

## FRANCHISE DISCLOSURE DOCUMENT



Spavia International, LLC  
a Colorado limited liability company  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111  
Phone: (303) 888-0925  
Email: [franchise@spaviadayspa.com](mailto:franchise@spaviadayspa.com)  
[www.spaviadayspa.com](http://www.spaviadayspa.com)

We offer qualified individuals and entities a franchise for the right to independently own and operate a business that provides day spa services, with a focus on professional therapeutic massage and skin care services, to the general public and through a membership-based program, as well as related services and products we authorize in a relaxing, clean and friendly environment (each, a “Franchised Business” or “Day Spa”). We also offer qualified parties the right to own and operate multiple Day Spas within a development area that we designate.

The total investment necessary to begin operation of a single franchised Day Spa is \$495,800 to \$697,800. This includes approximately \$65,800 that must be paid to us or our affiliates.

The total investment necessary to begin operation of three (3) Day Spas is \$586,300 to \$788,300. This includes a \$150,000 Development Fee that must be paid to the franchisor or affiliate.

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 our CEO Marty Langenderfer, c/o Spavia International, LLC, 6312 S. Fiddlers Green Circle Suite #140E, Greenwood Village, CO 80111 or (303) 888-0925.

The terms of your contract will govern your franchise relationship. Do not rely on the disclosure document alone to understand your contract. Read your entire 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-FTCHELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. You can also visit the FTC’s home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance Date: April 29, 2024.

## How to Use This Franchise Disclosure Document

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

<b>QUESTION</b>	<b>WHERE TO FIND INFORMATION</b>
<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 F.
<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 F 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 SPAVIA Day Spa 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 franchise 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 Spavia franchisee?</b>	Item 20 or Exhibit F lists current and former franchisees. You can contact them to ask about their experience.
<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 that franchise or has verified the information in this document. To find out if your state has a registration requirements, or to contact your state, use the agency information in Exhibit A.

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

## Special Risks to Consider About *This Franchise*

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Colorado. 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 Colorado than in your own states.
2. **Spousal Liability.** Your spouse must sign a document that makes your spouse liable for all financial obligations under the franchise agreement, even if your spouse has no ownership interest in the franchise. This guarantee will place both your and your spouse's marital and personal assets (perhaps including your house) at risk if your franchise fails. If you are an entity, then each of your owners and, at our option, their respective spouses must sign such a document.
3. **Sales Performance Required.** You must maintain minimum sales performance levels. Your inability to maintain these levels may result in loss of any territorial rights you are granted, termination of your franchise, and loss of your investment.

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

## ADDENDUM REQUIRED BY THE STATE OF 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 OF 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 EACH 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, MATERIALS, FIXTURES, AND FURNISHINGS. PERSONALIZED MATERIALS WHICH HAVE NO VALUE TO THE FRANCHISOR AND INVENTORY, SUPPLIES, MATERIALS, 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 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 QUALIFICATION 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.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE DEPARTMENT OF THE ATTORNEY GENERAL'S OFFICE, CONSUMER PROTECTION DIVISION, ATTN. FRANCHISE SECTION, 670 LAW BUILDING, 525 W. OTTAWA STREET, LANSING, MICHIGAN 48913, 517-373-7117.

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

To simplify the language of this Disclosure Document, the Franchisor is referred to in this Disclosure Document as “we,” “us” or “our.” At times, we may refer to the person or other party that is reviewing this document and considering applying to acquire a franchise from us as the “franchisee,” “you” or “your,” depending on the context. If you are a corporation, partnership, limited liability company or other entity, the references in this Disclosure Document to the terms “franchisee,” “you” and “your” also refer to your owners that will be required to enter into the form of personal guaranty attached to any franchise agreement you sign with us.

The Franchisor

We were organized under the laws of Colorado as a limited liability company on April 15, 2007. Our principal business address is at 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, CO 80111, and our telephone number is (303) 888-0925. We only do business under our corporate name and our then-current proprietary marks (disclosed and defined more fully below), including the service mark SPAVIA that is the primary mark we license as part of the System as of the Issuance Date of this Disclosure Document (collectively, the “Proprietary Marks”).

We grant franchises for the right to independently own and operate Franchised Businesses (or franchised Day Spas) that provide custom day spa services in a relaxing atmosphere. These Franchised Businesses operate under the mark SPAVIA and any other proprietary marks we designate in the future (the “Proprietary Marks”), and also operate utilizing our proprietary business system described more fully below in this Item.

We first began offering franchises for the right to operate a Franchised Business around April 2007. We do not sell franchises in any other line of business and, except as provided in this Item, we are not otherwise engaged in any other business activity.

Our agents for service of process are listed in Exhibit A to this Disclosure Document.

Our Predecessors and Affiliates

We do not have any parents or predecessors.

Our affiliate, Spavia Enterprises, LLC (“Spavia Enterprises”), is a Colorado limited liability company organized in May 2015 with a principal place of business at 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, CO 80111. Spavia Enterprises may continue to conduct research and development designed to improve and/or enhance the client experience, provision of Approved Services, the Required Items and Approved Products used in connection with the provision of the Approved Services and/or retail component of the Franchised Business (as these terms are defined below in this Item) – and subsequently share that information with us for consideration and evaluation in connection with our ongoing efforts to update or otherwise modify our then-current System standards and specifications. Other than the foregoing, Spavia Enterprises does not perform any services in connection with the System or provide any services on behalf of us or our System franchisees.

Our affiliate above only does business under its respective corporate name and the Proprietary Marks. Our affiliate does not offer franchises in any line of business and, except as described in this Item, is not otherwise engaged in any other type of material business activity.

## The Franchised Business

Your Franchised Business (or “franchised Day Spa”) will be authorized to provide custom resort-inspired spa services in a relaxing atmosphere, including therapeutic treatments and stress reduction through massages, facials, lash extensions, and body treatments at recommended prices that we believe are typically lower than those charged by comparable spa experiences. In operating your Franchised Business, you will be required to provide the foregoing services, along with any other services and products we authorize (respectively, the “Approved Services” and “Approved Products”), with the highest level of customer service in a consistent, clean and friendly environment for your guests.

As of the Issuance Date, our standard franchise expects that your Franchised Business will offer a membership program under which guests can pay a monthly fee as consideration for (a) one “complimentary” massage or facial during that month, and (b) reduced member rates and/or discounts on certain other Approved Products and Services we designate. The Approved Services, as well as Approved Products, will also be available to all guests that elect not to join the membership program at standard rates for non-members of a given System Day Spa.

Within each membership program, the membership and non-membership rates for each Approved Products and Approved Services should be consistent with the System guidelines we set forth to ensure uniformity across the franchise system in terms of System members having the ability to use a gift card or membership purchased at one Day Spa at a different Day Spa (according to the reciprocity and revenue sharing procedures and specifications set forth in the Manuals). To the extent permissible under applicable law, we reserve the right to set promotional and maximum prices/fees for certain Approved Products and Services, including memberships.

Your Franchised Business will be operated using our Proprietary Marks and in accordance with our proprietary operating system, which includes our valuable know how, information, trade secrets, methods, confidential operations manual (the “Operations Manual”) and other proprietary manuals we may loan to you (collectively, the “Manuals”), standards and specifications, marketing and sales programs, fixture and furniture selection, staffing guidelines and other research and development connected with the establishment and operation of a Day Spa (collectively, the “System”), which we may modify from time to time as we deem appropriate in our sole discretion.

Your Franchised Business will have approximately 2,200 to 3,000 square feet of leased or owned space, and your Franchised Business will typically be located in a high-end retail shopping center. In order to own and operate a Franchised Business, you must enter into our current form of franchise agreement that is attached as Exhibit B to this Disclosure Document (the “Franchise Agreement”). If the franchisee is a business entity (for example, a corporation, partnership or limited liability company), then all of the individuals that have any type of ownership interest in the franchisee entity, as well as their spouses, must sign our form of personal guaranty (attached as an Exhibit to the Franchise Agreement) where each owner agrees to be personally bound by, and personally guarantee the entity’s obligations under, all terms of the Franchise Agreement (the “Personal Guaranty”). If the franchisee is an individual, then the franchisee’s spouse will be required to execute the Personal Guaranty unless the spouse also signs the Franchise Agreement directly.

Once we agree on the location of your Franchised Business (the “Premises”), we will designate a geographical area around the Premises (the “Designated Territory”) in the Data Sheet attached to your form of Franchise Agreement (the “Data Sheet”). Once we identify and update your Data Sheet with the boundaries of your Designated Territory, we will agree not to directly own or operate, or license/franchise any third party the right to own or operate, another Day Spa from a physical location within your Designated

Territory that utilizing the Proprietary Marks and System. Please see Item 12 of this Disclosure Document for additional information on your territorial rights within any such Designated Territory.

### Multi-Unit Offering

We also offer qualified individuals and entities the right to open and operate three (3) or more Franchised Businesses within a designated geographical area (or “Development Area”) under our current form of area development agreement that is attached to this Disclosure Document as Exhibit C (the “Development Agreement”), which will also outline a schedule or defined period of time in which you must open and commence operating each Franchised Business (a “Development Schedule”).

At our option, you will be required to sign a Franchise Agreement for your initial Franchised Business at the same time you sign your Development Agreement, but we also have the option of waiting until you have found an approved Premises for that initial Franchised Business before you are required to sign the corresponding Franchise Agreement. Regardless, you will eventually need to sign our then-current form of franchise agreement for each of the Franchised Businesses you open under the Development Schedule, which may differ from the current Franchise Agreement included with this Franchise Disclosure Document.

You will be required to pay us a one-time development fee that will be calculated based on the number of Franchised Businesses we grant you the right to open under the Development Agreement (the “Development Fee”), but you will not be required to pay any other initial franchise fee at the time you execute your franchise agreements for each Franchised Business we permit you to open under your Development Agreement.

### Market and Competition

The Franchised Business concept offered in this Disclosure Document, including the Approved Services and Approved Products provided at a given franchised Day Spa, is targeted to the general public. As a franchisee, you will compete for consumers with a variety of other businesses, including those that only offer massage services, facial services, waxing services and those that offer spa services in general. Your competition may be local, independent businesses or may be part of a regional or national chain or franchise. Demand for the services you offer may be dependent on the local and national economic conditions and their effect on the public’s discretionary spending. Our Approved Products and Services are not seasonal in nature.

Your competitive advantage in the marketplace will be based on your adherence to our System standards and guidelines, as well as your entrepreneurial and managerial abilities and focus on customer service.

### Industry-Specific Regulations

Many states have laws and regulations requiring the examination and certification of massage therapists and estheticians. Some states have laws and regulations that restrict the types of services and treatments massage therapists can offer. You should investigate whether there are regulations and requirements that may apply in the geographic area in which you are interested in locating a System franchise and you should consider both their effect and cost of compliance.

Most states and local jurisdictions have also enacted other laws, rules, regulations and ordinances that may apply to the operation of your business, including those that: (i) establish general standards, specifications and requirements for the construction, design and maintenance of the business premises; (ii) regulate matters affecting the health, safety and welfare of your customers, such as restrictions on smoking; (iii) set standards pertaining to employee health and safety; (iv) regulate matters affecting requirements for

accommodating disabled persons, including the Americans with Disabilities Act; (v) set standards and requirements for fire safety and general emergency preparedness; and (vi) regulate, or otherwise relate to or govern, the operation of a day spa generally (including those that may require you to obtain certain permits, certificates, licenses or approvals to provide the Approved Products and Services at your Franchised Business). You must ensure that only licensed therapists and estheticians perform any services for which a license or specialized training is required.

The United States enacted the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001” (the “USA Patriot Act”). We are required to comply with the USA Patriot Act. To help us comply with the USA Patriot Act, we ask you in the Franchise Agreement to confirm for us that neither you nor your directors, officers, shareholders, partners, members, employees, or agents are suspected terrorists or persons associated with suspected terrorists or are under investigation by the U.S. government for criminal activity.

You must consult with your own attorney to ensure that the laws of the state where your Franchised Business is located allows you to provide the Approved Products and Services from your Day Spa. It is your sole responsibility to investigate any regulations in your area, including those related to the establishment and operation of a Day Spa generally.

Please be advised that you must investigate and comply with all of these applicable laws and regulations.

## **ITEM 2 BUSINESS EXPERIENCE**

### Chief Executive Officer and Manager: Marty Langenderfer

Mr. Langenderfer has been our Chief Executive Officer and Manager since our formation. Mr. Langenderfer has also served as an owner of our Affiliate, located in Greenwood Village, Colorado, since its inception in June 2005.

### President: Allison Langenderfer

Mrs. Langenderfer has been our President since our formation. Mrs. Langenderfer has also served as an owner/Manager of our Affiliate location, located in Greenwood Village, Colorado, since its inception in June 2005.

### Chief Operating Officer: Courtney Allison

Ms. Allison has been our Chief Operating Officer since April of 2023. Prior to that, she served as the Vice President of Operations for Hydrate IV Bar from June 2022 to April 2023. Ms. Allison also served as the Vice President of Operations for Sola Salon Studios and their subsidiary Sola Canada, from July 2020 to February 2022 and held other leadership roles with Sola Salon Studios brand and their predecessor SFC from September 2015 to June 2022.

### Chief Marketing Officer: Dana Benfield

Ms. Benfield has been our Chief Marketing Officer since July of 2023. Prior to that, she served as the Chief Marketing Officer for WellBiz Brands, Inc. from October 2019 – December 2022. Ms. Benfield also served as the Chief Marketing Officer for Red Robin Gourmet Burgers from October 2019 – February 2019 and held other leadership roles with Red Robin Gourmet Burgers from December 2002 – October 2017.

**ITEM 3  
LITIGATION**

No litigation must be disclosed in this Item.

**ITEM 4  
BANKRUPTCY**

No bankruptcy information must be disclosed in this Item.

**ITEM 5  
INITIAL FEES**

Franchise Agreement

*Initial Franchise Fee*

You must pay us an initial franchise fee amounting to \$59,500 (the “Initial Franchise Fee”) upon execution of your Franchise Agreement, which covers the franchise license to operate your Franchised Business within your Designated Territory. Your Initial Franchise Fee is deemed fully earned upon payment and is not refundable under any circumstances. Except as provided in this Item, the Initial Franchise Fee is applied uniformly to all of our franchisees.

*Training Fee*

You must also pay us an initial training fee amounting to \$5,000 (the “Initial Training Fee”), which will cover the tuition associated with you (the Franchisee) and two (2) other individuals to attend and otherwise participate in our proprietary initial training program (the “Initial Training Program”) that is provided via (a) remote/online instruction and classes that may be completed via a Learning Management System (“LMS”) or other technology, (b) training that you will receive at our designated training facility in Greenwood Village, Colorado (or other location we designate), and (c) on-site assistance that our training personnel will provide at your Day Spa around the time you are getting ready to open or opening.

At our option, we may not require you or your management to re-attend our Initial Training Program in connection with subsequent franchised Day Spas you determine to open or develop after you have already completed our initial training in connection with your initial Franchised Business. We will not require you to pay us an Initial Training Fee in connection with any additional Franchised Business for which we determine not to require and provide initial training.

The Initial Training Fee does not cover costs and expenses incurred in connection with attending or otherwise participating in any part of our Initial Training Program, which may include travel, lodging, meals or salaries. This fee is due prior to you or any of your designated personnel participating in our Initial Training Program, and the fee is deemed fully earned and non-refundable upon payment.

*Technology Fee*

You must pay us our then-current technology fee (the “Technology Fee”) commencing two (2) months prior the contemplated or required opening of your Franchised Business, which you must pay as invoiced prior to opening. Currently, our Technology Fee is \$650/month such that a total of \$1,300 in fees will be paid to us prior to opening. The Technology Fee is deemed fully earned upon payment and is not refundable. Please see Item 6 of this Disclosure Document for additional information on the Technology Fee.

Development Agreement: Development Fee

If we award you the right to open three (3) or more Franchised Businesses under a Development Agreement, you must pay us a one-time Development Fee upon execution of your Development Agreement. Your Development Fee will depend on the number of Franchised Businesses we grant you the right to open within the Development Area and is calculated as follows: (i) \$150,000 for the right to develop a total of three (3) Franchised Businesses, plus an additional \$50,000 for the right to open each additional Franchised Business (up to a total of 5); (ii) \$45,000 per Franchised Business if you agree to open and operate between six (6) and nine (9) Franchised Businesses; and (iii) \$40,000 per Franchised Business if you agree to open and operate 10 or more Franchised Businesses.

You will be required to enter into our then-current form of franchise agreement for each Franchised Business you wish to open under your Development Agreement, but you will not be required to pay an Initial Franchise Fee at the time you execute each of these franchise agreements. We typically require and expect that you will execute our current form of Franchise Agreement to govern the initial Franchised Business you have committed to develop within your Development Area at the same time you execute your Development Agreement.

Your Development Fee will be deemed fully earned upon payment and is not refundable under any circumstances. The Development Fee described above is calculated and applied uniformly to all of our franchisees.

**ITEM 6  
OTHER FEES**

<b>Name of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fee	An amount equal to 6% of the Gross Sales of your Franchised Business (“Royalty Fee”).	On Tuesday of each week based on the Gross Sales generated by the Franchised Business during the preceding Business Week (Monday through Sunday).	Your Royalty Fee will begin once your Franchised Business opens. We may require you to pay your Royalty Fee and other reoccurring amounts via electronic funds transfer (“EFT”).  Please see Notes 1, 2 and 3, including definition for “Gross Sales”.  You will be expected to achieve certain levels of Gross Sales in the operation of your Franchised Business each calendar month once your Franchised Business has been open for a period of one (1) year (your “Minimum Performance Standards). See Note 6.  If your Franchised Business does not achieve the expected Minimum Performance Standards for three (3) consecutive months of operation, then you will be required to pay a shortfall payment amounting to the difference between the (a) Royalty Fee due if these Minimum Performance Standards were met in each of these 3 months, and (b) the actual amount you paid in Royalty Fees based on your operation over that time period (the “Royalty Shortfall Payment”).

Name of Fee	Amount	Due Date	Remarks
Local Advertising Requirement(s)	<p>The minimum amount you must expend on local advertising, marketing and promotion of your Franchised Business within the Designated Territory:</p> <ul style="list-style-type: none"> <li>- \$50,000 within the first 12 months of operation, with at least \$15,000 to \$20,000 (as we designate) expended within your first three (3) months of operation (your “Initial Marketing Spend”); and</li> <li>- \$20,000 over each subsequent 12-month period of operations</li> </ul>	As incurred	<p>All advertising materials must be approved by us prior to use/publication. We may require you to provide us with monthly reports detailing your local advertising expenditures.</p> <p>We may require that you expend any portion of your Local Advertising Requirement funds on services/materials that are acquired from one (1) or more Approved Suppliers.</p> <p>See Note 6.</p>
Fund Contribution	1% of the Gross Sales of your Franchised Business (your “Fund Contribution”)	Same interval and manner as your weekly Royalty Fee.	<p>We have established and currently maintain a brand development fund (the “Fund”) that is designed to promote/market/advertise and further develop our brand, Proprietary Marks and System, as we determine appropriate in our discretion.</p> <p>We may collect your Fund Contribution in the same manner as we collect your Royalty Fee.</p> <p>See Notes 1, 2 and 3.</p>
Technology Fee	<p>Then-current fee charged by us and/or our Approved Supplier for the technology components, software and/or other services that we determine to associate and provide as part of the System you will have a license to use under your Franchise Agreement (the “Technology Fee”)</p> <p>Currently, \$650/month</p>	As invoiced.	<p>We require that you use certain information technology systems that directly impact your ability to deliver the System experience and support the brand. This fee is used to help defray the costs of any such technology we determine associated with the System. Currently, we expect and intend for such costs to include negotiated enterprise licensing, vendor management, technical support, research and development, and maintenance of our System technology, IT and resulting data collection/reporting.</p> <p>We may increase or otherwise adjust our then-current Technology Fee upon 30 days’ written notice, including increases to account for increased fees charged by third-party providers.</p>
Renewal Fee	\$10,000	90 days prior to renewal.	There are other conditions that you must meet in order for us to approve your renewal request.

Name of Fee	Amount	Due Date	Remarks
Reinspection Fee	\$150 per hour plus out of pocket expenses, subject to change	As Incurred	Upon inspection, deficiency notifications require corrections, costs and expenses to be reimbursed for a reinspection to ensure deficiency is corrected within the designated timeline specified.
Refresher Training Fee (upon renewal)	Then-current training fee for such refresher training  Currently, \$1,500 per session, \$150 per hour and out of pocket expenses, which is subject to change	30 days before the expiration of the then-current term of your Franchise Agreement.	We may condition our approval of your request to renew your Franchise Agreement on your completion of our then-current refresher training course(s) that are designed to instruct you on our then-current System standards and specifications.
Transfer Fee (both Franchise Agreement and Development Agreement)	FA: \$15,000  ADA: \$15,000 per undeveloped franchise	Payable prior to obtaining our consent to your proposed transfer.	There are other conditions that you and the proposed transferee must meet in order for us to approve any proposed transfer/assignment.  In the event any third-party broker fees are incurred in connection with your proposed transfer, you must ensure that such fees are paid by either you or your contemplated assignee prior to or upon closing on the assignment.
Training Fee	Our then-current training tuition fee for the kind of training requested or required in connection with the Franchised Business operations or management  Currently, our Training Fees are as follows:  \$1,500 for re-attendance or new trainee attendance of the Initial Training Program  \$300/day per trainer personnel we provide in connection with all other training.  \$850/day for each Designated Manager training	As incurred.	In addition to the appropriate then-current Training Fee for post-opening training, you must reimburse us for any expenses we incur in providing on-site or other special assistance to you or your personnel. This fee will not be charged in connection with minor, day-to-day assistance that we provide over the phone or via email, subject to our availability.  Please see Item 11 of this Disclosure Document for additional information.
Conference Attendance Fee	Our then-current registration fee to attend any Annual Conference we designate, currently \$400 to \$600	As incurred.	We may schedule and hold an annual conference, as we deem advisable in our sole discretion, and require that you attend such conference. You will be responsible for the costs and expenses you incur in connection with any annual conference/convention (lodging, travel, meals, etc.), and we reserve the right to charge you our then-current attendance/registration fee.

Name of Fee	Amount	Due Date	Remarks
Call Center	Our then-current fee	As incurred	We reserve the right to establish a System-wide call center (the "Call Center") and, if we do so, we reserve the right to charge you for related subscription fees at our then-current rate or the then-current rate changed by Franchisor's approved supplier for call center services.
Advertising Cooperative Fee	Currently, we have not established any such Cooperatives or required our System franchisees to participate in the same	Upon Demand	<p>Payable to us if we assign your Franchised Business to a Regional Advertising Cooperative. Any payment for a Regional Advertising Cooperative will be credited against your Local Advertising Requirement. Upon formation of the Cooperative, a minimum monthly advertising fee of \$1,250 will be required. Upon a majority vote of the Cooperative members, this monthly fee may be increased to up to \$3,000 (unless all the Cooperative members unanimously vote for a higher amount).</p> <p>If there is an Affiliate-Owned Day Spa in your Cooperative, then our Affiliate will be able to vote on all matters that you and the other Cooperative members have the right to vote on.</p> <p>If the number of Affiliate-owned Facilities in your Cooperative area is such that the Affiliate will have controlling voting power within the Cooperative, then the minimum amount you might be required to pay to the Cooperative will remain at \$1,250 and the maximum monthly contribution will \$3,000.</p>
Audit Fees	Actual cost of Audit.	Upon billing after audit.	<p>Payable if audit reveals that you have underreported the Gross Sales of your Franchised Business by 2% or more for any designated reporting period.</p> <p>See Note 4.</p>
New Product or Supplier Testing	<p>The actual costs we incur in connection with the evaluation/testing procedure (which we estimate could be anywhere between \$500 and \$2,000 for a given proposal)</p> <p>We also reserve the right to charge an evaluation fee amounting to \$500 in the event you decide to make multiple proposals in a given year of operations</p>	As incurred	<p>If you propose an alternate supplier or product/service that we have not already authorized for use in connection with your Franchised Business, you may be required to reimburse us for the actual costs we incur in connection with evaluating your proposal.</p> <p>Please see Item 8 of this Disclosure Document for additional information.</p>
Collection Charges	Varies	Upon demand.	You must pay all collection charges associated with our efforts in collecting any amounts owed to you or us under the Franchise Agreement.

<b>Name of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Fees on Default and Indemnity	Attorneys' fees, costs, interest, audit costs, default fees.	Upon demand.	Payable in addition to other payments to us.
Late Reporting Fees	\$10 per day, starting the 11 <sup>th</sup> day after a report is due to us.	Upon demand.	Payable in addition to other payments to us.
Costs and Attorneys' Fees	Will vary according to circumstance.	Upon demand.	You must reimburse us for our attorneys' fees and any court costs that we are forced to incur in connection with enforcing or protecting our rights under your Franchise and/or Development Agreement.
Indemnification	Will vary according to circumstance.	Upon demand.	You must reimburse us for our attorneys' fees and other costs that we incur in connection with any third-party claims brought against us that arise out of, or are related to, the operation of your Franchised Business.
Insurance	Will vary according to circumstance.	Upon demand.	If you fail to obtain required insurance, we may obtain such insurance at your expense (but are not required to do so) and charge you a service fee to do so. Otherwise, these payments are made directly to your third-party insurance provider.
Interest	1.5% per month or highest commercial contract interest rate applicable laws permit	Upon demand.	Payable on all delinquent payments that are due to us for more than 30 days. See Note 5.
Dishonored Check Charge	\$30	Upon demand.	Payable if a check you provide to us is returned or dishonored by the bank, or if your EFT Account does not have sufficient funds to cover amounts you owe under the Franchise Agreement as they become due and owing to us.
Relocation Fee	\$5,000 if you decide to relocate your Franchised Business	When you submit a letter requesting consideration of a new location.	Payable to us to defray our costs associated with evaluating and approving/rejecting your relocation proposal.
Management Fee	Up to 8% of the Gross Sales of your Franchised Business during the period of time we or our representative manages your Franchised Business on your behalf (the "Management Fee"), plus the costs and expenses we incur.	As incurred	The Management Fee will only be due to us if (a) you are in material default under your Franchise Agreement or become disabled (and unable to perform as the "Franchisee" under your Franchise Agreement), and (b) we exercise our right to temporarily operate your Franchised Business in an effort to assist in getting the operations of the Franchised Business back into compliance with the Franchise Agreement and System Standards.
De-Identification	The costs and expenses associated with de-identifying your former Franchised Business (upon expiration or termination of your franchise agreement)	Within 30 days of expiration/termination, unless otherwise agreed	Payable if we must take on any of these de-identification obligations on your behalf or payable to third-party providers to ensure compliance with the de-identification obligations (post term) under your Franchise Agreement.

Name of Fee	Amount	Due Date	Remarks
Unauthorized Marketing Fee	\$100 per occurrence	As Incurred	Unauthorized advertising, marketing or promotions, which are not pre-approved or aligned with brand compliance, shall incur up to \$100 per occurrence by you. In addition to this fee, you are required to pay our costs in enforcing the same.

**Explanatory Notes**

**Generally.** Except as otherwise stated in this Item, all fees listed in this Item 6 Chart are imposed by, and payable to, us and are uniformly imposed on all of the franchisees in our System. These fees are payable in U.S. dollars and are non-refundable unless otherwise stated in this Item. Unless otherwise stated, the fees outlined in the Chart above apply to the Franchise Agreement only (and not the Development Agreement).

1. **Royalty Fee and Other Fees.** Your Royalty Fee, as well as any other fees payable to us or our affiliates under the Franchise Agreement, may be collected by us via EFT from the bank account you are required to designate solely for use in connection with your Franchised Business (your “EFT Account”). You must provide us with the details of your EFT Account prior to opening and execute all documents necessary to authorize us to make withdrawals from this account throughout the term of your Franchise Agreement, including our then-current EFT Withdrawal Authorization form that is attached as an Exhibit to our current form of Franchise Agreement. You must provide us with advance written notice of any change to the information related to your EFT Account.
  
2. **Collection Interval.** We reserve the right to change the interval at which we collect your Royalty Fee, Fund Contribution and other recurring fees payable to us or our affiliates under the Franchise Agreement upon written notice to you. For example, we may collect these recurring fees on a monthly rather than weekly basis. Regardless, you are required to provide us with a weekly Gross Sales report detailing your Gross Sales from the preceding Business Week, along with your calculated Royalty Fee, Fund Contribution (if appropriate) and other information that we reasonably require (the “Gross Sales Report”) on Monday of each week. We may also require you to use a Computer System and/or related software that provide us with automatic access to such Gross Sales Reports.
  
3. **Definition of Gross Sales.** “Gross Sales” means the total revenue generated by your Franchised Business, including (a) all revenue generated from the sale and provision of any and all gift cards and other Approved Products and Services at or through your Franchised Business, and (b) all insurance proceeds from any business interruption insurance related to the non-operation of your Franchised Business, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “Gross Sales” does not include (a) tips received by massage therapists, estheticians and other practitioners at the Franchised Business, (b) any sales tax and equivalent taxes that are collected by Franchisee for or on behalf of any governmental taxing authority and paid thereto, or (c) the value of any allowance issued or granted to any client of the Franchised Business that is credited in good faith by Franchisee in full or partial satisfaction of the price of the Approved Products or Services.

You must ensure that: (i) we are provided with access to the merchant processing and point of sale (“POS”) system(s) used in connection with your Franchised Business at all times to determine your Gross Sales based on a “cash basis” accounting method; and (ii) all Gross Sales and other financial metrics are reported to us (a) on a cash basis, and (b) in accordance with our current chart of

accounts we provide to you in writing.

4. **Right to Inspect/Audit.** We have the right to inspect your books and other financial information associated with your Franchised Business during the term of the Franchise Agreement. If we conduct an audit and it reveals that you have underreported your Gross Sales by two percent (2%) or more, than we may require you to (a) pay the costs we incur in connection with conducting the audit of your Franchised Business (including any fees paid to auditors and/or attorneys), and/or (b) provide us with annual audited financial statements regarding the operation of your Franchised Business.
5. **Interest on Late Payments.** Interest begins to accrue on the due date of any payment that has not been timely received or is not paid in full.
6. **Minimum Performance Standards.** Throughout the term of the Franchise Agreement, you must obtaining the following minimum amounts of Gross Sales: (i) at least \$20,000 per calendar month, beginning on the first anniversary of the date your Franchised Business opens and commences operation (your “Opening Date”); (ii) at least \$25,000 per calendar month, beginning on the second anniversary of your Opening Date; and (iii) at least \$30,000 per calendar month, beginning on the third anniversary of your Opening Date (collectively, the Minimum Performance Standards”). If you fail to achieve and maintain the Minimum Performance Standards for three (3) consecutive months, then: (i) we may require you to pay us the appropriate Shortfall Royalty Payment described in Item 6 above; (as part of your Local Advertisement as described above in this Item 6); and (ii) we may default you under your Franchise Agreement and demand that you cure such default by once again meeting your Minimum Performance Standards.

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**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

A. Franchise Agreement

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Type of Expenditure</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 <sup>1</sup>	\$59,500	\$59,500	Lump sum	Upon execution of the Franchise Agreement	Us
Initial Training Fee <sup>2</sup>	\$5,000	\$5,000	Lump sum	Upon execution of the Franchise Agreement	Us
Travel and Living Expenses During Initial Training <sup>2</sup>	\$1,000	\$2,000	As incurred	As incurred	Airlines, hotels, and restaurants
Site Selection	\$0	\$2,000	As agreed	As incurred	Our Third-Party Approved Supplier
Security Deposits for Lease and Utilities <sup>3</sup>	\$5,000	\$17,500	As agreed	When you sign your lease or start an account with a utility company	Landlord, utility company
Business License and Permits <sup>4</sup>	\$1,000	\$24,000	As incurred	As incurred	Government agencies
Professional Fees	\$3,000	\$5,500	As agreed	As agreed	Third-party vendors
Pre-Construction, Architectural and Engineering	\$22,000	\$25,000	As incurred	As incurred	Third-party vendors (which may include our Approved Supplier)
Leasehold Improvements <sup>5</sup>	\$288,000	\$375,000	As agreed	As agreed	Third-party vendors (which may include our Approved Supplier)
Signage and Graphics <sup>6</sup>	\$15,000	\$18,000	As agreed	As agreed	Our Third-Party Approved Supplier
Equipment and Supplies <sup>7</sup>	\$70,000	\$113,000	As incurred	As agreed	Third-Party Supplier
Technology Fee(s) Payable Prior to Opening	\$1,300	\$1,300	As incurred	As agreed	Us

Type of Expenditure	Low Amount	High Amount	Method of Payment	When Due	To Whom Payment is to be Made
Additional Funds - 3 Months <sup>8</sup>	\$25,000	\$50,000	As agreed	As incurred	Landlord, employees, utilities, suppliers and other third parties, etc.
<b>Total Estimated Initial Investment<sup>9,10</sup></b>	<b>\$495,800</b>	<b>\$697,800</b>			

### Explanatory Notes

*Generally.* Unless negotiated with a third-party, non-affiliated supplier, all payments disclosed in this Item are generally non-refundable. Please note that the estimates above are, in part, based on (a) our experience franchising Day Spas across the United States, (b) estimates we have received from our Approved Suppliers and certain other third-party suppliers, and (c) the experience of certain of our business advisors in working with franchise brands that have a business with a similar footprint and/or business concept as the Franchised Business offered in this Disclosure Document.

Estimates have included recent bids awarded to better reflect increases due to post-Covid inflation.

Our standard franchise offering assumes that a System franchisee will timely open and commence operations of the Franchised Business within the time period set forth in Item 11 of the FDD and open before the “Rent Commencement Date” or comparable date under the terms of the lease agreement.

1. *Initial Franchise Fee.* The details of the Initial Franchise Fee and Initial Training Fee are disclosed more fully in Item 5 of the Disclosure Document and is paid to us upon execution of your Franchise Agreement. This fee is deemed fully earned and non-refundable upon payment.
2. *Training Fee and Related Costs/Expenses.* This is our estimated range of costs to cover the travel and living expenses, including airfare, lodging and meals, associated with you and your designated trainees attending the portion of the Initial Training Program that is conducted at our designated training facility (currently in Colorado). The cost you incur will vary depending upon factors such as distance traveled, mode of transportation, travel preferences (such as air travel or ground transportation), nature of accommodations, per diem expenses actually incurred, and the number of persons who attend training. This estimate does not include any wages or salary for you or your trainees during training. The low estimate assumes that you will attend our proprietary training program, while the high estimate assumes that up to three (3) total individuals (including you) will be attending this initial training.
3. *Security Deposit and Utility Deposit(s).* These are estimated amounts that a new franchisee can expect to expend on security deposits associated with the lease for the premises of the Franchised Business, as well as the utilities associated with operations. These amounts will vary in each market, and will not be refundable (unless the LL or utilities provider agrees otherwise when negotiating with you). Please note that the rent and other amounts you will be required to pay to the landlord under the Lease for your approved Premises over the first three (3) months your Franchised Business is open are estimated and accounted for under the “Additional Funds” range in the Chart above (and described more fully in Explanatory Note No. 9 below).

4. *Business Licenses and Permits.* You are required to obtain all business licenses, permits, certificates or approvals before you start business. Local, municipal, county, and state regulations vary on what licenses and permits are required by you to operate. Certain states may require that you file and post a bond if it is determined that your Franchised Business constitutes a “Health Club” under the applicable laws of where your franchise is located. As discussed in Item 1, you are solely responsible for researching all laws applicable to where your Franchised Business is operated to determine whether or not you must obtain such a bond under such laws.
5. *Leasehold Improvement(s).* You will need to construct or “build out” the Premises at which you will operate your Franchised Business in accordance with our then-current System standards, specifications and criteria (subject to any modifications we approve to comply with any ordinances or other local laws where your franchised Day Spa is located).

Construction costs for recently developed franchised Day Spas, net of the average tenant improvement allowance disclosed in this Note below, have ranged from \$109 to \$115 per square foot, and such costs have depended on size of the Day Spa, building type, property and location. The target size of Day Spa ranges from 2,200 to 3,000 square feet, with our recommended size being closer to 2,800 sq. ft. that is capable of accommodating around ten (10) treatment rooms.

You may be able to negotiate various terms with your landlord, including paying for some of the build out costs for your space. Also, you may seek to finance some or all of your build out costs through your landlord or other financing sources. A variety of factors may affect the availability of landlord and other financing, the monthly overall costs of the financing, and other terms relevant to your decision whether to pay or finance the build out costs. Your landlord may also agree to provide you with a “Tenant Improvement Allowance”, whereby the landlord reimburses certain costs and expenses associated with your construction and build-out of your Franchised Business at the Premises. The estimate range outlined in this Chart for “Leasehold Improvements and Construction” assumes, based on System experience, that you will receive a Tenant Improvement Allowance that covers at least some portion of the buildout costs associated with your Day Spa. For the most recently negotiated leases, the Tenant Improvement Allowances range from \$35 to \$55 per sq. ft. with an average of \$45 per sq. ft. The low estimated Leasehold Improvements and Construction Costs in this Item 7 is based on the Gross Construction costs netted against the Tenant Improvement allowances, as reported by vendors or franchisees, the least expensive buildout from over the past two (2) years. The high estimated Leasehold Improvement and Construction Costs are based on the Gross Construction costs netted against the Tenant Improvement allowances, as reported by vendors or franchisees associated with the highest reported Day Spa buildout over the past three-year period.

6. *Signage and Graphics.* This is the estimated range for you to purchase the necessary exterior signage to display at your Franchised Business from our approved third-party supplier, as well as the related installation costs. The cost of signage will vary from location to location depending on lease requirements, local ordinances and restrictions, location frontage, and related factors. The final design must be submitted to us for review and approval, which will not be unreasonably withheld so long as you comply with our standards and specifications for these items.
7. *Equipment and Supplies.* You must purchase certain millwork, furniture, fixtures, equipment, and other items necessary to outfit and equip your Day Spa from our approved vendors and suppliers. The costs associated with acquiring equipment and supplies will vary based on the size, layout and location of your Franchised Business, as well as the costs to transport and install the components of the equipment and supplies to the location of your Day Spa. Our Approved Supplier may provide

you with the opportunity to finance the purchase of the equipment and supplies, but such financing will need to be negotiated with our Approved Supplier on a case-by-case basis.

This range also includes the costs associated with acquiring all other furniture, fixtures, equipment and supplies necessary to equip your Day Spa in accordance with our System standards and operate for a period of three (3) months. We may recommend or propose suppliers for certain of these items. Certain suppliers may agree to finance or let you lease certain of the furniture/equipment covered by this estimated range, but you will need to negotiate for any such arrangement directly with the third-party supplier(s). The low end of this range assumes that your Day Spa will be equipped with the supplies, equipment, millwork, and other items necessary for running a franchised Day Spa that has seven (7) treatment rooms as recommended by our current System specifications.

Included in this estimate is the current minimum hardware requirements for your Computer System, which are as follows: (i) an Apple® computer (MacBook, MacBook Pro, Mac Mini or iMac) with a minimum 2.2GHz processor, 1 GB of RAM, hard drive capacity of at least 200GB and current OSX Operating System; (ii) two (2) Apple® iPads® (traditional size – not iPad Mini®) - that are 2nd generation or newer. with IOS 14.5 or newer, and that have at least 16GB of memory; (iii) a 17-inch monitor; (iv) a cash drawer; (v) a standard computer printer compatible with the computer described in (i) for purposes of printing reports and contracts; (vi) a router that is capable of connecting all computer, telephony and monitoring equipment; and (vii) a barcode/magnetic card swipe reader capable of reading all tracks of data and barcodes. You will also need to maintain Internet access via DSL or cable broadband connection.

Certain portions of the estimates accounted for in this estimated range are designed to cover the equipment and inventory package that contains an initial stock of (a) retail products that System franchisees are authorized to offer and sell as part of the Approved Products, and (b) operational inventory and supplies that will be utilized in connection with the provision of the Approved Services during initial operations. We may require you to purchase these items from our Approved Supplier. A variety of factors (such as the condition of the national and regional economy, availability of credit, number of suppliers leasing products in your area, the interest rates offered by suppliers, duration of leases offered, security requirements, and your credit history) may affect the availability of leased products, the monthly and overall costs of the leases, and other terms relevant to your decision whether to purchase or lease the furniture and/or equipment. The amounts listed are an estimate and may vary per your location and market.

8. *Additional Funds – 3 Months.* You will need additional capital to support on-going expenses during the initial three (3) months after you open your Franchised Business. The estimate includes items such as payroll, royalty, rent, Local Advertising Requirement – Initial Marketing Spend, Insurance, additional advertising, repairs and maintenance, bank charges, miscellaneous supplies and equipment, state tax and other miscellaneous items, that may not be covered by sales revenues. This range does not include any draw or salary for you. In calculating these estimates, we relied on (a) the experience of our Affiliate that has owned and operated a business substantially similar to the Franchised Business offered under this Disclosure Document since 2005, (b) our own experience in assisting our current franchisees open and commence operations of their respective Franchised Businesses, (c) estimates we have received from certain third-party vendors, and (d) estimates we received from our System franchisees, and (e) our current requirements for franchised Day Spas. These figures are estimates and we cannot guarantee that you will not have additional expenses in the first (3) months you are operating your Franchised Business. The actual expenses you incur during the start-up period will depend on factors such as how much you follow our

methods and procedures, your management skills, your experience and business acumen, location of your franchise, local economic conditions and market for your product, prevailing wage rate, competition, and sales level reached during this initial period.

9. *Total Estimated Initial Investment.* The figures in this table are only estimates. We do not offer direct or indirect financing to you for any items. The availability of financing through third-party lenders, if any, will depend on factors such as the lending policies of such financial institutions, the collateral you may have, your creditworthiness, and the general availability of financing. Unless otherwise noted above, all of the expenditures listed in the Item 7 Chart above are non-refundable.

B. Development Agreement

**YOUR ESTIMATED INITIAL INVESTMENT<sup>1</sup>**

<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment Is to be Made</b>
Development Fee <sup>2</sup>	\$150,000	Lump Sum	Upon execution of Development Agreement	Franchisor
Initial Investment to Open Initial Franchised Business <sup>3</sup>	\$436,300 to \$638,300	See Chart A of this Item 7.		
<b>TOTALS</b>	\$586,300 to \$788,300	This is the total estimated initial investment to enter into a Development Agreement for the right to own a total of three (3) Franchised Businesses, as well as the costs to open and commence operating your initial Franchised Business for the first three months (as described more fully in Chart A of this Item 7). See Note 3.		

**Explanatory Notes**

1. *Generally.* All fees and payments are non-refundable, unless otherwise stated or permitted by the payee. This Chart details the estimated initial investment associated with executing a Development Agreement for the right to develop three (3) Franchised Businesses, as well as the initial investment to open your first Franchised Business under your Development Schedule.
2. *Development Fee.* The Development Fee is described in greater detail in Item 5 of this Disclosure Document, and this Development Fee is for the right to develop a total of three (3) Franchised Businesses (provided you comply with your development obligations under the Development Agreement). If you choose to develop more than three Franchised Businesses, your Development Fee will be calculated as follows: (i) \$150,000 for the right to develop three Day Spas, plus an additional \$50,000 for the right to develop each additional Day Spa (up to a total of five); (ii) \$45,000 per Day Spa if you agree to develop between six and nine Franchised Businesses; and (iii) \$40,000 per Franchised Business if you agree to develop 10 or more Franchised Businesses.
3. *Estimated Initial Investment for Initial Franchised Business.* This figure represents the total estimated initial investment required to open the initial Franchised Business you agreed to open

and operate under the Development Agreement. You will be required to enter into our then-current form of franchise agreement for initial Franchised Business you open under your Development Agreement, most likely once you have found a Premises for the business that we approve. The range includes all the items outlined in Chart 7.A. of this Item, except for the \$59,500 Initial Franchise Fee (because you are not required to pay any Initial Franchise Fee for those Franchised Businesses you open under the Development Agreement). It does not include any of the costs you will incur in opening the additional Franchised Business(es) that you are granted the right to develop under your Development Agreement.

## **ITEM 8**

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

You must operate all aspects of your Franchised Business in strict conformance with the methods, standards and specifications of our System. Our methods, standards, and specifications will be communicated to you in writing through our confidential Manuals and other proprietary guidelines and writings that we prepare for your use in connection with the Franchised Business and System. We may periodically change our System standards and specifications from time to time, as we deem appropriate or necessary in our sole discretion, and you will be solely responsible for costs associated with complying with any modifications to the System.

#### Approved Services and Approved Products

You may only market, offer, sell and provide the Approved Products and Services at your Franchised Business in a manner that meets our System standards and specifications. We will provide you with a list of our then-current Approved Products and Services, along with their standards and specifications, as part of the Manuals or otherwise in writing prior to the opening of your Franchised Business. We may update or modify this list in writing at any time.

If you wish to offer any product or service in your Franchised Business other than our Approved Products and Services or use any item in connection with your Franchised Business that does not meet our System standards and specifications, then you must obtain our prior written approval as described more fully in this Item.

#### Approved Suppliers

We have the right to require you to purchase any items or services necessary to operate your Franchised Business from a supplier that we approve or designate (each, an “Approved Supplier”), which may include us or our Affiliate(s). We will provide you with a list of our Approved Suppliers in writing as part of the Manuals or otherwise in writing, and we may update or modify this list as we deem appropriate.

We strongly recommend that you use our current Approved Supplier for site selection assistance and guidance, and we may require you to use this third-party provider if we deem appropriate. We also may require you to use one or more Approved Suppliers for certain pre-construction services, which may include services related to (a) preparation of the architectural plans for your Franchised Business in a manner consistent with our System standards and specifications, and/or (b) pre-opening construction management generally.

We also have Approved Suppliers for the following items that you must purchase in connection with the establishment and/or operation of your Franchised Business: (i) computer hardware and software, including business management point of sale software, for use in connection with your franchised Day Spa; (ii)

interior and exterior signage; (iii) the equipment and certain other inventory and supplies; (iv) certain marketing, advertising and public relations materials or services designed to promote the Franchised Business; (v) phone services (VOIP); (vi) insurance; and (vii) merchant processing services.

In addition to the items above, we require you to use an Approved Supplier for bookkeeping and accounting services during your initial 12 months of operation to help ensure your required reports are prepared and submitted in accordance with our System standards.

We may have a provider for construction management services that we have previously designated as an Approved Supplier, but you are not required to use this provider – with that said, we strongly encourage you to consider engaging a third party to provide these construction management services in connection with the establishment of your Day Spa. We may also work with Approved Suppliers for insurance and certain other services. Please note that you will be required to ensure you work with the appropriate providers to acquire all licensing, if and as required by applicable laws, it is necessary to play music at your franchised Day Spa and in each treatment room.

We may develop proprietary products for use in your Franchised Business, including private-label products that bear our Proprietary Marks, and require you to purchase these items from us or our Affiliate(s).

If you wish to purchase a product or service that we require you to purchase from an Approved Supplier from an alternate source, then you must obtain our prior written approval as outlined more fully in this Item. We may provide our standards and specifications for our Approved Products and Services directly to our Approved Suppliers, and may provide these standards and specifications to an alternative supplier you propose if: (i) we approve the supplier in writing as outlined more fully in this Item; and (ii) the alternative supplier agrees to sign our prescribed form of non-disclosure agreement with respect to any confidential information we disclose.

Except as provided in this Item: (i) neither we nor any of our Affiliates are an Approved Supplier for any items you are required to purchase in connection with your Franchised Business; and (ii) none of our officers own an interest in any of our Approved Suppliers. We reserve the right to designate us or any of our Affiliates as an Approved Supplier with respect to any item you must purchase in connection with your Franchised Business in the future.

#### Required Purchases and Right to Derive Revenue

The products or services we require you to purchase or lease from an Approved Supplier, or purchase or lease in accordance with our standards and specifications, are referred to collectively as your “Required Purchases.” We estimate that your Required Purchases will account for approximately 25% to 50% of your total costs incurred in establishing your Franchised Business, and approximately 15% to 25% of your ongoing costs to operate the Franchised Business after the initial start-up phase. Please be advised that these percentages do not include your lease payments you make in connection with your Premises.

We reserve the right to derive revenue from any of the purchases (items or services) that our System franchisees are required to make in connection with the Franchised Business. In our past fiscal year ending December 31, 2023, we derived \$171,020 in consideration based on our franchisees’ required purchases (or 4.6% of the \$3,712,288 in total revenue we generated in our past fiscal year. This consideration was in the form of consideration we received from our third-party Approved Suppliers.

Except as provided above, neither we nor our affiliates derived any revenue in the past fiscal year ending December 31, 2023. Other than use, none of officers own an interest in any of our current Approved

Suppliers.

#### Non-Approved Product/Service and Alternate Supplier Approval

We may, but are not obligated to, grant your request to: (i) offer any products or services in connection with your Franchised Business that are not Approved Products and Services; or (ii) purchase any item or service we require you to purchase from an Approved Supplier from an alternative supplier.

If you wish to undertake either of these actions, you must request and obtain our approval in writing before: (i) using or offering the non-approved product or service in connection with your Franchised Business; or (ii) purchasing from a non-approved supplier. You must pay our then-current supplier or non-approved product evaluation fee when submitting your request. We do not currently charge any evaluation fee but reserve the right to do so in the future (in an amount not to exceed \$500). We may ask you to submit samples or information so that we can make an informed decision whether the goods, equipment, supplies, or supplier meet our specifications and quality standards. In evaluating a supplier that you propose to us, we consider not only the quality of the particular product at issue, but also the supplier's production and delivery capability, overall business reputation and financial condition. We may provide any alternate supplier you propose with a copy of our then-current specifications for any product(s) you wish the supplier to supply, provided the supplier enters into a confidentiality and non-disclosure agreement in the form we specify. We may also inspect a proposed supplier's facilities and test its products, and request that you reimburse our actual costs associated with the testing/inspection.

We will notify you in writing within 150 days after we receive all necessary information and/or complete our inspection or testing to advise you if we approve or disapprove the proposed item and/or supplier. The criteria we use in approving or rejecting new suppliers is proprietary, but we may (but are not required to) make it available to you upon request. Each supplier that we approve of must comply with our usual and customary requirements regarding insurance, indemnification, and non-disclosure. If we approve any supplier, we will not guarantee the performance of any supply contract with that supplier under any circumstances. We may re-inspect and/or revoke our approval of a supplier or item at any time and for any reason to protect the best interests and goodwill of our System and Proprietary Marks. The revocation of a previously approved product or alternative supplier is effective immediately when you receive written notice from us of revocation and, following receipt of our notice, you may not place any new orders for the revoked product, or with the revoked supplier.

#### Purchasing Cooperatives and Right to Receive Compensation

We may, when appropriate, negotiate purchase arrangements, including price terms, with designated and Approved Suppliers on behalf of the System. We may establish strategic alliances or preferred vendor programs with suppliers that are willing to supply some products, equipment, or services to some or all of the franchised Day Spas in our System. If we do establish those types of alliances or programs, we may: (i) limit the number of approved suppliers with whom you may deal; (ii) designate sources that you must use for some or all products, equipment and services; and (iii) refuse to approve proposals from franchisees to add new suppliers if we believe that approval would not be in the best interests of the System.

We and/or our affiliate(s) may receive payments or other compensation from Approved Suppliers or any other suppliers on account of these suppliers' dealings with us, you, or other Franchised Businesses in the System, such as rebates, commissions, or other forms of compensation. We may use any amounts that we receive from suppliers for any purpose that we deem appropriate. We and/or our affiliates may negotiate supply contracts with our suppliers under which we are able to purchase products, equipment, supplies, services, and other items at a price that will benefit us and our franchisees.

We currently receive a rebate from various third-party suppliers based on the amount of inventory product purchased from those suppliers. We reserve the right to create one (1) or more purchasing cooperatives in the future.

### Franchisee Compliance

When determining whether to grant new or additional franchises, we consider many factors, including your compliance with the requirements described in this Item 8. You do not receive any further benefit as a result of your compliance with these requirements.

### Advertising and Marketing

All advertising and promotional materials and other items we designate must bear the Proprietary Marks in the form, color, location, and manner we prescribe. In addition, all your advertising and promotion in any medium must be conducted in a dignified manner and must conform to the standards and requirements we prescribe in the Manuals or otherwise. You must obtain our approval before you use any advertising and promotional materials or plans in connection with your Franchised Business if we have not prepared or approved them during the 12 months prior to the date of your proposed use.

### Approved of Proposed Site for Each Franchised Business

You must obtain our approval of the Premises for your Franchised Business before you acquire the site. You must also obtain our approval of any contract of sale or lease for the Premises before you execute the contract or lease, and we may condition our approval of any site you propose on – among other things – you and your landlord agreeing to execute of our prescribed form of Collateral Assignment of Lease (attached as Exhibit C to our current form of Franchise Agreement). You must also ensure that you comply with all of our System standards and specifications related to the build-out, remodeling and/or construction of your Franchised Business at the Premises.

We currently have Approved Suppliers for site selection assistance and construction management (relating to the build-out and/or construction of your Premises), but we do not require that you use these specific third-party providers as of the Issuance Date. We may require you to use these Approved Suppliers if we deem appropriate.

If we grant you the right to open and operate multiple Franchised Businesses under a Development Agreement, you may not enter into your Franchise Agreement for each Franchised Business opened under your Development Schedule until you have found a Premises for that Franchised Business that we approve.

### Insurance

All coverage must be provided by an insurance company with an A.M. Best rating of no less than A-VII and acceptable to us, unless we designate specific insurers from which you must purchase coverage. We may periodically modify the types and amounts of coverage required under these policies to reflect changing risks, inflation, or changes in law for which you will comply upon written notice or change to the operations manual. You must also be in compliance with any insurance required by any lease, state or municipality where the Day Spa is located. All liability policies will name Spavia International, LLC as additional insured and provide us with 30 days' notice of cancellation. The General Liability and Workers' Compensation policies must also contain a waiver of subrogation, and all policies will be primary and noncontributory to any insurance we might carry. You must provide us with a certificate of insurance at the time of signing a lease and at least 20 days prior to any renewal as evidence of all the required coverages.

If you do not provide us with the proper certificate, we maintain the right but not the duty to purchase insurance on your behalf and charge you the premium due plus any administration fee which will be payable immediately to us. The procurement and maintenance of such insurance shall not relieve you of any liability to us under any indemnity requirement that may be required by applicable law, or by lender or lessor, you shall procure:

**Required Insurance.** You shall, at your own expense and no later than the earlier of (a) the date on which you use any of the Proprietary Marks, or (b) the date you begin building out the Day Spa, procure and maintain in full force and effect throughout the term of the Franchise Agreement the types of insurance enumerated in the Manuals or otherwise in writing (whether the Day Spa is open or not). This insurance shall be in such amounts as we or the lessor of the Premises designates from time to time. In addition to any other insurance that may be required by applicable law, or by lender or lessor, you shall procure:

A. Property insurance with special form coverage on all assets including but not limited to furniture, fixtures, equipment, inventory, supplies and tenant improvement cost used in the operation of your franchised business. Limits must be at 100% of the replacement cost of all business personal property. This policy must also include Business Income and Extra Expense coverage for not less than 50% of your gross sales or 12 months actual loss sustained basis and include an extended period of indemnity for 180 days. Medical Expense coverage must be included;

B. Workers' Compensation insurance regardless of the statutory requirements of the state in which your Day Spa is located and Employer's Liability with limits not less than \$1,000,000;

C. Comprehensive General Liability insurance with aggregate limits of not less than \$2,000,000, 1,000,000 per occurrence, \$1,000,000 Products/Completed Operations, \$1,000,000 Personal Injury & Advertising Injury for claims of bodily injury and property damage;

D. Professional Liability insurance for errors and omissions of your professional staff in providing services to your guests with not less than \$1,000,000 per occurrence/\$3,000,000 aggregate including a minimum of \$100,000 per occurrence and \$300,000 aggregate for abuse and molestation. Additional Insured, Grantor of Franchise, endorsement in the name of Spavia International LLC and a Waiver of Subrogation in favor of Spavia International LLC for Sexual Abuse & Molestations (Sexual Misconduct);

E. Employment Practices Liability of not less than \$1,000,000 aggregate limit including third party liability for employment related claims and harassment and discrimination claims from non-employees. Spavia International, LLC must be named as co-defendant. Must include 1st & 3rd party coverage and must include Wage and Hour Defense Sublimit of at least \$25,000;

F. Automobile Liability of not less than \$1,000,000 combined single limit for all owned, non-owned and hired vehicles used in the franchised business. Additional Insured endorsement in the name of Spavia International LLC. A Waiver of Subrogation in favor of Spavia International LLC;

G. Umbrella Liability of not less than \$1,000,000 to be excess of general liability, automobile liability and employer's liability for each location; and

H. Such insurance as necessary to provide coverage under the indemnity provisions of the Franchise Agreement.

## Computer Hardware and Software

You must purchase any and all computer hardware, software and peripherals in accordance with our System standards and specifications. We may require you to purchase any of these items from one of our Approved Suppliers. Your Premises must have Internet Wi-Fi access that your customers can access. We may require you to purchase any of these items from one of our Approved Suppliers, and we currently have an Approved Supplier in connection with the software you must use at your Franchised Business (and maintenance/support associated with this software).

### **ITEM 9 FRANCHISEE'S OBLIGATIONS**

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

	<b>Obligation</b>	<b>Section in Franchise Agreement</b>	<b>Section in Development Agreement</b>	<b>Disclosure Document Item</b>
a.	Site selection and acquisition/lease	Sections 2, 5, and 6	Section 8	Item 11
b.	Pre-opening purchases/leases	Sections 5 and 6	Section 8	Items 7, 8, 11
c.	Site development and other pre-opening requirements	Sections 2, 5, and 6	Section 3	Items 6, 7, 11
d.	Initial and ongoing training	Sections 5 and 6	Not Applicable	Item 11
e.	Opening	Sections 5 and 6	Section 3, Exhibit B	Item 11
f.	Fees	Sections 3, 4, 9, and 13(E)	Section 9	Items 5, 6, 7, 11
g.	Compliance with standards and policies/Confidential Operations Manual	Sections 5 and 6	Section 3	Items 6, 11
h.	Trademarks and proprietary information	Section 7	Section 13	Items 13, 14
i.	Restrictions on products/services offered	Sections 5 and 6	Not Applicable	Items 8, 11, 16
j.	Warranty and customer service requirements	Section 6	Not Applicable	Not Applicable
k.	Territorial development and sales quotas	Sections 2 and 6	Section 1, 3, and Exhibit B	Item 12
l.	Ongoing product/service purchases	Sections 5 and 6	Not Applicable	Items 8, 16
m.	Maintenance, appearance and remodeling requirements	Section 6	Not Applicable	Items 8, 11
n.	Insurance	Sections 6 and 11	Not Applicable	Items 6, 11
o.	Advertising	Sections 4, 5, 6, and 9	Not Applicable	Items 6, 11
p.	Indemnification	Section 11	Not Applicable	Item 9

	<b>Obligation</b>	<b>Section in Franchise Agreement</b>	<b>Section in Development Agreement</b>	<b>Disclosure Document Item</b>
q.	Owner's participation/management/staffing	Section 6	Section 7	Item 15
r.	Records and reports	Sections 4, 6, and 10	Not Applicable	Items 6, 9, 21
s.	Inspections and audits	Section 5 and 10	Not Applicable	Items 6, 11, 21
t.	Transfer	Section 13	Section 16	Item 17
u.	Renewal	Section 3	Not Applicable	Item 17
v.	Post-termination obligations	Sections 14(B) and 16	Sections 14, 15	Item 17
w.	Non-competition covenants	Section 14	Section 11	Item 17
x.	Dispute resolution	Sections 19 and 21	Sections 21, 22	Item 17
y.	Personal guaranty	Exhibit B	Attachment	Items 1, 15

## **ITEM 10 FINANCING**

Neither we, nor our affiliates or agents offer direct or indirect financing to franchisees, nor do we guarantee your obligations.

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

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

### **A. Pre-Opening Obligations**

Prior to the opening of your Franchised Business, we (or our designee) will or may, as applicable, provide you with the following assistance:

1. If you have entered into a Development Agreement for the right to operate three (3) or more Franchised Businesses, we will designate your Development Area where you will have the right to secure a Premises (each of which we must approve) for each of your Franchised Businesses. (Development Agreement, Section 3);

2. We will provide site selection guidelines and assistance (as described more fully below in this Item 11), as we deem appropriate in our discretion, in connection with selecting the Premises for each of your Franchised Business(es). We may also review and lease associated with a proposed site to ensure that it contains the collateral assignment of lease and certain other provisions discussed more fully in this Item below under the "Site Selection" heading (Franchise Agreement, Sections 2(B) and 5(E));

3. Once you secure a Premises that we approve for a Franchised Business, we will define your Designated Territory for that Franchised Business and include its boundaries in a Data Sheet attached as an Exhibit to your Franchise Agreement. (Franchise Agreement, Section 2(D));

4. We will provide you with online access to, or otherwise loan you, one (1) copy of our confidential and proprietary Manuals. You must operate your Franchised Business in accordance with the Manuals and all applicable laws and regulations. The Manuals may be amended or modified by us to reflect

changes in the System. You must keep the Manuals confidential and current, and you may not copy any part of the Manuals. You are required to keep a copy of the Manuals at your Premises, and if there is a dispute relating to the contents of the Manuals, then the master copy (which we maintain at our corporate headquarters) will control. We reserve the right to disclose updates to the Manuals in writing in any manner, including electronic means such as e-mail, our website and any intranet or extranet that we establish in connection with the System. The table of contents for our Operations Manual as of the Issuance Date of this Disclosure Document is attached to this Disclosure Document as Exhibit G and is a total of approximately 162 pages. Please note, however, that certain portions of the Manuals will be set forth on our current System Site and you will be solely responsible for ensuring compliance with these “online” portions of the Manuals as well. (Franchise Agreement, Section 5(D));

5. We will provide you with a list of our Required Items and Approved Suppliers (to the extent we have designated them), either as part of the Manuals or otherwise in writing. (Franchise Agreement, Section 5(D));

6. We will review and approve your signage, the proposed layout and design of your Premises – whether created by our Approved Supplier or other contractor you select (which you may only use if we do not require you to use our Approved Supplier) – as well the equipment, furniture and fixtures used in connection with your Franchised Business, as we deem appropriate and advisable in our discretion. (Franchise Agreement, Section 6(D)); and

7. Provide you with guidance and/or directives in connection with how to expend the required funds associated with the promotion and advertisement of the grand opening of your Franchised Business. (Franchise Agreement, Section 5(F)); and

8. We will provide you and up to two (2) additional individuals you designate with our Initial Training Program designed to provide instruction and education on our System methods and techniques related to establishing and operating your Franchised Business. The Initial Training program may be provided by us through a number of different methods, including (a) remote LMS training, webinars or similar methods of online training that you must demonstrate you have completed (and, if applicable, passed), (b) instruction that takes place at our designated training facility (described more fully below), and (c) on-site instruction and assistance that our training personnel provides to you and your designated trainees at the Premises of your Day Spa closer to the time you are ready to open. Your payment of the Initial Training Fee will cover the tuition associated with you and up to two (2) additional trainees to participate in our Initial Training Program, and you will be responsible for all costs and expenses you (and other attendees) incur in connection with attending or otherwise participating in our Initial Training Program (including any travel, lodging, meals and other expenses associated with attending those portions of the program that are provided from our designated training facility in Greenwood Village, CO or other location we designate). The details of our Initial Training Program are set forth in the Chart below.

**TRAINING CHART**

Subject	Hours of Classroom Training <sup>1</sup>	Hours of On-the-Job Training	Location <sup>2</sup>
Operations Manual for Owners	1 hour	-	Pre-opening Webinar (remotely)

The SPAVIA Story and Mission	2 hours	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Standards for Operating a SPAVIA Day Spa	1 hour	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Labor Relations	0.5 hour	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Recruiting and Hiring	3 hours	-	Pre-opening Webinar (partially); Classroom training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
SPAVIA Operations	3 hours	-	Pre-opening Webinar (partially); Classroom training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Memberships	1 hour	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Marketing Your Franchised Business	3.5 hours	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Planning for Success	2 hours	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Public Relations	1 hour	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Marketing Standards	1 hour	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village, Colorado or other location we designate
Crisis Management	0.5 hours	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village , Colorado or other location we designate

Spa Services	4 hours	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village , Colorado or other location we designate
Business Administration	2 hours	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village , Colorado or other location we designate
Legal Requirements	0.5 hour	-	Pre-opening Webinar (partially); Classroom Training at Designated Training Facility in Greenwood Village , Colorado or other location we designate
On-Site Training <sup>2</sup>	-	Approximately 14 to 21 hours	On-site at the Premises of your Franchised Business
<b>TOTALS</b>	<b>26 hours</b>	<b>14 to 21 hours</b>	

**Explanatory Notes**

1. Portions of any “Classroom” training may be provided to you via LMS (referred to as a “Pre-opening Webinar” above) or other online/electronic method that allows us to administer, provide, track report and deliver e-learning education courses and training via a software application (and, if applicable, confirm that you have passed any corresponding test in connection with such training).
2. In addition to the remote instruction/classes and the portion of our Initial Training Program that is provided at our training facility as described in the Training Chart above, we will send one (1) or more of our trainers to your Franchised Business to provide additional on-site instruction and assistance. This on-site assistance will typically take place at or close to the time you are authorized to open your Franchised Business, and such assistance will typically last a total of two (2) to three (3) days. Please note, however, that certain of the “On-the-Job” training described in the Training Chart above may be provided or covered during the training we provide at our designated training facility.

We do not currently have a set training schedule, but our Initial Training Program will be made available on an as-needed basis subject to the availability of our personnel. Instructional materials, including components of the Manuals, will be provided to you and used as necessary as you proceed through the Initial Training Program. The Initial Training Program is subject to change without notice to reflect updates in the materials, methods and Manuals, as well changes in personnel. The subjects taught and the time periods allocated for each subject may vary based on the experience of the people being trained. Our training supervisor and his years of experience within the industry and years with our System are listed below. Our training managers may utilize other employees to assist them with all aspects of training.

You must complete the portions of the Initial Training Program that are provided remotely or at our designated training facility at least 14 days prior to opening your Franchised Business, unless we agree otherwise in writing. Failure by you or any other required attendee to complete these portions of the Initial

Training Program within this time period is grounds for terminating your Franchise Agreement. (Franchise Agreement, Sections 5(A) and 6(O)).

Our training program will be supervised by Courtney Allison, who has over 10 years of experience in training franchisees.

We reserve the right to appoint and substitute other individuals to assist in providing training, but all of our training personnel will have at least one (1) year in the subject matters that they teach. We will loan you one (1) copy of our proprietary instructional materials prior to or upon your attendance at our Initial Training Program, which may include our Manuals and certain other instructional materials that we develop. You, or another person that successfully completes our Initial Training Program, will be required to train all other personnel that works at your Franchised Business. (Franchise Agreement, Sections 6(O) and 6(P)).

If you wish to have more than three (3) individuals attend the Initial Training Program, we will train these individuals, subject to the availability of our training staff, at our corporate headquarters or any other location we may select and we reserve the right to charge our then-current training tuition fee for the Initial Training Program, which is currently \$1,500 per trainee. If you, your Designated Manager (if applicable) or other trainee you designate fails to complete the Initial Training Program to our satisfaction, that person may re-attend or you may send a replacement to our next available Initial Training Program session, provided there is availability. We may charge our then-current training tuition rate for these individuals to re-attend the Initial Training Program as well. In any event, you are solely responsible for all expenses incurred related to your and your employee's attendance at our Initial Training Program, including transportation to and from the training site, lodging, meals and employee wages. (Franchise Agreement, Section 5(A) and 6(P)).

In addition to the Initial Training Program, you will need to ensure that each individual that is performing any Approved Services (massage therapists, etc.) at your Day Spa: (i) successfully participates in and completes the webinars, LMS and other training classes that can be completed at your Day Spa and are designed to instruct such personnel on how to provide such Approved Services in accordance with our System standards; and (ii) successfully passes the appropriate test, if any, that you will administer to ensure personnel understand the content of this instruction. Such instruction is designed to build on the skills, licensed or otherwise, that such personnel have already obtained in order to be able to provide certain Approved Services under applicable laws where your Day Spa is located. (Franchise Agreement, Section 5(B)).

Before you or any designated trainee may attend the Initial Training Program, you must complete the following pre-training conditions: (i) undertake all steps to establish the bank account that Franchisee designated for use in connection with the Franchised Business, including providing Franchisor with the complete form attached hereto as Exhibit D; (ii) demonstrate Franchisee has obtained all required insurance coverages as set forth in this Agreement and the Operations Manual; and (iii) provide Franchisor with completed and signed copies of all agreements and contracts that are attached as Exhibits to this Agreement, to the extent such documents have not been signed or need to be updated or completed at that time (collectively, the "Training Pre-Conditions"). (Franchise Agreement, Section 6(O)).

## B. Site Selection

You must assume all costs, liabilities, expenses and responsibility for: (i) locating, obtaining and developing a Premises for your Franchised Business; and (ii) constructing, equipping, remodeling and/or building out the Premises for use as a Franchised Business, all in accordance with our System standards and

specifications. We may provide you with our current written site selection guidelines, to the extent such guidelines are in place, and any other site selection counseling and assistance we believe is advisable. Our guidelines for site selection may require that you conduct, at your expense, an evaluation of the demographics of the market area for the location. We may then use these factors in determining the suitability of your proposed site for the Premises of your Franchised Business. (Franchise Agreement, Sections 5(E) and 6(A)).

In deciding whether to approve a site, we may also consider, among other things: (i) demographic characteristics, traffic patterns, allowed design and building, parking, visibility, allowed signage, and the predominant character of the neighborhood surrounding the proposed site; (ii) competition from other businesses selling similar “day spa” products and services within the area and the proximity of the site to these businesses, as well as the nature of all other businesses in proximity to the proposed site; (iii) zoning restrictions, soil and environmental issues, and other commercial characteristics; and (iv) the size, appearance, and other physical characteristics of the proposed site.

We must also have the opportunity to review any lease for a proposed Premises before we approve a given site you propose. We may condition our approval of your proposed site on a number of conditions, including: (i) an agreement by you and the landlord of the Premises to enter into our prescribed form of Collateral Assignment of Lease; and (ii) receiving a written representation from the landlord of the Premises that you will have the right to operate the Franchised Business, including offering and selling the Approved Products and Services, throughout the term of your Franchise Agreement. Under the Collateral Assignment of Lease, we will have the option, but not the obligation, to assume or renew the lease for the Premises (the “Lease”) for all or part of the remaining term of the Lease if you are in material default of your Franchise Agreement and/or Lease and/or fail to timely cure that default. (Franchise Agreement, Sections 5(E) and 6(A); Exhibit C to Franchise Agreement).

We will use reasonable efforts to approve or reject any proposed location within 30 days of the date you provide us with all requested materials. If we determine that an on-site evaluation is necessary, then you must: (i) submit to us in the form we specify a description of the site prior to our representative conducting its on-site evaluation, including evidence that the site satisfies our site selection guidelines and any other information and materials that we may reasonably require, including a letter of intent or other evidence that confirms your favorable prospects for obtaining the site; and (ii) reimburse us for the expenses incurred in connection with such an evaluation. If we do not provide our specific approval of a proposed location within this 30-day period, the proposed location will be deemed rejected. Our approval only means that the site meets our minimum requirements for a Franchised Business. (Franchise Agreement, Section 5(E)).

We encourage you to use our current Approved Supplier for site selection assistance and guidance, but we do not currently require that you use this third-party provider (but reserve the right to do so in the future). You must secure a Premises that we approve within six (6) months of executing your Franchise Agreement for that Franchised Business or we may terminate that Franchise Agreement. (Franchise Agreement, Section 6(A)).

### C. Time to Open

Except as provided in this Item, you must open and commence operations of your Franchised Business within one (1) year of the date you execute your Franchise Agreement for that Franchised Business. We estimate that it will take between six (6) months and twelve (12) months to open your Franchised Business from the time you execute your Franchise Agreement. Your total timeframe may be shorter or longer depending on the time necessary to obtain an acceptable Premises, to obtain financing, to obtain the permits and licenses for the construction and operation of the Franchised Business, to complete construction or

remodeling as it may be affected by weather conditions, shortages, delivery schedules and other similar factors, to complete the interior and exterior of the Franchised Business, including decorating, purchasing and installing fixtures, equipment and signs, and to complete preparation for operating the Franchised Business, including purchasing any inventory or supplies needed prior to opening. If you do not open or operate your Franchised Business within this one (1) year period, then we may terminate your Franchise Agreement (unless we agree to extend your opening deadline in a writing signed by both parties) (Franchise Agreement, Section 6(D)).

With that said, we will provide you with a reasonable extension of time not to exceed ninety (90) days to complete the build-out/construction of your Franchised Business and open to the public, provided: (i) you have already executed a lease for, or otherwise obtained, a Premises that we approve for that Franchised Business; and (ii) you notify us of your need for such an extension no less than thirty (30) days prior to expiration of the one (1) year timeline to open and commence operations described above. Such an extension will not affect any of your other obligations under the Franchise Agreement at issue or any Development Agreement you have entered into with us. (Franchise Agreement, Section 6(D)).

If you have entered into a Development Agreement to open and operate three (3) or more Franchised Businesses, your Development Agreement will include a Development Schedule containing a deadline by which you must have each of your Franchised Businesses open and operating. Your Development Schedule may depend on the number of Franchised Businesses you are granted the right to open and operate. (Development Agreement, Section 4(B) and 4(C)).

If you fail to open any Franchised Business within the appropriate time period outlined in the Development Agreement, we may terminate your Development Agreement. You will not have any further development rights within the Development Area upon termination of your Development Agreement, except to continue operating the Franchised Business(es) that were already open and operating as of the termination date. We must approve the Premises you choose for each Franchised Business you are required to open under the Development Agreement.

#### D. Post-Opening Obligations

After the opening of your Franchised Business, we (or our designee) will or may, as applicable, provide you with the following assistance:

1. We may offer, and require you and your Designated Manager to attend, additional training programs and/or refresher courses, as we deem necessary in our sole discretion (“Additional Training”). While you have the option to attend any Additional Training we offer, subject to the availability of our classes, we may require that you and your Designated Manager (a) attend Additional Training each year at our headquarters or other location we designate, and (b) successfully complete LMS training (which can be completed remotely), each year. You will be required to pay our then-current Additional Training Fee for any Additional Training you and your employees attend. You will also be solely responsible for all expenses incurred in attending Additional Training. (Franchise Agreement, Section 5(C));

2. We may provide you with continuing consultation and advice, as we deem necessary in our sole discretion, regarding the management and operation of the Franchised Business. We may provide this assistance by telephone, facsimile, intranet communication, Google Meets, Zoom, or any other communication channel, as we deem advisable and subject to the availability of our personnel. Certain of this advice and consultation may be provided based on certain reports, guest satisfaction surveys and other brand quality measurements we impose in connection with the operation of your Franchised Business, and such advice/consultation will be subject to your timely provision of any reports we require you to submit.

(Franchise Agreement, Section 5(G)).

3. We may also provide you with additional on-site assistance, subject to the availability of our field representatives and, upon our request, payment of our then-current Additional Training Fee. (Franchise Agreement, Section 5(G));

4. We will approve or deny any advertising/marketing materials you wish to use in connection with your Franchised Business as described more fully below in this Item 11 under the heading “Advertising and Marketing.” (Franchise Agreement, Section 5(H));

5. We may also, as we deem necessary in our discretion, provide you with seasonal signage and marketing templates or materials that you will be required to use in connection with your Franchised Business. (Franchise Agreement, Sections 6(N));

6. We will approve or disapprove your requests to: (i) purchase and/or offer non-approved products or services in connection with the Franchised Business; and (ii) make Required Purchases from suppliers other than our then-current Approved Suppliers. (Franchise Agreement, Section 6(L));

7. We may schedule and hold a franchise conference, as we deem advisable in our sole discretion, to discuss the current state of the System, improvements to the System, hold discussion forums for System franchisees and recognize certain franchisees. In the event we schedule a conference, we may require you to attend for up to five (5) days each year. You will be responsible for the costs and expenses you incur in connection with any franchise conference and you will be required to pay our then-current attendance/registration fee (Franchise Agreement, Section 5(Q));

8. We will display the contact information of your Franchised Business on the website that we or our designee maintains to advertise and promote our brand, our Proprietary Marks and other Day Spa locations, provided you are in compliance with the terms of your Franchise Agreement. Please see below in this Item 11 under the heading “Advertising and Marketing” for further information. (Franchise Agreement, Sections 5(D), 5(I) and 9(G));

9. We will administer and maintain a System-wide brand development fund (the “Fund”) for the benefit of the System, as we deem necessary in our discretion as detailed more fully in this Item under the “Advertising and Marketing” heading. (Franchise Agreement, Sections 5(M) and 9(E));

10. We may, as we deem appropriate in our discretion, establish and maintain a website portal that will be accessible by System franchisees, which may be used for purposes of (a) providing updates, supplements and supplemental information that will constitute part of one (1) or more Manual, (b) providing webinars and other training, including portions of our Initial Training Program, (c) providing advertising templates or other marketing/promotional materials, as well as information related thereto, and (d) otherwise communicate with our franchisees regarding the brand, System and/or specific operational/promotional aspects of a Franchised Business (each, a “System Site”). (Franchise Agreement, Section 5(D));

11. We may conduct, as we deem advisable in our sole discretion, inspections of the premises and audits of the Franchised Business and your operations generally to ensure compliance with our System standards and specifications. We may also prepare written reports outlining any recommended or required changes or improvements in the operations of a System franchise, as we deem appropriate in our sole discretion, and detail any deficiencies that become evident as a result of any inspection or audit. (Franchise Agreement, Section 5(L));

12. We may supplement, revise or otherwise modify the Manuals, Learning Management System and/or the System Intranet as we deem necessary or prudent in our sole discretion, which may, among other things, provide new operations concepts and ideas. We may provide you with these updates through various mediums, including mail, e-mail and our System-wide intranet (a System Site). (Franchise Agreement, Section 2(G)); and

13. We may: (i) research new spa services, products and equipment and methods of doing business and provide you with information we have developed as a result of this research, as we deem appropriate in our sole discretion; and (ii) create and develop additional products and services to be offered or provided as Approved Products and Approved Services at a franchised Day Spas, including proprietary products and services that may be sold under the trademarks we designate. (Franchise Agreement, Section 6(G)).

#### E. Advertising and Marketing

All advertising and promotion that you use in connection with your Franchised Business must be approved by us and conform to the standards and requirements that we specify. We may make available to you from time to time, at your expense, certain promotional materials, including newspaper mats, coupons, merchandising materials, point-of-purchase materials, special promotions, and similar advertising and promotional materials. You must also participate in certain promotions and advertising programs that we establish as an integral part of our System, provided these activities do not contravene regulations and laws of appropriate governmental authorities. (Franchise Agreement, Section 9(A)). You will be required to purchase and display any seasonal signage in certain parts of your Franchised Business that have high visibility for purposes of notifying customers and prospective customers of seasonal specials/promotions regarding our Approved Products and Services. (Franchise Agreement, Section 6(N)).

If you wish to use any advertising or promotional materials other than those that we have previously approved or designated within the preceding 12 months, then you must submit the materials you wish to use to us for our prior written approval at least 20 days prior to publication. We will use commercially reasonable efforts to notify you of our approval or disapproval of your proposed materials within 15 days of the date we receive the materials from you. If you do not receive our written approval during that time period, however, the proposed materials are deemed disapproved and you may not use such materials. Once approved, you may use the proposed materials for a period of 90 days, unless we: (i) prescribe a different time period for use; or (ii) require you to discontinue using the previously-approved materials in writing. We may require you to discontinue the use of any advertising or marketing material, including materials we previously approved, at any time. (Franchise Agreement, Section 9(B)). Except as otherwise provided in this Item, we are not required to spend any amount on advertising in your Designated Territory.

*Local Advertising Requirement(s).* Recognizing the importance of promoting your Franchised Business within your Designated Territory and surrounding area, you must expend \$50,000 within the first twelve (12) months of operation of the Franchised Business on the advertisement, marketing and promotion of your Franchised Business within your Designated Territory (the “Local Advertising Requirement”). After the first twelve (12) months of operation, you are required to spend a minimum of \$20,000 in each subsequent 12-month period of operations as your Local Advertising Requirement. You must use only those materials that we have previously approved or designated, and we may require that you provide us with reports and other evidence of your local advertising expenditure each month. We may require that you expend any portion of your Local Advertising Requirement on services/materials that you must acquire from one (1) or more of our Approved Supplier(s) (Franchise Agreement, Section 9(D)).

*Initial Marketing Spend.* Of the \$50,000 Local Advertising Requirement described above, you will be required to expend \$15,000 to \$20,000 of that within the first 90 days that your Franchised Business is open and operating (or in connection with the opening of the Franchised Business itself). As part of this Initial Marketing Spend, you will be required to allocate certain funds to purchase an initial package of advertising materials from an Approved Supplier designated by us. (Franchise Agreement, Section 9(C)).

*Brand Development Fund.* We have established a brand development fund (the “Fund”) for the benefit, promotion and further development of the System and brand generally. We currently require that you contribute to this Fund in an amount equal to one percent (1%) of the Gross Sales of your Franchised Business during the preceding Business Week. We will administer and use the Fund to meet certain costs related to maintaining, administering, directing, conducting and preparing advertising, marketing, public relations, and/or promotional programs and materials, and any other activities which we believe will enhance the image of the System. We will designate all programs that the Fund finances, with sole control over the creative concepts, materials, and endorsements used and their geographic, market, and media placement and allocation. The Fund may also be used to cover the costs and fees associated with: preparing and producing video, audio, and written materials and electronic media; website maintenance and development, internet advertising, administering regional and multi-regional marketing and advertising programs, including purchasing trade journal, direct mail, website, radio and other media advertising and using advertising, promotion, and marketing agencies and other advisors to provide assistance; and supporting public relations, market research, and other advertising, promotion, and marketing activities. The Fund may be used for advertising materials/campaigns in printed materials or on radio or television for local, regional or national circulation, internet regional or national advertising, as we deem appropriate in our discretion. We and/or a regional or national advertising agency may be used to produce all advertising and marketing. (Franchise Agreement, Section 9(E)).

We will account for the Fund contributions separately from our other funds and not use the Fund for any of our general operating expenses, except to compensate us for the reasonable salaries, administrative costs, travel expenses and overhead we incur in administering the Fund and its programs, including conducting market research, preparing advertising, promotion, and marketing materials, and collecting and accounting for Fund contributions. The Fund is not our asset or a trust, and we do not owe you fiduciary obligations because of our maintaining, directing or administering the Fund or any other reason. The Fund may spend in any fiscal year more or less than the total Fund contributions in that year, borrow from us or others (paying reasonable interest) to cover deficits, or invest any surplus for future use. We will use interest earned on Fund contributions to pay costs before spending the Fund's other assets. We will not use Fund contributions for advertising that principally is a solicitation for the sale of franchises, except that we may use/display the phrase “Franchises Available” on any and all advertising/marketing that is covered by the Fund. We will prepare an unaudited, annual statement of Marketing Fund collections and costs and give it to you upon written request. We may incorporate the Marketing Fund or operate it through a separate entity if we deem appropriate. Our Affiliate-owned Day Spas will contribute to the Fund in the same manner that each franchised Day Spa is required to contribute.

We are not required to spend any of your Fund Contributions in the Designated Territory you are granted under your Franchise Agreement, and we will provide you with an accounting of the Fund within 120 days after our fiscal year end (upon your written request). We are not required to have the Fund audited, but we may do so and use the Fund Contributions to pay for such an audit. If we do not spend all Fund Contributions in a given year, we may rollover any excess contributions into the Fund for use during the following year. We will have the right to modify or discontinue the Fund, as we deem appropriate in our sole discretion. (Franchise Agreement, Section 9(E)).

In the past fiscal year ending December 31, 2023, the Fund Contributions were expended as follows: (i) digital marketing/advertising – 19%; (ii) brand support – 46%; (iii) system support/development – 8%; and (iv) creative – 27%.

*Advertising Council.* Currently, we have not established an advertising council (the “Advertising Council”), but we reserve the right to do so in the future. If we establish an Advertising Council, it will serve in an advisory capacity to us with respect to certain advertising expenditures, including providing advice/guidance on how to administer the Fund (if established in the future). At our discretion, the Advertising Council may be comprised of our management representatives, employees, you and/or other franchisees in the System. We will have the right to modify or dissolve an Advertising Council (if created) at any time. (Franchise Agreement, Section 9(F)).

*Regional Advertising Cooperatives (“Cooperatives”).* We reserve the right to establish regional advertising cooperatives that are comprised of a geographical market area that contain two or more Facilities (whether a Franchised Business or Affiliate-owned) (each a “Cooperative”). If we assign your Franchised Business to a Cooperative we establish, you must work with the other Day Spa owners in your Cooperative and us to develop and implement regional advertising campaigns designed to benefit all the Facilities within the geographical boundaries of the Cooperative. We have not established any Cooperatives as of the Issuance Date of this Disclosure Document. If a Cooperative is established, you will be required to contribute a minimum of \$1,250 per month and a maximum of \$3,000 each month (as voted on by a majority of the members), unless members unanimously vote to pay a higher amount. We will have the right to establish, modify, merge and dissolve Cooperative as we deem appropriate. Any amounts you expend on Cooperatives will be credited towards your Local Advertising Requirement. (Franchise Agreement, Section 9(H)).

*Online Directories.* As another means of advertising, you must ensure that the Franchised Business is listed in appropriate Internet-based local listing that we designate. You must ensure that your Franchised Business has a dedicated telephone line that is not used for any other purpose.

#### F. Computer System

We have the right to specify or require that you use certain brands, types, makes, and/or models of computer hardware and software in connection with the Franchised Business, including without limitation (i) a laptop or other computer that meets our System specifications and is capable of running accounting software such as QuickBooks and/or Point of Sale software; (ii) printers and other peripheral hardware/devices; and (iii) equipment necessary to maintain a physical, electronic or other security system for the Franchised Business that we designate (collectively, the “Computer System”). We may also require you to use designated software in connection with the Computer System and Franchised Business (the “Required Software”). (Franchise Agreement, Sections 4(C) and 6(K)).

If you already have computer hardware and/or software that meet our then-current standards for a Computer System and/or Required Software, then you may use these items in connection with your Franchised Business provided you obtain our approval. Otherwise, we estimate the costs to purchase our current Computer System to be between \$2,500 and \$6,000 (which is part of the FFE estimated range in Item 7). You must keep your Computer System in good maintenance and repair and install such additions, changes, modifications, substitutions, and/or replacements to the Computer System or Required Software as we direct from time to time in writing. We do not have any contractual obligation to maintain, update or update your Computer System, however, we estimate that you will spend approximately \$500 to \$1,500 annually on maintenance and support contracts for your Computer System, which includes (a) the software license

for your Required Software (see Items 6 and 8 of this Disclosure Document), and (b) any upgrades to the Computer System.

You must have the components necessary to ensure that the entire Premises of the Franchised Business has access to the Internet via Wi-Fi connection. We may require that: (i) you comply with our standards and specifications for Internet access and speed; and (ii) the Computer System be programmed to automatically transmit data and reports about the operation of the Franchised Business to us. We will also have the right to, at any time without notice, electronically and independently connect with your Computer System to monitor or retrieve data stored on the Computer System (or for any other purpose we deem necessary). There are currently no contractual limitations on our right to access the information and data on any component of your Computer System. We may also require you to use a Computer System and/or related software that is administered through us and provides us with automatic access to all data and reports that might be created by such Computer System and/or software. (Franchise Agreement, Sections 4(C) and 6(G)).

You are also required to participate in any System-wide area computer network, intranet system, or extranet system that we implement, and may be required to use such networks or system to, among other things: (i) submit your reports due under the Franchise Agreement to us online; (ii) view and print portions of the Manuals; (iii) download approved local advertising materials; (iv) communicate with us and other System franchisees; and (v) complete certain components of any ongoing training we designate. (Franchise Agreement, Section 5(J)).

#### G. Use of Digital Channels, Including Websites, Social Media and Other Internet Landing Pages

Except as approved in advance in writing by us, you must not establish or maintain a separate website, splash page, profile or other presence on the Internet, or otherwise advertise on the Internet or any other public computer network in connection with the Franchised Business, including any profile on Facebook, Instagram, LinkedIn, Instagram, Pinterest, Twitter, YouTube, Tik Tok or any other social media and/or networking site. Any such Internet website or presence is considered “advertising” and must be approved by us prior to use, as described in this Item. If we do permit you to establish one or more of the above presences on the Internet, you must: (i) establish and operate your World Wide Web or Internet site in accordance with System standards and any other policies we designate in the Manuals or otherwise in writing from time to time; and (ii) utilize any templates that we provide to you to create and/or modify such site(s). (Franchise Agreement, Section 9(G)).

We have the right to establish and maintain a website, that may, without limitation, promote the Proprietary Marks and/or the System (the “Website”), including the contact information of your Franchised Business. We agree to establish an interior page on our corporate website to display the Premises and contact information associated with the Franchised Business for so long as (i) the Franchised Business is open and actively operating, and (ii) the Franchise Agreement governing that Franchised Business is not subject to termination. (Franchise Agreement, Section 5(I)). We have sole control over all aspects of the Website, including without limitation its design, content, functionality, links to other websites, legal notices, and policies and terms of usage. We also have the right to discontinue operation of the Website at any time without notice to you. We have the right to modify our policies regarding your use of social media and Internet websites in connection with your Franchised Business as we deem necessary or appropriate in the best interest of the System. We (or our affiliate) are the sole registrant of the Internet domain name [www.spaviadayspa.com](http://www.spaviadayspa.com), as well as any other Internet domain names that we or our affiliates register in the future. You must not register any Internet domain name that contains words used in or similar to any brand name owned by us or our affiliates or any abbreviation, acronym, phonetic variation or visual variation of those words.

## **ITEM 12 TERRITORY**

### Premises and Relocation

You may only operate your Franchised Business from the Premises we approve in your Designated Territory. Once we agree on the Premises, we will designate it on the Data Sheet attached to your Franchise Agreement.

You may not relocate your Franchised Business without our written consent, which we will not unreasonably withhold provided: (i) the new location is located within your Designated Territory and meets our then-current criteria for a Premises; and (ii) you pay our then-current relocation fee (if any). When considering a request for relocation, we may take into account the desirability of the proposed new location, its distance from other and future-planned franchised locations, the traffic patterns, security, cost, and the demographics of the area, as well as any other related factors we deem appropriate. We will not unreasonably withhold or approval of your relocation request, provided the location meets our site selection criteria.

### Franchise Agreement: Designated Territory

Once you have secured the Premises of your Franchised Business, we will define the Designated Territory on the Data Sheet attached to your Franchise Agreement.

Your Designated Territory will typically be an area comprised of up to a two (2) mile radius around your Premises, unless your Franchised Business is located in a major metropolitan downtown area or similarly-situated/populated central business district (a “Central Business District”). If your Franchised Business is located in such a major metropolitan downtown area or Central Business District, your Designated Territory may be limited to the geographic area comprised of anywhere from a radius of two (2) blocks to two (2) miles around your Premises, as we deem appropriate in our discretion. The size of your Designated Territory may vary from other System franchisees based on the location and demographics surrounding your Premises.

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

Your Designated Territory will be exclusive. During the term of your Franchise Agreement, we will not open or operate, or license a third party the right to open or operate, any other Day Spa utilizing the Proprietary Marks and System from a physical location within your Designated Territory. Your Designated Territory cannot be modified except by mutual written agreement signed by both parties. Your territorial exclusivity does not depend on achieving a certain sales volume, market penetration, or other contingency.

### Limitations on Soliciting and Other Activities Outside of Your Designated Territory: Revenue Sharing

There are no territorial restrictions from accepting business from customers that reside/work or are otherwise based outside of your Designated Territory if these customers contact you. You may solicit prospective customers outside of your Designated Territory, provided (a) these prospective customers do not reside within the territory granted to another franchise or otherwise in connection with a System Day

Spa, and (b) you obtain our prior written consent. You may not use alternative channels of distribution, such as the catalog sales, telemarketing or other direct marketing, to make any sales inside or outside of your Designated Territory.

Please note that if a customer purchases a gift card or membership from a given Day Spa and subsequently redeems such gift card or membership at a different Day Spa, then the revenue associated with that customer's transaction will be allocated between the two (2) locations at issue (consistent with our then-current policy), as set forth in the Manuals or otherwise in writing provided by us.

#### Development Agreement: Development Area

If you are granted the right to open three (3) or more Franchised Businesses under our form of Development Agreement, then we will provide you with a Development Area upon execution of this agreement. The size of your Development Area will substantially vary from other System developers based on: (i) the number of Franchised Businesses we grant you the right to open and operate; and (ii) the location and demographics of the general area where we mutually agree you will be opening these locations. The boundaries of your Development Area may be described in terms of zip codes, streets, landmarks (both natural and man-made) or county lines, or otherwise delineated on a map attached to the Data Sheet.

Each Franchised Business you timely open and commence operating under our then-current form of franchise agreement will be operated: (i) from a distinct Premises located within the Development Area; and (ii) within its own Designated Territory that we will define once the Premises for that Franchised Business has been approved.

We will not own or operate, or license a third party the right to own or operate, a Day Spa utilizing the Proprietary Marks and System from a physical location within the Development Area until the earlier of: (i) the date we define the Designated Territory of the final Franchised Business you were granted the right to operate under the Development Agreement; or (ii) the expiration or termination of the Development Agreement for any reason. Your Development Area will be exclusive during this time period.

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

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

#### Reserved Rights

We and our affiliates reserve the exclusive right to conduct the following activities under the Franchise Agreement and/or Development Agreement (as appropriate): (i) establish and operate, and license any third party the right to establish and operate, other Facilities and Franchised Businesses using the Proprietary Marks and System from any physical location outside of your Designated Territory(ies) and, if appropriate, Development Area; (ii) market, offer and sell products and services that are similar to the products and services offered by the Franchised Business under a different trademark or trademarks at any location,

within or outside the Designated Territory(ies) and Development Area; (iii) use the Proprietary Marks and System, other such marks we designate, to distribute our Approved Products and/or Services in any alternative channel of distribution, within or outside the Designated Territory(ies) and Development Area (including the Internet, mail order, catalog sales, toll-free numbers, wholesale stores, etc.); (iv) to acquire, merge with, or otherwise affiliate with, and after that own and operate, and franchise or license others to own and operate, any business of any kind, including, without limitation, any business that offers products or services the same as or similar to the Approved Products and Services (but under different marks), within or outside your Designated Territory(ies) and, if appropriate, Development Area; and (v) use the Proprietary Marks and System, and license others to use the Proprietary Marks and System, to engage in any other activities not expressly prohibited in your Franchise Agreement and, if appropriate, your Development Agreement.

Neither the Franchise Agreement nor Development Agreement grants you any right to engage in any of the activities outlined in the preceding paragraph, or to share in any of the proceeds received by us, our affiliates or any third party from these activities, unless we otherwise agree in writing. Further, we have no obligation to provide you any compensation for soliciting or accepting orders (via alternate channels of distribution) within your Designated Territory.

#### Additional Disclosures

Neither the Franchise Agreement nor the Development Agreement provides you with any right or option to open and operate additional Franchised Businesses (other than as specifically provided for in your Development Agreement if you are granted multi-unit development rights). Regardless, each Franchised Business you are granted the right to open and operate must be governed by its own specific form of Franchise Agreement.

We have not established other franchises or company-owned outlets or another distribution channel offering or selling similar products or services under a different trademark. Neither we nor our Affiliate have established, or presently intend to establish, other franchised or company-owned businesses that sell our Approved Products and Services under a different trade name or trademark, but we reserve the right to do so in the future without your consent.

### **ITEM 13 TRADEMARKS**

We grant you a limited, non-exclusive license to use our then-current Proprietary Marks, including our current primary mark SPAVIA, in connection with the operation of your Franchised Business only at your Premises and within your Designated Territory, provided you use these Proprietary Marks as outlined in your Franchise Agreement(s) and our Manuals. You do not obtain any additional rights to use any of our Proprietary Marks under any Development Agreement you enter into.

Us or our affiliate, Spavia Enterprises LLC, have registered the following Proprietary Marks on the Principal Register of the United States Patent and Trademark Office (“USPTO”) and subsequently assigned each to us:

<b>Mark</b>	<b>Registration Number</b>	<b>Registration Date</b>
SPAVIA	3,291,370	September 11, 2007
SPALEBRATIONS	3,169,270	November 7, 2006

We have also filed an application with the USPTO for the follow Proprietary Mark, which is currently pending:

<b>Mark</b>	<b>Serial Number</b>	<b>Filing Date</b>
SPAVIA SWAY	90,149,108	August 31, 2020

We do not have a federal registration for the trademark SPAVIA SWAY. Therefore, our trademark does not have many of the legal benefits and rights as a federally registered trademark. If our right to use the trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

We have worked, and will continue to work, with our Affiliates to ensure that our Affiliates file all affidavits and other documents with the USPTO to maintain the federal registrations described above. Our Affiliate entered into a license agreement with us that is effective as of April 2007, under which we were granted a perpetual, worldwide license to use, and sublicense third parties the right to use, the Proprietary Marks in connection with our System and our franchisee network (the “License Agreement”). Other than this License Agreement, Lastly, there are no agreements in effect that significantly limit our right to use, or license the use of, the Proprietary Marks that are material to the franchise. In the event this License Agreement is terminated, your rights to use the Proprietary Marks will not be materially altered.

You must strictly comply with our standards, specifications, rules, requirements, and instructions regarding the use of the Proprietary Marks. The goodwill associated with our Proprietary Marks will remain our exclusive property, and you will receive no tangible benefit from our goodwill, except from the operation or possible sale of the Franchised Business during the term of the Franchise Agreement. Any increase in the goodwill associated with our Proprietary Marks during the term of the Franchise Agreement will benefit us. All rights to use our Proprietary Marks will automatically revert to us without cost and without the execution or delivery of any documents, upon the expiration or termination of your Franchise Agreement.

There is no litigation pending arising out of our Proprietary Marks, and we are not aware of any superior rights in, or infringing uses of, our Proprietary Marks that could materially affect your right to use these marks. Presently, there are not any effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state, province, territory, or region, or any court adverse to our rights in the Proprietary Marks, nor are there any pending infringement, opposition or cancellation proceedings, or any material litigation, involving the Proprietary Marks.

You may not use all or any portion of our Proprietary Marks as part of your company name and, without our prior written consent, as part of your trade name or “d/b/a”. You may not modify the Proprietary Marks with words, designs or symbols, except those that we license to you. You may not use our Proprietary Marks in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by us. During the term of the Franchise Agreement and continuing after the expiration or termination of the Franchise Agreement, neither you nor any of your managers will, directly or indirectly, contest, challenge or assist in the contesting or challenging of, our right, title, ownership, or interest in our Proprietary Marks, trade secrets, methods, procedures, and advertising techniques that are part of our franchise System, or contest our sole right to register, use, or license others to use, our Proprietary Marks,

trade secrets, methods, procedures, advertising techniques, and any other mark or name that incorporates the coined term “SPAVIA” or any of the other Proprietary Marks.

You must immediately notify us, in writing, if you become aware of any unauthorized use of our Proprietary Marks or other proprietary information, and you must permit us to participate in any litigation involving you and our Proprietary Marks. We will take the action we think appropriate. We will indemnify, defend and hold you harmless in connection with any third-party claims that are brought against you that arise solely out of your authorized use of any Proprietary Marks in the manner we prescribe, provided you immediately notify us of the proceeding (within 3 days) and you have complied with our directions with regard to the proceeding. We have the right to control the defense and settlement of any proceeding. We will not reimburse you for your expenses and legal fees for separate, independent legal counsel, unless we approve of your use of such counsel in writing prior to you engaging counsel. We will not reimburse you for disputes where we challenge your use of our Proprietary Marks.

You must modify or discontinue using any of the Proprietary Marks, and add new names, designs, logos or commercial symbols to the Proprietary Marks as we instruct. We may, at our sole discretion, impose changes whenever we believe the change is advisable. We do not have to compensate you for any costs you incur to make the changes we require. You will receive written notice of any change, and will be given a reasonable time to conform to our directions (including changing signage, marketing displays, trade dress and other advertising), at your sole expense.

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

We do not own any registered patents or pending patent applications that are material to the franchise. We do, however, claim common law copyright and trade secret protection for several aspects of the franchise System including our Manuals, training materials, advertising, and business materials.

There are no current determinations, proceedings or litigation involving any of our copyrighted materials. Should you become aware that any unauthorized third party is using any of our copyrighted materials, we request that you notify us of such unauthorized use. We may revise our System and any of our copyrighted materials in our discretion, and may require that you cease using any outdated copyrighted material. You will be responsible for printing any revised or new advertising, marketing or other business materials.

During the term of the Franchise and/or Development Agreement, you will receive information which we consider trade secrets and confidential information. You may not, during the term of the Franchise/Development Agreement or any time after that, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company any of these trade secrets, copyrighted materials, methods and other techniques and know-how concerning the operation of the Franchised Business (the “Confidential Information”). You may divulge such Confidential Information only to your personnel who must have access to it in order to perform their employment obligations.

You must require your Designated Manager and any personnel having access to any of our Confidential Information to sign our then-current form of Confidentiality and Non-Competition Agreement that is attached to the Franchise Agreement as Exhibit “E”, under which these individuals agree that they will maintain the confidentiality of information they receive in connection with their employment and restrict their right to work for a competitor while they are engaged by you. This confidentiality agreement, which will be in a form that we prescribe, will identify us as a third-party beneficiary to the agreement and will give us independent enforcement rights.

The Franchise and Development Agreement provide that if you, your personnel, or principals develop any new concept, process or improvement in the operation or promotion of any Franchised Business, you will promptly notify us and provide us with all necessary related information, without compensation. Any new concept, process or improvement will become our sole property and we will be the sole owner of all patents, patent applications, trademarks, copyrights, and other intellectual property rights related to such new concepts. You and your principals will assign to us any rights you may have or acquire in new concepts you or your personnel develop, including the right to modify such concept, process, or improvement, and otherwise will waive and/or release all rights of restraint and moral rights to any new concepts you or your personnel develop. You and your principals agree to assist us in obtaining and enforcing the intellectual property rights to any such concept, process, or improvement in any and all countries and further agree to execute and provide us with all necessary documentation for obtaining and enforcing such rights. You and your principals will irrevocably designate and appoint us as your agent and attorney-in-fact to execute and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property rights related to any such concept, process, or improvement. In the event that these provisions in the Franchise and/or Development Agreement are found to be invalid or otherwise unenforceable, you and your principals will grant to us a worldwide, perpetual, non-exclusive, fully-paid license to use and sublicense the use of the concept, process or improvement to the extent such use or sublicense would, absent the Franchise Agreement, directly or indirectly infringe on your rights to the new concepts.

We may revise any of our copyrighted materials at our discretion and may require that you cease using any outdated item or portion of the Manuals.

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

While we recommend that you personally participate and manage the day-to-day operations of your Franchised Business, you may hire a Designated Manager to manage daily operations with our approval. Both you and your Designated Manager will be required to complete the Initial Training Program to our satisfaction (prior to undertaking any management responsibilities). We will not unreasonably withhold our approval of any Designated Manager you propose, provided the Designated Manager has completed our Initial Training Program and otherwise demonstrated that he/she/they have a good handle on our System standards and specifications for daily operations of a Day Spa. If the franchisee is a business entity, we do not require the Designated Manager to own an interest in the entity, but the Designated Manager must sign our prescribed form of Confidentiality and Non-Competition Agreement.

Your Franchised Business must, at all times, be managed and staffed with at least one (1) individual who has successfully completed our Initial Training Program. In the event that you operate more than one Franchised Business, you must have a properly trained Designated Manager at each Day Spa you own and operate. You must keep us informed at all times of the identity of any personnel acting as Designated Manager, and obtain our approval before substituting a new Designated Manager at any of your locations.

It is important to note that we are not your employer and that you will have the right to control all decisions related to recruiting, hiring or firing any personnel, including any esthetician or therapists or other specialized/licensed personnel you use to perform the Approved Services at your independently owned and operated Franchised Business. Please note that nothing in this Disclosure Document or any agreement you enter into with us will create, or may be construed to create or support, any type of employer, co-employer or joint employer relationship between (a) you and/or your personnel, and (b) us.

If you are an individual, then your spouse will also be required to sign the Franchise Agreement or, in the alternative, form of Personal Guaranty attached to the Franchise Agreement as an Exhibit (the “Guaranty”). If you are a business entity (limited liability company, corporation, partnership, etc.), then (a) each of your shareholders/members/partners (the “Owners”), as applicable, must sign the Guaranty, and (b) at our option, the spouses of each such Owner must sign the Guaranty.

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

You may only offer the Approved Products and Services that we expressly authorize through your Franchised Business and may only offer these products and services at the Premises and in the manner prescribed in your Franchise Agreement and our Manuals.

We may supplement, revise and/or modify our Approved Products and Services as we deem appropriate from time to time, as well as our System standards and specifications associated with the provision of these products/services. These changes will be outlined in our Manuals or otherwise in writing, and there are no contractual limitations on our right to make these types of changes. If we discontinue any Approved Product or Service offered by the Franchised Business, then you must cease offering or selling such product/service within a reasonable time, unless such product/service represents a health or safety hazard (in which case you must immediately comply upon receipt of notice from us). You may not use the Premises of your Franchised Business for any other business purpose other than the operation of your Franchised Business.

Any individual at your franchised Day Spa that provides massage and/or other the kinds of Approved Services that require a licensed practitioner or other credentials, licensing or permits (the “Applicable Services”) must (a) possess and maintain all required licensing, credentials and/or permits necessary to provide the Applicable Services that he/she is providing at the Franchised Business, and (b) complete any portions of the System-associated training (whether initial or ongoing) related to the provision of those Approved Services in accordance with our System standards and in the franchised Day Spa environment.

If we determine in the future that franchised Day Spas will be permitted to provide any of the Approved Services off-site and not within the approved location of your franchised Day Spa itself, then it will be your sole responsibility to ensure that you and your personnel (a) acquire all necessary licenses, permits and/or third-party approval to provide such services within the Designated Territory, (b) comply with any directives that we convey in the Manuals or otherwise regarding where and when such Approved Services may be provided by a given System franchisee or other Day Spa owner, and (c) acquire all insurances necessary and ancillary to the provision of the Approved Services off-site, as well as otherwise comply with all laws and regulations applicable to where franchisee is authorized to offer and provide such off-site services. As of the Issuance Date, no franchised Day Spa may provide any kind of off-site services, unless we agree otherwise in a separate writing. Such services are not part of our standard franchise offering and, for this reason, are not otherwise contemplated in any other portion of this Disclosure Document.

Upon proof of a valid and current System Day Spa membership, you must allow any member of another Day Spa to receive massage or skin care services at your Franchised Business at or below the reciprocity rates we specify from time to time in the Manuals or otherwise in writing (to the extent permissible under applicable law). Reciprocity may be adjusted in certain markets. Members of your Franchised Business will typically be entitled to reciprocal rights with other Day Spa locations. You must also permit redemption of any System-associated gift card at the rates we specify from time to time, as well as any supplemental or modified System practices regarding System membership program(s) and corresponding reciprocity procedures, as set forth in the Manuals or otherwise in writing. As of the Issuance Date, we reserve the right to offer and sell gift cards via alternative channels of distribution.

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

**THE FRANCHISE RELATIONSHIP**

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

**A. Franchise Agreement**

	<b>Provision</b>	<b>Section in Franchise or Other Agreement</b>	<b>Summary</b>
a.	Term of the Franchise	Section 3	The initial term is for 10 years commencing on the date we sign your Franchise Agreement.
b.	Renewal or extension of the term	Section 3	You have the right to be considered for two (2) additional (and consecutive) 10-year terms.
c.	Requirements for franchisee to renew or extend	Section 3	In order to renew (which means renewing your franchise relationship with us), you must: not have any uncured material defaults under your Franchise Agreement (including any monetary defaults) or any other agreement between you and us or the landlord of the Premises; not have received more than three (3) separate, written notices of material default from Franchisor with respect to this Agreement in the 12-month period preceding the renewal request date or renewal date; be in good financial standing; have continued right of possession to the Premises; complete required renovation and modernization of your Franchised Business; pay us our then-current Renewal Fee; execute our then-current form of franchise agreement (which may contain materially different terms and conditions than your original franchise agreement); complete our then-current refresher training course and pay the appropriate tuition fee (\$1,500); and execute a general release in our favor (as well as related parties).
d.	Termination by franchisee	Not Applicable	Not Applicable
e.	Termination by franchisor without cause	Not Applicable	Not Applicable
f.	Termination by franchisor with "cause"	Section 15	We may terminate your Franchise Agreement with cause as described in (g)-(h) of this Item 17 Chart.
g.	"Cause" defined – curable defaults	Section 15(B)(10)	You must cure all monetary defaults under your Franchise Agreement within 10 days of being provided with notice by us, as well as the following defaults: failure to purchase any Required Item; failure to purchase from our Approved Suppliers; any purchase of a non-approved item or offering of a product/service at the Franchised Business that we have not authorized; and failure to obtain any necessary

	<b>Provision</b>	<b>Section in Franchise or Other Agreement</b>	<b>Summary</b>
		Section 15(C)	<p>permit/certificate/approval to operate the Franchised Business. You must cure any failure to meet your Minimum Performance Standards for three (3) consecutive months by meeting your Minimum Performance Standards in the following month.</p> <p>Except as provided above and those defaults listed in (h) of this Item 17 Chart, you must cure all other defaults and violations of any provision of your Franchise Agreement or any other agreement with us or our affiliates within 30 days of being provided with notice of your default(s).</p>
h.	“Cause” defined - defaults which cannot be cured	<p>Section 15(A)</p> <p>Section 15(B)</p>	<p>Your Franchise Agreement may be terminated automatically and without notice from us if: you become insolvent or make a general assignment for the benefit of creditors; a bankruptcy petition is filed by or against you and not dismissed within 30 days; a bill in equity or appointment of receivership is filed in connection with you or the Franchised Business; a receiver or custodian of your assets of property is appointed; a final judgment in the amount of \$10,000 or more is entered against you and not satisfied within 60 days (or longer period if we consent); you attempt to make an invalid transfer in violation of Section 13 of your Franchise Agreement.</p> <p>Your Franchise Agreement may be terminated by us upon written notice and no opportunity to cure if: you commit and fraud or misrepresentation in connection with your Franchised Business; you or other required attendees fail to timely complete our Initial Training Program; you receive three or more notices to cure the same or similar defaults under Section 15(C) of your Franchise Agreement in any 12-month period (whether or not subsequently cured); you violate any in-term restrictive covenants; you misuse the Proprietary Marks, Confidential Information or other confidential information provided to you; misuse an proprietary software that might be developed; you fail to cure any default under any other agreement you have with our affiliates or any Approved Supplier within the appropriate cure period; you default under your lease for the Premises and fail to timely cure; you fail to open and commence operations within the required time period; you abandon your Franchised Business; you are convicted of a felony or any other crime of moral turpitude or offense that</p>

	<b>Provision</b>	<b>Section in Franchise or Other Agreement</b>	<b>Summary</b>
			will adversely affect the System; you take any property of the Franchised Business for personal use; there are insufficient funds in your EFT Account on three or more occasions in any 12-month period; or if you commit repeated violations of any applicable law.
i.	Franchisee’s obligations on termination/non-renewal	Section 16	Upon termination or early expiration of the Franchise Agreement, your obligations include: immediately discontinuing the use of the Proprietary Marks and trade dress; cease doing business in a form or manner that may give the general public the impression that you are operating a Franchised Business; return of the Manuals of any other Confidential Information to us; provide us with all customer information, lists and membership agreements; cancel or, at our option, assign us all telephone/facsimile numbers and domain names (if permitted) used in connection with the Franchised Business (as well as all related listings) to us or our designee; comply with all post-term restrictive covenants; at our written option, assign the lease for the Premises to us; provide us with written confirmation of compliance with these obligations within 30 days.
j.	Assignment of contract by franchisor	Section 13(G)	No restrictions on our right to assign.
k.	“Transfer” by franchisee – defined	Sections 13(A) and 13(C)	Includes any transfer of Franchise Agreement, assets of the Franchised Business, or ownership change in you (as the Franchisee).
l.	Franchisor approval of transfer by franchisee	Section 13(A)	We must approve all transfers, but we will not unreasonably withhold our approval if you meet our conditions.
m.	Conditions for franchisor approval of transfer	Section 13(E)	We have the right to impose the following conditions on any transfer by you: all of your obligations under the Franchise Agreement have been satisfied; the new franchisee must meet our then-current qualifications and criteria for a new franchisee; transferee must assume all of your obligations under the Franchise Agreement; transferee must complete our training program; transferee must execute our then-current form of franchise agreement; you (as the transferor) must pay our Transfer Fee as well as any broker or other third-party fees in connection with the same; transferee must successfully complete our Initial Training Program (and, at our option, we may require that you cover our then-current Training Fee in connection with training the Assignee and/or its

	<b>Provision</b>	<b>Section in Franchise or Other Agreement</b>	<b>Summary</b>
		Section 13(F)	<p>approved Designated Manager); and you must execute a general release in our favor (as well as related parties).</p> <p>You will not be required to pay any transfer fee in the event: (i) you wish to transfer your rights under the Franchise Agreement to a newly-established legal business entity that is wholly owned by you and established solely for purposes of operating the Franchised Business under that Franchise Agreement; or (ii) you are required to encumber certain assets of the Franchised Business (or subordinate Franchisor's security interest with respect to the Franchised Business) in order to receive SBA or other traditional bank financing, provided we otherwise approve of the transfer.</p>
n.	Franchisor's right of first refusal to acquire franchisee's business	Section 13(D)	<p>Except in certain circumstances (death/disability or transfer from individual franchisee to business entity), you must provide us with a period of 30 days to match any third-party <i>bona fide</i> offer to purchase any interest in the Franchise Agreement or Franchised Business. If we do not exercise this right, then you will have 60 days to effectuate the transfer to the third party that made the offer on those exact terms – if the transfer does not occur or the proposed terms of the offer change in any way, then we will have another 30 days to exercise our right of first refusal.</p>
o.	Franchisor's option to purchase franchisee's business	16(G)	<p>We have the right, but not the obligations, to purchase all or any portion of the assets of your Franchised Business upon expiration/termination of your Franchise Agreement at book value.</p>
p.	Death or disability of franchisee	Section 13(B)	<p>You will have a period of 90 days to find a suitable legal representative that we approve to continue the operation of your Franchised Business, provided that person completes our Initial Training Program and pays the appropriate tuition fee.</p> <p>During this 90-day period, we may step in and operate the Franchised Business on your behalf and pay ourselves a reasonable amount to reimburse our costs associated with this operation on your behalf. We are not under any obligation to step in and operate your business during this period.</p>
q.	Non-competition covenants during the term of the franchise	Section 14(A)	<p>Neither you, your principals, guarantors, owners or Designated Managers, nor any immediate family member of you, your principals, guarantors, owners or Designated Managers, may: (i) own, operate, or otherwise be involved</p>



	<b>Provision</b>	<b>Section in Franchise or Other Agreement</b>	<b>Summary</b>
s.	Modification of the agreement	Section 18(D)	Your Franchise Agreement may not be modified, except by a writing signed by both parties. With that said, we may modify the System and Manuals as we deem appropriate in our discretion from time to time.
t.	Integration/merger clause	Sections 18 and 22	Only the terms of the Franchise Agreement and this Disclosure Document are binding (subject to state law). Any representations or promises outside of the Disclosure Document and Franchise Agreement may not be enforceable. Nothing in the Franchise Agreement or any related agreement is intended to disclaim the representations made in this Disclosure Document.
u.	Dispute resolution by arbitration or mediation	Section 21(B)  Section 21(C)	You must first submit all dispute and controversies arising under the Franchise Agreement to our management and make every effort to resolve the dispute internally.  At our option, all claims or disputes arising out of the Franchise Agreement must be submitted to non-binding mediation, which will take place at our then-current headquarters. You must notify us of any potential disputes and we will provide you with notice as to whether we wish to mediate the matter or not. If the matter is mediated, the parties will split the mediator's fees and bear all of their other respective costs of the mediation.
v.	Choice of forum	Sections 21(D) and 21(E)	Subject to Sections 21(B) through 21(C) of the Franchise Agreement, all claims and causes of action arising out of the Franchise Agreement must be initiated and litigated to conclusion (unless settled) in the state court of general jurisdiction that is closest to our then-current headquarters or, if appropriate, the United States District Court for the District of Colorado. (subject to state law).
w.	Choice of law	Section 21(A)	The Franchise Agreement is governed by the laws of the state of Colorado, without reference to this state's conflict of laws principles. (subject to state law).

B. Development Agreement

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
a.	Term of the Franchise	Section 1(B), Exhibit B	The Development Schedule will dictate the amount of time you have to open a specific number of SPAVIA franchises, which will differ for each Developer and will be specified in Exhibit B of the Development Agreement.
b.	Renewal or extension of the term	Not Applicable	Not Applicable
c.	Requirements for franchisee to renew or extend	Not Applicable	Not Applicable
d.	Termination by franchisee	Not Applicable	Not Applicable
e.	Termination by franchisor without cause	Not Applicable	Not Applicable
f.	Termination by franchisor with “cause”	Section 14	We may terminate your Development Agreement with cause as described in (g)-(h) of this Item 17 Chart.
g.	“Cause” defined – curable defaults	Section 14(B)	We may terminate your Development Agreement after providing notice and a 30-day cure period (unless a different cure period is specified below) if: you fail to meet the Development Schedule; you fail to develop, open, and operate each Day Spa and execute each Franchise Agreement in compliance with the Development Agreement; you fail to designate a qualified replacement Representative; you misappropriate or misuse the Proprietary Marks or impair the goodwill of the Proprietary Marks or System; fail to make monetary payment under the Development Agreement or any Franchise Agreement to us or our affiliate, and fail to cure within 14 days of receiving written notice from us; fail to correct a deficiency of a health, sanitation, or safety issue identified by a local, state or federal agency or regulatory authority; or you fail to comply with any other material term or material condition of the Development Agreement or any Franchise Agreement.
h.	“Cause” defined - defaults which cannot be cured	Section 14(A)	We may terminate your Development Agreement automatically upon written notice if: you become insolvent or make a general assignment for the benefit of creditors; file a bankruptcy petition or are adjudicated bankrupt; a bill in equity or appointment of receivership is filed in connection with you; a receiver or custodian of your assets of property is appointed; a proceeding for a composition of creditors is initiated against you; a final judgment is entered against you and not satisfied within 30 days; if you are dissolved, execution is levied against you; a suit to foreclose any lien or mortgage against any of your Day Spas is levied; the real or personal property of a Day Spa is

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
			sold after being levied upon; you fail to comply with the non-competition covenants of the Development Agreement; you or your principal discloses the contents of the Manuals or other confidential information; an immediate threat or danger to public health or safety results from the operation of a Day Spa operated by you; you or your Principal has made a material misrepresentation in the franchise application; you fail on 3 or more occasions within a one (1) year period to comply with a provision of the Development Agreement; or you fail to comply with the transfer conditions of the Development Agreement.
i.	Franchisee’s obligations on termination/non-renewal	Section 14(D), Section 15	Upon termination, you have no right to establish or operate any Day Spa for which an individual Franchise Agreement has not been executed by us and delivered to you at the time of termination. All of your obligations under the Development Agreement which expressly or by their nature survive the expiration or termination of the Agreement (including the non-competition covenants of Section 11), continue in full force and effect until they are satisfied or by their nature expire.
j.	Assignment of contract by franchisor	Section 16(A)	We have the absolute right to transfer or assign the Development Agreement and all or any part of its rights, duties or obligations to any person or legal entity without your consent.
k.	“Transfer” by franchisee – defined	Section 16(B)	A transfer includes voluntarily, involuntarily, directly or indirectly, assigning, selling, conveying, pledging, sub-franchising or otherwise transferring any of the rights created by the Development Agreement or any ownership interest in you.
l.	Franchisor approval of transfer by franchisee	Section 16(C)	We must approve all transfers, but we will not unreasonably withhold our approval if you meet our conditions.
m.	Conditions for franchisor approval of transfer	Section 16(C)	Our conditions for approving a transfer include: all of you and your affiliates’ money obligations must be satisfied; you and your affiliates must not be in material default of the Development Agreement or any Franchise Agreement; you must execute a general release in our favor; the transferee must meet our then-current criteria for Developers; the transferee must sign a written assumption agreement assuming your liabilities under the Development Agreement; you must us the appropriate Transfer Fee (\$15,000 per franchise being assigned); you (and/or your contemplated assignee) must pay any referral fees or commissions that may be due to any franchise broker, sales agent or other third party.

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
n.	Franchisor's right of first refusal to acquire franchisee's business	Section 16(E)	Except in certain circumstances (death/disability or transfer from individual franchisee to business entity), you must provide us with a period of 30 days to match any third-party offer to purchase any ownership interest in the Development Agreement. If we do not exercise this right, then you will have 60 days to effectuate the transfer to the third party that made the offer on those exact terms – if the transfer does not occur or the proposed terms of the offer change in any way, then we will have another 30 days to exercise our right of first refusal.
o.	Franchisor's option to purchase franchisee's business	Not Applicable	Not Applicable
p.	Death or disability of franchisee	Section 16(F)	<p>You will have a period of 90 days to find a suitable legal representative that we approve to continue the operation of your Franchised Business, provided that person completes our training program and executes either a personal guaranty or a new Development Agreement.</p> <p>During this 90-day period, we may step in and operate the Franchised Business on your behalf and pay ourselves (a) an 8% management fee, and (b) the amounts necessary to reimburse ourselves for all costs associated with taking on operations on your behalf (including covering employee wages). We are not under any obligation to step in and operate your business during this period.</p>
q.	Non-competition covenants during the term of the franchise	Section 11(B)(1)	Neither you, your principals, guarantors, owners or key employees, nor any immediate family member of you, your principals, guarantors, owners or key employees, may: (i) own, operate, or otherwise be involved with, Competing Business (as defined in the Development Agreement); (ii) employ or seek to employ any employees of us, our affiliates or any other System franchisee/developer or induce such persons to leave their employment; or (iii) divert, or attempt to divert, any prospective customer to a Competing Business.
r.	Non- competition covenants after the franchise is terminated or expires	Section 11(B)(2)	For a period of two (2) years after the termination/expiration/transfer of your Development Agreement, neither you, your principals, guarantors, owners, nor any immediate family member of you, your principals, guarantors, owners, may own, operate or otherwise be involved with any business that competes with us and is involved in the licensing or franchising, or establishing of joint ventures for the operation, of Competing Businesses.

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
		Section 11(B)(3)	<p>For a period of two (2) years after the termination/expiration/transfer of your Franchise Agreement, neither you, your principals, guarantors, owners, nor any immediate family member of you, your principals, guarantors, owners, may own, operate or otherwise be involved with and Competing Business: (i) within the Development Area; (ii) within a 40-mile radius of your Development Area or any other designated territory or designated area licensed by us to a System Day Spa as of the date of expiration/termination of the Development Agreement through the date you attempt to engage in any competitive activity prohibited by this Section.</p> <p>During this two (2) year period, these same parties are also prohibited from: (i) soliciting business from customers of your former Day Spas; (ii) contacting any of our suppliers/vendors for a competitive business purpose; or (iii) soliciting any employees of us, our affiliates or any other System franchisee or developer to discontinue their employment (subject to and as permitted by applicable laws where your Franchised Business is located).</p>
s.	Modification of the agreement	Section 23(F)	Your Development Agreement may not be modified, except by a writing signed by both parties.
t.	Integration/merger clause	Section 23(G)	Only the terms of the Development Agreement (and ancillary agreements) and this Disclosure Document are binding (subject to state law). Any representations or promises outside of the Disclosure Document and this Agreement may not be enforceable. Nothing in this Agreement or any related agreement is intended to disclaim the representations made in this Disclosure Document.
u.	Dispute resolution by arbitration or mediation	<p>Section 21(B)</p> <p>Section 21(C)</p>	<p>You must first submit all dispute and controversies arising under the Development Agreement to our management and make every effort to resolve the dispute internally.</p> <p>At our option, all claims or disputes arising out of the Development Agreement must be submitted to non-binding mediation, which will take place at our then-current headquarters. You must notify us of any potential disputes and we will provide you with notice as to whether we wish to mediate the matter or not. If the matter is mediated, the parties will split the mediator's fees and bear all of their other respective costs of the mediation.</p>

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
v.	Choice of forum	Section 22(A)	Subject to Sections 21(B)-(C) of the Development Agreement, all claims and causes of action arising out of the Development Agreement must be initiated and litigated to conclusion (unless settled) in the state court of general jurisdiction that is closest to our then-current headquarters or, if appropriate, the United States District Court for the District of Colorado. (subject to state law).
w.	Choice of law	Section 21(A)	The Development Agreement is governed by the laws of the state of Colorado, without reference to this state's conflict of laws principles. (subject to state law).

**ITEM 18  
PUBLIC FIGURES**

We do not use any public figures to promote our franchise, but we reserve the right to use one in the future.

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**ITEM 19**  
**FINANCIAL PERFORMANCE REPRESENTATION**

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 by, for example, providing information about possible performance at a particular location or under particular circumstances.

**BACKGROUND**

As of December 31, 2023, there were 55 franchised locations (each, a “Franchised Location”) and zero affiliate-owned locations in operation. This Financial Performance Representation excludes financial information in connection with the two (2) Franchised Locations that opened during the 2023 calendar year (the “Measurement Period”).

In Part I of this Item, we disclose the average, median, high, and low monthly Gross Sales generated by the 53 Franchised Locations over the Measurement Period.

In Part II of this Item, we disclose the total, average, and median annual gross revenue generated by the 53 Franchised Locations over the Measurement Period.

The figures and information presented in this Item 19 are based on the actual and historical performance of the Franchised Locations, and such information was either (a) reported to us by the owners of each Franchised Location, and/or (b) pulled from reports generated by certain of the Required Software (POS) utilized by a given Franchised Location.

Written substantiation of the data used in preparing this information will be made available upon reasonable request. We have not audited this information or independently verified this information, which was provided to us by the Franchised Location at issue.

**Some Franchised locations have sold these amounts. Your individual results may differ. There is no assurance that you’ll sell or earn as much.**

***[REST OF THIS PAGE LEFT ININTENTIONALLY BLANK  
ITEM 19 CONTINUES ON THIS FOLLOWING PAGE]***

**PART I: AVERAGE, MEDIAN, HIGH, AND LOW MONTHLY GROSS SALES GENERATED BY THE FRANCHISED LOCATIONS OVER THE MEASUREMENT PERIOD**

<b>Number of Franchised Locations Comprising the Group</b>	<b>Average</b>	<b>Median</b>	<b>High</b>	<b>Low</b>	<b>Number that Met or Exceeded Average</b>
53	\$84,004	\$80,713	\$146,920	\$38,738	24 (45%)

**PART II: ANNUAL GROSS SALES GENERATED BY EACH FRANCHISED LOCATION OVER THE MEASUREMENT PERIOD**

<b>Franchised Location</b>	<b>Gross Sales Generated over Measurement Period</b>
Franchised Location 1	\$1,763,035
Franchised Location 2	\$1,700,513
Franchised Location 3	\$1,694,591
Franchised Location 4	\$1,692,377
Franchised Location 5	\$1,534,927
Franchised Location 6	\$1,514,367
Franchised Location 7	\$1,445,573
Franchised Location 8	\$1,441,609
Franchised Location 9	\$1,418,309
Franchised Location 10	\$1,414,965
Franchised Location 11	\$1,317,747
Franchised Location 12	\$1,270,073
Franchised Location 13	\$1,249,109
Franchised Location 14	\$1,217,656
Franchised Location 15	\$1,199,467
Franchised Location 16	\$1,193,922
Franchised Location 17	\$1,182,311
Franchised Location 18	\$1,092,176
Franchised Location 19	\$1,073,463
Franchised Location 20	\$1,048,534

Franchised Location 21	\$1,044,850
Franchised Location 22	\$1,041,969
Franchised Location 23	\$1,014,366
Franchised Location 24	\$1,010,250
Franchised Location 25	\$978,671
Franchised Location 26	\$974,196
Franchised Location 27	\$962,912
Franchised Location 28	\$942,479
Franchised Location 29	\$936,835
Franchised Location 30	\$928,337
Franchised Location 31	\$922,547
Franchised Location 32	\$905,077
Franchised Location 33	\$880,958
Franchised Location 34	\$827,790
Franchised Location 35	\$824,777
Franchised Location 36	\$806,247
Franchised Location 37	\$801,603
Franchised Location 38	\$755,815
Franchised Location 39	\$746,838
Franchised Location 40	\$739,923
Franchised Location 41	\$678,709
Franchised Location 42	\$677,998
Franchised Location 43	\$673,696
Franchised Location 44	\$653,355
Franchised Location 45	\$636,594
Franchised Location 46	\$634,353
Franchised Location 47	\$628,373
Franchised Location 48	\$611,813
Franchised Location 49	\$597,124
Franchised Location 50	\$583,917

Franchised Location 51	\$539,056
Franchised Location 52	\$535,414
Franchised Location 53	\$464,858
<b>Average Gross Sales Reported Amongst this Subset</b>	
	<b>\$1,008,045.74</b>
<b>Median Gross Sales Reported Amongst this Subset</b>	
	<b>\$968,554.00</b>

**Notes to Item 19:**

1. “Gross Sales” means the total revenue generated by each Franchised Location, including (a) all revenue generated from the sale and provision of any and all gift cards and other Approved Products and Services at or through the Franchised Location, and (b) all insurance proceeds from any business interruption insurance related to the non-operation of the Franchised Location, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “Gross Sales” does not include (a) tips received by massage therapists, estheticians and other practitioners at the Franchised Location, (b) any sales tax and equivalent taxes that are collected by a Franchised Location for or on behalf of any governmental taxing authority and paid thereto, or (c) the value of any allowance issued or granted to any client of the Franchised Location that is credited in good faith by the Franchised Location in full or partial satisfaction of the price of the Approved Products or Services.
2. “Average” which is also known as the “mean,” means the sum of all data points in a set, divided by the total number of data points in that set.
3. “Median” means the data point that is in the center of all data points used in a set. That number is found by examining the total number of data points and finding the middle number in that set. In the event the number of data points is an odd number, the median will be the center number. If the dataset contains an even number of data points, the median is reached by taking the two numbers in the middle, adding them together, and dividing by two.

Other than as set forth above, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing System Day Spa, 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 our management by contacting our CEO Marty Langenderfer 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, CO 80111, or at (303) 888-0925.

**ITEM 20**  
**OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1**  
**System-wide Outlet Summary**  
**For Years 2021 to 2023**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
<b>Franchised</b>	2021	50	52	+2
	2022	52	53	+1
	2023	53	55	+2
<b>Company-Owned</b>	2021	0	0	0
	2022	0	0	0
	2023	0	0	0
<b>Total Outlets</b>	<b>2021</b>	<b>50</b>	<b>52</b>	<b>+2</b>
	<b>2022</b>	<b>52</b>	<b>53</b>	<b>+1</b>
	<b>2023</b>	<b>53</b>	<b>55</b>	<b>+2</b>

**Table No. 2**  
**Transfers of Outlets from Franchisees to New Owners**  
**(other than the Franchisor)**  
**For Years 2021 to 2023**

<b>State</b>	<b>Year</b>	<b>Number of Transfers</b>
Colorado	2021	3
	2022	0
	2023	0
Connecticut	2021	0
	2022	0
	2023	2
New Jersey	2021	1
	2022	0
	2023	0
Ohio	2021	0
	2022	0
	2023	1
Utah	2021	1
	2022	1
	2023	0
<b>Total</b>	<b>2021</b>	<b>5</b>
	<b>2022</b>	<b>1</b>
	<b>2023</b>	<b>3</b>

**Table No. 3**  
**Status of Franchised Outlets**  
**For Years 2021 to 2023**

State	Year	Outlets at Start of the Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
California	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
Colorado	2021	8	0	0	0	0	0	8
	2022	8	0	0	0	0	0	8
	2023	8	0	0	0	0	0	8
Connecticut	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Florida	2021	4	0	0	0	0	0	4
	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
Georgia	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Illinois	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
Indiana	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Iowa	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Louisiana	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Massachusetts	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Michigan	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Minnesota	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	1	0	0	0	0	2
	2021	1	0	0	0	0	0	1

Nevada	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
New Jersey	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
	2023	6	0	0	0	0	0	6
New York	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
North Carolina	2021	0	1	0	0	0	0	1
	2022	1	1	0	0	0	0	2
	2023	2	0	0	0	0	0	2
Ohio	2021	4	0	0	0	0	0	4
	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
Pennsylvania	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Tennessee	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Texas	2021	4	1	0	0	0	0	5
	2022	5	0	0	0	0	0	5
	2023	5	1	0	0	0	0	6
Utah	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Virginia	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
Washington	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>Total</b>	<b>2021</b>	<b>50</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>52</b>
	<b>2022</b>	<b>52</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>53</b>
	<b>2023</b>	<b>53</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>

**Table No. 4**  
**Status of Company-Owned Outlets**  
**For Years 2021 to 2023**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
<b>Total</b>	<b>2021</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>2022</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>2023</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

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
California	0	1	0
Colorado	0	1	1
Florida	1	1	0
Georgia	1	1	0
Illinois	1	1	0
Iowa	0	1	0
Michigan	0	1	0
Minnesota	1	1	0
New Jersey	0	1	0
<b>Total</b>	<b>4</b>	<b>9</b>	<b>1</b>

A list of the names of all of our current System franchisees, along with the addresses and telephone numbers of their respective franchises, are set forth in Exhibit F to this Disclosure Document.

The name, city, state and current business telephone number (if known) of every System franchisee who had a franchise terminated, canceled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the applicable franchise agreement during the most recently completed fiscal year, or who has not communicated with us within 10 weeks of the issuance date of this disclosure document, will be listed on Exhibit F to this Disclosure Document when applicable. **If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.**

During the last three (3) fiscal years, we have had one (1) or more System franchisees sign confidentiality provisions that would restrict their ability to speak openly about their experience with our System. There are no trademark-specific organizations formed by our franchisees that are associated with the System.

### ITEM 21 FINANCIAL STATEMENTS

Our (a) audited financial statements for our fiscal years ending December 31, 2023, December 31, 2022, and December 31, 2021, and (b) our unaudited financials dated June 30, 2024. Our fiscal year end is December 31<sup>st</sup>.

### ITEM 22 CONTRACTS

The following agreements are attached as Exhibits to this Franchise Disclosure Document:

Franchise Agreement (and Exhibits)	Exhibit B
Development Agreement (and Exhibits)	Exhibit C
State Specific Addenda	Exhibit E
Sample Termination and Release	Exhibit H
Franchisee Questionnaire/Compliance Certification	Exhibit I

**ITEM 23**  
**RECEIPTS**

Exhibit K to this Franchise Disclosure Document contains a detachable document, in duplicate, acknowledging receipt of this Franchise Disclosure Document by a prospective franchisee. You should sign both copies of the Receipt. You should retain one signed copy for your records and return the other signed copy to our CEO Marty Langenderfer 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, CO 80111 or (303) 888-0925.

**EXHIBIT A  
TO FRANCHISE DISCLOSURE DOCUMENT**

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

**LIST OF STATE ADMINISTRATORS**

California Department of Financial Protection and  
Innovation  
TOLL FREE 1-(866) 275-2677

LA Office

320 West 4th Street, Suite 750  
Los Angeles, CA 90013-2344  
(213) 576-7500

Sacramento Office

2101 Arena Blvd  
Sacramento, CA 95834  
(866) 275-2677

San Diego Office

1350 Front Street, Room 2034  
San Diego, CA 92101-3697  
(619) 525-4233

San Francisco Office

One Sansome St., Suite 600  
San Francisco, CA 94104  
(415) 972-8565

Florida Department of Agricultural  
and Consumer Services  
Division of Consumer Services  
Mayo Building, Second Floor  
Tallahassee, Florida 32399-0800  
(904) 922-2770

Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, HI 96813  
(808) 586-2722

Illinois Attorney General  
500 South Second Street  
Springfield, IL 62706  
(217) 782-4465

Indiana Secretary of State  
Securities Division  
302 West Washington Street, Room E-11  
Indianapolis, IN 46204  
(317) 232-6681

Kentucky Office of the Attorney General Consumer  
Protection Division  
P.O. Box 2000  
Frankford, KY 40602  
(502) 573-2200

Maryland Division of Securities  
200 St. Paul Place  
Baltimore, MD 21202-2020  
(410) 576-6360

Michigan Department of the Attorney General  
Consumer Protection Division  
Attn: Franchise Section  
525 W. Ottawa Street  
G. Mennen Williams Building, 1<sup>st</sup> Floor  
Lansing, MI 48933  
(517) 373-7117

Minnesota Department of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101-2198  
(651) 539-1600

Nebraska Department of Banking and Finance  
1200 North Street, Suite 311  
P.O. Box 95006  
Lincoln, NE 68509-5006  
(402) 471-3445

Office of the New York State Attorney General  
Investor Protection Bureau  
Franchise Section  
120 Broadway, 23rd Floor  
New York, NY 10271-0332  
(212) 416-8236

North Dakota Securities Department  
State Capital, 5<sup>th</sup> Floor  
600 East Boulevard Avenue  
Bismarck, ND 58505-0510  
(701) 328-2910

Oregon Department of Consumer  
and Business Services  
Division of Finance and Corporate  
Securities labor and Industries  
350 Winter Street, NE, Room 410  
Salem, OR 97310-3881  
(503) 378-4140

Director, Department of Business Regulations  
Rhode Island Division of Securities  
233 Richmond Street, Suite 232  
Providence, RI 02903-4232

South Dakota, Division of Insurance  
Securities Regulation  
124 S. Euclid, Suite 104  
Pierre, SD 57501-2017  
(605) 773-3563

Statutory Document Section  
Texas Secretary of State  
P.O. Box 12887  
Austin, TX 78711  
(512) 475-1769

State of Utah  
Division of Consumer Protection  
P.O. Box 45804  
Salt Lake City, Utah 84145-0804  
(801) 530-6601

State Corporation Commission  
Division of Securities and Retail Franchising  
1300 East Main Street, 9<sup>th</sup> Floor  
Richmond, VA 23219  
(804) 371-9051

State of Washington  
Director, Department of Financial Institutions  
Securities Division  
150 Israel Road, SW  
Tumwater, WA 98501  
(360) 902-8760

Wisconsin Commissioner of Securities  
345 W Washington Ave., 4<sup>th</sup> Floor  
Madison, WI 53703  
(608) 266-8550

**AGENTS FOR SERVICE OF PROCESS**

Mr. Martin Langenderfer  
Spavia International, LLC  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111

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California Commissioner of the Department of  
Financial Protection and Innovation  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013-2344

Commissioner of the Department of Financial  
Protection and Innovation  
One Sansome St., #600  
San Francisco, California 94104

Commissioner of the Department of Financial  
Protection and Innovation  
2101 Arena Blvd  
Sacramento, CA 95834

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

Illinois Attorney General  
500 South Second Street  
Springfield, IL 62706

Indiana Secretary of State  
Securities Division  
302 West Washington Street, Room E-111  
Indianapolis, IN 46204

Maryland Division of Securities  
200 St. Paul Place  
Baltimore, MD 21202-2020

Michigan Department of Attorney General  
Consumer Protection Division  
Antitrust and Franchise Unit  
P.O. Box 30054, 6546 Mercantile Way  
Lansing, MI 48909

Minnesota Department of Commerce  
Attn: Commissioner of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101-2198  
(651) 539-1600

New York Department of State  
One Commerce Plaza,  
99 Washington Avenue, 6th Floor  
Albany, NY 12231  
(518) 473 2492

North Dakota Securities Commissioner  
State Capitol – 5<sup>th</sup> Floor  
600 E. Boulevard Avenue  
Bismarck, ND 58505

Director, Department of Business Regulation  
Division of Securities  
Suite 232  
233 Richmond Street  
Providence, RI 02903-4232

Division of Insurance  
Securities Regulation  
124 S. Euclid, Suite 104  
Pierre, SD 57501-3185

Clerk of the State Corporation Commission  
Tyler Building, 1<sup>st</sup> Floor  
1300 East Main Street  
Richmond, VA 23219

Director, Department of Financial Institutions  
Securities Division  
150 Israel Road, Southwest  
Olympia, WA 98501

Wisconsin Commissioner of Securities  
345 West Washington Avenue, 4<sup>th</sup> Floor  
Madison, WI 53703  
(608) 261-9555

**EXHIBIT B  
TO FRANCHISE DISCLOSURE DOCUMENT**

**SPAVIA INTERNATIONAL, LLC  
FRANCHISE AGREEMENT**

**SPAVIA INTERNATIONAL, LLC**  
**FRANCHISE AGREEMENT**

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**Exhibit A: Data Sheet**

**Exhibit B: Form of Personal Guaranty**

**Exhibit C: Form of Collateral Assignment of Lease**

**Exhibit D: EFT Withdrawal Authorization Form**

**Exhibit E: Form of Confidentiality and Non-Competition Agreement (for use by Franchisee for Management Personnel of the Franchised Business and Officers/Directors of the Franchisee)**

**Exhibit F: Conditional Assignment of Telephone/Facsimile Numbers and Domain Names**

**SPAVIA INTERNATIONAL, LLC  
FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT (the “Agreement”) is made and entered into on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_ (“Effective Date,”) by and between: (i) Spavia International, LLC, a Colorado limited liability company with its principal place of business at 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, Colorado 80111 (the “Franchisor”); and (ii) \_\_\_\_\_, a (resident of) (corporation organized in) (limited liability company organized in) \_\_\_\_\_ with a business address at \_\_\_\_\_ (the “Franchisee”).

**RECITATIONS**

A. Franchisor and its affiliate/principals, as a result of the expenditure of time, skill, effort, and money, have developed and own a unique system (the “System”) related to the establishment, development, opening, and operation of a business that provides day spa services such as professional therapeutic massage and skin care services and other products/services to both the general public and through a membership-based program, as well as related services and products that Franchisor authorizes (collectively, the “Approved Products and Services”), in a relaxing, clean and friendly environment (each, a “Day Spa”).

B. Franchisor’s System is comprised of various proprietary and, in some cases, distinguishing elements, including without limitation: proprietary methodology and procedures for the establishment and operation of a Day Spa; site selection guidance and criteria; specifications for the design, layout and construction of the interior of the Day Spa; standards and specifications for the furniture, fixtures and equipment located within a Day Spa; established relationships with approved or designated suppliers for certain products and services; and standards and specifications for advertising, bookkeeping, sales and other aspects of operating a Day Spa. The parties agree and acknowledge that Franchisor may change, improve, further develop, or otherwise modify the System from time to time as it deems appropriate in its discretion. Franchisee hereby acknowledges and agrees that: (i) while the System and Franchisor’s related materials contain information that, in isolated form, could be construed as being in the public domain, they also contain significant proprietary and confidential information which makes the System unique as a whole; and (ii) the combined methods, information, procedures, and theories that make up the total System or are contained in the relevant manuals that are proprietary and confidential.

C. The System and Day Spas are identified by the mark SPAVIA, as well as certain other trade names, trademarks, service marks and trade dress, all of which Franchisor may modify, update, supplement or substitute in the future (collectively, the “Proprietary Marks”). The parties agree and acknowledge that Franchisor has established substantial goodwill and business value in its Proprietary Marks, expertise, and System.

D. Franchisor is in the business of granting qualified individuals and entities a franchise for the right to independently own and operate a single Day Spa utilizing the Proprietary Marks and System at a location that Franchisor approves in writing.

E. Franchisee recognizes the benefits derived from being identified with Franchisor, appreciates and acknowledges the distinctive and valuable significance to the public of the System and the Proprietary Marks, and understands and acknowledges the importance of Franchisor’s high and uniform standards of quality, appearance, and service to the value of the System.

F. Franchisee desires to acquire a non-exclusive franchise for the right to operate a single System Day Spa from an approved location, and has submitted an application to obtain such a franchise from Franchisor.

G. Franchisor is willing to grant Franchisee the right to operate a Day Spa based on the representations contained in the franchise application and subject to the terms and conditions set forth in this Agreement.

## **AGREEMENT**

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

### **1. ACKNOWLEDGEMENTS**

- A. To the extent permitted by applicable laws where the Franchised Business is located, Franchisee acknowledges and represents that Franchisor, itself or through any officer, director, employee, or agent, has not made, and Franchisee has not received or relied upon, any oral, written, visual, express, or implied information, representations, warranties, guarantees, or promises regarding the amount of sales levels or income Franchisee might expect to earn from the franchise granted hereby, except as set forth in the Franchise Disclosure Document.
- B. The business venture contemplated by this Agreement involves business risks.
- C. Franchisee's success will be largely dependent upon Franchisee's ability as an independent businessperson.
- D. Franchisee has received, read, and does understand this Agreement and any attachments.
- E. Franchisee understands and agrees that the day spa industry is highly competitive with constantly changing market conditions.
- F. Franchisee acknowledges and agrees that Franchisor has fully and adequately explained each provision of this Agreement to Franchisee's satisfaction.
- G. Franchisee has consulted with Franchisee's own advisors with respect to the legal, financial, and other aspects of this Agreement, the business franchised hereby, and the prospects for such business. Franchisee either has consulted with such advisors or has deliberately declined to do so.
- H. Any written inquiries made to Franchisor by Franchisee pertaining to the nature of this franchise were answered in writing to the satisfaction of Franchisee.
- I. Franchisee has had the opportunity and adequate time to independently investigate, analyze, and construe both the franchise being offered hereunder and the terms and provisions of this Agreement utilizing the services of legal counsel, accountants, and other advisors (if Franchisee so elects).

- J. Any and all applications, financial statements, and representations submitted to Franchisor by Franchisee, whether oral or in writing, were complete and accurate when submitted and are complete and accurate as of the date of execution of this Agreement unless the same has been otherwise amended in writing. Franchisee states that he/she is not presently involved in any business activity that could be considered competitive in nature, unless heretofore disclosed to Franchisor in writing.
- K. Franchisee agrees not to contest, directly or indirectly, Franchisor's ownership, title, right, or interest in its names or Proprietary Marks, trade secrets, methods, procedures, know-how, or advertising techniques which are part of Franchisor's business, or contest Franchisor's sole right to register, use, or license others to use such names or Proprietary Marks, trade secrets, methods, procedures, or techniques.
- L. Franchisee's signature to this Agreement has not been induced by any representation inconsistent with the terms of this Agreement or inconsistent with the Franchise Disclosure Document given to Franchisee by Franchisor.
- M. Franchisee represents and warrants that Franchisee is not a party to or subject to any order or decree of any court or government agency which would limit or interfere in any way with the performance by Franchisee of the obligations under this Agreement and that Franchisee is not a party, and has not within the last ten (10) years been a party, to any litigation, bankruptcy, or legal proceedings other than those heretofore disclosed to Franchisor in writing.
- N. Franchisee agrees and acknowledges that it is solely responsible for ensuring that: (i) it acquires and maintains all business licenses, permits and approvals, including those that are specifically required to offer and provide spa services, including massages, facials, lash extensions, and body treatments, that are necessary to operate the Franchised Business at a fiscal location (defined below) and within the Designated Territory (defined below); and (ii) the Franchised Business is otherwise operated in full compliance with all federal, state and local laws and regulations where the Franchisee is located.
- O. Franchisee agrees and acknowledges that: (i) Franchisor may enter into franchise agreements with other franchisees that may contain provisions, conditions, and obligations that differ from those contained in this Agreement, including without limitation, franchise agreements for the operation of a System Day Spa; and (ii) the existence of different forms of agreement and the fact that Franchisor and other franchisees may have different rights and obligations does not affect the parties' duty to comply with the terms of this Agreement.

## 2. **GRANT OF FRANCHISE**

- A. **Grant of Franchise**. Franchisor hereby grants Franchisee, subject to the terms, conditions, and obligations of this Agreement, a non-exclusive right and license to use the Proprietary Marks and receive the other benefits of the System in connection with the establishment and operation of a single System Day Spa (the "Franchised Business").
- B. **Approved Premises; Site Selection Area**. The Franchised Business must be operated from a single location that Franchisor reviews and approves (the "Premises"). If the parties have not agreed on a Premises as of the date this Agreement is executed, Franchisor will designate a general marketing area (the "Site Selection Area") on the data sheet attached

to this Agreement as Exhibit A (the “Data Sheet”) wherein Franchisee must locate and secure the Premises as detailed more fully in Section 6(A) of this Agreement. Franchisee acknowledges and agrees that: (i) it does not have any territorial rights within the Site Selection Area; (ii) Franchisor may permit other new franchisees to search for the location of their franchised Day Spa within the same Site Selection Area that is assigned to Franchisee under this Agreement if Franchisor determines in its discretion that the Site Selection Area is large enough to contain additional franchises; and (iii) potential locations for each franchised Day Spa, and resulting Designated Territories (as defined below), within the Site Selection Area will be reviewed and rejected/granted on a first-to-propose basis.

- C. **Relocation of Premises.** Once the Franchisor approves the Premises of the Franchised Business, the location will be set forth in the Data Sheet. Franchisee may only use the Premises to operate the Franchised Business. Franchisee may not relocate the Franchised Business to any location other than the Premises without Franchisor’s prior written consent, which Franchisor will not unreasonably withhold, provided: (i) Franchisee secures an alternate location for the Franchised Business within the Designated Territory (as defined below) that meets Franchisor’s then-current site selection criteria for the premises of a System Day Spa; and (ii) Franchisee pays Franchisor a relocation fee amounting to Five Thousand Dollars (\$5,000) prior to Franchisor’s approval of the relocation.
- D. **Designated Territory.** Upon locating and securing a Premises, Franchisor will designate a geographical area surrounding the Premises wherein Franchisor will not open or locate, or license a third party the right to open or locate, another System Day Spa utilizing the System and Proprietary Marks (the “Designated Territory”) from a physical location in the Designated Territory, for so long as Franchisee is in compliance with this Agreement. The boundaries of the Designated Territory, once determined by Franchisor, will be described in the Data Sheet. Franchisee acknowledges that it does not have any other territorial rights within the Designated Territory.
1. Franchisee may not solicit prospective customers outside of the Designated Territory, unless (a) these prospective customers do not reside within the territory granted to another franchisee or other System Day Spa location, and (b) Franchisee obtains Franchisor’s prior written consent.
  2. Franchisee may not actively advertise the Franchised Business outside of the Designated Territory, unless (a) the area wherein Franchisee wishes to advertise is contiguous to the Designated Territory and is not granted to another franchisee or other Day Spa, and (b) Franchisee obtains Franchisor’s prior written consent.
- E. **Rights Not Granted.** Franchisee acknowledges and agrees that this Agreement does not afford Franchisee any rights or options to open any additional Day Spas and that Franchisee does not have any right to sub-license or sub-franchise any of the rights granted hereunder. Franchisee may not use the Proprietary Marks or System for any purpose other than promoting and operating the Franchised Business at the Premises and within the Designated Territory. Franchisor will have sole discretion as to whether it decides to grant Franchisee the right to open any additional Day Spas, each of which will be governed by a separate form of Franchisor’s then-current franchise agreement.
- F. **Reservation of Rights.** Notwithstanding anything contained in this Agreement, Franchisor and its affiliates hereby reserve the exclusive right to: (i) open and operate, and license

third parties the right to open or operate, other Day Spas utilizing the Proprietary Marks and System outside the Designated Territory; (ii) market, offer and sell products and services similar to those offered by the Franchised Business and other Day Spas (such as private label products that Franchisor may develop) through alternate channels of distribution, including without limitation, via the Internet and other e-commerce channels, catalog sales, direct mail or wholesale, at any location; (iii) acquire, or be acquired by, any company, including a company operating one or more businesses offering products or services similar to those offered by a Day Spa, located within or outside your Designated Territory, and subsequently operate (or license a third party the right to operate) these locations; (iv) open and operate, or license third parties the right to open or operate, businesses that offer products and services similar to the Franchised Business under marks other than the Proprietary Marks at any location; and (v) use, and license others the right to use, the Proprietary Marks and System to engage in any other activity not expressly prohibited by this Agreement.

- G. **Modification of System.** Franchisor reserves the right to supplement, revise or otherwise modify the System or any aspect/component thereof, and Franchisee agrees to promptly accept and comply with any such addition, subtraction, revision, modification or change and make such reasonable expenditures as may be necessary to comply with any change that Franchisor makes to the System. Any change or modification that Franchisor makes to the System will not materially alter Franchisee's fundamental rights under this Agreement. Moreover, Franchisor will provide Franchisee with a reasonable amount of time to comply with any change or modification to the System once Franchisee has been notified of such change/modification in writing (via the Operations Manual or otherwise).
- H. **Minimum Performance Standards.** Once the Franchised Business has been open and operating for a period of one (1) year, the parties agree and acknowledge that the Franchised Business will be required to achieve certain levels of Gross Sales (as defined in this Agreement) each calendar month in the following amounts: (i) \$20,000 per month beginning 12 months from the date the Franchised Business is opened; (ii) \$25,000 per month beginning 24 months from the date the Franchised Business is opened; and (iii) \$30,000 per month beginning 36 months from the date the Franchised Business is opened (collectively, the "Minimum Performance Standards").

### 3. **TERM AND RENEWAL**

- A. **Term.** Unless previously terminated pursuant to this Agreement, the term of this Agreement shall be for a period of ten (10) years ("Initial Term") commencing as of the Effective Date.
- B. **Renewal.** Franchisee may submit a request to renew this Agreement for up to two (2) additional, consecutive terms of ten (10) years each, and must provide each request to renew no less than six (6) months and no more than twelve (12) months prior to the end of the then-current term. Failure to provide such notice to Franchisor will be deemed an indication that Franchisee does not wish to renew the franchise relationship. Franchisor shall not unreasonably withhold its approval of such requests for renewal, provided Franchisee complies with the following conditions:
1. Franchisee must not have: (i) any uncured material defaults under this Agreement (including any monetary defaults) or any other agreement between Franchisee and Franchisor or the landlord of the Premises, either at time of Franchisee's renewal

request or at the time of renewal; and (ii) received more than three (3) separate, written notices of material default from Franchisor with respect to this Agreement in the 12-month period preceding the renewal request date or renewal date.

2. Franchisee must execute Franchisor's then-current System form of franchise agreement(s), which may contain materially different terms and conditions from those contained in this Agreement, within thirty (30) days of the date Franchisee is provided with Franchisor's then-current form of franchise agreement.
3. Franchisee pays Franchisor a renewal fee amounting to Ten Thousand Dollars (\$10,000) at least ninety (90) days prior to the expiration of the then-current term. Franchisee will not be required to pay an additional Initial Franchisee Fee (as defined in Section 4) upon renewal.
4. Franchisee and/or the Designated Manager (as defined in this Agreement and as applicable) attends a prescribed training refresher course at least thirty (30) days before the expiration of the then-current term of this Agreement, and pays Franchisor its then-current refresher training tuition fee. Franchisee will also be responsible for all expenses incurred in connection with attending this refresher training.
5. Franchisee executes a general release under seal, in a form satisfactory to Franchisor, of any and all claims it may have against Franchisor and its officers, directors, shareholders, and employees in their corporate and individual capacities, including without limitation, all claims arising under any federal, state, or local law, rule, or ordinance.
6. Franchisee must have participated in and supported the training procedures, purchasing, marketing, advertising, promotional, and other operational and training programs recommended or provided by Franchisor to the satisfaction of Franchisor.
7. Franchisee or transferee agrees, at its sole cost and expense, to re-image, renovate, refurbish, and modernize the Premises and Day Spa within the time frame required by Franchisor, including the design, equipment, signs, interior and exterior décor items, displays, inventory assortment and depth, fixtures, furnishings, trade dress, color scheme, presentation of trademarks and service marks, supplies, and other products and materials, as necessary to meet Franchisor's then-current System standards, specifications, and design criteria for a newly opened System Day Spa.

#### **4. FEES AND PAYMENTS**

- A. **Fees.** In consideration of the rights and license granted herein, Franchisee shall pay the following amounts:
1. Upon execution of this Agreement, Franchisee must pay Franchisor an initial franchise fee of \$59,500 (the "Initial Franchise Fee"), which fee shall be deemed fully earned and non-refundable under any circumstances upon payment.
  2. On or before the day (or other day Franchisor designates) of each week the Franchised Business is open and operating (and/or required to be open and

operating under this Agreement), Franchisee must pay Franchisor an ongoing royalty fee amounting to six percent (6%) of the Gross Sales (as defined in Section 4(D)) generated by the Franchised Business in the preceding week (the “Royalty Fee”) beginning Monday when the Franchised Business opens and ending Sunday when the Franchised Business closes (the “Business Week”). In the event Franchisee does not meet the Minimum Performance Standards for a period of three (3) consecutive months, then Franchisee must pay Franchisor an amount equal to the difference between: (i) the appropriate Royalty Fee amount had the Franchised Business achieved the required Minimum Performance Standards over that three (3) month period; and (ii) the actual amount that Franchisee paid in Royalty Fees in connection with the operation of the Franchised Business over that three (3) month period (the “Royalty Shortfall Payment”).

3. Franchisor has established a brand development fund to be administered as Franchisor determines appropriate to promote, market and otherwise develop the System, Proprietary Marks, Approved Services and/or the brand generally (the “Fund”), and Franchisee is required to make a weekly contribution to this Fund on or before the day of each week Franchisor designates amounting to one percent (1%) of the Gross Sales (as defined in this Section 4(D)) generated by the Franchised Business in the preceding Business Week.
4. In connection with certain technology and related systems that Franchisor designates for use in connection with the System, Franchisee must pay: (i) Franchisor its then-current technology fee (the “Technology Fee”) for the technology and services that Franchisor determines to provide as part of Technology Fee; and (ii) any other license fees or other amounts necessary to acquire and maintain access to such required technology, including the point-of-sale system that Franchisee must use in connection with the Franchised Business. Franchisee shall start paying the Technology Fee two (2) months prior to opening the Franchised Business.
5. All other training/tuition fees, evaluation fees, as well as all amounts necessary to purchase marketing materials, inventory or other supplies from Franchisor or its affiliates must be paid on an ongoing basis, as described more fully in this Agreement.

- B. **Method of Payment.** With the exception of the Initial Franchise Fee, Franchisee shall pay all fees and other amounts due to Franchisor and/or its affiliates under this Agreement through an electronic funds transfer program (the “EFT Program”), under which Franchisor automatically deducts all payments owed to Franchisor under this Agreement, or any other agreement between Franchisee and Franchisor or its affiliates, from the bank account Franchisee provides to Franchisor for use in connection with EFT Program (the “EFT Account”). Franchisee shall immediately deposit all revenues from operation of the Franchised Business into this bank account immediately upon receipt, including cash, checks, and credit card receipts. At least ten (10) days prior to opening the Franchised Business, Franchisee shall provide Franchisor with: (i) Franchisee’s bank name, address and account number; and (ii) a voided check from such bank account. Contemporaneous with the execution of this Agreement, Franchisee shall sign and provide to Franchisor and Franchisee’s bank, all documents, including Franchisor’s form of EFT Authorization Form attached as Exhibit D to this Agreement, necessary to effectuate the EFT Program and Franchisor’s ability to withdraw funds from such bank account via electronic funds

transfer. Franchisee shall immediately notify Franchisor of any change in Franchisee's banking relationship, including any change to the EFT Account.

- C. **Access to Computer System.** Franchisor may, without notice to Franchisee, have the right to independently and remotely access and view Franchisee's computer system used in connection with the Franchised Business (the "Computer System") via the Internet, other electronic means or by visiting the Day Spa, in order to obtain Gross Sales, tenant occupancy rates and other available information that Franchisor reasonably requests about the Franchised Business. Franchisee hereby consents to Franchisor using and disclosing to third parties (including, without limitation, prospective franchisees, financial institutions, legal and financial advisors), for any purpose or as may be required by law, any financial or other information contained in or resulting from information, data, materials, statements and reports received by Franchisor or disclosed to Franchisor in accordance with this Agreement. Franchisee must obtain and use the Computer System hardware, software and other components that Franchisor prescribed for use in connection with the Franchised Business, and utilize and participate in any intranet/extranet that Franchisor establishes in connection with the System. Franchisor may require Franchisee to use a Computer System and/or related software that is administered through Franchisor and that provides Franchisor with automatic access to all data and reports that might be created by such Computer System and/or software.
- D. **Gross Sales.** "Gross Sales" means the total revenue generated by the Franchised Business, including (a) all revenue generated from the sale and provision of any and all gift cards and other Approved Products and Services at or through your Franchised Business, and (b) all insurance proceeds from any business interruption insurance related to the non-operation of your Franchised Business or other force majeure, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. "Gross Sales" does not include (a) tips received by massage therapists, estheticians and other practitioners at the Franchised Business, (b) any sales tax and equivalent taxes that are collected by Franchisee for or on behalf of any governmental taxing authority and paid thereto, or (c) the value of any allowance issued or granted to any client of the Franchised Business that is credited in good faith by Franchisee in full or partial satisfaction of the price of the Approved Products or Services offered in connection with the Franchised Business.
- E. **Gross Sales Reports; Right to Modify Payment Interval.** On or before Monday of each week, Franchisee must send Franchisor a signed Gross Sales report (a "Gross Sales Report") detailing the following information: (i) Gross Sales of the Franchised Business from the preceding Business Week; (ii) Franchisee's calculated Royalty Fee and Fund Contribution based on the Gross Sales from the preceding Business Week; and (iii) any other information Franchisor may require for that reporting period. Franchisor may, as it deems necessary in its sole discretion, change the form and content of the Gross Sales Reports from time to time.
1. The parties agree and acknowledge that Franchisor may require Franchisee to use a Computer System and/or software in connection with the Franchised Business that provides Franchisor with automatic access to Gross Sales Reports and any other data/reports generated by such Computer System and/or software, but in no event shall such access by Franchisor affect Franchisee's obligation to provide all reports required under this Franchise Agreement unless Franchisor agrees otherwise in writing.

2. The information Franchisee sets forth in the Gross Sales Report and/or any other financials of the Franchised Business must be reported on a “cash basis” (as defined under GAAP and GAAS) and using any chart of accounts Franchisor designate in the Manuals or otherwise in writing, unless Franchisor designates a different methodology for reporting in a separate writing.
  3. The parties agree and acknowledge that Franchisor may modify the interval at which it collects Franchisee’s Royalty Fee, Fund Contribution and other recurring fees under this Agreement upon written notice (i.e., Franchisor may provide Franchisee with notice that it will be collecting these fees on a monthly rather than weekly basis). In such event, Franchisee’s reporting obligations may also be modified by Franchisor accordingly.
- F. **Late Payments.** If any payment due under this Agreement is not received by Franchisor by the scheduled date due, Franchisee shall be in default under this Agreement. If any payment is overdue, Franchisee shall pay interest to the Franchisor, in addition to the overdue amount, at a rate of one and one-half percent (1.5%) per month, beginning from the date of non-payment or underpayment, until paid. Entitlement to collect such interest shall be in addition to any and all other remedies Franchisor may have. Franchisee agrees to pay Thirty Dollars (\$30.00) for each check given or electronic transfer made to Franchisor that is dishonored, fails to process, or is returned.
- G. **Taxes Owed by Franchisee.** No payments to be made to Franchisor by Franchisee, whether for royalties, advertising, merchandise, special programs, or otherwise, may be reduced on account of the imposition by any federal, state, or local authority of any tax, charge, or assessment, or by any claim Franchisee may have against Franchisor. All taxes, charges, or assessments shall be paid by Franchisee to the taxing authorities when due, in addition to the amounts due to Franchisor.
- H. **Gross Sales Report Late Fee.** In the event Franchisee fails to provide to Franchisor any financial report, Gross Sales Report or other report which Franchisee is obligated by this Agreement to provide to Franchisor when such report is due and this failure continues for a period of ten (10) days after the date when due, regardless of the date when mailed, Franchisee shall pay to Franchisor a late fee with respect to each such report in the amount of Ten Dollars (\$10.00) per day beginning with the eleventh (11<sup>th</sup>) day after the date when the report was due. The imposition of late reporting fees shall be in addition to, and not in lieu of, any other remedy available to Franchisor for failure to report.
- I. **Security Interest.** Franchisee hereby grants to Franchisor a security interest in all of Franchisee’s interests in the real estate where the franchise is located (if Franchisee purchases its Premises), as well as all improvements to that real estate. Franchisee further grants to Franchisor a security interest in all furniture, furnishings, equipment, fixtures, inventory, and supplies located at or used in connection with the Franchised Business, whether now or hereafter leased or acquired, together with all attachments, accessions, accessories, additions, substitutions, and replacements therefore, as well as all cash and non-cash proceeds derived from insurance, the disposition of any such collateral to secure payment and performance of all debts, liabilities, and obligations of any kind of Franchisee to Franchisor under this Agreement, whenever and however incurred, any promissory note given by Franchisee to Franchisor, or any other agreement between them. Franchisee hereby authorizes Franchisor to file and record all financing statements, financing statement amendments, continuation financing statements, fixture filings, and other

documents necessary or desirable to evidence, perfect, and continue the priority of the security interests granted herein. Franchisee agrees and understands that it must promptly execute and deliver any such documents to Franchisor upon request.

1. Notwithstanding anything contained in Section 4(I) of the Franchise Agreement to the contrary, Franchisee does not grant Franchisor any security interest in any real property associated with the Franchised Business if such real property is being leased by the Franchisee.
2. The parties agree that Franchisor will not execute on any security interest granted to Franchisor under Section 4(I) of the Franchise Agreement unless Franchisee fails to cure a material default under the Franchise Agreement within the applicable time period for cure after Franchisor has provided Franchisee with proper notice of such default(s).

J. **Inability to Operate Franchised Business.** If Franchisee is unable to operate the Franchised Business due to damage or loss to the Premises caused or created by a casualty, act of God, condemnation, or other condition over which Franchisee has no control, then Franchisor will waive the Royalty Fee due under this Agreement for a period of time that Franchisor reasonably determines is necessary for the Franchised Business to repair the damage/loss to the Premises and resume operations (or relocate the Franchised Business to a different approved location within the Designated Territory), with said waiver period not to exceed ninety (90) days commencing from the date Franchisee gives Franchisor notice of the damage or loss.

K. **Compliance with Membership Reciprocity and Gift Card Redemption Policies.** Franchisee agrees and acknowledges that Franchisor has set forth policies and guidelines regarding (i) Franchisee's provision of certain Approved Products and Services to clientele at the Franchised Business that have purchased a membership at a System Day Spa other than the Franchised Business (and vice versa), and (ii) Franchisee's redemption of gift cards at the Franchised Business that were purchased at a System Day Spa other than the Franchised Business (and vice versa), along with directives and guidelines for how any compensation (membership fee or otherwise) will be allocated amongst the Franchised Business and the other System Day Spa(s) at issue. Franchisee agrees and acknowledges that such policies and guidelines may affect Franchisee's payment obligations under this Agreement, whether to Franchisor and/or to a different Day Spa location, but agrees to strictly comply with such directives, policies and guidelines as set forth and updated by Franchisor in the Manuals or otherwise in writing.

## 5. **DUTIES OF FRANCHISOR**

A. **Initial Training Program.** Franchisor shall offer and make available an initial training program (the "Initial Training Program") for Franchisee and up to two (2) additional persons designated by Franchisee, provided: (i) these individuals attend at the same time; and (ii) Franchisee pays Franchisor an initial training fee amounting to Five Thousand Dollars (\$5,000) to cover the tuition of these individuals (the "Initial Training Fee"). One of the trainees must be Franchisee (or one of Franchisee's principals responsible for the Franchised Business if Franchisee is an entity) and, if applicable, another of the attendees must be the individual that Franchisee appoints that will be responsible for the day to day management of the Franchised Business and that Franchisor approves (the "Designated Manager").

1. The Initial Training Program will be provided by Franchisor and its training personnel through: (i) remote/online instruction and classes that may be completed via a Learning Management System (or “LMS”) or other technology that Franchisor can use to prepare, deliver, and track progress/completion of such instruction by Franchisee and any other required trainees; (ii) training that will be provided at Franchisor’s designated training facility; and (iii) on-site assistance that Franchisor’s training personnel provides at the Franchised Business prior to or at around the time it is opening (the “On-Site Assistance”).
2. The portions of the Initial Training Program that cannot be conducted and completed remotely will be provided subject to the schedule and availability of Franchisor’s training personnel.
3. Franchisor will provide the Initial Training Program to additional owners of Franchisee or managers of the Franchised Business (subject to the availability of Franchisor’s staff), provided Franchisee pays Franchisor its then-current Initial Training Fee for each individual that attends in addition to the first three (3) persons (as well as any expenses incurred).

**B. Personnel Training; Replacement Training (Initial Training Program)**

1. Franchisor will, as it deems appropriate in its discretion, provide Franchisee with certain webinars, LMS and other instructional materials designed to help Franchisee train and certify any individual that will be providing massage therapy, facials or other of the Approved Services at the Franchised Business (the “Training Materials”). Franchisee must ensure that: (i) each individual that Franchisee wishes to have provide Approved Services at the Franchised Business successfully reviews and completes the appropriate Training Materials; (ii) each such individual takes and completes any test or other device designed to ensure that the personnel providing the Approved Services fully understand the System standards and specifications surrounding those Approved Services; and (iii) at Franchisor’s request, Franchisee provides a written representation to Franchisor that all personnel providing the Approved Services at the Franchised Business have completed the Training Materials and successfully passed all corresponding tests described in this Section prior to performing any such Approved Services at the Franchised Business.
2. Franchisor will also provide the Initial Training Program to any replacement personnel or those who attend but fail to complete the program as well, provided Franchisee pays Franchisor’s then-current Initial Training Fee (as well as any expenses incurred).

- C. Additional and Refresher Training.** Franchisor may, as it deems appropriate in its discretion, develop additional and refresher training courses, and require Franchisee and its management to attend such courses. Franchisor may require Franchisee and its designated attendees to pay its then-current training tuition fee in connection with attending additional/refresher training (in addition to Franchisee’s obligation to pay for any expenses incurred by Franchisor and its personnel in providing such training). Franchisor will not require Franchisee and its management to attend more than: (i) five (5) days of

additional/refresher training each year; and (ii) 20 hours of additional LMS Training remotely each year.

- D. **Manuals.** Franchisor will provided electronic access to, or otherwise loan, Franchisee one (1) copy of its proprietary and confidential operations manual prior to the opening of the Franchised Business, as well as any other instructional manuals as Franchisor deems appropriate (collectively, the “Manuals”). Franchisor will also loan Franchisee a list of: (i) all furniture, fixtures, equipment, inventory, supplies and other items that Franchisee is required to purchase or lease in connection with the establishment and ongoing operation of the Franchised Business (collectively, the “Required Items”); (ii) a list of all suppliers from which Franchisee must purchase or lease any Required Items, which may be Franchisor or its affiliates (collectively, the “Approved Suppliers”); and (iii) a list of the Approved Products and Services that Franchisee is authorized to offer, sell or provide at and from the Franchised Business, including membership programs and services. The foregoing lists may be provided as part of the Manuals or otherwise in writing prior to opening, and Franchisor has the right to revise, supplement or otherwise modify these lists and the Manuals at any time upon written notice to you. Franchisor may also establish and maintain a System website portal (the “System Intranet”), wherein Franchisor may post content that will automatically become part of, and constitute a supplement to, the Manuals, all of which Franchisee must strictly comply with promptly after such content is posted or otherwise listed on the System Intranet. In the event Franchisee or its personnel saves or prints out a hard copy of any Manual, then such electronic/hard versions of said Manual must be immediately returned upon expiration or termination of this Agreement for any reason (and never used for any competitive purpose). The provisions of this Section shall survive the term of this Agreement.
- E. **Site Selection Assistance.** Franchisor will provide Franchisee with site selection assistance and guidance with regards to Franchisee’s selection of Premises for the Franchised Business, including Franchisor’s then-current site selection criteria, as it deems appropriate in its sole discretion. Franchisor may require that Franchisee use an Approved Supplier for site selection assistance. Franchisor will also review and approve of any location the Franchisee proposes for the Franchised Business. Franchisor must approve of Franchisee’s proposed location, as well as the lease for the Premises (the “Lease”) or purchase agreement for the location, prior to Franchisee entering into any such agreement for that location to serve as the Premises of the Franchised Business. Franchisor may condition its approval of any Lease for the proposed Premises on the landlord’s execution of Franchisor’s form of Consent and Agreement of Landlord attached to this Agreement at Exhibit C. Franchisor will use reasonable efforts to review and approve of any proposed Premises location and corresponding Lease within thirty (30) days of receiving all reasonably requested information from Franchisee.
- F. **Initial Marketing Assistance.** Franchisor may assist Franchisee, as it deems appropriate in its discretion, in developing and conducting the Initial Marketing Spend (as defined and described more fully in Section 9 of this Agreement), which program shall be conducted at Franchisee’s expense.
- G. **Continuing Assistance.** Franchisor may, as it deems appropriate and advisable in its sole discretion, provide continuing advisory assistance in the operation of the Franchised Business (after the Initial On-Site Training has been provided).Franchisor’s determination not to provide any particular service, either initial or continuing, shall not excuse Franchisee from any of its obligations under this Agreement. Franchisor may provide such

assistance via telephone, fax, intranet communication, Skype, Zoom or any other communication channel Franchisor deems appropriate, subject to the availability and schedules of Franchisor's personnel. In the event Franchisee requests that Franchisor provide any type of assistance or training on-site at the Franchised Business, then Franchisee may be required to pay Franchisor's then-current training tuition fee in connection with such training (in addition to reimbursing Franchisor for any costs/expenses that Franchisor's personnel incurs in connection with providing such assistance).

- H. **Review of Advertising Materials.** Franchisor will review and approve/reject any advertising or marketing materials proposed by Franchisee in connection with the Franchised Business as described more fully in Section 9 of this Agreement.
- I. **Website.** For so long as Franchisor has an active website containing content designed to promote the brand, System and Proprietary Marks (collectively, the "Website"), Franchisor will list the contact information of the Franchised Business on this Website, provided Franchisee is not in material default under this Agreement. Franchisor may also provide Franchisee with one or more email address(es), as it deems appropriate in its discretion, which Franchisee must use only in connection with the Franchised Business.
- J. **Private Label Products.** Franchisor may directly, or indirectly through Franchisor's affiliates or designated vendors, develop and provide Franchisee with private label products or other merchandise bearing the Proprietary Marks to be sold at the Franchised Business. Franchisee may be required to purchase these items from Franchisor or any other Approved Supplier Franchisor designates.
- K. **Inspections of the Franchised Business and Premises.** Franchisor will, as it deems appropriate in its sole discretion, conduct inspections and/or audits of the Franchised Business and Premises to ensure that Franchisee is operating its Franchised Business in compliance with the terms of this Agreement, the Manuals and the System standards and specifications. Such inspections may include inspections of the Premises, taking photographs and/or videotape of the Day Spa's common area, taking samples of any Approved Products for sale at the Day Spa, interviewing and surveying Franchisee's personnel and customers, inspecting any and all books and records, and conducting mystery shop services. Franchisor is not responsible for ensuring that the Franchised Business is being operated in compliance with all applicable laws and regulations. Upon inspection, deficiency notifications require corrections, costs and expenses to be reimbursed for a reinspection to ensure deficiency is corrected within the designated timeline specified. Franchisee shall pay the then-current fee in connection with the same, which is currently \$150 per hour plus out of pocket expenses.
- L. **Administration of Fund.** If and when established, Franchisor will administer the Fund as it deems advisable to the System in its sole discretion as described more fully in Section 9 of this Agreement.
- M. **No Assumption of Liability.** Franchisor shall not, by virtue of any approvals or advice provided to the Franchisee under this Agreement, including site selection or other approval provided under this Section 5, assume any responsibility or liability to Franchisee or to any third party to which it would not otherwise be responsible or liable. Franchisee acknowledges that any assistance (including site selection and project oversight) provided by Franchisor or its nominee in relation to the selection or development of the Premises is only for the purpose of determining compliance with System standards and does not

constitute a representation, warranty, or guarantee, express, implied or collateral, regarding the choice and location of the Premises, that the development of the Premises is free of error, nor that the Franchised Business is likely to achieve any level of volume, profit or success.

- N. **Delegation of Duties.** Franchisee acknowledges and agrees that any designee, employee, or agent of Franchisor may perform any duty or obligation imposed on Franchisor by the Agreement, as Franchisor may direct.
- O. **Pre-Opening Obligations Acknowledgement.** If Franchisee believes Franchisor has failed to provide adequate pre-opening services as provided in this Agreement, Franchisee shall notify Franchisor in writing within thirty (30) days following the opening of the Franchised Business. Absent such notice to Franchisor, Franchisee acknowledges, agrees and grants that Franchisor fully complied with all of its pre-opening and opening obligations set forth in this Agreement.
- P. **Annual Conference.** Franchisor may establish and conduct an annual conference for all System Day Spa owners and operators, and may require Franchisee and its Designated Manager to attend this conference for no more than five (5) days each year. Franchisor reserves the right to charge Franchisee its then-current registration fee in connection with any conference conducted pursuant to this Section, and Franchisee will be solely responsible for all expenses incurred in attending such conferences.
- Q. **Call Center.** Franchisor reserves the right to establish a System-wide call center (the “Call Center”) and, if Franchisor does so, Franchisor reserves the right to charge Franchisee for related subscription fees at Franchisor’s then-current rate or the then-current rate charged by Franchisor’s approved supplier for call center services.

## **6. DUTIES OF FRANCHISEE**

- A. **Secure Premises.** Franchisee must secure Premises within the Designated Territory within six (6) months of executing this Agreement, unless Franchisor agrees to an extension of time in writing. If Franchisor has designated an Approved Supplier for site selection assistance, then Franchisor may require that Franchisee use this Approved Supplier. If Franchisee is entering into a Lease for the proposed Premises, the form of Lease must be approved by Franchisor and Franchisee must ensure that both Franchisee and the party leasing the Premises to Franchisee under the Lease execute the form of Collateral Assignment of Lease attached to this Agreement as Exhibit C prior to, or at the same time, the Lease is executed.
- B. **Access to Franchisor for Inspection of Premises.** Upon the surrender of the Premises, Franchisee must conduct a physical inventory so that there is an accurate accounting of inventory, fixtures, furniture, supplies and equipment on hand, and shall provide a signed copy of this physical inventory to Franchisor as of the date of surrender of the Premises. Franchisor shall have the right to enter the Premises at its convenience and conduct said physical inventory on its own.
- C. **Compliance with Lease.** Franchisee must comply with both the Lease and any additional leasehold covenants and regulations of the building in which the Premises is located. In the event the landlord of the Premises terminates the Lease due to Franchisee’s default thereunder, this termination will also constitute a material breach of this Agreement by

Franchisee. In the event Franchisor provides appropriate notice as described in Section 6(A) above and assumes control of the Premises and the operation of the former Franchised Business upon the termination or expiration of the Lease, the future operation of that Day Spa by Franchisor shall not be as an agent of Franchisee and Franchisor shall not be required to account to Franchisee as a result thereof.

D. **Construction and Build-Out.** Franchisee must complete all construction and build-out of the Premises in a manner consistent with Franchisor's System standards, specifications and any agreed-upon plans and open the Franchised Business to the public no later than one (1) year after the date this Agreement is executed. Franchisor may require that Franchisee use one or more Approved Suppliers for certain pre-opening project and construction management services, which may also include services related to preparation of the architectural plans. Franchisor must provide its prior written consent before Franchisee may open the Franchised Business, and Franchisor reserves the right to inspect the construction and/or build-out of the Franchised Business at any reasonable time prior to the opening date. Should Franchisee fail to open the Franchised Business for operation within the prescribed period (or, if applicable, within any extended period of time Franchisor approves in writing), this Agreement will be deemed terminated upon written notice from Franchisor to Franchisee without the necessity of further action or documentation by either party.

1. Notwithstanding anything contained in this Section, Franchisor will provide Franchisee with a reasonable extension of time not to exceed ninety (90) days to complete the build-out/construction of the Franchised Business and open to the public, provided: (i) Franchisee has already executed a lease for, or otherwise obtained, a Premises that Franchisor approves; and (ii) Franchisee notifies Franchisor of its need for such an extension no less than thirty (30) days prior to expiration of the one (1) year timeline to open and commence operations described herein. Any extension granted under this Section will not affect any of Franchisee's other obligations under this Agreement or any of the development obligations set forth in any ADA (as defined below).

2. The parties further agree and acknowledge that if Franchisee is opening and operating the Franchised Business pursuant to its development obligations under an Area Development Agreement that Franchisee (or its affiliate) has entered into with Franchisor (an "ADA"), then that ADA will control the timeline for opening and operating the Franchised Business in the event there is an inconsistency between the ADA and this Agreement. Franchisee must open and commence operations of the Franchised Business within the time period prescribed in the development schedule set forth in the ADA (regardless of when Franchisee executes this Agreement).

E. **Required Licenses and Permits.** Prior to opening, Franchisee must obtain and maintain (throughout the term of this Agreement) all required licenses, permits and approvals to establish, open and operate the Franchised Business at the Premises in the Designated Territory, including all required licenses and permits related to the offer and sale of spa services, including massages, skin care services and the other Approved Products and Services that Franchisor authorizes Franchisee to provide at the Franchised Business.

F. **Licensing Requirements for Therapists and Estheticians.** Franchisee must ensure that the applicable Approved Products and Services provided at the Franchised Business are only performed by therapists, estheticians or other practitioner (as appropriate) that are

licensed by the appropriate authorities to provide the Approved Products and Services at issue. Franchisee must also comply with any and all state laws and regulations that (i) require the examination and certification of massage therapists and/or estheticians, and (ii) restrict the types of services and treatments massage therapists or other Franchised Business personnel may offer.

G. **Approved Products and Services.** Franchisee must only offer and sell only the Approved Products and Services at the Franchised Business. Franchisee may not offer or provide any other products/services and must not deviate from Franchisor's System standards and specification related to the manner in which the Approved Products and Services are offered and sold, unless Franchisor provides its prior written consent. Franchisor has the right to add additional, delete or otherwise modify certain of the Approved Products and Services from time to time in the Manuals and otherwise in writing, as it deems appropriate in its sole discretion. In the event of a dispute between Franchisee and Franchisor concerning Franchisee's right to carry any particular product or to offer any specific service, Franchisee will immediately remove the disputed products from inventory, remove the disputed service from those services offered at the Premises, or, if the same are not already in inventory or such services not yet being offered, will defer offering for sale such products and services pending resolution of the dispute. Franchisee must grant access and extend certain privileges of membership services to all members of a System membership program, no matter where such membership was issued or purchased, so long as such membership is current and in good standing. Franchisee shall accept as payment for services or products any valid gift card or other such indication of prepayment or credit, no matter where such credit was issued or such prepayment was made. Franchisee shall be compensated for providing membership services and fulfilling prepaid services as specified in the Manual or otherwise in writing by Franchisor.

1. *Compliance with Gift Card Policies.* Franchisee must accept as payment for Approved Products and Services any valid gift card or other such indication of prepayment or credit, no matter where such credit was issued or such prepayment was made. Franchisee shall be compensated for providing membership services and fulfilling prepaid services at the Franchised Business as specified in the Manual or otherwise in writing by Franchisor. Franchisee must sell or otherwise issue gift cards or certificates (together "Gift Cards") that have been prepared utilizing the standard form of Gift Card provided or designated by Franchisor, and only in the manner specified by Franchisor in the Manuals or otherwise in writing. Franchisee shall fully honor all Gift Cards that are in the form provided or approved by Franchisor regardless of whether a Gift Card was issued by Franchisor via its website, Franchisee or another System Day Spa location. Franchisee must sell, issue, and redeem (without any offset against any Royalty or other amounts owed to Franchisor) Gift Cards in accordance with procedures and policies specified by Franchisor in the Manual or otherwise in writing, including those relating to procedures by which Franchisee shall request reimbursement for Gift Cards issued by other System Day Spa locations and for making timely payment to Franchisor, other operators of a System Day Spa, or a third-party service provider for Gift Cards issued from the Franchised Business that are honored by another System Day Spa location.

2. *Compliance with Membership Policies.* Franchisee must grant access and extend certain privileges of membership services to all members of a System membership program, no matter where such membership was issued or purchased, so long as

such membership is current and in good standing. Franchisee must institute membership programs as specified in the Manual. Franchisee agrees and acknowledges that all member information and membership data is (a) confidential, (b) the exclusive property of Franchisor, and (c) may only be used by Franchisee in strict adherence to Franchisor's policies and procedures as stated in the Manual.

- H. **Other Devices Prohibited at Premises.** Franchisee is specifically prohibited from installing, displaying, or maintaining any vending machines, gaming machines, automatic teller machines, internet kiosks, public telephones (or payphones), or any other electrical or mechanical device in the Day Spa other than those Franchisor prescribes or approves.
- I. **Fixtures, Furniture, Signs and Inventory.** Franchisee must maintain at all times during the term of this Agreement and any renewals hereof, at Franchisee's expense, the Premises and all fixtures, furnishings, signs, artwork, décor items and inventory therein as necessary to comply with Franchisor's standards and specifications as prescribed in the Manuals or otherwise in writing. Franchisee must also make such additions, alterations, repairs, and replacements to the foregoing as Franchisor requires. Franchisor will not require Franchisee to make material renovations or refurbishments to the Premises of the Franchised Business more than once every seven (7) years, unless such renovation/refurbishment is in connection with a renewal or transfer of this Agreement. The parties agree and acknowledge, however, that the limitation set forth in the preceding sentence will not apply to any request to modify the Proprietary Marks as provided for in this Agreement.
- J. **Compliance with Applicable Laws.** Franchisee must at all times conduct and operate the Franchised Business in accordance with all federal, state, and local laws, ordinances, and regulations applicable thereto, including any laws and regulations related to providing spa services, including massages, facials, lash extensions, and body treatments, and certification/licensing of therapists and estheticians. Franchisee will have sole authority and control over the day-to-day operations of the Franchised Business and Franchisee's employees and/or independent contractors. Franchisee agrees to be solely responsible for all employment decisions and to comply with all state, federal, and local hiring laws and functions of the Franchised Business, including without limitation, those related to hiring, firing, training, wage and hour requirements, compensation, promotion, record-keeping, supervision, and discipline of employees, paid or unpaid, full or part-time. At no time will Franchisee or Franchisee's employees be deemed to be employees of Franchisor or Franchisor's affiliates.
- K. **Required Items.** Franchisee must: (i) purchase any and all Required Items that Franchisor designates for use in connection with the Franchised Business, including without limitation, all products, supplies, inventory, fixtures, Computer System, parts, and materials required for the operation of the Franchised Business; (ii) ensure that all Required Items meet Franchisor's standards and specifications; and (iii) purchase all items Franchisor specifies from the Approved Supplier(s) that Franchise designates, which may include Franchisor or its affiliate(s). Franchisee agrees and acknowledges that Franchisor and/or its affiliates may derive revenue from the offer and sale of Required Items.
- L. **Alternative Supplier Approval.** If Franchisee wishes to purchase any unapproved item, including inventory, and/or acquire approved items from an unapproved supplier, Franchisee must provide Franchisor the name, address and telephone number of the

proposed supplier, a description of the item Franchisee wishes to purchase, and the purchase price of the item, to the extent known. Franchisee must then follow Franchisor's then-current procedure for evaluating and approving such request and pay Franchisor's then-current product/supplier evaluation fee (the "Evaluation Fee") as well as the actual costs Franchisor incurs in connection with the same. At Franchisor's request, Franchisee must also provide Franchisor, for testing purposes, a sample of the item Franchisee wishes to purchase. If Franchisor incurs any costs in connection with testing a particular product or evaluating an unapproved supplier at Franchisee's request, Franchisee must reimburse Franchisor for Franchisor's reasonable testing costs, regardless of whether Franchisor subsequently approves the item or supplier. Franchisor will use commercially reasonable efforts to notify Franchisee in writing whether or not Franchisee's request is approved or denied within thirty (30) days of: (i) Franchisor's receipt of all supporting information from Franchisee regarding Franchisee's request under this Section; and (ii) if applicable, Franchisor's completion of any inspection or testing associated with Franchisee's request. If Franchisor does not provide written approval within this time period, then Franchisee's request will be deemed denied. Franchisor may, but is not obligated to, provide Franchisee's proposed supplier with its specifications for the item that Franchisee wishes the third-party to supply, provided that third-party executes Franchisor's prescribed form of non-disclosure agreement. Each supplier that Franchisor approves must comply with Franchisor's usual and customary requirements regarding insurance, indemnification and non-disclosure. If Franchisor approves any supplier, Franchisee may enter into supply contracts with such third party, but under no circumstances will Franchisor guarantee Franchisee's performance of any supply contract. Franchisor may re-inspect and revoke Franchisor's approval of particular products or suppliers when Franchisor determines, in Franchisor's sole discretion, that such products or suppliers no longer meet Franchisor's standards. Upon receipt of written notice of such revocation, Franchisee must cease purchasing products from such supplier. Nothing in this Section shall be construed to require Franchisor to approve any particular supplier. Franchisor may base Franchisor's approval of any such proposed item or supplier on considerations relating not only directly to the item or supplier itself, but also indirectly to the uniformity, efficiency, and quality of operation Franchisor deems necessary or desirable in Franchisor's System as a whole. Franchisor has the right to receive payments from suppliers on account of their dealings with Franchisee and other franchisees and to use all amounts Franchisor receives without restriction (unless instructed otherwise by the supplier) for any purposes Franchisor deems appropriate.

- M. **Promotional Materials Display (Seasonal and Otherwise)**. Franchisee must openly and prominently display franchise promotional materials provided or designated by Franchisor and participate in any ongoing System-wide sales, specials or other promotions that Franchisor designates, including without limitation, participating in any seasonal sales/promotions and displaying all designated signage in connection therewith.
- N. **Pre-Training Conditions; Initial Training Program and Other Training/Conference Attendance**. Franchisee and each of its management personnel must attend and successfully complete all training and annual conferences that are prescribed by Franchisor under this Agreement.
1. Franchisee must complete the following pre-opening responsibilities hereunder before Franchisor will approve Franchisee or any of Franchisee's designated trainees to attend the Initial Training Program. Franchisee must complete the following prior to attending the Initial Training Program: (i) undertake all steps to

establish the bank account that Franchisee designated for use in connection with the Franchised Business, including providing Franchisor with the complete form attached hereto as Exhibit D; (ii) demonstrate Franchisee has obtained all required insurance coverages as set forth in this Agreement and the Operations Manual; and (iii) provide Franchisor with completed and signed copies of all agreements and contracts that are attached as Exhibits to this Agreement, to the extent such documents have not been signed or need to be updated or completed at that time (collectively, the “Training Pre-Conditions”).

2. Franchisee, its Designated Manager (if applicable) and any other trainees that Franchisee designates to participate in the Initial Training Program prior to opening must attend (or otherwise participate in) and complete all portions of the Initial Training Program other than the On-Site Assistance no later than 14 days before the earlier of the date the Franchised Business (a) opens, or (b) is required to be open under this Agreement.
3. Franchisee and its required trainees must be on-site at the Franchised Business when Franchisor’s training personnel provides the On-Site Assistance at the Premises, and must actively participate in and complete such On-Site Assistance.
4. Franchisee must also cover all costs associated with the costs and expenses that Franchisee and any of its personnel incur in connection with attending any part of the Initial Training Program, including costs associated with travel, lodging, meals and personnel compensation.
5. Franchisee and, if applicable, Franchisee’s Designated Manager must: (i) attend and complete any additional or refresher training the Franchisor is permitted to require Franchisee to attend each year; and (ii) attend Franchisor’s annual conference if such a conference is conducted by Franchisor (and pay Franchisor’s then-current registration fee).
6. Any failure to attend and complete the Initial Training Program or other training/conferences described in this Section will be a material default of this Agreement and grounds for termination if not cured within the appropriate cure period set forth in this Agreement (if any).

O. **Training of Employees:**

1. Franchisee or at least one (1) of Franchisee’s personnel that has successfully completed the entire Initial Training Program must conduct training classes for, and properly train, all of Franchisee’s employees on sales, advertising, maintenance of the Premises, the POS and computer system, as well as any other information that is relevant to each employee’s role with the Franchised Business, including Franchisor’s standards and specifications for operating the Franchised Business, as Franchisor may set forth in the Manuals or otherwise in writing. Further, at least one (1) person that has completed the Initial Training Program must manage the Franchised Business at all times.
2. Franchisee must strictly comply with the obligations regarding the Training Materials and corresponding tests that Franchisor provides to Franchisee for use in connection with training those that will be providing Approved Services at the Franchised Business, as set forth more fully in Section 5(B) of this Agreement. Franchisee must

provide any reports that Franchisor reasonably requires demonstrating that all personnel at the Franchised Business have been adequately trained by Franchisee.

- P. **Hours of Operation.** Franchisee shall keep the Franchised Business open and in normal operation for such minimum hours and days as Franchisor may prescribe in the Manuals or otherwise in writing, and must ensure that the Franchised Business is sufficiently staffed.
- Q. **Image.** Franchisee shall maintain the image of the Franchised Business at all times in accordance with Franchisor's standards and specifications, including: (i) ensuring that the Premises is maintained in a clean and orderly manner; and (ii) ensuring that all equipment, furniture and fixtures remain in good, clean condition and is properly displayed. Franchisor may require Franchisee to refurbish, renovate and/or otherwise substantively modify the interior of the Franchised Business, including the furniture, fixtures and equipment used at the Premises, no more than once every seven (7) years (unless the change is required in connection with a renewal or transfer of this Agreement) so that the Premises and Franchised Business conform with Franchisor's then-current System standards and specifications for a new System Day Spa.
- R. **Customer Lists and Data/Agreements.** Franchisee must (i) maintain a list of all of its current and former customers, as well as their purchase history and any membership agreements associated therewith, at the Premises; and (ii) make such lists and contracts available for Franchisor's inspection upon request. Franchisee must promptly return this information, which is deemed "Confidential Information" and Franchisor's exclusive property hereunder, to Franchisor upon expiration or termination of this Agreement for any reason. Franchisee acknowledges that Franchisor may have automatic access to any or all of this information via the Computer System and related software that Franchisor requires for use in connection with the Franchised Business.
- S. **Promotional/Minimum Prices; Pricing Guidelines.** To the extent permitted under applicable law, Franchisee must follow Franchisor's general pricing guidelines, including any promotional or minimum prices set by Franchisor for a particular membership program or other Approved Product or Service. As an independent contractor, however, Franchisee may exercise flexibility in meeting competition with respect to the pricing of certain Approved Products and Services offered at the Franchised Business. Franchisor may request information from Franchisee that has been used to substantiate any reduction or increase in pricing made by Franchisee to meet market conditions.
- T. **Operation of Franchised Business and Customer Service.** Franchisee shall manage and operate the Franchised Business in an ethical and honorable manner, and must ensure that all those working at the Franchised Business provide courteous and professional services to customers and always keep its customers' interests in mind while protecting the goodwill of the Proprietary Marks, System and the Franchised Business. Franchisee must handle all customer complaints and requests for returns and adjustments in a manner consistent with Franchisor's standards and specifications, and in a manner that will not detract from the name and goodwill enjoyed by Franchisor. Franchisee must consider and act promptly with respect to handling of customer complaints, and implement complaint response procedures that Franchisor outlines in the Manuals or otherwise in writing.
- U. **Access to Day Spa.** To determine whether Franchisee is complying with this Agreement, Manuals and the System, Franchisor and its designated agents or representatives may at all times and without prior written notice to Franchisee: (i) inspect the Premises; (ii) observe

and monitor the operation of the Franchised Business for consecutive or intermittent periods as Franchisor deems necessary; (iii) interview or survey personnel and customers of the Franchised Business; and (iv) inspect, audit and/or copy any books, records, and agreements relating to the operation of the Franchised Business, including all financial information. Franchisee agrees to cooperate with Franchisor fully in connection with these undertakings by Franchisor (if taken). If Franchisor exercises any of these rights, Franchisor will not interfere unreasonably with the operation of the Franchised Business.

- V. **Personal Participation by Franchisee.** Franchisee must personally participate in the direct management operation of the Franchised Business on a full-time basis, unless Franchisee engages a Designated Manager that Franchisor approves in writing to manage the day-to-day operations of the Franchised Business when Franchisee is not present. If Franchisee designates a manager at any time, that manager must successfully complete the Initial Training Program prior to assuming any management responsibilities in connection with the Franchised Business. Regardless, Franchisee is solely responsible for all aspects of the operation of the Franchised Business and ensuring that all the terms, conditions, and requirements contained in this Agreement and in the Manuals are met and kept.
- W. **Credit Cards.** Franchisee must accept credit cards at the Premises to facilitate sales, including Visa, MasterCard, American Express and Discover and any other major credit cards designated by Franchisor.
- X. **Payments to Franchisor.** Franchisee agrees to promptly pay Franchisor all payment and contributions that are due to Franchisor, its affiliates or any Approved Supplier.
- Y. **Employment Decisions.** Franchisee agrees to be solely responsible for all employment decisions and to comply with all state, federal, and local hiring laws and functions of the Franchised Business, including without limitation, those related to hiring, firing, training, wage and hour requirements, compensation, promotion, record-keeping, supervision, and discipline of employees, paid or unpaid, full or part-time. Franchisee's personnel must be competent, conscientious, and properly trained. Nothing in this Agreement is intended or may be construed to create any type of employer or joint employer relationship between (a) Franchisee and/or its personnel (including any therapists or other licensed personnel), and (b) Franchisor.
- Z. **Bookkeeping Software.** Franchisor may require Franchisee to use a third-party provider (other than QuickBooks) for bookkeeping services if Franchisee (i) fails to timely and accurately provide any and all required reports under this Agreement and/or Development Agreement, or (ii) underreports the Gross Sales of the Day Spa at any time.

## 7. **PROPRIETARY MARKS AND OTHER INTELLECTUAL PROPERTY RIGHTS**

- A. **Ownership of Proprietary Marks.** Franchisee acknowledges the exclusive ownership and/or right to use the Proprietary Marks by Franchisor, and Franchisee agrees that during the term of this Agreement and after its expiration or termination Franchisee will not directly or indirectly contest or aid in contesting the validity of the Proprietary Marks or the ownership or rights of the Proprietary Marks by Franchisor. Furthermore, Franchisee intends and hereby concedes that any commercial use Franchisee may make of the Proprietary Marks shall contribute and inure to the commercial use and benefit of Franchisor, which Franchisor may claim to strengthen and further secure ownership of the Proprietary Marks.

- B. **Permitted Use.** It is understood and agreed that the use by Franchisee of Franchisor's Proprietary Marks applies only in connection with the operation of the Franchised Business at the Premises, and includes only such Proprietary Marks as are now designated, or which may hereafter be designated in the Manuals or otherwise in writing as part of the System (which might or might not be all of the Proprietary Marks pertaining to the System owned by the Franchisor), and does not include any other mark, name, or indicia of origin of Franchisor now existing or which may hereafter be adopted or acquired by Franchisor.
- C. **Use of Proprietary Marks in Advertising and Signage.** To develop and maintain high, uniform standards of quality and service and thereby protect Franchisor's reputation and goodwill, as well as that of the System, Franchisee agrees to:
1. Operate and advertise the Franchised Business only under the Proprietary Marks authorized by Franchisor as specified in this Agreement or the Manuals;
  2. Maintain and display signage and advertising bearing the Proprietary Marks that reflects the current commercial image of the System and, upon notice from Franchisor, to immediately discard and cease use of Proprietary Marks or other imagery that has become obsolete and no longer authorized by Franchisor;
  3. Upon Franchisor's request, Franchisee hereby covenants and agrees that it will affix in a conspicuous location in or upon the Premises, a sign containing the following notice: "This business is owned and operated independently by (*name of franchisee*) who is an authorized licensed user of the trademark, SPAVIA, under a license agreement with Spavia International, LLC."
- D. **Proprietary Marks are Sole Property of Franchisor.** Franchisee acknowledges that the Proprietary Marks, System, Manual, and all other information and items delivered to Franchisee by Franchisor pursuant to this Agreement or in furtherance of the System, including without limitation, video and audio tapes or disks, information communicated by electronic means, and intellectual property, are the sole and exclusive property of Franchisor, and Franchisee's right to use the same are contingent upon Franchisee's continued full and timely performance under this Agreement. Franchisee acknowledges it acquires no rights, interests, or claims to any of said property, except for Franchisee's rights to use the same under this Agreement for the term hereof and strictly in the manner prescribed. Franchisee agrees that it will not, during the term of this Agreement or any time thereafter, contest or challenge the sole and exclusive proprietary rights of Franchisor (and, if appropriate, Franchisor's affiliates) to the Proprietary Marks, System, Manuals, and other information, intellectual property, and items delivered or provided or to which Franchisee obtains access under this Agreement, nor shall Franchisee claim any proprietary interest in such property. Franchisee agrees that it will not adopt, display, and attempt to register or otherwise use any names, marks, insignias, or symbols in any business that are or may be confusingly similar to the Proprietary Marks licensed under this Agreement.
- E. **Legal Action Involving Proprietary Marks.** Furthermore, Franchisee agrees to cooperate with and assist Franchisor in connection with any legal action brought by or against either of them regarding the protection and preservation of the Proprietary Marks, System, or the Manuals and other information and intellectual property delivered to Franchisee or used by Franchisee under this Agreement.

- F. **No Representations/Warranties.** No representation or warranty, express or implied, is made by Franchisor to the effect that the use of the System does not constitute an infringement upon the patent, copyright, or other proprietary rights of other persons. Franchisee hereby agrees that Franchisor shall have no liability to Franchisee in the event the System is held not to be secret or confidential or in the event that any infringement of others' proprietary rights occurs because of Franchisee's use of the System.
- G. **Modification or Substitution of Proprietary Marks by Franchisee.** Franchisee agrees not to make any changes or amendments whatsoever in or to the use of the Proprietary Marks unless directed by Franchisor in writing.
- H. **Cease Use of Marks on Termination/Non-Renewal.** Upon termination or expiration and non-renewal of this Agreement, Franchisee agrees to immediately cease use, in any manner whatsoever, of any of the Proprietary Marks or any other Proprietary Marks or trade names that may be confusingly similar to the Proprietary Marks.
- I. **Disconnection of Telephone Number on Termination/Renewal.** Franchisee acknowledges that there will be substantial confusion among the public if, after the termination or expiration and non-renewal of this Agreement, Franchisee continues to use advertisements and/or the telephone number listed in the telephone directory under the name SPAVIA or any name similar to it. Thus, effective upon the termination or expiration and non-renewal of this Agreement, Franchisee agrees to direct the telephone company servicing Franchisee, per Franchisor's request, to disconnect the telephone number used in connection with the Franchised Business or transfer such number to Franchisor or to any person or location of Franchisor's choosing. If Franchisee fails to take these steps, Franchisee shall be deemed to have hereby irrevocably appointed Franchisor as Franchisee's attorney-in-fact for purposes of directing and accomplishing such transfer. Franchisee understands and agrees that, notwithstanding any billing arrangements with any telephone company or yellow pages directory company, Franchisor will be deemed for purposes hereof to be the subscriber of such telephone numbers, with full authority to instruct the applicable telephone or yellow pages directory company as to the use and disposition of telephone listings and numbers. Franchisee hereby agrees to release, indemnify, and hold such companies harmless from any damages or loss as a result of following Franchisor's instructions.
- J. **Non-Exclusive Use of Proprietary Marks.** Franchisee understands and agrees that its right to use the Proprietary Marks is non-exclusive, that Franchisor in its sole discretion has the right to grant licenses to others to use the Proprietary Marks and obtain the benefits of the System in addition to the licenses and rights granted to Franchisee under this Agreement, and that Franchisor may develop and license other trademarks or service marks in conjunction with systems other than the System on any terms and conditions as Franchisor may deem advisable where Franchisee will have no right or interest in any such other trademarks, licenses, or systems.
- K. **Acknowledgements.** With respect to Franchisee's use of the Proprietary Marks pursuant to this Agreement, Franchisee acknowledges and agrees that:
1. Franchisee shall not use the Proprietary Marks as part of Franchisee's corporate or any other business name, domain name, e-mail address or any social media or social networking profile/page;

2. Franchisee shall not hold out or otherwise use the Proprietary Marks to perform any activity or incur any obligation or indebtedness in such a manner as might in any way make Franchisor liable therefor without Franchisor's prior written consent; and
  3. Franchisee shall execute any documents and provide such other assistance deemed necessary by Franchisor or its counsel to obtain protection for Proprietary Marks or to maintain the continued validity of such Proprietary Marks.
- L. **Use outside Scope.** Franchisee acknowledges that the use of the Proprietary Marks outside the scope of this license without Franchisor's prior written consent is an infringement of Franchisor's exclusive right to use the Proprietary Marks and, during the term of this Agreement and after the expiration or termination hereof, Franchisee covenants not to directly or indirectly commit an act of infringement, contest or aid in contesting the validity or ownership of Franchisor's Proprietary Marks, or take any other action in derogation thereof.
- M. **Notification of Infringement.** Franchisee shall notify Franchisor within three (3) calendar days of any suspected infringement of, or challenge to, the validity of the ownership of, or Franchisor's right to use, the Proprietary Marks licensed hereunder. Franchisee will not communicate with any persons other than Franchisor or Franchisor's legal counsel in connection with any such infringement, challenge, or claim. Franchisee acknowledges that Franchisor has the right to control any administrative proceeding or litigation involving the Proprietary Marks. In the event Franchisor undertakes the defense or prosecution of any litigation relating to the Proprietary Marks, Franchisee agrees to execute any and all documents and to do such acts and things as may be necessary in the opinion of counsel for Franchisor to carry out such defense or prosecution.
- N. **Indemnification Regarding Marks.** Franchisor will indemnify and defend Franchisee against any third-party claim brought against Franchisee that arises solely out of Franchisee's authorized use of the Proprietary Marks licensed under this Agreement in connection with the Franchised Business, provided: (i) such use is in full compliance with Franchisor's standards and specifications; and (ii) Franchisee notifies Franchisor in writing of this third-party claim within three (3) calendar days of receiving notice or otherwise learning of the claim. Franchisor will have complete control over the defense and, if appropriate, settlement negotiations and resolution regarding the claims described in this Section, including the right to select legal counsel Franchisor deems appropriate. Franchisee must fully cooperate with Franchisor in connection with Franchisor's defense or settlement of any third-party claim that Franchisor determines to take control of under this Section 7. Notwithstanding anything in this Section to the contrary, Franchisor's liability under this Section shall be limited to no more than the Initial Franchise Fee paid under this Agreement.
- O. **Other Obligations of Franchisee.** In addition to all other obligations of Franchisee with respect to the Proprietary Marks licensed herein, Franchisee agrees:
1. To feature and use the Proprietary Marks solely in the manner prescribed by Franchisor and not use the Proprietary Marks on the Internet or otherwise online, except as approved in writing by Franchisor; and

2. To observe all such requirements with respect to service mark, trademark and copyright notices, fictitious name registrations, and the display of the legal name or other identification of Franchisee as Franchisor may direct in writing from time to time.

**8. OPERATIONS MANUALS AND CONFIDENTIAL/CONFIDENTIAL INFORMATION**

- A. **Loan of Manuals.** Franchisor will loan or provide online access to one (1) copy of the Manuals to Franchisee. The Manuals shall at all times remain the sole property of Franchisor and any and all copies (hard copies or electronic files) of the Manuals must be returned to Franchisor upon termination or expiration and non-renewal of this Agreement.
- B. **Compliance with Operations Manual.** In order to protect the reputation and goodwill of Franchisor and the System, and to maintain uniform standards of operation under Franchisor's Proprietary Marks, Franchisee shall conduct the Franchised Business in strict accordance with Franchisor's Manuals.
- C. **Trade Secrets and Confidential Information.** The confidentiality requirements set forth in the preceding paragraph will remain in full force and effect during the term of this Agreement and in perpetuity after its termination or expiration and non-renewal. Franchisor's trade secrets and proprietary/confidential information include the following:
  1. The Manuals;
  2. Any information or materials, whether technical or non-technical, that is used in connection with or otherwise related to the establishment and operation of a System Day Spa or the System that is not commonly known by, or available to, the public, including without limitation: (i) information and materials related to the architectural plans, design, layout, equipping, build-out and/or construction of a Day Spa; (ii) methodology, protocol and System standards/specifications for the promotion, offer and sale of any Approved Product or Service, including Franchisor's policies regarding Gift Cards and membership programs/reciprocity; (iii) information related to Franchisor's relationship with existing or prospective Approved Suppliers or other third-party vendors (whether or not Franchisee is required to use such vendors); (iv) the reservations system, as well as Computer System and related software generally, that has been customized in any manner for use by Franchisor and/or a Day Spa; (v) marketing and advertising materials, as well as any other items that display the Proprietary Marks in any manner, as well as Franchisor's designated marketing/advertising/promotional campaigns; and (vi) any passwords, logins or other keys necessary to access Franchisee's point-of-sale system ("POS System"), reservation system, Computer System or related software used in connection with the Franchised Business; and
  3. Any other information that may be imparted to Franchisee from time to time and designated by Franchisor as confidential (collectively, the "Confidential Information").
- D. **Confidential Information as Property of Franchisor.** Franchisee acknowledges and agrees that the Confidential Information and any business goodwill of the Franchise are Franchisor's sole and exclusive property and that Franchisee will preserve the confidentiality thereof. Upon the termination or expiration and non-renewal of this

Agreement, all items, records, documentation, and recordings incorporating any Confidential Information will be immediately turned over by Franchisee, at Franchisee's sole expense, to Franchisor or to Franchisor's authorized representative.

- E. **Information Not Proprietary.** Excepted from Confidential Information for purposes of non-disclosure to any third parties by Franchisee and/or its Restricted Persons (as defined in Section 8(H) below) is information that:
1. Becomes publicly known through no wrongful act of Franchisee or Restricted Persons; or
  2. Is known by Franchisee or Restricted Persons without any confidential restriction at the time of the receipt of such information from Franchisor or becomes rightfully known to them without confidential restriction from a source other than Franchisor.
- F. **Reasonable Efforts to Maintain Confidentiality.** Franchisee shall at all times treat the Confidential Information as confidential and shall use all reasonable efforts to keep such information secret and confidential, including without limitation, all logins/passwords/keys necessary to access any component of the Computer System or related software used in connection with the Franchised Business. The Manuals must remain at the Premises and be kept in a secure location, under lock and key, except when it is being studied by Franchisee or Franchisee's employees. Franchisee shall not, at any time without Franchisor's prior written consent, copy, scan, duplicate, record, distribute, disseminate, or otherwise make the Manuals available to any unauthorized person or entity, in whole or in part.
- G. **Prevention of Unauthorized Use or Disclosure.** Franchisee shall adopt and implement all reasonable procedures as Franchisor may prescribe from time to time to prevent the unauthorized use or disclosure of any of the Confidential Information. Franchisee must ensure and require that all of its officers, agents, directors, shareholders, trustees, beneficiaries, partners, employees, and independent contractors who may obtain or who are likely to obtain knowledge concerning the Confidential Information (collectively, "Restricted Persons") execute Franchisor's prescribed form of confidentiality agreement that will be in substantially the same form attached to this Agreement as Exhibit E (the "Confidentiality and Non-Competition Agreement"). Franchisee must obtain a signed copy of the Confidentiality and Non-Competition Agreement from any such person prior to, or at the same time of, that person undertaking its role and/or employment or association with Franchisee or the Franchised Business. Franchisee's spouse or significant other shall also be bound by the same requirement and shall sign the same Confidentiality and Non-Competition Agreement. Franchisee must provide Franchisor with a copy of each signed Confidentiality and Non-Competition Agreement within ten (10) days of Franchisor's request.
- H. **Modification of Manuals.** In order for Franchisee to benefit from new knowledge, information, methods, and technology adopted and used by Franchisor in the operation of the System, Franchisor may from time to time revise the Manuals, and Franchisee agrees to adhere to and abide by all such revisions (at its expense). Franchisee agrees at all times to keep its copy of the Manuals current and up-to-date. In the event of any dispute as to the contents of Franchisee's Manual, the terms of the master copy of the Manuals maintained by Franchisor at its home office shall be controlling. Franchisor may provide any

supplements, updates or revisions to the Manuals via the Internet, email, the System-wide intranet/extranet or any other electronic or traditional mediums it deems appropriate.

- I. **Improvements.** Franchisee agrees to disclose promptly to Franchisor any and all inventions, discoveries, and improvements, whether or not patentable or copyrightable, that are conceived or made by Franchisee or its employees or agents that are in any way related to the establishment or operation of the Franchised Business (collectively, the “Improvements”), all of which shall be automatically and without further action owned by Franchisor without compensation to Franchisee (including all intellectual property rights therein). Whenever requested to do so by Franchisor, Franchisee will execute any and all applications, assignments, or other instruments that Franchisor may deem necessary to apply for and obtain intellectual property protection or to otherwise protect Franchisor’s interest therein. These obligations shall continue beyond the termination or expiration of this Agreement. If a court should determine that Franchisor cannot automatically own certain of the Improvements that may be developed, then Franchisee hereby agrees to grant Franchisor a perpetual, royalty-free worldwide license to use and sublicense others to use such Improvements.

## 9. **ADVERTISING**

- A. **Advertising and Sales Promotion Programs.** Franchisor may from time to time develop and create advertising and sales promotion programs designed to promote and enhance the collective success of all or some of the Day Spas operating under the System. Franchisee must participate in all such advertising and sales promotion programs in accordance with the terms and conditions established by Franchisor for each program. In all aspects of these programs, including without limitation, the type/quantity/timing/placement and choice of media, and market areas and advertising agencies, the System standards and specifications established by Franchisor shall be final and binding upon Franchisee. Franchisor may also request that Franchisee purchase and/or make copies of (and Franchisee’s expense) and subsequently use certain other advertising or promotional materials that Franchisor designates for use in connection with the Franchised Business.
- B. **Approval for all Advertising/Promotional Materials.** All advertising and promotion by Franchisee in any medium must be conducted in a professional manner and shall conform to Franchisor’s standards and requirements as set forth in the Manuals or otherwise. Franchisee shall obtain Franchisor’s approval of all advertising and promotional plans and materials twenty (20) days prior to use if such plans and materials have not been prepared by Franchisor or previously approved by Franchisor during the twelve (12) months prior to their proposed use. Franchisee must submit unapproved plans and materials to Franchisor, and Franchisor will have fifteen (15) days to notify Franchisee of its approval or disapproval of such materials. If Franchisor does not provide its specific approval of the proposed materials within this fifteen (15) day period, the proposed materials will be deemed rejected. Any plans and materials that Franchisee submits to Franchisor for its review will become Franchisor’s property and there will be no restriction on Franchisor’s use or dissemination of such materials. Once approved, Franchisee may use the proposed materials for a period of ninety (90) days, unless Franchisor prescribes a different time period for use or requires Franchisee to discontinue using the previously-approved materials in writing. Franchisor may revoke its approval of any previously-approved advertising materials upon notice to Franchisee. Franchisor reserves the right to require Franchisee to include certain language on all advertising to be used locally by Franchisee or to be used by a Cooperative, including, but not limited to, the phrase “Franchises

Available” and references to Franchisor’s telephone number and/or website. If Franchisee fails to received approval for any of its marketing materials prior to publication or use, then Franchisee shall pay Franchisor an unauthorized marketing fee in the amount of \$100 per occurrence, plus Franchisor’s costs to enforce the same.

- C. **Initial Marketing Spend.** Of the \$50,000 Local Advertising Requirement defined below, at least \$15,000 to \$20,000 of those expenditures must be made in connection with the advertising and promotion of the grand opening of the Franchised Business and/or otherwise within the first 90 days after the Franchised Business is opened (the “Initial Marketing Spend”). Franchisor may also require that Franchisee expend all or any portion of the Initial Marketing Spend on initial marketing/advertising and/or public relations materials or services that are purchased from an Approved Supplier.
- D. **Local Advertising Requirement.** Franchisee must expend a minimum of \$50,000 in the first 12 months that the Franchised Business is open and operating in connection with the local advertising and promotion of the Franchised Business within the Designated Territory (the “Local Advertising Requirement”).
1. After the 12-month period described above, Franchisee’s Local Advertising Requirement (or “LAR”) shall be \$20,000 that must be expended, and accounted for, in each subsequent 12-month period of operations throughout the remainder of the term of this Agreement.
  2. Upon Franchisor’s request, Franchisee must provide Franchisor with invoices or other proof of its monthly expenditures on local advertising and marketing.
  3. Franchisee must ensure that: (i) the Franchised Business has a dedicated phone line for use in connection with the Franchised Business only (and no other business, including any other System franchise); and (ii) the Franchised Business is listed in the appropriate Internet-based directories that Franchisor designates.
  4. Franchisee may not advertise and promote the Franchised Business outside of the Designated Territory, unless (a) the geographic area wherein Franchisee wishes to advertise is contiguous to the Designated Territory and that area has not been granted to any other Day Spa or franchisee/developer, or (b) Franchisor otherwise provides its prior written consent in writing.
- E. **Brand Development Fund.** Franchisor has established and will administer the Fund designed to promote the System, Proprietary Marks and Franchisor’s brand generally. If such a Fund is established, Franchisor may require Franchisee to contribute to this Fund on a weekly basis in an amount equal to up to one percent (1%) of the Gross Sales of the Franchised Business as described in Section 4. Any amounts Franchisee is required to contribute to the Fund will be credited towards Franchisee’s Local Advertising Requirements. All payments by Franchisee to the Fund are non-refundable upon payment, and Franchisor will account separately for all sums paid to the Fund. The Fund will be maintained and administered by Franchisor or Franchisor’s designee as follows:
1. Franchisor will use Fund and all contributions to it and any earnings on it, exclusively for preparing, directing, conducting, placing, and administering advertising, marketing, public relations, and/or promotional programs and

materials, and any other activities, that Franchisor believes would enhance the image of the System, Proprietary Marks, and Approved Products or Services;

2. Franchisor is not obligated to spend monies from the Fund in any particular Franchisee's market in proportion to the payments to the Fund made by the Franchisee in that market. Franchisor does not represent that it will spend any particular amount of advertising funds locally, regionally, or nationally;
3. The Fund may be used to meet any and all costs of maintaining, administering, directing, and preparing advertising. This includes, among other things, direct mail advertising, marketing surveys and other public relations activities, developing and maintaining the Franchisor's Website, employing advertising and public relations agencies, purchasing promotional items, and providing other marketing materials and services to the Day Spas operating under the System. These costs may include the proportionate salary share of Franchisor's employees that devote time and render services for advertising and promotion or the administration of the Fund, including administrative costs, salaries, and overhead expenses related to administering the Fund and its programs. No part of the Fund shall be used by Franchisor to defray any of its general operating expenses, other than those reasonably allocable to the advertising described in this Section or other activities reasonably related to the administration or direction of the Fund.;
4. Franchisor shall administratively segregate all contributions to the Fund on its books and records. All such payments to the Fund may be deposited in Franchisor's general operating account, may be commingled with Franchisor's general operating funds, and may be deemed an asset of Franchisor, subject to Franchisor's obligation to expend the monies in the Fund in accordance with the terms hereof. Franchisor may, in its sole discretion, elect to accumulate monies in the Fund for such periods of time, as it deems necessary or appropriate, with no obligation to expend all monies received in any fiscal year during that fiscal year. In the event Franchisor's expenditures for the Fund in any one (1) fiscal year shall exceed the total amount contributed to the Fund during such fiscal year, Franchisor shall have the right to be reimbursed to the extent of such excess contributions from any amounts subsequently contributed to the Fund or to use such excess as a credit against its future contributions. The parties do not intend that the Fund be deemed a trust;
5. Franchisor will, on an annual basis, account for the operation of the Fund and prepare an unaudited financial statement evidencing such accounting that will be available to Franchisee, upon Franchisee's written request, one hundred and twenty (120) days after the Franchisor's fiscal year end;
6. Franchisor may dissolve, suspend, modify and/or reinstate the Fund at any time after it is established.

F. **Advertising Council**. Franchisor may establish, if and when it deems appropriate in its sole discretion, a council to provide advice and guidance regarding the administration of the Fund and various other advertising/marketing matters (an "Advertising Council"). If Franchisor establishes an Advertising Council, it may serve in only an advisory capacity and may consist of franchisees, personnel from Franchisor's affiliate-owned Day Spas, or other management/employees that Franchisor designates. If an Advertising Council is

established, the membership of such Advertising Council, along with the policies and procedures by which it operates, will be determined by Franchisor. The recommendations of the Advertising Council shall not be binding on Franchisor.

- G. **Website.** Franchisor agrees that it will establish an interior page on its corporate website to display the Premises and contact information associated with the Franchised Business for so long as (i) the Franchised Business is open and actively operating, and (ii) this Agreement is not subject to termination. Franchisee may not establish any separate website or other Internet presence in connection with the Franchised Business, System or Proprietary Marks without Franchisor's prior written consent. If approved to establish a separate website, Franchisee shall comply with Franchisor's policies, standards and specifications with respect to the creation, maintenance and content of any such website. Franchisee specifically acknowledges and agrees that any website owned or maintained by or for the benefit of Franchisee shall be deemed "advertising" under this Agreement, and will be subject to (among other things) Franchisor's approval as described in this Section 9. Franchisee may not promote or otherwise list its Franchised Business, or the Proprietary Marks or System, on any social media or networking site, including without limitation, Facebook, LinkedIn, Instagram, Pinterest, Twitter or YouTube, without Franchisor's prior written consent. Franchisor shall have the right to modify the provisions of this Section relating to Franchisee's use of separate websites and social media, as Franchisor determines necessary or appropriate.
- H. **Cooperatives.** Franchisor may establish regional advertising cooperatives that are comprised of multiple Day Spa owners located within a geographical region that Franchisor designates (each, a "Cooperative"). If Franchisor establishes a Cooperative and designates Franchisee as a member thereof, Franchisee may be required to contribute to the Cooperative in an amount not to exceed \$3,000 each month, unless approved by a unanimous vote of the Cooperative members. All amounts paid to a Cooperative will be credited towards Franchisee's Local Advertising Requirement (if any). Franchisor shall have the right to specify the governing rules, terms and operating procedures of any Cooperative.

## 10. **ACCOUNTING AND RECORDS**

- A. **Maintenance of Records.** Franchisee must, in a manner satisfactory to Franchisor and in accordance with generally accepted accounting principles, maintain original, full, and complete register tapes, computer files, back-up files, other records, accounts, books, data, licenses, contracts, and product vendor invoices which shall accurately reflect all particulars relating to the Franchised Business, as well as other statistical and financial information and records Franchisor may require. All of this information must be kept for at least three (3) years, even if this Agreement is no longer in effect. Upon Franchisor's request, Franchisee must furnish Franchisor with copies of any or all product or equipment supply invoices reflecting purchases by or on behalf of the Franchised Business. In addition, Franchisee shall compile and provide to Franchisor any statistical or financial information regarding the operation of the Franchised Business, the products and services sold by it, or data of a similar nature, including without limitation, any financial data that Franchisor believes that it needs to compile or disclose in connection with the sale of franchises or that Franchisor may elect to disclose in connection with the sale of franchises. All data provided to the Franchisor under this Section 10 shall belong to Franchisor and may be used and published by Franchisor in connection with the System (including in Franchisor's disclosure documents).

- B. **Examination and Audit of Records; Approved Accountant During Initial Operations.**
1. Franchisor and its designated agents shall have the right to examine and audit Franchisee's records, accounts, books, computer files, and data at all reasonable times to ensure that Franchisee is complying with the terms of this Agreement. If such audit discloses that Franchisee has underreported the Gross Sales of the Franchised Business or any amount due to Franchisor by two percent (2%) or more in any given reporting period (weekly, monthly or otherwise), then Franchisee must: (i) reimburse Franchisor any costs/expenses incurred in connection with conducting the inspection and audit; and (ii) pay any amount due and owing Franchisor as a result of Franchisee's underreporting, along with any accrued interest on said amounts.
  2. Franchisor may require Franchisee to engage its Approved Supplier for accounting services or, at Franchisor's discretion, another third-party accountant that Franchisor approves to handle the bookkeeping and related accounting work associated with the Franchised Business for the period beginning before the Franchised Business is open and ending once the Franchised Business has been open for a period of one (1) year.
- C. **Computer System for Records.** Franchisee shall record all transactions and Gross Sales of the Franchised Business on a Computer System that is designated or approved by Franchisor, which must contain software that allows Franchisee to record accumulated sales without turning back, resetting or erasing such sales. Franchisor will, at all times and without notice to Franchisee, have the right to independently and remotely access and view Franchisee's Computer System as described in Section 4 of this Agreement.
- D. **Computer System Files and Passwords.** Franchisee will not install or load any computer software on the hard disks of the Computer System used in connection with the Franchised Business without Franchisor's prior written consent. All computer and file passwords associated with the Computer System must be supplied as a list to Franchisor by Franchisee, along with any modifications or changes to that list. The passwords to access the Computer System located at the Premises or used by the Franchised Business, as well as all computer files and records related to the Franchised Business, are the exclusive property of Franchisor and Franchisee must provide Franchisor with these files and information upon the termination or expiration of this Agreement. Consistent with the other provisions of this Agreement, Franchisee agrees and acknowledges that Franchisor may have automatic access to Franchisee's specific passwords/keys/logins through the Computer System components and related software that Franchisor requires Franchisee to use in connection with the Franchised Business.
- E. **Current Contracts, Listings and Projects.** At any time and upon request of Franchisor, Franchisee shall provide Franchisor with a copy or summary listing, at Franchisor's discretion, of all current contracts, listings, agreements, and projects that Franchisee is involved in or working with.
- F. **Tax Returns.** Upon Franchisor's request, Franchisee shall furnish the Franchisor with a copy of each of its reports, returns of sales, use and gross receipt taxes, and complete copies of any state or federal income tax returns covering the operation of the Franchised Business, all of which Franchisee shall certify as true and correct.

- G. **Required Reports.** Franchisee must provide Franchisor with the following reports and information, all of which must be certified as true and correct by Franchisee and in the form and manner prescribed by Franchisor: (i) a signed Gross Sales Report as described more fully in Section 4 of this Agreement on or before Monday of each week; (ii) on or before the twentieth (20<sup>th</sup>) of each month, an unaudited profit and loss statement for the Franchised Business for the preceding calendar month; (iii) within ninety (90) days after the close of each fiscal year of Franchisee, financial statements which shall include a statement of income and retained earnings, a statement of changes in financial position, and a balance sheet of the Franchised Business, all as of the end of such fiscal year; and (iv) any other financial information or performance metrics of the Franchised Business that Franchisor may reasonably request.
- H. **Right to Require Audit if Franchisee Underreports.** In the event a prior audit or inspection conducted by Franchisor (or its designee) has revealed that Franchisee has underreporting the Gross Sales of the Franchised Business by two percent (2%) or more for any reporting period as described in Section 10(B), then Franchisor may require Franchisee to provide, at the Franchisee's expense, audited financial statements using the accounting bases Franchisor designates for Franchisee's fiscal year within 120 days of Franchisee's fiscal year end.
- I. **Change to Ownership of Franchisee.** In addition to the foregoing statements, Franchisee must provide Franchisor with written reports regarding any authorized change to: (i) the listing of all owners and other holders of any type of interest (legal or beneficial) in Franchisee or the Franchised Business; and (ii) Franchisee's partners, officers, directors, as well as any of the Designated Manager(s) that manage the day-to-day operations of the Franchised Business. Franchisee will notify Franchisor in writing within ten (10) days after any such change, unless Franchisor is required to first notify Franchisor and obtain its approval prior to making any such change.

## 11. **INSURANCE AND INDEMNIFICATION**

- A. **Required Insurance.** Franchisee shall, at its own expense and no later than the earlier of (a) the date on which Franchisee uses any of the Proprietary Marks, or (b) the date Franchisee begins building out the Premises, procure and maintain in full force and effect throughout the term of this Agreement the types of insurance enumerated in the Manuals or otherwise in writing (whether the Franchised Business is open or not). This insurance shall be in such amounts Franchisor or the lessor of the Premises designates from time to time. In addition to any other insurance that may be required by applicable law, or by lender or lessor, Franchisee shall procure:
1. Property insurance with special form coverage on all assets including but not limited to furniture, fixtures, equipment, inventory, supplies and tenant improvement cost used in the operation of your franchised business. Limits must be at 100% of the replacement cost of all business personal property. This policy must also include Business Income and Extra Expense coverage for not less than 50% of your gross sales or 12 months actual loss sustained basis and include an extended period of indemnity for 180 days. Medical Expense coverage must be included;

2. Workers' Compensation insurance regardless of the statutory requirements of the state in which your Day Spa is located and Employer's Liability with limits not less than \$1,000,000;
3. Comprehensive General Liability insurance with aggregate limits of not less than \$2,000,000, 1,000,000 per occurrence, \$1,000,000 Products/Completed Operations, \$1,000,000 Personal Injury & Advertising Injury for claims of bodily injury and property damage;
4. Professional Liability insurance for errors and omissions of your professional staff in providing services to your guests with not less than \$1,000,000 per occurrence/\$3,000,000 aggregate including a minimum of \$100,000 per occurrence and \$300,000 aggregate for abuse and molestation. Additional Insured, Grantor of Franchise, endorsement in the name of Spavia International LLC and a Waiver of Subrogation in favor of Spavia International LLC for Sexual Abuse & Molestations (Sexual Misconduct);
5. Employment Practices Liability of not less than \$1,000,000 aggregate limit including third party liability for employment related claims and harassment and discrimination claims from non-employees . Spavia International, LLC must be named as co-defendant. Must include 1st & 3rd party coverage and must include Wage and Hour Defense Sublimit of at least \$25,000;
6. Automobile Liability of not less than \$1,000,000 combined single limit for all owned, non-owned and hired vehicles used in the franchised business. Additional Insured endorsement in the name of Spavia International LLC. A Waiver of Subrogation in favor of Spavia International LLC;
7. Umbrella Liability of not less than \$1,000,000 to be excess of general liability, automobile liability and employer's liability for each location; and
8. Such insurance as necessary to provide coverage under the indemnity provisions of the Franchise Agreement.

Franchisee must buy insurance only from carriers rated A-VIII or better by A.M. Best and Company, Inc. (or similar criteria as Franchisor periodically specifies), unless Franchisor designates specific carriers from which Franchisee must purchase coverage (in which case Franchisee may only purchase from the designated carrier(s)). Franchisor may periodically increase the amounts of coverage required under these insurance policies and/or require different or additional insurance coverage to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards, changing economic conditions, or other relevant changes in circumstances. All insurance policies Franchisee purchases must name Franchisor and any other party that Franchisor designates as additional insureds, and provide for thirty (30) days' prior written notice to Franchisor of a policy's material modification or cancellation. The cost of Franchisee's premiums will depend on the insurance carrier's charges, terms of payment, and Franchisee's insurance and payment histories. Franchisee shall make timely delivery of certificates of all required insurance to Franchisor, each of which shall contain a statement by the insurer that the policy will not be cancelled or materially altered without at least thirty (30) days' prior written notice to Franchisor. The procurement and maintenance of such insurance shall not

relieve Franchisee of any liability to Franchisor under any indemnity requirement of this Agreement.

- B. **Failure to Procure and Maintain Insurance.** If Franchisee fails for any reason to procure and maintain the required insurance coverage, Franchisor has the right and authority (without having any obligation to do so) to immediately procure such insurance coverage, in which case Franchisee must: (i) reimburse Franchisor for the costs incurred to obtain the required insurance (including any premium amounts paid); and (ii) pay Franchisor its then-current administrative fee, as may be reasonably charged by Franchisor as consideration for securing the required insurance on Franchisee's behalf.
- C. **Indemnification.** Franchisee, as a material part of the consideration to be rendered to Franchisor, agrees to indemnify, defend and hold Franchisor, as well as Franchisor's directors, officers, principals/owners, managers, shareholders, affiliates, subsidiaries, employees, servants, agents, successors and assignees (collectively, the "Indemnitees"), harmless from and against any and all losses, damage, claims, demands, liabilities and causes of actions of every kind or character and nature, as well as costs and expenses incident thereto (including reasonable attorneys' fees and court costs), that are brought against any of the Indemnitees (collectively, the "Claims") that arise out of or are otherwise related to Franchisee's (a) breach or attempted breach of, or misrepresentation under, this Agreement, and/or (b) ownership, construction, development, management, or operation or cessation of operation of the Franchised Business in any manner. Notwithstanding the foregoing, at Franchisor's option, Franchisor may choose to engage counsel and defend against any such Claim and may require immediate reimbursement from the Franchisee of all expenses and fees incurred in connection with such defense.

## 12. **INDEPENDENT CONTRACTOR**

- A. **No Fiduciary Relationship.** In all dealings with third parties, including without limitation, employees, suppliers, and customers, Franchisee shall disclose in an appropriate manner acceptable to Franchisor that it is an independent entity licensed by Franchisor. Nothing in this Agreement is intended by the parties hereto either to create a fiduciary relationship between them or to constitute the Franchisee an agent, legal representative, subsidiary, joint venture, partner, employee, or servant of Franchisor for any purpose whatsoever.
- B. **Independent Contractor Relationship.** It is understood and agreed that Franchisee is an independent contractor and is in no way authorized to make any contract, agreement, warranty, or representation or to create any obligation on behalf of Franchisor. Upon Franchisor's request, Franchisee must display a sign in its Franchised Business displaying the following phrase (or something similar): "This franchise Day Spa is independently owned and operated pursuant to a license agreement." Neither this Agreement nor Franchisor's course of conduct is intended, nor may anything in this Agreement (nor Franchisor's course of conduct) be construed to state or imply that Franchisor is the employer of Franchisee's employees and/or independent contractors, nor vice versa.

## 13. **TRANSFER AND ASSIGNMENT**

- A. **No Transfer by Franchisee Without Franchisor's Approval.** Franchisee's rights under this Agreement are personal, and Franchisee shall not sell, transfer, assign or encumber Franchisee's interest in this Agreement or the Franchised Business (or undertake any of the actions identified in Section 13(C) of this Agreement) without Franchisor's prior

written consent. Any sale, transfer, assignment or encumbrance made without Franchisor's prior written consent shall be voidable at Franchisor's option and shall subject this Agreement to termination as specified herein.

**B. Death or Disability.**

1. In the event of Franchisee's death, disability or incapacitation (or the death, disability or incapacitation of Franchisee's principals/owners/guarantors), Franchisee's legal representative, or Franchisee's partner's or guarantor's respective legal representative, as applicable, will have the right to continue the operation of the Franchised Business as "Franchisee" under this Agreement if: (i) within ninety (90) days from the date of death, disability or incapacity (the "90 Day Period"), such person has obtained Franchisor's prior written approval and has executed Franchisor's then-current franchise agreement for the unexpired term of the franchise, or has furnished a personal guaranty of any partnership, corporate or limited liability company Franchisee's obligations to Franchisor and Franchisor's affiliates; and (ii) such person successfully completes Franchisor's training program (which Franchisor will provide at Franchisor's then-current tuition rate). Such assignment by operation of law will not be deemed in violation of this Agreement, provided such heirs or legatees accept the conditions imposed by the Franchise Agreement and are acceptable to Franchisor.
2. Franchisor is under no obligation to operate the Franchised Business, or incur any obligation on behalf of any incapacitated franchisee, during or after the 90 Day Period. If necessary, Franchisee (or Franchisee's legal representative, as applicable) shall appoint a previously approved acting interim manager to operate the Franchised Business during the 90 Day Period. In the event of Franchisee's death, disability, absence or otherwise, Franchisor may (but is not required to) operate the Franchised Business on Franchisee's behalf and at Franchisee's expense for such period of time (and under such terms and conditions) as Franchisor determines, including paying out the assets and/or revenues of the Franchised Business to cover any or all past, current and/or future obligations of the Franchised Business (including any amounts owed to Franchisor and/or any affiliate) in such priorities as Franchisor determines in Franchisor's sole discretion. Franchisor may pay itself a reasonable amount to reimburse Franchisor for Franchisor's management services and other costs. Franchisor may obtain approval of a court or arbitrator for any such arrangements, the attorney's fees and other costs incurred in connection with obtaining such approval to be charged against the assets and/or revenues of the Franchised Business. Franchisee (and/or Franchisee's estate) will indemnify Franchisor against any costs and/or liabilities incurred by it in connection with, or related in any way to, the operation (or otherwise) of the Franchised Business.
3. Franchisor will not collect any transfer fee if there is a transfer under this Section 13(B) to an immediate family member of the Franchisee that Franchisor approves pursuant to Section 13(E).

- C. Ownership.** In addition to those acts described in Section 13(A), a transfer or assignment requiring Franchisor's prior written consent shall be deemed to occur: (i) if Franchisee is a corporation, upon any assignment, sale, pledge or transfer of any fractional portion of Franchisee's voting stock or any increase in the number of outstanding shares of

Franchisee's voting stock which results in a change of ownership, (ii) if Franchisee is a partnership, upon the assignment, sale, pledge or transfer of any fractional partnership ownership interest; or (iii) if Franchisee is a limited liability company, upon the assignment, sale, pledge or transfer or any interest in the limited liability company. Any new partner, shareholder, or member or manager owning having an ownership interest in the surviving entity after the proposed transfer will be required to personally guarantee Franchisee's obligations under this Agreement. A transfer pursuant to (i) and (iii) above shall not be subject to Franchisor's right of first refusal as set forth in Section 13(D).

D. **Right of First Refusal.** If Franchisee proposes to transfer either this Agreement or all, or substantially all, of the assets used in connection with the Franchised Business or any interest in Franchisee's lease to any third party (other than a corporation or limited liability company as set forth in Section 13(C) hereof or in the event of Franchisee's death/disability as set forth in Section 13(B)), Franchisee shall first offer to sell such interest to Franchisor on the same terms and conditions as offered by such third party. Franchisee shall obtain from the third party and provide Franchisor a statement in writing, signed by the third party and Franchisee, of the terms of the offer ("Letter of Intent"). If Franchisor elects not to accept the offer within a thirty (30) day period, Franchisee shall have a period not to exceed sixty (60) days to complete the transfer described in the Letter of Intent subject to the conditions for approval set forth in Section 13(E) of this Agreement. Franchisee shall affect no other sale or transfer as contemplated under the Letter of Intent without first complying with this Section. Any material change in the terms of the offer will be deemed a new proposal subject to Franchisor's right of first refusal. So long as Franchisee has obtained Franchisor's prior written consent, which shall not be unreasonably withheld, a transfer to an existing partner or shareholder, or a transfer as a result of the death, disability or incapacitation of a shareholder or partner, in accordance with the provisions set forth below, is not subject to Franchisor's first right of refusal.

E. **Conditions for Approval.** Franchisor may condition Franchisor's approval of any proposed sale or transfer of the Franchised Business or of Franchisee's interest in this Agreement or any other acts of transfer described in Section 13(C) upon satisfaction of the following occurrences:

1. All of Franchisee's accrued monetary obligations to Franchisor, Franchisor's affiliates, and Franchisor's designated/approved suppliers and vendors, are satisfied;
2. Franchisee must cure all existing defaults under this Agreement, or any other agreement between Franchisee and Franchisor, Franchisor's affiliates, Franchisor's designated/approved suppliers and vendors, within the period permitted for cure and have substantially complied with such agreements during their respective terms;
3. Franchisee and Franchisee's principals (if Franchisee is a partnership, corporation or limited liability company), and the transferee (if it has had any previous relationship with Franchisor or Franchisor's affiliates), must execute a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Franchisor's affiliates and officers, directors, shareholders and employees, in their corporate and individual capacities;

4. Franchisee or transferee shall provide Franchisor a copy of the executed purchase agreement relating to the proposed transfer with all supporting documents and schedules, including transferee's assumption of an agreement to faithfully perform all of Franchisee's obligations under this Agreement;
5. The transferee shall demonstrate to Franchisor's satisfaction that he or she meets Franchisor's educational, managerial and business standards; possesses a good moral character, business reputation and credit rating; has the aptitude and ability to conduct the business to be transferred; and has adequate financial resources and capital to meet the performance obligations under this Agreement; however, transferee shall not be in the same business as Franchisor either as licensor, franchisor, independent operator or licensee of any other business or chain which is similar in nature or in competition with Franchisor, except that the transferee may be an existing franchisee of ours;
6. The transferee shall execute Franchisor's then-current franchise agreement (which may contain materially different terms than this Agreement) for the remaining balance of Franchisee's term under this Agreement, with transferee's term commencing on the date the transferee executes the then-current franchise agreement;
7. Franchisee or transferee shall pay Franchisor's transfer fee of \$15000, as well as any third-party broker fees that are due in connection with the proposed transfer;
8. The transferee shall satisfactorily complete Franchisor's Initial Training Program at the transferee's expense within the time frame Franchisor sets forth, and pay Franchisor its then-current tuition training fee for transferee and one (1) other person to attend training (the transferee will also be responsible for all costs and expenses associated with attending the initial training program);
9. Franchisee (and Franchisee's principals/guarantors if Franchisee is a partnership, corporation or limited liability company) must comply with the post-termination provisions of this Agreement;
10. The transferee must demonstrate that is has obtained or maintained, within the time limits set by Franchisor, all permits and licenses required for the continued operation of the Franchised Business;
11. To the extent required by the terms of any leases or other agreements, the lessors or other parties must have consented to the proposed transfer;
12. The transfer must be made in compliance with any laws that apply to the transfer, including state and federal laws governing the offer and sale of franchises;
13. The purchase price and terms of the proposed transfer must not be so burdensome to the prospective transferee as to impair or materially threaten its future operation of the Franchised Business and performance under its franchise agreement;
14. Franchisee must request that Franchisor provide the prospective transferee with Franchisor's current form of disclosure document and Franchisor shall not be liable for any representations not included in the disclosure document; and

15. Franchisor shall have the right to disclose to any prospective transferee such revenue reports and other financial information concerning Franchisee and Franchised Business as Franchisee has supplied Franchisor hereunder.

Franchisor will not unreasonably withhold its consent to a proposed transfer or assignment requested by Franchisee, provided the foregoing conditions are met. Franchisor's approval of a transfer shall not operate as a release of any liability of the transferring party nor shall such approval constitute a waiver of any claims Franchisor may have against the transferring party. Furthermore, Franchisor agrees that Franchisee will not be required to pay any transfer fee in the event: (i) Franchisee wishes to transfer its rights under the Franchise Agreement to a newly-established legal business entity that is wholly owned by Franchisee and established solely for purposes of operating the Franchised Business under the Franchise Agreement; or (ii) Franchisee is required to encumber certain assets of the Franchised Business (or subordinate Franchisor's security interest thereto) in order to receive SBA or other traditional bank financing, provided Franchisor otherwise approves of the transfer.

- F. **Transfer from an Individual Franchisee to Business Entity.** If Franchisee is an individual and desires to assign its rights under this Agreement to a corporation or limited liability company, and if all of the following conditions are met, Franchisor will consent to the transfer without assessing the transfer fee or training tuition fees set forth in Section 13(E)(7)-(8), and such assignment will not be subject to Franchisor's right of first refusal in Section 13(D): (i) the corporation or limited liability company is newly organized and its activities are confined to operating the Franchised Business; (ii) Franchisee is, and at all times remains, the owner of 51% or more of the outstanding shares of the corporation or a controlling interest in the limited liability company; (iii) the corporation or limited liability company agrees in writing to assume all of Franchisee's obligations hereunder; and (iv) all stockholders of the corporation, or members and managers of the limited liability company, as applicable, personally guarantee prompt payment and performance by the corporation or limited liability company of all its obligations to Franchisor and Franchisor's affiliates, under this Agreement and any other agreement between Franchisee and Franchisor and/or Franchisor's affiliates, and execute the Personal Guaranty attached to this Agreement as Exhibit B.
- G. **Franchisor's Right to Transfer.** Franchisor has the right to sell, transfer, assign and/or encumber all or any part of Franchisor's assets and Franchisor's interest in, and rights and obligations under, this Agreement in Franchisor's sole discretion.

#### 14. **COVENANTS**

Franchisee acknowledges that, as a participant in Franchisor's System, Franchisee will receive proprietary and confidential information and materials, trade secrets, and the unique methods, procedures and techniques that Franchisor has developed. As such, Franchisee agrees to the covenants in this Section to protect Franchisor, the System, Proprietary Marks and Franchisor's other franchisees.

- A. **During the Term of this Agreement.** During the term of this Agreement, neither Franchisee, its principals, owners, guarantors or Designated Manager(s), nor any immediate family of Franchisee, its principals, owners, guarantors or Designated Manager(s), may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

1. Own, maintain, engage in, be employed or serve as an officer, director, or principal of, lend money or extend credit to, lease/sublease space to, or have any interest in or involvement with, any other business that (a) generates ten percent (10%) or more of its revenue from the sale of massages, skin care treatments or any of the other Approved Products and Services offered by a system Day Spa location (each, a “Competing Business”), or (b) offers or grants licenses or franchises, or establishes joint ventures, for the ownership or operation of a Competing Business. For purposes of this Agreement, a Competing Business does not include: (i) any business operated by Franchisee under a Franchise Agreement with Franchisor; or (ii) any business operated by a publicly-traded entity in which Franchisee owns less than two percent (2%) legal or beneficial interest;
2. Employ or seek to employ any person who is at that time employed by Franchisor, Franchisor’s affiliates or any other System franchisee, or otherwise directly or indirectly induce or seek to induce such person to leave his or her employment thereat; or
3. Divert, or attempt to divert, any prospective customer to a Competing Business in any manner.

**B. After the Term of this Agreement.**

1. For a period of two (2) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Franchisee, its principals, owners and guarantors, nor any member of the immediate family of Franchisee, its principals, owners or guarantors, may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation, be involved with any business that competes in whole or in part with Franchisor by offering or granting licenses or franchises, or establishing joint ventures, for the ownership or operation of a Competing Business. The geographic scope of the covenant contained in this Section is any location where Franchisor can demonstrate it has offered or sold franchises as of the date this Agreement is terminated or expires.
2. For a period of two (2) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Franchisee, its principals, owners and guarantors, nor any member of the immediate family of Franchisee, its principals, owners or guarantors, may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:
  - a. Own, maintain, engage in, be employed as an officer, director, or principal of, lend money to, extend credit to, lease/sublease space to, or have any interest in or involvement with any other Competing Business: (i) at the Premises; (ii) within the Designated Territory; or (iii) within a forty (40) mile radius of the perimeter of (A) the Designated Territory being granted hereunder, or (B) any other designated territory or development area licensed by Franchisor to a system Day Spa (whether franchised or company-owned) at any time from the date of expiration or termination of this Agreement through the date Franchisee attempts to undertake the competitive activity at issue; or

- b. Solicit business from customers of Franchisee's former Franchised Business or contact any of Franchisor's suppliers or vendors for any competitive business purpose, nor solicit any of Franchisor's other employees, or the employees of Franchisor's affiliates or any other System franchisee to discontinue employment.
- C. **Intent and Enforcement.** It is the parties' intent that the provisions of this Section 14 be judicially enforced to the fullest extent permissible under applicable law. Accordingly, the parties agree that any reduction in scope or modification of any part of the noncompetition provisions contained herein shall not render any other part unenforceable. In the event of the actual or threatened breach of this Section 14 by Franchisee, any of Franchisee's principals, or any member of the immediate family of Franchisee or Franchisee's principals, Franchisor shall be entitled to an injunction restraining such person from any such actual or threatened breach. Franchisee acknowledges that the covenants contained herein are necessary to protect the goodwill of the Franchised Business, other System franchisees, and the System. Franchisee further acknowledges that covenants contained in this Section 15 are necessary to protect Franchisor's procedures and know-how transmitted during the term of this Agreement. Franchisee agrees that in the event of the actual or threatened breach of this Section 14, Franchisor's harm will be irreparable and that Franchisor has no adequate remedy at law to prevent such harm. Franchisee acknowledges and agrees on Franchisee's own behalf and on behalf of the persons who are liable under this Section 15 that each has previously worked or been gainfully employed in other careers and that the provisions of this Section 14 in no way prevent any such person from earning a living. Franchisee further acknowledges and agrees that the time limitation on the restrictive covenants set forth in Section 14(B) shall be tolled during any default under this Section 14.
- D. **Confidentiality and Non-Competition Agreement.** Franchisee must ensure that all management personnel of the Franchised Business, as well as any officers and directors of Franchisee, execute Franchisor's then-current form of Confidentiality and Non-Competition Agreement (which will be in substantially the same form as the document attached to this Agreement as Exhibit E). Franchisee must furnish Franchisor a copy of each executed agreement.
- E. **No Defense.** Franchisee hereby agrees that the existence of any claim Franchisee may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to Franchisor's enforcement of the covenants contained in this Section 14. Franchisee agrees to pay all costs and expenses (including reasonable attorneys' fees) that Franchisor incurs in connection with the enforcement of this Section 14.

## 15. **DEFAULT AND TERMINATION**

Franchisor may terminate this Agreement as described in this Section, and Franchisee agrees and acknowledges that the defaults, or failure to cure such defaults within the appropriate time period prescribed below (if any), shall constitute "good cause" and "reasonable cause" for termination under any state franchise laws or regulations that might apply to the operation of the Franchised Business.

- A. **Automatic Termination.** This Agreement will automatically terminate without notice or an opportunity to cure upon the occurrence of any of the following:

1. The Franchisee becomes insolvent or makes a general assignment for the benefit of creditors, unless otherwise prohibited by law;
2. A petition in bankruptcy is filed by Franchisee or such a petition is filed against and consented to by Franchisee and not dismissed within thirty (30) days;
3. A bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian in connection with the Franchisee or Franchised Business (or assets of the Franchised Business) is filed and consented to by Franchisee;
4. A receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed;
5. A final judgment in excess of Ten Thousand Dollars (\$10,000.00) against Franchisee remains unsatisfied or of record for sixty (60) days or longer (unless a bond is filed or other steps are taken to effectively stay enforcement of such judgment in the relevant jurisdiction), except that Franchisor may provide Franchisee with additional time to satisfy the judgment if Franchisee demonstrates that it is using commercially reasonable efforts to resolve the issues related to the judgment; or
6. Franchisee attempts to sell, transfer, encumber or otherwise dispose of any interest in Franchisee, this Agreement or the Franchised Business in violation of Section 13 hereof.

B. **Termination upon Notice.** Franchisor has the right to terminate this Agreement upon written notice to Franchisee without providing Franchisee any opportunity to cure with respect to any of the following breaches or defaults:

1. If Franchisee or Franchisee's owners/principals commit any fraud or misrepresentation in the establishment or operation of the Franchised Business, including without limitation, any misrepresentation made in Franchisee's franchise application;
2. If Franchisee and any other required attendees fail to attend and complete the Initial Training Program within the time period prescribed in this Agreement;
3. If Franchisee receives from Franchisor three (3) or more notices to cure the same or similar defaults or violations set forth in Section 15(C) of this Agreement during any twelve (12) month period, whether or not these breaches were timely cured;
4. If Franchisee or Franchisee's owners/principals violate any of the in-term covenant not to compete or any of the other restrictive covenants set forth in Section 14 of this Agreement;
5. If Franchisee misuses the Proprietary Marks or Confidential Information in any manner, or otherwise violates any provision of this Agreement related to the use of the Proprietary Marks, Confidential Information and any other confidential materials provided by Franchisor (including those provisions related to non-disclosure of the Manuals and other confidential materials that Franchisor loans to Franchisee);

6. If Franchisee misuses any proprietary software that Franchisor designates for use in connection with the Franchised Business;
7. If Franchisee or any of Franchisee's principals default on any other agreement with Franchisor or any affiliate or Approved Supplier of Franchisor, and such default is not cured within the prescribed time period set forth in that other agreement;
8. If Franchisee defaults under the lease for the Premises and does not cure within the prescribed period of time thereunder, or if Franchisee otherwise loses its right to possess and control the Premises to operate the Franchised Business at any time during the term of this Agreement (except in cases of *force majeure* and cases where Franchisor has previously approved Franchisee's relocation request and Franchisee timely relocates);
9. If Franchisee fails to open and commence operations of the Franchised Business within the time period prescribed in Section 6 of this Agreement;
10. If Franchisee fails to cure any of the following violations under this Agreement within ten (10) days of being notified by Franchisor: (i) failure to offer only those Approved Products and Services that Franchisor authorizes at the Franchised Business; (ii) any purchase of any non-approved item or service for use in connection with the Franchised Business; (iii) failure to purchase any Required Item that Franchisor designates as necessary for the establishment or operation of the Franchised Business from the appropriate Approved Supplier(s) that Franchisor designates; or (iv) any provision of the Approved Services by an individual that is not licensed and/or certified.
11. If Franchisee voluntarily or otherwise abandons the Franchised Business. For purposes of this Agreement, the term "abandon" means: (i) failure to actively operate the Franchised Business for more than two (2) business days without Franchisor's prior written consent; or (ii) any other conduct on the part of Franchisee or its principals that Franchisor determines indicates a desire or intent to discontinue operating the Franchised Business in accordance with this Agreement or the Manuals;
12. If Franchisee fails to provide Franchisor with access, or otherwise blocks Franchisor's access, to Franchisee's POS System, Computer System or registers located at the Franchised Business as required under this Agreement, and fails to remedy this default within twenty four (24) hours of being notified by Franchisor;
13. If Franchisee fails to pay Franchisor, its affiliates or any of its Approved Suppliers any amount that is due and owing Franchisor within ten (10) days of the date that Franchisor (or other party owed the money) notifies Franchisee of the outstanding amount that is due and owed;
14. If Franchisee fails, for a period of fifteen (15) days after notification of non-compliance by appropriate authority, to comply with any law or regulation applicable to the operation of the Franchised Business;
15. If Franchisee fails, for a period of ten (10) days after notification of non-compliance, to obtain any other licenses, certificates, permits or approvals necessary to operate the Franchised Business at the Premises;

16. If Franchisee, any person controlling, controlled by, or under common control with the Franchisee, any principal officer or employee of Franchisee, or any person owning an interest in Franchise is convicted of a felony or any other crime or offense (even if not a crime) that is reasonably likely in the sole opinion of Franchisor to adversely affect the System, any System unit, the Proprietary Marks, or the goodwill associated therewith;
17. If Franchisee takes for Franchisee's own personal use any assets or property of the Franchised Business, including inventory, employee taxes, FICA, insurance or benefits;
18. If there are insufficient funds in Franchisee's EFT Account to cover a check or EFT payment due to Franchisor or its affiliates under this Agreement three (3) or more times within any twelve (12) month period; or
19. If Franchisee commits repeated violations of any health, zoning, sanitation, or other regulatory law, standard, or practice; operates the business in a manner that presents a health or safety hazard to its employees or customers; or if Franchisee loses its approval from any city, state, or other regulatory agency to operate a business that provides spa services, including massages, facials, lash extensions, and body treatments.

C. **Termination upon Notice and 30 Days' Cure.** Except for those defaults set forth in Sections 15(A)-(B) of this Agreement, Franchisor may terminate this Agreement upon notice to Franchisee in the event Franchisee: (i) breaches or violates any other covenant, obligation, term, condition, warranty, or certification under this Agreement, including Franchisee's failure to comply with any of Franchisor's other System standards and specifications in the operation of the Franchised Business as set forth in the Manuals; and (ii) fails to cure such breach or violation within thirty (30) days of the date Franchisee is provided with notice thereof by Franchisor. In the event Franchisee fails to meet its Minimum Performance Standards for three (3) consecutive months, then Franchisor may default Franchisee under this Agreement and Franchisee must cure such default by timely paying the Royalty Shortfall Payment.

D. **Step-In Rights.** In addition to Franchisor's right to terminate this Agreement, and not in lieu of such right or any other rights hereunder, if this Agreement is subject to termination due to Franchisee's failure to cure any default within the applicable time period (if any), then Franchisor has the right, but not the obligations, to enter the Premises and exercise complete authority with respect to the operation of the Franchised Business until such time that Franchisor determines, in its reasonable discretion, that the default(s) at issue have been cured and that Franchisee is otherwise in compliance with the terms of this Agreement. In the event Franchisor exercises these "step-in rights," Franchisee must (a) pay Franchisor a management fee amounting to eight percent (8%) of the Gross Sales of the Franchised Business during the time period that Franchisor's representatives are operating the Franchised Business (the "Management Fee"), and (b) reimburse Franchisor for all reasonable costs and overhead that Franchisor incurs in connection with its operation of the Franchised Business, including without limitation, costs of personnel supervising and staffing the Franchised Business and any travel, lodging and meal expenses. If Franchisor undertakes to operate the Franchised Business pursuant to this Section, Franchisee must indemnify, defend and hold Franchisor (and its representatives and

employees) harmless from and against any Claims that may arise out of Franchisor's operation of the Franchised Business.

## 16. **POST-TERM OBLIGATIONS**

Upon the expiration or termination of this Agreement, Franchisee shall immediately:

- A. **Cease Ownership and Operation of Day Spa; Cease Affiliate with Franchisor and Brand Generally.** Cease to be a franchise owner of Franchised Business under this Agreement and cease to operate the former Franchised Business under the System. Franchisee shall not thereafter directly or indirectly represent to the public that the former Franchised Business is or was operated or in any way connected with the System or hold itself out as a present or former franchise owner of a System franchise at or with respect to the Premises (unless Franchisor agrees otherwise in writing);
- B. **Return Manuals and Confidential Information; Pay Outstanding Amounts Due.**
1. Return to Franchisor the Manuals and all trade secrets, Confidential Information (including customer lists and information) and other confidential materials, equipment, software and property owned by Franchisor and all copies thereof. Franchisee shall retain no copy or record of any of the foregoing; provided, however, that Franchisee may retain its copy of this Agreement, any correspondence between the parties, and any other document which Franchisee reasonably needs for compliance with any applicable provision of law; and
  2. Pay any outstanding amounts due to Franchisor, its affiliates or any Approved Supplier within 30 days of the date this Agreement is terminated or expires.
- C. **Assignment of Customer Contracts, Telephone/Facsimile Numbers and Domain Names.** Take such action as may that Franchisor designates to: (i) provide and assign to Franchisor the then-current and up-to-date customer list and any membership contracts to Franchisor; and (ii) transfer, disconnect, forward, or assign all telephone/facsimile numbers and domain names used in connection with the Franchised Business, as well as any white and yellow page telephone references, advertisements, and all trade and similar name registrations and business licenses to Franchisor or its designee and cancel any interest which Franchisee may have in the same (as Franchisor directs in its sole discretion). Franchisee agrees to execute all documents necessary to comply with the obligations of this Section, including the form Conditional Assignment of Telephone/Facsimile Numbers and Domain Names attached to this Agreement as Exhibit F.
- D. **Cease Using Proprietary Marks.** Cease to use in advertising or in any manner whatsoever any methods, procedures, or techniques associated with the System in which Franchisor has a proprietary right, title, or interest; cease to use the Proprietary Marks and any other marks and indicia of operation associated with the System; and remove all trade dress, physical characteristics, color combinations, and other indications of operation under the System from the Premises. Without limiting the generality of the foregoing, Franchisee agrees that, in the event of any termination or expiration and non-renewal of this Agreement, it will remove all signage bearing the Proprietary Marks, deliver the fascia for such signs to Franchisor upon Franchisor's request, and remove any items that are characteristic of the System "trade dress" from the Premises. Franchisee agrees that

Franchisor or a designated agent may enter upon the Premises at any time to make such changes at Franchisee's sole risk and expense and without liability for trespass.

1. Upon Franchisor's request, Franchisee must provide all materials bearing the Proprietary Marks to Franchisor upon expiration or termination of this Agreement for any reason, without cost to Franchisor; and
  2. Franchisee must cease holding itself out as a present franchisee of Franchisor or the SPAVIA franchise system and, upon Franchisor's request, as a past franchisee of Franchisor or the SPAVIA franchise system.
- E. **Compliance with Post-Term Covenants.** Comply with the post-term covenants not to compete and other restrictive covenants set forth in Section 14 of this Agreement;
- F. **Written Evidence of Compliance.** Provide Franchisor with written evidence that they have complied with the post-term obligations, within thirty (30) days' notice of termination or scheduled expiration of the franchise; and
- G. **Purchase of Assets.** Franchisor shall have the option, but not the obligation, within thirty (30) days after the date of termination, expiration, and non-renewal of this Agreement to purchase any and all of Franchisee's assets from the Franchised Business at a purchase price equal to net depreciated book value. If Franchisor elects this option, Franchisor will deliver written notice to Franchisee. Franchisor will have the right to inspect equipment at any time during this thirty (30) day period. If Franchisor elects to purchase equipment as part of the asset purchase, Franchisor will be entitled to, and Franchisee must provide, all customary warranties and representations as to compliance with law, the maintenance, function, and condition of the equipment and Franchisee's good title to the equipment (including, but not limited to, that Franchisee owns the equipment free and clear of any liens and encumbrances).

## 17. **TAXES AND INDEBTEDNESS**

- A. **Taxes.** Franchisee must promptly pay when due any and all federal, state, and local taxes, including without limitation, unemployment, workers' compensation, and sales taxes which are levied or assessed with respect to any services or products furnished, used, or licensed pursuant to this Agreement and all accounts or other indebtedness of every kind incurred by Franchisee in the operation of the Franchised Business.
- B. **Debts and Obligations.** Franchisee hereby expressly covenants and agrees to accept full and sole responsibility for any and all debts and obligations incurred in the operation of the Franchised Business.

## 18. **WRITTEN APPROVALS; WAIVERS; FORMS OF AGREEMENT; AMENDMENT**

- A. **Franchisor's Approval.** Whenever this Agreement requires or Franchisee desires to obtain Franchisor's approval, Franchisee shall make a timely written request. Unless a different period is specified in this Agreement, Franchisor shall respond with its approval or disapproval within fifteen (15) days of receipt of such request. If Franchisor has not specifically approved a request within such fifteen (15) day period, such failure to respond shall be deemed as a disapproval of any such request.

- B. **No Waiver.** No failure of Franchisor to exercise any power reserved to it by this Agreement and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Franchisor's right to demand exact compliance with any of the terms herein. No waiver or approval by Franchisor of any particular breach or default by Franchisee; no delay, forbearance, or omission by Franchisor to act or give notice of default or to exercise any power or right arising by reason of such default hereunder; and no acceptance by Franchisor of any payments due hereunder shall be considered a waiver or approval by Franchisor of any preceding or subsequent breach or default by Franchisee of any term, covenant, or condition of this Agreement.
- C. **Terms of Other Franchise Agreements.** No warranty or representation is made by the Franchisor that all System franchise agreements heretofore or hereafter issued by Franchisor do or will contain terms substantially similar to those contained in this Agreement. Further, Franchisee recognizes and agrees that Franchisor may, in its reasonable business judgment due to local business conditions or otherwise, waive or modify comparable provisions of other franchise agreements heretofore or hereafter granted to other System franchise owners in a non-uniform manner.
- D. **Modification of System and Manuals.** Except as provided in Section 22 and Franchisor's right to unilaterally modify the System and Manuals, no amendment, change, or variance from this Agreement shall be binding upon either Franchisor or Franchisee unless set forth in writing and signed by both parties.
- E. **No Disclaimers of Franchise Disclosure Document.** Nothing in this Agreement or in any related agreement is intended to disclaim the representations we made in the franchise disclosure document.

## 19. **ENFORCEMENT**

- A. **Full Access to Premises for Inspection.** In order to ensure compliance with this Agreement and enable Franchisor to carry out its obligation under this Agreement, Franchisee agrees that Franchisor and its designated agents shall be permitted, with or without notice, full and complete access during business hours to inspect the Premises and all records thereof, including but not limited to, records relating to Franchisee's customers, suppliers, employees, and agents. Franchisee shall cooperate fully with the Franchisor and its designated agents requesting such access.
- B. **Injunctive Relief.** The Franchisor or its designee shall be entitled to obtain without bond, declarations, temporary and permanent injunctions, and orders of specific performance in order to enforce the provisions of this Agreement relating to Franchisee's use of the Proprietary Marks, the obligations of Franchisee upon termination or expiration of this Agreement, and assignment of the franchise and ownership interests in Franchisee or in order to prohibit any act or omission by Franchisee or its employees which constitutes a violation of any applicable law or regulation, which is dishonest or misleading to prospective or current customers of businesses operated under the System, which constitutes a danger to other franchise owners, employees, customers, or the public or which may impair the goodwill associated with the Proprietary Marks.
- C. **No Withholding of Payments.** Franchisee agrees and acknowledges that it may not withhold payments or amounts of any kind due to Franchisor on the premise of alleged nonperformance by Franchisor of any of its obligations hereunder.

- D. **Costs and Attorneys' Fees.** If Franchisee is in breach or default of any monetary or non-monetary obligation under this Agreement or any related agreement between Franchisee and Franchisor and/or Franchisor's affiliates, and Franchisor engages an attorney to enforce Franchisor's rights (whether or not formal judicial proceedings are initiated), Franchisee must reimburse Franchisor for all costs/expenses incurred in connection with enforcing its rights under this Agreement including all reasonable attorneys' fees, court costs and litigation expenses. If Franchisee institutes any legal action to interpret or enforce the terms of this Agreement, and Franchisee's claim in such action is denied or the action is dismissed, Franchisor is entitled to recover Franchisor's reasonable attorneys' fees, and all other reasonable costs and expenses incurred in defending against same, and to have such an amount awarded as part of the judgment in the proceeding.

**20. NOTICES**

Any notice required to be given hereunder shall be in writing and shall be either mailed by certified mail, return receipt requested, or delivered by a recognized courier service, receipt acknowledged. Notices must be provided to each party at the respective addresses set forth below:

To Franchisor: Spavia International, LLC  
Attn: Marty Langenderfer  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111

With a copy to: Attn: Lane Fisher, Esq.  
Fisher Zucker, LLC  
21 South 21<sup>st</sup> Street  
Philadelphia, PA 19103

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

Any notice complying with the provisions hereof will be deemed delivered at the earlier of: (i) three (3) days after mailing; or (ii) the actual date of delivery or receipt (as evidenced by the courier). Each party shall have the right to designate any other address for such notices by providing the other party(ies) with written notice thereof at the addresses above, and in such event, all notices to be mailed after receipt of such notice shall be sent to such other address.

**21. GOVERNING LAW AND DISPUTE RESOLUTION**

- A. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without reference to this state's conflict of laws principles.
- B. **Internal Dispute Resolution.** Franchisee must first bring any claim or dispute between Franchisee and Franchisor to Franchisor's management, after providing notice as set forth in Section 21(G) of this Agreement, and make every effort to resolve the dispute internally. Franchisee must exhaust this internal dispute resolution procedure before Franchisee may

bring Franchisee's dispute before a third party. This agreement to first attempt resolution of disputes internally shall survive termination or expiration of this Agreement.

- C. **Mediation.** At Franchisor's option, all claims or disputes between Franchisee and Franchisor (or its affiliates) arising out of, or in any way relating to, this Agreement or any other agreement by and between Franchisee and Franchisor (or its affiliates), or any of the parties' respective rights and obligations arising from such agreement, which are not first resolved through the internal dispute resolution procedure set forth in Section 21(B) above, will be submitted first to mediation to take place at Franchisor's then-current corporate headquarters under the auspices of the American Arbitration Association ("AAA"), in accordance with AAA's Commercial Mediation Rules then in effect. Before commencing any legal action against Franchisor or its affiliates with respect to any such claim or dispute, Franchisee must submit a notice to Franchisor, which specifies, in detail, the precise nature and grounds of such claim or dispute. Franchisor will have a period of thirty (30) days following receipt of such notice within which to notify Franchisee as to whether Franchisor or its affiliates elects to exercise its option to submit such claim or dispute to mediation. Franchisee may not commence any action against Franchisor or its affiliates with respect to any such claim or dispute in any court unless Franchisor fails to exercise its option to submit such claim or dispute to mediation, or such mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by Franchisor. Franchisor's rights to mediation, as set forth herein, may be specifically enforced by Franchisor. Each party will bear its own cost of mediation and Franchisor and Franchisee will share mediator fees equally. This agreement to mediate will survive any termination or expiration of this Agreement. The parties will not be required to first attempt to mediate a controversy, dispute, or claim through mediation as set forth in this Section 21(C) if such controversy, dispute, or claim concerns an allegation that a party has violated (or threatens to violate, or poses an imminent risk of violating): (i) any federally protected intellectual property rights in the Proprietary Marks, the System, or in any Confidential Information or other confidential information; (ii) any of the restrictive covenants contained in this Agreement; and (iii) any of Franchisee's payment obligations under this Agreement.
- D. **Injunctive Relief.** Franchisee acknowledges and agrees that irreparable harm could be caused to Franchisor by Franchisee's violation of certain provisions of this Agreement and, as such, in addition to any other relief available at law or equity, Franchisor shall be entitled to obtain in any court of competent jurisdiction, without bond, restraining orders or temporary or permanent injunctions in order to enforce, among other items, the provisions of this Agreement relating to: (i) Franchisee's use of the Proprietary Marks and Confidential Information (including any proprietary software used in connection with the Franchised Business); (ii) the in-term covenant not to compete, as well as any other violations of the restrictive covenants set forth in this Agreement; (iii) Franchisee's obligations on termination or expiration of this Agreement; (iv) disputes and controversies based on or arising under the Lanham Act, or otherwise involving the Proprietary Marks, as now or hereafter amended; (v) disputes and controversies involving enforcement of the Franchisor's rights with respect to confidentiality under this Agreement; and (vi) to prohibit any act or omission by Franchisee or its employees that constitutes a violation of applicable law, threatens Franchisor's franchise system or threatens other franchisees of Franchisor. Franchisee's only remedy if such an injunction is entered will be the dissolution of the injunction, if appropriate, and Franchisee waives all damage claims if the injunction is wrongfully issued.

- E. **Venue.** Subject to Sections 22(B)-(D) of this Agreement, the parties agree that any actions arising out of or related to this Agreement must be initiated and litigated to conclusion exclusively in the state court of general jurisdiction closest to Franchisor's then-current corporate headquarters or, if appropriate, the United States District Court for the District of Colorado. Franchisee acknowledges that this Agreement has been entered into in the State of Colorado, and that Franchisee is to receive valuable and continuing services emanating from Franchisor's headquarters in Colorado, including but not limited to training, assistance, support and the development of the System. In recognition of such services and their origin, Franchisee hereby irrevocably consents to the personal jurisdiction of the state and federal courts of Colorado as set forth in this Section.
- F. **Third Party Beneficiaries.** Franchisor's officers, directors, shareholders, agents and/or employees are express third party beneficiaries of the provisions of this Agreement, including the dispute resolution provisions set forth in this Section 21, each having authority to specifically enforce the right to mediate/arbitrate claims asserted against such person(s) by Franchisee.
- G. **Notice Requirement.** As a condition precedent to commencing an action for damages or for violation or breach of this Agreement, Franchisee must notify Franchisor within thirty (30) days after the occurrence of the violation or breach, and failure to timely give such notice shall preclude any claim for damages.
- H. **No Withholding of Payments.** Franchisee shall not withhold all or any part of any payment to Franchisor or any of its affiliates on the grounds of Franchisor's alleged nonperformance or as an offset against any amount Franchisor or any of Franchisor's affiliates allegedly may owe Franchisee under this Agreement or any related agreements.
- I. **Limitation of Actions.** Franchisee further agrees that no cause of action arising out of or under this Agreement may be maintained by Franchisee against Franchisor unless brought before the expiration of one (1) year after the act, transaction or occurrence upon which such action is based or the expiration of one (1) year after the Franchisee becomes aware of facts or circumstances reasonably indicating that Franchisee may have a claim against Franchisor hereunder, whichever occurs sooner, and that any action not brought within this period shall be barred as a claim, counterclaim, defense, or set-off. Franchisee hereby waives the right to obtain any remedy based on alleged fraud, misrepresentation, or deceit by Franchisor, including, without limitation, rescission of this Agreement, in any mediation, judicial, or other adjudicatory proceeding arising hereunder, except upon a ground expressly provided in this Agreement, or pursuant to any right expressly granted by any applicable statute expressly regulating the sale of franchises, or any regulation or rules promulgated thereunder.
- J. **Waiver of Punitive Damages.** Franchisee hereby waives to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) against Franchisor arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agrees that in the event of a dispute, that Franchisee's recovery is limited to actual damages. If any other term of this Agreement is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages. Nothing in this Section or any other

provision of this Agreement shall be construed to prevent Franchisor from claiming and obtaining expectation or consequential damages, including lost future royalties for the balance of the term of this Agreement if it is terminated due to Franchisee's default, which the parties agree and acknowledge Franchisor may claim under this Agreement.

- K. **WAIVER OF JURY TRIAL.** THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRINGS SUIT. THIS WAIVER SHALL APPLY TO ANY MATTER WHATSOEVER BETWEEN THE PARTIES HERETO WHICH ARISES OUT OF OR IS RELATED IN ANY WAY TO THIS AGREEMENT, THE PERFORMANCE OF EITHER PARTY, AND/OR FRANCHISEE'S PURCHASE FROM FRANCHISOR OF THE FRANCHISE AND/OR ANY GOODS OR SERVICES.
  
- L. **WAIVER OF CLASS ACTIONS.** THE PARTIES AGREE THAT ALL PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT, OR THE SALE OF THE FRANCHISED BUSINESS, WILL BE CONDUCTED ON AN INDIVIDUAL, NOT A CLASS-WIDE BASIS, AND THAT ANY PROCEEDING BETWEEN FRANCHISEE, FRANCHISEE'S GUARANTORS AND FRANCHISOR OR ITS AFFILIATES/OFFICERS/EMPLOYEES MAY NOT BE CONSOLIDATED WITH ANY OTHER PROCEEDING BETWEEN FRANCHISOR AND ANY OTHER THIRD PARTY.

## 22. **SEVERABILITY AND CONSTRUCTION**

- A. Should any provision of this Agreement for any reason be held invalid, illegal, or unenforceable by a court of competent jurisdiction, such provision shall be deemed restricted in application to the extent required to render it valid, and the remainder of this Agreement shall in no way be affected and shall remain valid and enforceable for all purposes, both parties hereto declaring that they would have executed this Agreement without inclusion of such provision. In the event such total or partial invalidity or unenforceability of any provision of this Agreement exists only with respect to the laws of a particular jurisdiction, this paragraph shall operate upon such provision only to the extent that the laws of such jurisdiction are applicable to such provision. Each party agrees to execute and deliver to the other any further documents which may be reasonably required to make fully the provisions hereof. Franchisee understands and acknowledges that Franchisor shall have the right in its sole discretion on a temporary or permanent basis, to reduce the scope of any covenant or provision of this Agreement binding upon Franchisee without Franchisee's consent, effective immediately upon receipt by Franchisee of written notice thereof, and Franchisee agrees that it will comply forthwith with any covenant as so modified, which shall be fully enforceable.
  
- B. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute the same instrument.
  
- C. The table of contents, headings, and captions contained herein are for the purposes of convenience and reference only and are not to be construed as a part of this Agreement. All terms and words used herein shall be construed to include the number and gender as the context of this Agreement may require. The parties agree that each Section of this

Agreement shall be construed independently of any other Section or provision of this Agreement.

**23. ACKNOWLEDGMENTS**

- A. Franchisee acknowledges that it received a complete copy of this Agreement for a period not less than fourteen (14) calendar days, during which time conducted an independent investigation of the business licensed hereunder to the extent of Franchisee’s desire to do so. Franchisee recognizes and acknowledges that the business venture contemplated by this Agreement involves business risks, and that its success will be largely dependent upon the ability of the Franchisee as an independent businessperson. Franchisor expressly disclaims the making of, and Franchisee acknowledges that it has not received, any warranty or guarantee, express or implied, that Franchisee will be successful in this venture or that the business will attain any level of sales volume, profits, or success. Franchisee acknowledges that this Agreement, the franchise disclosure document (“FDD”), and the exhibits hereto constitutes the entire Agreement of the parties. This Agreement terminates and supersedes any prior agreement between the parties concerning the same subject matter.
- B. Franchisee agrees and acknowledges that fulfillment of any and all of Franchisor’s obligations written in this Agreement or based on any oral communications which may be ruled to be binding in a court of law shall be Franchisor’s sole responsibility and none of Franchisor’s agents, representatives, nor any individuals associated with Franchisor’s franchise company shall be personally liable to Franchisee for any reason. This is an important part of this Agreement. Franchisee agrees that nothing that Franchisee believes Franchisee has been told by Franchisor or Franchisor’s representatives shall be binding unless it is written in this Agreement. This is an important part of this Agreement. Do not sign this Agreement if there is any question concerning its contents or any representations made.

*REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.  
SIGNATURES APPEAR ON THE FOLLOWING PAGE.*

**IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement under seal on the date first written above.**

**FRANCHISOR:**

**SPAVIA INTERNATIONAL, LLC**

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

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

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

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

**FRANCHISEE:**

\_\_\_\_\_

**IF AN INDIVIDUAL:**

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

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

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

Spouse Signature: \_\_\_\_\_

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

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

**IF A PARTNERSHIP, CORPORATION, OR OTHER ENTITY:**

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

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

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

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

**EXHIBIT A TO THE FRANCHISE AGREEMENT**  
**DATA SHEET AND STATEMENT OF OWNERSHIP**

1. SITE SELECTION AREA

Pursuant to Section 2(B) of the Franchise Agreement, Franchisee must locate and secure Premises for the Franchised Business within the following Site Selection Area:

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2. PREMISES

Pursuant to Section 2(C) of the Franchise Agreement, the Franchised Business shall be located at the following approved Premises:

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3. DESIGNATED TERRITORY

Pursuant to Section 2(D) of the Franchise Agreement, Franchisee's Designated Territory will be defined as follows (if identified on a map, please attach map and reference attachment below):

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4. Franchisee Contact Person. The following individual is a shareholder, member, or partner of Franchisee and is the principal person to be contacted on all matters relating to the Franchised Business:

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

Daytime Telephone No.: \_\_\_\_\_

Evening Telephone No.: \_\_\_\_\_

Cellular Telephone No.: \_\_\_\_\_

Facsimile No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

5. Statement of Ownership. If Franchisee is a corporation, limited liability company, partnership or other business entity, the undersigned agree and acknowledge that the following is a complete list of all of the shareholders, members, or partners of Franchisee and the percentage interest of each individual:

<u>Name</u>	<u>Position/Title</u>	<u>Interest (%)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**THE PARTIES SIGNING THIS DATA SHEET BELOW AGREE AND ACKNOWLEDGE THAT THIS DATA SHEET, BY ITSELF, DOES NOT CONSTITUTE A FRANCHISE AGREEMENT OR OTHERWISE CONFER ANY FRANCHISE RIGHTS UPON FRANCHISEE. THIS DATA SHEET PROVIDES CERTAIN DEAL-SPECIFIC INFORMATION IN CONNECTION WITH THE FRANCHISE THAT IS GOVERNED BY THE FRANCHISE AGREEMENT TO WHICH THIS DATA SHEET IS AN EXHIBIT.**

**THE PARTIES AGREE AND ACKNOWLEDGE THAT THE FOREGOING FRANCHISE AGREEMENT MUST BE EXECUTED PRIOR TO OR CONTEMPORANEOUS WITH THIS DATA SHEET FOR ANY RIGHTS TO BE CONFERRED.**

IN WITNESS WHEREOF, the undersigned has duly executed this Exhibit to the Franchise Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**FRANCHISEE**

\_\_\_\_\_

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

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

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

**FRANCHISOR**

**SPAVIA INTERNATIONAL, LLC**

By: \_\_\_\_\_  
Marty Langenderfer, CEO

## **EXHIBIT B TO THE FRANCHISE AGREEMENT**

### **PERSONAL GUARANTY**

NOTE: IF FRANCHISEE IS A CORPORATION, LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY, THEN EACH INDIVIDUAL/ENTITY WITH AN OWNERSHIP INTEREST IN FRANCHISEE (PRINCIPALS/MEMBERS/SHAREHOLDERS/MANAGERS/PARTNERS/ETC.) AND THEIR RESPECTIVE SPOUSES MUST EXECUTE THIS FORM OF PERSONAL GUARANTY. IF FRANCHISEE IS AN INDIVIDUAL AND FRANCHISEE'S SPOUSE HAS NOT SIGNED THE FRANCHISE AGREEMENT DIRECTLY, THEN FRANCHISEE'S SPOUSE MUST EXECUTE THIS FORM OF PERSONAL GUARANTY.

### **ARTICLE I PERSONAL GUARANTY**

The undersigned persons (individually and collectively "you") hereby represent to Spavia International, LLC (the "Franchisor") that you are all the owners/principals/members/shareholders/managers/partners, as applicable, of the business entity named \_\_\_\_\_ (the "Franchisee"), as well as their respective spouses, as of the date this Personal Guaranty (the "Personal Guaranty" or "Guaranty") is executed.

In consideration of the grant by Franchisor to the Franchisee as herein provided, each you hereby agree, in consideration of benefits received and to be received by each of you, jointly and severally, and for yourselves, your heirs, legal representatives and assigns, to be firmly bound by all of the terms, provisions and conditions of the foregoing Spavia International, LLC Franchise Agreement, and any other agreement between Franchisee and Franchisor and/or its affiliates, and do hereby unconditionally guarantee the full and timely performance by Franchisee of each and every obligation of Franchisee under the aforesaid Franchise Agreement or other agreement between Franchisor and Franchisee, including, without limitation: (i) any indebtedness of Franchisee arising under or by virtue of the aforesaid Franchise Agreement; (ii) the prohibition of any change in the percentage of Franchisee owned, directly or indirectly, by any person, without first obtaining the written consent of Franchisor prior to said proposed transfer as set forth in the Franchise Agreement; (iii) those obligations related to confidentiality, non-disclosure and indemnification; and (iv) the in-term and post-term covenants against competition, as well as all other restrictive covenants set forth in the Franchise Agreement.

### **ARTICLE II CONFIDENTIALITY**

During the initial and any renewal terms of the Franchise Agreement and this Guaranty, you will receive information, which Franchisor considers to be Confidential Information, trade secrets and/or confidential information, including without limitation: (i) site-selection criteria; (ii) methods, techniques and trade secrets for use in connection with the proprietary business operating system that Franchisor and its affiliates have developed (the "System") for the establishment and operation of a SPAVIA franchised business (hereafter, a "Franchised Business"); (iii) marketing research and promotional, marketing and advertising programs for the Franchised Business; (iv) knowledge of specification for and suppliers of, and methods of ordering, certain products, fixtures, furnishings, equipment and inventory used at the Franchised Business (v) knowledge of the operating results and financial performance of other System Day Spa locations; (vi) customer communication and retention programs, along with data used or generated in connection with those programs; (vii) Franchisor's proprietary Manuals and other instructional manuals, as well as any training materials and information Franchisor has developed for use in connection with the System; (viii) information regarding the development of Franchisor's proprietary marks (the "Proprietary Marks"); (ix)

information generated by, or used or developed in, the Day Spa's operation, including customer names, addresses, telephone numbers and related information and any other information contained in the Franchised Business's computer system; (x) the design, build-out and any construction/remodeling plans for the interior and exterior of the Franchised Business; (xi) Franchisor's proprietary Operations Manual and other instructional manuals, as well as any training materials and information Franchisor has developed for use in connection with the System; (xii) as well as any other proprietary information or confidential information that is provided to Franchisee by Franchisor during the term of the Franchise Agreement (collectively, "Confidential Information"). You shall not, during the term of this Agreement or anytime thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company any Confidential Information and trade secrets, including, without limitation: Franchisor's copyrighted materials; price marketing mixes related to the offer and sale spa services and other Approved Services and Products (as defined in the Franchise Agreement); standards and specifications for providing the Approved Services and Products and other merchandise or services offered or authorized for sale by System franchisees; methods and other techniques and know-how concerning the operation of the Franchised Business, which may be communicated to you or of which you may become apprised by virtue of your role as a guarantor of the Franchisee's obligations under the Franchise Agreement. You also acknowledge and agree that the following also constitutes "Confidential Information" under this Section: (i) former, current and prospective customer information, including customer names and addresses, contracts/agreements (collectively "Customer Lists"), and (ii) sources and pricing matrices of any approved or designated suppliers; and (iii) any and all information, knowledge, know-how, techniques, and other data, which Franchisor designates as confidential.

### **ARTICLE III** **NON-COMPETITION**

You acknowledge that as a participant in the Franchisor's System, you will receive proprietary and confidential information and materials, trade secrets, and the unique methods, procedures and techniques which Franchisor has developed. Therefore, to protect Franchisor and all Franchisor's franchisees, you agree as follows:

1. **During the Term of the Franchise Agreement and this Guaranty.** During the term of the Franchise Agreement and this Personal Guaranty, each of the undersigned may not, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

1.1. Own, maintain, engage in, be employed or serve as an officer, director, or principal of, lend money, lease space or extend credit to (or otherwise have any interest in or involvement with), any other business that (a) generates ten percent (10%) or more of its revenue from the sale of massages, skin care treatments and/or any of the other Approved Products and Services that are offered at a System Day Spa location (each, a "Competing Business"), or (b) offers or grants licenses or franchises, or establishes joint ventures, for the ownership or operation of a Competing Business; provided, however, that this Section does not apply to your operation of a SPAVIA franchise pursuant to a valid franchise agreement with Franchisor, or your ownership of less than two percent (2%) of the interests in a publicly traded company.

1.2. Employ or seek to employ any person who is at that time employed by Franchisor, Franchisor's affiliates or any other System franchisee, or otherwise directly or indirectly induce or seek to induce such person to leave his or her employment thereat; or

1.3. Divert or attempt to divert business or customers of any Franchisee-owned Franchised Businesses to any competitor, by direct or indirect inducement or otherwise, or do or perform,

directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks or the System.

**2. After the Term of This Agreement.**

2.1. For a period of two (2) years after the expiration and nonrenewal, transfer or termination of the Franchise Agreement, regardless of the cause, the undersigned may not, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation enter into any business competing in whole or in part with Franchisor in offering or granting franchises or licenses, or establishing joint ventures, for the ownership or operation of a Competing Business.

2.2. For a period of two (2) years after the expiration, transfer or termination of the Franchise Agreement, regardless of the cause, the undersigned may not, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

2.2.1. Own, maintain, engage in, be employed by, lend money to, have any interest in, or be employed as an officer, director, executive, or principal of any other Competing Business at or within the following areas: (i) at the Premises of the Franchised Business; (ii) within the Designated Territory granted under the Franchise Agreement; or (iii) within a radius 40 miles of (a) the perimeter of the Designated Territory granted under the Franchise Agreement or (b) the perimeter of any other designated territory or development area granted by Franchisor to any System Day Spa at any time beginning from the expiration, transfer or termination of this Agreement through the date of your involvement in any Competing Business.

2.2.2. Contact any of Franchisor's suppliers or vendors for any competitive business purpose; or

2.2.3. Solicit any of Franchisor's employees, or the employees of Franchisor's affiliates, or any other System franchisee to discontinue employment.

**3. Intent and Enforcement.** It is the parties' intent that the provisions of this Article III be judicially enforced to the fullest extent permissible under applicable law. Accordingly, the parties agree that any reduction in scope or modification of any part of the noncompetition provisions contained herein shall not render any other part unenforceable. In the event of the actual or threatened breach of this Article III by you, any of your principals, or any members of their immediate family, Franchisor shall be entitled to an injunction restraining such person from any such actual or threatened breach. You agree that in the event of the actual or threatened breach of this Article III, Franchisor's harm will be irreparable and that Franchisor has no adequate remedy at law to prevent such harm. You acknowledge and agree that each of you has previously worked or been gainfully employed in other careers and that the provisions of this Article III in no way prevents you from earning a living. You further acknowledge and agree that the time limitation of this Article III shall be tolled during any default under this Guaranty.

**ARTICLE IV  
DISPUTE RESOLUTION**

**1. Acknowledgment.** You acknowledge that this Guaranty is not a franchise agreement and does not confer upon you any rights to use the Franchisor's proprietary marks or its system.

**2. Governing Law.** This Guaranty shall be deemed to have been made in and governed by the laws of the State of Colorado.

3. **Internal Dispute Resolution.** You must first bring any claim or dispute arising out of or relating to the Franchise Agreement or this Personal Guaranty to Franchisor's management. You agree to exhaust this internal dispute resolution procedure before bringing any dispute before a third party. This agreement to engage in internal dispute resolution first shall survive the termination or expiration of this Agreement.

4. **Mediation.** At Franchisor's option, all claims or disputes between you and Franchisor or its affiliates arising out of, or in any way relating to, the Franchise Agreement, this Guaranty or any other agreement by and between the parties or their respective affiliates, or any of the parties' respective rights and obligations arising from such agreements, which are not first resolved through the internal dispute resolution procedure set forth above, must be submitted first to mediation, at Franchisor's then-current headquarters under the auspices of the American Arbitration Association ("AAA"), in accordance with AAA's Commercial Mediation Rules then in effect. Before commencing any legal action against Franchisor or its affiliates with respect to any such claim or dispute, you must submit a notice to Franchisor that specifies, in detail, the precise nature and grounds of such claim or dispute. Franchisor will have a period of thirty (30) days following receipt of such notice within which to notify you as to whether Franchisor or its affiliates elect to exercise our option to submit such claim or dispute to mediation. You may not commence any arbitration proceeding or other action against Franchisor or its affiliates with respect to any such claim or dispute in any court unless Franchisor fails to exercise its option to submit such claim or dispute to mediation, or such mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by Franchisor. Franchisor may specifically enforce our mediation rights under this Section. Each party shall bear its own cost of mediation, except that you and Franchisor shall share the mediator's fees and costs equally. This agreement to mediate at Franchisor's option shall survive any termination or expiration of the Franchise Agreement and this Guaranty.

4.1. *Excepted Claims.* The parties agree that mediation shall not be required with respect to any claim or dispute involving: (i) any of your payment obligations that are past due; (ii) the actual or threatened disclosure or misuse of Franchisor's Confidential Information; (iii) the actual or threatened violation of Franchisor's rights in, or misuse of, the Proprietary Marks, System or other trade secrets; (iv) any of the restrictive covenants contained in the Franchise Agreement or this Guaranty; or (v) any claims arising out of or related to fraud or misrepresentation by you, or your insolvency (collectively, the "Excepted Claims").

5. **Jurisdiction and Venue.** Subject to the other dispute resolution provisions in this Guaranty, the parties agree that any action at law or in equity instituted against either party to this Agreement must be commenced and litigated to conclusion (unless settled) only in any court of competent jurisdiction located closest to Franchisor's then-current headquarters or, if appropriate, the United States District Court for the District of Colorado. The undersigned hereby irrevocably consent to the jurisdiction of these courts.

6. **Third Party Beneficiaries.** Franchisor's officers, directors, shareholders, agents and/or employees are express third-party beneficiaries of this Agreement and the mediation and other dispute resolution provisions contained herein, each having authority to specifically enforce the right to mediate and litigate claims asserted against such person(s) by you.

7. **Right to Injunctive Relief.** Nothing contained in this Guaranty shall prevent Franchisor from applying to or obtaining from any court having jurisdiction a writ of attachment, temporary injunction, preliminary injunction and/or other emergency relief available to safeguard and protect Franchisor's interest prior to the filing of any mediation or arbitration proceeding, or pending the trial or handing down of a decision or award pursuant to any mediation or arbitration proceeding conducted hereunder. If injunctive relief is granted, your only remedy will be the court's dissolution of the injunctive relief. If the injunctive relief was wrongfully issued, you expressly waive all claims for damages you incurred as a result of the wrongful issuance.

8. **JURY TRIAL AND CLASS ACTION WAIVER.** THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRINGS SUIT. THIS WAIVER SHALL APPLY TO ANY MATTER WHATSOEVER BETWEEN THE PARTIES HERETO WHICH ARISES OUT OF OR IS RELATED IN ANY WAY TO THIS AGREEMENT, THE PERFORMANCE OF EITHER PARTY, AND/OR FRANCHISEE'S PURCHASE FROM FRANCHISOR OF THE FRANCHISE AND/OR ANY GOODS OR SERVICES. THE PARTIES AGREE THAT ALL PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT, OR THE SALE OF THE FRANCHISED BUSINESS, WILL BE CONDUCTED ON AN INDIVIDUAL, NOT A CLASS-WIDE BASIS, AND THAT ANY PROCEEDING BETWEEN FRANCHISEE, FRANCHISEE'S GUARANTORS AND FRANCHISOR OR ITS AFFILIATES/OFFICERS/EMPLOYEES MAY NOT BE CONSOLIDATED WITH ANY OTHER PROCEEDING BETWEEN FRANCHISOR AND ANY OTHER THIRD PARTY.

9. **Limitation of Action.** You further agree that no cause of action arising out of or under this Guaranty may be maintained by you unless brought before the expiration of one year after the act, transaction or occurrence upon which such action is based or the expiration of one year after you become aware of facts or circumstances reasonably indicating that you may have a claim against us, whichever occurs sooner, and that any action not brought within this period shall be barred as a claim, counterclaim, defense or set-off.

10. **Punitive Damages.** You hereby waive to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) which you may have against us, arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agrees that in the event of a dispute, that your recovery shall be limited to actual damages. If any other term of this Guaranty is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

11. **Costs and Attorneys' Fees.** Whether or not formal legal proceedings are initiated, in the event Franchisor incurs any legal fees or other costs associated with enforcing the terms of this Guaranty or the Franchise Agreement against you, then Franchisor will be entitled to recover from you all costs and expenses, including reasonable attorneys' fees, incurred in enforcing the terms of this Guaranty or the Franchise Agreement.

12. **No waiver.** Franchisor's failure to insist upon strict compliance with any provision of this Guaranty shall not be a waiver of our right to do so, any law, custom, usage or rule to the contrary notwithstanding. Delay or omission by us respecting any breach or default shall not affect Franchisor's rights respecting any subsequent breaches or defaults. All rights and remedies granted in this Guaranty shall be cumulative. Your election to exercise any remedy available by law or contract shall not be deemed a waiver or preclude exercise of any other remedy.

13. **No Personal Liability.** You agree that fulfillment of any and all of Franchisor's obligations written in the Franchise Agreement or this Guaranty, or based on any oral communications which may be ruled to be binding in a court of law, shall be Franchisor's sole responsibility and none of our owners, officers, agents, representatives, nor any individuals associated with Franchisor shall be personally liable to you for any reason. This is an important part of this Guaranty. You agree that nothing that you believe you have been told by us or our representatives shall be binding unless it is written in the Franchise Agreement or this Guaranty. Do not sign this Agreement if there is any question concerning its contents or any representations made.

14. **Severability.** The parties agree that if any provisions of this Guaranty may be construed in two ways, one of which would render the provision illegal or otherwise voidable or unenforceable and the

other which would render it valid and enforceable, such provision shall have the meaning, which renders it valid and enforceable. The language of all provisions of this Guaranty shall be construed according to fair meaning and not strictly construed against either party. The provisions of this Guaranty are severable, and this Guaranty shall be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein, and partially valid and enforceable provisions shall be enforced to the extent that they are valid and enforceable. If any material provision of this Guaranty shall be stricken or declared invalid, the parties agree to negotiate mutually acceptable substitute provisions. In the event that the parties are unable to agree upon such provisions, Franchisor reserves the right to terminate this Guaranty.

15. **Construction of Language.** Any term defined in the Franchise Agreement which is not defined in this Guaranty will be ascribed the meaning given to it in the Franchise Agreement. The language of this Guaranty will be construed according to its fair meaning, and not strictly for or against either party. All words in this Guaranty refer to whatever number or gender the context requires. If more than one party or person is referred to as you, their obligations and liabilities must be joint and several. Headings are for reference purposes and do not control interpretation.

16. **Successors.** References to “Franchisor” or “the undersigned,” or “you” include the respective parties' heirs, successors, assigns or transferees.

**IN WITNESS WHEREOF, the parties hereto have executed and delivered this Guaranty on the date stated on the first page hereof.**

**PERSONAL GUARANTORS**

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

## EXHIBIT C TO THE FRANCHISE AGREEMENT

### COLLATERAL ASSIGNMENT AND ASSUMPTION OF LEASE

**THIS COLLATERAL ASSIGNMENT AND ASSUMPTION OF LEASE** (this “Assignment”) is made, entered into and effective on this \_\_\_ day of \_\_\_\_\_, 20\_\_ Effective Date,) by and between: (i) Spavia International, LLC, a Colorado limited liability company with its principal place of business at 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, Colorado 80111 (the “Franchisor”); and (ii) \_\_\_\_\_, a (resident of) (corporation organized in) (limited liability company organized in) \_\_\_\_\_ with a business address at \_\_\_\_\_ (the “Franchisee”).

### **BACKGROUND INFORMATION**

The Franchisor entered into that certain Franchise Agreement (the “Franchise Agreement”) dated as of \_\_\_\_\_, 20\_\_ with the Franchisee, pursuant to which the Franchisee plans to own and operate a SPAVIA franchised business (the “Franchised Business”) located at \_\_\_\_\_ (the “Site”). In addition, pursuant to that certain Lease Agreement (the “Lease”), the Franchisee has leased or will lease certain space containing the Franchised Business described therein from \_\_\_\_\_ (the “Lessor”). The Franchise Agreement requires the Franchisee to deliver this Assignment to the Franchisor as a condition to the grant of a franchise.

### **OPERATIVE TERMS**

The Franchisor and the Franchisee agree as follows:

1. **Background Information:** The background information is true and correct. This Assignment will be interpreted by reference to, and construed in accordance with, the background information set forth above.
2. **Incorporation of Terms:** Terms not otherwise defined in this Assignment have the meanings as defined in the Franchise Agreement.
3. **Indemnification of Franchisor:** Franchisee agrees to indemnify and hold Franchisor and its affiliates, stockholders, directors, officers, principals, franchisees/licensees and representatives harmless from and against any and all losses, liabilities, claims, proceedings, demands, damages, judgments, injuries, attorneys’ fees, costs and expenses, that they incur resulting from any claim brought against any of them or any action which any of them are named as a party or which any of them may suffer, sustain or incur by reason of, or arising out of, Franchisee’s breach of any of the terms of the Lease, including the failure to pay rent or any other terms and conditions of the Lease.
4. **Conditional Assignment:** Franchisee hereby grants to the Franchisor a security interest in and to the Lease, all of the furniture, fixtures, inventory and supplies located in the Site and the franchise relating to the Franchised Business, and all of the Franchisee’s rights, title and interest in and to the Lease as conditional for the payment of any obligation, liability or other amount owed by the Franchisee or its affiliates to the Lessor arising under the Lease and for any default or breach of any of the terms and provisions of the Lease, and for any default or breach of any of the terms and provisions of the Franchise Agreement. In the event of a breach or default by Franchisee under the terms of the Lease, or, in the event Franchisor makes any payment to the Lessor as a result of the Franchisee’s breach of the Lease, then such payment by the Franchisor, or such breach or default by the Franchisee, shall at Franchisor’s option be

deemed to be an immediate default under the Franchise Agreement, and the Franchisor shall be entitled to the possession of the Site and to all of the rights, title and interest of the Franchisee in and to the Lease and to all other remedies described herein or in the Franchise Agreement or at law or in equity, without prejudice to any other rights or remedies of the Franchisor under any other agreements or under other applicable laws or equities. This Assignment shall constitute a lien on the interest of the Franchisee in and to the Lease until satisfaction in full of all amounts owed by the Franchisee to the Franchisor. In addition, the rights of the Franchisor to assume all obligations under the Lease provided in this Assignment are totally optional on the part of the Franchisor, to be exercised in its sole discretion. Franchisee agrees to execute any and all Uniform Commercial Code financing statements and all other documents and instruments deemed necessary by Franchisor to perfect or document the interests and assignments granted herein.

5. **No Subordination:** Franchisee shall not permit the Lease to become subordinate to any lien without first obtaining Franchisor's written consent, other than the lien created by this Assignment, the Franchise Agreement, the Lessor's lien under the Lease, liens securing bank financing for the operations of Franchisee on the Site and the agreements and other instruments referenced herein. The Franchisee will not terminate, modify or amend any of the provisions or terms of the Lease without the prior written consent of the Franchisor. Any attempt at termination, modification or amendment of any of the terms of the Lease without such written consent is null and void.

6. **Exercise of Remedies:** In any case of default by the Franchisee under the terms of the Lease or under the Franchise Agreement, Franchisor shall be entitled to exercise any one or more of the following remedies in its sole discretion:

- a) to take possession of the Site, or any part thereof, personally, or by its agents or attorneys;
- b) to, in its discretion, without notice and with or without process of law, enter upon and take and maintain possession of all or any part of the Site, together with all furniture, fixtures, inventory, books, records, papers and accounts of the Franchisee;
- c) to exclude the Franchisee, its agents or employees from the Site;
- d) as attorney-in-fact for the Franchisee, or in its own name, and under the powers herein granted, to hold, operate, manage and control the Franchised Business and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legally rectifiable, as in its discretion may be deemed proper or necessary to cure such default, including actions of forcible entry or detainer and actions in distress of rent, hereby granting full power and authority to the Franchisor to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter;
- e) to cancel or terminate any unauthorized agreements or subleases entered into by the Franchisee, for any cause or ground which would entitle the Franchisor to cancel the same;
- f) to disaffirm any unauthorized agreement, sublease or subordinated lien, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Site or the Site that may seem judicious, in the sole discretion of the Franchisor; and
- g) to insure and reinsure the same for all risks incidental to the Franchisor's possession, operation and management thereof; and/or
- h) notwithstanding any provision of the Franchise Agreement to the contrary, to declare all of the Franchisee's rights but not obligations under the Franchise Agreement to be immediately

terminated as of the date of Franchisee defaults under the Lease and fails to cure said default within the applicable cure period (if any).

The parties agree and acknowledge that Franchisor is not required to assume the Lease, take possession of the Site or otherwise exercise of its other rights described in this Assignment. In the event Franchisor elects to exercise its right to assume the Lease and/or take possession of the Site, it will provide written notice to Franchisee in writing and undertake the other necessary actions at issue. Nothing in this Assignment may be construed to impose an affirmative obligation on the part of Franchisor to exercise any of the rights set forth herein.

7. **Power of Attorney:** Franchisee does hereby appoint irrevocably Franchisor as its true and lawful attorney-in-fact in its name and stead and hereby authorizes it, upon any default under the Lease or under the Franchise Agreement, with or without taking possession of the Site, to rent, lease, manage and operate the Site to any person, firm or corporation upon such terms and conditions in its discretion as it may determine, and with the same rights and powers and immunities, exoneration of liability and rights of recourse and indemnity as the Franchisor would have upon taking possession of the Site pursuant to the provisions set forth in the Lease. The power of attorney conferred upon the Franchisor pursuant to this Assignment is a power coupled with an interest and cannot be revoked, modified or altered without the written consent of the Franchisor.

8. **Election of Remedies:** It is understood and agreed that the provisions set forth in this Assignment are deemed a special remedy given to the Franchisor and are not deemed to exclude any of the remedies granted in the Franchise Agreement or any other agreement between the Franchisor and the Franchisee, but are deemed an additional remedy and shall be cumulative with the remedies therein and elsewhere granted to the Franchisor, all of which remedies are enforceable concurrently or successively. No exercise by the Franchisor or any of the rights hereunder will cure, waiver or affect any default hereunder or default under the Franchise Agreement. No inaction or partial exercise of rights by the Franchisor will be construed as a waiver of any of its rights and remedies and no waiver by the Franchisor of any such rights and remedies shall be construed as a waiver by the Franchisor of any future rights and remedies. Franchisor is not required to exercise any of its rights set forth in Section 6 hereof, but shall have the irrevocable right to do so.

9. **Binding Agreements:** This Assignment and all provisions hereof shall be binding upon the Franchisor and the Franchisee, their successors, assigns and legal representatives and all other persons or entities claiming under them or through them, or either of them, and the words “Franchisor” and “Franchisee” when used herein shall include all such persons and entities and any others liable for payment of amounts under the Lease or the Franchise Agreement. All individuals executing on behalf of corporate entities hereby represent and warrant that such execution has been duly authorized by all necessary corporate and shareholder authorizations and approvals.

10. **Assignment to Control.** This Assignment governs and controls over any conflicting provisions in the Lease.

11. **Attorneys’ Fees, Etc.** In any action or dispute, at law or in equity, that may arise under or otherwise relate to this Assignment, the prevailing party will be entitled to recover its attorneys’ fees, costs and expenses relating to any trial or appeal (including, without limitation, paralegal fees) or arbitration or bankruptcy proceeding from the non-prevailing party.

12. **Severability.** If any of the provisions of this Assignment or any section or subsection of this Assignment shall be held invalid for any reason, the remainder of this Assignment or any such section

or subsection will not be affected thereby and will remain in full force and effect in accordance with its terms.

**IN WITNESS WHEREOF**, the Parties have caused this Assignment to be executed as of the day and year first above written.

**FRANCHISEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

**FRANCHISOR**

**SPAVIA INTERNATIONAL, LLC**

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

**The Lessor hereby consents, agrees with, approves of and joins in with this COLLATERAL ASSIGNMENT AND ASSUMPTION OF LEASE.**

**LESSOR**

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

**EXHIBIT D TO THE FRANCHISE AGREEMENT**

**EFT AUTHORIZATION FORM**

Bank Name: \_\_\_\_\_  
ABA# : \_\_\_\_\_  
Acct. No.: \_\_\_\_\_  
Acct. Name: \_\_\_\_\_

Effective as of the date of the signature below, **[Franchisee Name]** (the “Franchisee”) hereby authorizes Spavia International, LLC (the “Company”) or its designee to withdraw funds from the above-referenced bank account, electronically or otherwise, to cover the following payments that are due and owing Company or its affiliates under the franchise agreement dated \_\_\_\_\_ (the “Franchise Agreement”) for the franchised business located at: \_\_\_\_\_ (the “Franchised Business”): (i) all Royalty Fees; (ii) Fund Contributions (if a Fund is established); (iii) (iii) any amounts due and owing the Company or its affiliates in connection with marketing materials or other supplies or inventory that is provided by Company or its affiliates; and (iv) all other fees and amounts due and owing to Company or its affiliates under the Franchise Agreement. Franchisee acknowledges each of the fees described above may be collected by the Company (or its designee) as set forth in the Franchise Agreement.

The parties further agree that all capitalized terms not specifically defined herein will be afforded the definition they are given in the Franchise Agreement.

Such withdrawals shall occur on a weekly basis, or on such other schedule as Company shall specify in writing. This authorization shall remain in full force and effect until terminated in writing by Company. **[Franchisee Name]** shall provide Company, in conjunction with this authorization, a voided check from the above-referenced account.

**AGREED:**

**FRANCHISEE**

**[INSERT FRANCHISEE NAME]**

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

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

Its: \_\_\_\_\_

**FRANCHISOR APPROVAL**

**SPAVIA INTERNATIONAL, LLC**

By: \_\_\_\_\_  
Marty Langenderfer, CEO

**Please attach a voided blank check, for purposes of setting up Bank and Transit Numbers.**

## EXHIBIT E TO THE FRANCHISE AGREEMENT

### CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT

*(for trained employees, officers, directors, general partners, members, Designated Managers and any other management personnel of Franchisee)*

In consideration of my being a [INSERT TITLE/ROLE WITH FRANCHISEE] of \_\_\_\_\_ (the “Franchisee”), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I (the undersigned) hereby acknowledge and agree that Franchisee has acquired the right from Spavia International, LLC (the “Company”) to: (i) establish and operate a System Day Spa franchised business (the “Franchised Business”); and (ii) use in the operation of the Franchised Business the Company’s trade names, trademarks and service marks (collectively, the “Proprietary Marks”) and the Company’s unique and distinctive format and system relating to the establishment and operation of System Day Spa businesses (the “System”), as they may be changed, improved and further developed from time to time in the Company’s sole discretion, only at the following authorized and approved location: \_\_\_\_\_ (the “Premises”).

1. The Company possesses certain proprietary and confidential information relating to the operation of the Franchised Business and System generally, including without limitation: Company’s proprietary and confidential Operations Manual and other manuals providing guidelines, standards and specifications related to the establishment and operation of the Franchised Business (collectively, the “Manual”); Franchisor’s proprietary training materials and programs, as well as proprietary marketing methods and other instructional materials, trade secrets; information related to any other proprietary methodology or aspects of the System or the establishment and continued operation of the Franchised Business; financial information; any and all customer lists, contracts and other customer information obtained through the operation of the Franchised Business and other franchised Day Spa businesses; any information related to any type of proprietary software that may be developed and/or used in the operation of with the Franchised Business; and any techniques, methods and know-how related to the operation of a franchised Day Spa business or otherwise used in connection with the System, which includes certain trade secrets, copyrighted materials, methods and other techniques and know-how (collectively, the “Confidential Information”).

2. Any other information, knowledge, know-how, and techniques which the Company specifically designates as confidential will also be deemed to be Confidential Information for purposes of this Agreement.

3. As [INSERT TITLE WITH RESPECT TO FRANCHISEE] of the Franchisee, the Company and Franchisee will disclose the Confidential Information to me in furnishing to me the training program and subsequent ongoing training, the Manual, and other general assistance during the term of this Agreement.

4. I will not acquire any interest in the Confidential Information, other than the right to utilize it in the operation of the Franchised Business during the term hereof, and the use or duplication of the Confidential Information, in whole or in part, for any use outside the System would constitute an unfair method of competition.

5. The Confidential Information is proprietary, involves trade secrets of the Company, and is disclosed to me solely on the condition that I agree, and I do hereby agree, that I shall hold in strict confidence all Confidential Information and all other information designated by the Company as confidential. Unless the Company otherwise agrees in writing, I will disclose and/or use the Confidential Information only in connection with my duties as [INSERT TITLE] of the Franchisee, and will continue

not to disclose any such information even after I cease to be in that position and will not use any such information even after I cease to be in that position unless I can demonstrate that such information has become generally known or easily accessible other than by the breach of an obligation of Franchisee under the Franchise Agreement.

6. I will surrender any material containing some or all of the Confidential Information to the Company, upon request, or upon conclusion of the use for which the information or material may have been furnished.

7. Except as otherwise approved in writing by the Company, I shall not, while in my position with the Franchisee, for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, corporation or limited liability company, own, maintain, engage in, be employed by, or have any interest in any other business that: (i) earns ten percent (10%) of its revenue from services including massage, skin care and/or the other Approved Products and Services offered by a System Day Spa; or (iii) grants or has granted franchises or licenses, or establishes or has established joint ventures, for one or more businesses that earn ten percent (10%) of their revenue from services including massage, skin care and/or the other Approved Products and Services offered by a System Day Spa (collectively, a “Competing Business”). I also agree that I will not undertake any action to divert business from the Franchised Business to any Competing Business, or solicit any of the former customers or employees of Franchisee for any competitive business purpose.

7.1 *Post-Term Restrictive Covenant for Designated Manager of Franchised Business or Manager/Officers/Directors of Franchisee.* In the event I am a manager of the Franchised Business, or an officer/director/manager/partner of Franchisee that has not already executed a Personal Guaranty agreeing to be bound by the terms of the Franchise Agreement, then I further agree that I will not be involved in a Competing Business of any kind for a period of two years after the expiration or termination of my employment with Franchisee for any reason: (i) at or within a 40-mile radius of the Premises; or (ii) within a 40-mile radius of any other System Day Spa business that exists at the time my employment with Franchisee ceases through the date of my involvement with the Competing Business. I also agree that I will not be involved in the franchising or licensing of any Competing Business at any location, or undertake any action to divert business from the Franchised Business to any Competing Business or solicit any of the former customers or employees of Franchisee for any competitive business purpose, during this two-year period following the termination or expiration of my employment with the Franchisee.

8. I agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which the Company is a party, I expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

9. I understand and acknowledge that the Company shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Agreement, or any portion thereof, without my consent, effective immediately upon receipt by me of written notice thereof; and I agree to comply forthwith with any covenant as so modified.

10. The Company is a third-party beneficiary of this Agreement and may enforce it, solely and/or jointly with the Franchisee. I am aware that my violation of this Agreement will cause the Company and the Franchisee irreparable harm; therefore, I acknowledge and agree that the Franchisee and/or the Company may apply for the issuance of a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened

harm and without being required to furnish a bond or other security. I agree to pay the Franchisee and the Company all the costs it/they incur(s), including, without limitation, legal fees and expenses, if this Agreement is enforced against me. Due to the importance of this Agreement to the Franchisee and the Company, any claim I have against the Franchisee or the Company is a separate matter and does not entitle me to violate, or justify any violation of this Agreement.

11. I shall not at any time, directly or indirectly, do any acts that would or would likely be injurious or prejudicial to the goodwill associated with the Confidential Information and the System.

12. Franchisee shall make all commercially reasonable efforts to ensure that I act as required by this Agreement.

13. Any failure by Franchisor to object to or take action with respect to any breach of this Agreement by me shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by me.

14. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO AND MYSELF HEREBY IRREVOCABLY SUBMITS HIMSELF TO THE JURISDICTION OF THE STATE COURT CLOSEST TO FRANCHISOR'S THEN-CURRENT HEADQUARTERS OR, IF APPROPRIATE, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT FOR COLORADO. I HEREBY WAIVE ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. I HEREBY AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON ME IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY COLORADO OR FEDERAL LAW. I FURTHER AGREE THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE ONE OF THE COURTS DESCRIBED ABOVE IN THIS SECTION; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.

15. The parties acknowledge and agree that each of the covenants contained in this Agreement are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a part, I expressly agree to be bound by any lesser covenant subsumed within the terms of the covenant that imposes the maximum duty permitted by law as if the resulting covenant were separately stated in and made a part of this Agreement.

16. This Agreement contains the entire agreement of the parties regarding the subject matter of this Agreement. This Agreement may be modified only by a duly authorized writing executed by all parties.

17. All notices and demands required to be given must be in writing and sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, facsimile or electronic mail, (provided that the sender confirms the facsimile or electronic mail, by sending an original confirmation copy by certified or registered mail or expedited delivery service within three (3) business days after transmission), to the respective party at the following address unless and until a different address has been designated by written notice.

The notice shall be addressed to:

Spavia International, LLC  
Attn: Marty Langenderfer  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by facsimile or electronic mail shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) business days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other parties. Business day for the purpose of this Agreement excludes Saturday, Sunday and the following national holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving and Christmas.

18. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and inure to the benefit of its respective parent, successor and assigns.

**IN WITNESS WHEREOF, this Agreement is made and entered into by the undersigned parties as of the Effective Date.**

**UNDERSIGNED**

Signature: \_\_\_\_\_

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

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

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

**ACKNOWLEDGED BY FRANCHISEE**

[FRANCHISEE NAME]

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

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

**EXHIBIT F TO THE FRANCHISE AGREEMENT**

**CONDITIONAL ASSIGNMENT OF TELEPHONE NUMBERS AND DOMAIN NAMES**

1. \_\_\_\_\_, doing business as System Day Spa (the “Assignor”), in exchange for valuable consideration provided by Spavia International, LLC (the “Assignee”), receipt of which is hereby acknowledged hereby conditionally assigns to Assignee all telephone numbers, facsimile numbers, domain names, as well as any listings associated therewith, utilized by Assignor in the operation of a franchised business located at \_\_\_\_\_ (collectively, the “Assigned Property”). The Assigned Property includes the following:

Telephone Number(s): \_\_\_\_\_  
Facsimile Number(s): \_\_\_\_\_  
Domain Name(s) (as permitted by Franchisor under the Franchise Agreement): \_\_\_\_\_  
\_\_\_\_\_.

2. The conditional agreement will become effective automatically upon termination, expiration of Assignor's franchise. Upon the occurrence of that condition, Assignor must do all things required by the telephone company and/or domain name registrar to assure the effectiveness of the assignment of Assigned Property as if the Assignee had been originally issued such Assigned Property and the usage thereof.

3. Assignor agrees to pay the telephone company and/or domain name registrar, on or before the effective date of assignment, all amounts owed for the use of the Assigned Property up to the date this Assignment becomes effective. Assignor further agrees to indemnify Assignee for any sums Assignee must pay the telephone company or domain name registrar to effectuate this agreement, and agrees to fully cooperate with the telephone company and/or domain name registrar, as well as the Assignee, in effectuating this assignment.

**ASSIGNOR**

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

TITLE: \_\_\_\_\_

**ASSIGNEE**

**SPAVIA INTERNATIONAL, LLC**

BY: \_\_\_\_\_  
Marty Langenderfer, CEO

**EXHIBIT C  
TO FRANCHISE DISCLOSURE DOCUMENT**

**SPAVIA INTERNATIONAL, LLC  
DEVELOPMENT AGREEMENT**

**SPAVIA INTERNATIONAL, LLC**  
**D/B/A**  
**SPAVIA**  
**AREA DEVELOPMENT AGREEMENT**

DEVELOPER

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DATE OF AGREEMENT

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**EXHIBITS**

**ATTACHMENT: GUARANTY AND ASSUMPTION OF OBLIGATIONS**

**EXHIBIT A – DEVELOPMENT AREA**

**EXHIBIT B – DEVELOPMENT SCHEDULE**

**EXHIBIT C – FRANCHISE AGREEMENT**

**EXHIBIT D – STATEMENT OF OWNERSHIP INTERESTS AND PRINCIPALS**

**EXHIBIT E – CONFIDENTIALITY AGREEMENT AND ANCILLARY COVENANTS NOT TO  
COMPETE**

**SPAVIA INTERNATIONAL, LLC  
AREA DEVELOPMENT AGREEMENT**

**THIS AREA DEVELOPMENT AGREEMENT** (the “Agreement”), is made and entered into on \_\_\_\_\_ (the “Effective Date”), by and between: (i) Spavia International, LLC, a limited liability company formed and operating under the laws of the State of Colorado with a principal business address at 6312 S. Fiddlers Green Circle, Suite #140E, Greenwood Village, CO 80111 (the “Franchisor”); and (ii) \_\_\_\_\_, a/n \_\_\_\_\_ with a business address at \_\_\_\_\_ (the “Developer”).

**WITNESSETH:**

WHEREAS, as the result of the expenditure of time, effort and expense, Franchisor has created a unique and distinctive proprietary system (hereinafter the “System”) for the establishment, development and operation of a SPAVIA Day Spa (each, a “Day Spa”) that provides day spa services, including professional therapeutic massage and skin care services, to the general public and through a membership-based program, as well as related services and products we authorize in a relaxing, clean and friendly environment under the mark SPAVIA.

WHEREAS, Franchisor owns the System and the right to use the Proprietary Marks (as defined below), and grants the right and license to others to use the System and the Proprietary Marks;

WHEREAS, the distinguishing characteristics of the System include, without limitation, proprietary methodology and procedures for the establishment and operating procedures, site selection guidance and criteria, specifications for the design, layout and construction of the interior of the Day Spa, standards and specifications for the furniture, fixtures and equipment located within a Day Spa, established relationships with approved or designated suppliers for certain products and services, and standards and specifications for advertising, bookkeeping, sales and other aspects of operating a Day Spa.

WHEREAS, Franchisor identifies the System and licenses the use of certain trade names, service marks, trademarks, emblems and indicia of origin, including the mark SPAVIA and other trade names, service marks and trademarks as are now designated and may hereafter be designated by Franchisor in writing for use with the System (the “Proprietary Marks”);

WHEREAS, Developer desires the right to develop, own and operate multiple Day Spas under the System in a defined geographic area under a Development Schedule (the “Development Schedule”) set forth in this Agreement; and

WHEREAS, Developer acknowledges that Developer has conducted an independent investigation of the business contemplated by this Agreement and recognizes that, like any other business, the nature of the business conducted as a Day Spa may evolve and change over time, that an investment in a Day Spa involves a business risk and the success of the venture is largely dependent upon Developer’s business abilities and efforts.

NOW, THEREFORE, the parties, in consideration of the mutual undertakings and commitments set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

**1. REFERENCES AND DEFINITIONS**

**A. DEVELOPMENT AREA**

“Development Area” means the geographic area described in Exhibit A.

**B. DEVELOPMENT SCHEDULE/DEVELOPMENT PERIOD**

“Development Schedule” means the schedule for Developer to open and operate a specific cumulative number of Day Spas as set forth in Exhibit B to this Agreement. Each “Development Period” is a period of time set forth in the Development Schedule wherein Developer must meet each specific development obligations.

**C. FRANCHISE AGREEMENT**

Except for the royalty fee and the advertising contributions, which shall remain the same in each franchise agreement executed pursuant to this Agreement and any extensions of this Agreement, the term “Franchise Agreement” means the then-current form of agreements (including the franchise agreement and any exhibits, riders, collateral assignments of leases or subleases, shareholder guarantees and preliminary agreements) that Franchisor customarily uses in the granting of a franchise for the ownership and operation of a Day Spa.

Concurrent with the execution of this Agreement, Developer shall execute the Franchise Agreement for the first Day Spa that Developer is granted the right to open within the Development Area hereunder. Franchisor, in its sole discretion, but subject to the express provisions contained herein, may modify or amend in any respect the standard form of Franchise Agreement it customarily uses in granting a franchise for a Day Spa.

The parties agree and acknowledge that: (i) Developer must timely execute Franchisor’s then-current form of Franchise Agreement for each Day Spa that Developer is required to open and commence operating pursuant to the Development Schedule; and (ii) Franchisor may, in its discretion, modify or amend the form of Franchise Agreement that Franchisor is using as of the date this Agreement is executed as it deems appropriate for (a) use in the SPAVIA System generally, and (b) execution by the parties in connection with the Day Spas that Developer must subsequently open and commence operating under this Agreement.

**D. PRINCIPALS**

The term “Principals” includes, collectively and individually, Developer’s owners; if Developer is an entity, any officers and directors of Developer (including the officers and directors of any general partner of Developer) and any person and of any entity directly owning and/or controlling ten percent (10%) or more of Developer, or a managing member or manager of a limited liability company. The initial Principals shall be listed in Exhibit D. The Principals must execute an agreement in substantially the form of the attached Guaranty and Assumption of Obligations (immediately following this Agreement) undertaking to be bound jointly and severally to all provisions of this Agreement.

**2. USE OF SYSTEM**

Developer acknowledges, and does not contest, Franchisor’s exclusive ownership and rights to each and every aspect of the System. Developer’s right to use the System is specifically limited to the

Development Area and the terms and conditions of this Agreement and Franchise Agreements executed pursuant thereto.

### **3. GRANT OF DEVELOPMENT RIGHTS**

#### **A. GRANT AND TERM**

In reliance on the representations and warranties of Developer and its Principals, Franchisor grants to Developer, and Developer hereby accepts the right and obligation to develop, a designated number of Day Spas within the Development Area in full compliance with the terms of this Agreement, including the timely development obligations to open a specific cumulative number of Day Spas over prescribed periods of time as established in the Development Schedule; and in full compliance with all obligations and provisions under the form(s) of Franchise Agreement entered into for the right to own and operate each individual Day Spa at a physical location.

The term of this Agreement shall commence upon full execution of this Agreement and, unless earlier terminated by Franchisor pursuant to the terms hereof, this Agreement shall expire upon the earlier of: (i) the date Developer timely opens the last Day Spa it is required to open and commence operations within the Development Area pursuant to this Agreement; or (ii) the last day of the last Development Period on the Development Schedule. Developer acquires no rights under this Agreement to develop Day Spas outside the Development Area. Upon expiration or termination of this Agreement for any reason, Developer will have no rights whatsoever within the Development Area (other than any territorial rights that Franchisor has granted to Developer in connection with any Day Spa(s) that Developer has timely opened pursuant to a Franchise Agreement as required by the Development Schedule prior to the date this Agreement is terminated or expires).

#### **B. COMMITMENT OF DEVELOPER**

Franchisor has granted these rights in reliance on the business skill, financial capability, personal character and expectations of performance by the Developer and its Principals. This Agreement is for the purpose of developing and operating the Day Spas, and is not for the purpose of reselling the rights granted by this Agreement.

#### **C. DEVELOPMENT PLAN**

The following conditions and approvals are conditions precedent before the right of Developer to develop each Day Spa becomes effective. At the time Developer selects a site for each Day Spa, Developer must satisfy the operational, financial and training requirements, set forth below:

(1) Operational: Developer must be in substantial compliance with the material terms and conditions of this Agreement and all Franchise Agreements granted Developer. For each Day Spa operated by Developer, Developer must be in substantial compliance with the standards, specifications, and procedures set forth and described in the Manuals (defined in the Franchise Agreement).

(2) Financial: Developer and the Principals must satisfy Franchisor's financial criteria for Developers and Principals with respect to Developer's operation of its existing Day Spas, if any, and the proposed Day Spa. Developer must be in compliance and not been in default during the twelve (12) months preceding Developer's request for approval, of any monetary obligations of Developer to Franchisor or its affiliate under any Franchise Agreement granted under this Agreement.

**D. EXECUTION OF FRANCHISE AGREEMENT**

This Agreement is not a Franchise Agreement and does not grant Developer any right or license to operate a Day Spa, or to provide services, or to distribute goods, or any right or license in the Proprietary Marks. Developer must timely execute Franchisor's then-current form of Franchise Agreement for each Day Spa that Developer is required to open under the Development Schedule.

**4. DEVELOPMENT RIGHTS AND OBLIGATIONS**

**A. RESERVATION OF RIGHTS**

Franchisor (on behalf of itself and its affiliate and its subsidiaries) retains the rights, in its sole discretion and without granting any rights to Developer: (1) to itself operate, or to grant other persons the right to operate, Day Spas at locations and on terms Franchisor deems appropriate outside the Development Area granted Developer, and (2) to sell the products and services authorized for Day Spas under the Proprietary Marks or under other trademarks, service marks and commercial symbols through dissimilar channels of distribution and under terms Franchisor deems appropriate within and outside the Development Area, including, but not limited to, by electronic means, such as the Internet, and by web sites established by Franchisor, as we determine, in our sole discretion.

In addition, Franchisor, any other developer and any other authorized person or entity shall have the right, at any time, to advertise and promote the System, in the Development Area. Developer acknowledges and agrees that Developer is only granted the right to develop and operate Day Spas within the Development Area. Accordingly, within and outside the Development Area, Franchisor and its affiliate and its subsidiaries may also offer and sell, and may authorize others to offer and sell products and services identified by the Proprietary Marks (including memberships and gift cards) at or from any location.

Franchisor or any other developer or any other authorized person or entity shall have the right, at any time, to establish and operate businesses offering dissimilar products or dissimilar services within and outside the Development Area granted by the Area Development Agreement and within and outside the Designated Territory granted by a Franchise Agreement, under the Proprietary Marks and on any terms and conditions as determined by Franchisor; to acquire the assets or ownership interests of one or more businesses providing products and services similar to those provided at a Day Spa and to franchise, license or create similar arrangements with respect to these businesses once acquired, wherever these businesses (or the franchisees or the licensees of these businesses) are located or operating, which may include within the Development Area granted by this Area Development Agreement and within the Designated Territory granted by any franchise agreement.

Franchisor may be acquired (whether through acquisition of assets, ownership interests or otherwise, regardless of the form of transaction, by a business providing products and similar services to those provided at a Day Spa, or by another business, even if such business operates, franchises and/or licenses competitive businesses within the Development Area granted by the Area Development Agreement and within the Designated Territory granted by a Franchise Agreement.

In addition to the foregoing rights, Franchisor retains the right to conduct any other business activity, whether or not using the Marks and System, that is not specifically prohibited by this Agreement.

Franchisor has no obligation and will not pay Developer if it exercises any of the rights specified above within the Development Area granted by the Area Development Agreement or within the Designated Territory granted by a Franchise Agreement.

**B. RIGHTS DURING DEVELOPMENT PERIODS**

Except as provided below, if Developer (i) is in compliance with the material terms and conditions contained in this Agreement, including the timely development obligations to open a specific cumulative number of Day Spas over prescribed periods of time as established in Exhibit B (the “Development Schedule”) and (ii) is in substantial compliance with all material obligations under Franchise Agreements executed by Developer for individual Day Spas under this Agreement; then during the Development Schedule, Franchisor: (i) will grant Developer the right to own and operate Day Spas located within the Development Area pursuant to the terms of this Agreement; and (ii) will not operate (directly or through its affiliate), nor grant a franchise for the location of, any Day Spa within the Development Area, except for franchises granted to Developer under this Agreement, or other than through the uses and exceptions as described in Section 4(A) of this Agreement.

If Developer, for any reason within his control, fails to comply with the Development Schedule, this failure constitutes a material default of this Agreement, and Franchisor has the right to terminate this Agreement pursuant to Section 14 of this Agreement. In the event Developer fails to cure the noticed default within the time allowed under Section 14, Franchisor may terminate this Agreement and grant individual or area development franchises within the Development Area to third parties or own and operate Day Spas owned by Franchisor or by the affiliate of Franchisor. Franchisor and Developer agree that the timely development of Day Spas by Developer in compliance with the Development Schedule will control the rights granted Developer by this Agreement, regardless of the time period granted Developer to open a Day Spa pursuant to a Franchise Agreement for such Day Spa. Upon termination of this Agreement, all rights granted Developer revert to Franchisor, who is free to franchise any other person to use the System within the Development Area or to itself own and operate Day Spas within the Development Area.

Notwithstanding anything contained in this Section, Franchisor will provide Developer with a one-time reasonable extension of time not to exceed 90 days to comply with its development obligations in any one of the Development Period as set forth in the Development Schedule (see Exhibit B), provided: (i) Developer has already executed a lease for, or otherwise obtained, a Premises that Franchisor approves for any Day Spa(s) it is required to open and operate during that Development Period; and (ii) Developer notifies Franchisor of its need for such an extension no less than 30 days prior to expiration of that Development Period. The parties agree and acknowledge that Franchisor’s grant of this one-time extension under this Section will not extend, modify or otherwise affect the expiration of any of Developer’s subsequent Development Periods or subsequent development obligations.

**C. DEVELOPMENT OBLIGATIONS**

Developer will at all times faithfully, honestly, and diligently perform his obligations under this Agreement and will continuously exert his best efforts to timely promote and enhance the development of Day Spas within the Development Area. Developer agrees to open and operate the cumulative number of Day Spas at the end of each Development Period set forth in the Development Schedule (see Exhibit B). Developer agrees that compliance with the Development Schedule is the essence of this Agreement.

**D. EXPIRATION OR TERMINATION**

After this Agreement expires or terminates for any reason, Franchisor shall have the absolute right to own and operate, or license other parties the right to own and operate DAY SPAS, in the Development Area, except in those Designated Territories granted under each Franchise Agreement that Developer enters into pursuant to this Agreement.

## **5. DAY SPAS CLOSINGS**

If during the term of this Agreement, Developer ceases to operate any Day Spa developed under this Agreement for any reason, Developer must develop a replacement Day Spa to fulfill Developer's obligation to have open and in operation the required number of Day Spas upon the expiration of each Development Period. The replacement Day Spa must be open and in operation within nine (9) months after Developer ceases to operate the Day Spa to be replaced or Developer will be in material breach of this Agreement. If, during the term of this Agreement, Developer, in accordance with the terms of any Franchise Agreement for a Day Spa developed under this Agreement, transfers its interests in that Day Spa, a transferred Day Spa shall continue to be counted in determining whether the Developer has complied with the Development Schedule so long as it continues to be operated as a Day Spa. If the transferred Day Spa ceases to be operated as a Day Spa, it will not count toward Developer's compliance with the Development Schedule.

## **6. PROCEDURE FOR EXERCISING DEVELOPMENT RIGHTS**

Developer shall enter into a separate Franchise Agreement with Franchisor for each Day Spa developed pursuant to this Agreement. The Franchise Agreement to be executed for the first Day Spa to be developed by Developer under this Agreement must be executed and delivered to Franchisor concurrently with the execution and delivery of this Agreement. All subsequent Day Spas developed under this Agreement must be established and operated under the then-current form of Franchise Agreement then being used by Franchisor for Day Spas under the System. The then-current form of Franchise Agreement may differ from the form attached as Exhibit C; however, the provisions regarding royalty fees and advertising contributions shall remain as established in Exhibit C. Developer must execute the then-current form of Franchise Agreement for each Day Spa to be developed under this Agreement

Developer acknowledges that the projected opening dates for each Day Spa set forth in the Development Schedule are reasonable requirements. Developer must execute a Franchise Agreement for each Day Spa by the earlier of: (i) fifteen (15) days from the date a lease is signed for a location that Franchisor approves for the Day Spa at issue; and (ii) the date necessary for Developer to otherwise comply with its development obligations under this Agreement.

## **7. DUTIES OF DEVELOPER**

### **A. ORGANIZATION OF DEVELOPER**

Developer makes the following representations, warranties and covenants and accepts the following continuing obligations:

(1) If Developer is a corporation, limited liability company or a partnership, Developer represents, warrants and covenants that: (i) Developer is duly organized and validly existing under the state law of its formation; (ii) Developer is duly qualified and is authorized to do business in each jurisdiction which requires such qualification; (iii) the execution and performance of this Agreement are within Developer's corporate power, if Developer is a corporation or if Developer is a partnership permitted under Developer's written partnership agreement, or if Developer is a limited liability company, permitted under the management agreement;

(2) If Developer is a corporation, copies of its articles of incorporation, bylaws, other governing documents, any amendments, resolutions of the Board of Directors authorizing entry into and performance of this Agreement, shall be promptly furnished to Franchisor. If Developer is a partnership, copies of Developer's written partnership agreement and other governing documents shall be promptly

furnished to Franchisor before the execution of this Agreement. If Developer is a limited liability company, copies of Developer's organizational documents and management agreement shall be promptly furnished to Franchisor;

(3) If Developer is a corporation, partnership, limited liability company, or other form of legal entity other than an individual, Developer shall maintain at all times a current list of all owners of record and all beneficial owners of any class of voting securities in Developer or, if Developer is a partnership, Developer shall maintain at all times a current list of all owners of an interest in the partnership, or, if Developer is a limited liability company, it shall maintain at all times a current list of managers and members of the limited liability company;

(4) If, after the execution of this Agreement, any person ceases to qualify as one of the Developer's Principal's (as defined in Section 1), or if Developer believes in the event any individual later qualifies as one of Principals, Developer shall promptly notify Franchisor and that person shall execute any documents (including, as applicable, this Agreement) as Franchisor may reasonably require;

(5) If Developer is a corporation, Developer must maintain stop-transfer instructions against the transfer of its records of any equity security and each stock certificate of the corporation shall have conspicuously endorsed upon it a statement in a form satisfactory to Franchisor that it is held subject to all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section 7 shall not apply to a publicly held corporation. If Developer is a partnership, its written partnership agreement shall provide that ownership of an interest in the partnership is held subject to and that further assignment or transfer is subject to restrictions imposed on assignments by this Agreement. If Developer is a limited liability company, its articles of organization and operating agreement must provide that ownership interests are subject to restrictions on transfers imposed on assignments by this Agreement;

(6) Developer agrees to maintain at all times throughout the term of this Agreement, sufficient working capital to fulfill its obligations under this Agreement; and

(7) Each Principal who has right, title, or interest of ten percent (10%) or more in the ownership of Developer, must each execute and bind themselves to the confidentiality and noncompetition covenants set forth in the Confidentiality Agreement and Ancillary Covenants Not to Compete (Exhibit E). The Principals agree to jointly and severally guarantee the performance of all of Developer's obligations, under the terms of this Agreement, except the obligation to open Day Spas.

## **B. REQUIREMENTS OF REPRESENTATIVE**

Upon the execution of this Agreement, Developer must designate and retain an individual throughout the term of this Agreement to act on behalf of Developer in all transactions with Developer concerning Developer's obligations under this Agreement (the "Representative"). If Developer is an individual, Developer must perform all obligations of the Representative. The Representative must use reasonable efforts to do the following, during the entire period he serves in that capacity: (1) maintain a direct or indirect ownership interest in the Developer; (2) devote substantial time and reasonable efforts to the supervision and conduct of the business contemplated by this Agreement and execute this Agreement as one of the Principals; and (3) meet Franchisor's standards and criteria for a Representative as set forth in the Manuals or otherwise in writing by Franchisor. If the Representative or any designee is not able to continue to serve in the capacity of Representative or no longer qualifies, Developer must promptly notify Franchisor and designate a replacement.

**C. BEST EFFORTS**

Developer must use his best efforts to substantially comply with all requirements of federal, state and local rules, regulations and orders.

**8. SITE SELECTION, LEASES, FRANCHISE AGREEMENT**

**A. SELECTION OF SITE BY DEVELOPER**

Developer assumes all costs, liabilities, expenses and responsibilities for locating, obtaining, financing and developing sites for Day Spas, and for constructing and equipping Day Spas at those sites. The selection of a site and the development of a Day Spa at any site is the responsibility of Developer. The selection of a site by Developer is subject to our approval and must be in compliance with Franchisor's site selection procedures and its standards for demographic characteristics, parking, traffic patterns and the predominant character of the neighborhood, and other commercial characteristics of the site and any other factors Franchisor may consider relevant in reviewing a site selected by Developer. Developer must not enter into a binding commitment with a prospective seller or lessor of real estate with respect to the site for a Day Spa until Franchisor has approved the proposed site. Developer specifically acknowledges that the selection of a site by Developer in compliance with Franchisor's site selection procedures and the approval of a site by Franchisor does not constitute a representation, promise or guarantee by Franchisor that the site and the Day Spa to be operated at that site will be profitable or successful. Developer acknowledges that factors governing the success of a Day Spa are unpredictable and beyond Franchisor's control. Franchisor is not responsible to Developer or to any other person or entity if a site approved by Franchisor fails to meet Developer's expectations for revenue or operational criteria.

**B. DEMOGRAPHIC INFORMATION**

Before acquiring a site for any Day Spa by lease or purchase, Developer must locate a site for the Day Spa that satisfies the site selection guidelines Franchisor provides to Developer and must submit to Franchisor, in the form Franchisor specifies, a description of the site, a demographic study and other information and materials Franchisor may reasonably require and shall represent in writing that Developer has the option or other firm commitment to obtain the site. Franchisor will review information provided by Developer for the site which may include the population of the work force or residents, character of the neighborhood, household income, ingress and egress, and trade area. If on-site evaluations by Franchisor are requested by Developer or determined to be necessary by Franchisor, then Franchisor or its designee will, at Franchisor's expense, provide a single on-site inspection in connection with each Day Spa that Developer is required to open hereunder at Franchisor's expense. Developer must reimburse Franchisor for the reasonable expenses Franchisor incurs for any additional on-site evaluations, including, but not limited to, the cost of travel, lodging, meals and wages of Franchisor's representatives and employees.

**C. LEASE OR PURCHASE OF SITE**

Developer shall not make any binding commitment to purchase or lease real estate for a proposed site for a Day Spa until the proposed site has been approved by Franchisor and a Franchise Agreement has been executed by Franchisor and Developer (or its affiliate) for a Day Spa at such site. Developer shall provide Franchisor with a copy of either the proposed contract of sale or lease relating to the site before the Franchise Agreement is executed. Developer must comply with the conditions set forth in the Franchise Agreement at issue in connection with the signing of such a lease, including ensuring that both Developer and the landlord for the proposed site execute Franchisor's prescribed form of Collateral Assignment of Lease.

#### **D. FRANCHISE AGREEMENT**

Franchisor will deliver a Franchise Agreement, in the then-current form, to Developer for execution by Developer (or its affiliate). With the execution of this Agreement, Developer must concurrently execute the Franchise Agreement establishing Developer's first Day Spa and return both this Agreement and the Franchise Agreement to Franchisor. If Developer fails to execute the Franchise Agreement, Franchisor may, at its sole discretion, revoke its approval of the site and its offer to grant Developer a franchise to operate a Day Spa at the site.

#### **9. DEVELOPMENT FEE**

Concurrently with the execution of this Agreement, Developer must pay to Franchisor a nonrefundable area development fee equal to \$ \_\_\_\_\_ (the "Development Fee"). The Development Fee is deemed fully earned by Franchisor upon execution of this Agreement in consideration of lost development opportunities and is nonrefundable under any circumstances. Developer will not be required to pay any additional initial franchise fee for each Day Spa opened pursuant to this Agreement upon executing a Franchise Agreement for that Day Spa.

#### **10. SUPERIORITY OF INDIVIDUAL FRANCHISE AGREEMENT**

Developer understands and agrees that any and all individual Franchise Agreements executed by Developer and Franchisor for Day Spas within the Development Area are independent of this Agreement. The continued effectiveness of any Franchise Agreement does not depend on the continued effectiveness of this Area Development Agreement. If any conflict arises with this Agreement and any Franchise Agreement, the Franchise Agreement controls, has precedence and superiority (except with respect to the opening deadline for each Day Spa Developer is granted the right to open under this Agreement).

#### **11. COVENANTS**

A. Developer and the Representative covenant that during the term of this Agreement, except as otherwise approved in writing by Franchisor, Developer and the Representative must devote substantial time, energy and best efforts to the management and operation of the development activities required under this Agreement.

B. Developer acknowledges that, as a participant in Franchisor's System, Developer will receive proprietary and confidential information and materials, trade secrets, and the unique methods, procedures and techniques that Franchisor has developed. As such, Developer agrees to the covenants in this Section to protect Franchisor, the System, Proprietary Marks and Franchisor's other franchisees and developers.

(1) During the term of this Agreement, neither Developer, its Principals, owners, officers or guarantors, nor any immediate family of Developer, its Principals, owners, officers or guarantors, may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

(a) Own, maintain, engage in, be employed or serve as an officer, director, or principal of, lend money or extend credit to or have any interest in or involvement with, any other business that (a) generates ten percent (10%) or more of its revenue from the sale of massages, skin care treatments or any of the other Approved Products and Services offered by a Day Spa location (each, a "Competing Business"), or (b) offers or grants licenses or franchises, or establishes joint ventures, for the ownership or operation of a Competing Business. For purposes of this Agreement, a Competing Business does not

include: (i) any business operated by Franchisee under a Franchise Agreement with Franchisor; or (ii) any business operated by a publicly-traded entity in which Franchisee owns less than two percent (2%) legal or beneficial interest

(b) Employ or seek to employ any person who is at that time employed by Franchisor, Franchisor's affiliates or any other System franchisee or developer, or otherwise directly or indirectly induce or seek to induce such person to leave his or her employment thereat; or

(c) Divert, or attempt to divert, any prospective customer to a Competing Business in any manner.

(2) For a period of two (2) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Developer, its Principals, owners, officers and guarantors, nor any member of the immediate family of Developer, its Principals, owners, officers or guarantors, may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation, be involved with any business that competes in whole or in part with Franchisor by offering or granting licenses or franchises, or establishing joint ventures, for the ownership or operation of a Competing Business. The geographic scope of the covenant contained in this Section is any location where Franchisor can demonstrate it has offered or sold franchises as of the date this Agreement is terminated or expires.

(3) For a period of two (2) years after the expiration and nonrenewal, transfer or termination of this Agreement, regardless of the cause, neither Developer, its Principals, owners, officers and guarantors, nor any member of the immediate family of Developer, its Principals, owners, officers or guarantors, may, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation:

(a) Own, maintain, engage in, be employed as an officer, director, or principal of, lend money to, extend credit to or have any interest in or involvement with any other Competing Business: (i) within the Development Area; or (ii) within a forty (40) mile radius of the perimeter of the Development Area being granted hereunder or any other designated territory or development area licensed by Franchisor to a Day Spa (whether franchised or company-owned) at any time from the date of expiration or termination of this Agreement through the date Franchisee attempts to undertake the competitive activity at issue

(b) Solicit business from customers of Developer's former Day Spas or contact any of Franchisor's suppliers or vendors for any competitive business purpose, nor solicit any of Franchisor's other employees, or the employees of Franchisor's affiliates or any other System franchisee or developer to discontinue employment.

C. It is the parties' intent that the provisions of this Section 11 be judicially enforced to the fullest extent permissible under applicable law. Accordingly, the parties agree that any reduction in scope or modification of any part of the noncompetition provisions contained herein shall not render any other part unenforceable. In the event of the actual or threatened breach of this Section 11 by Developer, any of Developer's Principals, or any member of the immediate family of Developer or Developer's Principals, Franchisor shall be entitled to an injunction restraining such person from any such actual or threatened breach. Developer acknowledges that the covenants contained herein are necessary to protect the goodwill of other System franchisees and developers, and the System. Developer further acknowledges that covenants contained in this Section 11 are necessary to protect Franchisor's procedures and know-how transmitted during the term of this Agreement. Developer agrees that in the event of the actual or threatened breach of this Section 11, Franchisor's harm will be irreparable and that Franchisor has no adequate remedy

at law to prevent such harm. Developer and the Principals agree to pay all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the enforcement of this Section 11. Developer acknowledges and agrees on Developer's own behalf and on behalf of the persons who are liable under this Section 11 that each has previously worked or been gainfully employed in other careers and that the provisions of this Section 11 in no way prevent any such person from earning a living. Developer further acknowledges and agrees that the time limitation of this Section 11 shall be tolled during any default under this Section 11.

D. Developer must ensure that all management personnel of Developer's Day Spas opened under this Agreement, as well as any officers or directors of Developer, execute Franchisor's then-current form of Confidentiality and Non-Competition Agreement. Developer must furnish Franchisor a copy of each executed agreement.

E. Developer hereby agrees that the existence of any claim Developer may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to Franchisor's enforcement of the covenants contained in this Section 11. Developer agrees to pay all costs and expenses (including reasonable attorneys' fees) that Franchisor incurs in connection with the enforcement of this Section 11.

F. Notwithstanding the foregoing, Franchisor reserves the right, in its sole discretion, to reduce the period of time or geographic scope of the non-competition covenants set forth in this Section 11 and in Exhibit E, by written notice to Developer.

## **12. RELATIONSHIP OF THE PARTIES**

A. The parties agree that this Agreement does not create a fiduciary relationship between them, that Developer is an independent contractor and must at all times represent itself as an independent contractor. This Agreement does not create either party as an agent, legal representative, subsidiary, joint venturer, partner, employee or joint employer. Developer shall hold itself out to the public as an independent contractor operating pursuant to this Agreement. Developer agrees to take any action necessary to that end, including without limitation, exhibiting a notice on signage and member contracts, as required by Franchisor as to content and manner of disclosure.

B. Developer understands and agrees that nothing in this Agreement authorizes Developer to make any contract, agreement, warranty or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name and that Franchisor shall in no event assume liability for, or be deemed liable under this Agreement as a result of any such action, or for any act or omission of Developer in the conduct of its business pursuant to this Agreement or any claim or judgment arising therefrom.

C. Developer and each of the Principals shall, at all times, indemnify and hold harmless Franchisor and its affiliate, successors and assigns and the officers, directors, shareholders, agents, representatives and employees of each of them ("Indemnitees") from all losses and expenses incurred in connection with any formal or informal action, suit, proceeding, claim, demand, investigation or inquiry or any settlement thereof, which arises out of or is based upon the action or negligence of Developer or any Principal in any of the following:

(1) The infringement, alleged infringement, or any other violation or alleged violation of any Proprietary Mark or other proprietary right owned by Franchisor;

(2) Claims of sexual harassment or discrimination by Developer's employees or by a guest at the Day Spa;

(3) The violation of any federal, state or local law, regulation, rule, standard or directive, or any industry standard, including without limitation, health, sanitation and safety laws and regulations;

(4) Libel, slander or any other form of defamation of Franchisor or the System, by Developer or the Principals;

(5) The violation or breach by Developer or any of the Principals of any warranty, representation, agreement or obligation of this Agreement or any Franchise Agreement; and

(6) Acts, errors or omissions of Developer or any of its agents, servants, employees, contractors, partners, affiliates or representatives.

Notwithstanding anything contained in this Section 12(C), Developer will not be required to indemnify, defend or hold Franchisor harmless for any claims or causes of action that arise solely out of Franchisor's gross negligence or willful misconduct.

D. Developer and each of the Principals agree to give Franchisor immediate notice of any such action, suit, proceeding, claim, demand, inquiry or investigation.

E. Franchisor may, at any time and without notice, as it, in its reasonable discretion, consent, or agree to settlement, or take such other remedial or corrective action as it deems expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation.

F. All losses and expenses incurred under this Section 12 shall be chargeable to and shall be paid by Developer or any of the Principals pursuant to this Section 12, regardless of any actions, activity or defense undertaken by Franchisor or the subsequent success or failure of such actions, activity or defense. However, Franchisor will indemnify Developer from losses or expenses resulting from the direct result of Franchisor's negligence or intentional acts.

G. The phrase "losses and expenses" shall include, without limitation, all monetary losses, compensatory, exemplary or punitive damages, fines, actual costs, expenses, lost profits, reasonable attorneys' fees, court costs, settlement amounts, judgments, damages to Franchisor's reputation and goodwill, costs of financing or advertising material and media costs and all expenses of recall, refunds, compensation, public notices and such other amounts incurred in connection with the matters described.

H. Developer must give Franchisor notice of any such action immediately upon Developer having received notice of any such action, claim or proceeding.

I. Under no circumstances shall Indemnitees be required or obligated to seek recovery from third parties or otherwise mitigate their losses in order to maintain a claim against Developer. Developer and the Principals agree that the failure of Franchisor to pursue recovery or mitigate loss from third parties will in no way reduce the amounts recoverable from Developer or the Principals.

J. Developer and the Principals expressly agree that the terms of this Section 12 shall continue in full force and effect after the termination, expiration or transfer of this Agreement or any interest herein.

### **13. PROPRIETARY MARKS**

A. Developer acknowledges that Developer has no interest in or to the Proprietary Marks and Developer's right to use the Proprietary Marks is derived solely from the individual Franchise Agreements

entered into between Developer and Franchisor for the purpose of operating Day Spas. Developer agrees that all usage of the Proprietary Marks by Developer and any goodwill established exclusively benefits Franchisor. Developer agrees that after termination or expiration of this Agreement, Developer will not, except with respect to Day Spas operated by Developer under individual Franchise Agreements, directly or indirectly, at any time or in any manner identify itself or any business as a Developer or former Developer of, or otherwise associated with, Franchisor or use in any manner or for any purpose any Proprietary Mark or other indicia of a Day Spa or any colorable imitation.

B. Developer must not use any Proprietary Mark as part of any corporate or trade names or with any prefix, suffix, or other modifying words, terms, designs, or symbols, or in any modified form, nor may Developer use any Proprietary Mark in connection with any business or activity, other than the business conducted by Developer under Franchise Agreements entered into between Developer and Franchisor, or in any other manner not explicitly authorized in writing by Franchisor.

C. Developer must immediately notify Franchisor in writing of any apparent infringement of or challenge to Developer's use of any Proprietary Mark, or claim by any person of any rights in any Proprietary Mark or similar trade name, trademark, or service mark of which Developer becomes aware. Developer must not communicate with any person other than Franchisor and its counsel regarding any infringement, challenge or claim. Franchisor has sole discretion to take action it deems appropriate and the right to exclusively control any litigation, U.S. Patent and Trademark Office proceeding or other administrative proceeding arising out of any infringement, challenge, or claim or otherwise relating to any Proprietary Mark.

D. Franchisor has registered the domain name [www.spaviadayspa.com](http://www.spaviadayspa.com). Developer acknowledges that Franchisor is the lawful and sole owner of this domain name, which incorporates the trademark SPAVIA. Developer agrees not to register the trademark SPAVIA or any of the Proprietary Marks now or hereafter owned by Franchisor or any abbreviation, acronym or variation of the Proprietary Marks, or any other name that could be deemed confusingly similar, as Internet domain names, including, but not limited to, generic and country code top level domain names available at the present time or in the future.

E. Developer agrees and acknowledges that this Agreement does not grant Developer any rights whatsoever to use any Proprietary Mark, and that such rights are only granted through Developer's timely execution of a Franchise Agreement that will govern the operation of a Day Spa that Developer is required to open pursuant to the Development Schedule

#### **14. TERMINATION**

A. Franchisor may terminate this Agreement for a material default of this Agreement by Developer and all rights granted herein shall automatically terminate upon written notice to Developer, upon the occurrence of any of the following:

(1) If Developer becomes insolvent, makes a general assignment for the benefit of creditors; files a voluntary petition in bankruptcy, or an involuntary petition is filed against Developer in bankruptcy; or Developer is adjudicated bankrupt; or if a bill in equity or other proceeding for the appointment of a receiver of Developer or other custodian for Developer or assets is filed and consented to by Developer; or if a receiver or other custodian (permanent or temporary) of Developer's assets or property, or any part thereof, is appointed by a court of competent jurisdiction; or if a proceeding for a composition of creditors under any state or federal law should be initiated against Developer; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer, (unless supersedeas bond is filed); or if Developer is dissolved; or if execution is levied against Developer; or if a suit to foreclose any lien or

mortgage against the premises or Day Spa is levied; or if the real or personal property of Day Spa is sold after levy thereon by any sheriff, marshal or law officer;

(2) If Developer or any of its Principals fail to comply with Section 11 of this Agreement;

(3) If Developer or a Principal discloses the contents of the Manuals or other confidential information contrary to this Agreement;

(4) If an immediate threat or danger to public health or safety results from the operation of a Day Spa operated by Developer under a Franchise Agreement;

(5) If Developer or a Principal has made material misrepresentations in connection with its application for the franchise;

(6) If Developer fails on three (3) or more occasions within any one (1) year period to comply with one (1) or more provisions of this Agreement, whether or not such failures to comply are cured after notice thereof is delivered to Developer; or

(7) Failure to comply with the conditions of transfer of any interest in Developer as required of this Agreement.

B. Franchisor may terminate this Agreement and all rights granted herein, upon thirty (30) days written notice to Developer, or a less time as specified below, for a material default of this Agreement, which shall constitute good cause for termination and the failure of Developer to cure the good cause for termination within the notice period. Good cause for termination shall be the occurrence of any one of the following events of default:

(1) If Developer fails to meet the development requirements set forth in the Development Schedule;

(2) If Developer fails to develop, open and operate each Day Spa and execute each Franchise Agreement in compliance with this Agreement;

(3) If Developer fails to designate a qualified replacement Representative;

(4) If Developer misappropriates, misuses or makes any unauthorized use of the Proprietary Marks or materially impairs the goodwill associated with the Proprietary Marks or with the System and does not cure such default following written notice from Franchisor;

(5) If Developer, fails, refuses or is unable to promptly pay when due any monetary obligation to Franchisor or its affiliate required by this Agreement, or by any Franchise Agreement or any other agreement between the parties and does not cure the monetary default within fourteen (14) days following written notice from Franchisor;

(6) If Developer fails to correct a deficiency of a health, sanitation, or safety issue after notice of such deficiency is issued by a local, state, or federal agency or regulatory authority; or

(7) If Developer fails to comply with any other material term or material condition imposed by this Agreement or any Franchise Agreement executed pursuant thereto.

C. Failure of Developer to cure the default within the specified time, or a longer period of time as applicable law may require, will result in Developer's rights under this Agreement to be terminated effective on the expiration of the notice period, and without further notice to Developer.

D. Upon termination of this Agreement, Developer has no right to establish or operate any Day Spa for which an individual Franchise Agreement has not already been executed by both Franchisor and Developer, as well as delivered to Developer, as of the date of termination. Franchisor, effective upon termination of this Agreement, shall have the absolute right and is entitled to establish, and to license others to establish, Day Spas in the Development Area, except as may be otherwise provided under any Franchise Agreement which is then in effect between Franchisor and Developer.

E. No default under this Agreement shall constitute a default under any Franchise Agreement between the parties, unless Developer's acts or omissions also violate the terms and conditions of the applicable Franchise Agreement.

F. No right or remedy herein conferred upon or reserved to the Franchisor is exclusive of any other right or remedy provided or permitted by law or in equity.

## **15. EFFECT OF TERMINATION AND EXPIRATION**

All obligations of Franchisor and Developer under this Agreement, which expressly or by their nature survive the expiration or termination of this Agreement, continue in full force and effect after the expiration or termination of this Agreement and until they are satisfied in full or by their nature expire.

## **16. TRANSFER OF INTEREST**

### **A. BY FRANCHISOR**

Franchisor has the absolute right to transfer or assign this Agreement and all or any part of its rights, duties or obligations to any person or legal entity without the consent of or notice to Developer. This Agreement shall inure to the benefit of, and be binding on the successors and assigns of Franchisor.

### **B. DEVELOPER MAY NOT ASSIGN WITHOUT APPROVAL OF THE FRANCHISOR**

Developer understands and acknowledges that the rights and duties created by this Agreement are personal to Developer and its owners and that Franchisor has granted these rights to Developer in reliance upon the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of Developer and/or its owners. Unless otherwise provided with respect to an assignment to an entity controlled by Developer as provided in Section 16(D), none of these rights nor any ownership interest in Developer may be voluntarily, involuntarily, directly or indirectly, assigned, sold, conveyed, pledged, sub-franchised or otherwise transferred by Developer or its owners (including by merger or consolidation, by issuance of additional securities representing an ownership interest in Developer, by conversion of a general partnership to a limited partnership, by transfer or creation of an interest as a general partner of a partnership, by transfer of an interest in Developer or in this Agreement in a divorce proceeding, or if Developer or an owner of Developer dies, by will, declaration of or transfer in trust or the laws of the intestate succession) without the approval of Franchisor. Any attempted assignment or transfer without such approval will constitute a breach of this Agreement and will not transfer any rights or interests to such assignee or transferee.

### **C. CONDITIONS FOR APPROVAL OF ASSIGNMENT**

If Developer is in substantial compliance with this Agreement, Franchisor shall not unreasonably withhold its approval of an assignment or transfer contemplated by Section 16(B) so long as the proposed assignee or transferer has good and moral character, sufficient business experience and aptitude to develop and own and operate Day Spas, and otherwise meets Franchisor's then-current standards for developers and System franchisees. Franchisor may require that any one or more of the following conditions be met before, or concurrently with, the effective date of any such assignment or transfer:

(1) All the accrued monetary obligations of Developer or any of its affiliates and all other outstanding obligations to Franchisor or its affiliate arising under this Agreement or any Franchise Agreement or other agreement between them and all trade accounts and any other debts to Franchisor, of whatsoever nature, prior to the transfer becoming effective shall be satisfied;

(2) Developer and its affiliates are not in material default of any substantive provision of this Agreement, any amendment hereof or successor hereto, or any Franchise Agreement granted pursuant to its terms, or other agreement between Developer or any of its affiliates and Franchisor or its affiliate;

(3) Developer and its Principals, as applicable, shall have executed a general release, in a form satisfactory to Franchisor, releasing Franchisor of any and all claims against Franchisor and its affiliate and their respective past and present partners, the past and present officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees of each of them, in their corporate and individual capacities, including, without limitation, claims arising under or related to this Agreement and any other agreements between Developer and Franchisor, or under federal, state or local laws, rules, and regulations or orders;

(4) The transferee shall demonstrate to Franchisor's satisfaction that the transferee meets the criteria considered by Franchisor when reviewing a prospective developer's application for development rights, including, but not limited to, Franchisor's managerial and business experience standards, that the transferee possesses good moral character, business reputation and credit rating; that the transferee has the aptitude, financial resources and capital committed for the operation of the business, and the geographic proximity of other territories with respect to which transferee has been granted development rights or of other Day Spas operated by transferee, if any;

(5) The transferee shall sign a written assumption agreement, in a form prescribed by Franchisor, assuming full, unconditional, joint and several liability from the date of the transfer of all obligations, covenants and agreements of Developer in this Agreement; and, if transferee is a corporation, limited liability company or a partnership, transferee's shareholders, partners, members or other investors, as applicable, shall also execute such agreement;

(6) Developer shall pay Franchisor's then-current transfer fee to Franchisor at the time of transfer, unless the transfer is being made: (i) to an immediate family member of Developer that Franchisor approves pursuant to Section 16(F); or (ii) in the form of an encumbrance of the assets of any Franchised Business (or a subordinating Franchisor's security interest in such assets) as a necessary condition to obtain SBA or traditional bank financing;

(7) Developer acknowledges and agrees that each condition, which must be met by the transferee, is reasonable and necessary; and

(8) Developer must pay any referral fees or commissions that may be due to any franchise broker, sales agent or other third party upon the occurrence of such assignment.

Franchisor's consent to a transfer of any interest in Developer described herein shall not constitute a waiver of any claims it may have against the transferring party, nor shall it be deemed a waiver of Franchisor's right to demand exact compliance with any of the terms of this Agreement by the transferee. Upon an approved transfer under this Section, Developer will only be bound by, and liable in connection with, its post-term obligations under this Agreement.

**D. ASSIGNMENT TO A CORPORATION OR LIMITED LIABILITY COMPANY**

(1) Notwithstanding the provisions of this Section 16 of this Agreement, upon thirty (30) days' prior written notice to Franchisor, and without payment of a transfer fee, Developer may assign this Agreement to a corporation or limited liability company that conducts no business other than the development and/or operation of Day Spas. Developer shall be the owner of all the voting stock or interest of the corporation or limited liability company, or if Developer is more than one individual, each individual shall have the same proportionate ownership interest in the corporation as he had in Developer before the transfer. Developer and each of its Principals, as applicable, may transfer, sell or assign their respective interests in Developer, by and amongst themselves with Franchisor's prior written consent, which consent shall not be unreasonably withheld; but may be conditioned on compliance with Section 11, except that such transfer, sale or assignment shall not effect a change in the controlling interest in Developer.

(2) Any person who is or becomes a shareholder or member of Developer or has or acquires beneficial ownership of any shares of stock equal to or greater than ten percent (10%) ownership interest in Developer must execute an agreement in substantially the form of the attached Guaranty and Assumption of Obligations undertaking to be bound jointly and severally to all provisions of this Agreement. Developer must furnish Franchisor at any time upon request a certified copy of the articles of incorporation or articles of organization and a list, in a form Franchisor requires, of all shareholders or members of record and all persons having beneficial ownership of shares of stock, reflecting their respective interests in Developer.

**E. RIGHT OF FIRST REFUSAL**

If Developer receives and desires to accept any bona fide offer to transfer an ownership interest in this Agreement from a third party, then the Developer shall promptly notify Franchisor in writing and send Franchisor an executed copy of the contract of transfer. Franchisor shall have the right and option, exercisable within thirty (30) days after actual receipt of such notification or of the executed contract of transfer which shall describe the terms of the offer, to send written notice to Developer that Franchisor intends to purchase the Developer's interest on the same terms and conditions offered by the third party. Closing on the purchase must occur within sixty (60) days from the date of notice by Franchisor to the Developer of Franchisor's election to purchase. If Franchisor elects not to accept the offer within the thirty (30) day period, Developer shall have a period not to exceed sixty (60) days to complete the transfer subject to the conditions for approval set forth in Section 16(C) of this Agreement. Any material change in the terms of any offer before closing shall constitute a new offer subject to the same rights of first refusal by Franchisor as in the case of an initial offer. Failure of Franchisor to exercise the option afforded by this Section 16 shall not constitute a waiver of any other provision of this Agreement. If the offer from a third party provides for payment of consideration other than cash or involves certain intangible benefits, Franchisor may elect to purchase the interest proposed to be sold for the reasonable cash equivalent, or any publicly-traded securities, including its own, or intangible benefits similar to those being offered. If the parties cannot agree within a reasonable time on the reasonable cash equivalent of the non-cash part of the

offer, then such amount shall be determined by an independent appraiser designated by Franchisor, and his determination shall be binding.

#### **F. DEATH OR DISABILITY**

Upon the death or permanent disability of Developer (or the managing shareholder, managing member or partner), the executor, administrator, conservator or other personal representative of that person, or the remaining shareholders, partners or members, must appoint a competent manager that is approved by Franchisor within ninety (90) days from the date of death or permanent disability (the “90 Day Period”). Before the end of the 90 Day Period, the appointed manager must attend and successfully complete Franchisor’s training program and must either execute Franchisor’s then-current form of area development agreement for the unexpired term of this Agreement, or furnish a personal guaranty of any partnership, corporate or limited liability company Developer’s obligations to Franchisor and Franchisor’s affiliates. If the Day Spa is not being managed by a Franchisor approved manager during the 90 Day Period, Franchisor is authorized, but is not required, to immediately appoint a manager to maintain the operations of Developer’s Day Spas for and on behalf of Developer until an approved assignee is able to assume the management and operation of the Day Spa. Franchisor’s appointment of a manager of the Day Spa does not relieve Developer of his obligations, and Franchisor is not liable for any debts, losses, costs or expenses incurred in the operations of the Day Spa or to any creditor of Developer for any products, materials, supplies or services purchased by the Day Spa during any period in which it is managed by Franchisor’s appointed manager. Franchisor has the right to charge a reasonable fee for management services and to cease to provide management services at any time. Franchisor’s right of first refusal set forth in Section 16(E) will not apply to a transfer under this Section if the transferee is an immediate family member of Developer that Franchisor approves.

#### **G. PUBLIC OR PRIVATE OFFERINGS**

(1) Developer acknowledges that the written information used to raise or secure funds can reflect upon Franchisor. Developer agrees to submit any written information intended to be used for that purpose to Franchisor before its inclusion in any registration statement, prospectus or similar offering circular or memorandum. This requirement applies under the following conditions: (i) if Developer attempts to raise or secure funds by the sale of securities in Developer or any affiliate of Developer (including common or preferred stock, bonds, debentures or general or limited partnership interest) and (ii) if any of its owners attempt to raise or secure funds by the sale of securities in Developer or any affiliate of Developer (including common or preferred stock, bonds, debentures or general or limited partnership interests) Developer (or any of its owners) agrees not to use the written materials submitted to Franchisor or any other written materials to raise or secure funds unless and until Franchisor approves of the language. No information respecting Franchisor or its affiliate shall be included in any securities disclosure document, unless that information has been furnished to Franchisor, in writing, pursuant to the written request of the Developer. The written request shall state the specific purpose for which the information is to be used. Should Franchisor, in its sole discretion, object to any reference to Franchisor or its affiliate or any of their businesses in the offering literature or prospectus, the literature or prospectus shall not be used unless and until the objections of Franchisor are withdrawn. The written consent of Franchisor pursuant to this Paragraph G does not imply or constitute the approval of Franchisor with respect to the method of financing, the offering literature submitted to Franchisor or any other aspect of the offering.

(2) The prospectus or other literature utilized in any offering must contain the following language in bold-face type on the first textual page:

**“NEITHER SPAVIA INTERNATIONAL, LLC NOR ITS AFFILIATE NOR ANY OF ITS AFFILIATE’S SUBSIDIARIES IS DIRECTLY OR INDIRECTLY THE**

**ISSUER OF THE SECURITIES OFFERED. NEITHER SPAVIA INTERNATIONAL, LLC NOR ITS AFFILIATE NOR ANY OF ITS AFFILIATE'S SUBSIDIARIES ASSUMES ANY RESPONSIBILITY WITH RESPECT TO THIS OFFERING AND/OR THE ADEQUACY OR ACCURACY OF THE INFORMATION SET FORTH, INCLUDING ANY STATEMENTS MADE WITH RESPECT TO ANY OF THEM. NEITHER SPAVIA INTERNATIONAL, LLC NOR ITS AFFILIATE NOR ANY OF ITS AFFILIATE'S SUBSIDIARIES ENDORSES OR MAKES ANY RECOMMENDATION WITH RESPECT TO THE INVESTMENT CONTEMPLATED BY THIS OFFERING."**

(3) Developer and each of its owners agrees to indemnify, defend and hold harmless Franchisor and its affiliate, and their respective officers, directors, employees and agents, from any and all claims, demands, liabilities, and all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor as the result of the offer or sale of securities. This Agreement applies to any and all claims, demands, liabilities, and all costs and expenses (including reasonable attorneys' fees) asserted by a purchaser of any security or by a governmental agency. Franchisor has the right (but not the obligation) to defend any claims, demands or liabilities and/or to participate in the defense of any action to which Franchisor or its affiliate or any of their respective officers, directors, employees or agents is named as a party.

#### **H. NOTICE TO FRANCHISOR**

Provided Developer is not then a public company, if any person holding an interest in Developer (other than Developer or a Principal, which parties shall be subject to the provisions set forth above) transfers such interest, then Developer shall promptly notify Franchisor of such proposed transfer in writing and provide information as Franchisor may reasonably request before the transfer. The transferee may not be one of Franchisor's competitors. The transferee must execute a Confidentiality Agreement and Ancillary Covenants Not to Compete in the form then required by Franchisor, which form shall be in substantially the same form attached hereto as Exhibit E. Franchisor also reserves the right to designate the transferee as one of the Principals. If Developer is a public company, this provision applies only to transfers in interest by Principals or to any person or entity controlling more than ten percent (10%) of Developer's voting stock.

#### **17. APPROVALS**

A. Wherever this Agreement requires the prior approval or consent of Franchisor, Developer shall make a timely written request to Franchisor for such approval or consent.

B. Franchisor makes no warranties or guarantees upon which Developer may rely and assumes no liability or obligation to Developer or to any third party to which it would not otherwise be subject, by providing any waiver, approval, advise, consent, or services to Developer in connection with this Agreement, or by any reason of neglect, delay or denial of any request therefor.

#### **18. NONWAIVER**

A. No failure of Franchisor to exercise any power reserved to it by this Agreement, or to insist upon strict compliance by Developer or Principals with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver or estoppel of Franchisor's right to demand exact compliance with any of the terms herein and Developer and the Principals warrant and undertake that it shall not rely on such failure, custom or practice. Waiver by Franchisor of any particular default by Developer or any of the Principals shall not affect or impair

Franchisor's rights with respect to any subsequent default of the same, similar or different nature, nor shall delay, forbearance, or omission of Franchisor to exercise any power or right arising out of any breach or default by its other developers or by Developer of any of the terms, provisions, or covenants hereof, affect or impair Franchisor's right to exercise the same, nor shall such constitute a waiver by Franchisor of any right hereunder, or the right to declare any subsequent breach or default and to terminate this Agreement prior to the expiration of its term. Subsequent acceptance by Franchisor of any payments due to it hereunder shall not be deemed to be a waiver by Franchisor of any preceding breach by Developer of any terms, covenants or conditions of this Agreement.

B. All rights and remedies of the parties hereto shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies which are provided for herein or which may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement, the rights and remedies of the parties hereto shall be continuing and shall not be exhausted by any one or more uses thereof, and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration or early termination of this Agreement shall not discharge or release Developer from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration or early termination of this Agreement.

## **19. DEVELOPER'S RECORDS AND REPORTS**

A. Developer must keep accurate records concerning all transactions and written communications between Franchisor and Developer relating to the development and operation of Day Spas in the Development Area. Franchisor's duly authorized representative has the right, following reasonable notice, at all reasonable hours of the day to examine all Developer's records with respect to the subject matter of this Agreement, and has full and free access to records for that purpose and for the purpose of making extracts. All records must be kept available for at least three (3) years after preparation.

B. Developer must furnish to Franchisor monthly written reports regarding Developer's progress on the development of Day Spas under this Agreement.

## **20. NOTICES AND PAYMENTS**

All written notices and reports permitted or required to be delivered by the provisions of this Agreement or of the Manuals shall be deemed so delivered at the time delivered by hand or by e-mail with receipt confirmed by the receiving party or one (1) business day after sending by overnight courier with delivery confirmed and addressed to the party to be notified at its most current address of which the notifying party has been notified. The following addresses for the parties shall be used unless and until a different address has been designated by written notice to the other party:

Notices to Franchisor:

Spavia International, LLC  
Attn: Marty Langenderfer  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111

With an additional copy to:

Fisher Zucker, LLC  
Attn: Lane Fisher, Esq.  
21 South 21<sup>st</sup> Street  
Philadelphia, PA 19103

Notice to Developer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_

**21. GOVERNING LAW AND ALTERNATIVE DISPUTE RESOLUTION**

A. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without reference to the state’s conflict of laws principles.

B. Developer must first bring any claim or dispute between Developer and Franchisor to Franchisor’s management, after providing notice as set forth in Section 20 of this Agreement, and make every effort to resolve the dispute internally. Developer must exhaust this internal dispute resolution procedure before Developer may bring Developer’s dispute before a third party. This agreement to first attempt resolution of disputes internally shall survive termination or expiration of this Agreement.

C. At Franchisor’s option, all claims or disputes between Developer and Franchisor (or its affiliates) arising out of, or in any way relating to, this Agreement or any other agreement by and between Developer and Franchisor (or its affiliates), or any of the parties’ respective rights and obligations arising from such agreement, which are not first resolved through the internal dispute resolution procedure set forth in Section 21(B) above, will be submitted first to mediation to take place at Franchisor’s then-current headquarters under the auspices of the American Arbitration Association (“AAA”), in accordance with AAA’s Commercial Mediation Rules then in effect. Before commencing any legal action against Franchisor or its affiliates with respect to any such claim or dispute, Developer must submit a notice to Franchisor, which specifies, in detail, the precise nature and grounds of such claim or dispute. Franchisor will have a period of thirty (30) days following receipt of such notice within which to notify Developer as to whether Franchisor or its affiliates elects to exercise its option to submit such claim or dispute to mediation. Developer may not commence any action against Franchisor or its affiliates with respect to any such claim or dispute in any court unless Franchisor fails to exercise its option to submit such claim or dispute to mediation, or such mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by Franchisor. Franchisor’s rights to mediation, as set forth herein, may be specifically enforced by Franchisor. Each party will bear its own cost of mediation and Franchisor and Developer will share mediator fees equally. This agreement to mediate will survive any termination or expiration of this Agreement. The parties will not be required to first attempt to mediate a controversy, dispute, or claim through mediation as set forth in this Section 21(C) if such controversy, dispute, or claim concerns an allegation that a party has violated (or threatens to violate, or poses an imminent risk of violating): (i) any federally protected intellectual property rights in the Proprietary Marks, the System, or in any confidential information; (ii) any of the restrictive covenants contained in this Agreement; and (iii) any of Developer’s payment obligations under this Agreement.

## **22. LITIGATION AND OTHER DISPUTE RESOLUTION PROVISIONS**

A. Subject to Sections 21 and 22(B)-(C) of this Agreement, the parties agree that any actions arising out of or related to this Agreement must only be initiated and litigated to conclusion in the state court of general jurisdiction closest to Franchisor's then-current headquarters, or, if appropriate, the United States District Court for the District of Colorado (unless the action is settled by the parties after initiation). Developer acknowledges that this Agreement has been entered into in the State of Colorado, and that Developer is to receive valuable and continuing services emanating from Franchisor's headquarters in Colorado, including but not limited to training, assistance, support and the development of the System. In recognition of such services and their origin, Developer hereby irrevocably consents to the personal jurisdiction of the state and federal courts of Colorado as set forth in this Section.

B. Developer acknowledges and agrees that irreparable harm could be caused to Franchisor by Developer's violation of certain provisions of this Agreement and, as such, in addition to any other relief available at law or equity, Franchisor shall be entitled to obtain in any court of competent jurisdiction, without bond, restraining orders or temporary or permanent injunctions in order to enforce, among other items, the provisions of this Agreement relating to: (i) Developer's use of the Proprietary Marks and confidential information; (ii) the in-term covenant not to compete, as well as any other violations of the restrictive covenants set forth in this Agreement; (iii) Developer's obligations on termination or expiration of this Agreement; (iv) disputes and controversies based on or arising under the Lanham Act, as now or hereafter amended; (v) disputes and controversies involving enforcement of the Franchisor's rights with respect to confidentiality under this Agreement; and (vi) to prohibit any act or omission by Developer or its employees that constitutes a violation of applicable law, threatens Franchisor's franchise system or threatens other franchisees of Franchisor. Developer's only remedy if such an injunction is entered will be the dissolution of the injunction, if appropriate, and Developer waives all damage claims if the injunction is wrongfully issued.

C. Franchisor's officers, directors, shareholders, agents and/or employees are express third party beneficiaries of the provisions of this Agreement, including the dispute resolution provisions set forth in Sections 21 and 22 of this Agreement, each having authority to specifically enforce the right to mediate claims asserted against such person(s) by Developer.

D. As a condition precedent to commencing an action for damages or for violation or breach of this Agreement, Developer must notify Franchisor within thirty (30) days after the occurrence of the violation or breach, and failure to timely give such notice shall preclude any claim for damages.

E. Developer shall not withhold all or any part of any payment to Franchisor or any of its affiliates on the grounds of Franchisor's alleged nonperformance or as an offset against any amount Franchisor or any of Franchisor's affiliates allegedly may owe Developer under this Agreement or any related agreements.

F. Developer further agrees that no cause of action arising out of or under this Agreement may be maintained by Developer against Franchisor unless brought before the expiration of one (1) year after the act, transaction or occurrence upon which such action is based or the expiration of one year after the Developer becomes aware of facts or circumstances reasonably indicating that Developer may have a claim against Franchisor hereunder, whichever occurs sooner, and that any action not brought within this period shall be barred as a claim, counterclaim, defense, or set-off. Developer hereby waives the right to obtain any remedy based on alleged fraud, misrepresentation, or deceit by Franchisor, including, without limitation, rescission of this Agreement, in any mediation, judicial, or other adjudicatory proceeding arising hereunder, except upon a ground expressly provided in this Agreement, or pursuant to any right expressly

granted by any applicable statute expressly regulating the sale of franchises, or any regulation or rules promulgated thereunder.

G. Developer hereby waives to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) against Franchisor arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agrees that in the event of a dispute, that Developer's recovery is limited to actual damages. If any other term of this Agreement is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages. Nothing in this Section or any other provision of this Agreement shall be construed to prevent Franchisor from claiming and obtaining expectation or consequential damages, including lost future royalties for the balance of the term of this Agreement if it is terminated due to Developer's default, which the parties agree and acknowledge Franchisor may claim under this Agreement.

H. THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRINGS SUIT. THIS WAIVER SHALL APPLY TO ANY MATTER WHATSOEVER BETWEEN THE PARTIES HERETO WHICH ARISES OUT OF OR IS RELATED IN ANY WAY TO THIS AGREEMENT OR THE PERFORMANCE OF EITHER PARTY.

I. THE PARTIES AGREE THAT ALL PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE CONDUCTED ON AN INDIVIDUAL, NOT A CLASS-WIDE BASIS, AND THAT ANY PROCEEDING BETWEEN DEVELOPER, DEVELOPER'S GUARANTORS AND FRANCHISOR OR ITS AFFILIATES/OFFICERS/EMPLOYEES MAY NOT BE CONSOLIDATED WITH ANY OTHER PROCEEDING BETWEEN FRANCHISOR AND ANY OTHER THIRD PARTY.

## **23. ENFORCEMENT**

### **A. SEVERABILITY AND SUBSTITUTION OF VALID PROVISIONS**

(1) Except as expressly provided to the contrary in this Agreement, each section, paragraph, term and provision of this Agreement, is considered severable and if, for any reason, any portion of this Agreement is held to be invalid, contrary to, or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which Franchisor is a party, that ruling shall not impair the operation of, or have any other effect upon, other portions of this Agreement as may remain otherwise intelligible, which shall continue to be given full force and effect and bind the parties to this Agreement, although any portion held to be invalid shall be deemed not to be a part of this Agreement from the date the time for appeal expires, if Developer is a party, otherwise upon Developer's receipt of a notice of non-enforcement from Franchisor.

(2) If any applicable and binding law or rule of any jurisdiction requires a greater prior notice of the termination of this Agreement than is required in this Agreement, or the taking of some other action not required, or if under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure Franchisor prescribes is invalid or unenforceable, the prior notice and/or other action required by law or rule shall be substituted for the comparable provisions, and Franchisor has the right, in its sole discretion, to modify the invalid or unenforceable provision, specification, standard or operating procedure to the extent required to be valid and enforceable. Developer agrees to be bound by any promise or covenant imposing the maximum duty

permitted by law which is prescribed within the terms of any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions, or any specification, standard or operating procedure Franchisor prescribes, any portion or portions which a court may hold to be unenforceable in a final decision to which Franchisor is a party, or from reducing the scope of any promise or covenant to the extent required to comply with a court order. Modifications to this Agreement shall be effective only in that jurisdiction, unless Franchisor elects to give them greater applicability, and this Agreement shall be enforced as originally made and entered into in all other jurisdictions.

**B. EXCEPTIONS**

Neither Franchisor nor Developer are liable for loss or damage or deemed to be in breach of this Agreement if its failure to perform its obligations results from: (1) transportation shortages, inadequate supply of labor, material or energy, or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any federal, state or municipal government or any department or agency; (2) compliance with any law, ruling, order, regulation, requirement or instruction of any federal, state, or municipal government or any department or agency; (3) acts of God; (4) acts or omissions of the other party; (5) fires, strikes, embargoes, war or riot; or (6) any other similar event or cause. Any delay resulting from any of these causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable.

**C. RIGHTS OF PARTIES ARE CUMULATIVE**

The rights of Franchisor and Developer under this Agreement are cumulative and no exercise or enforcement by Franchisor or Developer of any right or remedy precludes the exercise or enforcement by Franchisor or Developer of any other right or remedy which Franchisor or Developer is entitled by law to enforce.

**D. COSTS AND ATTORNEYS' FEES**

If Developer is in breach or default of any monetary or non-monetary obligation under this Agreement or any related agreement between Developer and Franchisor and/or Franchisor's affiliates, and Franchisor engages an attorney to enforce Franchisor's rights (whether or not formal judicial proceedings are initiated), Developer must reimburse Franchisor for all costs/expenses incurred in connection with enforcing its rights under this Agreement including all reasonable attorneys' fees, court costs and litigation expenses. If Developer institutes any legal action to interpret or enforce the terms of this Agreement, and Developer's claim in such action is denied or the action is dismissed, Franchisor is entitled to recover Franchisor's reasonable attorneys' fees, and all other reasonable costs and expenses incurred in defending against same, and to have such an amount awarded as part of the judgment in the proceeding.

**E. VARIANCES**

Developer acknowledges that Franchisor has and may at different times approve exceptions or changes from the uniform standards of the System in Franchisor's absolute sole discretion, which Franchisor deems desirable or necessary under particular circumstances. Developer understands that he has no right to object to or automatically obtain such variances, and any exception or change must be approved in advance from Franchisor in writing. Developer understands existing Developers may operate

under different forms of agreements and that the rights and obligations of existing Developers may differ materially from this Agreement.

**F. BINDING EFFECT**

This Agreement is binding upon the parties of this Agreement and their respective executors, administrators, heirs, assigns and successors in interest, and shall not be modified except by written agreement signed by both Developer and Franchisor.

**G. CONSTRUCTION/INTEGRATION CLAUSE**

This Agreement, all exhibits to this Agreement and all ancillary agreements executed contemporaneously with this Agreement constitute the entire agreement between the parties with reference to the subject matter of this Agreement and supersede any and all prior negotiations, undertakings, representations, and agreements; provided, however, that nothing in this or any related agreement is intended to disclaim the representations Franchisor made in the Franchise Disclosure Document that Franchisor furnished to Developer. Developer acknowledges that Developer is entering into this Agreement, and all ancillary agreements executed contemporaneously with this Agreement, as a result of Developer's own independent investigation of the franchised business and not as a result of any representations about Franchisor made by Franchisor's shareholders, officers, directors, employees, agents, representatives, independent contractors, attorneys, or Developers, which are contrary to the terms set forth in this Agreement or of any franchise disclosure document, offering circular, prospectus, or other similar document required or permitted to be given to Developer pursuant to applicable law.

Developer hereby acknowledges and further represents and warrants to Franchisor that:

1. Developer has placed no reliance on any oral or written statements, whether referred to as representations, warranties, inducements, or otherwise, which are not contained in this Agreement or in the Franchise Disclosure Document;
2. Developer has entered into this Agreement after making an independent investigation of Franchisor's operations and the System;
3. Franchisor has not made any guarantee or provided any assurance that the business location will be successful or profitable regardless of whether Franchisor may have approved of the franchise or site location;
4. Developer has (a) read this Agreement in its entirety and understands its contents; (b) been given the opportunity to clarify any provisions that Developer did not understand and (c) had the opportunity to consult with professional advisors regarding the operation and effect of the Agreement and the operation of the System;
5. Developer has, together with its advisors, sufficient knowledge and experience in financial and business matters to make an informed decision with respect to the franchise offered by Franchisor; and
6. Developer has received a copy of the Franchise Disclosure Document not later than the first personal meeting held to discuss the sale of a franchise, or fourteen (14) calendar days before execution of this Agreement or fourteen (14) calendar days before any payment of any consideration.

Except as may have been disclosed at Item 19 of Franchisor's Franchise Disclosure Document, Developer represents and warrants to Franchisor that no claims, representations, or warranties regarding the earnings, sales, profits, success or failure of the franchised business have been made to Developer and no such claims, representations or warranties have induced Developer to enter into this Agreement.

Except for those changes permitted to be made unilaterally by Franchisor, no amendment, change or variance from this Agreement is binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

## **24. CAVEAT**

A. The success of the business venture contemplated to be undertaken by this Agreement is speculative and depends, to a large extent, upon the ability of the Developer as an independent business person, and the active participation of Developer in the daily affairs of the business as well as other factors. Franchisor does not make any representation or warranty, express or implied, as to the potential success of the business venture contemplated hereby.

B. Developer acknowledges that it has entered into this Agreement after making an independent investigation of Franchisor's operations and not upon any representation as to gross sales, volume, potential earnings or profits which Developer in particular might be expected to realize, nor has anyone made any other representation which is not expressly set forth in this Agreement, to induce the Developer to accept this franchise and execute this Agreement.

C. Developer represents and acknowledges that he has received a copy of this Agreement, with all blanks filled in, from Franchisor at least seven (7) calendar days before the date of execution of this Agreement. Developer further represents that he understands the terms, conditions and obligations of this Agreement and agrees to be bound.

## **25. MISCELLANEOUS**

A. Except as otherwise expressly provided, nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or entity not a party to this Agreement.

B. The headings of the several sections and paragraphs are for convenience only and do not define, limit or construe the contents of sections or paragraphs.

C. The "Developer" as used in this Agreement is applicable to one (1) or more persons, a corporation or a partnership or limited partnership or limited liability company 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 two (2) or more persons are at any time Developer under this Agreement, their obligations and liabilities to Franchisor shall be joint and several. References to "Developer" and "Assignee" which are applicable to an individual or individuals shall mean the owner or owners of the equity or operating control of Developer or the Assignee, if Developer or the Assignee is a corporation, partnership, limited partnership or limited liability company.

This Agreement shall be executed in multiple copies, each of which shall be deemed an original.

**IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement under seal on the date first written above.**

**FRANCHISOR:  
SPAVIA INTERNATIONAL, LLC**

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

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

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

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

**DEVELOPER:**  
\_\_\_\_\_

**IF AN INDIVIDUAL:**

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

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

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

Spouse Signature: \_\_\_\_\_

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

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

**IF A PARTNERSHIP, CORPORATION, OR  
OTHER ENTITY:**

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

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

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

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

## **ATTACHMENT TO DEVELOPMENT AGREEMENT**

### **GUARANTY AND ASSUMPTION OF OBLIGATIONS**

THIS GUARANTY AND ASSUMPTION OF OBLIGATIONS is given this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, (each a “Guarantor”).

In consideration of, and as an inducement to, the execution of that certain Area Development Agreement (the “Area Development Agreement”) by and between Spavia International, LLC (the “Franchisor”), and \_\_\_\_\_ (“Developer”), each of the undersigned (each, a “Guarantor”) hereby personally and unconditionally (a) guarantees to Franchisor, and its successor and assigns, for the term of the Area Development Agreement and as provided in the Area Development Agreement, that Developer shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the Area Development Agreement; and (b) agrees to be personally bound by, and personally liable for the breach of, each and every obligation of Developer under the Area Development Agreement, both monetary obligations and non-monetary in nature, including without limitation, those obligations related to: confidentiality and non-disclosure; indemnification; the Proprietary Marks; the in-term and post-term covenants against competition, as well as all other restrictive covenants; and the governing law, venue, attorneys’ fees and other dispute resolution provisions set forth in the Area Development Agreement (that shall also apply to this Guaranty and Assumption of Obligations).

Each Guarantor hereby waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or nonperformance of any obligations guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations guaranteed; (4) any right Guarantor may have to require that an action be brought against Developer or any other person as a condition of liability; and (5) the defense of the statute of limitations in any action hereunder or for the collection of any indebtedness or the performance of any obligation hereby guaranteed.

Each Guarantor hereby consents and agrees that: (1) such Guarantor’s undertaking shall be direct, immediate and independent of the liability of, and shall be joint and several with, Developer and any other Guarantors; (2) Guarantor shall render any payment or performance required under the Area Development Agreement upon demand if Developer fails or refuses punctually to do so; (3) Guarantor’s liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Developer or any other person; (4) Guarantor’s liability shall not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which Franchisor may grant to Developer or to any other person, including the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which shall in any way modify or amend this guaranty, which shall be continuing and irrevocable during the term of the Area Development Agreement; (5) this undertaking will continue unchanged by the occurrence of any bankruptcy with respect to Developer or any assignee or successor of Developer or by any abandonment of the Area Development Agreement by a trustee of Developer; (6) neither the Guarantor’s obligations to make payment or render performance in accordance with the terms of this undertaking nor any remedy for enforcement shall be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of Developer or its estate in bankruptcy or of any remedy for enforcement, resulting from the operation of any present or future provision of the U.S. Bankruptcy Act or other statute, or from the decision of any court or agency; (7) Franchisor may proceed against Guarantor and Developer jointly and severally, or Franchisor may, at its option, proceed against Guarantor, without having commenced any action, or having obtained any judgment against Developer; and (8) Guarantor shall pay all reasonable attorneys’ fees and all costs and other expenses incurred in any collection or attempt to collect amounts due pursuant to this undertaking

or any negotiations relative to the obligations hereby guaranteed or in enforcing this undertaking against Guarantor.

**IN WITNESS WHEREOF, the parties hereto have executed and delivered this Guaranty on the date stated on the first page hereof.**

**PERSONAL GUARANTORS**

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

\_\_\_\_\_  
[Insert Name of Guarantor]

\_\_\_\_\_  
[Insert Name of Spouse]

**EXHIBIT A TO THE AREA DEVELOPMENT AGREEMENT**

**DEVELOPMENT AREA**

The development rights and obligations of Developer, \_\_\_\_\_, to timely develop and open Day Spas shall be within the following described area:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DEVELOPER**

\_\_\_\_\_

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

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

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

**FRANCHISOR**

**SPAVIA INTERNATIONAL, LLC**

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

Marty Langenderfer, CEO

**EXHIBIT B TO AREA DEVELOPMENT AGREEMENT**

**DEVELOPMENT SCHEDULE**

1. Development Schedule

Developer, \_\_\_\_\_, agrees to timely open Day Spas in compliance with the following development schedule (the “Development Schedule”). Developer further agrees that failure to timely open the Day Spas in compliance with the Development Schedule shall cause the rights of exclusivity granted to Developer regarding the geographic area defined in Exhibit A to be forfeited.

The Development Schedule is as follows:

<b>Expiration of Development Period</b>	<b>Number of New Unit Franchises that Must be Opened and Commence Operations Within Development Period</b>	<b>Total Number of Unit Franchises that Must be Open and Operating by the Expiration of the Development Period</b>

2. Forfeiture of Rights of Exclusivity

Developer’s failure to comply with the Development Schedule in any manner shall be grounds for Franchisor to (a) terminate the Development Agreement to which this Development Schedule is attached as an Exhibit, or (b) in lieu of such termination, terminate any exclusive or other territorial rights that Developer may have within the Development Area or otherwise under the Development Agreement.

APPROVED:

**DEVELOPER**

\_\_\_\_\_

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

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

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

**FRANCHISOR**

**SPAVIA INTERNATIONAL, LLC**

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

Marty Langenderfer, CEO

**EXHIBIT C TO AREA DEVELOPMENT AGREEMENT**

**FRANCHISE AGREEMENT**

**EXHIBIT D TO AREA DEVELOPMENT AGREEMENT**

**STATEMENT OF OWNERSHIP INTERESTS AND PRINCIPALS**

The following is a list of shareholders, partners, members or other investors in Developer, including all investors who own or hold a direct or indirect interest in Developer, and a description of the nature of their interest:

<u>Name</u>	<u>Percentage of Ownership/Nature of Interest</u>
-------------	---

The following is a list of all of Principals described in and designated pursuant to this Area Development Agreement, each of whom shall execute the Confidentiality Agreement and Ancillary Covenants Not to Compete substantially in the form set forth in Exhibit E of this Area Development Agreement:

**DEVELOPER**

\_\_\_\_\_

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

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

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

**FRANCHISOR**

**SPAVIA INTERNATIONAL, LLC**

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

Marty Langenderfer, CEO

**EXHIBIT E TO AREA DEVELOPMENT AGREEMENT**

**CONFIDENTIALITY AGREEMENT AND  
ANCILLARY COVENANTS NOT TO COMPETE**

This Agreement is made and entered into this \_\_\_day of \_\_\_\_\_, 20\_\_\_, between SPAVIA INTERNATIONAL, LLC, a Colorado limited liability company (“Franchisor”), \_\_\_\_\_ (“Developer”), and \_\_\_\_\_ (“Covenantor”).

**RECITALS**

WHEREAS, Franchisor has obtained the right to develop a unique system (the “System”) for the development and operation of Day Spas under the name and marks SPAVIA (“Day Spas”); and

WHEREAS, the System includes, but is not limited to, certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including, but not limited to, the marks SPAVIA and other trade names, service marks, trademarks, logos, insignia, slogans, emblems, designs and commercial symbols as Franchisor may develop in the future to identify for the public the source of services and products marketed under the marks and under the System and representing the System’s high standards of quality, appearance, service and the System’s proprietary methodology and procedures for the establishment and operating procedures, site selection guidance and criteria, specifications for the design, layout and construction of the interior of the Day Spa, standards and specifications for the furniture, fixtures and equipment located within a Day Spa, established relationships with approved or designated suppliers for certain products and services, and standards and specifications for advertising, bookkeeping, sales and other aspects of operating a Day Spa; all of which Franchisor may change, improve and further develop and which Franchisor uses in connection with the operation of the System (collectively, the “Confidential Information”); and

WHEREAS, the Proprietary Marks and Confidential Information provide economic advantages to Franchisor and are not generally known to, and are not readily ascertainable by proper means by, Franchisor’s competitors who could obtain economic value from knowledge and use of the Confidential Information; and

WHEREAS, Franchisor has taken and intends to take all reasonable steps to maintain the confidentiality and secrecy of the Confidential Information; and

WHEREAS, Franchisor has granted Developer the limited right to develop a Day Spa using the System, the Proprietary Marks and the Confidential Information, pursuant to an Area Development Agreement entered into on \_\_\_\_\_, 20\_\_\_ (“Area Development Agreement”), by and between Franchisor and Developer; and

WHEREAS, Franchisor and Developer have agreed in the Area Development Agreement on the importance to Franchisor and to Developer and other licensed users of the System of restricting the use, access and dissemination of the Confidential Information; and

WHEREAS, it is necessary for certain employees, agents, independent contractors, officers, directors and equity interest holders of Developer, or any entity having an interest in Developer (“Covenantor”) to have access to and to use some of all of the Confidential Information in the management and operation of Developer’s Day Spa using the System; and

WHEREAS, Developer has agreed to obtain from those covenantors written agreements protecting the Confidential Information and the System against unfair competition; and

WHEREAS, Covenantor wishes to remain, or wishes to become associated with or employed by Developer; and

WHEREAS, Covenantor wishes and needs to receive and use the Confidential Information in the course of his employment or association in order to effectively perform the services for Developer; and

WHEREAS, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor.

NOW, THEREFORE, in consideration of the mutual covenant and obligations contained in this Agreement, the parties agree as follows:

#### Confidentiality Agreement

1. Franchisor and/or Developer shall disclose to Covenantor some or all of the Confidential Information relating to the System. All information and materials, including, without limitation, manuals, drawings, specifications, techniques and compilations of data which Franchisor provides to Developer and/or Covenantor are deemed Confidential Information for the purposes of this Agreement.

2. Covenantor shall receive the Confidential Information in confidence and must, at all times, maintain them in confidence, and use them only in the course of his employment or association with a Developer and then only in connection with the development and/or operation by Developer of a Day Spa for so long as Developer is licensed by Franchisor to use the System.

3. Covenantor shall not at any time make copies of any documents or compilations containing some or all of the Confidential Information without Franchisor's express written permission.

4. Covenantor shall not at any time disclose or permit the disclosure of the Confidential Information except to other employees of Developer and only to the limited extent necessary to train or assist other employees of Developer in the development or operation of a Day Spa.

5. Covenantor must surrender any material containing some or all of the Confidential Information to Developer or Franchisor, upon request, or upon termination of employment by Developer, or upon conclusion of the use for which the information or material may have been furnished to Covenantor.

6. Covenantor shall not at any time, directly or indirectly, do any act that would or would likely be injurious or prejudicial to the goodwill associated with the Confidential Information and the System.

7. Franchisor loans all manuals to Developer for limited purposes only and they remain the property of Franchisor and may not be reproduced, in whole or in part, without Franchisor's written consent.

#### Covenants Not to Compete

1. In order to protect the goodwill and unique qualities of the System and the confidentiality and value of the Confidential Information during the term of this Agreement, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants as follows:

a. Not to divert, or attempt to divert, directly or indirectly, any business, business opportunity, or customer of the Day Spas to any competitor;

b. Not to employ, or seek to employ, any person who is at the time or was within the preceding one hundred eighty (180) days employed by Franchisor, its affiliate or any Developer of Franchisor, or otherwise directly or indirectly induce such person to leave that person's employment except as may occur in connection with Developer's employment of that person if permitted under the Area Development Agreement; and

c. Except with respect to Day Spas operated under a valid and existing Franchise Agreement between Developer (or Developer's affiliates) and Franchisor, own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, limited liability companies, unincorporated associations or joint ventures), advise, assist or make loans to, any Competing Business (as defined below) or a business that is of a character and concept similar to a Day Spa. For purposes of this Agreement, a "Competing Business" is defined as any business which derives at least ten percent (10%) of its revenue from sales generated from the provision of massages, skin care treatments or other Approved Products and Services that are offered at a Day Spa, or any business which grants franchises or licenses to others to operate such a Competing Business.

2. In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the uniqueness of the System, Covenantor agrees and covenants that for two (2) years following the earlier of the expiration, termination or transfer of all Developer's interest in the Area Development Agreement or the termination of his association with or employment by Developer, Covenantor will not without the prior written consent of Franchisor:

a. Divert or attempt to divert, directly or indirectly, any business, business opportunity or customer of the Day Spas to any competitor;

b. Employ, or seek to employ, any person who is at the time or was within the preceding one hundred eighty (180) days employed by Franchisor, its affiliate or any franchisee of franchisor, or otherwise directly or indirectly induce such persons to leave that person's employment; and

c. Except with respect to Day Spas operated under Franchise Agreements between Developer and its affiliates, and Franchisor or its affiliate or any of its subsidiaries, own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, limited liability companies, unincorporated associations or joint ventures), advise, assist or make loans to, any Competing Business or a business that is of a character and concept similar to a Day Spa (i) within the Development Area granted to Developer; or (ii) within a forty (40) mile radius of the perimeter of the Development Area being granted to Developer or any other designated territory or development area licensed by Franchisor to a Day Spa as of the date of expiration, termination or transfer of all Developer's interest in the Area Development Agreement or the termination of Covenantor's association with or employment by Developer.

## Miscellaneous

1. Developer shall make all commercially reasonable efforts to ensure that Covenantor acts as required by this Agreement.

2. Covenantor agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of a breach, or threatened or attempted breach of any of the provisions, Franchisor is entitled to enforce the provisions of this Agreement and is entitled, in addition to any other remedies available to it at law or in equity, including the right to terminate the Area Development Agreement, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

3. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Developer in enforcing this Agreement.

4. Any failure by Franchisor to object to or take action with respect to any breach of this Agreement by Covenantor shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Covenantor.

5. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO AND COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF TO THE JURISDICTION OF THE STATE COURT CLOSEST TO FRANCHISOR'S THEN-CURRENT HEADQUARTERS OR, IF APPROPRIATE, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT FOR COLORADO. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON HIM IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY COLORADO OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE ONE OF THE COURTS DESCRIBED ABOVE IN THIS SECTION; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.

6. The parties acknowledge and agree that each of the covenants contained in this Agreement are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a part, Covenantor expressly agrees to be bound by any lesser covenant subsumed within the terms of the covenant that imposes the maximum duty permitted by law as if the resulting covenant were separately stated in and made a part of this Agreement.

7. This Agreement contains the entire agreement of the parties regarding the subject matter of this Agreement. This Agreement may be modified only by a duly authorized writing executed by all parties.

8. All notices and demands required to be given must be in writing and sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, facsimile or electronic mail, (provided that the sender confirms the facsimile or electronic mail, by

sending an original confirmation copy by certified or registered mail or expedited delivery service within three (3) business days after transmission), to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other parties.

If directed to Franchisor, the notice shall be addressed to

Spavia International, LLC  
Attn: Marty Langenderfer  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111

If directed to Developer, the notice shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

If directed to Covenantor, the notice shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by facsimile or electronic mail shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) business days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other parties. Business day for the purpose of this Agreement excludes Saturday, Sunday and the following national holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving and Christmas.

9. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and inure to the benefit of its respective parent, successor and assigns. The respective obligations of Developer and Covenantor hereunder may not be assigned by Developer or Covenantor without the prior written consent of Franchisor.

*REMAINDER OF PAGE LEFT INTENTIONALLY BLANK. SIGNATURES FOLLOW ON NEXT PAGE.*

**IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.**

**FRANCHISOR:**

**SPAVIA INTERNATIONAL, LLC**

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

**COVENANTOR:**

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

**DEVELOPER:**

(If Developer is a corporation)

\_\_\_\_\_  
Name of Corporation

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

(If Developer is an individual owner, Developer must sign below; if a partnership, all partners must sign below)

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Developer

(If Developer is a Limited Liability Company)

\_\_\_\_\_  
Name of Limited Liability Company

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

**EXHIBIT D  
TO FRANCHISE DISCLOSURE DOCUMENT**

**SPAVIA INTERNATIONAL, LLC  
FINANCIAL STATEMENTS**



# SPAVIA INTERNATIONAL, LLC

FINANCIAL STATEMENTS

WITH INDEPENDENT AUDITOR'S REPORT

DECEMBER 31, 2023, 2022, AND 2021



# SPAVIA INTERNATIONAL, LLC

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## ***Independent Auditor's Report***

To the Members  
Spavia International, LLC  
Greenwood Village, Colorado

### ***Opinion***

We have audited the accompanying financial statements of Spavia International, LLC, which comprise the balance sheets as of December 31, 2023, 2022, and 2021, and the related statements of operations, members' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Spavia International, LLC as of December 31, 2023, 2022, and 2021, 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.

### ***Basis for Opinion***

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Responsibilities of Management for the Financial Statements***

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

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

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

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

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

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

***Restrictions on Use***

The use of this report is restricted to inclusion within the Company's Franchise Disclosure Document (FDD) and is not intended to be, and should not be, used or relied upon by anyone for any other use.

Kezas & Dunlay

St. George, Utah  
March 1, 2024

# SPAVIA INTERNATIONAL, LLC

## BALANCE SHEETS

As of December 31, 2023, 2022, and 2021

	<b>2023</b>	<b>2022</b>	<b>2021</b>
<b>Assets</b>			
Current assets			
Cash and cash equivalents	\$ 1,658,172	\$ 1,981,027	\$ 1,535,409
Accounts receivable	185,785	177,189	213,915
Affiliate receivable	-	141,249	-
Deferred contract costs, current	247,821	249,614	245,014
Total current assets	2,091,778	2,549,079	1,994,338
Non-current assets			
Deferred contract costs, non-current	404,613	709,043	915,028
Member receivable	358,250	308,250	300,000
Right of use asset	21,463	53,657	-
Total non-current assets	784,326	1,070,950	1,215,028
Total assets	\$ 2,876,104	\$ 3,620,029	\$ 3,209,366
<b>Liabilities and Members' Equity</b>			
Current liabilities			
Accounts payable	\$ 3,358	\$ 1,030	\$ 5,177
Accounts payable - related party	38,000	38,000	38,000
Accrued expenses	373,665	463,990	287,681
Gift card liability	719,530	649,404	511,801
National advertising fund liability	400,443	216,220	-
Deferred revenue, current	392,260	394,110	381,860
Operating lease liability, current	22,776	32,773	-
Total current liabilities	1,950,032	1,795,527	1,224,519
Non-current liabilities			
Deferred revenue, non-current	897,401	1,315,237	1,594,230
Operating lease liability, non-current	-	22,776	-
Total non-current liabilities	897,401	1,338,013	1,594,230
Total liabilities	2,847,433	3,133,540	2,818,749
Members' equity			
Total liabilities and members' equity	\$ 2,876,104	\$ 3,620,029	\$ 3,209,366

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

**SPAVIA INTERNATIONAL, LLC**  
**STATEMENTS OF OPERATIONS**  
For the years ended December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Operating revenue			
Initial franchise fees	\$ 518,786	\$ 389,243	\$ 411,610
Royalty fees	3,202,502	2,857,985	2,249,692
Marketing and technology fees	-	-	422,175
Total operating revenue	<u>3,721,288</u>	<u>3,247,228</u>	<u>3,083,477</u>
Operating expenses			
Management fees	938,108	904,498	688,068
Commission fees	758,680	651,817	570,524
Marketing	-	-	380,663
General and administrative	996,715	917,329	796,928
Bad debt - initial franchise fees	-	-	22,050
Total operating expenses	<u>2,693,503</u>	<u>2,473,644</u>	<u>2,458,233</u>
Operating income	<u>1,027,785</u>	<u>773,584</u>	<u>625,244</u>
Other income			
Other income	-	-	160,664
Interest income	9,013	8,258	-
Total other income	<u>9,013</u>	<u>8,258</u>	<u>160,664</u>
Net income	<u>\$ 1,036,798</u>	<u>\$ 781,842</u>	<u>\$ 785,908</u>

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

**SPAVIA INTERNATIONAL, LLC**  
**STATEMENTS OF MEMBERS' EQUITY**  
For the years ended December 31, 2023, 2022, and 2021

Balance as of January 1, 2021	\$ (525,291)
Contributions from members	200,000
Distributions to members	(70,000)
Net income	785,908
Balance as of December 31, 2021	390,617
Adoption of ASC 842, <i>Leases</i>	(876)
Distributions to members	(685,094)
Net income	781,842
Balance as of December 31, 2022	486,489
Distributions to members	(1,494,616)
Net income	1,036,798
Balance as of December 31, 2023	\$ 28,671

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

**SPAVIA INTERNATIONAL, LLC**  
**STATEMENTS OF CASH FLOWS**  
For the years ended December 31, 2023, 2022, and 2021

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Cash flow from operating activities:			
Net income	\$ 1,036,798	\$ 781,842	\$ 785,908
Adjustments to reconcile net income to net cash provided by operating activities:			
Amortization of right-of-use asset	32,194	32,194	
Forgiveness of notes payable	-	-	(160,664)
Bad debt - initial franchise fees	-	-	22,050
Changes in operating assets and liabilities:			
Accounts receivable	(8,596)	36,726	184,598
Deferred contract costs	306,223	201,385	287,071
Accounts payable and accrued expenses	(87,997)	172,162	96,483
Accounts payable - related party	-	-	(89,375)
Gift card liability	70,126	137,603	220,429
National advertising fund liability	184,223	216,220	-
Operating lease liability	(32,773)	(31,178)	-
Deferred revenue	(419,686)	(266,743)	(349,560)
Net cash provided by operating activities	<u>1,080,512</u>	<u>1,280,211</u>	<u>996,940</u>
Cash flows from investing activities:			
Loan to affiliate	141,249	(141,249)	-
Loan to member	(50,000)	(8,250)	(300,000)
Net cash provided by (used in) investing activities	<u>91,249</u>	<u>(149,499)</u>	<u>(300,000)</u>
Cash flows from financing activities:			
Distributions to members	(1,494,616)	(685,094)	(70,000)
Contributions from members	-	-	200,000
Draws on note payable	-	-	117,712
Net cash provided by (used in) financing activities	<u>(1,494,616)</u>	<u>(685,094)</u>	<u>247,712</u>
Net change in cash	(322,855)	445,618	944,652
Cash at the beginning of the year	1,981,027	1,535,409	590,757
Cash at the end of the year	<u>\$ 1,658,172</u>	<u>\$ 1,981,027</u>	<u>\$ 1,535,409</u>
Supplementary disclosures of cash flows			
Cash paid for interest	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

**SPAVIA INTERNATIONAL, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023, 2022, AND 2021**

(1) Nature of Business and Summary of Significant Accounting Policies

*(a) Nature of Business*

Spavia International, LLC (the “Company”), based in Englewood, Colorado, is a Colorado limited liability company formed on March 15, 2007 for the purpose of marketing and franchising Spavia, which offers day spa type services, throughout the United States of America.

The Company uses the accrual basis of accounting, and their accounting period is the 12-month period ending December 31 of each year.

*(b) Accounting Standards Codification*

The Financial Accounting Standards Board (“FASB”) has issued the FASB Accounting Standards Codification (“ASC”) that became the single official source of authoritative U.S. generally accepted accounting principles (“GAAP”), other than guidance issued by the Securities and Exchange Commission (“SEC”), superseding existing FASB, American Institute of Certified Public Accountants, emerging Issues Task Force and related literature. All other literature is not considered authoritative. The ASC does not change GAAP; it introduces a new structure that is organized in an accessible online research system.

*(c) Use of Estimates*

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

*(d) Cash and Cash Equivalents*

Cash equivalents include all highly liquid investments with maturities of three months or less at the date of purchase. As of December 31, 2023, 2022, and 2021, the Company had cash and cash equivalents of \$1,658,172, \$1,981,027, and \$1,535,409, respectively.

*(e) Accounts Receivable*

Accounts receivable primarily consist of amounts from franchisees for initial franchise fees. Based on an assessment of the franchisees’ credit history and current relationship with the Company, management has concluded that realized losses on balances outstanding at year-end will be immaterial. Accordingly, no reserve for uncollectible amounts has been recorded as of December 31, 2023, 2022, and 2021. As of December 31, 2023, 2022, and 2021, the Company had accounts receivable of \$185,785, \$177,189, and \$213,915, respectively.

During the year ended December 31, 2021, the Company determined that initial franchisees due from franchisees that had not yet commenced operations would not be collected. The amount of bad debt expense associated with these fees was \$22,050.

*(f) Gift Card Liability*

The gift card liability represents the liability for gift cards that have been sold by the Company but not yet redeemed. These gift cards are redeemable at any Spavia location and are recorded at redemption value. Revenue is recognized when the cards are redeemed, or the likelihood of the gift card being redeemed is remote. The outstanding liability as of December 31, 2023, 2022, and 2021 was \$719,530, \$649,404, and \$511,801, respectively.

**SPAVIA INTERNATIONAL, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023, 2022, AND 2021**

*(g) Leasing*

The Company adopted ASC 842, *Leases* as of January 1, 2022, using the modified retrospective method. The Company has an operating lease for office space, which required adjustments to record the right-of-use assets and lease liabilities as of the date of implementation. Upon adoption, the Company recorded a right-of-use asset of \$85,851 and a lease liability of \$86,727. The net effect on the Company's equity on January 1, 2022 was a reduction of \$876. The lease liability reflects the present value of the Company's estimated future minimum lease payments over the lease term, discounted using a collateralized incremental borrowing rate. The impact of ASC 842 is non-cash in nature and does not affect the Company's cash flows.

The Company has elected to keep leases with initial terms of 12 months or less off the balance sheet. These types of leases primarily relate to leases of office equipment and are not significant in comparison to the Company's overall lease portfolio. Payments related to those leases will continue to be recognized in the statement of operations over the lease term.

*(h) Revenue Recognition*

The Company's revenues consist of initial franchise fees and royalty fees. The Company has adopted ASC 606, *Revenue from Contracts with Customers*. ASC 606 provides that revenues are to be recognized when control of promised goods or services is transferred to a customer in an amount that reflects the considerations expected to be received for those goods or services. In implementing ASC 606, the Company evaluated all revenue sources using the five-step approach: identify the contract, identify the performance obligations, determine the transaction price, allocate the transaction price, and recognize revenue.

For each area representative agreement and franchised location, the Company enters into a formal agreement that clearly outlines the transaction price and the Company's performance obligations.

Upon evaluation of the five-step process, the Company has determined that royalties from locations operated by franchisees, which are based on a percentage of gross revenue, are to be recognized at the time the underlying sales occur. Initial franchise fees are recognized as the Company satisfies the performance obligation over the franchise term, which is generally 10 years.

*(i) Income Taxes*

The Company is structured as a limited liability company under the laws of the state of Colorado. Accordingly, the income or loss of the Company will be included in the income tax returns of the members. Therefore, there is no provision for federal and state income taxes.

The Company follows the guidance under ASC 740, *Accounting for Uncertainty in Income Taxes*. ASC 740 prescribes a more-likely-than-not measurement methodology to reflect the financial statement impact of uncertain tax positions taken or expected to be taken in the tax return. If taxing authorities were to disallow any tax positions taken by the Company, the additional income taxes, if any, would be imposed on the members rather than the Company. Accordingly, there would be no effect on the Company's financial statements.

The Company's income tax returns are subject to examination by taxing authorities for a period of three years from the date they are filed. As of December 31, 2023, the 2022, 2021, and 2020 tax years are subject to examination.

*(j) National Advertising Fund*

The Company's franchisees are required to contribute 1% of their monthly gross revenue to the national advertising fund. During the year ended December 31, 2022, the Company amended its operating manual, requiring the funds collected in excess of national marketing expenditures to be retained and used in the coming year solely for the purpose of developing the Spavia brand and increasing public awareness.

The Company's national advertising fund liability as of December 31, 2023 and 2022 was \$400,443 and \$216,220, respectively.

**SPAVIA INTERNATIONAL, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023, 2022, AND 2021**

*(k) Financial Instruments*

For certain of the Company's financial instruments, including cash and cash equivalents, accounts receivable, pre-paid expenses, and accounts payable the carrying amounts approximate fair value due to their short maturities. The amounts shown for notes payable also approximate fair value because current interest rates and terms offered to the Company for similar debt are substantially the same.

*(l) Concentration of Risk*

The Company maintains its cash in bank deposit accounts that at times may exceed federally insured limits. The Company has not experienced any losses in such accounts. The Company believes it is not exposed to any significant credit risks on cash or cash equivalents.

**(2) Related Party Transactions**

*(a) Accounts Payable – Related Party*

The Company pays an affiliate through common ownership for services performed. As of December 31, 2023, 2022, and 2021, the balance owed to the affiliate was \$38,000.

*(b) Member Receivable*

During the year ended December 31, 2021, the Company entered into a promissory note with its members with an initial principal balance of \$300,000. During the year ended December 31, 2023, the Company entered into a second promissory note with its members for an additional \$50,000. The notes accrue interest at a rate of 3% per annum and mature on December 31, 2031. As of December 31, 2023, 2022, and 2021, the receivables had a balance of \$358,250, \$308,250, and \$300,000.

*(c) Affiliate Receivable*

During the year ended December 31, 2022, the Company financed costs incurred by an affiliate through common ownership. The amount does not accrue interest and is due upon demand. Subsequent to year-end, the amount was repaid in full. As of December 31, 2022, the amount due from the affiliate was \$141,249. The affiliate repaid the balance in full during the year ended December 31, 2023.

*(d) Management Fees*

The Company has entered into an agreement with Spavia Enterprises to provide management services for the Company's franchisees. Under the terms of the agreement, the Company pays 30% of all ongoing royalties in exchange for services rendered for the years ended December 31, 2023, 2022, and 2021, the management fee expenses incurred on these services were \$938,108, \$904,498, and \$688,068, respectively.

**(3) Operating Lease**

The Company is the lessee in an operating lease for office space. The lease expires in 2024, with the option to renew. There are no escalation terms in place. As of December 31, 2023 and 2022, the Company recorded a right of use asset of \$21,463 and \$53,657, respectively. As of December 31, 2023 and 2022, the Company had the following operating lease liability:

	2023	2022
Operating lease liability, current	\$ 22,776	\$ 32,773
Operating lease liability, non-current	-	22,776
	\$ 22,776	\$ 55,549

**SPAVIA INTERNATIONAL, LLC**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023, 2022, AND 2021**

(4) Note Payable

On March 16, 2021, the Company entered into a note payable with a third-party financial institution as part of the Payroll Protection Program administered by the United States Small Business Administration (“SBA”). The loan had an initial principal balance of \$117,712, accrued interest at an annual rate of 1%, and had a maturity date of March 16, 2023. During the year ended December 31, 2021, the Company obtained notification of forgiveness of the full balance, which is recorded in other income.

(5) Franchise Agreements

The Company’s franchise agreements generally provide for payment of initial fees as well as continuing royalties and marketing fees to the Company based on a percentage of sales. Under the franchise agreement, franchisees are granted the right to operate a location using the Spavia system for a period of 10 years. Under the Company’s revenue recognition policy, the Company defers initial fees and recognizes revenue over the life of the contract. In addition, the Company defers related contract costs such as broker commissions and records the expense over the same period.

The Company has estimated the following current and non-current portions of deferred contract costs as of December 31, 2023, 2022, and 2021:

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Deferred contract costs, current	\$ 247,821	\$ 249,614	\$ 245,014
Deferred contract costs, non-current	404,613	709,043	915,028
	<u>\$ 652,434</u>	<u>\$ 958,657</u>	<u>\$ 1,160,042</u>

The Company has estimated the following current and non-current portions of deferred revenue as of December 31, 2023, 2022, and 2021:

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Deferred revenue, current	\$ 392,260	\$ 394,110	\$ 381,860
Deferred revenue, non-current	897,401	1,315,237	1,594,230
	<u>\$ 1,289,661</u>	<u>\$ 1,709,347</u>	<u>\$ 1,976,090</u>

(6) Accrued Expenses

The Company’s accrued expenses consist of accrued payroll, commissions, and franchise network support liabilities. The balance as of December 31, 2023, 2022, and 2021 was \$373,665, \$463,990, and \$287,681, respectively.

(7) Retirement Plan

The Company provides a 401(k) Safe Harbor contribution plan to all eligible employees. The Company matches 100% up to 4% of the participating employee’s plan compensation. The Company may make additional discretionary profit-sharing contributions subject to limitations as defined by the plan document. Employer contributions totaled \$31,186, \$24,852, and \$24,856 for the years ended December 31, 2023, 2022, and 2021, respectively.

(8) Commitments and Contingencies

The Company may be subject to various claims, legal actions and complaints arising in the ordinary course of business. In accounting for legal matters and other contingencies, the Company follows the guidance in ASC 450, *Contingencies*, under which loss contingencies are accounted for based upon the likelihood of inurrence of a liability. If a loss contingency is “probable” and the amount of loss can be reasonably estimated, it is accrued. If a loss contingency is “probable” but the amount of loss cannot be reasonably estimated, disclosure is made. If a loss contingency is “reasonably possible,” disclosure is made, including the potential range of loss, if determinable. Loss contingencies that are “remote” are neither accounted for nor disclosed.

SPAVIA INTERNATIONAL, LLC  
NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2023, 2022, AND 2021

In the opinion of management, all matters are of such kind, or involving such amounts of unfavorable disposition, if any, would not have a material effect on the financial position of the Company.

(9) Subsequent Events

Management has reviewed and evaluated subsequent events through March 1, 2024, which is the date on which the financial statements were issued.

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

# Balance Sheet

January - June 2024

	<u>Jan-Jun 2024</u>
<b>Assets</b>	
Current assets	
Cash and cash equivalents	\$1,540,840
Accounts receivable	187,111
Affiliate receivable	41,889.68
Deferred contract costs, current	247,821
Total current assets	<u>2,017,662</u>
Non-current assets	
Deferred contract costs, non-current	404,613
Member receivable	370,462
Right of use asset	53,657
Total non-current assets	<u>828,732</u>
Total assets	<u><u>\$2,846,394</u></u>
 <b>Liabilities and Members' Equity</b>	
Current liabilities	
Accounts payable	\$202
Accounts payable - related party	38,000
Accrued expenses	124,165
Gift card liability	756,482
National advertising fund liability	337,868
Deferred revenue, current	392,260
Operating lease liability, current	22,776
Total current liabilities	<u>1,671,753</u>
Non-current liabilities	
Deferred revenue, non-current	897,401
Operating lease liability, non-current	0
Total non-current liabilities	<u>897,401</u>
Total liabilities	<u>2,569,154</u>
Members' equity	<u>277,241</u>
Total liabilities and members' equity	<u><u>\$2,846,394</u></u>

# Statements of Operations

January - June 2024

	<u>Jan-Jun 2024</u>
Operating revenue	
Initial franchise fees	\$81,500
Royalty fees	1,726,398
Marketing and technology fees	
Total operating revenue	<u>1,807,898</u>
Operating expenses	
Management fees	487,445
Commission fees	198,756
Marketing	
General and administrative	544,082
Bad debt - initial franchise fees	
Total operating expenses	<u>1,230,283</u>
Operating income	<u>577,615</u>
Other income	
Other income	
Interest income	
Total other income	<u>0</u>
Net income	<u><u>\$577,615</u></u>

**EXHIBIT E  
TO FRANCHISE DISCLOSURE DOCUMENT**

**SPAVIA INTERNATIONAL, LLC  
STATE SPECIFIC ADDENDA**

## **STATE SPECIFIC ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT**

### **ADDENDUM REQUIRED BY THE STATE OF CALIFORNIA**

CALIFORNIA CORPORATIONS CODE SECTION 31125 REQUIRES THAT THE FRANCHISOR GIVE THE FRANCHISEE A DISCLOSURE DOCUMENT APPROVED BY THE DEPARTMENT OF BUSINESS OVERSIGHT PRIOR TO A SOLICITATION OF A PROPOSED MATERIAL MODIFICATION OF AN EXISTING FRANCHISE.

THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

As the franchisee, you must comply with the requirements set forth in the California Business and Professions Code Sections 4600 *et seq.* concerning educational standards and certification process for massage professionals.

Neither we nor any person or franchise broker identified in Item 2 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 these persons from membership in that association or exchange.

California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination, transfer or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

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

The Franchise Agreement and Development Agreement contain a covenant not to compete which extends beyond the termination of the franchise. These provisions may not be enforceable under California law.

THE FRANCHISE AGREEMENT AND DEVELOPMENT AGREEMENT REQUIRE APPLICATION OF THE LAW OF COLORADO AND A FORUM OF THE LOCATION WHERE FRANCHISOR'S HEADQUARTERS ARE LOCATED. THESE PROVISIONS MAY NOT BE ENFORCEABLE UNDER CALIFORNIA LAW.

The Franchise Agreement and Development Agreement require the parties to resolve their disputes through non-binding mediation and, if necessary, litigation. The mediation and litigation will be conducted at a venue close to Franchisor's headquarters, and you must reimburse us our costs if we prevail in any litigation proceeding. 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.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Regarding our website, [www.spaviadayspa.com](http://www.spaviadayspa.com), please note the following:

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT at [www.dfpi.ca.gov](http://www.dfpi.ca.gov)

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**SPAVIA INTERNATIONAL, LLC  
ILLINOIS ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT  
NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF ILLINOIS**

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The following are revisions to Item 17 of the Franchise Disclosure Document:

The conditions under which the Franchise Agreement and/or Development Agreement can be terminated and your rights upon nonrenewal may be affected by Illinois law (815 ILCS 705/19 and 705/20).

For choice of law purposes, and for the interpretation and construction of the Franchise Agreement and Development Agreement, Illinois law governs.

Although the Franchise Agreement and Development Agreement require litigation to be instituted in a court in Colorado (or other state where Franchisor’s headquarters are located), all litigation must be instituted in a court of competent jurisdiction located in the State of Illinois, subject to the mediation provision of the Franchise Agreement and Development Agreement.

**The undersigned hereby acknowledge and agree that this Addendum is hereby made part of and incorporated into the foregoing Franchise Disclosure Document.**

**SPAVIA INTERNATIONAL, LLC**

**FRANCHISEE/DEVELOPER**

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

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

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

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

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

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

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

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

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## **ADDENDUM REQUIRED BY THE STATE OF INDIANA**

Neither Spavia International, LLC, its Affiliate, nor any person identified in Item 2 has any material arbitration proceeding pending, or has during the ten (10) year period immediately preceding the date of this Disclosure Document been a party to concluded material arbitration proceedings.

The Franchise Agreement and Development Agreement contain a covenant not to compete which extends beyond the termination of the franchise. These provisions may not be enforceable under Indiana law.

Indiana law makes unilateral termination of a franchise unlawful unless there is a material violation of the Franchise Agreement and/or Development Agreement and the termination is not done in bad faith.

Indiana law prohibits a prospective general release of claims subject to the Indiana Deceptive Franchise Practices Law.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## **ADDENDUM REQUIRED BY THE STATE OF 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 OF 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 EACH 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, MATERIALS, FIXTURES, AND FURNISHINGS. PERSONALIZED MATERIALS WHICH HAVE NO VALUE TO THE FRANCHISOR AND INVENTORY, SUPPLIES, MATERIALS, 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 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 QUALIFICATION 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.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE DEPARTMENT OF THE ATTORNEY GENERAL'S OFFICE, CONSUMER PROTECTION DIVISION, ATTN. FRANCHISE SECTION, 670 LAW BUILDING, 525 W. OTTAWA STREET, LANSING, MICHIGAN 48913, 517-373-7117.

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## **ADDENDUM REQUIRED BY THE STATE OF MINNESOTA**

In an Addendum to the Franchise Agreement, we agree to indemnify you against losses and liabilities for which you are held liable in any proceeding arising out of your use of the mark “SPAVIA” or any other trademark, service mark or logotype that you are authorized by us to use with the Spavia franchise. This indemnification is contingent upon you using the marks or logotypes in accordance with the provisions of the Franchise Agreement. You are not granted any trademark rights under the Development Agreement.

We will comply with Minnesota Statute Section 80C.14 subdivisions 3, 4 and 5 which require, except in certain specific cases, that you be given 90 days’ notice of termination (with 60 days to cure) and 180 days’ notice for non-renewal of the Franchise Agreement and/or Development Agreement.

Minn. Stat. Sec. 80C.21 and Minnesota Rule Part 2860.4400J, prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce any of your rights provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

Minn. Rule Part 2869.4400(d) prohibits us from requiring that you assent to a general release as set forth in Item 17 of this Disclosure Document.

Nothing in the Disclosure Document, Franchise Agreement or Development Agreement shall effect your rights under Minnesota Statute Section 80C.17, Subd. 5.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## **ADDENDUM REQUIRED BY THE STATE OF NEW YORK**

All references to “Disclosure Document” shall be deemed to include the term “Disclosure Document” as used under New York law.

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

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23RD FLOOR, NEW YORK, NEW YORK 10271. 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.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## **ADDENDUM REQUIRED BY THE STATE OF RHODE ISLAND**

Even though our Franchise Agreement and Development Agreement provide that the laws of Colorado apply, the Rhode Island Franchise Investment Law may supersede these agreements because the Rhode Island Franchise Investment Law provides that “a provision in a franchise agreement restricting jurisdiction or venue to a forum outside Rhode Island or requiring the application of laws of another state is void with respect to a claim otherwise enforceable under the Act.”

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## **ADDENDUM REQUIRED BY THE COMMONWEALTH OF VIRGINIA**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Spavia International, LLC for use in the Commonwealth of Virginia shall be amended as follows:

The following Risk Factor is hereby added to the State Cover Page to the Franchise Disclosure Document:

With respect to disclosures in Item 6 of the Disclosure Document regarding a franchisee securing funds by selling securities in the franchise, be advised that any securities offered or sold by an Investor Franchisee as part of its Spavia International, LLC Franchise must be either registered or exempt from registration under Section 13.1-514 of the Virginia Securities Act.

Additional Disclosure: The following statements are added to Item 17h:

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 Franchising Act or the laws of Virginia, that provision may not be enforceable.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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**STATE SPECIFIC ADDENDA**  
**TO THE FRANCHISE AGREEMENT AND DEVELOPMENT AGREEMENT**

**ADDENDUM REQUIRED BY THE STATE OF CALIFORNIA**

The California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination, transfer and non-renewal of a franchise. If the Franchise Agreement/Development Agreement contains a provision that is inconsistent with the law, the law will control.

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

The Franchise Agreement and Development Agreement contain a covenant not to compete which extends beyond the termination of the franchise. These provisions may not be enforceable under California law.

THE FRANCHISE AGREEMENT AND DEVELOPMENT AGREEMENT REQUIRE APPLICATION OF THE LAW OF COLORADO AND A FORUM WHERE FRANCHISOR'S HEADQUARTERS IS LOCATED. THESE PROVISIONS MAY NOT BE ENFORCEABLE UNDER CALIFORNIA LAW.

The Franchise Agreement and Development Agreement require non-binding mediation. The mediation will occur at Franchisor's headquarters, with the prevailing party's costs and expenses to be borne by the other party. 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 Mediation Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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**SPAVIA INTERNATIONAL, LLC  
ILLINOIS ADDENDUM TO THE FRANCHISE AGREEMENT AND DEVELOPMENT  
AGREEMENT**

**ALL FRANCHISE AGREEMENTS AND AREA DEVELOPMENT AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE OF ILLINOIS ARE HEREBY AMENDED AS FOLLOWS:**

1. The Franchisor and Franchisee/Developer hereby acknowledge that this Agreement shall be governed by Illinois law.
2. A franchisee's rights upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.
3. Illinois law governs the Agreements.
4. In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.
5. In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.
6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement or Development Agreement**

**SPAVIA INTERNATIONAL, LLC**

**FRANCHISEE/DEVELOPER**

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

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

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

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

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

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

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

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

## **ADDENDUM REQUIRED BY THE STATE OF INDIANA**

Section 21(D) of the Franchise Agreement, as well as Section 22(B) of the Development Agreement, are hereby modified to provide that: (i) the acts described in these Sections may cause Franchisor irreparable harm; and (ii) Franchisor is entitled to seek (rather than obtain) restraining orders or injunctive relief in accordance with the terms of these Sections without the necessity of posting a bond.

Section 13(E)(3) of the Franchise Agreement and Section 16(C)(3) Development Agreement are hereby deleted in their entirety.

Section 15 of the Franchise Agreement, as well as Section 14 of the Development Agreement, are hereby modified by adding the following subsection after the last subsection thereof:

Indiana Law. The conditions under which this Agreement can be terminated may be affected by Indiana law [IC Stat. Sec. 23-2-2.5 and 23-2-2.7] which provides Franchisee with certain termination rights.

Section 21(C) of the Franchise Agreement and Development Agreement are hereby modified such that Franchisor agrees to select as the place for mediation a location within the State of Indiana and the laws of the State of Indiana shall apply to the mediation proceedings.

Section 21(I) of the Franchise Agreement, as well as Section 22(F) of the Development Agreement, are hereby modified by deleting everything in the first sentence thereof after the words “brought before the expiration of” and before “and that any action not brought...,” and replacing the deleted portion with “two (2) years after the violation of IC Stat. 23-2 and, with respect to other claims, three (3) years after discovery by the Franchisee/Developer of the facts constituting the violation.”

Any covenant not to compete in the Franchise Agreement or Development Agreement which extends beyond the termination of such agreement(s) (whichever are applicable) may not be enforceable under Indiana law.

Notwithstanding anything to the contrary in Section 21(A) of the Franchise Agreement and/or Development Agreement, the laws of the State of Indiana shall govern the construction and enforcement of these agreements.

Section 21(E) of the Franchise Agreement, as well as Section 22(A) of the Development Agreement, are hereby modified by adding the following text as the last sentence thereof:

This provision shall not in any way abrogate or reduce any rights of Franchisee as provided for under Indiana law including, but not limited to, the right to submit matters to the jurisdiction of the courts of Indiana.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## ADDENDUM REQUIRED BY THE STATE OF MINNESOTA

The Sections of the Franchise Agreement and Development regarding your obligation to execute a general release upon assignment or renewal are deleted in their entirety in accordance with Minnesota Rule Part 2860.4400(D).

Section 7(Q) of the Franchise Agreement is hereby deleted in its entirety and replaced with the following language:

- Q. Franchisor agrees to indemnify Franchisee from and against any losses, liabilities and damages for which Franchisee is held liable by a court of competent jurisdiction in any proceeding arising solely out of Franchisee's use of the mark "SPAVIA" and all other trademarks, service marks and associated marks and symbols utilized by Franchisee pursuant to this Agreement, provided such use is in accordance with and pursuant to the provisions of this Agreement. The foregoing indemnification is conditioned upon the following: Franchisee must (i) provide written notice to Franchisor of any claims subject to indemnification hereunder within twenty (20) days of Franchisee's receipt of any written information pertaining to such claims, (ii) tender the defense of the claims to Franchisor if Franchisor so desires, and (iii) permit Franchisor to have sole control of the defense and settlement of any such claim.

Section 15 of the Franchise Agreement, as well as Section 14 of the Development Agreement, are hereby modified to add the following subsection after the last subsection therein:

Minnesota Law. The conditions under which this Agreement can be terminated or not renewed may be affected by Minnesota law which provides Franchisee with certain termination and non-renewal rights. Minnesota Statute Section 80C.14, subdivisions 3, 4 and 5 require, except in certain specified cases, that the Franchisee be given ninety (90) days' notice of termination (with sixty (60) days to cure) and one hundred eighty (180) days' notice for non-renewal of the Franchise Agreement.

Section 21(D) of the Franchise Agreement, as well as Section 22(B) of the Development Agreement, are hereby modified by adding the word "seek to" in the first sentence thereof after the word "to" and before the word "obtain."

Section 21(E) of the Franchise Agreement, as well as Section 22(A) of the Development Agreement, are hereby modified by adding the following text as the last sentence thereof:

Minn. Stat. Sec. 80C.21 and Minnesota Rule Part 2860.4400J, prohibit us from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce any of your rights provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

Section 21(I) of the Franchise Agreement and Section 22(F) of the Development Agreement, are hereby modified by replacing all references of "one year" time limit to "three years" time limit to institute claims.

Nothing in the Franchise Agreement or Development Agreement is intended to abrogate or reduce any rights of the Franchisee as provided in for Minnesota Statutes, Chapter 80C.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## **ADDENDUM REQUIRED BY THE STATE OF RHODE ISLAND**

Notwithstanding Section 21(E) of the Franchise Agreement or Section 22(A) of the Development Agreement, Section 19-28.1-14 of the Rhode Island Franchise Investment Act (the “Act”) provides that a provision in these agreements restricting jurisdiction or venue to a forum outside Rhode Island or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under the Act.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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## **ADDENDUM REQUIRED BY THE STATE OF WISCONSIN**

Section 15 of the Franchise Agreement, as well as Section 14 of the Development Agreement, are hereby modified to add the following subsection after the last subsection therein:

Wisconsin Law. The conditions under which this Agreement can be terminated or not renewed may be affected by Wisconsin law, Chapter 135, Wisc. Stats., the Wisconsin Fair Dealership Law.

Section 21(E) of the Franchise Agreement, as well as Section 22(A) of the Development Agreement, are hereby modified by adding the following language after the last sentence thereof:

“The Wisconsin Fair Dealership Law supersedes any provision of this Agreement which is inconsistent with that law.”

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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**FOR RESIDENTS OF ALL STATES LISTED IN THIS ADDENDUM**

Notwithstanding Section 22(A) of the Franchise Agreement or Section 23(G) of the Development Agreement to the contrary, this Addendum shall not be merged with or into, or superseded by, the Franchise Agreement and/or Development Agreement (as applicable). In the event of any conflict between the Franchise/Development Agreement and this Addendum, this Addendum shall be controlling. Except as otherwise expressly set forth herein, no other amendments or modifications of the Franchise Agreement and Development Agreement are intended or made by the parties.

Applicable State: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Addendum on the day and year first above written.

FRANCHISEE:

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

[OR]

\_\_\_\_\_  
Corporate Name, Partnership or  
Limited Liability Company

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

FRANCHISOR:

**SPAVIA INTERNATIONAL, LLC**

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

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

OWNERS (SHAREHOLDERS/PARTNERS/  
MEMBERS):

\_\_\_\_\_(SEAL)

**EXHIBIT F  
TO FRANCHISE DISCLOSURE DOCUMENT**

**LIST OF OPEN FRANCHISEES AS OF DECEMBER 31, 2023**

<b>Last Name</b>	<b>First Name</b>	<b>Entity Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Phone</b>
Fry	Dana	AUBREY DAVID, LLC	4201 McGowen St, Suite 240	Long Beach	California	90808	(562)269-4449
Lucas	Booker	BKL Enterprises	45 Crescent Dr.	Pleasant Hill	California	94523	(925) 478-5511
Throckmorton	John	EXPERIENCE RELAXATION, INC.	6688 Lonetree Blvd	Rocklin	California	95765	(916) 975-2100
Dameron /Finch	Kari/James	Amare Vita Wellness Ltd.	8283 S. Akron St.	Centennial	Colorado	80112	(303) 585-1234
Dubuc	Genevieve	Spa Peer LLC	1242 S. Hover Street, Unit B-300	Longmont	Colorado	80501	(720) 307-5566
Hoger	Sheryl	Hoger Enterprises, LLC	200 Quebec St Unit 115	Denver	Colorado	80230	(720) 642-7900
Jamison	Lisa	JKL Dream LLC	4930 South Yosemite Street Ste D2	Greenwood Village	Colorado	80111	(303) 221-0068
Bradley	Loyd	Diversity Capital Partners LLC	4550 Main St, Unit #400	Westminster	Colorado	80031	(720) 929-1010
Bradley	Loyd	Diversity Capital Partners LLC	14647 Delaware Street, Ste 300	Westminster	Colorado	80031	(720) 464-7000
Sander	Terra	Renew & Prosper LLC	215 East Foothills Parkway	Fort Collins	Colorado	80525	(970) 658-8900
Richardson	Everette	Diversity Real Estate Partners LLC	1810 29th St., Ste 2004	Boulder	Colorado	80301	(720) 408-2600
Katzoff	Aaron	Thomas Gilbert LLC	300 Atlantic Street	Stamford	Connecticut	06902	(203) 703-9500
Katzoff	Aaron	Roslyn Valerie LLC	1919 Boston Post Rd Unit 206	Guilford	Connecticut	6437	(203)884 -6684
Chandley	Mark	Relax SWFL LLC	6340 Naples Boulevard Ste 4 & 5,	Naples	Florida	34109	(239)303-3938
Dooley	Rakhee	EMENESS SPA SOLUTIONS, LLC	9834 Glades Rd, Suite C15	Boca Raton	Florida	33434	(561) 810-1001
Riko	Patricia	Relaxing Cur, LLC	110 S. Orlando Avenue, Suite 9	Winter Park	Florida	32789	(407) 670-3200
Stoll	Chris & Emily	Jo & TB Enterprises Inc	176 Majestic Eagle Drive	Ponte Vedra	Florida	32081	(904)395-7300
Meyer	Natalie	NRM Spa Associates	5070 Peachtree Blvd, Suite a-110	Chamblee	Georgia	30341	(678) 812-0101
Monty	Lorilynn	Psalm 143.8 Venture LLC	3005 Old Alabama Road	Johns Creek	Georgia	30022	470.508.9900
Carmody	Laura	Carmody Wellness, Inc.	3110 West Iles Avenue	Springfield	Illinois	62704	(217) 718-4600
Groshko	Paul	SJL Lifestyle Inc	2121 N. Clybourn 19	Chicago	Illinois	60614	(312) 724-8777
Robbins	West	Bailey Beckett Wellness, Inc.	409 N River Glen Avenue	Elmhurst	Illinois	78750	(630) 749-1818
Biggers	Josephine	Joken Day Spas, LLC	8594 E 116th Street	Fishers	Indiana	46038	(317) 567-8008
Thams	Tood & Emily	All Good Things	1631 SW Main Street, Unit 102	Ankeny	Iowa	50023	(515) 446-7800

Lambert	Chris & Jennifer	LAMBCO, INC	4601 Ambassador Caffery Parkway (Stoma Plaza)	Lafayette	Louisiana	70508	(337) 761-6102
Dickerson	Caroline	EXPERIENCE RELAXATION , INC.	6688 Lonetree Blvd	Natick	Massachusetts	1760	(508) 810-0100
Flood	Beth & Dan	Serenity Spa, Inc	615 Constitution Avenue	Littleton	Massachusetts	1460	(978) 540-5300
Hunnius	John	JRMH Holdings, Inc	3070 Washtenaw Ave.	Ann Arbor	Michigan	48104	(734) 545-7979
Nolte	Cristina & Josh	Etlon, LLC	11732 Elm Creek Blvd.	Maple Grove	Minnesota	55369	(763)923-7000
Nolte	Cristina & Josh	Etlon Spa Group LLC	11300 Wayzata Blvd B.	Minnetonka	Minnesota	55305	(763) 316-1500
Tackett	Merirae	Reno Spa Group, LLC	13925 S. Virginia St., Ste 206	Reno	Nevada	89511	(775) 432-6572
Carrafiello	Michael	SCH Endeavors, Inc.	379 Rte. NJ-17 South	Ridgewood	New Jersey	7652	(201) 639-2288
Katzoff	Aaron	Renee Martin, LLC	1670 Nixon Drive	Moorestown	New Jersey	8057	(856) 457-6444
Manville	Ryan	MAXJACK, LLC	325 Chimney Rock Road	Bound Brook	New Jersey	8805	(732) 844-3030
Manville	Ryan	MAXJACK2, LLC	1255 Raritan Road	Clark	New Jersey	7066	(732)540-1600
Martin	Leslie	ECHLAM, LLC	8 Town Center Drive	Sparta	New Jersey	7871	(973) 512-4225
Manville	Ryan	MaxJack4 LLC	178 East Hanover Avenue Suite 108	Cedar Knolls	New Jersey	7927	(973) 829-4200
Rossmann	Ben	Westchester Well Being, Inc	960/1204 Broadway	Thornwood	New York	10594	(914)984-7300
Michel	Stephanie	KDB Investments	107 Edinburgh S Drive, Ste 155	Cary	North Carolina	27511	(919)-377-9599
Angela & Dana	Dotson	Wellness 360 LLC	4219 Providence Rd	Charlotte	North Carolina	28211	(708)334-3582
Dorger	Caroline	Seven D LLC	10701 Innovation Drive	Miami Township	Ohio	45342	(937) 550-1188
Shofu	Lukeman / Abi	Bridgepark Adventures	4546 Bridge Park Ave	Dublin	Ohio	43017	(614) 689-0808
Eink	Mary	Lotus Adventures	18019 South Park Center	Strongsville	Ohio	44136	(440) 876-8300
Gady	Thomas	Relax, Escape, Thrive, LLC	3825 Edwards Rd #106	Cincinnati	Ohio	45209	(513) 273-5341
Byrd	Adrienne	ABK Enterprises	155 Village Drive, Unit F, Bldg K2 - King of Prussia Town Center	King of Prussia	Pennsylvania	19406	(484) 808-5445
Manville	Ryan	MAXJACK3, LLC	8139 Sawyer Brown Rd. Ste #701	Nashville	Tennessee	37221	(615) 988-8830
Kim & Steven	Gillihan	Cypress Spa and Retreat LLC	29040 Hwy 290, Suite A11	Cypress	Texas	77433	(832)769-0077
Anglin	Tish	GT Seventeen Twenty Three Inc	6626 W Loop 1604 N	San Antonio	Texas	78254	(210)338-3000
Burnette	Greg	ATXSPA, LLC	6701 Burnet Rd, Ste B3	Austin	Texas	78757	(512) 956-5005
Jones	Jerry	Zen State of Mind, LLC	4801 Overton Ridge Blvd	Fort Worth	Texas	76132	(817) 619-9977
Bourgeois	Shon & Jenny	Azure Spa Group LLC	10705 Spring Green Boulevard, Suite 600	Katy	Texas	77494	(281) 697-9544
Pearson	Stephanie	Zeric LLC	2100 Dallas Parkway #152	West Plano	Texas	75093	(469) 304-9444
Burnette	Greg		10261 S. State St, Suite A	Sandy	Utah	84070	(801) 424-7566

Elgohary	Nivin	Nayrouz Goodness LLC	1668 Carl D. Silver Parkway	Fredericksburg	Virginia	22401	(540) 684-3773
Moore	Ann	Mobar Corporation	7140 Woodlawn Avenue NE	Seattle	Washington	98115	(206) 701-5050

**LIST OF FRANCHISEES THAT HAVE SIGNED FRANCHISE AGREEMENTS BUT HAD NOT YET OPENED A FRANCHISED DAY SPA AS OF DECEMBER 31, 2023**

<b>Last Name</b>	<b>First Name</b>	<b>Entity Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>	<b>Phone</b>
Chandley	Mark	Relax Estero LLC	19517 Highland Oaks Drive, Suite 140	Estero	FL	33928	(239) 900-1211
Richards	Loni	W A Richards Inc.	410 Peachtree Parkway, Suite 222	Cumming	GA	30041	(470) 789-4772
Groshko	Paul	SJL Lifestyle Arcadia	773 W Adams St	Chicago	IL	60661	(312) 602-0500
Paolello	Rebecca	Grand Escape Wellness LLC	14750 Cedar Ave. Suite 140	Apple Valley	MN	55124	(952) 236-4242

**LIST OF FRANCHISEES THAT HAVE LEFT THE SYSTEM IN THE PAST FISCAL YEAR OR THAT HAVE FAILED TO COMMUNICATE WITH US IN THE 10 WEEKS PRECEDING THE ISSUANCE DATE OF THIS DISCLOSURE DOCUMENT**

<b>Last Name</b>	<b>First Name(s)</b>	<b>Entity Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>	<b>Phone</b>
Garcia/Donlan	Enrique/Melissa	SBR Family Corp	1919 Boston Post Rd, Unit 206	Guilford	CT	06437	(203) 884-6684
Garcia/Donlan	Enrique/Melissa	SBR Family Corp	300 Atlantic Street	Stamford	CT	06902	(203) 703-9500
Eink	Mary	Lotus Adventures	4546 Birdge Park Av	Dublin	OH	43017	(440) 876-8300

**EXHIBIT G**  
**TO FRANCHISE DISCLOSURE DOCUMENT**

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**EXHIBIT H  
TO FRANCHISE DISCLOSURE DOCUMENT**

**SAMPLE RELEASE AGREEMENT**

In consideration for the consent of Spavia International, LLC (the “Franchisor”), to the assignment by \_\_\_\_\_ (“Franchisee”) of its interest in that certain franchise agreement entered into by and between Franchisor and Franchisee dated \_\_\_\_\_ (the “Franchise Agreement”), Franchisee and its principals hereby remises, releases, and forever discharges Franchisor, its affiliates, parents, subsidiaries, principals, officers, directors and employees and agents, and their respective successors, assigns, heirs and personal representatives, from all debts, covenants, liabilities, actions, and causes of action of every kind and nature through the date of this Release, including but not limited to those arising out of or existing under (a) the Franchise Agreement and the parties respective rights and obligations thereunder, (b) the offer and sale of the SPAVIA franchised business described therein, and (c) the franchise relationship between the parties hereto, whether in law or in equity. Franchisee acknowledges that this Release is intended to release all claims held by any person against the parties to be released, arising out of any of the matters to be released.

This Release has been entered into and agreed to as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**FRANCHISEE:**

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

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

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

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

## EXHIBIT I

### FRANCHISEE QUESTIONNAIRE/COMPLIANCE CERTIFICATION

**DO NOT SIGN THIS QUESTIONNAIRE IF YOU ARE A CALIFORNIA FRANCHISEE.**

**NOTICE FOR PROSPECTIVE FRANCHISEES WHO RESIDE IN, OR WHO INTEND TO OPERATE THE FRANCHISED BUSINESS IN, ANY OF THE FOLLOWING STATES: CA, HI, IL, IN, MD, MI, MN, NY, ND, RI, SD, VA, WA, OR WI (EACH, A “REGULATED STATE”):**

FOR PROSPECTIVE FRANCHISEES THAT RESIDE IN OR ARE SEEKING TO OPERATE THE FRANCHISED BUSINESS IN ANY REGULATED STATE, SUCH PROSPECTIVE FRANCHISEE SHOULD NOT COMPLETE THIS QUESTIONNAIRE OR RESPOND TO ANY OF THE QUESTIONS CONTAINED IN THIS QUESTIONNAIRE.

As you know, Spavia International, LLC (“we”, “us”), and you are preparing to enter into a Franchise Agreement and, if you are awarded franchise development rights, a Development Agreement for the right to open and operate one (1) or more SPAVIA franchises (each, a “Franchised Business”). The purpose of this Questionnaire is to: (i) determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading; (ii) be certain that you have been properly represented in this transaction; and (iii) be certain that you understand the limitations on claims you may make by reason of the purchase and operation of your franchise. **You cannot sign or date this Questionnaire the same day as the Receipt for the Franchise Disclosure Document but you must sign and date it the same day you sign the Development Agreement and/or Franchise Agreement, and pay us the appropriate franchise/development fee.** Please review each of the following questions carefully and provide honest responses to each question. If you answer “No” to any of the questions below, please explain your answer on the back of this sheet.

- Yes\_\_\_ No \_\_\_ 1. Have you received and personally reviewed the Franchise Agreement and/or Development Agreement, as well as each exhibit or schedule attached to these agreements that you intend to enter into with us?
- Yes\_\_\_ No \_\_\_ 2. Have you received and personally reviewed the Franchise Disclosure Document we provided?
- Yes\_\_\_ No \_\_\_ 3. Did you sign a receipt for the Disclosure Document indicating the date you received it?
- Yes\_\_\_ No \_\_\_ 4. Do you understand all the information contained in the Disclosure Document and the Franchise Agreement you intend to enter into with us?
- Yes\_\_\_ No \_\_\_ 5. Have you reviewed the Disclosure Document and Franchise Agreement (and/or Development Agreement) with a lawyer, accountant or other professional advisor and discussed the benefits and risks of operating the Franchised Business(es) with these professional advisor(s)?
- Yes\_\_\_ No \_\_\_ 6. Do you understand the success or failure of your Franchised Business(es) will depend in large part upon your skills, abilities and efforts and those of the persons you employ, as well as many factors beyond your control such as demographics of your Premises (or Development Area), competition, interest rates, the economy, inflation, labor and supply costs, lease terms and the marketplace?

- Yes \_\_\_ No \_\_\_ 7. Do you understand we have only granted you certain, limited territorial rights under the Franchise Agreement, and that we have reserved certain rights under the Franchise Agreement?
- Yes \_\_\_ No \_\_\_ 8. Do you understand we and our affiliates retain the exclusive unrestricted right to engage, directly or through others, in the providing of services under the SPAVIA mark or any other mark at any location outside your (a) Designated Territory under the Franchise Agreement and (b) Development Area is you have entered into a Development Agreement, without regard to the proximity of these activities to you're the premises of your Franchised Business(es) or Development Area?
- Yes \_\_\_ No \_\_\_ 9. Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement must be mediated, at our option, at our then-current headquarters?
- Yes \_\_\_ No \_\_\_ 10. Do you understand the Franchise Agreement and Development Agreement provide that you can only collect compensatory damages on any claim under or relating to the Franchise Agreement and are not entitled to any punitive, consequential or other special damages?
- Yes \_\_\_ No \_\_\_ 11. Do you understand the sole entity or person against whom you may bring a claim under the Franchise Agreement or Development Agreement is us?
- Yes \_\_\_ No \_\_\_ 12. Do you understand that the Franchisee (or one of its principals if Franchisee is an organization), as well as any Designated Managers (as defined in the Franchise Agreement), must successfully complete the appropriate initial training program(s) before we will allow the Franchised Business to open or consent to a transfer of that Franchised Business?
- Yes \_\_\_ No \_\_\_ 13. Do you understand that we require you to successfully complete certain initial training program(s) and if you do not successfully complete the applicable training program(s) to our satisfaction, we may terminate your Franchise Agreement?
- Yes \_\_\_ No \_\_\_ 14. Do you understand that we do not have to sell you a franchise or additional franchises or consent to your purchase of existing franchises (other than those that you timely fulfill your development obligations and have contracted to open under the Development Agreement, provided you have not materially breached that agreement and failed to timely cure that breach)?
- Yes \_\_\_ No \_\_\_ 15. Do you understand that we will send written notices, as required by your Franchise Agreement and/or Development Agreement, to either your Franchised Business or home address until you designate a different address by sending written notice to us?
- Yes \_\_\_ No \_\_\_ 16. Do you understand that we will not approve your purchase of a franchise, or we may immediately terminate your Franchise Agreement, if we are prohibited from doing business with you under any anti-terrorism law enacted by the United States Government?
- Yes \_\_\_ No \_\_\_ 17. Is it true that no broker, employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a Franchised Business that

is not contained in the Disclosure Document or that is contrary to, or different from, the information contained in the Disclosure Document?

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

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

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

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

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Dated: \_\_\_\_\_, 20\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Dated: \_\_\_\_\_, 20\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

**GIVE A COMPLETE EXPLANATION OF ANY NEGATIVE RESPONSES ON BACK OF THIS PAGE (REFER TO QUESTION NUMBER)**

## EXHIBIT J

### STATE EFFECTIVE DATES

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

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

<b>STATE</b>	<b>EFFECTIVE DATE</b>
California	Pending Registration
Hawaii	Not Registered
Illinois	Pending Registration
Indiana	Not Registered
Maryland	Not Registered
Michigan	Pending Registration
Minnesota	Pending Registration
New York	Pending Registration
North Dakota	Not Registered
Rhode Island	Not Registered
South Dakota	Not Registered
Virginia	Pending Registration
Washington	Not Registered
Wisconsin	June 24, 2024

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

**EXHIBIT K**

**RECEIPTS**

## RECEIPTS (OUR COPY)

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 Spavia International, LLC offers you a franchise it must provide this Disclosure Document to you within 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 and Rhode Island require 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 agreements or payment of any consideration that relates 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 Spavia International, LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state administrator identified in Exhibit A of this Franchise Disclosure Document.

The Issuance Date of this Disclosure Document is April 29, 2024.

A list of our agents registered to receive service of process is listed as Exhibit A to this Franchise Disclosure Document.

I have received a Franchise Disclosure Document with an Issuance Date of April 29, 2024, which contained the following Exhibits.

- A. List of State Franchise Administrators/Agents for Service of Process
- B. Franchise Agreement (and Exhibits)
- C. Development Agreement (and Exhibits)
- D. Financial Statements
- E. State Specific Addenda
- F. List of Franchisees and Franchisees That Left Our System in the Past Fiscal Year or That Have Not Communicated to Us in the 10 Weeks Prior to the Issuance Date of this Disclosure Document
- G. Operations Manual Table of Contents
- H. Sample Termination and Release Agreement
- I. Franchisee Questionnaire/Compliance Certification
- J. State Effective Dates
- K. Receipts

A list of the names, principal business addresses, and telephone numbers of each franchise seller offering this franchise is as follows:

Marty Langenderfer, Spavia International, LLC,  
6312 S. Fiddlers Green Circle, Suite #140E  
Greenwood Village, CO 80111  
(303) 888-0925

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Date: \_\_\_\_\_ Franchisee  
\_\_\_\_\_(Print Name)  
\_\_\_\_\_(Telephone Number)

Below for a Partnership, Corporation or Limited Liability Corporation:

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

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

Name of Company: \_\_\_\_\_

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

***[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]***

**RECEIPTS (YOUR COPY)**

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

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Greenwood Village, CO 80111 \_\_\_\_\_  
(303) 888-0925 \_\_\_\_\_

