right to independently access your electronic information and data through our proprietary data management and intranet system, and to collect and use your electronic information and data in any manner we choose to promote the development of the System and the sale of franchises. There is no contractual limitation on our right to receive or use information through our proprietary data management and intranet system. You are solely responsible for protecting yourself from viruses, computer hackers, and other communications and computer-related problems. We strongly recommend that your computer system be used for business purposes only, and not for entertainment, personal social networking site access, or other matters unrelated to your business.

## **ITEM 12 TERRITORY**

### **DMA**

When you sign a Franchise Agreement, you will receive the right to operate a single Waxing Studio at a specific location that we must approve within the DMA we agree on at that time. DMAs represent

market areas, that vary in size and we use the market areas that are established by The Nielsen Company, LLC, which is an independent, unaffiliated, third party to define our DMAs. The boundaries of a DMA will change if The Nielsen Company, LLC or its successor changes the applicable defined market area. In determining how many Waxing the City studios to place in a particular DMA, we consider various factors including, population density and growth trends, apparent degree of affluence of population, the density of residential and business entities, traffic generators, competition, availability of suitable real estate, other commercial considerations, and other criteria. The capacity of a DMA (the number of Waxing the City studios a particular DMA may hold) may change during the term of your Franchise Agreement with us.

You may locate your Waxing Studio at any site we approve within that DMA, so long as the site you select is not also within a protected territory of another Waxing Studio. You must operate your Waxing Studio at that site. If the site becomes unavailable to you for any reason, it is your obligation to select a new site, and to obtain our approval of that site before you acquire the site, and before you obtain any rights in the site. Once the site for your Waxing Studio has been approved, we will grant you a protected territory.

If you identify a potential site in the DMA for your Waxing Studio you must send us a complete site report containing demographic, commercial and other information and photographs that we may reasonably require. In approving or disapproving a proposed site we consider various factors including, density of population, growth trends of population, apparent degree of affluence of population, the density of residential and business entities, traffic generators, competition, proximity to other Waxing the City studios, size and other commercial considerations, appearance and other criteria. We do not have to accept a proposed site that does not meet our criteria. We or an affiliate can acquire the site or we can give other Waxing the City franchisees searching for sites in the DMA the right to acquire the site if we approve it.

Your rights in the DMA are not exclusive and we, other franchisees and/or Area Developers may also be looking for sites in the same DMA at the same time. There may be other franchisees and/or Area Developers who have Waxing the City studios or protected territories within the DMA, which will restrict the location of your Waxing Studio. 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. Proposed sites within the DMA will be emailed to all franchisees and/or Area Developers who have rights in the DMA at the time we approve the site, regardless of whether the proposed site was identified by our real estate team or was submitted for approval by you or another franchisee. In deciding whether and to whom to award a proposed site we consider various factors including, how long a franchisee has been looking for a proposed site within the DMA (generally awarded to those who have been looking longest), length of time to the Required Opening Date (generally awarded to those with closest Required Opening Date), proximity to a franchisee's existing Waxing Studio, if applicable, and a franchisee's financial ability to support the Waxing Studio. Given these factors, you may not be awarded a particular proposed site, even if you submitted it to us for approval. If we provide you a proposed site and you do not accept it within the time we specify or another franchisee accepts it before you do, then you will not have any rights to the site. If you do not acquire a site that we have approved within the timeframe we have given you, we or an affiliate can acquire the site or give another franchisee the right to acquire the site.

We currently intend to offer you the assistance of our real estate team to assist you in finding a proposed site for your Waxing Studio within your designated DMA and to provide you with demographic and other information to which it has access regarding proposed locations within your designated DMA. However, we may be looking for our own sites or sites for other franchisees, we are not obligated to provide you such assistance and you are solely responsible for locating and securing an acceptable, proposed location that is approved by us in order to fulfill the development obligations in your Franchise Agreement(s). You are responsible if we terminate the Area Development Agreement because you are unable to secure one or more acceptable, proposed locations to fulfill the development schedule in your

Area Development Agreement. If you fail to meet the terms of the development schedule in your Area Development Agreement or you fail to develop a single Waxing Studio on or before the Required Opening Date in your Franchise Agreement, we can terminate your Area Development Agreement and/or Franchise Agreement(s) in their entirety and you are not entitled to a refund of any of the Development Fees or Initial Franchise Fees paid.

### **Protected Territory**

You will have 12 months from the date you sign the Franchise Agreement to secure an acceptable location in the DMA and open and begin operating your Waxing Studio. If you want to extend that time for an additional 3 months, and we agree to allow you to do so, you must pay a \$500 extension fee to us as a condition to our granting the extension. When you have found a location in the DMA that is approved by us, we will amend your Franchise Agreement to identify your location, Required Opening Date and the “protected territory” around your location. To identify your protected territory we will use mapping and demographic software to draw a circle around your location. The determination of your protected territory is within our sole discretion. The radius of the circle identifying the protected territory may vary, but will be no larger than 5 miles and your protected territory will include a population of no more than 80,000 people.

We may attach a map to your Franchise Agreement that will identify the protected territory or we may simply describe an area surrounding your location. The map or description may not be a specific radius from your Studio, because it will take into account traffic patterns and natural boundaries. However, the territory will range from approximately one-half mile from your studio (in densely populated metropolitan areas) to as much as 3 miles (in small towns). Protected territories may overlap, but we will not approve anyone opening a Waxing the City studio, or relocating a Waxing the City studio, into a protected territory given to another studio. (By way of example, one person may have a Waxing the City studio in the center of City A, with a territory of 2 miles in all directions, while another person has a Waxing the City studio in the center of City B, located 3 miles away from the site of the first franchisee’s Waxing the City studio, and also with a territory of 2 miles. While the protected territories overlap, each franchisee’s studio is located outside the protected territory of the other franchisee, and it cannot be relocated within the other franchisee’s protected territory). We cannot unilaterally change your protected territory, and there are no minimum quotas required; as long as your Franchise Agreement is in effect, you will retain the rights described in this paragraph.

The criteria we use for determining the boundaries of the protected territory in your Franchise Agreement include density of population, growth trends of population, apparent degree of affluence of population, the density of residential and business entities, traffic generators, driving time, and natural boundaries. Your protected territory is exclusive. During the term of your Franchise Agreement, we will not place or license to anyone else the right to place a Waxing the City studio that is physically located in your protected territory. However, we and our affiliates can place Waxing the City studios, or grant others the right to do so, outside your protected territory, including studios operated under the Waxing the City name, even if they compete for customers with your studio, and even if the territorial boundaries for that franchise overlap with the boundaries for your territory. We and our affiliates also have the right to operate, and to grant franchises or licenses to others to operate, any waxing or hair removal business and any other business from locations within this territory under trademarks other than “Waxing the City”, without compensation to you.

### **Relocation**

You must provide us at least 60 days’ prior notice, pay a relocation fee and reimburse our expenses in reviewing the new location, and obtain our consent before you intend to relocate your Waxing Studio.

The new location must be within your protected territory, and it may not be located within any territory we grant to any other franchisee. You must upgrade the new space to comply with all of our current specifications.

### **Customers**

We do not restrict the customers you may serve, and you generally may solicit customers outside your territory, including through channels of distribution such as the Internet, telemarketing or other direct marketing sales. All of your advertising, including your website, must be approved by us, and you must obtain our written approval before you establish any other website, web page, or social networking or social media site, profile or account, relating to or making reference to us, your studio, or to the Waxing the City system. We and our affiliates have the right to sell products and services (like apparel, waxing supplies, and related products) both inside and outside your territory, using the “Waxing the City<sup>®</sup>” name, any derivative or any other name, through any channel of distribution, including the Internet, catalog sales, telemarketing, or other direct marketing, without any compensation to you.

### **Area Development Agreement**

If you sign an Area Development Agreement, we will grant you certain non-exclusive rights within a DMA as described in the Area Development Agreement (“**ADA**”). 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.

Unless you are signing a Franchise Agreement for a new Waxing Studio to be developed under an ADA signed before the issuance date of this Disclosure Document, upon signing the ADA you will acquire the right to develop the specified number of Waxing Studios within the identified DMA and you will sign the Franchise Agreement for your first Waxing Studio contemporaneously with signing the ADA. You will sign our then-current Franchise Agreement for each subsequent Waxing Studio that you open according to the development schedule in the ADA. We will determine or approve the location of any future Waxing Studios and any protected territories for those Waxing Studios based on our then-current standards for sites and territories. We do not permit an ADA that would permit the development of Waxing Studios in multiple DMAs, however, franchisees who signed an ADA before the issuance date of this Disclosure Document may be permitted to do so.

### **Options, Rights of First Refusal, or Similar Rights**

You will not receive any options, rights of first refusal, or similar rights to additional franchises, except as provided in your Area Development Agreement.

## **ITEM 13 TRADEMARKS**

The Franchise Agreement gives you the right to operate a waxing studio under the trade names, trademarks and service marks that we establish.

The following marks have been registered on the Principal Register of the United States Patent and Trademark Office (“**USPTO**”). These are the principal trademarks you will use in operating your Waxing Studio:

Mark	Registration Number	Registration Date	Register
WAXING THE CITY	3,562,047	January 13, 2009	Principal
CEROLOGY	4,475,000	January 28, 2014	Principal

Most of these Marks above were originally registered by MARS Ventures and later assigned to WTC Franchising. When we acquired the assets of that entity in October 2012, WTC Franchising assigned these registrations to us. 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, any pending infringement, opposition or cancellation proceedings or any pending material litigation involving any of our Marks which are relevant to the use of these Marks. No currently effective litigation affects our use or ownership rights in any Mark. All affidavits required to preserve and renew these Marks have been filed. No currently effective agreement limits our right to use or license the use of our Marks.

You must follow our rules when you use our Marks. You may not use any of the Marks alone or with modifying words, designs or symbols as part of a corporate or business name or in any form on the Internet, including URLs, domain names, e-mail addresses, locators, links, metatags or search techniques. You must indicate, as required in the Franchise Agreement and specified in the Operations Manual, that you are an independent operator. You may not use our Marks in a manner not expressly authorized in writing by us, or in connection with an unauthorized website, social media post, or product or service.

We will protect and maintain all rights to use our Marks against encroachment, misuse or unauthorized use and against all challenges to any rights of its use, as we deem appropriate. You must notify us immediately when you learn about an infringement of or challenge to your use of our Marks. We may take the action necessary, in our sole discretion, to prevent the unauthorized use of our Marks, including bringing actions against third parties regarding the use of any of our Marks, but the Franchise Agreement does not require us to take any specific affirmative action. We will control any administrative proceedings or litigation involving our Marks. You must cooperate with us and take all actions as may be desirable in the opinion of our counsel to carry out the defense or prosecution. While we are not required to defend you against a claim based on your use of our Marks, we will either do so, or we will reimburse you for your liability as long as you properly use our Marks, including against claims of infringement or unfair competition arising out of your use of the Marks.

We may change our Marks and require you to adopt new Marks as if they were part of the Franchise Agreement at the time of its execution. You must comply with these changes immediately at your expense after we notify you that we have discontinued, modified or changed one or more of our Marks. We will have no liability or obligation because of the discontinuation, modification or change. You must not directly or indirectly contest the validity of our ownership of the Marks or our right to use or license our Marks, trade secrets, confidential information or business techniques that are part of our business. You must use the designations of ®, ™, and ℠ in advertising and promotions using our Marks.

We do not know of any infringing uses that could materially affect your use of our Marks.

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

There are no patents or pending patent applications that are material to the purchase of a franchise. We do claim copyright protection for the Operations Manual, and to advertising and promotional materials, forms, and related materials that we produce, but we have not registered these materials with the Copyright Office of the Library of Congress. These materials are proprietary and confidential and are our property. You may use them only as long as you are a franchisee, and only as provided in your Franchise Agreement.

There are currently no effective determinations of the United States Copyright Office or any court regarding any of our copyrighted materials, nor are any proceedings pending, nor are there any currently effective agreements between us and third parties pertaining to our copyrighted materials that will or may significantly limit your use of our copyrighted materials. We are not aware of any infringing uses or these materials that could materially affect your use of these materials. We are not required by any agreement to protect or defend our copyrights.

We will be disclosing to you certain information we believe to be confidential or proprietary information and trade secrets. This will be included in our manuals, and in materials we may separately provide to you. You may use these materials, in the manner we approve, in the operation of your Waxing Studio during the term of your Franchise Agreement. However, you may not use these materials in any other way for your own benefit, or communicate or disclose them to, or use them for the benefit of, any other person or entity. These materials include any trade secrets, knowledge or know-how, confidential information, advertising, marketing, designs, plans, or methods of operation. You may disclose this information to your Principal Operator, but only to the extent necessary to operate the Waxing Studio, and then only while your Franchise Agreement is in effect.

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

While we do not require that you personally supervise your Waxing Studio, we recommend that you do so. If you are not the “on premise” supervisor of the Waxing Studio, then you must designate a Principal Operator to serve as your on-premise supervisor. You, and your Principal Operator if you have one, must attend and participate in any on-site visits by our corporate representatives at your Studio. You must participate in any scheduled business review calls scheduled by our corporate representatives and you must provide us with accurate and complete financial statements, including profit & loss statements and balance sheets, for your Studio upon our request, and in advance of any scheduled business review call(s). We do not impose any limitations on whom you can hire as your Principal Operator, but that person must complete our initial training requirements and all other training we reasonably designate, and that person must sign a confidentiality and non-disclosure agreement with you that meets our requirements and that you provide to us before they attend training. We also require you to designate a Principal Owner of your business to attend our Conference each year, even if that person is not personally supervising your Waxing Studio. We do not require the Principal Operator of your business to have any ownership interest in your business.

If you are a legal or business entity, each individual who has any ownership interest in your business, directly or indirectly, must sign the Guaranty and Assumption of Franchisee’s Obligations assuming and agreeing to discharge all of your obligations and comply with all restrictions under the Franchise Agreement. (See the Franchise Agreement (Exhibit E.)

All Principal Operators, managers, coordinators and aestheticians must sign non-disclosure agreements with you.

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

You must refrain from using or permitting the use of your Waxing Studio for any other purpose or activity at any time without first obtaining our written consent. You must sell or offer for sale only those services and products which are approved by us and which meet our standards and specifications. You must follow our policies, procedures, methods, and techniques and comply with all of our mandatory standards

and specifications. We have the right to change the services and products that we require you to offer at any time, without limitation. We reserve the right to establish maximum and/or minimum resale prices for use with multi-area marketing programs and special price promotions. You must comply with the reciprocity, membership, and transfer programs we implement, as we periodically modify them.

We do not limit the persons to whom you may offer your products and services.

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

**THE FRANCHISE RELATIONSHIP**

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

Provision	Section in Franchise or Other Agreements	Summary
a. Length of the franchise term	Section 2.A – Franchise Agreement	The initial term is 6 years.
	Section 3.A and 4 and Rider – Area Development Agreement	The term depends on the number of franchises to be developed under the Area Development Agreement. It will typically be between 1 and 5 years.
b. Renewal or extension of the term	Section 2.B – Franchise Agreement	If you are in good standing and you meet our conditions, you can renew your franchise for an additional 5 year period.
	Area Development Agreement – Not Applicable	You cannot renew the Area Development Agreement.
c. Requirements for you to renew or extend	Section 2.B – Franchise Agreement	Give written notice, sign new franchise agreement (which may contain materially different terms and conditions than your original Franchise Agreement); be in compliance with all agreements between you and us or our affiliates; update (or move) your location to comply with then-current standards; sign general release; pay renewal fee; show that you have the right to remain in possession of the location for the renewal term; your staff completes any required refreshing training.
	Area Development Agreement – Not Applicable	You do not have the right to renew or extend the Area Development Agreement.

<b>Provision</b>	<b>Section in Franchise or Other Agreements</b>	<b>Summary</b>
d. Termination by you	Section 15 – Franchise Agreement  Area Development Agreement – Not Applicable	Subject to state law, if we materially breach the Franchise Agreement and fail to cure the breach within 30 days after notice, you can then terminate the Franchise Agreement by giving us an additional 10 days’ notice.  You do not have the right to terminate the Area Development Agreement (subject to state law).
e. Termination by us without cause	Franchise Agreement – Not Applicable  Area Development Agreement – Not Applicable	Not applicable.  Not applicable.
f. Termination by us with cause	Section 14 – Franchise Agreement  Section 5 – Area Development Agreement	If you do not open in 12 months (subject to an extension as described in Item 5) or are in default under the Franchise Agreement or any other agreement you have with us or with any of our affiliates.  If you are in default under the Area Development Agreement, or you or any of your affiliates are in default under any Franchise Agreement or other agreement you have with us or with any of our affiliates.  The Franchise Agreement and the Area Development Agreement contain cross-default provisions.
g. “Cause” defined – curable defaults	Section 14.B – Franchise Agreement and Section 5 – Area Development Agreement	Most defaults are curable and you will have 30 days to cure.

Provision	Section in Franchise or Other Agreements	Summary
h. "Cause" defined – non-curable defaults	Section 14.A – Franchise Agreement  Section 5 – Area Development Agreement	You are liquidated or dissolved; fail to operate the business for 7 consecutive days, abandon the business, lose the right to do business, or lose the right of possession of the premises where the studio is located; unapproved transfers; you or any of your owners engage in fraudulent conduct or are convicted of, or plead guilty or no contest to, certain crimes; 3 notices of material breaches within 12 months; you maintain false books or records or submit any false or misleading application, statement or report to us; you misuse our marks or materially impair the value of, or the goodwill associated with our marks or the franchise system; and other stated non-curable defaults.  Similar reasons as for Franchise Agreement, you fail to meet your development obligations in the Development Schedule, or we have delivered to you a notice of termination of a Franchise Agreement in accordance with its terms and conditions.
i. Your obligations on termination/non-renewal	Section 16 – Franchise Agreement  Section 6 – Area Development Agreement	Stop operating the studio, stop using our names and marks, return information to us, assign to us or cancel certain registrations, listings, telephone numbers, websites and domain names, and pay all amounts you owe us.  You lose all remaining rights to develop Waxing Studios. You also pay \$10,000 for each undeveloped franchise as liquidated damages (subject to state law).
j. Assignment of contract by us	Section 13.A – Franchise Agreement and Section 7.A – Area Development Agreement	No restriction on our right to assign.
k. "Transfer" by you – defined	Section 13.B – Franchise Agreement and Section 7.B – Area Development Agreement	Includes transfer of contract or business, or transfer of majority control of the Franchise Agreement or of the business.
l. Our approval of transfer by franchisee	Section 13.B – Franchise Agreement  Section 7.B – Area Development Agreement	We have the right to approve all transfers, but will not withhold our consent if all of the requirements for the transfer are met.  We have the right to approve, but you may not transfer only a portion of your rights.

Provision	Section in Franchise or Other Agreements	Summary
m. Conditions for our approval of transfer	Section 13.B – Franchise Agreement  Section 7.B – Area Development Agreement	<p>Conditions include: (i) You must be in compliance with the Franchise Agreement and provide us with all information we require regarding the proposed transaction; (ii) transferee must meet our requirements and sign a new franchise agreement on our then-current form for the remaining term of your agreement (which may contain materially different terms and conditions than in your agreement, but we will not require the transferee to pay us a new initial franchise fee.); (iii) you must also pay a transfer fee and sign a release (subject to state law); (iv) transferee must agree to perform any maintenance, remodeling and re-equipping of your Waxing Studio that we deem necessary; and (v) transferee’s Principal Operator must successfully complete all required training. You must meet any additional conditions we specify in the Operations Manual or otherwise in writing.</p> <p>You must sign franchise agreements for all remaining studios you are permitted to develop, and you must transfer those agreements to the same person or entity to whom you are transferring the Area Development Agreement. You must meet any additional conditions we specify in the Operations Manual or otherwise in writing</p>
n. Our right of first refusal to acquire your business	Section 19 – Franchise Agreement	We have the right to match any offer for your business.
o. Our option to purchase your business	Section 16.L – Franchise Agreement	We can purchase from you at book value all or a portion of the assets of your Waxing Studio and take an assignment of your leases, upon the termination or expiration without renewal of your Franchise Agreement.
p. Your death or disability	Section 13.B – Franchise Agreement and Section 7.B – Area Development Agreement	Your heirs can assume your rights, but if they do, they must meet the transfer requirements.
q. Non-competition covenants during the term of the franchise	Section 17.A – Franchise Agreement and Section 9 – Area Development Agreement	No involvement in any studio that offers hair removal services (including as creditor or landlord), wherever located (subject to state law).
r. Non-competition covenants after the franchise is terminated or expires	Section 17.B – Franchise Agreement and Section 9 – Area Development Agreement	No involvement in any studio that offers hair removal services (including as creditor or landlord) for 2 years in your Protected Territory or within a 10 mile radius of any Waxing the City studio (subject to state law).
s. Modification of the agreement	Sections 8.J and 20.K – Franchise Agreement  Section 9 – Area Development Agreement	<p>No modifications without consent by all parties, but our manuals are subject to change.</p> <p>No modifications without consent of all parties.</p>

<b>Provision</b>	<b>Section in Franchise or Other Agreements</b>	<b>Summary</b>
t. Integration/merger clause	Section 20 – Franchise Agreement, Section 0 – Area Development Agreement	Only the terms of the Franchise Agreement, Area Development Agreement and other written agreements are binding (subject to applicable state law). Any representations or promises outside of this Disclosure Document and the Franchise Agreement/Area Development Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	Section 18 – Franchise Agreement, Section 9 – Area Development Agreement	Except for certain disputes, all disputes must be mediated, and if not settled by mediation, are then subject to arbitration.
v. Choice of forum	Section 18.F – Franchise Agreement, Section 9 – Area Development Agreement	Subject to state law, mediation in a metropolitan area with at least 250,000 people that is not located within 100 miles of either of our principal offices, and arbitration in Minneapolis, Minnesota. Subject to state law, any litigation must be brought in the United States District Court for the District of Minnesota or the Ramsey County District Court, Minnesota.
w. Choice of law	Section 20.D – Franchise Agreement, Section 9 – Area Development Agreement	Subject to state law, Minnesota law generally applies.

**ITEM 18  
PUBLIC FIGURES**

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

**ITEM 19  
FINANCIAL PERFORMANCE REPRESENTATIONS**

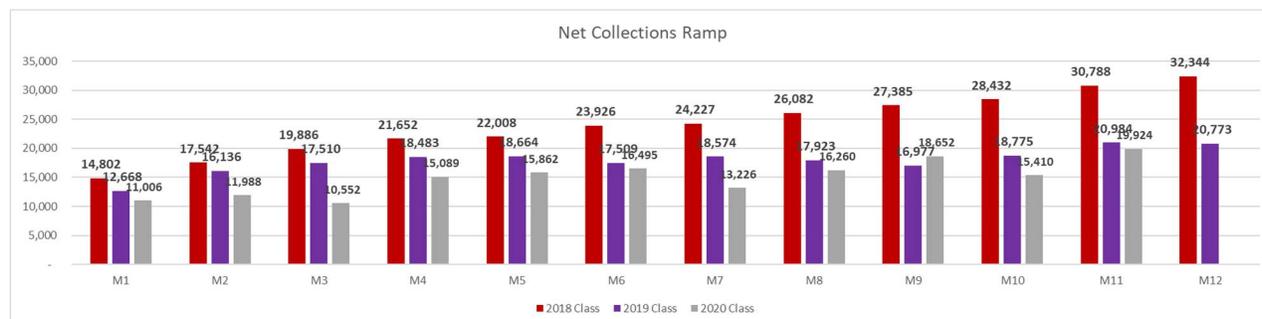
The FTC’s Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the Disclosure Document. Financial performance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

**I. HISTORICAL AVERAGE MONTHLY REVENUES OF STUDIOS’ INITIAL 12 MONTHS OF OPERATIONS – 2018, 2019 & 2020 STUDIO OPENINGS**

The following is a representation of historical monthly Gross Revenues during the first 12 months of operations of the franchised Waxing Studios that had their first full calendar month of operations between March 2018 and December 2020 (the “Reporting Period”) and that opened their Waxing Studios between February 2018 and August 2020. We excluded from 2018 Gross Revenue information the results of 4 Waxing Studios that permanently closed and we excluded from 2019 Gross Revenue information the results of 1 Waxing Studio that permanently closed. All of these Studios were open for more than 12 months

before closing. **However, we did not exclude from 2020 information below the Waxing Studios that closed during part of 2020 because of COVID-19 limitations.**

Gross Revenue includes all revenue generated by the Waxing Studios, excluding bona fide refunds, credits given or allowed to customers for the return of merchandise and sales taxes collected and remitted.



## NOTES AND ASSUMPTIONS

The red columns reflect average Gross Revenue for Studios that opened in 2018, the purple columns reflect average Gross Revenue for Studios that opened in 2019, and the gray columns reflect average Gross Revenue for Studios that opened in 2020. The information is subject to the notes and assumptions below.

### Studios that Opened in 2018

1. Month 1. 17 Waxing Studios that opened in 2018 were open at least one full calendar month during the Reporting Period. The Month 1 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the first full calendar month of operations. Of those 17 Waxing Studios, 7 Waxing Studios (41%) met or exceeded the average Gross Revenue of \$14,802. The 17 Waxing Studios' median Gross Revenue for the first full calendar month of operations was \$13,652. The 17 Waxing Studios' Gross Revenue for the first full calendar month of operations ranged from \$5,023 to \$31,030.

2. Month 2. 17 Waxing Studios that opened in 2018 were open at least two full calendar months during the Reporting Period. The Month 2 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the second full calendar month of operations. Of those 17 Waxing Studios, 8 Waxing Studios (47%) met or exceeded the average Gross Revenue of \$17,542. The 17 Waxing Studios' median Gross Revenue for the second full calendar month of operations was \$15,663. The 17 Waxing Studios' Gross Revenue for the second full calendar month of operations ranged from \$5,484 to \$35,186.

3. Month 3. 17 Waxing Studios that opened in 2018 were open at least three full calendar months during the Reporting Period. The Month 3 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the third full calendar month of operations. Of those 17 Waxing Studios, 7 Waxing Studios (41%) met or exceeded the average Gross Revenue of \$19,886. The 17 Waxing Studios' median Gross Revenue for the third full calendar month of operations was \$18,433. The 17 Waxing Studios' Gross Revenue for the third full calendar month of operations ranged from \$6,447 to \$40,551.

4. Month 4. 17 Waxing Studios that opened in 2018 were open at least four full calendar months during the Reporting Period. The Month 4 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the fourth full calendar month of operations. Of those 17 Waxing Studios, 9 Waxing Studios (53%) met or exceeded the average Gross Revenue of \$21,652. The 17 Waxing Studios'

median Gross Revenue for the fourth full calendar month of operations was \$21,862. The 17 Waxing Studios' Gross Revenue for the fourth full calendar month of operations ranged from \$8,750 to \$40,265.

5. Month 5. 17 Waxing Studios that opened in 2018 were open at least five full calendar months during the Reporting Period. The Month 5 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the fifth full calendar month of operations. Of those 17 Waxing Studios, 7 Waxing Studios (41%) met or exceeded the average Gross Revenue of \$22,008. The 17 Waxing Studios' median Gross Revenue for the fifth full calendar month of operations was \$20,102. The 17 Waxing Studios' Gross Revenue for the fifth full calendar month of operations ranged from \$8,397 to \$42,510.

6. Month 6. 17 Waxing Studios that opened in 2018 were open at least six full calendar months during the Reporting Period. The Month 6 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the sixth full calendar month of operations. Of those 17 Waxing Studios, 7 Waxing Studios (41%) met or exceeded the average Gross Revenue of \$23,926. The 17 Waxing Studios' median Gross Revenue for the sixth full calendar month of operations was \$22,061. The 17 Waxing Studios' Gross Revenue for the sixth full calendar month of operations ranged from \$9,956 to \$41,196.

7. Month 7. 17 Waxing Studios that opened in 2018 were open at least seven full calendar months during the Reporting Period. The Month 7 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the seventh full calendar month of operations. Of those 17 Waxing Studios, 8 Waxing Studios (47%) met or exceeded the average Gross Revenue of \$24,227. The 17 Waxing Studios' median Gross Revenue for the seventh full calendar month of operations was \$21,455. The 17 Waxing Studios' Gross Revenue for the seventh full calendar month of operations ranged from \$8,407 to \$38,612.

8. Month 8. 17 Waxing Studios that opened in 2018 were open at least eight full calendar months during the Reporting Period. The Month 8 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the eighth full calendar month of operations. Of those 17 Waxing Studios, 7 Waxing Studios (41%) met or exceeded the average Gross Revenue of \$26,082. The 17 Waxing Studios' median Gross Revenue for the eighth full calendar month of operations was \$24,100. The 17 Waxing Studios' Gross Revenue for the eighth full calendar month of operations ranged from \$10,831 to \$37,903.

9. Month 9. 17 Waxing Studios that opened in 2018 were open at least nine full calendar months during the Reporting Period. The Month 9 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the ninth full calendar month of operations. Of those 17 Waxing Studios, 10 Waxing Studios (59%) met or exceeded the average Gross Revenue of \$27,385. The 17 Waxing Studios' median Gross Revenue for the ninth full calendar month of operations was \$29,708. The 17 Waxing Studios' Gross Revenue for the ninth full calendar month of operations ranged from \$10,465 to \$37,280.

10. Month 10. 17 Waxing Studios that opened in 2018 were open at least ten full calendar months during the Reporting Period. The Month 10 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the tenth full calendar month of operations. Of those 17 Waxing Studios, 8 Waxing Studios (47%) met or exceeded the average Gross Revenue of \$28,432. The 17 Waxing Studios' median Gross Revenue for the tenth full calendar month of operations was \$27,180. The 17 Waxing Studios' Gross Revenue for the tenth full calendar month of operations ranged from \$12,068 to \$46,941.

11. Month 11. 17 Waxing Studios that opened in 2018 were open at least eleven full calendar months during the Reporting Period. The Month 11 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the eleventh full calendar month of operations. Of those 17 Waxing Studios, 9 Waxing Studios (53%) met or exceeded the average Gross Revenue of \$30,788. The 17 Waxing Studios' median Gross Revenue for the eleventh full calendar month of operations was \$33,592. The 17 Waxing Studios' Gross Revenue for the eleventh full calendar month of operations ranged from \$14,279 to \$45,991.

12. Month 12. 17 Waxing Studios that opened in 2018 were open at least twelve full calendar months during the Reporting Period. The Month 12 column in the bar graph above includes the 17 Waxing Studios' average Gross Revenue for the twelfth full calendar month of operations. Of those 17 Waxing Studios, 8 Waxing Studios (47%) met or exceeded the average Gross Revenue of \$32,344. The 17 Waxing Studios' median Gross Revenue for the twelfth full calendar month of operations was \$32,050. The 17 Waxing Studios' Gross Revenue for the twelfth full calendar month of operations ranged from \$14,352 to \$48,098.

### **Studios that Opened in 2019**

1. Month 1. 16 Waxing Studios that opened in 2019 were open at least one full calendar month during the Reporting Period. The Month 1 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the first full calendar month of operations. Of those 16 Waxing Studios, 8 Waxing Studios (50%) met or exceeded the average Gross Revenue of \$12,668. The 16 Waxing Studios' median Gross Revenue for the first full calendar month of operations was \$12,798. The 16 Waxing Studios' Gross Revenue for the first full calendar month of operations ranged from \$5,248 to \$22,675.

2. Month 2. 16 Waxing Studios were open at least two full calendar months during the Reporting Period. The Month 2 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the second full calendar month of operations. Of those 16 Waxing Studios, 7 Waxing Studios (44%) met or exceeded the average Gross Revenue of \$16,136. The 16 Waxing Studios' median Gross Revenue for the second full calendar month of operations was \$13,523. The 16 Waxing Studios' Gross Revenue for the second full calendar month of operations ranged from \$7,212 to \$29,048.

3. Month 3. 16 Waxing Studios were open at least three full calendar months during the Reporting Period. The Month 3 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the third full calendar month of operations. Of those 16 Waxing Studios, 7 Waxing Studios (44%) met or exceeded the average Gross Revenue of \$17,510. The 16 Waxing Studios' median Gross Revenue for the third full calendar month of operations was \$15,380. The 16 Waxing Studios' Gross Revenue for the third full calendar month of operations ranged from \$7,883 to \$28,520.

4. Month 4. 16 Waxing Studios were open at least four full calendar months during the Reporting Period. The Month 4 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the fourth full calendar month of operations. Of those 16 Waxing Studios, 7 Waxing Studios (44%) met or exceeded the average Gross Revenue of \$18,483. The 16 Waxing Studios' median Gross Revenue for the fourth full calendar month of operations was \$15,674. The 16 Waxing Studios' Gross Revenue for the fourth full calendar month of operations ranged from \$2,036 to \$31,760.

5. Month 5. 16 Waxing Studios were open at least five full calendar months during the Reporting Period. The Month 5 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the fifth full calendar month of operations. Of those 16 Waxing Studios, 6 Waxing Studios (38%) met or exceeded the average Gross Revenue of \$18,664. The 16 Waxing Studios' median Gross Revenue for the fifth full calendar month of operations was \$15,965. The 16 Waxing Studios' Gross Revenue for the fifth full calendar month of operations ranged from \$807 to \$32,721.

6. Month 6. 16 Waxing Studios were open at least six full calendar months during the Reporting Period. The Month 6 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the sixth full calendar month of operations. Of those 16 Waxing Studios, 7 Waxing Studios (44%) met or exceeded the average Gross Revenue of \$17,509. The 16 Waxing Studios' median Gross Revenue for the sixth full calendar month of operations was \$16,664. The 16 Waxing Studios' Gross Revenue for the sixth full calendar month of operations ranged from \$80 to \$33,617.

7. Month 7. 16 Waxing Studios were open at least five full calendar months during the Reporting Period. The Month 7 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the fifth full calendar month of operations. Of those 16 Waxing Studios, 6 Waxing Studios (38%) met or exceeded the average Gross Revenue of \$18,574. The 16 Waxing Studios' median Gross Revenue for the seventh full calendar month of operations was \$16,158. The 16 Waxing Studios' Gross Revenue for the seventh full calendar month of operations ranged from \$38 to \$34,613.

8. Month 8. 16 Waxing Studios were open at least eight full calendar months during the Reporting Period. The Month 8 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the eighth full calendar month of operations. Of those 16 Waxing Studios, 8 Waxing Studios (50%) met or exceeded the average Gross Revenue of \$17,923. The 16 Waxing Studios' median Gross Revenue for the eighth full calendar month of operations was \$17,977. The 16 Waxing Studios' Gross Revenue for the eighth full calendar month of operations ranged from \$0 to \$38,511.

9. Month 9. 16 Waxing Studios were open at least nine full calendar months during the Reporting Period. The Month 9 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the ninth full calendar month of operations. Of those 16 Waxing Studios, 6 Waxing Studio (38%) met or exceeded the average Gross Revenue of \$16,977. The 16 Waxing Studios' median Gross Revenue for the ninth full calendar month of operations was \$14,506. The 16 Waxing Studios' Gross Revenue for the ninth full calendar month of operations ranged from \$0 to \$36,116.

10. Month 10. 16 Waxing Studios were open at least 10 full calendar months during the Reporting Period. The Month 10 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the 10th full calendar month of operations. Of those 16 Waxing Studios, 5 Waxing Studio (31%) met or exceeded the average Gross Revenue of \$18,775. The 16 Waxing Studios' median Gross Revenue for the 10th full calendar month of operations was \$14,065. The 16 Waxing Studios' Gross Revenue for the 10th full calendar month of operations ranged from \$8,836 to \$37,009.

11. Month 11. 16 Waxing Studios were open at least 11 full calendar months during the Reporting Period. The Month 11 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the 11th full calendar month of operations. Of those 16 Waxing Studios, 8 Waxing Studio (50%) met or exceeded the average Gross Revenue of \$20,984. The 16 Waxing Studios' median Gross Revenue for the 11th full calendar month of operations was \$20,241. The 16 Waxing Studios' Gross Revenue for the 11th full calendar month of operations ranged from \$3,231 to \$36,718.

12. Month 12. 16 Waxing Studios were open at least 12 full calendar months during the Reporting Period. The Month 12 column in the bar graph above includes the 16 Waxing Studios' average Gross Revenue for the 12th full calendar month of operations. Of those 16 Waxing Studios, 8 Waxing Studio (50%) met or exceeded the average Gross Revenue of \$20,773. The 16 Waxing Studios' median Gross Revenue for the 12th full calendar month of operations was \$21,954. The 16 Waxing Studios' Gross Revenue for the 12th full calendar month of operations ranged from \$1,946 to \$38,821.

### **Studios that Opened in 2020**

1. Month 1. 8 Waxing Studios that opened in 2020 were open at least 1 full calendar month during the Reporting Period. The Month 1 column in the bar graph above includes the 8 Waxing Studios' average Gross Revenue for the first full calendar month of operations. Of those 8 Waxing Studios, 5 Waxing Studios (63%) met or exceeded the average Gross Revenue of \$11,006. The 8 Waxing Studios' median Gross Revenue for the first full calendar month of operations was \$11,700. The 8 Waxing Studios' Gross Revenue for the first full calendar month of operations ranged from \$514 to \$20,816.

2. Month 2. 8 Waxing Studios that opened in 2020 were open at least 2 full calendar months during the Reporting Period. The Month 2 column in the bar graph above includes the 8 Waxing Studios' average Gross Revenue for the second full calendar month of operations. Of those 8 Waxing Studios, 5 Waxing Studios (63%) met or exceeded the average Gross Revenue of \$11,988. The 8 Waxing Studios' median Gross Revenue for the second full calendar month of operations was \$13,761. The 8 Waxing Studios' Gross Revenue for the second full calendar month of operations ranged from \$192 to \$23,832.

3. Month 3. 8 Waxing Studios that opened in 2020 were open at least 3 full calendar months during the Reporting Period. The Month 3 column in the bar graph above includes the 8 Waxing Studios' average Gross Revenue for the third full calendar month of operations. Of those 8 Waxing Studios, 4 Waxing Studios (50%) met or exceeded the average Gross Revenue of \$10,552. The 8 Waxing Studios' median Gross Revenue for the third full calendar month of operations was \$10,448. The 8 Waxing Studios' Gross Revenue for the third full calendar month of operations ranged from \$282 to \$24,423.

4. Month 4. 8 Waxing Studios that opened in 2020 were open at least 4 full calendar months during the Reporting Period. The Month 4 column in the bar graph above includes the 8 Waxing Studios' average Gross Revenue for the fourth full calendar month of operations. Of those 8 Waxing Studios, 4 Waxing Studios (50%) met or exceeded the average Gross Revenue of \$15,089. The 8 Waxing Studios' median Gross Revenue for the fourth full calendar month of operations was \$15,137. The 8 Waxing Studios' Gross Revenue for the fourth full calendar month of operations ranged from \$0 to \$27,780.

5. Month 5. 7 Waxing Studios that opened in 2020 were open at least 5 full calendar months during the Reporting Period. The Month 5 column in the bar graph above includes the 7 Waxing Studios' average Gross Revenue for the fifth full calendar month of operations. Of those 7 Waxing Studios, 5 Waxing Studios (71%) met or exceeded the average Gross Revenue of \$15,862. The 7 Waxing Studios' median Gross Revenue for the fifth full calendar month of operations was \$17,745. The 7 Waxing Studios' Gross Revenue for the fifth full calendar month of operations ranged from \$6,132 to \$22,495.

6. Month 6. 7 Waxing Studios that opened in 2020 were open at least 6 full calendar months during the Reporting Period. The Month 6 column in the bar graph above includes the 7 Waxing Studios' average Gross Revenue for the sixth full calendar month of operations. Of those 7 Waxing Studios, 3 Waxing Studios (43%) met or exceeded the average Gross Revenue of \$16,495. The 7 Waxing Studios' median Gross Revenue for the sixth full calendar month of operations was \$16,442. The 7 Waxing Studios' Gross Revenue for the sixth full calendar month of operations ranged from \$3,079 to \$28,081.

7. Month 7. 3 Waxing Studios that opened in 2020 were open at least 7 full calendar months during the Reporting Period. The Month 7 column in the bar graph above includes the 3 Waxing Studios' average Gross Revenue for the seventh full calendar month of operations. Of those 3 Waxing Studios, 2 Waxing Studios (27%) met or exceeded the average Gross Revenue of \$13,226. The 3 Waxing Studios' median Gross Revenue for the seventh full calendar month of operations was \$13,910. The 3 Waxing Studios' Gross Revenue for the seventh full calendar month of operations ranged from \$9,502 to \$16,266.

8. Month 8. 3 Waxing Studios that opened in 2020 were open at least 8 full calendar months during the Reporting Period. The Month 8 column in the bar graph above includes the 3 Waxing Studios' average Gross Revenue for the eighth full calendar month of operations. Of those 3 Waxing Studios, 1 Waxing Studio (33%) met or exceeded the average Gross Revenue of \$16,260. The 3 Waxing Studios' median Gross Revenue for the eighth full calendar month of operations was \$15,922. The 3 Waxing Studios' Gross Revenue for the eighth full calendar month of operations ranged from \$11,950 to \$20,907.

9. Month 9. 3 Waxing Studios that opened in 2020 were open at least 9 full calendar months during the Reporting Period. The Month 9 column in the bar graph above includes the 3 Waxing Studios' average

Gross Revenue for the ninth full calendar month of operations. Of those 3 Waxing Studios, 2 Waxing Studios (67%) met or exceeded the average Gross Revenue of \$18,652. The 3 Waxing Studios' median Gross Revenue for the ninth full calendar month of operations was \$19,771. The 3 Waxing Studios' Gross Revenue for the ninth full calendar month of operations ranged from \$11,169 to \$25,016.

10. Month 10. 2 Waxing Studios that opened in 2020 were open at least 10 full calendar months during the Reporting Period. The Month 10 column in the bar graph above includes the 2 Waxing Studios' average Gross Revenue for the tenth full calendar month of operations. Of those 2 Waxing Studios, 1 Waxing Studio (50%) met or exceeded the average Gross Revenue of \$15,410. The 2 Waxing Studios' median Gross Revenue for the tenth full calendar month of operations was \$15,410. The 2 Waxing Studios' Gross Revenue for the tenth full calendar month of operations ranged from \$10,856 to \$19,964.

11. Month 11. 2 Waxing Studios that opened in 2020 were open at least 11 full calendar months during the Reporting Period. The Month 11 column in the bar graph above includes the 2 Waxing Studios' average Gross Revenue for the eleventh full calendar month of operations. Of those 2 Waxing Studios, 1 Waxing Studio (50%) met or exceeded the average Gross Revenue of \$19,924. The 2 Waxing Studios' median Gross Revenue for the eleventh full calendar month of operations was \$19,924. The 2 Waxing Studios' Gross Revenue for the eleventh full calendar month of operations ranged from \$11,676 to \$28,172.

12. Month 12. No Waxing Studios that opened in 2020 were open at least 12 full calendar months during the Reporting Period.

**Some Waxing Studios have earned this amount. Your individual results may differ. There is no assurance that you will earn as much.**

## II. STATEMENTS OF GROSS REVENUES AND EXPENSES

### 2019 Gross Revenues for Selected Studios

The Gross Revenues described below are based on the Gross Revenues reported to us between January 1, 2019 and December 31, 2019 by the 71 franchised Waxing Studios that were in operation for at least 12 months as of December 31, 2018. We did not have any Waxing Studios that closed during 2019 after being open for less than 12 months.

	<b>Bottom 1/3 (24 Studios)</b>	<b>Average (71 Studios)</b>	<b>Top 1/3 (24 Studios)</b>
<b>Average Revenues</b>	<b>270,200</b>	<b>467,000</b>	<b>681,100</b>
<b>Median Revenues</b>	<b>268,244</b>	<b>467,255</b>	<b>641,894</b>
<b>Highest Revenues</b>	<b>365,354</b>	<b>894,679</b>	<b>894,679</b>
<b>Lowest Revenues</b>	<b>161,017</b>	<b>161,017</b>	<b>515,009</b>

Of the 71 Waxing Studios used in preparing this revenue information, 11, or 15.5% reported revenues exceeding the average revenues in the top third, 37, or 52%, reported revenues higher than the average revenues, and 60, or 84.5%, reported revenues higher than the revenues shown as the average for the bottom third.

These figures were prepared without an audit. Prospective franchisees or sellers of the franchises should be advised that no certified public accountant has audited these figures or expressed his/her opinion with regard to the content or form.

#### NOTES

1. The revenues were compiled from Waxing Studios that opened as early as November 1, 2003 and as late as December 12, 2017. A Waxing Studio will typically take time for its revenues to ramp up. See the first section of this Item 19 for information on the ramp-up time.

2. For the year ended December 31, 2019, the average Gross Revenues per ticket was \$48.79 for these Studios. 32, or 45%, reported Gross Revenue per ticket exceeding this average. The median Gross Revenues per ticket for these Studios was \$48.06, and the range of Gross Revenues per ticket was \$37.91 to \$66.64.

#### 2020 Gross Revenues for 12-month period ended December 31, 2020

The Gross Revenues described below are based on the Gross Revenues reported to us between January 1, 2020 and December 31, 2020 by the 83 franchised Waxing Studios that were in operation for at least 12 months as of December 31, 2019. We excluded 8 Waxing Studios that permanently closed in 2020. None of these Studios closed after being open for less than 12 months.

Month	Average Gross Revenue	Lowest Gross Revenue	Highest Gross Revenue	Median Gross Revenue	#/% At or Exceeding Average Gross Revenue
Jan.-20	38,172	9,031	73,323	36,364	38/46%
Feb.-20	40,916	11,153	74,388	39,867	40/48%
Mar.-20	28,262	6,677	54,982	27,086	36/43%
Apr.-20	3,296	(110)	18,024	192	29/35%
May-20	15,690	(151)	65,870	10,807	34/41%
Jun.-20	36,107	2,487	81,409	36,998	44/53%
Jul.-20	39,899	11,065	90,684	38,508	38/46%
Aug.-20	38,287	(246)	86,846	36,363	38/46%
Sep.-20	37,864	12,270	86,178	37,399	40/48%
Oct. -20	39,050	12,131	87,494	39,747	43/52%
Nov. -20	35,156	10,920	78,052	33,733	41/49%
Dec. -20	38,835	13,918	86,758	36,985	38/46%

The information described below is based on the Gross Revenues reported to us for the franchised Waxing Studios described immediately above which fell into the top tier (top 28 Studios) and the bottom tier (bottom 27 Studios) based on Gross Revenues:

Top Tier

Month	Average Gross Revenue	Lowest Gross Revenue	Highest Gross Revenue	Median Gross Revenue	#/% At or Exceeding Average Gross Revenue
Jan.-20	52,125	35,974	73,323	50,743	13/46%
Feb.-20	55,418	34,226	74,388	54,200	16/57%
Mar.-20	39,109	27,747	54,982	38,217	12/43%
Apr.-20	3,894	(54)	17,606	177	9/32%
May-20	30,547	50	65,870	33,920	17/61%
Jun.-20	55,196	39,465	81,409	51,857	13/46%
Jul.-20	55,773	38,693	90,684	54,037	12/43%
Aug.-20	55,793	41,593	86,846	54,957	12/43%
Sep.-20	53,951	42,196	86,178	53,578	14/50%
Oct. -20	54,422	39,804	87,494	54,234	14/50%
Nov. -20	48,283	30,246	78,052	47,536	14/50%
Dec. -20	54,858	36,985	86,758	51,964	10/36%

Bottom Tier

Month	Average Gross Revenue	Lowest Gross Revenue	Highest Gross Revenue	Median Gross Revenue	#/% At or Exceeding Average Gross Revenue
Jan.-20	25,040	9,031	37,366	25,651	15/54%
Feb.-20	27,045	11,153	41,198	26,560	13/46%
Mar.-20	18,005	6,677	25,771	18,810	16/57%
Apr.-20	1,659	0	10,499	64	7/25%
May-20	6,900	0	19,878	2,371	13/46%

Jun.-20	19,202	2,487	36,998	19,364	15/54%
Jul.-20	24,648	11,065	36,642	24,953	16/57%
Aug.-20	22,963	13,442	30,124	23,470	14/50%
Sep.-20	22,802	12,270	31,274	24,059	17/61%
Oct. -20	23,590	12,131	30,803	23,948	16/57%
Nov. -20	21,548	10,920	30,487	22,591	16/57%
Dec. -20	23,441	13,918	32,923	24,531	16/57%

The revenues were compiled from Waxing Studios that opened as early as November 2003 and as late as December 2018. A Waxing Studio will typically take time for its revenues to ramp up. See the first section of this Item 19 for information on the ramp-up time.

For the year ended December 31, 2020, the average Gross Revenue per ticket was \$54.52 for these Studios. 34, or 41%, reported Gross Revenue per ticket exceeding this average. The median Gross Revenues per ticket for these Studios was \$53.73, and the range of Gross Revenues per ticket was \$44.54 to \$72.31.

These figures were prepared without an audit. Prospective franchisees or sellers of the franchises should be advised that no certified public accountant has audited these figures or expressed his/her opinion with regard to the content or form.

**Some Waxing Studios have sold and earned this amount. Your individual results may differ. There is no assurance that you'll sell or earn as much.**

All of these Waxing Studios offered substantially the same products and services as you are expected to offer.

Written substantiation for the financial performance representations made in this Item 19 will be made available to you upon reasonable request.

Other than as set forth above, we do not make any representations about a franchisee's future financial performance or the past financial performance of franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting General Counsel James Goniea at 111 Weir Drive, Woodbury, Minnesota 55125, telephone (651) 438-5000, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1**  
**Systemwide Outlet Summary**  
**For Years 2018-2020**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
Franchised	2018	84	95	+11
	2019	95	107	+12
	2020	107	108	+1
Company-Owned	2018	1	8	+7
	2019	8	9	+1
	2020	9	7	-2
<b>Total Outlets</b>	<b>2018</b>	<b>85</b>	<b>103</b>	<b>+18</b>
	<b>2019</b>	<b>103</b>	<b>116</b>	<b>+13</b>
	<b>2020</b>	<b>116</b>	<b>115</b>	<b>-1</b>

**Table No. 2**  
**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)**  
**For Years 2018-2020**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
Colorado	2018	0
	2019	1
	2020	1
Illinois	2018	0
	2019	0
	2020	1
Louisiana	2018	1
	2019	0
	2020	0
New Jersey	2018	2
	2019	0
	2020	1
Tennessee	2018	1
	2019	0
	2020	0
Texas	2018	0
	2019	0
	2020	1
<b>Total</b>	<b>2018</b>	<b>4</b>
	<b>2019</b>	<b>1</b>
	<b>2020</b>	<b>4</b>

**Table No. 3**

**Status of Franchised Outlets**  
**For Years 2018-2020**

<b>State</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired by Franchisor</b>	<b>Ceased Operations-Other Reasons</b>	<b>Outlets at End of the Year</b>
Alabama	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Arizona	2018	5	0	0	0	0	0	5
	2019	5	0	0	0	0	0	5
	2020	5	0	0	0	0	0	5
California	2018	2	0	1	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	1	0	0	0	0	2
Colorado	2018	9	0	0	0	0	0	9
	2019	9	0	1	0	0	0	8
	2020	8	0	0	0	0	0	8
Florida	2018	2	1	0	0	0	0	3
	2019	3	2	1	0	0	1	3
	2020	3	0	0	0	0	0	3
Georgia	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Hawaii	2018	0	0	0	0	0	0	0
	2019	0	1	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Illinois	2018	3	0	0	0	0	0	3
	2019	3	0	0	0	0	0	3
	2020	3	1	0	0	0	0	4
Indiana	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Iowa	2018	1	1	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	1	0	0	0	1
Kansas	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	1	0	0	0	0

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
Kentucky	2018	1	1	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	1	0	0	0	0	3
Louisiana	2018	2	2	0	0	0	0	4
	2019	4	1	0	0	0	0	5
	2020	5	0	0	0	0	0	5
Massachusetts	2018	4	1	1	0	0	0	4
	2019	4	0	0	0	0	0	4
	2020	4	0	1	0	0	0	3
Michigan	2018	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
	2020	0	1	0	0	0	0	1
Minnesota	2018	11	0	1	0	7	0	3
	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
Mississippi	2018	0	0	0	0	0	0	0
	2019	0	1	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Nebraska	2018	1	1	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
Nevada	2018	0	1	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	1	0	0	0	0
New Jersey	2018	5	3	0	0	0	0	8
	2019	8	1	0	0	0	0	9
	2020	9	0	1	0	0	0	8
New Mexico	2018	2	0	0	0	0	0	2
	2019	2	1	0	0	0	0	3
	2020	3	0	0	0	0	0	3
New York	2018	2	0	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	0	1	0	0	0	1
North Carolina	2018	2	1	0	0	0	0	3
	2019	3	4	0	0	0	0	7
	2020	7	0	0	0	0	0	7

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
North Dakota	2018	2	0	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	1	0	0	0	0	3
Oklahoma	2018	1	0	0	0	0	0	1
	2019	1	1	0	0	0	0	2
	2020	2	0	0	0	0	0	2
Pennsylvania	2018	2	2	0	0	0	0	4
	2019	4	1	1	0	0	0	4
	2020	4	1	0	0	0	0	5
South Carolina	2018	2	0	0	0	0	0	2
	2019	2	0	0	0	0	0	2
	2020	2	1	0	0	0	0	3
South Dakota	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Tennessee	2018	1	0	0	0	0	0	1
	2019	1	1	0	0	0	0	2
	2020	2	0	1	0	0	0	1
Texas	2018	10	6	0	0	0	0	16
	2019	16	3	0	0	0	0	19
	2020	19	2	1	0	0	0	20
Utah	2018	1	0	0	0	0	0	1
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
Virginia	2018	3	0	0	0	0	0	3
	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
Washington	2018	4	0	0	0	0	0	4
	2019	4	0	0	0	0	0	4
	2020	4	0	0	0	0	0	4
Wisconsin	2018	2	0	0	0	0	0	2
	2019	2	0	0	0	1	0	1
	2020	1	0	0	0	0	0	1
<b>Total</b>	<b>2018</b>	<b>85</b>	<b>20</b>	<b>3</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>95</b>
	<b>2019</b>	<b>95</b>	<b>17</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>107</b>
	<b>2020</b>	<b>107</b>	<b>9</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>108</b>

**Table No. 4**

**Status of Company-Owned Outlets  
For Years 2018-2020**

<b>State</b>	<b>Year</b>	<b>Outlets at Start of the Year</b>	<b>Outlets Opened</b>	<b>Outlets Reacquired From Franchisee</b>	<b>Outlets Closed</b>	<b>Outlets Sold to Franchisee</b>	<b>Outlets at End of the Year</b>
Minnesota	2018	1	0	7	0	0	8
	2019	8	0	0	0	0	8
	2020	8	0	0	2	0	6
Wisconsin	2018	0	0	0	0	0	0
	2019	0	0	1	0	0	1
	2020	1	0	0	0	0	1
<b>Total Outlets</b>	<b>2018</b>	<b>1</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>8</b>
	<b>2019</b>	<b>8</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>9</b>
	<b>2020</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>7</b>

**Table No. 5**

**Projected Openings as of December 31, 2020**

<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Opened</b>	<b>Projected New Franchised Outlets in the Next Fiscal Year</b>	<b>Projected New Company-Owned Outlets In the Next Fiscal Year</b>
Alabama	0	0-2	0-2
Arizona	1	0-2	0-2
California	2	1-2	0-2
Colorado	0	0-2	0-2
District of Columbia	2	1-2	0-2
Florida	1	0-2	0-2
Georgia	1	0-2	0-2
Hawaii	0	0-2	0-2
Illinois	1	1-3	0-2
Indiana	3	2-4	0-2
Iowa	1	0-2	0-2
Kentucky	0	0-2	0-2
Louisiana	1	0-2	0-2
Massachusetts	1	0-2	0-2
Michigan	0	0-2	0-2
Minnesota	0	0-2	0-2
Mississippi	0	0-2	0-2
Nebraska	1	0-2	0-2
Nevada	0	0-2	0-2
New Jersey	1	0-2	0-2

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets In the Next Fiscal Year
New Mexico	1	0-2	0-2
New York	1	0-2	0-2
North Carolina	3	2-4	0-2
North Dakota	0	0-2	0-2
Oklahoma	2	0-2	0-2
Oregon	0	0-2	0-2
Pennsylvania	1	1-2	0-2
South Carolina	1	0-2	0-2
South Dakota	1	0-2	0-2
Tennessee	2	0-2	0-2
Texas	8	3-5	0-2
Utah	0	0-2	0-2
Virginia	1	0-2	0-2
Washington	3	1-2	0-2
West Virginia	0	0-2	0-2
Wisconsin	1	0-2	0-2
Total	41	3-20	0-2

The name of each of our current franchisees and the address and telephone number of each of their outlets is listed in Exhibit C. A list of franchisees that left the system during 2020 is also included in Exhibit C. There are 17 franchisees on this list.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system. We did not have any franchisees sign confidentiality clauses with us during the last 3 fiscal years that would prevent them from speaking openly about their experiences with us.

We intend to form a Franchise Advisory Council that will consist of franchisees within our system with whom we consult on various aspects of our system. This is not a formal entity, and it does not have a telephone number, street address, email address, or website. The members of our Franchise Advisory Council are simply franchisees who communicate with each other by telephone and email, and who attend telephone and in-person meetings with our staff. No independent franchisee association has asked to be included in this Disclosure Document.

## ITEM 21 FINANCIAL STATEMENTS

Attached to this Franchise Disclosure Document as Exhibit D is a copy of the audited financial statements of our affiliate, Anytime Fitness, LLC, for the fiscal years ended December 31, 2018, December 31, 2019, and December 31, 2020. Our affiliate, Anytime Fitness, LLC, has guaranteed our performance with you. A copy of the Guaranty of Performance is included as Exhibit M.

## **ITEM 22 CONTRACTS**

A copy of the Franchise Agreement, Franchise Agreement Guaranty, and General Release is attached as Exhibit E.

Exhibit F is a Charitable Contribution Addendum that we offer to all franchisees, which allows them to be designated as a participant in our charitable contribution program.

A copy of the Area Development Agreement and Development Agreement Guaranty is attached as Exhibit G.

Exhibit I includes forms of financing documents for financing we or our affiliates provide or that we have arranged.

Exhibit J is the ProVision Services Agreement.

Exhibit K is an optional Re-Sale Assistance Agreement we currently offer to franchisees seeking our assistance in the sale of their studios.

Exhibit L is an Electronic Transfer of Funds Authorization.

Exhibit N is a Franchisee Questionnaire we require you to complete and sign before we will grant you a franchise.

## **ITEM 23 RECEIPTS**

The last 2 pages of this Disclosure Document are detachable documents acknowledging receipt of this Disclosure Document. Please sign both receipt pages and return one to us.

**WAXING THE CITY**

**EXHIBIT A**

**WAXING THE CITY WORLDWIDE, LLC**

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

**EXHIBIT A**

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

<b>STATE</b>	<b>STATE ADMINISTRATOR</b>	<b>AGENT FOR SERVICE OF PROCESS</b>
<b>CALIFORNIA</b>	Department of Financial Protection and Innovation One Sansome Street, Suite 600 San Francisco, CA 94104 415-972-8559 1-866-275-2677	Commissioner of Financial Protection and Innovation 320 West 4th Street, Suite 750 Los Angeles 90013-2344 1-866-275-2677
<b>CONNECTICUT</b>	Securities and Business Investment Division Connecticut Department of Banking 260 Constitution Plaza Hartford, CT 06103 860-240-8230	Connecticut Banking Commissioner Same Address
<b>FLORIDA</b>	Department of Agriculture & Consumer Services Division of Consumer Services Mayo Building, Second Floor Tallahassee, FL 32399-0800 850-245-6000	Same
<b>GEORGIA</b>	Office of Consumer Affairs 2 Martin Luther King Drive, S.E. Plaza Level, East Tower Atlanta, GA 30334 404-656-3790	Same
<b>HAWAII</b>	State of Hawaii Business Registration Division Securities Compliance Branch Dept. of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, HI 96813 808-586-2722	Hawaii Commissioner of Securities Same Address
<b>ILLINOIS</b>	Franchise Division Office of the Attorney General 500 South Second Street Springfield, IL 62706 217-782-4465	Illinois Attorney General Same Address
<b>INDIANA</b>	Securities Commissioner Indiana Securities Division 302 West Washington Street, Room E 111 Indianapolis, IN 46204 317-232-6681	Indiana Secretary of State 302 West Washington Street, Room E018 Indianapolis, IN 46204
<b>IOWA</b>	Iowa Securities Bureau Second Floor Lucas State Office Building Des Moines, IA 50319 515-281-4441	Same

STATE	STATE ADMINISTRATOR	AGENT FOR SERVICE OF PROCESS
<b>KENTUCKY</b>	Kentucky Attorney General's Office Consumer Protection Division 1024 Capitol Center Drive Frankfort, KY 40602 502-696-5389	Same
<b>LOUISIANA</b>	Department of Urban & Community Affairs Consumer Protection Office 301 Main Street, 6th Floor One America Place Baton Rouge, LA 70801 504-342-7013 (gen. info.) 504-342-7900	Same
<b>MAINE</b>	Department of Business Regulations State House - Station 35 Augusta, ME 04333 207-298-3671	Same
<b>MARYLAND</b>	Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202 410-576-6360	Maryland Securities Commissioner Same Address
<b>MICHIGAN</b>	Michigan Department of Attorney General Consumer Protection Division Antitrust and Franchise Unit Williams Building, 1 <sup>st</sup> Floor 525 W. Ottawa Street Lansing, MI 48909 517-373-7117	Michigan Department of Commerce Corporations and Securities Bureau Same Address
<b>MINNESOTA</b>	Minnesota Department of Commerce 85 7 <sup>th</sup> Place East, Suite 280 St. Paul, MN 55101 651-296-4026	Minnesota Commissioner of Commerce Same Address
<b>NEBRASKA</b>	Department of Banking and Finance 1526 K Street, Suite 300 Lincoln, NE 68508 P.O. Box 95006 Lincoln, Nebraska 68509-5006 Tele: 402-471-2171	Same
<b>NEW HAMPSHIRE</b>	Attorney General Consumer Protection and Antitrust Bureau State House Annex Concord, NH 03301 603-271-3641	Same
<b>NEW YORK</b>	Office of the New York State Attorney General Investor Protection Bureau Franchise Section 28 Liberty Street, 21 <sup>st</sup> Floor New York, NY 10005 212-416-8236 Phone 212-416-6042 Fax	One Commerce Plaza 99 Washington Avenue, 6th Floor Albany, New York 12231-0001 518-473-2492

STATE	STATE ADMINISTRATOR	AGENT FOR SERVICE OF PROCESS
<b>NORTH CAROLINA</b>	Secretary of State's Office/Securities Division 2 South Salisbury Street Raleigh, NC 27601 919-733-3924	Secretary of State Secretary of State's Office Same Address
<b>NORTH DAKOTA</b>	North Dakota Securities Department 600 East Boulevard Avenue State Capitol, Fifth Floor, Dept. 414 Bismarck, ND 58505-0510 701-328-4712; Fax: 701-328-0140	North Dakota Securities Commissioner Same Address
<b>OHIO</b>	Attorney General Consumer Fraud & Crime Section State Office Tower 30 East Broad Street, 15th Floor Columbus, OH 43215 614-466-8831 or 800-282-0515	Same
<b>OKLAHOMA</b>	Oklahoma Securities Commission 2915 Lincoln Blvd. Oklahoma City, OK 73105 405-521-2451	Same
<b>OREGON</b>	Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, OR 96310 503-378-4387	Director Department of Insurance and Finance Same Address
<b>RHODE ISLAND</b>	Rhode Island Department of Business Regulation Securities Division John O. Pastore Center – Building 69-1 1511 Pontiac Avenue Cranston, RI 02920 401-222-3048	Director, Rhode Island Department of Business Regulation Same address
<b>SOUTH CAROLINA</b>	Secretary of State P.O. Box 11350 Columbia, SC 29211 803-734-2166	Same
<b>SOUTH DAKOTA</b>	Department of Labor and Regulation Division of Insurance – Securities Regulation 124 S Euclid, Suite 104 Pierre, SD 57501 605-773-3563	Director of South Dakota Division of Insurance – Securities Regulation Same Address
<b>TEXAS</b>	Secretary of State Statutory Documents Section P.O. Box 12887 Austin, TX 78711-2887 512-475-1769	Same
<b>UTAH</b>	Utah Department of Commerce Consumer Protection Division 160 East 300 South (P.O. Box 45804) Salt Lake City, UT 84145-0804 TELE: 801-530-6601 FAX: 801-530-6001	Same

STATE	STATE ADMINISTRATOR	AGENT FOR SERVICE OF PROCESS
<b>VIRGINIA</b>	State Corporation Commission Division of Securities and Retail Franchising Tyler Building, 9 <sup>th</sup> Floor 1300 E. Main Street Richmond, VA 23219 804-371-9051	Clerk of the State Corporation Commission Tyler Building, 1st Floor 1300 E. Main Street Richmond, VA 23219 (804) 371-9733
<b>WASHINGTON</b>	Department of Financial Institutions Securities Division 150 Israel Rd S.W. Tumwater, WA 98501 360-902-8760	Director, Dept. of Financial Institutions Securities Division 150 Israel Rd S.W. Tumwater, WA 98501
<b>WISCONSIN</b>	Wisconsin Dept. of Financial Institutions Division of Securities 4822 Madison Yards Way, North Tower Madison, WI 53705 608-266-8557	Wisconsin Commissioner of Securities Same Address

**WAXING THE CITY**

**EXHIBIT B**

**WAXING THE CITY WORLDWIDE, LLC**

**TABLE OF CONTENTS OF  
OPERATIONS MANUAL**

**EXHIBIT B**

**Waxing the City® Operations Manual  
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**WAXING THE CITY**

**EXHIBIT C**

**WAXING THE CITY WORLDWIDE, LLC**

**LIST OF CURRENT AND FORMER  
FRANCHISEES**

**as of December 31, 2020**

**(INCLUDING AREA DEVELOPMENT  
AGREEMENT COMMITMENTS)**

**EXHIBIT C****CURRENT FRANCHISEES****As of December 31, 2020**

<b>Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Telephone Number</b>	<b>Status</b>	<b>Area Development</b>
Sykes Management Group, LLC	100 Apple Ave, Ste 2	Dothan	AL	36303	334-350-3349		
Eial Katularu	2875 W Ray Rd, Ste 7	Chandler	AZ	85224	480-765-2300		*
Alessandro Romaniello	18185 N 83rd Ave, Ste C111	Glendale	AZ	85308	623-930-2323		
Chandrasekhar Ganta and Sujay Honnamane	9194 W Meadow Dr	Peoria	AZ	85382	408-839-2511	Projected to open in Gilbert, AZ	*
Eial Katularu	6819 N 16th St Suite 1	Phoenix	AZ	85016	602-264-4707		*
Eial Katularu	14676 N Frank Lloyd Wright Blvd, Ste 121	Scottsdale	AZ	85260	480-404-7101		*
Jennifer Horst and Daniel Horst	1804 E Southern Ave, Ste 5	Tempe	AZ	85282	480-929-9111		
Lee Corporation Investment Group	2470 Tuscany St, Unit 12	Corona	CA	92881	951-444-7440		
Mughannam, Inc.	74 Rovina Lane	Petaluma	CA	94952	415-730-8633	Projected to open in TBD, CA	
4Moore, LLC	5428 Crossings Dr, Ste 103	Rocklin	CA	95677	916-250-3300		
Virginia Kelley and Christopher Gilbert	PO Box 4058	Truckee	CA	96161	415-686-2618	Projected to open in El Dorado Hills, CA	
Pravasa Waxing, LLC	1933 28th St, Ste 202	Boulder	CO	80301	303-440-4343		

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
Laura Howland, Phillip Howland, & Allyson Ford	4991 Factory Shops Blvd, Ste 130	Castle Rock	CO	80109	303-663-4032		
Northfield Waxing Studio, LLC	9165 E Northfield Blvd, Ste 145	Denver	CO	80238	720-577-4600		
Pravasa Waxing, LLC	1664 Market Street	Denver	CO	80202	303-592-2929		
Pravasa Waxing, LLC	6760 E Chenango Ave	Denver	CO	80237	303-221-0081		
Talia Wilson	7660 W Virginia Ave, Ste C	Lakewood	CO	80226	303-202-2012		
Brian and Amy Messer	9233 Park Meadows Dr, Ste 112	Lone Tree	CO	80124	303-799-1355		
The Bille Wax Group, Inc.	17051 Lincoln Ave, Unit C	Parker	CO	80134	303-841-2807		*
Look Bright, LLC	851 S State Rd 43, Ste 1080	Altamonte Springs	FL	32714	407-840-2378		
USA Waxing Company	2200 Glades Rd	Boca Raton	FL	33431	561-349-6761		
Bloise Wax Center, LLC	8475 Cooper Creek Blvd	Bradenton	FL	34201	973-699-7595		
Hanbrijon, Inc.	5250 Windward Pkwy, Ste 114	Alpharetta	GA	30004	470-275-5400		
Farnicia Trotter and Tyrone Trotter	1065 Chattahoochee Dr	Bonaire	GA	31005	609-827-3992	Projected to open in TBD, GA	
Island Wax, Inc.	573 Kailua Rd, Ste 107	Kailua	HI	96734	808-439-1100		
Chauve, LLC	23452 210th St	Carroll	IA	51401	712-830-0980	Projected to open in Omaha, NE	*
Waxing Iowa Corp.	1300 NW 100th St, Ste 2000	Clive	IA	50325	515-225-4045		

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
Nash Wax LLC	1084 Celebration Drive	Aurora	IL	60504	708-646-7467	Projected to open in TBD, IL	
JDC32enterprises, Inc.	193 North York Street	Elmhurst	IL	60126	630-984-4700		*
Nash Wax LLC	2835 Show Pl Dr, Ste 135	Naperville	IL	60564	630-904-2929		
Waxology LLC	17W681 Roosevelt Rd	Oakbrook Terrace	IL	60181	331-215-4929		
WTC-Illinois Oswego Inc.	1212-1214 Douglas Rd	Oswego	IL	60543	630-554-6982		*
Muayad Musleh	503 E Summit St, Ste 3	Crown Point	IN	46307	219-765-5575	Projected to open in TBD, IN	*
Muayad Musleh	503 E Summit St, Ste 3	Crown Point	IN	46307	219-765-5575	Projected to open in TBD, IN	*
Fioralba Minga and Asllan Minga	824 Pinehurst Drive	Fort Wayne	IN	46815	260-246-8396	Projected to open in Fort Wayne, IN	
Black Bare, LLC	3855 E 96th St	Indianapolis	IN	46240	317-759-2700		
ACTA Partners, LLC	2300 Gary Farms Blvd	Bowling Green	KY	42104	270-938-2508		
William J. Curtis, Corinne M. Curtis, Johannes C. Evans, and Sharon C. Evans	4084 Finn Way, Ste 110	Lexington	KY	40517	859-300-3399		*
William J. Curtis, Corinne M. Curtis, Johannes C. Evans, and Sharon C. Evans	2312 Sir Barton Way, Ste D7	Lexington	KY	40509	859-900-2255		*
Cannon and Ledet, LLC	1212 S Clearview Pkwy, Ste A	Elmwood	LA	70123	504-592-7424		
Ledet Waxing, LLC	1212 S. Clearview Pkwy	Elmwood	LA	70123	504-592-7424	Projected to open in Baton Rouge, LA	

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
Wax it Today, LLC	4243 Ambassador Caffery Pkwy, Ste 103	Lafayette	LA	70508	337-216-4567		
Wax it Today, LLC	4740 Nelson Rd, Ste 180	Lake Charles	LA	70605	337-508-2222		*
Ledet Waxing, LLC	225 West Harrison Ave, Ste D	New Orleans	LA	70124	504-592-7424		
Scot Cannon and Wesley Cannon	4121 Magazine St	New Orleans	LA	70115	504-899-1500		
WTC Victor, LLC and Marianna Clark	108 Beverly St	Boston	MA	02114	617-221-8999		*
Waxing Studio Boston, LLC	2166 Massachusetts Ave	Cambridge	MA	02140	617-945-7074		
Treval5, LLC	215 W. Central St, Ste 3	Natick	MA	01760	774-231-0085		
Marianna Clark	15 Thornton Street	Winthrop	MA	02152	508-740-9393	Projected to open in Boston, MA	*
Patrick Tomina, Brian Tomina, Annette Tomina and Faraj Tomina	44730 Ford Rd	Canton	MI	48187	734-821-7300		*
Meadow Lawn Partners, LLC	1030 Woodland Ave	Duluth	MN	55803	218-624-9298		*
Smooth Operator, LLC	5951 Norwich Ave N	Oak Park Heights	MN	55082	651-439-3201		*
Meadow Lawn Partners, LLC	2822 W Division St, Ste 114	St. Cloud	MN	56301	320-287-9298		*
Jason Jordan and Ashley Jordan	3538 Osgood Circle N	Stillwater	MN	55082	651-341-2262	Projected to open in Hudson, WI	*
Vikram Malhotra	111 Colony Crossing	Madison	MS	39110	601-488-8110		

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
La Cire Waxing Spa, LLC	PO Box 1058	Apex	NC	27502	269-743-9732	Projected to open in Durham, NC	
La Cire Waxing Spa, LLC	PO Box 1058	Apex	NC	27502	269-743-9732	Projected to open in Garner, NC	*
La Cire Waxing Spa, LLC	1214 Parkside Main St	Cary	NC	27519	919-439-0386		*
La Cire Waxing Spa, LLC	1800 E. Franklin St, Ste 27	Chapel Hill	NC	27514	984-528-3200		*
William Cole	1603 Highwoods Blvd	Greensboro	NC	27410	336-337-1064		*
William Cole	4105 Bitternut Trail	Greensboro	NC	27410	336-337-1064	Projected to open in TBD, NC	*
GLZ3, LLC	15425 Hodges Cir	Huntersville	NC	28078	704.992.8288		*
Beyond the Wax, LLC	4205 Corners Pkwy, Ste 120	Raleigh	NC	27617	919-381-4825		*
Beyond the Wax, LLC	1111 Mercantile Drive, Ste 120	Raleigh	NC	27609	919-322-5022		*
La Cire Waxing Spa, LLC	1407 Barclay Pointe Blvd, Ste 404	Wilmington	NC	28412	910-361-2961		*
Wax On Wax Off, Inc.	4302 13th Ave S	Fargo	ND	58103	701-478-6600		
Bare Extremities LLC	3251 32nd Ave S, Ste B	Grand Forks	ND	58201	701-757-0453		
2 Bee Smooth, LLC	305 20th Ave SW	Minot	ND	58701	701-839-2929		
Smooth Solutions, LLC	1405 S 204th St, Ste 102	Elkhorn	NE	68130	402-916-9153		
Chauve, LLC	3201 Farnam St, Ste 6105	Omaha	NE	68131	402-614-6545		*

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
Piper Jak LLC	11 Briar Ln	Basking Ridge	NJ	07920	908-334-2474	Projected to open in Bernardsville, NJ	
Wax On Wax Off of NJ LLC	301 Central Avenue, Ste 2	Clark	NJ	07066	908-379-8137		*
WTC of Franklin Lakes LLC	794 Franklin Ave	Franklin Lakes	NJ	07417	201-560-9700		
Allegria Corp	25 Main St	Madison	NJ	07940	973-845-9700		
Wax On Wax Off of Manalapan LLC	357 U.S. 9 South	Manalapan	NJ	07726	732-698-8399		*
ARI Ventures Corporation	652 Bloomfield Ave	Montclair	NJ	07042	973-841-7979		*
Triple M Salons, LLC	3535 US Highway 1, MarketFair Mall	Princeton	NJ	08540	609-920-6422		
Red Bank WTC LLC	80 Broad St, Unit 17	Red Bank	NJ	07701	732-481-0077		
MEGA Esthetics LLC	343 Mt Hope Ave	Rockaway	NJ	07840	973-989-1000		*
A and C Ventures, LLC	901 Rio Grande Blvd NW Suite C-130	Albuquerque	NM	87104	505-585-0100		*
A and C Ventures, LLC	6400 Holly Ave NE, Ste C	Albuquerque	NM	87113	505-312-4501		*
A and C Ventures, LLC	6505 Meoqui Court NW	Albuquerque	NM	87107	919-740-3259	Projected to open in Albuquerque, NM	*
Wuzzafuzzy, LLC	4386 Rodeo Rd	Santa Fe	NM	87505	505-474-2994		
Jessica Silverstein & Vincent Pasqua	190 Bermuda Street	Atlantic Beach	NY	11509	917-573-0561	Projected to open in TBD, NY	*

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
Deepak Kohli and Sapna Kohli	3 Sugar Maple Court	Dix Hills	NY	11746	516-680-2832	Projected to open in TBD, FL	
Jessica Silverstein & Vincent Pasqua	191 Seventh St	Garden City	NY	11530	516-874-3800		*
Shri Radha, LLC	1301 I-35 Service Rd	Moore	OK	73160	405-300-4314		*
Shri Radha, LLC	14112 Cadorna Strada	Oklahoma City	OK	73170	405-274-5000	Projected to open in Oklahoma City, OK	*
Sisters on Wax, LLC	5801 N May Ave	Oklahoma City	OK	73112	405-832-0929		
Sara Bassett	2624 S Black Oak Dr	Stillwater	OK	74074	405-315-1788	Projected to open in Owasso, OK	*
Smooth City, LLC	1109 NE Prescott St	Portland	OR	97211	916-538-1429	Projected to open in Vancouver, WA	
Smooth Happens - Doylestown, LLC	414 North Main St	Doylestown	PA	18901	267-824-2911		*
I-Mat Industries, LLC	258 W Dekalb Pike	King of Prussia	PA	19406	484-322-5213		
Smooth Happens - Doylestown, LLC	1460 Bethlehem Pike	North Wales	PA	19454	267-652-0002		*
Megan Sweitzer	9475 Roosevelt Blvd	Philadelphia	PA	19114	215-821-8360		*
BB Wax, LLC	20 Old Mill Blvd	Washington	PA	15301	724-222-1340		
Megan Sweitzer	66 W College Ave	Yardley	PA	19067	267-245-2668	Projected to open in TBD, PA	*
Karen Ingram	524 Bear Creek Rd.	Chapin	SC	29036	512-484-6559	Projected to open in Columbia, SC	

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
Karen Ingram	1150 Bower Pkwy	Columbia	SC	29212	803-781-2727		
Waxing Charleston, LLC	905 Houston Northcutt Blvd, Ste 100	Mount Pleasant	SC	29464	843-207-4095		*
Waxing Myrtle Beach DD, LLC	811 82nd Parkway	Myrtle Beach	SC	29572	843-213-1881		
Kimberly Hoffman	4807 S Louise Ave	Sioux Falls	SD	57106	605-929-8258		*
Kimberly Hoffman	2613 S Purdue Ave	Sioux Falls	SD	57106	605-553-7534	Projected to open in Cedar Rapids, IA	*
Kimberly Hoffman	2613 S Purdue Ave	Sioux Falls	SD	57106	605-553-7534	Projected to open in Sioux Falls, SD	
Darrell Evans, Sonya Evans, Richard Norton and Lauralie Norton	920 US Highway 76, Unit 40	Clarksville	TN	37043	931-361-0620		
Robert Gates	149 Bromley Park Lane	Franklin	TN	37069	615-642-9900	Projected to open in Nashville, TN	
James Andrews	294 Greenway rd	Memphis	TN	38117	901-409-3515	Projected to open in Germantown, TN	*
MKC Unlimited, LLC	3562 South Soncy Rd, Ste 481	Amarillo	TX	79119	806-367-6600		*
MKC Unlimited, LLC	7904 New England Pkwy	Amarillo	TX	79119	775-335-9446	Projected to open in Abilene, TX	*
MKC Unlimited, LLC	7904 New England Pkwy	Amarillo	TX	79119	775-335-9446	Projected to open in Wichita Falls, TX	*
Nikolas Hicks, James Parker & Lorrie Baggs	6107 Blue Sage Circle	Amarillo	TX	79124	806-570-1008	Projected to open in San Antonio, TX	*

<b>Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Telephone Number</b>	<b>Status</b>	<b>Area Development</b>
40 Toes LLC	106 N Denton Tap Rd, Ste 200	Coppell	TX	75019	214-945-8899		*
DFW Waxing Studios, LLC	6131 Luther Ln, Ste 214	Dallas	TX	75225	214-265-0121		
DFW Waxing Studios, LLC	7825 Firefall Way, Ste F-120	Dallas	TX	75230	214-295-6938		*
Martin Lebrun and Fernando Ibarra	12040 Tierra Este Rd, Ste 203-204	EL Paso	TX	79938	915-496-7166		*
Martin Lebrun and Fernando Ibarra	8889 Gateway Blvd W, Ste 2810	El Paso	TX	79925	915-412-2470		*
Raging Bull Capital, LLC	6801 N Mesa St, Bldg A	El Paso	TX	79912	915-760-6868		*
Heavenly Smooth, LLC	5701 N Tarrant Pkwy	Fort Worth	TX	76137	817-562-8900		*
DA Neil I, LLC	9320 N Dallas Pkwy, Ste 150	Frisco	TX	75033	214-618-4929		
Jason Pillai	14620 Memorial Dr	Houston	TX	77079	713-559-0768		*
NARSDesai	1615 Mayde Park Lane	Houston	TX	77084	832-623-5546	Projected to open in Spring, TX	*
Heavenly Smooth, LLC	5224 N O'Connor Blvd, Ste 110	Irving	TX	75039	972-685-5286		*
CTTN, LLC	4747 FM 1463, Ste 600	Katy	TX	77494	281-303-5513		
K&E Services, Inc.	4506 Summits Edge Ln	Katy	TX	77494	907-350-3706	Projected to open in Seattle, WA	*
K&E Services, Inc.	4506 Summits Edge Ln	Katy	TX	77494	907-350-3706	Projected to open in Seattle, WA	*
Beam Management, LLC	10305 Quaker Ave, Ste 800	Lubbock	TX	79424	806-701-2790		*

<b>Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Telephone Number</b>	<b>Status</b>	<b>Area Development</b>
Beam Management, LLC	4818 119th place	Lubbock	TX	79424	806-252-2235	Projected to open in Lubbock, TX	*
Manna Ventures, LLC	3009 S Custer Rd, Ste 200	McKinney	TX	75070	469 500 5695		*
Dharmesh Patel and Mitul Patel	18817 Limestone Commercial Dr, Ste 300	Pflugerville	TX	78660	512-525-8425		*
Manna Ventures, LLC	8420 High Meadows Dr	Plano	TX	75025	972-838-7647	Projected to open in Richardson, TX	*
Manna Ventures, LLC	8420 High Meadows Dr	Plano	TX	75025	972-838-7647	Projected to open in Allen, TX	*
Manna Ventures, LLC	8420 High Meadows Dr	Plano	TX	75025	972-838-7647	Projected to open in Flower Mount, TX	*
Nikolas Hicks, James Parker & Lorrie Baggs	427 N Loop 1604 W, Ste 207	San Antonio	TX	78232	210-494-2026		*
Nikolas Hicks, James Parker & Lorrie Baggs	999 E. Basse Rd, Ste 176	San Antonio	TX	78209	210- 994-7694		*
Nikolas Hicks, James Parker and Lorrie Baggs	17038 Fiesta Texas Dr, Ste 104	San Antonio	TX	78256	210-690-9100		*
DFW Waxing Studios, LLC	343 N Carroll Ave	Southlake	TX	76092	817-912-5876		*
Novell Brands, LLC	17428 W Grand Pkwy S	Sugar Land	TX	77021	832-535-2307		*
Allyson Ford and Brett Ford	150 N Central Ave	Farmington	UT	84025	801-447-9550		
LJAS Inc.	2727 Mount Vernon Ave, Unit D1	Alexandria	VA	22301	703-548-8888		*
Keith Salmon and Laura Robinson	2111 Jefferson Davis Hwy, Unit 101	Alexandria	VA	22301	240-461-4458	Projected to open in Washington, DC	

Name	Address	City	State	Zip	Telephone Number	Status	Area Development
LJAS Inc.	2111 Jefferson Davis Hwy, Unit 101	Alexandria	VA	22301	202-335-5555	Projected to open in Washington, DC	*
Cerandipity, LLC	21020 Sycolin Rd, Ste 130	Ashburn	VA	20147	703-723-4888		
Five Bridges Management, LLC	1554 Laskin Rd, Ste 106	Virginia Beach	VA	23451	757-716-4522		*
Five Bridges Management, LLC	2344 Osprey Villa Ct	Virginia Beach	VA	23451	757-633-5458	Projected to open in Virginia Beach, VA	*
Waxing The Eastside, LLC	755 NW Gilman Blvd	Issaquah	WA	98027	425-270-1700		*
Marked Improvement III, LLC	11515 124th Ave NE	Kirkland	WA	98034	425-297-2000		
Rachael Taylor and Randy Taylor	10306 156th St E, Ste 105	Puyallup	WA	98374	253-446-6906		
K&E Services, Inc.	1545 NW Market Street	Seattle	WA	98107	206-330-0450		*
David Zielke and Stacy Zielke	2812 Prairie Lakes Dr, Ste 104	Sun Prairie	WI	53590	608-318-5655		*

\* Outlet opened under Area Development Agreement.

### FORMER FRANCHISEES

<b>Name</b>	<b>City</b>	<b>State</b>	<b>Telephone Number</b>
Super Smooth, LLP	Elizabeth	CO	303-981-6277
Waxing Iowa Corp	Des Moines	IA	515-238-8469
Waxing Iowa Corp	Des Moines	IA	515-238-8469
Wax Chicago, IL	Chicago	IL	331-625-3888
Brian Olsen and Karen Olsen	Oswego	IL	630-768-1856
MKCC, LLC	Overland Park	KS	913-710-0884
Beauty Esteem Walpole, LLC	Newton	MA	508-265-5627
Beauty Esteem, LLC	Newton	MA	508-265-5627
Beauty Esteem, LLC	Newton	MA	508-265-5627
Beauty Esteem, LLC	Newton	MA	508-265-5627
Beauty Esteem, LLC	Newton	MA	508-265-5627
JDB WTC, LLC	Livingston	NJ	973-476-9629
Wax on Wax Off of Franklin Lakes NJ LLC	Seagirt	NJ	201-400-7964
Sejin Holdings Inc.	Sparks	NV	623-332-3032
Jessica Silverstein and Vincent Pasqua	Atlantic Beach	NY	917-573-0561
MKC Unlimited, LLC	Amarillo	TX	775-335-9446
JV Waxing, LLC	Bellaire	TX	647-833-5512
Vinh Le, Tien Pham, James Evans and Tuan Nguyen	Colleyville	TX	214-668-8041
Sumit Dalwadi	Houston	TX	832-731-4896
Sumit Dalwadi	Houston	TX	832-731-4896
Sumit Dalwadi	Houston	TX	832-731-4896
Sumit Dalwadi	Houston	TX	832-721-2287
DFW Waxing Studios, LLC	Southlake	TX	720-252-5955
DFW Waxing Studios, LLC	Southlake	TX	720-252-5955
Jeremy M. Elswick	Elkview	WV	304-437-2927

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

WAXING **THE** CITY

**EXHIBIT D**

**ANYTIME FITNESS, LLC  
FINANCIAL STATEMENTS**

**ANYTIME FITNESS, LLC AND  
SUBSIDIARIES**

**CONSOLIDATED FINANCIAL STATEMENTS**

December 31, 2020, 2019 and 2018

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
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## INDEPENDENT AUDITOR'S REPORT

To the Members  
Anytime Fitness, LLC and Subsidiaries  
Woodbury, Minnesota

We have audited the accompanying consolidated financial statements of Anytime Fitness, LLC and Subsidiaries, which comprise the consolidated balance sheets as of December 31, 2020, 2019, and 2018, and the related consolidated statements of comprehensive income, equity and cash flows for the years then ended, and the related notes to the consolidated financial statements.

### **Management's Responsibility for the Consolidated Financial Statements**

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Anytime Fitness, LLC and subsidiaries as of December 31, 2020, 2019, and 2018, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **Change in Accounting Principle**

As discussed in Note 1 to the consolidated financial statements, as of January 1, 2019, the Company adopted the provisions of the Financial Accounting Standards Board, ASU 2014-09, Revenue from Contracts with Customers (Topic 606), which supersedes accounting standards that currently existed under accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to that matter.

*Redpath and Company, Ltd*  
REDPATH AND COMPANY, LTD.  
St. Paul, Minnesota

March 18, 2021

## **CONSOLIDATED FINANCIAL STATEMENTS**

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
December 31, 2020, 2019 and 2018

**Statement 1**  
**Page 1 of 2**

Assets	<u>2020</u>	<u>2019</u>	<u>2018</u>
Current assets:			
Cash	\$20,127,173	\$444,572	\$21,193
Restricted cash	4,956,689	5,442,047	2,437,452
Accounts receivable, net of allowance for doubtful accounts	3,312,923	2,479,398	2,479,824
Vendor rebate receivable	3,345,016	3,584,198	3,048,539
Prepaid expenses and other current assets	1,737,414	1,321,277	1,583,710
Notes receivable, current portion	50,683	58,437	116,042
Due from related parties, current	6,775,015	15,638,402	5,165,257
Deferred compensation, current portion	564,460	627,737	-
Total current assets	<u>40,869,373</u>	<u>29,596,068</u>	<u>14,852,017</u>
Property and equipment, net	<u>1,675,809</u>	<u>2,241,612</u>	<u>4,829,160</u>
Other assets:			
Trademarks, net	330,010	351,987	383,277
Software development and license costs, net	5,051,529	3,315,604	2,623,724
Goodwill	141,521	141,521	141,521
Notes receivable, net of current portion	124,596	155,829	206,826
Note receivable - related party	6,000,000	21,000,000	-
Deposits	104,054	104,525	223,866
Deferred compensation, net of current portion	1,439,440	1,513,623	-
Total other assets	<u>13,191,150</u>	<u>26,583,089</u>	<u>3,579,214</u>
Total assets	<u><u>\$55,736,332</u></u>	<u><u>\$58,420,769</u></u>	<u><u>\$23,260,391</u></u>

The accompanying notes are an integral part of these consolidated financial statements.

Liabilities and Equity	2020	2019	2018
Current liabilities:			
Current maturities of long-term capital lease obligations	\$ -	\$ -	\$92,230
Accounts payable	549,025	2,836,178	1,671,085
Accrued expenses and other current liabilities	1,515,470	1,261,456	1,108,492
Due to related parties	360,306	401,321	142,421
Advertising obligation	-	-	1,940,935
Deferred revenue, current portion	8,308,481	8,731,085	677,067
Deferred rent	606,475	697,042	1,895,887
Total current liabilities	<u>11,339,757</u>	<u>13,927,082</u>	<u>7,528,117</u>
Long-term liabilities:			
Long-term capital lease obligations, net of current maturities	-	-	70,349
Deferred revenue, net of current portion	26,786,554	28,012,079	-
Total long-term liabilities	<u>26,786,554</u>	<u>28,012,079</u>	<u>70,349</u>
Total liabilities	38,126,311	41,939,161	7,598,466
Equity:			
Member's capital	17,562,188	16,482,159	15,661,925
Accumulated other comprehensive income (expense)	47,833	(551)	-
Total equity	<u>17,610,021</u>	<u>16,481,608</u>	<u>15,661,925</u>
Total liabilities and equity	<u>\$55,736,332</u>	<u>\$58,420,769</u>	<u>\$23,260,391</u>

The accompanying notes are an integral part of these consolidated financial statements.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**  
December 31, 2020, 2019 and 2018

**Statement 2**

	2020	2019	2018
Revenues:			
Monthly franchise royalties	\$24,108,180	\$23,236,350	\$21,140,680
Franchise fees	9,066,649	10,098,278	12,455,777
Sales	5,474,933	8,080,220	13,387,870
Advertising fund revenue	13,632,537	15,222,202	-
Vendor rebates	43,331,557	41,529,570	34,230,627
Other revenues	1,118,392	3,369,303	1,492,427
Total revenues	<u>96,732,248</u>	<u>101,535,923</u>	<u>82,707,381</u>
Cost of goods sold	<u>1,108,963</u>	<u>2,023,387</u>	<u>3,187,100</u>
Gross profit	<u>95,623,285</u>	<u>99,512,536</u>	<u>79,520,281</u>
General and administrative expenses	37,476,386	41,692,842	40,246,238
Advertising fund expense	11,820,739	14,578,305	-
Total general, administrative, and advertising fund expense	<u>49,297,125</u>	<u>56,271,147</u>	<u>40,246,238</u>
Income from operations	<u>46,326,160</u>	<u>43,241,389</u>	<u>39,274,043</u>
Other income (expense):			
Interest expense	(61)	(8,094)	(17,693)
Other income	199,670	2,342	16,664
Other expense	(917,243)	(1,285,764)	(1,284,342)
Gain (loss) on sale of club operations	(21,903)	1,396,838	123,096
Total other income (expense)	<u>(739,537)</u>	<u>105,322</u>	<u>(1,162,275)</u>
Net income	45,586,623	43,346,711	38,111,768
Other comprehensive income:			
Foreign currency translation adjustments	<u>48,384</u>	<u>(511)</u>	<u>-</u>
Comprehensive Income	<u>\$45,635,007</u>	<u>\$43,346,200</u>	<u>\$38,111,768</u>

The accompanying notes are an integral part of these consolidated financial statements.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF EQUITY**  
December 31, 2020, 2019 and 2018

**Statement 3**

	Member's Capital	Accumulated Other Comprehensive Income (Expense)	Total Equity
Balance at December 31, 2017	\$13,027,121	\$ -	\$13,027,121
Distributions	(35,476,964)	-	(35,476,964)
Net income	38,111,768	-	38,111,768
Balance at December 31, 2018	15,661,925	-	15,661,925
Cumulative effect adjustment (See Note 1)	(29,512,772)	-	(29,512,772)
Distributions	(13,013,705)	-	(13,013,705)
Net income	43,346,711	-	43,346,711
Foreign currency translation adjustments	-	(551)	(551)
Balance at December 31, 2019	16,482,159	(551)	16,481,608
Distributions	(44,506,594)	-	(44,506,594)
Net income	45,586,623	-	45,586,623
Foreign currency translation adjustments	-	48,384	48,384
Balance at December 31, 2020	<u>\$17,562,188</u>	<u>\$47,833</u>	<u>\$17,610,021</u>

The accompanying notes are an integral part of these consolidated financial statements.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
December 31, 2020, 2019 and 2018

**Statement 4**

	2020	2019	2018
<b>Cash flows from operating activities:</b>			
Net income	\$45,586,623	\$43,346,711	\$38,111,768
Adjustments to reconcile net income to net cash flows from operating activities:			
Depreciation and amortization	1,726,331	2,311,621	2,513,718
Loss on sale of property and equipment	21,903	-	119,487
Gain on sale of fitness club	-	(1,396,838)	(123,096)
Deferred rent	(9,421)	(233,255)	(353,718)
Changes in assets and liabilities:			
Restricted cash	485,358	(3,004,595)	3,934,513
Accounts receivable and vendor rebates receivable	(594,343)	(535,233)	(193,744)
Deferred compensation	137,460	360,070	-
Prepaid expense and other current assets	(425,253)	262,433	225,606
Deferred revenue	(1,646,005)	2,305,050	150,578
Advertising obligation	-	-	(3,361,666)
Accounts payable and other accrued expenses	(2,033,139)	1,196,981	(653,341)
Net cash flows provided by operating activities	<u>43,249,514</u>	<u>44,612,945</u>	<u>40,370,105</u>
<b>Cash flows from investing activities:</b>			
Purchases of property and equipment	(385,910)	(553,139)	(697,030)
Proceeds from sale of fitness clubs, property and equipment	51,606	2,475,999	357,066
Payments received on notes receivable	38,987	108,602	275,411
Issuance of notes receivable	-	-	(7,569)
Issuance of note receivable - related parties	-	(21,000,000)	-
Software licenses and internally developed software expenditures	(2,618,342)	(1,844,923)	(930,438)
Purchase of trademarks	(9,086)	-	(8,336)
Change in rent deposits	(8,330)	14,975	25,033
Payments (paid to) received from related parties, net	(7,573,488)	(10,214,245)	(5,176,281)
Net cash flows used in investing activities	<u>(10,504,563)</u>	<u>(31,012,731)</u>	<u>(6,162,144)</u>
<b>Cash flows from financing activities:</b>			
Principal payments under capital lease obligations	-	(162,579)	(268,837)
Distributions paid	(13,110,734)	(13,013,705)	(35,476,964)
Net cash flows used in financing activities	<u>(13,110,734)</u>	<u>(13,176,284)</u>	<u>(35,745,801)</u>
Effect of exchange rate on cash flows, net	48,384	(551)	-
Net increase (decrease) in cash	19,682,601	423,379	(1,537,840)
Cash - beginning of year	444,572	21,193	1,559,033
Cash - end of year	<u>\$20,127,173</u>	<u>\$444,572</u>	<u>\$21,193</u>
<b>Supplemental disclosures of cash flow information:</b>			
Cash paid for interest	\$61	\$8,094	\$17,693
<b>Supplemental schedule of noncash investing and financing activities:</b>			
Assets contributed from related party	\$ -	\$ -	\$806,774
Distributions applied to notes receivable - related party	\$15,000,000	\$ -	\$ -
Distributions applied to due from related parties	\$16,395,860	\$ -	\$ -

The accompanying notes are an integral part of these consolidated financial statements.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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**Note 1 NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

NATURE OF BUSINESS

Anytime Fitness, LLC (the Company) was originally formed as a corporation in February 2002. On December 11, 2009, the Company elected to change the legal form of its business to a limited liability company (LLC). The Company is a wholly owned subsidiary of Self Esteem Brands, LLC (SEB). SEB is a wholly owned subsidiary of Anytime Worldwide, LLC.

The Company franchises the right to open, operate, and manage fitness centers in the United States, Canada, Bahrain, Qatar, Chile, and Columbia. Franchisees pay the Company an initial franchise fee to acquire the franchise. The Company has various initial and ongoing obligations to franchisees, including training. During the term of the franchise, franchisees pay monthly franchise royalties, in amounts that vary depending on when the franchise agreement was signed, and whether the franchise is for an Anytime Fitness club, or an Anytime Fitness Express club. Franchisees also pay monthly advertising fees, which are used for current and future advertising and marketing campaigns.

The Company also has master franchise agreements with entities that allow the master franchisees to operate as an Anytime Fitness franchisor in Australia, New Zealand, Mexico, Belgium, The Netherlands, Luxembourg, Japan, United Kingdom, Ireland, Spain, Italy, India, Hong Kong, Singapore, Malaysia, the Philippines, Taiwan, Thailand, Indonesia, Macau, Morocco, South Korea, South Africa, Vietnam, and Germany. Anytime Fitness, LLC collects an initial fee and monthly fees from the master franchisors.

The Company operates 24 hour fitness centers of its own. These fitness centers are subject to the same monthly fee structure as other franchisees.

SUBSIDIARY OPERATIONS

Anytime Fitness China Holding (Hong Kong), Ltd. is a foreign holding company set up to hold assets and operations in China.

Anytime Fitness (Shanghai) Co., Ltd., a subsidiary of Anytime Fitness China Holding (Hong Kong), Ltd., develops Anytime Fitness clubs in China.

Anytime Fitness Enterprises, LLC, a subsidiary of Anytime Fitness, LLC, is lessee of certain lease agreements for Anytime Fitness corporate-owned clubs.

BASIS OF PRESENTATION

The consolidated financial statements include the accounts of Anytime Fitness, LLC and Subsidiaries (collectively, the Company) and are prepared in accordance with accounting principles generally accepted in the United States of America. All significant intercompany balances and transactions are eliminated in consolidation.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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USE OF ESTIMATES

The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. The Company regularly assesses these estimates and, while actual results could differ, management believes that the estimates are reasonable.

CASH

The Company maintains its cash in financial institutions which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant cash credit risk. The Company considers all highly liquid investments available for current use with an initial maturity of three months or less to be cash and cash equivalents.

RESTRICTED CASH

Restricted cash consists of franchisee contributions held in a general advertising and marketing fund. The use of the cash is restricted to advertising and marketing expenditures, as defined.

ACCOUNTS RECEIVABLE

Accounts receivable develop in the normal course of business. It is the policy of management to review the outstanding accounts receivable at year end, as well as bad debt expenses in the past, and establish an allowance for doubtful accounts for uncollectible amounts, if necessary. Bad debts are charged to expense when deemed uncollectible. The allowance for doubtful accounts was \$238,086, \$148,294, and \$10,000 for the years ended December 31, 2020, 2019, and 2018, respectively.

PROPERTY AND EQUIPMENT AND DEPRECIATION METHODS

Property and equipment are recorded at cost. Expenditures for major additions and improvements are capitalized and minor replacements, maintenance, and repairs are charged to expense as incurred. When property and equipment are retired or otherwise disposed of, the cost and accumulated depreciation are removed from the accounts and any resulting gain or loss is included in the results of operations for the respective period. Depreciation is provided over the estimated useful lives of the related assets using the straight-line method for financial statement purposes. The estimated useful lives for fitness equipment and furniture are from 5 to 7 years. Depreciation of leasehold improvements is computed using the straight-line method over the shorter of the remaining lease term or the estimated useful lives of the improvements. Assets held under capital leases are recorded at the lower of the net present value of the minimum lease payments or the fair market value of the leased assets at the inception of the lease. Depreciation expense is computed using the straight-line method over the shorter of the estimated useful lives of the assets or the period of the related lease.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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**IMPAIRMENT OF LONG-LIVED ASSETS, GOODWILL AND INTANGIBLE ASSETS**

Goodwill is the excess of the purchase price over the fair value of identifiable net assets acquired in the business combinations accounted for under the acquisition method. The Company does not amortize goodwill but tests it for impairment annually.

The Company paid and capitalized fees for the development of international trademarks. These trademarks are amortized on the straight-line method over fifteen years.

The Company incurs costs related to internally developing software. Generally accepted accounting principles authorize software to be capitalized once technical feasibility has been established. Technical feasibility is established when the developer completes all the planning, designing, coding and testing activities necessary to determine that the product can be produced according to its design specifications. These costs are amortized on the straight-line method over three years.

The Company accounts for cloud computing arrangements (arrangements that include software as a service, platform as a service, infrastructure as a service, and other similar hosting arrangements) that contain a software license element as software costs. As such, these costs are amortized as internally developed software on the straight-line method over three years.

The Company reviews long-lived assets and certain identifiable intangibles for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future forecasted net undiscounted cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the discounted cash flows or appraised values, depending upon the nature of the assets. No such impairment charges were recognized for the years ended December 31, 2020, 2019, and 2018.

**DEFERRED RENT**

The Company recognizes rent expense on a straight-line basis. There are often differences between the amounts paid to the landlord of the operating lease and straight-line rent expense, creating deferred rent. Periodic rent increases, a period of reduced or free rent, or an upfront allowance from the lessor for tenant improvements are common situations that create deferred rent. The total minimum payments under an operating lease are calculated and then divided equally over the life of the lease to determine a straight-line rent expense. The Company recognizes free rent lease incentives and tenant improvement credits straight-line over the life of the lease.

**INCOME TAXES**

The Company is treated as a single member limited liability company (LLC) that is taxed as a disregarded entity. As such, the Company's income, losses, and credits are included in the income tax returns of Anytime Worldwide, LLC.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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The Company has evaluated its tax positions and related income tax under the Financial Accounting Standards Board's (FASB) authoritative guidance *Accounting for Income Taxes*. Management believes that since the Company is taxed as an LLC, there is not a significant impact on the Company as a result of implementing this standard. Therefore, no provision or liability for federal or state income taxes has been included in these financial statements. A provision has been made, however, for state minimum fees and other state taxes which are applicable to all entities. Because the Company is an LLC, liabilities to the members are limited.

The Company is not currently under examination by any taxing jurisdiction. In the event of any future penalties or interest, the Company has elected to record interest and penalties as income tax expense on the Company's statements of comprehensive income.

#### REVENUE FROM CONTRACTS WITH FRANCHISEES

##### *Revenue Recognition Significant Accounting Policies under ASC 606*

The Company's revenues are comprised of monthly franchise royalties, advertising fund contributions, initial franchise fees, area development fees, master franchise fees, transfer and renewal fees, corporate-owned club sales, vendor rebates and other revenues.

##### *Franchise revenue*

Franchise revenues consist primarily of monthly franchise royalties, franchise fees, and advertising fund contributions. Franchise fees consist of initial franchise fees, area development agreement ("ADA") fees, master franchise fees, and transfer and renewal fees. Beginning in 2020, franchise revenues also include fees from franchisees for consumer fitness, health, and wellness applications (Anytime Health fees).

The Company's primary performance obligation under the franchise license is granting certain rights to use the Company's intellectual property over the term of each agreement. Training and construction management services provided under the franchise agreements are distinct within the contract, and, therefore, accounted for under ASC 606 as separate performance obligations. Training and construction management services are satisfied at the time the services are performed. The franchise fees remaining after any performance obligations have been satisfied are recognized on a straight-line basis over the term of the respective agreement.

Monthly franchise royalties, Anytime Health fees, and advertising fund contributions are collected as defined in the terms of the franchise agreement. Under the Company's franchise agreements, advertising fund contributions paid by franchisees must be spent on advertising, marketing, and related activities. Initial, ADA, master, and renewal franchise fees are payable by the franchisee upon signing a new franchise agreement, and transfer fees are paid to the Company when one franchisee transfers a franchise agreement to a different franchisee. During the 2020 COVID-19 pandemic, the Company offered franchise fee relief in the form of discounts of \$6,996,239.

##### *Corporate-owned club sales*

Members are offered multiple membership choices varying in length. Membership dues are earned and recognized over the membership term on a straight-line basis. Personal training revenue is recognized at the time the service is performed. Revenue from prepayments of personal training sessions is deferred until the sessions are used or expire.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
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*Vendor Rebates*

The Company recognizes vendor rebate income from franchisees' use of certain preferred vendor arrangements. Vendor rebates are recognized when franchisees purchase services or equipment from preferred vendors and collectability from the vendor is reasonably assured.

*Other Revenues*

Other revenue consists primarily of optional local advertising, separate from the advertising fund described below. This optional advertising revenue is recognized monthly when the Company bills the franchisee.

*Sales tax*

All revenue amounts are recorded net of applicable sales tax.

*Deferred revenue*

Subsequent to the adoption of ASC 606, deferred revenue from initial franchise fees, ADA fees, master franchise fees, and renewal and transfer fees is generally recognized on a straight-line basis over the term of the underlying franchise agreement net of any performance obligations which have been satisfied. Also included in deferred revenue are corporate-owned club annual fees, monthly fees, and pre-paid personal training sessions. The Company classifies these contract liabilities as deferred revenue in the balance sheets.

*Deferred compensation*

Deferred compensation consists of commission expense resulting from the sales of initial franchises, ADA, and master franchises and is generally recognized on a straight-line basis over the term of the underlying franchise agreement. The Company classifies these contract assets as deferred compensation in the balance sheets.

*Advertising Fund*

The Company has an advertising fund for the creation and development of marketing, advertising, and related programs and materials for all clubs located in the United States and Canada. On behalf of the advertising fund, the Company collects advertising fees from franchisees, in accordance with the provisions of the franchise agreements. The use of amounts received by the advertising fund is restricted to advertising, product development, public relations, and administrative expenses and programs to increase sales and further enhance the public reputation of the Anytime Fitness brand. The Company consolidates and reports all assets and liabilities held by the advertising fund within the consolidated financial statements. Amounts received or receivable by advertising funds are reported as restricted assets within current assets on the consolidated balance sheets. Beginning in 2019 with the adoption of ASC 606, the Company records all revenues of the advertising fund, except those discussed below, within franchise revenue and all expenses of the advertising fund, except those discussed below, within the operating expenses on the consolidated statements of comprehensive income. The Company provides administrative services to the advertising fund and charges the advertising fund a fee for providing those services.

Included in the advertising fund are fees collected from franchisees related to continuing engagement credits. These funds are used by the Company at its discretion on behalf of the Anytime Fitness brand and its franchisees. These revenues and expenses are included in other revenues and general and administrative expenses, respectively, on the consolidated statements of comprehensive income.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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FRANCHISE FEES AND REVENUE RECOGNITION SIGNIFICANT ACCOUNTING POLICIES UNDER PREVIOUS STANDARDS, PRIOR TO JANUARY 1, 2019 IF DIFFERENT THAN UNDER ASC 606

Prior to the adoption of ASC 606, the Company's advertising fund contributions were recognized as a liability on the balance sheet and subsequent payments for advertising were offset against the liability as incurred. Initial, ADA, master, and transfer and renewal franchise fees were recognized as revenue when all of the initial services required by the Company under the terms of the franchise agreement had been performed.

CONFERENCE

The Company hosts a conference every other year and encourages all franchisees to attend this meeting. Since the Company is not in the business of hosting conferences, the Company records the receipts and expenses as net expense in general and administrative expenses on the consolidated statements of comprehensive income.

ADVERTISING COSTS

Advertising costs associated with solicitation of new franchisees are expensed as incurred. Advertising costs totaled \$1,114,643, \$2,746,581, and \$1,483,510 for the years ended December 31, 2020, 2019, and 2018, respectively.

FAIR VALUE MEASUREMENTS

The Company follows the provisions of FASB's authoritative guidance regarding *Fair Value Measurements*. This guidance defines fair value as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date and establishes a fair value hierarchy categorized into three levels based on the inputs used.

Generally, the three levels are as follows:

- Level 1 – Quoted prices in active markets for identical assets.
- Level 2 – Significant other observable inputs.
- Level 3 – Significant unobservable inputs.

The Company does not have any significant fair value measurements on a recurring or non-recurring basis for the years ended December 31, 2020, 2019, and 2018.

The carrying amount of cash and cash equivalents, receivables, accounts payable and accrued liabilities approximates fair value because of the short maturity of these instruments. See Note 6 for fair value of long-term notes receivable and Note 11 for fair value of long-term debt obligations.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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RECENT ACCOUNTING PRONOUNCEMENTS

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*. The guidance in this ASU supersedes the leasing guidance in Topic 840, *Leases*. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The new standard is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. The Company is currently evaluating the impact of this new standard on the consolidated financial statements.

RECENTLY ADOPTED ACCOUNTING PRONOUNCEMENTS

The Company transitioned to FASB Accounting Standards Codification (“ASC”) Topic 606, *Revenue From Contracts with Customers* (“ASC 606”), from ASC Topic 605, *Revenue Recognition* and ASC Subtopic 952-605, *Franchisors –Revenue Recognition* (together, the “Previous Standards”) on January 1, 2019 using the modified retrospective transition method. The Company’s consolidated financial statements reflect the application of ASC 606 guidance beginning in 2019, while the Company’s consolidated financial statements for prior periods were prepared under the guidance of Previous Standards. The \$29,512,772 cumulative effect of the Company’s transition to ASC 606 is reflected as an adjustment to January 1, 2019 member’s capital.

The Company’s transition to ASC 606 represents a change in accounting principle. ASC 606 eliminates industry-specific guidance and provides a single revenue recognition model for recognizing revenue from contracts with customers. The core principle of ASC 606 is that a reporting entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the reporting entity expects to be entitled in exchange for those goods or services.

The cumulative effect of this transition for contracts with franchisees that were not completed as of January 1, 2019 was recorded as an adjustment to member’s capital as of that date. As a result of applying the modified retrospective method to transition to ASC 606, the following adjustments were made to the consolidated balance sheet as of January 1, 2019:

	As Reported December 31, 2018	Total Adjustments	Adjusted January 1, 2019
Assets			
Current assets:			
Deferred compensation, current portion	\$ -	\$700,749	\$700,749
Other assets:			
Deferred compensation, net of current portion	-	1,800,681	1,800,681
Liabilities and equity			
Current liabilities:			
Deferred revenue, current portion	677,067	9,218,041	9,895,108
Advertising obligation	1,940,935	(1,940,935)	-
Long-term liabilities:			
Deferred revenue, net of current portion	-	24,737,096	24,737,096
Equity:			
Member's capital	15,661,925	(29,512,772)	(13,850,847)

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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*Franchise Fees*

The cumulative adjustment for initial franchise fees, ADA fees, master franchise fees, and renewals and transfers of which the remainder will all be recognized over the franchise contract term after any performance obligations have been satisfied, consists of the following:

- An increase in deferred revenue, net of \$33,955,137 for the cumulative reversal and deferral of previously recognized fees related to franchise agreements in effect at January 1, 2019, with a corresponding decrease to member's capital.

*Advertising Fund*

The cumulative adjustment for advertising fund recognition under ASC 606 is as follows:

- A decrease to the advertising obligation of \$1,940,935 for the cumulative reversal of previously deferred funds collected in excess of expenses incurred at January 1, 2019, with a corresponding increase to member's capital.

*Deferred compensation*

The cumulative adjustment for deferred compensation recognized under ASC 606 is as follows:

- An increase to deferred compensation of \$2,501,430 for the cumulative reversal of previously recognized expenses related to commission payments in effect at January 1, 2019, with a corresponding increase to member's capital.

The following tables reflect the impact of adoption of ASC 606 on the consolidated statements of comprehensive income for the year ended December 31, 2019 and the Company's consolidated balance sheet as of December 31, 2019 and the amounts as if the Previous Standards were in effect ("Amounts Under Previous Standards"):

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
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*Summarized Consolidated Statement of Income (Operations):*

	As reported for the year ended December 31, 2019	Total adjustments	Amounts under Previous Standards
Revenues:			
Monthly franchise royalties	\$23,236,350	\$ -	\$23,236,350
Franchise fees	10,098,278	2,336,756	12,435,034
Sales	8,080,220		8,080,220
Advertising fund revenue	15,222,202	(15,222,202)	-
Vendor rebates	41,529,570	-	41,529,570
Other revenues	3,369,303	(577,200)	2,792,103
Total revenues	<u>101,535,923</u>	<u>(13,462,646)</u>	<u>88,073,277</u>
Cost of goods sold	<u>2,023,387</u>	<u>-</u>	<u>2,023,387</u>
Gross profit	99,512,536	(13,462,646)	86,049,890
General and administrative expenses	41,692,842	(485,450)	41,207,392
Advertising fund expense	<u>14,578,305</u>	<u>(14,578,305)</u>	<u>-</u>
Income from operations	<u>\$43,241,389</u>	<u>\$1,601,109</u>	<u>\$44,842,498</u>

*Summarized Consolidated Balance Sheet:*

	As reported for the year ended December 31, 2019	Total Adjustments	Amounts under Previous Standards
Assets			
Current assets:			
Deferred compensation, current portion	\$627,737	(\$627,737)	\$ -
Other assets:			
Deferred compensation, net of current portion	1,513,623	(1,513,623)	-
Liabilities and Equity			
Current liabilities:			
Deferred revenue, current portion	8,731,085	(8,279,814)	451,271
Advertising obligation	-	3,036,652	3,036,652
Long-term liabilities:			
Deferred revenue, net of current portion	28,012,079	(28,012,079)	-
Equity:			
Member's capital	16,482,159	31,113,881	47,596,040

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2020, 2019, and 2018

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SUBSEQUENT EVENTS

Effective January 15, 2021, the Company purchased a club from a franchisee. The future minimum lease payments disclosed in Note 12 have been updated to include future lease payments related to the club purchased.

Subsequent events have been evaluated by management for recognition or disclosure through March 18, 2021, which is the date the consolidated financial statements were available to be issued.

RECLASSIFICATIONS

Certain amounts in the December 31, 2019 and 2018 consolidated financial statements have been reclassified to conform to the current year presentation. These reclassifications had no effect on previously reported consolidated net income.

**Note 2 FRANCHISE INFORMATION**

As of December 31, 2020, the Company had sold 6,390 territories, of which 374 were sold in 2020. Of the territories sold, 4,837 total fitness centers were open with 364 opened in 2020.

As of December 31, 2019, the Company had sold 6,117 territories, of which 595 were sold in 2019. Of the territories sold, 4,719 total fitness centers were open with 551 opened in 2019.

As of December 31, 2018, the Company had sold 5,622 territories, of which 621 were sold in 2018. Of the territories sold, 4,284 total fitness centers were open with 485 opened in 2018.

**Note 3 CORPORATE-OWNED FITNESS CENTERS**

As of December 31, 2020, the Company was the owner/operator of 13 fitness centers. Revenue and expenses for the corporate-owned fitness clubs were \$3,926,013 and \$4,889,231, respectively. The Company closed one club in 2020.

As of December 31, 2019, the Company was the owner/operator of 14 fitness centers. Revenue and expenses for the corporate-owned fitness clubs were \$8,012,965 and \$7,282,254, respectively. The Company sold 14 clubs for a gain of \$1,396,838 in 2019.

As of December 31, 2018, the Company was the owner/operator of 28 fitness centers. Revenue and expenses for the corporate-owned fitness clubs were \$13,275,530 and \$13,608,665, respectively. The Company sold four clubs for a gain of \$123,096 and closed one club in 2018.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
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**Note 4 RELATED PARTY TRANSACTIONS**

DUE FROM RELATED PARTIES

At December 31, 2020, 2019, and 2018, the Company has receivables from entities related by common ownership in the amount of \$6,775,015, \$15,638,402, and \$5,165,257, respectively. The receivables are due on demand.

DUE TO RELATED PARTIES

At December 31, 2020, 2019, and 2018, the Company has payables to entities related by common ownership in the amount of \$360,306, \$401,321, and \$142,421, respectively. The payables are due on demand.

NOTE RECEIVABLE RELATED PARTY

During 2019, the Company entered into a lending agreement with a related party, in which the Company advanced \$21,000,000 to Self Esteem Brands, LLC. The note requires interest at 2.00% and is unsecured. The note is due on demand; however, the Company has classified the note as long-term due to the expected repayment to be more than one year from issuance. At December 31, 2020, 2019, and 2018, the balance on the note was \$6,000,000, \$21,000,000, and \$0, respectively.

**Note 5 GUARANTEES**

The Company is a guarantor on a note payable for Self Esteem Brands, LLC. The Company is contingently liable for up to \$5,000,000. The note is also guaranteed by other direct and indirect subsidiaries of Anytime Worldwide, LLC. The note is secured by certain other assets.

The Company has provided recourse for certain franchisee's purchases of equipment and is also a guarantor on certain franchisee leases and reinvention loans. Should the franchisee be delinquent on its equipment or lease payments, the Company will be obligated to perform under the guarantee by making the required payments of rent and other amounts payable. The maximum potential amount of future payments that the Company is required to make under the guarantees is \$126,566 at December 31, 2020. The Company records a liability if the event of default becomes probable. As of December 31, 2020, no liability is recorded.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**Note 6 NOTES RECEIVABLE**

Notes receivable at December 31 consist of the following:

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Notes receivable from franchisees, interest rate at 1% due in monthly installments of \$4,254 with final payment due from franchisee May 2024. The notes are secured by inventory, equipment, accounts receivable, and intangibles of the franchisee.	\$175,279	\$214,266	\$322,868
Less: Current portion	<u>(50,683)</u>	<u>(58,437)</u>	<u>(116,042)</u>
Notes receivable, net of current portion	<u>\$124,596</u>	<u>\$155,829</u>	<u>\$206,826</u>

**Note 7 ACCOUNTS RECEIVABLE**

Accounts receivable are composed of the following types of receivables at December 31:

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Franchise fees	\$51,842	\$17,000	\$ -
Monthly franchise royalties	309,407	133,754	270,589
International franchise and royalty fees	2,491,187	2,442,783	2,029,568
Other	698,573	34,155	189,667
Allowance for doubtful accounts	<u>(238,086)</u>	<u>(148,294)</u>	<u>(10,000)</u>
Total accounts receivable	<u>\$3,312,923</u>	<u>\$2,479,398</u>	<u>\$2,479,824</u>

**Note 8 FIXED ASSETS**

Fixed assets are composed of the following at December 31:

	<u>2020</u>	<u>2019</u>	<u>2018</u>
Depreciable assets:			
Leasehold improvements	\$3,459,590	\$3,514,023	\$6,766,370
Equipment	2,844,157	2,778,346	2,821,372
Fitness equipment	2,280,256	2,463,083	4,662,008
Autos and trucks	308,643	308,643	308,643
Furniture and equipment	320,493	302,588	410,128
Total assets	<u>9,213,139</u>	<u>9,366,683</u>	<u>14,968,521</u>
Less: Accumulated depreciation	<u>(7,537,330)</u>	<u>(7,125,071)</u>	<u>(10,139,361)</u>
Property and equipment, net	<u>\$1,675,809</u>	<u>\$2,241,612</u>	<u>\$4,829,160</u>

Depreciation expense for the years ended December 31, 2020, 2019, and 2018 amounted to \$812,851, \$1,127,288, and \$1,694,025, respectively.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
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**Note 9 TRADEMARKS, SOFTWARE DEVELOPMENT AND LICENSES**

Trademarks, software development and licenses consist of the following at December 31:

	2020	2019	2018
Amortizable trademarks	\$465,949	\$465,949	\$447,384
Less: Accumulated amortization	(146,536)	(115,473)	(84,715)
Amortizable trademarks, net	319,413	350,476	362,669
Trademarks in progress	10,597	1,511	20,608
Trademarks, net	<u>\$330,010</u>	<u>\$351,987</u>	<u>\$383,277</u>
Amortizable software development and licenses	\$8,866,476	\$7,056,379	\$6,668,106
Less: Accumulated amortization	(6,385,837)	(5,503,420)	(4,350,377)
Amortizable software development and licenses, net	2,480,639	1,552,959	2,317,729
Software development in progress	2,570,890	1,762,645	305,995
Software development and license costs, net	<u>\$5,051,529</u>	<u>\$3,315,604</u>	<u>\$2,623,724</u>

Amortization expense for the years ended December 31, 2020, 2019, and 2018 amounted to \$913,480, \$1,184,333, and \$819,693, respectively.

Future amortization of in-service trademarks, software development and licenses is as follows:

Year Ending December 31,	Amount
2021	\$1,291,629
2022	688,009
2023	594,192
2024	31,063
2025	31,063
Thereafter	164,096
Total	<u>\$2,800,052</u>

**Note 10 DEFERRED REVENUE**

The following table reflects the change in deferred revenue between December 31, 2019 and December 31, 2020.

Balance at December 31, 2019	\$36,743,164
Revenue recognized that was included in the contract liability at the beginning of the year	(9,075,924)
Increase, excluding amounts recognized as revenue during the period	7,427,795
Balance at December 31, 2020	<u>\$35,095,035</u>

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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The following table illustrates estimated revenues expected to be recognized in the future related to performance obligations that are unsatisfied (or partially unsatisfied) as of December 31, 2020. The Company has elected to exclude short-term contracts, franchise fee royalties and any other variable consideration recognized on an "as invoiced" basis.

Deferred revenue to be recognized in:	Amount
2021	\$8,308,481
2022	6,708,696
2023	5,607,470
2024	4,381,514
2025	2,934,080
Thereafter	7,154,794
Total	<u>\$35,095,035</u>

The summary set forth below represents the balances in deferred revenue as of December 31:

	2020	2019	2018
Franchise fees	\$34,583,059	\$36,291,893	\$ -
Prepaid personal training	470,721	422,293	544,229
Prepaid membership fees	41,255	28,978	132,838
Total deferred revenue	<u>35,095,035</u>	<u>36,743,164</u>	<u>677,067</u>
Long-term portion of deferred revenue	26,786,554	28,012,079	-
Current portion of deferred revenue	<u>\$8,308,481</u>	<u>\$8,731,085</u>	<u>\$677,067</u>

**Note 11 CAPITALIZED LEASE OBLIGATIONS**

The Company leased certain fitness equipment under capital leases. The agreements required monthly payments totaling \$15,441, including interest at 5.12% to 5.67%.

The following equipment is held under capital leases at December 31:

	2020	2019	2018
Fitness equipment	\$ -	\$ -	\$512,927
Less: Accumulated depreciation	-	-	(228,445)
Net fitness equipment	<u>\$ -</u>	<u>\$ -</u>	<u>\$284,482</u>

Depreciation of equipment held under capital leases was \$0, \$58,971, and \$101,346 for the years ended December 31, 2020, 2019, and 2018, respectively.

**ANYTIME FITNESS, LLC AND SUBSIDIARIES**  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
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**Note 12 BUILDING AND EQUIPMENT OPERATING LEASES**

The Company leases various facilities under operating leases with terms that expire at various dates through February 2028. Under certain facility leases, the Company is obligated to pay all repair and maintenance costs. Total rent expense was \$2,000,659, \$2,744,950, and \$3,950,855 for the years ended December 31, 2020, 2019, and 2018, respectively.

The future minimum rental payments due under non-cancelable operating leases at December 31, 2020 are as follows:

2021	\$1,120,996
2022	885,524
2023	525,662
2024	351,123
2025	341,899
Thereafter	354,871
Total lease commitments	<u>\$3,580,075</u>

**Note 13 CONTINGENCIES**

The Company is subject to various claims, legal proceedings and investigations covering a wide range of matters that may arise in the ordinary course of business. Management believes the resolutions of claims and pending litigation will not have a material effect, individually or in the aggregate, on the consolidated financial statements of the Company.

The Company accrued a contingent liability of \$330,000 related to lease agreements for three former corporate-owned fitness centers. This amount is included in accrued expenses and other current liabilities on the consolidated balance sheets.

**WAXING THE CITY**

**EXHIBIT E**

**WAXING THE CITY WORLDWIDE, LLC  
FRANCHISE AGREEMENT, GUARANTY,  
GENERAL RELEASE AND STATE SPECIFIC  
ADDENDA**



FRANCHISE AGREEMENT

WAXING THE CITY WORLDWIDE, LLC

111 Weir Drive  
Woodbury, Minnesota 55125  
(866) 956-4612  
[www.waxingthecity.com](http://www.waxingthecity.com)

**WAXING THE CITY FRANCHISE AGREEMENT**

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WAXING THE CITY  
FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“Agreement”) is made as of the Effective Date set forth in the Rider attached to this Agreement (the “Rider”) between WAXING THE CITY WORLDWIDE, LLC, a Minnesota limited liability company (“we” or “us”) and the person or persons named in the Rider as “Franchisee” (“you”).

RECITALS:

A. We have invested substantial time, effort and money to develop a system of operating boutique studios that offer body and facial waxing services to the general public, as well as other related products and services under the federally registered trademark, “Waxing the City<sup>®</sup>,” and other trademarks, service marks, and intellectual property rights. We grant franchises to qualified candidates for the operation of a facial and body waxing business. We license our trademark rights in “Waxing the City” and may in the future adopt, use and license additional or substitute trademarks, service marks, logos and commercial symbols in connection with the operation of Waxing the City studios (collectively the “Marks”). Waxing the City studios use our methods, procedures, standards, specifications and the Marks (all of which are collectively referred to as the “System”) which we may improve, further develop or otherwise modify from time to time.

B. You acknowledge that you have had an adequate opportunity to be thoroughly advised of the provisions of this Agreement and our Franchise Disclosure Document and have had sufficient time and opportunity to evaluate and investigate the System and the procedures and financial requirements associated with the System, as well as the competitive market in which it operates.

C. You desire to operate a Waxing the City franchise which will conform to our uniform requirements and quality standards as established from time to time by us.

AGREEMENTS:

1. GRANT OF FRANCHISE; FRANCHISED LOCATION

A. Grant of Franchise. Subject to the provisions stated below, we license to you a personal franchise to operate a Waxing the City business (your “Waxing Studio”) in conformity with our System. You accept the license and undertake the obligation to operate your Waxing Studio using the System and in compliance with our standards. If you would like to open a second or subsequent location, you must sign a new franchise agreement on our then-current form for each location, and pay the applicable franchise fees for each location.

B. DMA Search Area. You have the right to operate the Waxing Studio at one (1) location only. We must approve this location. The location we approve will be denoted on the Rider to this Agreement (the “Franchised Location”). The Waxing Studio must be located in the non-exclusive area described in the Rider to this Agreement (the “DMA”), but outside of any protected territory we have granted to another Waxing the City franchisee. You acknowledge that we may seek and acquire sites in the DMA for company or affiliate-owned locations, grant others the right to seek or acquire sites within the DMA, and that we may actually provide others with sites in the DMA, and that you acquire no exclusive or priority rights in such area. We may modify the boundaries of your DMA if The Nielsen Company, LLC or its successor changes the applicable defined market area of your DMA. If we do so, we will provide you with notice of the change along with the updated Rider to this Agreement which you consent to us amending, without your signature, to change the DMA.

C. Site Assistance/Location. You acknowledge that we may locate, or provide assistance to you and other Waxing the City franchisees in the location of, potential sites in the DMA for Waxing the City studios. To the extent we locate sites or provide such assistance to you we have no obligation to provide you with any site we may identify but any site you identify must be provided to us. We can then acquire the site ourselves, or give other franchisees the right to acquire that site and you acknowledge and agree that by providing us with a potential site you obtain no priority with respect to that site. If you provide us a potential site we will inform you within thirty (30) days after receipt of the information and materials we request regarding the site whether we will acquire the site, or otherwise approve the site, and if so, whether we will allow you to attempt to acquire the site or if we are going to provide the site to other franchisees who may be looking for sites in the DMA. You may not enter into a lease or sublease for this site, or otherwise acquire this site, unless and until we have given you that permission in writing to do so.

If we provide you a potential site, you will have the right to accept it or reject it within the time period we set. However, we may have also provided this same site to one or more other franchisees and in the event multiple franchisees accept a site, we will select, in our sole discretion, the franchisee to whom we award the site. Notwithstanding the foregoing, it shall be your responsibility to identify and ultimately acquire an appropriate site, acceptable to us, for the operation of the Waxing Studio. In consideration for any assistance we provide with respect to the identification or approval of potential sites, you acknowledge and agree that we shall not be responsible for your results in operating at any particular site that may have been recommended, reviewed, or approved by us and that our approval does not constitute a representation, guaranty or warranty, express or implied, of the successful operation or profitability of the Waxing Studio at that location.

D. Site Acquisition. After we have informed you that you may acquire a site for your Waxing Studio, you will have thirty (30) days after our notice to acquire the site by lease, sublease or purchase. Within such time period, you must furnish us with evidence reasonably acceptable to us of your acquisition of the site. If you fail to acquire the site within such time period or furnish us with the evidence of acquisition we request, the site will go back into the pool of potential available sites in the DMA and we can acquire the site ourselves or provide the site to another franchisee.

E. Rider Updates. Following our approval of the site and your acquisition of it, you authorize us to amend the Rider to this Agreement, without your signature, to identify: (i) the address of the Franchised Location; (ii) the "Protected Territory" via a map or description of an area surrounding the Franchised Location; and (iii) the "Required Opening Date" for your Waxing Studio.

F. Protected Territory. Except as specified in this Section 1.F, in Section 1.B, or in the Rider, during the term of this Agreement, we will not operate or license to anyone else the right to operate a Waxing the City studio from any location physically located in the Protected Territory. You acknowledge and agree that: (i) we and our affiliates have the right to grant other franchises or licenses and to operate company or affiliate owned Waxing the City studios at locations outside the Protected Territory even if they compete with your Waxing Studio for customers who may live and/or work in or near the Protected Territory; and (ii) we and our affiliates have the right to operate, and to grant franchises or licenses to others to operate, any other business from locations within the Protected Territory under trademarks other than "Waxing the City", without compensation to you. In addition, the boundaries of your Protected Territory may overlap with a territory we grant to another franchisee or to a Waxing the City studio we or our affiliates operate, so long as no other Waxing the City studio is physically located within your Protected Territory.

G. Additional Reservation of Rights. We and our affiliates reserve any and all rights not expressly granted to you under this Agreement, including, without limitation, the right to sell anywhere (including within the Protected Territory) products and services (including to your customers) under the "Waxing the City" name, or under any other name, through any channel of distribution.

H. Limitations. The rights and privileges granted to you under this Agreement are personal in nature and may not be used at any location other than the Franchised Location. You do not have the right to delegate, subfranchise, or sublicense any of your rights under this Agreement. Without our written consent, you may not use the Franchised Location for any purpose other than the operation of a Waxing the City studio.

## 2. TERM; RENEWAL RIGHTS

A. Initial Term. The term of this Agreement is for six (6) years commencing on the Effective Date of this Agreement, unless terminated earlier as provided in this Agreement.

B. Renewal. You have the right to renew your Waxing Studio franchise for the Franchised Location for an additional five (5) year term, provided you meet all of the following conditions:

1. you have given us written notice at least two hundred ten (210) days prior to the end of the then current term of this Agreement of your desire to renew;

2. you and all entities you are a member, partner or shareholder of, are in compliance with all agreements between you and us and between you and our affiliates, and there has been no series of defaults by you thereunder (i.e., an abnormal frequency of defaults or a default that has occurred repeatedly, or a combination thereof), whether or not such defaults were cured;

3. you make, or provide for in a manner satisfactory to us, such renovation and re-equipping of your Waxing Studio as we deem appropriate to reflect the then-current standards and image of the System, including, without limitation, renovation or replacement of signs, equipment, furnishings, fixtures and decor;

4. you pay us a renewal fee at least fifteen (15) days prior to the expiration of the initial term of this Agreement in an amount equal to Six Thousand Dollars (\$6,000) (which we will reduce to Five Thousand Dollars (\$5,000) if we receive all your signed renewal documents, and this fee, at least thirty (30) days before this Agreement expires) (the "Renewal Fee");

5. you sign the standard Franchise Agreement then being used by us within thirty (30) days of receipt, provided that you pay the Renewal Fee in lieu of the Initial Franchise Fee set forth in the then-current Franchise Agreement. The terms of such Franchise Agreement may differ from this Agreement, including higher fees and a modification to the Protected Territory based upon our then-current methods of determining Protected Territory areas (and which may include a reduction in the Protected Territory);

6. you present satisfactory evidence that you have the right to remain in possession of the Franchised Location for the duration of the renewal term, unless we determine that the location of your business is no longer viable for the operation of your Waxing Studio, in which case we may condition your right to renew on your obtaining a new site for your Waxing Studio that we approve;

7. your management staff and each aesthetician you employ in your Waxing Studio successfully completes any refresher training prescribed by us at least thirty (30) days prior to the expiration of the term of this Agreement; and

8. at the time you sign the Franchise Agreement to renew your franchise, you sign and deliver to us a general release, in the form we prescribe, releasing, to the fullest extent permitted under the laws of the state where your Waxing Studio is located, all claims that you may have against us and our

affiliates and our respective current and former officers, directors, shareholders, employees, insurers, consultants, contractors and agents, in both their corporate and individual capacities.

If you fail to timely comply with any provision of this Section 2.B, time being of the essence, we will at all times thereafter be permitted to operate or license to someone else the right to operate a Waxing the City studio from any location in the Protected Territory, and you specifically grant to us and to the owner of that studio the right to contact the customers of your Waxing Studio, notify them that you have chosen not to renew your relationship with us, and solicit those customers to patronize a new Waxing the City studio in the Protected Territory.

To make it easier for you to renovate and re-equip your Waxing Studio when you want to renew the Franchise, we recommend that you set aside a monthly amount equal to \$0.25 per square foot of your Waxing Studio in an account to be used as seed money to bring your Waxing Studio up to current standards. We reserve the right to require you to pay these amounts to us to hold for you, but if we impose this obligation, we will release the funds to you as needed for you to complete your obligation to renovate and re-equip your Waxing Studio. While we do not expect these funds will cover the entire cost of both the remodeling and new equipment you will need, if we do collect these amounts and they exceed the amount you need, we will refund the excess amounts to you upon completion of the renovation and re-equipping and of your Waxing Studio.

### 3. MARKS AND COPYRIGHTS

A. Identity of Your Waxing Studio. Your Waxing Studio will be identified by the trademark “Waxing the City®,” and such other names and logos as we prescribe from time to time.

B. Ownership of Mark. You agree that we own the Marks and the System. You also agree that any and all improvements and derivations by you relating to the Marks and System are our sole property and you hereby assign to us the same, together with the goodwill associated with the same. We will have the exclusive right to register and protect all such improvements and derivations of the Marks and the System.

C. Use. Your right to use and identify with the Marks and System applies only to the Franchised Location, and exists concurrently with the term of this Agreement and only so long as you are in complete compliance with our quality standards. You will have the right to use the Marks and System only in the manner prescribed, directed and approved by us in writing. You will not have or acquire any rights in any of the Marks or System other than the right of use as governed by this Agreement. You may not authorize others to use or reproduce our Marks without our prior written consent. Your use of the Marks and any resulting goodwill will be to our exclusive benefit. If, in our judgment, your conduct infringes upon or demeans the goodwill, standards of uniformity or quality, or business standing associated with the Marks or the System, you will immediately, upon written notice from us, modify your use of the Marks and the System in the manner prescribed by us in writing. You will not during or after the term of this Agreement do anything directly or indirectly which would disparage, infringe upon, harm, or contest our rights in, the Marks or System.

D. Promotion. You will operate your Waxing Studio so that it is clearly identified and advertised as a Waxing the City studio. The style, form and use of the words “Waxing the City” in any advertising, written materials, products or supplies, including but not limited to any Technology Platform (defined below), must, however, have our prior written approval and comply with our specifications as we may prescribe in writing and as set forth in the Manual, or otherwise. You will use the trademark “Waxing the City®” and the other Marks which now or hereafter may form a part of the System, on all signs, paper supplies, business cards, uniforms, advertising materials, Technology Platforms, signs and other articles in the identical combination and manner as we may prescribe in writing and you will supply to us samples or

photographs of the same upon our request. You will comply with all trademark, trade name, service mark and copyright notice marking requirements and you will supply to us samples or photographs of the same upon our request. You will not use the words “Waxing the City” in your corporate, partnership, limited liability company or other entity name.

E. Substitutions of, or Adverse Claims to, Marks. We have the right to protect and maintain all rights to the Marks against encroachment, misuse or unauthorized use and against all challenges to any rights of its use, as we deem appropriate. If it becomes advisable at any time, in our sole discretion, to modify or discontinue use of any Mark, or to discontinue using any Mark, or if there is an adjudication by a court of competent jurisdiction that any party’s rights to any of the Marks are superior to ours, then upon written notice from us, you will, at your sole expense, immediately adopt and use the changes and amendments to the Marks that are specified by us in writing, and if the Mark that is changed is the name “Waxing the City,” then all references in this Agreement to the name “Waxing the City” will be deemed references to such substitute Mark. If we modify or discontinue use of any Mark, you will immediately cease using the Marks specified by us, and will, as soon as reasonably possible, commence using the new trademarks, trade names, service marks, logos, designs and commercial symbols designated by us in connection with all advertising, marketing and promotion of your Waxing Studio. We will have no liability or obligation whatsoever with respect to your modification or discontinuance of any Mark. You will not make any changes or amendments in or to the use of the Marks or System unless directed by us in writing.

F. Litigation. You will have no obligation to and will not, without our prior written consent, defend or enforce any of the Marks in any court or other proceedings for or against imitation, infringement, any claim of prior use, or for any other allegation. You will, however, immediately notify us of any claims or complaints made against you with respect to the Marks and will, at your reasonable expense, cooperate in all respects with us in any court or other proceedings involving the Marks. We will pay the cost and expense of all litigation incurred by us, including attorneys’ fees, specifically relating to the Marks. We will have the right to control and conduct any litigation relating to the Marks and be entitled to all recovery related to claims with respect to the Marks. While we are not required to defend you against a claim based on your use of the Marks, we will reimburse you for your liability arising from your authorized use of the Marks. You will also be required to reimburse us for liability arising out of your unauthorized use of any of the Marks.

G. Copyrighted Materials. You acknowledge and agree that we may authorize you to use certain copyrighted or copyrightable works (the “Copyrighted Materials”), including the Manual (as defined below). The Copyrighted Materials are our valuable property. Your rights to use the Copyrighted Materials are granted to you solely on the condition that you comply with the terms of this Agreement. Your use of the Copyrighted Materials does not vest you with any interest other than the temporary, non-exclusive license to use the Copyrighted Materials granted in this Agreement. All rights that inure as a result of the use of the Copyrighted Materials belong solely to us.

H. Protection. You will sign any documents that we or our counsel deem necessary for the protection of the Copyrighted Materials or the Marks or to maintain their validity or enforceability, or to aid us, at our expense, in acquiring rights in or in registering any of the Marks or any trademarks, trade names, service marks, slogans, logos or emblems that we subsequently adopt.

#### 4. INITIAL FRANCHISE FEE

A. Initial Franchise Fee. Upon execution of this Agreement you will pay us a nonrefundable initial franchise fee (the “Initial Franchise Fee”) as set forth in the Rider.

B. No Refunds. The Initial Franchise Fee has been fully earned upon our signing of this Agreement and is nonrefundable in consideration of the expenses incurred by us in granting this franchise and for the lost or deferred opportunity to franchise others.

5. FEES

A. Weekly Royalty Fee. On the first Monday of each week, you will pay to us a non-refundable weekly royalty payment (the "Royalty Fee") equal to the greater of (i) One Hundred Dollars (\$100) per week, or (ii) six percent (6%) of the Gross Revenues generated in the preceding week by your Waxing Studio.

1. Your obligation to pay us the Royalty Fee under the terms of this Agreement will begin on the earlier of the first full month of the month after you open your Waxing Studio or the date that is twelve (12) months from the Effective Date. If you have engaged one of our affiliates to provide you with site selection services and you are actively working with such affiliate to obtain a site, we will waive the Royalty Fee until you begin operating your Waxing Studio. Your obligation to pay the Royalty Fee will remain in full force and effect throughout the term of this Agreement.

2. "Gross Revenues" also referred to as Net Collections, shall mean the total amount of revenues generated from all business activities taking place by, through or at the Waxing Studio, in the form of cash or credit, plus the fair market value of products delivered and services rendered to you, or to your designee, in consideration for products and services provided in, from, or in conjunction with your Waxing Studio. There will be excluded from "Gross Revenues" bona fide refunds, credits given or allowed to customers for the return of merchandise and amounts collected from customers and remitted by you to any governmental taxing authority in satisfaction of sales taxes, however, chargebacks are not deducted from the calculation of Gross Revenues.

B. Monthly Advertising and Marketing Fund Contribution. On the first Monday of each month, you will pay to us a non-refundable monthly "General Advertising and Marketing Fund Contribution" equal to two percent (2%) of the previous calendar month's Gross Revenues from your Waxing Studio (the "General Advertising and Marketing Fund Contributions"). We may periodically increase the General Advertising and Marketing Fund Contribution; provided that the General Advertising and Marketing Fund Contributions will not exceed three percent (3%) of your Gross Revenues. We will account for all General Advertising and Marketing Fund Contributions we receive as part of a "General Advertising and Marketing Fund."

1. We may use General Advertising and Marketing Fund Contributions for any purpose that promotes the System, the Marks or the Waxing the City® name as we deem appropriate in our sole discretion, which may include the creation, production and placement of consumer advertising; agency costs and commissions; costs of preparing, producing and conducting local, regional or national media of our choice, including: television, radio, internet, magazine, direct mail and newspaper, billboard, social media and digital advertising, and direct mail campaigns, and other public relations activities; developing and/or hosting, maintaining and optimizing our website, other websites, and other applications or similar activities; implementing keyword or adword purchasing programs; administering regional or multi-regional advertising programs and other media advertising; in-house staff assistance and related administrative costs; local and regional promotions; public relations campaigns including the cost of retaining public relations firms and other advertising, promotion or marketing agencies; developing marketing and advertising training programs and conducting market research (including sampling) and secret shopper programs; and other advertising, promotion and marketing activities, including participating at trade shows. For the avoidance of any doubt, we may also reimburse ourselves, our authorized representatives or our affiliates from the General Advertising and Marketing Fund for any expenses incurred by us or any of them related to the promotion of the Waxing the City® brand, the Marks or the System, including administrative costs,

independent audits, reasonable accounting, bookkeeping, reporting and legal expenses, taxes and all other reasonable direct or indirect expenses that may be incurred by us, them or our authorized representatives and associated with the programs funded by the General Advertising and Marketing Fund. Advertising may be placed in local, regional or national media of our choice. We do not guarantee that advertising expenditures from the General Advertising and Marketing Fund will benefit you or any other franchisee directly, on a pro rata basis, or at all.

2. All interest, if any, earned by the General Advertising and Market Fund will be used for the payment of the foregoing expenses before application of any principal.

3. Methods, media employed, the contents of advertising and marketing, and terms and conditions of advertising, marketing and promotional programs, will be in our sole discretion.

## 6. ADVERTISING AND PROMOTION

A. Local Advertising & Minimum Spend Requirement. In addition to the General Advertising and Marketing Fees, you agree to conduct your own local marketing of your Waxing Studio, either alone or in combination with other Waxing the City studio owners in your market. You must spend a minimum of One Thousand Five Hundred Dollars (\$1,500) per month on local advertising, after completion of the Grand Opening and Ramp Up Plan (described below) to promote your Waxing Studio. You must use our preferred vendors for your Grand Opening and Ramp Up Plan for your Waxing Studio, and we may require you to submit your grand opening plans and local marketing plans for our prior approval, submit receipts to verify you have met minimum spend requirements, and show proof of performance of your advertising activity. If you fail to spend the minimum required amount on local advertising in any calendar year, we may require you to pay the difference between what you should have spent on local advertising and what you actually spent into the General Advertising and Marketing Fund. We reserve the right to audit your records upon request to determine compliance with this requirement. You acknowledge that it is your responsibility to market your Waxing Studio, and that the General Advertising and Marketing Fees are merely used to supplement the local marketing conducted by each of our franchisees. We may, at our option, require you to submit to us for our prior approval any advertising you propose to use for the promotion of your Waxing Studio. You also must purchase a representative sample of all marketing materials we prepare for brand level promotions. We may prescribe minimum amounts of these materials that you must purchase.

B. Supplies and Marketing Materials. Before opening your Waxing Studio, you will purchase initial supplies and marketing materials, including business cards, thank you notes, brochures for our membership program, studio intake forms, appointment reminder cards, business stationery (letterhead) and similar items. We will make these items available for purchase from us, and will provide recommended suppliers for additional marketing materials, such as branded promotional props and signage for trade shows. If you order items other than those or have approved, you must obtain our prior approval of such items. We may require you to purchase minimum amounts of business supplies and marketing materials during the term of this Agreement. The amounts you pay for these items are nonrefundable and must be paid at the times we specify. These items will not constitute all of the items you will need to market your Waxing Studio and you will need to purchase other items.

C. Grand Opening and Ramp Up Plan. You must spend a minimum of Twenty-Five Thousand Dollars (\$25,000) for a "Grand Opening and Ramp Up Plan" for grand opening and local advertising. Activities in the plan may start as early as your lease is signed (up to one hundred and twenty (120) days before your Waxing Studio opens) and will extend up to ninety (90) days after the opening of your Waxing Studio. We require that you work with one or more vendors that we designate to execute the Grand Opening and Ramp Up Plan. You must provide us proof of the amounts paid to all vendors used in your Grand Opening and Ramp Up Plan within three (3) months of opening. If you fail to spend the

minimum required amount on the Grand Opening and Ramp Up Plan, we may require you to pay the difference between what you should have spent for the Grand Opening and Ramp Up Plan and what you actually spent into the General Advertising and Marketing Fund. The amounts you spend on the Grand Opening and Ramp Up Plan are in addition to the General Advertising and Marketing Fees that you must pay to us. The Grand Opening and Ramp Up Plan may include digital media, print media, television advertising, radio advertising, billboards or other outdoor signage. In addition to costs associated with the Grand Opening and Ramp Up Plan, you must purchase certain marketing materials such as branded promotional products, printed materials, large format indoor or outdoor signage for trade shows, and similar items, from us or our designated supplier, as described in Section 6.B.

D. Retail Product Package. Before you open your Waxing Studio, you must purchase a package of retail products to offer for sale in your Waxing Studio from us at our then-current prices. These amounts are nonrefundable and are due at the time we specify.

E. Advertising Cooperative. At such time as we in our sole discretion may determine, you shall join an advertising cooperative made up of other Waxing the City franchisees (the “Local Cooperative”), as we determine. In such event, you must participate in the Local Cooperative on the terms and conditions we require. We can create, modify or dissolve any Local Cooperative at any time we determine.

## 7. WAXING THE CITY STUDIO PREMISES

A. Opening. You may not initially open your Waxing Studio for business until: (1) we notify you in writing that all of your pre-opening obligations have been fulfilled and we have approved your opening date; (2) the Initial Training Program is completed to our satisfaction; (3) all amounts due to us and our affiliates have been paid; (4) we have been furnished with copies of all insurance policies and certificates required by this Agreement, or other documentation of insurance coverage and payment of premiums that we request; (5) you notify us that all approvals and conditions in this Agreement have been met; (6) you have received all required permits and licenses; and (7) you have ordered, received and installed all equipment, supplies, inventory and computer systems that we require. If you open your Waxing Studio for business before you have received our consent to do so, you must pay our then-current “Training Compliance Fee” (currently \$2,500 for unauthorized openings).

Unless otherwise agreed in writing by us, you must open your Waxing Studio on or before the Required Opening Date, but in no event more than twelve (12) months from the Effective Date; provided, however, we will give you a one-time opportunity to extend this date by three (3) months subject to you paying us an extension fee of Five Hundred Dollars (\$500), and signing an extension agreement in the form we provide. If you have engaged one of our affiliates to provide you with site selection services and you are actively working with such affiliate to obtain a site, we will waive the extension fee. However, if you are converting an existing waxing business to a Waxing the City® studio, you must complete all remodeling and open your Waxing Studio in accordance with the terms of this Agreement within ninety (90) days of the Effective Date. Notwithstanding the foregoing, if you are entering into this Agreement pursuant to the terms of an Area Development Agreement executed between you and us, you will open your Waxing Studio on or before the date set forth in the “Development Schedule” (as defined in the Area Development Agreement), unless we otherwise agree to an extension. In each case, you must thereafter diligently operate your Waxing Studio in accordance with this Agreement for the entire remaining term of this Agreement. Your failure to open your Waxing Studio on or before the Required Opening Date will constitute a default of this Agreement and allow us to terminate this Agreement.

B. Relocation. You may not move or relocate your Waxing Studio without our prior written consent, which consent shall not be unreasonably withheld.

1. The request for relocation must be made in writing, stating the new location, received by us at least sixty (60) days prior to the date of intended relocation, and be accompanied by a relocation fee of One Thousand Five Hundred Dollars (\$1,500). You must also pay any expenses we incur in reviewing the new location. The new location must be within the Protected Territory (as defined below), and it may not be located within any territory we grant to any other franchisee. We will refund the relocation fee to you if we do not approve your new location.

2. Upon receipt of our approval, you must upgrade the new space to comply with all of our current specifications, and construct the new premises in the manner required under Section 9.A.

3. Following your relocation, we or our designee will conduct a security inspection of the premises to assure all security equipment has been properly installed. You also consent to our amendment of the Rider to indicate the new location and any update to your Protected Territory.

## 8. PRE-OPENING AND ONGOING COMPANY OBLIGATIONS/TRAINING

Our pre-opening obligations to you include those set forth in Sections 1, 6, 8 and 9.

A. Location. We will provide you with consulting services to assist you in determining the evaluation criteria for selecting the site location for your Waxing Studio as described above.

B. Prototype Floor Plan. Before you begin construction of your Waxing Studio, we will provide you with a prototype floor plan, as well as a list of the equipment, displays, fixtures and furnishings for your Waxing Studio. It will then be your obligation to conform the prototype plans to your space, and to construct your premises in accordance with the provisions of this Agreement in compliance with all local laws.

C. Initial Training. We will, at our expense, provide an initial management training program to educate and acquaint your management team with the business of operating a Waxing the City studio. The training program will include instruction on basic operating skills and other topics we select. If you have more than one Franchise Agreement with us, we may, at our option, provide this training program one (1) time for multiple agreements. The person you designate as your principal operator (whether you, if you are an individual, or one of your owners if you are an entity) (the "Principal Operator") must attend one of the next two (2) Initial Management Training Programs we offer following our acceptance of this Agreement, and before you open your Waxing Studio, and successfully complete the training program. In addition, someone owning a ten percent (10%) or greater interest in your Waxing Studio and signing or guaranteeing this Agreement (a "Principal Owner"), if other than the Principal Operator, must also attend one of these next two (2) Initial Management Training Programs, and successfully complete the training program. If anyone other than a Principal Owner attends this training program, we will require they sign a confidentiality agreement that meets our requirement before they may attend and you must provide us a copy of that agreement. The duration of the training program will be at our discretion, but generally will be for five (5) days and will be scheduled by us in our discretion. You will be responsible for travel costs, room and board, salaries, fringe benefits, and other expenses incurred by you and your employees in attending the training program. In addition, we will, at our expense, provide you with an on-site training program within the first sixty (60) days after your Waxing Studio initially opens. This on-site training program will last up to two (2) days and provide training on on-site studio operations and customer experience.

D. Initial Cerology Training Program. Each person you employ in your Waxing Studio as an aesthetician must attend our "Initial Cerology Training Program" (also known as Cerologist CORE Training) and receive our Cerologist™ certification (a "Cerologist") before that individual may provide any waxing or other services at your Waxing Studio. Your initial aestheticians must complete the Initial

Cerology Training Program before you open your Waxing Studio. At our discretion, we may provide Initial Cerology Training at your Waxing Studio, virtually, or in another location which we may designate in our discretion. If we provide Initial Cerology Training in-person at any location, then you must pay our then-current per diem fee, plus travel and lodging expenses, per corporate trainer. If you hire additional aestheticians, they will need to attend this training virtually or at such other site as we designate. You will also be responsible for all travel and living expenses for all your employees who attend the Initial Cerology Training Program, if applicable. Training provided by us or our designees is subject to availability. If you offer any services from your Waxing Studio for which you have not completed the required pre-requisite training, you must pay our then-current Training Compliance Fee (currently \$500 to \$2,500).

E. “Vitals” Training. We will conduct a “Vitals” training programs at our corporate office or at another location we designate. This program may be a live or virtual event. During the first twelve (12) months following the opening of your Waxing Studio, a Principal Owner must attend the Vitals program or our conference, and each in each year thereafter that we do not offer a conference, a representative of the Franchisee, whether a Principal Owner, the Principal Operator, or your manager, must attend the Vitals program. You may send additional people to these programs. There is currently no charge for attending the Vitals program but you must pay all travel and living expenses you and your employees incur. We reserve the right to charge for this training in the future.

F. Conference. A Principal Owner is required to register for and attend our conference, if and when we have them. If a Principal Owner cannot attend the conference, we will consider allowing you to transfer the registration to your Principal Operator, but to no other person. Additional representatives of yours may also attend the conference, as long as you register them and pay the then-current registration fee for their attendance. This conference may be a live or virtual event. You must also pay for all travel and living expenses incurred by you and your representatives in attending the conference. If you fail to register for our annual conference, we will bill you for the then-current “early bird” (or similar) conference fee after the conference.

G. Additional Training Programs. Throughout the remaining term of this Agreement, we will make available additional training which we deem advisable to familiarize you and your management team on changes and updates in the System. We may also require Cerologists and/or other personnel to attend additional optional and required training programs during the term of this Agreement. You must pay us our then-current fee for such additional training programs plus the cost of travel, lodging and meals, and we will adjust these fees periodically, as described in the Manual.

H. Training for Additional Services. We may also offer training programs for additional services that you may offer and sell at your Waxing Studio. These training sessions may be offered at our corporate offices, virtually, or at another location we designate, in our sole discretion. You must pay us our then-current fee for such additional training programs, which may vary among the additional services being offered and the location of the training, plus the cost of travel, lodging and meals, and we will adjust these fees periodically, as described in the Manual. You are not permitted to offer or sell any of these additional services at your Waxing Studio unless you complete our then-current advanced training program for such additional service.

I. Continuing Engagement Credits. Each calendar year that your Waxing Studio is open, you must obtain at least one thousand two hundred (1,200) continuing engagement credits within the Waxing the City system. These are credits we will establish from time to time for attending various training programs, and for other participations in the Waxing the City system. If you fail to meet this requirement in any year, you must pay a fee of One Dollar (\$1.00) per Waxing Studio for each credit for which you are deficient, which we will deposit in the General Advertising and Marketing Fund. (The minimum required credits do not increase for each franchise you own, but if you do not meet the minimum credit requirement, the fee is payable with respect to each franchise agreement containing this provision.) The fee is due the

first quarter of the following year. The number of required credits will be prorated for any partial year your Waxing Studio is open.

J. Manual. We will loan you one copy of the manual in which we describe the System operational policies, standards, requirements and practices (the “Manual”). The Manual may be loaned to you by providing you access to an electronic version of the Manual. The Manual contains mandatory and suggested specifications, standards and operating procedures that we have developed for Waxing the City studios and information relating to other obligations of you. You will comply with and operate your Waxing Studio in conformance with all mandatory provisions of the Manual. We have the right to revise the Manual at any time or add additional manuals. You will incorporate all revisions into the Manual, and at all times the Manual (including any additional manuals) will remain on the premises of your Waxing Studio. You will not make copies of any portion of the Manual without our prior written consent. You acknowledge that the required provisions of the Manual are designed to protect our standards and systems and our Marks and to create a uniform customer experience, and not to control the day-to-day operation of your Waxing Studio.

K. Mystery Shopping. We will arrange a mystery shopping service to periodically shop your Waxing Studio during the term of this Agreement. We will provide those results to you so that you can make any changes necessary to improve the service experience for your customers.

L. Other Ongoing Assistance. During the operation of your Waxing Studio, we will make available to you from time to time all changes, improvements and additions to the System and all supplements and modifications to the Manual, and will make a representative available to speak with you on the telephone, or at our option, on our intra-net, during regular business hours, to discuss your operational issues and support needs. If you require additional operations or customer experience training beyond what we provide, you can request that we send a representative to provide further assistance to you. If we agree to provide this additional assistance, we must agree in advance to the charges you will pay and the length of the visit. We may also require you to receive additional assistance if you are not meeting our requirements, if we determine, in our sole discretion, additional pre-opening or post-opening assistance is required, or if we determine that it is necessary for us to provide additional assistance to you to keep the System competitive or correct any deficiencies in your Waxing Studio. Our current rate for this additional assistance is Five Hundred Dollars (\$500) or One Thousand Dollars (\$1,000) per day, per representative, plus the cost of travel, lodging and meals, but we reserve the right to adjust this rate periodically, as described in the Manual.

M. Nature of Assistance and Training. You agree that we are not obligated to provide any training or assistance to your particular level of satisfaction, but as a function of our experience, knowledge and judgment. You also acknowledge that we are not obligated to provide any services to you that are not set forth in this Agreement. If you believe we have failed to adequately provide any pre-opening services to you or to your employees, whether with respect to site selection, selection and purchase of equipment and supplies, training, or any other matter affecting the establishment of your Waxing Studio, you must notify us in writing within thirty (30) days following the opening of your Waxing Studio or you will be deemed to conclusively acknowledge that all pre-opening and opening services required to be provided by us were sufficient and satisfactory in your judgment, and complied with all representations made to you.

N. Annual Recertification Training. We may require your Cerologists to participate in an annual recertification training program, which will include an on-site review of your Cerologists’ technical skills and the provision of additional Cerologists training as necessary. You must pay us our then-current daily fee plus the cost of travel, lodging and meals. We do not currently require this training, but reserve the right to do so upon 90 days’ written notice to you.

O. Re-Go Training. If you are already an existing Waxing the City® franchisee and you purchase an existing Waxing Studio, we may offer you, subject to our availability, an optional training program to take place within sixty (60) days following your purchase of the existing Waxing Studio (the “Re-Go Training”). If you request and we provide the Re-Go Training, we will send a representative to that Waxing Studio for two (2) days to provide you and your staff with on-site studio operations and customer experience training. You must pay the then-current fee for Re-Go Training, per corporate trainer.

P. No Show Fee. If a franchise business consultant is scheduled to conduct an on-site visit at your Waxing Studio, or if you register for a training program and you cancel, failure to attend, fail to have the appropriate parties attend, or fail to stay for the entire training program, and you did not provide us with at least two (2) weeks prior written notice that you or appropriate parties will not be attending, then you must pay us the greater of our then-current no show fee or the actual costs and expenses of rescheduling our travel arrangements.

## 9. APPEARANCE AND OPERATION OF YOUR WAXING STUDIO

The Marks and System licensed to you represent valuable goodwill distinctive of our business and reputation. We will promulgate, from time to time, standards of quality and service regarding the business operations of Waxing the City studios so as to protect the distinction and goodwill represented and symbolized by the Marks and System. You must abide by those standards and the provisions set forth below unless otherwise authorized by us in writing.

A. Construction. Your Waxing Studio must be developed in accordance with applicable laws, regulations, codes and other governing requirements, as well as our mandatory specifications (the “Mandatory Specifications”) that we provide to you, and with any studio specific layout that we provide to you (“Compliance Drawing”). You may not begin construction of your Waxing Studio until you have received our written consent to your actual design for your Waxing Studio via your Compliance Drawing. You must supply us with accurate site information for your proposed location to allow us to create a Compliance Drawing for you. This information will include, but not be limited to, as-built drawings, surveys, technical data, construction documents and site plans. If you are developing a new Waxing Studio, we will provide you with one Compliance Drawing at no additional cost. If you require additional Compliance Drawings, you must pay us Two Hundred Fifty Dollars (\$250) for each additional Compliance Drawing.

1. Promptly after you have obtained possession of the site for your Waxing Studio, you will: (i) retain the services of a licensed and qualified architect and/or design professional(s) to create a complete set of detailed construction documents in strict accordance with the Compliance Drawing and our Mandatory Specifications (“Construction Documents”), and to complete construction of your Waxing Studio in accordance with such Construction Documents; (ii) retain the services of a general contractor; (iii) have prepared and submitted for our approval a site survey and basic architectural plans and specifications consistent with our Mandatory Specifications; (iv) purchase or lease, and then, in the construction of your Waxing Studio, use only the building materials, equipment, fixtures, furniture and signs we have approved; (v) complete the construction and/or remodeling, equipment, fixtures, furniture and signage lease in decorating your Waxing Studio in full and strict compliance with the plans and specifications we approve, and with all applicable ordinances, building codes and permit requirements without any alterations; (vi) obtain all customary contractors’ sworn statements and partial and final waivers; and (vii) obtain all necessary permits, licenses and architectural seals and comply with applicable legal requirements relating to the building, signs, equipment and premises, including, but not limited to, the Americans With Disabilities Act.

2. If you do not use our designated architectural vendor to create your Construction Documents, you must pay our then-current fee to review and approve your Construction Documents.

Notwithstanding the foregoing, if this is your first Waxing Studio, we may require you to obtain your Construction Documents from our designated architectural vendor.

3. We may designate a construction management services vendor to assist you in submitting, processing, monitoring and obtaining in a timely manner all necessary construction documents, licenses and permits, and to assist you through construction. If we require you to use a designated vendor for construction management services, you must pay such vendor the then-current fee for construction management services.

4. If your Waxing Studio is not constructed strictly according to the plans we have approved and our Mandatory Specifications, we may not approve you to open for business. If we do not approve your opening, you will have thirty (30) days from the date we deny our approval for opening to correct all the construction problems so that your Waxing Studio is strictly constructed according to our approved plans. If you fail to correct the problems within this 30-day period, we may immediately terminate this Agreement. If your Waxing Studio opening is delayed for these or any other reasons, you will be responsible for any losses or costs relating to such delay. In any event, you may not open your Waxing Studio until all of these problems have been resolved to our satisfaction and if the time period to correct the problems extends past the Required Opening Date you will only have to the Required Opening Date to correct the problems, unless we extend the Required Opening Date.

5. You will make no changes to any building plan, design, layout or decor, or any equipment or signage in your Waxing Studio without our prior written consent, and such changes may not be contrary to the Mandatory Specifications.

B. Signs. You will prominently display, at your expense, both on the interior and exterior of your Waxing Studio premises, signs in such form, color, number, location and size, and containing such Marks as we designate. We also may require you to use illuminated signs. You will obtain all permits and licenses required for such signs and will also be responsible for ensuring that all signs comply with all laws and ordinances. You will not display in or upon your Waxing Studio premises any sign or advertising of any kind to which we object.

We also have a designated vendor who provides the interior and exterior signage for your Waxing Studio. If you choose to use a vendor other than our designated vendor, you must pay us a fee equal to One Thousand Nine Hundred Dollars (\$1,900) to review and approve the signage fabrication drawings. You must provide us with detailed fabrication drawings and material samples prior to fabrication. All signage and graphics must meet the same quality, resolution, material and fabrication standards and techniques used by our designated vendor.

C. Services. You will conform to all quality and customer service standards prescribed by us in writing.

D. Maintenance of Premises. You will paint and keep in an attractive, clean and sanitary condition the interior and exterior of your Waxing Studio premises. All equipment will be kept in good working order and will meet our quality standards.

E. Approved Information System. We may designate the information system used in your Waxing Studio, including the technology systems used in your Waxing Studio, including the point of sale system, computer hardware and software, security systems, audio and video systems, related components, cloud based technology and other equipment and enhancements (the "Information System"). In such event, in connection with the Information System, you agree to the provisions set forth below.

1. You must acquire the right to use the Information System, obtain peripheral equipment and accessories and arrange for installation, required maintenance and support services, and interfacing of your Information System with our accounting system, all at your cost. Installation must be performed by a person we have approved and trained. You acknowledge and agree that you may be required to purchase the Information System from us or our affiliates, or from other mandatory suppliers or vendors that we approve.

2. We will have the right at all times to access the Information System and to retrieve, analyze, download and use all software, data and files stored or used on the Information System. We may access the Information System in your Waxing Studio or from other locations. You will store all data and information on the Information System.

3. As upgrades to the hardware and/or software are developed, we may require you to obtain and install any or all of these upgrades. We also may require you to replace any hardware or software used in the Information System. You are responsible for the cost of all replacements and upgrades, including any initial and/or ongoing license, support or service fees.

4. You must have e-mail and high-speed Internet access capabilities at your Waxing Studio. We may require you to use one or more designated vendors and/or software programs for mass marketing conducted via email, text messages, and/or other forms of communications.

5. You hereby release and agree to hold us and our affiliates, and our respective officers and directors, harmless from and against any and all claims, liability, damages, or causes of action of any nature arising from, or in connection with, the installation, maintenance, or operation of the Information System and its billing and payment processing, except to the extent arising from such party's gross negligence or intentional acts.

6. 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 or our affiliates as the direct or indirect result of such disruptions, failures or attacks. If you suspect or know of a security breach, you must immediately give notice of such security breach and promptly identify and remediate the source of any compromise of security breach at your expense. You assume all responsibility for providing all notices of breach or compromise and all duties to monitor credit histories and transactions concerning customers of the Waxing Studio, unless otherwise directed by us.

F. Payment of Amounts You Owe Us or Our Affiliates. You agree that your obligation to pay all amounts owing to us and to our affiliates is independent of any other obligation either of us have in this Agreement, and that all amounts owing to us and to our affiliates, as well as to your other suppliers, lessors and creditors, must be timely paid. You agree that you will not withhold payment of any Royalty Fees, General Advertising and Marketing Fund Contributions or any other amount due us, and that the alleged non-performance or breach of any of our obligations under this Agreement or any related agreement does not establish a right at law or in equity to withhold payments due us for Royalty Fees, General Advertising and Marketing Fund Contributions or any other amounts due. You agree to sign and deliver to us, our bank(s) and your bank, as necessary, all forms and documents that we may request to permit us to debit your account, either by check, via electronic funds transfer or other means or methods as we may designate ("Payment Methods") for all fees and payments due to us and to our affiliates. You will notify us at least twenty (20) days before closing or changing the account against which such debits are to be made. If such account is closed or ceases to be used, you will immediately provide all documents and information necessary to permit us to debit the amounts due from an alternative account. You acknowledge that these requirements are only a method to facilitate prompt and timely payment of amounts due and will not affect any obligation or liability for amounts owed.

1. If any check that you submit to us is returned for insufficient funds, or if we are unable to collect funds via the Payment Methods due to insufficient funds, you will pay us an Insufficient Funds Fee of One Hundred Dollars (\$100) for each returned check and each time we were unable to collect monies via the Payment Methods.

2. You grant us a first priority security interest in your receivables and equipment, whether now existing or hereinafter created, together with all proceeds of such assets. You authorize us to file one or more financing statements to evidence this security interest. However, we will subordinate our first priority interest to a lending institution that provides you financing for your Waxing Studio.

3. If you have not timely reported the Gross Revenue for your Waxing Studio to us for any reporting period, then we will be authorized, at our option, to debit your account for (a) 110% of the fees transferred from your account for the last reporting period for which a report of the Gross Revenue was provided to us; or (b) the amount due based on information we have retrieved from your operating system.

G. Technology Platforms. Except as described in the Manual or otherwise in writing, we reserve the sole right to advertise the System on the Internet or sell any products or services on the Internet or any mobile or electronic application (or any current or future form of electronic platform or communication). You must participate in any Internet website, home page, web pages, electronic mail, social media sites, applications, online platforms, and other current or future forms of electronic communications that we require (collectively the "Technology Platforms"), as described in the Manual or otherwise in writing. You must use the Technology Platforms to communicate with us, including email and messaging. To the extent that you may control or access any Technology Platform, the Technology Platforms must be operated and maintained by you in compliance with all provisions of this Agreement, including those regarding the use of confidential and proprietary information, as well as any and all operating procedures, policies, standards and requirements as we may specify from time to time. You must maintain any Technology Platform you control or access in compliance with all applicable laws, rules, and regulations, including but not limited to those applicable to copyright and trademark, privacy, anti-defamation, and advertising and endorsements. You must submit all content for any Technology Platform to us for our prior written approval before using such content. You must pay us or our designee (which may be our affiliate) the then-current fees for the access to, modification of and maintenance of the Technology Platforms. We may modify, suspend, replace, discontinue or add to any Technology Platforms at any time and you must comply with such changes at your expense. We retain sole ownership of the Technology Platforms, including any domains names, content, email addresses and information stored on the Technology Platforms. Your access to the Technology Platforms will automatically terminate upon expiration or termination of this Agreement. You hereby release and agree to hold us, our officers and directors, harmless from and against any and all claims, liability, damages, or causes of action of any nature, arising from, or in connection with, the creation, operation, or maintenance of the Technology Platform, unless such liability arises out of our gross negligence or intentional acts.

H. Technology Support Fee. Beginning upon the opening of your Waxing Studio, you will be required to pay to us, our affiliate, or our designee, our then-current Technology Fee for the license and ongoing support for our designated studio management software, for email hosting, for website maintenance, and for maintaining a web page as part of the Technology Platform. If we do not directly provide these services, you will be required to sign a separate agreement with our designated provider of these services (which may be an affiliate of ours). We may increase the Technology Fee upon written notice to you.

I. Compliance with Our Standards. You will operate your Waxing Studio through strict adherence to any mandatory standards, specifications and policies of the System as they exist from time to time, in order to ensure compliance with the quality standards of the System. You may offer from your

Waxing Studio only those products and services that we approve. We have the right to change the products and services that we require you to offer from your Waxing Studio at any time, without limitation. You will at all times be responsible for the conduct of the day-to-day operation of your Waxing Studio and for the terms of employment for your employees.

1. You acknowledge that the mandatory standards, specifications and policies we establish are not aimed at the day-to-day operation of your studio, which will solely be within your control, but are merely intended to preserve the goodwill of the System and Marks.

2. Periodically, as we deem appropriate, a representative of ours may visit your Waxing Studio to ensure compliance with our required standards, specifications and procedures. You will allow our representative to inspect the condition and operation of your Waxing Studio and all areas of your Waxing Studio at any time during your business hours. Such inspections may include, without limitation, conducting any type of audit or review necessary to evaluate your compliance with all required payments, standards, specifications or procedures.

- a. We will provide you a copy of the report at your request. If your Waxing Studio does not receive a passing score from a visit, a new inspection will be conducted. This process will be repeated until you have received a passing score. At our option, and in addition to any other rights we may have, you must pay us a failed inspection fee we establish for each failed inspection to defer any costs we incur in re-inspecting your Waxing Studio after the first inspection. This fee will be payable in the manner we specify.
- b. We may, from time to time, make suggestions and give mandatory instructions with respect to your operation of your Waxing Studio, as we consider necessary or appropriate to ensure compliance with the then-current quality standards of the System and to protect the goodwill and image of the System.
- c. You expressly agree that these visits will not imply that you are in compliance with your obligations under this Agreement or under the law or that we waive our right to require strict compliance with the terms of this Agreement or the Manual. Furthermore, these visits will not create any responsibility or liability on our part.
- d. If you request that we make additional visits to your Waxing Studio, you will pay the fees we establish for those visits.

3. If you fail to maintain the premises of your Waxing Studio in a condition that satisfies our reasonable requirements, or if you otherwise fail to comply with any provision of this Agreement, we may, upon not less than three (3) days' notice to you, order or accomplish the cleaning of the premises, and/or designate one of our representatives to assist you in fulfilling your obligations under this Agreement, and you will be responsible to pay us for all costs we incur in doing so and all fees we set for providing assistance to you. However, our action in exercising this option does not relieve you from your obligation to properly maintain the premises of your Waxing Studio and to comply with the terms of this Agreement, each of which shall be your sole responsibility.

J. Compliance with Laws. You will, at your expense, comply with all applicable local, state, federal and municipal laws, ordinances, rules and regulations pertaining to the operation of your Waxing Studio, including, without limitation, any and all licensing and bonding requirements, health and safety

regulations, labor and employment laws, and the Americans with Disabilities Act. You will, at your expense, consult an attorney to obtain advice with regard to compliance with all laws relating to the operation of your Waxing Studio. Further, you will, at your expense, be exclusively responsible for determining the licenses and permits required by law for your Waxing Studio, for filing, obtaining and qualifying for all such licenses and permits, and for maintaining all necessary licenses and permits throughout the term of this Agreement. You must comply with all laws and regulations relating to privacy and data protection and must comply with any privacy policies or data protection and breach response policies we periodically may establish. You must notify us immediately of any suspected data breach at or in connection with the Waxing Studio. If you suspect or know of a security breach, you must immediately give notice of such security breach and promptly identify and remediate the source of any compromise of security breach at your expense. You assume all responsibility for providing all notices of breach or compromise and all duties to monitor credit histories and transactions concerning customers of the Waxing Studio, unless otherwise directed by us.

K. Payment of Liabilities. You will timely pay all of your obligations and liabilities, including, without limitation, those due and payable to us and our affiliates, and to your suppliers, lessors and creditors.

L. Taxes. You will promptly pay all federal, state and local taxes arising out of the operation of your Waxing Studio. We will not be liable for these or any other taxes and you will indemnify us for any such taxes that may be assessed or levied against us which arise or result from your Waxing Studio, including any taxes imposed by your state on any royalties or other amounts you are required to pay to us and our affiliates.

M. Personnel. You are responsible for recruiting, hiring and training sufficient personnel to operate your Waxing Studio. You must, at your cost, conduct criminal background checks on each employee (unless prohibited by law) before they begin providing any services in your Waxing Studio.

1. The people you retain to work in your Waxing Studio will be your agents and employees. They are not our agents or employees and we are not a joint-employer of these persons. It will be up to you to determine who to retain, how many people to retain (subject to any minimum staffing requirements we may prescribe), how you compensate these people, terms of employment and working conditions for your employees, when and how to discipline the people you hire, and when and how to terminate the people you hire. However, you must at all times comply with all applicable employment laws. We will not have any duty or obligation to operate your Waxing Studio, to direct your employees, to schedule your employees, or to oversee your employment policies or practices.

2. No person may perform any body or facial waxing services on any customer until they have completed our Initial Cerology Training Program, and thereafter complete any additional training programs we require for Cerologists working in Waxing the City studios. However, the fact that we offer training to your employees from time to time does not relieve you from the primary responsibility to assure your employees are properly trained.

3. You will designate an individual to serve as the Principal Operator of your Waxing Studio. The Principal Operator will devote his/her best efforts to the supervision and conduct of the development and operation of your Waxing Studio. In addition to the other training requirements in this Agreement the Principal Operator, and anyone owning a controlling interest in your Waxing Studio if other than the Principal Operator, must complete our initial training requirements and all additional training as we may reasonably designate. You and the Principal Operator must attend and participate in any scheduled business review calls and any on-site visits by our representatives at your Waxing Studio.

4. You will be solely responsible for all wages, travel, and living expenses, and all other costs incurred by you and your employees in connection with any training or instruction that we provide.

5. You will obtain from each person you hire as an Cerologist, as Principal Operator, and as a studio coordinator or studio manager of your Waxing Studio (and all other persons performing similar functions, regardless their title), a Confidentiality Agreement, enforceable by us, and in such form as we approve, in which they agree, among others, to maintain in confidence all confidential information and trade secrets we provide to them, and not to use any of the Names and Marks except in the performance of their duties in the Waxing Studio business.

N. Photographs. We will have the right to photograph and make video or digital recordings of your Waxing Studio premises and your employees at all reasonable times. We will have the right to use all photographs and videos or digital recordings of your Waxing Studio for such purposes as we deem appropriate, including, but not limited to, use in training, advertising, marketing and promotional materials, and as evidence in any court or arbitration proceeding, to the extent the consent of any of your employees or others is required for our use of these photographs and recordings for commercial purposes, you will use your best efforts to obtain these consents. Neither you nor your employees will be entitled to any right to be compensated by us, our advertising agencies, or other Waxing the City franchisees for any use of such photographs or recordings.

O. Ownership of Information. All of the information we or our affiliates obtain from you or about your Waxing Studio, and all information in your records or ours concerning the customers of your Waxing Studio (“the Information”) and all revenues we derive from the Information will be our property. However, you may at any time during the term of this Agreement use in the operation of your Waxing Studio (but for no other purpose), to the extent lawful and at your sole risk and responsibility, any information that you acquire from third parties in operating your Waxing Studio, such as customer data. The Information (except for information you provide to us or our affiliates with respect to you and your affiliates, including your respective officers, directors, shareholders, partners or equity members of your entity) will become our property which we may use for any reason as we deem necessary or appropriate in our discretion. You hereby authorize your payment processor to release the information to us at any time. Following termination or expiration of this Agreement, you will no longer use any of the Information, except to comply with your post-term obligations under this Agreement, and you authorize your payment processor to release the Information exclusively to us and/or our designees.

P. Manual. You will operate your Waxing Studio in accordance with all mandatory provisions of the Manual. You will treat the Manual as confidential, and will use all reasonable efforts to maintain the Manual as secret and confidential. You will use the Manual only in the operation of your Waxing Studio. The Manual will remain our sole property. We may from time to time revise the contents of the Manual. You agree to comply with each new or changed standard. In the event of any dispute as to the contents of the Manual, the terms of the master copy of the Manual maintained by us will control. Any required specifications, standards and operating procedures described in the Manual or otherwise exist to protect our interests in the 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.

Q. Notices of Default: Lawsuits or Other Claims. You will immediately notify us of, and deliver to us a copy of any notice regarding, a breach, default, claim, lawsuit, administrative or agency proceedings or investigations, or other actions or proceedings relating to your Waxing Studio. Upon request from us, you will provide such additional information as may be required by us regarding the same.

R. Your Dealings With Us and Our Affiliates. You acknowledge that when we are required to perform any services for you, we may use any third parties, including affiliates of ours, to perform those

services. If you are required to pay us a fee for those services, we may have you pay that fee directly to the affiliate or third party that performs the service. However, if you are not required to pay us a fee for the service, you will not be obligated to pay any parties we contract with for services that we are required to provide to you without charge under this Agreement. We and our affiliates may also receive rebates or compensation from other parties in connection with the provision of such services.

S. Purchases. You will purchase only such types, models or brands of fixtures, furniture, equipment, inventory, supplies and other items that we approve for Waxing the City studios as meeting our standards for quality, design, warranties, appearance, function and performance. Although we do not do so for every item, we have the right to approve the manufacturer or supplier of any item used in the operation of your Waxing Studio. You will not install or maintain at your Waxing Studio any newspaper racks, video games, jukeboxes, gaming machines, gum machines, vending machines, video or similar devices without our, and any necessary governmental, prior written approval. We may require you, in our sole discretion, to purchase certain fixtures, furniture, equipment, inventory, supplies, services, and other items used or offered at your Waxing Studio from suppliers who have been approved by us, in which case we will provide you with a list of approved suppliers.

1. You acknowledge and agree that certain products, supplies or other services, including certain items comprising the Information System, and technology and security systems, that you may be required to purchase for use in the operation of your Waxing Studio may only be available exclusively from us or our affiliates, or from other mandatory suppliers or vendors that we approve, in our sole discretion. You also acknowledge and agree that we may designate a single source for certain products, supplies or other services.

2. You must purchase all of the hard and soft wax, and waxing strips, you use in your Waxing Studio, and all retail products you sell in your Waxing Studio, from us or from our designated suppliers. Payment will be due on all such purchases prior to shipment.

3. If you choose to purchase any non-mandatory components of the design package specified by us for the build-out of your Waxing Studio from a different source, including millwork and fixtures, then you must pay us a fee to inspect the opening design of your Waxing Studio or applicable fabrication drawings before you open to confirm that the components and their installation in your Waxing Studio comply with our standards and specifications. Your selected vendor must also meet any other standards and specifications we require.

4. **THOUGH APPROVED BY US, WE AND OUR AFFILIATES MAKE NO WARRANTY AND EXPRESSLY DISCLAIM ALL WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, WITH RESPECT TO FIXTURES, FURNITURE, EQUIPMENT (INCLUDING WITHOUT LIMITATION ANY AND ALL REQUIRED COMPUTER SYSTEMS), SUPPLIES, INVENTORY OR OTHER APPROVED ITEMS.**

T. Taxes on Fees. If your state, or any governmental body in your state, charges a tax on any fee you owe to us or to our affiliates, then you are required to pay an additional amount equal to the amount of this tax. (For purpose of clarification, this does not apply to any federal or Minnesota income taxes that we or our affiliates must pay.)

U. National and Regional Accounts. We, or others acting on our behalf, may from time to time solicit companies or organizations to offer fixed pricing packages to their employees. You will have the right to participate in, and receive the benefits of, all such programs we establish with companies or organizations that have employees in your market. You will have the right each calendar year, by October 31, to opt out of participating in these programs for the next year. If you do not opt out by the means we specify, then you must honor the pricing that we quote for any employees of these companies or

organizations who seek to use the services of your Waxing Studio. Once you opt out, you will not participate in any new programs (unless and until you opt in again), but you must continue to comply with the program requirements for any programs that were in effect before the start of the year for which you exercised your right to opt out of the programs.

V. Participation in Programs; Reciprocity. You must, at your expense, honor and participate in all customer loyalty, gift card, service packages and other promotional programs we require. In addition, you agree to abide by any reciprocity policy we may establish as modified from time to time. Such policy will likely prohibit you from selling any service packages or other offers that do not provide full reciprocity benefits to your customers with other Waxing the City studios, and require you to honor service packages and other approved offers sold by other Waxing the City studios.

W. Compliance with Privacy Laws. You must comply with all standards, laws, rules, regulations, or any equivalent thereof relating to personal information, data privacy, and data protection, including but not limited to, as applicable, the California Consumer Privacy Act, Cal. Civ. Code Section 1798.100 et seq., and must comply with any privacy policies or data protection and breach response policies we periodically may establish. If you suspect or know of a security breach, you must immediately give notice of such security breach and promptly identify and remediate the source of any compromise of security breach at your expense. You assume all responsibility for providing all notices of breach or compromise and all duties to monitor credit histories and transactions concerning customers of the Waxing Studio, unless otherwise directed by us.

#### 10. CONFIDENTIAL INFORMATION/IMPROVEMENTS

A. You acknowledge that all the information you have now or obtain in the future concerning the System and the concepts and methods of promotion franchised hereunder is derived from us pursuant to this Agreement, and that you will treat such information in confidence. You agree never to, directly or indirectly, engage in or abet the misappropriation (as the term “misappropriation” is defined in the Minnesota Uniform Trade Secrets Act), or the disclosure, divulgence, or distribution of all or any part of the System and the concepts and methods of promoting franchises hereunder. You will disclose such confidential information only to such of your employees as must have access to it in order to operate your Waxing Studio and use it only for the operation of your Waxing Studio. At our request, you must deliver to us confidentiality agreements and non-compete agreements in a form satisfactory to us from your owners and the spouses of your owners. The scope of the confidentiality agreements shall be consistent with the provisions of this Section 10.A, and the scope of the noncompete agreements shall be consistent with the provisions of Section 17 of this Agreement.

B. Notwithstanding any provision of Section 10.A, at your discretion, you may allow any financial institution that has loaned money to you or to your business to have access to your books and records to confirm your billings, collections, receivables, and any other financial information you have provided to the financial institution.

C. If you conceive or develop any improvements or additions to the System, new trade names, trade and service marks or other commercial symbols related to your Waxing Studio, or any advertising and promotion ideas related to your Waxing Studio (“Improvements”), you will fully disclose the Improvements to us without disclosure of the Improvements to others, and you will obtain our written approval before using such Improvements. Any such Improvement that we approve may be used by us and all our other franchisees without any obligation to pay you royalties or similar fees. You will assign Improvements to us, and hereby do assign, without charge, any rights, together with the goodwill associated with the Improvements, including the right to grant sublicenses to any such Improvement. We, at our discretion, may make application for and own copyrights, trade names, trademarks and service marks relating to any such Improvement. We also may consider such Improvement as our property and trade

secret. We will, however, authorize you to use any Improvement authorized generally for use by our other franchisees.

D. Notwithstanding any other provision of this Agreement, there may be certain, limited circumstances where applicable law allows for the disclosure of certain trade secrets in limited circumstances, as specified in the Manual.

## 11. INSURANCE; INDEMNIFICATION

A. Insurance. You alone will be responsible for any claim, action, loss, damage, liability, injury or death arising out of, or relating to, the operation of your Waxing Studio or arising out of, or relating to, your acts or omissions or the acts or omissions of any of your agents, employees or contractors in connection with the operation of your Waxing Studio. You agree to indemnify and hold us and our affiliates and our respective officers and directors harmless against and from any and all such claims, actions, losses, liability, damages, injuries, or deaths, including costs and reasonable attorneys' fees. You will obtain and maintain in force and pay the premiums for general liability insurance with complete operations coverage, broad form contractual liability coverage, property damage, and other insurance (including bonds) in such types as we may require (such as cyber insurance and employment practices insurance), or as required by law from time to time. All such policies will have minimum limits we may prescribe from time to time, and will be with carriers who have minimum ratings that we may prescribe from time to time. Such insurance policies will expressly protect both you, us and our affiliates and our respective officers, directors and employees, and will require the insurer to defend both you and us in any action you will submit to us, within thirty (30) days of our request, any and all loss ratios or other information we request in connection with such insurance policies. You will furnish to us copies of all insurance policies, certificates of insurance, endorsements, or other proof of insurance in the form we require, as set forth above, naming us as an additional insured, and providing that such policy will not be canceled, amended or modified except upon thirty (30) days' prior written notice to us. At our request, you will deliver to us proof of insurance in the form we require and evidence of policy renewals at least thirty (30) business days before expiration. You will have all policies of insurance provide that the insurance company will have no right of subrogation against either party hereto or their respective agents or employees. Maintenance of the insurance requirement will not relieve you of the obligations of indemnification. If you fail to obtain or maintain in force any insurance as required by this Section or to furnish any proof of insurance required hereunder, we may (but have no obligation to), in addition to all other available remedies, obtain such insurance or certificates, and you will promptly reimburse us for all insurance premiums and other costs incurred in obtaining such insurance, including an administrative fee for our time in obtaining the coverage for you. You assume all risks in connection with the adequacy of any insurance or self-insurance program and waive any claim against us for any liability costs or expenses arising out of any uninsured claim, in full or in part, of any nature whatsoever. Your obligation to obtain and maintain these insurance policies in the minimum amounts we require is not 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 Section 11(B). Your insurance procurement obligations under this Section 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 requirements of insurance specified in this Agreement are for our protection. You should consult with your insurance agents, brokers, attorney or other insurance advisors to determine the level of insurance protection you need in addition to the coverages and limits we require. If you do not obtain or maintain insurance coverage that meets our requirements and we obtain it for you, you must pay us our then current insurance handling fee plus the cost of the premiums we pay for the insurance.

B. Relationship; Your Indemnification. We and you are independent contractors. Neither we nor you will make any agreements, representations, or warranties in the name of or on behalf of the other or that our relationship is other than franchisor and franchisee. Neither we nor you will be obligated by or

have any liability under any agreements, representations or warranties made by the other nor will we be obligated for any damages to any person or property directly or indirectly arising out of the operation of your Waxing Studio. You assume sole and complete responsibility for and will defend at your own cost and indemnify, reimburse and hold harmless us, our affiliates and our respective officers and directors from and against all loss, costs, expenses, obligations and damages and liabilities (including defense costs) arising directly or indirectly out of the development or operation of your Waxing Studio, including, without limitation, claims relating to your employment practices, equipment selection, and floor plan, you or your employees' actions or inactions and any amounts we pay on your behalf. You will have the right to defend any such claim against you. We, using our own counsel, by notice to you, may control any matter in which we are named or directly affected, but this will not affect your liability to pay all attorneys' fees we incur in defending ourselves, which obligation is part of your indemnification obligation. The indemnities and assumptions of liabilities and obligations set forth in this Agreement will continue in full force and effect subsequent to the expiration or termination of this Agreement.

C. Our Indemnification. We will indemnify you against and reimburse you for any obligations or liability for damages payable to third parties and attributable to agreements, representations or warranties made by us, or caused by our negligence or willful action (so long as such obligations or liabilities are not asserted on the basis of theories such as agency, apparent agency or vicarious liability or claim of negligent failure to compel your compliance with the provisions of this Agreement, the Manual or any other agreement between you and us), and for costs reasonably incurred by you in the defense of any such claim brought against you or in any action in which you are named as a party, provided that we will have the right to participate in and, to the extent we deem necessary, to control any litigation or proceeding which might result in liability of or expense to you subject to such indemnification.

## 12. FINANCIAL STATEMENTS AND AUDIT RIGHTS

A. Financial Information, Reports, Inspections and Audits. Following the opening of your Waxing Studio, by the first Monday of each month, you will provide us with monthly sales information from the Waxing Studio. In addition, within thirty (30) days following your fiscal year end, you will provide us with copies of your financial statements (reviewed by your accountant), including an income statement for the fiscal year just ended and a balance sheet, cash flow statement, and any other document accompanying your financial statements, as of the end of such fiscal year, which financial statements will have been prepared in accordance with generally accepted accounting principles applied on a consistent basis. We will also have the right to request other financial statements, reports and information from you during the year, and you will deliver those financial statements, reports and information to us when, and in the form and manner, we require. Also, on or before April 15 of each year, you must provide us with a copy of your federal tax return and the federal tax returns of your owners for the previous tax year.

1. If you fail to timely provide any information to us, you must pay us a late reporting fee of One Hundred Dollars (\$100) per violation. This payment does not, however, limit our rights or excuse your compliance with this obligation, and your failure to timely report the information will be a material default under this Agreement.

2. You will make all of your financial books and records available to us and our designated representatives at all reasonable times for review. Your financial books and records for each fiscal and calendar year will be kept in a secure place and will be available for review by us for at least five (5) years after the end thereof.

3. We will have the right to audit or cause to be audited any financial information you provide to us, and your books, records, and sales and income tax returns. If any audit discloses an understatement of the Gross Revenues of your Waxing Studio for any period or periods, you will, within five (5) days of receiving the audit report, pay to all Royalty Fees and General Advertising and Marketing

Fund Contributions due on the previously unreported Gross Revenues, plus late payment charges. In addition, if an understatement for any period equals two percent (2%) or more of the Gross Revenues of your Waxing Studio for the period, you must reimburse us for the cost of the audit, including, without limitation, the charges of the person auditing your records, and their travel and living expenses.

### 13. ASSIGNMENT OF FRANCHISE AGREEMENT

A. By Us. We may transfer or assign this Agreement or any or all of the rights, interests, benefits or obligations arising under it without restriction. Upon any transfer or assignment of this Agreement by us, we will be released from all obligations and liabilities arising or accruing in connection with this Agreement after the date of such transfer or assignment.

B. Conditions to Your Transfer or Assignment. This Agreement, and your rights and obligations under it, are and will remain personal to you. As used in this Agreement, the term “Transfer” will mean any sale, lease, assignment, gift, pledge, mortgage or any other encumbrance, transfer by bankruptcy, transfer by your disability or death or by judicial order, merger, consolidation, share exchange, transfer by operation of law or otherwise, whether direct or indirect, voluntary or involuntary, of this Agreement or any interest in it, or any rights or obligations arising under it, or of any material portion of your assets used to operate your Waxing Studio, or of any interest in you, or if you are a corporation, partnership, limited liability company or other entity, a transfer, pledge, assignment, or other disposition of direct or indirect control or ownership of fifty percent (50%) or more of any interest in your entity. In addition, if there are two (2) individuals signing this Agreement as Franchisee, and one (1) of those individuals is no longer involved in the ownership of your Waxing Studio, the withdrawal of that person will be considered a “Transfer.” A “Transfer” will also be deemed to occur when there are more than two (2) people listed as the Franchisee and there is a change in the ownership of your Waxing Studio such that less than a majority of the original signators continue to have a majority interest in the equity of the business. You (and your shareholders, partners and members) will not directly or indirectly make a Transfer without our prior written consent and any transfer shall be subject to our right of first refusal, as set forth in Section 19 below. Unless otherwise provided in this Agreement, we will not unreasonably withhold, delay or condition our consent to a Transfer, subject to all of the following conditions being satisfied:

1. you are in full compliance with this Agreement, you have no uncured defaults, and all your debts and financial obligations to us and our affiliates are current;

2. you provide us with all information we may require concerning the proposed transaction (including a copy of the purchase agreement and all related documents), and the proposed transferee;

3. we are satisfied that the proposed transferee (and if the proposed transferee is an entity, all holders of any interest in such entity) meets all of the requirements for our new franchisees, including, but not limited to, good reputation and character, business experience, and financial strength, credit rating and liquidity, and that the sale price is not excessive;

4. you sign a written agreement in a form satisfactory to us in which you and your investors covenant to observe all applicable post-term obligations and covenants contained in this Agreement and release us and our affiliates from any claims you may have against us, or any further obligations we may have to you;

5. the proposed transferee enters into a new franchise agreement with us, on the terms we then generally offer to new franchisees (including fees payable and size of territory); provided, however, that no new initial franchise fee will be required to be paid, and further provided that the term of that franchise agreement, unless otherwise agreed, will be the remaining term of your franchise agreement;

6. the proposed transferee agrees in writing to perform such maintenance, remodeling and re-equipping of your Waxing Studio that we determine necessary to bring your Waxing Studio in compliance with our then-current standards, including any updates to your technology and security equipment that we determine necessary;

7. prior to the date of the proposed Transfer, the proposed transferee's Principal Operator successfully completes such training and instruction as we deem necessary;

8. you and all holders of an interest in you sign a general release, in the form prescribed by us, releasing, to the fullest extent permitted by law, all claims that you or any of your investors may have against us and our affiliates, including our and their respective shareholders, officers, directors and employees, in both their individual and corporate capacities; and

9. prior to the Transfer, you pay us a transfer fee. If the Transfer occurs before your Waxing Studio has opened for business, the transfer fee will be Twelve Thousand Dollars (\$12,000). If the Transfer occurs after your Waxing Studio is open, then the transfer fee will be Seven Thousand Five Hundred Dollars (\$7,500).

We may expand upon, and provide more details related to, the conditions for transfer and our consent as described in this Section 13(B), and may do so in the Manual or otherwise in writing.

You consent to our releasing to any proposed transferee any information concerning your Waxing Studio that you have reported to us, or that is in our files or otherwise available to us, including but not limited to financial information.

If a transfer or assignment is caused by your death or incapacity (including the death or incapacity of any person directly or indirectly owning fifty percent (50%) or more of an interest in the entity that is the franchisee under this Agreement), the provisions of this Subparagraph B must be met by the heir or personal representative succeeding to your interest; provided, however, if the heir or personal representative assigns, transfers, or sells its interest in the franchise and in your Waxing Studio within one hundred twenty (120) days after your death or incapacity, the transferee, and not the heir or personal representative, must comply with the provisions of this Subparagraph B.

Nothing in this Section will be construed as prohibiting your interests from being pledged as security to an institutional lender who has provided financing to or for your Waxing Studio, provided the institutional lender accepts such security interest subject to our conditions.

C. Acknowledgement of Restrictions. You acknowledge and agree that the restrictions imposed on transfers are reasonable and necessary to protect the goodwill associated with the System and the Marks, as well as our reputation and image, and are for the protection of us, you, and all other franchisees that own and operate Waxing the City studios.

#### 14. OUR TERMINATION RIGHTS

A. Without Notice. You will be in default and we may, at our option, terminate this Agreement, without affording you any opportunity to cure the default, effective upon delivery of notice of termination to you, following the occurrence of any of the following events:

1. you are liquidated or dissolved;
2. your Waxing Studio is not constructed strictly according to the plans we have approved and you do not remedy the deficiencies within thirty (30) days after notice from us;

3. you fail to operate for seven (7) consecutive days (unless prevented from doing so by fire, flood, or acts of nature), or otherwise abandon your Waxing Studio, or forfeit the right to do or transact business in the jurisdiction where your Waxing Studio is located, or lose the right to possession of the premises in which your Waxing Studio operates;

4. you or any of your owners make an unauthorized Transfer under this Agreement;

5. you or any of your owners are proven to have engaged in fraudulent conduct, or are convicted of, or plead guilty or no contest to a felony or a crime involving moral turpitude, or any other crime or offense that we believe is reasonably likely to have an adverse effect on the System, the Marks or the goodwill associated therewith;

6. you are given three (3) or more notices of being in material violation of any of the terms or requirements of this Agreement within any twelve (12) month period, whether or not such defaults are timely cured after notice;

7. you misuse or make any unauthorized use of the Marks and do not cease such misuse or unauthorized use within twenty-four (24) hours' notice from us;

8. you maintain false books or records or submit any false or misleading application, statement or report to us, whether in applying for the franchise or during the term of this Agreement;

9. you fail to open the Waxing Studio for business to the general public by the Required Opening Date in the Rider to this Agreement; or

10. you, by act or omission, materially impair the value of, or the goodwill associated with, any of the Marks or the System.

B. With Notice and Failure to Cure. Except for those defaults provided for under Section 14.A above, you will be in default hereunder for any failure to maintain or comply with any of the terms, covenants, specifications, standards, procedures or requirements imposed by this Agreement or any other agreement you or any of your affiliates have with us or with any of our affiliates, or in any Manual, policy or procedure statement or other written document provided by us, or to carry out the terms of this Agreement in good faith. Before we terminate this Agreement as a result of such defaults, we will provide you with thirty (30) days written notice of your default. If the defaults specified in such notice are not cured within the thirty (30) day period (either by you or by any financial institution that has loaned money to you or to your business), we may terminate this Agreement upon the expiration of the thirty (30) day period without further notice. Such defaults will include, without limitation, the occurrence of any of the following events:

1. you fail to construct or remodel your Waxing Studio within the time provided for in this Agreement;

2. you fail, refuse, or neglect to promptly pay when due any monies owing to us, to our affiliates, or to other creditors you have, or to submit the financial or other information required under this Agreement;

3. a threat or danger to public health or safety results from the construction, maintenance, or operation of the Waxing Studio;

4. you offer or sell non-approved products or services; or

5. you, by act or omission in connection with the operation of your Waxing Studio, permit a continuing violation of any applicable law, ordinance, rule, or regulation of a governmental body; provided, however, that if such act or omission damages the goodwill associated with the System or the Marks, we will have the right to terminate this Agreement if you do not cure such default within twenty-four (24) hours after notice from us.

C. Standard Default Fee. In addition to our right to terminate the Franchise Agreement, if you breach your obligations under this Agreement and fail to cure the default within the applicable cure period provided above, you must pay us our then-current “Standard Default Fee” on a monthly basis until the default is cured in order to offset our costs incurred to address the default. The Standard Default Fee is in addition to any fee that the PCC may levy against you.

D. Applicable Law. If the provisions of this Section 14 are inconsistent with applicable law, the applicable law will apply.

E. Pre-termination Options. Prior to the termination of this Agreement, if you fail to pay any amounts owed to us or our affiliates, fail to comply with any term of this Agreement, or notify us that your Waxing Studio is closing, then in addition to our right to terminate this Agreement or to bring a claim for damages, we have the option to:

1. remove the listing of your Waxing Studio from all advertising published or approved by us;
2. cease listing your Waxing Studio on any Technology Platforms;
3. prohibit you from attending any meetings or programs held or sponsored by us;
4. terminate your access to any computer system or software we own, maintain or license to you (whether licensed by us or by one of our affiliates);
5. suspend all services we or our affiliates provide to you under this Agreement or otherwise; and/or
6. contact your landlords, lenders, suppliers and customers regarding the status of your operations, and provide copies of any default or other notices to your landlords, lenders and suppliers.

Our actions, as outlined in this Section 14.E may continue until you have brought your accounts current, cured any default, and complied with our requirements, and we have acknowledged the same in writing. The taking of any of the actions permitted in this Section will not suspend or release you from any obligation that would otherwise be owed to us or our affiliates under the terms of this Agreement or otherwise. Further, you acknowledge that the taking of any or all such actions on our part will not deprive you of the most essential benefits of this Agreement, and will not constitute a constructive termination of this Agreement.

## 15. YOUR TERMINATION RIGHTS: NOTICE REQUIRED

You may terminate this Agreement upon ten (10) days’ notice to us if we violate any material obligation to you and fail to cure such violation within thirty (30) days after our receipt of written notice from you; provided, however, that you must be in compliance with the Agreement at the time of giving each notice and at the time of termination. Your written notice of our alleged violation must identify the violation, demand that it be cured, and indicate your intent to terminate this Agreement if it is not cured.

16. YOUR OBLIGATIONS UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all rights granted to you under this Agreement will terminate, the franchise will revert to us, and you will have the obligations set forth below, which obligations survive the expiration or termination of this Agreement, along with any other provisions of this Agreement which by their nature may or are to be performed following expiration or termination of this Agreement:

A. You will immediately cease to operate the business franchised under this Agreement, and will not thereafter, directly or indirectly, represent to the public or hold yourself out as an Waxing the City franchisee with respect to such business.

B. You will immediately and permanently cease to use, in any manner whatsoever, all confidential information, approved Information System and related software, methods, procedures and techniques used by or associated with the System, and the Marks and distinctive forms, slogans, signs, symbols, logos and devices associated with the System, as well as any name, mark, symbol, logo or slogan similar to any of the Marks. You will also specifically authorize us to physically remove any signage bearing any of the Marks that you may fail to remove. Further, if we elect to remove such signage, you will, upon demand, reimburse us for any costs we incur in doing so.

C. You will immediately return to us the Manual, all copies or excerpts thereof, and any property held or used by you that is owned by us and will cease to use, and either destroy or convey to us, all signs, advertising materials, displays, stationery, forms and any other materials that bear or display the Marks.

D. Subject to Section 16.H below, you will take such actions as may be necessary to cancel any assumed name or similar registration that contains the Mark “Waxing the City<sup>®</sup>” or any other Mark, and will immediately and permanently refrain from and cease all use of the Mark “Waxing the City” or any other Mark on or in any Technology Platforms and cancel any Technology Platform you control as we direct. You agree and acknowledge that your continued use of the Marks after the expiration or termination of this Agreement will be without our consent and will constitute an “exceptional case” under federal trademark law (15 U.S.C. § 1117) entitling us to recover treble damages, costs and attorneys’ fees.

E. You must within ten (10) days after termination or expiration of the Agreement, reimburse to customers all service packages purchased for services that have not been redeemed, on a pro-rata basis, if: (i) the service packages are available for redemption only at your Waxing Studio; or (ii) the nearest Waxing the City studio available for redemption is located ten (10) or more miles from your Waxing Studio. For example, if a customer purchased a service package at a cost of One Hundred Dollars (\$100) for ten (10) services, and at the time of termination or expiration had only used five (5) services (50% of the total services purchased), then you must pay the customer Fifty Dollars (\$50) (or 50% of total fees paid).

F. You will, within ten (10) days after termination or expiration of this Agreement, make such modifications and alterations to your Waxing Studio premises as may be necessary to distinguish the appearance of the premises from all attributes of the System and will make such specific additional changes thereto as we may request. You agree that, at a minimum, such modifications will include: (i) removal of all signage; (ii) alteration of the color scheme and decor; and (iii) discontinuation of the use of any item containing any of the Marks.

G. Within five (5) days after termination, you will pay to us all amounts owed to us under this Agreement, including the Royalty Fees that would be due through the date this Agreement was scheduled to expire. Further, if this Agreement is terminated for any reason other than as a result of a material breach of this Agreement by us that is not cured within thirty (30) days following notice from you, such sums will

include all damages, costs, and expenses, including reasonable attorneys' fees, incurred by us as a result of the default and the termination. You agree that until such obligations are paid in full, you hereby grant us a lien against any and all of the personal property, furnishings, equipment, signs, fixtures and inventory owned by you and located on your Waxing Studio premises on the date this Agreement terminates or expires and authorize us to file financing statements and other documents we deem appropriate to perfect such lien.

H. If requested by us, you will take all further action and execute all documents necessary to convey and assign to us all telephone and fax numbers that have been used in the operation of your Waxing Studio, as well as any other registrations or listings for any Technology Platforms that include the words "Waxing the City" or if we do not so request, you will cease all use of such telephone numbers and Technology Platforms that include the words "Waxing the City."

I. You will comply with the covenants contained in this Agreement, including, but not limited to, the covenants not to compete and the covenants not to disclose trade secrets or confidential information.

J. We may, if you fail or refuse to do so, execute in your name and on your behalf, any and all actions and/or documents that may be necessary to affect your obligations under Sections 16.D and 16.H, and you hereby irrevocably appoint us as your attorney in fact to do so, which appointment is coupled with an interest.

K. You will furnish us with written evidence satisfactory to us of compliance with all the obligations set forth in this Section 16 within thirty (30) days after termination or expiration of this Agreement.

L. Upon expiration or termination of this Agreement, we have the option, upon thirty (30) days' written notice from the date of expiration or termination, to purchase from you all or any portion of the tangible and intangible assets relating to the Waxing Studio, including the Waxing Studio premises if you own the Waxing Studio premises (excluding any unsalable inventory, cash, short-term investments and accounts receivable) (collectively, the "Purchased Assets") and to take an assignment of your lease for (1) the Waxing Studio premises (or, if an assignment is prohibited, a sublease for the full remaining term under the same provisions as your lease) and (2) any other tangible leased assets used in operating the Waxing Studio. We may assign to a third party this option to purchase and assignment of leases separate and apart from the remainder of this Agreement.

The purchase price for the assets of the Waxing Studio will be the "Book Value" (as defined below) of the Purchased Assets. "Book Value" means the net book value of the Purchased Assets, as disclosed in the last statement of the Waxing Studio provided to us under Section 12 before termination or expiration, provided, however, that: (1) each depreciable asset will be valued on a "straight-line" basis without provision for salvage value; (2) we may exclude from the Purchased Assets any products or other items that were not acquired in compliance with this Agreement; and (3) we may exclude from Book Value any provision for goodwill or similar value attributable to intangible property. If we are not satisfied with the accuracy or fairness of any financial statements, or none has been submitted, our regularly employed firm of certified public accountants will determine (by audit) the Book Value. We and you will equally bear the cost of the audit. The results of the audit will be final and binding on both parties.

The purchase price, as determined above, will be paid in cash at the closing of the purchase, which will occur no later than sixty (60) days after we deliver notice of our election to purchase the assets of the Waxing Studio, unless Book Value is determined by audit, in which case the closing will occur within a reasonable time, not to exceed sixty (60) days, after the results of the audit are made available. At the closing, you will deliver documents transferring good and merchantable title to the assets purchased, free and clear of all liens, encumbrances and liabilities to us or our designee and such other documents we may reasonably request to permit us to operate the Waxing Studio without interruption. We may set off against

and reduce the purchase price by all amounts you owe to us or any of our affiliates. If we exercise our option to purchase the Waxing Studio, we may, pending the closing, appoint a manager to maintain Waxing Studio operations.

If we assume any leases for the premises for the Waxing Studio or if we assume the leases for other tangible leased assets used in the Waxing Studio under this Section, you will pay, remove or satisfy any liens or other encumbrances on your leasehold interests and will pay in full all amounts due the lessor under the leases existing at or prior to assumption. We are not liable for any obligation you incur before the date we assume any leases.

#### 17. YOUR COVENANTS NOT TO COMPETE

A. During Term. You will not, directly or indirectly, during the term of this Agreement, on your own account or as an employee, consultant, partner, officer, director, shareholder or member of any other person, firm, entity, partnership, corporation or company, own, operate, lease to or lease from, franchise, engage in, be connected with, have any interest in, or assist any person or entity engaged in owning, operating, or managing any business that offers hair removal services, wherever located, whether within the Protected Territory or elsewhere.

B. After Expiration, Termination, or Transfer. You will not, directly or indirectly for a period of two (2) years after the transfer by you, or the expiration or termination of this Agreement, on your own account or as an employee, consultant, partner, officer, director, shareholder, lender, or joint venturer of any other person, firm, entity, partnership, corporation or company, own, operate, lease to or lease from, franchise, conduct, engage in, be connected with, have any interest in or assist any person or entity engaged in offering hair removal services, which is located within the Protected Territory or within a ten (10) mile radius of any Waxing the City studio, wherever located, whether within the Protected Territory or elsewhere.

C. Reasonableness. You agree that the scope of the prohibitions set forth in Sections 17.A and 17.B are reasonable and necessary to protect us and the System (including other franchisees of the System). You agree that the prohibitions in Section 17.A must be very broad in order to prevent you from taking information, materials and training we are providing to you on an ongoing basis and using them to either compete with us, or preempt or otherwise restrict our ability to enter new markets. You agree that the time period and the scope of the prohibitions set forth in Section 17.B are the reasonable and necessary time and distance needed to protect us if this Agreement expires or is terminated for any reason. You also agree that you have many other opportunities available to earn a living, and that these restrictions will not preclude you from engaging in a lawful trade or business for which you otherwise have training or experience.

D. Exception. The purchase of a publicly traded security of a corporation engaged in a competitive business or service will not in itself be deemed violative of this Section 17 so long as you do not own, directly or indirectly, more than five percent (5%) of the securities of such corporation.

E. Relief. You agree that damages alone cannot adequately compensate us if there is a violation of these noncompetitive covenants and that injunctive relief is essential for our protection. You therefore agree that in case of your alleged breach or violation of this Section, we may seek injunctive relief, in addition to all other remedies that may be available to us at equity or law. In addition, if you violate the restriction provided for in Section 17.B, the period of time during which the restriction will remain in effect and be extended until two (2) years after you cease violating the restriction.

18. ENFORCEMENT

A. Injunctive Relief/Attorneys' Fees. We and you will each be entitled to the entry of temporary restraining orders and temporary and permanent injunctions to (i) enforce your and our rights to terminate this Agreement for the causes set forth in Paragraphs 15 and 16 of this Agreement and (ii) prevent or remedy a breach of this Agreement if that breach could materially impair the goodwill associated with our or your business, including but not limited to, the enforcement of obligations upon termination or expiration of this Agreement and the enforcement of the non-compete provisions of this Agreement. You and we will also be entitled to the entry of temporary restraining orders and temporary and permanent injunctions enforcing these provisions. If we are successful in obtaining an injunction, or any other judicial relief or order from an arbitrator against you, or in successfully defending any claim you have brought against us, you will pay us an amount equal to all of our costs of prosecuting and/or defending the action, including reasonable attorneys' fees, costs of investigation, court and arbitration costs, and other litigation or arbitration expenses and interest on such costs. Your and our respective rights to obtain injunctive or other equitable relief is in addition to any other right we or you may have under this Agreement. It will in no way limit or prohibit us from obtaining money damages from you if you breach this Agreement.

B. Peer Compliance Committee. We may establish a Peer Compliance Committee (the "PCC") to review certain claims you or we may make against each other. Specifically, if we establish the PCC, and you feel we have violated any of our obligations under Section 8 of this Agreement, you may submit your claim to the PCC. If we establish the PCC, and we believe you have violated any of your obligations under Section 9 of this Agreement, we may submit that claim to the PCC. (Unless we each agree, no claims or violation of any other provision of this Agreement may be submitted to the PCC.)

1. If we establish the PCC, we will also establish terms and procedures for the review of complaints by the PCC (the "PCC T&P"). If either of us submits a claim for violation of the foregoing sections to the PCC, the PCC will conduct a hearing and review the claim in accordance with the PCC T&P. If the PCC determines a breach has occurred, it may levy a fee against the breaching party, subject to maximum amounts set forth in the PCC T&P. If a party is found to be in breach and that party does not cure the breach within thirty (30) days after receipt of notice of the decision of the PCC, or such other reasonable period determined by the PCC (but not less than ten (10) days nor more than ninety (90) days after the decision is received by the party), the PCC will have the authority to levy additional fees in accordance with the PCC T&P. If either of us fail to pay a fees that is levied within ten (10) days following receipt of notice of the levy, that failure will be deemed a material breach of this Agreement.

2. The submission of claims to the PCC will not be the sole remedy for breach of Sections 8 or 9 of this Agreement, and each of us may also pursue any other remedies for breach that are permitted under this Agreement.

C. Mediation. Except where it is necessary for either you or us to obtain equitable relief to preserve the goodwill of our respective businesses (including, but not limited to, the enforcement of obligations upon termination of this Agreement and the covenants not to compete contained in this Agreement), you and we each agree to enter into mediation of all disputes involving this Agreement or any other aspect of the relationship between us, for a minimum of four (4) hours, prior to initiating any legal action or arbitration against the other.

1. Upon written notice by either you or us, to the other, of your or our desire to mediate, the party receiving the notice will select an independent entity that provides mediation services to serve as mediator in the proceeding. If the party receiving the notice of intent to mediate does not name such an organization within ten (10) days from the date the notice of intention to mediate is received, then the other party may proceed as if this Section 18.C did not exist, or, at its option, make the selection of the

organization to provide mediation services. If you or we select an organization that is unwilling to serve as mediator, then the other party may select the organization. Once the organization is designated and agrees to accept the appointment as mediator, the organization will be directed to schedule a mediation proceeding at a time mutually convenient to us and to you. The mediation will be held within thirty (30) days following receipt by the mediation organization of notification that its services are requested. If you and we cannot agree on a date for mediation, then the mediation organization will select a date it believes is reasonable for both of us, given all of the claimed conflicts in dates. The person actually mediating the dispute will be required to have at least ten (10) years of experience as either a franchisee or franchisor (or as an officer of such an entity) or in franchise law. You and we will equally share the cost of the mediator. The mediator will select the location for the mediation, but unless you and we both agree otherwise, the mediation will be held in a metropolitan area with at least 250,000 persons that is not located within one hundred (100) miles of either your principal office or our principal office.

2. Except for the matters identified above where you or we are permitted to seek injunctive relief without first mediating the dispute, if either party initiates litigation or arbitration without complying with their obligation to mediate in accordance with this paragraph (unless the other party has failed to respond on a timely basis or has indicated it will not engage in mediation in accordance with the provisions of this Section 18.C), then upon petition of whichever of us has a lawsuit or arbitration proceeding brought against us, the court or arbitrator will dismiss the litigation or arbitration without prejudice, and award attorneys' fees and costs to the party seeking dismissal in an amount equal to the attorneys' fees and costs the party seeking dismissal incurred. If the court or arbitrator refuses for any reason to dismiss the action, then regardless of the outcome of the action, or of any award given in the action, the party initiating the litigation or arbitration will be responsible for all attorneys' fees and costs incurred throughout the litigation or arbitration by the other party as damages for failing to comply with the provisions of this Section 18.C.

D. Arbitration. Except insofar as you or we elect to enforce this Agreement by judicial process and injunction as provided in Section 18.A hereof, all disputes and claims arising out of or relating to this Agreement, or to the breach thereof, or to any of our standards or operating procedures, or other obligation of either of yours or ours, or to the breach thereof (including any claim that this Agreement, any provision of this Agreement, any specification, standard, operating procedure or any other obligation of yours or ours is illegal, unenforceable or voidable), or any aspect of the relationship between you and us (even if additional persons are named as parties to such action), must be resolved by arbitration in Minneapolis, Minnesota, or if our principal office is not located in Minnesota, then at the office of the American Arbitration Association located closest to our principal office. It is our intention that state laws attempting to void out of state forum selection clauses for arbitration be preempted by the Federal Arbitration Act and that arbitration be held in the place designated above.

1. The arbitration will be held in accordance with the United States Arbitration Act (9 U.S.C. § 1 et seq.), if applicable, and the rules of the American Arbitration Association (relating to the arbitration of disputes arising under franchise agreements, if any; otherwise, the general rules of commercial arbitration).

2. The arbitrator appointed must have at least ten (10) years' experience in franchising or franchise law, and the arbitrator will be instructed that he or she must follow the substantive law and the other requirements, waivers and limitations of this Agreement. The arbitrator shall have no authority to add, delete or modify in any manner the terms and provisions of this Agreement. All findings, judgments, decisions and awards of the arbitrator will be limited to the dispute or controversy set forth in the written demand for arbitration and response to that demand. The arbitrator may not award any relief that was not specifically requested by the parties prior to the start of the arbitration hearing. The arbitrator will have the right to award or include in any award the specific performance of this Agreement, but will be required to file a reasoned brief with his or her award.

3. You and we each agree that any award from the arbitrator may be appealed under the Optional Appellate Arbitration Rules of the American Arbitration Association.

4. You and we acknowledge that judgment upon an arbitration order may be entered in any court of competent jurisdiction and will be binding, final, and nonappealable, except for mistakes of law, as permitted under the United States Arbitration Act or for failure of the arbitrator to meet the requirements of this Section 18.D.

5. Unless this Agreement is terminated in accordance with the provisions of Paragraphs 15 or 16, during the pendency of any arbitration proceeding, you and we will fully perform the requirements of this Agreement.

6. If there is any dispute as to whether a particular claim or matter is subject to arbitration, and the matter relates to an issue for which either party seeks an injunction in accordance with the provisions of Subparagraph 18.A, the arbitrability of such claim will be determined by the court that would otherwise hear the motion to issue the injunction. In the case of a dispute as to the arbitrability of any other claim brought by either party against the other, the decision as to whether or not the claim is subject to arbitration will be made by the arbitrator appointed in accordance with this Agreement.

7. All arbitration proceedings will be individual proceedings between you and us, and will not be conducted on a “class” basis, or include any other of our franchisees as named parties unless you and we each agree.

If, after either you or we institute an arbitration proceeding, one or the other asserts a claim, counterclaim or defense, the subject matter of which, under statute or current judicial decision, is nonarbitrable for public policy reasons, the party against whom the claim, counterclaim or defense is asserted may elect to proceed with the arbitration of all arbitrable claims, counterclaims or defenses or proceed to litigate all claims, counterclaims or defenses in a court having competent jurisdiction.

E. Waiver of Punitive Damages. We and you (and your owners and guarantors if applicable) agree to waive, to the fullest extent permitted by law, any right to, or claim for, any punitive or exemplary damages against the other and against any affiliates, owners, employees, or agents of the other and agree that in the event of a dispute between us, each of us will be limited to the recovery of any actual damages sustained by it.

F. Venue. We and you (and your owners and guarantors if applicable) each agree that if litigation is permitted under this Agreement, the sole forum for litigation arising under this Agreement, or any aspect of the relationship between us (even if additional parties are named as parties to that litigation) will be the state or federal courts of Minnesota. Those actions must be exclusively venued either in the District Courts of Minnesota, County of Ramsey, or the United State District Court for the District of Minnesota. You and we each waive any objection you or we may have to either the jurisdiction or the venue of such court (except to the extent jurisdiction is preempted by the arbitration provisions of this Agreement), and you and we each consent to personal jurisdiction and venue in such court. However, if we are permitted to seek injunctive relief under this Agreement, we may, at our option, bring that action in the county in which your Waxing Studio is located.

G. Jury Waiver. YOU AND WE EACH WAIVE THE RIGHT TO A TRIAL BY JURY. This waiver applies to all causes of action that are or might be included in any such action, including claims related to the enforcement or interpretation of this Agreement, allegations of state or federal statutory violations, fraud, misrepresentation or similar causes of action and it applies even if persons that are not a party to this Agreement are named as additional parties in the proceeding.

H. Waiver of Collateral Estoppel. The parties agree they should each be able to settle, mediate, litigate, arbitrate, or compromise disputes in which they are involved with third parties, without having those disputes directly affect the contract or relationship between us. We and you therefore each agree that a decision of an arbitrator or court of law to which one of us is not a party will not prevent the person that was a party to such action from making similar arguments, or taking similar positions, in any action between us. You and we therefore each waive the right to assert that principles of collateral estoppel prevent either you or us from raising any claim or defense in an action between us if either you or we lost a similar claim or defense in another action.

I. No Affiliate Liability. No past, present or future director, officer, employee, incorporator, member, partner, stockholder, subsidiary, affiliate, controlling party, entity under common control, ownership or management, vendor, service provider, agent, attorney or representative of ours or of any of our affiliates will have any liability for (i) any obligations or liabilities we have relating to or arising under this Agreement, or (ii) any claim against us based on, in respect of, or by reason of, the transactions contemplated in this Agreement. This provision will not, however, affect any right, duty or obligation of ours or yours, or of any guarantor of your obligations.

#### 19. RIGHT OF FIRST REFUSAL

If, at any time during the Term of this Agreement, you receive a bona fide offer to purchase or lease your Waxing Studio (or if you are a company, partnership or other entity, the equity ownership of you), which offer you are willing to accept, you will communicate in writing to us the full terms of the offer and the name of the offeror. We may elect to purchase or lease the business on the terms set forth in the offer. If we elect to purchase or lease the business, we will give you written notice of the election within thirty (30) days after we receive your communication of the offer. If we fail to give written notice of election within thirty (30) days, you may sell or lease to the offeror on the terms offered, subject to the provisions relating to assignment. The sale or lease must, however, be completed within sixty (60) days of the termination of the thirty (30) day period during which we may give written notice of election to purchase or lease; otherwise, an additional notice must be given to us and an additional option period must expire prior to any such transfer. If we elect to purchase or lease the business, we will have the right to substitute equivalent cash for any non-cash consideration included in the bona fide offer to purchase or lease the business and we and you will use our best efforts to complete the purchase or lease within sixty (60) days from the date of our notice of election to purchase or lease.

#### 20. MISCELLANEOUS

A. Unpaid Amounts. Any unpaid amounts owed by you to us or any of our affiliates including any Royalty Fee, General Advertising and Marketing Fund Contributions and product purchases will bear interest at the rate of one and one half percent (1.5%) per month or the maximum rate permitted by law, whichever is less. You must reimburse us and our affiliates for all costs incurred in the collection of unpaid amounts, including attorneys' fees.

B. Severability. All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and enforceable provisions will be enforced to the extent valid and enforceable. You and we will substitute a valid and enforceable provision for any specification, standard, operating procedure, rule or other obligation of either of us, which is determined to be invalid or unenforceable and is not waived by the other party. Such modifications to this Agreement will be effective only in such jurisdiction and will be enforced as originally made and entered into in all other jurisdictions.

C. Cumulative Rights. Except as otherwise set forth in this Agreement, our and your rights under this Agreement are cumulative and no exercise or enforcement of any right or remedy under this

Agreement will preclude the exercise or enforcement of any other right or remedy under this Agreement or which we or you are entitled by law to enforce.

D. Governing Law. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Section 1051 et seq.) and the Federal Arbitration Act, this Agreement and the franchise relationship will be governed by the laws of the State of Minnesota. You waive, to the fullest extent permitted by law, the rights and protections that might be provided through the laws of any state (including Minnesota) relating to franchises or business opportunities, other than those of the state in which the Franchised Location is located. This waiver of any rights under Minnesota law will not apply if the Franchised Location is located in Minnesota or you are a resident of (or if you are an entity, your principal(s) is a resident of) Minnesota.

E. Disavowal of Oral Representations. You and we acknowledge that we want all terms of our business relationship to be defined in this written agreement, and that neither of us wants to enter into a business relationship with the other in which any terms or obligations are subject to any oral statements or in which oral statements serve as the basis for creating rights or obligations different than or supplementary to the rights and obligations as set forth in this Agreement. Therefore, you and we agree that this Agreement will supersede and cancel any prior and/or contemporaneous discussions between us. We each agree that we placed, and will place, no reliance on any such discussions. You agree that no representations have been made to you concerning this Agreement or the Waxing the City franchise other than as contained in this Agreement and in the Franchise Disclosure Document you received before you signed this Agreement (the "FDD"). You agree that no claims, representations or warranties of earnings, sales, profits, or success of your Waxing Studio have been made to you other than as set forth in Item 19 of the FDD.

F. Approvals. Wherever our consent or approval is required in this Agreement, unless the provision specifically indicates otherwise, we have the right to withhold our approval in our discretion, for any reason, or for no reason. When the terms of this Agreement specifically require that we not unreasonably withhold our approval or consent, if you are in default or breach under this Agreement, any withholding of our approval or consent will be considered reasonable. Our approvals and consents will not be effective unless given in writing.

G. Interpretation. It is the desire and intent of you and us that the provisions of this Agreement be enforced to the fullest extent possible under the applicable laws and public policies. Therefore, if any provision of this Agreement is determined by a court or arbitrator to be invalid or unenforceable, that determination will apply only to the operation of that provision in the particular proceeding in which the determination is made. We and you agree that if any provision of this Agreement is capable of two (2) constructions, one of which would render the provision illegal or otherwise voidable or unenforceable and the other of which would render the provision valid and enforceable, the provision will have the meaning that renders it valid and enforceable. The language of all provisions of this Agreement will be construed simply according to its fair meaning and not strictly against you or us.

H. Waiver. Except as otherwise provided in this Section 20.H, neither of us will be deemed to have waived any obligation of the other, or to have agreed to any modification of this Agreement, unless we have done so in writing, and the writing is signed by the person giving the waiver or agreeing to the modification. However, you agree that you will give us immediate written notice of any claimed breach or violation of this Agreement as soon as possible after you have knowledge, or determine, or are of the opinion, that there has been a breach or violation by us of this Agreement. If you fail to give written notice to us of any claimed misrepresentation, violation of law, or breach of this Agreement within one (1) year from the date you have knowledge, determine, are of the opinion, or become aware of facts and circumstances reasonably indicating, that you may have a claim against us or against any of our affiliates under any state law, federal law, or common law, then the misrepresentation, violation of law, or breach

will be considered to have been condoned, approved and waived by you, and you will be barred from beginning any legal, arbitration, or other action against us or against our affiliates, or from instituting any counterclaim against us or our affiliates, for the misrepresentation, violation of law, or breach, or from using the alleged act or omission as a defense to any action we may maintain against you.

I. Time. Time is of the essence to this Agreement.

J. Counterparts. This Agreement may be signed in counterparts, each of which will be considered an original.

K. Entire Agreement. The preambles are a part of this Agreement. This Agreement, together with its exhibits, constitutes the entire agreement between you and us with respect to your Waxing Studio and any other aspect of the relationship we have with you, and cannot be amended except by a written agreement signed by you and us. This Agreement also supersedes all prior agreements and negotiations we have had with you related to your acquisition of this franchise or your and our rights and obligations. Nothing in this or in any related agreement, however, is intended to disclaim the representations we made to you in the FDD.

L. Headings and Terms. The headings of the Sections hereof are for convenience only and do not define, limit or construe the contents of such Sections. The term “you” as used herein is applicable to one or more persons, a corporation, a partnership or limited liability company, and each of their respective owners, as the case may be, and the singular usage includes the plural and the masculine and neuter usages include the other and the feminine. If more than one person executes this Agreement for you, then your obligations are joint and several.

M. Patriot Act. You represent and warrant that to your actual and constructive knowledge: (i) neither you (including your directors, officers and managers), nor any of your affiliates, or any funding source for your Waxing Studio, are identified on the list at the United States Treasury’s Office of Foreign Assets Control (OFAC); (ii) neither you nor any of your affiliates are directly or indirectly owned or controlled by the government of any country that is subject to an embargo imposed by the United States government; (iii) neither you nor any of your affiliates are acting on behalf of the government of, or is involved in business arrangements or other transactions with, any country that is subject to such an embargo; (iv) neither you nor any of your affiliates are on the U.S. Department of Commerce Denied Persons, Entities and Unverified Lists, the U.S. Department of State’s Debarred Lists, or on the U.S. Department of Treasury’s Lists of Specialty Designated Nationals, Specialty Designated Narcotics Traffickers or Specialty Designated Terrorists, as such lists may be amended from time to time (collectively, the Lists); (v) neither you nor any of your affiliates, during the term of this Agreement, will be on any of the Lists; and (vi) during the term of this Agreement, neither you nor any of your affiliates will sell products, goods or services to, or otherwise enter into a business arrangement with, any person or entity on any of the Lists. You agree to notify us in writing immediately upon the occurrence of any act or event that would render any of these representations incorrect.

N. Personal Guaranty. You, or if you are a corporation, partnership, limited liability company or partnership, or other entity, all of your owners, will sign the personal guaranty agreement in the form attached to this Agreement (the “Guaranty Agreement”). Any person or entity that at any time after the Effective Date of this Agreement becomes an owner of yours will, as a condition of becoming an owner, sign the Guaranty Agreement. In addition, a spouse of an owner and any other person we designate must also sign the Guaranty Agreement.

21. NOTICES

Any and all notices required or permitted under this Agreement will be in writing and will be deemed to have been duly given upon the earlier of (i) when received; (ii) one (1) business day after placement with a reputable national overnight carrier; or (iii) three (3) business days after deposit (not including the day of deposit), if placed in the mail for delivery by certified mail, postage pre-paid, and, in the cases of clauses (ii) or (iii), addressed to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notice to us: Waxing the City Worldwide, LLC  
111 Weir Drive  
Woodbury, Minnesota 55125  
Attention: President

Notice to you: See Rider

22. ACKNOWLEDGEMENTS

A. Independent Investigation. You acknowledge that you have conducted an independent investigation of the business franchised under this Agreement, and recognize that the business venture contemplated by this Agreement involves business risks and that its success will be largely dependent upon your ability as an independent business person.

B. Franchise Agreement. You acknowledge that you have received, read, and understood this Agreement and that we have fully and adequately explained the provisions of it to your satisfaction and that we have accorded you time and opportunity to consult with advisors of your own choosing about the potential benefits and risks of entering into this Agreement.

C. Other Franchises. You acknowledge that other Waxing the City franchisees have or will be granted franchises at different times and in different situations, and further acknowledge that the provisions of such franchises may vary substantially from those contained in this Agreement. You also acknowledge that because complete and detailed uniformity under varying circumstances may not be practical, there may be variations we grant to other of our Waxing the City studios (whether franchised, or studios that we or our affiliates operate), and you will not be entitled to require us to grant similar variations or privileges to you.

[THIS AGREEMENT CONTINUES WITH A RIDER AND INITIAL FRANCHISE FEE ATTACHMENT, WHICH ARE A PART OF THIS AGREEMENT]

FRANCHISE AGREEMENT RIDER

- 1. Effective Date: \_\_\_\_\_
  - 2. Franchisee: \_\_\_\_\_
  - 3. DMA:
- 
- 

4. Franchised Location:

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You understand that we may, and we may sell franchises, and grant territories to others who will, operate Waxing the City studios in the above identified DMA. You will have to obtain our review and approval for a Franchised Location. Likewise, if you choose to move your final address at any time, or if the location set forth above, or any other location we agree upon, becomes unavailable for any reason, it is your obligation to select a new location in the DMA, and to obtain our approval of that location before you acquire the site, or obtain any rights in the location.

5. Protected Territory: A radius of \_\_\_\_\_ miles around the Franchised Location.

6. Ownership: Franchisee represents and warrants that any entity to which this Agreement will be transferred will have the initial ownership set forth below, and that no changes will be made in such ownership without the prior written approval of Franchisor:

Name	Percentage Ownership
_____	_____ %

- 7. Principal Operator designated by Franchisee:
- 8. Required Opening Date: \_\_\_\_\_
- 9. Initial Franchise Fee (see Initial Franchise Fee Attachment).
- 10. Address for notice to you: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, we and you have signed this Agreement as of the Effective Date set forth above.

FRANCHISOR:  
WAXING THE CITY WORLDWIDE, LLC

FRANCHISEE:

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

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

INITIAL FRANCHISE FEE ATTACHMENT TO RIDER

The initial franchise fee is the one that is initialed by you and by us.

- \_\_\_/\_\_\_     **New Franchisee** (including conversion studios): \$42,500
- \_\_\_/\_\_\_     **New Franchisee** (including conversion studios) (**Qualified Veterans Only**): \$35,000.
- \_\_\_/\_\_\_     **Existing, Qualifying Waxing the City, Anytime Fitness, The Bar Method, or Basecamp Fitness Franchisee**: \$32,500
- \_\_\_/\_\_\_     **Existing, Qualifying Waxing the City, Anytime Fitness, The Bar Method, or Basecamp Fitness Franchisee (Qualified Veterans Only)**: \$30,000
- \_\_\_/\_\_\_     **Franchise agreement signed pursuant to an obligation you have under an Area Development Agreement**: Remaining balance due on Initial Franchise Fee as set forth in the Area Development Agreement.
- \_\_\_/\_\_\_     **Transfer of an existing franchise or renewal of an existing franchise**: No initial franchise fee.

PERSONAL GUARANTY AND AGREEMENT TO BE BOUND  
PERSONALLY BY THE TERMS AND CONDITIONS  
OF THE FRANCHISE AGREEMENT

In consideration of the execution of the Franchise Agreement (the "Agreement") between WAXING THE CITY WORLDWIDE, LLC ("we" or "us") and \_\_\_\_\_ (the "Franchisee"), dated \_\_\_\_\_, and for other good and valuable consideration, the undersigned, for themselves, their heirs, successors, and assigns, do jointly, individually and severally hereby become surety and guarantor for the payment of all amounts and the performance of the covenants, terms and conditions in the Agreement, to be paid, kept and performed by the Franchisee, including without limitation the dispute resolution provisions of the Agreement.

Further, the undersigned, individually and jointly, hereby agree to be personally bound by each and every condition and term contained in the Agreement and agree that this Personal Guaranty will be construed as though the undersigned and each of them executed a Franchise Agreement containing the identical terms and conditions of the Agreement.

The undersigned waive (1) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (2) protest and notice of default to any party respecting the indebtedness or nonperformance of any obligations hereby guaranteed; and (3) any right he/she may have to require that an action be brought against the Franchisee or any other person as a condition of liability; and (4) notice of any changes permitted by the terms of the Agreement or agreed to by the Franchisee.

In addition, the undersigned consents and agrees that: (1) the undersigned's liability will not be contingent or conditioned upon our pursuit of any remedies against the Franchisee or any other person; (2) such liability will not be diminished, relieved or otherwise affected by the Franchisee's insolvency, bankruptcy or reorganization, the invalidity, illegality or unenforceability of all or any part of the Agreement, or the amendment or extension of the Agreement with or without notice to the undersigned; and (3) this Personal Guaranty will apply in all modifications to the Agreement of any nature agreed to by Franchisee with or without the undersigned receiving notice thereof.

It is further understood and agreed by the undersigned that the provisions, covenants and conditions of this Personal Guaranty will inure to the benefit of our successors and assigns.

FRANCHISEE:

PERSONAL GUARANTORS:

\_\_\_\_\_  
- Individually

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Telephone

GENERAL RELEASE

In consideration of the agreement of WAXING THE CITY WORLDWIDE, LLC (“Franchisor”) to allow (“Franchisee”) to [RENEW OR TRANSFER] its Franchise Agreement dated \_\_\_\_\_ between Franchisee and Franchisor (“Agreement”), Franchisee hereby releases and forever discharges Franchisor, and its affiliates, as well as their current or former members, directors, officers, employees and agents, in their corporate and individual capacities, and their respective heirs, personal representatives, successors and assigns, from any and all claims Franchisee may have against such parties known and unknown, foreseen and unforeseen, from the beginning of time to the date hereof, whether in law or in equity, including, but not limited to, any claims arising out of the offer or sale of any franchise to Franchisee, and any matters arising under the Agreement or under any other agreement between Franchisee and Franchisor or its affiliates. **[FOR TRANSFERS:** Further, Franchisee acknowledges that transfer of the Agreement shall terminate Franchisee’s interest in the Agreement, but Franchisee will continue to be bound by all post-termination provisions of the Agreement, including but not limited to the obligations of confidentiality, and the covenant not to compete contained in the Agreement.]

**[IN CALIFORNIA:** The foregoing release is intended as a general release of all claims, demands, actions, causes of action, obligations, damages and liabilities of any kind or nature whatsoever that relate to the matters recited therein, and is intended to encompass all known and unknown, foreseen and unforeseen claims which the releasing party may have against any party being released. Section 1542 of the California Civil Code provides:

A General Release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the Release, which if known by him might have materially affected his settlement with the debtor.

You expressly waive the provisions of Section 1542 of the California Civil Code and expressly release each party to be released from all liability or claims arising out of any matters recited in the release.]

\_\_\_\_\_

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

CALIFORNIA ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede and apply to all Waxing the City franchises offered and sold in the state of California:

This California Addendum is only applicable if you are a resident of California or if your business is located in California.

1. The California Franchise Relations Act (Business and Professions Code Section 20000 through 20043), provides franchisees with additional rights concerning termination and non-renewal of the Franchise Agreement and certain provisions of the Franchise Agreement relating to termination and non-renewal may be superseded by the Act. There may also be court decisions which may supersede the Franchise Agreement and your relationship with Franchisor, including the areas of termination and renewal of Franchisee’s franchise. If the Franchise Agreement is inconsistent with the law, the law will control.

2. The Franchise Agreement requires Franchisee to execute a general release of claims upon renewal or transfer of the Franchise 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 thereunder 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)). To the extent required by such laws, Franchisee shall not be required to execute a general release.

3. The Franchise Agreement requires binding arbitration. The arbitration will occur at Minneapolis, Minnesota with the costs being borne by both parties unless the party seeking arbitration seeks arbitration prior to mediating the dispute. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code section 20040.5, Code of Civil Procedure section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

4. The Franchise Agreement requires application of the laws and forum of Minnesota. This provision may not be enforceable under California law.

5. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

6. The provision in the Franchise Agreement which terminates the franchise upon the bankruptcy of the Franchisee may not be enforceable under Title 11, United States Code, Section 101.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## ILLINOIS ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Illinois:

1. Notwithstanding the fact that the Franchise Agreement requires that the Agreement be governed by the laws of the State of Minnesota, to the extent required by Rule 200.608 of the Illinois Franchise Disclosure Laws, the Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

2. The Franchise Agreement states that Minnesota law generally applies. However, the conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Illinois law, and we will comply with that law in Illinois.

3. The other conditions under which your franchise can be terminated and your rights of nonrenewal may be affected by Illinois Law, 815 Illinois Compiled Statutes 705/19 and 705/20.

4. Section 4 of the Illinois Franchise Disclosure Act states that “Any provision of a franchise agreement which designates jurisdiction or venue in a forum outside of this state (Illinois) is void with respect to any cause of action which otherwise is enforceable in this State, provided that a franchise agreement may provide for arbitration in a forum outside of this State.”

5. Any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive requirements with any provisions of the Illinois Franchise Disclosure Act or any other law of the State of Illinois is void. This shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under the provisions of the Illinois Franchise Disclosure Act, nor shall it prevent the arbitration of any claims pursuant to the provisions of Title IX of the United States Code.

6. The provision in the Franchise Agreement which terminates the franchise upon the bankruptcy of the Franchisee may not be enforceable under Title 11, United States Code, Section 101.

7. Section 14.B of the Franchise Agreement is modified by the insertion of the following at the end of such Section:

“Notwithstanding the foregoing, to the extent required by Illinois law, the Franchisor shall provide reasonable notice to the Franchisee with the opportunity to cure any defaults under this Section 14.B, which shall not be less than ten (10) days and in no event shall such notice be required to be more than thirty (30) days.”

8. Each provision of this Addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently without reference to this Addendum.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

INDIANA ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Indiana:

This Indiana Addendum is only applicable if you are a resident of Indiana and your business will be located in Indiana.

1. Section 17.B of the Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof:

“B. After Expiration, Termination or Transfer. You will not, directly or indirectly for a period of two (2) years after the transfer by you, or the expiration or termination of this Agreement, on your own account or as an employee, consultant, partner, officer, director, shareholder, lender, or joint venturer of any other person, firm, entity, partnership, corporation or company, own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in or assist any person or entity engaged in any hair removal business, which is located within the Protected Territory.”

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

MARYLAND ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede and apply to all Waxing the City franchises sold to residents in the state of Maryland:

1. Section 13.B.8 of the Franchise Agreement is revised to provide that, pursuant to COMAR 02.02.08.16L, the general release required as a condition to renewal, sale or consent to assignment/transfer, shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Section 14.A of the Franchise Agreement is revised to provide that termination upon bankruptcy might not be enforceable under the U.S. Bankruptcy Act, but Franchisor intends to enforce it to the extent enforceable.

3. Section 18.F of the Franchise Agreement is revised to include the following language:

“Notwithstanding the standing provisions of this section, you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.”

4. The representations made in the Franchise Agreement are not intended to nor should they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

5. Each provision to this Addendum to the Franchise Agreement shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this Addendum.

6. The Franchise Agreement states that Minnesota law generally applies. However, the conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Maryland Law, and we will comply with that law in Maryland.

7. Notwithstanding anything to the contrary in the Franchise Agreement, nothing will prevent the Franchisee from filing suit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

MINNESOTA ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Minnesota:

This Minnesota Addendum is only applicable if you are a resident of Minnesota or if your business will be located in Minnesota.

1. Minn. Stat. Section 80C.21 and Minn. Rule 2860.4400J prohibit Franchisor from requiring litigation to be conducted outside Minnesota. In addition, nothing in this Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

2. Franchisor will comply with Minn. Stat. Section 80C.14, subds. 3, 4 and 5, which require, except in certain specified cases, that the Franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for nonrenewal of the Franchise Agreement.

3. Section 3 is revised to include the following:

“To the extent required by the Minnesota Franchise Act, Franchisor will protect your rights to use the trademarks, service marks, trade names, logos and other commercial symbols, or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding your use of the marks, provided you are using the Names and Marks in accordance with this Agreement.”

4. Franchisor shall not require Franchisee to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22, provided that the foregoing shall not bar the voluntary settlement of disputes.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

NEW YORK ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of New York:

This New York Addendum is only applicable if you are a resident of New York or if your business will be located in New York.

1. Section 8.J of the Franchise Agreement is revised to include the following:

“Revisions to the manual will not unduly affect your obligations, including economic requirements, under this Agreement.”

2. Section 13.A of the Franchise Agreement is revised to include the following:

“The Franchisor will not make an assignment except to an assignee who, in the Franchisor’s good faith judgment, is willing and able to assume its obligations under the Agreement.”

3. Section 15 of the Franchise Agreement is modified by the addition of the following at the end of such section:

“In addition, the Franchisee shall have the right to terminate the Franchise Agreement to the extent allowed under applicable law.”

4. Sections 18.E, 18.F, 18.G and 18.H of the Franchise Agreement are revised to include the following language:

“Provided, however, that all rights arising under Franchisee’s favor from the provisions of Article 33 of the GBL of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this provision that the non-waiver provisions of GBL Section 687.4 and 687.5 be satisfied.”

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

NORTH DAKOTA ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of North Dakota:

This North Dakota Addendum is only applicable if you are a resident of North Dakota or if your business will be located in North Dakota.

1. Sections 16.G and 18.A of the Franchise Agreement are amended to provide that the prevailing party in any enforcement action is entitled to recover all costs and expenses, including attorneys' fees.

2. Section 16.G of the Franchise Agreement is modified to delete any requirement that franchisee consent to termination penalties or liquidated damages.

3. Section 17.B of the Franchise Agreement is amended by adding the following language at the end:

“Covenants not to compete, such as those mentioned in this Section 17.B are generally considered unenforceable in the state of North Dakota.”

4. Section 18.E. of the Franchise Agreement is deleted in its entirety.

5. Section 18.G of the Franchise Agreement is deleted in its entirety.

6. Section 20.D of the Franchise Agreement is amended to provide that the Franchise Agreement will be governed by the laws of the State of North Dakota.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

RHODE ISLAND ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede and apply to all Waxing the City franchises sold to residents in the state of Rhode Island:

This Rhode Island Addendum is only applicable if you are a resident of Rhode Island or if your business will be located in Rhode Island.

1. Section 18 and 20 of the Franchise Agreement is supplemented by the addition of the following:

“§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under the Act.”

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## WASHINGTON ADDENDUM TO FRANCHISE AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Franchise Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Washington:

This Washington Addendum is only applicable if you are a resident of Washington or if your business will be located in Washington.

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

2. 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.

3. 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.

4. 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.

5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

6. 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.

7. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

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WAXING **THE** CITY

**EXHIBIT F**

**CHARITABLE CONTRIBUTION ADDENDUM**

## CHARITABLE CONTRIBUTION ADDENDUM

This Addendum, between Waxing the City Worldwide, LLC (“we” or “us”) and the franchisee named below (“you”), is an amendment to, and a part of, the Franchise Agreement to which it is attached. All capitalized terms used in this Addendum not otherwise defined have the meanings ascribed thereto in the Franchise Agreement.

You and we have entered into the Franchise Agreement on the same date as this Addendum. The Franchise Agreement provides for certain fees and obligations, each of which you and we hereby reaffirm. However, we have advised you that we have established a program for our franchisees, which would allow them to identify themselves as a Waxing the City studio participating in our charitable contribution program (the “HeartFirst Program”). We have offered you the opportunity to participate in the HeartFirst Program, and have agreed to reduce your Initial Franchise Fee if you elect to participate in the HeartFirst Program. You understand, however, that participation is voluntary, and that by signing this Addendum, you are agreeing to participate in this program and to make monthly charitable contributions as described in this Addendum. Thus, in consideration of the provisions of this Addendum, you and we have agreed you may participate in the HeartFirst Program, as follows:

1.) Designation as a Participant in the HeartFirst Program. We will designate the Waxing the City studio you establish pursuant to the Franchise Agreement to which this Addendum is attached as Waxing the City studio participating in our charitable contribution program. We will designate you as a participating studio in all materials we publish that identifies all other Waxing the City studios participating in the HeartFirst Program. You will also be permitted to include this designation in all advertising and promotional materials you establish, subject to compliance with all of our policies, as established from time to time, with respect to the preparation and dissemination of advertising and promotional materials, and the use of this designation. The actual name of the program, and all permitted designations, will be subject to change by us from time to time.

2.) Initial Franchise Fee Reduction. In consideration for your execution of this Addendum, and your participation in the HeartFirst Program, including your payment of the charitable contributions described in the next section, the Initial Franchise Fee you are required to pay is hereby reduced by Two Thousand Dollars (\$2,000) from the amount set forth in the Rider; provided, however, that:

(a) If this is the second or subsequent franchise agreement you have signed with us that has a Charitable Contribution Addendum attached, the Initial Franchise Fee you are required to pay will only be reduced by Five Hundred Dollars (\$500) from the amount set forth in the Rider; and

(b) If you are signing the Franchise Agreement pursuant to an obligation to do so under an Area Development Agreement, then you acknowledge that the Development Fee you paid to us has already been reduced to take into account your participation in the HeartFirst Program, and no further reductions or credits are applicable.

3.) Charitable Contributions. Beginning on the first day of the month following the opening of your Waxing the City Studio, and continuing on the first day of each subsequent month, you will pay a charitable contribution to HeartFirst Charitable Foundation of One Hundred Dollars (\$100) per month. HeartFirst Charitable Foundation will be responsible for providing to you all charitable tax statements relating to your contributions. You acknowledge that this contribution is included in the fees that you authorize your billing and payment processor to deduct from any monies it collects on your behalf and remit to HeartFirst Charitable Foundation.

4.) Compliance with Policies. You agree that you will at all times comply with all of the standards and policies we establish from time to time for the HeartFirst Program, and for Waxing the City studios designated as participating in our charitable contribution program.

5.) Termination of this Addendum. This Addendum will automatically terminate, without notice, upon expiration or termination of the Franchise Agreement. In addition, both you and we have the right to terminate this Addendum prior to termination or expiration of the Franchise Agreement, as follows:

- (a) You may terminate this Addendum, without cause, at any time, upon notice to us.
- (b) We may terminate this Addendum, at any time, without cause, upon notice to you, if we terminate all similar addenda we have with other franchisees and terminate the HeartFirst Program. (For purposes of clarification, any change in the name of this program is not considered a termination of the program.)
- (c) We may terminate this Addendum, upon ten (10) days' notice to you if you breach a provision of this Addendum and fail to cure such breach within such ten (10) days (or any such additional time we may voluntarily provide to you for cure).

In the event of the termination of this Addendum, for any reason, you must immediately discontinue designating yourself as a studio participating in our charitable contribution program, and immediately discontinue using any of the names, marks, logos or insignias we developed for the HeartFirst Program, or any similar names, marks, logos, or insignia. Further, if this Addendum is terminated by you, or if it is terminated by us under clause (c) above, then immediately upon termination, you must remit to us a payment of Two Thousand Dollars (\$2,000), representing the discount we provided to you on your Initial Franchise Fee or Development Fee; provided, however, that if this is the second or subsequent franchise agreement you have with us that has a Charitable Contribution Addendum, and the discount you received was only \$500, then you need only remit to us a payment of Five Hundred Dollars (\$500). For purposes of clarification, (i) you may not offset against that amount any payments you made to us under Section 3 above prior to termination, or any other amounts, and (ii) if we terminate this Addendum under clause (b) above because we terminate the HeartFirst Program, you will not have to remit the foregoing payment to us.

6.) Assignment. In the event of the transfer or assignment of your franchise agreement, your transferee or assignee will be required to sign an Addendum, in similar form to

this one, agreeing to continue to participate in the HeartFirst Program for the remaining term of the Franchise Agreement.

IN WITNESS WHEREOF, we and you have signed this Addendum as of the Effective Date.

FRANCHISOR:  
WAXING THE CITY WORLDWIDE, LLC

FRANCHISEE:

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

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

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WAXING **THE** CITY

**EXHIBIT G**

**WAXING THE CITY WORLDWIDE, LLC  
AREA DEVELOPMENT AGREEMENT,  
GUARANTY AND STATE SPECIFIC ADDENDA**



AREA DEVELOPMENT AGREEMENT

WAXING THE CITY WORLDWIDE, LLC  
111 Weir Drive  
Woodbury, Minnesota 55125  
866-956-4612  
[www.waxingthecity.com](http://www.waxingthecity.com)

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WAXING THE CITY®  
AREA DEVELOPMENT AGREEMENT

This Area Development Agreement is made as of the Effective Date set forth in the Rider attached to this Agreement (the “Rider”) between WAXING THE CITY WORLDWIDE, LLC, a Minnesota limited liability company (“we” or “us”) and the person or persons named in the Rider as the Developer (“you”).

RECITALS:

A. We have invested substantial time, effort and money to acquire and develop a system of operating boutique studios that offer body and facial waxing services to the general public, as well as other related products and services under the federally registered trademark ,“Waxing the City®,” and other trademarks, service marks and intellectual property rights. We grant franchises to qualified candidates for the operation of facial and body waxing studios. We also license our trademark rights in “Waxing the City” and may in the future adopt, use and license additional or substitute trademarks, service marks, logos and commercial symbols in connection with the operation of Waxing the City studios (collectively the “Marks”). These businesses use our methods, procedures, standards, and specifications (all of which are collectively referred to as the “System”) which we may improve, further develop or otherwise modify from time to time.

B. You acknowledge that you have had an adequate opportunity to be thoroughly advised of the provisions of this Agreement, the form of franchise agreement we currently use to grant rights to operate waxing studios, and our Franchise Disclosure Document, and have had sufficient time and opportunity to evaluate and investigate the System and the procedures and financial requirements associated with the System, as well as the competitive market in which it operates.

C. You are entering into this Agreement because you want to develop and operate multiple waxing studios which use the Marks and the System. You recognize that while you will have certain limited rights to transfer your interest in this Agreement, and in the studios you develop, we are entering into this Agreement with you based on your representation that you intend to personally develop all of the studios described in this Agreement, and not with a view to reselling your right to open these studios.

In consideration of the foregoing and the mutual covenants and consideration below, you and we agree as follows:

1. Grant of Development Rights. The following provisions control with respect to the rights granted hereunder:

A. We grant to you, under the terms and conditions of this Agreement, the right to develop and operate the number of facial and body waxing studios identified in the Rider (the “Waxing Studios”), using the Marks and operating within the nonexclusive area described in the Rider (the “Development DMA”). You acknowledge that we may seek and acquire sites in the Development DMA for company or affiliate-owned locations, grant others the right to seek or acquire sites within the Development DMA, and that we may actually provide others with sites in the Development DMA, and that you acquire no exclusive or priority rights in such area. We may modify the boundaries of the Development DMA if The Nielsen Company, LLC or its successor changes the applicable defined market area of your Development DMA. If we do so, we will provide you with notice of the change along with the updated Rider to this Agreement which you consent to us amending to change the Development DMA.

B. You acknowledge that we may locate, or provide assistance to you and other Waxing the City franchisees in the location of, potential sites in the Development DMA for Waxing the City studios.

To the extent we locate sites or provide such assistance to you we have no obligation to provide you with any site we may identify but any site you identify must be provided to us. We can then acquire the site ourselves, or give other franchisees the right to acquire that site and you acknowledge and agree that by providing us with a potential site you obtain no priority with respect to that site. If you provide us a potential site we will inform you within thirty (30) days after receipt of the information and materials we request regarding the site whether we will acquire the site, or otherwise approve the site, and if so, whether we will allow you to attempt to acquire the site or if we are going to provide the site to other franchisees who may be looking for sites in the Development DMA. You may not enter into a lease or sublease for a site, or otherwise acquire a site, unless and until we have given you that permission in writing to do so.

C. If we provide you a potential site, you will have the right to accept it or reject it within the time period which we set. However, we may have also provided this same site to one or more other franchisees. In the event multiple franchisees accept a site, we select the franchisee to whom we award the site. Notwithstanding the foregoing, it shall be your responsibility to identify and ultimately acquire appropriate sites, acceptable to us, for the operation of Waxing the City studios. In consideration for any assistance we provide with respect to the identification or approval of potential sites, you acknowledge and agree that we shall not be responsible for your results in operating at any particular site that may have been recommended, reviewed, or approved by us and that our approval does not constitute a representation, guaranty or warranty, express or implied, of the successful operation or profitability of any Waxing the City studio at that location. After we have informed you that you may acquire a site for your Waxing Studio, you will have thirty (30) days after our notice to acquire the site by lease, sublease or purchase. Within such time period, you must furnish us with evidence reasonably acceptable to us of your acquisition of the site. If you fail to acquire the site within such time period or furnish us with the evidence of acquisition we request, the site will go back into the pool of potential available sites in the Development DMA and we can acquire the site ourselves or provide the site to another franchisee.

D. You agree to be bound by the "Development Schedule" set forth in the Rider. Time is of the essence for the development of each Waxing Studio in accordance with the Development Schedule. Each Waxing Studio must be developed and operated by you pursuant to a separate Franchise Agreement that you enter into with us.

2. Development Fee. You must pay us a Development Fee in the amount set forth in the Rider. This fee is nonrefundable and is payable in full when you sign this Agreement and is fully earned by us at that time. You will sign the Franchise Agreement for your first Waxing Studio concurrently with this Agreement. A separate Franchise Agreement must be signed, on our then-current form, for each such Waxing Studio. Upon the execution of each Franchise Agreement, the terms and conditions of the Franchise Agreement control the establishment and operation of such Waxing Studio. The Development Fee is consideration for this Agreement and not consideration for any Franchise Agreement.

3. Development Schedule. The following provisions control with respect to your development rights and obligations:

A. You must comply with the Development Schedule requirements regarding (i) the execution of the Franchise Agreements and site approval requests, (ii) the opening date for each Waxing Studio, and (iii) the cumulative number of Waxing Studios to be open and continuously operating for business in the Development DMA. You represent that you have conducted your own independent investigation and analysis of the prospects for the establishment of Waxing the City studios within the Development DMA, approve of the Development Schedule as being reasonable, viable, and essential to the potential success of your business and recognize that failure to sign a Franchise Agreement, obtain a site approval, open a Waxing Studio or have a cumulative number of Waxing Studios open and operating, according to the

applicable dates set forth in the Development Schedule, give us the right, in our sole discretion, to immediately terminate this Agreement pursuant to Section 5.

B. You may not open a Waxing Studio under this Agreement unless you meet each of the following conditions (these conditions apply to each Waxing Studio to be developed in the Development DMA):

1. Good Standing. You must not be in default of this Agreement, any Franchise Agreement entered into pursuant to this Agreement or any other agreement between you or any of your affiliates and us or any of our affiliates. You also must have satisfied on a timely basis all monetary and material obligations under the Franchise Agreements for all existing Waxing the City studios.

2. Execution of Franchise Agreement. You and we have entered into our then-current form of Franchise Agreement and such other agreements that we require for the grant of Waxing the City franchises for the proposed Waxing Studio. You understand that we may modify the then-current form of Franchise Agreement from time to time and that it may be different than the current form of Franchise Agreement, including different fees and obligations; provided, however, that the initial franchise fee due under each of those agreements will be reduced by the “Initial Franchise Fee Reduction” described in the Development Schedule on the Rider. The reduced initial franchise fee due under each Franchise Agreement is due the earlier of: (a) the date you sign the Franchise Agreement; or (b) the date you are required to sign the Franchise Agreement as described in the Development Schedule. You understand and agree that any and all Franchise Agreements will be construed and exist independently of this Agreement. The continued existence of each Franchise Agreement will be determined by the terms and conditions of such Franchise Agreement. Except as specifically set forth in this Agreement, the establishment and operation of each Waxing Studio must be in accordance with the terms of the applicable Franchise Agreement.

4. Term. Unless sooner terminated in accordance with Section 5 of this Agreement, the term of this Agreement and all rights granted to you will expire on the date that you sign the Franchise Agreement for the last Waxing Studio that is scheduled to be opened under the Development Schedule.

5. Default and Termination. You will be deemed in default under this Agreement if you breach any of the terms of this Agreement or if you or any “affiliate” of yours breaches any of the terms of any Franchise Agreement or any other agreement that you or your affiliates have with us or our affiliates. For purposes of this Agreement, an “affiliate” of any person will be any person or entity that controls that person, is under the control of that person, or is under common control with that person.

All rights granted in this Agreement immediately terminate upon written notice without opportunity to cure if: (i) you become insolvent, commit any affirmative action of insolvency or file any action or petition of insolvency, (ii) a receiver (permanent or temporary) of your property is appointed by a court of competent authority, (iii) you make a general assignment or other similar arrangement for the benefit of your creditors, (iv) a final judgment against you remains unsatisfied of record for thirty (30) days or longer, (v) execution is levied against your business or property, or the business or property of any of your affiliates that have entered into Franchise Agreements with us, (vi) suit to foreclose any lien or mortgage against premises or equipment is instituted against you and not dismissed within thirty (30) days, or is not in the process of being dismissed, (vii) you fail to timely meet any of your obligations set forth in the Development Schedule, (viii) you or any of your affiliates open any Waxing Studios before that person or entity has signed a Franchise Agreement with us for that studio in the form we provide, (ix) you fail to pay an initial franchise fee when due; (x) you fail to comply with any other provision of this Agreement, or your or any of your affiliates fail to comply with any other agreement you or they have with us or our affiliates and do

not correct the failure within thirty (30) days after written notice of that failure is delivered to the breaching party (except that if the failure to comply is the third failure to comply with any provision of any agreement that you or any of your affiliates have with us or an affiliate of ours within twelve (12) consecutive month period, then we need not provide any opportunity to cure the default), or (xi) we have delivered to you or any of your affiliates a notice of termination of a Franchise Agreement in accordance with its terms and conditions.

6. Rights and Duties of Parties Upon Termination or Expiration. Upon termination or expiration of this Agreement, all rights granted to you under this Agreement will automatically terminate, and:

A. All remaining rights granted to you to develop Waxing Studios under this Agreement will automatically be revoked and will be null and void and shall revert to us. You will not be entitled to any refund of any fees.

B. You and your affiliates must within five (5) business days of the termination or expiration pay all sums owing to us and our affiliates. In addition, you agree to pay as fair and reasonable liquidated damages (but not as a penalty) an amount equal to Ten Thousand Dollars (\$10,000) for each undeveloped Waxing Studios. You agree that this amount is in addition to the Development Fees paid under this Agreement, and is for lost revenues from Royalty Fees (as defined in the Franchise Agreement) and other amounts payable to us, including the fact that you were holding the development rights for those Waxing Studios and precluding the development of certain Waxing Studios in the Development DMA, and that it would be difficult to calculate with certainty the amount of damage we will incur. Notwithstanding your agreement, if a court determines that this liquidated damages payment is unenforceable, then we may pursue all other available remedies, including consequential damages.

7. Transfer. The following provisions govern any Transfer:

A. We have the right to transfer all or any part of our rights or obligations under this Agreement to any person or legal entity.

B. This Agreement is entered into by us with specific reliance upon your personal experience, skills and managerial and financial qualifications. Consequently, this Agreement, and your rights and obligations under it, are and will remain personal to you. You may only Transfer your rights and interests under this Agreement if you obtain our prior written consent as set forth below.

1. As used in this Agreement, the term "Transfer" means any sale, assignment, lease, gift, pledge, mortgage or any other encumbrance, transfer by bankruptcy, transfer by judicial order, merger, consolidation, share exchange, transfer by operation of law or otherwise, whether direct or indirect, voluntary or involuntary, of this Agreement or any interest in it, or any rights or obligations arising under it, or of any material portion of your assets, or of any interest in you or control of the business franchised hereunder. You acknowledge that these provisions prohibit you from subfranchising or sublicensing any right you have under any agreement with us, and that your intent in entering into this Agreement is that you (and not any licensee or transferee) will be opening and operating the Waxing Studios to be developed under this Agreement. In addition, if there are two (2) individuals signing this Agreement as Franchisee, and one (1) of those individuals is no longer involved in the ownership of the business that is developing Waxing Studios, the withdrawal of that person shall be considered a "Transfer." A "Transfer" shall also be deemed to occur when there are more than two (2) people listed as the Developer and there is a change of the ownership of the business such that less than a majority of the original signators continue to have a majority interest in the equity of the business.

2. We will not charge you any fee in connection with your Transfer of your interest in this Agreement. However, as a condition to our approval of any Transfer, you must sign franchise agreements for all of the Waxing Studios to be developed under this Agreement, you must transfer all of those agreements to the same person or entity that acquires your interest in this Agreement, and you must comply with all of the conditions for transferring each of those agreements, including the requirement to pay a transfer fee in connection with the transfer of each of those agreements.

3. The restriction on Transfer contained in this Agreement does not apply to, or otherwise restrict, your right to transfer any interest in any franchise agreement you previously signed for any Waxing Studio to be developed under this Agreement. You may transfer those agreements apart from any rights you have in this Agreement, provided you comply with the transfer provisions of each agreement you seek to transfer.

4. We may expand upon, and provide more details related to, the conditions for Transfer and our consent as described in this Section 7, and may do so in our operations manual or otherwise in writing.

8. Acknowledgments. To induce us to execute this Agreement, you represent and warrant to us as follows:

A. You recognize and acknowledge the importance of maintaining our standards for service, and further recognize and acknowledge the importance of following the System with respect to the development and operation of Waxing the City studios.

B. You have the entire control and direction of the Waxing the City studios to be opened and operated by you, subject only to the conditions and covenants established by the Franchise Agreements for those studios. You acknowledge that the businesses to be operated under those Franchise Agreements involve business risks, and that your success shall be largely determined by your own skill and efforts as an independent business person.

C. You have entered into this Agreement after making an independent investigation of our operations and history and not upon any representation as to profits which you might be expected to realize and that no one has made any representation to induce you to accept the franchise granted hereunder and to execute this Agreement, except as may be set forth in the Franchise Disclosure Document you acknowledge receiving at least fourteen (14) days prior to the date you paid us or any affiliate any money or executed any agreement with us or any affiliate.

9. Miscellaneous. You acknowledge that other Waxing the City franchisees/area developers have or will be granted franchises or area development rights at different times and in different situations, and further acknowledge that the provisions of such agreements may vary substantially from those contained in this Agreement. You shall not complain on account of any variation from standard specifications and practices granted to any other franchisee/area developer and shall not be entitled to require us to grant to you a like or similar variation thereof. The provisions set forth in the franchise agreement for your first Waxing Studio containing any covenants not to compete, enforcement provisions, notice provisions, and sections referenced as “Miscellaneous” or “Acknowledgments” are hereby incorporated into this Agreement by reference and shall be applicable to this Agreement until such time as you sign a subsequent franchise agreement, at which time the provisions of the new agreement relating to covenants not to compete, enforcement, notice, and all sections referenced as “Miscellaneous” or “Acknowledgments” shall be incorporated into this Agreement by reference in place of the previous provisions. Likewise, if you or any affiliate later sign yet another franchise agreement, at all times, the

provisions contained in the last franchise agreement you or such affiliate sign with us, which relate to covenants not to compete, enforcement, and notice, and all sections referenced as “Miscellaneous” or “Acknowledgments,” are hereby incorporated into this Agreement by reference in place of the previous provisions. You acknowledge having received a copy of our current form of franchise agreement for use in the sale of Waxing Studios, and that until you sign an agreement for your first studio, the provisions of the form we provided to you relating to these matters will be deemed incorporated herein by reference and applicable to this Agreement. Any reference to the expression “this Agreement” in such Sections will be interpreted as a reference to this Area Development Agreement and any reference to “Protected Territory” will read as Development DMA. Any provisions of this Agreement which, by their nature, may or are to be performed following expiration or termination of this Agreement, shall survive such termination or expiration. You must indemnify us in any action, suit, proceeding, demand, investigation, or inquiry (formal or informal) wherein our liability is alleged or in which we are named as a party as a result of activities by you which are not in accordance with this Agreement, with our policies, or with any law, rule, regulation, or custom governing your business that is conducted pursuant to this Agreement. If such an action or a claim is made against us, you shall indemnify and hold us harmless from all costs reasonably incurred by us in the defense of any such claim brought against us or in any action, suit, proceeding, demand, investigation, or inquiry (formal or informal) in which we are named as a party including, without limitation, reasonable attorneys’ fees, costs of investigation or proof of facts, court costs, other litigation expenses, and travel and living expenses, and from all amounts paid or incurred by us arising out of such claim or action (collectively, the “Costs”). We may defend any claim made against us. Such an undertaking by us shall, in no way, diminish your obligation to indemnify us and hold us harmless. We are not required or obligated to seek recovery from third parties or otherwise mitigate our losses in order to maintain a claim against you. The above Recitals are made a part of this Agreement.

[THIS AGREEMENT CONTINUES WITH A RIDER,  
WHICH IS A PART OF THIS AGREEMENT]

AREA DEVELOPMENT AGREEMENT RIDER

1. Effective Date: \_\_\_\_\_
2. Developer: \_\_\_\_\_
3. Development DMA:

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4. Number of Waxing Studios to be opened in the Development DMA: \_\_\_\_\_
5. Total Development Fee due at signing of this Agreement: \_\_\_\_\_
6. Development Schedule:

You acknowledge and agree that a material provision of this Area Development Agreement is that the following number of Waxing Studios must be opened and continuously operated by you in the Development DMA in accordance with the following Development Schedule:

Waxing Studio Number	Date by Which Franchise Agreement Must Be Signed and Site Approval Request Must be Submitted to us	Development Fee Due Upon Signing ADA	Remaining Fee Due Upon Signing Respective Franchise Agreement	Date by Which the Waxing Studio Must Be Opened and Operated by You in the Territory	Cumulative Number of Waxing Studios to be Opened and Operated by You in the Development DMA as of the Date in Preceding Column
1	Date of this Agreement				1
2					

For purposes of determining compliance with this Development Schedule, only the Waxing Studios you actually open and continuously operate in the Development DMA for at least the first six (6) months after opening will be counted toward the number of Waxing Studios required to be open and operated by you. In addition, you acknowledge and agree that the initial franchise fee due under each Franchise Agreement will be reduced by the Initial Franchise Fee Reduction described above, and will be due the earlier of: (a) the date the Franchise Agreement is signed; or (b) the date by which the Franchise Agreement must be signed pursuant to the Development Schedule above. In addition, if you pay the reduced initial franchise fee due under a Franchise Agreement within thirty (30) days before the date by which the applicable Waxing Studio must be opened, as described in the Development Schedule above, and are otherwise in compliance with the terms of this Agreement and any Franchise Agreement, we will grant you

automatic extension of twelve (12) months to open such Waxing Studio; provided that such extension does not extend any other dates described in the Development Schedule.

IN WITNESS WHEREOF, we and you have signed this Agreement as of the Effective Date set forth above.

FRANCHISOR:

DEVELOPER:

WAXING THE CITY WORLDWIDE, LLC

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

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

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

PERSONAL GUARANTY AND AGREEMENT TO BE BOUND  
PERSONALLY BY THE TERMS AND CONDITIONS  
OF THE AREA DEVELOPMENT AGREEMENT

In consideration of the execution of the Area Development Agreement (the “Agreement”) between WAXING THE CITY WORLDWIDE, LLC (“we” or “us”) and \_\_\_\_\_ (the “developer”), dated \_\_\_\_\_, and for other good and valuable consideration, the undersigned, for themselves, their heirs, successors, and assigns, do jointly, individually and severally hereby become surety and guarantor for the payment of all amounts and the performance of the covenants, terms and conditions in the Agreement, to be paid, kept and performed by the developer, including without limitation the dispute resolution provisions of the Agreement.

Further, the undersigned, individually and jointly, hereby agree to be personally bound by each and every condition and term contained in the Agreement and agree that this Personal Guaranty will be construed as though the undersigned and each of them executed an Area Development Agreement containing the identical terms and conditions of the Agreement.

The undersigned waives: (1) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (2) protest and notice of default to any party respecting the indebtedness or nonperformance of any obligations hereby guaranteed; and (3) any right he/she may have to require that an action be brought against the developer or any other person as a condition of liability; and (4) notice of any changes permitted by the terms of the Agreement or agreed to by the developer.

In addition, the undersigned consents and agrees that: (1) the undersigned’s liability will not be contingent or conditioned upon our pursuit of any remedies against the developer or any other person; (2) such liability will not be diminished, relieved or otherwise affected by the developer’s insolvency, bankruptcy or reorganization, the invalidity, illegality or unenforceability of all or any part of the Agreement, or the amendment or extension of the Agreement with or without notice to the undersigned; and (3) this Personal Guaranty will apply in all modifications to the Agreement of any nature agreed to by developer with or without the undersigned receiving notice thereof.

It is further understood and agreed by the undersigned that the provisions, covenants and conditions of this Personal Guaranty will inure to the benefit of our successors and assigns.

DEVELOPER:

---

- Individually

---

Print Name

---

Address

---

City                      State                      Zip Code

---

Telephone

---

- Individually

---

Print Name

---

Address

---

City                      State                      Zip Code

---

Telephone

4811-3579-9778, v. 1

CALIFORNIA ADDENDUM TO AREA DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede and apply to all Waxing the City franchises offered and sold in the state of California:

This California Addendum is only applicable if you are a resident of California or if your business will be located in California.

1. The California Franchise Relations Act (Business and Professions Code Section 20000 through 20043), provides franchisees with additional rights concerning termination, transfer and non-renewal of the Area Development Agreement and certain provisions of the Area Development Agreement relating to termination, transfer and non-renewal may be superseded by the Act. There may also be court decisions which may supersede the Area Development Agreement and your relationship with Franchisor, including the areas of termination and renewal of Franchisee’s franchise. If the Area Development Agreement is inconsistent with the law, the law will control.

2. The Area Development Agreement requires application of the laws and forum of Minnesota. This provision may not be enforceable under California law.

3. The provision in the Area Development Agreement which terminates the franchise upon the bankruptcy of the Franchisee may not be enforceable under Title 11, United States Code, Section 101.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## ILLINOIS ADDENDUM TO DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Illinois:

This Illinois Addendum is only applicable if you are a resident of Illinois and your business will be located in Illinois.

1. Notwithstanding the fact that the Area Development Agreement requires that the Agreement be governed by the laws of the State of Minnesota, to the extent required by Rule 200.608 of the Illinois Franchise Disclosure Laws, the Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

2. The Area Development Agreement states that Minnesota law generally applies. However, the conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Illinois law, and we will comply with that law in Illinois.

3. The other conditions under which your franchise can be terminated and your rights of nonrenewal may be affected by Illinois Law, 815 Illinois Compiled Statutes 705/19 and 705/20.

4. Section 4 of the Illinois Franchise Disclosure Act states that “Any provision of a franchise agreement which designates jurisdiction or venue in a forum outside of this state (Illinois) is void with respect to any cause of action which otherwise is enforceable in this State, provided that a franchise agreement may provide for arbitration in a forum outside of this State.”

5. Any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive requirements with any provisions of the Illinois Franchise Disclosure Act or any other law of the State of Illinois is void. This shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under the provisions of the Illinois Franchise Disclosure Act, nor shall it prevent the arbitration of any claims pursuant to the provisions of Title IX of the United States Code.

6. The provision in the Area Development Agreement which terminates the franchise upon the bankruptcy of the Franchisee may not be enforceable under Title 11, United States Code, Section 101.

7. Section 5 of the Area Development Agreement shall be modified by the addition of the following sentence at the end of such section.

“To the extent required by Illinois law, the Franchisor shall provide reasonable notice to the Franchisee with the opportunity to cure any defaults under this Section 5, to the extent required by Illinois law, which in no event shall be less than ten (10) days, and in no event shall such notice be required to be greater than thirty (30) days.”

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

## MARYLAND ADDENDUM TO DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede and apply to all Waxing the City franchises sold to residents in the state of Maryland:

1. Section 5 of the Area Development Agreement is revised to provide that termination upon bankruptcy might not be enforceable under the U.S. Bankruptcy Act, but Franchisor intends to enforce it to the extent enforceable.

2. Section 8 of the Area Development Agreement is revised to include the following language:

“Notwithstanding the standing provisions of this section, you may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.”

3. The representations made in the Area Development Agreement are not intended to nor should they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

4. Section 7 of the Area Development Agreement is revised to provide that, pursuant to COMAR 02.02.08.16L, the general release required as a condition to renewal, sale or consent to assignment/transfer, shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

5. Each provision to this Addendum to the Development Agreement shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this Addendum.

6. The Development Agreement states that Minnesota law generally applies. However, the conditions under which your franchise can be terminated and your rights upon nonrenewal may be affected by Maryland law, and we will comply with that law in Maryland.

7. Notwithstanding anything to the contrary in the Development Agreement, nothing will prevent the Franchisee from filing suit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

MINNESOTA ADDENDUM TO DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Minnesota:

This Minnesota Addendum is only applicable if you are a resident of Minnesota or if your business will be located in Minnesota.

1. Minn. Stat. Section 80C.21 and Minn. Rule 2860.4400J prohibit Franchisor from requiring litigation to be conducted outside Minnesota. In addition, nothing in this Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

2. Franchisor will comply with Minn. Stat. Section 80C.14, subds. 3, 4 and 5, which require, except in certain specified cases, that the Franchisee be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for nonrenewal of the Area Development Agreement.

3. Franchisor shall not require Franchisee to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22, provided that the foregoing shall not bar the voluntary settlement of disputes.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

NEW YORK ADDENDUM TO DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of New York:

This New York Addendum is only applicable if you are a resident of New York or if your business will be located in New York.

1. Section 8 of the Area Development Agreement is revised to include the following language:

“Provided, however, that all rights arising under Franchisee’s favor from the provisions of Article 33 of the GBL of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this provision that the non-waiver provisions of GBL Section 687.4 and 687.5 be satisfied.”

2. Section 7 of the Area Development Agreement is revised to include the following:

“Franchisor will not make an assignment except to an assignee who, in Franchisor’s good faith judgment, is willing and able to assume its obligations under the Agreement.”

3. The Area Development Agreement is modified by the addition of the following Section 5:

“In addition, Franchisee shall have the right to terminate the Area Development Agreement to the extent allowed under applicable law.”

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

NORTH DAKOTA ADDENDUM TO DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of North Dakota:

This North Dakota Addendum is only applicable if you are a resident of North Dakota or if your business will be located in North Dakota.

1. Section 6.B of the Area Development Agreement is amended to provide that the prevailing party in any enforcement action is entitled to recover all costs and expenses, including attorneys' fees.

2. Section 6.B of the Area Development Agreement is modified to delete any requirement that franchisee consent to termination penalties or liquidated damages.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

## WASHINGTON ADDENDUM TO DEVELOPMENT AGREEMENT

Notwithstanding anything to the contrary set forth in the Waxing the City Worldwide, LLC Area Development Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Washington:

This Washington Addendum is only applicable if you are a resident of Washington or if your business will be located in Washington.

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

2. RCW 19.100.180 may supersede the Area Development 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 Development Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

3. 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 Development 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.

4. 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.

5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

6. 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 Development Agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

7. 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 Development Agreement or elsewhere are void and unenforceable in Washington.

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the date first set forth above.

Franchisor:  
WAXING THE CITY WORLDWIDE, LLC

Franchisee:

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

4824-4363-6194, v. 1

**WAXING THE CITY**

**EXHIBIT H**

**WAXING THE CITY WORLDWIDE, LLC**

**STATE SPECIFIC ADDENDA TO  
FRANCHISE DISCLOSURE DOCUMENT**

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE CALIFORNIA FRANCHISE INVESTMENT LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede and apply to all Waxing the City franchises offered and sold in the state of California:

This California Addendum is only applicable if you are a resident of California or if your business will be located in California.

1. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.

2. Our website ([www.waxingthecity.com](http://www.waxingthecity.com)) has not been reviewed or approved by the California Department of Financial Protection and Innovation. Any complaints concerning the content of this website may be directed to the California Department of Financial Protection and Innovation at [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

3. Franchisees must sign a personal guaranty, making you and your spouse individually liable for your financial obligations under the agreement if you are married. The guaranty will place your and your spouse's marital and personal assets at risk if your franchise fails.

4. Item 3 of the Franchise Disclosure Document is supplemented by the additional paragraph.

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

5. Item 17 of the FDD is amended by the insertion of the following:

“The California Franchise Relations Act (Business and Professions Code Section 20000 through 20043), provides franchisees with additional rights concerning termination and non-renewal of the Franchise Agreement and Area Development Agreement and certain provisions of the Franchise Agreement and Area Development Agreement relating to termination and non-renewal may be superseded by the Act. There may also be court decisions which may supersede the Franchise Agreement and Area Development Agreement and your relationship with us, including the areas of termination and renewal of your franchise. If the Franchise Agreement and Area Development Agreement is inconsistent with the law, the law will control.

The Franchise Agreement requires franchisee to execute a general release of claims upon renewal or transfer of the Franchise 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 thereunder 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).”

6. The Franchise Agreement and Area Development Agreement require application of the laws and forum of Minnesota. This provision may not be enforceable under California law.

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE HAWAII FRANCHISE INVESTMENT LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede and apply to all Waxing the City franchises offered and sold in the state of Hawaii:

This Hawaii Addendum is only applicable if you are a resident of Hawaii or if your business will be located in Hawaii.

1. The states in which Waxing the City Worldwide, LLC's registration is effective or where the Franchise Disclosure Document has been filed are as follows: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.
2. The states in which Waxing the City Worldwide, LLC's, Franchise Disclosure Document is or will be shortly on file are as follows: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.
3. No state has refused, by order or otherwise, to register the Waxing the City franchise.
4. No state has revoked or suspended the right to offer Waxing the City franchises.
5. Waxing the City Worldwide, LLC has not withdrawn the proposed registration of the Franchise Disclosure Document in any state.

THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

The Franchisor's registered agent in the state authorized to receive service of process is:

Commissioner of Securities of Department of Commerce and Consumer Affairs  
335 Merchant Street  
Honolulu, Hawaii 96813

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE ILLINOIS FRANCHISE DISCLOSURE ACT OF 1987

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Illinois:

This Illinois Addendum is only applicable if you are a resident of Illinois and your business will be located in Illinois.

1. The page entitled “**Special Risk(s) to Consider About *This Franchise***” is amended by the addition of the following language:

**Special Risk(s) to Consider About *This Franchise***

**GOVERNING LAW, VENUE AND JURISDICTION.** THE GOVERNING LAW, VENUE AND JURISDICTIONAL REQUIREMENTS IN THE DISCLOSURE DOCUMENT AND IN THE FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT ARE SUBJECT TO THE PROVISIONS OF THE ILLINOIS FRANCHISE DISCLOSURE ACT, AND NOTHING IN THESE DOCUMENTS SHALL BE CONSIDERED A WAIVER OF ANY RIGHT CONFERRED UPON YOU BY THE ILLINOIS FRANCHISE DISCLOSURE ACT.

2. Illinois law governs the Franchise Agreement and Area Development Agreement.
3. Franchisee's rights upon termination and non-renewal are set forth in Sections 19 and 20 of the Illinois Franchise Disclosure Act.
4. Any provision of the Franchise Agreement or Area Development Agreement which designates jurisdiction or venue in a forum outside of this state (Illinois) is void with respect to any cause of action which otherwise is enforceable in this State, provided that a franchise agreement may provide for arbitration in a forum outside of this State.
5. Any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive requirements with any provisions of the Illinois Franchise Disclosure Act or any other law of the State of Illinois is void. This shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under the provisions of the Illinois Franchise Disclosure Act, nor shall it prevent the arbitration of any claims pursuant to the provisions of Title IX of the United States Code.
6. Each provision of this addendum to the FDD shall be effective only to the extent that with respect to such provision, the jurisdictional requirements of the Illinois Franchise Disclosure Act are met independently without reference to this addendum.

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE MARYLAND FRANCHISE REGISTRATION  
AND DISCLOSURE LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede and apply to all Waxing the City franchises sold to residents in the state of Maryland:

1. Item 17 of the Franchise Disclosure Document is amended as follows:  
  
“Termination for bankruptcy filing may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.)”
2. Items 17(c) and 17(m) are revised to provide that, under COMAR 02.02.08.16L, the general release required as a condition to renewal, sale or consent to assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
3. Item 17(v) and (w) are modified by the insertion of the following:  
  
“Any Franchisee may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.”
4. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.
5. Each provision of this Addendum to the FDD shall be effective only to the extent that, with respect to such provision, the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law are met independently without reference to this Addendum.

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE MINNESOTA FRANCHISE LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Minnesota:

This Minnesota Addendum is only applicable if you are a resident of Minnesota or if your business will be located in Minnesota.

1. Minn. Stat. Section 80C.21 and Minn. Rule Part 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the FDD can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, form or remedies provided for by the laws of the jurisdiction.

2. We will comply with Minn. Stat. Section 80C.14, subs. 3, 4 and 5, which require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Agreement.

3. Item 13 is revised to include the following language:

“To the extent required by the Minnesota Franchise Act, we will protect your rights to use the trademarks, service marks, trade names, logo types or other commercial symbols related to the trademarks or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the trademarks, provided you are using the names and marks in accordance with the Franchise Agreement and Development Agreement.”

4. Item 17(c) and 17(m) are revised to provide that we cannot require you to sign a release of claims under the Minnesota Franchise Act as a condition to renewal or assignment.

5. We are prohibited from requiring you to assent to a release, assignment, novation or waiver that would relieve any person from liability imposed by Minnesota Statutes, Sections 80C.01 to 80C.22, provided that the foregoing shall not bar the voluntary settlement of disputes.

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

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE NEW YORK GENERAL BUSINESS LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of New York:

This New York Addendum is only applicable if you are a resident of New York or if your business will be located in New York.

1. INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21ST FLOOR, NEW YORK, NEW YORK 10005. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10 year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. The following is added to the end of the “Summary” sections of Item 17(c), titled “Requirements for franchisee to renew or extend,” and Item 17(m), entitled “Conditions for franchisor approval of transfer”:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

6. The following language replaces the “Summary” section of Item 17(d), titled “Termination by franchisee”:

You may terminate the agreement on any grounds available by law.

7. The following is added to the end of the “Summary” section of Item 17(j), titled “Assignment of contract by franchisor”:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. The following is added to the end of the “Summary” sections of Item 17(v), titled “Choice of forum”, and Item 17(w), titled “Choice of law”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE NORTH DAKOTA FRANCHISE INVESTMENT LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of North Dakota:

This North Dakota Addendum is only applicable if you are a resident of North Dakota or if your business will be located in North Dakota.

1. The North Dakota Securities Commissioner has determined that it is unfair and unequitable under the North Dakota Franchise Investment Law for the franchisor to require the franchisee to sign a general release upon renewal of the Franchise Agreement. Therefore, the requirement that the franchisee signs a release upon renewal of the Franchise Agreement is deleted from Item 17c. and from any other place it appears in the Disclosure Document.
2. Item 17r. is revised to provide that covenants not to compete, such as those mentioned in Item 17r. of the Disclosure Document, are generally considered unenforceable in the state of North Dakota.
3. The North Dakota Securities Commissioner has determined that it is unfair and unequitable under the North Dakota Franchise Investment Law for the franchisor to require the franchisee to consent to the jurisdiction of courts located outside of North Dakota. Therefore, any references in the Disclosure Document to Section 18.F of the Franchise Agreement are deleted and to any requirement that the franchisee consents to the jurisdiction of courts located outside of North Dakota are deleted from Item 17v.
4. Any references in the Disclosure Document to Section 18.E of the Franchise Agreement and to any requirement to consent to a waiver of exemplary and punitive damages are deleted.
5. Any references in the Disclosure Document to Section 18.G of the Franchise Agreement and to any requirement to consent to a waiver of trial by jury are deleted.
6. Any claims arising under the North Dakota franchise law will be governed by the laws of the State of North Dakota.
7. The prevailing party in any enforcement action is entitled to recover all costs and expenses, including attorneys' fees.
8. Any references in the Disclosure Document requiring franchisee to consent to termination penalties or liquidated damages are deleted.

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE RHODE ISLAND FRANCHISE INVESTMENT ACT

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Rhode Island:

This Rhode Island Addendum is only applicable if you are a resident of Rhode Island or if your business will be located in Rhode Island.

§19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE VIRGINIA RETAIL FRANCHISING ACT

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Waxing the City Worldwide, LLC for use in the Commonwealth of Virginia shall be amended as follows:

1. Item H of the chart in Item 17 is hereby amended by the addition of the following disclosure:

“Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any 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 Franchise Act or the laws of Virginia, that provision may not be enforceable.”

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE WASHINGTON FRANCHISE INVESTMENT PROTECTION ACT

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Washington:

This Washington Addendum is only applicable if you are a resident of Washington or if your business will be located in Washington.

1. The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement and your relationship with us, including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement and your relationship with us, including the areas of termination and renewal of your franchise.

2. In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.

3. In the event of a conflict of laws, to the extent required by the Act, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

4. To the extent required by the Act, a release or waiver of rights executed by you shall not include rights under the Washington Franchise Investment Protection Act, except when executed pursuant to a negotiated settlement after the Franchise 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 limitation period for claims under the Act, rights or remedies under the Act, such as rights to jury trial might not be enforceable; however, we agree to enforce them to the extent the law allows.

5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

6. 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.

7. 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.

8. On or about October 28, 2019, we entered into an Assurance of Discontinuance (No. 19-2-28299-1 SEA) with the State of Washington entitled In Re: Franchise No Poaching Provisions under which we agreed to refrain from including "no-poach" language in our Franchise Agreement, which

restricts a franchisee from recruiting and/or hiring the employees of other franchisees and/or employees of us or our affiliates, which the Attorney General alleges violates Washington state and federal antitrust and unfair practices laws. We have also agreed to refrain from enforcing the language in any of our existing Franchise Agreements, notify our current franchisees of the entry of the Assurance of Discontinuance, notify the Washington Attorney General if any of our franchisees attempted to enforce such a provision, offer to amend existing Franchise Agreements to delete the no-poach language and remove the language from existing Franchise Agreements as they come up for renewal. We satisfied the requirements in the Assurance of Discontinuance and submitted to the State of Washington a declaration of completion.

9. The page entitled “**Special Risk(s) to Consider About *This Franchise***” is amended by the addition of the following language:

**Special Risk(s) to Consider About *This Franchise***

**Use of Franchise Brokers.** The franchisor uses the services of one or more franchise brokers to assist it in selling franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. Do not rely only on the information provided by a franchise broker about a franchise. Do your own investigation by contacting the franchisor’s current and former franchisees to ask them about their experience with the franchisor.

STATE SPECIFIC ADDENDUM  
AS  
REQUIRED BY  
THE WISCONSIN FAIR DEALERSHIP LAW

Notwithstanding anything to the contrary in the Waxing the City Worldwide, LLC Franchise Disclosure Document, Franchise Agreement or Area Development Agreement, the following provisions shall supersede any inconsistent provisions and apply to all Waxing the City franchises offered and sold in the state of Wisconsin:

“The Wisconsin Fair Dealership Law applies to most franchise agreements in the state and prohibits termination, cancellation, non-renewal or substantial change in competitive circumstances of a dealership agreement without good cause. The law further provides that 90 days prior written notice of the proposed termination, etc. must be given to the dealer. The dealer has 60 days to cure the deficiency and if the deficiency is so cured the notice is void. The Disclosure Document, Franchise Agreement and Development Agreement are hereby modified to state that the Wisconsin Fair Dealership Law, to the extent applicable, supersedes any provision of the Franchise Agreement or Development Agreement that are inconsistent with the law Wis.Stat.Ch.135, the Wisconsin Fair Dealership Law, § 32.06(3), Wis.Code.”

WAXING **THE** CITY

**EXHIBIT I**

**WAXING THE CITY WORLDWIDE, LLC**

**FINANCING DOCUMENTS**

Exhibit I-1

Geneva Capital, LLC Finance Documents

**MASTER EQUIPMENT LEASE AGREEMENT**

Agreement # \_\_\_\_\_

Federal Tax # \_\_\_\_\_

**CUSTOMER INFORMATION**

FULL LEGAL NAME OF CUSTOMER		STREET ADDRESS	
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CITY	STATE	ZIP	PHONE
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EQUIPMENT LOCATION:

**SUPPLIER INFORMATION**

NAME OF SUPPLIER	STREET ADDRESS	CITY	STATE	ZIP	PHONE
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**EQUIPMENT DESCRIPTION**

Equipment Cost **\$17,995.00**

QUANTITY	ITEM DESCRIPTION	SERIAL #

**RENTAL TERMS**

**RENTAL PAYMENT AMOUNT**

**SECURITY DEPOSIT**

Term in months \_\_\_\_\_ Payments of \$ \_\_\_\_\_ (w/o tax) Plus applicable taxes \$ \_\_\_\_\_

Rent Commencement Date: Rental Payment Period is monthly unless otherwise indicated

**END OF LEASE TERMS: Provided the Master Equipment Lease Agreement (the "Agreement") has not terminated early and no event of default under the Agreement has occurred, Customer shall have the following options at the end of the original term. 1. Purchase the equipment for Fair Market Value (\_\_\_ % of the Owner's original Equipment Cost) (plus applicable taxes) due in a single sum immediately upon expiration of the Lease. 2. Renew the Agreement per paragraph 1 of the Agreement. 3. Return the Equipment to a location designated by Owner per paragraph 5 of the Master Equipment Lease Agreement.**

**THIS IS A NONCANCELABLE/IRREVOCABLE AGREEMENT. THIS AGREEMENT CANNOT BE CANCELED OR TERMINATED BY CUSTOMER.**

**MASTER TERMS AND CONDITIONS (This Agreement contains provisions set forth on page 2 and any supplements and/or addendums, all of which are made part of this Agreement).**

**1. AGREEMENT:** Customer agrees to rent from Owner the personal property described under "EQUIPMENT DESCRIPTION" and as modified by supplements and/or addendums to this Agreement from time to time signed by Customer and Owner (along with any upgrades, replacements, repairs and additions, "Equipment"). This Agreement may be modified only by written agreement, signed by Customer and Owner, and not by course of performance or dealing. The term of this Agreement will begin on the Rent Commencement Date as established by the above RENTAL TERMS and will continue for the number of consecutive months provided herein. **THE TERM WILL BE EXTENDED, IN ACCORDANCE WITH THE END OF LEASE TERMS, ON A MONTH TO MONTH RENTAL BASIS UNLESS CUSTOMER SENDS OWNER WRITTEN NOTICE OF CUSTOMER'S INTENTIONS AT LEAST THIRTY (30) DAYS BEFORE THE END OF THE ORIGINAL TERM, PROVIDED THAT THE MONTHLY PAYMENT SHALL BECOME DUE IF CUSTOMER FAILS TO REMIT THE PURCHASE OPTION AMOUNT TO OWNER OR RETURN THE EQUIPMENT AS PROVIDED HEREIN.** Customer authorizes Owner to insert in this Agreement the Rent Commencement Date, any serial numbers and other identification data about the Equipment, as well as any other omitted factual matters. This Agreement is the final agreement between the parties; any verbal or written communications prior to this Agreement are hereby superseded by this Agreement. If any provision of this Agreement is declared unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in that jurisdiction and all others. **(CONTINUE ON PAGE 2)**

**OWNER ACCEPTANCE**

**CUSTOMER ACCEPTANCE**

**If transmitted electronically, via facsimile, email or similar means you agree that we may treat electronic record or a paper copy of the output received from electronic transmission as an original of this written Agreement.**

**DATED**  
(MM/DD/YYYY): \_\_\_\_\_  
**OWNER:** GENEVA CAPITAL, LLC  
1311 Broadway St,  
Alexandria, MN 56308



**DATED**  
(MM/DD/YYYY): \_\_\_\_\_  
**CUSTOMER:** \_\_\_\_\_

**AUTHORIZED SIGNATURE:** \_\_\_\_\_



**AUTHORIZED SIGNATURE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_



**TITLE:** \_\_\_\_\_

**PERSONAL GUARANTY:** As additional consideration for Owner to enter into this Master Equipment Lease Agreement (“Agreement”), the undersigned (“You”) and for more than one guarantor, jointly, severally, absolutely, unconditionally, and continually personally guarantee that the Customer will make all payments and meet all obligations required under this Agreement and any supplements thereto fully and promptly. You agree that Owner may make other arrangements with the Customer and You waive all notice of those changes and will remain responsible for any and all payment and obligations under the Agreement. Owner does not have to notify You if the Customer is in default. If the Customer defaults, You will immediately pay in accordance with the default provisions of the Agreement all sums due under the terms of the Agreement and will perform all the obligations of the Agreement. If it is necessary for Owner to proceed legally to enforce this Guaranty, this Agreement will be deemed fully executed and performed in, and will be governed by and construed in accordance with the state law in accordance with Owner’s or Its Assignee’s principal place of business. You expressly consent to jurisdiction of any state or federal court in Owner’s state or Its Assignee’s principal place of business or any other court so chosen by Owner. **YOU EXPRESSLY CONSENT TO GOVERNING LAW, VENUE PROVIDED HEREIN AND EXPRESSLY HEREBY WAIVE THE RIGHT TO TRIAL BY JURY FOR ANY CLAIMS, COUNTERCLAIMS, AND DEFENSES YOU MAY HAVE RELATED TO OR RELATING TO THIS AGREEMENT.** You agree to pay all costs, including attorneys’ fees and costs incurred in enforcement of this Guaranty. You agree to be bound by paragraph 14 of this Agreement. It is not necessary for Owner to proceed first against the Customer or the equipment before enforcing this Guaranty against You.



\_\_\_\_\_  
**Personal Guarantor**  
(Printed Name)

\_\_\_\_\_  
**Personal Guarantor Signature**

\_\_\_\_\_  
**DATE ONLY**  
(DO NOT SIGN TITLE)

**2. NON-CANCELABLE LEASE:** CUSTOMER'S OBLIGATION TO MAKE PAYMENTS, TO PAY OTHER SUMS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER THE AGREEMENT IS ABSOLUTE AND UNCONDITIONAL AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SETOFF, DEFENSE, OR COUNTERCLAIM WHICH CUSTOMER MAY HAVE AGAINST ANY PERSON FOR ANY REASON WHATSOEVER OR ANY MALFUNCTION, DEFECT OR INABILITY TO USE ANY ITEM OF EQUIPMENT.

3. RENT: The Agreement shall commence upon the Rent Commencement Date and shall end upon full performance by Customer in observance of all terms, conditions, and covenants set forth in the Agreement and any extension thereof. Rent shall be paid in advance and in the amount and frequency as provided herein plus any applicable taxes and fees including but not limited to sales tax, use tax, property tax, equipment protection fees, and late charges. The first such rental payment shall be due on the Rent Commencement Date and each subsequent payment will be due on the same day of each subsequent month or other frequency as explicitly provided for. Customer agrees that Customer owes Owner additional pro rata rent calculated as one-thirtieth (1/30<sup>th</sup>) of the monthly rental amount per day from the earlier of the date of Equipment delivery or the date of advanced funding to Supplier until the Rent Commencement Date and the Agreement begins. Provided no events of default have occurred, Owner will allow Customer to pay off the Agreement early for an amount equal to the sum of all remaining unpaid rental payments, discounted to a net present value at a rate up to five percent (5%), plus the purchase option price.

4. OWNERSHIP OF EQUIPMENT: Owner has purchased the Equipment at the direction of Customer. Owner shall at all times have sole ownership and title to the Equipment. Customer warrants that the Equipment shall at all times remain personal property; the Equipment is removable from and is not essential to any premise upon which it is located regardless of attachment to realty, and Customer agrees to take such action at its expense as may be necessary to prevent any third party from acquiring any interest in the Equipment. This Agreement is a "true lease" and not a loan or installment sale. If this Agreement is held by a court not to be a "true lease" Customer hereby grants Owner a security interest in the Equipment and all proceeds arising therefrom. If any portion of the rent or other payments hereunder shall be deemed interest and such interest exceeds the highest rate permitted by applicable law, such excess interest shall be applied to your obligations to us or refunded if no obligations remain. Customer hereby authorizes Owner to file UCC financing statements as We deem necessary to protect Our interest, and Owner may charge a fee to cover related costs or at Owner's discretion a non-filing protection fee. The parties further agree that this Agreement is a "finance lease" under Article 2A of the Uniform Commercial Code ("UCC") and notwithstanding any determination to the contrary, Owner will have the rights and remedies of a lessor as if the Agreement were a "finance lease" under Article 2A of the UCC. To the extent permitted by applicable law, Customer hereby waives any and all rights conferred upon a lessee under UCC Article 2A-508 through 2A-522 as enacted by Minnesota Statute Sections 336.2A-508 through 336.2A-522 whether or not said statute is applicable, or other applicable law. Customer shall not alter the Equipment without prior consent from Owner. Any alterations or improvements to any item of Equipment shall be deemed accessions and shall be returned to Owner with the Equipment to Owner upon the Agreement expiration or earlier repossession. Customer shall maintain the Equipment in good repair, condition and working order. Customer shall furnish all parts, mechanisms, devices and labor required to keep the Equipment in such condition and pay all costs incident to the Equipment's operation.

5. LOCATION OF EQUIPMENT: Customer will keep and use the Equipment at Customer's Equipment Location on page 1 and Customer agrees not to move it unless Owner agrees to it in advance. At the end of the Agreement's term or upon termination for any other cause, unless Equipment is purchased or the Agreement is renewed, Customer will return the Equipment to a location Owner specifies at Customer's expense. The Equipment must have been inspected and tested by a source authorized by Owner and paid at Customer's expense documenting that the Equipment is in full working order, in complete repair and is in good retail condition acceptable to the Owner. Customer agrees to remove any and all sensitive data stored on Equipment or software at Customer's expense. Upon request, Customer shall advise Owner as to the exact location of the Equipment. Owner reserves the right to inspect the Equipment (by a source authorized by the Owner) at any time during normal business hours throughout the Agreement term and Customer shall permit Owner access to the Equipment for such purposes.

**6. WARRANTIES: OWNER MAKES NO WARRANTY, REPRESENTATION, OR COVENANT, EXPRESS OR IMPLIED, THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THE EQUIPMENT IS MERCHANTABILITY. CUSTOMER SELECTED THE SUPPLIER AND EACH ITEM OF EQUIPMENT INCLUDED IN THIS AGREEMENT BASED UPON CUSTOMER'S OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY OWNER. OWNER SHALL HAVE NO LIABILITY FOR THE INSTALLATION OR PERFORMANCE OF THE EQUIPMENT, FOR ANY DELAY**

**OR FAILURE BY SUPPLIER(S) TO DELIVER AND INSTALL THE EQUIPMENT OR TO PERFORM ANY SERVICES, OR WITH RESPECT TO THE SELECTION, INSTALLATION, TESTING, PERFORMANCE, QUALITY, MAINTENANCE, OR SUPPORT OF THE EQUIPMENT. THE SUPPLIER IS NOT AN AGENT OF OWNER'S AND NO REPRESENTATION BY SUPPLIER SHALL IN ANY WAY AFFECT CUSTOMER'S DUTY TO PAY THE RENTAL PAYMENTS AND PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT.**

7. **LOSS OR DAMAGE:** Customer is responsible for the risk of loss, destruction of, or damage to the Equipment. No such loss or damage relieves Customer from the payment obligations under this Agreement. Customer agrees to promptly notify Owner in writing of any loss or damage and at Owner's discretion either pay to Owner the Accelerated Amount or repair or replace the Equipment so that the Equipment is returned to the condition required herein.

8. **COLLATERAL PROTECTION & INSURANCE:** Customer agrees to keep the Equipment fully insured against property damage and/or loss with Geneva Capital, LLC and its Assigns as Loss Payee in an amount not less than the original Equipment Cost until this Agreement is terminated. Customer also agrees to obtain a \$500,000 comprehensive general liability insurance policy and to include Geneva Capital, LLC as an Additional Insured on the policy. Customer agrees to provide Owner with a complete certificate of insurance acceptable to Owner, before this Agreement begins. In the event the acceptable certificate is not received or later lapses, Customer further authorizes Owner as Customer's attorney-in-fact to enroll Customer in an equipment protection program through a third-party insurance provider and Customer agrees to pay a monthly administrative surcharge to Owner. Owner shall be under no obligation or duty to enroll Customer in such program and such coverage may not protect Customer's interests and may be at a higher cost than what Customer could arrange on its own. Any insurance proceeds will be paid to Owner and Customer grants Owner a power of attorney to effectuate such payments of insurance proceeds or negotiate checks. Insurance proceeds shall be applied to any loss or damage, but Customer shall remain liable for any balance due under this Agreement if insurance proceeds are insufficient to pay off the Lease. **NOTHING IN THIS PARAGRAPH WILL RELIEVE CUSTOMER OF CUSTOMER'S RESPONSIBILITY FOR PROPERTY AND LIABILITY INSURANCE COVERAGE ON THIS EQUIPMENT.**

9. **INDEMNITY:** Customer shall and does hereby agree to indemnify, defend and hold harmless Owner and any Assignee, and each of their directors, officers, employees, agents or affiliates from any and all claims, demands, actions, suits, proceedings, costs, expenses, damages, and liabilities (including attorneys' fees) arising out of, connected with or resulting from the delivery, possession, use, operation, maintenance, repair or return of Equipment by Customer or its employees, agents, customers or vendors. Customer's obligations under the preceding sentence shall survive expiration of any rental term or the termination of the Agreement.

10. **TAXES AND FEES:** Customer agrees to pay when due all taxes (including but not limited to sales tax, personal property tax, fines and penalties) relating to this Agreement or the Equipment on a monthly basis. If the Equipment is subject to personal property tax, Customer agrees to pay a monthly amount to Owner, beginning in the first year in which the taxes are assessed, calculated as 1/12th of the estimated personal property tax for the year as well as any administrative fees charged by the Owner for processing the tax filings. Such amount will be adjusted each year to reflect changes in the valuation of the Equipment. If the Equipment or use of the Equipment requires licensing or registration with any governmental authority, Customer shall, at Customer's expense, obtain and maintain such license or registration continuously during the term of this Agreement and pay all license and/or registration fees. Customer agrees Owner may make a profit on any administrative surcharge, or processing of any taxes and/or fees.

11. **ASSIGNMENT: CUSTOMER HAS NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT.** Owner may sell, assign, or transfer this Agreement. Customer agrees that if Owner sells, assigns, or transfers this Agreement, the new owner will have the same rights and benefits that Owner has now and will not have to perform any of Owner's obligations. Customer agrees that the rights of the new owner will not be subject to any claims, defenses, or set offs that Customer may have against Owner.

12. **DEFAULT AND REMEDIES:** If Customer does not pay any rental payment or other sum due to Owner when due, or if Customer breaches any of Customer's obligations in the Agreement or any other agreement with Owner, or if Customer or any Guarantor of Customer's obligations dies, becomes insolvent, files for or is the subject of a proceeding in bankruptcy, Customer will be in default. Customer agrees that a default under this Agreement or any other agreement between Customer and Owner shall constitute a default under all agreements at Owner's discretion. If any part of a payment is not received by Owner within 4 days of its due date, Customer agrees to pay a late charge of 15% of the payment which is late or \$25.00, whichever is greater, or if less, the maximum charge allowed by law. If Customer is ever in default, Owner may do any of the following, each of which shall be cumulative: retain Customer's security deposit; elect not to renew any or all time-out

controls programmed within the Equipment; proceed by appropriate court action(s) to enforce any right or remedy under this Agreement, at law or in equity, including any right under the UCC; recover interest on any unpaid payment from the date it was due until fully paid at the rate of 18% per annum or if less the highest rate permitted by law; without notice, cancel this Agreement whereupon all of Customer's rights to the use of the Equipment shall terminate, and Customer shall deliver possession of the Equipment to Lessor in accordance with this Agreement and Customer shall deliver possession of the Equipment to Lessor in accordance with this Agreement and Customer shall remain liable for all amounts due herein; take possession of any or all of the Equipment and sell, dispose of, hold, use or lease the Equipment; declare immediately due and payable, as liquidated damages for loss of bargain and not as a penalty (i) all accrued and unpaid rent and other accrued obligations hereunder, plus (ii) the sum of all unpaid rent for the remaining Agreement term plus the end of term purchase option price, both discounted to present value at a discount rate of 3% (the "Accelerated Amount") (the Accelerated Amount shall bear interest at a rate equal to 18% per annum or if less the highest rate permitted law). If any information supplied by Customer on the credit application or during the credit process is later found to have been falsified or misrepresented, Customer shall be considered in default and in addition to the preceding remedies, Owner may file criminal charges against Customer and prosecute to the fullest extent of the law. If Owner refers this Agreement to an attorney or collection agency for collection, Customer agrees to pay Owner reasonable attorney and collection fees and actual court costs. Customer further agrees that in the event of default, Owner shall be allowed to take possession of the Equipment and in the event of repossession transfers all ownership interest in said equipment to Owner. If Owner takes possession of the Equipment, Customer agrees to pay the cost of repossession including any damage to the Equipment or real property as a result of the repossession. Customer agrees that Owner will not be responsible to pay Customer any consequential or incidental damages for any default by Owner under this Agreement. Customer agrees that any delay or failure to enforce Owner's rights under this Agreement does not prevent Owner from enforcing any rights at a later time. Customer further authorizes Owner to obtain and use consumer credit reports as may be needed and Customer waives any right or claim Customer may otherwise have under the Fair Credit Reporting Act in absence of this continuing consent.

13. MISCELLANEOUS: The Security Deposit is to secure Customer's performance under this Agreement. Customer will pay the security deposit on the date Customer signs this Agreement. In the event this Agreement is not fully completed or consummated, the security deposit will be retained by Owner to compensate Owner for Owner's documentation, processing, collection efforts and other expenses. If all conditions herein are fully complied with and provided there are no events of default to this Agreement per paragraph 12, the security deposit will be refunded to Customer after the return of the Equipment in accordance with paragraph 5 or the Agreement is paid in full. This Agreement may be signed in counterparts that together will constitute one document. This Agreement may be executed by way of facsimile or electronic transmission, and if so, shall be treated as an original having the same binding legal effect. Only the counterpart of this Agreement that bears Owner's manually applied signature shall constitute the original chattel paper for purposes of possession. Any provision of this Agreement that is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Agreement. Captions or paragraph headings are intended for convenience or reference only and shall not be construed to define, limit or describe the scope or intent of any provision hereof. Customer will promptly execute or otherwise authenticate and deliver to the Owner such further documents or take such further action as Owner may reasonably request in order to carry out the intent and purpose of this Agreement. Unless Customer provides Owner with written notice of non-acceptance of the Equipment within ten (10) days of Supplier's delivery of Equipment to Customer, the Equipment shall be deemed to be fully accepted and Agreement shall be fully valid and in force whether or not Customer has executed a Delivery & Acceptance Certificate. Upon Owner's request, Customer agrees to provide updated financial information (including but not limited to financial statements and tax returns).

**14. LAW. THIS AGREEMENT WILL BE DEEMED FULLY EXECUTED AND PERFORMED IN OWNER'S OR ITS ASSIGNEE'S PRINCIPAL PLACE OF BUSINESS AND WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE STATE LAW IN ACCORDANCE WITH OWNER'S OR ITS ASSIGNEE'S PRINCIPAL PLACE OF BUSINESS. CUSTOMER EXPRESSLY CONSENTS TO JURISDICTION OF ANY STATE OR FEDERAL COURT IN OWNER'S STATE OR ITS ASSIGNEE'S PRINCIPAL PLACE OF BUSINESS OR ANY OTHER COURT SO CHOSEN BY OWNER. CUSTOMER EXPRESSLY CONSENTS TO GOVERNING LAW, VENUE PROVIDED HEREIN AND EXPRESSLY HEREBY WAIVES THE RIGHT TO TRIAL BY JURY FOR ANY CLAIMS, COUNTERCLAIMS, AND DEFENSES CUSTOMER MAY HAVE RELATED TO OR RELATING TO THIS AGREEMENT.**



**AUTHORIZED SIGNATURE**

**DATE**

4831-4101-7271, v. 1

# Credit Release Language

Geneva Capital, LLC  
1311 Broadway Street  
Alexandria, MN 56308  
(320) 762-8400

## Credit Release & Information Verification:

By signing this application the Applicant(s) certifies that all information contained in this application, and all attachments hereto, are true and accurate to the best of the Applicant(s) knowledge and are made for the purpose of obtaining credit for business purposes, and not for personal or family use. The Applicant(s) hereby authorize Geneva Capital, LLC and its assigns to obtain and use consumer credit reports on the undersigned, now and from time to time, as may be needed in the credit evaluation and review process and waives any right or claim the Applicant(s) would otherwise have under the Fair Credit Reporting Act in absence of this continuing consent. The Applicant(s) further authorize any government agency, bank or financial institution to release credit information on the Applicant(s) accounts to Geneva Capital, LLC and its assigns. If credit is extended, Applicant agrees that submitting an electronic, photocopy or facsimile copy of a signed authorization shall be deemed to be binding, valid, genuine and authentic as an original-signature document for all purposes. The Applicant(s) further authorize Geneva Capital, LLC to mail, fax, text or e-mail solicitations of future lease financing services to Applicant(s).

X

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Exhibit I-2

Guidant Financial Group Agreement



# iFinance Agreement

Investing your retirement savings into a small business can be a prudent strategy for achieving your retirement goals. Guidant Financial is dedicated to ensuring that Guidant's iFinance meets all applicable regulations for a Rollover for Business Start-ups plan.

Please review each statement and verify your understanding of the specific actions you must take when utilizing a Rollover for Business Start-ups plan such as Guidant's iFinance.

## FIDUCIARY OBLIGATIONS:

To benefit from the tax-deferred advantages of a qualified retirement account, regulations require that you choose investments that are in the best interest of your retirement account.

I verify that I have performed due diligence and believe that my decision to invest my personal retirement funds into the corporation is a good investment in the best interest of my 401(k).

I verify my understanding that I could lose up to 100% of my investment if the business fails.

I have done my own due diligence and have determined that the use of my retirement monies as funding source for iFinance and related business transaction is a prudent use of my retirement monies and is a good investment for the 401(k) Plan.

## 401(k) PLAN RESPONSIBILITIES:

As the trustee of a 401(k) plan, you have a duty to manage the plan so that it benefits *all* employees not just the owners and officers of the Corporation.

I verify that I will use this 401(k) as a long-term savings vehicle for *all* employees of the business and agree that I will encourage all eligible employees to participate.

I verify my understanding that when company stock is offered for purchase within the 401(k) plan, the offering *must* be available for *all* eligible employees.

## PERSONAL SALARY/COMPENSATION CONSIDERATIONS:

To avoid any appearance of a conflict-of-interest with your 401(k) investment, you must defer paying yourself compensation until the company becomes an active business.

I verify that I will not draw compensation from the company before being opened for business; the company must be actively engaged in the buying or selling of goods and/or services.

I verify my understanding that my compensation should come from revenue generated from the business and not from the proceeds of the sale of employer stock to the 401(k).

I verify my understanding that taking compensation above what is fair and reasonable for the position and industry can create a prohibited transaction.

## TERMS OF AGREEMENT:

I acknowledge that I have read, understand, and agree to be bound by the terms of this Agreement as detailed in the linked <sup>1</sup> These Terms of Agreement are hereby incorporated by reference and, together with the documents executed in connection therewith, constitute the entire agreement between parties. There are no agreements, understandings, restrictions, representations, or warranties other than those set forth or referred to herein unless the parties have entered into an Addendum in writing, signed by the parties, that specifically references this Agreement.

I agree to discuss these requirements – *Fiduciary Obligations, 401(k) Plan Responsibilities, & Personal Salary/Compensation Considerations* – with my Outside Counsel to make an informed decision.

Signature

Date

Printed Name

<sup>1</sup> [http://www.guidantfinancial.com/Libraries/documents/Guidant\\_401k\\_Online\\_Terms\\_and\\_Conditions\\_2010\\_09\\_21.sflb.aspx](http://www.guidantfinancial.com/Libraries/documents/Guidant_401k_Online_Terms_and_Conditions_2010_09_21.sflb.aspx)



# iFinance Agreement

## CLIENT INFORMATION

Client Legal Name: \_\_\_\_\_ Spouse's Name (if applicable): \_\_\_\_\_  
 Client Date of Birth: \_\_\_\_\_ Spouse's Date of Birth: \_\_\_\_\_  
 Client Address: \_\_\_\_\_ County: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

What state do you want the Corporation filed in?<sup>2</sup>: \_\_\_\_\_

## SHAREHOLDER INFORMATION

**Retirement Funds/Accounts:** Please list all parties investing retirement funds that will be used with iFinance.

❖ Have there been any rollovers within any of the below referenced accounts within the last 12 months?

If yes, please explain:

Account Owner Name	Type	Custodian	Amount	Inherited?
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**Non-Retirement Funds:** Please list all parties investing personal funds in your new Corporation

Account Owner Name	Source	Amount
	<i>Guidant Fee/Cash</i>	

I have confirmed with my custodian that my funds can be transferred and I acknowledge that I am ultimately responsible for ensuring that my funds are eligible for transfer/rollover into the iFinance Plan.

The Internal Revenue Code imposes a limit of one IRA-to-IRA distribution with a 12 month period. Distributions that fall outside this exception are subject to applicable taxes and penalties. Have you made a 60 day IRA-to-IRA distribution from any IRA you own during the preceding 12 months, whether that IRA is listed above or not? If "yes" what was the date on the distribution check and to whom was that check made payable?

<sup>2</sup> In the event you submit your contract and later change the state of investment, additional requirements and fees will apply. Contact Guidant immediately.



# iFinance Agreement

## OUTSIDE COUNSEL

Consultations with outside counsel are conducted by telephone. Please indicate who you prefer to have represented by outside counsel<sup>3</sup>:

I, \_\_\_\_\_, hereby acknowledge that I have personally filled out the iFinance Agreement, the information therein is accurate to the best of my knowledge, and Guidant is entitled to rely on that information in fulfilling the iFinance.

## PROPOSED INVESTMENT: BUSINESS TRANSACTION

- Are you purchasing a franchise?
- Will you be purchasing an existing business with iFinance?  
If **yes**, please answer the four following questions:
  1. This acquisition is an:
  2. Who are you purchasing the existing business from:
    - ❖ If **other**, please specify:
  3. Does this existing business have employees that will remain with the business after you acquire it?
    - ❖ If **yes**, how many existing employees are expected to remain with the business?
  4. Does this existing business have an existing retirement plan of any type?
- ❖ If **yes**, specify the type: \_\_\_\_\_ If **other**, please specify: \_\_\_\_\_
- Do you contemplate the iFinance corporation will purchase, lease or otherwise occupy real estate that is owned by you, a family member or any entity in which you or any family member have any ownership?  
If **yes**, please explain: \_\_\_\_\_
- Do you anticipate the iFinance corporation entering into any type of commercial transaction or dealings with you, a family member or any entity in which you or any family member have ownership?  
If **yes**, please explain: \_\_\_\_\_
- Identify any and all parties (including other entities) involved with your pending business transaction. Include any familial relationships among those parties: \_\_\_\_\_

<sup>3</sup> As provided in Paragraph 10 of the "Terms and Conditions." Client will receive two telephonic consultations, each ranging from 30-60 minutes maximum as determined by outside legal counsel to provide legal advice to Client on issues pertaining to the iFinance structure. If client's spouse/other investor desires to have separate legal counsel (i.e. no joint representation), the legal fees and costs of that separate legal counsel for the spouse/other investor will be the sole responsibility and expense of the Client. Client understands and agrees that GUIDANT will have no responsibility for such additional expenses.

"Joint Representation" means that both parties will be considered equally as clients, that both have the same legal interests, and both agree to attend all conferences with Outside Counsel. If you cannot meet those requirements, you must select single representation. With single representation, you may invite your spouse to attend any conference even if the spouse is not a client, with the understanding that you waive confidentiality in order to have the spouse attend. In this case, you both understand that only the represented spouse is entitled to reply on the legal advice.



# iFinance Agreement

Do you, your spouse, your children, or other investor(s) currently have ownership interest in any other business entities? (These include sole proprietorships, inactive and shell entities.)

Entity Name	State of Filing	Entity Type	Active?	What does it do?
Your ownership	Spouse's Ownership	List other owners, their relationship to you, and percentage of their ownership		
# of Employees	# of 1099 Contractors:	Will this business interact with the iFinance business in any way? Explain:		
Type of Existing Retirement Plan:				

Entity Name	State of Filing	Entity Type	Active?	What does it do?
Your ownership	Spouse's Ownership	List other owners, their relationship to you, and percentage of their ownership:		
# of Employees	# of 1099 Contractors:	Will this business interact with the iFinance business in any way? Explain:		
Type of Existing Retirement Plan:				

I understand that ANY interaction or co-commerce between any entity/business I have an ownership interest in and the new corporation that is being set up as part of my iFinance plan may constitute a prohibited transaction. If I decide that the entity or entities in which I have a personal ownership interest will interact with the iFinance corporation *in any way*, I agree to consult with my account manager and the outside legal counsel referred by Guidant, prior to such interaction. I agree to inform my outside counsel of all facts relating to any such possible interaction. *My initials below indicate that all individuals involved in the iFinance structure understand and agree to the above statements.*



# iFinance Agreement

This Agreement to Provide Services, dated \_\_\_\_\_, is a contract between Guidant Financial Group, Inc. ("GFG") and \_\_\_\_\_ ("Client").

Upon return of a signed and completed copy of this Agreement, subject to the \_\_\_\_\_ your payment of GFG's Agreed Fee, and the approval of this Agreement by GFG's compliance department, you will have retained GFG to produce documents and to provide services required for the iFinance program, as detailed below:

**AGREED FEE**  
Establishment of one (1) Corporation, including filing fees;<sup>4</sup>  
Establishment of one (1) Profit Sharing 401(k) Pension Plan;<sup>5</sup>  
Assistance in the establishment of corporate bank account;  
Assistance in the establishment of 401(k) bank account;  
Assistance in transfer of funds from current plan administrator to the new 401(k) Plan; two telephonic consultations with outside legal counsel;<sup>6</sup> and  
Lifetime support with GFG Consultant(s).

Please add the optional expedited service to the Agreed Fee for an additional \$499.00. This includes the expedited filing fee (where available), overnight delivery of documents as necessary, and expedited processing priority. This service is not offered for all states - consult your Consultant for details.<sup>7</sup>

**Method of payment (select one of the choices below):**

I have read, understand and agree to the terms of this agreement as detailed in the linked " \_\_\_\_\_ " <sup>8</sup>

Client Signature \_\_\_\_\_ Date \_\_\_\_\_ Printed Name \_\_\_\_\_

<sup>4</sup> The default state of filing will be the Client's state of residence, unless otherwise indicated by the client and agreed to by GFG. It is the client's responsibility to notify GFG if client would prefer to file in a state other than client's state of residence. The number of shares and par value authorized for your Corporation will be determined based on GFG's standard practices, unless agreed to otherwise. GFG will pay up to \$500 in filing fees directly associated with the filing of the Articles of Incorporation. Filing fees will be determined by state filing fee requirements and based on GFG's standard filing practices, unless agreed to otherwise. Any filing fees, including fees related to the expedite of such filing, in excess of \$500 are the sole responsibility of the client and such excess fees must be paid by the client to GFG in advance of filing the Articles of Incorporation. GFG cannot guarantee the processing times for filings and will not be held liable for any damages caused by delay from processing a filing.

<sup>5</sup> In addition to the Agreed Fee, you will have the opportunity to engage GFG for the required recordkeeping services of your 401(k) Plan. Recordkeeping fees begin at \$119 per month. Fees will be paid in accordance with the terms of the Recordkeeping Agreement. Additional Recordkeeping fees may apply.

<sup>6</sup> As detailed in Paragraph 10 of the "Terms of Agreement."

<sup>7</sup> EXPEDITE filings in California will incur an additional charge of \$200 for each entity. This charge will be added to the Agreed Fee.

<sup>8</sup> Each individual contributing retirement funds to the iFinance is required to sign the agreement.

Exhibit I-3

Tenant Improvement Financing Documents

## LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (collectively, "Borrower"), whose address is \_\_\_\_\_, and Waxing the City Worldwide, LLC, a Minnesota limited liability company ("Lender"), with offices 111 Weir Drive, Woodbury, MN 55125.

Borrower is the tenant of certain property located at \_\_\_\_\_ (the "Property"), pursuant to the certain Lease Agreement between Borrower as tenant and the landlord thereunder (the "Lease").

Borrower [jointly and severally] wishes to borrow from Lender and Lender wishes to lend to Borrower certain funds to pay costs in connection with the financing of tenant construction improvements to the Property (the "Tenant Improvements") pursuant to this Agreement.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the parties, and in consideration of the mutual covenants and obligations contained in this Agreement, Lender and Borrower agree as follows:

1. **Loan.** The funds to be advanced ("Advances") by Lender to Borrower under the terms and conditions of this Agreement (the "Loan") will be advanced by Lender to Borrower, from time to time, for the payment of Tenant Improvement costs or for such other purposes as may be approved by Lender, in its sole discretion. The Borrower understands and agrees that all funds disbursed by Lender to the Borrower will be via multi-party checks made payable to the undersigned and the approved general contractor responsible for the Tenant Improvement costs (the "Contractor").

2. **Note and Security Agreement.** The Advance of the Loan by Lender shall be evidenced by and payable in accordance with the terms and conditions of a secured promissory note in the amount of (\$ \_\_\_\_\_), dated the same date as this Agreement, made and executed by Borrower and payable to the order of Lender (the "Note"). The Note will mature as provided in the Note ("Maturity Date"). The payment of the Advance under the Note shall be secured, among other things, by a Security Agreement executed and delivered by Borrower, to Lender (the "Security Agreement") and UCC Financing statement.

3. **Documents.** Except as otherwise provided for herein, as a condition precedent to Lender's obligation to make any Advance, Borrower shall execute and/or deliver the following documents to Lender in form and substance satisfactory to Lender (collectively, the "Loan Documents"):

3.1 The Note;

3.2 The Security Agreement; and

3.3 UCC-1 Financing Statement covering the property described in the Security Agreement.

4. **Additional Conditions for Advances.** Lender's obligations to make any Advance shall be subject to all of the following additional conditions precedent:

4.1 Borrower shall deliver, without expense to Lender, the Loan Documents, each to be duly executed to the extent required by Lender and approved by Lender's legal counsel and if applicable,

recorded with the appropriate public recording office. All filing fees, charges, expenses and taxes shall have been paid by Borrower.

4.2 Lender shall have approved the Contractor(s) proposed by Borrower to construct the Tenant Improvements, in Lender's sole and absolute discretion.

4.3 Borrower shall have provided copies of paid checks and invoices or such other reasonable evidence requested by Lender evidencing that Borrower has paid all of its agreed upon share of the costs of the Tenant Improvements.

4.4 Borrower shall have provided to Lender:

- (a) Application and Certificate for Payment from Contractor;
- (b) Borrower's General Contractor's Affidavit;
- (c) General Contractor Final, Unconditional Affidavit & Waiver of Lien;
- (d) Subcontractor(s) Final, Unconditional Affidavit & Waiver of Lien; and
- (e) Copies of invoices and such other documentation as requested by Lender substantiating the amount of the Advance requested and the relevant portion of the Tenant Improvements completed.

4.5 There shall not be in default under that certain Franchise Agreement for the Waxing the City studio to be located at the Property (the "Franchise Agreement"), the Lease or under any of the Loan Documents.

4.6 In Lender's reasonable opinion, there shall have been no material adverse change in the financial condition of Borrower prior to any advance.

4.7 Borrower shall have paid Lender a non-refundable loan facilitation fee of 6% of the entire principal amount of Note, as an origination fee for the Loan. Lender has earned such origination fee upon Lender's and Borrower's execution of this Agreement and the same is nonrefundable notwithstanding the reduction or termination of the liability of Lender. In addition, Borrower shall have paid Lender an escrow payment of     Dollars (\$     ) (the "Escrow Payment"), which Lender shall hold in escrow on Borrower's account to cover any variations or modifications to the Contractor's bid for the cost of the tenant improvements. Lender shall release the Escrow Payment upon any of the following events: (i) upon such time as the Loan is repaid in full, Lender will release the Escrow Payment to the Borrower; (ii) if the Borrower defaults under any of the Loan Documents, Lender will release the Escrow Payment to its own account with no further recourse to Borrower; or (iii) upon a request from the Contractor that exceeds the amount of the Loan, which request has been approved by Borrower, Lender will release all or a portion of the Escrow Payment to the Contractor. Borrower and Lender hereby agree that Lender shall have no obligation to place the Escrow Payment in an interest bearing account, or a segregated account, and Borrower shall not be entitled to any interest on the Escrow Payment. Borrower acknowledges that the Escrow Payment is a condition of the making of the Loan by Lender, and Lender shall not be responsible or liable for any act or omission with respect to the Escrow Payment.

4.8 The warranties and representations made by Borrower in this Agreement and in the Loan Documents are true and correct as if made on the date of such Advance.

**5. Borrower's Covenants, Warranties, and Representations.**

5.1 Borrower [jointly and severally] warrants and represents to Lender as follows:

5.1.1 That this Agreement, the Lease, and the Loan Documents are the legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

5.1.2 That the Note, when duly executed and delivered for value, will constitute the legal, valid and binding obligation of Borrower enforceable in accordance with its terms.

5.2 Borrower covenants and agrees:

5.2.1 To keep, perform, enforce and maintain in full force and effect all of the terms, covenants, conditions and requirements of this Agreement, the Lease, and the Loan Documents; not to amend, cancel, change, terminate, supplement or waive any of the terms, covenants or conditions of the Loan Documents without the consent of Lender.

5.2.2 Not to create, permit to be created, or allow to exist any liens, charges or encumbrances on the Property.

5.2.3 To pay to Lender, upon demand, all out-of-pocket expenses, including reasonable attorneys' fees, incurred in exercising any of the rights granted to Lender herein or in any document herein referred to, whether suit be brought or not.

5.2.4 Not to, sell, assign, mortgage, encumber or convey, or otherwise transfer, all or any part of this Agreement, any Advance, or the interest of Borrower in all the Property (regardless of whether the buyer, assignee or transferee assumes the obligations of the Borrower hereunder or takes the Property subject to said obligations) without obtaining, in each instance, the prior written approval of Lender which approval can be withheld for any reason.

5.3 The warranties, agreements, covenants and representations in this Section 5 shall be deemed to have been renewed and restated by Borrower at the time of each advance under the Loan after the date hereof, unless Borrower notifies Lender in writing of any change therein prior to the time of such advance.

6. **Default.** The occurrence of any of the following events shall constitute a default under this Agreement:

6.1 If Borrower shall fail to pay principal or interest when due under the Note.

6.2 If Borrower shall fail to keep, enforce, perform and maintain in full force and effect any provision of this Agreement or any of the Loan Documents or any other agreement between [either] Borrower and Lender, provided if such failure is for other than the nonpayment of money when due, then such failure shall continue for a period of twenty (20) days after notice of such failure is given to Borrower by Lender.

6.3 If the improvements on the Property are materially damaged or destroyed by fire or other casualty and the loss is not adequately covered by equity funds of Borrower or insurance proceeds actually collected or in the process of collection.

6.4 If Borrower shall default in any of its obligation under the Lease.

7. **Remedies.** In the event of a default as defined in Section 6 hereof, Lender, at its option, in addition to any other remedies to which it might by law be entitled, shall have the right to do one or more of the following:

7.1 To refrain from making any further advance under this Agreement, but Lender may make advances after the happening of any such event without hereby waiving the right to refrain from making other or further advances or to exercise any of the other rights Lender may have.

7.2 To perform such other acts or deeds which may be necessary to cure any default existing under this Agreement, the Lease, the Franchise Agreement or under the Loan Documents.

7.3 To bring appropriate action to enforce such performance and the correction of such failure or default.

7.4 To declare the entire unpaid principal of the Note and all accrued interest thereon immediately due and payable without notice.

7.5 To foreclose any security now or hereafter securing the Note.

7.6 To exercise all of Lender's rights and remedies set forth in the Security Agreement, the Lease or the Franchise Agreement.

7.7 Terminate Lender's obligations under this Agreement without notice to Borrower.

7.8 Commence an action to enforce specifically Borrower's performance of its obligations under the Loan Documents, the Lease or the Franchise Agreement.

7.9 Exercise any and all other rights and remedies available at law or in equity.

No right or remedy by this Agreement, or by any document or instrument delivered by Borrower pursuant hereto, conferred upon or reserved to Lender shall be or is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy now or hereafter existing at law or in equity or by statute. Upon the occurrence of an Event of Default, Borrower agrees to pay all reasonable expenses and costs of collection incurred by Lender under this Agreement, including, without limitation, reasonable attorneys' fees, whether or not in connection with a judicial proceeding and whether or not in connection with an original or appellate proceeding.

Except as Lender may hereafter or otherwise agree in writing, no waiver by Lender of any breach by or default of Borrower, in any of its obligations, agreements or covenants under this Agreement shall be deemed to be a waiver of any subsequent breach of the same, or any other obligation, agreement or covenant, nor shall any forbearance by Lender to seek a remedy for such breach be deemed a waiver of its rights and remedies with respect to such breach, nor shall Lender be deemed to have waived any of its rights and remedies unless it be in writing and executed with the same formality as this Agreement. Any waiver by Lender of any covenants, requirements, duties or conditions of this Agreement to be performed by any person or entity other than Lender included herein for the benefit of Lender shall be binding on Borrower and shall not relieve Borrower from any of its obligations to provide insurance and make disbursements as set forth herein.

8. **Miscellaneous.**

8.1 All notices provided for herein shall be in writing and shall be deemed to have been given when delivered personally or three (3) business days after deposited in the United States mail, registered or certified mail, postage prepaid, and addressed to the locations set forth on page 1 hereof, or addressed to any such party at such other address as such party shall hereafter furnish by such notice to the other parties.

8.2 This Agreement shall be construed according to the laws of the State of Minnesota.

8.3 If any term, condition, or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder thereof and the application of such term, provision, and condition to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with to the full extent permitted by law. No change in the provisions hereof shall be valid unless in writing and signed by Borrower and Lender.

8.4 Lender shall have the right to inspect the Property upon reasonable advance written notice to Borrower.

8.5 If the interest provided for by the Note and this Agreement shall become in conflict with the applicable statutory interest rate limitations now or hereafter in effect, Borrower shall pay only such interest as would legally be permitted; provided, however, that if the defense of usury is unavailable to Borrower, Borrower shall pay interest as provided for in the Note. If for any reason interest in excess of the amount as limited in the foregoing sentence shall have been paid under the Note, whether by reason of acceleration or otherwise, then any such excess interest shall constitute and be treated as a payment of principal thereunder and shall operate to reduce such principal by the amount of such excess, or if more than the then principal indebtedness, such excess shall be refunded.

8.6 Borrower hereby consents to the personal jurisdiction of the state and federal courts located in the State of Minnesota in connection with any controversy related in any way to this Agreement, the Note, the Lease, the Franchise Agreement any other Loan Documents or any security or guaranty for the Note, waives any argument that venue in such forums is not convenient and further waives the right to trial by jury.

8.7 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, successors and assigns in interest.

8.8 THE BORROWER ACKNOWLEDGES THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED AND THAT THE TIME AND EXPENSE REQUIRED FOR TRIAL BY A JURY MAY EXCEED THE TIME AND EXPENSE REQUIRED FOR TRIAL WITHOUT A JURY. THE BORROWER, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF BORROWER'S CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF LENDER AND BORROWER, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT, THE NOTE, ANY RELATED AGREEMENTS OR OBLIGATIONS THEREUNDER. THE BORROWER HAS READ ALL OF THIS AGREEMENT AND UNDERSTANDS ALL OF THE PROVISIONS OF THIS AGREEMENT. THE BORROWER ALSO AGREES THAT COMPLIANCE BY THE LENDER WITH THE EXPRESS PROVISIONS OF THIS AGREEMENT

SHALL CONSTITUTE GOOD FAITH AND SHALL BE CONSIDERED REASONABLE FOR ALL PURPOSES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**LENDER:**

**WAXING THE CITY WORLDWIDE, LLC**

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

**BORROWER:**

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

\$ \_\_\_\_\_

Woodbury, Minnesota  
\_\_\_\_\_, 20\_\_

## SECURED PROMISSORY NOTE

FOR VALUE RECEIVED, \_\_\_\_\_, a (“Maker”), [jointly and severally] hereby [each] promises to pay to the order of Waxing the City Worldwide, LLC., a Minnesota limited liability company, and its successors and assigns (“Holder”), at 111 Weir Drive, Woodbury, MN 55125, or such other place as may be designated from time to time by Holder, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) or, if less, so much thereof as from time to time may be advanced by Holder pursuant to that certain Loan Agreement dated as of the date hereof by and between Holder and Maker (the “Loan Agreement”), together with interest on the unpaid principal balance outstanding from time to time (the “Principal Balance”), commencing on the date hereof until the occurrence of an Event of Default, at zero percent (0%) per annum. Upon an occurrence of an Event of Default (as defined below) and continuing until this Note has been paid in full, interest shall accrue at a fixed default interest rate equivalent to twelve and No/100 percent (12%) on the unpaid principal balance outstanding, including after the Maturity Date (as defined below).

The entire Principal Balance, together with any unpaid interest accrued thereon as described below, shall be fully due and payable on the earlier to occur of: 1) the date that is ninety (90) days after the date of the last draw on this Note or 2) the date that is thirty (30) days after the opening of that certain Waxing the City facility located at \_\_\_\_\_ (the “Studio”).

This Note may be prepaid in whole or in part at any time and from time to time without premium or penalty. In addition, to the extent that Maker receives reimbursement of any of its expenditures for the remodeling of the Studio, Maker shall immediately transmit such amounts to Holder as mandatory prepayments, and Maker hereby appoints Holder as its attorney-in-fact to direct its landlord to remit such payments directly to Holder to be applied against the balance owing on this Note. Any payment hereunder shall be allocated first to payment of any costs and expenses incurred in collecting this Note or in enforcing any provision of the “Security Agreement” (as such term is hereinafter defined); second to the payment of interest then accrued on the Principal Balance; and the remainder, if any, shall be applied in reduction of the Principal Balance.

This Note is secured by that certain Security Agreement dated as of the date hereof by and between the parties hereto (the “Security Agreement”).

The occurrence of any of the following shall constitute an “Event of Default” hereunder:

- (a) the failure to make any payment required under this Note when due;
- (b) the insolvency of, appointment of receiver of all or part of the property of, assignment for the benefit of creditors by, or commencement of any proceeding under any bankruptcy or insolvency laws by or against, Maker;
- (c) the insolvency of, appointment of receiver of all or part of the property of, assignment for the benefit of creditors by, or commencement of any proceeding under the Loan Agreement;
- (d) the breach by Maker or event of default by Maker under the Security Agreement;
- (e) the breach by Maker or event of default by Maker under the Loan Agreement;

- (f) the breach by Maker or event of default by Maker under that certain Lease Agreement for the operation of the Center;
- (g) the breach by Maker or event of default by Maker under that certain Franchise Agreement (the "Franchise Agreement") between Maker and Holder for the operation of the Center, if such breach is not cured within ten (10) days following notice from Holder to Maker (regardless whether Holder exercises any right it may have to terminate the Franchise Agreement); or

After the occurrence of an Event of Default, Holder may, at its option by written notice to Maker, declare this Note to be immediately due and payable, and this Note shall be due and payable, together with all accrued interest thereon, without presentment, demand, protest or other notices of any kind. In addition, the remaining balance due hereunder shall accelerate upon sale of all or substantially all of the assets that secure this Note. Upon the occurrence of an Event of Default, Holder shall also be entitled to all of the rights and remedies set forth in the Loan Agreement or the Loan Documents (as defined in the Loan Agreement).

No provision, and no breach of any provision, of this Note shall be deemed waived by Holder unless such waiver is in writing and signed by Holder, and no waiver by Holder shall operate as or be construed to be a waiver of any subsequent application of such provision or any subsequent breach of such provision.

Time is of the essence in this Note. Except for notice of acceleration as provided above, Maker hereby waives presentment, demand for payment, notice of dishonor, notice of protest, protest, and all other notices or demands in connection with the delivery, acceptance or performance of, or default under, this Note. Maker further agrees to pay all costs of collection, including reasonable attorneys' fees and court costs, incurred by Holder in the event this Note, or any portion hereof, is not paid when due, regardless of whether or not any legal proceeding is actually initiated against Maker in connection with this Note. This Note shall be governed by and construed in accordance with the laws of the State of Minnesota, without giving effect to such jurisdiction's principles regarding conflicts of laws. [All obligations of each Maker herein are joint and several.]

IN WITNESS WHEREOF, Maker has executed and delivered this Note as of the date first written above.

MAKER:

By:

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

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

SECURITY AGREEMENT

DATE \_\_\_\_\_, 20\_\_

DEBTOR		SECURED PARTY	WAXING THE CITY WORLDWIDE, LLC
BUSINESS OR RESIDENCE ADDRESS		ADDRESS	111 Weir Drive
CITY, STATE & ZIP CODE		CITY, STATE & ZIP CODE	Woodbury, MN 55025

1 Security Interest and Collateral. To secure the debt, liability or obligation of the Debtor to Secured Party evidenced by that certain Secured Promissory Note by Debtor in favor of Secured Party, executed as of the date hereof (herein referred to as the "Obligations"), Debtor hereby grants Secured Party a security interest (herein called the "Security Interest") in the following property (herein called the "Collateral") (check applicable boxes and complete information):

(A) INVENTORY:

- All inventory of Debtor, whether now owned or hereafter acquired and wherever located;

(B) EQUIPMENT AND CONSUMER GOODS:

- All equipment of Debtor, whether now owned or hereafter acquired and wherever located, including but not limited to all present and future machinery, vehicles, trailers, computers, computer software, furniture, fixtures, manufacturing equipment, farm machinery and equipment, fuel pumps and equipment, shop equipment, office and recordkeeping equipment, parts and tools, and the goods described in any equipment schedule or list herewith or hereafter furnished to Secured Party by Debtor (but no such schedule or list need be furnished in order for the security interest granted herein to be valid as to all of Debtor's equipment). Equipment subject to a purchase money security interest shall not be included as equipment of Debtor for purposes of this Agreement.

- The following goods or types of goods: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(C) ACCOUNTS AND OTHER RIGHTS TO PAYMENT:

- Each and every right of Debtor to the payment of money, whether such right to payment now exists or hereafter arises, whether such right to payment arises out of a sale, lease or other disposition of goods or other property by Debtor, out of a rendering of services by Debtor, out of a loan by Debtor, out of the overpayment of taxes or other liabilities of Debtor, or otherwise arises under any contract or agreement, whether such right to payment is or is not already earned by performance, and howsoever such right to payment may be evidenced, together with all other rights and interests (including all liens and security interests) which Debtor may at any time have by law or agreement against any account debtor or other obligor obligated to make any such payment or against any of the property of such account debtor or other obligor; all including but not limited to all present and future debt instruments, chattel papers, accounts, loans and obligations receivable and tax refunds.

- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(D) GENERAL INTANGIBLES:

- All general intangibles of Debtor, whether now owned or hereafter acquired, including, but not limited to, applications for patents, patents, copyrights, trademarks, service marks, trade secrets, good will, trade names, customer lists, supplier and vendor lists, software, permits and franchises, and the right to use Debtor's name.

together with all substitutions and replacements for and products of any of the foregoing property not constituting consumer goods and together with proceeds of any and all of the foregoing property and, in the case of all tangible Collateral, together with all accessions and, except in the case of consumer goods, together with (i) all accessories, attachments, parts, equipment and repairs now or hereafter attached or affixed to or used in connection with any such goods, and (ii) all warehouse receipts, bills of lading and other documents of title now or hereafter covering such goods.

2. **Representations, Warranties and Agreements.** Debtor represents, warrants and agrees that:
- (a) Debtor is  a partnership,  a corporation,  a limited liability company,  an individual.
  - (b) The Collateral will be used primarily for business purposes.
  - (c)  If any part or all of the tangible Collateral will become so related to particular real estate as to become a fixture, the real estate concerned is: \_\_\_\_\_ and the name of the record owner is: \_\_\_\_\_
  - (d) Debtor's chief executive office is located at \_\_\_\_\_ or, if left blank, at the address of Debtor shown at the beginning of this Agreement.

THIS AGREEMENT CONTAINS ADDITIONAL PROVISIONS SET FORTH ON THE REVERSE SIDE  
HEREOF, ALL OF WHICH ARE MADE A PART HEREOF.

WAXING THE CITY WORLDWIDE, LLC

\_\_\_\_\_  
Debtor's Name

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

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

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

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

### ADDITIONAL PROVISIONS

**3. Additional Representations, Warranties and Agreements.** Debtor represents, warrants and agrees that:

(a) Debtor has (or will have at the time Debtor acquires rights in Collateral hereafter arising) absolute title to each time of Collateral free and clear of all security interests, liens and encumbrances, except the Security Interest, and will defend the Collateral against all claims or demands of all persons other than Secured Party. Debtor will not sell or otherwise dispose of the Collateral or any interest therein without the prior written consent of Secured Party, except that, until the occurrence of an Event of Default and the revocation by Secured Party of Debtor's right to do so, Debtor may sell any inventory constituting Collateral to buyers in the ordinary course of business and use and consume any farm products constituting Collateral in Debtor's farming operations. If Debtor is a corporation, this Agreement has been duly and validly authorized by all necessary corporate action, and, if Debtor is a partnership, the partner(s) executing this Agreement has (have) authority to act for the partnership.

(b) Debtor will not permit any tangible Collateral to be located in any state (and, if county filing is required, in any county) in which a financing statement covering such Collateral is required to be, but has not in fact been, filed in order to perfect the Security Interest.

(c) Each right to payment and each instrument, document, chattel paper and other agreement constituting or evidencing Collateral is (or will be when arising or issued) the valid, genuine and legally enforceable obligation, subject to no defense, set-off or counterclaim (other than those arising in the ordinary course of business) of the account debtor or other obligor named therein or in Debtor's records pertaining thereto as being obligated to pay such obligation. Debtor will neither agree to any material modification or amendment nor agree to any cancellation of any such obligation without Secured Party's prior written consent, and will not subordinate any such right to payment to claims of other creditors of such account debtor or other obligor.

(d) Debtor will (i) keep all tangible Collateral in good repair, working order and condition, normal depreciation excepted, and will, from time to time, replace any worn, broken or defective parts thereof; (ii) promptly pay all taxes and other governmental charges levied or assessed upon or against any Collateral or upon or against the creation, perfection or continuance of the Security Interest; (iii) keep all Collateral free and clear of all security interests, liens and encumbrances except the Security Interest; (iv) at all reasonable times, permit Secured Party or its representatives to examine or inspect any Collateral, wherever located, and to examine, inspect and copy Debtor's books and records pertaining to the Collateral and its business and financial condition and to send and discuss with account debtors and other obligors requests for verifications of amounts owed to Debtor; (v) keep accurate and complete records pertaining to the Collateral and pertaining to Debtor's business and financial condition and submit to Secured Party such periodic reports concerning the Collateral and Debtor's business and financial condition as Secured Party may from time to time reasonably request; (vi) promptly notify Secured Party of any loss of or material damage to any Collateral or of any adverse change, known to Debtor, in the prospect of payment of any sums due on or under any instrument, chattel paper, or account constituting Collateral; (vii) if Secured Party at any time so requests (whether the request is made before or after the occurrence of an Event of Default), promptly deliver to Secured Party any instrument, document or chattel paper constituting Collateral, duly endorsed or assigned by Debtor; (viii) at all times keep all tangible Collateral insured against risks of fire (including so-called extended coverage), theft, collision (in case of Collateral consisting of motor vehicles) and such other risks and in such amounts as Secured Party may reasonably request, with any loss payable to Secured Party to the extent of its interest; (ix) from time to time execute such financing statements as Secured Party may reasonably require in order to perfect the Security Interest and, if any Collateral consists of a motor vehicle, execute such documents as may be required to have the Security Interest properly noted on a certificate of title; (x) pay when due or reimburse Secured Party on demand for all costs of collection of any of the Obligations and all other out-of-pocket expenses (including in each case all reasonable attorneys' fees) incurred by Secured Party in connection with the creation, perfection, satisfaction, protection, defense or enforcement of the Security Interest or the creation, continuance, protection, defense or enforcement of this Agreement or any or all of the Obligations, including expenses incurred in any litigation or bankruptcy or insolvency proceedings; (xi) execute, deliver or endorse any and all instruments, documents, assignments, security agreements and other agreements and writings which Secured Party may at any time reasonably request in order to secure, protect, perfect or enforce the Security Interest and Secured Party's rights under this Agreement; (xii) not use or keep any Collateral, or permit it to be used or kept, for any unlawful purpose or in violation of any federal, state or local law, statute or ordinance; and (xiii) not permit any tangible Collateral to become part of or to be affixed to any real property without first assuring to the reasonable satisfaction of Secured Party that the Security Interest will be prior and senior to any interest or lien then held or thereafter acquired by any mortgagee of such real property or the owner or purchaser of any interest therein. If Debtor at any time fails to perform or observe any agreement contained in this Section 3(d), and if such failure shall continue for a period of ten calendar days after Secured Party gives Debtor written notice thereof (or, in the case of the agreements contained in clauses (viii) and (ix) of this Section 3(d), immediately upon the occurrence of such failure, without notice or lapse of time), Secured Party may (but need not) perform or observe such agreement on behalf and in the name, place and stead of Debtor (or, at Secured Party's option, in Secured Party's own name) and may (but need not) take any and all other actions which Secured Party may reasonably deem necessary to cure or correct such failure (including, without limitation, the payment of taxes, the satisfaction of security interests, liens, or encumbrances, the performance of obligations under contracts or agreements with account debtors or other obligors, the procurement and maintenance of insurance, the execution of financing statements, the endorsement of instruments, and the procurement of repairs, transportation or insurance); and, except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law. Debtor shall thereupon pay Secured Party on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees) incurred by Secured Party in connection with or as a result of Secured Party's performing or observing such agreements or taking such actions, together with interest thereon from the date expended or incurred by Secured Party at the highest rate then applicable to any of the Obligations. To facilitate the performance or observance by Secured Party of such agreements of Debtor, Debtor hereby irrevocably appoints (which appointment is coupled with an interest) Secured Party, or its delegate, as the attorney-in-fact of Debtor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Debtor, any and all instruments, documents, financing statements, applications for insurance and other agreements and writings required to be obtained, executed, delivered or endorsed by Debtor under this Section 3 and Section 4.

**4. Lock Box, Collateral Account.** If Secured Party so requests at any time (whether before or after the occurrence of an Event of Default), Debtor will direct each of its account debtors to make payments due under the relevant account or chattel paper directly to a special lock box to be under the control of Secured Party. Debtor hereby authorizes and directs Secured Party to deposit into a special collateral account to be established and maintained with Secured Party all checks, drafts and cash payments received

in said lock box. All deposits in said collateral account shall constitute proceeds of Collateral and shall not constitute payment of any Obligation. At its option, Secured Party may, at any time, apply finally collected funds on deposit in said collateral account to the payment of the Obligations in such order of application as Secured Party may determine, or permit Debtor to withdraw all or any part of the balance on deposit in said collateral account. If a collateral account is so established, Debtor agrees that it will promptly deliver to Secured Party, for deposit into said collateral account, all payments on accounts and chattel paper received by it. All such payments shall be delivered to Secured Party in the form received (except for Debtor's endorsement where necessary). Until so deposited, all payments on accounts and chattel paper received by Debtor shall be held in trust by Debtor for and as the property of Secured Party and shall not be commingled with any funds or property of Debtor.

**5. Account Verification and Collection Rights of Secured Party.** Secured Party shall have the right to verify any accounts in the name of Debtor or in its own name; and Debtor, whenever requested, shall furnish Secured Party with duplicate statements of the accounts, which statements may be mailed or delivered by Secured Party for that purpose. Notwithstanding Secured Party's rights under Section 4 with respect to any and all debt instruments, chattel papers, accounts, and other rights to payment constituting Collateral (including proceeds), Secured Party may at any time (both before and after the occurrence of an Event of Default) notify any account debtor, or any other person obligated to pay any amount due, that such chattel paper, account, or other right to payment has been assigned or transferred to Secured Party for security and shall be paid directly to Secured Party. If Secured Party so requests at any time, Debtor will so notify such account debtors and other obligors in writing and will indicate on all invoices to such account debtors or other obligors that the amount due is payable directly to Secured Party. At any time after Secured Party or Debtor gives such notice to an account debtor or other obligor, Secured Party may (but need not), in its own name or in Debtor's name, demand, sue for, collect or receive any money or property at any time payable or receivable on account of, or securing, any such chattel paper, account, or other right to payment, or grant any extension to, make any compromise or settlement with or otherwise agree to waive, modify, amend or change the obligations (including collateral obligations) of any such account debtor or other obligor.

**6. Assignment of Insurance.** Debtor hereby assigns to Secured Party, as additional security for the payment of the Obligations, any and all moneys (including but not limited to proceeds of insurance and refunds of unearned premiums) due or to become due under, and all other rights of Debtor under or with respect to, any and all policies of insurance covering the Collateral, and Debtor hereby directs the issuer of any such policy to pay any such moneys directly to Secured Party. Both before and after the occurrence of an Event of Default, Secured Party may (but need not), in its own name or in Debtor's name, execute and deliver proofs of claim, receive all such moneys, indorse checks and other instruments representing payment of such moneys, and adjust, litigate, compromise or release any claim against the issuer of any such policy.

**7. Events of Default.** Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (i) Debtor shall fail to pay any or all of the Obligations when due or (if payable on demand) on demand, shall fail to observe or perform any covenant or agreement herein binding on it or shall be in default under any loan or credit agreement between it and the Secured Party; (ii) any representation or warranty by Debtor set forth in this Agreement or made to Secured Party in any financial statements or reports submitted to Secured Party by or on behalf of Debtor shall prove materially false or misleading; (iii) a garnishment, summons or a writ of attachment shall be issued against or served upon the Secured Party for the attachment of any property of the Debtor or any indebtedness owing to Debtor; (iv) Debtor or any guarantor of any Obligation shall (A) be or become insolvent (however defined); or (B) voluntarily file, or have filed against it involuntarily, a petition under the United States Bankruptcy Code; or (C) if a corporation, partnership, or organization, be dissolved or liquidated or, if a partnership, suffer the death of a partner or, if any individual, die; or (D) go out of business; or (iv) Secured Party shall in good faith believe that the prospect of due and punctual payment of any or all of the Obligations is impaired.

**8. Remedies upon Event of Default.** Upon the occurrence of an Event of Default under Section 7 and at any time thereafter, Secured Party may exercise any one or more of the following rights and remedies; (i) declare all unmatured Obligations to be immediately due and payable, and the same shall thereupon be immediately due and payable, without presentment or other notice or demand; (ii) exercise and enforce any or all rights and remedies available upon default to a secured party under the Uniform Commercial Code, including but not limited to the right to take possession of any Collateral, proceeding without judicial process or by judicial process (without a prior hearing or notice thereof, which Debtor hereby expressly waives), and the right to sell, lease or otherwise dispose of any or all of the Collateral, and in connection therewith. Secured Party may require Debtor to make the Collateral available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties, and if notice to Debtor of any intended disposition of Collateral or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in Section 10) at least 10 calendar days prior to the date of intended disposition or other action; (iii) exercise or enforce any or all other rights or remedies available to Secured Party by law or agreement against the Collateral, against Debtor or against any other person or property. Upon the occurrence of the Event of Default described in Section 7(iv)(B), all Obligations shall be immediately due and payable without demand or notice thereof. Secured Party is hereby granted a nonexclusive, worldwide and royalty-free license to use or otherwise exploit all trademarks, trade secrets, franchises, copyrights and patents of Debtor that Secured Party deems necessary or appropriate to the disposition of any Collateral.

**9. Other Personal Property.** Unless at the time Secured Party takes possession of any tangible Collateral, or within seven days thereafter, Debtor gives written notice to Secured Party of the existence of any goods, papers or other property of Debtor, not affixed to or constituting a part of such Collateral, but which are located or found upon or within such Collateral, describing such property, Secured Party shall not be responsible or liable to Debtor for any action taken or omitted by or on behalf of Secured Party with respect to such property without actual knowledge of the existence of any such property or without actual knowledge that it was located or to be found upon or within such Collateral.

**10. Miscellaneous.** This Agreement does not contemplate a sale of accounts, or chattel paper. Debtor agrees that each provision whose box is checked is part of this Agreement. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Secured Party. A waiver signed by Secured Party shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Secured Party's rights or remedies. All rights and remedies of Secured Party shall be cumulative and may be exercised singularly or concurrently, at Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor shall be deemed sufficiently given if delivered or mailed by registered or certified mail, postage prepaid, to Debtor at its address set forth above or at the most recent address shown on Secured Party's records. Secured Party's duty of care with respect to Collateral in its possession (as imposed by law) shall be deemed fulfilled if Secured Party exercises reasonable care in physically safekeeping such

Collateral or, in the case of Collateral in the custody or possession of a bailee or other third person, exercises reasonable care in the selection of the bailee or other third person, and Secured Party need not otherwise preserve, protect, insure or care for any Collateral. Secured Party shall not be obligated to preserve any rights Debtor may have against prior parties, to realize on the Collateral at all or in any particular manner or order, or to apply any cash proceeds of Collateral in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Debtor and Secured Party and their respective heirs, representatives, successors and assigns and shall take effect when signed by Debtor and delivered to Secured Party, and Debtor waives notice of Secured Party's acceptance hereof. Secured Party may execute this Agreement if appropriate for the purpose of filing, but the failure of Secured Party to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by the Debtor shall have the same force and effects as the original for all purposes of a financing statement. This Agreement shall be governed by the laws of the State of Minnesota. Any dispute surrounding this Agreement, or any breach thereof, shall be exclusively venued in the state courts of Minnesota, located in Dakota County, Minnesota. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations. If this Agreement is signed by more than one person as Debtor, the term "Debtor" shall refer to each of them separately and to both or all of them jointly; all such persons shall be bound both severally and jointly with the other(s); and the Obligations shall include all debts, liabilities and obligations owed to Secured Party by any Debtor solely or by both or several or all Debtors jointly or jointly and severally, and all property described in Section 1 shall be included as part of the Collateral, whether it is owned jointly by both or all Debtors or is owned in whole or in part by one (or more) of them.

## LEASE RIDER

THIS LEASE RIDER is attached to and made a part of the Lease Agreement (the “Lease”) dated , 20 (the “Lease Execution Date”) by and between (“Landlord”) and (“Tenant”) for certain space (the “Premises”) described in the Lease as being located at . All capitalized terms shall have the same meanings as in the Lease unless defined otherwise in this Lease Rider. If any of the terms of this Lease Rider conflict with any of the terms of the Lease, the provisions of this Lease Rider shall prevail.

(1) Rights of Franchisor.

(a) Landlord acknowledges that Tenant is a franchisee of Waxing the City Worldwide, LLC (“Franchisor”), and that the business to be located at the Premises (“Studio”) is operated under the “Waxing the City” franchise system, pursuant to a franchise agreement (“Franchise Agreement”) between Tenant and Franchisor.

(b) Landlord acknowledges that Franchisor is providing interim financing to Tenant to defray the costs of constructing the Studio improvements to be re-paid to Franchisor upon Tenant’s receipt of Landlord’s tenant improvement contribution (“Landlord’s Contribution”) as described and set forth in the Lease. Such Franchisor financing shall be evidenced by a promissory note (“Note”) made payable by Tenant to Franchisor. Landlord and Tenant agree that any default by Tenant under the Note shall also constitute a breach by Tenant of the Lease entitling Franchisor to the rights and remedies described herein. Franchisor agrees to furnish to Landlord copies of any correspondence and notices sent to Tenant pertaining to the Note at the same time that such correspondence and notices are sent to Tenant. Landlord and Tenant shall and hereby agree to assign all of Tenant’s rights to the Landlord’s Contribution to Franchisor and Landlord shall pay any such Landlord Contribution payments directly to Franchisor.

(c) Landlord agrees to furnish to Franchisor copies of any and all correspondence and notices sent to Tenant pertaining to the Lease and the Premises at the same time that such correspondence and notices are sent to Tenant. Without limiting the foregoing, in the event of any default by Tenant, Landlord shall give Franchisor written notice of such default. If Tenant has failed to cure such default at the expiration of the applicable cure period, Landlord shall give Franchisor further written notice of such failure (“Franchisor Notice”). Following Franchisor’s receipt of the Franchisor Notice, Franchisor shall have the right (but not the obligation) to cure Tenant’s default before Landlord shall exercise any of Landlord’s remedies arising as a consequence of Tenant’s default. Any such cure shall be effectuated within fifteen (15) days following Franchisor’s receipt of the Franchisor Notice. Such cure by Franchisor shall not be deemed to be an election to assume the terms, covenants, obligations and conditions of the Lease.

(d) If Franchisor cures Tenant’s default, or if Franchisor notifies Landlord that either the Note remains unpaid after demand or that the Franchise Agreement has been terminated (which termination shall constitute a non-curable default pursuant to the Lease upon Landlord’s receipt of Franchisor’s notice thereof), Landlord agrees, upon Franchisor’s written request, to assign to Franchisor any and all rights that Landlord may have under the Lease to remove and evict Tenant

from the Premises and shall cooperate with Franchisor in order to pursue such action to a conclusion.

(e) If Franchisor cures Tenant's default or notifies Landlord of the termination of the Franchise Agreement, Franchisor shall have the right and option, upon written notice to Landlord, to do the following:

1. Undertake to perform the terms, covenants, obligations and conditions of the Lease on behalf of the Tenant (notwithstanding any removal or eviction of Tenant) for a period not to exceed six (6) months from the first (1<sup>st</sup>) date of any cure by Franchisor; or

2. At any time within or at the conclusion of such six (6) month period, assume the terms, covenants, obligations and conditions of the Lease for the remainder of the term, together with any applicable renewal options. In such event, Landlord and Franchisor shall enter into an agreement to document such assumption. Franchisor is not a party to the Lease and shall have no liability under the Lease unless and until said Lease is assigned to, and assumed by, Franchisor as herein provided.

(f) If, during the six (6) month period set forth in section (e)(1) above or at any time after the assignment contemplated in section (e)(2), Franchisor shall notify Landlord that the franchise for the Studio is being granted to another Waxing the City franchisee, Landlord shall permit the assignment of the Lease to said franchisee, without any further consent of Landlord being required as a condition thereto and without the payment of any fee or other cost requirement. Thereafter, Franchisor shall be released from any and all further liabilities under the Lease. The parties agree to execute any commercially reasonable documents in furtherance of this section.

(g) Until the Note has been paid in full, Tenant will not assign the Lease or renew or extend the term thereof without the prior written consent of Franchisor, nor shall Landlord and Tenant amend or otherwise modify the Lease in any manner that could materially affect any of the foregoing requirements without the prior written consent of Franchisor.

(h) Franchisor shall have the right to enter the Premises to make any modification or alteration necessary to protect the Waxing the City franchise system and marks or to cure any default under the Franchise Agreement or under the Lease, without being guilty of trespass or any other crime or tort. Landlord shall not be responsible for any expenses or damages arising from any such action by Franchisor. Tenant hereby releases, acquits and discharges Franchisor and Landlord, their respective subsidiaries, affiliates, successors and assigns and the officers, directors, shareholders, partners, employees, agents and representatives of each of them, from any and all claims, demands, accounts, actions and causes of action, known or unknown, vested or contingent, which any of them may have, ever had, now has, or may hereafter have by reason of any event, transaction or circumstance arising out of or relating to the exercise of Franchisor's rights pursuant to the Lease Rider.

(i) All notices sent pursuant to this Lease Rider shall be sent in the manner set forth in the Lease, and delivery of such notices shall be effective as of the times provided for in the Lease. For purposes of notice under the Lease, Franchisor's mailing address shall be 111 Weir Drive,

Woodbury, MN 55125, Attn: Legal Counsel, which address may be changed by written notice to Landlord in the manner provided in the Lease.

LANDLORD:

TENANT:

\_\_\_\_\_  
BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

FRANCHISOR:

WAXING THE CITY WORLDWIDE , LLC

\_\_\_\_\_  
BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

Exhibit I-4

Wells Fargo SBA Lending Loan Documents



**LIMITED LIABILITY COMPANY RESOLUTION TO BORROW / GRANT COLLATERAL  
(Continued)**

**ASSUMED BUSINESS NAMES.** The Company has filed or recorded all documents or filings required by law relating to all assumed business names used by the Company. Excluding the name of the Company, the following is a complete list of all assumed business names under which the Company does business:

<u>Assumed Business Name</u>	<u>Filing Location</u>	<u>Date</u>
------------------------------	------------------------	-------------

**NOTICES TO LENDER.** The Company will promptly notify Lender in writing at Lender's address shown above (or such other addresses as Lender may designate from time to time) prior to any (A) change in the Company's name; (B) change in the Company's assumed business name(s); (C) change in the management or in the Members of the Company; (D) change in the authorized signer(s); (E) change in the Company's principal office address; (F) change in the Company's state of organization; (G) conversion of the Company to a new or different type of business entity; or (H) change in any other aspect of the Company that directly or indirectly relates to any agreements between the Company and Lender. No change in the Company's name or state of organization will take effect until after Lender has received notice.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**OTHER ACTIONS (RESOLUTIONS/AUTHORIZATIONS).** In addition to the actions authorized above, the authorized person listed above is also authorized, empowered and directed to contract for the issuance by Lender of letters of credit, and to enter into any "swap agreement" (as defined in 11 U.S.C. Section 101) with Lender.

**CERTIFICATION CONCERNING MEMBERS AND RESOLUTIONS.** The members named above are duly elected, appointed, or employed by or for the Company, as the case may be, and occupy the positions set opposite their respective names. This Resolution now stands of record on the books of the Company, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

**CONTINUING VALIDITY.** Any and all acts authorized pursuant to this Resolution and performed prior to the passage of this Resolution are hereby ratified and approved. This Resolution shall be continuing, shall remain in full force and effect and Lender may rely on it until written notice of its revocation shall have been delivered to and received by Lender at Lender's address shown above (or such addresses as Lender may designate from time to time). Any such notice shall not affect any of the Company's agreements or commitments in effect at the time notice is given.

**IN TESTIMONY WHEREOF,** we have hereunto set our hand and attest that the signatures set opposite the names listed above are their genuine signatures.

We each have read all the provisions of this Resolution, and we each personally and on behalf of the Company certify that all statements and representations made in this Resolution are true and correct. This Limited Liability Company Resolution to Borrow / Grant Collateral is dated

**THIS RESOLUTION IS DELIVERED UNDER SEAL AND IT IS INTENDED THAT THIS RESOLUTION IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.**

CERTIFIED TO AND ATTESTED BY:

X	_____	(Seal)
X	_____	(Seal)



**NOTE:** If the members signing this Resolution are designated by the foregoing document as one of the members authorized to act on the Company's behalf, it is advisable to have this Resolution signed by at least one non-authorized member of the Company.



200216865168800175

# CONSTRUCTION LOAN AGREEMENT

Principal	Loan Date	Maturity	Loan No.	Call / Coll.	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:**

**Lender:**

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

THIS CONSTRUCTION LOAN AGREEMENT dated \_\_\_\_\_, is made and executed between \_\_\_\_\_ ("Borrower") and Wells Fargo Bank, National Association ("Lender") on the following terms and conditions. Borrower has applied to Lender for one or more loans for purposes of constructing the Improvements on the Real Property described below. Lender is willing to lend the loan amount to Borrower solely under the terms and conditions specified in this Agreement and in the Related Documents, to each of which Borrower agrees. Borrower understands and agrees that: (A) in granting, renewing, or extending any Loan, Lender is relying upon Borrower's representations, warranties, and agreements as set forth in this Agreement, and (B) all such Loans shall be and remain subject to the terms and conditions of this Agreement.

**TERM.** This Agreement shall be effective as of \_\_\_\_\_, and shall continue in full force and effect until such time as all of Borrower's Loans in favor of Lender have been paid in full, including principal, interest, costs, expenses, attorneys' fees, and other fees and charges, or until such time as the parties may agree in writing to terminate this Agreement.

**LOAN.** The Loan shall be in an amount not to exceed the principal sum of U.S. \$ \_\_\_\_\_ and shall bear interest on so much of the principal sum as shall be advanced pursuant to the terms of this Agreement and the Related Documents. The Loan shall bear interest on each Advance from the date of the Advance in accordance with the terms of the Note. Borrower shall use the Loan Funds solely for the payment of: (A) the costs of constructing the Improvements and equipping the Project in accordance with the Construction Contract; (B) other costs and expenses incurred or to be incurred in connection with the construction of the Improvements as Lender in its sole discretion shall approve; and (C) if permitted by Lender, interest due under the Note, including all expenses and all loan and commitment fees described in this Agreement. The Loan amount shall be subject at all times to all maximum limits and conditions set forth in this Agreement or in any of the Related Documents, including without limitation, any limits relating to loan to value ratios and acquisition and Project costs.

**PROJECT DESCRIPTION.** The word "Project" as used in this Agreement means the construction and completion of all Improvements contemplated by this Agreement, including without limitation the erection of the building or structure on the Real Property identified to this Agreement by Borrower and Lender, installation of equipment and fixtures, landscaping, and all other work necessary to make the Project usable and complete for the intended purposes. The Project includes the following work:

Leasehold improvements to the property located at \_\_\_\_\_

The word "Property" as used in this Agreement means the Real Property together with all improvements, all equipment, fixtures, and other articles of personal property now or subsequently attached or affixed to the Real Property, together with all accessions, parts, and additions to, all replacements of, and all substitutions for any of such property, and all proceeds (including insurance proceeds and refunds of premiums) from any sale or other disposition of such property. The real estate described below constitutes the Real Property as used in this Agreement.

**FEES AND EXPENSES.** Whether or not the Project shall be consummated, Borrower shall assume and pay upon demand all out-of-pocket expenses incurred by Lender in connection with the preparation of loan documents and the making of the Loan, including without limitation the following: (A) all closing costs, loan fees, and disbursements; (B) all expenses of Lender's legal counsel; and (C) all title examination fees, title insurance premiums, appraisal fees, survey costs, required fees, and filing and recording fees.

**NO CONSTRUCTION PRIOR TO RECORDING OF SECURITY DOCUMENT.** Borrower will not permit any work or materials to be furnished in connection with the Project until (A) Borrower has signed the Related Documents; (B) Lender's mortgage or deed of trust and other Security Interests in the Property have been duly recorded and perfected; (C) Lender has been provided evidence, satisfactory to Lender, that Borrower has obtained all insurance required under this Agreement or any Related Documents and that Lender's liens on the Property and Improvements are valid perfected first liens, subject only to such exceptions, if any, acceptable to Lender.

**REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any Indebtedness exists:

**Organization.** Borrower is a limited liability company which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the State of Delaware. Borrower is duly authorized to transact business in all other states in which Borrower is doing business, having obtained all necessary governmental licenses and approvals for each state in which Borrower is doing business. Borrower maintains an office at \_\_\_\_\_. Unless Borrower has designated otherwise in writing, the principal office is the office at which Borrower keeps its books and records including its records concerning the Collateral. Borrower will notify Lender prior to any change in the location of Borrower's state of organization or any change in Borrower's name.

**Assumed Business Names.** Borrower has filed or recorded all documents or filings required by law relating to all assumed business names used by Borrower. Excluding the name of Borrower, the following is a complete list of all assumed business names under which Borrower does business:

Borrower	Assumed Business Name	Filing Location	Date

**Authorization.** Borrower's execution, delivery, and performance of this Agreement and all the Related Documents have been duly authorized by all necessary action by Borrower and do not conflict with, result in a violation of, or constitute a default under (1) any provision of (a) Borrower's articles of organization or membership agreements, or (b) any agreement or other instrument binding upon Borrower or (2) any law, governmental regulation, court decree, or order applicable to Borrower or to Borrower's properties.

## CONSTRUCTION LOAN AGREEMENT (Continued)

**Properties.** Except as contemplated by this Agreement or as previously disclosed in Borrower's financial statements or in writing to Lender and as accepted by Lender, and except for property tax liens for taxes not presently due and payable, Borrower owns and has good title to all of Borrower's properties free and clear of all liens and security interests, and has not executed any security documents or financing statements relating to such properties. All of Borrower's properties are titled in Borrower's legal name, and Borrower has not used or filed a financing statement under any other name for at least the last five (5) years.

**Hazardous Substances.** Except as disclosed to Lender in writing, no property of Borrower ever has been, or ever will be so long as this Agreement remains in effect, used for the generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance, as those terms are defined herein or under any Environmental Laws. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and hazardous substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims and losses resulting from a breach of this provision of this Agreement. This obligation to indemnify and defend shall survive the payment of the indebtedness and the satisfaction of this Agreement.

**Litigation and Claims.** No litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Borrower is pending or threatened, and no other event has occurred which may materially adversely affect Borrower's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by Lender in writing.

**Taxes.** To the best of Borrower's knowledge, all of Borrower's tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being or to be contested by Borrower in good faith in the ordinary course of business and for which adequate reserves have been provided.

**Lien Priority.** Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any Security Agreements, or permitted the filing or attachment of any Security Interests on or affecting any of the Collateral directly or indirectly securing repayment of Borrower's Loan and Note, that would be prior or that may in any way be superior to Lender's Security Interests and rights in and to such Collateral.

**Binding Effect.** This Agreement, the Note, all Security Agreements (if any), and all Related Documents are binding upon the signers thereof, as well as upon their successors, representatives and assigns, and are legally enforceable in accordance with their respective terms.

**Title to Property.** Borrower has, or on the date of first disbursement of Loan proceeds will have, good and marketable title to the Collateral free and clear of all defects, liens, and encumbrances, excepting only liens for taxes, assessments, or governmental charges or levies not yet delinquent or payable without penalty or interest, and such liens and encumbrances as may be approved in writing by the Lender. The Collateral is contiguous to publicly dedicated streets, roads, or highways providing access to the Collateral.

**Project Costs.** The Project costs are true and accurate estimates of the costs necessary to complete the Improvements in a good and workmanlike manner according to the Plans and Specifications presented by Borrower to Lender, and Borrower shall take all steps necessary to prevent the actual cost of the Improvements from exceeding the Project costs.

**Utility Services.** All utility services appropriate to the use of the Project after completion of construction are available at the boundaries of the Collateral.

**Assessment of Property.** The Collateral is and will continue to be assessed and taxed as an independent parcel by all governmental authorities.

**Compliance with Governing Authorities.** Borrower has examined and is familiar with all the easements, covenants, conditions, restrictions, reservations, building laws, regulations, zoning ordinances, and federal, state, and local requirements affecting the Project. The Project will at all times and in all respects conform to and comply with the requirements of such easements, covenants, conditions, restrictions, reservations, building laws, regulations, zoning ordinances, and federal, state, and local requirements.

**CONDITIONS PRECEDENT TO EACH ADVANCE.** Lender's obligation to make the initial Advance and each subsequent Advance under this Agreement shall be subject to the fulfillment to Lender's satisfaction of all of the conditions set forth in this Agreement and in the Related Documents.

**Approval of Contractors, Subcontractors, and Materialmen.** Lender shall have approved a list of all contractors employed in connection with the construction of the Improvements, showing the name, address, and telephone number of each contractor, a general description of the nature of the work to be done, the labor and materials to be supplied, the names of materialmen, if known, and the approximate dollar value of the labor, work, or materials with respect to each contractor or materialman. Lender shall have the right to communicate with any person to verify the facts disclosed by the list or by any application for any Advance, or for any other purpose.

**Plans, Specifications, and Permits.** Lender shall have received and accepted a complete set of written Plans and Specifications setting forth all Improvements for the Project, and Borrower shall have furnished to Lender copies of all permits and requisite approvals of any governmental body necessary for the construction and use of the Project.

**Architect's and Construction Contracts.** Borrower shall have furnished in form and substance satisfactory to Lender an executed copy of the Architect's Contract and an executed copy of the Construction Contract.

**Borrower's Authorization.** Borrower shall have provided in form and substance satisfactory to Lender properly certified resolutions, duly authorizing the consummation of the Project and duly authorizing the execution and delivery of this Agreement, the Note and the Related Documents. In addition, Borrower shall have provided such other resolutions, authorizations, documents and instruments as Lender or its counsel, in their sole discretion, may require.

**Bond.** If requested by Lender, Borrower shall have furnished a performance and payment bond in an amount equal to 100% of the amount of the Construction Contract, as well as a materialmen's and mechanics' payment bond, with such riders and supplements as Lender may require, each in form and substance satisfactory to Lender, naming the General Contractor as principal and Lender as an additional obligee.

**Appraisal.** If required by Lender, an appraisal shall be prepared for the Property, at Borrower's expense, which in form and substance shall be satisfactory to Lender, in Lender's sole discretion, including applicable regulatory requirements.

**Plans and Specifications.** If requested by Lender, Borrower shall have assigned to Lender on Lender's forms the Plans and Specifications for the Project.

**Environmental Report.** If requested by Lender, Borrower shall have furnished to Lender, at Borrower's expense, an environmental report and certificate on the Property in form and substance satisfactory to Lender, prepared by an engineer or other expert satisfactory to Lender stating that the Property complies with all applicable provisions and requirements of the "Hazardous Substances" paragraph set forth in this

**CONSTRUCTION LOAN AGREEMENT  
(Continued)**

Agreement.

**Soil Report.** If requested by Lender, Borrower shall have furnished to Lender, at Borrower's expenses, a soil report for the Property in form and substance satisfactory to Lender, prepared by a registered engineer satisfactory to Lender stating that the Property is free from soil or other geological conditions that would preclude its use or development as contemplated without extra expense for precautionary, corrective or remedial measures.

**Survey.** If requested by Lender, Borrower shall have furnished to Lender a survey of recent date, prepared and certified by a qualified surveyor and providing that the Improvements, if constructed in accordance with the Plans and Specifications, shall lie wholly within the boundaries of the Collateral without encroachment or violation of any zoning ordinances, building codes or regulations, or setback requirements, together with such other information as Lender in its sole discretion may require.

**Zoning.** Borrower shall have furnished evidence satisfactory to Lender that the Collateral is duly and validly zoned for the construction, maintenance, and operation of the Project.

**Title Insurance.** Borrower shall have provided to Lender an ALTA Lender's extended coverage policy of title insurance with such endorsements as Lender may require, issued by a title insurance company acceptable to Lender and in a form, amount, and content satisfactory to Lender, insuring or agreeing to insure that Lender's security agreement or other security document on the Property is or will be upon recordation a valid first lien on the Property free and clear of all defects, liens, encumbrances, and exceptions except those as specifically accepted by Lender in writing. If requested by Lender, Borrower shall provide to Lender, at Borrower's expense, a foundation endorsement to the title policy upon the completion of each foundation for the Improvements, showing no encroachments, and upon completion an endorsement which insures the lien-free completion of the Improvements.

**DISBURSEMENT OF LOAN FUNDS.** The following provisions relate to the disbursement of funds from the Loan Fund.

**Application for Advances.** Each application shall be stated on a standard AIA payment request form or other form approved by Lender, executed by Borrower, and supported by such evidence as Lender shall reasonably require. Borrower shall apply only for disbursement with respect to work actually done by the General Contractor and for materials and equipment actually incorporated into the Project. Each application for an Advance shall be deemed a certification of Borrower that as of the date of such application, all representations and warranties contained in the Agreement are true and correct, and that Borrower is in compliance with all of the provisions of this Agreement.

**Payments.** At the sole option of Lender, Advances may be paid in the joint names of Borrower and the General Contractor, subcontractor(s), or supplier(s) in payment of sums due under the Construction Contract. At its sole option, Lender may directly pay the General Contractor and any subcontractors or other parties the sums due under the Construction Contract. Borrower appoints Lender as its attorney-in-fact to make such payments. This power shall be deemed coupled with an interest, shall be irrevocable, and shall survive an Event of Default under this Agreement.

**Projected Cost Overruns.** If Lender at any time determines in its sole discretion that the amount in the Loan Fund is insufficient, or will be insufficient, to complete fully and to pay for the Project, then within ten (10) days after receipt of a written request from Lender, Borrower shall deposit in the Loan Fund an amount equal to the deficiency as determined by Lender. The judgment and determination of Lender under this section shall be final and conclusive. Any such amounts deposited by Borrower shall be disbursed prior to any Loan proceeds.

**Adequate Security.** When any event occurs that Lender determines may endanger completion of the Project or the fulfillment of any condition or covenant in this Agreement, Lender may require Borrower to furnish, within ten (10) days after delivery of a written request, adequate security to eliminate, reduce, or indemnify Lender against, such danger.

**CESSATION OF ADVANCES.** If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to make Loan advances or to disburse Loan proceeds if: (A) Borrower or any guarantor is in default under the terms of this Agreement or any other agreement that Borrower or any guarantor has with Lender; (B) Borrower or any guarantor dies, becomes incompetent or becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged a bankrupt; (C) there occurs a material adverse change in Borrower's financial condition, in the financial condition of any guarantor, or in the value of any collateral securing any Loan; or (D) any guarantor seeks, claims or otherwise attempts to limit, modify or revoke such guarantor's guaranty of the Loan or any other loan with Lender; or (E) Lender in good faith deems itself insecure, even though no Event of Default shall have occurred.

**LIMITATION OF RESPONSIBILITY.** The making of any Advance by Lender shall not constitute or be interpreted as either (A) an approval or acceptance by Lender of the work done through the date of the Advance, or (B) a representation or indemnity by Lender to any party against any deficiency or defect in the work or against any breach of any contract. Inspections and approvals of the Plans and Specifications, the Improvements, the workmanship and materials used in the Improvements, and the exercise of any other right of inspection, approval, or inquiry granted to Lender in this Agreement are acknowledged to be solely for the protection of Lender's interests, and under no circumstances shall they be construed to impose any responsibility or liability of any nature whatsoever on Lender to any party. Neither Borrower nor any contractor, subcontractor, materialman, laborer, or any other person shall rely, or have any right to rely, upon Lender's determination of the appropriateness of any Advance. No disbursement or approval by Lender shall constitute a representation by Lender as to the nature of the Project, its construction, or its intended use for Borrower or for any other person, nor shall it constitute an indemnity by Lender to Borrower or to any other person against any deficiency or defects in the Project or against any breach of any contract.

**AFFIRMATIVE COVENANTS.** Borrower covenants and agrees with Lender that, so long as this Agreement remains in effect, Borrower will:

**Notices of Claims and Litigation.** Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower or any Guarantor which could materially affect the financial condition of Borrower or the financial condition of any Guarantor.

**Financial Records.** Maintain its books and records in accordance with accounting principles acceptable to Lender, applied on a consistent basis, and permit Lender to examine and audit Borrower's books and records at all reasonable times.

**Financial Statements.** Furnish Lender with such financial statements and other related information at such frequencies and in such detail as Lender may reasonably request.

**Guaranties.** Prior to disbursement of any Loan proceeds, furnish executed guaranties of the Loans in favor of Lender, executed by the guarantors named below, on Lender's forms, and in the amounts and under the conditions set forth in those guaranties.

Names of Guarantors

Amounts

**Loan Fees, Charges and Expenses.** Whether or not the Project is completed, Borrower also shall pay upon demand all out-of-pocket expenses incurred by Lender in connection with the preparation of loan documents and the making of the Loan, including, without

## CONSTRUCTION LOAN AGREEMENT (Continued)

limitation, all closing costs, fees, and disbursements, all expenses of Lender's legal counsel, and all title examination fees, title insurance premiums, appraisal fees, survey costs, required fees, and filing and recording fees.

**Loan Proceeds.** Use the Loan Funds solely for payment of bills and expenses directly related to the Project.

**Taxes, Charges and Liens.** Pay and discharge when due all of its indebtedness and obligations, including without limitation all assessments, taxes, governmental charges, levies and liens, of every kind and nature, imposed upon Borrower or its properties, income, or profits, prior to the date on which penalties would attach, and all lawful claims that, if unpaid, might become a lien or charge upon any of Borrower's properties, income, or profits. Provided however, Borrower will not be required to pay and discharge any such assessment, tax, charge, levy, lien or claim so long as (1) the legality of the same shall be contested in good faith by appropriate proceedings, and (2) Borrower shall have established on Borrower's books adequate reserves with respect to such contested assessment, tax, charge, levy, lien, or claim in accordance with GAAP.

**Performance.** Perform and comply, in a timely manner, with all terms, conditions, and provisions set forth in this Agreement, in the Related Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in writing of any default in connection with any agreement.

**Inspection.** Permit employees or agents of Lender at any reasonable time to inspect any and all Collateral for the Loan or Loans and Borrower's other properties and to examine or audit Borrower's books, accounts, and records and to make copies and memoranda of Borrower's books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request, all at Borrower's expense.

**Compliance Certificates.** Unless waived in writing by Lender, provide Lender at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

**Construction of the Project.** Cause the Improvements to be constructed and equipped in a diligent and orderly manner and in strict accordance with the Plans and Specifications approved by Lender, the Construction Contract, and all applicable laws, ordinances, codes, regulations, and rights of adjoining or concurrent property owners.

**Defects.** Upon demand of Lender, promptly correct any defect in the Improvements or any departure from the Plans and Specifications not approved by Lender in writing before further work shall be done upon the portion of the Improvements affected.

**Project Claims and Litigation.** Promptly inform Lender of (1) all material adverse changes in the financial condition of the General Contractor; (2) any litigation and claims, actual or threatened, affecting the Project or the General Contractor, which could materially affect the successful completion of the Project or the ability of the General Contractor to complete the Project as agreed; and (3) any condition or event which constitutes a breach or default under any of the Related Documents or any contract related to the Project.

**Payment of Claims and Removal of Liens.** (1) Cause all claims for labor done and materials and services furnished in connection with the Improvements to be fully paid and discharged in a timely manner, (2) diligently file or procure the filing of a valid notice of completion of the Improvements, or such comparable document as may be permitted under applicable lien laws, (3) diligently file or procure the filing of a notice of cessation, or such comparable document as may be permitted under applicable lien laws, upon the happening of cessation of labor on the Improvements for a continuous period of thirty (30) days or more, and (4) take all reasonable steps necessary to remove all claims of liens against the Collateral, the Improvements or any part of the Collateral or Improvements, or any rights or interests appurtenant to the Collateral or Improvements. Upon Lender's request, Borrower shall make such demands or claims upon or against laborers, materialmen, subcontractors, or other persons who have furnished or claim to have furnished labor, services, or materials in connection with the Improvements, which demands or claims shall under the laws of the state where the Improvements are located require diligent assertions of lien claims upon penalty of loss or waiver thereof. Borrower shall, within ten (10) days after the filing of any claim of lien that is disputed or contested by Borrower, provide Lender with a surety bond issued by a surety acceptable to Lender sufficient to release the claim of lien or deposit with Lender an amount satisfactory to Lender for the possibility that the contest will be unsuccessful. If Borrower fails to remove any lien on the Collateral or Improvements or provide a bond or deposit pursuant to this provision, Lender may pay such lien, may contest the validity of the lien, and Borrower shall pay all costs and expenses of such contest, including Lender's reasonable attorneys' fees.

**Taxes and Claims.** Pay and discharge when due all of Borrower's indebtedness, obligations, and claims that, if unpaid, might become a lien or charge upon the Collateral or Improvements; provided, however, that Borrower shall not be required to pay and discharge any such indebtedness, obligation, or claim so long as (1) its legality shall be contested in good faith by appropriate proceedings, (2) the indebtedness, obligation, or claim does not become a lien or charge upon the Collateral or Improvements, and (3) Borrower shall have established on its books adequate reserves with respect to the amount contested in accordance with GAAP. If the indebtedness, obligation, or claim does become a lien or charge upon the Collateral or Improvements, Borrower shall remove the lien or charge as provided in the preceding paragraph.

**Additional Assurances.** Make, execute and deliver to Lender such promissory notes, mortgages, deeds of trust, security agreements, assignments, financing statements, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence and secure the Loans and to perfect all Security Interests in the Collateral and Improvements.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Related Documents, Lender on Borrower's behalf may (but shall not be obligated to) take any action that Lender deems appropriate on any Collateral and paying all costs for insuring, maintaining and preserving any Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity.

**GENERAL PROJECT PROVISIONS.** The following provisions relate to the construction and completion of the Project:

**Change Orders.** All requests for changes in the Plans and Specifications, other than minor changes involving no extra cost, must be in writing, signed by Borrower and the architect, and delivered to Lender for its approval. Borrower will not permit the performance of any work pursuant to any change order or modification of the Construction Contract or any subcontract without the written approval of Lender. Borrower will obtain any required permits or authorizations from governmental authorities having jurisdiction before approving or requesting

## CONSTRUCTION LOAN AGREEMENT (Continued)

a new change order.

**Purchase of Materials; Conditional Sales Contracts.** No materials, equipment, fixtures, or articles of personal property placed in or incorporated into the Project shall be purchased or installed under any Security Agreement or other agreement whereby the seller reserves or purports to reserve title or the right of removal or repossession, or the right to consider such items as personal property after their incorporation into the Project, unless otherwise authorized by Lender in writing.

**Lender's Right of Entry and Inspection.** Lender and its agents shall have at all times the right of entry and free access to the Property and the right to inspect all work done, labor performed, and materials furnished with respect to the Project. Lender shall have unrestricted access to and the right to copy all records, accounting books, contracts, subcontracts, bills, statements, vouchers, and supporting documents of Borrower relating in any way to the Project.

**Lender's Right to Stop Work.** If Lender in good faith determines that any work or materials do not conform to the approved Plans and Specifications or sound building practices, or otherwise depart from any of the requirements of this Agreement, Lender may require the work to be stopped and withhold disbursements until the matter is corrected. In such event, Borrower will promptly correct the work to Lender's satisfaction. No such action by Lender will affect Borrower's obligation to complete the Improvements on or before the Completion Date. Lender is under no duty to supervise or inspect the construction or examine any books and records. Any inspection or examination by Lender is for the sole purpose of protecting Lender's security and preserving Lender's rights under this Agreement. No default of Borrower will be waived by any inspection by Lender. In no event will any inspection by Lender be a representation that there has been or will be compliance with the Plans and Specifications or that the construction is free from defective materials or workmanship.

**Indemnity.** Borrower shall indemnify, defend, and hold Lender harmless from any and all claims asserted against Lender or the Property by any person, entity, or governmental body, or arising out of or in connection with the Property, Improvements, or Project. Lender shall be entitled to appear in any proceedings to defend itself against such claims, and all costs and expenses reasonable attorneys' fees incurred by Lender in connection with such defense shall be paid by Borrower to Lender. Lender shall, in its sole discretion, be entitled to settle or compromise any asserted claims against it, and such settlement shall be binding upon Borrower for purposes of this indemnification. All amounts paid by Lender under this paragraph shall be secured by Lender's security agreement or Mortgages, if any, on the Property, shall be deemed an additional principal Advance under the Loan, payable upon demand, and shall bear interest at the rate applicable to the Loan.

**DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Payment Default.** Borrower fails to make any payment when due under the Loan.

**Other Default.** Borrower fails to comply with any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents.

**Default in Favor of Third Parties.** Borrower defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's ability to repay the Loans or perform Borrower's obligations under this Agreement or any related document.

**False Statements.** Any representation or statement made by Borrower to Lender is false in any material respect.

**Death or Insolvency.** The dissolution of Borrower (regardless of whether election to continue is made), any member withdraws from Borrower, or any other termination of Borrower's existence as a going business or the death of any member, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**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 Borrower or by any governmental agency against any collateral securing the Loan.

**Breach of Construction Contract.** The Improvements are not constructed in accordance with the Plans and Specifications or in accordance with the terms of the Construction Contract.

**Cessation of Construction.** Prior to the completion of construction of the Improvements and equipping of the Project, the construction of the Improvements or the equipping of the Project is abandoned or work thereon ceases for a period of more than ten (10) days for any reason, or the Improvements are not completed for purposes of final payment to the General Contractor prior to the completion date represented by Borrower to Lender, regardless of the reason for the delay.

**Transfer of Property.** Sale, transfer, hypothecation, assignment, or conveyance of the Property or the Improvements or any portion thereof or interest therein by Borrower or any Borrower without Lender's prior written consent.

**Condemnation.** All or any material portion of the Collateral is condemned, seized, or appropriated without compensation, and Borrower does not within thirty (30) days after such condemnation, seizure, or appropriation, initiate and diligently prosecute appropriate action to contest in good faith the validity of such condemnation, seizure, or appropriation.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Insecurity.** Lender in good faith believes itself insecure.

**EFFECT OF AN EVENT OF DEFAULT; REMEDIES.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may, at its option, but without any obligation to do so, and in addition to any other right Lender without notice to Borrower may have, do any one or more of the following without notice to Borrower: (a) Cancel this Agreement; (b) Institute appropriate proceedings to enforce the performance of this Agreement; (c) Withhold further disbursement of Loan Funds; (d) Expend funds necessary to remedy the default; (e) Take possession of the Property and continue construction of the Project; (f) Accelerate maturity of the Note and/or Indebtedness and demand payment of all sums due under the Note and/or Indebtedness; (g) Bring an action on the Note and/or Indebtedness; (h) Foreclose Lender's security agreement or Mortgages, if any, on the Property in any manner available under law; and (i) Exercise any other right or remedy which it has under the Note or Related Documents, or which is otherwise available at law or in equity or by statute.

**COMPLETION OF IMPROVEMENTS BY LENDER.** If Lender takes possession of the Collateral, it may take any and all actions necessary in its judgment to complete construction of the Improvements, including but not limited to making changes in the Plans and Specifications, work, or materials and entering into, modifying or terminating any contractual arrangements, subject to Lender's right at any time to discontinue any work without liability. If Lender elects to complete the Improvements, it will not assume any liability to Borrower or to any other person for completing the Improvements or for the manner or quality of construction of the Improvements, and Borrower expressly waives any such liability. Borrower irrevocably appoints Lender as its attorney-in-fact, with full power of substitution, to complete the Improvements, at Lender's option, either in Borrower's name or in its own name. In any event, all sums expended by Lender in completing the construction of the Improvements will be considered to have been disbursed to Borrower and will be secured by the Collateral for the Loan. Any such sums that cause the principal amount of the Loan to exceed the face amount of the Note will be considered to be an additional Loan to Borrower, bearing

## CONSTRUCTION LOAN AGREEMENT (Continued)

interest at the Note rate and being secured by the Collateral. For these purposes, Borrower assigns to Lender all of its right, title and interest in and to the Project Documents; however Lender will not have any obligation under the Project Documents unless Lender expressly hereafter agrees to assume such obligations in writing. Lender will have the right to exercise any rights of Borrower under the Project Documents upon the occurrence of an Event of Default. Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently.

**ADDITIONAL DOCUMENTS.** Borrower shall provide Lender with the following additional documents:

**Articles of Organization and Company Resolutions.** Borrower has provided or will provide Lender with a certified copy of Borrower's Articles of Organization, together with a certified copy of resolutions properly adopted by the members of the company, under which the members authorized one or more designated members or employees to execute this Agreement, the Note and any and all Security Agreements directly or indirectly securing repayment of the same, and to consummate the borrowings and other transactions as contemplated under this Agreement, and to consent to the remedies following any default by Borrower as provided in this Agreement and in any Security Agreements.

**Opinion of Counsel.** When required by Lender, Borrower has provided or will provide Lender with an opinion of Borrower's counsel certifying to and that: (1) Borrower's Note, any Security Agreements and this Agreement constitute valid and binding obligations on Borrower's part that are enforceable in accordance with their respective terms; (2) Borrower is validly existing and in good standing; (3) Borrower has authority to enter into this Agreement and to consummate the transactions contemplated under this Agreement; and (4) such other matters as may have been requested by Lender or by Lender's counsel.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**ADVANCES; CESSATION OF ADVANCES.** Notwithstanding anything to the contrary: (A) Lender may, in its discretion, advance sums in excess of the Loan amount for costs and expenses relating to the Loan or the Project, including without limitation, amounts deemed appropriate by Lender to protect, insure or complete the Project, to pay taxes owed in connection with the Property, or to pay claims of contractors, suppliers or others asserted against the Project or the Property; all such sums shall be at Borrower's expense, and may be added to the principal balance of the Note. (B) When any event occurs that Lender determines may endanger completion of the Project or the fulfillment of any provision, condition or covenant in this Agreement, Lender may in its discretion deny requests for advances and suspend the availability of advances.

**MONEY LAUNDERING, SANCTIONS, CORRUPT PRACTICES, AND COMPLIANCE WITH ALL LAWS.** Borrower represents, warrants and agrees that Borrower (1) is not now and will not become the target of any trade or economic sanctions promulgated by the United Nations or the governments of the United States, the United Kingdom, the European Union, or any other jurisdiction in which Borrower is located or operates (collectively, "Sanctions"), (2) complies now and will at all times comply with the requirements of all laws, rules, regulations and orders of any jurisdiction in which Borrower is located or doing business, or otherwise is applicable to Borrower, including, without limitation, (a) all Sanctions, (b) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto, (c) the U.S. Foreign Corrupt Practices Act of 1977, as amended, (d) the U.K. Bribery Act of 2010, as amended, and (e) any other anti-bribery or anti-corruption laws and regulations, and (3) will not at any time directly or indirectly use any proceeds of any credit extended by Lender for the purpose of (a) providing financing or otherwise funding any targets of Sanctions; or (b) providing financing or otherwise funding any transaction which would be prohibited by Sanctions or would otherwise cause Lender or any of Lender's affiliates to be in breach of any Sanctions.

**SECURITY INTEREST AND RIGHT OF SETOFF.** In addition to all liens upon and rights of setoff arising by law, Borrower pledges and grants to Lender as security for Borrower's indebtedness and obligations under the Note (excluding any consumer obligations subject to the Federal Truth in Lending Act) a security interest and lien upon all monies, securities, securities accounts, brokerage accounts, deposit accounts and other property of Borrower now or hereafter in the possession of or on deposit with Lender or any Wells Fargo affiliate, whether held in a general or special account or for safekeeping or otherwise, excluding however all IRA and Keogh accounts. No security interest, lien or right of setoff will be deemed to have been waived by any act or conduct on the part of Lender, or by any neglect to exercise such right, or by any delay in so doing, and every right of setoff, lien and security interest will continue in full force and effect until specifically waived or released by Lender in writing.

**INSURANCE.** Borrower shall assure that insurance is maintained pursuant to any insurance requirements set forth in the Agreement to Provide Insurance and any Related Documents or other related agreements, if applicable.

**ADDITIONAL EVENTS OF DEFAULT.** In addition to the Events of Default described herein, the following shall be an Event of Default if applicable: (i) Borrower, any Guarantor or any grantor of collateral securing the Note fails to comply with any terms or conditions of any agreement with Lender or any Wells Fargo Affiliate or makes a representation or statement to Lender or any Wells Fargo Affiliate that is false in any material respect; (ii) Borrower or any Guarantor revokes or disputes the validity of any of its liabilities or obligations under any Note, related agreement, or any other agreement with Lender or any Wells Fargo Affiliate; (iii) any change in ownership of an aggregate of twenty-five percent (25%) or more of the common stock, members' equity or other ownership interest in Borrower or any general partner of Borrower or any Guarantor, (iv) the withdrawal, resignation or expulsion of any one or more of the general partners in Borrower or any Guarantor with an aggregate ownership interest in Borrower or such Guarantor of twenty-five percent (25%) or more; or (v) Borrower or any Guarantor or any chairman, CEO, CFO, president, manager or general partner of Borrower or any Guarantor, nor any officer, member, or shareholder with an ownership interest of 25% or more of Borrower or any Guarantor, has been or is convicted of a felony. For purposes of this provision Wells Fargo Affiliate shall mean Wells Fargo & Company and any present or future subsidiary of Wells Fargo & Company.

**EXECUTION OF DOCUMENTS, CONSULTATION WITH COUNSEL.** Each party hereto acknowledges and agrees that he/she/it has had an opportunity to review and consider the terms and provisions of this agreement and each related loan document, to consult with counsel of his/her/its choice, if desired, and to suggest changes to the structure and terms of the agreements. Each party hereto warrants and agrees that his/her/its execution of this agreement and any related loan documents is made voluntarily and with full knowledge of the significance and effect of such agreements.

**ARBITRATION AGREEMENT. Arbitration - Binding Arbitration.** Lender and each party to this agreement hereby agree, upon demand by any party, to submit any Dispute to binding arbitration in accordance with the terms of this Arbitration Program. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this agreement, or any related note, instrument or agreement incorporating this Arbitration Program (the "Documents"), or any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, or any request for additional credit. This provision is a material inducement for the parties entering into the transactions relating to this Agreement. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and

## CONSTRUCTION LOAN AGREEMENT (Continued)

paying the appropriate filing fee within 30 days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS ARBITRATION PROGRAM.

**A. Governing Rules.** Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs, in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Note. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

**B. No Waiver of Provisional Remedies, Self-Help and Foreclosure.** The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

**C. Arbitrator Qualifications and Powers.** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

**D. Discovery.** In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

**E. Class Proceedings and Consolidations.** No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

**F. Small Claims Court.** Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

**G. Real Property Collateral.** Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property and the Dispute is governed by the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah, unless any conditions for arbitration that may be set forth in the mortgage or deed of trust are satisfied; if any such Disputes are not referred to arbitration, then any provision in such mortgage or deed of trust providing for referral of Disputes to a referee or master under the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah shall be applicable to such Disputes.

### **H. State Specific Provisions:**

**If Delaware, Pennsylvania or Virginia law governs the Dispute,** the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment pursuant to a warrant of attorney provision set forth in any note, guaranty or other Documents. No party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to (i) strike-off or open a judgment obtained by confession pursuant to a warrant of attorney contained in any note, guaranty or other Documents, or (ii) challenge the waiver of a right to prior notice and a hearing before judgment is entered, or after judgment is entered, but before execution upon the judgment. Any claims, disputes or controversies challenging the confession of judgment shall be commenced and prosecuted in accordance with the procedures set forth, and in the forum specified by the applicable state rules of civil procedure or other applicable law.

**If Maryland law governs the Dispute,** the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment, and no party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to open a judgment obtained by confession. Nothing herein, including the arbitration requirement, shall limit the right of any party to foreclose judicially or non-judicially against any real or personal property collateral, or exercise judicial or non-judicial power of sale rights. No provision regarding submission to a jurisdiction and/or venue in any court or the waiver of any right to trial by jury is intended or shall be construed to be in derogation of the provisions for arbitration of any dispute. Any claim or counterclaim or defense raised in connection with Lender's exercise of any rights set forth in any note, guaranty or other Documents subject to this Arbitration Program shall be subject to the arbitration requirement.

**If South Carolina law governs the Dispute,** the following provision is included: **WAIVER OF JURY TRIAL.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO ARBITRATE ANY DISPUTE AS

**CONSTRUCTION LOAN AGREEMENT  
(Continued)**

SET FORTH IN THIS AGREEMENT, TO THE EXTENT ANY DISPUTE IS NOT SUBMITTED TO ARBITRATION OR IS DEEMED BY THE ARBITRATOR OR BY ANY COURT WITH JURISDICTION TO BE NOT ARBITRABLE OR NOT REQUIRED TO BE ARBITRATED, LENDER AND EACH PARTY TO THIS AGREEMENT WAIVE TRIAL BY JURY IN RESPECT OF ANY SUCH DISPUTE AND ANY ACTION ON SUCH DISPUTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY LENDER AND EACH PARTY, AND LENDER AND EACH PARTY HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. LENDER AND EACH PARTY TO THIS AGREEMENT ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

**1. Miscellaneous.** To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the Dispute shall control. This arbitration provision shall survive the repayment of the Note and the termination, amendment or expiration of any of the Documents or any relationship between the parties.

**GOVERNING LAW.** This agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the jurisdiction named in the GOVERNING LAW paragraph of the Note, without regard to its conflicts of law provisions.

**COST BREAKDOWN.** Exhibit " B " is hereby attached and made a part hereof for a detailed listing of construction cost breakdown (budget).

**FINANCIAL REQUIREMENT ANALYSIS.** See Exhibit " A " attached hereto and made a part hereof.

**NOTICE AND ACKNOWLEDGEMENT.** The undersigned Borrower(s) have requested a Construction Loan from Lender. As a part of the process of the funding of the Construction Loan:

1. Advances of Construction Loan proceeds or funds of Borrower deposited with Lender pursuant to the terms of this Agreement are made upon receipt by Lender, of vouchers and supporting documentation;
2. Periodic inspections are made at the job site; and
3. Payments of vouchers are applied to various "Budget" categories as have been prepared by the Borrower and/or Contractor.

The undersigned Borrower acknowledges that the budget, inspections and voucher payment system, are undertaken for the benefit of the Lender to assist the Lender in determining the progress of the construction, and are not represented to be, nor are these processes designed to protect the Borrower, guarantee compliance with plans and specifications, nor control expenditures.

The undersigned Borrower acknowledges that any construction budgets, or component categories, are guidelines only and in no way act as a limitation, guarantee or representations to the actual cost and/or expense of any component or the overall construction/ development cost.

**PERIODIC DISBURSEMENTS OF INTEREST RESERVE.** The portion of the disbursement budget/cost breakdown allocated as the interest reserve, shall be disbursed from time to time, directly to Lender in payment of interest expense under the Note. Lender is hereby authorized to make advances under the Note or from funds of Borrower deposited with Lender pursuant to the terms of this agreement, to pay interest payments as they become due. Lender shall provide Borrower with a monthly interest statement. Depletion of the interest reserve shall not release Borrower from any of Borrower's obligations under the note or any other documents executed in connection with the loan, including but not limited to paying interest accruing under the Note and depositing funds with Lender pursuant to this agreement.

**Definitions.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. Accounting words and terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect on the date of this Agreement:

**ADVANCE.** The word "Advance" means a disbursement of Loan funds made, or to be made, to Borrower or on Borrower's behalf on a line of credit or multiple advance basis under the terms and conditions of this Agreement.

**AGREEMENT.** The word "Agreement" means this Construction Loan Agreement, as this Construction Loan Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Construction Loan Agreement from time to time.

**ARCHITECT'S CONTRACT.** The words "Architect's Contract" mean the architect's contract between Borrower and the architect for the Project.

**BORROWER.** The word "Borrower" means : and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**COLLATERAL.** The word "Collateral" means all property and assets granted as collateral security for a Loan, whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, collateral mortgage, deed of trust, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**COMPLETION DATE.** The words "Completion Date" mean such date as Lender shall have established as the date by which Borrower is to have completed the Project as required in this Agreement.

**CONSTRUCTION CONTRACT.** The words "Construction Contract" mean the contract between Borrower and the general contractor for the Project, and any subcontracts with subcontractors, materialmen, laborers, or any other person or entity for performance of work on the Project or the delivery of materials to the Project.

**ENVIRONMENTAL LAWS.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto. Also, the following statutes, rules and regulations are included, without limitation, in the words "Environmental

**CONSTRUCTION LOAN AGREEMENT  
(Continued)**

Laws" as they are applied to Collateral located in the referenced states: the New Jersey Industrial Site Recovery Act, NJSA Section 13:1K-6 ("ISRA"), the New Jersey Spill Compensation and Control Act, NJSA 58:10-23.11, et seq.

**EVENT OF DEFAULT.** The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

**GAAP.** The word "GAAP" means generally accepted accounting principles.

**GUARANTOR.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Loan and any guarantor under a completion guaranty agreement.

**GUARANTY.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**IMPROVEMENTS.** The word "Improvements" means all existing and future buildings, structures, facilities, fixtures, additions, and similar construction on the Collateral.

**INDEBTEDNESS.** The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or under any of the Related Documents.

**LENDER.** The word "Lender" means Wells Fargo Bank, National Association, its successors and assigns.

**LOAN.** The word "Loan" means the loan or loans made to Borrower under this Agreement and the Related Documents as described.

**LOAN FUND.** The words "Loan Fund" mean the undisbursed proceeds of the Loan under this Agreement together with any equity funds or other deposits required from Borrower under this Agreement.

**NOTE.** The word "Note" means the promissory note dated \_\_\_\_\_ in the original principal amount of \$\_\_\_\_\_ from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**PLANS AND SPECIFICATIONS.** The words "Plans and Specifications" mean the plans and specifications for the Project which have been submitted to and initiated by Lender, together with such changes and additions as may be approved by Lender in writing.

**PROJECT.** The word "Project" means the construction project as described in the "Project Description" section of this Agreement.

**PROJECT DOCUMENTS.** The words "Project Documents" mean the Plans and Specifications, all studies, data and drawings relating to the Project, whether prepared by or for Borrower, the Construction Contract, the Architect's Contract, and all other contracts and agreements relating to the Project or the construction of the Improvements.

**PROPERTY.** The word "Property" means the property as described in the "Project Description" section of this Agreement.

**REAL PROPERTY.** The words "Real Property" mean the real property, interests and rights, as further described in the "Project Description" section of this Agreement.

**RELATED DOCUMENTS.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

**SECURITY AGREEMENT.** The words "Security Agreement" mean and include without limitation any agreements, promises, covenants, arrangements, understandings or other agreements, whether created by law, contract, or otherwise, evidencing, governing, representing, or creating a Security Interest.

**SECURITY INTEREST.** The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

**BORROWER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS CONSTRUCTION LOAN AGREEMENT AND BORROWER AGREES TO ITS TERMS. THIS CONSTRUCTION LOAN AGREEMENT IS DATED [ \_\_\_\_\_ ] 20\_\_\_\_.**

**BORROWER:**

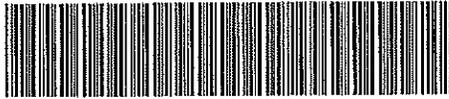
By: \_\_\_\_\_ 

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

**LENDER:**

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

By: \_\_\_\_\_   
Authorized Signer



200216865168800650



DRAFT

### PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Call/ Coll	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:**

**Lender:**

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

**Principal Amount: \$**

**Date of Note:**

**PROMISE TO PAY.** ("Borrower") promises to pay to Wells Fargo Bank National Association ("Lender"), or order, lawful money of the United States of America, the principal amount of \_\_\_\_\_ together with interest on the unpaid principal balance from \_\_\_\_\_ until paid in full.

**PAYMENT.** Borrower will pay this loan in accordance with the following payment schedule, which calculates interest on the unpaid principal balances as described in the "INTEREST CALCULATION METHOD" paragraph using the interest rates described in this paragraph: \_\_\_\_\_ monthly consecutive interest payments, beginning January 15, 2017, with interest calculated on the unpaid principal balances using an interest rate of \_\_\_\_\_ each, beginning \_\_\_\_\_, with interest calculated on the unpaid principal balances using an interest rate of \_\_\_\_\_, and one principal and interest payment of \$ \_\_\_\_\_ with interest calculated on the unpaid principal balances using an interest rate of \_\_\_\_\_. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note. Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; and then to any late charges. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**INTEREST CALCULATION METHOD.** Interest on this Note is computed on a 365/365 simple interest basis; that is, by applying the ratio of the interest rate over the number of days in a year (366 during leap years), multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method.

**PREPAYMENT.** Borrower may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: Wells Fargo Bank, National Association, BBOCS Winston Salem Loan Operations Center, 401 N. Research Parkway, 3rd Floor, MAC #D4004-035 Winston Salem, NC. 27101-4157.

**LATE CHARGE.** If a payment is 10 days or more late, Borrower will be charged 5.000% of the unpaid portion of the regularly scheduled payment.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, the total sum due under this Note will continue to accrue interest at the interest rate under this Note, with the final interest rate described in this Note applying after maturity, or after maturity would have occurred had there been no default. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**Default in Favor of Third Parties.** Borrower or any Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's ability to repay this Note or perform Borrower's obligations under this Note or any of the related documents.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Death or Insolvency.** The dissolution of Borrower (regardless of whether election to continue is made), any member withdraws from Borrower, or any other termination of Borrower's existence as a going business or the death of any member, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**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 Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any

**PROMISSORY NOTE  
(Continued)**

Page 2

Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**GOVERNING LAW.** This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Minnesota without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of Minnesota.

**COLLATERAL.** Borrower acknowledges this Note is secured by the following collateral described in the security instruments listed herein:

(A)

(B)

(C)

**PAYMENT DUE DATE DEFERRAL.** Payment invoices will be sent on a date (the "billing date") which is prior to each payment due date. If this Note is booked near or after the billing date for the first scheduled payment, Lender may, in its sole discretion, defer each scheduled payment date and/or the maturity date by one or more months.

**FINANCIAL INFORMATION.** All information furnished by Borrower to Lender in connection with the application for credit was true and accurate in every material respect as of the date the information was furnished, and no material facts were omitted so as to make the information incomplete or misleading. There has been no material adverse change to Borrower's financial condition since the date of the most recent submitted statement. Borrower agrees to provide to Lender, upon request, financial statements prepared in a manner and form acceptable to Lender, and copies of such tax returns and other financial information and statements as may be requested by Lender. Financial statements and tax returns submitted to Lender shall be signed and dated by Borrower and any other party preparing such financial statements or tax returns, or otherwise authenticated to Lender's satisfaction. Each financial statement shall give an accurate and complete picture of Borrower's financial condition as of the statement's date, with ownership accurately reflected. Borrower shall also furnish such other information regarding Borrower (and Borrower's general partners or members, if any), Borrower's business operations, the Collateral, and the use of loan proceeds as may be requested by Lender. Borrower warrants that all financial statements and information provided to Lender are and will be accurate, correct and complete. Borrower will permit Lender and Lender's agents and contractors to examine, audit and copy Borrower's books, accounts, records (including electronic records), and computer software programs used to generate the records, including any records in the possession of a third party, at any reasonable time upon request, and will provide to Lender copies of any records Lender requests, all at no cost to Lender.

**LINE ADVANCES.** Notwithstanding anything to the contrary, requests for advances communicated to any office of Lender by any person believed by Lender in good faith to be authorized to make the request, whether written, verbal, telephonic or electronic, may be acted upon by Lender, and Borrower will be liable for sums advanced by Lender pursuant to such request. Such requests for advances shall be deemed authorized by Borrower, and Lender shall not be liable for such advances made in good faith, and with respect to advances deposited to the credit of any deposit account of Borrower, such advances, when so deposited, shall be conclusively presumed to have been made to or for the benefit of Borrower regardless of the fact that persons other than those authorized to request advances may have authority to draw against such account.

Lender may in its discretion allow Borrower to request and receive advances even if applicable loan conditions are not satisfied, and/or the advance results in violation of loan agreements or covenants, and even though the advance may cause the principal balance to exceed the maximum principal amount of the Note. In such cases, Lender shall not be deemed to have waived such loan conditions, requirements or covenants, and Lender may strictly enforce all such loan conditions, requirements and covenants at any time in its discretion. If at any time the outstanding balance of the Note should exceed the maximum principal amount available to Borrower under the Note, then Lender may require Borrower to immediately make a payment in an amount sufficient to reduce the principal balance to an amount which does not exceed said maximum principal amount.

Borrower agrees to indemnify and hold Lender harmless from and against all damages, liabilities, costs and expenses (including attorney's fees) arising out of any claim by Borrower or any third party against Lender in connection with Lender's performance of advances as described above.

**CREDIT BUREAU INQUIRIES.** The parties hereto, and each individual signing below in a representative capacity, agree that Lender may obtain business and/or personal credit reports and tax returns on each of them in their individual capacities.

**FURTHER ASSURANCES.** The undersigned agrees to (i) do all things deemed necessary by Lender in order to fully document the loan evidenced by the Note and any related agreements, and will fully cooperate concerning the execution and delivery of security agreements, stock powers, instructions and/or other documents pertaining to any collateral intended to secure the indebtedness, (ii) assist in the cure of any defects in the execution, delivery or substance of the Note and related agreements, and in the creation and perfection of any liens, security interests or other collateral rights securing the Note, and (iii) pay Lender immediately upon demand the full amount of all charges, costs and expenses (to include fees paid to third parties) expended or incurred by Lender to monitor Lender's interest in any real or personal property pledged as collateral for the Note, including without limitation all costs of appraisals.

**CONSENT TO SELL LOAN.** The parties hereto agree: (a) Lender may sell or transfer all or part of this loan to one or more purchasers, whether related or unrelated to Lender, without notice and without the consent of the parties; (b) Lender may provide to any purchaser, or potential purchaser, any information or knowledge Lender may have about the parties or about any other matter relating to this loan obligation, without notice, and the parties waive any rights to privacy it may have with respect to such matters; (c) the purchaser of a loan will be considered its absolute owner and will have all the rights granted under the loan documents or agreements governing the sale of the loan; (d) the purchaser of a loan may enforce its interests irrespective of any claims or defenses that the parties may have against Lender; and (e) to waive all notices of sale of the loan, as well as all notices of any repurchase, and all rights of offset or counterclaim that the parties have now or later against

**PROMISSORY NOTE  
(Continued)**

Lender or against any purchaser of the loan.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**DOCUMENT DELIVERY AND ELECTRONIC TRANSMISSION OF DOCUMENTS.** Each party or person signing this agreement (referred to in this paragraph as "you") agrees that Lender may, in its sole discretion, rely upon any document, report, financial statement, tax return, agreement or other communication ("Document") physically delivered to Lender by mail, hand delivery or delivery service which Lender in good faith believed was sent by you or any of your representatives or employees. Similarly, Lender may, in its sole discretion, rely upon any Document sent by email, facsimile or other electronic means to Lender which Lender in good faith believed was sent by you or any of your representatives or employees. Lender may treat the Document as genuine and authorized to the same extent as if it was an original document validly executed or authenticated as genuine by you. Lender may from time to time in its sole discretion reject any such Document and require a signed original, or require you to provide acceptable authentication of any such Document before accepting or relying on same. You understand and acknowledge that there is a risk that Documents sent by electronic means may be viewed or received by unauthorized persons, and you agree that by sending Documents by electronic means, you shall be deemed to have accepted this risk and the consequences of any such unauthorized disclosure.

**COMMUNITY AND OTHER PROPERTY.** In addition to the rights of Lender under any applicable community property laws, Borrower, Guarantor or Grantor who is a Married Person and who has an interest in marital or community property under applicable law acknowledges and agrees that his/her obligation as a Borrower, Guarantor or Grantor is incurred in the interest of and to benefit the marital community (or domestic partnership, if applicable), and expressly agrees that recourse may be had against his or her separate property and his or her rights in community property and community assets for all of his or her obligations to Lender, in addition to any other property that may be subject to rights of Lender. Borrower and Guarantor also agree not to, without Lender's prior written consent, enter into any community property agreement which alters the separate or community property character of any of such party's property. For the purpose of this provision, "Married Person" means a person in a spousal relationship and shall include parties to a duly registered and/or legally recognized same-sex civil union, domestic partnership, and other terms, whether or not gender-specific in a spousal relationship, that denote spousal relationship, as those terms are used throughout the laws, codes and regulations of states and/or jurisdictions that recognize legally married same-sex couples, civil unions and/or domestic partnerships, and any references herein to a married person or marital status shall be deemed to also include the applicable corresponding term, or other reference relating to a party to a civil union or domestic partnership. With respect to the Guaranty only, to the extent this provision may conflict with another provision contained in the Guaranty, that other provision of the Guaranty shall control.

**MONEY LAUNDERING, SANCTIONS, CORRUPT PRACTICES, AND COMPLIANCE WITH ALL LAWS.** Borrower represents, warrants and agrees that Borrower (1) is not now and will not become the target of any trade or economic sanctions promulgated by the United Nations or the governments of the United States, the United Kingdom, the European Union, or any other jurisdiction in which Borrower is located or operates (collectively, "Sanctions"), (2) complies now and will at all times comply with the requirements of all laws, rules, regulations and orders of any jurisdiction in which Borrower is located or doing business, or otherwise is applicable to Borrower, including, without limitation, (a) all Sanctions, (b) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto, (c) the U.S. Foreign Corrupt Practices Act of 1977, as amended, (d) the U.K. Bribery Act of 2010, as amended, and (e) any other anti-bribery or anti-corruption laws and regulations, and (3) will not at any time directly or indirectly use any proceeds of any credit extended by Lender for the purpose of (a) providing financing or otherwise funding any targets of Sanctions; or (b) providing financing or otherwise funding any transaction which would be prohibited by Sanctions or would otherwise cause Lender or any of Lender's affiliates to be in breach of any Sanctions.

**SECURITY INTEREST AND RIGHT OF SETOFF.** In addition to all liens upon and rights of setoff arising by law, Borrower pledges and grants to Lender as security for Borrower's indebtedness and obligations under the Note (excluding any consumer obligations subject to the Federal Truth In Lending Act) a security interest and lien upon all monies, securities, securities accounts, brokerage accounts, deposit accounts and other property of Borrower now or hereafter in the possession of or on deposit with Lender or any Wells Fargo affiliate, whether held in a general or special account or for safekeeping or otherwise, excluding however all IRA and Keogh accounts. No security interest, lien or right of setoff will be deemed to have been waived by any act or conduct on the part of Lender, or by any neglect to exercise such right, or by any delay in so doing, and every right of setoff, lien and security interest will continue in full force and effect until specifically waived or released by Lender in writing.

**LOAN FEE AUTHORIZATION.** Borrower shall pay to Lender any and all fees as specified in the "Disbursement Request and Authorization" executed by Borrower in connection with this Note. Such fees are non-refundable and shall be due and payable in full immediately upon Borrower's execution of this Note.

**ADDITIONAL EVENTS OF DEFAULT.** In addition to the Events of Default described herein, the following shall be an Event of Default if applicable: (i) Borrower, any Guarantor or any grantor of collateral securing the Note fails to comply with any terms or conditions of any agreement with Lender or any Wells Fargo Affiliate or makes a representation or statement to Lender or any Wells Fargo Affiliate that is false in any material respect; (ii) Borrower or any Guarantor revokes or disputes the validity of any of its liabilities or obligations under any Note, related agreement, or any other agreement with Lender or any Wells Fargo Affiliate; (iii) any change in ownership of an aggregate of twenty-five percent (25%) or more of the common stock, members' equity or other ownership interest in Borrower or any general partner of Borrower or any Guarantor, (iv) the withdrawal, resignation or expulsion of any one or more of the general partners in Borrower or any Guarantor with an aggregate ownership interest in Borrower or such Guarantor of twenty-five percent (25%) or more; or (v) Borrower or any Guarantor or any chairman, CEO, CFO, president, manager or general partner of Borrower or any Guarantor, nor any officer, member, or shareholder with an ownership interest of 25% or more of Borrower or any Guarantor, has been or is convicted of a felony. For purposes of this provision Wells Fargo Affiliate shall mean Wells Fargo & Company and any present or future subsidiary of Wells Fargo & Company.

**EXECUTION OF DOCUMENTS, CONSULTATION WITH COUNSEL.** Each party hereto acknowledges and agrees that he/she/it has had an opportunity to review and consider the terms and provisions of this agreement and each related loan document, to consult with counsel of his/her/its choice, if desired, and to suggest changes to the structure and terms of the agreements. Each party hereto warrants and agrees that his/her/its execution of this agreement and any related loan documents is made voluntarily and with full knowledge of the significance and effect of such agreements.

**SUPPLEMENT TO SECTION DISCLOSURE.** Notwithstanding any other provision contained herein, this extension of credit, including any extension or modification, is made under: (i) Minn. Stat. 47.204 if this Note is to an individual and is secured by a first lien on residential real estate; (ii) Minn. Stat. 334.01, subd 2, if the Note is for the extension of credit to the Borrower in the amount of \$100,000.00 or more and Minn. Stat. 58.137 is not applicable; or (iii) Minn. Stat 334.022 if this loan is to an entity other than an individual.

**SUPPLEMENT TO DEFAULT RATE.** Notwithstanding any other provision contained herein, if Minn. Stat. 334.01 subd 1, applies, the interest rate of the Note after maturity will be the same as the rate of interest on the Note immediately prior to maturity. If the pre-maturity rate is a variable rate, it will continue to float or adjust on the same periodic schedule.

**ARBITRATION AGREEMENT.** Arbitration - Binding Arbitration. Lender and each party to this agreement hereby agree, upon demand by any

**PROMISSORY NOTE**  
(Continued)

party, to submit any Dispute to binding arbitration in accordance with the terms of this Arbitration Program. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this agreement, or any related note, instrument or agreement incorporating this Arbitration Program (the "Documents"), or any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, or any request for additional credit. This provision is a material inducement for the parties entering into the transactions relating to this Agreement. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and paying the appropriate filing fee within 30 days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS ARBITRATION PROGRAM.

**A. Governing Rules.** Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures; unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs, in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Note. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

**B. No Waiver of Provisional Remedies, Self-Help and Foreclosure.** The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

**C. Arbitrator Qualifications and Powers.** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

**D. Discovery.** In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

**E. Class Proceedings and Consolidations.** No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

**F. Small Claims Court.** Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

**G. Real Property Collateral.** Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property and the Dispute is governed by the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah, unless any conditions for arbitration that may be set forth in the mortgage or deed of trust are satisfied; if any such Disputes are not referred to arbitration, then any provision in such mortgage or deed of trust providing for referral of Disputes to a referee or master under the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah shall be applicable to such Disputes.

**H. State Specific Provisions:**

**If Delaware, Pennsylvania or Virginia law governs the Dispute,** the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment pursuant to a warrant of attorney provision set forth in any note, guaranty or other Documents. No party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to (i) strike-off or open a judgment obtained by confession pursuant to a warrant of attorney contained in any note, guaranty or other Documents, or (ii) challenge the waiver of a right to prior notice and a hearing before judgment is entered, or after judgment is entered, but before execution upon the judgment. Any claims, disputes or controversies challenging the confession of judgment shall be commenced and prosecuted in accordance with the procedures set forth, and in the forum specified by the applicable state rules of civil procedure or other applicable law.

**If Maryland law governs the Dispute,** the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration

**PROMISSORY NOTE  
(Continued)**

Page 5

requirement does not limit or preclude the right of Lender to confess judgment, and no party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to open a judgment obtained by confession. Nothing herein, including the arbitration requirement, shall limit the right of any party to foreclose judicially or non-judicially against any real or personal property collateral, or exercise judicial or non-judicial power of sale rights. No provision regarding submission to a jurisdiction and/or venue in any court or the waiver of any right to trial by jury is intended or shall be construed to be in derogation of the provisions for arbitration of any dispute. Any claim or counterclaim or defense raised in connection with Lender's exercise of any rights set forth in any note, guaranty or other Documents subject to this Arbitration Program shall be subject to the arbitration requirement.

If South Carolina law governs the Dispute, the following provision is included: **WAIVER OF JURY TRIAL.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO ARBITRATE ANY DISPUTE AS SET FORTH IN THIS AGREEMENT, TO THE EXTENT ANY DISPUTE IS NOT SUBMITTED TO ARBITRATION OR IS DEEMED BY THE ARBITRATOR OR BY ANY COURT WITH JURISDICTION TO BE NOT ARBITRABLE OR NOT REQUIRED TO BE ARBITRATED, LENDER AND EACH PARTY TO THIS AGREEMENT WAIVE TRIAL BY JURY IN RESPECT OF ANY SUCH DISPUTE AND ANY ACTION ON SUCH DISPUTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY LENDER AND EACH PARTY, AND LENDER AND EACH PARTY HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. LENDER AND EACH PARTY TO THIS AGREEMENT ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

**I. Miscellaneous.** To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the Dispute shall control. This arbitration provision shall survive the repayment of the Note and the termination, amendment or expiration of any of the Documents or any relationship between the parties.

**SUPPLEMENT TO APPLICATION OF PAYMENT.** Notwithstanding any provision in this Note to the contrary Lender will apply each installment payment first to pay interest accrued to the day Lender receives the payment, then to bring principal current, then to pay any late fees, and will apply any remaining balance to reduce principal.

**LOAN PREPAYMENT.** Notwithstanding any provision in this Note to the contrary:

Borrower may prepay this Note. Borrower may prepay 20 percent or less of the unpaid principal balance at any time without notice. If Borrower prepays more than 20 percent and the Loan has been sold on the secondary market, Borrower must:

- a. Give Lender written notice;
- b. Pay all accrued interest; and
- c. If the prepayment is received less than 21 days from the date Lender receives the notice, pay an amount equal to 21 days' interest from the date lender receives the notice, less any interest accrued during the '21 days and paid under subparagraph b., above.

If Borrower does not prepay within 30 days from the date Lender receives the notice, Borrower must give Lender a new notice.

**SMALL BUSINESS ADMINISTRATION (SBA).** When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

**SBA ARBITRATION.** The parties specifically agree that the provisions of this Arbitration Program are not applicable to any dispute between any party and the U.S. Small Business Administration (the "SBA"), including but not limited to, any dispute with the SBA after purchase of the loan by the SBA.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested either orally or in writing by Borrower or by an authorized person. Lender may, but need not, require that all oral requests be confirmed in writing. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any of Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs. Lender will have no obligation to advance funds under this Note if: (A) Borrower or any guarantor is in default under the terms of this Note or any agreement that Borrower or any guarantor has with Lender, including any agreement made in connection with the signing of this Note; (B) Borrower or any guarantor ceases doing business or is insolvent; (C) any guarantor seeks, claims or otherwise attempts to limit, modify or revoke such guarantor's guarantee of this Note or any other loan with Lender; (D) Borrower has applied funds provided pursuant to this Note for purposes other than those authorized by Lender; or (E) Lender in good faith believes itself insecure.

**FINAL PAYMENT.** If a final payment amount is set out in the Payment section of this Note, Borrower understands that it is an estimate, and that the actual final payment amount will depend upon when payments are received and other factors.

**CONFESSION OF JUDGMENT.** BORROWER HEREBY IRREVOCABLY AUTHORIZES AND EMPOWERS ANY ATTORNEY-AT-LAW, AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT, TO APPEAR IN ANY COURT OF RECORD AND TO CONFESS JUDGMENT AGAINST BORROWER FOR THE UNPAID AMOUNT OF THIS AGREEMENT, REASONABLE ATTORNEYS' FEES EQUAL TO TWENTY PERCENT (20%) OF THE PRINCIPAL AND INTEREST DUE UNDER THIS NOTE, PLUS COSTS OF SUIT, AND TO RELEASE ALL ERRORS, AND WAIVE ALL RIGHTS OF APPEAL. IF A COPY OF THIS AGREEMENT, VERIFIED BY AN AFFIDAVIT, SHALL HAVE BEEN FILED IN THE PROCEEDING, IT WILL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY. BORROWER WAIVES THE RIGHT TO ANY STAY OF EXECUTION AND THE BENEFIT OF ALL EXEMPTION LAWS NOW OR HEREAFTER IN EFFECT. NO SINGLE EXERCISE OF THE FOREGOING WARRANT AND POWER TO CONFESS JUDGMENT WILL BE DEEMED TO EXHAUST THE POWER, WHETHER OR NOT ANY SUCH EXERCISE SHALL BE HELD BY ANY COURT TO BE INVALID, VOIDABLE, OR VOID; BUT THE POWER WILL CONTINUE UNDIMINISHED AND MAY BE EXERCISED FROM TIME TO TIME AS LENDER MAY ELECT UNTIL ALL AMOUNTS OWING ON THIS AGREEMENT HAVE BEEN PAID IN FULL..

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**PROMISSORY NOTE  
(Continued)**

**GENERAL PROVISIONS.** If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. In addition, Lender shall have all the rights and remedies provided in the related documents or available at law, in equity, or otherwise. Except as may be prohibited by applicable law, all of Lender's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Borrower shall not affect Lender's right to declare a default and to exercise its rights and remedies. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several.

**SECTION DISCLOSURE.** To the extent not preempted by federal law, this loan is made under Minnesota Statutes, Section 47.59.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.**

**BORROWER:**

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

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

DRAFT

DRAFT



200216865168800155

## COMMERCIAL GUARANTY

Borrower:

Lender:

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

Guarantor:

**DRAFT**

**CONTINUING GUARANTEE OF PAYMENT AND PERFORMANCE.** For good and valuable consideration, Guarantor absolutely and unconditionally guarantees full and punctual payment and satisfaction of the Indebtedness of Borrower to Lender, and the performance and discharge of all Borrower's obligations under the Note and the Related Documents. This is a guaranty of payment and performance and not of collection, so Lender can enforce this Guaranty against Guarantor even when Lender has not exhausted Lender's remedies against anyone else obligated to pay the Indebtedness or against any collateral securing the Indebtedness, this Guaranty or any other guaranty of the Indebtedness. Guarantor will make any payments to Lender or its order, on demand, in legal tender of the United States of America, in same-day funds, without set-off or deduction or counterclaim, and will otherwise perform Borrower's obligations under the Note and Related Documents. Under this Guaranty, Guarantor's liability is unlimited and Guarantor's obligations are continuing.

**INDEBTEDNESS.** The word "Indebtedness" as used in this Guaranty means all of the principal amount outstanding from time to time and at any one or more times, accrued unpaid interest thereon and all collection costs and legal expenses related thereto permitted by law, reasonable attorneys' fees, arising from any and all debts, liabilities and obligations of every nature or form, now existing or hereafter arising or acquired, that Borrower individually or collectively or interchangeably with others, owes or will owe Lender. "Indebtedness" includes, without limitation, loans, advances, debts, overdraft indebtedness, credit card indebtedness, lease obligations, liabilities and obligations under any interest rate protection agreements or foreign currency exchange agreements or commodity price protection agreements, other obligations, and liabilities of Borrower, and any present or future judgments against Borrower, future advances, loans or transactions that renew, extend, modify, refinance, consolidate or substitute these debts, liabilities and obligations whether: voluntarily or involuntarily incurred; due or to become due by their terms or acceleration; absolute or contingent; liquidated or unliquidated; determined or undetermined; direct or indirect; primary or secondary in nature or arising from a guaranty or surety; secured or unsecured; joint or several or joint and several; evidenced by a negotiable or non-negotiable instrument or writing; originated by Lender or another or others; barred or unenforceable against Borrower for any reason whatsoever; for any transactions that may be voidable for any reason (such as infancy, insanity, ultra vires or otherwise); and originated then reduced or extinguished and then afterwards increased or reinstated.

If Lender presently holds one or more guaranties, or hereafter receives additional guaranties from Guarantor, Lender's rights under all guaranties shall be cumulative. This Guaranty shall not (unless specifically provided below to the contrary) affect or invalidate any such other guaranties. Guarantor's liability will be Guarantor's aggregate liability under the terms of this Guaranty and any such other untermiated guaranties.

**CONTINUING GUARANTY.** THIS IS A "CONTINUING GUARANTY" UNDER WHICH GUARANTOR AGREES TO GUARANTEE THE FULL AND PUNCTUAL PAYMENT, PERFORMANCE AND SATISFACTION OF THE INDEBTEDNESS OF BORROWER TO LENDER, NOW EXISTING OR HEREAFTER ARISING OR ACQUIRED, ON AN OPEN AND CONTINUING BASIS. ACCORDINGLY, ANY PAYMENTS MADE ON THE INDEBTEDNESS WILL NOT DISCHARGE OR DIMINISH GUARANTOR'S OBLIGATIONS AND LIABILITY UNDER THIS GUARANTY FOR ANY REMAINING AND SUCCEEDING INDEBTEDNESS EVEN WHEN ALL OR PART OF THE OUTSTANDING INDEBTEDNESS MAY BE A ZERO BALANCE FROM TIME TO TIME.

**DURATION OF GUARANTY.** This Guaranty will take effect when received by Lender without the necessity of any acceptance by Lender, or any notice to Guarantor or to Borrower, and will continue in full force until all the Indebtedness incurred or contracted before receipt by Lender of any notice of revocation shall have been fully and finally paid and satisfied and all of Guarantor's other obligations under this Guaranty shall have been performed in full. If Guarantor elects to revoke this Guaranty, Guarantor may only do so in writing. Guarantor's written notice of revocation must be mailed to Lender, by certified mail, at Lender's address listed above or such other place as Lender may designate in writing. Written revocation of this Guaranty will apply only to new Indebtedness created after actual receipt by Lender of Guarantor's written revocation. For this purpose and without limitation, the term "new Indebtedness" does not include the Indebtedness which at the time of notice of revocation is contingent, unliquidated, undetermined or not due and which later becomes absolute, liquidated, determined or due. For this purpose and without limitation, "new Indebtedness" does not include all or part of the Indebtedness that is: incurred by Borrower prior to revocation; incurred under a commitment that became binding before revocation; any renewals, extensions, substitutions, and modifications of the Indebtedness. This Guaranty shall bind Guarantor's estate as to the Indebtedness created both before and after Guarantor's death or incapacity, regardless of Lender's actual notice of Guarantor's death. Subject to the foregoing, Guarantor's executor or administrator or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect. Release of any other guarantor or termination of any other guaranty of the Indebtedness shall not affect the liability of Guarantor under this Guaranty. A revocation Lender receives from any one or more Guarantors shall not affect the liability of any remaining Guarantors under this Guaranty. It is anticipated that fluctuations may occur in the aggregate amount of the Indebtedness covered by this Guaranty, and Guarantor specifically acknowledges and agrees that reductions in the amount of the Indebtedness, even to zero dollars (\$0.00), shall not constitute a termination of this Guaranty. This Guaranty is binding upon Guarantor and Guarantor's heirs, successors and assigns so long as any of the Indebtedness remains unpaid and even though the Indebtedness may from time to time be zero dollars (\$0.00).

**GUARANTOR'S AUTHORIZATION TO LENDER.** Guarantor authorizes Lender, either before or after any revocation hereof, without notice or demand and without lessening Guarantor's liability under this Guaranty, from time to time: (A) prior to revocation as set forth above, to make one or more additional secured or unsecured loans to Borrower, to lease equipment or other goods to Borrower, or otherwise to extend additional credit to Borrower; (B) to alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms of the Indebtedness or any part of the Indebtedness, including increases and decreases of the rate of interest on the Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) to take and hold security for the payment of this Guaranty or the Indebtedness, and exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any such security, with or without the substitution of new collateral; (D) to release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; (E) to determine how, when and what application of payments and credits shall be made on the Indebtedness; (F) to apply such security and direct the order or manner of sale thereof, including without limitation, any nonjudicial sale permitted by the terms of the controlling security agreement or deed of trust, as Lender in its discretion may determine; (G) to sell, transfer, assign or grant participations in all or any part of the Indebtedness; and (H) to assign or transfer this

**COMMERCIAL GUARANTY**  
**(Continued)**

Guaranty in whole or in part.

**GUARANTOR'S REPRESENTATIONS AND WARRANTIES.** Guarantor represents and warrants to Lender that (A) no representations or agreements of any kind have been made to Guarantor which would limit or qualify in any way the terms of this Guaranty; (B) this Guaranty is executed at Borrower's request and not at the request of Lender; (C) Guarantor has full power, right and authority to enter into this Guaranty; (D) the provisions of this Guaranty do not conflict with or result in a default under any agreement or other instrument binding upon Guarantor and do not result in a violation of any law, regulation, court decree or order applicable to Guarantor; (E) Guarantor has not and will not, without the prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; (F) upon Lender's request, Guarantor will provide to Lender financial and credit information in form acceptable to Lender, and all such financial information which currently has been, and all future financial information which will be provided to Lender is and will be true and correct in all material respects and fairly present Guarantor's financial condition as of the dates the financial information is provided; (G) no material adverse change has occurred in Guarantor's financial condition since the date of the most recent financial statements provided to Lender and no event has occurred which may materially adversely affect Guarantor's financial condition; (H) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Guarantor is pending or threatened; (I) Lender has made no representation to Guarantor as to the creditworthiness of Borrower; and (J) Guarantor has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Guarantor's risks under this Guaranty, and Guarantor further agrees that, absent a request for information, Lender shall have no obligation to disclose to Guarantor any information or documents acquired by Lender in the course of its relationship with Borrower.

**GUARANTOR'S WAIVERS.** Except as prohibited by applicable law, Guarantor waives any right to require Lender (A) to continue lending money or to extend other credit to Borrower; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of the Indebtedness or of any nonpayment related to any collateral, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Indebtedness or in connection with the creation of new or additional loans or obligations; (C) to resort for payment or to proceed directly or at once against any person, including Borrower or any other guarantor; (D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (F) to pursue any other remedy within Lender's power; or (G) to commit any act or omission of any kind, or at any time, with respect to any matter whatsoever.

Guarantor also waives any and all rights or defenses based on suretyship or impairment of collateral including, but not limited to, any rights or defenses arising by reason of (A) any "one action" or "anti-deficiency" law or any other law which may prevent Lender from bringing any action, including a claim for deficiency, against Guarantor, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale; (B) any election of remedies by Lender which destroys or otherwise adversely affects Guarantor's subrogation rights or Guarantor's rights to proceed against Borrower for reimbursement, including without limitation, any loss of rights Guarantor may suffer by reason of any law limiting, qualifying, or discharging the Indebtedness; (C) any disability or other defense of Borrower, of any other guarantor, or of any other person, or by reason of the cessation of Borrower's liability from any cause whatsoever, other than payment in full in legal tender, of the Indebtedness; (D) any right to claim discharge of the Indebtedness on the basis of unjustified impairment of any collateral for the Indebtedness; (E) any statute of limitations, if at any time any action or suit brought by Lender against Guarantor is commenced, there is outstanding Indebtedness which is not barred by any applicable statute of limitations; or (F) any defenses given to guarantors at law or in equity other than actual payment and performance of the Indebtedness. If payment is made by Borrower, whether voluntarily or otherwise, or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment to Borrower's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, the Indebtedness shall be considered unpaid for the purpose of the enforcement of this Guaranty.

Guarantor further waives and agrees not to assert or claim at any time any deductions to the amount guaranteed under this Guaranty for any claim of setoff, counterclaim, counter demand, recoupment or similar right, whether such claim, demand or right may be asserted by the Borrower, the Guarantor, or both.

**GUARANTOR'S UNDERSTANDING WITH RESPECT TO WAIVERS.** Guarantor warrants and agrees that each of the waivers set forth above is made with Guarantor's full knowledge of its significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the extent permitted by law or public policy.

**SUBORDINATION OF BORROWER'S DEBTS TO GUARANTOR.** Guarantor agrees that the Indebtedness, whether now existing or hereafter created, shall be superior to any claim that Guarantor may now have or hereafter acquire against Borrower, whether or not Borrower becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Borrower, upon any account whatsoever, to any claim that Lender may now or hereafter have against Borrower. In the event of insolvency and consequent liquidation of the assets of Borrower, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation, or otherwise, the assets of Borrower applicable to the payment of the claims of both Lender and Guarantor shall be paid to Lender and shall be first applied by Lender to the Indebtedness. Guarantor does hereby assign to Lender all claims which it may have or acquire against Borrower or against any assignee or trustee in bankruptcy of Borrower; provided however, that such assignment shall be effective only for the purpose of assuring to Lender full payment in legal tender of the Indebtedness. If Lender so requests, any notes or credit agreements now or hereafter evidencing any debts or obligations of Borrower to Guarantor shall be marked with a legend that the same are subject to this Guaranty and shall be delivered to Lender. Guarantor agrees, and Lender is hereby authorized, in the name of Guarantor, from time to time to file financing statements and continuation statements and to execute documents and to take such other actions as Lender deems necessary or appropriate to perfect, preserve and enforce its rights under this Guaranty.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Guaranty:

**Amendments.** This Guaranty, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Guaranty. No alteration of or amendment to this Guaranty shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Attorneys' Fees; Expenses.** Guarantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Guaranty. Lender may hire or pay someone else to help enforce this Guaranty, and Guarantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Guarantor also shall pay all court costs and such additional fees as may be directed by the court.

**Caption Headings.** Caption headings in this Guaranty are for convenience purposes only and are not to be used to interpret or define the

**COMMERCIAL GUARANTY  
(Continued)**

provisions of this Guaranty.

**Governing Law.** This Guaranty will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Minnesota without regard to its conflicts of law provisions.

**Integration.** Guarantor further agrees that Guarantor has read and fully understands the terms of this Guaranty; Guarantor has had the opportunity to be advised by Guarantor's attorney with respect to this Guaranty; the Guaranty fully reflects Guarantor's Intentions and parol evidence is not required to interpret the terms of this Guaranty. Guarantor hereby indemnifies and holds Lender harmless from all losses, claims, damages, and costs (including Lender's attorneys' fees) suffered or incurred by Lender as a result of any breach by Guarantor of the warranties, representations and agreements of this paragraph.

**Interpretation.** In all cases where there is more than one Borrower or Guarantor, then all words used in this Guaranty in the singular shall be deemed to have been used in the plural where the context and construction so require; and where there is more than one Borrower named in this Guaranty or when this Guaranty is executed by more than one Guarantor, the words "Borrower" and "Guarantor" respectively shall mean all and any one or more of them. The words "Guarantor," "Borrower," and "Lender" include the heirs, successors, assigns, and transferees of each of them. If a court finds that any provision of this Guaranty is not valid or should not be enforced, that fact by itself will not mean that the rest of this Guaranty will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Guaranty even if a provision of this Guaranty may be found to be invalid or unenforceable. If any one or more of Borrower or Guarantor are corporations, partnerships, limited liability companies, or similar entities, it is not necessary for Lender to inquire into the powers of Borrower or Guarantor or of the officers, directors, partners, managers, or other agents acting or purporting to act on their behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed under this Guaranty.

**Notices.** Any notice required to be given under this Guaranty shall be given in writing, and, except for revocation notices by Guarantor, shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Guaranty. All revocation notices by Guarantor shall be in writing and shall be effective upon delivery to Lender as provided in the section of this Guaranty entitled "DURATION OF GUARANTY." Any party may change its address for notices under this Guaranty by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Guarantor agrees to keep Lender informed at all times of Guarantor's current address. Unless otherwise provided or required by law, if there is more than one Guarantor, any notice given by Lender to any Guarantor is deemed to be notice given to all Guarantors.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Guaranty unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Guaranty shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Guaranty. No prior waiver by Lender, nor any course of dealing between Lender and Guarantor, shall constitute a waiver of any of Lender's rights or of any of Guarantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Guaranty, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Guaranty on transfer of Guarantor's interest, this Guaranty shall be binding upon and inure to the benefit of the parties, their successors and assigns.

**FURTHER ASSURANCES.** The undersigned agrees to (i) do all things deemed necessary by Lender in order to fully document the loan evidenced by the Note and any related agreements, and will fully cooperate concerning the execution and delivery of security agreements, stock powers, instructions and/or other documents pertaining to any collateral intended to secure the Indebtedness, (ii) assist in the cure of any defects in the execution, delivery or substance of the Note and related agreements, and in the creation and perfection of any liens, security interests or other collateral rights securing the Note, and (iii) pay Lender immediately upon demand the full amount of all charges, costs and expenses (to include fees paid to third parties) expended or incurred by Lender to monitor Lender's interest in any real or personal property pledged as collateral for the Note, including without limitation all costs of appraisals.

**CONSENT TO SELL LOAN.** The parties hereto agree: (a) Lender may sell or transfer all or part of this loan to one or more purchasers, whether related or unrelated to Lender, without notice and without the consent of the parties; (b) Lender may provide to any purchaser, or potential purchaser, any information or knowledge Lender may have about the parties or about any other matter relating to this loan obligation, without notice, and the parties waive any rights to privacy it may have with respect to such matters; (c) the purchaser of a loan will be considered its absolute owner and will have all the rights granted under the loan documents or agreements governing the sale of the loan; (d) the purchaser of a loan may enforce its interests irrespective of any claims or defenses that the parties may have against Lender; and (e) to waive all notices of sale of the loan, as well as all notices of any repurchase, and all rights of offset or counterclaim that the parties have now or later against Lender or against any purchaser of the loan.

**SECURITY INTEREST AND RIGHT OF SETOFF.** In addition to all liens upon and rights of setoff arising by law, Guarantor pledges and grants to Lender as security for Guarantor's obligations to Lender (excluding any consumer obligations subject to the Federal Truth In Lending Act), a security interest and lien upon all monies, securities, securities accounts, brokerage accounts, deposit accounts and other property of Guarantor now or hereafter in the possession of or on deposit with Lender or any Wells Fargo affiliate, whether held in a general or special account or deposit or for safekeeping or otherwise, excluding however all IRA and Keogh accounts. No security interest, lien or right of setoff will be deemed to have been waived by any act or conduct on the part of Lender, or by any neglect to exercise such right, or by any delay in so doing, and every right of setoff, lien and security interest will continue in full force and effect until specifically waived or released by Lender in writing. Guarantor agrees to sign additional documentation at any time at Lender's request to perfect and enforce Lender's security interests.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**DOCUMENT DELIVERY AND ELECTRONIC TRANSMISSION OF DOCUMENTS.** Each party or person signing this agreement (referred to in this paragraph as "you") agrees that Lender may, in its sole discretion, rely upon any document, report, financial statement, tax return, agreement or other communication ("Document") physically delivered to Lender by mail, hand delivery or delivery service which Lender in good faith believed was sent by you or any of your representatives or employees. Similarly, Lender may, in its sole discretion, rely upon any Document sent by email, facsimile or other electronic means to Lender which Lender in good faith believed was sent by you or any of your representatives or employees. Lender may treat the Document as genuine and authorized to the same extent as if it was an original document validly executed or authenticated as genuine by you. Lender may from time to time in its sole discretion reject any such Document and require a signed original, or require you to provide acceptable authentication of any such Document before accepting or

relying on same. You understand and acknowledge that there is a risk that Documents sent by electronic means may be viewed or received by unauthorized persons, and you agree that by sending Documents by electronic means, you shall be deemed to have accepted this risk and the consequences of any such unauthorized disclosure.

**COMMUNITY AND OTHER PROPERTY.** In addition to the rights of Lender under any applicable community property laws, Borrower, Guarantor or Grantor who is a Married Person and who has an interest in marital or community property under applicable law acknowledges and agrees that his/her obligation as a Borrower, Guarantor or Grantor is incurred in the interest of and to benefit the marital community (or domestic partnership, if applicable), and expressly agrees that recourse may be had against his or her separate property and his or her rights in community property and community assets for all of his or her obligations to Lender, in addition to any other property that may be subject to rights of Lender. Borrower and Guarantor also agree not to, without Lender's prior written consent, enter into any community property agreement which alters the separate or community property character of any of such party's property. For the purpose of this provision, "Married Person" means a person in a spousal relationship and shall include parties to a duly registered and/or legally recognized same-sex civil union, domestic partnership, and other terms, whether or not gender-specific in a spousal relationship, that denote spousal relationship, as those terms are used throughout the laws, codes and regulations of states and/or jurisdictions that recognize legally married same-sex couples, civil unions and/or domestic partnerships, and any references herein to a married person or marital status shall be deemed to also include the applicable corresponding term, or other reference relating to a party to a civil union or domestic partnership. With respect to the Guaranty only, to the extent this provision may conflict with another provision contained in the Guaranty, that other provision of the Guaranty shall control.

**EXECUTION OF DOCUMENTS, CONSULTATION WITH COUNSEL.** Each party hereto acknowledges and agrees that he/she/it has had an opportunity to review and consider the terms and provisions of this agreement and each related loan document, to consult with counsel of his/her/its choice, if desired, and to suggest changes to the structure and terms of the agreements. Each party hereto warrants and agrees that his/her/its execution of this agreement and any related loan documents is made voluntarily and with full knowledge of the significance and effect of such agreements.

**SUPPLEMENT TO DEFINITION OF INDEBTEDNESS.** The definition of "Indebtedness" herein includes, without limitation, all liability of Borrower whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, including but not limited to: (i) those obligations arising under or in connection with any "swap agreement" (as defined in 11 U.S.C. Section 101) between Borrower and Lender, or any affiliate of Lender; and (ii) those obligations, arising under any commercial card or other similar transaction or arrangement (howsoever described or defined), and whether Borrower or such other party may be liable individually or jointly with others, or whether recovery upon such Indebtedness may be or hereafter becomes unenforceable.

**ARBITRATION AGREEMENT. Arbitration - Binding Arbitration.** Lender and each party to this agreement hereby agree, upon demand by any party, to submit any Dispute to binding arbitration in accordance with the terms of this Arbitration Program. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this agreement, or any related note, instrument or agreement incorporating this Arbitration Program (the "Documents"), or any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, or any request for additional credit. This provision is a material inducement for the parties entering into the transactions relating to this Agreement. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and paying the appropriate filing fee within 30 days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS ARBITRATION PROGRAM.

**A. Governing Rules.** Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs, in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Note. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

**B. No Waiver of Provisional Remedies, Self-Help and Foreclosure.** The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

**C. Arbitrator Qualifications and Powers.** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a

provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

**D. Discovery.** In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

**E. Class Proceedings and Consolidations.** No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

**F. Small Claims Court.** Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

**G. Real Property Collateral.** Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property and the Dispute is governed by the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah, unless any conditions for arbitration that may be set forth in the mortgage or deed of trust are satisfied; if any such Disputes are not referred to arbitration, then any provision in such mortgage or deed of trust providing for referral of Disputes to a referee or master under the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah shall be applicable to such Disputes.

**H. State Specific Provisions:**

If Delaware, Pennsylvania or Virginia law governs the Dispute, the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment pursuant to a warrant of attorney provision set forth in any note, guaranty or other Documents. No party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to (i) strike-off or open a judgment obtained by confession pursuant to a warrant of attorney contained in any note, guaranty or other Documents, or (ii) challenge the waiver of a right to prior notice and a hearing before judgment is entered, or after judgment is entered, but before execution upon the judgment. Any claims, disputes or controversies challenging the confession of judgment shall be commenced and prosecuted in accordance with the procedures set forth, and in the forum specified by the applicable state rules of civil procedure or other applicable law.

If Maryland law governs the Dispute, the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment, and no party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to open a judgment obtained by confession. Nothing herein, including the arbitration requirement, shall limit the right of any party to foreclose judicially or non-judicially against any real or personal property collateral, or exercise judicial or non-judicial power of sale rights. No provision regarding submission to a jurisdiction and/or venue in any court or the waiver of any right to trial by jury is intended or shall be construed to be in derogation of the provisions for arbitration of any dispute. Any claim or counterclaim or defense raised in connection with Lender's exercise of any rights set forth in any note, guaranty or other Documents subject to this Arbitration Program shall be subject to the arbitration requirement.

If South Carolina law governs the Dispute, the following provision is included: WAIVER OF JURY TRIAL. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO ARBITRATE ANY DISPUTE AS SET FORTH IN THIS AGREEMENT, TO THE EXTENT ANY DISPUTE IS NOT SUBMITTED TO ARBITRATION OR IS DEEMED BY THE ARBITRATOR OR BY ANY COURT WITH JURISDICTION TO BE NOT ARBITRABLE OR NOT REQUIRED TO BE ARBITRATED, LENDER AND EACH PARTY TO THIS AGREEMENT WAIVE TRIAL BY JURY IN RESPECT OF ANY SUCH DISPUTE AND ANY ACTION ON SUCH DISPUTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY LENDER AND EACH PARTY, AND LENDER AND EACH PARTY HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. LENDER AND EACH PARTY TO THIS AGREEMENT ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

**I. Miscellaneous.** To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the Dispute shall control. This arbitration provision shall survive the repayment of the Note and the termination, amendment or expiration of any of the Documents or any relationship between the parties.

**Small Business Administration (SBA).** When SBA is the holder, the Note and this Guarantee will be construed and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Guarantee, Guarantor may not claim or assert any local or state law against SBA to deny any obligation, defeat any claims of SBA, or preempt federal law.

**SBA Arbitration.** The parties specifically agree that the provisions of this Arbitration Program are not applicable to any dispute between any party and the U.S. Small Business Administration (the "SBA"), including but not limited to, any dispute with the SBA after purchase of the loan by the SBA.

**MONEY LAUNDERING, SANCTIONS, CORRUPT PRACTICES, AND COMPLIANCE WITH ALL LAWS.** Guarantor represents, warrants and agrees that Guarantor (1) is not now and will not become the target of any trade or economic sanctions promulgated by the United Nations or the governments of the United States, the United Kingdom, the European Union, or any other jurisdiction in which Guarantor is located or operates (collectively, "Sanctions"), (2) complies now and will at all times comply with the requirements of all laws, rules, regulations and orders of any jurisdiction in which Guarantor is located or doing business, or otherwise is applicable to Guarantor, including, without limitation, (a) all Sanctions, (b) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any

COMMERCIAL GUARANTY  
(Continued)

financial record keeping and reporting requirements related thereto, (c) the U.S. Foreign Corrupt Practices Act of 1977, as amended, (d) the U.K. Bribery Act of 2010, as amended, and (e) any other anti-bribery or anti-corruption laws and regulations, and (3) will not at any time directly or indirectly use any proceeds of any credit extended by Lender for the purpose of (a) providing financing or otherwise funding any targets of Sanctions; or (b) providing financing or otherwise funding any transaction which would be prohibited by Sanctions or would otherwise cause Lender or any of Lender's affiliates to be in breach of any Sanctions.

**GUARANTOR CONSENT.** GUARANTOR CONSENTS, BY EXECUTING THIS GUARANTY, TO ANY SALE OF THE COLLATERAL, THE APPLICATION OF PROCEEDS FROM THE SALE OF THE COLLATERAL AND THE RELEASE OF ANY PROCEEDS OR COLLATERAL TO THE BORROWER WITHOUT FURTHER WRITTEN CONSENT OF THE GUARANTOR.

**CONFESSION OF JUDGMENT.** BORROWER HEREBY IRREVOCABLY AUTHORIZES AND EMPOWERS ANY ATTORNEY-AT-LAW, AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT, TO APPEAR IN ANY COURT OF RECORD AND TO CONFESS JUDGMENT AGAINST BORROWER FOR THE UNPAID AMOUNT OF THIS AGREEMENT, REASONABLE ATTORNEYS' FEES EQUAL TO TWENTY PERCENT (20%) OF THE PRINCIPAL AND INTEREST DUE UNDER THIS NOTE, PLUS COSTS OF SUIT, AND TO RELEASE ALL ERRORS, AND WAIVE ALL RIGHTS OF APPEAL. IF A COPY OF THIS AGREEMENT, VERIFIED BY AN AFFIDAVIT, SHALL HAVE BEEN FILED IN THE PROCEEDING, IT WILL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY. BORROWER WAIVES THE RIGHT TO ANY STAY OF EXECUTION AND THE BENEFIT OF ALL EXEMPTION LAWS NOW OR HEREAFTER IN EFFECT. NO SINGLE EXERCISE OF THE FOREGOING WARRANT AND POWER TO CONFESS JUDGMENT WILL BE DEEMED TO EXHAUST THE POWER, WHETHER OR NOT ANY SUCH EXERCISE SHALL BE HELD BY ANY COURT TO BE INVALID, VOIDABLE, OR VOID; BUT THE POWER WILL CONTINUE UNDIMINISHED AND MAY BE EXERCISED FROM TIME TO TIME AS LENDER MAY ELECT UNTIL ALL AMOUNTS OWING ON THIS AGREEMENT HAVE BEEN PAID IN FULL.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Guaranty. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Guaranty shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means \_\_\_\_\_ and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Guarantor.** The word "Guarantor" means everyone signing this Guaranty, including without limitation \_\_\_\_\_ and in each case, any signer's successors and assigns.

**Guaranty.** The word "Guaranty" means this guaranty from Guarantor to Lender.

**Indebtedness.** The word "Indebtedness" means Borrower's indebtedness to Lender as more particularly described in this Guaranty.

**Lender.** The word "Lender" means Wells Fargo Bank, National Association, its successors and assigns.

**Note.** The word "Note" means and includes without limitation all of Borrower's promissory notes and/or credit agreements evidencing Borrower's loan obligations in favor of Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions for promissory notes or credit agreements.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

EACH UNDERSIGNED GUARANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, EACH GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY TO LENDER AND THAT THE GUARANTY WILL CONTINUE UNTIL TERMINATED IN THE MANNER SET FORTH IN THE SECTION TITLED "DURATION OF GUARANTY". NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE. THIS GUARANTY IS DATED \_\_\_\_\_

GUARANTOR:

X \_\_\_\_\_

**DRAFT**



200216865168800170

# COMMERCIAL SECURITY AGREEMENT

Principal	Loan Date	Maturity	Loan No	Coll / Coll	Account	Officer	Initials
\$							

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

Grantor:

**DRAFT**

Lender:

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

THIS COMMERCIAL SECURITY AGREEMENT dated December 16, 2016, is made and executed between ("Grantor") and Wells Fargo Bank, National Association ("Lender").

**GRANT OF SECURITY INTEREST.** For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the indebtedness and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

**COLLATERAL DESCRIPTION.** The word "Collateral" as used in this Agreement means the following described property, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located, in which Grantor is giving to Lender a security interest for the payment of the indebtedness and performance of all other obligations under the Note and this Agreement:

All Inventory, Chattel Paper, Accounts, Equipment, General Intangibles and Fixtures

In addition, the word "Collateral" also includes all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

- (A) All accessions, attachments, accessories, tools, parts, supplies, replacements of and additions to any of the collateral described herein, whether added now or later.
- (B) All products and produce of any of the property described in this Collateral section.
- (C) All accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, consignment or other disposition of any of the property described in this Collateral section.
- (D) All proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the property described in this Collateral section, and sums due from a third party who has damaged or destroyed the Collateral or from that party's insurer, whether due to judgment, settlement or other process.
- (E) All records and data relating to any of the property described in this Collateral section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Grantor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

Some or all of the Collateral may be located on the following described real estate:

**FUTURE ADVANCES.** In addition to the Note, this Agreement secures all future advances made by Lender to Grantor regardless of whether the advances are made a) pursuant to a commitment or b) for the same purposes.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COLLATERAL.** With respect to the Collateral, Grantor represents and promises to Lender that:

**Perfection of Security Interest.** Grantor agrees to take whatever actions are requested by Lender to perfect and continue Lender's security interest in the Collateral. Upon request of Lender, Grantor will deliver to Lender any and all of the documents evidencing or constituting the Collateral, and Grantor will note Lender's interest upon any and all chattel paper and instruments if not delivered to Lender for possession by Lender. This is a continuing Security Agreement and will continue in effect even though all or any part of the indebtedness is paid in full and even though for a period of time Grantor may not be indebted to Lender.

**Notices to Lender.** Grantor will promptly notify Lender in writing at Lender's address shown above for such other addresses as Lender may designate from time to time) prior to any (1) change in Grantor's name; (2) change in Grantor's assumed business name(s); (3) change in the management or in the members or managers of the limited liability company Grantor; (4) change in the authorized signer(s); (5) change in Grantor's principal office address; (6) change in Grantor's state of organization; (7) conversion of Grantor to a new or different type of business entity; or (8) change in any other aspect of Grantor that directly or indirectly relates to any agreements between Grantor and Lender. No change in Grantor's name or state of organization will take effect until after Lender has received notice.

**No Violation.** The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its membership agreement does not prohibit any term or condition of this Agreement.

**Enforceability of Collateral.** To the extent the Collateral consists of accounts, chattel paper, or general intangibles, as defined by the Uniform Commercial Code, the Collateral is enforceable in accordance with its terms, is genuine, and fully complies with all applicable laws and regulations concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. At the time any account becomes subject to a security interest in favor of Lender, the account shall be a good and valid account representing an undisputed, bona fide indebtedness incurred by the account debtor, for merchandise held subject to delivery instructions or previously shipped or delivered

**COMMERCIAL SECURITY AGREEMENT  
(Continued)**

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pursuant to a contract of sale, or for services previously performed by Grantor with or for the account debtor. So long as this Agreement remains in effect, Grantor shall not, without Lender's prior written consent, compromise, settle, adjust, or extend payment under or with regard to any such Accounts. There shall be no setoffs or counterclaims against any of the Collateral, and no agreement shall have been made under which any deductions or discounts may be claimed concerning the Collateral except those disclosed to Lender in writing.

**Location of the Collateral.** Except in the ordinary course of Grantor's business, Grantor agrees to keep the Collateral (or to the extent the Collateral consists of intangible property such as accounts or general intangibles, the records concerning the Collateral) at Grantor's address shown above or at such other locations as are acceptable to Lender. Upon Lender's request, Grantor will deliver to Lender in form satisfactory to Lender a schedule of real properties and Collateral locations relating to Grantor's operations, including without limitation the following: (1) all real property Grantor owns or is purchasing; (2) all real property Grantor is renting or leasing; (3) all storage facilities Grantor owns, rents, leases, or uses; and (4) all other properties where Collateral is or may be located.

**Removal of the Collateral.** Except in the ordinary course of Grantor's business, including the sales of inventory, Grantor shall not remove the Collateral from its existing location without Lender's prior written consent. To the extent that the Collateral consists of vehicles, or other titled property, Grantor shall not take or permit any action which would require application for certificates of title for the vehicles outside the State of Delaware, without Lender's prior written consent. Grantor shall, whenever requested, advise Lender of the exact location of the Collateral.

**Transactions Involving Collateral.** Except for inventory sold or accounts collected in the ordinary course of Grantor's business, or as otherwise provided for in this Agreement, Grantor shall not sell, offer to sell, or otherwise transfer or dispose of the Collateral. While Grantor is not in default under this Agreement, Grantor may sell inventory, but only in the ordinary course of its business and only to buyers who qualify as a buyer in the ordinary course of business. A sale in the ordinary course of Grantor's business does not include a transfer in partial or total satisfaction of a debt or any bulk sale. Grantor shall not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, or charge, other than the security interest provided for in this Agreement, without the prior written consent of Lender. This includes security interests even if junior in right to the security interests granted under this Agreement. Unless waived by Lender, all proceeds from any disposition of the Collateral (for whatever reason) shall be held in trust for Lender and shall not be commingled with any other funds; provided however, this requirement shall not constitute consent by Lender to any sale or other disposition. Upon receipt, Grantor shall immediately deliver any such proceeds to Lender.

**Title.** Grantor represents and warrants to Lender that Grantor holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement. No financing statement covering any of the Collateral is on file in any public office other than those which reflect the security interest created by this Agreement or to which Lender has specifically consented. Grantor shall defend Lender's rights in the Collateral against the claims and demands of all other persons.

**Repairs and Maintenance.** Grantor agrees to keep and maintain, and to cause others to keep and maintain, the Collateral in good order, repair and condition at all times while this Agreement remains in effect. Grantor further agrees to pay when due all claims for work done on, or services rendered or material furnished in connection with the Collateral so that no lien or encumbrance may ever attach to or be filed against the Collateral.

**Inspection of Collateral.** Lender and Lender's designated representatives and agents shall have the right at all reasonable times to examine and inspect the Collateral wherever located.

**Taxes, Assessments and Liens.** Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized in Lender's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender in an amount adequate to provide for the discharge of the lien plus any interest, costs, reasonable attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings. Grantor further agrees to furnish Lender with evidence that such taxes, assessments, and governmental and other charges have been paid in full and in a timely manner. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized.

**Compliance with Governmental Requirements.** Grantor shall comply promptly with all laws, ordinances, rules and regulations of all governmental authorities, now or hereafter in effect, applicable to the ownership, production, disposition, or use of the Collateral, including all laws or regulations relating to the undue erosion of highly-erodible land or relating to the conversion of wetlands for the production of an agricultural product or commodity. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Lender's interest in the Collateral, in Lender's opinion, is not jeopardized.

**Hazardous Substances.** Grantor represents and warrants that the Collateral never has been, and never will be so long as this Agreement remains a lien on the Collateral, used in violation of any Environmental Laws or for the generation, manufacture, storage, transportation, treatment, disposal, release or threatened release of any Hazardous Substance. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Collateral for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any Environmental Laws, and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims and losses resulting from a breach of this provision of this Agreement. This obligation to indemnify and defend shall survive the payment of the indebtedness and the satisfaction of this Agreement.

**Maintenance of Casualty Insurance.** Grantor shall procure and maintain all risks insurance, including without limitation fire, theft and liability coverage together with such other insurance as Lender may require with respect to the Collateral, in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days' prior written notice to Lender and not including any disclaimer of the insurer's liability for failure to give such a notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest, Grantor will provide Lender with such loss payable or other endorsements as Lender may require. If Grantor at any time fails to obtain or maintain any insurance as required under this Agreement, Lender may (but shall not be obligated to) obtain such insurance as Lender deems appropriate, including if Lender so chooses "single interest insurance," which will cover only Lender's interest in the Collateral.

**Application of Insurance Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Collateral, whether or not such casualty or loss is covered by insurance. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty.

**COMMERCIAL SECURITY AGREEMENT  
(Continued)**

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All proceeds of any insurance on the Collateral, including accrued proceeds thereon, shall be held by Lender as part of the Collateral. If Lender consents to repair or replacement of the damaged or destroyed Collateral, Lender shall, upon satisfactory proof of expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration. If Lender does not consent to repair or replacement of the Collateral, Lender shall retain a sufficient amount of the proceeds to pay all of the Indebtedness, and shall pay the balance to Grantor. Any proceeds which have not been disbursed within six (6) months after their receipt and which Grantor has not committed to the repair or restoration of the Collateral shall be used to prepay the Indebtedness.

**Insurance Reserves.** Lender may require Grantor to maintain with Lender reserves for payment of insurance premiums, which reserves shall be created by monthly payments from Grantor of a sum estimated by Lender to be sufficient to produce, at least fifteen (15) days before the premium due date, amounts at least equal to the insurance premiums to be paid. If fifteen (15) days before payment is due, the reserve funds are insufficient, Grantor shall upon demand pay any deficiency to Lender. The reserve funds shall be held by Lender as a general deposit and shall constitute a non-interest-bearing account which Lender may satisfy by payment of the insurance premiums required to be paid by Grantor as they become due. Lender does not hold the reserve funds in trust for Grantor, and Lender is not the agent of Grantor for payment of the insurance premiums required to be paid by Grantor. The responsibility for the payment of premiums shall remain Grantor's sole responsibility.

**Insurance Reports.** Grantor, upon request of Lender, shall furnish to Lender reports on each existing policy of insurance showing such information as Lender may reasonably request including the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured; (5) the then current value on the basis of which insurance has been obtained and the manner of determining that value; and (6) the expiration date of the policy. In addition, Grantor shall upon request by Lender (however not more often than annually) have an independent appraiser satisfactory to Lender determine, as applicable, the cash value or replacement cost of the Collateral.

**Financing Statements.** Grantor authorizes Lender to file a UCC financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, Grantor additionally agrees to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Property. Grantor will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs. Grantor irrevocably appoints Lender to execute documents necessary to transfer title if there is a default. Lender may file a copy of this Agreement as a financing statement. Grantor will promptly notify Lender of any change to Grantor's name or the name of any individual Grantor, any individual who is a partner for a Grantor, and any individual who is a trustee or settlor or trustor for a Grantor under this Agreement. Grantor will also promptly notify Lender of any change to the name that appears on the most recently issued, unexpired driver's license or state-issued identification card, any expiration of the most recently issued driver's license or state-issued identification card for Grantor or any individual for whom Grantor is required to provide notice regarding name changes.

**GRANTOR'S RIGHT TO POSSESSION AND TO COLLECT ACCOUNTS.** Until default and except as otherwise provided below with respect to accounts, Grantor may have possession of the tangible personal property and beneficial use of all the Collateral and may use it in any lawful manner not inconsistent with this Agreement or the Related Documents, provided that Grantor's right to possession and beneficial use shall not apply to any Collateral where possession of the Collateral by Lender is required by law to perfect Lender's security interest in such Collateral. Until otherwise notified by Lender, Grantor may collect any of the Collateral consisting of accounts. At any time and even though no Event of Default exists, Lender may exercise its rights to collect the accounts and to notify account debtors to make payments directly to Lender for application to the Indebtedness. If Lender at any time has possession of any Collateral, whether before or after an Event of Default, Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Lender takes such action for that purpose as Grantor shall request or as Lender, in Lender's sole discretion, shall deem appropriate under the circumstances, but failure to honor any request by Grantor shall not of itself be deemed to be a failure to exercise reasonable care. Lender shall not be required to take any steps necessary to preserve any rights in the Collateral against prior parties, nor to protect, preserve or maintain any security interest given to secure the Indebtedness.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Grantor fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Agreement or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Collateral and paying all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Payment Default.** Grantor fails to make any payment when due under the indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default in Favor of Third Parties.** Any guarantor or Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of any guarantor's or Grantor's property or ability to perform their respective obligations under this Agreement or any of the Related Documents.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution of Grantor (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help,

## COMMERCIAL SECURITY AGREEMENT (Continued)

repossession or any other method, by any creditor of Grantor or by any governmental agency against any collateral securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or Guarantor dies or becomes incompetent or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** If an Event of Default occurs under this Agreement, at any time thereafter, Lender shall have all the rights of a secured party under the Delaware Uniform Commercial Code. In addition and without limitation, Lender may exercise any one or more of the following rights and remedies:

**Accelerate Indebtedness.** Lender may declare the entire Indebtedness, including any prepayment penalty which Grantor would be required to pay, immediately due and payable, without notice of any kind to Grantor.

**Assemble Collateral.** Lender may require Grantor to deliver to Lender all or any portion of the Collateral and any and all certificates of title and other documents relating to the Collateral. Lender may require Grantor to assemble the Collateral and make it available to Lender at a place to be designated by Lender. Lender also shall have full power to enter upon the property of Grantor to take possession of and remove the Collateral. If the Collateral contains other goods not covered by this Agreement at the time of repossession, Grantor agrees Lender may take such other goods, provided that Lender makes reasonable efforts to return them to Grantor after repossession.

**Sell the Collateral.** Lender shall have full power to sell, lease, transfer, or otherwise deal with the Collateral or proceeds thereof in Lender's own name or that of Grantor. Lender may sell the Collateral at public auction or private sale. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give Grantor, and other persons as required by law, reasonable notice of the time and place of any public sale, or the time after which any private sale or any other disposition of the Collateral is to be made. However, no notice need be provided to any person who, after Event of Default occurs, enters into and authenticates an agreement waiving that person's right to notification of sale. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the Note rate from date of expenditure until repaid.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Collateral, with the power to protect and preserve the Collateral, to operate the Collateral preceding foreclosure or sale, and to collect the rents from the Collateral and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Collateral exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Collect Revenues, Apply Accounts.** Lender, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Lender may at any time in Lender's discretion transfer any Collateral into Lender's own name or that of Lender's nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Lender may determine. Insofar as the Collateral consists of accounts, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Lender may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Lender may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Lender may notify account debtors and obligors on any Collateral to make payments directly to Lender.

**Obtain Deficiency.** If Lender chooses to sell any or all of the Collateral, Lender may obtain a judgment against Grantor for any deficiency remaining on the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this Agreement. Grantor shall be liable for a deficiency even if the transaction described in this subsection is a sale of accounts or chattel paper.

**Other Rights and Remedies.** Lender shall have all the rights and remedies of a secured creditor under the provisions of the Uniform Commercial Code, as may be amended from time to time. In addition, Lender shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.

**Election of Remedies.** Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement, the Related Documents, or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**FURTHER ASSURANCES.** The undersigned agrees to (i) do all things deemed necessary by Lender in order to fully document the loan evidenced by the Note and any related agreements, and will fully cooperate concerning the execution and delivery of security agreements, stock powers, instructions and/or other documents pertaining to any collateral intended to secure the Indebtedness, (ii) assist in the cure of any defects in the execution, delivery or substance of the Note and related agreements, and in the creation and perfection of any liens, security interests or other collateral rights securing the Note, and (iii) pay Lender immediately upon demand the full amount of all charges, costs and expenses (to include fees paid to third parties) expended or incurred by Lender to monitor Lender's interest in any real or personal property pledged as collateral for the Note, including without limitation all costs of appraisals.

**CONSENT TO SELL LOAN.** The parties hereto agree: (a) Lender may sell or transfer all or part of this loan to one or more purchasers, whether related or unrelated to Lender, without notice and without the consent of the parties; (b) Lender may provide to any purchaser, or potential purchaser, any information or knowledge Lender may have about the parties or about any other matter relating to this loan obligation, without notice, and the parties waive any rights to privacy it may have with respect to such matters; (c) the purchaser of a loan will be considered its absolute owner and will have all the rights granted under the loan documents or agreements governing the sale of the loan; (d) the purchaser of a loan may enforce its interests irrespective of any claims or defenses that the parties may have against Lender; and (e) to waive all notices of sale of the loan, as well as all notices of any repurchase, and all rights of offset or counterclaim that the parties have now or later against

**COMMERCIAL SECURITY AGREEMENT  
(Continued)**

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Lender or against any purchaser of the loan.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**COMMUNITY AND OTHER PROPERTY.** In addition to the rights of Lender under any applicable community property laws, Borrower, Guarantor or Grantor who is a Married Person and who has an interest in marital or community property under applicable law acknowledges and agrees that his/her obligation as a Borrower, Guarantor or Grantor is incurred in the interest of and to benefit the marital community (or domestic partnership, if applicable), and expressly agrees that recourse may be had against his or her separate property and his or her rights in community property and community assets for all of his or her obligations to Lender, in addition to any other property that may be subject to rights of Lender. Borrower and Guarantor also agree not to, without Lender's prior written consent, enter into any community property agreement which alters the separate or community property character of any of such party's property. For the purpose of this provision, "Married Person" means a person in a spousal relationship and shall include parties to a duly registered and/or legally recognized same-sex civil union, domestic partnership, and other terms, whether or not gender-specific in a spousal relationship, that denote spousal relationship, as those terms are used throughout the laws, codes and regulations of states and/or jurisdictions that recognize legally married same-sex couples, civil unions and/or domestic partnerships, and any references herein to a married person or marital status shall be deemed to also include the applicable corresponding term, or other reference relating to a party to a civil union or domestic partnership. With respect to the Guaranty only, to the extent this provision may conflict with another provision contained in the Guaranty, that other provision of the Guaranty shall control.

**GRANTOR IDENTIFICATION REPRESENTATION AND WARRANTY.** If Grantor is an individual, Grantor will maintain the current and valid status of Grantor's driver's license or other state issued identification, and will not change Grantor's name as reflected on such driver's license or other state issued identification without giving Lender 30 days advance specific written notice of such change by delivering such notice to Lender at the address provided herein.

**EXECUTION OF DOCUMENTS, CONSULTATION WITH COUNSEL.** Each party hereto acknowledges and agrees that he/she/it has had an opportunity to review and consider the terms and provisions of this agreement and each related loan document, to consult with counsel of his/her/its choice, if desired, and to suggest changes to the structure and terms of the agreements. Each party hereto warrants and agrees that his/her/its execution of this agreement and any related loan documents is made voluntarily and with full knowledge of the significance and effect of such agreements.

**SUPPLEMENT TO DEFINITION OF INDEBTEDNESS.** The definition of "indebtedness" herein includes, without limitation, all liability of Borrower whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, including but not limited to: (i) those obligations arising under or in connection with any "swap agreement" (as defined in 11 U.S.C. Section 101) between Borrower and Lender, or any affiliate of Lender; and (ii) those obligations, arising under any commercial card or other similar transaction or arrangement (howsoever described or defined), and whether Borrower or such other party may be liable individually or jointly with others, or whether recovery upon such indebtedness may be or hereafter becomes unenforceable.

**ARBITRATION AGREEMENT. Arbitration - Binding Arbitration.** Lender and each party to this agreement hereby agree, upon demand by any party, to submit any Dispute to binding arbitration in accordance with the terms of this Arbitration Program. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this agreement, or any related note, instrument or agreement incorporating this Arbitration Program (the "Documents"), or any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, or any request for additional credit. This provision is a material inducement for the parties entering into the transactions relating to this Agreement. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and paying the appropriate filing fee within 30 days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS ARBITRATION PROGRAM.

**A. Governing Rules.** Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs, in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Note. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

**B. No Waiver of Provisional Remedies, Self-Help and Foreclosure.** The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

**C. Arbitrator Qualifications and Powers.** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The

**COMMERCIAL SECURITY AGREEMENT  
(Continued)**

arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

**D. Discovery.** In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

**E. Class Proceedings and Consolidations.** No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

**F. Small Claims Court.** Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

**G. Real Property Collateral.** Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property and the Dispute is governed by the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah, unless any conditions for arbitration that may be set forth in the mortgage or deed of trust are satisfied; if any such Disputes are not referred to arbitration, then any provision in such mortgage or deed of trust providing for referral of Disputes to a referee or master under the laws of California, Connecticut, Idaho, Kansas, Montana, Nevada, South Dakota, Virginia or Utah shall be applicable to such Disputes.

**H. State Specific Provisions:**

**If Delaware, Pennsylvania or Virginia law governs the Dispute,** the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment pursuant to a warrant of attorney provision set forth in any note, guaranty or other Documents. No party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to (i) strike-off or open a judgment obtained by confession pursuant to a warrant of attorney contained in any note, guaranty or other Documents, or (ii) challenge the waiver of a right to prior notice and a hearing before judgment is entered, or after judgment is entered, but before execution upon the judgment. Any claims, disputes or controversies challenging the confession of judgment shall be commenced and prosecuted in accordance with the procedures set forth, and in the forum specified by the applicable state rules of civil procedure or other applicable law.

**If Maryland law governs the Dispute,** the following provision is applicable if there is a Confession of Judgment in any note, guaranty or other Documents subject to this Arbitration Program: Confession of Judgment. Notwithstanding anything herein to the contrary, the arbitration requirement does not limit or preclude the right of Lender to confess judgment, and no party shall have the right to demand binding arbitration of any claim, dispute or controversy seeking to open a judgment obtained by confession. Nothing herein, including the arbitration requirement, shall limit the right of any party to foreclose judicially or non-judicially against any real or personal property collateral, or exercise judicial or non-judicial power of sale rights. No provision regarding submission to a jurisdiction and/or venue in any court or the waiver of any right to trial by jury is intended or shall be construed to be in derogation of the provisions for arbitration of any dispute. Any claim or counterclaim or defense raised in connection with Lender's exercise of any rights set forth in any note, guaranty or other Documents subject to this Arbitration Program shall be subject to the arbitration requirement.

**If South Carolina law governs the Dispute, the following provision is included: WAIVER OF JURY TRIAL.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO ARBITRATE ANY DISPUTE AS SET FORTH IN THIS AGREEMENT, TO THE EXTENT ANY DISPUTE IS NOT SUBMITTED TO ARBITRATION OR IS DEEMED BY THE ARBITRATOR OR BY ANY COURT WITH JURISDICTION TO BE NOT ARBITRABLE OR NOT REQUIRED TO BE ARBITRATED, LENDER AND EACH PARTY TO THIS AGREEMENT WAIVE TRIAL BY JURY IN RESPECT OF ANY SUCH DISPUTE AND ANY ACTION ON SUCH DISPUTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY LENDER AND EACH PARTY, AND LENDER AND EACH PARTY HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. LENDER AND EACH PARTY TO THIS AGREEMENT ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

**I. Miscellaneous.** To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the Dispute shall control. This arbitration provision shall survive the repayment of the Note and the termination, amendment or expiration of any of the Documents or any relationship between the parties.

**SBA NATIONWIDE PROGRAM.** The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

- a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.
- b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

**SBA ARBITRATION.** The parties specifically agree that the provisions of this Arbitration Program are not applicable to any dispute between any party and the U.S. Small Business Administration (the "SBA"), including but not limited to, any dispute with the SBA after purchase of the loan

**COMMERCIAL SECURITY AGREEMENT  
(Continued)**

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by the SBA.

**MONEY LAUNDERING, SANCTIONS, CORRUPT PRACTICES, AND COMPLIANCE WITH ALL LAWS.** Grantor represents, warrants and agrees that Grantor (1) is not now and will not become the target of any trade or economic sanctions promulgated by the United Nations or the governments of the United States, the United Kingdom, the European Union, or any other jurisdiction in which Grantor is located or operates (collectively, "Sanctions"), (2) complies now and will at all times comply with the requirements of all laws, rules, regulations and orders of any jurisdiction in which Grantor is located or doing business, or otherwise is applicable to Grantor, including, without limitation, (a) all Sanctions, (b) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto, (c) the U.S. Foreign Corrupt Practices Act of 1977, as amended, (d) the U.K. Bribery Act of 2010, as amended, and (e) any other anti-bribery or anti-corruption laws and regulations, and (3) will not at any time directly or indirectly use any proceeds of any credit extended by Lender for the purpose of (a) providing financing or otherwise funding any targets of Sanctions; or (b) providing financing or otherwise funding any transaction which would be prohibited by Sanctions or would otherwise cause Lender or any of Lender's affiliates to be in breach of any Sanctions.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Attorneys' Fees; Expenses.** Grantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Grantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Lender may also recover from Grantor all court, alternative dispute resolution or other collection costs (including, without limitation, fees and charges of collection agencies) actually incurred by Lender.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Governing Law.** With respect to procedural matters related to the perfection and enforcement of Lender's rights against the Collateral, this Agreement will be governed by federal law applicable to Lender and to the extent not preempted by federal law, the laws of the State of Minnesota. In all other respects, this Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Minnesota without regard to its conflicts of law provisions. However, if there ever is a question about whether any provision of this Agreement is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid and enforceable. 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 Lender in the State of Minnesota.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Power of Attorney.** Grantor hereby appoints Lender as Grantor's irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect, amend, or to continue the security interest granted in this Agreement or to demand termination of filings of other secured parties. Lender may at any time, and without further authorization from Grantor, file a carbon, photographic or other reproduction of any financing statement or of this Agreement for use as a financing statement. Grantor will reimburse Lender for all expenses for the perfection and the continuation of the perfection of Lender's security interest in the Collateral.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

**Successors and Assigns.** Subject to any limitations stated in this Agreement on transfer of Grantor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Collateral becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Agreement and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Agreement or liability under the indebtedness.

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Agreement shall survive the execution and delivery of this Agreement, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

**Time is of the Essence.** Time is of the essence in the performance of this Agreement.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

COMMERCIAL SECURITY AGREEMENT  
(Continued)

**Agreement.** The word "Agreement" means this Commercial Security Agreement, as this Commercial Security Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Commercial Security Agreement from time to time.

**Borrower.** The word "Borrower" means \_\_\_\_\_ and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Collateral.** The word "Collateral" means all of Grantor's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

**Default.** The word "Default" means the Default set forth in this Agreement in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

**Grantor.** The word "Grantor" means:

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Grantor is responsible under this Agreement or under any of the Related Documents. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision of this Agreement together with all interest thereon.

**Lender.** The word "Lender" means Wells Fargo Bank, National Association, its successors and assigns.

**Note.** The word "Note" means the Note dated \_\_\_\_\_ and executed by \_\_\_\_\_ in the principal amount of \_\_\_\_\_, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the Note or related agreement.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Collateral Description" section of this Agreement.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

GRANTOR HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS COMMERCIAL SECURITY AGREEMENT AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED \_\_\_\_\_

THIS AGREEMENT IS DELIVERED UNDER SEAL AND IT IS INTENDED THAT THIS AGREEMENT IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

GRANTOR:

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

(Seal)

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

(Seal)

**DRAFT**

**DRAFT**

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Wells Fargo Bank, National Association**  
**SBA - BBG Loan Ops - Recorded Docs**  
**P.O. Box 659713**  
**San Antonio, TX 78265-9827**

**CUSTOMER COPY**  
For Your Files

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME						
OR	1b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
1c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME						
OR	2b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
2c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME						
<b>Wells Fargo Bank, National Association</b>						
OR	3b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	
3c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
600 S. 4th Street, 13th Floor			Minneapolis	MN	55415-1526	USA

4. COLLATERAL: This financing statement covers the following collateral:

**All inventory, Chattel Paper, Accounts, Equipment, General Intangibles and Fixtures; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing.**

5. Check only if applicable and check only one box: Collateral is  held in a Trust (see UCC1Ad, item 17 and Instructions)  being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:

Public-Finance Transaction  Manufactured-Home Transaction  A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:

Agricultural Lien  Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable):  Lessee/Lessor  Consignee/Consignor  Seller/Buyer  Bailee/Bailor  Licensee/Licenser

8. OPTIONAL FILER REFERENCE DATA:

# DISBURSEMENT GUIDELINES

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

Borrower:

Lender:

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

 DRAFT

**Congratulations on your new SBA loan. This memo was developed to guide you through the disbursement process of your loan.**

**The SBA requires the Lender to disburse the loan proceeds in accordance with the amounts approved by category as outlined in the SBA Loan Authorization. Please review the SBA Authorization for specifics relating to your loan.**

**We want to make sure funds are available to you when you need them. To accomplish this, we will require your assistance by asking you to follow the process described below.**

### Disbursement Process:

- On the Loan Disbursement Worksheet enclosed, insert the amount requested under the appropriate category and total the amount requested. (Additional disbursement request forms are enclosed for your use).
- Include copies of the appropriate documents that correspond with the amount requested on the Loan Disbursement Worksheet. Please refer to the guidelines below for detailed instructions based upon the use of proceeds.
- All of the required receipts are to be separated by categories accompanied by a detailed spreadsheet.
- Working capital may be requested without receipts.
- E-MAIL or FAX all requests to the Disbursements Team listed on the enclosed SBA Lending Team Directory.
- Upon receipt of the above, monies will be disbursed according to the attached instructions.

### Points to Remember:

- Two (2) disbursements are allowed per month. Please budget your need for funds in advance.
- No cashier's checks will be issued for less than \$500.00.
- All disbursements are handled on a first come, first served basis and will be processed within 72 hours following receipt of a complete request.
- No disbursements will be processed if the loan payment is past due.
- Receipts submitted for funding must not be part of your capital equity injection, must not have been paid prior to SBA approval and cannot have been previously presented and reimbursed to you.

**Below are the guidelines for requesting your loan funds. Please have your SBA Loan Authorization available, and reference the "Use of Proceeds" section for the various categories and amounts approved for disbursement.**

### IF YOU HAVE A PENDING INVOICE AND ARE REQUESTING VENDOR PAYMENT:

1. Please submit a copy of your Purchase Order(s), Invoice(s) or signed Quote(s) for the items to be purchased.
2. A cashier's check will be made payable to the Vendor in the amount of the Invoice(s), Purchase Order(s) or signed Quote(s) submitted and will be sent directly to the Borrower.
3. Cashier's checks will not be issued if the requested amount to one payee is less than \$500.00. Small amounts are to be paid directly by Borrower to vendor. Borrower can then submit to Lender for reimbursement of these small amounts by providing invoice copies and cancelled checks.

### IF YOU HAVE ALREADY PURCHASED AND ARE REQUESTING REIMBURSEMENT:

1. Please submit invoice(s) and corresponding proof of payment which verifies that the invoice(s) have been paid. Sufficient proof of payment can be a copy of a canceled check, cashier's check, or credit card statement verifying purchase. Please note the following additional requirements when requesting reimbursement for credit card charges. a) If you have made a payment to the credit card company and are requesting that we reimburse you directly, please include a copy of the credit card statement postdating your purchase date that shows a payment equal to or greater than the amount of reimbursement you are requesting along with a copy of the cancelled check used to make the credit card payment. b) If you have not made a payment to the credit card company in an amount equal to or greater than the amount of reimbursement you are requesting, we will cut a check payable to the credit card company and send to you. You will then need to forward the check with your payment coupon to make the credit card payment.
2. Reimbursements will only be accepted on items purchased on or after SBA Approval.
3. Funds will be directly deposited to your designated Wells Fargo Bank account or a cashier's check will be issued.

**Note:** All invoices submitted should be consistent with the requested disbursement amount listed under the applicable categories on the Loan Disbursement Worksheet. Please group together all invoices for these items and indicate the appropriate category in the top right hand corner to ensure they are accounted for properly.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

DISBURSEMENT GUIDELINES  
(Continued)

BORROWER:

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

 DRAFT

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

 DRAFT

# LOAN DISBURSEMENT WORKSHEET

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
references in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:**

**Lender:**

Wells Fargo Bank, National Association  
 SBA Lending  
 600 S. 4th Street, 13th Floor  
 Minneapolis, MN 55415-1526

**DRAFT**

**Borrower Name:**

**Account #:**

**Borrower Address:**

**Telephone:**

**Wells Fargo DDA Account #**

(for direct deposit - must in name of Borrower)

**Use of Proceeds:**

**Amount Requested:**

- Equipment \_\_\_\_\_
  - Furniture \_\_\_\_\_
  - Fixtures \_\_\_\_\_
  - Inventory \_\_\_\_\_
  - Tenant Improvements \_\_\_\_\_
  - Startup Costs \_\_\_\_\_
  - Working Capital \_\_\_\_\_
  - Other: \_\_\_\_\_
  - Other: \_\_\_\_\_
  - Other: \_\_\_\_\_
- Total Amount Requested:** \_\_\_\_\_

The above item(s) are approved by Borrower for disbursement.

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**Bv:**

**Bv:**

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

**DRAFT**

# U.S. SMALL BUSINESS ADMINISTRATION - SETTLEMENT SHEET - USE OF PROCEEDS CERTIFICATION

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** \_\_\_\_\_ **Lender:** Wells Fargo Bank, National Association  
 SBA Lending  
 600 S. 4th Street, 13th Floor  
 Minneapolis, MN 55415-1526

OMB APPROVAL NO.:  
 EXPIRATION DATE: 04/30/2018

SBA Loan Number (10 Digits):  
 Loan Approval Amount: \$  
 SBA Loan Name:

This form is to be signed by the lender and the borrower at the time of the initial loan disbursement. Lender must retain the completed form and any related information in its files and submit to SBA upon request, or in the event of a loan default, as supporting documentation for lender's request for loan guarantee purchase.

- At the time of initial disbursement of this loan, Lender and Borrower certify that:
- (1) The loan funds were disbursed and received and will be used in accordance with the Use of Proceeds section of the Authorization, including any and all SBA/Lender approved modifications, and that all required equity or borrower injections have been made in accordance with the Authorization and any approved modifications;
  - (2) There are no liens or encumbrances against the real or personal property securing the loan except those disclosed in the application for this loan; and
  - (3) There has been no unremedied adverse change in the Borrower's or Operating Company's financial condition, organization, management, operations or assets since the date of application that would warrant withholding or not making this disbursement or any further disbursement.
  - (4) All fees charged or to be charged or received in connection with the making of this loan are permitted by SBA's regulations as well as SBA Form 750, "Guaranty Agreement," and have been reported to SBA on, SBA Form 1920, "Lender's Application for Guaranty," and on SBA Form 1597(a), "Compensation Agreement". It is further understood that all fees not specifically approved by SBA are prohibited.

At the time of each subsequent disbursement on this loan, Lender and Borrower by disbursing and receiving the loan proceeds are deemed to certify that the above certifications are true with respect to each and every disbursement made on or before such date.

- To further induce SBA to participate in the loan, Lender certifies as of the date of each disbursement that:
- (1) All disbursements were (or for future disbursements, will be) made, tracked and documented in accordance with the Authorization and prudent lending practices and failure to do so may be a cause for SBA to deny liability under its guaranty. The documentation must contain sufficient detail for SBA to determine: (a) the recipient of each disbursement (Note: must show the ultimate recipient, not an intermediary such as a title company); (b) the date and amount of each disbursement; and (c) the purpose of each disbursement. Documentation acceptable to SBA evidencing compliance with the Use of Proceeds section of the Authorization (such as joint payee checks, cancelled checks, paid receipts or invoices, wire transfer account records, etc.) must be attached to this form and provided to SBA along with a copy of this form upon SBA's request.
  - (2) Neither the Lender nor its Associates, officers, agents, affiliates or attorneys have charged or will charge or receive, directly or indirectly, any fees not permitted by SBA's regulations and policies as well as SBA Form 750, "Guaranty Agreement", including processing, underwriting, servicing, broker, or referral fees, bonuses, commissions, or points, or have required or will require a compensating balance or certificate of deposit or security that would convey a preference.

**WARNING:** By signing below you are certifying that the above statements are accurate to the best of your knowledge. Submitting false information to the Government may result in criminal prosecution and imprisonment for up to 30 years and fines of up to \$250,000 under 18 USC 1001, penalties under 15 USC 645, and/or civil fraud liability.

Lender Name: See Next Page Borrower's Name: See Next Page  
 BY: Signature \_\_\_\_\_ BY: Signature \_\_\_\_\_  
 Title: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

SBA Form 1050 (2-15) Previous Editions Obsolete

NOTE: According to the Paperwork Reduction Act, you are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. The estimated burden for completing this form, including time for reviewing instructions, gathering data needed, and completing and reviewing the form is 15 minutes per response. Comments or questions on the burden estimates should be sent to U.S. Small Business Administration, Chief, AIB, 409 3rd St., SW, Washington DC 20416 and SBA Desk Officer, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503. PLEASE DO NOT SEND FORMS TO THIS ADDRESS.

U.S. SMALL BUSINESS ADMINISTRATION - SETTLEMENT SHEET - USE OF PROCEEDS  
CERTIFICATION  
(Continued)

BORROWER:

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

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

 DRAFT

LENDER:

WELLS FARGO BANK, NATIONAL ASSOCIATION

X \_\_\_\_\_  
Authorized Signer

 DRAFT

# BORROWER'S CERTIFICATION

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
References in the boxes above are for Lenders' use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:**

**Lender:**

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

**INSTRUCTIONS: INDICATE THE PARAGRAPHS BEING CERTIFIED TO BY HAVING THE BORROWER INITIAL IN THE [ ] NEXT TO THE APPROPRIATE PARAGRAPHS, PRIOR TO SIGNING.**

In order to induce WELLS FARGO BANK NATIONAL ASSOCIATION ("Lender") to make a U.S. Small Business Administration ("SBA") guaranteed Loan, SBA Loan Number [ ] ("Loan") to [ ] ("Borrower"),

**A. BORROWER AND OPERATING COMPANY (if applicable) CERTIFY THAT:**

[ ] 1. **Receipt of Authorization (MANDATORY)** - Borrower and Operating Company have received a copy of the Authorization for this Loan from Lender, and acknowledge that:

- a. The Authorization is not a commitment by Lender to make a loan to Borrower;
- b. The Authorization is between Lender and SBA and creates no third party rights or benefits to Borrower;
- c. The Note will require Borrower to give Lender prior notice of intent to prepay.
- d. If Borrower defaults on Loan, SBA may be required to pay Lender under the SBA guarantee. SBA may then seek recovery of these funds from Borrower. Under SBA regulations, 13 CFR Part 101, Borrower may not claim or assert against SBA any immunities or defenses available under local law to defeat, modify or otherwise limit Borrower's obligation to repay to SBA any funds advanced by Lender to Borrower.
- e. Payments by SBA to Lender under SBA's guarantee will not apply to the Loan account of Borrower, or diminish the indebtedness of Borrower under the Note or the obligations of any personal guarantor of the Note.

[ ] 2. **Adverse Change (MANDATORY)** - That there has been no adverse change in Borrower's (and Operating Company) financial condition, organization, operations or fixed assets since the date the Loan application was signed.

[ ] 3. **Child Support (MANDATORY)** - No principal who owns at least 50% of the ownership or voting interest of the company is delinquent more than 60 days under the terms of any (1) administrative order, (2) court order, or (3) repayment agreement requiring payment of child support.

[ ] 4. **Current Taxes (MANDATORY)** - Borrower and Operating Company are current (or will be current with any loan proceeds specified for eligible tax payments) on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes.

[ ] 5. **Environmental (MANDATORY)** - For any real estate pledged as collateral for the Loan or where the Borrower or Operating Company is conducting business operations (collectively "the Property"):

(a) At the time Borrower and Operating Company submitted the Loan application, Borrower was in compliance with all local, state, and federal environmental laws and regulations pertaining to reporting or clean-up of any hazardous substance, hazardous waste, petroleum product, or any other pollutant regulated by state or federal law as hazardous to the environment (Contaminant), and regarding any permits needed for the creation, storage, transportation or disposal of any Contaminant;

(b) Borrower and Operating Company will continue to comply with these laws and regulations;

(c) Borrower and Operating Company, and all of its principals, have no knowledge of the actual or potential existence of any Contaminant that exists on, at, or under the Property, including groundwater under such Property other than what was disclosed in connection with the Environmental Investigation of the Property;

(d) Until full repayment of Loan, Borrower and Operating Company will promptly notify Lender if it knows or suspects that there has been, or may have been, a release of a Contaminant, in, at or under the Property, including groundwater, or if Borrower or Operating Company or such property are subject to any investigation or enforcement action by any federal, state or local environmental agency (Agency) pertaining to any Contaminant on, at, or under such Property, including groundwater.

(e) As to any Property owned by Borrower or Operating Company, Borrower or Operating Company indemnifies, and agrees to defend and hold harmless Lender and SBA, and any assigns or successors in interest which take title to the Property, from and against all liabilities, damages, fees, penalties or losses arising out of any demand, claim or suit by any Agency or any other party relating to any Contaminant found on, at or under the Property, including groundwater, regardless of whether such Contaminant resulted from Borrower's or Operating Company's operations. (Lender or SBA may require Borrower or Operating Company to execute a separate indemnification agreement).

[ ] 6. **Credit Card Debt (Mandatory for Refinancing Credit Card Debt)** - The total of the payments by this loan on Borrower's credit card obligation(s) is not greater than the total of Borrower's specific business-related purchases charged to the credit card(s).

**B. BORROWER AND OPERATING COMPANY CERTIFY THAT THEY WILL:**

[ ] 1. **Reimbursable Expenses (MANDATORY)** - Reimburse Lender for expenses incurred in the making and administration of the Loan.

[ ] 2. **Books, Records and Reports (MANDATORY)**

- a. Keep proper books of account in a manner satisfactory to Lender;
- b. Furnish year-end statements to Lender within 180 days of fiscal year end;
- c. Furnish additional financial statements or reports whenever Lender requests them;
- d. Allow Lender or SBA, at Borrower's or Operating Company's expense, to:
  - 1) Inspect and audit books, records and papers relating to Borrower's and Operating Company's financial or business condition; and

**BORROWER'S CERTIFICATION  
(Continued)**

- 2) Inspect and appraise any of Borrower's and Operating Company's assets; and
- 3) Allow all government authorities to furnish reports of examinations, or any records pertaining to Borrower and Operating Company, upon request by Lender or SBA.
- [ \_\_\_\_\_ ] 3. **Equal Opportunity (MANDATORY)** - Post SBA Form 722, Equal Opportunity Poster, where it is clearly visible to employees, applicants for employment and the general public.
- [ \_\_\_\_\_ ] 4. **American-made Products (MANDATORY)** - To the extent practicable, purchase only American-made equipment and products with the proceeds of the Loan.
- [ \_\_\_\_\_ ] 5. **Taxes (MANDATORY)** - Pay all federal, state, and local taxes, including income, payroll, real estate and sales taxes of the business when they come due.
- [ \_\_\_\_\_ ] 6. **Occupancy (MANDATORY)** - Occupy at least 51% of the total Rentable Property and may lease up to 49% for business or residential use. Borrower will not use Loan proceeds to improve or renovate any of the Rentable Property leased to third parties. Borrower may provide up to 49% of the Rentable Property to be occupied by Borrower for use by a resident owner or manager only if the nature of the business demands it.

**C. BORROWER AND OPERATING COMPANY CERTIFY THAT THEY WILL NOT, WITHOUT LENDER'S PRIOR WRITTEN CONSENT:**

- [ \_\_\_\_\_ ] 1. **Distributions (MANDATORY)** - Make any distribution of company assets that will adversely affect the financial condition of Borrower and/or Operating Company.
- [ \_\_\_\_\_ ] 2. **Ownership Changes (MANDATORY)** - Change the ownership structure or interests in the business during the term of the Loan.
- [ \_\_\_\_\_ ] 3. **Transfer of Assets (MANDATORY)** - Sell, lease, pledge, encumber (except by purchase money liens on property acquired after the date of the Note), or otherwise dispose of any of Borrower's property or assets, except in the ordinary course of business.

Date: |

**BORROWER:**

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

By:

A large, diagonal stamp with the word "DRAFT" in bold, capital letters. To the left of the text is a small icon of a document with horizontal lines.

# AUTO-DEBIT AUTHORIZATION FOR LOAN PAYMENTS

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
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**Borrower:**

DRAFT

**Lender:**

Wells Fargo Bank, National Association  
 SBA Lending  
 600 S. 4th Street, 13th Floor  
 Minneapolis, MN 55415-1526

The undersigned Borrower and Account Holder authorize Wells Fargo Bank, National Association ("Wells Fargo") to collect payments and other amounts due and owing in connection with the loan or line of credit described below (the "Loan Account") from the deposit account described below (the "Deposit Account") by means of ACH transfers or other debit entries to the Deposit Account.

Description of the Loan Account:

Borrower Name: \_\_\_\_\_  
 Customer Number: \_\_\_\_\_  
 Obligation Number: \_\_\_\_\_

Description of the Deposit Account:

Deposit Account Bank Name: \_\_\_\_\_  
 Account Holder: \_\_\_\_\_  
 Transit Routing Number: \_\_\_\_\_  
 Account Number: \_\_\_\_\_

If the Deposit Account is not a Wells Fargo account, please attach a VOIDED CHECK along with this form for verification

This authorization shall remain in full force and effect until written revocation by Borrower or Account Holder has been mailed to the following Wells Fargo address, and such revocation has been received and processed:

(Use Lender's address stated above.)

Facsimile and Counterpart. This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

If this authorization is revoked, or if the account is not maintained in good standing, or if Wells Fargo is not able to collect such amounts from the account as they become due for any reason, then Lender may increase the pre-maturity interest rate applicable to this Note immediately and without notice by one quarter percent (1/4%).

In the event Wells Fargo is required to turn over, restore, or otherwise return loan payment amounts to Account Holder, a trustee-in-bankruptcy, or anyone else, due to a bankruptcy or for any other reason, Borrower promises to pay to Wells Fargo upon demand the amount of the Loan Account payments which were returned. The determination of whether any such amount must be returned may be made by Wells Fargo in its sole discretion.

ACCOUNT HOLDER :

Bv: \_\_\_\_\_

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

DRAFT

BORROWER:

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

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

DRAFT

DRAFT

# WELLS FARGO U.S. CONSUMER PRIVACY NOTICE

Principal	Loan Date	Maturity	Loan No	Call/Call	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:**

**Lender:**

Wells Fargo Bank, National Association  
 SBA Lending  
 600 S. 4th Street, 13th Floor  
 Minneapolis, MN 55415-1526

DRAFT

BBG-MKT6784 (10-13)

## FACTS: WHAT DOES WELLS FARGO DO WITH YOUR PERSONAL INFORMATION?

**Why?** Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

**What?** The types of personal information we collect and share depend on the product or service you have with us. This information can include:

- Social Security number and employment information
- account balances and transaction history
- credit history and investment experience

**How?** All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Wells Fargo chooses to share; and whether you can limit this sharing.

### Reasons we can share your personal information

**For our everyday business purposes** - such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus.

Does Wells Fargo share? Yes. Can you limit this sharing? No

**For our marketing purposes** - with service providers we use to offer our products and services to you (please see below to limit the ways in which we contact you).

Does Wells Fargo share? Yes. Can you limit this sharing? No

**For joint marketing with other financial companies.**

Does Wells Fargo share? No. Can you limit this sharing? We don't share

**For our affiliates' everyday business purposes** - information about your transactions and experiences.

Does Wells Fargo share? Yes. Can you limit this sharing? No

**For our affiliates' everyday business purposes** - information about your creditworthiness.

Does Wells Fargo share? Yes. Can you limit this sharing? Yes

**For our affiliates to market to you.**

Does Wells Fargo share? Yes. Can you limit this sharing? Yes

**For nonaffiliates to market to you.**

Does Wells Fargo share? No. Can you limit this sharing? We don't share

### To limit our sharing

- Call 1-888-528-8460-our menu will prompt you through your choices
  - Online banking customers - log on to a secure session at wells Fargo.com, and choose "Change Privacy Preferences" under the "Account Services" tab. **Please note:** If you are a new customer, we can begin sharing your information 30 days from the date we sent this notice. When you are no longer our customer, we can continue to share your information as described in this notice.
- However, you can contact us at any time to limit our sharing.

### To limit direct marketing

- To limit our direct marketing to you by mail or telephone, call 1-888-528-8460--our menu will prompt you through your choices
- Online banking customers - log on to a secure session at wells Fargo.com, and choose "Change Privacy Preferences" under the "Account Services" tab.

**Please note:** A Do Not Call election is effective for five years, or while you are an active consumer customer, if longer than five years. The Do Not Mail election is effective for three years. You may continue to receive marketing information in regular account mailings and statements, when you visit us online or at an ATM. You may also be contacted to service your account or participate in surveys. If you have an assigned client manager or team, they may continue to contact you to assist you in managing your portfolio or account relationship.

Questions? Call 1-800-TO-WELLS (1-800-869-3557) or go to wells Fargo.com/privacy\_security

### Who we are

**Who is providing this notice?** Wells Fargo U.S. companies that use Wells Fargo in their names and other companies listed in the Wells Fargo U.S. legal entities section.

### What we do

**How does Wells Fargo protect my personal information?** To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information visit wells Fargo.com/privacy\_security

**How does Wells Fargo collect my personal information?** We collect your personal information, for example, when you:

- open an account or make deposits or withdrawals from your accounts
- apply for a loan or use your credit or debit card
- seek advice about your investments

We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.

**Why can't I limit all sharing?** Federal law gives you the right to limit only:

- sharing for affiliates' everyday business purposes - information about your creditworthiness
- affiliates from using your information to market to you

**CUSTOMER COPY**  
For Your Files

# WELLS FARGO U.S. CONSUMER PRIVACY NOTICE (Continued)

Page 2

- sharing for nonaffiliates to market to you  
State laws and individual companies may give you additional rights to limit sharing. See below for more on your rights under state law.

**What happens when I limit sharing for an account I hold jointly with someone else?** Your choices will apply individually unless you tell us otherwise. Any account holder may express a privacy preference on behalf of the other joint account holders.

## Definitions

**Affiliates** Companies related by common ownership or control. They can be financial and non-financial companies.

- Our affiliates include financial companies with Wells Fargo in their name such as Wells Fargo Bank, N.A., Wells Fargo Insurance, Inc., and Wells Fargo Advisors, LLC.

**Nonaffiliates** Companies not related by common ownership or control. They can be financial and non-financial companies.

- Wells Fargo does not share with nonaffiliates so they can market to you.

**Joint marketing** A formal agreement between nonaffiliated financial companies that together market financial products or services to you.

- Wells Fargo does not jointly market.

## Other important information

**Important Notice about Credit Reporting:** We may report information about your account(s) to credit bureaus and/or consumer reporting agencies. Late payments, missed payments, or other defaults on your account(s) may be reflected in your credit report and/or consumer report.

**Do Not Call Policy.** This Privacy Policy constitutes Wells Fargo's Do Not Call Policy under the Telephone Consumer Protection Act for all consumers. Wells Fargo maintains an internal Do Not Call preference list. Do Not Call requests will be honored within 30 days and will be effective for at least five years from the date of request. No telemarketing calls will be made to residential or cellular phone numbers that appear on the Wells Fargo Do Not Call list.

**Nevada residents:** We are providing you this notice pursuant to state law. You may be placed on our internal Do Not Call List by following the directions in the To limit direct marketing section. For more information contact us at 1-800-869-3557; [nevadanoticeinfo@wellsfargo.com](mailto:nevadanoticeinfo@wellsfargo.com), or Wells Fargo, P.O. Box 5277, Sioux Falls, SD 57117-5277. Or contact the Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; 702-486-3132; [BCPINFO@ag.state.nv.us](mailto:BCPINFO@ag.state.nv.us).

**Vermont:** We automatically treat customers with a Vermont mailing address as having limited sharing with our affiliates as provided on page one.

**Trust or fiduciary accounts** for which Wells Fargo is the trustee or service provider, including employer-sponsored retirement accounts, are protected under special rules of confidentiality. Information on these accounts is not shared for marketing purposes without specific consent.

**Wells Fargo Advisors Financial Advisors:** If your financial advisor's affiliation with Wells Fargo Advisors ends and they join a non-affiliated securities broker-dealer, your financial advisor may be permitted to use limited information to contact you to join their new firm, as a usual means to continue to service and maintain your accounts. The information they may use is limited to your name, address, email address, phone number and account title.

## Wells Fargo U.S. legal entities and businesses covered by this notice

Wells Fargo U.S. banks and companies with "Wells Fargo" in their names, including Wells Fargo Advisors, LLC; Wells Fargo Bank, N.A. doing business as Flatiron Capital; as well as American Mortgage Network, LLC, doing business as Vertice; and Abbot Downing, a Wells Fargo Business.

This Privacy Disclosure also describes the privacy practices of First Clearing, LLC ("First Clearing"), which is an affiliated clearing firm of Wells Fargo Advisors, LLC. First Clearing does not market to holders of accounts carried by First Clearing or provide information regarding such accounts or regarding your creditworthiness to other Wells Fargo companies for their own marketing or everyday business purposes, and the choices in this notice do not apply to First Clearing.

The following legal entities and businesses are not covered by this notice and have separate privacy notices:

- Wells Fargo Financial National Bank
- the Wells Fargo Advantage Funds
- Wells Fargo Advisors Financial Network, LLC
- any insurance company, insurance agency, or insurance brokerage or other company, which has its own privacy disclosures
- businesses which have provided a separate privacy notice governing specific accounts or relationships



200216865168800025

# AGREEMENT TO PROVIDE INSURANCE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:**

**Lender:**

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

**Grantor:**

**DRAFT**

**INSURANCE REQUIREMENTS.** Grantor, ("Grantor"), understands that insurance coverage is required in connection with the extending of a loan or the providing of other financial accommodations to ("Borrower") by Lender. These requirements are set forth in the security documents for the loan. The following minimum insurance coverages must be provided on the following described collateral (the "Collateral"):

**Collateral:**

**Type:** Fire and extended coverage.  
**Amount:** Full Insurable Value.  
**Basis:** Replacement value.  
**Endorsements:** 2nd Mtg - Required Endorsements: Insurance coverage must contain a Second Mortgagee clause in favor of Lender named above. This clause must provide that any act or neglect of the debtor or owner of the insured property will not invalidate the interest of Lender. The policy or endorsements must provide for at least 30 days prior written notice to Lender of Policy Cancellation; and further stipulating that coverage will not be cancelled or diminished without a minimum of 30 days prior written notice to Lender and without disclaimer of the insurer's liability for failure to give such notice.  
**Comments:** Reference Job #  
**Deductibles:** \$5,000.00.  
**Latest Delivery Date:** By the loan closing date.

**INSURANCE COMPANY.** Grantor may obtain insurance from any insurance company Grantor may choose that is reasonably acceptable to Lender. Grantor understands that credit may not be denied solely because insurance was not purchased through Lender.

**FLOOD INSURANCE.** Flood Insurance for the Collateral securing this loan is described as follows:

**Real Estate at**

The Collateral securing this loan is not currently located in an area identified as having special flood hazards. Therefore, no special flood hazard insurance is necessary at this time. Should the Collateral at any time be deemed to be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Collateral is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan. Flood insurance may be purchased under the National Flood Insurance Program or from private insurers.

**INSURANCE MAILING ADDRESS.** All documents and other materials relating to insurance for this loan should be mailed, delivered or directed to the following address:

Wells Fargo Bank, National Association  
SBA BBSG - San Antonio Loan Ops, MAC T7422-012  
4101 Wiseman Blvd, Bldg 307  
San Antonio, TX 78251

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**CONDO/COOPERATIVE OWNERSHIP.** If the Collateral is Real Property submitted to unit ownership law or similar law for the establishment of condominiums or cooperative, insurance coverage must include both interior/unit coverage and exterior coverage. A mortgagee's clause will only be required for the interior/unit coverage.

**FAILURE TO PROVIDE INSURANCE.** Grantor agrees to deliver to Lender on the latest delivery date stated above, evidence of the required insurance as provided above, with an effective date of or earlier. Grantor acknowledges and agrees that if Grantor fails to provide any required insurance or fails to continue such insurance in force, Lender may do so at Grantor's expense as provided in the applicable security document. The cost of any such insurance, at the option of Lender, shall be added to the indebtedness as provided in the security document. GRANTOR ACKNOWLEDGES THAT IF LENDER SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE WILL PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO AN AMOUNT EQUAL TO THE LESSER OF (1) THE UNPAID BALANCE OF THE DEBT, EXCLUDING ANY UNEARNED FINANCE CHARGES, OR (2) THE VALUE OF THE COLLATERAL; HOWEVER, GRANTOR'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

**AUTHORIZATION.** For purposes of insurance coverage on the Collateral, Grantor authorizes Lender to provide to any person (including any insurance agent or company) all information Lender deems appropriate, whether regarding the Collateral, the loan or other financial accommodations, or both.

**AGREEMENT TO PROVIDE INSURANCE  
(Continued)**

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT TO PROVIDE INSURANCE AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED

GRANTOR:

 DRAFT

 DRAFT

X \_\_\_\_\_ X \_\_\_\_\_

<b>FOR LENDER USE ONLY INSURANCE VERIFICATION</b>		PHONE _____
DATE: _____		
AGENT'S NAME: _____		
AGENCY: _____		
ADDRESS: _____		
INSURANCE COMPANY: _____		
POLICY NUMBER: _____		
EFFECTIVE DATES: _____		
COMMENTS: _____		
_____		



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### AGREEMENT TO PROVIDE INSURANCE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$ _____							

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

Grantor:

Lender:

Wells Fargo Bank, National Association  
 SBA Lending  
 600 S. 4th Street, 13th Floor  
 Minneapolis, MN 55415-1526

**INSURANCE REQUIREMENTS.** Grantor, ("Grantor"), understands that insurance coverage is required in connection with the extending of a loan or the providing of other financial accommodations to Grantor by Lender. These requirements are set forth in the security documents for the loan. The following minimum insurance coverages must be provided on the following described collateral (the "Collateral"):

- Collateral: All inventory, Equipment and Fixtures.
- Type: All risks, including fire, theft and liability.
- Amount: Full Insurable Value.
- Basis: Replacement value.
- Endorsements: Lender loss payable clause with stipulation that coverage will not be cancelled or diminished without a minimum of 30 days prior written notice to Lender.
- Comments: Reference Job #
- Deductibles: \$5,000.00.
- Latest Delivery Date: By the loan closing date.

**INSURANCE COMPANY.** Grantor may obtain insurance from any insurance company Grantor may choose that is reasonably acceptable to Lender. Grantor understands that credit may not be denied solely because insurance was not purchased through Lender.

**INSURANCE MAILING ADDRESS.** All documents and other materials relating to insurance for this loan should be mailed, delivered or directed to the following address:

Wells Fargo Bank, National Association  
 SBA BBSG - San Antonio Loan Ops, MAC T7422-012  
 4101 Wiseman Blvd, Bldg 307  
 San Antonio, TX 78251

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**CONDO/COOPERATIVE OWNERSHIP.** If the Collateral is Real Property submitted to unit ownership law or similar law for the establishment of condominiums or cooperative, insurance coverage must include both interior/unit coverage and exterior coverage. A mortgagee's clause will only be required for the interior/unit coverage.

**FAILURE TO PROVIDE INSURANCE.** Grantor agrees to deliver to Lender, on the latest delivery date stated above, proof of the required insurance as provided above, with an effective date of \_\_\_\_\_ or earlier. Grantor acknowledges and agrees that if Grantor fails to provide any required insurance or fails to continue such insurance in force, Lender may do so at Grantor's expense as provided in the applicable security document. The cost of any such insurance, at the option of Lender, shall be added to the indebtedness as provided in the security document. GRANTOR ACKNOWLEDGES THAT IF LENDER SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE WILL PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO AN AMOUNT EQUAL TO THE LESSER OF (1) THE UNPAID BALANCE OF THE DEBT, EXCLUDING ANY UNEARNED FINANCE CHARGES, OR (2) THE VALUE OF THE COLLATERAL; HOWEVER, GRANTOR'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

**AUTHORIZATION.** For purposes of insurance coverage on the Collateral, Grantor authorizes Lender to provide to any person (including any insurance agent or company) all information Lender deems appropriate, whether regarding the Collateral, the loan or other financial accommodations, or both.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT TO PROVIDE INSURANCE AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED \_\_\_\_\_

GRANTOR:

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

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



**AGREEMENT TO PROVIDE INSURANCE  
(Continued)**

<b>FOR LENDER USE ONLY INSURANCE VERIFICATION</b>		PHONE _____
DATE: _____		
AGENT'S NAME: _____		
AGENCY: _____		
ADDRESS: _____		
INSURANCE COMPANY: _____		
POLICY NUMBER: _____		
EFFECTIVE DATES: _____		
COMMENTS: _____		
_____		
_____		



200216886168800240

### DISBURSEMENT REQUEST AND AUTHORIZATION

Principal	Loan No	Call / Coll	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.					

Borrower:

**DRAFT**

Lender:

Wells Fargo Bank, National Association  
SBA Lending  
600 S. 4th Street, 13th Floor  
Minneapolis, MN 55415-1526

LOAN TYPE. This is a Non-disclosable Loan to a Limited Liability Company for due on

PRIMARY PURPOSE OF LOAN. The primary purpose of this loan is for:

- Maintenance of Borrower's Primary Residence.
- Personal, Family or Household Purposes or Personal Investment.
- Agricultural Purposes.
- Business Purposes.

SPECIFIC PURPOSE. The specific purpose of this loan is: Fixed Assets or Intangibles.

REAL ESTATE DOCUMENTS. If any party to this transaction is granting a security interest in any real property to Lender and is not also a party to the real estate document or documents (the "Real Estate Documents") granting such security interest, Borrower agrees to perform and comply with the Real Estate Documents just as if Borrower has signed as a direct and original party to the Real Estate Documents. This means Borrower agrees to all the representations and warranties made in the Real Estate Documents. In addition, Borrower agrees to perform and comply strictly with all the terms, obligations and covenants to be performed by either Borrower or any Grantor or Trustor, or both, as those words are defined in the Real Estate Documents. Lender need not tell Borrower about any action or inaction Lender takes in connection with the Real Estate Documents. Borrower assumes the responsibility for being and keeping informed about the property. Borrower also waives any defenses that may arise because of any action or inaction of Lender, including without limitation any failure of Lender to realize upon the property, or any delay by Lender in realizing upon the property.

FLOOD INSURANCE. Some of the property that will secure the loan is not located in an area that has been identified by the Administrator of the Federal Emergency Management Agency as an area having special flood hazards. Therefore, although flood insurance may be available for the property, no special flood hazard insurance protecting property not located in an area having special flood hazards is required by law for this loan at this time.

DISBURSEMENT INSTRUCTIONS. Borrower understands that no loan proceeds will be disbursed until all of Lender's conditions for making the loan have been satisfied. Please disburse the loan proceeds of \$ \_\_\_\_\_ as follows:

Other Disbursements:

Other Charges Financed:

Note Principal:

CHARGES PAID IN CASH. Borrower has paid or will pay in cash as agreed the following charges:

Prepaid Finance Charges Paid in Cash: \$0.00

Other Charges Paid in Cash:

Total Charges Paid in Cash:

**DISBURSEMENT REQUEST AND AUTHORIZATION  
(Continued)**

**FACSIMILE AND COUNTERPART.** This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

**NOTICE OF RIGHT TO DISCONTINUE ESCROW.** If Borrower's mortgage loan involves an escrow account for taxes and homeowner's insurance, Borrower may have the right in five years to discontinue the account and pay Borrower's own taxes and homeowner's insurance. IF Borrower is eligible to discontinue the escrow account, Borrower will be notified in five years.

**FINANCIAL CONDITION.** BY SIGNING THIS AUTHORIZATION, BORROWER REPRESENTS AND WARRANTS TO LENDER THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT AND THAT THERE HAS BEEN NO MATERIAL ADVERSE CHANGE IN BORROWER'S FINANCIAL CONDITION AS DISCLOSED IN BORROWER'S MOST RECENT FINANCIAL STATEMENT TO LENDER. THIS AUTHORIZATION IS DATED

**BORROWER:**

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

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

A large, light-colored stamp with the word "DRAFT" in a bold, sans-serif font, tilted at an angle. To the left of the text is a small icon of a document with horizontal lines.

A large, light-colored stamp with the word "DRAFT" in a bold, sans-serif font, tilted at an angle. To the left of the text is a small icon of a document with horizontal lines.

# Wells Fargo SBA Lending

## Contact Sheet and Authorization Form



DRAFT

Please complete the following required fields (please print legibly).

Loan Name \_\_\_\_\_

Please indicate the address where your billing and correspondence should be sent:  
Name \_\_\_\_\_

Street Address	City	State	Zip Code

Who is the **Primary Contact** for this loan: (NOTE: The Primary Contact must be an individual who is an owner of the borrower or a guarantor of this loan.)  
Name \_\_\_\_\_ Telephone number \_\_\_\_\_

Email address	Title

**OPTIONAL:** If you would like to elect an **Alternate Contact** (may be a non-borrower) to transact matters regarding the account, please complete the following fields.

Who is the **Alternate Contact** for this loan:  
Name \_\_\_\_\_ Telephone number \_\_\_\_\_

Email address	Relationship to Borrower (specify by title or job description)

**Alternate Contact will be required to provide responses to the two following questions (please fill in responses):**  
Name of high school Alternate Contact attended \_\_\_\_\_ City in which Alternate Contact was born \_\_\_\_\_

The Alternate Contact can request the following changes (check only those that apply):

- Telephone number    Address    Loan payment due date    Increase or renewal of existing loan    Release or substitute collateral

The Alternate Contact can request the following information (check only those that apply):

- Last payment made/transaction history    Loan balance/Payoff Balance    Loan payment due date    Interest rate    Delinquency status

The Alternate Contact can request a loan advance (check only those that apply). NOTE that Wells Fargo SBA Lending will **in all cases** require confirmation by the **Primary Contact** for all advances in excess of \$100,000.

- In an amount not to exceed \$ \_\_\_\_\_ for each request.  
 The remaining available balance under the loan.

The undersigned Borrower hereby authorizes the above-named **Alternate Contact** to transact only the matters regarding the account as indicated above. The undersigned Borrower hereby understands and agrees that Wells Fargo SBA Lending shall be fully entitled and authorized to respond to and/or transact with the Alternate Contact with respect to the matters indicated above **if and only if** the Alternate Contact has provided the loan number (can be located on your billing statements) to Wells Fargo SBA Lending prior to each transaction, as well as the 2 pieces of personal information set forth above. Wells Fargo SBA Lending shall not be required to request additional information or make additional inquiry as to the identity or authority of the alternate contact.

Only the undersigned Borrower can change any contact information on this form.

Borrower \_\_\_\_\_

By	Date	Title

BLAST JOB ID# (for Bank use only): \_\_\_\_\_





# SBA Lending Team Directory

CUSTOMER COPY  
For Your Files

NAME / TITLE	PHONE	FUNCTION
<b>Customer Service Lines</b>		
SBA Loan Payments	(866) 731-8901	<p><b>Billing Questions</b>, Loan Balance Inquiries, Loan History, 1099 Reporting, Service Charge Questions, Wells Fargo product information.</p> <p>Your monthly billing statement will be mailed approximately 10 days prior to the due date of the payment.</p> <p>If you mail your payment, please include your loan number and send to the following address:</p> <p style="text-align: center;">Wells Fargo BBSG MAC: D4004-03A P.O. Box 202902 Dallas, TX 75320-2902</p> <p>Overnight mail payment address: Lockbox Overnight, Attn: D4004 401 Research Pkwy, Winston-Salem, NC 27101</p>
Wells Fargo Customer Service (General Banking Questions)	(800) 869-3557	General Banking questions regarding your DDA Accounts, Savings Accounts or any other general banking questions.
Business Direct – SBA Credit Cards, SBA Advantage Loans	(800) 231-9244	Questions regarding your SBA Express Line of Credit/ SBA Credit Card account
National Business Banking Center	(800) 225-5935	Requests for a draw on your SBA Express Line of Credit / Non Credit Card account (refer to letter with specific instructions on requesting a draw)

## SBA Lending

<p><b>Construction Group and CDC Liaison</b></p> <p><b>Debbie Osborn</b> Loan Servicing Officer <a href="mailto:osbornd@wellsfargo.com">osbornd@wellsfargo.com</a></p>	<p>Ph (408) 995-3674</p>	<p style="text-align: center;"><b>Questions</b></p> <p style="text-align: center;">Construction Loan Inquires</p> <p style="text-align: center;">&amp;</p> <p style="text-align: center;">CDC Inquires</p>
<p><b>Portfolio Management Group</b></p>	<p>Ph (612) 667-8753 Or Ph (877) 731-8901 Fax (866) 241-8311</p>	<p>The Portfolio Management Group handles any requests from borrowers that would result in a change to the existing terms of their SBA loan. (i.e. collateral, guarantor, borrowing entity etc.)</p> <p>Requests for changes must be in writing and sent to:</p> <p style="text-align: center;">Wells Fargo Bank, N.A. SBA Lending – Attn: PMG 600 S. 4<sup>th</sup> St., 13<sup>th</sup> Floor Minneapolis, MN 55415-1526</p> <p style="text-align: center;">Email: <a href="mailto:mnportfoliomgt@wellsfargo.com">mnportfoliomgt@wellsfargo.com</a></p>



This Statement of Policy is Posted  
In Accordance with Regulations of the

## **Small Business Administration**

This Organization Practices

CUSTOMER COPY  
For Your Files

### **Equal Employment Opportunity**

**We do not discriminate on the ground of race, color, religion, sex, age, disability or national origin in the hiring, retention, or promotion of employees; nor in determining their rank, or the compensation or fringe benefits paid them.**

This Organization Practices

### **Equal Treatment of Clients**

**We do not discriminate on the basis of race, color, religion, sex, marital status, disability, age or national origin in services or accommodations offered or provided to our employees, clients or guests.**

**These policies and this notice comply with regulations  
of the United States Government.**

**Please report violations of this policy to :**

**Administrator  
Small Business Administration  
Washington, D.C. 20416**

In order for the public and your employees to know their rights under 13 C.F.R Parts 112, 113, and 117, Small Business Administration Regulations, and to conform with the directions of the Administrator of SBA, this poster must be displayed where it is clearly visible to employees, applicants for employment, and the public.

Failure to display the poster as required in accordance with SBA Regulations may be considered evidence of noncompliance and subject you to the penalties contained in those Regulations.



**Esta Declaración De Principios Se Publica  
De Acuerdo Con Los Reglamentos De La  
Agencia Federal Para el Desarrollo de la Pequeña Empresa**

**Esta Organización Practica**

**CUSTOMER COPY  
For Your Files**

## **Igual Oportunidad De Empleo**

**No discriminamos por razón de raza, color, religión, sexo, edad, discapacidad o nacionalidad en el empleo, retención o ascenso de personal ni en la determinación de sus posiciones, salarios o beneficios marginales.**

**Esta Organización Practica**

## **Igualdad En El Trato A Su Clientela**

**No discriminamos por razón de raza, color, religión, sexo, estado civil, edad, discapacidad o nacionalidad en los servicios o facilidades provistos para nuestros empleados, clientes o visitantes.**

**Estos principios y este aviso cumplen con los reglamentos del Gobierno de los Estados Unidos de América.**

**Favor de informar violaciones a lo aquí indicado a:**

**Administrador  
Agencia Federal Para el Desarrollo de la  
Pequeña Empresa  
Washington, D.C. 20416**

**A fin de que el público y sus empleados conozcan sus derechos según lo expresado en las Secciones 112, 113 y 117 del Código de Regulaciones Federales No. 13, de los Reglamentos de la Agencia Federal Para el Desarrollo de la Pequeña Empresa y de acuerdo con las instrucciones del Administrador de dicha agencia, esta notificación debe fijarse en un lugar claramente visible para los empleados, solicitantes de empleo y público en general. No fijar esta notificación según lo requerido por los reglamentos de la Agencia Federal Para el Desarrollo de la Pequeña Empresa, puede ser interpretado como evidencia de falta de cumplimiento de los mismos y conllevará la ejecución de los castigos impuestos en estos reglamentos.**

WAXING **THE** CITY

**EXHIBIT J**

**PROVISION SERVICES AGREEMENT**



## SERVICES AGREEMENT

THIS SERVICES AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between ProVision Security Solutions, LLC, a Minnesota limited liability company ("ProVision") and \_\_\_\_\_, ("Customer") having a Waxing the City® Studio located at the following address: \_\_\_\_\_ (the "Studio").

### 1. Services:

a. *Website Hosting Services.* ProVision agrees to perform and provide to Customer, services consisting of non-exclusive electronic access to a digital information processing, transmission and storage system ("Server") to store Customer's website ("Site") and make the Site available on and via the global computer communications network ("Internet") as specified herein ("Hosting Services"). Customer agrees that the Hosting Services shall not include any web site development services, authorship or creation with respect to the Site.

b. *Software Installation and Support.* ProVision agrees to install the Waxing the City-approved proprietary studio management software (the "Proprietary Software") on Customer's Equipment (defined in Section 3.d.), or assist Customer in its access to the Proprietary Software in the event the Proprietary Software is web-based and, through it or its designees, to provide remote support of the Proprietary Software ("Proprietary Installation and Support Services" or "Proprietary I&S Services"). The Proprietary I&S Services may include the periodic upgrading of the Proprietary Software with newer versions or releases. All installation, assistance and support for the Proprietary Software is provided remotely. Upgrades, updates or other changes to the Proprietary Software may be made remotely and at such times as ProVision deems necessary or appropriate, in its sole discretion, with or without notice. Upon availability of a new release or version of the Proprietary Software, ProVision may cease supporting prior versions or releases upon not less than thirty (30) days prior written notice. Any new or additional Equipment necessitated by a software upgrade will be the responsibility of Customer.

c. *Security Monitoring.* ProVision agrees to perform and provide to Customer security monitoring services ("Security Monitoring Services") if, and only if, Customer purchases all security equipment through ProVision pursuant to a separate purchase order and ProVision installs that equipment. Customer acknowledges that the Security Monitoring Services will include the monitoring of the physical alarm system but such Security Monitoring Services do not include the video recorders or the monitoring of closed circuit televisions (CCTVs). *ProVision will not provide Security Monitoring Services for a security system purchased from, or installed, by a third party.*

d. *Availability of Services.* The Hosting Services, Proprietary I&S Services and Monitoring Services (if applicable) are collectively referred to as the "Services." Subject to the terms and conditions of this Agreement, ProVision shall attempt to provide the Services for twenty-four (24) hours a day, seven (7) days a week throughout the term of this Agreement. Customer agrees that from time to time the Services may be inaccessible or inoperable for any reason, including, without limitation: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which ProVision may undertake from time to time; or (iii) causes beyond the control of ProVision or which are not reasonably foreseeable by ProVision, including, without limitation, interruption or failure of telecommunication or digital transmission links, hostile network attacks network congestion or other failures. Customer agrees that ProVision has no control of availability of Services on a continuous or uninterrupted basis.

e. *ProVision Materials.* In connection with performance of the Services and at the sole discretion of ProVision with no obligation, ProVision may provide to Customer certain materials, including, without limitation, license to the Proprietary Software or other computer software (in object code or source code form), data, documentation or information developed or provided by ProVision or its suppliers under this Agreement, domain names, electronic

mail addresses and other network addresses assigned to Customer, and other know-how, methodologies, equipment, and processes used by ProVision to provide the Services to Customer ("ProVision Materials").

f. *Customer Content.* Customer shall be solely responsible for providing, updating, uploading and maintaining the Site and any and all files, pages, data, works, information and/or materials on, within, displayed, linked or transmitted to, from or through the Site, including, without limitation, trade or service marks, images, photographs, illustrations, graphics, audio clips, video clips, email or other messages, metatags, domain names, software and text ("Customer Content"). The Customer Content shall also include any registered domain names provided by Customer or registered on behalf of Customer in connection with the Services.

## **2. Licenses, Access and Proprietary Rights**

a. *License of Customer Content.* Customer grants to ProVision, and ProVision accepts from Customer, a non-exclusive, worldwide and royalty free license to copy, display, use and transmit on and via the Internet the Customer Content in connection with ProVision's performance or enforcement of this Agreement.

b. *Access to Customer Equipment and Facilities.* Customer shall permit ProVision access to the facility at the above-referenced address to install and configure all Equipment and any ProVision Materials necessary for ProVision to perform the Services.

c. *License of ProVision Materials.* In consideration of Customer's payment of all compensation to ProVision pursuant to Section 4, ProVision grants to Customer, and Customer accepts from ProVision, a limited, non-transferable, non-exclusive license or sublicense, as applicable, for the term of this Agreement, to copy and use the ProVision Materials, solely in connection with the operation of the Studio identified at the above referenced address and in connection with the Site for Customer's internal business purposes.

d. *ProVision Proprietary Rights.* ProVision shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in the ProVision Materials and all legally protectable elements, derivative works, modifications and enhancements thereto, whether or not developed in conjunction with Customer, and whether or not developed by ProVision, Customer or any contractor, subcontractor or agent for ProVision or Customer. To the extent that ownership of the ProVision Materials do not automatically vest in ProVision by virtue of this Agreement or otherwise, Customer agrees to and hereby does transfer and assign to ProVision all right, title and interest in the ProVision Materials and protectable elements or derivative works thereof. Upon any termination or expiration of this Agreement, Customer shall return all ProVision Materials to ProVision and erase and remove all copies of all ProVision Materials from any computer equipment and media in Customer's possession, custody or control.

## **3. Site and Services Terms and Limitations**

a. *Site Storage and Security.* At all times, Customer shall bear full risk of loss and damage to the Site and all Customer Content. Customer shall be solely responsible for undertaking measures to: (i) prevent any loss or damage to Customer Content; (ii) maintain independent archival and backup copies of the Site and all Customer Content; (iii) ensure the security, confidentiality and integrity of all Customer Content transmitted through or stored on the Server; and (iv) ensure the confidentiality of Customer's password. The Server, ProVision and Services are not an archive and ProVision shall have no liability to Customer or any other person for loss, damage or destruction of any Customer Content. If Customer's password is lost, stolen or otherwise compromised, Customer shall promptly notify ProVision, whereupon ProVision shall suspend access to the Services by use of such password and issue a replacement password to Customer's authorized representative.

b. *Acceptable Use Policy.* Customer is solely responsible for all acts, omissions and use under and charges incurred with Customer's account or password or in connection with the Site or any Customer Content displayed, linked, transmitted through or stored on the Server. Customer agrees not to engage in unacceptable use of any Services, which includes, without limitation, use of the Services to: (i) disseminate or transmit unsolicited messages, chain letters or unsolicited commercial email; (ii) disseminate or transmit any material that,

to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious; (iii) disseminate or transmit files, graphics, software or other material, data or work that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person; (iv) create a false identity or to otherwise attempt to mislead any person as to the identity, source or origin of any communication; (v) export, re-export or permit downloading of any message or content in violation of any export or import law, regulation or restriction of the United States and its agencies or authorities, or without all required approvals, licenses and/or exemptions; (vi) interfere, disrupt or attempt to gain unauthorized access to any computer system, server, network or account for which Customer does not have authorization to access or at a level exceeding Customer's authorization; (vii) disseminate or transmit any virus, trojan horse or other malicious, harmful or disabling data, work, code or program; or (viii) engage in any other activity deemed by ProVision to be in conflict with the spirit or intent of this Agreement or any ProVision policy.

c. *Rights of ProVision.* Customer agrees that ProVision may, in its sole discretion, remove or disable access to all or any portion of the Site or Customer Content stored on the Server at any time and for any reason. ProVision has no obligation to monitor the Site or any Customer Content, but reserves the right in its sole discretion to do so.

d. *Equipment.* Customer shall be solely responsible for providing, maintaining and ensuring compatibility with all hardware, software, electrical and other physical requirements necessary for ProVision to perform the Services and for Customer to access the Site, including, without limitation, telecommunications and digital transmission connections and links, routers, local area network servers, virus software, firewalls, or other equipment (collectively "Equipment").

e. *Alarm Permit.* Customer acknowledges that an alarm permit may be required. Obtaining the alarm from the local authority (Police or Fire Departments) is the responsibility of Customer.

f. *Monthly Alarm Testing.* Customer agrees that a monthly test of the security system is required.

#### **4. Payment Terms**

a. *Payments.* Customer shall pay ProVision for the Services and license hereunder at Section 2(c) the amounts set forth below. ProVision expressly reserves the right to change its rates charged hereunder for the Services at any time, upon thirty (30) days' notice to Customer.

Technology Fee for ProVision Materials and Proprietary I&S, Web Hosting, and Monitoring Services Fee = \$399.00

*ProVision will not provide Security Monitoring Services for any security system purchased from or installed by a third party.*

b. *Invoices.* Customer will be invoiced on a monthly basis in advance for Services to be provided for such month. Customer agrees to sign and deliver to ProVision and to ProVision's bank(s) and Customer's bank, as necessary, all forms and documents that ProVision may request to permit ProVision to debit Customer's account, either by check, via electronic funds transfer or other means or methods as ProVision may designate (the "Payment Methods") for the Technology Fee and for any other fees and payments that may be owing to ProVision under this Agreement. Customer will notify ProVision at least twenty (20) days before closing or changing the account against which such debits are to be made. If such account is closed or ceases to be used, Customer will immediately provide all documents and information necessary to permit ProVision to debit the amounts due from an alternative account.

i. If any check that Customer submits to ProVision is returned for insufficient funds, or if ProVision is unable to collect funds via the Payment Methods due to insufficient funds, Customer will pay ProVision an Insufficient Funds Fee of \$100 for each returned check, and each time ProVision is unable to collect monies via the Payment Methods.

ii. ProVizion reserves the right to invoice on a pro rata basis for any part of a calendar month to allow for subsequent invoices to be calculated and paid on a calendar monthly basis.

iii. If Customer is delinquent in its payments, in addition to any other rights ProVizion has under this Agreement, ProVizion may suspend Services upon written notice to Customer until all payments are current and ProVizion may modify the payment terms to require other assurances to secure Customer's payment obligations hereunder.

iv. All fees charged by ProVizion for Services are exclusive of taxes and similar fees now in force or enacted in the future imposed on the transaction, all of which the Customer will be responsible for, except for taxes based on ProVizion's net income.

v. Customer agrees that amounts of any unpaid invoice shall accrue interest at one and one half percent (1.5%) per month or the maximum amount permitted by law, whichever is less.

vi. Customer shall pay all costs of collection, including reasonable attorney's fees and costs, in the event any invoice requires collection efforts.

c. *Taxes.* Customer shall promptly pay all federal, state and local taxes arising out of this Agreement and the Services and equipment described herein, including any sales to similar tax on any payments payable to ProVizion under this Agreement. ProVizion will not be liable for these or any other taxes, and Customer will indemnify ProVizion for any such taxes that may be assessed or levied against ProVizion which arise or result from the Services or equipment described in this Agreement.

## **5. Warranties and Disclaimer**

a. *ProVizion Warranties.* ProVizion warrants to Customer that: (i) ProVizion has the right and authority to enter into and perform its obligations under this Agreement; and (ii) ProVizion shall perform the Services in a commercially reasonable manner. Customer's sole remedy in the event of breach of this warranty will be to terminate the Agreement pursuant to Section 8.

b. *Customer Warranties.* Customer represents and warrants to ProVizion that: (i) Customer has the power and authority to enter into and perform its obligations under this Agreement; (ii) Customer Content does not and shall not contain any content, materials, data, work, trade or service mark, trade name, link, advertising or services that actually or potentially violates any applicable law or regulation or infringe or misappropriate any proprietary, intellectual property, contract or tort right of any person; and (iii) Customer has express written authorization from the owner to copy, use and display the Customer Content on and within the Site.

c. *Disclaimer of Warranty.* EXCEPT AS EXPRESSLY STATED AT SECTION 5(a), PROVISION MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING ANY SUBJECT MATTER OF THIS AGREEMENT. PROVISION EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SERVICES OR PROVISION MATERIALS WILL MEET CUSTOMER'S REQUIREMENTS OR WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM DATA LOSS.

## **6. Limitation of Liability**

EXCLUSIVE OF LIABILITY UNDER SECTION 7 (INDEMNIFICATION), IN NO EVENT SHALL PROVISION BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, LOSS OF PROFIT OR GOODWILL, FOR ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, EVEN IF PROVISION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PROVISION'S TOTAL LIABILITY FOR DAMAGES SHALL BE LIMITED TO THE TOTAL FEES PAID BY CUSTOMER TO PROVISION HEREUNDER FOR THE ONE (1) YEAR PERIOD PRIOR TO ANY ACT OR OMISSION GIVING RISE TO ANY POTENTIAL LIABILITY.

## **7. Indemnification**

a. *By Customer.* Customer agrees to indemnify, hold harmless and defend ProVision and its directors, officers, employees and agents from and against any third party action, claim, demand, dispute, or liability, including reasonable attorney's fees and costs, arising from or relating to: (i) Customer's breach of this Agreement; (ii) any negligence or willful misconduct of Customer; (iii) any allegation that the Site or Customer Content infringes a third person's copyright, trademark or proprietary or intellectual property right, or misappropriates a third person's trade secrets; or (iv) any action or conduct of ProVision undertaken pursuant to this Agreement. Customer agrees that ProVision shall have the right to participate in the defense of any such claim through counsel of its own choosing.

b. *By ProVision.* ProVision agrees to indemnify, hold harmless and defend Customer and its directors, officers, employees and agents from and against any third party action, claim, demand or liability, including reasonable attorney's fees and costs, arising from or relating to any allegation that the ProVision Materials infringe a third person's copyright, trademark or proprietary or intellectual property right, or misappropriates a third person's trade secrets.

## **8. Insurance**

a. At all times during the term of this Agreement, Customer must maintain in force, at its sole expense, the types and amounts of insurance that ProVision may require from time to time. The insurance coverage must be maintained under one or more policies of insurance issued by insurance companies rated A+ or better by Alfred M. Best & Company, Inc. All policies must name ProVision and Waxing the City Worldwide, LLC as additional insureds and must provide that ProVision receives ten (10) days' prior written notice of termination, expiration, reduction or cancellation of any such policy. Upon the execution of this Agreement you must provide us with a copy of the certificate or other evidence as ProVision may require of the required insurance. Customer must submit to us annually, a copy of the certificate or other evidence of the renewal or extension of any such insurance.

## **9. Term and Termination**

a. *Term.* The term of this Agreement shall be in conjunction with Customer's Franchise Agreement executed between itself and Waxing the City Worldwide, LLC to operate an Waxing the City® Studio at the Facility ("Franchise Agreement").

b. *Termination.* This Agreement may be terminated by a written agreement executed by the parties. In addition, the Agreement will terminate automatically without further notice in the event that the Franchise Agreement between Customer and Waxing the City Worldwide, LLC is terminated or expires. Notwithstanding the foregoing, ProVision reserves the right, in its sole discretion and without prior notice, at any time, to suspend Customer's access to or use of the Server, Services or any portion thereof, in the event ProVision believes or has reason to believe that Customer is in violation or may be violating any term or condition of this Agreement. In the event of suspension of Services, ProVision shall thereafter provide prompt written notice to Customer of the suspension of Services and the reasons therefore. In addition, in the event that ProVision's license to or right to distribute the Proprietary Software is terminated for any reason, any license granted to Customer for use of the Proprietary Software shall automatically terminate. ProVision shall provide Customer with written notice of such termination. ProVision will use good-faith efforts to procure a substitute license for similar software including, without limitation, web-based software, within a period of thirty (30) days after termination. However, ProVision makes no representation or warranty as to the continued availability of the Proprietary Software and will have no liability whatsoever to Customer in such a termination event.

c. *Rights Upon Termination.* In the event this Agreement is terminated for any reason, Customer shall pay ProVision, on a pro rata basis, for all Services provided to Customer up to the date of termination.

## **10. General**

a. *Independent Contractors.* The parties and their respective personnel, are and shall be independent contractors and neither party by virtue of this Agreement shall have any right,

power or authority to act or create any obligation, express or implied, on behalf of the other party.

b. *Assignment.* Customer may not assign any of its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, and any attempt to do so shall be deemed void and/or a material breach of this Agreement.

c. *Waiver.* No waiver of any Provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, or no partial exercise of any right or remedy hereunder shall constitute a waiver of any other right or remedy, or future exercise thereof.

d. *Severability.* If any Provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable.

e. *Notice.* All notices shall be in writing and shall be deemed to be delivered when received by certified mail, postage prepaid, return receipt requested. All notices shall be directed to the parties at the respective addresses given above or to such other address as either party may, from time to time, designate by notice to the other party.

f. *Amendment.* No amendment, change, waiver, or discharge hereof shall be valid unless in writing and signed by both parties.

g. *Governing Law, Jurisdiction and Venue.* This Agreement shall be governed in all respects by the laws of the State of Minnesota without regard to its conflict of laws provisions. The parties hereto expressly agree that venue shall be exclusively in the state or federal courts located in Ramsey County, Minnesota. The parties hereto hereby consent to the exclusive jurisdiction of the federal and state courts in Ramsey County, Minnesota and expressly waive any objection to personal jurisdiction, improper venue and/or convenience of such forums.

h. *Survival.* The definitions of this Agreement and the respective rights and obligations of the parties under Sections 1(f), 2(a), 2(d), 3, 4, 5(b), 5(c), 6, 7, 8(c) and 9 shall survive any termination or expiration of this Agreement.

i. *Force Majeure.* If the performance of any part of this Agreement by either party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor disputes, act of God or any other causes beyond the control of either party, that party shall be excused from such to the extent that it is prevented, hindered or delayed by such causes.

j. *Entire Agreement.* This Agreement constitutes the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter hereof, superseding all prior or contemporaneous proposals, communications and understandings, oral or written.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed this Agreement.

CUSTOMER

ProVision Security Solutions, LLC

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

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

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

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

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

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

WAXING **THE** CITY

**EXHIBIT K**

**RE-SALE ASSISTANCE AGREEMENT**

## RE-SALE ASSISTANCE AGREEMENT

This Re-Sale Assistance Agreement (this "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between WAXING THE CITY WORLDWIDE, LLC, a Minnesota limited liability company ("we," "us") and \_\_\_\_\_ ("you").

You have been operating the Waxing the City Studio(s) identified at the end of this Agreement (the "Studio(s)") under one or more franchise agreements entered into with us. You have indicated an interest in selling the Studio(s) in accordance with the terms of your franchise agreements, and have requested our assistance. We have agreed to provide such assistance, to supplement your own marketing efforts, on the terms set forth in this Agreement.

In consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Your Initial Obligations. Upon execution of this Agreement, you will pay us a fee of Five Hundred and Forty-Nine Dollars (\$549.00) for each of the Studio(s) listed at the end of this Agreement (the "Listing Fee"). You agree that this Listing Fee shall be fully earned upon execution of this Agreement and is nonrefundable in consideration of the expenses incurred by us, including but not limited to expenses incurred creating and distributing the Offering Profile described in Paragraph 2, below. You will also provide to us such information as you would want us to communicate to prospective purchasers of the Studio(s). Such information will include, at a minimum, the following:
  - a. Photographs of the Studio(s) and its equipment, sufficient to show all areas of the Studio(s) (exterior and interior);
  - b. Financial statements for each of the Studio(s) for the last three (3) full calendar or fiscal years, and for each month of the current year;
  - c. Copies of your business tax returns for the Studio(s) for each of the last three (3) years;
  - d. Copies of all leases and vendor contracts related to the Studio(s) or their operation;
  - e. A summary of outstanding loan balances on all loans to your business, including the monthly payment obligations and outstanding balances, any scheduled balloon payments, any outstanding defaults, and the collateral that secures the obligation;
  - f. A detailed equipment list of all equipment in the Studio(s), including but not limited to office furniture and equipment; and
  - g. Such other information or documents we may request.
2. Creation and Distribution of Offering Profile. Upon receipt of the foregoing information, we will create an "Offering Profile" for the Studio(s), highlighting photographs of the Studio(s), key attributes, asking price and terms, and other basic information for prospective purchasers. We will distribute the Offering Profile to Waxing the City franchisees and to other targeted groups, at our discretion. We will also put the Offering Profile on website(s) for club re-sales, and will link that listing with other business listing sites, again at our discretion. To the extent you provide additional information to us from time to time, we will update your Offering Profile, but we will not have an obligation to update it more than once every month.

3. Our Ongoing Assistance. So long as this Agreement is in effect, we will be available to you to provide reasonable support to guide you through the process of selling your Studio(s). This will include telephone support, and website support, at reasonable times, and reasonable intervals as we determine appropriate. We will also provide you a video tutorial on the sale of your Studio(s), including valuation tools.
4. Your Responsibility With Respect to Sale. You recognize and acknowledge that (i) our services are limited to assisting you in marketing your business, and guiding you through the sales process, and (ii) we do not represent or warrant the number of leads that might be generated, the price for which the Studio(s) might be sold, or that you will be able to consummate a sale. It is your responsibility to set the price and terms of sale, ultimately locate a purchaser, and negotiate with any prospective purchasers. However, you do represent that you will offer to sell the Studio(s) on the terms set forth in the Offering Profile, and that you will comply with all of the assignment provisions of your franchise agreement(s) in connection with the sale of the Studio(s).
5. Ongoing Fees. You will pay us an additional fee of Ninety Nine Dollars (\$99.00) per month for each of the Studio(s) identified at the end of this Agreement so long as this Agreement is in effect, with the first payment due on the first of the month following the execution of this Agreement, and each additional payment due on the first day of each subsequent month. You may be liable to pay us an additional listing fee or commission upon the sale of the Studio(s); provided however, that you will remain liable for any transfer fees and any other fees and amounts that become due or payable under your franchise agreement(s) and any other agreements you have with us and our affiliates.
6. Forms. We may, in our discretion, provide to you copies of forms contained in our possession, such as form purchase agreements, notes, guaranties, security agreements, bills of sale, and lease assignments (collectively "Forms"). You may use these Forms as you determine appropriate in connection with the sale of the Studio(s); provided, however, that we will not provide these forms until we have received a letter of intent signed by a potential buyer. Those Forms are not intended, however, to be used without review by your attorney or other competent professional, and it is your exclusive responsibility to make certain that any sale documents comply with any legal requirements in your state.

In certain circumstances, you may request the use of these Forms without requiring any of our assistance described in Paragraphs 2 and 3 of this Agreement. Should you elect only to use our Forms and not the assistance described in Paragraphs 2 and 3 of this Agreement, you will not be required to pay the Listing Fee identified in Paragraph 1 or the Ongoing Fees identified in Paragraph 5. You will, however, be required to pay us a non-refundable fee of Nine Hundred and Ninety-Nine Dollars (\$999.00) for the first Studio plus One Hundred Ninety-Nine Dollars (\$199.00) for any additional Studio(s) listed at the end of this Agreement (collectively, the "Form Fee"). If you elect only to use our Forms, we will not provide any additional support relating to the sale of your Studio(s), including but not limited to facilitating the transfer of any information relating to the sale between the buyer and seller. If you elect this option, both of us must initial below at the time of execution of this Agreement and you must pay us the Form Fee upon execution of this Agreement. If you elect this option and do not close on the sale of your Studio within one hundred and twenty (120) days from execution of this Agreement, we will assist you with selling your Studio upon your written request. You will be required to agree to the terms of our then-current Resale Assistance Agreement; provided, however, we will waive the Listing Fee. As stated above, the Forms are not intended to be used without review by your attorney or other competent professional, and it is your exclusive responsibility to make certain that any sale documents comply with any legal requirements in your state.

By initialing below, you acknowledge that you are declining our assistance with creating and distributing an Offering Profile and our ongoing assistance as described in Paragraphs 2 and 3. In exchange for the payment of the Form Fee for each of the Studio(s), we will supply you the Form(s) and agree you shall not be liable for the fees listed in Paragraphs 1 or 5. You agree that you will review the Forms with your attorney or other competent professional and that it is your responsibility to make certain that the sale documents comply with the legal requirements in your state.

_____ / _____	_____ / _____	_____ / _____
Franchisee                      Date	Franchisee                      Date	Waxing the City                      Date
Initials	Initials	Initials

7. Termination. You may terminate this Agreement at any time, with or without cause, upon ten (10) days' notice to us. We will also have the right to terminate this Agreement on ten (10) days' notice to you, but we may not do so during the first ninety (90) days, unless you have breached your obligations under this Agreement or under any other agreement you have with us. Once this Agreement is terminated, we will have no further obligations to you hereunder, and we will remove any listings we have initiated for the sale of the Studio(s). In the event you elect to relist your Studio(s) after the termination of this Agreement you will be required to execute a new Re-Sale Assistance Agreement on the terms offered at that time; provided, however, if you execute a new Re-Sale Assistance Agreement within one hundred and eighty (180) days of the termination of this Agreement, the Listing Fee shall be reduced to Two Hundred and Ninety-Nine Dollars (\$299.00).
  
8. Assignment. Neither of us may assign our rights in or to this Agreement without the express written consent of the other party hereto; provided, that we may assign our rights, duties and obligations under this Agreement, without obtaining your consent and in our sole discretion, in connection with the sale or transfer of all or a portion of our business or assets.
  
9. Enforcement, Notice and Miscellaneous Provisions. The provisions of the most recent franchise agreement you have signed with us, under the headings of "Enforcement," "Notices," and "Miscellaneous," are hereby incorporated into this Agreement by reference and shall apply to this Agreement as if fully stated herein.

IN WITNESS WHEREOF, WE AND YOU HAVE SIGNED THIS AGREEMENT AS OF THE DATE SET FORTH ABOVE.

FRANCHISOR:  
WAXING THE CITY WORLDWIDE, LLC

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

FRANCHISEE:

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

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

WAXING THE CITY STUDIO(S) THAT ARE THE SUBJECT OF THIS AGREEMENT:

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**WAXING THE CITY**

**EXHIBIT L**

**WAXING THE CITY WORLDWIDE, LLC**

**ELECTRONIC FUNDS TRANSFER  
AUTHORIZATION**

**ELECTRONIC TRANSFER OF FUNDS AUTHORIZATION**

Franchisee: \_\_\_\_\_  
Location: \_\_\_\_\_  
Date: \_\_\_\_\_

Attention: Accounting

The undersigned hereby has entered into a Franchise Agreement with Waxing the City Worldwide, LLC (the "Franchise Agreement"), and authorizes Waxing the City Worldwide, LLC or any of its affiliated entities, including without limitation, ProVision Security Solutions, LLC (collectively, "WTC Entities"), to initiate one-time, weekly and/or monthly ACH debit and credit entries against the account of the undersigned with you in payment of amount for ongoing weekly royalty fees, monthly general advertising contributions, monthly technology fees, and other amounts that become due and payable by the undersigned to WTC Entities pursuant to the Franchise Agreement or any other agreement between the undersigned and a WTC Entity. The dollar amount to be debited per payment and credited per payment will vary.

Subject to the provisions of this letter of authorization, you are hereby directed to honor any such ACH debit and credit entry initiated by the WTC Entities.

This authorization is binding, and will remain in full force and effect until ninety (90) days prior written notice has been given to you by the undersigned. The undersigned is responsible for, and must pay on demand, all costs or charges relating to the handling of ACH debit and credit entries pursuant to this letter of authorization.

Please honor ACH debit and credit entries initiated in accordance with the terms of this letter of authorization, subject to there being sufficient funds in the undersigned's account to cover such ACH debit and credit entries.

Sincerely yours,

\_\_\_\_\_

\_\_\_\_\_  
Account Name

\_\_\_\_\_  
Bank Name

\_\_\_\_\_  
Customer Street Address

\_\_\_\_\_  
Branch

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Bank Street Address

\_\_\_\_\_  
Customer Telephone Number

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Customer's Account Number

\_\_\_\_\_  
Bank Telephone Number

\_\_\_\_\_  
Bank's Account Number

\_\_\_\_\_  
Bank Routing/ABA Number

WAXING **THE** CITY

**EXHIBIT M**

**GUARANTY OF PERFORMANCE**

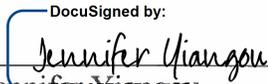
## GUARANTEE OF PERFORMANCE

For value received, **Anytime Fitness, LLC**, a Minnesota limited liability company (the “Guarantor”), located at 111 Weir Drive, Woodbury, Minnesota 55125, absolutely and unconditionally guarantees to assume the duties and obligations of **Waxing the City Worldwide, LLC**, located at 111 Weir Drive, Woodbury, Minnesota 55125 (the “Franchisor”), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2021 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee at Cottage Grove, Minnesota, on the 29th day of March, 2021.

GUARANTOR:

ANYTIME FITNESS, LLC

By:  \_\_\_\_\_  
Jennifer Yiangou  
Its: Senior Vice President of Franchise  
Administration

**WAXING THE CITY**

**EXHIBIT N**

**WAXING THE CITY WORLDWIDE, LLC  
FRANCHISEE QUESTIONNAIRE**

# WAXING THE CITY

## **FRANCHISEE QUESTIONNAIRE – EXISTING FRANCHISEES**

As you know, Waxing the City Worldwide, LLC (the “Franchisor”) and you are preparing to enter into a Franchise Agreement and/or Area Development Agreement for the operation of a franchised Waxing the City® business (the “Franchise”). Please review each of the following questions carefully and provide honest responses to each question.

QUESTION	YES	NO
1. Have you received and personally reviewed the Franchise Disclosure Document provided to you?		
2. Did you sign a receipt (Item 23) for the Franchise Disclosure Document indicating the date you received it?		
3. Have you received and personally reviewed the Franchise Agreement and/or Area Development Agreement and each exhibit or schedule attached to it?		
4. Are you legally eligible to work or own a business in the United States and/or Canada, including the state or province in which the Franchise will be located?		
5. Has any employee or other person speaking on behalf of the Franchisor made any statement or representation regarding the actual, average or projected services, revenues, or profits that you, Franchisor, or any of our franchisees have achieved in operating the Franchise, other than what is contained in the Franchise Disclosure Document?		
6. Has any employee or other person speaking on behalf of the Franchisor made any promise or agreement, other than those matters addressed in your Franchise Agreement, concerning advertising, marketing, media support, market penetration, training, support service or assistance or any other material subject relating to the Franchise that is contrary to, or different from, the information contained in the Franchise Disclosure Document?		
7. Has any employee or other person speaking on behalf of the Franchisor made any other oral, written, visual or other promises, agreements, commitments, understandings, rights-of-first refusal or otherwise to you with respect to any matter, except as expressly set forth in the Franchise Agreement and/or Area Development Agreement or in an attached written Amendment signed by you and us?		
8. Are there any contingencies, prerequisites, or other reservations existing (excluding obtaining financing for equipment or build-out of your Waxing the City Studio) that will affect your ability to sign or perform your obligations under the Franchise Agreement and/or Area Development Agreement?		

**Please insert the date on which you received a copy of the Franchise Agreement with all material blanks fully completed: \_\_\_\_\_**

**Please insert the date on which you received a copy of the Area Development Agreement with all material blanks fully completed: \_\_\_\_\_**

You understand that your answers are important to us and that we will rely on them. By signing this Questionnaire, you are representing that you have responded truthfully, completing and correctly to the above questions. No representations contained herein are intended to or will act as a release, estoppels or waiver of any liability incurred under any applicable franchise law.

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

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



## **FRANCHISEE QUESTIONNAIRE – PROSPECTIVE FRANCHISEES**

As you know, Waxing the City Worldwide, LLC (the “Franchisor”) and you are preparing to enter into a Franchise Agreement and/or Area Development Agreement for the operation of a franchised Waxing the City® business (the “Franchise”). Please review each of the following questions carefully and provide honest responses to each question.

<b>QUESTION</b>	<b>YES</b>	<b>NO</b>
1. Have you received and personally reviewed the Franchise Disclosure Document provided to you?		
2. Did you sign a receipt (Item 23) for the Franchise Disclosure Document indicating the date you received it?		
3. Have you received and personally reviewed the Franchise Agreement and/or Area Development Agreement and each exhibit or schedule attached to it?		
4. Are you legally eligible to work or own a business in the United States and/or Canada, including the state or province in which the Franchise will be located?		
5. Has any employee or other person speaking on behalf of the Franchisor made any statement or representation regarding the actual, average or projected memberships, revenues, or profits that you, Franchisor, or any of our franchisees have achieved in operating the Franchise, other than what is contained in the Franchise Disclosure Document?		
6. Has any employee or other person speaking on behalf of the Franchisor made any promise or agreement, other than those matters addressed in your Franchise Agreement, concerning advertising, marketing, media support, market penetration, training, support service or assistance or any other material subject relating to the Franchise that is contrary to, or different from, the information contained in the Franchise Disclosure Document?		
7. Has any employee or other person speaking on behalf of the Franchisor made any other oral, written, visual or other promises, agreements, commitments, understandings, rights-of-first refusal or otherwise to you with respect to any matter, except as expressly set forth in the Franchise Agreement and/or Area Development Agreement or in an attached written Amendment signed by you and us?		
8. Are you legally eligible to travel to and attend New Franchisee Training at one of our designated training centers in the United States? If you answer “no”, please provide an explanation here:		
9. Are you currently involved in any other businesses/franchises that may interfere with the non-compete obligations outlined in the Waxing the City Franchise Agreement, or any other agreements you may have with other businesses/franchises? If yes, please describe the businesses/franchises here:		

QUESTION	YES	NO
10. Are there any contingencies, prerequisites, or other reservations existing (excluding obtaining financing for equipment or build-out of your Waxing Studio) that will affect your ability to sign or perform your obligations under the Franchise Agreement and/or Area Development Agreement?		
11. Have there been any changes in any of the information you have provided to us or our affiliates in connection with any application for the Franchise, or in any application, statement or report you have provided to us? If yes, please describe the changes here:		
12. Have you been proven to have engaged in fraudulent conduct, or been convicted of, or plead guilty or no contest to, a felony or misdemeanor involving dishonesty or fraudulent conduct, or do you have any such charges pending? If yes, please describe all relevant facts here:		
13. Have you, in the past 10 years, declared bankruptcy, or taken any action, or had any action taken against you, under any insolvency, bankruptcy, or reorganization act? If yes, please describe all relevant facts here:		
14. Have you brought, been named in, or been directly involved in any past or pending litigation or formal dispute resolution process? If yes, please describe all relevant facts here:		
15. Is there any information that might appear on a credit or criminal history report that you wish to disclose and/or address, knowing that failure to disclose such information may be considered grounds for denial of a franchise? If yes, please describe all relevant facts here:		

**Please insert the date on which you received a copy of the Franchise Agreement with all material blanks fully completed: \_\_\_\_\_**

**Please insert the date on which you received a copy of the Area Development Agreement with all material blanks fully completed: \_\_\_\_\_**

You understand that your answers are important to us and that we will rely on them. By signing this Questionnaire, you are representing that you have responded truthfully, completing and correctly to the above questions. No representations contained herein are intended to or will act as a release, estoppels or waiver of any liability incurred under any applicable franchise law.

**All prospective franchisees applying please sign here:**

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

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

## 5 Key Questions – New Franchisees

1. Why are you a good fit for Waxing the City? Why will you be an exceptional franchisee?

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2. Aside from operating your own studio, how will you make the Waxing the City brand and franchise system as a whole stronger?

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3. Franchisees purposely give up some entrepreneurial freedom in exchange for joining an established system which provides ongoing education and support. You'll be tapping into a network of vendors, corporate staff and fellow franchisees, all of whom will allow you to flatten your learning curve and reduce your chances for error. Are you willing to trade some of your entrepreneurial freedom to work within this system?

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4. What are you willing to sacrifice to run a successful business? What are you unwilling to sacrifice?

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5. In your opinion, what are the differences of a successful franchisee vs. a non-successful franchisee? What characteristics does the successful owner have?

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**All prospective franchisees applying please sign here:**

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

FRANCHISE APPLICANT \_\_\_\_\_

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

### State Effective Dates

The following states have franchise laws that 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
Hawaii	Pending
Illinois	Pending
Indiana	Pending
Maryland	Pending
Michigan	March 30, 2021
Minnesota	Pending
New York	Pending
North Dakota	Pending
Rhode Island	Pending
South Dakota	Pending
Virginia	Pending
Washington	Pending
Wisconsin	March 31, 2021

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

**New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.**

**Michigan requires that we give 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 Waxing the City Worldwide, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580, and the appropriate state agency identified on Exhibit A.

The franchisor is Waxing the City Worldwide, LLC, 111 Weir Drive, Woodbury, MN 55125. Its telephone number is 866-956-4612.

The name, principal business address and telephone number of each franchise seller offering the franchise

ISSUANCE DATE: March 30, 2021.

Waxing the City Worldwide, LLC authorizes the respective parties identified on Exhibit A to receive service of process for us in the particular state, except in the State of Minnesota, where any of our officers are authorized to receive service of process on our behalf.

I have received a Disclosure Document with an Issuance Date of March 30, 2021 that included the following Exhibits:

- EXHIBIT A: LIST OF STATE AGENCIES AND AGENTS FOR SERVICE OF PROCESS
- EXHIBIT B: TABLE OF CONTENTS OF OPERATIONS MANUAL
- EXHIBIT C: LIST OF FRANCHISEES
- EXHIBIT D: FINANCIAL STATEMENTS
- EXHIBIT E: FRANCHISE AGREEMENT, GUARANTY, GENERAL RELEASE AND STATE SPECIFIC ADDENDA
- EXHIBIT F: CHARITABLE CONTRIBUTION ADDENDUM
- EXHIBIT G: AREA DEVELOPMENT AGREEMENT, GUARANTY AND STATE SPECIFIC ADDENDA

- EXHIBIT H: STATE SPECIFIC ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT
- EXHIBIT I: FINANCING DOCUMENTS
- EXHIBIT J: PROVISION SERVICES AGREEMENT
- EXHIBIT K: RE-SALE ASSISTANCE AGREEMENT
- EXHIBIT L: ELECTRONIC TRANSFER OF FUNDS AUTHORIZATION
- EXHIBIT M: AFFILIATE GUARANTY
- EXHIBIT N: FRANCHISEE QUESTIONNAIRE

Please indicate the date on which you received this Disclosure Document, and then sign and print your name below, indicate the date you sign this receipt, and promptly return one completed copy of the Receipt to Waxing the City Worldwide, LLC, at 111 Weir Drive, Woodbury, Minnesota 55125. The second copy of the Receipt is for your records.

Date Disclosure Document Received:

\_\_\_\_\_

\_\_\_\_\_  
Prospective Franchisee's Signature

Date Receipt Signed:

\_\_\_\_\_

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

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

\_\_\_\_\_

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- |  |  |
|--|--|
| EXHIBIT A: LIST OF STATE AGENCIES AND AGENTS FOR SERVICE OF PROCESS                  | EXHIBIT H: STATE SPECIFIC ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT |
| EXHIBIT B: TABLE OF CONTENTS OF OPERATIONS MANUAL                                    | EXHIBIT I: FINANCING DOCUMENTS                                     |
| EXHIBIT C: LIST OF FRANCHISEES   | EXHIBIT J: PROVISION SERVICES AGREEMENT                            |
| EXHIBIT D: FINANCIAL STATEMENTS  | EXHIBIT K: RE-SALE ASSISTANCE AGREEMENT                            |
| EXHIBIT E: FRANCHISE AGREEMENT, GUARANTY, GENERAL RELEASE AND STATE SPECIFIC ADDENDA | EXHIBIT L: ELECTRONIC TRANSFER OF FUNDS AUTHORIZATION              |
| EXHIBIT F: CHARITABLE CONTRIBUTION ADDENDUM  | EXHIBIT M: AFFILIATE GUARANTY                                      |
| EXHIBIT G: AREA DEVELOPMENT AGREEMENT, GUARANTY AND STATE SPECIFIC ADDENDA           | EXHIBIT N: FRANCHISEE QUESTIONNAIRE                                |

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Date Disclosure Document Received:

\_\_\_\_\_

\_\_\_\_\_  
Prospective Franchisee's Signature

Date Receipt Signed:

\_\_\_\_\_

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

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

\_\_\_\_\_