

## FRANCHISE DISCLOSURE DOCUMENT



Spenga Holdings LLC  
a Delaware limited liability company  
13161 W 143rd Street, Suite 103  
Homer Glen, Illinois 60491  
(708) 465-9113  
franchise@spenga.com  
<http://www.spenga.com/>

Franchisor currently offers qualified parties a franchise for the right to independently own and operate a fitness studio that (a) features and provides exercise equipment and machines, fitness training services, and logoed merchandise, and (b) operated utilizing certain proprietary marks (including SPENGA) and a business operations system developed and designated by Franchisor (each, a “Studio”).

The total investment necessary to begin operation of a Spenga traditional model franchise is \$499,890 to \$823,615. This includes \$53,500 to \$56,000 that must be paid to the franchisor or affiliate.

The total investment necessary to begin operation of a Spenga single combo model franchise is \$435,931 to \$625,085. This includes \$53,500 to \$56,000 that must be paid to the franchisor or affiliate.

The total initial investment necessary to begin operation of three (3) Spenga traditional model franchises is \$569,890 to 893,615. This includes \$119,500 that must be paid to the franchisor or affiliate.

The total initial investment necessary to begin operation of three (3) Spenga combo model franchises is \$505,931 to \$695,085. This includes \$119,500 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, us or an affiliate in connection with the proposed franchise sale. **Note, however, that no government 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 Roger McGreal, our CEO, at (708) 465-9113 and [rmcgreal@spenga.com](mailto:rmcgreal@spenga.com), or at 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois 60491.

The terms of your contract will govern your franchise relationship. Don’t 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 accountant.

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

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

Issuance Date: April 30, 2024.

## How to Use This Franchise Disclosure Document

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

<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 J.
<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 C 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 Spenga business in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the 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 Spenga franchisee?</b>	Item 20 or Exhibit I lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

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

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

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

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

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

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

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

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

### Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends 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 and development agreement require you to resolve disputes with the franchisor by mediation in the county in which the franchisor is located, currently Will County, Illinois. Out-of-state mediation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate with the franchisor in Illinois than in your own state. Certain disputes with us not subject to mediation must be resolved by litigation in Illinois. It may also cost more to litigate in Illinois than in your own state.
2. **Spousal Liability**. Your spouse must sign a document that makes your spouse liable for all financial obligations under the Franchise Agreement even though your spouse has no ownership interest in the franchise. This guarantee will place both you and your spouse's marital and personal assets perhaps including your house, at risk if your franchise fails.
3. **Mandatory Minimum Payments**. You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.
4. **Financial Condition**. The franchisor's financial condition, as reflected in its financial statements (see Item 21), calls into question the franchisor's financial ability to provide services and support to you.
5. **Unopened Franchises**. The Franchisor has signed a significant number of franchise agreements with franchisees who have not yet opened their outlets. If other franchisees are experiencing delays in opening their outlets, you also may experience delays in opening your own outlet.
6. **Supplier Control**. You must purchase all or nearly all of the inventory or supplies that are necessary to operate your business from the franchisor, its affiliates, or suppliers that the franchisor designates, at prices the franchisor or they set. These prices may be higher than prices you could obtain elsewhere for the same or similar goods. This may reduce the anticipated profit of your franchise business.

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.

**SPENGA HOLDINGS LLC**  
**MICHIGAN ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT NOTICE**  
**TO PROSPECTIVE FRANCHISEES IN THE STATE OF MICHIGAN**

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

- (A) A prohibition on the right of a franchisee to join an association of franchisees.
- (B) A requirement that a franchisee assent to release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (C) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (D) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are subject to compensation. This subsection applies only if: (1) the term of the franchise is less than 5 years and (2) the franchisees is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of the 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:
  - (1) the failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.
  - (2) the fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

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

(4) 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 require 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 provision 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 ADDRESSED TO:  
DEPARTMENT OF ATTORNEY GENERAL  
CONSUMER PROTECTION DIVISION  
670 LAW BUILDING, 525 W. OTTAWA STREET  
LANSING, MICHIGAN 48913  
Telephone (517) 373-7117

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### **EXHIBITS:**

Exhibit A-	List of State Agencies and Agents to Receive Service of Process
Exhibit B-	Table of Contents of Operations Manual (“Operations Manual” or “Manual(s)”)
Exhibit C-	Financial Statements
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Exhibit E-	Development Agreement (or Development Agreement)
Exhibit F-	State Specific Addenda to Franchise Disclosure Document
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## **ITEM 1**

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

To simplify the language in this Disclosure Document, all references to “Spenga Franchise,” “we,” “us,” or “our” refer to Spenga Holdings LLC, the franchisor. All references to “you” or “your” refer to the individual(s), corporation, limited liability company or other entity that is awarded a franchise. If you are a corporation, limited liability company, partnership or any other type of legal entity, “you” or “your” includes the franchisee or, if appropriate, developer, and each of its owners.

#### **The Franchisor**

We are a limited liability company formed under the laws of the State of Delaware in March 2015. We do business under our company name and under the SPENGA name. We began offering franchises for the operation of Studios in 2015. Our principal business address currently is 13161 W 143rd Street, Suite 103, Homer Glen, Illinois 60491.

We do not and have not operated any Studios of the type being franchised in this Disclosure Document, but we have an affiliate that owns and operates a Studio as described more fully under the next heading.

We do not offer or sell franchises in any other line of business and, except as provided in this Disclosure Document, we are not involved in any other business activities.

Our agents to receive service of process are identified in attached **Exhibit A**.

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

We do not have any predecessors.

Our parent is Spenga Ventures LLC, a Delaware limited liability company formed in March 2017 with a principal business address of 13161 W 143rd Street, Suite 103, Homer Glen, Illinois 60491.

Our affiliate, Spenga of Mokena, LLC, is an Illinois limited liability company with a principal business address at 19626 LaGrange Rd, Mokena, Illinois 60448 and has operated a Studio since August 21, 2014.

Our affiliate, Spenga Private Label, LLC, an Illinois limited liability company was formed on February 4, 2022, with a principal business address of 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois 60491. Spenga Private Label, LLC reserves the right to be our approved supplier for certain retail items, apparel, branded items, promotional items, equipment, and other items.

Our affiliate via common ownership, Spenga, Inc. (“SI”), is an Illinois corporation formed on August 21, 2014 with a principal address at 13161 W 143rd Street, Suite 103, Homer Glen, Illinois 60491, that currently owns the proprietary marks that we designate to license as part of this franchise offering (collectively, the “Proprietary Marks”) and certain of the other intellectual property associated with our this franchise concept and its proprietary operations system (the “System”).

Except as provided above, none of the affiliates disclosed above: (i) offer or grant franchise a license in any line of business; or (ii) conducts any other business activity.

Additionally, the members and managers of Spenga Holdings, LLC, have an ownership interest in other competitive brand fitness club concepts and facilities, including fitness facilities that operate under the “Charter Fitness” mark.

### **The Franchise Offered and Franchise Agreement**

We offer and award SPENGA franchises for the operation of a fitness training Studio that operates utilizing our Proprietary Marks and System. We currently combine three (3) essential elements of fitness to create a workout that delivers cardiovascular, strength, and flexibility training in every session. Through a combination of spin, strength, and yoga, each workout is designed to improve endurance, strength, and flexibility. Studios will typically have a floorplan and layout that provides dedicated space where each component of the workout can be conducted, and our System currently integrates invigorating aromatherapy and energizing DJ-inspired beats and other music designed to enhance a client’s workout experience.

For purposes of this Disclosure Document, we will refer to: (i) the class sessions and all other services that you are authorized to provide at a franchised Studio collectively as the “Approved Services” you may or must make available for clientele; and (ii) the different inventory and supplies necessary to perform the Approved Services, as well as the retail merchandise and other items we authorize for sale at your Studio, collectively as the “Approved Products” you must offer and provide at your Studio.

Our franchise agreement allows you to build your Studio under one of two models, either the standard model or the combo model. Under the standard model, your Studio will be approximately 3,500 – 4,000 sq. ft. in size. Under the combo model, your Studio will be approximately 3,000 – 3,500 sq. ft. in size. The combo model combines the strength portion and the yoga portion of the workout within the same footprint.

Under both models, Studios are typically located in shopping centers, strip malls, lifestyle centers or other high-traffic areas (relative to demographics of the general region). The dimensions and layout of the Studio must comfortably contain 24 stations from which clientele can receive the Approved Services at any given time.

To own and operate a Studio, you must enter into our then-current form of franchise agreement, with our current form of franchise agreement attached to this Disclosure Document as Exhibit D (the “Franchise Agreement”). If you are an individual, you will sign the Franchise Agreement directly and we may require that your spouse also sign the Franchise Agreement, or the form of personal guaranty attached to our Franchise Agreement (the “Guaranty”). If you are an entity, we may require that each of your owners, including those that won a controlling interest or that will otherwise be involved in the day-to-day operations of the Studio (each, a “Controlling Principal”), sign the form of Guaranty. We have the right to designate any or all of your owners as a Controlling Principal.

During the term of your Franchise Agreement, we will not open or locate, or license any other party the right to open or locate, another Studio within a defined geographical area surrounding the approved premises (the “Premises”) of your franchised Studio (the “Designated Territory”) that we will designate once you have secured your Premises in an exhibit to your Franchise Agreement. Unless and until the parties set forth the Designated Territory in that exhibit and sign off on the same, the Designated Territory will be limited to the Premises of the Studio itself.

### **Multi-Unit Offering and Development Agreement**

We also offer qualified individuals and entities the right to develop multiple Studios within a defined development area (the “Development Area”) we designate in our then-current form of area development agreement (“Development Agreement”), with the current Development Agreement attached to this Disclosure

Document as Exhibit E.

Your Development Agreement will also outline a schedule or defined period of time wherein you must open and commence operating each Studio (a “Development Schedule”). You will be required to sign a Franchise Agreement for your initial Studio at the same time you sign your Development Agreement. You will eventually need to sign our then-current form of franchise agreement for each Studio you develop under the Development Schedule prior to opening that Studio (or other deadline set forth in 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 development fee that will be calculated based on the number of Studios we grant you the right to open under the Development Agreement (the “Development Fee”). The Development Fee is not tied to any kind of pre-opening obligations that we owe to you in connection with the opening of any Studio.

The size of the Development Area will vary depending upon local market conditions and the number of Studios to be developed. We reserve the right to negotiate the size of location and boundaries of the Development Area, which will vary based on the population density, competition, and other business factors. The Development Agreement contains concepts similar to the Franchise Agreement involving your owners if you are an entity and enter into a Development Agreement with us.

### **Market and Competition**

The services and merchandise offered by the Studio franchise concept are intended primarily for the general public. We have designed our services and merchandise to appeal to health-focused consumers who seek an invigorating, multisensory, and unrivaled fitness experience. You will have to compete with other businesses offering similar products, including other fitness facilities, gyms, health related establishments, and sports complexes. Your competition may include other businesses that we or our affiliates may franchise or operate, as noted in Item 12. The services and merchandise our franchise sells are well recognized by consumers and widely available from other sources. The market for our franchisees’ goods and services is well developed. Typically, our services and merchandise are sold to individuals.

### **Industry Specific Regulations**

You should consider that certain aspects of the fitness industry are regulated by federal, state and local laws, rules and ordinances. You should investigate the applicable laws and regulations in your state and consult with an attorney who is familiar with your state and local laws.

By way of example, the “Illinois Physical Fitness Services Act” should be reviewed and observed by Studios based in Illinois. Some states may limit the length and terms of your membership contract, provide customers with the right to terminate their contract and require you to obtain a bond to protect pre-paid membership fees you collect.

In certain states, you may have to escrow or post a bond for any pre-opening membership fees you collect. In addition, if you are constructing a new fitness Studio and rely on the proceeds of the membership to build and equip the Studio, the offer and sale of those memberships could be considered the sale of “securities” under those laws and require registration. In addition, certain states and municipalities may require that a fitness studio must have an employee at the fitness studio at all times it is open, and in some cases this person may need to be certified in cardiopulmonary resuscitation. Some states also have laws requiring a fitness studio to have an automated external defibrillator (AED) and other first aid equipment on the premises, and a trained AED user on duty.

You will also need to comply with laws, regulations, and ordinances applicable to businesses generally, like the Americans with Disabilities Act, Physical Fitness Studio Medical Emergency Preparedness Act, Federal Wage and Hour Laws, and the Occupation, Health, and Safety Act. Be aware that sales tax may apply in certain states.

It is your sole responsibility to comply with all applicable laws and obtain and keep in force all necessary licenses, permits, bonds, and deposits required by public authorities in connection with the operation of your franchised Studio.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **Roger McGreal - Chief Executive Officer**

Roger McGreal serves as Chief Executive Officer for Spenga and has held this position since March 2015. Mr. McGreal is also one of the co-founders of Spenga. Mr. McGreal served as the Director of Personal Training for Cardinal Fitness and Charter Fitness from September of 2009 through March of 2015. Roger has been in business development for SRM Business Resources from September 2009 through November 2017. Roger also has an equity interest in an affiliate Studio identified in Item 1.

#### **Nancy Vrdolyak – Executive Vice President**

Nancy Vrdolyak serves as Executive Vice President and has held this position since January 2018. She is one of the co-founders of Spenga. Mrs. Vrdolyak served as the President of PR Marketing Inc., d/b/a CFM Consulting in Orland Park, Illinois and has over 20 years of experience in the Fitness Industry. She also serves as the President of Horizon One Consulting LLC and Spenga Inc. Nancy also has an equity interest in an affiliate Studio identified in Item 1.

#### **Heather Ruff - Vice President of Operations**

Heather Ruff serves as Vice President of Operations and has held this position since March 2015. Mrs. Ruff is also one of the co-founders of Spenga. Mrs. Ruff served as the Assistant Director of Personal Training with Cardinal Fitness and Charter Fitness from September of 2009 through March of 2015. Heather also has an equity interest in an affiliate Studio identified in Item 1.

#### **Amy Nielsen - Vice President of Fitness**

Amy Nielsen serves as Vice President of Fitness and has held this position since March 2015. Ms. Nielsen is also one of the co-founders of Spenga. Amy served as Assistant Director of Personal Training for Cardinal Fitness and Charter Fitness in the Chicago and Indiana territories from September of 2010 through March of 2015. Amy also has an equity interest in the affiliate Studio identified in Item 1.

#### **Joseph Vrdolyak – Vice President of Construction and Development**

Joe Vrdolyak serves as Vice President of Construction and Development and has held this position since December 2018. Mr. Vrdolyak is also one of the co-founders of Spenga. Mr. Vrdolyak served as the Vice President of Sales and Development at SRM Business Resources LLC in Orland Park, Illinois from January 2009 to April 2018. From 2002-2018, he served in a similar position as Senior Management for Cardinal Fitness and Charter Fitness in Orland Park, Illinois and has over 20 years of experience in the Fitness Industry. Joe also has an equity interest in an affiliate Studio identified in Item 1.

#### **Peter J. Vrdolyak III- Director of Business Strategy**

Peter Vrdolyak serves as Director of Business Strategy and has held this position since March 2015. Mr. Vrdolyak is also one of the co-founders of Spenga. Peter Vrdolyak was the President of Charter Fitness Inc.

and served as Senior Management for Cardinal Fitness and Charter Fitness. He has over 20 years of experience in the Fitness Industry. He has also served as the President or Senior Management of other affiliated and non-affiliated companies. He previously served as President for Spenga Inc. and currently serves as President for PJV Real Estate Company and has held this position since September 2007. Throughout his business career he has also provided Management and Consulting Services for both affiliated and non-affiliated companies in related and unrelated industries.

**Emily Hileman – Director of Operations**

Emily Hileman serves as our Director of Operations and has held this position since March 2022. Prior to that time, Emily served as (i) the General Manager & Instructor for Spenga Fort Collins from January 2020 to January 2022 in Fort Collins, Colorado, (ii) an Operations Support Specialist for Spenga OSS from July 2021 to March 2022, (iii) was self-employed by with Beachbody in Santa Monica, CA from November 2015 to January 2020, and (iv) was an Instructor at another fitness concept in Fort Collins, Colorado, from September 2021 to January 2022.

**ITEM 3**

**LITIGATION**

*Pending Actions*

1140 Lake Street LLC v. Spenga, Inc., Spenga of Oak Park, LLC, S&G Bender LLC, LJM Fitness 2 LLC, Peter J. Vrdolyak III, Sara Bender, Lukas Butkovic, Jason Urbaniak, and Mario Ruiz (Case No. 2023L003024, Circuit Court of Cook County, Illinois). On March 28, 2023, 1140 Lake Street LLC, a landlord for a former franchisee, filed an action against Spenga, Inc. Spenga of Oak Park, LLC, S&G Bender LLC, LJM Fitness 2 LLC, Peter J. Vrdolyak III, Sara Bender, Lukas Butkovic, Jason Urbaniak, and Mario Ruiz (collectively, the “Defendants”). The allegations against S&G Bender LLC, LJM Fitness 2 LLC, Sara Bender, Lukas Butkovic, Jason Urbaniak, and Mario Ruiz are for monetary damages in connection with the breach/repudiation of a lease and guaranty. The allegations against Spenga of Oak Park, LLC, Spenga, Inc., and Peter J. Vrdolyak III are for use and occupancy, fraud, and conversion of a security interest, despite (i) these parties never signing any lease with 1140 Lake Street LLC, and (ii) 1140 Lake Street LLC never perfecting any security interest in any assets. This case is currently in the discovery/motion phase and a trial date has not yet been set. Although we were not named as a party, our Director of Business Strategy intends to defend this matter vigorously.

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

**ITEM 4**

**BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

*[The remainder of this page is intentionally left blank.]*

## **ITEM 5**

### **INITIAL FEES**

#### **Initial Franchise Fee**

When you enter into a Franchise Agreement with us for the right to operate a given Franchised Studio, you will be required to pay us an initial franchise fee amounting to \$49,500.

In light of the foregoing, the Initial Franchise Fee is deemed fully earned upon payment and is not refundable under any circumstances. Your ongoing license to use the Proprietary Marks and System, as well as any ongoing obligations and rights that benefit you under your Franchise Agreement after you open your Studio, are consideration for and tied solely to the ongoing royalty fee you must pay to us as described in Item 6 of this Disclosure Document below.

#### **Initial Inventory of Retail Items**

You must currently purchase the initial inventory of retail items from our Approved Supplier, however, we reserve the right to have you purchase the initial inventory of retail items from our Affiliate. The initial inventory of retail items ranges from \$4,000 to \$6,500.

#### **Development Agreement**

If we grant you the right to open multiple franchised Studios under a Development Agreement, you must pay us a Development Fee upon execution of your agreement. The Development Fee will be paid in a lump sum as follows based on the number of franchises we are granting you the right to develop within your Development Area:

<b>Number of Studios set forth in Development Schedule</b>	<b>Development Fee</b>
1	\$49,500
2	\$89,500
3	\$119,500
4	\$149,000
5	\$178,000
6	\$206,000
7	\$233,000
8	\$258,000
9	\$281,000
10	\$299,500

You are required to enter into our then-current form of franchise agreement for each franchised Studio 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. You will sign the franchise agreement governing the first Franchised Business you have the right to develop open within your Development Area at the same time as your Development Agreement.

The 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 our franchisees.

**ITEM 6**

**OTHER FEES**

<b>Type of Fee<sup>1,2</sup></b>	<b>Amount<sup>2</sup></b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fee <sup>3,4,5,6</sup>	The greater of: (i) 7% of the “Net Cash In” generated by your Studio over a given reporting period; or (ii) royalty payment of \$1,000 per month (the “Minimum Royalty”).  The Minimum Royalty Fee begins upon the earlier of (i) when you open the Franchised Business, and (ii) 13 months from the effective date of the Franchise Agreement.	On or before the 5 <sup>th</sup> of each calendar month based on the Net Cash In (or “NCI”) generated by your Studio during the preceding month.	Please see Note 4 following this Item 6 Chart for the definition of NCI.  Your Royalty Fee will be the consideration paid for the franchise/license and any other rights you have under your Franchise Agreement after your Studio opens.
Brand Development Fund Contribution	Up to 2% of the NCI generated from your Studio (your “Fund Contribution”)  Currently, however, we do not collect any Fund Contribution.	Collected at the same time and in the same manner as your Royalty Fee.	We have the right to establish and administer a brand development fund (the “Fund”) designed to (a) promote the brand, Proprietary Marks, System, Studio locations and Approved Services and Approved Products, and/or (b) otherwise enhance and develop the brand and System, as we determine appropriate in our discretion.  Please see Item 11 of this Disclosure Document for additional information, as well as Notes 3 through 6 following this Item 6 Chart.

Local Marketing Requirement	Minimum of \$3,000 to \$4,000 per month, as specified by us in writing (“Local Marketing Requirement” or “LMR”)	Must be spent monthly according to the Operations Manual as per your marketing budget	<p>We may require that all or some portion of your LMR be expended on local advertising or marketing materials and/or services that will be purchased from our Required Supplier for the same.</p> <p>This is the minimum you must spend within your Designated Territory to comply with your Franchise Agreement, but we strongly encourage you to expend additional amounts on such advertising and marketing materials to increase visibility and generate clients as you and your business advisors determine appropriate. You may not use any labor charges when calculating your Local Marketing Requirement.</p>
Search Engine Optimization	The then-current amount, which is currently \$169 per month.	This amount is currently collected by us on behalf of a third party	This amount does not count towards your Local Marketing Requirement or LMR.
POS System and Payment Processing System <sup>5</sup>  (collectively, the “Designated POS System”)	Then-current fee charged by our Required supplier for the Designated POS System  Currently, approximately \$205 per month (per Studio)	As arranged with third-party supplier	<p>You are required to pay a fee to a third-party vendor for the point-of-sale system you are required to use in connection with the operation of your franchised Studio.</p> <p>Currently, the Designated POS System functionality also covers collection and payment processing services designed to collect and process amounts due to the Studio from its clientele.</p>
SPENGA Application	Our then-current fee, which is currently \$134 per month	Collected at the same time and in the same manner as your Royalty Fee.	Payable each month to us

<p>Technology Fee</p>	<p>Our then-current technology fee (the “Technology Fee”)</p> <p>Currently, \$350 to \$450 per month</p>	<p>Collected at the same time and in the same manner as your Royalty Fee</p>	<p>The Technology and Fee is used in connection with any costs we incur in establishing and maintaining an intranet, extranet, online portal, website, online advertising tools, search engine optimization, mobile application and/or any other technology for use in connection with the Franchised Business.</p> <p>This amount is subject to increase based upon vendor pricing and the components/technology we make part of the Technology Fee.</p> <p>Currently, the Technology Fee covers the software used to track client performance at your Studio via a service provided by our Required Supplier.</p>
<p>Training Fee(s)</p>	<p>Then-current training fee we charge (the “Training Fee”), which will vary based on whether we are providing initial training, additional/refreshers training, instructor training, virtual training, or auditions we require.</p> <p>Currently, we charge:</p> <p>(i) \$1,000 for each person after the initial three (3) persons that attend our initial training; and</p> <p>(ii) \$350/day per trainer for all other training.</p> <p>You are also required to have your instructors attend our instructor training during the initial on-site assistance we provide at no cost to you. If you hire additional or new instructors, you will be required to send those instructors to our 4-day Live Instructor Training and pay our then-current instructor training fee, which is currently \$2,500. We also offer virtual training and a live 2-day</p>	<p>As agreed upon by you and us</p>	<p>Our Initial Training Program is provided at no additional cost to you.</p> <p>We may require you, as well as your Controlling Principal(s) and your Designated Manager (if any), to attend: (i) up to five (5) days of refresher/additional training in a given year (“Additional Training”); and (ii) up to five (5) days of remedial training that we have the right to require you to attend in complete if you are not operating your Studio in compliance with the Franchise Agreement or our Manuals (“Remedial Training”).</p> <p>If you fail to generate \$40,000 NCI by the 6<sup>th</sup> month of operation, then we may require you to attend Additional Training at your cost.</p> <p>We will not charge you our then-current training fee (the “Training Fee”) in connection with any Additional Training that we require, but we reserve the right to charge our then-current training fee in connection with any (1) Additional Training that you request, or (2) Remedial Training.</p> <p>We may also charge you this Training Fee</p>

	<p>ins Instructor training at our then-current fee, which is currently \$1,500 (collectively, the “Instructor Training Fee”).</p> <p>You must pay our then-current fee for all auditions for the above training sessions. Our current fee is \$75 (“Audition Fee”)</p>		<p>if we are required to provide on-site assistance at your Studio at your request, in which case you will also be responsible for the costs and expenses we incur in connection with providing such on-site assistance.</p> <p>We will not charge you a Training Fee in connection with any day-to-day assistance we provide to you remotely via the telephone, e-mail, Skype or related channel or for any Additional Training that we require that you have not requested.</p> <p>With regards to those attending our initial training, we will only charge a Training Fee for initial training in connection with: (i) any person that wishes to attend initial training beyond you and up to two (2) other individuals; and (ii) any replacement personnel or individual that did not successful complete such initial training and wishes to re-attend.</p> <p>You will be responsible for all costs and expenses that you and your trainees incur in connection with attending any Additional Training, Remedial Training, or initial training in connection with the Studio.</p>
Presales Social Media Coordinator	The then-current amount, which is currently \$375 per month	90-120 days prior to opening	You must use our approved supplier for Presales marketing.
Customer Relations Management Fee	The then-current Customer Relations Management Fee, which is currently \$249 per month (the “CRM Fee”)	As agreed	Payable each month to our required supplier.
Music Licensing Fee	Then then-current music licensing fee (“Music Licensing Fee”), which is approximately \$200 per month	As agreed	Payable each month to third party licensing agencies.
Transfer Fee	Franchise Agreement: \$10,000  Development Agreement:  \$10,000 per unexpired and unexercised development right remaining under your Development Agreement	Before you transfer the franchise	<p>There are other conditions that you must satisfy in order to assign your Franchise Agreement, and you have no right to assign your Development Agreement, unless we agree otherwise in writing.</p> <p>Any proposed assignment of your Franchise Agreement, Development Agreement or any ownership interest in</p>

			you (if you are an entity) must be approved by us.
Renewal Fee	\$10,000	Prior to or upon approval of your renewal request.	You must satisfy certain other conditions in order to renew your Franchise Agreement.
Conference/ Convention Fee	Our then-current enrollment fee to attend our annual summit or convention, if and when established (the "Convention").  If we establish the Convention, we expect to charge \$1,500 per Studio to attend (the "Convention Fee").	120 days prior to attending.	We expect to conduct an annual Convention, and attendance is mandatory.  We reserve the right to charge our then-current Convention Fee in connection with any conference/convention that we require you to attend. You will be responsible for your costs/expenses associated with attending any conference/convention.
Alternate or New Product or Supplier Testing	Reimbursement of our costs	As incurred.	If you propose an alternate supplier or product/service that we have not already authorized for use in connection with your Studio, you may be required to reimburse us for the actual costs we incur in connection with evaluating your proposal.  Please see Item 8 of this Disclosure Document for additional information.
Relocation Fee	20% of our then-current Initial Franchise Fee	If incurred	Payable upon your request to relocate your Spenga Studio, but this fee will be returned if we refuse to consent to the relocation.
Audit Fees <sup>7</sup>	Actual cost of Audit	Upon billing after audit.	Payable if audit reveals that you have underreported the Gross Sales of your Studio by 3% or more for any designated reporting period.
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.

Advertising Cooperative Fee	If collected, no more than the current Local Advertising Requirement	Upon demand	Payable to us if we assign your Studio to a Regional Advertising Cooperative. Any payment for a Regional Advertising Cooperative will be credited against your LMR.  If there is an affiliate-owned Studio 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.
Fees on Default and Indemnity	Attorneys' fees, costs, interest, audit costs, default fees.	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 Studio.
Insurance <sup>8</sup>	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 <sup>9</sup>	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.
Aromatherapy	The then-current fee plus any taxes we are required to pay. This fee currently ranges from \$162 - \$282 per month and is subject to increase.	Upon demand.	Payable each month to our required supplier.
Fitness Technology	The then-current fee plus any taxes we are required to pay. This fee is currently \$249 per month and is subject to increase.	Upon demand	Payable each month to our required supplier.

**Explanatory Notes to Item 6 Chart Above**

1. **General.** Unless otherwise stated, all fees are uniformly imposed to all franchisees, are payable to us and are not refundable. In certain circumstances, we may waive one or more of these fees.

2. **Taxes.** If your state, or any governmental body in your state, charges a tax on any fee you owe to us or to our affiliates, then you must pay an additional amount equal to the amount of this tax. This does not apply to any federal or state taxes we or our affiliates have to pay.
3. **Amounts Due to Us or Our Affiliates.** For all amounts you owe to us or our affiliates, we have the right to: (i) collect these fees by electronic funds transfer; and (ii) change the interval upon which we require you to report and collect to a different interval upon written notice to you (e.g., weekly instead of monthly). We may apply any of your payments to any of your past due indebtedness to us or our affiliates. We may set off any amounts you owe us or our affiliates against any amounts we or our affiliates owe you.
4. **Definition of “Net Cash In.”** The NCI generated by your Studio in each payment period means all revenue generated from the sale and provision of any and all gift cards, memberships and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through your Studio, as well as the 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. “NCI” does not include (a) tips that clients pay to instructors of the Studio that are retained by that instructor, (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.
5. **Payment Processing.** Members of your Studio generally will pay membership fees by automatic withdrawal from a bank account, credit card or debit card. Currently, the designated POS System has a payment processing component whereby our Required Supplier will collect membership fees for your Studio’s clients and remit those fees to your designated bank account or other appropriate account.
6. **Method of Payment for 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 (or, with our approval, credit card) 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 or similar form that we provide to you as part of the Franchise Agreement, the Manual(s) or otherwise in writing. You must provide us with advance written notice of any change to the information related to your EFT Account. We may periodically change the mechanism for your payments of any installments or other amounts and our payments to you.
7. **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.
8. **Insurance.** We reserve the right to make payments to prevent the lapse of an insurance policy on your behalf, to increase insurance coverage to meet our minimum standards or if deemed necessary in our sole discretion. Any insurance policy fees that are paid by us on your behalf will be debited from your

designated bank account as incurred.

9. **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.

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**ITEM 7**  
**ESTIMATED INITIAL INVESTMENT**

**A. Franchise Agreement**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>Type of Expenditure</b>	<b>Amount (Traditional Model)</b>	<b>Amount (Combo Model)</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>	\$49,500	\$49,500	Lump Sum	Upon Signing the Franchise Agreement	Us
Lease – Security Deposit <sup>2</sup>	\$5,425 - \$19,966	\$5,640	Lump Sum	Upon Signing the Lease	Landlord
Lease Expenses – 3 Months <sup>2</sup>	\$0 - \$59,898	\$0 - \$16,920	As Incurred	Before Opening	Landlord
Leasehold Improvements <sup>2</sup>	\$314,063 - \$469,656	\$250,104 - \$314,104	As Incurred	Before Opening	Required Supplier(s) and Third Parties
Fitness Equipment – Initial Payment (lease or financing agreement) <sup>3</sup>	\$17,600 - \$36,200	\$17,600 - \$36,200	Lump Sum	Before Opening	Required Supplier(s)
Fitness Equipment – Ongoing Payments (3 months under relevant agreement) <sup>3</sup>	\$8,820 - \$10,626	\$8,820 - \$10,626	As Incurred	As Invoiced	Required Supplier(s)
Other Equipment Furniture, Fixtures, and Equipment <sup>4</sup>	\$7,832 - \$12,669	\$7,832 - \$12,669	As Incurred	Before Opening	Required Supplier(s)
Grand Opening Marketing Expense and Pre-Opening Activity Expenses <sup>5</sup>	\$20,000 - \$30,000	\$20,000 - \$30,000	Lump Sum	As Required	Required Supplier(s)
Signage <sup>6</sup>	\$13,500 - \$24,000	\$13,500 - \$24,000	As Incurred	Before Opening	Required Supplier(s)
Computer Hardware and Software <sup>7</sup>	\$4,000 - \$6,000	\$4,000 - \$6,000	As Incurred	Before Opening	Required Supplier(s)
Opening Supplies	\$1,700 - \$2,100	\$1,700 - \$2,100	As Incurred	As Arranged and Invoiced	Required Supplier(s)
Insurance <sup>8</sup>	\$1,200 - \$4,000	\$1,200 - \$4,000	As Incurred	Before Opening	Third-Party Insurance Provider
Other Deposits Including: Utilities,	\$1,000 - \$2,000	\$1,000 - \$2,000	Lump Sum	As Incurred	Third-Party Provider

Type of Expenditure	Amount (Traditional Model)	Amount (Combo Model)	Method of Payment	When Due	To Whom Payment is to be Made
Banks/Credit Card Companies, Lease Equipment, Vendors, Alarm Company, and Telephone					
Professional Fees	\$2,500 - \$5,000	\$2,500 - \$5,000	As Incurred	As Incurred	Lawyers, Accountants, etc.
Initial Training Expenses <sup>9</sup>	\$1,000 - \$4,000	\$1,000 - \$4,000	As Incurred	Before Opening	Airlines, Hotels, Employees' Wages and Other Third Parties
Additional Permits, Approvals and Qualifications (if and as applicable) <sup>10</sup>	\$250 - \$1,000	\$250 - \$1,000	As Incurred	As Incurred	Third Parties
Initial Inventory of Retail Items <sup>11</sup>	\$4,000 - \$6,500	\$4,000 - \$6,500	As Incurred	As Incurred	Required Supplier(s) and our Affiliate
Audio Video Package <sup>12</sup>	\$35,500 - \$39,500	\$35,500 - \$39,500	Lump Sum	Before Opening	Required Supplier(s)
Employee Recruiting <sup>13</sup>	\$2,000 - \$7,500	\$2,000 - \$7,500	Lump Sum	Before Opening	Required Supplier(s)
Construction Design and Review Compliance <sup>14</sup>	\$0 - \$5,000	\$0 - \$5,000	As incurred	Before Opening	Required Supplier(s)
Sound Engineer Consulting	\$0 - \$3,500	\$0 - \$3,500	As incurred	Before Opening	Required Supplier(s)
Additional Funds –3 Months <sup>15</sup>	\$10,000 - \$25,000	\$10,000 - \$25,000	As Incurred	As Incurred	Various parties
<b>Total<sup>16</sup></b>	<b>\$499,890 - \$823,615</b>	<b>\$435,931 - \$625,085</b>			

**Explanatory Notes to Chart 7(A) Above**

If you are converting an existing studio or fitness center, the estimates may vary from the values listed in the above table depending on the modifications and equipment required to meet our system standards. The estimates above are based on our principals' experience in the industry and in opening an affiliate-owned Studio, as well as information from opened or opening franchisee studios, that can accommodate 24 users/members at one time. If your Studio is larger and holds more than 24 users/members at one time, then your costs may increase from the amounts provided in this Item 7.

**General:** Unless otherwise specified in the Notes below, the amounts described in the Chart above are not refundable under any circumstances, except in situations where you directly negotiate for such a refund with a third-party supplier. The estimated initial investment described in the Chart above are intended to cover the costs to open and operate your Franchised Business for an initial three (3) month period.

1. **Initial Franchise Fee.** Please see Item 5 for more information on the Initial Franchise Fee and the Area Development Fee, which will apply if you enter into an ADA.
2. **Lease; Leasehold Improvements.** Our estimate for initial expense for real estate and improvements is based on the assumption that you will lease the space from which you operate your Studio. Generally, Studios are located in strip centers. Our standard franchise offering, and corresponding Item 7 Chart estimate for your occupancy costs, assumes that the Premises of your Studio will be around (i) 3,000 - 3,500 square feet (for a Combo Model Studio), or (ii) 3,500 - 4,000 square feet (for a Traditional Model Studio) with an appropriate design and layout that allows the space to accommodate 24 training stations. This estimate further assumes that you will use our required Approved Supplier for these services.

With regards to the lease for your Premises, please note that: (i) landlords may vary the base rental rate and charge rent based on a percentage of gross sales; and (ii) your lease may require you to pay your *pro rata* share of (a) common area maintenance charges (“CAM Charges”), (b) the real estate taxes and insurance, and (c) certain other charges. The actual amount you pay under the lease will vary depending on the size of the Studio, the types of charges that are allocated to tenants under the lease, your ability to negotiate with landlords and the prevailing rental rates in the geographic region. If you choose to purchase real property on which to build your Studio, your initial investment will be higher than what we estimate above. If you purchase real property, we cannot estimate how this purchase will affect your total initial investment. The low end of the lease expenses represents a franchisee that had its rent abated for the first three months of operation, while the high end of lease expenses represents a franchisee that was required to pay rent and other charges during its first three months of operation, without any abatement.

The costs associated with your lease payments, as well as the leasehold improvements involved with modifying the approved Premises so that it can be operated as a Studio in accordance with our System standards, will vary widely based upon the property location, population density, economic climate, prevailing interest rates and other financing costs, conditions of the property and extent of alterations required for the property. You should investigate all of these costs in the area where you wish to establish a Studio. The amount of tenant improvement allowance will vary from deal to deal. This leasehold improvement estimate is based on construction costs less any tenant improvement allowance franchisees have received to date. This leasehold improvement estimate includes architectural, engineering, and bid assistance fees. The low end of this estimate assumes that you will receive “free rent” during your first 3 months of operation. The low end of the tenant improvement estimate represents a franchisee that received \$55 per square foot in tenant improvement allowance while the high end represents a franchisee that received \$27.50 per square foot in tenant improvement allowance. Franchisees typically receive on average \$35 per square foot in tenant improvement allowance.

You must use our Required Supplier for all architectural/design services for your Studio. Architectural services include all architectural design documents, all mechanical, electrical, and plumbing plans. This service also includes coordination with the architect teams, coordinating with permit expeditors, and working with the general contractor to obtain required building permits. The costs for Architectural Engineering services vary state by state.

You must use our Required Supplier for bid assistance, which will manage a number of aspects including, but not limited to: (i) management of the general contractor bid process; (ii) site visit to walk bidders through the project and explain the scope of the project; (iii) providing and distributing invitations to bid and related bid documents; (iv) evaluating all bids of completeness during our deep scope review; (v) resolving all bidder questions and clarifications in the RFI process; (vi) recommending contractor selection after bid process has been completed; (vii) facilitate the execution of contract between Studio

owner and contractor; (viii) providing site specific requirements to be inserted as exhibits to the contract documents as necessary to reflect the project's detail and site requirements.

Building Permit Fees are fees required to obtain a building permit and to commence construction. This cost will vary state to state.

3. **Fitness Equipment Payments (Initial Payment and Payments over First 3 Months).** You must purchase or lease fitness equipment for your location through our Required Supplier(s). Our standard franchise offering assumes that you will lease or, if purchasing, finance this fitness equipment over time via an arrangement with the supplier. If you choose to purchase rather than lease the fitness-related equipment for your location, the cost to purchase such equipment may be between \$176,000 and \$181,000. The three-month estimate assumes that you make a 10% - 20% down payment at 9.25% - 11.00% interest and pay off the loan over the course of 60 months. This estimate is based on you having 24 training stations at your Studio. The down payment amount on equipment leases, as well as the purchase price of the equipment (should you choose not to lease), may vary depending on the size of your location and the financing terms of your equipment lease. We reserve the right to receive rebates from the equipment company. The equipment that you purchase or finance includes bikes, functional equipment and storage, yoga equipment, fitness flooring, lockers, body composition scale and installation and freight fees.
4. **Other FF&E.** This estimate covers other furniture, fixtures, and equipment such as decor, retail display, bathroom stands/racks, storage shelving and similar items.
5. **Grand Opening Marketing Expense and Pre-Opening Activity Expenses.** You must expend between \$20,000 and \$30,000 (not including labor) in connection with the opening and initial launch of your Studio, and we may require that all or some portion of these funds be expended on designated advertising materials and/or paid to our Required Supplier(s) for these materials consistent with a marketing plan you develop in coordination with us and that we approve.

Your Grand Opening Marketing expenses are also designed to cover the pre-opening marketing and sales activity you must conduct at least 90 days prior to the contemplated opening of your Studio designed to generate clientele that will commence attending classes when you open. If you are not able to conduct such activities from your Studio because it is still being built out or has not been secured, we may permit you to conduct your pre-opening sales and marketing activities from a temporary location/studio that is at or near the site of your future franchised Studio at our discretion and in accordance with any approval procedures described in the Operations Manual or otherwise in a writing by us. We must approve any such temporary site. In addition to other standards that we specify in the Operations Manual and as we otherwise may direct in writing, the temporary studio must be clean and in good repair, provide you with good visibility to the public, and display the marks in the form and manner we specify. Possible temporary facilities include small retail space or a trailer that is used solely for presale marketing efforts and satisfies the above criteria. You may not conduct your pre-opening sales and marketing activities from a home office unless we agree otherwise in a separate writing. This estimate does not include expenses you will incur in connection with payroll for your employees.

6. **Signage.** This estimate assumes you will purchase one illuminated exterior sign and all interior signage for your Franchised Business from our Required Supplier(s).
7. **Computer System.** You must purchase or lease your computer system from our Required Supplier(s) as described more fully in Items 8 and 11 of this Disclosure Document. You will receive basic training

on certain computer system software and other components from the Required Supplier(s) or, if and as we deem appropriate, us. Certain instruction may be provided to you remotely.

8. **Insurance.** You must obtain the insurance coverages that we require. If you elect to lease space for your franchise, your landlord may require additional types of insurance or higher minimum levels of coverage, which may increase your costs for insurance. Additionally, the cost of insurance will also vary based on the type or policies procured, nature and value of physical assets, gross revenues, number of employees, square footage, geographical location, size, and contents of the business, and other factors bearing on risk exposure. The estimate provided contemplates insurance costs for a one (1) year period. For more information on Insurance, see Item 8.
9. **Initial Training – Costs and Expenses.** You must pay for any costs and expenses incurred in connection with you, your Designated Manager (if applicable), Instructors and other Studio personnel attending and completing the appropriate initial training and initial on-site assistance described more fully in Item 11 of this Disclosure Document, including the costs you and your management incur in connection with traveling to our headquarters or designated training Studio in Illinois to attend the “Corporate Initial Training” component of our initial training program.
10. **Permits and Licenses.** The state or local regulations where your Studio is located may require you to obtain certain permits or approvals necessary to operate the Studio and provide the Approved Services. By way of example, in the experience of our System, we understand that the Illinois Physical Fitness Facility Medical Emergency Preparedness Act requires “Physical Fitness Facilities” to have Automated External Defibrillators on hand in case of a medical emergency within the gym. The Act also requires that at least one member of the on-duty staff be trained in Cardio Pulmonary Resuscitation (CPR). Other states may have similar requirements, and you are required to determine whether there are any similar laws or regulations that apply in the state where you operate your Studio.
11. **Initial Inventory.** This item estimates the cost of your initial inventory of retail items to be sold from your Studio, including branded clothing and accessories (hats, water bottles, etc.), and optional non-branded items such as yoga mats, towels, and bags.
12. **Audio Video Package.** You must purchase the Audio Video Package from our Required Supplier(s).
13. **Employee Recruiting.** This item estimates the cost of recruiting employees for your Studio. You must use our Required Supplier(s) for all employee recruiting efforts.
14. **Construction Design and Review Compliance.** You must use our Required Supplier(s) for Construction Design and Review Compliance.
15. **Additional Funds.** This item estimates your other initial start-up expenses for your Studio’s first three months of operation, including miscellaneous supplies and equipment, payroll costs (but not any draw or salary for you) and other miscellaneous costs. We cannot assure you that you will not have additional expenses in starting your Studio or need additional working capital as discussed in Item 7 table. This estimate, as well as the others set forth in the Item 7 Chart above, are based on (a) the experience of us and our affiliates, (b) general trends in our franchisees’ collective experience, (c) estimates we receive from our Required Supplier(s) and other vendors, and (d) the assumptions described in this Item. This portion of the Item 7 estimate does not account for any debt services.
16. **Total.** Your actual expenses of establishing and operating this business may vary from the estimates that we have set forth in this Item 7 Chart based on our experience and the other information described

in Note 11 above. Some states have laws that impose staffing or operational requirements that will significantly increase the amounts you will have to spend to open and operate your Studio. We do not offer financing for any part of the initial investment. The availability and terms of financing with third-party lenders will likely depend on the availability of financing generally, your credit-worthiness, policies of lending institutions concerning the type of business to be operated and other similar factors.

**B. Development Agreement**

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

<b>Type of Expenditure</b>	<b>Offering</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>	3-Pack	\$119,500	Lump Sum	Upon execution of Development Agreement	Franchisor
	5-Pack	\$178,000			
	10-Pack	\$299,500			
Initial Investment to Open Traditional Model Initial Studio <sup>3</sup>		\$450,390 to \$774,115	Calculated by taking the total estimated initial investment in Chart A (for the Traditional Model) of this Item 7 and subtracting the Initial Franchise Fee amount.		
Initial Investment to Open Combo Model Initial Studio <sup>3</sup>		\$386,431 to \$575,585	Calculated by taking the total estimated initial investment in Chart A (for the Combo Model) of this Item 7 and subtracting the Initial Franchise Fee amount.		
<b>TOTALS (Traditional Model)</b>	<b>3-Pack</b>	<b>\$569,890 to \$893,615</b>	This is the total estimated initial investment to enter into a Development Agreement for the right to develop each of the multi-unit offerings we typically offer under our ADA (for the Traditional Model), as well as the costs to open and commence operating your initial Traditional Model Studio for the first three (3) months (as described more fully in Chart A of this Item 7). See Note 3.		
	<b>5-Pack</b>	<b>\$628,390 to \$952,115</b>			
	<b>10-pack</b>	<b>\$749,890 to \$1,073,615</b>			
<b>TOTALS (Combo Model)</b>	<b>3-Pack</b>	<b>\$505,931 to \$695,085</b>	This is the total estimated initial investment to enter into a Development Agreement for the right to develop each of the multi-unit offerings we typically offer under our ADA (for the Combo Model), as well as the costs to open and commence operating your initial Combo Model Studio for the first three (3) months (as described more fully in Chart A of this Item 7). See Note 3.		
	<b>5-Pack</b>	<b>\$564,431 to \$753,585</b>			
	<b>10-pack</b>	<b>\$685,931 to \$875,085</b>			

**Explanatory Notes to Chart 7(B) Above:**

1. 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 a total of three (3), five (5) and ten (10) Studios, respectively, as well as the initial investment to open your first Studio under your Development Schedule.

2. 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), five (5) and ten (10) franchised Studios.
3. This figure represents the total estimated initial investment required to open the initial (ether Traditional Model or Combo Model) Studio 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 Studio you open under your Development Agreement, most likely once you have engaged us for site selection. The range includes all the items outlined in Chart 7(A) of this Item, except for the Initial Franchise Fee (because you are not required to pay any Initial Franchise Fee for Studios). It does not include any of the costs you will incur in opening any additional Studios that you are granted the right to open and operate under your Development Agreement.

## **ITEM 8**

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

You must operate all aspects of your Studio 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 Studio 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 those Approved Services and Approved Products we designate from time to time at your Studio, and you must provide the same in a manner that meets our System standards and specifications. We will provide you with a list of our then-current Approved Services and Approved Products, along with their standards and specifications, as part of the Manuals, your initial training or otherwise in writing prior to the opening of your Studio. We may update or modify this list in writing at any time.

If you wish to offer any product or service in your Studio other than the Approved Services or Approved Products we designate at a given time in writing, or use any item in connection with your Studio that does not meet our System standards and specifications, then you must obtain our prior written approval as described more fully in this Item.

#### Required Suppliers

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

Currently, we have Required Suppliers for the following items: (i) your POS System (which also currently handles payment processing for Studio clientele); (ii) certain furniture, equipment (including audio visual equipment and installation), inventory and supplies you must purchase before and after your Studio is open; (iii) uniforms and branded merchandise; (iv) signage; (v) site selection assistance; (vi) architectural/design services; (vii) construction management services; (viii) marketing; (ix) the software associated with tracking clientele performance while working out at your Studio; (x) employee recruiting; (xi) Aromatherapy; (xii) Fitness

and Business Management Technology; (xiii) lease and leasehold improvements; (xiv) music licenses; (xv) client engagement programs (i.e., ClassPass®); (xvi) procurement; (xvii) CRM software; (xviii) search engine optimization; and (xix) Presales Marketing.

We may develop proprietary products for use in your Studio, including private-label products that bear our Proprietary Marks, and require you to purchase these items from us, our affiliates and/or our parent.

If you wish to purchase a product or service that we require you to purchase from a Required 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 Required 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.

Our affiliate Spenga Private Label, LLC, reserves the right to be our approved supplier for certain retail items, apparel, branded items, promotional items, equipment, and other items. Certain of our officers own an interest in Spenga Private Label, LLC.

Except as set forth above, as of the Issuance Date of this Disclosure Document: (i) neither we nor any of our affiliates or our parent are a Required Supplier for any items or services you are required to purchase in connection with your Studio; and (ii) none of our officers own an interest in any of our Required Suppliers.

#### Required Purchases and Right to Derive Revenue

The products or services we require you to purchase or lease from a Required 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 75% to 85% of your total costs incurred in establishing your Studio, and approximately 25% to 35% of your ongoing costs to operate the Studio 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 Studio.

In our past fiscal year ending December 31, 2023, we derived \$159,629 in revenue from franchisee required purchases, or 4% of our total revenue of \$3,977,983.

In our affiliate’s past fiscal year ending December 31, 2023, Spenga Private Label, LLC derived \$11,438.70 from franchisee required purchases in 2023.

#### 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 Studio that are not Approved Products and Services; or (ii) purchase any item or service we require you to purchase from a Required 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 Studio; or (ii) purchasing from a non-required supplier. You must pay our then-current supplier or non-approved product evaluation fee when submitting your request. We may charge you for the reimbursement costs for each evaluation request. 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 90 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 your 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.

### Gift Cards

You must offer our gift cards and participate in our designated gift card program in your Studio (if, and when established), and you must purchase your cards from our Required Supplier. You may also be required to honor any gift cards for payment of services at your Studio, even if the gift card was purchased at another Studio, based on our reciprocity policy at the time. We reserve the right to change this policy from time-to-time.

### Purchasing Cooperatives and Right to Receive Compensation

We may, when appropriate, negotiate purchase arrangements, including price terms, with designated and Required 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 Studios in our System. If we do establish those types of alliances or programs, we may: (i) limit the number of Required 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 parent or affiliates may receive payments or other compensation from Required Suppliers or any other suppliers on account of these suppliers' dealings with us, you, or other Studios 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 parent or 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 do not currently have a purchasing cooperative with any third-party vendors but reserve the right to create 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 or your compliance with purchasing particular products or services or use of designated or approved suppliers.

### Advertising

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 Studio if we have not prepared or approved them during the 12 months prior to the date of your proposed use.

### Approved Premises and Lease

You must obtain our approval of the Premises for your Studio 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 such lease on you and your landlord's execution 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 our System standards and specifications related to the build-out, remodeling and/or construction of your Studio at the Premises, including, but not limited to, sound-proofing your Studio to meet our System standards set forth in the Manual(s). We have the right to terminate the Franchise Agreement after providing notice and expiration of the fifteen (15) day cure period if you fail to secure a site within 180 days from the signing of the Franchise Agreement.

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

### Insurance

You must purchase and maintain the types and amounts of insurance that we designate in our Manuals or otherwise in writing, including, without limitation, a general liability policy with \$1,000,000 per occurrence and \$2,000,000 in the aggregate, with umbrella coverage of \$2,000,000, all of which we may modify from time to time as we deem appropriate in our reasonable discretion. We do not currently require you to purchase your Studio insurance from a Required Supplier, but you must furnish us with certificates of insurance (or, at our request, copies of all insurance policies), evidencing the existence and continuation of the insurance coverage required by the Franchise Agreement.

All policies must contain a waiver of subrogation in our favor and must name us and any additional parties we designate as additional insureds (except with regards to workers' compensation insurance). In the event you do not obtain or maintain the required insurance, we have the right to purchase it and charge you our costs in doing so.

### Computer Hardware and Software

You must acquire the specific POS System and all other computer hardware, software, and peripherals in accordance with our System standards and specifications.

Your Premises must also have Internet and Wi-Fi access that your clientele can access.

## **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	2.2, 5.2	Section 1 and Exhibit A	7, 8, 11
b. Pre-opening purchases / leases	5.3	Nothing Additional (see Franchise Agreements signed)	7, 8
c. Site development and other pre-opening requirements	3.1, 5.3	Sections 1, 5 and Exhibit A	5, 6, 7, 8, 11
d. Initial and ongoing training	3.2	Nothing Additional (see Franchise Agreements signed)	6, 7, 11
e. Opening	5.3	Nothing Additional (see Franchise Agreements signed)	11
f. Fees	3.6(a), 4, 5.5(a)-(d), 7.2	Sections 2 and 9	5, 6, 7, 17
g. Compliance with standards and policies / Operations Manual	3.4, 5.3	Nothing Additional (see Franchise Agreements signed)	8, 11, 16, Exhibit B
h. Trademarks and proprietary information	5.1, 6.1	Nothing Additional (see Franchise Agreements signed)	13, 14
i. Restrictions on products/services offered	3.6, 5.3(d)-(g), 5.9	Nothing Additional (see Franchise Agreements signed)	8, 16
j. Warranty and customer service requirements	5.3(h), 5.3(l), 5.4, 6.3	Nothing Additional (see Franchise Agreements signed)	11

k. Territorial development and sales quotas	Not applicable	Section 1 and Exhibit A of the Development Agreement	5, 11, 12
l. Ongoing product/service purchases	3.6, 5.3	Nothing Additional (see Franchise Agreements signed)	6, 8, 11
m. Maintenance, appearance and remodeling requirements	5.3(i)-(j)	Nothing Additional (see Franchise Agreements signed)	6, 11
n. Insurance	5.7	Nothing Additional (see Franchise Agreements signed)	6, 7, 8
o. Advertising	3.5, 5.1(c), 5.5	Nothing Additional (see Franchise Agreements signed)	6, 11
p. Indemnification	6.5	Nothing Additional (see Franchise Agreements signed)	6
q. Owner's participation/management/staffing	5.3(n)	Nothing Additional (see Franchise Agreements signed)	11, 15
r. Records and reports	4.5, 5.6	Nothing Additional (see Franchise Agreements signed)	11, 17(h)
s. Inspections and audits	4.5, 5.3(g)	Nothing Additional (see Franchise Agreements signed)	6, 11
t. Transfer	1.13, 7	Section 9	6, 17
u. Renewal	2.7	Nothing Additional (see Franchise Agreements signed)	6, 17
v. Post-termination obligations	6.6, 8.6	Nothing Additional (see Franchise Agreements signed)	17
w. Non-competition covenants	6.6	Nothing Additional (see Franchise Agreements signed)	17

x. Dispute resolution	9.1, 9.2, 9.7-9.10	Sections 12 through 20	17
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**ITEM 10**

**FINANCING**

We do not offer direct or indirect financing. We do not guarantee your promissory notes, mortgages, leases, or other obligations.

**ITEM 11**

**FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING**

**Except as listed below, Spenga Holdings LLC is not required to provide any assistance to you.**

**A. Pre-Opening Assistance**

**Franchise Agreement**

Before you open your Franchised Business, we will:

1. Provide you with access to our Operations Manual containing mandatory and suggested specifications; operating procedures; standards; and rules periodically prescribed by us. You will be provided with a password to our website that will enable you to access the Operations Manual. We will periodically modify and update the Operations Manual and will notify you via e-mail or another form of communication of any modifications and updates. The Operations Manual is currently 217 pages. We have attached the Table of Contents of the Operations Manual as Exhibit B. (Section 3.4 of Franchise Agreement).
2. Approve your franchise site, if it meets our minimum criteria for a Spenga Studio (Section 5.2 of Franchise Agreement).
3. Review and approve certain provisions of your lease for your location (Section 5.2 of Franchise Agreement).
4. Provide you with design and layout templates of one or more typical Studios for your Spenga Studio (Section 3.1 of Franchise Agreement).
5. To the extent we deem necessary in our sole discretion, advise you as to methods of training staff to work in and assist in operating a Spenga franchise (Sections 3.2 and 3.3 of Franchise Agreement).
6. Provide you with lists of Required Items and supplies for purchase or lease through our Approved Suppliers (Sections 3.6 and 5.3(d) and (e) of Franchise Agreement).
7. Assist, to the extent we deem necessary in our sole discretion, in the plan or office design showing the location of equipment for an efficient use of equipment and utilization of space (Section 3.1 of Franchise Agreement).

8. Advise you, to the extent we deem necessary, as to promoting and advertising your franchise. (Sections 3.5, 5.1(c), 5.5 of Franchise Agreement).
9. Provide our initial training program to you and up to two (2) other individuals. (Section 3.2(a) of Franchise Agreement).

**B. Site Selection Assistance and Time to Open**

*Site Selection Assistance*

You will be solely responsible for securing a site for your Studio that we approve (the “Approved Site”), and you must use our Required Supplier to perform site selection services in connection with your search. You will have a maximum of 180 days from the time you sign your Franchise Agreement to locate a site that we approve and to sign a lease that meets our approval for the approved site. It is your obligation to select a site for your business and we will not select a site for you or negotiate the purchase or lease of a site. We do not own the premises and lease them to you. Before you acquire any site, you must submit to us information and materials we require and obtain our approval of your site. Factors that we consider in approving a site include the general location and neighborhood, the distance from other Studios, demographics, zoning, traffic patterns, parking, overall interior and exterior size, physical characteristics of the existing building and lease terms. Typically, the Approved Site of the Studio should be approximately (i) 3,000 -3,500 square feet (for a Combo Model Studio), or (ii) 3,500 – 4,000 square feet (for a Traditional Model Studio) of space, but we may permit a smaller space if you can demonstrate that the space can contain 24 stations. We must approve of any site you propose, and we will provide you with notice of whether a proposed site is approved or rejected within 30 days after our receipt of all information we require in connection with our evaluation of the site, including any site proposal package set forth in the Operations Manual or otherwise in writing that is provided to you. We can always condition our approval of your site on both you and the lessor of the proposed site at issue executing our then-current prescribed form of Collateral Assignment of Lease and corresponding landlord acknowledgement form, both of which are attached to the Franchise Agreement as an Exhibit. If you are unable to have your landlord execute the form of Collateral Assignment of Lease as-is, then we will assist in the negotiation of the Collateral Assignment and you will be required to reimburse us our actual costs of doing the same, including any attorneys’ fees that we incur. We estimate these fees to be between \$400 - \$700. (Section 5.2 of Franchise Agreement).

You are solely responsible for conforming the site to local ordinances and building codes and obtaining any required permits. Your failure to secure a Premises that we approve within 180 days of the date you sign your Franchise Agreement is grounds for termination of your Franchise Agreement. (Section 5.2 of Franchise Agreement).

If you have entered into a Development Agreement with us, you will be required to secure the site for each Studio you are required to develop 180 days before your required opening date so that you have enough time to get the Studio open and operating by the applicable opening deadline set forth in your Development Schedule.

*Time to Open: Franchise Agreement*

Except as provided in this Item, you must open and commence operations of your Studio within one (1) year of the date you execute your Franchise Agreement for that Studio. (Franchise Agreement, Section 5.3). We estimate that it will take between six (6) to twelve (12) months to open your Studio 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 Studio,

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 Studio, including decorating, purchasing and installing fixtures, equipment and signs, and to complete preparation for operating the Studio, including purchasing any inventory or supplies needed prior to opening. If you do not open or operate your Studio 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 5.3).

Before you open the Studio to the public, you must satisfy all our pre-opening requirements (including attendance on pre-sales training calls), which include the pre-sale of a minimum number of paid Studio memberships that will go in effect on the opening date of your Studio (“Pre-Sale Memberships”). Currently, you must sell at least 150 Pre-Sale Memberships before we permit you to schedule instructor training and in-Studio operations training and otherwise allow you to open your Studio to the public. We reserve the right to increase or decrease the number of Pre-Sale Memberships that must be sold. You may not outsource this obligation to a third-party. (Franchise Agreement, Section 5.5(a)(ii)).

#### *Development Agreement and Corresponding Development Schedule*

If you have entered into a Development Agreement to open and operate multiple Studios, your Development Agreement will include a Development Schedule containing a deadline by which you must have each of your Studios open and operating. Your Development Schedule may depend on the number of Studios you are granted the right to open and operate. You will be required to sign each franchise agreement by a certain date, and you are required to develop the applicable franchised business by a certain date under the Development Schedule to maintain compliance with your Development Schedule. You must only develop one franchised business during the first development period under the Development Schedule. We will review and approve locations under the Development Agreement in accordance with the same time periods and in the same manner that we do under the Franchise Agreement since you are obligated to execute a separate Franchise Agreement in connection with each Studio you develop under the Development Agreement.

#### **C. Our Obligations During the Operation of the Franchised Business**

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

During the operation of your Studio, we will:

1. Provide you with refresher training, periodic seminars, advice and assistance, to the extent we deem necessary in our sole discretion (Sections 3.2(b), 3.2(d) and 3.3 of Franchise Agreement). Spenga does not provide delivery or installation of equipment, signs, fixtures, opening inventory, and supplies. Spenga only provides names of Required Suppliers. At your request, we may furnish additional guidance and assistance and we may charge the *per diem* fees and charges we establish periodically.
2. Assist with sales promotions for use in your franchise (Sections 3.5 and 5.5 of Franchise Agreement).
3. Provide you with general guidance on operating issues concerning the location, system standards, marketing programs, etc., to the extent we deem necessary in our sole discretion (Sections 3.4, 5.2, 5.3, 5.5 of Franchise Agreement).
4. Provide you with periodic advisory assistance, to the extent we deem necessary in our sole discretion (Section 3.3 of Franchise Agreement). If you request such additional assistance, we may require to you pay our costs and our then-current training fee for providing such assistance.

5. Provide you with a list of written specifications for and Required Suppliers who can install products, merchandise, accessories, fixtures, furnishings, equipment, signs, etc., as well as of Required Items (Sections 3.4, 3.6, 5.3(d)-(e) of Franchise Agreement).
6. Provide you with ongoing marketing directives and programs, as we deem appropriate from time to time (Section 3.5 of Franchise Agreement).
7. Assist you in setting prices as allowed by applicable law. Prices will be periodically updated in the Operations Manual as business conditions warrant. We do not guarantee that by following our pricing requirements you will earn any specific level of sales or profitability (Section 5.9 of Franchise Agreement).

**D. Advertising and Marketing**

*Local Marketing Requirement*

You must spend a minimum of \$3,000 to \$4,000 each month (not including labor charges) on local advertising for your Studio. We will specify the exact minimum, and we may revise this amount from time to time. We recommend that you vary your marketing efforts, as detailed more fully in the Operations Manual. Advertising expenditures include: (a) amounts contributed to advertising cooperatives; and (b) amounts spent for advertising media, like television, radio, newspaper, billboards, posters, digital marketing, social media, email marketing and review management, direct mail, search engine optimization, collateral and promotional items, advertising on public vehicles (transit and aerial) and, if not provided by us, the cost of producing approved materials necessary to participate in these media. Advertising expenditures do not include amounts spent for items which we, in our reasonable judgment, deem inappropriate for meeting the minimum advertising requirement, including permanent on-premises signs, lighting, personnel salaries or administrative costs, transportation vehicles (even though the vehicles may display the Mark), Yellow Pages advertising, discounts, free offers and employee incentive programs. (Section 5.5(b) of Franchise Agreement).

You must submit to us for our prior approval samples of all advertising and promotion materials not prepared or previously approved by us and which vary from our standard advertising and promotional materials. If we do not disapprove of the materials within 10 business days, you may proceed with using the submitted materials. You may not use any advertising or promotional materials that we have disapproved of. At our request, you must include certain language in local marketing materials, such as “Franchises Available” and our website address and telephone number. (Section 5.1(c) of Franchise Agreement).

*Search Engine Optimization*

You must pay us our then-current search engine optimization fee, which is currently \$169 per month, and otherwise use our Approved Supplier for Search Engine Optimization services. (Section 5.5(h) of the Franchise Agreement).

*Grand Opening Marketing*

In addition to your Local Marketing Requirement, and your contributions to the Brand Development Fund (described below), you must spend between \$20,000 and \$30,000 for Grand Opening Marketing expenses for your Studio under a marketing plan developed by you and approved by us. You must use the types of advertising media that we specify, and you must conduct your pre-sale advertising program during the 90-day period before your expected opening date and the first 30 days following opening. You must submit to us for

our prior approval samples of all advertising and promotion materials not prepared or previously approved by us and which vary from our standard advertising and promotional materials. If we do not disapprove within 10 business days, you may proceed with the planned advertising. You may not use any advertising or promotional materials that we have disapproved of. (Sections 5.5(a) of Franchise Agreement).

#### *Brand Development Fund or “Fund”*

We have not yet established the Brand Fund. If we establish such a Fund in the future, we may require that you contribute an amount equal to up to two percent (2%) of the NCI of your Studio(s), as disclosed in Item 6 of this Disclosure Document (the “Fund Contribution”).

Fund Contributions may be expended and otherwise used in connection with any activities that we determine are appropriate to be used for: (i) preparing, directing, conducting, placing, and administering advertising, marketing, public relations, and/or promotional programs and materials (both traditional and digital and via the Website); (ii) creating and implementing training tools and/or technology solutions and related integration tools; and (iii) any other activities that Franchisor determines might enhance and/or support the System, Proprietary Marks and/or Approved Products or Services. The Brand Fund may also be used to provide rebates or reimbursements to franchisees for local expenditures on products, services, or improvements, approved in advance by Franchisor, which products, services, or improvements Franchisor deems, in its sole discretion, will promote general public awareness and favorable support for the System. . We will have full control and discretion over the Fund and Fund expenditures to conduct these types of activities, including without limitation: development of marketing, advertising and related programs and material utilizing print and digital media; the planning and purchasing of national and/or regional network advertising; brand development, tests and pilot programs, customer support administration, technology research and development related to the brand, promotional events and materials; market research costs; creative and production costs to pay for any advertising and/or promotional materials; data analysis, research, or anything related to the consumer, obtaining customer satisfaction information including the costs of a national call center and mystery shopping, and administrative or personnel costs relating to advertising or other brand development. We and/or a third-party vendor may provide certain of these services or materials, and we may use the Fund expenditures to cover or reimburse the applicable portion of the salary of our personnel or third-party fees paid to perform these activities.

We may charge the Fund for marketing, advertising, and promotional materials at cost, plus any related administrative, shipping, handling, storage, and overhead charges that go to us or an affiliate. Currently, we intend that Studios owned by us and our affiliates will contribute to the Fund on the same basis as similarly situated franchisees.

We will administer the Fund and have control over the activities that it covers, including national or regional media, creative concepts, materials, endorsements, and agency relationships. We or our affiliates may generate ads in-house and may solicit outside regional or national ad agencies for generating ads. Although the National Brand Fund is intended to maximize general recognition and patronage of the Proprietary Marks for the benefit of all Studios, we cannot assure you that any certain Studio will benefit directly or pro-rata from the placement of advertising. (Section 5.5(c) of Franchise Agreement).

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 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 from Fund Contributions to pay costs before spending the Fund's other assets. We do not intend to 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 all advertising/marketing or other activities covered by the Fund.

We will prepare an unaudited, annual statement of Fund collections and costs and give it to you upon written request. We may incorporate the Fund or operate it through a separate entity if we deem appropriate. Currently, we expect that our affiliate-owned Stores will contribute to the Fund in the same manner that each franchised Store is required to contribute, but they do not have an agreement with us requiring them to do so.

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 5.5).

#### *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 5.5).

#### *Regional Advertising Cooperatives ("Cooperatives").*

We reserve the right to establish and administer regional advertising cooperatives that are comprised of a geographical market area that contains two or more Studios (whether a Studio or Affiliate-owned) (each a "Cooperative"). If we assign your Studio to a Cooperative we establish, you must work with the other Studio owners in your Cooperative and us to develop and implement regional advertising campaigns designed to benefit all the Stores within the geographical boundaries of the Cooperative. We have not established any Cooperatives as of the Issue Date of this Disclosure Document and have not contemplated how much a Franchised Business might be required to contribute to such a Cooperative (though it will not exceed your Local Marketing Requirement in any given month) (Franchise Agreement, Section 5.5). We will have the right to establish, modify, merge, and dissolve the Cooperative as we deem appropriate. Any amounts you expend on Cooperatives will be credited towards your Local Marketing Requirement.

#### *Presales Social Media Coordinator.*

You are required to use our Approved Supplier for presales marketing. You will pay this amount directly to our supplier for the period of 90-120 days prior to opening. Our Approved Supplier currently charges \$375 per month for these services. (Franchise Agreement, Section 5.5).

#### E. **Training**

### *Initial Training for Owner/Operator and/or Designated Manager*

We will provide you (or your principal that will be responsible for the day-to-day management of your Studio if you are an entity) and, if appropriate, your Designated Manager, with the component(s) of our initial training program regarding the operation and management of a Studio, with such training taking place at our corporate headquarters or designated training Studio currently located in Illinois (the “Corporate Initial Training”). We reserve the right to hold any portion or all the Corporate Initial Training virtually or otherwise via remote learning. You must successfully complete the Corporate Initial Training program before you engage in any pre-sale marketing activity. We estimate that the Corporate Initial Training will last for approximately six to seven business days (up to 4 days in-person and up to 3 days virtually), and you and your Designated Manager (if applicable) must attend and complete the Corporate Initial Training prior to the opening of your Studio. In addition to the Corporate Initial Training, we may provide certain, additional components of our initial training program to you and your management that is designed to introduce you to the System and brand generally remotely via telephone calls, webinars or other learning management system that is made available to you and the appropriate Studio personnel via the Internet (collectively, the “Remote Initial Training”), which you will be required to participate in and complete within 60 days of signing your Franchise Agreement (unless we designated a longer period of time that we designate in writing). (Franchise Agreement, Section 3.2(a)(i)).

We do not charge a fee for you and up to two (2) other individuals to attend the Corporate Initial Training, provided all individuals attend this training at the same time as you prior to the opening of your Studio. Corporate Initial Training generally lasts three (3) days. Any additional individuals that wish to attend must pay our then-current initial Training Fee as described in Item 6 unless we agree otherwise in writing. (Franchise Agreement, Section 3.2(a)(iii)).

Before you or any designated trainee may attend the Corporate Initial Training, you must complete the following pre-opening responsibilities under your Franchise Agreement: (i) submit, and obtain Franchisor’s approval of, your Grand Opening Marketing plan for the Studio; (ii) demonstrate that Franchisee has pre-paid all amounts in connection with the foregoing plan; (iii) undertake all steps to establish and provide us with access to your EFT Account consistent with your Franchise Agreement, including providing Franchisor and/or its designee with a signed and completed copy of the authorization form attached to the Franchise Agreement and any other authorizations and approvals necessary for us or our designee to access such EFT Account; (iv) demonstrate that you have obtained all required insurance coverages as set forth in this Agreement and the Operations Manual; and (v) provide us with completed and signed copies of all agreements and contracts that are attached as Exhibits to your Franchise 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 3.2(a)(ii)).

### *Initial On-Site Assistance, including Initial Instructor Training*

Once you and all required trainees successfully complete the Corporate Initial Training, then we will provide up to four (4) days of on-site assistance at the approved site of the Studio (the “Initial On-Site Assistance”) to you and the initial personnel of the Studio, including all initial individuals you intend or expect to provide the Approved Services to Studio clientele (each, an “Instructor”), as Franchisor determines appropriate in its discretion. You must ensure that you, your Designated Manager (if any), all initial Instructors and other then-current personnel of the Franchised Business are present and participate in any Initial On-Site Assistance that we determine to provide. (Franchise Agreement, Section 3.2(b)).

As part of the Initial On-Site Assistance, all prospective Studio Instructors must participate in and successfully pass through our prescribed instructor-focused training and demonstrate its ability to provide the Approved Services in the Studio setting via a “practice session” or similar hands-on method that we prescribe in the Operations Manual, training manuals or otherwise in writing (collectively, the “Instructor Training”) before that Instructor provides any Approved Services to any Studio clientele. Instructor training lasts up to four (4)

days (Franchise Agreement, Section 3.2(b)(ii)). The minimum experience that any Studio Instructor will have is 6 months.

*Initial Training Program Details*

Below is an overview of our Initial Training Program, which includes certain portions of our Initial On-Site Assistance:

**Initial Training Program**

<b>Subject</b>	<b>Hours of Classroom Training</b>	<b>Hours of On-the-Job Training</b>	<b>Location</b>
Cultivating the Member Experience	0.5	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Services Provided by Franchisor	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Real Estate Requirements	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Use of the manual	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Website studio page	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Email and Domain	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Set up social media accounts	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Brand Guide	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Design Manual/Construction Guide	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Facility layout approval	2	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Signage	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Equipment orders	1.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)

Payroll provider	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Insurance	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
State specific regulations	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Recruiting	2	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Logo Protocols	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Advertising & Marketing	3	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Approved Vendor Orders	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Computer Hardware	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Software	4	3	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Sales Procedures	10	2.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Retail	.5	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Inventory Management	0	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Décor Specifications	1	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Suggested Resources and Guidelines for Personnel/Labor Management and Issues	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
New Studio Personnel Training & Orientation	0	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Conducting Performance Evaluations	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)

Managing Personnel	0	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Franchise Reporting Obligations	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Music and Licensing	.5	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Incident Report	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Instructor training	0	30	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Suggested session schedule	1	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Auditions	0	12	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Opening/closing checklists	1	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Daily/weekly/monthly cleaning checklists	1	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Front desk appearance/organization	1	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Hire professional photographer	0.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Opening checklist approval form	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Equipment Maintenance	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Equipment Delivery	1	2	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Reporting	1	2	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
KPI	1	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)

Social & Community Involvement	1	1	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Monthly Promo	0	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Grand opening party	1	0.5	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
SPENGA Culture	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Leadership	2	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Policies & Procedures	1.5	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
CRM	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Technology	1	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
Mindbody	6	0	Our corporate headquarters or other training Studio we designate in Illinois (including virtual training)
<b>TOTALS</b>	<b>55</b>	<b>68.5</b>	

We do not currently have a set training schedule, but the components of our Corporate Initial Training and Initial On-Site Assistance will be made available on an as-needed basis subject to the availability of our personnel. Instructional materials, including components of the Operations Manual, will typically be provided to you prior to or when you attend our Corporate Initial Training, and will be used as necessary as you proceed through our initial training. Our initial training components, including Corporate Initial Training, Remote Initial Training and Initial On-Site Assistance, are subject to change without notice to reflect updates in the materials, methods and Operations Manual, 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 primary training managers and their respective years of experience within the industry and years with our System are disclosed below. Our training managers may utilize other employees to assist them with all aspects of training.

<b>Name of Training-Related Personnel</b>	<b>Number of Years of Experience with our System</b>	<b>Years of Experience in the Industry and/or with Subject Matter of Instruction</b>
Roger McGreal	11	24
Heather Ruff	11	25
Amy Nielsen	11	20
Pete Vrdolyak	10	21
Joe Vrdolyak	10	21

Nancy Vrdolyak	10	21
Alison Lukan	3.5	10
Dani Kennedy	5	6
Olivia Daniels	2	4
Lora Thompson	3.5	9
Hazel Davis	2.5	13
Naomi Rondon	4.5	6
Amy Shaughnessy	9	11
Emily Hileman	5	8
Miriah Kasbek	4	7
Marie Palmisano	3.5	15

*Appropriate Initial Training Must be Completed Prior to Undertaking any Responsibility at the Studio*

Unless we agree otherwise, it is imperative and important that you must ensure that neither you, nor any Designated Manager, Instructor or other personnel of the Studio, commences their respective responsibilities at your Studio until each such individual has participated in and completed either (i) the On-Site Assistance described in this Section, or (ii) the kind of subsequent training or assistance described below in this Item. (Franchise Agreement, Section 3.2(b)(i)-(ii)).

*Costs and Expenses Associated with Initial and Other Training*

You will be responsible for covering all costs and expenses incurred in connection with you and your trainees attending any of the training described under this heading in Item 11, including the costs for you and other required trainees to travel to or otherwise participate in the Corporate Initial Training, Initial On-Site Assistance and, to the extent applicable, any Remote Initial Training described above. This includes the costs associated with transportation to/from the Corporate Initial Training, as well as any meals, lodging, local transportation and (if applicable) personnel wages/compensation associated with all other training described in this Disclosure Document. (Franchise Agreement, Sections 3.2(a)(iv)-(v) and Section 3.2(d)).

*Training for Multi-Unit Owners*

If you (or your affiliate) have already received the Corporate Initial Training and/or Initial On-Site Assistance described above in this Item in connection with two (2) other Studios that you have opened or are in the process of developing, we reserve the right to (i) waive all or certain of your obligations with respect to the initial training and/or the Initial On-Site Assistance described above in this Section. Requirements; and (ii) not provide any such training or Initial On-Site Assistance to Franchisee or its personnel that Franchisor has waived.

*Additional Training*

We or our then-current Required Supplier for third-party training may, as it deems appropriate in its discretion, develop additional and refresher training courses, and require you, your management and/or Instructor(s) to attend such courses. We will not require you and your designated trainees to pay our then-current ongoing Training Fee in connection with attending additional/refresher training that we provide, unless (i) you request such additional/refresher training, and/or (ii) such additional/refresher training is provided on-site at the Approved Site of the Studio. You will be responsible for the costs and expenses that you and your trainees incur in connection with attending any additional/refresher training under this Agreement. We may require you and each of your management or Instructor personnel to attend up to five (5) days of additional/refresher training each year. If you fail to achieve at least \$40,000 NCI by month 6 of operation, then we may require you to attend additional training. (Franchise Agreement, Section 3.2(d)).

### *New or Replacement Instructor Training*

Each prospective Instructor of your Studio must attend and complete the appropriate Instructor Training, whether during the Initial On-Site Assistance or anytime thereafter, that we provide and/or otherwise require before that prospective Instructor can provide any Approved Services at the Studio. We reserve the right to charge our then-current ongoing Instructor Training Fee in connection with any Instructor Training that we provide to a prospective Instructor that does not attend and complete the Instructor Training during the Initial On-Site Assistance described above in this Item. We may agree in a separate writing to approve you, your Designated Manager or other Instructor that has completed the Instructor Training will be eligible to provide such Instructor Training to one (1) or more new or replacement prospective Instructor(s), but your Instructors will otherwise have to receive the Instructor Training from us (either at our designated training facility or, if we agree to do so, at your Studio). You will be responsible for all costs and expenses incurred in connection with such training, whether incurred by your prospective Instructor or by our personnel providing such training at your Studio. (Franchise Agreement, Section 3.2(e)). We also reserve the right to charge our then-current Audition Fee in connection with each type of training listed in this Item 11. Our current Audition Fee is \$75. (Franchise Agreement, Section 3.2(g)).

### *Remedial Training*

If we determined that you are operating the Franchised Business in a manner that is not consistent with the terms of this Agreement or the Operations Manual, or if Franchisee is otherwise in material default of this Agreement, the we may also require that you, your Designated Manager (if applicable) and/or other applicable personnel of the Studio to attend and complete up to five (5) additional days of training at (a) Franchisor's designated training facility, (b) the Studio, or (c) other location Franchisor designates, that is designed to address the default or other non-compliance issue (which we refer to in Item 6 as "Remedial Training"). We may require you and your designated trainees pay us our then-current ongoing Training Fee in connection with attending Remedial Training, and Franchisee will be responsible for the costs and expenses associated with (a) you and any of your personnel attending such training, and/or (b) our personnel traveling to the Studio to provide such training. (Franchise Agreement, Section 3.2(f)).

### **F. Computer System - Hardware and Software**

You must obtain, maintain, and use the POS System that we designate (the "Designated POS System"), as well as any other computer hardware and software that we specify in the Operations Manual or otherwise in writing (collectively, the "Computer System"), for use in connection with your Studio. Current, we require you to use the Designated POS System and certain other Computer System components to: (i) enter and track purchase orders and receipts, training session and/or class availability and attendance and other customer information, (ii) handle payment collection and processing from Studio clientele, (iii) generate sales reports and analysis relating to the Studio including certain reports you are required to submit to us under your Franchise Agreement, and (iv) provide other services we authorize relating to the operation of the Studio. You must ensure that we have the irrevocable right to independently and electronically access the data stored in or generated by the Designated POS System and any other Computer System components we designate, and there is no contractual limitation on this requirement. (Franchise Agreement, Sections 4.4(c), 5.3(o) and 5.6(a)).

The primary components of the Designated POS System typically include: (i) a magnetic credit card reader; (ii) a thermal receipt printer; (iii) a label printer (and barcode labels); (iv) a wired scanner; (v) a mobile credit card reader; (vi) computer(s) for the front desk, along with a printer/scanner; and (v) one (1) or more tablets that can connect to the Internet (Section 5.6 of Franchise Agreement). We estimate the initial costs to acquire and set up the Designated POS System and other Computer System components to be between \$4,000 and \$6,000.

You will also pay our Required Supplier for the POS System its then-current monthly POS software license fee, which is currently \$304/month per Studio, and any per-transaction fees incurred in connection with the payment processing services that are provided via the Designated POS System.

Neither we nor any of our affiliates is required to provide ongoing maintenance, repairs, upgrades, or updates to the system. You must, at your own expense, upgrade or replace financial and inventory data processing and communications systems to remain compliant, and we have no obligation to assist you in obtaining hardware, software, or related services. There are no contractual limits on the frequency or cost of your obligation to obtain these upgrades. We do not currently have any required or optional maintenance, repair, upgrade, or update contracts for the computer system, but we reserve the right to require such contracts in the future. You must at all times have a high-speed internet connection. As described in Item 6, we currently charge a monthly Technology Fee, estimated to be between \$350 to \$450, for website maintenance and certain other technology that you are required to use in connection with your Studio. Other than the Technology Fee, we currently estimate your annual costs of optional or required maintenance, updating, upgrading, and/or support contracts will be between \$1,000 and \$1,800. (Section 5.3(o) of Franchise Agreement). While we do not currently require you to have a maintenance contract for the Computer System (other than your software license agreement with our Required Supplier of the Designated POS System described above), you may choose to do so, and we recommend you discuss this with the suppliers of your other Computer System components. (Franchise Agreement, Section 5.3(o)).

#### *Internet and Network*

You must have and maintain adequate hardware and software for both Studio personnel and clientele to access the Internet at the bit speed we require via Wi-Fi or then-current comparable technology. We have the right, but not the obligation, to establish and maintain a website that provides information about the System and the products and services offered as part of our Approved Services and Approved Products. If we exercise our right to create such a website, we will have sole discretion and control over it. We also have the right, but not the obligation, to create interior pages on our website(s) that contain information about your Studio and other Studio locations. If we do create such a page, we may require you to prepare all or a portion of the page for the Studio, at your sole expense, and may require you to use a template that we provide. (Sections 5.5(f) of Franchise Agreement).

Unless you obtain our prior written consent, you are prohibited from establishing or maintaining a separate website, or otherwise maintaining a splash page or other presence on the Internet through any social networking site in connection with the operation of your Studio, including without limitation, Facebook, LinkedIn, Pinterest, Instagram, Plaxo, Twitter, and YouTube, that uses any variation of the Proprietary Marks or references the System. If you seek and obtain our approval to create a separate website or other web presence, you must: (i) establish and operate the website according to our standards and policies as we describe in the Operations Manual or otherwise in writing from time to time; and (ii) utilize any templates that we provide to you to create and/or modify your site(s). We may require you to update the content of any social media and/or networking site at the times and in the manner we decide. (Section 5.5(f) of Franchise Agreement).

We have the right to modify our policies regarding both our and your use of Internet websites as we deem necessary or appropriate for the best interests of the System. (Section 5.5(f) of Franchise Agreement). We are currently the sole registrant of the domain name <http://www.spenga.com> and we will be the sole registrant of any other domain names we decide to register in connection with the System in the future. You are prohibited from registering any domain name that contains words used in, or similar to, any trademark or service mark owned or used by us or our affiliate, or any colorable variation thereof (including any abbreviation, acronym, phonetic variation or visual variation). (Section 5.5(f) of Franchise Agreement).

You must participate in any System-wide area computer network, intranet system or extranet system that we implement and may be required by us to use this area computer network, intranet system or extranet system to, among other things: (i) submit your reports due under the Franchise Agreement to us online; (ii) view and print portions of the Operations Manual; (iii) download approved local advertising materials; (iv) communicate with us and other System franchisees; and (v) participate in online training. You must use the facilities of any area computer network, intranet system or extranet system in strict compliance with the standards, protocols, and restrictions that we include in the Operations Manual, including those related to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory, or defamatory statements. (Section 5.3(p) of Franchise Agreement).

## **ITEM 12**

### **TERRITORY**

#### **Franchise Agreement**

##### Approved Site and Relocation

You will operate the Studio from a specific site which we approve. You may relocate the Studio only with our prior written consent. We will use the same criteria used for your original location to review the proposed new location. Depending on the distance between your original location and your new location, you may be required to refund unused membership fees for members who do not wish to travel to the new location.

##### Franchise Agreement: Designated Territory and Site Selection Area

The Franchise Agreement gives you the right to open a single Studio at a specific location. If you do not have an Approved Site as of the date you sign your Franchise Agreement, then a mutually agreed-upon site selection area wherein you will secure an Approved Site (the “Site Selection Area”) will be set forth in the data sheet attached to the Franchise Agreement. This Site Selection Area will generally encompass between a .25 mile to 3-mile area surrounding an agreed upon location.

Under your Franchise Agreement, you will receive a Designated Territory defined by geographic boundaries. Your Designated Territory will vary from a .25 mile to 3-mile radius around your Approved Site based on the number of qualifying households that surround your Approved Site. If you are in a rural or suburban area that is not densely populated, we expect that your Designated Territory will typically be comprised of a geographical area around your Studio that we designate and that contains approximately 7,500 Qualifying Households (based on information we receive from market analysis software) that have an annual household income of at least \$75,000. If you live in an urban, metropolitan, or other business district that is densely populated, then we expect that your Designated Territory will be comprised of a smaller geographical area that is described as a certain number of blocks or certain walking/driving radius around your Approved Site. Your Designated Territory will likely vary from other System franchisees based on the population density, commuter statistics, traffic patterns, surround businesses and other demographics of the site selection area wherein you are looking to open and/or develop your Studio(s). We do not have a minimum population or driving radius for a given Designated Territory, and this analysis will be conducted by us on a case-by-case basis. Once you receive your Designated Territory, your rights within the applicable Site Selection Area will go away.

We may attach a map to your Franchise Agreement that will detail your Designated Territory, or we may simply give description of an area surrounding your location that makes up your Designated Territory. As previously disclosed, the territories granted in connection with your Studio may vary drastically in size and shape based on several criteria pertaining to your location, including population density, household income,

business density, traffic, and competition, among other factors. Since some portions of Designated Territories granted in connection with Studios may overlap, we will not approve any proposed Premises for your Studio that is located within another System franchisee's Designated Territory.

Subject to your compliance with your Franchise Agreement, we will not open or locate, or license any third party the right to open or locate, any Studio utilizing the Proprietary Marks and System within your Designated Territory. While we will not open or locate or license any third party the right to open or locate a Studio in your Designated Territory, your Site Selection Area may overlap with another franchisee. You may serve any customer base without restriction, including customers from outside your Designated Territory. We and our affiliates also have the right to operate, and grant franchises or licenses to others to operate, fitness centers and other businesses offering similar services in your Designated Territory under trademarks other than the Proprietary Marks.

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

We are required to disclose the foregoing paragraph because we reserve the right to establish Studios at Non-Traditional Sites as described more fully below under the "Reserved Rights" heading.

We do not have the right to unilaterally change your Designated Territory during the term of your Franchise Agreement unless we determine to only remove your territorial rights within the Designated Territory instead of terminating your Franchise Agreement.

#### Development Agreement: Development Area

Under the Development Agreement, you are granted the right to develop a specific number of Studios within a specific geographic area ("Development Area"). The size of your Development Area will be determined based on our long-range development plans and the number of Studios you will develop (between three and ten studios). The Development Area will be described in an Exhibit to your Development Agreement using contiguous zip codes, county, or state boundaries, or it may be described on a map.

If you are in compliance with the terms of the Development Agreement and your Development Schedule, we will not license any other franchisee or area developer to establish a Studio within the Development Area. If you are not in compliance with your Development Agreement or you have not complied with the Development Schedule, we have the right to reduce the number of studios you may develop, reduce the size of your Development Area or terminate the Development Agreement.

If you fail to meet your Development Schedule requirements for whatever reason, we may terminate your Development Agreement and/or elect to remove your territorial rights in your Development Area. Otherwise, we will not modify your Development Area except by mutual agreement of the parties in a separate writing.

You have no options, rights of first refusal, or similar rights to acquire additional franchises. Continuation of your Designated Territory does not depend on your achieving a certain sales volume, market penetration, or other contingency.

#### Reserved Rights Under Franchise Agreement and Development Agreement

We and/or our affiliates reserve the exclusive right to conduct the following activities under the

Franchise Agreement and/or Development Agreement (as applicable): (i) establish and locate, and license any third party the right to establish and locate, other Studios and Franchised Businesses using the Proprietary Marks and System at any location outside of your Designated Territory(ies) and, if applicable, 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 via the Internet, retail stores, sporting goods stores, catalog or mail order sales, 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/or Approved Services under marks other than the Proprietary Marks, within or outside your Designated Territory(ies) and, if applicable, DMA; and (v) own and operate Studios in “Non-Traditional Sites” including, but not limited to, airports, malls, any captive venue that requires a ticket or other membership to access, military bases, academic institutions, hospitals, sports arenas and stadiums, train stations, casinos, both within or outside your Designated Territory(ies) and, if applicable, Development Area.

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, our parent, or any third party from these activities, unless we otherwise agree in writing. Further, we have no obligation to provide you with any compensation for soliciting or accepting orders (via alternate channels of distribution) within your Designated Territory. We have the exclusive right to negotiate and enter into agreements or approve forms of agreements to operate Studios at Non-Traditional Sites, either directly or through our parent, our affiliates, licensees, or designees, and you will not be entitled to any compensation as a result of our operation of Studios at Non-Traditional Sites.

### **Other Relevant Disclosures**

You have no options, rights of first refusal, or similar rights to acquire additional franchises. Continuation of your Designated Territory does not depend on your achieving a certain sales volume, market penetration, or other contingency.

Neither we nor any parent or affiliate has established, or presently intends to establish, other franchised or company-owned facilities that involve the provision of services that are substantially similar to the Approved Services under a different trade name or trademark, but we reserve the right to do so in the future and do not need your consent to engage in such activities.

## **ITEM 13**

### **TRADEMARKS**

Under the Franchise Agreement, we grant you a limited, nonexclusive right to use the Proprietary Marks in connection with your franchised Studio. You may also be authorized to use other current or future Marks that we designate as a part of the SPENGA System to operate your Studio. Please note that The Development Agreement does not grant you the right to use the Proprietary Marks.

Our affiliate, Spenga, Inc., holds the rights in and to the following United States trademark applications:

<b>Name of Mark</b>	<b>Registration Number #</b>	<b>Registration Date</b>	<b>Register</b>
SPENGA (Design)	4833071	October 13, 2015	Principal
SPENGA (Design)	4833069	October 13, 2015	Principal
SPENGA (Design)	4997395	July 12, 2016	Principal
RIDE REP REVIVE	4997265	July 12, 2016	Principal
RIDE REP REVIVE	5280083	September 5, 2017	Principal
Sweet Spot	6682742	March 29, 2022	Principal

All affidavits required to preserve and renew the foregoing Proprietary Marks have been and will be timely filed.

We may modify, supplement and/or discontinue use of the Proprietary Marks you are licensed under your Franchise Agreement at any time. The Franchise Agreement does not grant you the right to use any Proprietary Marks owned by us or any of our affiliates beyond those Proprietary Marks in the chart above. The use of any other Proprietary Marks requires specific written authorization. Under the terms of the Franchise Agreement, you acknowledge and agree that you are not acquiring the right to use any service marks, copyrights, trademarks, logos, designs, insignia, emblems, symbols, designs, slogans, distinguishing characteristics, trade names, domain names or other marks or characteristics owned by us or any of our affiliates that we do not specifically designate to be used in the SPENGA System.

There is no agreement currently in effect as of the Issuance Date of this Disclosure Document that significantly limits our right to use or license the use of the Proprietary Marks in any manner material to our franchise, except for the license agreement between us and our affiliate, Spenga, Inc. Our affiliate has agreed to sub-license all of the Proprietary Marks to us via a perpetual, non-cancelable license agreement dated April 25, 2017.

There are no currently effective material determinations of the USPTO, Trademark Trial and Appeal Board or any state trademark administrator or court in the United States, or any pending infringement, opposition or cancellation proceeding, involving the Proprietary Marks.

Also, of the date of this Disclosure Document, there is no pending material federal or state court litigation regarding our use or ownership rights in the Proprietary Marks.

You must promptly notify us of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to our ownership of, our right to use and to license others to use, or your right to use, the Proprietary Marks. We have the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Marks, including the right to settle the proceedings or litigation. We have the exclusive right, but not the obligation, to affirmatively prosecute actions against third parties for infringement or threatened infringement of the Proprietary Marks.

We will defend you against any third-party claim, suit, or demand arising out of your use of the Proprietary Marks. If we, in our sole discretion, determine that you have used the Proprietary Marks in accordance with the Franchise Agreement, we will pay the cost of defending the action, including the cost of any judgment or settlement. If we, in our sole discretion, determine that you have not used the Proprietary Marks in accordance with the Franchise Agreement, you must pay for the defense or reimburse us for costs we incurred in providing the defense, including the cost of any judgment or settlement. In the event of any litigation relating to your use of the Proprietary Marks, you must sign all documents and assist us, as we deem necessary, to carry out the defense or prosecution including, without limitation, becoming a nominal party to any legal action. We will reimburse you for your out-of-pocket costs in assisting us in defending an action relating to the Proprietary Marks,

unless the litigation is the result of your use of the Proprietary Marks in a manner inconsistent with the terms of any agreement(s) you sign with us.

We are not aware of any superior prior rights or infringing uses that could materially affect your use of the Proprietary Marks in any state; however, a federal trademark registration does not necessarily protect the use of the concerned mark against a prior user in a given relevant market area. Therefore, before entering into the Franchise Agreement, you should make every effort to ascertain that there are no existing uses of the Proprietary Marks or confusingly similar marks being used in the market area where you wish to do business. You should immediately notify us of any confusingly similar marks you discover.

We and our affiliates are the lawful owner of the domain name [www.spenga.com](http://www.spenga.com). You cannot register any of the Proprietary Marks now or in the future owned by us or any abbreviation, acronym or variation of the Proprietary Marks, or any other name that could be deemed confusingly similar, as Internet domain names. We retain the sole right to advertise the system on the Internet and to create, operate, maintain and modify, or discontinue use of a website using the Proprietary Marks. You may access our website. Except as we may authorize in writing in advance, however, you cannot: (i) link or frame our website; (ii) conduct any business or offer to sell or advertise any products or services on the Internet; or (iii) create or register any Internet domain name in connection with your franchise.

You may use only the Proprietary Marks which we designate and may use them only in the manner we authorize and permit. Any goodwill associated with the Proprietary Marks, including any goodwill which might be deemed to have arisen through your activities, inures directly and exclusively to our benefit. You may use the Proprietary Marks only for the operation of the Studio and only at the Approved Location or in advertising for the Studio. You shall use all Proprietary Marks without prefixes or suffixes and in conjunction with the symbols "SM," "TM," "S" or "R," as applicable. You may not use the Proprietary Marks in connection with the offer or sale of any services or products which we have not authorized for use in connection with the System. You may not use the Proprietary Marks as part of your corporate or other legal name. We must approve your corporate name and all fictitious names under which you propose to do business in writing before use. You must use your corporate or limited liability company name either alone or followed by the initials "D/B/A" and the business name that we approve. You must promptly register at the office of the county in which your Studio is located, or any other public office as provided for by the laws of the state in which your Studio is located, as doing business under your assumed business name.

All your advertising must prominently display the Proprietary Marks and must comply with our standards for using the Proprietary Marks. All advertising is subject to our prior written approval, which we will not unreasonably withhold. We reserve the right to approve all signs, stationery, business cards, forms, and other materials and supplies bearing the Proprietary Marks. You may use the Proprietary Marks including, without limitation, trade dress, color combinations, designs, symbols, and slogans, only in the manner permitted by the Franchise Agreement or by our prior written consent. You must submit to us, and we must approve all advertising, publicity, signs, decorations, furnishings, equipment, or other materials employing the Proprietary Marks, or related marks, before first publication or use. We will not unreasonably withhold our approval. You must identify yourself as the owner of the Studio (in the manner we prescribe) in conjunction with any use of the Proprietary Marks including, without limitation, on invoices, order forms, receipts, and business stationery, or any conspicuous locations as we may designate in writing at the Studio premises.

We reserve the right to substitute different proprietary marks for use in identifying the System and any businesses operating under the System. You must discontinue using all Proprietary Marks which we have notified you, in writing, have been modified or discontinued within 10 days of receiving written notice and must promptly begin using additional, modified, or substituted Proprietary Marks at your expense.

## **ITEM 14**

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

We are not the owner of any patents or pending patent applications that are material to the franchise.

We and our affiliates claim copyright interests in our training manuals, advertising and marketing materials, posters, toys, pamphlets, brochures, printed and pictorial materials and similar items used in the System. We have not registered these copyrights with the Copyright Office of the Library of Congress. These materials are proprietary and confidential and are considered our property. They may be used by you only so long as you are a franchisee, and only as provided in the Franchise Agreement and you must stop using them if so directed.

There are no current material determinations of the United States Patent and Trademark Office, the Copyright Office of the Library of Congress, or court regarding any patent or copyright.

There are no agreements currently in effect that limit our rights to use or allow others to use any patents or copyrights.

We are not contractually required to protect any patent or copyright or to defend you against claims arising from your use of any patented or copyrighted items.

The protection of our intellectual property is important to us. If anyone institutes or threatens litigation involving any of our patents, copyrights, or other proprietary information against you, you must notify us immediately. You must also notify us immediately when you learn about any infringing use of our patents, copyrights or other proprietary information or any challenge to your use of our patents, copyrights, or other proprietary information. You may not communicate with any person (other than us, our affiliates, and our counsel) regarding any matter. We are not required by the Franchise Agreement to take any affirmative action to protect or defend our patents, copyrights, or other proprietary information, and we may take whatever action we consider appropriate. We have the sole right to control any action we choose to bring, even if you voluntarily bring the matter to our attention, and you must fully cooperate with us in these matters. Under the Franchise Agreement, you appoint us as your exclusive attorney-in-fact to defend and/or settle all disputes of this type. You must sign any documents that we believe are necessary to obtain protection for any patented or copyrighted materials and the System and assign to us any claims that you may have related to these matters. Our decisions as to the prosecution, defense and settlement of any dispute will be final. All recoveries made as a result of disputes with third parties regarding any patented or copyrighted materials will be for our account.

At our option, we may (but will not be required to) participate in the defense of any administrative or judicial proceeding involving any patent or copyright to which you are a party. Except as stated above, we are not required to defend you against claims arising from your use of patented or copyrighted items or other proprietary information, or to indemnify you for expenses or damages if you become a party to any administrative or judicial proceeding involving any patent, copyright or other proprietary information licensed to you, or if the proceeding is resolved unfavorably to you.

If we must discontinue the use of any patent, copyrighted materials, or proprietary information relating to the System, we reserve the right to substitute different materials and/or information for use in your Studio, but we have no obligation to compensate you for the discontinuance or modifications of any patents, copyrighted material, or proprietary information.

We are not aware of any patent or copyright infringement that could materially affect you.

During the term of the Franchise Agreement, you will receive information which we consider trade secrets and confidential information. You may not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company any trade secrets and confidential information, including but not limited to: (i) location selection criteria and plans and specifications for the development of the Studio; (ii) methods, format, specifications, standards, systems, procedures, the operations manual, any other proprietary materials, and knowledge of and experience in developing and operating Studios; (iii) sales, marketing and advertising programs and techniques for Studios; (iv) knowledge of specifications for and suppliers of certain fixtures, furnishings, equipment, products, materials and supplies; (v) knowledge of the operating results and financial performance of Studios other than your Studio; (vi) methods of training and management relating to Studios; (vii) computer system and software programs used or useful in Studios; and (viii) any and all other information related to your Studio or any Studio generally that is labeled proprietary or confidential, which includes, without limitation, all customer and membership lists and information. Our confidential information specifically includes: (i) current customer and prospective customer names and addresses; (ii) information about credit extensions to customers; (iii) customer service purchasing histories; (iv) rates charged to customers; and (v) sources of suppliers. You may not disclose any confidential information to any third party, except to your employees and agents as necessary in operating the Studio and except as authorized in writing by us. You must obtain signed Nondisclosure and Noncompetition Agreements, in the form attached to the Franchise Agreement, from your personnel that has access to the confidential information, and you must send us a copy of each such agreement upon demand.

If you, your employees, or principals develop any new concept, process or improvement in the operation or promotion of the Studio, you must promptly notify us and provide us with all necessary related information, without compensation. Any such 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 related intellectual property rights. You and your principals will assign to us any rights you may have or acquire, including the right to modify the concept, process or improvement, and you must waive and/or release all rights of restraint and moral rights. 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 these rights. You and your principals will irrevocably designate and appoint us as your agent and attorney-in-fact to execute and file any documentation and to do all other lawful acts to further the prosecution and issuance of patents or other related intellectual property rights related to any concept, process, or improvement. In the event that these provisions 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 if this use or sublicense would otherwise directly or indirectly infringe your rights.

## **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 (the "Designated Manager"). 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 a good handle on our System standards and specifications for daily operations of a Studio. 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. If you operate more than one Franchised Business, you must have a properly trained Designated Manager at each Store 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.

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 and sell the goods and services which conform to our standards and specifications. You must offer, and may only offer, the Approved Services and Approved Products we designate or otherwise approve/authorize in the Operations Manual or otherwise in writing. We may modify, supplement and/or discontinue certain of the Approved Services and/or Approved Products upon written notice to you via the Operations Manual or otherwise. There are no limits on our right to change the types of goods and services you must offer, and you must abide by these modifications. The Approved Products and Approved Services must be offered, sold and/or provided, as applicable, in a manner that is consistent with the standards and specifications set forth in the appropriate training, the Operations Manual or as we otherwise designate in writing.

You must ensure that: (i) the Approved Services and any other fitness instruction provided at the Studio is rendered by an Instructor that has completed the Instructor Training; (ii) at least one individual that has completed Instructor Training and is authorized to provide the Approved Services is present on-site at the Studio at all times that Approved Services are being provided; and (iii) that no Instructor, Designated Manager, other personnel or you undertake to open or commence performing any responsibilities at the Studio until such individual(s) have completed all required initial or new/replacement training obligations set forth in your Franchise Agreement.

Before you open the Studio to the public, you must satisfy any and all of our pre-opening requirements, which include a soft opening and the pre-sale of a minimum number of Pre-Sale Memberships. Currently, you must sell at least 150 Pre-Sale Memberships before we permit the Studio to open. You may not schedule Instructor Training until you have sold 150 memberships.

You and other System franchisees must comply with our policies regarding reciprocity that we set forth in the Operations Manual, including any policies related to Studios honoring reciprocal memberships from other Studios. We reserve the right to approve any reciprocity program offered by a franchisee and the right to establish the pricing for a “drop-in fee” to members of another Studio. Memberships may be transferred from one location to another at the request of a customer by meeting the parameters and following the procedure outlined in the Manual.

## **ITEM 17**

## RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

### THE FRANCHISE RELATIONSHIP

#### A. Franchise Agreement

**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.**

Provision	Section in Franchise Agreement	Summary
a. Length of the franchise	2.7	The initial term is 10 years.
b. Renewal or extension of the term	2.7	You may renew for two (2) additional, successive terms of ten (10) years each, subject to (c) below.
c. Requirements for franchisee to renew or extend	2.7	You may renew the Franchise Agreement if you: (i) are in good standing with Franchisor and in compliance with the Operations Manual; (ii) have provided written notice of your desire to renew not less than 9 nor more than 12 months before the expiration of your Franchise Agreement; (iii) have signed our then-current Franchise Agreement, which may contain materially different terms than your current Franchise Agreement, not less than 30 days before your current Franchise Agreement expires; (iv) you have paid our then-current renewal fee; (v) demonstrated right to continue operating Studio and, prior to the renewal period, modernized your Studio and replaced and modernized the equipment, and signs used in the Studio so that it complies with our then-current standards; (vi) executed a general release to our satisfaction; and (vii) satisfied our then-current training requirements. We have the right to review and adjust the boundaries of your Designated Territory on renewal.
d. Termination by franchisee	8.1	None. You may terminate the franchise only with our mutual written consent (subject to state law).
e. Termination by franchisor without cause	n/a	We will not terminate the Franchise Agreement without cause.
f. Termination by franchisor with cause	8.2 to 8.5	We may terminate the Franchise Agreement only if you or your owners commit one of several violations listed in the Franchise Agreement and do not cure the violation
g. "Cause" defined – curable defaults	8.4	We have the right to terminate the Franchise Agreement after providing you a 15-day cure period if: (a) you fail to pay any monies you owe us or our affiliates; (b) any audit reveals that you have understated your Fees or any advertising payments by more than 2%; (c) you have to immediately endorse and deliver any payments due to us from third parties erroneously remitted to you; (d) you fail to maintain sufficient levels of inventory; (e) you fail to commence operations of your Studio within the required





Provision	Section in Franchise Agreement	Summary
k. “Transfer” by franchisee – defined	1.13	“Transfer” means any of the assignment, conveyance or other disposition of (a) any of the rights or obligations granted under the Franchise Agreement, (b) the Studio or its operating assets other than the sale of any operating assets that you have replaced within the Studio consistent with the terms of the Franchise Agreement, or (c) any ownership interest in Franchisee if you are a business entity or partnership of any kind.
l. Franchisor’s approval of transfer by franchisee	7.3	All transfers must have our prior written consent, and we have the right to withhold our consent based upon our sole discretion.
m. Conditions for Franchisor’s approval of transfer	7.3	Our approval of a proposed Transfer will be subject to the following conditions: (i) our satisfaction that the proposed transferee meets all of our business criteria; (ii) payment of all amounts you owe to us; (iii) you cure all defaults under the Franchise Agreement and any other agreement with us or our affiliates; (iv) at our option transferee signs our then-current form of franchise agreement; you or the proposed transferee pays us a \$10,000 transfer fee; (v) transferee signs an assumption of all liabilities and benefits of the Franchise Agreement; (vi) transferee completes our initial training program; (vii) we determine that the proposed purchase agreement is not so burdensome to materially threaten the future of the Studio; (viii) transferee obtains all required permits and licenses; (ix) if required, the lessor or other parties have consented to the proposed transfer; and (x) you execute a general release to our satisfaction.
n. Franchisor’s right of first refusal to acquire franchisee’s business	7.3	You must first offer to sell to us on the same terms and conditions as those offered by a third party. We will notify you, within 30 days after receiving the terms offered by the third party, whether we wish to exercise our right to purchase your business.
o. Franchisor’s option to purchase franchisee’s business	Not applicable	Not applicable
p. Death or disability of franchisee	5.5	Upon your death or permanent disability, the Franchise Agreement must be transferred to a party approved by us.
q. Non-competition covenants during the term of the franchise	6.6, Exhibit F	During the term of the Franchise Agreement, neither you nor your Related Parties may, either directly or indirectly for yourself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation, own, maintain, operate, engage in, act as a consultant for, perform services for, or have any interest in any Competing Business, as that term is defined in the Franchise Agreement (subject to state law).

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
r. Non-competition covenants after the franchise is terminated or expires	6.6	For a period of two (2) years after the termination, nonrenewal or expiration of the Franchise Agreement, neither you nor your Related Parties may: (i) 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 Competing Business that is located (A) at the Approved Site, (B) within the Designated Territory, or (C) within a radius of fifteen (15) miles of (1) your Designated Territory or (2) any Studio that is open, under lease or otherwise under development; (ii) solicit, or otherwise attempt to divert, business from customers of your former Franchised Business; (iii) contact any of our Required Suppliers for any competitive business purpose; or (iv) solicit any of our other employees, or the employees of our affiliates or any other System franchisee to discontinue employment.. You and your owners also agree that this non-competition covenant shall be tolled for any period during which you or your Related Parties are in breach of the covenant or any other period during which we seek to enforce the Franchise Agreement (subject to state law).
s. Modification of the agreement	3.4, 9.4	The Franchise Agreement can be modified only by written agreement between you and us. We will revise the Operations Manual, at our sole discretion, without your consent, to conform to the changing needs of the Franchise Network and will distribute updated pages containing these revisions to you via email updates, using the email address as provided to us by you.
t. Integration / merger clause	9.6	The terms as recorded in the Franchise Agreement are binding (subject to state law). Any representations or promises outside of this Franchise Disclosure Document and Franchise Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	9.2(b), (c)	You must bring all disputes to us prior to bringing a claim before a third party. After exhausting this internal dispute resolution procedure, at our option, all claims or disputes between you and us must be submitted first to mediation in or near Will County, Illinois in accordance with the American Arbitration Association's Commercial Mediation Rules then in effect (subject to state law).

<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
v. Choice of forum	9.2(d)	You agree and consent to the exclusive jurisdiction and venue of the Circuit Court of Will County, Illinois. Nothing contained in the Franchise Agreement shall prevent us from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other emergency relief available to safeguard and protect our interests (subject to state law).
w. Choice of law	9.2(a)	Illinois (subject to state law).

*[The remainder of this page is left intentionally blank.]*

B. Development Agreement

**This table lists certain important provisions of the Development Agreement. You should read these provisions in the Development Agreement attached to this Disclosure Document.**

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
a.	Term of the Franchise	Section 7.1, Exhibit A	The Development Agreement will commence on the date it is fully executed and end on the earlier of (a) the last day of the calendar month that the final Franchised Business is required to be opened and operating under the Development Schedule or (b) the day that the final Franchised Business is opened.
b.	Renewal or extension of the term	Not Applicable	Not Applicable
c.	Requirements for developer to renew or extend	Not Applicable	Not Applicable
d.	Termination by developer	Not Applicable	Not Applicable (subject to state law).
e.	Termination by franchisor without cause	Not Applicable	Not Applicable
f.	Termination by franchisor with “cause”	Section 7.2	We may terminate your Development Agreement with cause.
g.	“Cause” defined – curable defaults	Section 7.2	You will be provided notice and 30 days to cure any default caused by your failure to meet your development obligations under the Development Schedule for any single Development Period.
h.	“Cause” defined - defaults which cannot be cured	Section 7.2	Your Development Agreement can be terminated by us, without an opportunity to cure, if: (i) you cease to actively engage in development activities in the Development Area or otherwise abandon your development business for three (3) consecutive months, or any shorter period that indicates an intent by you to discontinue development of the Franchised Businesses within the Development Area; (ii) you become insolvent or are adjudicated bankrupt, or if any action is taken by you, or by others against you, under any insolvency, bankruptcy or reorganization act, or if you make an assignment for the benefit of creditors or a receiver is appointed by you; and (iii) if any Franchise Agreement that is entered into in order to fulfill your development obligations under the Development Agreement is terminated or subject to termination by us, pursuant to the terms of that Franchise Agreement.
i.	Developer’s obligations on termination/non-renewal	Not Applicable	Not Applicable
j.	Assignment of contract by franchisor	Section 9	We have the right to assign our rights under the Development Agreement.

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
k.	“Transfer” by developer – defined	Section 9	Any transfer in you (if you are an entity) or your rights/obligations under the Development Agreement.
l.	Franchisor approval of transfer by developer	Section 9	You may not transfer any rights or obligations under the Development Agreement without our prior written consent.
m.	Conditions for franchisor approval of transfer	Section 9	Our approval of a proposed Transfer will be subject to the following conditions: (i) our satisfaction that the proposed transferee meets all of our business criteria; (ii) payment of all amounts you owe to us; (iii) you cure all defaults under the Development Agreement and any other agreement with us or our affiliates; (iv) at our option transferee signs our then-current form of franchise agreement; you or the proposed transferee pays us a \$10,000 transfer fee per unexpired development obligation being transferred; (v) transferee completes our initial training program; (vi) we determine that the proposed purchase agreement is not so burdensome to materially threaten the future of the Studio; and (vii) you execute a general release to our satisfaction.
n.	Franchisor’s right of first refusal to acquire developer’s business	Section 9	Not Applicable
o.	Franchisor’s option to purchase developer’s business	Not Applicable	Not Applicable
p.	Death or disability of developer	Not Applicable	Not Applicable
q.	Non-competition covenants during the term of the franchise	Not Applicable	Nothing additional. Please see non-competition covenants set forth in the initial Franchise Agreement you will sign at the same time as your Development Agreement (subject to state law).
r.	Non-competition covenants after the franchise is terminated or expires	Not Applicable	In the event the Development Agreement is terminated before its natural expiration for any reason, then the geographic scope of the post-term non-compete obligation set forth in Section 6.6(b)(ii)(A) of the initial Franchise Agreement signed at the same time as your Development Agreement will be expanded to include the Development Area and the area comprised of the 15-mile radius around that Development Area (subject to state law).
s.	Modification of the agreement	Section 28	Your Development Agreement may not be modified, except by a writing signed by both parties.

	<b>Provision</b>	<b>Section in Development Agreement</b>	<b>Summary</b>
t.	Integration/merger clause	Section 28	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	Section 13  Section 14	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.  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 (subject to subject to state law). 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	Section 16	Subject to Sections 13 and 14 of the Development Agreement, all claims and causes of action arising out of the Development Agreement must be initiated and litigated to conclusion in the Circuit Court of Will County, Illinois, and the United States District Court for the Northern District of Illinois (subject to state law).
w.	Choice of law	Section 12	The Development Agreement is governed by the laws of the State of Illinois (subject to state law), without reference to this state's conflict of laws principles.

## **ITEM 18**

### **PUBLIC FIGURES**

We do not employ any public figures or celebrities in the management, sale or promotion of our franchises.

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## **ITEM 19**

### **FINANCIAL PERFORMANCE REPRESENTATIONS**

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

### **BACKGROUND**

As of December 31, 2023, there were 57 franchised Studios (each, a "Franchised Studio") and one (1) affiliate-owned Studio (the "Affiliate Studio"). This Financial Performance Representation sets forth certain historical data for the Franchised Studios and Affiliate Studio. No Affiliate Studios were excluded from this Financial Performance Representation. Some Franchised Studios were excluded from this Financial Performance Representation as set forth in each Part below.

For purposes of this Financial Performance Representation, NCI is defined as all revenue generated from the sale and provision of any and all gift cards, memberships, and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through the studio, as well as proceeds from any business interruption insurance related to the non-operation of the studio, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. "NCI" does not include (a) tips that clients pay to instructors of the studio that are retained by that instructor, (b) any sales tax and equivalent taxes that are collected by the studio 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 studio that is credited in good faith in full or partial satisfaction of the price of the Approved Products or Services.

Part I of this Item discloses the year-over-year total network growth for 57 Franchised Studios and one (1) affiliate-owned Studio that were open and operating during the 2023 calendar year. Part I excludes data in connection with 13 Franchised Studios that ceased operations for other reasons during the 2023 calendar year.

Part II of this Item discloses the monthly average, median, high, and low monthly lead volume for 57 Franchised Studios and one Affiliate Studio that were open and operating during the 2023 calendar year. Part II excludes data in connection with 13 Franchised Studios that ceased operations for other reasons during the 2023 calendar year.

Part III of this Item discloses the average, median, high and low prospect conversion to membership rate during the 2023 calendar year for 53 Franchised Studios and the one Affiliate Studio open during the entire 2023 calendar year. Part III excludes data in connection with 13 Franchised Studios that ceased operations during the 2023 calendar year and four Franchised Studios that opened in 2023 since those studios were not open the entire 2023 calendar year.

Part IV of this Item discloses the percentage of recurring memberships sold compared to other membership options as well as the average, median, high, and low price for recurring membership for the 57 Franchised Studios during the 2023 calendar year. Part IV also discloses the percentage of recurring memberships sold compared to other membership options for the Affiliate Studio during the 2023 calendar year. Part IV excludes data in connection with 13 Franchised Studios that ceased operations for other reasons during the 2023 calendar year.

Part V of this Item discloses the average, median, high, and low revenue collected for package sessions and challenges sold for the 53 Franchised Studios open during the entire 2023 calendar year as well as the revenue

collected by the Affiliate Studio for package sessions and challenges sold open during the 2023 calendar year. Part V excludes data in connection with 13 Franchised Studios that ceased operations during the 2023 calendar year and four Franchised Studios that opened in 2023 since those studios were not open the entire 2023 calendar year.

Part VI of this Item discloses “no show” and “late cancel” revenue collected for the 36 Franchised Studios open during the 2023 calendar year that participate in the auto-billing for “no show” and “late cancel” fees. Part VI also discloses the “no show” and “late cancel” revenue collected for the Affiliate Studio during the 2023 calendar year. Part VI excluded data in connection with (i) with four Franchised Studios that opened in 2023 since those studios were not open the entire 2023 calendar year, and (ii) 17 Franchised Studios that do not participate in the auto-billing for “no show” and “late cancel” fees.

Part VII of this Item discloses the retail revenue generated for the 53 Franchised Studios open during the entire 2023 calendar year. Part VII also discloses the retail revenue collected for the Affiliate Studio during the entire 2023 calendar year. Part VII excludes data in connection with 13 Franchised Studios that ceased operations during the 2023 calendar year and four Franchised Studios that opened in 2023 since those studios were not open the entire 2023 calendar year.

Part VIII of this Item discloses the revenue generated from a third-party aggregator for the 40 Franchised Studios that participated during the 2023 calendar year. Part VIII also discloses the revenue generated from a third-party aggregator for the Affiliate Studio during the 2023 calendar year. Part VIII excludes data in connection with 17 Franchised Studios that did not engage the service of a third-party aggregator.

Part IX of this Item discloses the average, median, high, and low total members generated during presales for the (i) three Franchised Studios that conducted presales for the trailing 12 months as of April 1, 2024. One Franchised Studio that opened in 2023 was excluded from Part IX as a result of their failure for not being in compliance with the presales marketing spend.

Part X of this Item discloses the (i) average, median, high, and low NCI increase by the 53 Franchised Studios that operated in 2022 and 2023, and (ii) the increase in revenue by the Affiliate Studio from 2022 to 2023. Part X excludes data in connection with 13 Franchised Studios that ceased operations during the 2023 calendar year and four Franchised Studios that opened in 2023 since those studios were not open the entire 2023 calendar year.

Part XI of this Item discloses the average, median, high, and low NCI generated during April 2024 for the 40 Franchised Studios that were open during the entire 2023 calendar year and were in compliance with the minimum monthly marketing spend. Part XI also discloses the NCI generated during April 2024 by the Affiliate Studio. Part XI excluded data in connection with 13 Franchised Studios that ceased operations during the 2023 calendar year and four Franchised Studios that opened in 2023 since those studios were not open the entire 2023 calendar year.

Part XII of this Item discloses the total NCI generated, as well as certain costs and operating expenses incurred by the Affiliate Studio throughout the 2019, 2020, 2021, 2022, and 2023 calendar years as well as March 2024. We excluded Franchised Studios from Part XII because we did not receive operating costs and expense data from the Franchised Studios for the 2019, 2020, 2021, 2022, and 2023 calendar years in the required form and format.

Written substantiation for the financial performance representation will be made available upon written request.

**Some outlets have earned this amount. Your individual results may differ. There is no assurance that you'll earn as much.**

**PART I: INCREASE IN TOTAL NETWORK NCI FOR THE FRANCHISED STUDIOS AND AFFILIATE STUDIO FROM 2022 TO 2023**

<b>Franchised Studios</b>
<b>Increase in Total NCI from 2022 to 2023</b>
+\$4,494,135.56

<b>Affiliate Studio</b>
<b>Increase in Total NCI from 2022 to 2023</b>
+\$87,304.82

<b>All Studios</b>
<b>Increase in Total NCI from 2022 to 2023</b>
+\$4,581,440.38

**Notes to Part I:**

1. “NCI” means all revenue generated from the sale and provision of any and all gift cards, memberships, and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through the studio, as well as proceeds from any business interruption insurance related to the non-operation of the studio, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “NCI” does not include (a) tips that clients pay to instructors of the studio that are retained by that instructor, (b) any sales tax and equivalent taxes that are collected by the studio 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 studio that is credited in good faith in full or partial satisfaction of the price of the Approved Products or Services.

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**PART II: MONTHLY AVERAGE, MEDIAN, HIGH, AND LOW MONTHLY LEAD VOLUME FOR THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALENDAR YEAR**

<b>Franchised Studios</b>	
<b>Leads</b>	<b>2023 Calendar Year</b>
Monthly Average	121
Median	107
High	649
Low	41
Number and Percentage that Met or Exceeded the Average	17 of 57 (30%)

<b>Affiliate Studio</b>	
<b>Leads</b>	<b>2023 Calendar Year</b>
Monthly Average	67

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High and Low are all the same.*

**Notes to Part II:**

1. “High” means the largest or highest number in a data set.
2. “Low” means the smallest or lowest number in a data set.
3. “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.
4. “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.

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**PART III: AVERAGE, MEDIAN, HIGH, AND LOW PROSPECT CONVERSION RATE FOR THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALEDNAR YEAR**

<b>Franchised Studios</b>	
<b>Conversion Rate</b>	<b>2023 Calendar Year</b>
Average	37%
Median	38%
High	55%
Low	21%
Number and Percentage that Met or Exceeded the Average	30 of 53 (57%)

<b>Affiliate Studio*</b>	
<b>Conversion Rate</b>	<b>2023 Calendar Year</b>
Average	47%

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High, and Low are all the same.*

**Notes to Part III:**

1. “Prospect” is defined as a client that redeems a trial offer and attends a SPENGA session.
2. “Conversion” is calculated by taking the number of Prospects and dividing that number by the number of Prospects that sign up for a membership.
3. “High” means the largest or highest number in a data set.
4. “Low” means the smallest or lowest number in a data set.
5. “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.
6. “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.

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**PART IV: PERCENTAGE OF RECURRING MEMBERSHIPS SOLD AND THE AVERAGE, MEDIAN, HIGH, AND LOW COST OF THE RECURRING MEMBERSHIPS FOR THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALENDAR YEAR**

<b>Franchised Studios</b>	
<b>Recurring Membership</b>	<b>2023 Calendar Year</b>
Percentage of Unlimited Memberships Sold	58%
Percentage of 8x Memberships Sold	25%
Percentage of 4x Memberships Sold	17%
<b>Unlimited Membership Cost</b>	
Average	\$170
Median	\$169
High	\$219
Low	\$149
Number and Percentage that Met or Exceeded the Average	38 of 57 (67%)
<b>8x Membership Cost</b>	
Average	\$134
Median	\$129
High	\$179
Low	\$119
Number and Percentage that Met or Exceeded the Average	21 of 57 (37%)
<b>4x Membership Cost</b>	
Average	\$87
Median	\$79
High	\$119
Low	\$69
Number and Percentage that Met or Exceeded the Average	26 of 57 (46%)

<b>Affiliate Studio</b>	
<b>Recurring Memberships</b>	<b>2023 Calendar Year</b>
Percentage of Unlimited Memberships Sold	61%
Percentage of 8x Memberships Sold	20%
Percentage of 4x Memberships Sold	19%
Unlimited Membership Cost	\$159
8x Membership Cost	\$119
4x Membership Cost	\$79

**Notes to Part IV:**

1. “Recurring Membership” is defined as a membership that allows the client to attend an unlimited amount of sessions, eight sessions, or four sessions each month and/or billing cycle.
2. “High” means the largest or highest number in a data set and “Low” means the smallest or lowest number in a data set.
3. “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.
4. “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.

**PART V: AVERAGE, MEDIAN, HIGH, AND LOW PACKAGE SESSIONS & CHALLENGE REVENUE GENERATED BY THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALENDAR YEAR**

<b>Franchised Studios</b>	
<b>Package Sessions &amp; Challenge Revenue</b>	<b>2023</b>
Average	\$25,998
Median	\$21,893
High	\$104,880
Low	\$5,430
Number and Percentage that Met or Exceeded the Average	21 of 53 (40%)

<b>Affiliate Studio*</b>	
	<b>2023</b>
Package Sessions & Challenge Revenue	\$28,288

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High, and Low are all the same.*

**Notes to Part V:**

1. “Package Session Revenue is defined as a service sold that grants the member access to a class.
2. “Challenge Revenue is defined as a special event that is in addition to the membership.
3. “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.
4. “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.
5. “High” means the largest or highest number in a data set.
6. “Low” means the smallest or lowest number in a data set.

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**PART VI: AVERAGE, MEDIAN, HIGH, AND LOW NO SHOW & LATE CANCEL REVENUE GENERATED BY THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALENDAR YEAR**

<b>Franchised Studios<sup>1</sup></b>	
<b>No Show &amp; Late Cancel Revenue</b>	<b>2023</b>
Average	\$16,602
Median	\$15,603
High	\$53,430
Low	\$2,890
Number and Percentage that Met or Exceeded the Average	16 of 36 (44%)

<b>Affiliate Studio*</b>	
	<b>2023</b>
No Show & Late Cancel Revenue	\$49,465

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High, and Low are all the same.*

**Notes to Part VI:**

1. “No Show Revenue” is defined as when a member books a session, does not attend the session, and the member is charged a fee as a result of their failure to attend a session.
2. “Late Cancel Revenue” is defined as when a member cancels their booked session outside of the booking window, and the member is charged a fee.
3. “High” means the largest or highest number in a data set.
4. “Low” means the smallest or lowest number in a data set.
5. “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.
6. “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.

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**PART VII: AVERAGE, MEDIAN, HIGH, AND LOW RETAIL SALES REVENUE GENERATED BY THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALENDAR YEAR**

<b>Franchised Studios</b>	
<b>Retail Revenue</b>	<b>2023</b>
Average	\$12,143
Median	\$9,483
High	\$34,568
Low	\$1,700
Number and Percentage that Met or Exceeded the Average	21 of 53 (40%)

<b>Affiliate Studio*</b>	
	<b>2023</b>
Retail Revenue	\$31,004

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High, and Low are all the same.*

**Notes to Part VII:**

1. “Retail Revenue” is defined as revenue generated through the sale of clothing, accessories, food, beverages, and other items.
2. “High” means the largest or highest number in a data set.
3. “Low” means the smallest or lowest number in a data set.
4. “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.
5. “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.

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**PART VIII: AVERAGE, MEDIAN, HIGH, AND LOW THIRD-PARTY AGGREGATOR REVENUE GENERATED BY THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING THE 2023 CALENDAR YEAR**

<b>Franchised Studios</b>	
<b>Third-Party Aggregator Revenue</b>	<b>2023</b>
Average	\$15,425
Median	\$12,277
High	\$77,388
Low	\$1,966
Number and Percentage that Met or Exceeded the Average	16 of 40 (40%)

<b>Affiliate Studio*</b>	
	<b>2023</b>
Third-Party Aggregator Revenue	\$4,691

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High, and Low are all the same.*

**Notes to Part VIII:**

1. “Third-Party Aggregator Revenue” is defined as software that drives traffic to the fitness studio and allows users to sign up for a class and the studio is compensated for each visit.
2. “High” means the largest or highest number in a data set.
3. “Low” means the smallest or lowest number in a data set.
4. “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.
5. “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.

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**PART IX: AVERAGE, MEDIAN, HIGH, AND LOW MEMBERS GENERATED DURING PRESALES FOR THE FRANCHISED STUDIOS THAT CONDUCTED PRESALES FOR THE TRAILING 12 MONTHS AS OF APRIL 1, 2024**

<b>Franchised Studios</b>	
<b>Presales Total Members</b>	<b>2023</b>
Average	239
Median	223
High	286
Low	207
Number and Percentage that Met or Exceeded the Average	1 of 3 (33%)

**Notes to Part IX:**

1. “High” means the largest or highest number in a data set.
2. “Low” means the smallest or lowest number in a data set.
3. “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.
4. “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.
5. “Presales” is defined as a studio’s required preopening membership drive that takes place 90-120 days prior to opening.

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**PART X: AVERAGE, MEDIAN, HIGH, AND LOW NCI INCREASE FOR THE FRANCHISED STUDIOS AND THE AFFILIATE STUDIO FROM 2022 TO 2023**

<b>Franchised Studios</b>	
<b>NCI Increase</b>	<b>2022 to 2023</b>
Average	\$76,071
Median	\$52,693
High	\$625,940
Low	-\$66,088
Number and Percentage that Met or Exceeded the Average	14 of 53 (26%)

<b>Affiliate Studio*</b>	
<b>NCI Increase</b>	<b>2022 to 2023</b>
	\$87,304

*\*There is only 1 Affiliate Studio in this data set and thus the Average, Median, High and Low are all the same*

**Notes to Part X:**

1. “NCI” means all revenue generated from the sale and provision of any and all gift cards, memberships, and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through the studio, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “NCI” does not include (a) tips that clients pay to instructors of the studio that are retained by that instructor, (b) any sales tax and equivalent taxes that are collected by the studio 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 studio that is credited in good faith in full or partial satisfaction of the price of the Approved Products or Services.
2. “High” means the largest or highest number in a data set.
3. “Low” means the smallest or lowest number in a data set.
4. “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.
5. “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.

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**PART XI: AVERAGE, MEDIAN, HIGH, AND LOW NCI GENERATED BY THE FRANCHISED STUDIOS AND AFFILIATE STUDIO DURING APRIL 2024**

<b>Franchised Studios</b>	
<b>NCI</b>	<b>April 2024</b>
Average	\$47,347
Median	\$44,500
High	\$90,786
Low	\$27,660
Number and Percentage that Met or Exceeded the Average	18 of 40 (45%)

<b>Affiliate Studio</b>	
	<b>April 2024</b>
<b>NCI</b>	\$68,109

**Notes to Part XI:**

1. “NCI” means all revenue generated from the sale and provision of any and all gift cards, memberships, and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through the studio, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “NCI” does not include (a) tips that clients pay to instructors of the studio that are retained by that instructor, (b) any sales tax and equivalent taxes that are collected by the studio 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 studio that is credited in good faith in full or partial satisfaction of the price of the Approved Products or Services.
- 2.
3. “High” means the largest or highest number in a data set.
4. “Low” means the smallest or lowest number in a data set.
5. “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.
6. “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.

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**PART XII: TOTAL NCI GENERATED BY, AS WELL AS CERTAIN COSTS AND OPERATING EXPENSES INCURRED BY, THE AFFILIATE STUDIO OVER THE 2019, 2020, 2021, 2022, AND 2023 CALENDAR YEARS AS WELL AS MARCH 2024**

<b>2019</b>		
<b>NCI or Cost/Expense Category</b>	<b>Amount</b>	<b>Percentage of Total NCI</b>
<b>Total NCI<sup>2</sup></b>	<b>\$727,380.58</b>	<b>100%</b>
Payroll and Payroll-Related Costs <sup>3</sup>	\$185,487.76	25.5%
Cost of Goods Sold <sup>4</sup>	\$18,466.90	2.5%
Estimated Royalty <sup>5</sup>	\$50,916.94	7%
Advertising <sup>6</sup>	\$46,533.50	6%
Rent and Occupancy Costs, Utilities and Other Certain Operating Expenses <sup>7</sup>	\$124,996.32	17%
<b>Total of Disclosed Costs and Expenses Above<sup>8</sup></b>	<b>\$426,401.12</b>	<b>58.6%</b>
<b>Total NCI Less Total of Disclosed Costs and Expenses Above<sup>9</sup></b>	<b>\$300,979.46</b>	<b>41%</b>

<b>2020</b>		
<b>NCI or Cost/Expense Category</b>	<b>Amount</b>	<b>Percentage of Total NCI</b>
<b>Total NCI<sup>2</sup></b>	<b>\$473,936.86</b>	<b>100%</b>
Payroll and Payroll-Related Costs <sup>3</sup>	\$151,704.55	32.01%
Cost of Goods Sold <sup>4</sup>	\$17,967.03	3.8%
Estimated Royalty <sup>5</sup>	\$33,175.58	7%
Advertising <sup>6</sup>	\$35,114.31	7.4%
Rent and Occupancy Costs, Utilities and Other Certain Operating Expenses <sup>7</sup>	\$112,752.93	23.79%
<b>Total of Disclosed Costs and Expenses Above<sup>8</sup></b>	<b>\$350,714.40</b>	<b>74%</b>
<b>Total NCI Less Total of Disclosed Costs and Expenses Above<sup>9</sup></b>	<b>\$123,222.46</b>	<b>26%</b>

<b>2021</b>		
<b>NCI or Cost/Expense Category</b>	<b>Amount</b>	<b>Percentage of Total NCI</b>
<b>Total NCI<sup>2</sup></b>	<b>\$510,262.86</b>	<b>100%</b>
Payroll and Payroll-Related Costs <sup>3</sup>	\$165,031.33	32.34%
Cost of Goods Sold <sup>4</sup>	\$14,457.71	2.83%
Estimated Royalty <sup>5</sup>	\$35,718.40	7%
Advertising <sup>6</sup>	\$34,920.90	6.84%
Rent and Occupancy Costs, Utilities and Other Certain Operating Expenses <sup>7</sup>	\$131,933.48	25.85%
<b>Total of Disclosed Costs and Expenses Above<sup>8</sup></b>	<b>\$382,061.82</b>	<b>74.87%</b>
<b>Total NCI Less Total of Disclosed Costs and Expenses Above<sup>9</sup></b>	<b>\$128,201.04</b>	<b>25.12%</b>

<b>2022</b>		
<b>NCI or Cost/Expense Category</b>	<b>Amount</b>	<b>Percentage of Total NCI</b>
<b>Total NCI<sup>2</sup></b>	<b>\$583,450.17</b>	<b>100%</b>
Payroll and Payroll-Related Costs <sup>3</sup>	\$163,126.01	27.96%
Cost of Goods Sold <sup>4</sup>	\$12,523.67	2.15%
Estimated Royalty <sup>5</sup>	\$40,841.51	7.00%
Advertising <sup>6</sup>	\$43,188.35	7.40%
Rent and Occupancy Costs, Utilities and Other Certain Operating Expenses <sup>7</sup>	\$137,347.72	23.54%
<b>Total of Disclosed Costs and Expenses Above<sup>8</sup></b>	<b>\$397,027.26</b>	<b>68.05%</b>
<b>Total NCI Less Total of Disclosed Costs and Expenses Above<sup>9</sup></b>	<b>\$186,422.91</b>	<b>31.95%</b>

<b>2023</b>		
<b>NCI or Cost/Expense Category</b>	<b>Amount</b>	<b>Percentage of Total NCI</b>
<b>Total NCI<sup>2</sup></b>	<b>\$670,754.99</b>	<b>100%</b>
Payroll and Payroll-Related Costs <sup>3</sup>	\$180,401.44	26.90%
Cost of Goods Sold <sup>4</sup>	\$16,836.07	2.51%
Estimated Royalty <sup>5</sup>	\$46,952.22	7.00%
Advertising <sup>6</sup>	\$42,988.32	6.41%
Rent and Occupancy Costs, Utilities and Other Certain Operating Expenses <sup>7</sup>	\$146,104.36	21.78%
<b>Total of Disclosed Costs and Expenses Above<sup>8</sup></b>	<b>\$433,056.05</b>	<b>64.56%</b>
<b>Total NCI Less Total of Disclosed Costs and Expenses Above<sup>9</sup></b>	<b>\$237,698.94</b>	<b>35.44%</b>

<b>March 2024</b>		
<b>NCI or Cost/Expense Category</b>	<b>Amount</b>	<b>Percentage of Total NCI</b>
<b>Total NCI<sup>2</sup></b>	<b>\$73,658.16</b>	<b>100%</b>
Payroll and Payroll-Related Costs <sup>3</sup>	\$14,049.86	19.07%
Cost of Goods Sold <sup>4</sup>	\$1,345.45	1.83%
Estimated Royalty <sup>5</sup>	\$5,156.07	7.00%
Advertising <sup>6</sup>	\$4,071.31	5.53%
Rent and Occupancy Costs, Utilities and Other Certain Operating Expenses <sup>7</sup>	\$12,704.96	17.25%
<b>Total of Disclosed Costs and Expenses Above<sup>8</sup></b>	<b>\$37,327.65</b>	<b>50.68%</b>
<b>Total NCI Less Total of Disclosed Costs and Expenses Above<sup>9</sup></b>	<b>\$36,330.51</b>	<b>49.32%</b>

## **Notes to Part XII:**

1. As a result of the Covid-19 Pandemic, the Affiliate Studio was required to either (i) close, (ii) operate on a limited basis, (iii) operate on a virtual basis, or (iv) operate with limited capacity while adhering to local distancing requirements in 2021.
2. “Total NCI” means all revenue generated from the sale and provision of any and all gift cards, memberships, and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through the studio, as well as proceeds from any business interruption insurance related to the non-operation of the studio, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “NCI” does not include (a) tips that clients pay to instructors of the studio that are retained by that instructor, (b) any sales tax and equivalent taxes that are collected by the studio 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 studio that is credited in good faith in full or partial satisfaction of the price of the Approved Products or Services.
3. “Payroll and payroll-Related Costs” means all wages and other compensation paid to instructors and other personnel of the Affiliate Studio, as well as all payroll taxes and amounts paid to the Affiliate Studio’s payroll provider, over each calendar year. This estimate includes management pay, but does not include any compensation for: (i) a Designated Manager because our standard franchise offering assumes that you will manage the day-to-day operations of the Studio directly; or (ii) you or any other owner of the Franchised Business.
4. “Cost of Goods Sold” means the amount that the Affiliate Studio expended on the merchandise, apparel and other inventory over each calendar year as necessary to provide the Approved Products and Approved Services from the Affiliate Studio.
5. “Estimated Royalty” the Estimated Royalty figure is designed to show you what our Affiliate would have had to pay us based on the NCI of the Affiliate Studio over each calendar year if the Affiliate Studio was subject to our current form of Franchise Agreement.
6. “Advertising Expense” means the amount that Affiliate Studio expended on advertising and marketing to promote the Affiliate Studio over each calendar year, including Internet/digital advertising, local events and sponsorships, mailers, and promotional items.
7. “Rent and Occupancy Costs, Utilities and Certain Other Operating Expenses” means: (i) the total rent, CAM and other payments made to the lessor of the Premises of the Affiliate Studio in connection with the governing lease for that Premises, (ii) the total amount that our Affiliate paid for utilities over the in connection with the Affiliate Studio operations, (iii) other operational expenses that Affiliate incurred in the operation of the Affiliate Studio such as banking-related fees, merchant processing fees, insurance, office supplies and other supplies, telephone, professional fees, over each calendar year. This amount does not include the amounts that our Affiliate Studio incurred over each calendar year on (a) any of the other specified cost and expense items specifically referred to above, or (b) repairs and maintenance on equipment used at the Studio, charitable contributions and other nominal expenses not listed above in this Note.
8. “Total of Disclosed Costs and Expenses Above” is calculated by taking the sum of the amounts that our Affiliate expended on the operating costs and expense categories described in the tables above.
9. “Total NCI Less Total of Disclosed Costs and Expenses Above” is calculated by subtracting the “Total of Disclosed Costs and Expenses Above” from the “Total NCI.”

10. The “Percentage of Total NCI” for each line item is calculated by dividing the amount of the line item by the Total NCI over each calendar year.

Other than the preceding financial performance representation, we do not make any financial performance representations. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing Studio, however, we may provide you with the actual records of that Studio. If you receive any other financial performance information or projections of your future income, you should report it to our management by contacting Roger McGreal, Spenga Holdings, LLC, at 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois 60491 or by telephone at (773) 550-6735, the Federal Trade Commission and the appropriate state regulatory agencies.

**ITEM 20**

**OUTLETS AND FRANCHISEE INFORMATION**

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

OUTLET TYPE	YEAR	OUTLETS AT THE START OF THE YEAR	OUTLETS AT THE END OF THE YEAR	NET CHANGE
<b>Franchised</b>	2021	41	56	+15
	2022	56	66	+10
	2023	66	57	-9
<b>Company-Owned or Affiliate- Owned</b>	2021	1	1	0
	2022	1	1	0
	2023	1	1	0
<b>Total Outlets</b>	<b>2021</b>	<b>42</b>	<b>57</b>	<b>+15</b>
	<b>2022</b>	<b>57</b>	<b>67</b>	<b>+10</b>
	<b>2023</b>	<b>67</b>	<b>58</b>	<b>-9</b>

*[The remainder of this page is intentionally left blank.]*

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

State	Year	Number of Transfers
AZ	2021	1
	2022	0
	2023	0
CO	2021	0
	2022	0
	2023	2
FL	2021	1
	2022	0
	2023	0
IL	2021	0
	2022	1
	2023	0
NE	2021	0
	2022	0
	2023	1
OH	2021	0
	2022	1
	2023	0
TX	2021	0
	2022	2
	2023	1
Total	<b>2020</b>	<b>2</b>
	<b>2021</b>	<b>2</b>
	<b>2023</b>	<b>4</b>

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

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations – Other Reason	Outlets at End of Year
Arizona	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	1	1
California	2021	1	2	0	0	0	0	3
	2022	3	2	0	0	0	0	5
	2023	5	0	0	0	0	2	3
Colorado	2021	3	3	0	0	0	0	6
	2022	6	0	0	0	0	0	6

	2023	6	0	0	0	0	1	5
<b>Florida</b>	2021	4	1	0	0	0	0	5
	2022	5	1	0	0	0	2	4
	2023	4	1	0	0	0	0	5
<b>Georgia</b>	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<b>Illinois</b>	2021	6	0	2	0	0	0	4
	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	1	3
<b>Indiana</b>	2021	1	0	0	0	0	0	1
	2022	1	1	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<b>Iowa</b>	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>Massachusetts</b>	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>Michigan</b>	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>Minnesota</b>	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>Missouri</b>	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	1	0
<b>Nebraska</b>	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>New Hampshire</b>	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	1	0
<b>New Mexico</b>	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>New Jersey</b>	2021	0	1	0	0	0	0	1
	2022	1	1	0	0	0	0	2
	2023	2	1	0	0	0	0	3
<b>New York</b>	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	1	0
<b>North Carolina</b>	2021	3	1	0	0	0	0	4
	2022	4	0	0	0	0	0	4
	2023	4	0	0	0	0	0	4
<b>Ohio</b>	2021	4	0	0	0	0	0	4
	2022	4	1	0	0	0	0	5
	2023	5	0	0	0	0	0	5

<b>Pennsylvania</b>	2021	0	0	0	0	0	0	0
	2022	0	1	0	0	0	0	1
	2023	1	1	0	0	0	0	2
<b>South Carolina</b>	2021	0	0	0	0	0	0	0
	2022	0	2	0	0	0	0	2
	2023	2	0	0	0	0	0	2
<b>Tennessee</b>	2021	0	1	0	0	0	0	1
	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
<b>Texas</b>	2021	7	6	0	0	0	0	13
	2022	13	3	0	0	0	0	16
	2023	16	1	0	0	0	5	12
<b>Virginia</b>	2021	0	2	0	0	0	0	2
	2022	2	0	0	0	0	1	1
	2023	1	0	0	0	0	0	1
<b>Wisconsin</b>	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	1	0
	2023	0	0	0	0	0	0	0
<b>Total</b>	<b>2021</b>	<b>41</b>	<b>17</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>56</b>
	<b>2022</b>	<b>56</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>66</b>
	<b>2023</b>	<b>66</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13</b>	<b>57</b>

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

<b>STATE</b>	<b>YEAR</b>	<b>OUTLETS AT THE START OF THE YEAR</b>	<b>OUTLETS OPENED</b>	<b>OUTLETS REACQUIRED FROM FRANCHISEES</b>	<b>OUTLETS CLOSED</b>	<b>OUTLETS SOLD TO FRANCHISEES</b>	<b>OUTLETS AT END OF THE YEAR</b>
<b>Illinois</b>	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
<b>Total</b>	<b>2021</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	<b>2022</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
	<b>2023</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>

*[The remainder of this page is intentionally left blank.]*

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

State	Franchise Agreements Signed But Outlet Not Open	Projected New Franchised Outlets In The Next Fiscal Year	Projected New Company-Owned Outlets in the Current Fiscal Year
Arizona	1	1	0
Georgia	1	1	0
Indiana	1	1	0
New Jersey	2	2	0
New York	1	1	0
Nevada	1	1	0
Ohio	1	1	0
Utah	1	1	0
Wisconsin	1	1	0
<b>Total</b>	<b>10</b>	<b>10</b>	<b>0</b>

A list of the names and contact information of all franchisees as of December 31, 2023, will be provided in Exhibit I to this Disclosure Document when applicable. The name and last known home address and telephone number of every former franchisee who has had a Franchise Agreement terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or who has not communicated with us within ten weeks of the Issuance Date of this Disclosure Document will also be listed in Exhibit I. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last three fiscal years, we have had franchisees sign confidentiality clauses. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with Spenga. You may wish to speak with current and former franchisees but be aware that not all such franchisees will be able to communicate with you.

There are no trademark-specific organizations formed by our franchisees that are associated with the System.

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

Attached as Exhibit C are our audited financial statements as of December 31, 2023, December 31, 2022, and December 31, 2021. Also attached as Exhibit C is our unaudited balance sheet and unaudited profit and loss statement as of March 31, 2024. Our fiscal year end is December 31.

### **ITEM 22** **CONTRACTS**

Copies of all proposed agreements regarding the franchise offering are included in the following exhibits:

Exhibit D      Franchise Agreement (including addenda and exhibits)

Exhibit E	Development Agreement (including addenda)
Exhibit F	State-Specific Addenda
Exhibit G	Franchisee Questionnaire
Exhibit H	Form of General Release

### **ITEM 23**

#### **RECEIPTS**

The last two (2) pages of this Franchise Disclosure Document (Exhibit K) contain 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 to Roger McGreal, Spenga Holdings, LLC, at 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois 60491.

**EXHIBIT A  
TO  
FRANCHISE DISCLOSURE DOCUMENT**

**LIST OF STATE FRANCHISE 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., #600  
San Francisco, CA 94104  
(415) 972-8559

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 Office of the Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, MD 21202  
(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

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, NY 10005  
(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  
(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  
Olympia, 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

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 Securities Commissioner  
Office of Attorney General  
Securities Division  
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  
Commissioner of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101-2198

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

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

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  
OPERATIONS MANUAL TABLE OF CONTENTS**

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**EXHIBIT C**  
**TO**  
**FRANCHISE DISCLOSURE DOCUMENT**  
**FINANCIAL STATEMENTS**

**SPENGA HOLDINGS, LLC**

**FINANCIAL STATEMENTS**

Years Ended December 31, 2023 and 2022



## INDEPENDENT AUDITORS' REPORT

To the Members

### SPENGA HOLDINGS, LLC

#### Opinion

We have audited the financial statements of Spenga Holdings, LLC (the "Company"), which comprise the balance sheets as of December 31, 2023 and 2022, and the related statements of operations and members' equity (deficit) and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Spenga Holdings, LLC as of December 31, 2023 and 2022, and the results of its operations, changes in members' equity (deficit), 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 ("GAAS"). Our responsibilities under those standards are further described in the Auditors' 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.

#### Correction of Error

As discussed in Note 9 to the financial statements, the 2022 financial statements have been restated to correct a misstatement. Our opinion is not modified with respect to that matter.

#### 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 for one year after the date that the financial statements are available to be issued.

## **Auditors' Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if 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 GAAS, 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.

*Mayer Hoffman McCann P.C.*

Chicago, Illinois  
April 30, 2024

**SPENGA HOLDINGS, LLC**

**BALANCE SHEETS**

December 31, 2023 and 2022

	<u>2023</u>	<u>(Restated) 2022</u>
<b><u>ASSETS</u></b>		
ASSETS		
Cash and cash equivalents	\$ 984,395	\$ 998,510
Accounts receivable	222,107	251,238
Due from related parties	500	500
Deferred contract costs	<u>4,923,551</u>	<u>6,041,095</u>
 TOTAL ASSETS	 <u>\$ 6,130,553</u>	 <u>\$ 7,291,343</u>
<b><u>LIABILITIES</u></b>		
LIABILITIES		
Accounts payable	\$ 71,980	\$ 66,026
Accrued expenses	60,758	45,586
Accrued interest	8,524	20,745
EIDL	500,000	500,000
Deferred revenue:		
Open units	2,326,643	2,422,004
Unopened units	<u>4,265,783</u>	<u>5,493,396</u>
 TOTAL LIABILITIES	 7,233,688	 8,547,757
<b><u>MEMBERS' EQUITY (DEFICIT)</u></b>		
MEMBERS' EQUITY (DEFICIT)	<u>(1,103,135)</u>	<u>(1,256,414)</u>
 TOTAL LIABILITIES AND MEMBERS' EQUITY (DEFICIT)	 <u>\$ 6,130,553</u>	 <u>\$ 7,291,343</u>

See Notes to Financial Statements

**SPENGA HOLDINGS, LLC**

**STATEMENTS OF OPERATIONS AND MEMBERS' EQUITY (DEFICIT)**

Years Ended December 31, 2023 and 2022

	<u>2023</u>	<u>(Restated) 2022</u>
REVENUE		
Royalty fees	\$ 1,590,203	\$ 1,403,360
Franchise fees	1,541,474	2,800,503
Service fee income	585,940	579,737
Other revenue	<u>260,366</u>	<u>287,099</u>
TOTAL REVENUE	3,977,983	5,070,699
EXPENSES		
Operating expenses	<u>3,423,904</u>	<u>4,224,185</u>
NET INCOME	554,079	846,514
MEMBERS' EQUITY (DEFICIT)		
Balance, beginning of year	(1,256,414)	(1,690,428)
Members' contributions	125,000	135,000
Members' distributions	<u>(525,800)</u>	<u>(547,500)</u>
TOTAL MEMBERS' EQUITY (DEFICIT)	<u>\$ (1,103,135)</u>	<u>\$ (1,256,414)</u>

See Notes to Financial Statements

**SPENGA HOLDINGS, LLC**

**STATEMENTS OF CASH FLOWS**

Years Ended December 31, 2023 and 2022

	<b>2023</b>	<b>(Restated) 2022</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 554,079	\$ 846,514
Adjustments to reconcile net income to net cash flows from operating activities:		
Bad debt expense	62,192	35,483
Decrease (increase) in operating assets:		
Accounts receivable	(33,061)	(22,144)
Deferred contract costs	1,117,544	2,018,552
Increase (decrease) in operating liabilities:		
Accounts payable	5,954	(45,796)
Accrued expenses	15,172	12,381
Accrued interest	(12,221)	15,124
Deferred revenue	(1,322,974)	(2,586,003)
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	<b>386,685</b>	<b>274,111</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from SBA loan	-	350,100
Members' contributions	125,000	135,000
Members' distributions	(525,800)	(547,500)
<b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>	<b>(400,800)</b>	<b>(62,400)</b>
<b>NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	<b>(14,115)</b>	<b>211,711</b>
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<b>998,510</b>	<b>786,799</b>
<b>CASH AND CASH EQUIVALENTS, END OF YEAR</b>	<b>\$ 984,395</b>	<b>\$ 998,510</b>

See Notes to Financial Statements

# SPENGA HOLDINGS, LLC

## NOTES TO FINANCIAL STATEMENTS

### (1) Organization

Spenga Holdings, LLC (the “Company”) was organized on June 5, 2015 under the laws of the state of Delaware as a limited liability company engaged in selling franchises for the operation of fitness studios under the Spenga trademark throughout the United States.

Operations have been devoted primarily to sales of franchises, marketing the franchises, further developing the uniform franchise offering and franchise agreement, and servicing existing franchisees.

The Company is organized pursuant to the Delaware Limited Liability Company Act, which limits the liability of the members, except to the extent that the members guarantee the obligations of the Company. The term of the Company commenced on the date of the filing of the certificate, and the Company shall continue as a legal entity until it is dissolved in accordance with the operating agreement.

### (2) Summary of significant accounting policies

**Revenue recognition** – The Company’s revenues consist of fees from franchised studios. Revenues include royalties based on a percent of sales, initial fees and service fee income. Accounting Standards Codification (“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 consideration expected to be received for those goods or services. Royalties from studios operated by franchisees are based on a percent of sales and recognized at the time the underlying sales occur. Monthly service fees are charged to franchisees for use of software and systems. Royalties and monthly services fees are assessed and collected five days after each month-end.

Franchise fees are due at the time the franchise agreement is executed. Initial franchise fees are being recognized as the Company satisfies the performance obligation, which is up to 10 years based on the number of studio rights purchased and expected to be operated over the remaining franchise term, or upon contract termination. Related contract costs are recognized as expenses over the same time period. During 2023 and 2022, there were contract terminations related to franchise agreements. Revenues related to terminations were \$1,267,114 and \$2,499,489 for the years ended December 31, 2023 and 2022, respectively. Expenses related to terminations were \$1,027,311 and \$1,962,000 for the years ended December 31, 2023 and 2022, respectively.

The Company also receives rebate income from preferred equipment vendors. The Company has negotiated discounted pricing with preferred equipment vendors whereby the Company receives rebates on equipment purchased by franchisees. The Company recognizes revenue at the point rebates are payable to the Company, which is generally upon payment of the equipment by the franchisee.

**Cash and cash equivalents** – The Company considers all highly liquid short-term investment instruments purchased with a maturity of three months or less at acquisition date to be cash equivalents.

## SPENGA HOLDINGS, LLC

### NOTES TO FINANCIAL STATEMENTS

#### (2) Summary of significant accounting policies (continued)

**Accounts receivable** – Accounts receivable represent amounts due from royalty fees and other revenues. The Company periodically evaluates the collectability of its accounts receivable on an individual basis and reserves against doubtful accounts based on historical experience. No reserve was made for credit losses in the years ended December 31, 2023 and 2022.

**Deferred contract costs** – Deferred contract costs primarily represent commissions paid on initial franchise fees, along with training costs incurred to assist franchises in opening.

**Deferred revenue** – Deferred revenue represents initial franchise fees that have been collected but are not recognized in revenue.

**Income taxes** – The Company elected to be treated as a partnership for income tax purposes under the Internal Revenue Code. Under this election, the Company is not required to pay federal taxes as the income is taxed directly to the members. The Company is, however, subject to Illinois Replacement Tax.

**Advertising** – Advertising costs are charged to expense as incurred. Advertising expense was \$239,006 and \$184,558 for the years ended December 31, 2023 and 2022, respectively.

**Use of estimates** – The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of increases and decreases in net assets from operations during the reporting period. Actual results could differ from those estimates.

**Recently adopted accounting pronouncements** – In June 2016, the Financial Accounting Standards Board (“FASB”) issued guidance (FASB Accounting Standards Codification (“ASC”) 326) which significantly changed how entities will measure credit losses for most financial assets and certain other instruments that are not measured at fair value through net income. The most significant change in this standard is a shift from the incurred loss model to the expected loss model. Under the standard, disclosures are required to provide users of the financial statements with useful information in analyzing an entity’s exposure to credit risk and the measurement of credit losses. Financial assets held by the Company that are subject to the guidance in FASB ASC 326 were trade accounts receivable. The Company adopted the standard effective January 1, 2023. The impact of the adoption was not considered material to the financial statements.

#### (3) Related party transactions

The Company has group insurance policies with other entities that are under common ownership.

Contributions and distributions are to and from Spenga Ventures LLC, which owns 100% of the Company.

# SPENGA HOLDINGS, LLC

## NOTES TO FINANCIAL STATEMENTS

### (4) Uncertain tax positions

The Company has adopted accounting principles related to uncertain tax positions and has evaluated its tax positions for all open tax years. Currently, the 2018 tax year is open and subject to examination by the Internal Revenue Service and Illinois Department of Revenue. However, the Company is not currently under audit nor has the Company been contacted by either of these jurisdictions.

Based on the evaluation of the Company's tax positions, management believes all positions taken would be upheld under an examination. Therefore, no provision for the effects of uncertain tax positions has been recorded as of December 31, 2023 and 2022.

### (5) EIDL loans

In June 2020, the Company applied for and received an Economic Injury Disaster Loan ("EIDL") of \$149,900 from the U.S. Small Business Administration (the "SBA"). On April 25, 2022, the SBA authorized a loan modification in the amount of \$500,000. The loan bears interest at 3.75%, requires monthly principal and interest payments of \$2,521, which start in December 2022, and is due June 17, 2050. An additional six-month deferment was granted, and the first payment due extended from 24 months to 30 months from the date of the note.

The annual principal payments for each of the next five years are as follows:

#### Years Ending December 31,

2024	\$	2,933
2025		11,814
2026		12,265
2027		12,733
2028		13,170
Thereafter		<u>447,085</u>
	\$	<u>500,000</u>

### (6) Concentration of credit risk

The Company's cash is potentially exposed to concentrations of credit risk for amounts in excess of the federally insured limit. However, the Company's management believes cash is placed with financially secure institutions, which should limit its potential exposure.

### (7) Cash flow disclosures

The following is a summary of supplemental cash flow information:

	<u>2023</u>	<u>2022</u>
Cash paid for interest	<u>\$ 30,423</u>	<u>\$ 2,865</u>

## SPENGA HOLDINGS, LLC

### NOTES TO FINANCIAL STATEMENTS

(8) **401(k) savings plan**

The Company has a 401(k) plan (the "Plan") to provide retirement benefits for its employees. Employees may contribute a percentage of their annual compensation to the Plan, limited to a maximum annual amount as set periodically by the Internal Revenue Service. The Plan started in 2023. For the year ended December 31, 2023, the Company matched contributions of \$12,304.

(9) **Prior period adjustments**

The Company discovered that deferred revenue and deferred contract costs were not recognized upon termination of franchise agreements resulting in an error in the amounts reported for deferred revenue and deferred contract costs as of December 31, 2022. Proceeds from franchise agreements and the related costs are initially deferred and then recognized over the expected contract period once the franchisee opens studio locations. When franchise agreements are terminated, the remaining deferred revenue and deferred contract costs should be recognized. The following summary reflects the corrections to the December 31, 2022 financial statements to recognize deferred revenue and deferred contract costs related to terminated franchise agreements.

	<b>As Previously Stated</b>	<b>Effect of Correction</b>	<b>As Restated</b>
Deferred contract costs	\$ 6,557,187	\$ (516,092)	\$ 6,041,095
Deferred revenue	8,568,181	(652,781)	7,915,400
Members' equity (deficit)	(1,393,103)	136,689	(1,256,414)
Franchise fees	2,147,722	652,781	2,800,503
Operating expenses	3,708,093	516,092	4,224,185
Net income	709,825	136,689	846,514
Decrease in deferred contract costs	1,502,460	516,092	2,018,552
Decrease in deferred revenue	(1,933,222)	(652,781)	(2,586,003)

(10) **Subsequent events**

The Company has evaluated subsequent events through April 30, 2024, the date which the financial statements were available to be issued.

**SPENGA HOLDINGS, LLC**

**FINANCIAL STATEMENTS**

Years Ended December 31, 2022 and 2021



**Mayer Hoffman McCann P.C.**

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## **INDEPENDENT AUDITORS' REPORT**

To the Members

### **SPENGA HOLDINGS, LLC**

#### **Opinion**

We have audited the financial statements of Spenga Holdings, LLC (the "Company"), which comprise the balance sheets as of December 31, 2022 and 2021, and the related statements of operations and members' equity (deficit) and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Spenga Holdings, LLC as of December 31, 2022 and 2021, and the results of its operations, changes in members' equity (deficit), 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 ("GAAS"). Our responsibilities under those standards are further described in the Auditors' 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 for one year after the date that the financial statements are available to be issued.

## **Auditors' Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if 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 GAAS, 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.

*Mayer Hoffman McCann P.C.*

Chicago, Illinois  
April 25, 2023

**SPENGA HOLDINGS, LLC**

**BALANCE SHEETS**

December 31, 2022 and 2021

	<u>2022</u>	<u>2021</u>
<b><u>ASSETS</u></b>		
ASSETS		
Cash and cash equivalents	\$ 998,510	\$ 786,799
Accounts receivable	251,238	264,577
Due from related parties	500	500
Deferred contract costs	6,557,187	8,059,647
	<u>6,557,187</u>	<u>8,059,647</u>
TOTAL ASSETS	<u>\$ 7,807,435</u>	<u>\$ 9,111,523</u>
<b><u>LIABILITIES</u></b>		
LIABILITIES		
Accounts payable	\$ 66,026	\$ 111,822
Accrued expenses	45,586	33,205
Accrued interest	20,745	5,621
EIDL	500,000	149,900
Deferred revenue:		
Open units	2,768,778	2,158,744
Unopened units	5,799,403	8,342,659
	<u>5,799,403</u>	<u>8,342,659</u>
TOTAL LIABILITIES	9,200,538	10,801,951
<b><u>MEMBERS' EQUITY (DEFICIT)</u></b>		
MEMBERS' EQUITY (DEFICIT)	<u>(1,393,103)</u>	<u>(1,690,428)</u>
TOTAL LIABILITIES AND MEMBERS' EQUITY (DEFICIT)	<u>\$ 7,807,435</u>	<u>\$ 9,111,523</u>

See Notes to Financial Statements

**SPENGA HOLDINGS, LLC**

**STATEMENTS OF OPERATIONS AND MEMBERS' EQUITY (DEFICIT)**

Years Ended December 31, 2022 and 2021

	<u>2022</u>	<u>2021</u>
REVENUE		
Royalty fees	\$ 1,403,360	\$ 959,820
Franchise fees	2,147,722	264,756
Service fee income	579,737	424,740
Other revenue	<u>287,099</u>	<u>380,680</u>
TOTAL REVENUE	4,417,918	2,029,996
EXPENSES		
Operating expenses	<u>3,708,093</u>	<u>1,810,467</u>
OPERATING INCOME	709,825	219,529
OTHER INCOME		
PPP loan	<u>-</u>	<u>201,763</u>
NET INCOME	709,825	421,292
MEMBERS' EQUITY (DEFICIT)		
Balance, beginning of year	(1,690,428)	(1,739,719)
Members' contributions	135,000	100,000
Members' distributions	<u>(547,500)</u>	<u>(472,001)</u>
TOTAL MEMBERS' EQUITY (DEFICIT)	<u>\$ (1,393,103)</u>	<u>\$ (1,690,428)</u>

See Notes to Financial Statements

**SPENGA HOLDINGS, LLC**

**STATEMENTS OF CASH FLOWS**

Years Ended December 31, 2022 and 2021

	<b>2022</b>	<b>2021</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 709,825	\$ 421,292
Adjustments to reconcile net income to net cash flows from operating activities:		
Bad debt expense	35,483	3,809
PPP loan forgiveness	-	(201,763)
Decrease (increase) in operating assets:		
Accounts receivable	(22,144)	(81,686)
Prepaid expenses	-	11,367
Deferred contract costs	1,502,460	(477,826)
Increase (decrease) in operating liabilities:		
Accounts payable	(45,796)	55,370
Accrued expenses	12,381	(2,691)
Accrued interest	15,124	5,621
Deferred revenue	(1,933,222)	485,389
<b>NET CASH FLOWS FROM OPERATING ACTIVITIES</b>	<b>274,111</b>	<b>218,882</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from PPP loan	-	100,881
Proceeds from SBA loan	350,100	-
Members' contributions	135,000	100,000
Members' distributions	(547,500)	(472,001)
<b>NET CASH FLOWS FROM FINANCING ACTIVITIES</b>	<b>(62,400)</b>	<b>(271,120)</b>
<b>NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	<b>211,711</b>	<b>(52,238)</b>
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<b>786,799</b>	<b>839,037</b>
<b>CASH AND CASH EQUIVALENTS, END OF YEAR</b>	<b>\$ 998,510</b>	<b>\$ 786,799</b>

See Notes to Financial Statements

## SPENGA HOLDINGS, LLC

### NOTES TO FINANCIAL STATEMENTS

#### (1) Organization

Spenga Holdings, LLC (the “Company”) was organized on June 5, 2015 under the laws of the state of Delaware as a limited liability company engaged in selling franchises for the operation of fitness studios under the Spenga trademark throughout the United States.

Operations have been devoted primarily to sales of franchises, marketing the franchises, further developing the uniform franchise offering and franchise agreement, and servicing existing franchisees.

The Company is organized pursuant to the Delaware Limited Liability Company Act, which limits the liability of the members, except to the extent that the members guarantee the obligations of the Company. The term of the Company commenced on the date of the filing of the certificate, and the Company shall continue as a legal entity until it is dissolved in accordance with the operating agreement.

#### (2) Summary of significant accounting policies

**Revenue recognition** – The Company’s revenues consist of fees from franchised studios. Revenues include royalties based on a percent of sales, initial fees and service fee income. Accounting Standards Codification (“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 consideration expected to be received for those goods or services. Royalties from studios operated by franchisees are based on a percent of sales and recognized at the time the underlying sales occur. Monthly service fees are charged to franchisees for use of software and systems. Royalties and monthly services fees are assessed and collected five days after each month-end.

Franchise fees are due at the time the franchise agreement is executed. Initial franchise fees are being recognized as the Company satisfies the performance obligation, which is up to 10 years based on the number of studio rights purchased over the remaining franchise term, or upon contract termination. Related contract costs are recognized as expenses over the same time period. During 2022, there were contract terminations related to undeveloped franchise territories covering 46 studios. Revenues and expenses, related to terminations, were \$1,828,000 and \$1,418,885, respectively, for the year ended December 31, 2022. There were no terminations in 2021.

The Company also receives rebate income from preferred equipment vendors. The Company has negotiated discounted pricing with preferred equipment vendors whereby the Company receives rebates on equipment purchased by franchisees. The Company recognizes revenue at the point rebates are payable to the Company, which is generally upon payment of the equipment by the franchisee.

**Cash and cash equivalents** – The Company considers all highly liquid short-term investment instruments purchased with a maturity of three months or less at acquisition date to be cash equivalents.

## SPENGA HOLDINGS, LLC

### NOTES TO FINANCIAL STATEMENTS

#### (2) Summary of significant accounting policies (continued)

**Accounts receivable** – Accounts receivable represent amounts due from royalty fees and other revenues. The Company periodically evaluates the collectability of its accounts receivable on an individual basis and reserves against doubtful accounts based on historical experience. No reserve was made for doubtful accounts in the years ended December 31, 2022 and 2021.

**Deferred contract costs** – Deferred contract costs primarily represent commissions paid on initial franchise fees, along with training costs incurred to assist franchises in opening.

**Deferred revenue** – Deferred revenue represents initial franchise fees that have been collected but are not recognized in revenue.

**Income taxes** – The Company elected to be treated as a partnership for income tax purposes under the Internal Revenue Code. Under this election, the Company is not required to pay federal taxes as the income is taxed directly to the members. The Company is, however, subject to Illinois Replacement Tax.

**Advertising** – Advertising costs are charged to expense as incurred. Advertising expense was \$184,558 and \$131,879 for the years ended December 31, 2022 and 2021, respectively.

**Use of estimates** – The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of increases and decreases in net assets from operations during the reporting period. Actual results could differ from those estimates.

#### (3) Related party transactions

The Company has group insurance policies with other entities that are under common ownership.

Contributions and distributions are to and from Spenga Ventures LLC, which owns 100% of the Company.

#### (4) Uncertain tax positions

The Company has adopted accounting principles related to uncertain tax positions and has evaluated its tax positions for all open tax years. Currently, the 2017 tax year is open and subject to examination by the Internal Revenue Service and Illinois Department of Revenue. However, the Company is not currently under audit nor has the Company been contacted by either of these jurisdictions.

Based on the evaluation of the Company's tax positions, management believes all positions taken would be upheld under an examination. Therefore, no provision for the effects of uncertain tax positions has been recorded as of December 31, 2022 and 2021.

## SPENGA HOLDINGS, LLC

### NOTES TO FINANCIAL STATEMENTS

#### (5) PPP and EIDL loans

The Company applied for and received a forgivable Paycheck Protection Program (“PPP”) loan of approximately \$100,882 as provided under the Federal Coronavirus Aid, Relief, and Economic Security Act, and the loan was funded on April 25, 2020. Under the terms of the loan, the balance was forgivable to the extent that the proceeds were used for certain qualified costs for the 24-week period and that certain employment levels were maintained. To the extent a portion of the loan did not meet the criteria to be forgiven, such amount was due on April 25, 2022 and carried an interest rate of 1%. Through December 31, 2020, the Company used \$100,882 of the proceeds on qualified costs, and as such, the entire amount was forgiven in March 2021. The Company received an additional PPP loan in the amount of \$100,881 on April 16, 2021, and the entire amount was forgiven in December 2021. Both loans were recognized in income in 2021.

In June 2020, the Company applied for and received an Economic Injury Disaster Loan (“EIDL”) of \$149,900 from the U.S. Small Business Administration (the “SBA”). On April 25, 2022, the SBA authorized a loan modification in the amount of \$500,000. The loan bears interest at 3.75%, requires monthly principal and interest payments of \$2,521, which start in December 2022, and is due June 17, 2050. An additional six-month deferment was granted, and the first payment due extended from 24 months to 30 months from the date of the note.

The annual principal payments for each of the next five years are as follows:

#### Years Ending December 31,

2023	\$	-
2024		2,933
2025		11,814
2026		12,265
2027		12,733
Thereafter		<u>460,255</u>
	\$	<u>500,000</u>

#### (6) Concentration of credit risk

The Company’s cash is potentially exposed to concentrations of credit risk for amounts in excess of the federally insured limit. However, the Company’s management believes cash is placed with financially secure institutions, which should limit its potential exposure.

**SPENGA HOLDINGS, LLC**

**NOTES TO FINANCIAL STATEMENTS**

**(7) Cash flow disclosures**

The following is a summary of supplemental cash flow information:

	<u>2022</u>	<u>2021</u>
Cash paid for interest	<u>\$ 2,865</u>	<u>\$ 777</u>

**(8) Subsequent events**

The Company has evaluated subsequent events through April 25, 2023, the date which the financial statements were available to be 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.**

**SPENGA HOLDINGS LLC**  
**Profit & Loss**  
January through March 2024

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	<u>Jan - Mar 24</u>
Ordinary Income/Expense	
Income	530,804.45
<b>Gross Profit</b>	530,804.45
Expense	501,898.46
<b>Net Ordinary Income</b>	28,905.99
<b>Net Income</b>	<b><u>28,905.99</u></b>

**SPENGA HOLDINGS LLC**

**Balance Sheet**

As of March 31, 2024

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	<u>Mar 31, 24</u>
<b>ASSETS</b>	
Current Assets	7,326,448.21
Other Assets	1,705,828.87
<b>TOTAL ASSETS</b>	<b><u>9,032,277.08</u></b>
<b>LIABILITIES &amp; EQUITY</b>	9,032,277.08

**EXHIBIT D  
TO  
FRANCHISE DISCLOSURE DOCUMENT  
FRANCHISE AGREEMENT**

**FRANCHISE AGREEMENT**



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### **Exhibits:**

A – Data Sheet and Statement of Ownership

B – Personal Guaranty and Subordination Agreement

C – Form of Landlord Consent and Form of Collateral Assignment and Assumption of Lease

D – Conditional Assignment of Franchisee’s Telephone Numbers, Facsimile Numbers and Domain Names

E – Electronic Funds Withdrawal Authorization

F – Confidentiality and Non-Competition Agreement

G – Non-Competition Agreement

## SPENGA HOLDINGS LLC

### FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this “**Agreement**”) is made and entered into on \_\_\_\_\_ (the “**Effective Date**”), by and between Spenga Holdings LLC, a Delaware limited liability company, with its principal place of business at 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois 60491 (“**Franchisor**”), and \_\_\_\_\_, a \_\_\_\_\_ with its principal place of business at \_\_\_\_\_ (“**Franchisee**”).

#### RECITALS

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 fitness studio (each, a “**Studio**”) that features (a) fitness training services and related exercise equipment designed to combine the benefits of spin, yoga and other strength training via classes and memberships, as well as any other services that Franchisor designates or authorizes in writing (collectively, the “**Approved Services**”), and (b) various branded and other retail products that Franchisor authorizes for sale in writing (collectively, the “**Approved Products**”), utilizing the business methods, standards and specifications associated with the System.

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 Studio; site selection guidance and criteria that Franchisor has reduced to writing; specifications and template(s) for the design, layout and buildout of a Studio; standards and specifications for the furniture, fixtures and equipment located within a Studio; established relationships with approved or designated suppliers for certain items necessary to operate a Studio, including Approved Product inventory; methods and know-how related to the Approved Services and the training/instruction related thereto; and standards and specifications for sales techniques, merchandising, marketing, advertising, inventory management systems, advertising, bookkeeping, sales and other aspects of operating and/or managing a Studio. The parties agree and acknowledge that Franchisor may change, improve, further develop, or otherwise modify the System, including the Approved Products and Services, 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 Studios are identified by the mark SPENGA and/or 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 Studio 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 franchise for the right to operate a single franchised Studio from a site that Franchisor approves consistent with this Agreement, and has submitted an application to obtain such a franchise from Franchisor.

G. Franchisor is willing to grant Franchisee the right to operate a franchised Studio (also referred to as the "**Franchised Business**") based on the representations contained in the franchise application and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the fees and other sums payable by Franchisee and of the mutual covenants contained in this Agreement, the parties agree as follows:

## 1. AGREEMENT

As used in this Agreement, the following terms shall have the following meanings:

1.1 **Approved Site.** "Approved Site" means the street address of the physical location approved in writing by Franchisor for the operation of Franchisee's Studio which shall be set forth in Exhibit A to this Agreement.

1.2 **Brand Fund.** "Brand Fund" means a brand development fund that may be established and maintained by Franchisor for purposes of (a) promoting Franchisor's brand, Proprietary Marks, System and Studio locations, and/or (b) otherwise developing the technologies, training tools or other items designed to develop the System and brand generally, all as Franchisor determines appropriate.

1.3 **Designated Manager.** "Designated Manager" means the person whom Franchisee has appointed as general manager of the Studio; the Designated Manager shall be responsible for the daily operations of the Studio and maintain a competent staff of trained employees sufficient to operate the Studio in compliance with Franchisor's standards in the Operations Manual and this Agreement.

1.4 **Designated Territory.** "Designated Territory" means the area set forth in Exhibit A to this Agreement.

1.5 **Franchise Network.** "Franchise Network" means the interdependent network composed of Franchisor, all Studios (whether affiliate-owned or franchisee-owned), all SPENGA franchisees, Franchisor's Related Parties, and any other persons or business entities that Franchisor's Related Party has licensed to use the Proprietary Marks, System or any of them.

1.6 **Franchisee.** "Franchisee" means the person or entity that is named as "Franchisee" in Section 1 of this Agreement. In addition, "Franchisee" means all persons or entities that succeed to Franchisee's interest by Transfer, other transfer, or operation of law.

1.7 **Good Standing.** "Good Standing" means timely compliance by Franchisee and Franchisee's Related Parties with all provisions of this Agreement and the Operations Manual, including without limitation, those provisions related to all pre-opening obligations, time to open and all payment obligations of Franchisee hereunder.

1.8 **Net Cash In.** “Net Cash In” means all revenue generated from the sale and provision of any and all gift cards, memberships and other Approved Services (classes, etc.) and Approved Products (merchandise, apparel and/or equipment) at or through the Studio, as well as the proceeds from any business interruption insurance related to the non-operation of the Franchised Business, whether such revenues are evidenced by cash, check, credit, charge, account, barter or exchange. “Net Cash In” does not include (a) tips that clients pay to instructors of the Studio that are retained by that instructor, (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.

1.9 **Opening Sales Activity.** “Opening Sales Activity” means the membership sales drive that occurs before Franchisee opens its Studio that Franchisee must commence as part of its Grand Opening Marketing at least 60 days prior to the contemplated opening date for the Studio.

1.10 **Operations Manual.** “Operations Manual” means the one or multiple confidential manual(s) to which Franchisor will provide Franchisee access and authorize Franchisee to use during the term of this Agreement, and that contains information, forms and requirements for the establishment and operation of the Studio and for use of Franchisor’s Proprietary Marks, as well as any other confidential manuals and writings prepared by Franchisor for Franchisee’s use in operating a Studio.

1.11 **Related Party.** “Related Party” or “Related Parties” means persons and entities affiliated with Franchisor or Franchisee, as the context indicates, including owners (as defined herein), general partners, limited partners, shareholders, or members, owning a Substantial Interest in: (i) Franchisor or in Franchisee, as applicable; (ii) corporations or limited liability companies in which Franchisor or Franchisee, as applicable, have a Substantial Interest; (iii) corporations or limited liability companies in which any person or entity owning a Substantial Interest in Franchisee also has a Substantial Interest; or (iv) officers, directors, members or agents of Franchisor or of Franchisee, as applicable.

1.12 **Substantial Interest.** “Substantial Interest” means the right to 20% or more of the capital or earnings of a partnership or limited liability company or, alternatively, ownership of 20% or more of the voting stock of a corporation.

1.13 **Transfer.** “Transfer” means any the assignment, conveyance, sale, transfer, or other disposition of (a) any of the rights or obligations granted under this Agreement, (b) the Studio, (c) the operating assets of the Studio or any material operating asset of the Studio (other than the sale of any operating assets that Franchisee has replaced within the Studio consistent with the terms of this Agreement), or (d) any ownership interest in Franchisee if Franchisee is a business entity or partnership of any kind.

1.14 **Defined Terms in the Background.** In addition to the defined terms set forth above in this Section 1, the parties hereby agree and acknowledge that all provisions set forth in the Background, including all definitions and representations contained therein, are hereby incorporated into this Agreement by reference as if fully set forth in this Section.

**NOW, THEREFORE,** the parties agree as follows:

## **2. GRANT OF FRANCHISE**

2.1 **Grant.** Franchisor grants to Franchisee the right, and Franchisee hereby undertakes the obligation, upon the terms and conditions set forth in this Agreement to establish and operate a single Studio that is authorized to offer and provide the Approved Services and Approved Products (a) utilizing the

Proprietary Marks and System, and (b) in accordance with the other terms of this Agreement and the Operations Manual, from the Approved Site. Except as otherwise provided for in this Agreement, the foregoing grant to Franchisee does not include: (i) any right to offer any product or service via e-commerce; (ii) any right to establish an independent website or to establish a URL incorporating the Proprietary Marks or any variation thereof; (iii) any right to sell products or services at wholesale prices from the Studio; or (iv) any right to distribute, market, or implement Franchisor's products and services in any channel of distribution not specifically identified in this Agreement.

2.2 **Location.** Franchisee shall be responsible for purchasing, leasing, or subleasing a suitable Approved Site that Franchisor approves in accordance with the site selection criteria (including, without limitation, the size and layout of the premises) and site selection procedure associated that Franchisor designates the Operations Manual or otherwise in writing. If Franchisor has not approved Franchisee's proposed site as of the date Franchisee signs this Agreement, the mutually agreed-upon site selection area wherein the Franchisee must secure an Approved Site (the "Site Selection Area") will be set forth in Section 1 of the data sheet attached hereto as Exhibit A (the "Data Sheet"). Once the Approved Site has been selected, the parties will designate both the Approved Site and corresponding Designated Territory described in Section 2.3 below in an updated version of the Data Sheet that Franchisee must sign upon receipt from Franchisor.

2.3 **Designated Territory.** Subject to Section 2.4 and the other provisions of this Agreement, Franchisor agrees that it will not open or locate, or license any third party the right to open or locate, another Studio within the Designated Territory that utilizes the Proprietary Marks and System licensed hereunder. Franchisee agrees and acknowledges that, unless and until the parties enter into an updated form of Data Sheet specifying the Designated Territory as described in Section 3 of the Data Sheet, the Designated Territory will be limited to the Approved Location from which the Franchisee's Studio is operated. Franchisee may engage in certain digital marketing campaigns that have the potential to reach individuals outside of the Designated Territory, provided such campaigns or efforts are first approved by Franchisor consistent with the advertising approval process set forth herein, but Franchisee may not otherwise actively recruit, solicit or market the Franchised Business to prospective clientele outside the Designated Territory without Franchisor's prior written consent in a separate writing. Once you receive each Designated Territory, your rights within the applicable Site Selection Area will go away.

2.4 **Reserved Rights.** Notwithstanding anything contained in this Agreement, Franchisor and its Related Parties hereby reserve the exclusive right to: (i) establish and operate, and license any third party the right to establish and operate, other Studios using the Proprietary Marks and System at any location outside of the Designated Territory (regardless of proximity to Franchisee's Studio); (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; (iii) use the Proprietary Marks and System, other such marks Franchisor may designate, to distribute the Approved Products and/or Services in any alternative channel of distribution, within or outside the Designated Territory (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 the Designated Territory; (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 this Agreement and; and (vi) own and operate Studios in "Non-Traditional Sites" including, but not limited to, amusement parks, military bases, college campuses and other academic institutions, hospitals, airports, sports arenas and stadia, train stations, travel plazas, toll roads and casinos, both within or outside the Designated Territory.

2.5 **Alternative Channels of Distribution.** Franchisee expressly acknowledges and agrees that certain Approved Products or Approved Services, whether now existing or developed in the future, may be distributed by Franchisor or a Related Party thereto within the Designated Territory by Franchisor, in such manner and through such channels of distribution as the foregoing parties deem appropriate in their discretion. Such alternate channels of distribution shall include, but are not limited to, the (a) offer and sale of Approved Products the Internet, sporting goods stores, fitness specialty stores, or other retail outlets, and/or (b) provision on the Approved Services and associated instruction via pre-recorded or live video or other media that is made available for download, streaming or any other access technology via any cloud-based of similar service, app, or similar Internet-based technology or through any of the traditional channels of distribution mentioned in subpart (a) above. Franchisee acknowledges that this Agreement grants Franchisee no right: (i) to distribute such products as described in this Section; or (ii) to share in any of the proceeds received by any such party therefrom.

2.6 **Relocation.** At Franchisor's option, Franchisee may relocate its Studio, with Franchisor's prior written consent, if the following conditions are met:

(a) Franchisee and Franchisee's Related Parties submit to Franchisor a relocation fee of 20% of the then current Initial Franchise Fee at the time that a request for relocation is tendered to Franchisor. If Franchisor declines to consent to any relocation (which Franchisor may so decline in its sole discretion), such relocation fee will be returned to Franchisee and Franchisee's Related Parties.

(b) Franchisee and Franchisee's Related Parties are in Good Standing under this Agreement, any other agreement between Franchisor or Franchisor's Related Party and Franchisee, and Franchisee and Franchisee's Related Parties are in compliance with all provisions of the Operations Manual;

(c) Franchisee and any of Franchisee's Related Parties that have signed this Agreement have agreed to cancel this Agreement and execute a new Franchise Agreement in the form that is currently effective at the time of relocation (with a term equal to the then remaining term of this Agreement);

(d) Franchisee agrees to equip and furnish Franchisee's new Approved Site for the Studio so that such studio meets the standards of appearance and function applicable to new Studios at the time of relocation;

(e) Franchisee must re-open the Studio at the new Approved Site for business within thirty (30) days of closing Franchisee's existing Studio; and

(f) Franchisee and Franchisee's Related Parties that are parties to this Agreement shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and its Related Parties, successors, and assigns, and their respective members, managers, directors, officers, shareholders, partners, agents, representatives, and including, without limitation, claims arising under this Agreement, any other agreement between Franchisee and Franchisor or its Related Parties, and federal, state, and local laws and rules.

2.7 **Term and Renewal.**

(a) Except as otherwise provided herein, the initial term ("Initial Term") of this Agreement is for a period of ten (10) years commencing as of the Effective Date.

(b) Franchisee shall have the right to request a renewal of the franchise granted pursuant to this Agreement for up to two (2) additional terms of ten (10) years each subject to the following conditions, all of which shall be satisfied before renewal:

(i) Franchisee and Franchisee's Related Parties are in Good Standing under this Agreement, any other agreement between Franchisor or Franchisor's Related Party and Franchisee, and Franchisee and Franchisee's Related Parties are in compliance with the Operations Manual;

(ii) Franchisee shall give Franchisor written notice of Franchisee's election to renew not less than nine (9) months nor more than twelve (12) months prior to the end of the Initial Term or expiration of the first renewal term, as the case may be;

(iii) Franchisee and any Related Parties that have signed this Agreement shall have signed a copy of the then-current Franchise Agreement (except with respect to the renewal provisions thereof, which shall not supersede this Section 2.7(b)) by the later of (a) 30 days before the expiration of this Agreement, or (b) thirty (30) days from the date Franchisee receives an execution copy of the then-current Franchise Agreement from Franchisor;

(iv) Franchisee pays a renewal fee amounting to ten thousand dollars (\$10,000).

(v) Franchisee shall have, before the beginning of the Renewal Term, demonstrated Franchisee's right to operate the Studio from the Approved Site for the Renewal Term, and Franchisee, at Franchisee's own expense, shall have modernized the Studio and replaced and modernized the equipment, and signs used in the Studio as Franchisor may reasonably require, in order for the Studio to meet the then-current standards of appearance and function of new Studios as of the renewal date, as determined by Franchisor;

(vi) Franchisee and its owners shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and Related Parties, successors, and assigns, and their respective directors, officers, shareholders, partners, agents, representatives, and employees, including claims arising under this Agreement, any other agreement between Franchisee and Franchisor or its Related Parties, and federal, state, and local laws and rules;

(vii) Franchisee has satisfied Franchisor's then-current training requirements for renewing franchisees, if any, at the Franchisee's expense; and

(viii) When Franchisee provides Franchisor with notice that Franchisee would like to renew this Agreement, Franchisor shall have the right to re-evaluate the then-current Designated Territory to determine whether there have been any shifts in demographics that would warrant modifying the Designated Territory. Such demographic shifts include, but are not limited to, changes in population and median income. Franchisor's intent in doing such re-evaluation of the Designated Territory is to make the target demographics of the Designated Territory upon renewal similar to the target demographics of the original Designated Territory. Franchisee understands and acknowledges that although Franchisor will use its best efforts to ensure that the demographics included in the renewal Designated Territory are similar to the original Designated Territory, (a) Franchisee's total Designated

Territory size upon renewal may be smaller or larger than its original Designated Territory; (b) Franchisor cannot guaranty that Franchisee's renewal Designated Territory will provide Franchisee with the same or similar results as with Franchisee's original Designated Territory; and (c) Franchisor makes no guaranty that the demographics included in the renewal Designated Territory will earn Franchisee any particular level of success.

(c) Franchisee acknowledges that the provisions set forth in Franchisor's then-current form of franchise agreement that Franchisee must sign as a condition to renewal above may contain materially different terms and conditions than those set forth in this Agreement.

### 3. SERVICES TO FRANCHISEE

Franchisor agrees to perform the following services for Franchisee provided that Franchisee is, at the time when any such service is to be rendered, in Good Standing under this Agreement, any other agreement with Franchisor or Franchisor's Related Parties, and Franchisee is in compliance with the Operations Manual.

3.1 **Studio Layout and Design.** Franchisor will make available prototype or sample plans and specifications for one or more existing Studios to guide Franchisee in furnishing and equipping Franchisee's Studio. Franchisee shall, at Franchisee's own expense, revise the plans and specifications provided by Franchisor to meet its individual use and then submit the revised plans and specifications to Franchisor for written approval, which will not be unreasonably withheld.

(a) Franchisor's approval of such plans and specifications shall be limited to conformance with Franchisor's prototype and sample plans and shall not relate to Franchisee's obligations with respect to any federal, state and local laws, codes and regulations, including the applicable provisions of the Americans with Disabilities Act (the "ADA") regarding the construction, design and operation of the Studio, all of which shall be Franchisee's sole responsibility.

(b) Franchisee shall comply with all federal, state and local laws, codes and regulations, including the applicable provisions of the ADA, regarding the construction, design and operation of the Studio. Franchisee shall be responsible for obtaining all zoning classifications and approvals which may be required by state or local laws, ordinances, or regulations or which may relate to any restrictive covenants relating to the Approved Site. Franchisee shall obtain all permits and certifications required for the lawful construction and operation of the Studio.

### 3.2 **Training.**

(a) *Initial Training; Pre-Training Conditions; Replacement or New Management Training; Instructor Training.* Franchisor will conduct and provide an initial training program regarding the operation and management of the Franchised Business to Franchisee (or Franchisee's principal that will be primarily responsible for the operation of the Studio if Franchisee is an entity) and, if applicable, Franchisee's Designated Manager.

(i) The parties agree and acknowledge that: (A) certain components of the initial training program will be provided at Franchisor's corporate headquarters and/or other designated training facility, which must be completed by the foregoing individuals prior to the opening of the Franchised Business (the "Corporate Initial Training"); and (B) Franchisor may provide certain components of the program, including training and

instruction designed to introduce Franchisee to the System and brand generally, remotely via telephone calls, webinars or other learning management system that is made available to Franchisee via the Internet, and Franchisor may require that such components be completed within sixty (60) days from the date the Franchise Agreement is signed (the “Remote Initial Training”). Franchisee must complete the Corporate Initial Training prior to engaging in any Pre-Opening Sales activity.

(ii) Franchisee must complete the following pre-opening responsibilities hereunder before Franchisor will approve Franchisee or any of Franchisee’s designated trainees to attend the applicable Corporate Initial Training that such individuals are required to complete prior to opening: (A) submit, and obtain Franchisor’s approval of, Franchisee’s Grand Opening Marketing plan for the Studio; (B) demonstrate that Franchisee has pre-paid all amounts in connection with the foregoing plan; (C) undertake all steps to establish the bank account that Franchisee designated for use in connection with the Studio (the “EFT Account”) consistent with this Agreement, including providing Franchisor and/or its designee with a signed and completed copy of the authorization form attached hereto as Exhibit E, as well as any other authorizations and approvals necessary to access such EFT Account; (D) demonstrate that Franchisee has obtained all required insurance coverages as set forth in this Agreement and the Operations Manual; and (E) 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”).

(iii) Once Franchisee can demonstrate it has satisfied the Training Pre-Conditions and all required Remote Training has been completed, Franchisor will: (A) schedule the Corporate Initial Training for Franchisee and its designated trainees, subject to the availability and schedule of its training personnel; and (B) provide the Corporate Initial Training to Franchisee and such trainees, with Franchisor reserving the right to charge its then-current initial training fee (the “Training Fee”) in connection with the fourth (4<sup>th</sup>) and each additional person that Franchisee determines to bring to such training.

(iv) Franchisor also reserves its right to charge its then-current initial Training Fee if: (A) Franchisee, its Designated Manager (if applicable) or any other required trainee is required to re-attend initial training after failing to successfully complete such training the first time; or (B) any new Franchisee owner, Designated Manager or other required trainee becomes involved with the Studio operations in a manner that would require that person to attend all or some portion of the Corporate Initial Training.

(v) Franchisee agrees and acknowledges that: (A) Franchisee will be solely responsible for all costs and expenses associated with Franchisee, its Designated Manager (if applicable) and any other designated trainees attending and completing all aspects of the initial training program, including without limitation, the travel, lodging, meals and local transportation costs and wages associated with attending and completing the Corporate Initial Training; and (B) the failure of Franchisee or any of its personnel to complete the initial training program (or applicable components thereof with regards to any initial Instructor) within the time periods set forth in this Section will constitute a material default hereunder and will be grounds for Franchisor to terminate this Agreement if not cured within the applicable time period set forth herein (if any).

(b) *Initial On-Site Assistance; Obligation of Instructors and/or Other Designated Studio Personnel to Participate.* Once Franchisee and all required trainees successfully complete the Corporate Initial Training, then: (i) Franchisor will provide up to three (3) days of on-site assistance at the Approved Site of the Studio to Franchisee and the initial personnel of the Studio, including all initial Instructors (the “Initial On-Site Assistance”), as Franchisor determines appropriate in its discretion; and (ii) Franchisee must ensure that Franchisee, its Designated Manager, all initial Instructors and other then-current personnel of the Franchised Business are present and participates in any Initial On-Site Assistance that Franchisor determines to provide hereunder.

(i) Franchisee agrees and acknowledges that no Designated Manager, Instructor or other personnel of the Studio may commence their responsibilities until they have participated in and completed either (A) the On-Site Assistance described in this Section, or (B) the kind of subsequent training or assistance described in Section 3.2(d) below.

(ii) Franchisee further agrees that, as part of the Initial On-Site Assistance, all prospective Studio Instructors must participate in and successfully pass through Franchisor’s prescribed instructor-focused training and demonstrate its ability to provide the Approved Services in the Studio setting via a “practice session” or similar hands-on method that Franchisor prescribes in the Operations Manual, training manuals or otherwise in writing (collectively, the “Instructor Training”) before that Instructor provides any Approved Services to any Studio clientele.

(c) *Multi-Unit Operators.* If Franchisee and/or its Related Party have already received the initial training described herein in connection with two (2) other Studios that such parties have opened or are developing, Franchisor reserves the right to (i) waive all or certain of Franchisee’s obligations with respect to the initial training and/or the Initial On-Site Assistance described above in this Section. Requirements; and (ii) not provide any such training or Initial On-Site Assistance to Franchisee or its personnel that Franchisor has waived.

(d) *Additional Training; Remedial Training.* Franchisor or its then-current Required Supplier for third-party training may, as it deems appropriate in its discretion, develop additional and refresher training courses (the “Additional Training”), and require Franchisee, its management and/or Instructor(s) to attend such Additional Training. Franchisor will not require Franchisee and its designated trainees to pay its then-current ongoing Training Fee in connection with attending additional/refresher training, unless (A) Franchisee requests such additional/refresher training, and/or (B) such additional/refresher training is provided on-site at the Approved Site of the Studio. Franchisee will always be responsible for the costs and expenses that it and its trainees incur in connection with attending any additional/refresher training under this Agreement. Franchisor may require Franchisee and its management to attend up to five (5) days of additional/refresher training each year. If Franchisee fails to generate \$40,000 in NCI by the sixth (6<sup>th</sup>) month of operation, then Franchisor may require Franchisee to attend Additional Training at Franchisee’s cost.

(e) *New or Replacement Instructor Training.* Franchisee agrees and acknowledges that: (A) each prospective Instructor must attend and complete the appropriate Instructor Training, whether during the Initial On-Site Assistance or anytime thereafter, that Franchisor provides and/or otherwise requires before that prospective Instructor can provide any Approved Services at the Studio; (B) Franchisor reserves its right to charge its then-current Instructor Training Fee in connection with any Instructor Training that Franchisor provides to a prospective

Instructor that does not attend and complete the Instructor Training during the Initial On-Site Assistance that Franchisor provides hereunder; and (C) Franchisor may agree in a separate writing to approve Franchisee, its Designated Manager or other Instructor that has completed the Instructor Training will be eligible to provide such Instructor Training to one (1) or more new or replacement prospective Instructor(s).

(f) *Remedial Training.* If Franchisor determines that Franchisee is operating the Franchised Business in a manner that is not consistent with the terms of this Agreement or the Operations Manual, or if Franchisee is otherwise in material default of this Agreement, Franchisor may also require that Franchisee, its Designated Manager (if applicable) and/or other applicable personnel of the Studio to attend and complete up to five (5) additional days of training at (a) Franchisor's designated training facility, (b) the Studio, or (c) other location Franchisor designates, that is designed to address the default or other non-compliance issue (the "Remedial Training"). Franchisor may require Franchisee and its designated trainees to pay Franchisor its then-current ongoing Training Fee in connection with attending Remedial Training, and Franchisee will be responsible for the costs and expenses associated with (a) Franchisee and any personnel attending such training, and/or (b) Franchisor's personnel traveling to the Studio to provide such training.

(g) *Audition Fee.* Franchisee shall pay Franchisor its then-current audition fee ("Audition Fee") in connection with each of the types of training listed herein.

3.3 **Periodic Advisory Assistance.** Franchisee may request, and Franchisor may decline at its sole discretion; or Franchisor will, as it deems advisable in its sole discretion, provide periodic advisory assistance to Franchisee concerning the operation and promotion of the Studio. If Franchisor agrees to provide any such assistance, Franchisee may be required to cover Franchisor's costs and pay Franchisor's then-current fee.

3.4 **Operations Manual.** Franchisor will provide Franchisee with access to the Operations Manual containing explicit instructions for use of the Proprietary Marks and System specifications for goods and services that will be used in or sold by the Studio, sample business forms, information on marketing, management, and administration methods developed by Franchisor for use in the Studio, information related to our then-current list of suppliers that we designate or have otherwise approved as the source for certain items or services that Franchisee is required to purchase, lease or license for use or resale in connection with the operation of its Studio (each, an "Required Supplier"), and other information that Franchisor believes may be necessary or appropriate for Franchisee in Franchisee's operation of the Studio. Franchisor will revise the Operations Manual periodically, at its discretion, to conform to the changing needs of the Franchise Network and will distribute updated pages containing these revisions to Franchisee via email updates, using the email address as provided to Franchisor by Franchisee. Alternatively, and in lieu of a "hard copy" of the Operations Manual, Franchisor may make available to Franchisee an Operations Manual in electronic form that is accessible at a password protected portion of Franchisor's website. Franchisor will notify Franchisee via email of any updates to the Operations Manual. Franchisee shall be responsible for immediately downloading and complying with the revised Operations Manual. The provisions of the Operations Manual constitute provisions of this Agreement as if fully set forth therein. If there is a dispute relating to the contents of the Operations Manual, the master copy, which Franchisor maintains at its headquarters, will control.

3.5 **Advertising.** Franchisor or its Related Party will make available for a fee a limited amount of advertising material and services to Franchisee. Such material may include video and audiotapes, copy-ready print advertising materials, posters, banners and miscellaneous point-of-sale items. Franchisee may,

at Franchisor's sole discretion, receive one proof or sample of each at no charge. If Franchisee desires to receive any additional copies, Franchisee shall pay all related duplication and delivery costs.

3.6 **Required Suppliers.** Franchisor will provide to Franchisee a list of the names and addresses of the Required Suppliers who then currently meet Franchisor's standards and specifications in the Operations Manual. In advising Franchisee of suppliers who meet its standards and specifications, Franchisor expressly disclaims any representations or warranties as to the condition of the equipment, goods or services sold by the suppliers, including expressed or implied warranties as to merchantability or fitness for any intended purpose. Franchisee agrees to look solely to the manufacturer or the supplier of the equipment, goods or services for the remedy for any defect in the goods or services. Franchisor reserves the right to change the list of Required Suppliers from time to time in its sole discretion.

(a) Franchisee agrees and acknowledges that Franchisor may receive payments or other compensation from Required Suppliers on account of such suppliers' business dealings with Franchisee and other franchisees in the System and in consideration of the various benefits provided to Franchisee in connection with such dealings (such as volume discounts, improved customer service, and quality control). Franchisee acknowledges and agrees that Franchisor shall have the right to collect and retain all manufacturing allowances, marketing allowances, rebates, credits, monies, payments, or benefits (collectively, "Allowances") offered by such suppliers to Franchisee or to Franchisor or its Related Parties based upon Franchisee's purchases of products and other equipment, goods and services. Franchisee hereby assigns to Franchisor all of Franchisee's right, title and interest in and to any and all such Allowances and authorizes Franchisor to collect and retain any or all such Allowances without restriction (unless otherwise instructed by the supplier).

(b) Franchisor may, from time to time, revoke its approval of particular items, products, or suppliers if Franchisor determines, in its sole discretion, that the items, products, or suppliers no longer meet Franchisor's then-current standards. Upon receipt of notice of such revocation, Franchisee shall cease to sell or use any disapproved item and products, and/or cease to purchase any such item and products from any supplier for which Franchisor has revoked any prior approval.

3.7 **Annual Conference.** Franchisor may, at Franchisor's discretion, hold an annual conference at a location to be selected by Franchisor (the "Annual Conference"). Franchisor shall determine the topics and agenda for such conference to serve the purpose, among other things, of updating franchisees on new developments affecting franchisees, exchanging information between franchisees and Franchisor's personnel regarding Studio operations and programs, and recognizing franchisees for their achievements. Franchisor may require Franchisee to attend the Annual Conference and to pay Franchisor's then-current registration fee. All expenses, including Franchisee's and Franchisee's employees' transportation to and from the Annual Conference, and lodging, meals, and salaries during the Annual Conference, are Franchisee's sole responsibility. Franchisor may use expenditures from the Brand Fund for purposes related to the Annual Conference, including costs related to programs and materials.

#### 4. PAYMENTS BY FRANCHISEE

4.1 **Initial Franchise Fee.** Franchisee shall pay Franchisor an initial franchise fee of \$49,500 (the "Initial Franchise Fee") upon execution of this Agreement. The Initial Franchise Fee is not refundable under any circumstance and is deemed fully earned upon payment in consideration of administrative and other expenses Franchisor incurs in granting the franchise and for Franchisor's lost or deferred opportunity to franchise others.

4.2 **Royalty Fees.** On or before the fifth (5<sup>th</sup>) of each month, Franchisee shall pay Franchisor a continuing monthly Royalty Fee amounting to the greater of: (i) seven percent (7%) of the Net Cash In generated by the Studio in the immediately preceding calendar month, with said obligations commencing upon Franchisee's first sale in connection with, or opening of, the Studio; or (ii) \$1,000 per month ("Minimum Royalty"). The Minimum Royalty begins upon the earlier of (i) when Franchisee opens the Franchised Business, and (ii) 13 months from the Effective Date of this Agreement.

4.3 **Other Periodic Fees and Amounts Payable.** Franchisee agrees and acknowledges that Franchisee must pay the following amounts to Franchisor or its designee, if and as applicable and directed by Franchisor:

(a) a contribution to the Brand Fund amounting to up to two percent (2%) of the NCI of Franchisee's Studio over the immediately preceding calendar month, which Franchisor may collect from Franchisee at the same time and in the same manner as the Royalty Fee if and when Franchisor establishes the Brand Fund as set forth in this Agreement;

(b) a fee designed to help Franchisor defray the costs associated with any technology that Franchisor determines appropriate to make part of the System for use in connection with the operation of Franchisee's Studio and/or the System generally (the "Technology Fee"), which Franchisor may collect at the same time and in the same manner as the Royalty Fee upon 30 days' prior written notice to Franchisee;

(c) any amounts due for inventory, equipment, other items or any services that Franchisee is required to purchase for use in connection with, or for resale, at the Studio, including amounts payable to Franchisor's Required Suppliers; and

(d) if applicable, any Training Fees that Franchisor exercises its right to charge consistent with Section 3.2 of this Agreement, as well as any evaluation-related fees described herein;

(e) The fees due in connection with any renewal or Transfer as set forth in this Agreement;

(f) The then-current fees due in connection with any music licensing that may be payable to us or an approved supplier;

(g) The then-current fees due in connection with customer relations management ("CRM Fee") payable to us or an approved supplier;

(h) The then-current fees due in connection with the POS and Payment Processing System;

(i) The then-current fee due in connection with the Spenga application;

(j) The then-current fee for fitness technology;

(k) The then-current fee for aromatherapy;

(l) Any fees, costs, or expenses that Franchisee is responsible for covering hereunder; and

(m) any other amounts that Franchisor has the right to require or impose upon Franchisee under this Agreement.

#### 4.4 **Application of Payments; Manner of Payment; POS System and Payment Processor.**

(a) Franchisor has the right to apply any payment it receives from Franchisee to any past due amount Franchisee owes to Franchisor or Franchisor's Related Parties regardless of the manner in which Franchisee indicates the payment is to be applied. Franchisor also reserves the right to change the timing or manner of payment of the Royalty Fee or any other fees due to Franchisor or Franchisor's designated suppliers under this Agreement.

(b) Prior to Franchisee or any of its trainees attending the required Corporate Initial Training described in this Agreement, Franchisee must provide Franchisor with Franchisee's bank name, address and account number, a voided check from such bank account, and shall sign and give to Franchisor and Franchisee's bank, all documents, including Exhibit E to this Agreement, necessary to effectuate the EFT Program and Franchisor's ability to withdraw funds from such bank account via electronic funds transfer ("EFT"). Franchisee shall immediately notify Franchisor of any change in Franchisee's banking relationship, including changes in account numbers.

(c) Franchisee must use Franchisor's designated point-of-sale system the Franchisor designates to record and track sales, client appointments and/or handle payment processing with respect to client membership and other payments associated with Studio operations (the "Designated POS System"). If Franchisor's Designated POS System involves any kind of payment processing or similar services designated to process, collect and remit payments made by Studio clientele, Franchisee must ensure that all Studio personnel are able to properly utilize the Designated POS System and that all requirements, guidelines and System standards for the recording, tracking and remittance of such clientele payments are adhered to at all times.

4.5 **Right to Audit.** Franchisor has the right during normal working hours to audit Franchisee's books and records, including Franchisee's tax returns, with respect to the Studio. If an audit discloses an underpayment of Royalty Fees or advertising fees payable under this Agreement, Franchisee shall immediately pay such amounts to Franchisor, together with accrued interest on the amount underpaid in accordance with Section 4.6 of this Agreement. In addition, if such underpayment exceeds two percent (2%) of the total Royalty Fees or advertising fee payable for any period covered under such audit, Franchisee shall reimburse Franchisor for all expenses actually incurred by Franchisor in connection with such audit, including reasonable attorneys' fees.

4.6 **Interest on Late Payments.** Any payment not received by Franchisor when due will bear interest at a rate of eighteen percent (18%) per annum or at the highest rate allowed by applicable law on the date when payment is due, whichever is less. Interest charges on late payments are intended to partially compensate Franchisor for loss of use of the funds and for internal administrative costs resulting from late payments which would otherwise be difficult to measure precisely. Interest shall accrue from the original due date until payment is received by Franchisor in full.

## 5. OBLIGATIONS OF FRANCHISEE

### 5.1 **Authorized Use of the Proprietary Marks Only.**

(a) Franchisee may use the Proprietary Marks only in the operation of the Studio within the Designated Territory. Franchisee may not license, sublicense, or permit any third party

to use the Proprietary Marks. Franchisee may not use any other trade name or marks in connection with the Studio without the prior written consent of Franchisor.

(b) Franchisee acknowledges that Franchisor has invested substantial time, energy, and money in the promotion and protection of the Proprietary Marks. Franchisee recognizes that rights in intangible property such as the Proprietary Marks are often difficult to establish and defend and that changes in the cultural and economic environment within which the System operates or third-party challenges to Franchisor's rights in the Proprietary Marks may make changes in the Proprietary Marks desirable or necessary. Franchisor therefore reserves the right to change the Proprietary Marks and the specifications for each when Franchisor determines that such changes will benefit the System. Franchisor will use its commercially reasonable efforts to make such changes in a manner that minimizes cost to Franchisee. Franchisee agrees that Franchisee shall promptly conform, at Franchisee's own expense, to any such changes.

(c) Franchisee agrees to submit to Franchisor copies of all local marketing materials that Franchisee proposes to use at least ten business days prior to the date that a binding commitment is made to print, shoot, record, broadcast, publish or otherwise distribute such materials. Franchisor will review such materials within ten business days and will promptly notify Franchisee in writing as to whether it approves or rejects such materials at its sole discretion. If Franchisee has not received a written approval from Franchisor or its Related Party at the end of ten business days, it may proceed with the planned local marketing. For purposes of this paragraph, local marketing materials that differ from previously approved materials only in such variables as date will be considered to be previously approved. To the extent Franchisor approves specified materials, it may later withdraw its approval if it reasonably believes such withdrawal is necessary to make the advertising conform to changes in the System or to correct unacceptable features of the advertising, including any misrepresentation in the local marketing material. Franchisor reserves the right to require Franchisee to include certain language in its local marketing materials, such as "Franchises Available" and Franchisor's website address and telephone number.

(d) Franchisee agrees to notify Franchisor immediately in writing if Franchisee becomes aware of any unauthorized use of the Proprietary Marks or System. Franchisee shall promptly notify Franchisor in writing of any claim, demand, or suit against Franchisee or against Franchisee's principals in connection with Franchisee's use of the Proprietary Marks or System. In any action or proceeding arising from or in connection with any such claim, demand, or suit, Franchisee agrees that Franchisor may select legal counsel and has the right to control the proceedings.

(e) Franchisee represents, warrants and agrees that only Instructors (which may include Franchisee and/or its Designated Manager) that have attended and successfully completed Instructor Training may utilize the Proprietary Marks in connection with the provision of any of the Approved Services, and that the provision of such Approved Services at the Studio bearing the Proprietary Marks by any other individual will be deemed a material violation of this Agreement.

**5.2 Site Selection and Lease Approval.** Franchisee shall, at Franchisee's own expense and within one hundred eighty (180) days after the Effective Date, locate, obtain, and occupy the site for the Studio. Franchisor's prior approval of the proposed site, which may not be unreasonably withheld, shall be obtained in writing. Any site that Franchisee proposes as a potential Approved Site must meet any site selection criteria, including those related to the size and layout of the site, as well as any other System standards and specifications, as described in the Operations Manual, which may vary by region. To seek

Franchisor's approval, Franchisee shall advise Franchisor in writing of the proposed site. Franchisor will approve or disapprove Franchisee's site within thirty (30) days after Franchisor receives written notice of the proposed location from Franchisee. It is Franchisee's responsibility to secure a site, with Franchisee agreeing and acknowledging that Franchisee will not be refunded if Franchisee is not able to secure an Approved Site within the time period prescribed above.

(a) By approving a Franchisee's chosen site for the Studio, neither Franchisor (nor any of its Related Parties) in any way guarantees the success or profitability of Franchisee's Studio. Franchisor's approval of a site merely signifies that the site meets Franchisor's then-current minimum qualifications for a Studio. Franchisor encourages Franchisee to seek independent counsel from a local business advisor to assist Franchisee in selecting a location.

(b) The term of any lease for the Studio, including any options, must be equal to or greater than the term of this Agreement. Franchisor has the right to review, evaluate and approve Franchisee's proposed lease (the "Lease") for the Studio prior to execution. Franchisor may condition Franchisor's approval of any proposed Lease on, among other things, Franchisee and Franchisee's landlord's execution of the Form of Consent and Collateral Assignment and Assumption of Lease attached hereto as Exhibit C, which grants Franchisor the right, without the obligation, to assume the Lease upon (a) Franchisee's default under the Lease, or (b) termination, transfer or expiration of this Agreement. Upon Franchisor's request, Franchisee must deliver an executed complete copy of the Lease to Franchisor within ten (10) days of such request. Neither Franchisor's review of the Lease nor Franchisor's acceptance of the site Franchisee has selected constitutes a representation or guarantee that Franchisee will succeed at the approved site or an expression of Franchisor's opinion regarding the terms of the Lease. Franchisor encourages Franchisee to seek independent counsel from a lawyer or business adviser to assist Franchisee in selecting a location and negotiating a lease for the Studio. If Franchisee is unable to have its landlord execute the form of Collateral Assignment and Assumption of Lease attached hereto as Exhibit C, then Franchisor will assist in the negotiation of the Collateral Assignment and Assumption of Lease and Franchisee shall reimburse Franchisor its cost of doing so, including attorneys' fees.

### 5.3 **Quality Control.**

(a) Franchisee shall establish the Studio and have it open and in operation no later than one (1) year after the Effective Date of this Agreement. Time is of the essence. Franchisee may not open the Studio to the public until Franchisor approves in writing such opening. Opening without such written approval is a material breach of this Agreement and constitutes infringement of Franchisor's intellectual property rights, justifying injunctive relief and termination of this Agreement. By approving the opening, Franchisor does not guarantee that the Studio will be successful. Franchisee acknowledges that its success will depend on a number of factors, including general economic conditions and Franchisee's skill, none of which is within Franchisor's control.

(b) Franchisee shall operate Franchisee's Studio in compliance, in all respects, with the standards and specifications set forth in the Operations Manual. Franchisor may make changes in such standards and specifications at such time, when, in Franchisor's sole discretion, Franchisor determines that such change is necessary for the continued success and development of the System. Such changes may necessitate the purchase of equipment, supplies, furnishings or other goods, completion of additional training by Franchisee's employees, or other actions by Franchisee. Franchisee shall promptly conform to such standards and specifications at

Franchisee's own expense. Franchisee shall comply with the most recent updates of the Operations Manual as they are made from time to time.

(c) Franchisee shall at all times treat the Operations Manual, any other manuals created for or approved for use in the operation of the Studio, and the information contained therein, as confidential, and shall maintain such information as confidential. Except for those portions of the Operations Manual that Franchisor designates, in writing, as appropriate for copying and use at the Studio, Franchisee shall not at any time copy, duplicate, record, or otherwise reproduce such information, in whole or in part, nor otherwise make the same available to any unauthorized person.

(d) Franchisee will purchase such equipment, goods, vendor services, materials, supplies and computer software to be used in connection with operating the Studio from Required Suppliers as Franchisor determines and sets forth in the Operations Manual, updates thereto and/or other writing provided to Franchisee. Franchisor reserves the right to change such Required Suppliers from time to time. Notifications of changes to the Required Suppliers will be made through changes to the Operations Manual. Franchisor may revoke the approval of suppliers and which may be revoked in writing with thirty (30) days' notice to Franchisee.

(e) Franchisor may, in its sole discretion, grant approval of alternative suppliers upon written request from Franchisee. Franchisor reserves the right to charge a fee in connection with such approval. If Franchisee would like to purchase any items of the equipment, goods or services from a supplier other than the supplier listed below, Franchisee must submit Franchisor's "Alternative Supplier Approval Form," which will be available to Franchisee upon request. Based on the information and samples Franchisee supplies to Franchisor, Franchisor will test the items supplied and review the proposed supplier's business reputation, delivery performance, credit rating and other information. Franchisor reserves the right to update its specifications periodically. Franchisor will require Franchisee to reimburse it for any expenses reasonably incurred by Franchisor in taking such actions inspecting such supplier's premises, checking the supplier's credentials, or testing the product. Franchisor may permit Franchisee to purchase from alternative suppliers who meet Franchisor's criteria only after such suppliers are approved by Franchisor. Franchisor will use its commercially reasonable efforts to complete Franchisor's review and advise Franchisee of Franchisor's decision within ninety (90) days after Franchisee submits all required information to Franchisor.

(f) Franchisor's criteria for approving suppliers will be made available to Franchisee upon request (and may be set forth in the Operations Manual). As a condition of approving a supplier of any product that bears the Proprietary Marks, Franchisor may require that the supplier sign a license agreement with respect to the Proprietary Marks in a form acceptable to Franchisor. Franchisor may withdraw its approval of a supplier or product if either or both no longer meet Franchisor's standards or specifications.

(g) Franchisor may conduct periodic quality control inspections of Franchisee's Studio during normal business hours. Quality control inspections may be made with or without prior notice. Franchisee grants Franchisor and its representatives the right to enter upon the Studio premises for the purpose of conducting inspections. Franchisee shall cooperate with Franchisor and its representatives in such inspections by rendering such assistance as they may reasonably request; and, upon notice from Franchisor or its representatives and without limiting Franchisor's other rights under this Agreement, Franchisee shall take such steps as may be necessary to immediately remedy any deficiencies detected during any such inspection. Franchisee further agrees that Franchisee will reimburse Franchisor for Franchisor's and its representative's time

and travel expenses if an additional inspection at the Studio is required when such a deficiency has occurred and Franchisee has not corrected such deficiency.

(h) Franchisee shall present members, guests and customers of the Studio with such evaluation cards or forms as Franchisor may periodically prescribe, for return by such members, guests and customers to Franchisor. If Franchisee's evaluation from such members, guests and customers do not meet Franchisor's then current standards, as described in the Operations Manual, Franchisor may notify Franchisee of the actions to be taken by Franchisee to improve its performance. Franchisee's failure to take such actions will constitute a material breach of this Agreement. Without limiting the foregoing, Franchisee or the Designated Manager shall respond to all customer complaints, suggestions and the like by e-mail, telephone, or regular mail within 48 hours of submission by the member or prospective member.

(i) All equipment repairs shall be completed by Franchisee within ten (10) business days. Any damaged or worn equipment shall be repaired by Franchisee every six (6) months as needed. Interior walls of common areas, including locker rooms, shall be painted or "touched up" every six months, or sooner as needed.

(j) Franchisee shall maintain the Studio in compliance with Franchisor's requirements and applicable law. Franchisee shall periodically upgrade, re-equip and/or remodel the Studio pursuant to Franchisor's then-current plans and specifications; provided, however, Franchisor shall not require substantial remodeling more than once every five (5) years during the term of this Agreement (with the exception of signage, which may require changing or updating on a more frequent basis). If the general state of repair, appearance or cleanliness of the Studio or its fixtures, equipment, furniture, or signs, does not meet Franchisor's standards and if, after notice, Franchisee fails or refuses to initiate or maintain a program to complete the required maintenance, Franchisor has the right to enter Franchisee's Studio and do the maintenance on Franchisee's behalf and at Franchisee's expense.

(k) Franchisee shall notify Franchisor promptly if Franchisee is served with a complaint in any legal proceeding that is in any way related to the Studio or if Franchisee becomes aware that Franchisee is the subject of any complaint or investigation by a governmental agency, governmental licensing authority or consumer protection agency. Franchisee shall notify Franchisor immediately upon receipt of any notice of a breach of the lease for the premises of the Studio.

(l) Franchisee must participate in any "mystery shopper" program initiated by Franchisor. If any mystery shop discloses any deficiencies, Franchisee shall take all steps necessary to remedy such deficiencies, as described in subparagraph (h) above.

(m) Franchisee must operate Franchisee's Studio for at least hours and days that Franchisor specifies in the Operations Manual or otherwise in writing, unless Franchisor approves a different operations schedule in a separate writing that Franchisee requests to accommodate Franchisee's obligations or restrictions under the Lease for the Approved Site. Franchisee (or at least one of Franchisee's principals if Franchisee is an entity or partnership) must personally supervise the day-to-day operations of the Studio and devote Franchisee's personal full-time attention to the management and operation of the Studio. Franchisee may, however, delegate the day-to-day management of Franchisee's Studio to a Designated Manager. Franchisor must approve Franchisee's Designated Manager and Franchisee's Designated Manager must successfully complete Franchisor's initial training program at Franchisee's expense before assuming any managerial responsibility. In the event that Franchisee operates

more than one (1) Studio, Franchisee shall have a properly trained Designated Manager who has been approved by Franchisor at each location. Franchisee shall keep Franchisor informed at all times of the identity of any employee acting as Designated Manager of a Studio. Designated Managers shall devote full time and best efforts to the day-to-day operation and management of the Studio and shall not engage in any other business activity without Franchisor's prior written consent.

(n) Franchisee shall purchase and use any and all computer software programs (collectively, the "Software") which Franchisor has developed or may develop and/or designate for use for the System, including all software associated with the Designated POS System, and shall purchase such computer hardware as may be necessary for the efficient operation of the Software. Franchisor has the right to require Franchisee to update or upgrade computer hardware components and/or Software as Franchisor deems necessary from time to time. In addition, Franchisor has the right to require Franchisee to enter into a separate agreement for such computer hardware and/or Software. Notwithstanding the fact that Franchisee must buy, use and maintain the computer hardware and Software meeting Franchisor's standards and specifications, Franchisee will have the sole and complete responsibility for: (i) the acquisition, operation, maintenance and upgrading of the computer hardware and Software; and (ii) any and all consequences that may arise if the computer hardware and Software is not properly operated, maintained and upgraded.

(o) Franchisee is required to participate in any System-wide area computer network, intranet system or extranet system that Franchisor implements and may be required by Franchisor to use such area computer network, intranet system or extranet system to, among other things: (i) submit Franchisee's reports due under this Agreement to Franchisor online; (ii) view and print portions of the Operations Manual; (iii) download approved local advertising materials; (iv) communicate with Franchisor and other System franchisees; and (v) participate in online training. Franchisee agrees to use the facilities of any such area computer network, intranet system or extranet system in strict compliance with the standards, protocols, and restrictions that Franchisor includes in the Operations Manual, including those related to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements.

**5.4 Participation in Reciprocity Programs.** At this time, Franchisee is not required, but may allow, reciprocity in their Studio. Franchisor reserves the right to approve any reciprocity program offered by a Franchisee and the right to establish the pricing for a "drop in fee" for members of another Studio, as set forth in the Operations Manual or otherwise in writing by Franchisor.

**5.5 Advertising, Marketing and Promotion of Studio; Pre-Opening Sales Activity.**

(a) *Grand Opening Advertising Expense and Corresponding Pre-Opening Sales Activity.* Franchisee must spend between twenty thousand dollars (\$20,000) and thirty thousand dollars (\$30,000) on a grand opening marketing plan that is approved in advance by Franchisor (the "Grand Opening Marketing Expense"), with the parties agreeing that Franchisor will designate the exact amount of the foregoing expense within a reasonable time after Franchisee has secured an Approved Site and the parties have started discussing the Grand Opening Marketing Expense plan. Franchisor may require that Franchisee expend all or any portion of the Grand Opening Marketing Expense from one (1) or more of its Required Suppliers for the applicable kind of products and services. Franchisee must submit a plan for how to expend the Grand Opening Marketing Expense at least one hundred and twenty (120) days prior to the contemplated opening of the Studio.

(i) The Grand Opening Marketing Expense will be used to fund a grand opening advertising program conducted in accordance with the general guidelines for such a program in the Operations Manual and/or as Franchisor otherwise designates or approves in writing.

(ii) Before Franchisor grants Franchisee permission to schedule instructor training and in-studio operations training and otherwise allow you to open the Studio to the public, Franchisee must have pre-sold the minimum number of paid memberships Franchisor requires with respect to the Studio, with the intent and effect that such pre-sold memberships will commence immediately on the opening date of the Studio (“Pre-Sale Memberships”). Franchisee may not outsource this obligation to a third-party and must also attend the pre-sales training phone calls.

(iii) In addition to covering initial marketing and advertising materials and other creative designated to promote the initial launch and operations of the Studio, the Grand Opening Marketing Expense and corresponding plan will cover certain pre-opening sales activities that Franchisee will be required to conduct for 90 days prior to opening in an effort to generate client interest/participation and corresponding initial memberships or other commitment to patronize the Studio when the Studio commences operations (collectively, the “Pre-Opening Sales Activities”), with such Pre-Opening Sales Activities to be designated or approved by Franchisor as set forth in the Operations Manual or otherwise in writing. In the event Franchisee is unable to conduct the Pre-Opening Sales Activities from the Approved Site, then Franchisee may be required to conduct such activities from a temporary facility located at or near the site of its future Studio at Franchisor’s sole discretion, and such temporary site must meet the System standards and criteria set forth in the Operations Manual and subject to Franchisor’s approval. Franchisee must successfully complete the Corporate Initial Training before engaging in any Pre-Opening Sales Activities.

(c) *Local Advertising Requirement.* Franchisee shall spend a minimum of \$3,000 each month (excluding labor charges) on local advertising and promotion that conforms to the specifications in the Operations Manual (the “Local Marketing Requirement”). For purposes of this paragraph, “local advertising and promotion” means marketing that is primarily directed to persons or entities within Franchisee’s Designated Territory. Franchisee shall submit, on or before the fifth (5<sup>th</sup>) day of each month, copies of invoices or receipts to Franchisor for advertising materials or media or both showing compliance with the provisions of this paragraph during the immediately preceding month. Franchisor reserves the right to increase the Local Marketing Requirement to up to \$4,000 per month upon 30 days’ written notice to Franchisee.

(d) If and when Franchisor establishes a Brand Fund, Franchisor may require Franchisee to contribute an amount equal to up to two percent (2%) of the Net Cash In generated by the Studio (the “Fund Contribution”), with such Fund Contribution payable to Franchisor at the same time and in the same manner as Franchisee’s Royalty Fees.

(i) Franchisor or its designee (including any Related Party) shall direct all advertising programs conducted by the Brand Fund, with sole discretion over the concepts, materials, and media used in such programs and the placement and allocation thereof. Franchisee acknowledges and agrees that the Brand Fund is intended to maximize general public recognition, acceptance, and use of the System; and that Franchisor and its designee (including its Related Parties) are not obligated, in administering the Brand Fund, to make expenditures for Franchisee that are equivalent or proportionate to Franchisee’s contribution, or to ensure that Franchisee benefits directly or *pro rata* from expenditures

by the Brand Fund. Franchisor is not required to spend all or any of Franchisee's contributions within Franchisee's Designated Territory. Franchisee acknowledges and agrees that Franchisor's administration of the Brand Fund does not create any fiduciary relationship between Franchisee and Franchisor.

(ii) The Brand Fund, all contributions thereto, and any earnings thereon, shall be used for: (i) preparing, directing, conducting, placing, and administering advertising, marketing, public relations, and/or promotional programs and materials (both traditional and digital and via the Website), (ii) creating and implementing training tools and/or technology solutions and related integration tools, and (iii) any other activities that Franchisor determines might enhance and/or support the System, Proprietary Marks and/or Approved Products or Services. The Brand Fund may also be used to provide rebates or reimbursements to franchisees for local expenditures on products, services, or improvements, approved in advance by Franchisor, which products, services, or improvements Franchisor deems, in its sole discretion, will promote general public awareness and favorable support for the System.

(iii) The Brand Fund will be accounted for separately from Franchisor's other funds. While Franchisor's intent is to balance the Brand Fund on an annual basis, periodically the Brand Fund may run at either a surplus or deficit. All disbursements from the Brand Fund shall be made first from income and then from contributions. Franchisor may spend in any fiscal year an amount greater or less than the aggregate contributions of all Studios to the Brand Fund in that year, and the Brand Fund may borrow from us or other lenders to cover deficits in the Brand Fund or cause the Brand Fund to invest any surplus for future use by the Brand Fund. Any money remaining in the Brand Fund at the end of any fiscal year will carry forward to be used in the next fiscal year. Franchisor will prepare annually an unaudited statement of monies collected and costs incurred by the Brand Fund and furnish Franchisee a copy upon Franchisee's written request. Franchisor is not required to have the Fund audited, but may do so and use the Fund Contributions to pay for such an audit. Except as otherwise expressly provided in this Agreement, Franchisor assumes no direct or indirect liability or obligation with respect to the maintenance, direction or administration of the Brand Fund. Franchisor does not act as a trustee or in any other fiduciary capacity with respect to the Brand Fund.

(iv) Although the Brand Fund is intended to be of perpetual duration, Franchisor maintains the right to modify or discontinue the Brand Fund at its sole discretion.

(e) Franchisee shall permanently display, at Franchisee's own expense, on Franchisee's Studio, signs of any nature, form, color, number, location and size, that (i) bear the Proprietary Mark(s), and (ii) containing any legends or disclaimer statements, that Franchisor designated in the Operations Manual or otherwise in writing.

(f) *Advisory Council (Marketing and Advertising)*. Franchisor may, in its discretion, seek the advice of Studio owners by formal or informal means with respect to the creative concepts and media used for programs financed by the Brand Fund. Franchisor reserves the right (but has no obligation) to establish a Marketing and Advertising Advisory Council ("MAAC"). If formed, Franchisor will appoint members of the MAAC and the MAAC will serve only in an advisory capacity, and Franchisor will be under no obligation to follow or otherwise agree with any advice rendered by the MAAC. Franchisor will have the final authority for all aspects of the MAAC. Franchisor will have the right to change or dissolve the MAAC at any time.

(g) *Hardware and Software.* Franchisee must have and maintain adequate hardware and software in order to for its personnel and Studio clientele to access the Internet at the bit speed Franchisor requires from time to time via Wi-Fi or then-current comparable technology throughout the term of this Agreement. Franchisee is prohibited, however, from establishing any website or other presence on the Internet, except as provided herein.

(i) Franchisor may, but is not obligated to, establish an Internet website that provides information about the System and the products and services offered by Franchised Businesses. In the event Franchisor exercises its right to create such a website, Franchisor shall have sole discretion and control over the website (including timing, design, contents and continuation).

(ii) Franchisor may, but is not obligated to, create interior pages on its website(s) that contain information about the Franchised Business and other Spenga franchised business locations. If Franchisor does create such pages, Franchisor may require Franchisee to prepare all or a portion of the page for the Franchised Business, at Franchisee's expense, using a template that Franchisor provides. All such information will be subject to Franchisor's approval prior to posting.

(iii) Franchisor has established and will maintain a Facebook page for the System. With Franchisor's prior written approval, Franchisee may be permitted to create and use web based platforms such as Facebook, Twitter, LinkedIn, Instagram, Snapchat, blogs and other networking websites that use the Proprietary Marks to promote the Franchised Business (collectively, the "Social Media Pages"). If such approval is granted by Franchisor, Franchisee must: (i) establish and operate such Social Media Pages in accordance with System standards and any other policies Franchisor designates in the Operations Manual or otherwise in writing from time to time; and (ii) utilize any templates that Franchisor provides to Franchisee to create and/or modify such Social Media Pages. Franchisee must update the content of any Social Media Page and/or networking site at the times and in the manner directed by Franchisor.

(iv) Franchisor shall have the right to modify the provisions of this Section relating to Internet websites and Social Media Pages as Franchisor deems necessary or appropriate in the best interest of the System.

(v) Franchisee acknowledges that Franchisor and/or Franchisor's affiliates are the lawful, rightful and sole owner of the Internet domain name <http://www.spenga.com>, as well as any other Internet domain names registered by Franchisor, and unconditionally disclaims any ownership interest in such domain names and any Internet domain names colorably similar thereto. Franchisee agrees not to register any Internet domain name in any class or category that contains words used in or similar to any brand name owned by Franchisor or Franchisor's affiliates or any abbreviation, acronym, phonetic variation or visual variation of those words.

(h) *Search Engine Optimization.* Franchisee must pay Franchisor or its designee its then-current search engine optimization fee, which is currently \$169 per month, and otherwise use Franchisor's then-current supplier for these services.

(i) *Presales Social Media Coordinator.* Franchisee must use Franchisor's Approved Supplier for certain presales marketing. The Approved Supplier currently charges \$375 per month. Franchisee is obligated to engage these services 90-120 days prior to opening the Franchised Business.

(j) Franchisor will have the right, in Franchisor's discretion, to establish, change, merge, or dissolve a regional advertising and promotional cooperative ("Cooperative"), for any designated geographical area of Franchisor's choosing. If established, each Cooperative may not be governed by written documents, and any governing documents that are in place will be available for review by the member franchisees. If the Franchised Business is in a designated area where a Cooperative is established, Franchisee must become a member of the Cooperative and contribute to and participate in the Cooperative. Cooperative contributions will be credited towards the Local Marketing Requirement discussed in Section 5.5(b).

(k) Each Cooperative will be organized and governed in a form and manner, and will commence operation on a date, approved in advance by Franchisor;

(ii) Each Cooperative will be organized for the exclusive purpose of administering regional advertising programs and developing, subject to Franchisor's approval, standardized advertising materials for use by the members in local marketing;

(iii) No promotional or advertising plans or materials may be used by a Cooperative or furnished to its members without Franchisor's prior approval. All such plans and materials must be submitted to Franchisor in accordance with the procedure set forth in Section 5.5 hereof;

(iv) The Cooperative's activities will be agreed upon by a majority vote of the member franchisees in the Cooperative. All Cooperative contributions will be credited against the Local Marketing Requirement. The Cooperative may, by the majority vote of its members, require a Cooperative contribution in excess of the Local Marketing Requirement (as defined in Section 5.5(b)).

#### 5.6 **Recording and Reporting Obligations.**

(a) Franchisee shall record all sales and all receipts of revenue on individual serial-numbered receipts. Bank Deposits must validate all receipts. Franchisee shall retain daily sales reporting forms and accompanying records for at least three years after the date of sale (or for a longer period if required by state or local law). Franchisee shall retain all other records and receipts used in the ordinary course of business. Franchisee shall furnish all records to Franchisor upon request. Franchisee (i) shall use the Designated POS System, as well as any related technology system associated with the Studio operations and/or the provision of its Approved Services and/or Approved Products, and (ii) must ensure that (A) all Studio personnel is properly trained with respect to utilizing the Designated POS System, (B) that all sales, client management, payment processing transactions can be properly recorded and/or effectuated for the Studio, at all times during the term of this Agreement, and (C) Franchisee takes all actions within its power to ensure that Franchisor has independent access to review, compile and otherwise access the Designated POS System and all data stored on that system. Unless Franchisee requests otherwise in writing and Franchisor agrees to such request in writing, Franchisee's fiscal year will be the standard calendar year ending December 31<sup>st</sup> each year.

(b) Franchisee shall submit to Franchisor, on or before the tenth (10<sup>th</sup>) day following the end of each month, financial reports for the immediately preceding month regarding the income and expenses of the Studio in the format specified in the Operations Manual, regardless of whether Franchisor has access to such reports and information via the Designated POS System. Franchisee shall also submit to Franchisor, at the time of filing, copies of all of its federal, state and local income, sales, and property tax returns. Franchisee will also provide such other reports as Franchisor may from time to time require, in the form and at the time Franchisor prescribes.

Franchisee acknowledges that Franchisor will use this data to confirm that Franchisee is complying with Franchisee's obligations under this Agreement and to formulate earnings and expense information for possible disclosure to prospective franchisees. To assist Franchisee in recording and keeping accurate and detailed financial records for reports and tax returns, Franchisor, at Franchisor's discretion, may specify the form in which the business records are to be maintained, provide a uniform set of business records for Franchisee to use, and specify the type of cash register or other equipment to be used in connection with the Studio.

5.7 **Insurance.** Franchisee shall, at all times, maintain insurance coverage in the following areas, which may be provided in more detail, modified or supplemented by Franchisor in the Operations Manual, or otherwise in writing to Franchisee:

(a) Workers' compensation insurance in amounts prescribed by applicable law in Franchisee's Designated Territory;

(b) Extended coverage for theft, vandalism and malicious mischief for all equipment, supplies and other property used in the operation of the Studio (of not less than 100% of the replacement value of the same, except that an appropriate deductible clause will be permitted);

(c) Business interruption insurance; and

(d) Comprehensive general liability insurance and product liability insurance coverage in such amounts and upon such terms as may from time to time be customary for a fitness business located in Franchisee's Designated Territory, but not less than \$1,000,000, insuring both Franchisee and Franchisor (including Franchisor's Related Parties, and their successors, and assigns) against all claims, suits, obligations, liabilities and damage, including attorneys' fees, based upon or arising out of actual or alleged personal injuries or property damage relating to the use or condition of Franchisee's Studio.

(e) Franchisee must also obtain any insurance required by the lease of the Studio, or by any of Franchisee's lenders or equipment lessors. Each insurance policy that is required under this Agreement shall contain a provision that such policy cannot be canceled without thirty (30) days' written notice to Franchisor. Each such policy shall be issued by an insurance company of recognized responsibility, designate Franchisor as an additional named insured, and be satisfactory to Franchisor in form, substance and coverage. Franchisee shall deliver a certificate of the issuing insurance company evidencing each policy to Franchisor prior to the Studio opening for business and within thirty (30) days prior to the date the policy is renewed. Franchisee must notify Franchisor immediately of any insurance claims or insurance cancellations, and Franchisee will have twenty-four (24) hours to cure any lapses in insurance coverage. If Franchisee fails to comply with the minimum insurance requirements set forth in this Agreement, Franchisor has the right to obtain such insurance and Franchisee shall pay Franchisor, on demand, the premium cost thereof and administrative costs of eighteen percent (18%) in connection with Franchisor's obtaining the insurance.

## 5.8 **Compliance with all Applicable Laws and Regulations.**

(a) Franchisee shall comply with all federal, state, and local laws and regulations pertaining, directly or indirectly, to the Studio. Franchisee shall keep current all licenses, permits, bonds, and deposits made to or required by any government agency in connection with the operation of the Studio, including any states which may require a bond to operate a health club that sells twelve (12) month memberships. Franchisor is not responsible for researching state and local laws, or for maintaining or paying for any licenses, permits, bonds, deposits, or taxes on behalf of Franchisee.

Franchisee acknowledges that has been advised to retain local counsel to advise on these matters.

(b) Franchisee shall pay promptly when due all taxes, obligations, liabilities and debts that Franchisee incurs in the operation of the Studio.

(c) Franchisee acknowledges and agrees that Franchisee will be solely responsible for all employment decisions and functions related to the Studio, including, without limitation, those decisions relating to hiring, firing, establishing wage and hour requirements, discipline, supervision, and record keeping.

5.9 **Pricing.** 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 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.

5.10 **Working Capital.** Franchisee must at all times maintain such working capital as may be reasonably necessary to enable Franchisee to properly and fully carry out and perform all of Franchisee's duties, obligations and responsibilities hereunder and to operate the Studio in a businesslike, proper and efficient manner.

5.11 **Pending Actions.** Franchisee shall notify Franchisor, in writing, within five (5) days of the commencement of any action, suit or proceeding or the issuance of any order, suit or proceeding of any court, agency or other government instrumentality, including the receipt of any notice or citation, which may adversely affect the operation or financial condition of Franchisee or the Studio.

5.12 **Payment of Debts.** Franchisee is solely responsible for selecting, retaining and paying Franchisee's employees; the payment of all invoices for the purchase of goods for use in the Studio; and determining whether, and on what terms, to obtain any financing or credit which Franchisee deems advisable or necessary for the conduct of the Studio. Franchisee agrees to pay all current obligations and liabilities to suppliers, lessors and creditors on a timely basis. Franchisee agrees to indemnify Franchisor in the event that Franchisor elects to pay any of Franchisee's obligations in order to preserve the relationship between System suppliers and System franchisees. Franchisee agrees to make prompt payment of all federal, state and local taxes, including individual and corporate taxes, sales and use taxes, franchise taxes, gross receipts taxes, employee withholding taxes, FICA taxes, and personal property and real estate taxes, arising from Franchisee's operation of the Studio. Franchisee agrees to indemnify Franchisor in the event that Franchisor is held responsible for these taxes.

## 6. RELATIONSHIP OF PARTIES

### 6.1 **Limitations on Use of Proprietary Marks**

(a) Franchisee shall use only the Proprietary Marks which Franchisor designates in connection with the operation of the Franchised Business, and shall use them only in the manner Franchisor authorizes and permits.

(b) Franchisee shall use the Proprietary Marks only for the marketing and operation of the Franchised Business and only in the Designated Territory.

(c) Franchisee shall use all Proprietary Marks without prefix or suffix and in conjunction with the symbols "TM," "SM," "S," or "®," as applicable. Franchisee may not use the Proprietary Marks in connection with the offer or sale of any services or products which

Franchisor has not authorized for use in connection with the System. Franchisee may not use the Proprietary Marks as part of Franchisee's corporate or other legal name. Franchisee's corporate name and all fictitious names under which Franchisee proposes to do business must be approved by Franchisor in writing before use, and such corporate or other legal entity name may not include any of the Proprietary Marks. If and only as requested by Franchisor in writing, Franchisee must promptly register the trade name that Franchisor designates to identify Franchisee as part of the Franchisor's franchise system as a fictitious business name and/or trade name (as Franchisor directs) with the appropriate county or state authority(ies) wherein the Studio is located in the name of Franchisor, its affiliate or Franchisee directly (as directed by Franchisor and at Franchisee's expense).

(d) Franchisee must identify itself as the independent owner of the Franchised Business (in the manner Franchisor prescribes) in conjunction with any use of the Proprietary Marks including, without limitation, on invoices, order forms, receipts, customer forms and questionnaires, business stationery, and advertisements, as well as at such conspicuous locations as Franchisor may designate in writing at the Franchised Business premises.

(e) Franchisee's right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute an infringement of Franchisor's rights.

(f) Franchisee shall not use the Proprietary Marks to incur any obligation or indebtedness on Franchisor's behalf.

(g) Franchisee shall execute all documents Franchisor deems necessary to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability.

(h) Franchisee must promptly notify Franchisor of any suspected unauthorized use of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to Franchisor's ownership of, Franchisor's right to use and to license others to use, or Franchisee's right to use, the Proprietary Marks or Franchisor's operations manual, instructor training manual, proprietary software, or any other proprietary material (collectively the "Proprietary Material"). Franchisee acknowledges that Franchisor has the sole right to direct and control any administrative proceeding or litigation involving the Proprietary Material, including any settlement thereof. Franchisor has the right, but not the obligation, to take action against uses by others that may constitute infringement of Franchisor's rights to the Proprietary Material. Franchisor shall defend Franchisee against any third-party claim, suit, or demand arising out of Franchisee's use of the Proprietary Material. If Franchisor, in Franchisor's sole discretion, determines that Franchisee has used the Proprietary Material in accordance with this Agreement, Franchisor shall bear the cost of such defense, including the cost of any judgment or settlement. If Franchisor, in Franchisor's sole discretion, determines that Franchisee has not used the Proprietary Material in accordance with this Agreement, Franchisee shall bear the cost of such defense, including the cost of any judgment or settlement. In the event of any litigation relating to Franchisee's use of the Proprietary Material, Franchisee shall execute any and all documents and do such acts as may, in Franchisor's opinion, be necessary to carry out such defense or prosecution including, without limitation, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of Franchisee's use of the Proprietary Material in a manner inconsistent with the terms of this Agreement, Franchisor agrees to reimburse Franchisee for Franchisee's out-of-pocket costs in performing such acts.

(i) Franchisee expressly understands and acknowledges that:

(i) Franchisor or its affiliates own all right, title, and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them, and Franchisor has the right to use, and license others to use, the Proprietary Marks;

(ii) The Proprietary Marks are valid and serve to identify the System and those who are authorized to operate under the System;

(iii) During the term of this Agreement and after its expiration or termination, Franchisee shall not directly or indirectly contest the validity of, or Franchisor's ownership of, or right to use and to license others to use, the Proprietary Marks or any other Proprietary Material;

(iv) Franchisee's use of the Proprietary Material does not give Franchisee any ownership interest or other interest in or to the Proprietary Material;

(v) Any and all goodwill arising from Franchisee's use of the Proprietary Material shall inure solely and exclusively to Franchisor's benefit, and upon expiration or termination of this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee's use of the System, the Proprietary Marks, or any other Proprietary Material;

(vi) Except as specified in this Agreement, the license of the Proprietary Marks granted to Franchisee hereunder is non-exclusive and Franchisor retains the right, among others, to: (i) use the Proprietary Marks itself in connection with selling products and services; (ii) grant other licenses for the Proprietary Marks; and (iii) develop and establish other systems using the Proprietary Marks, similar proprietary marks, or any other proprietary marks, and to grant licenses thereto without providing any rights therein to Franchisee; and

(vii) Franchisor reserves the right, in Franchisor's sole discretion, to substitute different proprietary marks for use in identifying the System and the businesses operating thereunder. Franchisee shall discontinue using all Proprietary Marks which Franchisor has notified Franchisee, in writing, have been modified or discontinued within (10) days of receiving written notice and, at Franchisee's sole cost and expense, shall promptly begin using such additional, modified or substituted Proprietary Marks.

6.2 **Independent Status.** Franchisee is an independent legal entity and shall identify itself as such in Franchisee's dealings with suppliers, lessors, government agencies, employees, customers and others. Franchisee and Franchisor are not fiduciaries, partners, joint venturers, or agents of the other, and neither party has the right to bind the other. No act or assistance by either party to the other pursuant to this Agreement may be construed to alter this relationship. Franchisee shall rely on Franchisee's own knowledge and judgment in making business decisions, subject only to the requirements of this Agreement and the Operations Manual. Franchisee may not expressly or implicitly hold any of Franchisee's representatives out as an employee, partner, shareholder, member, joint venturer or representative of Franchisor, nor may Franchisee expressly or implicitly state or suggest that Franchisee has the right or power to bind Franchisor or to incur any liability on Franchisor's behalf. Franchisee may not use the Proprietary Marks as part of Franchisee's corporate name, limited liability company name, or limited partnership name. 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, or vice versa.

6.3 **Display of Disclaimer.** Franchisee shall conspicuously display a sign that states that "THIS SPENGA STUDIO IS AN INDEPENDENTLY OWNED AND OPERATED FRANCHISED BUSINESS" within the Franchisee's Studio. Business cards, membership agreements, stationery, purchase order forms, invoices, and other documents that Franchisee uses in the operations of the Studio with suppliers, government agencies, employees and customers shall clearly identify Franchisee as an independent legal entity.

6.4 **Confidentiality and Non-Disclosure; Ensuring Appropriate Personnel Sign Prescribed form of Agreement.** Franchisee acknowledges and agrees that the information, ideas, forms, marketing plans and other materials disclosed to Franchisee under this Agreement or in the Operations Manual and Instructor Training Manual are confidential and proprietary information and trade secrets of Franchisor. Any and all such information and such other information, knowledge, and techniques which Franchisor designates as confidential shall be deemed confidential for purposes of this Agreement, except information which Franchisee can demonstrate came to Franchisee's attention prior to disclosure thereof by Franchisor or which, at or after the time of disclosure by Franchisor to Franchisee, had become or later becomes a part of the public domain, through publication or communication by others. Such confidential information, includes, without limitation, the following: (i) location selection criteria and plans and specifications for the development of the Studio; (ii) methods, format, specifications, standards, systems, procedures set forth in the Operations Manual, any component of the initial training and/or otherwise in writing, including but not limited to, all training provided by Franchisor via the Remote Initial Training, Corporate Initial Training and/or Additional/Remedial Training; (iv) knowledge of specifications for and suppliers of certain fixtures, furnishings, equipment, products, materials and supplies; (v) knowledge of the operating results and financial performance and all other performance-related information of any and all Studios; (vi) methods of training and management relating to Studios; (vii) any and all specifications and supplier relationships related to the Designated POS System, as well as any and all day stored or that is required to be entered or stored on that system, including without limitation, all information related to the Studio's clientele and the clientele of every other Studio in the System network; and (viii) any and all other information related to Franchisee's Studio or any Studio generally that is labeled proprietary or confidential, which includes, without limitation, all customer and membership lists and information (collectively, the "Confidential Information"). Franchisor's Confidential Information specifically includes: (i) current customer and prospective customer names and addresses; (ii) information about credit extensions to customers; (iii) customer service purchasing histories; (iv) rates charged to customers; and (v) sources of suppliers. Franchisee agrees to maintain the confidentiality of all such information. Franchisee may not disclose any such information to any third party, except to Franchisee's employees and agents as necessary in the regular conduct of the Studio and except as authorized in writing by Franchisor. Franchisee shall be responsible for requiring compliance of Franchisee's Related Parties and employees with the provisions of this Section. Without limiting the foregoing, Franchisee shall obtain signed Nondisclosure and Noncompetition Agreements, in the form of Exhibit F and Exhibit G to this Agreement, from Franchisee's Related Parties and other appropriate Studio management, Instructors and other personnel will have access to the Confidential Information, and must provide Franchisor with a signed copy of the same for each individual that Franchisee wishes to involve with initial Studio operations before Franchisee and its required trainees are eligible to attend Corporate Initial Training.

6.5 **Indemnification.** Franchisee and Franchisee's principals agree to indemnify, defend and hold Franchisor, Franchisor's affiliates and their respective shareholders, directors, officers, employees, agents, successors and assignees ("Indemnitees") harmless against and to reimburse them for all claims, obligations, liabilities and damages ("Claims"), including any and all taxes, directly or indirectly arising out of, in whole or in part: (i) the operation or management of Franchisee's Studio, including the use, condition, or construction, equipping, decorating, maintenance or day-to-day operation of the Studio, the sale of any service or products, and Franchisee's advertising; (ii) Franchisee's use of the Proprietary Marks, if Franchisee fails to use the Proprietary Marks in accordance with this Franchise Agreement and the

Operations Manual(s); (iii) the transfer of any interest in this Agreement or Franchisee's Studio in any manner not in accordance with this Agreement; (iv) the infringement, alleged infringement, or any other violation or alleged violation by Franchisee or any of Franchisee's principals of any patent, mark or copyright or other proprietary right owned or controlled by third parties; or (v) libel, slander or any other form of defamation of Franchisor, the System or any franchisee or developer operating under the System, by Franchisee or by any of Franchisee's principals. For purposes of this indemnification, the term "Claims" shall mean and include all obligations, actual, consequential, punitive and other damages, and costs reasonably incurred in the defense of any action, including attorneys', attorney assistants' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether or not such claims exceed the amount of insurance coverage available through Franchisee to Franchisor. Franchisor shall have the right, though not the obligation, to defend any such Claim against it in such manner as Franchisor deems appropriate or desirable in Franchisor's sole discretion. Such an undertaking by Franchisor shall, in no manner or form, diminish Franchisee's and each of Franchisee's principals' obligation to indemnify the Indemnitees and to hold them harmless. This indemnity shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

6.6 **Covenants Against Competition and Other Restrictive 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 Related Parties, 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:

(i) 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) offers, sells or provides (1) classes, memberships, training or instruction that incorporates spinning or yoga or any kind of strength and interval training components, (2) other fitness, health club, gym or personal training services (regardless of whether provided from a dedicated facility) that involve or incorporate any of the equipment, products and services that are the same or similar to the Approved Products or Approved Services that Franchisor has authorized Studios to offer or provide (collectively, 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;

(ii) 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

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

(iv) Contact or solicit any Required Supplier or other supplier that Franchisee is using in connection with the Franchised Business for any competitive purpose.

(b) After the Term of this Agreement.

(i) 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 Related Parties, 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.

(ii) 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:

1. at the Approved Site;
2. within the Designated Territory; or
3. within a fifteen (15) mile radius of (a) the Designated Territory or (b) any other Studio that is open, under lease or otherwise under development as of the date this Agreement expires or is terminated;

(B) Solicit, or otherwise attempt to divert, business from customers of Franchisee's former Franchised Business; or

(C) Contact any of Franchisor's Required Suppliers any competitive business purpose.

6.7 **Intent and Enforcement.** It is the parties' intent that the provisions of this Section 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 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 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, 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 6.7 that each has previously worked or been gainfully employed in other careers and that the provisions of this Section 6.7 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 6.6(b) shall be tolled during any default under this Section.

6.8 **New Concepts.** If Franchisee, Franchisee's employees, or Franchisee's principals develop any new concept, process or improvement in the operation or promotion of the Studio, Franchisee shall promptly notify Franchisor and provide Franchisor with all necessary related information, without compensation. Any such concept, process or improvement shall become Franchisor's sole property and Franchisor shall be the sole owner of all patents, patent applications, trademarks, copyrights and other intellectual property rights related thereto. Franchisee and Franchisee's principals hereby assign to Franchisor any rights Franchisee may have or acquire therein, including the right to modify such concept, process or improvement, and otherwise waive and/or release all rights of restraint and moral rights therein and thereto. Franchisee and Franchisee's principals agree to assist Franchisor 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 Franchisor with all necessary documentations for obtaining and enforcing such rights. Franchisee and Franchisee's principals hereby irrevocably designate and appoint Franchisor as Franchisee's 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 the foregoing provisions of this Section 6.8 are found to be invalid or otherwise unenforceable, Franchisee and Franchisee's principals hereby grant to Franchisor 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 this Agreement, directly or indirectly infringe Franchisee's rights therein.

## 7. TRANSFER OF FRANCHISE

7.1 **Purpose of Conditions for Approval of Franchisee.** Franchisee acknowledges that Franchisor's grant of this franchise pursuant to this Agreement is made in reliance upon Franchisee's integrity, ability, experience and financial resources. Franchisee shall not, without the prior written consent of Franchisor (which can be withheld in Franchisor's sole discretion), directly or indirectly, Transfer, subcontract, pledge or otherwise encumber, sell, give, gift, assign or otherwise transfer: (a) this Agreement or the rights and obligations of Franchisee under this Agreement; (b) any material asset of Franchisee or the Studio; or (c) the Studio. In order to ensure that no Transfer adversely affects the Proprietary Marks or Franchisor's interest in the successful operation of the Studio, Franchisor will consent to such a Transfer only if Franchisee complies with the provisions of Sections 7.2 and 7.3 of this Agreement and if the conditions described in Section 9.3 are fulfilled (to the satisfaction of Franchisor).

7.2 **Notice of Proposed Transfer.** If Franchisee desires to make any such Transfer set forth in Section 7.1, Franchisee shall submit to Franchisor: (a) the form of franchise application currently in use by Franchisor, completed by the prospective transferee; (b) a written notice, describing all the terms and conditions of the proposed Transfer; and (c) Franchisee shall pay, before Transfer, a transfer fee amounting to ten thousand dollars (\$10,000) (the "Transfer Fee") plus any and all third-party broker fees. If Franchisor does not approve such Transfer, Franchisor will return the Transfer Fee to Franchisee after deducting Franchisor's direct costs incurred in connection with the evaluating or otherwise addressing Franchisee's transfer proposal.

### 7.3 Consent by Franchisor; Right of First Refusal.

(a) Franchisor will respond in writing to Franchisee's request for such a Transfer within thirty (30) days after receiving all the items in Section 7.2 and any additional information which Franchisor requests. Franchisor may withhold its consent to such Transfer in its sole discretion. Franchisor's consent to a Transfer does not constitute a waiver of any claims Franchisor may have against Franchisee, and Franchisor will have the right to disclose to any prospective transferee any revenue reports and other financial information concerning Franchisee and Franchisee's Studio.

(b) To the extent Franchisor consents to such Transfer, such consent shall be subject to certain conditions determined by Franchisor, including:

(i) Franchisor's satisfaction that the proposed transferee meets all of the criteria of character, business experience, financial responsibility, net worth and other standards that Franchisor customarily applies to new franchisees at the time of Transfer;

(ii) Payment of all Franchisee's outstanding amounts owed to Franchisor;

(iii) Franchisee's cure of all defaults under this Agreement, any other agreement between Franchisor, or its Related Parties, and Franchisee, and under the Operations Manual;

(iv) At Franchisor's option, transferee must sign the then-current form of franchise agreement (which may contain materially different terms than this Agreement);

(v) Franchisee paying Franchisor the Transfer Fee;

(vi) Signing by the transferee of an assumption of all liabilities and benefits this Agreement;

(vii) Completion by the transferee of Franchisor's initial training program to Franchisor's satisfaction;

(viii) Franchisee or transferee must provide Franchisor with a copy of the proposed form of purchase agreement relating to the proposed transfer, and must obtain Franchisor's written approval of the purchase agreement, which includes Franchisor's determination that the purchase price of the transfer is not so burdensome to the transferee so as to materially threaten the future operation of the Studio;

(ix) Transferee must obtain, within the time limits set by Franchisor, all permits and licenses required for the operation of the Studio;

(x) To the extent require by the terms of any leases or other agreements, the lessors or other parties must have consented to the proposed transfer; and

(xi) Franchisee shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and its Related Parties, successors, and assigns, and their respective members, managers, directors, officers, shareholders, partners, agents, representatives, servants, and employees, including claims arising under this

Agreement, any other agreement between Franchisee and Franchisor or its Related Parties, and federal, state, and local laws and rules.

(c) If, at any time during the Term of this Agreement, Franchisee receives a *bona fide* offer to purchase any of Franchisee's interests in this Agreement or the Franchisee's Studio, which offer Franchisee is willing to accept, Franchisee will communicate in writing to Franchisor the full terms of the offer and the name of the offeror. Franchisor may elect to purchase or lease the business on the terms set forth in the offer. If Franchisor elects to purchase or lease the business, Franchisor will give Franchisee written notice of the election within 30 days after receipt of Franchisee's written communication of the offer. If Franchisor fails to give the written notice of election within 30 days, Franchisee may sell or lease to the offeror on the terms offered, subject to the provisions relating to Transfer. The sale or lease must, however, be completed within 60 days of the termination of the 30 day period during which Franchisor may give written notice of election to purchase or lease; otherwise, an additional notice must be given to Franchisor and an additional option period must expire prior to any such transfer. If Franchisor elects to purchase or lease the business, Franchisor will have the right to substitute equivalent cash for any non-cash consideration included in the bona fide offer to purchase or lease the business and Franchisor and Franchisee will use their best efforts to complete the purchase or lease within 60 days from the date of Franchisor's notice of election to purchase or lease.

7.4 **Exemptions.** As used in this Agreement, the term "Transfer" does not mean an assignment from Franchisee to:

(a) Any Trustee, Guardian or Conservator for the account and benefit of a spouse, ancestor or descendent;

(b) Any business entity if the beneficial ownership of the business entity immediately following the assignment is the same and in the same proportions as the beneficial ownership immediately before the assignment. However, no such assignment will relieve the original party of any of its obligations under this Agreement, and the exemption described under this Section 7.4(b) is subject to: (i) Franchisee providing the information on the identity of the shareholders and officers of the corporation, the percentage of ownership, and the address where corporate records are maintained must be submitted promptly to Franchisor; and (ii) all owners of the assignee entity in such an assignment execute the appropriate form of personal guaranty attached to this Agreement as Exhibit B.

7.5 **Assignment Upon Death; Disability.** If Franchisee dies within the term of this Agreement, Franchisee's heirs or beneficiaries may have sixty (60) days within which to demonstrate to Franchisor's satisfaction that they meet all of the criteria of character, business experience, financial responsibility, net worth and other standards that Franchisor requires of new franchisees at that time. If Franchisor approves Franchisee's heirs or beneficiaries as transferees of the franchise and they meet the other conditions of Transfer, Franchisor will waive any Transfer fee in connection with the Transfer. If Franchisor advises Franchisee's heirs or beneficiaries in writing that Franchisor will not approve them as Transferees of the franchise, or if Franchisor fails to approve or disapprove the transfer within sixty (60) days following Franchisee's death, Franchisee's heirs or beneficiaries may have one hundred twenty (120) additional days from the date of disapproval of the transfer or the end of the sixty (60) day period, whichever is first, within which to find and notify Franchisor of a proposed Transfer to a qualified buyer in conformity with the provisions of Sections 7.2, 7.3, and 7.5 of this Agreement. If Franchisee's heirs or beneficiaries do not advise Franchisor of a qualified buyer within the specified period, the franchise will automatically terminate at the end of the period unless Franchisor has granted a written extension of time.

Upon Franchisee's permanent disability or the permanent disability of any person with a controlling interest in Franchisee, Franchisor may, in its sole discretion, require such interest to be transferred to a third party in accordance with the conditions described in this Section 7 six (6) months after notice to Franchisee. "Permanent disability" shall mean any physical, emotional, or mental injury, illness, or incapacity that would prevent a person from performing the obligations set forth in this Agreement for at least six consecutive months and from which condition recovery within six (6) consecutive months from the date of determination of disability is unlikely. Permanent disability shall be determined by a licensed practicing physician selected by Franchisor upon examination of such person or, if such person refuses to be examined, then such person shall automatically be deemed permanently disabled for the purposes of this Section 7.5 as of the date of refusal. Franchisor shall pay the cost of the required examination.

7.6 **Assignment by Franchisor.** Franchisor shall have the right to assign this Agreement and all or any part of its rights or obligations under this Agreement in its sole discretion, and any assignee of Franchisor shall become solely responsible for all obligations of Franchisor under this Agreement from the date of assignment.

## 8. TERMINATION OF FRANCHISE

8.1 **Termination by Consent of the Parties.** This Agreement may be terminated upon the mutual written consent of the parties.

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

(a) **Voluntary Bankruptcy.** If Franchisee makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated bankrupt or insolvent, files or acquiesces in the filing of a petition seeking reorganization or arrangement under any federal or state bankruptcy or insolvency law, or consents to or acquiesces in the appointment of a trustee or receiver for Franchisee or the Studio.

(b) **Involuntary Bankruptcy.** If proceedings are commenced to have Franchisee adjudicated bankrupt or to seek Franchisee's reorganization under any state or federal bankruptcy or insolvency law, and such proceedings are not dismissed within sixty (60) days, or a trustee or receiver is appointed for Franchisee or the Studio without Franchisee's consent, and the appointment is not vacated within sixty (60) days.

(c) **Unauthorized Transfer.** If Franchisee purports to sell, Transfer, or otherwise dispose of Franchisee or any interest in the Studio in violation of Section 7 of this Agreement.

8.3 **With Notice and Without Opportunity to Cure.** Franchisor has the right to terminate this Agreement upon notice without providing Franchisee an opportunity to cure for any of the following breaches or defaults:

(a) **Criminal Acts.** If Franchisee or Franchisee's principals are convicted of or plead guilty or no contest to any felony, or take part in any criminal misconduct relevant to the operation of Franchisee's Studio.

(b) **Fraud and Misrepresentation.** If Franchisee or Franchisee's principals commit any fraud or misrepresentation in the operation of Franchisee's Studio or if Franchisee or Franchisee's principals make any misrepresentation or omission in connection with Franchisee's franchise application, including but not limited to any financial misrepresentation.

(c) Failure to Complete Training. If Franchisee fails to successfully complete initial training as provided in this Agreement.

(d) Repeated Breaches. If Franchisor sends Franchisee three (3) or more written notices to cure pursuant to Sections 8.4 or 8.5 hereof in any twelve (12) month period.

(e) Breach of Other Agreements. If Franchisee or Franchisee's principals materially breach any other agreement with Franchisor or any of Franchisor's affiliates or the lease for the Studio, or threaten any material breach of any such agreement or lease, and fail to cure such breach within any permitted period for cure.

(f) Misuse of the Proprietary Marks or Confidential Information. If Franchisee or Franchisee's principals materially violate any provision hereof pertaining to the Proprietary Marks or Franchisor's Confidential Information or misuse the Proprietary Marks or Franchisor's Confidential Information.

(g) Violation of Health Code. If Franchisee violates any health, safety or sanitation law, ordinance or regulation, including those regulating health and fitness centers, or operates the Studio in a manner that presents a health or safety hazard to customers, or the general public.

(h) Violation of In-Term Restrictive Covenant. If Franchisee violates any of the in-term restrictive covenants contained in this Agreement, including those related to non-competition or non-solicitation.

(i) Liens. If a levy or writ of attachment or execution or any other lien is placed against Franchisee or any of Franchisee's principals or any of their assets which is not released or bonded against within thirty (30) days.

(j) Insolvency. If Franchisee or any of Franchisee's principals become insolvent.

(k) Abandonment. If Franchisee voluntarily or otherwise abandons the Studio. The term "abandon" includes any conduct which indicates a desire or intent to discontinue the Studio in accordance with the terms of this Agreement and shall apply in any event where Franchisee fails to operate the Studio for a period of three (3) or more consecutive days without Franchisor's prior written approval.

(l) Unauthorized Products or Services. If Franchisee offers any unauthorized and unapproved products or services at or from the Studio.

(m) Unapproved Purchases. If Franchisee orders or purchases supplies, signs, services, furnishings, fixtures, equipment or inventory that Franchisee is required to purchase from an Required Supplier from a source other than Franchisor's then-current Required Supplier.

(n) Insurance. If Franchisee fails to maintain insurance or to repay Franchisor for insurance paid for by it, or otherwise fails to adhere to the insurance requirements of this Agreement.

(o) Government Regulations. If Franchisee fails, within fifteen (15) days after notification of non-compliance by federal, state or local government authorities, to comply with any law or regulation applicable to the Studio.

(p) Government Actions. If any government action is taken against Franchisee that results in any obligation upon Franchisor which in Franchisor's sole judgment is uneconomical, not in the best interests of Franchisor, or would result in Franchisor having an unintended relationship or obligation.

(q) Insufficient Funds. If there are insufficient funds in Franchisee's bank account to cover a check or EFT payment to Franchisor three (3) or more times within any twelve (12) month period.

8.4 **Upon 15 Days' Notice to Cure**. Franchisor has the right to terminate this Agreement if any of the following defaults remain uncured after providing notice and expiration of the fifteen (15) day cure period:

(a) Nonpayment. If Franchisee fails to pay as and when due any sums owed to Franchisor, Franchisor's affiliates, or Franchisor's approved or designated suppliers.

(b) Under-reporting. If any audit reveals that Franchisee has understated (i) the Net Cash In generated by the Studio, (ii) any amount owed to Franchisor based on such Net Cash In, or (iii) Franchisee's required advertising expenditures hereunder.

(c) Endorsement of Checks. If Franchisee fails to immediately endorse and deliver to Franchisor any payments due to Franchisor from any third party that is erroneously remitted to Franchisee.

(d) Failure to Maintain Sufficient Inventory Levels. If Franchisee fails to maintain sufficient levels of inventory to adequately meet consumer demand.

(e) Failure to Open. If Franchisee fails to secure a site, or commence operations of, Franchisee's Studio within the time periods prescribed in this Agreement.

(f) Interruption of Service. If Franchisee fails to maintain the prescribed days or hours of operation at the Studio.

(g) Failure to Personally Supervise Operations or Employ Adequately Trained Personnel. If Franchisee fails, in Franchisor's sole discretion, to personally supervise the day-to-day operation of the Studio or fails to employ a sufficient number of qualified, competent trained personnel as Franchisor requires from time to time.

(h) Quality Control. If Franchisee fails to maintain the strict quality controls reasonably required by this Agreement and/or the Operations Manual.

(i) Other Conduct Reflecting Adversely on System. If Franchisee conducts itself in a manner that, although not criminal, reflects adversely on the System, the Proprietary Marks, or the services or products offered through the System.

(j) Licenses and Permits. If Franchisee fails to procure or maintain any licenses, certifications, or permits necessary for the operation of Franchisee's Studio.

8.5 **Upon 30 Days' Notice to Cure**. Franchisor has the right to terminate this Agreement after providing notice and a thirty (30) day cure period if Franchisee fails to perform or comply with any one (1)

or more of the terms or conditions of this Agreement, the Operations Manual, or any ancillary agreements between Franchisee and Franchisor or Franchisor's affiliates.

8.6 **Rights and Obligations After Termination, Transfer, Nonrenewal, or Expiration.**

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

(a) Cease Ownership and Operation of Studio; 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 franchised Studio at or with respect to the Approved Site (unless Franchisor agrees otherwise in writing);

(b) Return Manuals and Confidential Information; Pay Outstanding Amounts Due.

(i) 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

(ii) Pay any outstanding amounts due to Franchisor, its affiliates or any Required 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 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 D.

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

(i) 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

(ii) Franchisee must cease holding itself out as a present franchisee of Franchisor or its franchise system and, upon Franchisor's request, as a past franchisee of Franchisor or the franchise system.

(e) Compliance with Post-Term Covenants. Comply with the post-term covenants not to compete and other restrictive covenants set forth in 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 to purchase any or all of the physical assets of the Studio, including its equipment, supplies and inventory, during a period of 60 days following the effective date of termination or non-renewal of this Agreement, valued as follows: (i) the lower of cost or fair market value of the supplies and inventory; and (ii) depreciated value of other tangible personal property calculated on the straight-line method over a five (5) year life, less any liens or encumbrances.

Franchisor shall send written notice to Franchisee within thirty (30) days after termination or non-renewal of this Agreement of its election to exercise such option to purchase. If the parties do not agree on a price within such thirty (30) day period, such thirty (30) day period may be extended for up to fifteen (15) business days to permit appraisal by an independent appraiser who is mutually satisfactory to the parties. If the parties fail to agree on an appraiser within the specified period, each will appoint an appraiser and the two appraisers appointed shall agree on a third appraiser within ninety days after termination or non-renewal who must determine the price for the physical assets of the Studio in accordance with the standards specified above. Such determination will be final and binding upon Franchisor and Franchisee.

Franchisor has an option to replace Franchisee as lessee under any equipment lease or note for equipment that is used in connection with the SPENGA Studio. Upon request by Franchisor, Franchisee shall give Franchisor copies of the leases for all equipment used in the SPENGA Studio immediately upon termination or non-renewal. Upon request by Franchisor, Franchisee shall allow Franchisor the opportunity, at a mutually satisfactory time, to inspect the leased equipment. Franchisor must request the information and access described in this paragraph within fifteen (15) days after termination or non-renewal; and it must advise Franchisee of its intention to exercise the option within fifteen (15) days after it has received the information and/or inspected the equipment. Franchisor may assume any equipment lease in consideration of its assumption of future obligations under such lease. Upon exercise of this option by Franchisor, Franchisee shall be fully released and discharged from future rents and other future liabilities under such lease if the terms of such lease permit it, but not from any debts to the lessor that already exist on the date when the option is exercised.

If Franchisor declines to purchase or assume such lease on Franchisee's equipment, Franchisee may sell it to either another SPENGA franchisee or, with Franchisor prior written approval, Franchisee may de-brand the equipment and sell it to a non-franchisee.

8.7 **No Limitation of Remedies.** No right or remedy conferred upon or reserved to Franchisor is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy. Nothing herein shall be construed to deprive Franchisor of the right to recover damages as compensation for lost future profits. Termination of this Agreement will not end any obligation of either party that has come into existence before termination. All obligations of the parties, which by their terms or by reasonable implication are to be performed in whole or in part after termination, shall survive termination.

8.8 **No Waiver.** No delay, waiver, omission, or forbearance on the part of Franchisor to exercise any right, option, duty, or power arising out of any breach or default by Franchisee under any of the terms, provisions, covenants, or conditions hereof, shall constitute a waiver by Franchisor to enforce any such right, option, duty, or power as against Franchisee, or as to subsequent breach or default by Franchisee. 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 Franchisee of any terms, provisions, covenants, or conditions of this Agreement.

## 9. MISCELLANEOUS PROVISIONS

9.1 **Construction of Contract.** Section headings in this Agreement are for reference purposes only and will not in any way modify the statements contained in any section of this Agreement. Each word in this Agreement may be considered to include any number or gender that the context requires. If there is any conflict between this Agreement and the Operations Manual, this Agreement will control.

### 9.2 **Governing Law, Dispute Resolution, Venue and Jurisdiction.**

(a) This Agreement is made in the State of Illinois and its provisions will be governed by and interpreted under the laws of that State.

(b) Franchisee must first bring any claim or dispute between Franchisee and Franchisor to Franchisor's management team, after providing notice as set forth in this Agreement. 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) 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 this Section, must be submitted first to non-binding mediation, in or near Franchisor's place of business in Illinois under the auspices of the American Arbitration Association ("AAA"), in accordance with the 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 shall bear its own cost of mediation and Franchisor and Franchisee shall share mediation costs equally. Franchisor and Franchisee shall make a good faith attempt to resolve any dispute in mediation. This agreement to mediate shall survive any termination or expiration of this Agreement. The parties agree that there will be no class action mediation. The parties shall not be required to first attempt to mediate a controversy, dispute, or claim through mediation as set forth in this Section 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 of Franchisor's Confidential Information; or (ii) any of the restrictive covenants contained in this Agreement.

(d) The parties expressly agree to the exclusive jurisdiction and venue of the Circuit Court of Will County, Illinois, and waive any claim of Diversity Jurisdiction or other claim for removal to Federal courts. Franchisee acknowledges that this Agreement has been entered into in the State of Illinois and that Franchisee is to receive valuable and continuing services emanating from Franchisor's headquarters in Will County, Illinois. Nothing contained in this Agreement shall prevent Franchisor from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other emergency relief available to safeguard and protect Franchisor's interests.

9.3 **Notices.** The parties to this Agreement shall direct any notices to the other party at the Delivery Address specified below such party's name on the final page of this Agreement or at another address if advised in writing that the address has been changed. The parties shall notify each other in writing if the Delivery Address changes. As of the date the Studio is open for business, Franchisee's Approved Site will also serve as a Delivery Address with respect to Franchisee. Notice may be delivered by courier, UPS, Federal Express or first-class mail to an appropriate Delivery Address. Notice by UPS, Federal Express and/or any other courier will be deemed delivered upon delivery; and by first class mail, three days after posting. Franchisor may also provide Franchisee with any required notice in connection with this Agreement or the Studio via email, which notice will be considered delivered upon transmission. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery.

9.4 **Amendments.** This Agreement may be amended only by a document signed by all of the parties to this Agreement or by their authorized agents, subject to the provisions of this Agreement regarding Franchisor's right to modify the System and associated standard, specifications and components thereof via the Operations Manual or otherwise in writing.

9.5 **No Right to Offset.** 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.

9.6 **Integration.**

(a) This Agreement, the attachments hereto, and the documents referred to herein constitute the entire agreement between Franchisor and Franchisee concerning the subject matter hereof. This Agreement supersedes any prior agreements between Franchisor and Franchisee, and no other representations have induced Franchisee to execute this Agreement with Franchisor. Except for those permitted to be made unilaterally by Franchisor hereunder, no amendment, change, or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

(b) Notwithstanding the foregoing, nothing in this Agreement shall disclaim or require Franchisee to waive reliance on any representation that Franchisor made in the most recent disclosure document (including its exhibits and amendments) that Franchisor delivered to Franchisee or Franchisee's representative, subject to any agreed-upon changes to the contract terms and conditions described in that disclosure document and reflected in this Agreement (including any riders or addenda signed at the same time as this Agreement).

**9.7 WAIVER OF JURY TRIAL. FRANCHISOR AND FRANCHISEE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING WITH RESPECT TO ANY CLAIM, INCLUDING ANY COUNTERCLAIMS, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.**

**9.8 WAIVER OF PUNITIVE AND EXEMPLARY DAMAGES. FRANCHISOR AND FRANCHISEE HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM, EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.**

**9.9 Injunctive Remedy for Breach.** Franchisee recognizes that Franchisee is a member of the System and that Franchisee's acts and omissions may have a positive or negative effect on the success of other businesses operating under the Trade Name and in association with the Proprietary Marks. Failure on the part of a single franchisee to comply with the terms of its franchise agreement is likely to cause irreparable damage to Franchisor and to some or all of the other franchisees of Franchisor. For this reason, Franchisee agrees that if Franchisor can demonstrate to a court of competent jurisdiction that there is a substantial likelihood of Franchisee's breach or threatened breach of any of the terms of this Agreement, Franchisor will be entitled to an injunction restraining the breach or to a decree of specific performance, without showing or proving any actual damage. Franchisor has the exclusive right to seek relief pursuant to this section in a court of competent jurisdiction or any other court of competent jurisdiction. If injunctive relief is granted, Franchisee's only remedy will be the court's dissolution of the injunctive relief. If the injunctive relief was wrongfully issued, Franchisee expressly waives all claims for damages Franchisee incurred as a result of the wrongful issuance.

**9.10 Limitation of Actions.** Franchisee 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's failure to notify Franchisor within thirty (30) days after the occurrence of the violation or breach giving rise to an action shall preclude any claim for damages.

**9.11 Attorneys' Fees and Costs.** If Franchisee is in breach or default of any monetary or nonmonetary material 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 pay all reasonable attorneys' fees, court costs and litigation expenses Franchisor incurs, which obligation shall give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of Franchisee's personal property, furnishings, equipment, signs, fixtures and inventory related to the operation of the Studio. 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.

9.12 **Severability**. Except as expressly provided to the contrary herein, each provision of this Agreement shall be considered severable; and if, for any reason, any provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of, or have any other effect upon, such other provisions of this Agreement as may remain otherwise intelligible.

9.13 **WAIVER OF CLASS ACTIONS OR COLLECTIVE 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.

9.14 **Approval and Guaranty Provision**. If Franchisee is a corporation, all officers and shareholders, or, if Franchisee is a partnership, all Franchisee's general partners, or, if Franchisee is a limited liability company, all Franchisee's members or managers, shall approve this Agreement, permit Franchisee to furnish the financial information required by Franchisor, and agree to the restrictions placed on them, including restrictions on the transferability of their interests in the franchise and the Studio and limitations on their rights to compete, and sign separately a Personal Guaranty and Subordination Agreement, guaranteeing Franchisee's payments and performance. Franchisor reserves the right to require Franchisee's spouse, or the spouses of Franchisee's owners (if Franchisee is an entity), to sign the Personal Guaranty and Subordination Agreement attached hereto as Exhibit B.

9.15 **Acceptance by Franchisor; Third Party Beneficiaries**. This Agreement will not be binding on Franchisor, unless and until an authorized officer of Franchisor executes this Agreement. Franchisor's officers, directors, shareholders, agents and/or employees are express third party beneficiaries of the provisions of this Agreement, including the mediation provision set forth in this Section 9.2, each having authority to specifically enforce the right to mediate claims asserted against such person(s) by Franchisee. Franchisee agrees and acknowledges that it is not a third party beneficiary to any other agreement.

9.16 **Disclaimer of Representations**. NO RELATED PARTY, SALESPERSON, REPRESENTATIVE OR OTHER PERSON HAS THE AUTHORITY TO BIND OR OBLIGATE FRANCHISOR EXCEPT FRANCHISOR'S AUTHORIZED OFFICER BY A WRITTEN DOCUMENT. FRANCHISEE ACKNOWLEDGES THAT NO REPRESENTATIONS, PROMISES, INDUCEMENTS, GUARANTEES OR WARRANTIES OF ANY KIND WERE MADE BY FRANCHISOR OR ON FRANCHISOR'S BEHALF WHICH HAVE LED FRANCHISEE TO ENTER INTO THIS AGREEMENT. FRANCHISEE UNDERSTANDS THAT WHETHER FRANCHISEE SUCCEEDS AS A FRANCHISEE IS DEPENDENT UPON FRANCHISEE'S EFFORTS, BUSINESS JUDGMENTS, THE PERFORMANCE OF FRANCHISEE'S EMPLOYEES, MARKET CONDITIONS AND VARIABLE FACTORS BEYOND FRANCHISOR'S CONTROL OR INFLUENCE. FRANCHISEE FURTHER UNDERSTANDS THAT SOME FRANCHISEES ARE MORE OR LESS SUCCESSFUL THAN OTHER FRANCHISEES AND THAT NEITHER FRANCHISOR NOR ANY OF ITS RELATED PARTIES HAS MADE ANY REPRESENTATION THAT FRANCHISEE WILL DO AS WELL AS ANY OTHER FRANCHISEE. FRANCHISEE UNDERSTANDS THAT FRANCHISOR IS NOT A FIDUCIARY.

9.17 **Receipt**. Franchisee agrees that Franchisor properly disclosed Franchisee with, and hereby acknowledges receipt of, this Agreement and Franchisor's current form of Franchise Disclosure Document

as of the date of disclosure, at least fourteen (14) calendar days (unless otherwise required by applicable law) before execution of this Agreement or Franchisee's payment of any amounts to Franchisor.

9.18 **Opportunity for Review by Franchisee's Advisors.** Franchisee acknowledges that Franchisor has recommended, and that Franchisee has had the opportunity to obtain, review of this Agreement and the Franchise Disclosure Document by Franchisee's lawyer, accountant or other business advisor before execution hereof.

9.19 **Execution of Agreement.** Franchisee represents and warrants that it has the full authority to sign this Agreement. If Franchisee is a partnership, limited liability company or corporation, the person executing this Agreement on behalf of such partnership, limited liability company or corporation warrants to Franchisor, both individually and in his capacity as partner, member, manager or officer, that all of the partners of the partnership, all of the members or managers of the limited liability company, or all of the shareholders of the corporation, as applicable, have read and approved this Agreement, including any restrictions which this Agreement places upon rights to transfer their interest in the partnership, limited liability company or corporation.

9.20 **No Guarantees of Earnings.** Franchisee understands that neither Franchisor nor its Related Parties, nor any of Franchisor's representatives and/or agents with whom Franchisee has met have made and are not making any guarantees, express or implied, as to the extent of Franchisee's success in Franchisee's franchised business, and have not and are not in any way representing or promising any specific amounts of earnings or profits in association with Franchisee's franchised business.

9.21 **No Personal Liability.** Franchisee agrees that fulfillment of any and all of Franchisor's obligations under 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 its members, managers, employees, agents, representatives, nor any individuals associated with it, shall be personally liable to Franchisee for any reason. Do not sign this Agreement if there is any question concerning its contents or any representations made.

9.22 **Operation in the Event of Absence or Disability.** In order to prevent any interruption of the Franchised Business operations which would cause harm to the Franchised Business, thereby depreciating the value thereof, Franchisee authorizes Franchisor, who may, at its option, in the event that Franchisee is absent for any reason or is incapacitated by reason of illness and is unable, in the sole and reasonable judgment of Franchisor, to operate the Franchised Business, operate the Franchised Business for so long as Franchisor deems necessary and practical, and without waiver of any other rights or remedies Franchisor may have under this Agreement. All monies from the operation of the Franchised Business during such period of operation by Franchisor shall be kept in a separate account, and the expenses of the Franchised Business, including reasonable compensation and expenses for Franchisor's representative, shall be charged to said account. If, as herein provided, Franchisor temporarily operates the Franchised Business franchised herein for Franchisee, Franchisee agrees to indemnify and hold harmless Franchisor and any representative of Franchisor who may act hereunder, from any and all acts which Franchisor may perform, as regards the interests of Franchisee or third parties.

9.23 **Additional Documentation.** Franchisee must from time to time, subsequent to the date first set forth above, at Franchisor's request and without further consideration, execute and deliver such other documentation or agreement and take such other action as Franchisor reasonably may require in order to effectuate the transactions contemplated herein. In the event that Franchisee fails to comply with the provisions of this Section, Franchisee hereby appoints Franchisor as Franchisee's attorney-in-fact to execute all such documents on Franchisee's behalf.

9.24 **Force Majeure.** Neither Franchisee, Franchisor, nor Franchisor's affiliates will be liable for loss or damage or deemed to be in breach of this Agreement or any related agreement if its failure to perform its obligations is not the fault nor within the reasonable control of the person due to perform but results from, without limitation, fire, flood, natural disasters, acts of God, governmental acts or orders, or civil disorders. Any delay resulting from any such cause will extend the time of performance for the period of such delay or for such other reasonable period of time as the parties agree in writing or will excuse performance, in whole or in part, as Franchisor deems reasonable.

9.25 **Anti-Terrorist Activities.** Franchisee certifies that neither Franchisee, nor Franchisee's owners, principals, employees nor anyone associated with Franchisee is listed in the Annex to Executive Order 13224 (the "Annex"). Franchisee agrees not to hire or have any dealings with a person listed in the Annex. Franchisee certifies that Franchisee has no knowledge or information that, if generally known, would result in Franchisee, Franchisee's owners, principals, employees, or anyone associated with Franchisee being listed in the Annex. Franchisee agrees to comply with and/or assist Franchisor to the fullest extent possible in Franchisor's efforts to comply with the Anti-Terrorism Laws (as defined below). In connection with such compliance, Franchisee certifies, represents, and warrants that none of Franchisee's property or interests are subject to being "blocked" under any of the Anti-Terrorism Laws and that Franchisee and Franchisee's owners or principals are not otherwise in violation of any of the Anti-Terrorism Laws. Franchisee is solely responsible for ascertaining what actions must be taken by Franchisee to comply with all such Anti-Terrorism Laws, and Franchisee specifically acknowledges and agrees that Franchisee's indemnification responsibilities as provided in this Agreement pertain to Franchisee's obligations under this Section. Any misrepresentation by Franchisee under this Section or any violation of the Anti-Terrorism Laws by Franchisee, Franchisee's owners, principals or employees shall constitute grounds for immediate termination of this Agreement and any other agreement Franchisee has entered into with Franchisor or one of Franchisor's affiliates in accordance with the terms of this Agreement. As used herein, "Anti-Terrorism Laws" means Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT Act, and all other present and future federal, state and local laws, ordinances, regulations, policies lists and any other requirements of any Governmental Authority (including without limitation, the United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts or acts of war.

**IN WITNESS TO THE PROVISIONS OF THIS AGREEMENT, the undersigned have signed this Agreement as of the date set forth below.**

**FRANCHISOR:**

**SPENGA HOLDINGS LLC**

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

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

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

Notice Address:  
13161 W 143rd Street, Suite 103  
Homer Glen, Illinois 60491

**FRANCHISEE:**

[FRANCHISEE NAME (INDIVIDUAL OR ENTITY)]

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

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

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

Notice Address:  
**[INSERT ADDRESS]**

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

1. SITE SELECTION AREA

Pursuant to Section 2.2 of the Franchise Agreement, Franchisee must locate and secure an Approved Site for the Studio within the following Site Selection Area (which may be attached as a map hereto):

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2. APPROVED SITE

Pursuant to Section 2.2 of the Franchise Agreement, the Studio shall be located at the following site that has been approved by Franchisor:

TO BE DETERMINED, BUT MUST BE LOCATED IN YOUR SITE SELECTION AREA. FRANCHISEE MUST ENSURE THIS DATA SHEET IS UPDATED WITH THE APPROVED SITE ONCE LOCATION HAS BEEN SELECTED AND RE-SIGNED BY FRANCHISOR.

3. DESIGNATED TERRITORY

Pursuant to Section 2.3 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 Studio:

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 \_\_\_\_\_.

**FRANCHISEE**

\_\_\_\_\_

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

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

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

**FRANCHISOR**

**SPENGA HOLDINGS LLC**

By: \_\_\_\_\_  
 Roger McGreal, CEO

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

### **PERSONAL GUARANTY AND SUBORDINATION AGREEMENT**

The undersigned, as material consideration for Spenga Holdings LLC (“Franchisor”) agreeing to enter into or permit assignment of that certain franchise agreement dated \_\_\_\_\_ (the “Franchise Agreement”) with \_\_\_\_\_ (“Franchisee”), unconditionally, jointly and severally, personally guaranties to Franchisor, its successors, or its assignees, the prompt full payment and performance of all obligations of Franchisee that are or may become due and owing to Franchisor, including, but not limited to, all obligations arising out of the Franchise Agreement or any other agreement between the parties and all extensions or renewals of it in the same manner as if the Franchise Agreement was signed between Franchisor and the undersigned directly, as franchisee.

The undersigned expressly waives notice of the acceptance by Franchisor to or for the benefit of Franchisee, of the purchase of inventory and goods by Franchisee, the maturing of bills and the failure to pay the same, the incurring by Franchisee of any additional future obligations and liability to Franchisor, and any other notices and demands. This Personal Guaranty will not be affected by the modification, extension, or renewal of any agreement between Franchisor and Franchisee, the taking of a note or other obligation from Franchisee or others, the taking of security for payment, the granting of an extension of time for payment, the filing by or against Franchisee of bankruptcy, insolvency, reorganization or other debtor relief afforded Franchisee under the Federal Bankruptcy Act or any other state or federal statute or by the decision of any court, or any other matter, whether similar or dissimilar to any of the foregoing; and this Personal Guaranty will cover the terms and obligations of any modifications, notes, security agreements, extensions, or renewals. The obligations of the undersigned will be unconditional in spite of any defect in the validity of the Franchisee's obligations or liability to Franchisor, or any other circumstances whether or not referred to in this Guaranty that might otherwise constitute a legal or equitable discharge of a surety or guarantor.

This is an irrevocable, unconditional and absolute guaranty of payment and performance and the undersigned agrees that his, her, or their liability under this guaranty will be immediate and will not be contingent upon the exercise or enforcement by Franchisor of whatever remedies it may have against the Franchisee or others, or the enforcement of any lien or realization upon any security Franchisor may at any time possess.

The undersigned agree that any current or future indebtedness by Franchisee to the undersigned will always be subordinate to any indebtedness owed by Franchisee to Franchisor. The undersigned will promptly modify any financing statements on file with state agencies to specify that Franchisor's rights are senior to those of Guarantor.

The undersigned further agree that as long as Franchisee owes any money to Franchisor (other than royalty and Brand Fund payments that are not past due) Franchisee may not pay and the undersigned may not accept payment of any part of any indebtedness owed by Franchisee to any of the undersigned, either directly or indirectly, without the consent of Franchisor.

In connection with any litigation to determine the undersigned's liability under this Personal Guaranty, the undersigned expressly waives his, her, or its right to trial by jury and agrees to pay costs and reasonable attorney fees as fixed by the court.

If this Personal Guaranty is signed by more than one individual, each person signing this Personal Guaranty will be jointly and severally liable for the obligations created in it.

This Personal Guaranty will remain in full force and effect until all obligations arising out of and under the Franchise Agreement, including all renewals and extensions, are fully paid and satisfied.

Dated: \_\_\_\_\_

IN WITNESS TO THE FOREGOING, the undersigned have signed this Guaranty.

**GUARANTORS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT C TO THE FRANCHISE AGREEMENT**

**CONSENT AND AGREEMENT OF LANDLORD FORM AND COLLATERAL  
ASSIGNMENT OF LEASE FORM**

**CONSENT AND AGREEMENT OF LANDLORD**

The undersigned Landlord hereby:

- A. Agrees that the leased Premises will only be used in connection with the operation of Franchisee’s SPENGA franchised business;
- B. Agrees that Franchisor has the right to enter the Premises to make any modifications necessary to protect Franchisor’s Proprietary Marks;
- C. Agrees to allow Franchisee, upon written request from Franchisor, to provide Franchisor with a current copy of the lease;
- D. Agrees to notify Franchisor in writing of and upon the failure of Franchisee to cure any default by Franchisee under the Lease, and also provide Franchisor with the right to cure said default under the Lease within thirty (30) days of being notified (but Franchisor is under no obligation to do so). Franchisor’s address is:

With a copy to:

Spenga Holdings, LLC  
13161 W 143rd Street, Suite 103  
Homer Glen, Illinois 60491

Fisher Zucker LLC  
Attn: Lane Fisher  
21 S 21<sup>st</sup> Street  
Philadelphia, PA 19103

- E. Agrees that Franchisor or its affiliate will have the option, but not the obligation, to assume or renew the lease and the occupancy of the business Premises, including the right to assign or sublease to another Franchisee, for all or any part of the remaining term of the lease, upon Franchisee’s default or termination hereunder or upon Franchisee’s default or termination or expiration of the Franchise Agreement, and in connection with said assumption Franchisor, or its affiliate, will not be obligated to pay to the landlord past due rent, common area maintenance, and other charges attributable to more than one (1) month. The landlord shall give Franchisor or its affiliate thirty (30) days, upon termination of Franchisee’s rights under the lease, to exercise this option;
- F. If Franchisor or its affiliate assumes the Lease and subsequently assigns the Lease to a new franchisee, then Franchisor (or its affiliate) and any individual signing the Lease or related guarantee will no longer be liable under the Lease or related guarantee after such subsequent assignment.
- G. Agrees that the lease may not be materially amended, assigned, or sublet without Franchisor’s prior written approval.

LANDLORD

\_\_\_\_\_

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

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

## COLLATERAL ASSIGNMENT AND ASSUMPTION OF LEASE

**THIS COLLATERAL ASSIGNMENT AND ASSUMPTION OF LEASE** (this “Assignment”) is made, entered into and effective on \_\_\_\_\_ (the “Effective Date”), by and between: (i) Spenga Holdings LLC, a Delaware limited liability company with its principal place of business at 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois 60491 (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 \_\_\_\_\_ with the Franchisee, pursuant to which the Franchisee plans to own and operate a 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, or its affiliate, 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**

**SPENGA HOLDINGS 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**

**CONDITIONAL ASSIGNMENT OF FRANCHISEE’S TELEPHONE NUMBERS,  
FACSIMILE NUMBERS AND DOMAIN NAMES**

1. \_\_\_\_\_ (“Assignor”), in exchange for valuable consideration provided by Spenga Holdings LLC (“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 its Studio at the following address: \_\_\_\_\_ (the “Assigned Property”). The Assigned Property includes the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The conditional agreement will become effective automatically upon termination or expiration of Assignor’s franchise agreement. 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 to effectuate this assignment, 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: \_\_\_\_\_

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

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

**ASSIGNEE:**

**SPENGA HOLDINGS LLC**

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

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

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

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

**EXHIBIT E TO THE FRANCHISE AGREEMENT**

**ELECTRONIC FUNDS WITHDRAWAL AUTHORIZATION**

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

Effective as of the date of the signature below, [Franchisee Name] (the “Franchisee”) hereby authorizes Spenga Holdings, 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; (iii) any amounts due and owing the Company or its affiliates in connection with any items or services that are provided by Company or its affiliates in connection with the Franchised Business; and (iv) all other amounts that Franchisee owes to Franchisor or its affiliates in connection with the Franchised Business or otherwise 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 shall provide Company, in conjunction with this authorization, a voided check from the above-referenced account.

**AGREED:**

**FRANCHISEE**

\_\_\_\_\_

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

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

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

**FRANCHISOR APPROVAL  
SPENGA HOLDINGS, LLC**

By: \_\_\_\_\_  
Roger McGreal, CEO

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

## EXHIBIT F TO THE FRANCHISE AGREEMENT

### CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

(for Designated Managers as well as shareholders, officers, directors, general partners, members and managers, of Franchisee that have not executed the full Personal Guaranty to the Franchise Agreement)

In consideration of me being a \_\_\_\_\_ of \_\_\_\_\_ (“Franchisee”), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I hereby acknowledge and agree that:

1. Pursuant to a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the “Franchise Agreement”), Franchisee has acquired the right and franchise from Spenga Holdings LLC (the “Company”) to establish and operate a Studio (the “Franchised Business”) only at the following authorized and approved location: \_\_\_\_\_ (the “Approved Location”).

2. The Company, as the result of the expenditure of time, skill, effort and resources has developed and owns a distinctive format and system (the “System”) relating to the establishment and operation of Franchised Businesses, which feature and offer exercise equipment and machines, fitness training services, and related products and services. The Company possesses certain proprietary and confidential information relating to the operation of the System, which includes certain proprietary trade secrets, methods, techniques, formats, specifications, systems, procedures, methods of business practices and management, sales and promotional techniques and knowledge of, and experience in, the operation of the Franchised Business (the “Confidential Information”).

3. Any and all information, knowledge, know-how, and techniques which the Company specifically designates as confidential shall be deemed to be Confidential Information for purposes of this Agreement.

4. As \_\_\_\_\_ of the Franchisee, the Company and Franchisee will disclose the Confidential Information to me in furnishing to me training programs, the Company’s Confidential Operations Manuals (the “Manuals”), and other general assistance during the term of the Franchise Agreement.

5. 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 of the Franchise Agreement, and the use or duplication of the Confidential Information for any use outside the System would constitute an unfair method of competition.

6. 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 \_\_\_\_\_ 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.

7 Except as otherwise approved in writing by the Company, I shall not, while in my position with the Franchisee, either directly or indirectly for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation, own, maintain, operate, engage in, act as a consultant for,

perform services for, or have any interest in any other business that: (A) offers, sells or provides (1) classes, memberships, training or instruction that incorporates spinning, cycling, or yoga or any kind of strength and interval training components, (2) other fitness, health club, gym or personal training services (regardless of whether provided from a dedicated facility) that involve or incorporate any of the equipment, products and services that are the same or similar to the Approved Products or Approved Services that The Company has authorized Franchisee to offer or provide (collectively, a “Competing Business”); or (B) offers or grants licenses or franchises, or establishes joint ventures, for the ownership or operation of a Competing Business.

8. For a continuous uninterrupted period commencing upon the cessation or termination of my position with Franchisee, regardless of the cause for termination, or upon the expiration, termination, transfer, or assignment of the Franchise Agreement, whichever occurs first, and continuing for two (2) years thereafter, either directly or indirectly, for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation:

- (A) own, maintain, operate, engage in, act as a consultant for, perform services for, or have any interest in any Competitive Business that is, or is intended to be, located:
  - (i) at the Approved Site (as that term is defined in the Franchise Agreement)
  - (ii) within the Designated Territory (as that term is defined in the Franchise Agreement); or
  - (ii) within a fifteen (15) mile radius of (a) the Designated Territory or (b) any other Studio that is open, under lease or otherwise under development as of the date this Agreement expires or is terminated;
- (B) Solicit, or otherwise attempt to divert, business from customers of Franchisee’s former Franchised Business;
- (C) Contact any of the Company’s Required Suppliers for any competitive business purpose; or
- (D) Solicit any of the Company’s other employees, or the employees of the Company’s affiliates or any other System franchisee to discontinue employment.

The prohibitions in this Section 8 do not apply to my interests in or activities performed in connection with a Franchised Business. This restriction does not apply to my ownership of less than five percent (5%) beneficial interest in the outstanding securities of any publicly held corporation.

9. 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.

10. 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.

11. 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 an injunction preventing me from violating this Agreement, and 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.

12. This Agreement shall be construed under the laws of the State of Illinois. The only way this Agreement can be changed is in writing signed by both the Franchisee and me.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

**ACKNOWLEDGED BY FRANCHISEE**

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

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

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

## EXHIBIT G TO THE FRANCHISE AGREEMENT

### **CONFIDENTIALITY AGREEMENT** **(for Instructors and other trained employees)**

In consideration of me being a \_\_\_\_\_ of \_\_\_\_\_ (“Franchisee”), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I hereby acknowledge and agree that:

1. Pursuant to a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (the “Franchise Agreement”), Franchisee has acquired the right and franchise from Spenga Holdings LLC (the “Company”) to establish and operate a Studio (the “Franchised Business”) only at the following authorized and approved location: \_\_\_\_\_ (the “Approved Location”).

2. The Company, as the result of the expenditure of time, skill, effort and resources has developed and owns a distinctive format and system (the “System”) relating to the establishment and operation of Franchised Businesses, which feature and offer exercise equipment and machines, fitness training services, and related products and services. The Company possesses certain proprietary and confidential information relating to the operation of the System, which includes certain proprietary trade secrets, methods, techniques, formats, specifications, systems, procedures, methods of business practices and management, sales and promotional techniques and knowledge of, and experience in, the operation of the Franchised Business (the “Confidential Information”).

3. Any and all information, knowledge, know-how, and techniques which the Company specifically designates as confidential shall be deemed to be Confidential Information for purposes of this Agreement.

4. As \_\_\_\_\_ of the Franchisee, the Company and Franchisee will disclose the Confidential Information to me in furnishing to me training programs, the Company’s Confidential Operations Manuals (the “Manuals”), and other general assistance during the term of the Franchise Agreement.

5. 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 of the Franchise Agreement, and the use or duplication of the Confidential Information for any use outside the System would constitute an unfair method of competition.

6. 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 \_\_\_\_\_ 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.

7. 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.

8. 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.

9. 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 an injunction preventing me from violating this Agreement, and 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.

10. This Agreement shall be construed under the laws of the State of Illinois. The only way this Agreement can be changed is in writing signed by both the Franchisee and me.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

**ACKNOWLEDGED BY FRANCHISEE**

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

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

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

**EXHIBIT E**  
**TO**  
**FRANCHISE DISCLOSURE DOCUMENT**  
**AREA DEVELOPMENT AGREEMENT**

## **DEVELOPMENT AGREEMENT**

This Development Agreement (“Agreement”) entered into on \_\_\_\_\_ (“Effective Date”), between: (i) Spenga Holdings LLC, a Delaware limited liability company with its principal place of business at 13161 W 143<sup>rd</sup> Street, Suite 103, Home Glen, Illinois 60491 (the “Franchisor”); and (ii) \_\_\_\_\_, a (resident of) (corporation organized in) (limited liability company organized in) \_\_\_\_\_ with a business address at \_\_\_\_\_ (the “Developer”).

### **BACKGROUND**

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 fitness studio that offers exercise equipment and machines, fitness training services, and loeod merchandise (each, a “Studio”).

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 Studio; site selection guidance and criteria that Franchisor determines to reduce to writing; specifications for the design, layout and construction of the interior of the Studio; standards and specifications for the furniture, fixtures and equipment located within a Studio; established relationships with approved or designated suppliers for certain products and services; and standards and specifications for sales techniques, merchandising, marketing, advertising, inventory management systems, advertising, bookkeeping, sales and other aspects of operating a Studio. 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. Developer 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 Studios are identified by the mark SPENGA, and/or 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 grants qualified third parties the non-exclusive right to develop a certain number of Studios within a specific geographic area (the “Development Area”) in accordance with the terms of this Agreement to which Developer must be strictly adhere, with each Studio within the Development Area being opened and operating utilizing the Proprietary Marks and System pursuant to the terms and conditions set forth in a separate form of Franchisor’s then-current form of franchise agreement (each, a “Franchise Agreement”).

E. Developer recognizes the benefits from receiving the right to operate a Studio utilizing the System and desires to: (i) become a multi-unit developer subject to the terms of this Agreement; and (ii) receive the benefits provided by Franchisor under this Agreement.

F. Developer has applied for the right to open and operate a certain number of Studios within the Development Area as set forth in this Agreement (each, a “Franchised Business”), and Franchisor has approved such application in reliance on Developer’s representations made therein.

G. Developer hereby acknowledges that adherence to the terms of this Agreement, including Franchisor's operations manual and other System standards and specifications, are essential to the operation of all Studios and the System as a whole.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **AGREEMENT**

1. **Development Area; Development Schedule and Obligations; Territorial Protection.** Subject to the terms and conditions set forth herein, Franchisor grants Developer the right, and Developer undertakes the obligation, to develop and establish \_\_\_\_\_ Franchised Businesses within the Development Area defined in the Data Sheet attached hereto as Exhibit A (the "Data Sheet"), provided Developer opens and commences operations of such Franchised Businesses in strict accordance with the mandatory development schedule also set forth in the Data Sheet (the "Development Schedule") and otherwise subject to the terms and conditions set forth herein. For so long as Developer complies with the Development Schedule and other terms set forth herein, Franchisor will not open or locate, or license any third party the right to open or locate, another Studio utilizing the Proprietary Marks and System within the Development Area. Developer may only develop one franchised business during each Development Period in the Development Schedule.

2. **Development Fee.** Developer shall pay Franchisor a development fee equal to \$\_\_\_\_\_ (the "Development Fee") for the right to develop the foregoing Franchised Businesses within the Development Area under this Agreement, which is: (i) deemed fully earned upon payment and is not refundable under any circumstances; and (ii) payable in accordance with the schedule set forth in this Section 3 below. Developer must pay Franchisor the full Development Fee upon execution of this Agreement. The Development Fee is deemed fully earned and non-refundable upon payment.

3. **Initial Franchise Agreement.** Contemporaneous with the execution of this Agreement, Developer must enter into Franchisor's current form of Franchise Agreement for the Initial Franchised Business that Developer is required to open within the Development Area. In the event Developer is a business entity of any kind, then Developer's principals/owners must each execute the form of personal guaranty attached to the foregoing Franchise Agreement, as well as any additional Franchise Agreements described in Section 4 of this Agreement.

4. **Additional Franchise Agreements.** Developer agrees and acknowledges that it must: (i) enter into Franchisor's then-current form of Franchise Agreement for each additional Franchised Business that Developer is required to open under this Agreement; and (ii) enter into such Franchise Agreements at such times that are required for Developer to timely meet, and strictly adhere to, its obligations under the agreed upon Development Schedule.

5. **Development Obligations; Site Selection.** Developer must ensure that, at a minimum, Developer: (i) opens and commences operations of the number of new Franchised Businesses during each of the development periods defined in the Development Schedule (each, a "Development Period"); and (ii) has the minimum cumulative number of Franchised Businesses open and operating at the expiration of each such Development Period. The parties agree and acknowledge that time is of the essence with respect to the foregoing development obligations, and that Developer's failure to comply with the Development Schedule in any manner with respect to any Development Period is grounds for immediate termination of this Agreement (and any future development rights granted hereunder) if not timely cured as set forth in Section 7.2 of this Agreement.

6. **Geographic Scope of Post-Term Non-Compete.** In the event this Agreement is terminated prior to its natural expiration, the geographic scope of the non-compete set forth in Section 6.6(b)(ii)(A) of the initial Franchise Agreement signed contemporaneous with this Agreement will also include (a) the Development Area, and (b) a fifteen (15) mile radius around the Development Area, in addition to the other geography set forth in that Section of the initial Franchise Agreement.

7. **Term and Termination.**

7.1 This Agreement will commence as of the date it is fully executed and, unless earlier terminated by Franchisor, will expire on the earlier of: (i) the last day of the calendar month that the final Franchised Business is required to be opened and operating under the Development Schedule; or (ii) the date Developer actually opens the last Franchised Business that Developer is granted the right to open under this Agreement. Upon expiration or termination of this Agreement for any reason, Developer will not have any territorial rights other than those that might be granted in connection with a “Protected Territory” associated with a Franchised Business that Developer has opened and commenced operating as of the date this Agreement is terminated or expires (if and as such rights are granted by Franchisor under the respective Franchise Agreement(s) that Developer entered into for such Franchised Business(es)).

7.2 Franchisor will have the right, at its option, to terminate this Agreement and all rights granted to Developer hereunder, without affording Developer any opportunity to cure such default, effective upon written notice to Developer, upon the occurrence of any of the following events: (i) if Developer ceases to actively engage in development activities in the Development Area or otherwise abandons its development business for three (3) consecutive months, or any shorter period that indicates an objective intent by Developer to discontinue development of the Franchised Businesses within the Development Area; (ii) if Developer becomes insolvent or is adjudicated bankrupt, or if any action is taken by Developer, or by others against the Developer, under any insolvency, bankruptcy or reorganization act, or if Developer makes an assignment for the benefit of creditors or a receiver is appointed by the Developer; (iii) if Developer fails to meet its development obligations under the Development Schedule for any single Development Period, and fails to cure such default within 30 days of receiving notice thereof; (iv) if Developer fails to sign each Franchise Agreement in accordance with the Development Schedule; and (v) if any Franchise Agreement that is entered into in order to fulfill Developer’s development obligations under this Agreement is terminated or subject to termination by Franchisor, pursuant to the terms of that Franchise Agreement.

8. **Reservation of Rights.** Except as provided in Section 1 of this Agreement, the parties agree and acknowledge that the rights granted in this Agreement are non-exclusive and that Franchisor and its affiliates reserve all other rights not expressly granted to Developer herein.

9. **Sale or Assignment.**

a. Developer’s rights under this Agreement are personal and Developer may not sell, transfer, or assign any right granted herein without Franchisor’s prior written consent, which may be withheld in its sole discretion. If Developer desires to transfer an unexpired development right under this Agreement, Developer shall submit to Franchisor: (i) the form of franchise application currently in use by Franchisor, completed by the prospective transferee; (ii) a written notice, describing all the terms and conditions of the proposed transfer, and (c) Developer shall pay Franchisor, before the transfer, a transfer fee equal to \$10,000 for each development right transferred (the “Transfer Fee”). If Franchisor does not approve of the transfer, Franchisor will return the Transfer Fee to Developer after deducting Franchisor’s direct costs incurred in connection with evaluating or otherwise addressing Developer’s transfer proposal. If Franchisor consents to such transfer, such consent shall be subject to certain conditions determined by Franchisor, including:

- (i) Franchisor’s satisfaction that the proposed transferee meets all of the criteria

of character, business experience, financial responsibility, net worth and other standards that Franchisor customarily applies to new franchisees at the time of transfer;

- (ii) Payment of the Transfer Fee;
- (iii) Developer's cure of any defaults under this Agreement and any other agreement between Developer, Franchisor, and Franchisor's affiliates;
- (iv) Completion by the transferee of Franchisor's initial training program;
- (v) Signing Franchisor's then-current form of franchise agreement;
- (vi) Developer or the transferee must provide Franchisor with a copy of the form of purchase agreement relating to the proposed transfer, and the parties must obtain Franchisor's prior written approval of the purchase agreement, which includes Franchisor's determination that the purchase price of the transfer is not so burdensome to the transferee so as to materially threaten the future operation of franchised businesses; and
- (vii) Developer shall have executed a general release in the form satisfactory to Franchisor, of any and all claims against Franchisor, its affiliates, officers, directors, members, managers, and other related parties.

b. If Developer is an individual or a partnership, Developer has the right to assign its rights under this Agreement to a corporation or limited liability company that is wholly owned by Developer according to the same terms and conditions as provided in Developer's initial Franchise Agreement. Franchisor has the right to assign this Agreement in whole or in part in its sole discretion.

10. **Acknowledgment.** Developer acknowledges that this Agreement is not a Franchise Agreement and does not confer upon Developer any rights to use the Franchisor's Proprietary Marks or System.

11. **Notices.** All notices, requests and reports to be given under this Agreement are to be in writing, and delivered by either hand, overnight mail via recognized courier such as UPS or FedEx, or certified mail, return receipt requested, prepaid, to the addresses set forth above (which may be changed by written notice).

12. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without reference to this state's conflict of laws principles.

13. **Internal Dispute Resolution.** Developer must first bring any claim or dispute between Developer and Franchisor to Franchisor's management, after providing Franchisor with notice of and a reasonable opportunity to cure an alleged breach hereunder. Developer must exhaust this internal dispute resolution procedure before bringing a dispute before a third party. This agreement to first attempt resolution of disputes internally will survive termination or expiration of this Agreement.

14. **Mediation.** At Franchisor's option, all claims or disputes between Franchisor and Developer or its affiliates arising out of, or in any way relating to, this Agreement or any other agreement by and between Franchisor and Developer 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 13 above, must be submitted first to non-binding mediation, at Franchisor's place of business in Illinois, 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 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.

14.1 The parties will not be required to first attempt to mediate a controversy, dispute, or claim through mediation as set forth in this Section 14 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/proprietary information of Franchisor (as such information is defined more fully in the Franchise Agreements); (ii) any of the restrictive covenants contained in this Agreement or any other Franchise Agreements executed in connection with the Franchised Businesses opened within the Development Area; or (iii) any of Developer's payment obligations under this Agreement or any such Franchise Agreement.

14.2 This agreement to mediate will survive any termination or expiration of this Agreement. The parties agree that there will be no class action mediation and that any mediation proceeding involving Franchisor and Developer or its principals that arises out of or relates to this Agreement in any manner must be mediated in a proceeding that does not involve any other third party, including any other franchisee or licensee of Franchisor's franchise system.

15. **Injunctive Relief.** 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 Franchisor's confidential information; (ii) Developer's covenant not to compete, as well as any other violations of the restrictive covenants set forth in this Agreement or any Franchise Agreement with Franchisor; (iii) Developer'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) prohibiting 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.

16. **Jurisdiction and Venue.** Except for those claims described in Section 14 of this Agreement, the parties agree that any actions arising out of or related to this Agreement must be initiated and litigated to conclusion in the Circuit Court of Will County, Illinois, and waive any claim of Diversity Jurisdiction or other claim for removal to Federal courts. Developer acknowledges that Franchisor may bring an action in any other court of competent jurisdiction to seek and obtain injunctive relief as set forth in Section 14 above. Developer hereby irrevocably consents to the personal jurisdiction of the state and federal courts described in this Section.

17. **Third Party Beneficiaries.** Franchisor's officers, directors, shareholders, agents and/or employees are express third-party beneficiaries of this Agreement and the dispute resolution procedures contained herein, including without limitation, the right to specifically utilize and exhaust the mediation

procedure with respect to any and all claims asserted against such person(s) by Developer or its principals.

18. **JURY TRIAL 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 WILL 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 DEVELOPER'S PURCHASE FROM FRANCHISOR OF THE DEVELOPMENT RIGHTS DESCRIBED HEREIN.

19. **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 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.

20. **Waiver of Punitive Damages.** Developer 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) which Developer may have against Franchisor arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agree that in the event of a dispute, Developer's recovery will be 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 will continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

21. **Attorneys' Fees.** If either party institutes any judicial or mediation proceeding to enforce any monetary or nonmonetary obligation or interpret the terms of this Agreement and Franchisor prevails in the action or proceeding, Developer will be liable to Franchisor for all costs, including reasonable attorneys' fees and court costs, incurred in connection with such proceeding.

22. **Nonwaiver.** Franchisor's failure to insist upon strict compliance with any provision of this Agreement will not be a waiver of Franchisor's right to do so, any law, custom, usage or rule to the contrary notwithstanding. Delay or omission by Franchisor respecting any breach or default will not affect Franchisor's rights respecting any subsequent breaches or defaults. All rights and remedies granted in this Agreement will be cumulative. Franchisor's election to exercise any remedy available by law or contract will not be deemed a waiver or preclude exercise of any other remedy.

23. **Severability.** The parties agree that if any provisions of this Agreement 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 will have the meaning, which renders it valid and enforceable. The provisions of this Agreement are severable, and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein, and partially valid and enforceable provisions will be enforced to the extent that they are valid and enforceable. If any material provision of this Agreement will 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 Agreement.

24. **Construction of Language.** The language of this Agreement will be construed according to its fair meaning, and not strictly for or against either party. All words in this Agreement refer to whatever number or gender the context requires. If more than one party or person is referred to as Developer, their

obligations and liabilities must be joint and several. Headings are for reference purposes and do not control interpretation.

25. **Successors.** References to “Franchisor” or “Developer” include the respective parties’ successors, assigns or transferees, subject to the limitations of Section 8 of this Agreement.

26. **Additional Documentation.** Developer must from time to time, subsequent to the date first set forth above, at Franchisor’s request and without further consideration, execute and deliver such other documentation or agreements and take such other action as Franchisor may reasonably require in order to effectuate the transactions contemplated in this Agreement. In the event that Developer fails to comply with the provisions of this Section, Developer hereby appoints Franchisor as Developer’s attorney-in-fact to execute any and all documents on Developer’s behalf, as reasonably necessary to effectuate the transactions contemplated herein.

27. **No Right to Offset.** Developer may not withhold all or any part of any payment to Franchisor or any of its affiliates on the grounds of the alleged nonperformance of Franchisor or any of its affiliates or as an offset against any amount Franchisor or any of its affiliates may owe or allegedly owe Developer under this Agreement or any related agreements.

28. **Entire Agreement.** This Agreement contains the entire agreement between the parties concerning Developer’s development rights within the Development Area; no promises, inducements or representations (other than those in the Franchise Disclosure Document) not contained in this Agreement have been made, nor will any be of any force or effect, or binding on the parties. Modifications of this Agreement must be in writing and signed by both parties. Franchisor reserves the right to change Franchisor’s policies, procedures, standards, specifications or manuals at Franchisor’s discretion. In the event of a conflict between this Agreement and any Franchise Agreement, then the terms, conditions and intent of this Agreement will control. Nothing in this Agreement, or any related agreement, is intended to disclaim any of the representations Franchisor made to Developer in the Franchise Disclosure Document that Franchisor provided to Developer.

*[The remainder of this page is left intentionally blank.]*

**IN WITNESS WHEREOF, AND INTENDING TO BE LEGALLY BOUND HEREBY, THE PARTIES HERETO HAVE CAUSED THIS AGREEMENT TO BE EXECUTED EFFECTIVE THE DATE FIRST SET FORTH ABOVE.**

**SPENGA HOLDINGS LLC**

\_\_\_\_\_

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

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: \_\_\_\_\_

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

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

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

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

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

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

**EXHIBIT A to DEVELOPMENT AGREEMENT**

**DATA SHEET**

1. **Development Area.** The Development Area, as referred to in Section 1 of the Development Agreement, is described below (or an attached map) by geographic boundaries and will consist of the following area or areas:

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2. **Development Schedule.** The Development Schedule referred to in Section 5 of the Development Agreement is as follows:

<b>Expiration of Development Period (each, a "Development Period")</b>	<b>Date Franchise Agreement Must be Signed By</b>	<b># of New Franchised Businesses Opened Within Development Period</b>	<b>Cumulative # of Franchised Businesses that Must Be Open and Operating</b>
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			
___ Months from Effective Date			

**APPROVED AND ACCEPTED BY:**

**SPENGA HOLDINGS LLC**

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

**DEVELOPER**

\_\_\_\_\_  
(Individual, Partnership or Corporation Name)

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

**EXHIBIT F  
TO  
FRANCHISE DISCLOSURE DOCUMENT**

**STATE SPECIFIC ADDENDA TO FRANCHISE DISCLOSURE  
DOCUMENT**

**SPENGA HOLDINGS LLC**  
**CALIFORNIA ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

In recognition of the requirements of the California Franchise Investment Law, Cal. Corporations Code Sections 31000 *et seq.* the Franchise Disclosure Document for Spenga Holdings LLC for use in the State of California shall be amended as follows:

Item 3 of the FDD is supplemented to include the following:

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

Item 5 of the FDD is supplemented to include the following:

The Department has determined that we, the franchisor, have not demonstrated we are adequately capitalized and/or that we must rely on franchise fees to fund our operations. The Commissioner has imposed a fee deferral condition, which requires that we defer the collection of all initial fees from California franchisees until we have completed our pre-opening obligations and you are open for business. For California franchisees who sign a development agreement, the payment of the development and initial fees attributable to a specific unit in your development schedule is deferred until that unit is open.

Item 6 of the FDD is supplemented to include the following:

The highest applicable interest rate in California is ten percent (10%).

Item 17 of the FDD shall be supplemented to include the following:

California Business & Professions Code Sections 20000 through 20043 provides rights to the franchisee concerning termination or nonrenewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will California Business & Professions Code Sections 20000 through 20043 provide rights control.

The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 *et seq.*).

The franchise agreement contains a covenant not to compete, which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

The Franchise Agreement requires application of the law of the State of Illinois. This provision may not be enforceable under California law.

Section 31125 of the California Corporation Code requires the franchisor to give the franchisee a disclosure document, in a form and containing such information as the Commissioner may by rule or order require, prior to a solicitation of a proposed material modification of an existing franchise.

You must sign a release if you 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 Professions Code 2000 through 20043).

California Business and Professions Code sections 20000 through 20043 (the Franchise Relations Act) 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.

The franchisor will not enforce in California the prohibition on franchisee employing or soliciting for employment any current or former employee of franchisor or its affiliates (also known as a no-poach/non-solicitation provision) in Section 6.6 of the Franchise Agreement that is disclosed in Item 17, rows q and 4.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

As per California Rule 310.156.3(a)(3):

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

**THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.**

**SPENGA HOLDINGS LLC**  
**CALIFORNIA ADDENDUM TO THE FRANCHISE AGREEMENT AND DEVELOPMENT**  
**AGREEMENT**

**ALL FRANCHISE AGREEMENTS AND DEVELOPMENT AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE OF CALIFORNIA ARE HEREBY AMENDED AS FOLLOWS:**

1. Section 31125 of the California Corporation Code requires the Franchisor to give you a disclosure document, in a form and containing such information as the Commissioner may by rule or order require, prior to solicitation of a proposed material modification of an existing franchise.
2. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.
3. The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec 101 et seq.).
4. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This may not be enforceable under California law.
5. The Franchise Agreement requires non-binding mediation followed by litigation. This provision may not be enforceable under California law.
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.
7. The Department has determined that we, the franchisor, have not demonstrated we are adequately capitalized and/or that we must rely on franchise fees to fund our operations. The Commissioner has imposed a fee deferral condition, which requires that we defer the collection of all initial fees from California franchisees until we have completed our pre-opening obligations and you are open for business. For California franchisees who sign a development agreement, the payment of the development and initial fees attributable to a specific unit in your development schedule is deferred until that unit is open.
8. The franchisor will not enforce in California the prohibition on franchisee employing or soliciting for employment any current or former employee of franchisor or its affiliates (also known as a no-poach/non-solicitation) provision in Section 6.6 of the Franchise Agreement.
9. The following language is removed from Section 9.6(a) of the Franchise Agreement: “and no other representations have induced Franchisee to execute this Agreement with Franchisor.”
10. The following Sections are removed from the Franchise Agreement: 9.16, 9.17, 9.18, 9.20, and 9.21.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**SPENGA HOLDINGS LLC**

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

**FRANCHISEE**

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

**SPENGA HOLDINGS LLC**  
**ILLINOIS ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**  
**NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF ILLINOIS**

Payment of the Initial Franchise/Development Fees will be deferred until Franchisor has met its initial obligations to franchisee, and franchisee has commenced doing business. This financial assurance requirement was imposed by the Office of the Illinois Attorney General due to Franchisor's financial condition.

By reading this disclosure document, you are not agreeing to, acknowledging, or making any representation whatsoever to the Franchisor and its affiliates.

Illinois law governs the Franchise Agreement.

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.

Your rights upon Termination and Non-Renewal of an agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

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.

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 behalf of the Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**SPENGA HOLDINGS LLC**

**FRANCHISEE/DEVELOPER**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC  
ILLINOIS ADDENDUM TO THE FRANCHISE AGREEMENT AND  
AREA DEVELOPMENT AGREEMENT**

Payment of the Initial Franchise/Development Fees will be deferred until Franchisor has met its initial obligations to franchisee, and franchisee has commenced doing business. This financial assurance requirement was imposed by the Office of the Illinois Attorney General due to Franchisor's financial condition.

Illinois law governs the Franchise Agreement.

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.

Your rights upon Termination and Non-Renewal of an agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

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.

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 behalf of the Franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**SPENGA HOLDINGS LLC**

**FRANCHISEE/DEVELOPER**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC  
INDIANA ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE OF INDIANA ARE HEREBY AMENDED AS FOLLOWS:**

1. Any agreement executed in and operative within the State of Indiana shall be governed by applicable Indiana franchise laws and the right of any franchisee to institute a civil action or initiate arbitral proceedings within the State of Indiana shall not be deemed to have been abridged in any form or manner by any provisions contained in this Agreement.
2. In compliance with Indiana Code 12-2-2.7-1(9), any provisions in this Franchise Agreement relating to non-competition upon the termination or non-renewal of the Franchise Agreement shall be limited to a geographic area not greater than the Franchise Area granted in this Franchise Agreement and shall be construed in accordance with Indiana Code 23-2-2.7-1(9).
3. Indiana Code section 23-2-2.7-1(10) prohibits the choice of an exclusive forum other than Indiana.
4. Indiana Code section 23-2.2.7-1(10) prohibits the limitation of litigation. The Indiana Secretary of State has interpreted this section to prohibit provisions in contracts regarding liquidated damages. Accordingly, any provisions in the Franchise Agreement regarding liquidated damages may not be enforceable.
5. In compliance with Indiana Code 23-2-2.7-1(10), any inference contained in this Franchise Agreement to the effect that the Franchisor “is entitled” to injunctive relief shall, when applicable to a Franchise Agreement executed in and operative within the State of Indiana, hereby be deleted, understood to mean and replace the words “may seek”.
6. Indiana Code section 23-2-2.5 and 23-2-2.7 supersedes the choice of law clauses of the Franchise Agreement.
7. Indiana Code section 23-2.2.7-1 makes it unlawful for a franchisor to terminate a franchise without good cause or to refuse to renew a franchise on bad faith.
8. Any reference contained in this Franchise Agreement to a prospective franchisee's “exclusive Franchise Area” shall, in any Franchise Agreement executed in and operative within the State of Indiana, hereby be deleted and replaced with the words “non-exclusive Franchise Area”.
9. In compliance with Indiana Code 23-2-2.7-1(5), any requirement that the Franchisee must execute a release upon termination of this Agreement shall not be mandatory and is hereby made discretionary. However, Franchisee shall execute all other documents necessary to fully rescind all agreements between the parties under this Agreement.
10. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC**  
**MARYLAND ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

1. The following risk factor is added to the Special Risk Factor Page:

Before you open the Studio to the public, you must meet a minimum number of Pre-Sales Memberships. Currently, you must sell at least 150 Pre-Sale Memberships before we will permit the Studio to open.

2. Item 5 of the disclosure document shall be amended as follows:

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

3. Item 17 of the disclosure document shall be amended as follows:

The general release required as a condition of the sale of an existing franchise by a franchisee shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law. Despite the provisions of Item 17, the franchise may sue in the State of Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three (3) years after the grant of the franchise.

Any provision in the Franchise Disclosure Document or agreement(s) which provide for termination upon bankruptcy of the franchisee may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

4. The FDD shall be amended as follows:

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**SPENGA HOLDINGS LLC  
MARYLAND ADDENDUM TO THE FRANCHISE AGREEMENT AND  
DEVELOPMENT AGREEMENT**

**THE FRANCHISE AGREEMENT TO WHICH THIS ADDENDUM IS ATTACHED AND INCORPORATED IS HEREBY AMENDED AS FOLLOWS:**

1. Despite anything to the contrary contained in the Franchise Agreement, the general release required as a condition of the resale of an existing franchise by a franchisee shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
2. Despite the provisions of Article 29 and Article 23, the Franchisee may sue in the State of Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within three (3) years after the grant of the franchise.
3. The acknowledgements and representations contained in the Franchise Agreement are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred by Spenga Holdings LLC under the Maryland Franchise Registration and Disclosure Law.
4. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
5. Paragraph 4.1 of the Franchise Agreement and Paragraph 2 of the Development Agreement is hereby amended to add the following language:

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

**The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.**

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC**  
**MINNESOTA ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

For franchises and franchisees subject to the Minnesota Franchise Act, the following information supersedes or supplements, as the case may be, the corresponding disclosures in the main body of the text of the Spenga Holdings LLC Franchise Disclosure Document.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Items 5 and 7

Due to our financial condition, we are required to defer collection of initial fees until your business opens.

Item 13

Spenga Holdings LLC will protect your right to use the trademarks, service marks, trade names, logotypes or other commercial symbols or will indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the marks to the extent required by Minnesota law.

Item 17.

Minnesota law provides franchisees with certain termination and nonrenewal rights. As of the date of this Franchise Disclosure Document, Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for nonrenewal of the Franchise Agreement.

Minn. Stat. Sec. 80C.21 provides that any condition, stipulation or provision, including any choice of law provision, purporting to bind any person who, at the time of acquiring a franchise is a resident of Minnesota or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance or which has the effect of waiving compliance with any provision of §§80C.01 to 80C.22 of the Minnesota Franchises Act, or any rule or order thereunder, is void.

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibits Spenga Holdings LLC requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

To the extent you are required to execute a general release in favor of Spenga Holdings LLC, such release shall exclude liabilities arising under the Minnesota Franchises Act, Minn. Stat. §80C.01 *et seq.* as provided by Minn. Rule 2860.4400J.

**SPENGA HOLDINGS LLC  
MINNESOTA ADDENDUM TO THE FRANCHISE AGREEMENT AND  
DEVELOPMENT AGREEMENT**

This Amendment shall pertain to franchises sold in the State of Minnesota and shall be for the purpose of complying with Minnesota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement shall be amended as follows:

1. Minnesota law provides franchisees with certain termination and nonrenewal rights. As of the date of this Agreement, Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 require, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice of non-renewal of the Franchise Agreement.

2. Spenga Holdings LLC will protect your right to use the trademarks, service marks, trade names, logotypes or other commercial symbols or will indemnify you from any loss, costs or expenses arising out of any claim, suit, or demand regarding the use of the marks to the extent required by Minnesota law.

3. The Franchise Agreement shall be supplemented by the following provision:

Pursuant to Minn. Stat. Sec. 80C.21, nothing in this Agreement shall, in any way abrogate or reduce any of your rights as provided in Minnesota Statutes, Chapter 80C, including but not limited to the right to submit matters to the jurisdiction of the courts of Minnesota.

4. Minn. Stat. '80.C.21 and Minn. Rule 2860.4400J prohibit Spenga Holdings LLC from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

5. To the extent you are required to execute a general release in favor of Spenga Holdings LLC, such release shall exclude liabilities arising under the Minnesota Franchises Act, Minn. Stat. '80C.01 *et seq.* as provided by Minn. Rule 2860.4400J.

6. Any claims brought pursuant to the Minnesota Franchises Act, '80.C.01 *et seq.* must be brought within 3 years after the cause of action accrues. To the extent that any provision of the Franchise Agreement imposes a different limitations period, the provision of the Act shall control.

7. Due to our financial condition, we are required to defer collection of initial fees until your business opens.

7. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC**  
**NEW YORK ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT NOTICE TO**  
**PROSPECTIVE FRANCHISEES IN THE STATE OF NEW YORK**

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

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 28 LIBERTY STREET, 21<sup>ST</sup> FLOOR, NEW YORK, NEW YORK 10005. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.

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 at the end of Item 4:

Neither Spenga Holdings LLC, nor its affiliates, officers, or directors during the 10 year period immediately preceding the date of the offering prospectus have (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within one (1) year after the officer or general partner of the franchisor held this position in the company or partnership.

4. The following are revisions to Item 5 of the disclosure document:

The Initial Franchise Fee is to be used for the purpose of sales development, training, and marketing costs as set forth in Item 7.

5. The following is added to the end of the “Summary” section 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 Section 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” section 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.

**SPENGA HOLDINGS LLC  
NEW YORK ADDENDUM TO THE FRANCHISE AGREEMENT AND  
AREA DEVELOPMENT AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE  
OF NEW YORK ARE HEREBY AMENDED AS FOLLOWS:**

The foregoing choice of law should not be considered a waiver of any right conferred upon Franchisor or upon Franchisee by the General Business Law of the State of New York, Article 33.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC  
RHODE ISLAND ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE OF RHODE ISLAND ARE HEREBY AMENDED AS FOLLOWS:**

1. Pursuant to the Rhode Island Franchise Investment Act, the choice of jurisdiction and venue provisions of this Franchise Agreement shall be governed by Section 19-28.1-14 of the Act.
  
2. Pursuant to Section 19-28.1-15 of the Act, any condition, stipulation or provision in this Franchise Agreement requiring a franchisee to waive compliance with or relieving a person of a duty of liability imposed by or a right provided by this Act or a rule or order under this Act is void. An acknowledgment provision, disclaimer or integration clause or a provision having a similar effect in the Franchise Agreement does not negate or act to remove from judicial review any statement, misrepresentations or action that would violate this Act or a rule or order under this Act. This section shall not affect the settlement of disputes, claims or civil lawsuits arising or brought under this Act.
  
3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.**

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC**  
**RHODE ISLAND ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

For franchises and franchisees subject to the Rhode Island statutes and regulations, the following information supersedes or supplements, as the case may be, the corresponding disclosures in the main body of the text of the Spenga Holdings LLC Franchise Disclosure Document.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Item 17:

1. §19-28.1-14 of the Rhode Island Franchise Investment Act provides that “A provision in the franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”
2. The Rhode Island Franchise Investment Act requires a franchisor to deliver a copy of a disclosure document reflecting all material changes together with a copy of all proposed agreements relating to the sale of the franchise at the earlier of: (i) the prospective franchisee’s first personal business meeting with the franchisor which is held for the purpose of discussing the sale or possible sale of the franchise, or (ii) ten business days prior to the execution of an agreement or payment of any consideration relating to the franchise relationship.

**SPENGA HOLDINGS LLC**  
**VIRGINIA ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Spenga Holdings LLC for use in the Commonwealth of Virginia shall be amended as follows:

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Additional Disclosure: The following statement is added to Item 5:

The Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement.

Additional Disclosure: The following statements are added to Item 17:

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.

**SPENGA HOLDINGS, LLC**  
**VIRGINIA ADDENDUM TO THE FRANCHISE AGREEMENT**

The Franchise Agreement is hereby amended by the addition of the following language:

The Virginia State Corporation Commission's Division of Securities and Retail Franchising requires us to defer payment of the initial franchise fee and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS, LLC**  
**VIRGINIA ADDENDUM TO THE AREA DEVELOPMENT AGREEMENT**

The Development Agreement is hereby amended by the addition of the following language:

The Virginia State Corporation Commission's Division of Securities and Retail Franchising Requires us to defer payment of the development fee owed by franchisees to the franchisor until the franchisor has completes its pre-opening obligations under the development agreement.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC**  
**WASHINGTON ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW, shall prevail.
2. RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.
3. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
6. The State of Washington has imposed a financial condition under which the initial franchise fees due will be deferred until the franchisor has fulfilled its initial pre-opening obligations under the Franchise Agreement and the franchise is open for business. Because the Franchisor has material pre-opening obligations with respect to each franchised business the Franchisee opens under the Development Agreement, the State of Washington will require that the franchise fees be released proportionally with respect to each franchised business.
7. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's annual earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
8. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.
9. The Franchisee Disclosure Acknowledgment Statement attached as Exhibit G to the Franchise Disclosure Document does not waive any liability the franchisor may have under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

10. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
11. The General Release attached to the Franchise Disclosure Document as Exhibit H does not apply with respect to claims arising under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

**SPENGA HOLDINGS LLC  
WASHINGTON ADDENDUM TO THE FRANCHISE AGREEMENT AND AREA  
DEVELOPMENT AGREEMENT**

**ALL FRANCHISE AGREEMENTS AND AREA DEVELOPMENT AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE OF WASHINGTON ARE HEREBY AMENDED AS FOLLOWS:**

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's annual earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

The State of Washington has imposed a financial condition under which the initial franchise fees due will be deferred until the franchisor has fulfilled its initial pre-opening obligations under the Franchise Agreement and the franchise is open for business. Because the Franchisor has material pre-opening obligations with respect to each franchised business the Franchisee opens under the Development Agreement, the State of Washington will require that the franchise fees be released proportionally with respect to each franchised business.

Section 6.5 of the Franchise Agreement is amended to include the following language: "Franchisees have no

obligation to indemnify or hold harmless an indemnified party for losses to the extent that they are determined to have been caused solely and directly by the indemnified party's gross negligence, willful misconduct, strict liability, or fraud.

Section 9.16 of the Franchise Agreement does not apply in Washington.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The undersigned does hereby acknowledge receipt of this addendum.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**SPENGA HOLDINGS LLC**

**FRANCHISEE/DEVELOPER**

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

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

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

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

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

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

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

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

**SPENGA HOLDINGS LLC**  
**WISCONSIN ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT**  
**NOTICE TO PROSPECTIVE FRANCHISEES IN THE STATE OF WISCONSIN**

IN THE STATE OF WISCONSIN CHAPTER 135 OF THE WISCONSIN FAIR DEALERSHIP LAW GOVERNS THIS AGREEMENT. YOU MAY WANT TO REVIEW THIS LAW.

For franchises and franchisees subject to the Wisconsin Fair Dealership Law, the following information supersedes or supplements, as the case may be, the corresponding disclosures in the main body of the text of the Spenga Holdings LLC Wisconsin Franchise Disclosure Document.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Item 17.

For Wisconsin Franchisees, ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of the Franchise Agreement or a related contract between Franchisor and Franchisee inconsistent with the Law.

**SPENGA HOLDINGS LLC  
WISCONSIN ADDENDUM TO THE FRANCHISE AGREEMENT**

**ALL FRANCHISE AGREEMENTS EXECUTED IN AND OPERATIVE WITHIN THE STATE OF WISCONSIN ARE HEREBY AMENDED AS FOLLOWS:**

The Franchisor and Franchisee hereby acknowledge that the Franchise Agreement shall be governed by The Wisconsin Fair Dealership Law (Wisconsin Statutes, 1979-1980, Title XIV-A, Chapter 135, Sections 135.01 through 135.07) which makes it unlawful for a franchisor to terminate, cancel or fail to renew a franchise without good cause, as well as providing other protections and rights to the franchisee. To the extent anything in the Franchise Agreement is contrary to the laws in the State of Wisconsin, said laws shall prevail.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

The undersigned hereby acknowledge and agree that this addendum is hereby made part of and incorporated into the foregoing Franchise Agreement.

**SPENGA HOLDINGS LLC**

**FRANCHISEE**

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

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

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

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

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

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

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

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

**RIDER TO STATE ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT, AND DEVELOPMENT AGREEMENT**

**FOR THE FOLLOWING STATES ONLY: CALIFORNIA, HAWAII, ILLINOIS, INDIANA, MARYLAND, MICHIGAN, MINNESOTA, NEW YORK, NORTH DAKOTA, RHODE ISLAND, SOUTH DAKOTA, VIRGINIA, WASHINGTON, WISCONSIN (EACH A “REGULATED STATE” AND COLLECTIVELY, THE “REGULATED STATES”)**

This Rider to State Addendum to the Franchise Disclosure Document and Franchise Agreement (“Rider”) is entered into by and between (i) Spenga Holdings, LLC, a limited liability company (“Franchisor”), and (ii) \_\_\_\_\_, a (individual/limited liability company/corporation) with an address at \_\_\_\_\_ (“Franchisee”).

- A. Concurrently with the execution of this Rider, Franchisor and Franchisee are entering into a franchise agreement (the “Franchise Agreement,”) and development agreement (as applicable) (“Development Agreement”), pursuant to which Franchisee will acquire the right and undertake the obligation to own and operate a franchised business (the “Franchised Business”) that may be located in, or subject to the regulations of, one of the Regulated States (the “Applicable Franchise Registration State”).
- B. Franchisor and Franchisee wish to amend the Franchise Agreement and Development Agreement (as applicable) as provided in this Rider.

NOW, THEREFORE, for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Franchise Agreement and Development Agreement are hereby amended as follows:

1. **NASAA SOP Acknowledgment.** Franchisee and Franchisor hereby acknowledge that the Statement of Policy regarding the use of franchise questionnaires and acknowledgments issued by the North American Securities Administrators Association, Inc. (“NASAA”), which went into effect on January 1, 2023, provides that questionnaires and acknowledgments that are used as contractual disclaimers that release or waive a franchisee’s rights under a state franchise law violate the anti-fraud and/or anti-waiver provisions of the statutes of the Regulated States. Accordingly, while the SOP remains in effect, or until such time as the regulations in the Regulated States are modified to adopt the restrictions on the use of acknowledgments and questionnaires as set forth in the SOP, for prospective franchisees that reside in or are looking to operate a Franchised Business in any Regulated State, the Franchise Agreement and Development Agreement (as applicable) will be amended to include the following provision:

“No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving and claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.”

2. Except as provided in this Rider, the Franchise Agreement and Development Agreement (as applicable) remains in full force and effect in accordance with its terms. This Rider shall be effective only to the

extent that the jurisdictional requirements of the franchise law of the Applicable Franchise Registration State are met independently without reference to this Rider.

3. The following provisions are removed from the Franchise Agreement: Section 9.16, 9.17, 9.18, and 9.20.

**FRANCHISOR**

**SPENGA HOLDINGS, LLC**

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

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

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

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

**FRANCHISEE**

**[NAME]**

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

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

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

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

**EXHIBIT G  
TO  
THE FRANCHISE DISCLOSURE DOCUMENT**

**FRANCHISEE QUESTIONNAIRE**

**DO NOT SIGN THIS QUESTIONNAIRE IF YOU ARE A CALIFORNIA OR MARYLAND  
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, 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, you and Spenga Holdings, LLC (the “Franchisor”) are about to enter into a franchise agreement for the development, opening and operation of a SPENGA Studio. The purpose of this Questionnaire is to determine if any improper sales practices have occurred, including, whether any statements or promises were made to you Franchisor has not authorized and that may be untrue, inaccurate or misleading. Please review each of the following questions carefully and provide honest and complete responses to each question. **The answers you provide in this Questionnaire are material to Franchisor and Franchisor is relying on all such answers in agreeing to enter into a franchise relationship with you.**

- Yes\_\_\_ No \_\_\_ 1. Have you received and personally reviewed the Franchise Agreement as well as each exhibit or schedule attached to these agreements that you intend to enter into with us?
- 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 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, 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 SPENGA mark or any other mark at any location outside your Designated Territory under the Franchise Agreement, without regard to the proximity of these activities to you're the premises of your Franchised Business(es)?

- 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 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 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, 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 a 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, 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 SPENGA 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 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?

For Maryland prospects: All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

**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.**

**PROSPECTIVE FRANCHISEE/APPLICANT:**

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

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

**GIVE A COMPLETE EXPLANATION OF ANY NEGATIVE RESPONSES ON BACK OF THIS PAGE (REFER TO QUESTION NUMBER)**

**EXHIBIT H  
TO  
FRANCHISE DISCLOSURE DOCUMENT**

**GENERAL RELEASE AGREEMENT**

THIS AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Spenga Holdings LLC, a Delaware limited liability company having its principal place of business located at 13161 W 143rd Street, Suite 103, Homer Glen, IL 60491 (the “Franchisor”), and \_\_\_\_\_ a \_\_\_\_\_ with a principal address at \_\_\_\_\_ (hereinafter referred to as “Releasor”), wherein the parties hereto, in exchange for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, and in reliance upon the representations, warranties, and comments herein are set forth, do agree as follows:

1. **Release by Releasor:** Releasor does for itself, its successors and assigns, hereby release and forever discharge generally the Franchisor and any affiliate, wholly owned or controlled corporation, subsidiary, successor or assign thereof and any shareholder, officer, director, employee, or agent of any of them, from any and all claims, demands, damages, injuries, agreements and contracts, indebtedness, accounts of every kind or nature, whether presently known or unknown, suspected or unsuspected, disclosed or undisclosed, actual or potential, which Releasor may now have, or may hereafter claim to have or to have acquired against them of whatever source or origin, arising out of or related to any and all transactions of any kind or character at any time prior to and including the date hereof, including generally any and all claims at law or in equity, those arising under the common law or state or federal statutes, rules or regulations such as, by way of example only, franchising, securities and anti-trust statutes, rules or regulations, in any way arising out of or connected with the Agreement, and further promises never from this day forward, directly or indirectly, to institute, prosecute, commence, join in, or generally attempt to assert or maintain any action thereon against the Franchisor, any affiliate, successor, assign, parent corporation, subsidiary, director, officer, shareholder, employee, agent, executor, administrator, estate, trustee or heir, in any court or tribunal of the United States of America, any state thereof, or any other jurisdiction for any matter or claim arising before execution of this Agreement. In the event Releasor breaches any of the promises covenants, or undertakings made herein by any act or omission, Releasor shall pay, by way of indemnification, all costs and expenses of the Franchisor caused by the act or omission, including reasonable attorneys’ fees. This general release does not apply with respect to claims arising under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.

2. Releasor hereto represents and warrants that no portion of any claim, right, demand, obligation, debt, guarantee, or cause of action released hereby has been assigned or transferred by Releasor party to any other party, firm or entity in any manner including, but not limited to, assignment or transfer by subrogation or by operation of law. In the event that any claim, demand or suit shall be made or institute against any released party because of any such purported assignment, transfer or subrogation, the assigning or transferring party agrees to indemnify and hold such released party free and harmless from and against any such claim, demand or suit, including reasonable costs and attorneys’ fees incurred in connection therewith. It is further agreed that this indemnification and hold harmless agreement shall not require payment to such claimant as a condition precedent to recovery under this paragraph.

3. Each party acknowledges and warrants that his, her or its execution of this Agreement is free and voluntary.

4. Illinois law shall govern the validity and interpretation of this Agreement, as well as the performance due thereunder. This Agreement is binding upon and inures to the benefit of the respective assigns,

successors, heirs and legal representatives of the parties hereto.

5. In the event that any action is filed to interpret any provision of this Agreement, or to enforce any of the terms thereof, the prevailing party shall be entitled to its reasonable attorneys' fees and costs incurred therein, and said action must be filed in the State of Illinois.

6. This Agreement may be signed in counterparts, each of which shall be binding against the party executing it and considered as the original.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this agreement effective as of the date first above.

**FRANCHISOR**

**RELEASOR**

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

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

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

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

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

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

**EXHIBIT I  
TO  
FRANCHISE DISCLOSURE DOCUMENT**

**LIST OF FRANCHISEES WITH OPEN STUDIOS**  
**(as of December 31, 2023)**

<b>First Name</b>	<b>Last Name</b>	<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>	<b>Phone Number</b>	<b>Number of Locations</b>
Keir & Alex*	Cochran & Austin	7621 N. Oracle Road, Suite 150	Oro Valley	AZ	85704	(520) 991-1373	1
Shannon & Jason*	Drotar	200 Hartz Ave	Danville	CA	94526	(925) 718-6820	1
Dan*	Waters	15505 Los Gatos Blvd	Los Gatos	CA	95032	(408) 933-8267	1
Cassia	Bloom	335 Soquel Ave	Santa Cruz	CA	95062	(831) 227-2130	1
Steve & Kellie*	Becker	8181 Arista Place	Broomfield	CO	80021	(720) 459-7057	1
Beckie	McEachen	9567 S University	Highlands Ranch	CO	80116	(303) 771-9700	1
Danette	Brown	7735 W Long Dr	Littleton	CO	80123	(720) 738-7975	1
Jason*	Frink	1767 Rocky Mountain Ave	Loveland	CO	80538	(970) 236-1182	1
Stephanie & Chuck*	Magee	5305 W. 38th Ave	Wheat Ridge	CO	80212	(720) 807-3630	1
Tom	McIntosh	5030 Champion Blvd. Ste. F2	Boca Raton	FL	33496	(352) 514-3836	1
Dan *	Foster	11125 Park Blvd. N St. 120	Seminole	FL	33772	(727) 308-3195	1
Scott & Pam*	Ubele	850 Neapolitan Way	Naples	FL	34103	(239) 790-5616	2
Christi & Steve	Wade	650 21 <sup>st</sup> Street	Vero Beach	FL	32960	(772) 473-7480	1
Brock & Denise*	Faulkner	6214 Braidwood Way	Acworth	GA	30101	(770) 635-7837	1
Mitchell & Lisa*	Hobbs	14150 Seabiscuit	Milton	GA	30004	(770) 229-7239	1
Adam	Offerman	1176B SE University Drive	Des Moines	IA	50263	(515) 321-9977	1
Tom*	Powers	5216 Main Street	Downers Grove	IL	60515	(630) 674-6669	1
Scott	Kaspar	1900 S Randall Road #100	Geneva	IL	60134	(833) 477-3642	1
Carrie & Dan	Rudman	148 E Lake Street, Unit 148A	Bloomington	IL	60108	(708) 288-6524	1
Ryan & Staci Tim & Cherie*	Hendrickson Palma	12680 Bonaventure	Carmel	IN	46032	(317) 473-3924	1
Jaime	Powell	217 Northwind Drive	Valparaiso	IN	46385	(219) 263-6008	1
Jackie	Beulac	11 Royal Oaks Way	Leominster	MA	01453	(508) 343-7105	1
Todd & Cherie	Mailloux	859 Eisenhower Parkway	Ann Arbor	MI	48103	(734) 666-8207	1

Kristen	Braun	425 Commerce Dr., Suite 101	Woodbury	MN	55125	(651) 615-3300	1
Rick & Martyna*	Crossman	1115 Grogans Mill Dr.	Cary	NC	27519	(813) 335-8311	1
Tito*	Garcia	330 W Tremont Avenue, Suite 100	Charlotte	NC	28203	(708) 828-5262	1
Hutter & Suejette*	Black	225 S Elliot Road	Chapel Hill	NC	27514	(336) 706-1424	1
Dan & Jennifer*	O'Korn	7431 Six Forks Rd	Raleigh	NC	27615	(919) 420-3839	1
Allie	Mancuso	16920 Wright Plaza, Suite 126	Omaha	NE	68130	(402) 770-8931	1
Rajib*	Sarkar	815B Haddonfield Rd	Cherry Hill	NJ	08002	(856) 432-2988	1
Chirag & Sonal	Trivedi	295 W Grand Ave	Montvale	NJ	07645	(919) 308-4630	1
Joe	Roman	2007 Route 35	Wall	NJ	07719	(732) 859-3513	1
Don & Carolyn*	Lopez	5600 Coors Blvd. NM Ste. A3	Albuquerque	NM	87120	(505) 225-2200	1
Mike	Morgan	9 Sierra Lane	Arcanum	OH	45304	(937) 312-4286	1
Tina & Nishit	Shah	30100 Detroit Road #126	Westlake	OH	44145	(312) 208-2308	1
Bryan*	Clark	4686 Cemetery Road	Hillard	OH	43026	(415) 519-5226	2
Steve	Austin	7996 Princeton Glendale Road, Suite 101	West Chester	OH	45069	(937) 313-6570	1
Eric	Rothstein	1107 N Bethlehem Pike	Spring House	PA	19477	(755) 773-6421	1
Mary & Brian	Bulman	249 Swedesford Road	Wayne	PA	19087	(484) 919-8137	1
Jane & Rick	Habich	3620 Pelham Road	Greenville	SC	29615	(614) 273-9050	1
John*	Youngblood	996 Johnnie Dodds Blvd., Suite 103	Mount Pleasant	SC	29464	(571) 334-9978	1
Joe & Sarah*	Dinicolantonio	1705 Market Street	Chattanooga	TN	37408	(901) 733-7835	1
Chris James*	Pierron Laurent	24 waterway Ave, #135	The Woodlands	TX	77380	(832) 813-8040	1
Sherry & Dee*	Jones	7056 Blue Mound Road	Fort Worth	TX	76131	(817) 207-5908	2
Tina & Robert*	Cardosi	14010 N. US 183 Suite 550/560	Austin	TX	78717	(512) 633-1738	1
Vikram & Sonal*	Kulkarni	13540 University Blvd. #250	Sugarland	TX	77479	(713) 636-1272	1
Chris, Gailon & Morton*	Lucas, Adlong & Aubry	1507 B Bay Area Blvd.	Webster	TX	77598	(832) 794-2125	1
Ben*	Cunningham	7517 Campnell Rd	Dallas	TX	75248	(469) 983-2805	2
Brad & Sandi*	Enloe	900 S Presten	Prosper	TX	75078	(214) 347-4723	2
Rusty & Sylvia*	Olsen	2715 N Loop 1604	San Antonio	TX	78258	(210) 791-6261	1
Stephen & Mary	Boros	1161 E Southlake Blvd	Southlake	TX	76092	(630) 383-8846	1
Tina	Cardosi	14010 US Hwy 183, Suite 560	Austin	TX	78717	(512) 633-1738	1
Sherry*	Ruffing	4040 Fairfax	Arlington Heights	VA	22203	(703) 259-1201	1

\*This franchisee has the right to develop multiple Franchised Studios under a Development Agreement.

**LIST OF FRANCHISEES WITH SIGNED FRANCHISE AGREEMENTS THAT HAVE NOT YET  
OPENED THEIR STUDIOS  
(as of December 31, 2023)**

First Name	Last Name	State	Phone Number / Email
Nick	Tsignos	AZ	(331) 330-3903
Charley	Knight	GA	(770) 328-5994
Mario, Luke, and Jason	Ruiz, Butkovic, and Urbaniak	IN	(219) 306-2226
Kristy	Ramsey	NV	(951) 526-5888
Greg	Fuchs	NJ	(917) 886-7200
Prachi & Deepak	Jain and Sukhija	NJ	(516) 582-5598
Andrew	Tsang	NY	(917) 499-0479
Kelly & Nathan	Hater	OH	(740) 503-2690
Chelsi	Woods	UT	(208) 339-0576
Allison	Ippolite	WI	(262) 951-1177

\*This franchisee has the right to develop multiple Franchised Studios under a Development Agreement.

**LIST OF FRANCHISEES THAT LEFT THE SYSTEM IN 2023**

First Name	Last Name	Address	City	State	Zip Code	Telephone Number	Reason
Kier & Alex	Cochran & Austin	7621 N. Oracle Road, Suite 150	Oro Valley	AZ	85704	(520) 991-1373	Ceased Operations
Jessica	Thumati	1630 S. Euclid Ave.	San Marino	CA	91108	(626) 333-5700	Ceased Operations
Jessica	Thumati	21522 Ventura Blvd.	Woodland Hills	CA	91364	(818) 873-6700	Ceased Operations
Adriana	Piziak	1767 Rocky Mountain Ave.	Fort Collins	CO	80538	(414) 861-0417	Ceased Operations
Kim	Ross	8780 Steeplechase Drive	Franktown	CO	80116	(303) 917-0643	Transfer
Cheresa & Mike	Brown	7735 W Long Drive	Littleton	CO	80123	(720) 738-7975	Transfer
Tom	Powers	5216 Main Street	Downers Grove	IL	60515	(630) 674-6669	Ceased Operations
Eric & Donna	Moss	11676 Manchester Road	Des Peres	MO	63131	(636) 448-8720	Ceased Operations
Blake & Nicole	Bukacek	16920 Wright Plaza, Suite 126	Omaha	NE	68130	(402) 770-8931	Transfer
Brian & Tracy	Bastarche	55 Wallingford Road	Millford	NH	03055	(603) 324-0355	Ceased Operations
Brian & Julie	Bargy & Seymour	3349 Monroe Avenue	Rochester	NY	14618	(949) 500-7199	Ceased Operations
Jordan & Anne	McCambridge	14010 N. US 183, Suite 550/560	Austin	TX	78717	(512) 633-1738	Transfer
Jinja & Terry	Martin	3825 Glade Road, Suite 130	Colleyville	TX	76034	(214) 490-3021	Ceased Operations
Jinja & Terry	Martin	3825 Glade Road, Suite 130	Colleyville	TX	76034	(214) 490-3021	Ceased Operations

Brad & Sandi	Enloe	900 S Presten	Prosper	TX	75078	(214) 347-4723	Ceased Operations
Chris, Gailon & Morton	Lucas, Adlong & Aubry	1507 B Bay Area Blvd.	Webster	TX	77598	(832) 794-2125	Ceased Operations
Chris, Gailon & Morton	Lucas, Adlong & Aubry	1507 B Bay Area Blvd.	Webster	TX	77598	(832) 794-2125	Ceased Operations

**EXHIBIT J  
TO  
FRANCHISE DISCLOSURE DOCUMENT**

**STATE EFFECTIVE DATES**

## 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 Franchise Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws or business opportunity laws, with the following effective dates:

<b>STATE</b>	<b>EFFECTIVE DATE</b>
California	June 21, 2024
Hawaii	Not Registered
Illinois	June 7, 2024
Indiana	May 16, 2024
Maryland	Pending Registration
Michigan	May 10, 2024
Minnesota	Pending Registration
New York	Pending Registration
North Dakota	Not Registered
Rhode Island	May 12, 2024
South Dakota	Not Registered
Virginia	Pending Registration
Washington	August 8, 2024
Wisconsin	May 16, 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  
TO  
FRANCHISE DISCLOSURE DOCUMENT**

**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 Spenga Holdings 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 Spenga Holdings 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. A list of our agents registered to receive service of process is listed as Exhibit A to this Franchise Disclosure Document.

The Issuance Date of this Disclosure Document is April 30, 2024.

I have received a Franchise Disclosure Document with an Issuance Date of April 30, 2024, which contained the following Exhibits.

- A. List of State Franchise Administrators/Agents for Service of Process
- B. Operations Manual Table of Contents
- C. Financial Statements
- D. Franchise Agreement (and Exhibits)
- E. Development Agreement (and Exhibits)
- F. State Specific Addenda
- G. Franchisee Questionnaire
- H. Form of General Release
- I. List of Franchisees and Area Developers
- 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:

Roger McGreal, Heather Ruff, Amy Neilsen, Peter Vrdolyak III, Nancy Vrdolyak, Emily Hileman, and Joe Vrdolyak, Spenga Holdings LLC, 13161 W 143<sup>rd</sup> Street, Suite 103, Homer Glen, Illinois, 60491, (708) 465-9113; franchise@spenga.com

If an individual:

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

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

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

Telephone Number: \_\_\_\_\_

If a Partnership, Corporation or Limited Liability Corporation:

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

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

Name of Entity: \_\_\_\_\_

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

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

## 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.

If Spenga Holdings 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.**

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The Issue Date of this Disclosure Document is April 30, 2024.

I have received a Franchise Disclosure Document with an Issuance Date of April 30, 2024, which contained the following Exhibits.

- |   |  |
|---|--|
| A. List of State Franchise Administrators/Agents for Service of Process | G. Franchisee Questionnaire                |
| B. Operations Manual Table of Contents                                  | H. Form of General Release                 |
| C. Financial Statements   | I. List of Franchisees and Area Developers |
| D. Franchise Agreement (and Exhibits)                                   | J. State Effective Dates                   |
| E. Development Agreement (and Exhibits)                                 | K. Receipts                                |
| F. State Specific Addenda   |  |

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If an individual:

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

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

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

Telephone Number: \_\_\_\_\_

If a Partnership, Corporation or Limited Liability Corporation:

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

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

Name of Entity: \_\_\_\_\_

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

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