

## FRANCHISE DISCLOSURE DOCUMENT



MASSAGE LUXE  
INTERNATIONAL, LLC  
(A Missouri Limited Liability  
Company)  
16052 Swingley Ridge Road,  
Suite 120, Chesterfield, MO  
63017  
877-321-5893  
636-600-4056  
Contactus@massageluxe.com  
<http://www.massageluxe.com>

The franchise offered is a massage therapy spa featuring massages, facials, waxing and skin care treatments, together with related services, products, merchandise, and accessories.

The total investment necessary to begin operation of MassageLuXe Spa ranges from ~~\$339,000~~ \$387,800 to ~~\$571,100~~ \$732,900. This includes \$46,000 that must be paid to the franchisor or its affiliates. If you are signing a Multi-Unit Development Agreement, you must pay us a MUD Fee equal to \$96,500 for the ~~first 3 Spas and \$21,500 for each additional Spa~~ 3 contracted for under the Multi-Unit Development Agreement.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Sean Rentchler, Director of Franchise Development, at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017 and 636-600-4056.

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

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

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

Issuance Date: April ~~27~~26, ~~2021 as amended August 9, 2021~~2022

## How to Use This Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit F.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor’s direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit D includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only MassageLuXe Spa business in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a MassageLuXe franchisee?</b>	Item 20 or Exhibit F 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 Franchise *Generally*

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

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

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

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

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

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

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

### Some States Require Registration

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

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 Contacts for the location of the State Specific Addenda.

## Special Risks to Consider About *This Franchise*

Certain states require that the following risks be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement and multi-unit development agreement require you to resolve disputes with the franchisor by mediation, litigation and/or arbitration, only in Missouri. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost you more to mediate, litigate or arbitrate with the franchisor in Missouri 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 if your spouse has no ownership interest in the franchise. This Guarantee will place both your and your spouse's marital and personal assets (perhaps including your house) at risk if your franchise fails.

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.

**THE FOLLOWING PROVISIONS APPLY ONLY TO  
TRANSACTIONS GOVERNED BY  
THE MICHIGAN FRANCHISE INVESTMENT LAW**

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

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

(ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

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

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

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

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

If the franchisor's most recent financial statements are unaudited and show a net worth of less than \$100,000, the franchisor shall, at the request of a franchisee, arrange for the escrow of initial investment and other funds paid by the franchisee or subfranchisor until the obligations to provide real estate, improvements, equipment, inventory, training, or other items included in the franchise offering are fulfilled. At the option of the franchisor, a surety bond may be provided in place of escrow.

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

**ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE OFFICE OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ATTN: FRANCHISE SECTION, G. MENNEN WILLIAMS BUILDING, 1ST FLOOR, LANSING, MICHIGAN 48933, (517) 373-7117.**

**MessageLuXe**  
**FRANCHISE DISCLOSURE DOCUMENT**  
**FOR FRANCHISE AND MULTI-UNIT DEVELOPMENT**

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

To simplify the language in this franchise disclosure document, MASSAGE LUXE INTERNATIONAL, LLC, the franchisor of the MassageLuXe franchise, is referred to in this disclosure document as "we," "us," "our," or "MassageLuXe." A franchisee is referred to in this disclosure document as "you" and "your." If you are a legal entity, "you" includes the shareholders of the corporation, partners of the partnership or members and managers of the limited liability company and their spouses, where applicable.

Franchisor and any Parent, Predecessor and Affiliates

We are a limited liability company formed under Missouri law on July 13, 2007. Our principal business address is 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017. On September 27, 2018, the ownership of Massage Luxe International, LLC was acquired by WIT Nutrition I, LLC, a Delaware limited liability company ("WIT"). WIT's principal place of business is 3378 W. Highway 117, Sapulpa, OK 74066. We do not have any parents, affiliates or predecessors.

Our agent or agents to receive service of process, if any, are in attached **Exhibit E**.

Our Business

We do business, and intend to do business, under our company name and under MassageLuXe. We are in the business of selling franchises for the operation of Spas. We have been offering MassageLuXe franchises since February 2008. We manage the MassageLuXe network of franchisees. We do not engage in any other business activity. We do not operate any Spas. We have not in the past and do not now offer franchises in any other line of business or in this line of business under a different name.

We have expended considerable time and effort in developing a massage therapy spa featuring massages, facials, waxing and skin care treatments, together with related services, products, merchandise, and accessories under the Marks and in accordance with the System. "Marks" means such service marks, trademarks, trade dress, trade names, logos and commercial symbols, as may presently exist, or which may be modified, changed, or acquired by us or our affiliates, in connection with the operation of a Spa. Marks currently include the "MassageLuXe Spa", "MassageLuXe", "ML and design", "LuXe" and "FaceLuXe" and the silhouette design mark. "System" means our distinct and proprietary business format for the operation of massage therapy businesses offering the Services, including the methods, procedures, signs, designs, layouts, equipment, standards and specifications, and the Marks, as the same may be modified, amended or replaced from time to time hereafter, the distinguishing characteristics of which include proprietary operating procedures and standards and specifications for the Services. "Services" mean massages, facials, waxing and skin care treatments, together with related services that exist or which may be modified, changed or acquired by us. "Spa" means any business operating under the Marks according to the System regardless of whether it is owned by you, us, our affiliates or any other franchisee or licensee.

Single Franchise. We grant individual franchises to own and operate a Spa under the terms and conditions of a MassageLuXe franchise agreement (the "Franchise Agreement" or "FA" in **Exhibit A**).

Multi-Unit Franchises. We also offer applicants a Multi-Unit Development Agreement (the "Multi-Unit Development Agreement" or "MUD" in **Exhibit B**) which authorizes you to develop, own and operate a specific number of Spas in the territory designated in your Multi-Unit Development Agreement ("MUD

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MassageLuXe®  
—2024/2022 Franchise/MUD Multistate

Territory"). Under the Multi-Unit Development Agreement, you must develop and open a specific number of Spas in your MUD Territory in the time period designated in the Multi-Unit Development Agreement. There is a minimum number of 3 Spas that must be opened under the Multi-Unit Development Agreement. The specific number of Spas required to be opened will be mutually agreed upon by you and us based on the size of the territory and various market and economic factors. The Franchise Agreement that you will execute for each Spa will be our then current form franchise agreement (and related documents), any or all of the terms of which may differ substantially from the terms contained in the current form franchise agreement.

In the past we offered an Area Development Agreement which authorized the "Developer" to develop, own and operate a Spa and serve as our independent representative to solicit franchisees, provide initial training, and opening and on-going assistance and supervision to franchisees in the territory designated in a specific territory. We are not currently offering this Area Development Program, however, you may receive training and on-going assistance and supervision from one of the existing Developers.

If you refer a prospective franchisee for a new MassageLuXe Spa (not as part of a resale) to us, and your referral actually purchases a franchise, we reserve the right to institute a policy to "thank you" for the referral and provide you with a referral fee and/or other rewards. We may start, end or change this policy and impose rules and conditions whenever we choose. Persons who receive financial incentives to refer franchise prospects to us may be required to register as franchise brokers under the laws of some states.

You will face competition predominantly from massage therapists, estheticians, other massage therapy businesses, waxing businesses and spas offering massage therapy, facials and waxing services and related services and products. The services and related goods you will sell are well recognized by consumers and widely available from other sources. The market for the franchise's services and related goods is well developed. Our services and related goods are sold to individuals and to businesses. Selling is not seasonal, and services are offered throughout the year. There is competition for the services and related goods you will sell. Local independent businesses compete with our franchises as do regional, national or international chains.

### Industry Regulations

You must comply with all local, state and federal laws that apply to your operations. These laws may include state and federal laws and regulations relating to privacy of patient records (including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the privacy rules required of "covered entities" under HIPAA). Many states and local governments require massage therapists and massage therapy spas be licensed, and many states and local governments require estheticians and business offering facial and waxing services to be licensed. You must ensure that your Spa and the therapists and estheticians who work in your Spa comply with those requirements, including completing any certification or other required courses. You must ensure that only licensed therapists and licensed estheticians perform any services for which a license or specialized training is required. Some states may require that you obtain a bond if you accept payment for memberships in advance of services being provided and there may be buyer's remorse cancellation rights and other types of cancellation rights. It is your responsibility to check the laws within your state to determine whether any state licensing laws or regulations are applicable and to fully comply with those laws or regulations.

## ITEM 2 BUSINESS EXPERIENCE

### **Mark Otter, President and Chief Executive Officer**

Mr. Otter has been the President and Chief Executive Officer of Massage Luxe International, LLC since December 2016 and was the Chief Operating Officer of Massage Luxe International, LLC from April 2016 until December 2016. Mr. Otter was first the Chief Operating Officer and was the President of the following entities in Fenton, MO from April 2016 until September 2018: Xist International, LLC, BAM Brands, LLC, Xist Arnold, LLC, Team Tan, Inc., BRJ, LLC, THETANCO, Inc., ABTB ML CWE, LLC, ABTB ML Creve Coeur, LLC, ABTB ML Kirkwood, LLC, Team Luxe, LLC, and ML Salon Investments, LLC.

### **Jason Malacarne, Vice President of Operations**

Since August 2016, Mr. Malacarne has been the Vice President of Operations of Massage Luxe International, LLC. From July 2015 to July 2016, Mr. Malacarne was the Director of Operations for Massage Luxe International, LLC.

### **Stephanie Hill, Vice President of Marketing**

Since September 2016, Ms. Hill has been the Vice President of Marketing of Massage Luxe International, LLC. From April 2012 until August 2016, Ms. Hill's title in Massage Luxe International, LLC was Vice President of Operations and Marketing. ~~From the dates listed until August 2016, Ms. Hill was the Vice President of Operations and Marketing for the following limited liability companies in Fenton, Missouri: NB Life Fenton, LLC (December 2015); NB Life Kenrick, LLC (December 2015); NB Life Creve Coeur, LLC (October 2015); LifeXist International, LLC (September 2015); BAM Brands, LLC (May 2012); Xist International, LLC (April 2012); Xist Arnold, LLC (April 2012); BRJ, LLC (April 2012); LuXeStethics, LLC (April 2012); ABTB ML CWE, LLC (April 2012); ABTB ML Creve Coeur, LLC (April 2012); T & E, LLC (April 2012); ABTB ML Kirkwood, LLC (April 2012); ML Salon Investments V, LLC (April 2012); Team Luxe, LLC (April 2012); ML Salon Investments, LLC (April 2012); THETANCO, Inc. (April 2012); and Team Tan, Inc. (April 2012).~~

### **Maureen "Cookie" Pangilinan – Chief Financial Officer**

Ms. Pangilinan has served as the Chief Financial Officer of Massage Luxe International, LLC since December 2007. Ms. Pangilinan has also been the Chief Financial Officer of the following entities in Fenton, Missouri since the dates listed until September 2018: NB Life Fenton, LLC (December 2015); NB Life Kenrick, LLC (December 2015); NB Life Creve Coeur, LLC (October 2015); LifeXist International, LLC (September 2015); Xist PT, LLC (January 2013); BAM Brands, LLC (May 2012); Xist International, LLC (March 2012); Xist Arnold, LLC (February 2012); BRJ, LLC (September 2011); Spray La Vie International, LLC (April 2011); Face Luxe International, LLC (February 2011); FaceLuXe Licensing I, LLC (February 2011); Team Tan, Inc. (January 2008); THETANCO, Inc. (January 2008); ML Salon Investments, LLC (January 2008); Salon Investments, LLC (January 2008); KAT, Inc. (January 2008); St. Louis Tan Company, Inc. (January 2008); ABTB Euclid, LLC (February 2011); ABTB ML CWE, LLC (December 2009); ABTB ML Creve Coeur, LLC (October 2009); T & E, LLC (July 2009); ABTB ML Kirkwood, LLC (June 2009); and Team Luxe, LLC (June 2008); From November 2010 until December 2017, Ms. Pangilinan was the Chief Financial Officer of LuXeStethics, LLC in Fenton, Missouri. From

March 2009 until August 2016, Ms. Pangilinan was the Chief Financial Officer of ML Salon Investments V, LLC in Fenton, Missouri.

**Sean Michael Rentchler – Director of Franchise Development**

Sean Rentchler has been the Director of Franchise Development since October 10, 2019. From May 2018 until October 2019, Mr. Rentchler was the Regional Development Manager of Moran Foods, LLC in St. Louis, MO. From September 2016 until May 2018, Mr. Rentchler was the Vice President of Franchise Evolution in Springfield, MO. ~~From March 2014 until September 2016, Mr. Rentchler was the Vice President of Development of Franchise Dynamics, LLC in Homewood, IL.~~

**Kristen Pechacek – Chief Growth Officer**

Kristen Pechacek has been our Chief Growth Officer since July 2020. From April 2015 until July 2020, Ms. Pechacek was the Digital Marketing Director of Self Esteem Brands in Woodbury, MN.

**ITEM 3  
LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4  
BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

**ITEM 5  
INITIAL FEES**

**Franchise Agreement – Single Unit**

You must pay us a lump-sum initial franchise fee in the amount of \$42,500, which is due in full upon signing the Franchise Agreement. If you already own a Spa, your initial franchise fee for any additional Spas will be \$32,500 for each. [The range of Initial Franchise Fees paid during the last fiscal year was between \\$0 and \\$42,500.](#) The initial franchise fee is fully earned by us when you sign the Franchise Agreement and is not refundable under any circumstances.

[Currently, we offer a discounted Initial Franchise Fee for your first Unit for certain service personnel who also meet our qualifications for a new Spa. If you are a service member of U.S. Army, Navy, Air Force, Marines, or Coast Guard \(active or honorably discharged\), we will discount the Initial Franchise Fee by 20%. This discount cannot be combined with other discounts. We may require reasonable documentation of your eligibility for this program.](#)

If you sign a Multi-Unit Development Agreement, the initial franchise fee for your first Spa is \$42,500, for the second Spa is ~~\$32,500~~[\\$42,500](#) and the ~~initial franchise fee for each additional~~[third](#) Spa developed under the Multi-Unit Development Agreement will be ~~\$21,500~~[free](#). All of these fees will be paid as part of the MUD Fee and credited to you as described below.

Before your Spa opens, you must pay us an initial POS System Software Fee of \$500. ~~This is and \$3,500 for installation and configuration of the POS System Software. These amounts are~~ not refundable under any circumstances.

You must pay us a Construction Support Fee to compensate us for limited onsite visits to ensure compliance with our guidelines. The Construction Support Fee is typically \$3,000. Additional charges may be incurred if additional support required. This fee is not refundable.

### Multi-Unit Development Agreement

When you sign the Multi-Unit Development Agreement, you must pay us a non-refundable development fee (the “MUD Fee”). The ~~minimum~~ MUD Fee is ~~\$96,500~~ ~~(85,000 for a minimum of a 3 Spa mandatory development schedule,~~ calculated as follows: \$42,500 for your first Spa, ~~\$32,500~~ ~~42,500 for the second Spa plus \$21,500. There will be no the Initial Franchise Fee charged for your the third Spa).~~ ~~The total amount of the MUD Fee is equal to \$96,500 for these first 3 Spas, plus \$21,500 for each additional Spa to be developed under the Multi-Unit Development Agreement.~~ You must pay the MUD Fee immediately upon signing the Multi-Unit Development Agreement. The MUD Fee is credited to the initial franchise fee due for each Spa that is to be developed under the Multi-Unit Development Agreement at the time that you sign the Franchise Agreement for each such Spa. The MUD Fee is fully earned by us when you sign the Multi-Unit Development Agreement and is not refundable under any circumstances.

### Area Development Agreement

If you are already an Area Developer under an Area Development Agreement, the initial franchise fee for each Spa you open pursuant to the Area Development Agreement is \$16,250.

## ITEM 6 OTHER FEES

TYPE OF FEE <sup>1</sup>	AMOUNT	DUE DATE	REMARKS
Royalty	6% of Gross Revenue <sup>2</sup>	Each Friday for the preceding week, running as Saturday through Friday <sup>3</sup>	Paid via debit draft of your account as initiated by us
Refresher Training Fees and Additional Guidance	<u>The amount of the fee is described in the Manual. Currently \$400 per day per trainer</u>	As we and you agree	Paid if you need additional or refresher training <u>or if you request or we require additional assistance.</u> You will be responsible for all travel and living expenses
Per Day Fee	<del>\$400 per day per trainer</del>	<del>As we and you agree</del>	<del>If you request us to provide assistance or if we require your employees to be trained</del>
Regional Ad Fee	2.5% of Gross Revenue <sup>2</sup>	Each Friday for the preceding week,	Paid via debit draft of your account as initiated by us

TYPE OF FEE <sup>1</sup>	AMOUNT	DUE DATE	REMARKS
		running Saturday through Friday <sup>3</sup>	
National Ad Fee	1% of Gross Revenue <sup>2</sup>	Each Friday for the preceding week, running Saturday through Friday <sup>3</sup>	Paid via debit draft of your account as initiated by us
POS System Software Fees <a href="#">and Technology Services Fee</a>	For each Spa: Currently, Initial fee of \$500 and an ongoing fee of \$125 per week. <a href="#">We reserve the right to institute a Technology Services Fee in the future which may be increase on an annual basis</a>	Prior to opening and then each Friday for the preceding week, running Saturday through Friday <sup>3</sup>	The ongoing <del>fee</del> <a href="#">POS System Software Fee</a> of \$125 per week may be increased no more than 5% annually. Paid via debit draft of your account as initiated by us.
On-Line Continuing Education Programs	\$100-\$500 per therapist per training program	As incurred	If we provide you optional continuing education programs for your therapists
Alternative Supplier or Product Approval Fee	\$500 plus reasonable fee based on our costs if expenses incurred are greater than \$500	Upon submitting request for alternative supplier or alternative product and expenses on receipt of invoice.	If you want to use an alternative supplier or an alternative product
Interest <sup>4</sup>	The lesser of 1.5% per month or the highest contract rate of interest permitted by law	When underlying obligation is paid	Paid if you are late on any required payments to us
Auditing Costs <sup>4</sup>	Actual Costs	Reimbursement of our actual auditing costs	You'll reimburse us for our auditing costs if the audit discloses an understatement of more than 2% or you fail to provide us with reports as required
Transfer Fee ( <del>Franchise Agreement and MUD</del> )	<del>25</del> 50% of the then current Initial Franchise Fee  <del>\$5,000 per Spa to be developed under the Multi-Unit Development Agreement</del>	Concurrently with the transfer	Upon a transfer under the Franchise Agreement <del>or Multi-Unit Development Agreement</del> . If the transfer is from the individual owner to wholly owned entity, <a href="#">we may waive or reduce</a> the Transfer Fee <del>is reduced</del> to our legal fees incurred during the preparation of the documents, but in no event more than \$3,500

TYPE OF FEE <sup>1</sup>	AMOUNT	DUE DATE	REMARKS
<a href="#">Transfer Deposit</a>	<a href="#">\$5,000</a>	<a href="#">If you are considering transferring your Franchise Agreement, ownership interest or your Spa</a>	<a href="#">To cover our costs in evaluation the potential franchisee, legal costs and possible training. This amount will be applied toward the Transfer Fee if the transfer is culminated. A partial refund may be available in excess of our costs for evaluation of the potential franchisee, legal costs and training costs.</a>
Renewal Fee	<del>\$5,000</del> <a href="#">under 25% of the then current Initial Franchise Agreement Fee</a>	Concurrently with our granting a renewal franchise to you	Paid to us if you want to renew the Franchise Agreement
<a href="#">Relocation Fee</a>	<a href="#">25% of the then current Initial Franchise Fee</a>	<a href="#">If you relocate your Spa</a>	<a href="#">Paid to us if you want to relocate your Spa and we consent to the relocation</a>
<a href="#">Customer Assistance Fee</a>	<a href="#">All costs, actual and administrative, incurred in providing assistance to you customers</a>	<a href="#">Upon demand</a>	<a href="#">Paid to us if we find it necessary to provide assistance directly to your customers</a>
Costs and Attorney's Fees (Franchise Agreement and MUD)	Actual Costs	Upon demand	You'll reimburse us for accounting, attorneys', arbitrators' and related fees incurred by us if we are forced to seek enforcement
Taxes <sup>5</sup>	Actual Costs	Upon demand	
Liquidated Damages <sup>6</sup>	\$1,000 per day <a href="#">and/or per incident</a>	Upon demand	Payable for each day unauthorized products or services are offered for sale or sold; <a href="#">each time there is unauthorized advertising or for each day you are in default for failure to follow the requirements of our System</a>
Early Termination Fee	\$50,000 plus actual costs	Upon demand	Payable if we terminate the Franchise Agreement for cause after the Spa opens for business
Dispute Resolution Fee (Franchise Agreement and MUD)	\$50,000 plus actual costs	Upon demand	Payable if you breach the dispute resolution provisions of the Franchise Agreement or MUD

<sup>1</sup> All fees are paid to us or our affiliates. All fees are non-refundable and uniformly imposed unless otherwise noted. All fees are under the Franchise Agreement unless otherwise noted.

<sup>2</sup> As used in this franchise disclosure document, the term “Gross Revenue” means all revenue you derive from operating your MassageLuXe franchise, including, but not limited to, all amounts you receive from pre-opening sales, services, merchandise, gift cards or goods sold at or away from the Location, and whether from cash, check or credit transactions, excluding all federal, state or municipal sales, use or service taxes collected from customers and paid to the appropriate taxing authority and bona fide tips paid to your employees by customers, customer refunds, adjustments, credits and other allowances actually made by the franchise in compliance with the Operations Manual.

<sup>3</sup> Payment of the Royalty Fees, Regional Ad Fee, National Ad Fee and the weekly POS System Software Fees shall commence the earlier of: (i) the date of the initial opening of your Spa; or (ii) any presale of Services and continue thereafter during the remaining term of the Franchise Agreement. We anticipate the due date for royalties and other periodic payments to be each Friday for the preceding week, running Saturday through Friday (“Accounting Period”); however, we reserve the right to alter the collection schedule for royalties or other fee payments. We will provide you with at least 30 days’ notice of any change in the royalty payment schedule.

<sup>4</sup> You must pay interest on any unpaid amounts at the rate of the lesser of 1.5% per month or the maximum legal rate in the jurisdiction where your Spa is located. Interest begins from the date any payment is due. In addition, if the amount of Gross Revenue you report for any calendar year is less than 98% of the actual Gross Revenue for that period or you fail to provide us with the reports as required, you must reimburse us for all costs of the investigation or audit that uncovered the under-reported sales, including salaries, professional fees, travel, meals, and lodging.

<sup>5</sup> You must pay us the amount of any State or local sales, use, gross receipts, or similar tax that the State or local government authority imposes on fees which you pay to us under the Franchise Agreement, without offset or deduction of any kind. Your obligation to reimburse us for these taxes does not extend to income-type taxes which a State or local government imposes on our income.

<sup>6</sup> ~~Uniformity of products and services offered by all Spas is of utmost importance to us, our franchisees and the System. If you offer to sell or do sell products or services which are not authorized or are not prepared in accordance with the Operations Manual, you agree we will be damaged by your non-compliance.~~ These damages will be calculated at the rate of \$1,000 per day for each day unauthorized products or services are offered or sold and will be: each time there is unauthorized advertising; or for each day you are in default for failure to follow the requirements of our System. The liquidated damages are in addition to any other rights and remedies we may have against you. We have the right to collect these amounts in addition to any and all of our other rights for non-compliance provided for under the Franchise Agreement. You agree that a precise calculation of the full extent of the damages that we will incur from the offer or sale of unauthorized products and services are difficult to determine and we and you desire certainty in this matter and agree that the damages provided here are reasonable, constitute liquidated damages and are not a penalty.

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**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Initial Franchise Fee <sup>1</sup>	\$ 42,500	Lump sum	When you sign the Franchise Agreement	Us
Leasehold Improvements <sup>2</sup>	<del>\$163,600-</del> <del>\$273,000</del> <u>\$196,600-</u> <u>\$389,400</u>	As Arranged	As Arranged	General Contractor, Approved Supplier and Us
Signs <sup>3</sup>	<del>\$ 2,100</del> <u>1,800</u> - \$ 13,200	As Arranged	As Arranged	Approved Suppliers
Spa Equipment and Supplies <sup>4</sup>	<del>\$ 19,600-</del> <del>\$ 48,800</del> <u>24,300 - \$</u> <u>81,300</u>	As Arranged	As Arranged	Approved Suppliers
Fixtures <sup>5</sup>	<del>\$ 10,900-</del> <del>\$ 36,300</del> <u>13,300 -</u> <u>\$ 38,000</u>	As Arranged	As Arranged	Approved Suppliers
Furniture and Décor <sup>6</sup>	<del>\$ 5,400-</del> <del>\$ 18,000</del> <u>5,800 -</u> <u>\$ 19,300</u>	As Arranged	As Arranged	Approved Suppliers
Initial Pre-Opening Inventory <sup>7</sup>	\$ 9,000	As Arranged	As Arranged	Approved Suppliers
Start-Up Marketing <sup>8</sup>	<del>\$ 7,500-</del> <del>\$ 10,000</del> <u>15,000 - \$</u> <u>20,000</u>	As Arranged	Before opening	Approved Suppliers and Advertisers
Insurance <sup>9</sup>	\$ 8,000 - \$ 12,000	Lump sum	Before opening	Insurance companies
Pre-paid Rent and Lease Deposits <sup>10</sup>	\$ 5,600 - \$ 8,000	Lump sum	Upon signing lease	Landlord
Professional Fees <sup>11</sup>	\$ 8,000 - \$ 10,000	Terms vary	Terms vary	Accountants, lawyers, architects, etc.
Training Expenses <sup>12</sup>	\$ 3,000 - \$ 5,000	Terms vary	Terms vary	Transportation, meals, lodging, etc.

TYPE OF EXPENDITURE	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
Licenses/Bonds <sup>13</sup>	\$ 100 - \$ 1,000	Lump sum on application	Before opening	Government agencies, and bonding companies
Computer Hardware and Software <sup>14</sup>	<del>\$ 15,400</del> <del>\$ 16,400</del> <u>\$ 15,800 - \$ 15,800</u>	As Arranged	As Arranged	Approved Suppliers and Us
Security Systems <sup>15</sup>	\$ 1,500	Terms vary	Terms vary	Security System service provider
Phone and Music Systems	<del>\$ 1,800</del> \$ 2,200 = <u>\$ 2,600</u>	Terms vary	Terms vary	Approved Supplier
Office Supplies and Other Miscellaneous Expenses	<del>\$ 6,000</del> <del>\$ 6,200</del> <u>6,300-</u> <u>\$ 6,300</u>	Terms vary	Terms Vary	Local vendor
Shipping <sup>16</sup>	\$ 4,000 - \$ 8,000	As Arranged	Before opening	Approved Supplier
Additional Funds – 3 months <sup>17</sup>	\$ 25,000 – \$ 50,000	Terms vary	Amount varies over the next 3 months	Before and during the 3 month period after the start of operations
Total <sup>18</sup>	<del>\$339,000</del> <del>\$571,100</del> <u>\$387,800 -</u> <u>\$732,900</u>			

The chart above describes the estimated initial investment for a single unit Spa, whether it is a single Unit or a Unit under a Multi-Unit Development Agreement. The Initial Franchise Fee is non-refundable. Any refund of all of the other expenses or portion of these expenses are subject to the policies of the applicable supplier and may depend on whether delivery of the item(s) has been made. The foregoing expenses are merely estimates. You are encouraged to make an independent investigation and analysis of the potential expenses which may be incurred in order to start your Spa.

<sup>1</sup> The initial franchise fee for your second ~~Spa (regardless of whether it is~~ and all subsequent Spas not opened under a MUD Multi-Unit Development Agreement ~~or not~~ is \$32,500 ~~and subsequent Spas.~~ For the second Spa under a Multi-Unit Development Agreement is \$21,500, the Initial Franchise Fee is \$42,500 and there is no Initial Franchise Fee under the third Spa. If you enter into a Multi-Unit Development Agreement, you will pay us a MUD Fee as described in Item 5, which will be attributed to the initial franchise fee for each Spa when you sign each Franchise Agreement.

<sup>2</sup> Costs associated with the build-out for a Spa may vary greatly for newly constructed locations and existing locations requiring modification. We recommend 2,200 to 2,800 square feet for the operation of Spa. These estimates assume a build-out allowance from the landlord. Leasehold improvement costs will

also be affected by labor costs, local market conditions, local zoning ordinances, age of the location and other factors. These estimates also include an estimated \$3,000 Construction Support Fee paid to us.

<sup>3</sup> The amounts represent the estimated costs of both outdoor and indoor signage. The amounts exclude sales and use tax. The low end represents the deposit and 3 months lease payments if you decide to lease these items and the high end represents the cost if you purchase the items outright.

<sup>4</sup> The low estimate reflects the recommended equipment for a Spa with capacity for 87 client rooms. The high estimate reflects the recommended equipment for a Spa with capacity for 11 client rooms. In addition, the low end represents the deposit and 3 months lease payments if you decide to lease these items and the high end represents the cost if you purchase the items outright. These estimated expenses include the cost of 1 hydro water massage bed, massage tables, table warmers, towel and blanket warmers, therapy kits, supplies and equipment for facials, and other related equipment. The amounts exclude sales and use tax.

<sup>5</sup> Fixtures include the costs and installation of millwork (including retail fixtures, shelving, counters), light fixtures, and bathroom fixtures. The amounts exclude sales and use tax. The low end represents the deposit and 3 months lease payments if you decide to lease these items and the high end represents the cost if you purchase the items outright.

<sup>6</sup> The low estimate reflects the estimated cost of furnishing and decorating a Spa with 87 client rooms in accordance with our minimum standards. The high estimate reflects the estimated cost of furnishing and decorating a Spa with 11 client rooms beyond our minimum standards. The low end represents the deposit and 3 months lease payments if you decide to lease these items and the high end represents the cost if you purchase the items outright. The amounts exclude sales and use tax.

<sup>7</sup> These amounts represent the estimated cost of an initial supply of massage lotions, related skincare products, and supplies. The amounts exclude sales and use tax and shipping costs.

<sup>8</sup> The low estimate reflects the minimum amount required to be spent for grand-opening marketing of your Spa. The high estimate reflects the cost of additional marketing efforts beyond the required grand-opening marketing that you may choose to do.

<sup>9</sup> Your costs for insurance may vary depending on the insurer, the location of your Spa, the equipment and leasehold improvements and other factors. This is an estimate of your annual premium for your insurance which is described in the Franchise Agreement in Article 16.5 and Item 8.

<sup>10</sup> Some landlords may require the pre-payment of rent, as well as the payment of a security deposit. The amounts will vary based on the market rental rates for your market. If you purchase real estate for the operation of your Spa, your real estate costs may increase significantly.

<sup>11</sup> You may require the assistance of attorneys, accountants, architects and other professional service providers in establishing your Spa. These amounts may vary depending on the extent of the services required.

<sup>12</sup> These amounts represent the average costs of transportation, food and lodging for 2 to 3 people to attend initial training at our corporate office in Chesterfield, Missouri or at a Developer's Spa. These amounts do not include any salary or other compensation you may have to pay these employees during the time they are attending initial training.

<sup>13</sup> This figure may vary greatly depending on the fees charged by local government agencies and bonding companies. A refund of the entire fee or portion of the fees paid for licenses/bonds is subject to the policies of the appropriate government agencies and bonding companies.

<sup>14</sup> These estimated amounts are for the required POS System computer hardware and software, as well as shipping, installation and setup. These amounts also include required tablet computers, a cash drawer and an all-in-one printer and the POS System Software Fee. See Item 11. Note that if you request that we or our vendors provide additional services, you will be charged accordingly.

<sup>15</sup> You are required to install a security system at your Spa, which includes the following minimum components: one camera in each of the lobby, break room, hallway and facing the back door.

<sup>16</sup> The estimated amounts are for the cost Luxe will invoice you for shipping equipment and other purchased items to your Spa.

<sup>17</sup> The Additional Funds reflect additional capital you may need to cover expenses during the initial period of operation of your Spa other than items identified separately in the above table. These expenses include additional rent, payroll costs, benefits, additional inventory requirements, sales and use tax obligations, supplies, etc., but do not include the fees in Item 6 or an owner's draw or salary. You may experience negative cash flow during the initial months of operation of your Spa, which is common due to the type of business and need to develop a membership base. This is based on information from our franchisees who have currently opened Spas.

<sup>18</sup> Costs and expenses can vary depending on various factors like local real estate costs, cost of labor and supplies. We cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on how closely you follow the System, your management skill, experience and business acumen, local economic conditions, the acceptance by local consumers of our approved goods/services, prevailing wage rates, competition, etc. There can be no assurance that the experience of a particular franchisee will correspond with the information presented above. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.

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

The goods, services, supplies, fixtures, inventory and computer hardware and software must be purchased by you from us, our affiliates, our approved suppliers or according to our specifications. Approved suppliers and specifications are determined based on the current needs for operating the franchised business. The Operations Manual identifies the items we require you to purchase or lease only from our approved suppliers. We evaluate approved suppliers based on price, service, quality, and other commercially reasonable benchmarks. The identity of approved suppliers and these specifications are updated periodically in writing by modifying the appropriate pages of the Operations Manual or notifying you by email. We will send you email notification or modified pages through the United States Mail or by any other commercially reasonable means. Our reason for these requirements is to ensure uniformity and consistent quality in all MassageLuXe locations.

If you want to use an alternative supplier or an alternative product for your Spa, you must first go through our approval process. We have procedures for approving vendors, suppliers, and alternative products you may recommend. There are no written guidelines for vendor, supplier and product approval, since the procedure will vary greatly depending on the particular product you want to use the vendor or

supplier for, or the product you want to substitute. Factors that we will take into consideration include price, service, quality, and other commercially reasonable benchmarks. It takes up to 60 days to evaluate new vendors or suppliers and notify you of our decision. The approval criteria are not available to our franchisees. You are allowed to contract with alternative suppliers who meet our criteria, once we have approved the supplier. We charge a fee of \$500 for our review of an alternative supplier or product. The fee is intended to cover our costs for reviewing the supplier or product, though if our costs for doing so exceed \$500, we reserve the right to charge you a reasonable fee based on our actual costs. You must also provide us with a sufficient number of samples of the alternative product for us to review and evaluate. We reserve the right to revoke an approval in our sole discretion at any time upon written notice to you. We provide general specifications, which are issued by us in our sole discretion, to you or approved suppliers for our products upon request. If those specifications include our trade secrets or confidential information, we will require the supplier to sign a confidentiality agreement before receiving access to the specifications. If specifications provided to you or an approved supplier are later modified, we will inform you of that in writing.

The purchase of products from approved sources will represent approximately 36-41% of your overall purchases in opening the franchise and 30-45% of your overall purchases in operating the franchise.

We and our affiliates currently do not provide any products or services to our franchisees except as specified in this FDD although we reserve the right to do so in the future. To clarify, in such event, you will be required to pay our fees for providing such products or services. We may occasionally develop proprietary private label equipment and products that are an integral part of our System and you must comply with all our specifications and requirements and incorporate and use the equipment and products in the operation of the franchise business, as we may require. ~~Luxe, previously considered an affiliate, provided and will continue to provide certain proprietary products as part of your initial and ongoing inventory requirements.~~ In the fiscal year ending December 31, ~~2020~~2021, we ~~did not sell~~sold \$7,541 products to our franchisees. This is .1% of our gross revenues of \$5,435,221. None of our officers have an ownership interest in any of our approved suppliers but they reserve the right to do so in the future. Any purchases from us or our affiliates will generally be at prices exceeding our, or our affiliate's, costs.

We and our affiliates reserve the right to negotiate with various vendors for quantity discount contracts which may include rebates to us or our affiliates under these contracts. In ~~2020~~2021 we received rebates from approved suppliers ranging from 0%-15% of purchases made by Spas. We have the right to condition or revoke your right to participate in any supplier programs if you are in default under the Franchise Agreement. We have the right to affiliate ourselves with suppliers or become an approved supplier or the sole supplier. Further, we and our affiliates have the right to receive revenues, rebate, commissions or other benefits from suppliers based on purchases made by our franchisees.

We do not provide other material benefits to you; i.e., special renewal privilege or additional franchises, based on your use of our designated or approved sources. There are no purchasing or distribution cooperatives at this time. ~~While we may do so in the future, we have not negotiated~~We have the right to negotiate purchase arrangements with suppliers for our franchisees' benefit, ~~but we reserve the right to do so in the future.~~ We do not provide you material benefits based on your purchase of particular products or services or use of any particular suppliers.

In addition to the purchases or leases described above, you must buy and maintain, at your own expense, insurance coverage that we require and to meet the other insurance-related obligation as described in Article 16.5 of the Franchise Agreement. The cost of coverage will vary depending on the insurance carrier's charges, terms of payment and your history. All insurance policies must name us as an additional

insured party. We may, from time to time, in our sole discretion, make such changes in minimum policy limits, coverage, and endorsements as we may determine, which we will specify in the Operations Manual. Currently, we require that the insurance policies you maintain for a Spa shall, at a minimum, include the following:

Commercial General Liability Insurance

- \$1,000,000 Per Occurrence
- \$2,000,000 General Aggregate
- \$2,000,000 Products/Completed Operations Aggregate

Professional Liability Insurance

- \$1,000,000 Per Claim or Occurrence
- \$2,000,000 General Aggregate
- \$ 300,000 Sexual Abuse/Molestation per claim or occurrence
- \$ 300,000 Sexual Abuse/Molestation Aggregate
- Policy retention/deductible not to exceed \$5,000
- Policy must not exclude massage or facial services under this agreement

Data Breach Insurance

- \$100,000 Aggregate – Response Expense
- \$100,000 Aggregate – Defense and Liability

Automobile Liability Insurance

- \$1,000,000 Hired & Non-Owned Liability
- \$1,000,000 Combined Single Limit per accident

Worker’s Compensation Insurance

- Statutory limits as required by applicable state law
- \$1,000,000 Employers Liability Limits

Commercial Property Insurance

- Property coverage (special cause of loss) for the full replacement cost of leasehold improvements and other property at the Location
- Business interruption coverage with a limit representing a loss of at least 12 months of income
- Other insurance as may be required by the landlord of the location for your Spa and by any applicable law or regulation

Employment Practices Liability

- Limit for Insured (aggregate) \$100,000.00

[In addition, based on the type of insurance you purchase, we may require you to carry tail insurance coverage in the amount and length of time as we feel necessary.](#)

**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 that agreement and in other items of this franchise disclosure document.**

OBLIGATION	ARTICLE NUMBER IN FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT	ITEM NUMBER IN DISCLOSURE DOCUMENT
17. Site selection and acquisition/lease	1.3, 2.1 & 2.2 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	7 and 11
b. Pre-opening purchases/leases	2.2, 2.4, 2.5 & 8 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	7 and 8
c. Site development and other pre-opening requirements	2.1, 2.3 through 2.8 & 4.1 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	5, 6, 7 and 11
d. Initial and ongoing training	4 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement;	11
e. Opening	2.6, 2.7 & 2.8 of the Franchise Agreement; and 3.A of the Multi-Unit Development Agreement	11
f. Fees	3 of the Franchise Agreement; and 2 of the Multi-Unit Development Agreement	5 and 6
g. Compliance with standards and policies / operating manual	2.11 and 4.5 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	11 and 14
h. Trademarks and proprietary information	5 and 6 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	13 and 14
i. Restrictions on products/services offered	2 & 8 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	16
j. Warranty and customer service requirements	<del>Not applicable to 2.11 of the Franchise Agreement</del> <b>and not applicable to the</b> Multi-Unit Development Agreement	11
k. Territorial development and sales quotas	Not applicable to the Franchise Agreement; and 3 of the Multi-Unit Development Agreement	12
l. Ongoing product/service purchases	8 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	8
m. Maintenance, appearance and remodeling requirements	2.11, 12.4 and 13.2 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	11
n. Insurance	16.5 of the Franchise Agreement; and not applicable in the Multi-Unit Development Agreement	7 and 8
o. Advertising	9 of the Franchise Agreement; and not Applicable to the Multi-Unit Development Agreement	6, 7 and 11
p. Indemnification	16 of the Franchise Agreement; and 5 of the Multi-Unit Development Agreement	6

OBLIGATION	ARTICLE NUMBER IN FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT	ITEM NUMBER IN DISCLOSURE DOCUMENT
q. Owner's participation/management/staffing	1.4 of the Franchise Agreement; and not Applicable to the Multi-Unit Development Agreement	11 and 15
r. Records and reports	10 of the Franchise Agreement; and not Applicable to the Multi-Unit Development Agreement	6
s. Inspections and audits	11 of the Franchise Agreement; and not Applicable to the Multi-Unit Development Agreement	6 and 11
t. Transfer	12 of the Franchise Agreement; and 8 of the Multi-Unit Development Agreement	6 and 17
u. Renewal	13 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	6 and 17
v. Post-termination obligations	13 and 14 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	17
w. Non-competition covenants	7 of the Franchise Agreement; and not applicable to the Multi-Unit Development Agreement	17
x. Dispute resolution	17 of the Franchise Agreement; and 9 of the Multi-Unit Development Agreement	17
y. Other: Guarantee of franchisee obligations	Guaranty and Assumption of Obligations must be signed by all owners of the franchise and their spouses.	Item 15

## ITEM 10 FINANCING

We do not offer direct or indirect financing. We do not guarantee your note, lease or obligation.

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

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

**Before you open your Spa, we will:**

- Designate your protected Territory under the Franchise Agreement using our current standards regardless of whether it is a single unit Spa or a Spa pursuant to a Multi-Unit Development Agreement (Franchise Agreement – Article 1.3 and Appendix A and Section 3 C of the Multi Unit Development Agreement).
- Designate your non-exclusive MUD Territory for your Spas to be developed under a Multi-Unit Development Agreement (Multi-Unit Development Agreement - Article 1.A and Appendix A).
- Loan you a copy of our Operations Manual (Franchise Agreement - Articles 4.1 and 4.5). The Operations Manual, which may be in a format determined by us (i.e., in writing, on CD-ROM, via electronic media through a secure website, etc.) is confidential and remains our property. You will operate your Spa in strict compliance with those operational systems, procedures, policies, methods and requirements found in the Operations Manual which are designated as mandatory and in any supplemental bulletins and notices, revisions, modifications, or amendments thereto, all of which are a part of the Operations Manual.

You must always treat in a confidential manner the Operations Manual, any other manuals we create (or that we approve) for use with the Spa, and the information contained in the Operations Manual. You may not copy, duplicate, record, or otherwise reproduce all or any part of the Operations Manual and the related materials, (except for the parts of the Operations Manual that are meant for you to copy, which we will clearly mark), nor may you otherwise let any unauthorized person have access to these materials. The Operations Manual will always be our sole property. You must always keep the Operations Manual in a secure place at the Spa premises. We may periodically revise the contents of the Operations Manual, and you must make corresponding revisions to your copy of the Operations Manual and comply with each new or changed standard which is mandatory. If there is ever a dispute as to the contents of the Operations Manual, our master copy of the Operations Manual (maintained at our home office) will be controlling. The Operations Manual is 256 pages and the table of contents of the Operations Manual is attached as **Exhibit C**.

- Consent to your lease for your Spa location (Franchise Agreement - Article 2.2 and Multi Unit Development Agreement – Section 3.C). The factors we consider regarding whether to consent to your choice of a location for your Spa include general location and neighborhood, demographics, zoning, traffic patterns, parking, overall interior and exterior size, and lease terms. Our consent to your lease indicates that the lease meets our minimum requirements. Your lease for the Location must contain substantially the same terms as found on Appendix B attached to the Franchise Agreement. At our request, you agree that you will collaterally assign the lease to us as security for your timely performance of all obligations under the Franchise Agreement and secure the lessor's consent to this collateral assignment (see Franchise Agreement – Appendix C). If you and we cannot agree upon a location for your Spa and you fail to open within ~~270 days~~1 year after signing the Franchise Agreement, we may terminate the Franchise Agreement. We will use the current standards for approving a site regardless of whether it is for a single unit Spa or a Spa developed under a Multi-Unit Development Agreement
- Provide you with suggestions for the layout and design of your Spa (Franchise Agreement - Article 2.3). These suggestions will not include the requirements of any federal, state, or local law, code, or regulation, including those concerning the Americans with Disabilities Act or similar rules governing public accommodations for persons with disabilities, nor will our suggestions include the requirements of, or be suitable for, construction drawings or other documentation necessary to obtain permits or authorization to build your Spa. You will construct your Spa in accordance with specifications and plans prepared by you based upon our standards, subject to our right to consent. The cost of plans and specifications will be borne by you. Our consent will be limited to review of such plans to assess compliance with our design standards for Spas, including such items as trade dress, presentation of trademarks, and the provision to the potential customer of certain products and services that are central to the functioning of your Spa. We do not construct, remodel or decorate the premises for you.
- Provide you a list of approved suppliers and/or specifications for the products, equipment, services, furniture, fixtures and inventory you will be required to have at the Spa (Franchise Agreement – Article 2.5). Written specifications for these products are included in the Operations Manual. The products will be delivered to you by the approved supplier, but you will have to install them yourself.
- Provide you with assistance in constructing your Spa by recommending or approving contractors (which may include us and/or our affiliates) and architects, coordinating delivery and installation services for fixtures and equipment, and otherwise furnishing information to assist you

in establishing your Spa in accordance with our specifications (Franchise Agreement – Article 2.3). We charge a Construction Support Fee.

- License you the right to use the POS System software (Franchise Agreement – 1.7). We charge a POS System Software Fee for this right.
- Provide you ~~with an approved supplier who will provide~~ installation and set-up services for the POS System or providing an approved supplier to do so (Franchise Agreement – 8.2).
- Provide you with an initial training program described below (Franchise Agreement - Article 4.1).
- Make available to you, at your own expense, samples of advertising, marketing formats, promotional formats and other materials for you to use in your marketing programs. (Franchise Agreement - Article 9.1).

Note that if your Spa is located in the territory of one of our Area Developers, some or all of our obligations may be performed by that Area Developer.

### **Time for Opening the Spa**

We estimate the length of time between the signing of the Franchise Agreement to the opening of the Spa to range between 69 and 912 months. Factors that may affect the time period include your ability to obtain a lease, financing, building permits, comply with zoning and other local ordinances, weather conditions, shortages and delayed purchases or installation of equipment, fixtures or signs. You must begin operating your Spa within ~~270 days~~ 1 year of the execution of the Franchise Agreement.

Under the Multi-Unit Development Agreement, you must open your first Spa within ~~270 days~~ 1 year of the execution of the Franchise Agreement, the second Spa must be opened within 18 months after the opening of the first Spa, and you are required to continue opening subsequent Spas at 18 month intervals until all Spas required to be developed under the Multi-Unit Development Agreement have been opened (Multi-Unit Development Agreement – Article 3.A.).

If you are unable to find a location for your Spa within the required time, or if you are unable to open your Spa within the required time, you have to apply to us for a reasonable extension of time, which we may grant or refuse based on our determination of the circumstances causing the delay.

### **During the Operation of your Spa, we will:**

- Our representative will spend 3 to 5 days at your franchise location to assist you with the grand opening of your first Spa. (Franchise Agreement - Article 4.4).
- Provide you with general guidance, for which we have the right to charge a reasonable fee. (Franchise Agreement - Article 4.3).
- Be available for reasonable telephone consultation to assist with operating problems. (Franchise Agreement - Article 4.3).
- Make available to you, at your own expense, samples of advertising, marketing formats, promotional formats and other materials for you to use in your marketing programs. (Franchise Agreement - Article 9.1).

## Advertising

### Creative Services Advertising Fund

We control and administer the Creative Services Advertising Fund that all of our franchisees contribute to by paying a Regional Ad Fee (2.5% of Gross Revenue) and a National Ad Fee (1% of Gross Revenue). We are not limited to any specific media in which ads may be disseminated. We are not limited to local, regional or national programs, but may use a combination of these programs. We will create ads and may solicit outside ad agencies for the same purpose. We are not required under the terms of the Franchise Agreement to spend any funds from the Creative Services Advertising Fund to provide advertising in the local area or territory where your Spa is located in the same proportion as your contributions to the Creative Services Advertising Fund; however, we will provide some direct marketing in the general region in which your Spa is located at our sole discretion. We do not spend any funds from the Creative Services Advertising Fund on advertising that is principally a solicitation for the sale of franchises, except that we will use portions of the National Ad Fees towards the costs of any website we may maintain, which website may contain information about our franchising programs. The Creative Services Advertising Fund will be accounted for separately from our other funds and will not be used to defray any of our general operating expenses, except for reasonable salaries, administrative costs, travel expenses and overhead as we may incur in activities related to the administration of the Creative Services Advertising Fund and its programs. We will prepare an annual unaudited statement of monies collected and costs incurred by the Creative Services Advertising Fund and furnish the statement to you upon written request but do not provide you with periodic accountings showing how the advertising fees were spent. Any money in the Creative Services Advertising Fund which is not depleted within the calendar or fiscal year will remain in the Creative Services Advertising Fund for use during the following calendar or fiscal year. During our most recently completed fiscal year (ending December 31, ~~2020~~2021), ~~68~~67% of expenditures were on media placement, 2% of expenditures were on administration and ~~30~~31% of expenditures were on other items. Neither we, nor our affiliates receive payment for providing goods or services to the Creative Services Advertising Fund, other than reimbursement of the costs listed above. There is no advertising council composed of franchisees at this time. There are no advertising cooperatives or franchisee councils involved in the advertising process at this time. You are not required to participate in any local or regional advertising cooperative.

### Local Advertising

Although it is not required, we recommend that you spend money on local advertising and promotion of your Spa in addition to your contributions to the Creative Services Advertising Fund. You may use advertising that you generate, but only after first submitting it to us and receiving our approval. We will notify you of our approval of the proposed materials and programs within 15 days after we receive the materials. If we do not approve the materials and programs within this 15-day period, the materials are deemed disapproved and you will not be permitted to use the materials in any manner. You will not advertise or use in advertising or other form of promotion, the Marks without the appropriate copyright, trademark, and service mark symbols ("©", "®", "TM" or "SM") as we direct. You are responsible to ensure that all advertising and promotion materials used by you, whether created or consented to by us, comply with applicable laws.

We are not required to spend any amount of advertising in your Territory.

## Start-Up Marketing

Under the Franchise Agreement, you must conduct a grand opening advertising and promotional program for your Spa during the 30 day period prior to opening and during the 30 day period after opening and to expend not less than ~~\$7,500~~15,000 (the "Start-Up Marketing") for such purpose. The Start-Up Marketing will utilize the marketing and public relations programs and media and advertising materials we have approved. The Start-Up Marketing shall be conducted at the times we consider prudent. You must provide to us, within 30 days of our request, copies of all receipts and other documents we reasonably request, demonstrating your compliance.

## Internet and Other Electronic Advertising

We have established an Internet website, which we control. At your expense, we will include at this website an interior page containing information about your business for as long as determine. You may be required to prepare, at your cost, all or a portion of the page using our template, which will be subject to our approval. Subject to our right to consent, you may be permitted to create a social media account from which to advertise your Spa on the Internet (such as on LinkedIn, Facebook or Twitter). Any such permission shall only be for such time as we permit and shall be on the terms and condition we specify from time to time in the Operations Manual, which may restrict the content that you are permitted to post to such social media outlet. We have the right to cease granting you permission to operate any such social media outlet at any time. Except for this interior page and any such social media website, you may not maintain a presence on the internet for your Spa. Any advertising on the Internet, delivered by facsimile, electronic mail or other electronic means shall be pre-approved by us and on terms specified by us. We may require you to place all such electronic advertisements with us or our designated third party vendor.

## **Computer and POS System**

We require you to use an approved electronic cash register/point of sale system in the operation of your Spa. We also require the use of certain tablet computer devices. The cost for the required hardware is between ~~\$15,400 and \$16,400~~15,800. This amount includes the installation and set-up of the hardware at your Spa. We currently require the Venge software package by Built by Aliens. You will pay us an initial fee of \$500 and an ongoing fee of up to \$125 per week, which may be increased by up to 5% annually, for a license to use the Venge software package and standard support and minor upgrades of the software. See Item 6. There is no other required maintenance, updating, upgrading or support that we provide. We require you to maintain a PCI-DSS compliant environment with the approved vendor listed in the Manual.

You will use the cash register/point of sale system to generate receipts for customer purchases, track your sales at the Spa, and maintain information required for accounting records. The software is not proprietary to us, but is customized to include our sales codes and other System specifics. You will also use the cash register/point of sales system to communicate with us through the Internet, as well as to create correspondence and records related to the franchise. It will be your responsibility to find an Internet Service Provider. You must use any credit card vendors and accept all credit cards and debit cards, including electronic payment services such as "Apple Pay", that we determine.

You will contact our approved suppliers for service and maintenance of your computer hardware and software and peripheral equipment. Our approved suppliers have their own policies for service and maintenance as well as hardware and software upgrades. You agree to maintain at your own expense a computer system that conforms to the requirements and formats we prescribe, including updating all computer software and hardware as required by us. Neither we, nor any of our affiliates, nor any third parties, are required to provide ongoing maintenance, repairs, upgrades or updates to any part of your computer system. There are no contractual limitations on the frequency or cost of hardware and software upgrades required to conform to our system standards. We have the right, as often as we deem appropriate, including on a daily basis, to independently access your cash register/point of sale system and other computer systems that you are required to maintain in the operation of the Spa and to retrieve all information about the Spa's operations. There are no contractual limitations on our right to access the information, and you must ensure that we are able to remotely connect to your computer/point of sale system at all times for this purpose. None of the hardware components or software programs are the proprietary property of MassageLuXe or any of our affiliates.

We reserve the right to change the computer/POS system described in this Item at any time. There are no contractual limitations on the frequency and cost of this obligation. We need not reimburse you for any of these costs.

All point of sale system data and client information is our sole property and we may terminate your ability to access and use the point of sale system if a default of the Franchise Agreement, including non-payment of Royalties, Regional Ad Fees or National Ad Fees, is not cured within the permitted cure period, if any, or if you manipulate the system outside the way it was designed or intended without our prior approval. If we terminate your ability to access and use the point of sale system for non-payment of Royalties, Regional Ad Fees or National Ad Fees, full payment of all sums owed to us must be made before we give you access to and use of the point of sale system.

## **Training**

Our current training program consists of initial training at our training location or at an operating Spa on the operation of a Spa for you (or, if you are a business entity, your managing owners), and up to 2 additional employees you elect to enroll in the training program. Initial training consists of 10 working days. You (or your managing owner), and your employees are required to complete the initial training to our satisfaction. You will be responsible for all travel and living expenses which you (or your managing owner) and your employees incur while training. You (or your managing owner) must satisfactorily complete the initial training at least 2 weeks before opening your Spa. If we determine that you (or your managing owner) are unable to complete initial training to our satisfaction, we have the right to terminate your Franchise Agreement. If you currently operate a Spa, we will not provide you the initial training program, unless we deem it necessary, however you are responsible for providing training to all of your employees.

## **TRAINING PROGRAM**

### TABLE OF SUBJECTS - SINGLE UNIT FRANCHISE

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MassageLuXe®  
—2024/2022 Franchise/MUD Multistate

SUBJECT	HOURS OF CLASSROOM TRAINING <sup>1</sup>	HOURS OF ON THE JOB TRAINING <sup>1</sup>	LOCATION
Luxe 1 – Benefits of Massage and Types of Massage Offered	2	0	Chesterfield, MO or at another MassageLuXe Spa
Luxe 2 – Membership, Introductory Offers <del>and Commissions</del>	3	0	Chesterfield, MO or at another MassageLuXe Spa
Luxe 3- Introduction to Software Management System	3	0	Chesterfield, MO or at another MassageLuXe Spa
On-Site Training – Day-to-Day Operations, Customer Service, Selling, Software Management System	0	72	Chesterfield, MO or at another MassageLuXe Spa

<sup>1</sup> It is the nature of the MassageLuXe business that all subjects are integrated into the training program, and that there are no clear delineations between the subjects being learned. [We have the right to substitute virtual training for in-personal training in our discretion.](#)

We use our Operations Manual as the instructional material for the initial training. Initial training will be provided by Jason Malacarne, our Vice President of Operations, Katie Ninness, Maria Rask or; Amy Hoelscher, our Franchise Representatives, [Lauren Ettlting, our Trainer,](#) Tiffany Ferguson, our Director of Esthetics, or another person familiar with us and our System (such as a General Manager or Assistant Manager of an operating Spa).

Mr. Malacarne has been with the MassageLuXe franchise system since 2010. He has been a Spa manager, a district manager and director of operations before being promoted to his current role. In each of these roles he has been responsible for training personnel in operational areas of the Franchise. Ms. Ninness has been with the MassageLuXe franchise system since 2010 as a Franchise Representative. During this time her responsibilities included training of new franchisees in the operational areas of the Franchise. Prior to joining MassageLuXe, Ms. Ninness held various managerial and training positions in another membership-based franchise business. Ms. Hoelscher has work within the MassageLuXe franchise system since 2016, holding positions as a corporate trainer before being promoted to a Franchise Representative in June 2017. In each of these roles, she has been responsible for training personnel in operational areas of the Franchise. Prior to joining MassageLuXe, Ms. Hoelscher held various managerial and training positions in another membership-based franchise business. Ms. Rask has been with the MassageLuXe franchise system since 2016. She has been a Spa manager prior to becoming a Franchise Representative in November 2018. In each of these roles she has been responsible for training personnel in operational areas of the Franchise. Prior to joining MassageLuXe, Ms. Rask held various managerial and training positions in another membership-based franchise business. Ms. Ferguson has been a licensed esthetician for the MassageLuXe/FaceLuXe brand for since 2016. She has attended the Master Class at Repechage for in-depth training on all products and protocols. [Ms. Ettlting has been with the MassageLuXe system since 2012. Prior to becoming a Trainer in November 2021, she held various positions in franchised Spas including Front Desk, Estheticians, and Spa Manager.](#)

If your Spa will be located in the territory of one of our Area Developers, the training may be provided by the staff of the Area Developer at the Area Developer's ~~Model~~ Spa. The experience of the training staff will vary, ~~but we will require each trainer to have completed our single unit franchise initial training program to our satisfaction before becoming a trainer.~~

Initial training is organized monthly. We may require you or your previously trained and experienced employees to attend periodic refresher courses. The courses will be held at locations designated by us and we have the right to charge reasonable fees for the courses.

In addition to the Training Program described above, we will send one representative to your Spa for a period of 3 to 5 days to provide on-site opening assistance during the opening of your Spa. If you currently operate a Spa, we will not provide on-site opening assistance, unless we deem it necessary.

We anticipate developing an on-line training program ~~to assist~~for our franchisees ~~in~~. The franchisees can use these program when training their own employees. At that time, it may be mandatory for franchisees to purchase the equipment and pay the ongoing monthly fees for this training program.

## ITEM 12 TERRITORY

### Franchise Agreement -

We will grant you rights to operate a single Spa under the Marks in a territory (the "Territory") in which we will not locate another Spa, nor ourselves directly or indirectly own another Spa. ~~However, we reserve the right to operate locations within transportation facilities even if these transportation facilities are within your Territory.~~ Typically, your Territory will be an approximately 3 mile radius around the location of your Spa unless you are in a densely populated area (i.e. metropolitan area) or a rural area. If you are in a rural area, the geographic radius of your Territory may be much larger and if you are in a densely populated area, the geographic radius of your Territory may be smaller.

Except as described above, we reserve all other rights with respect to the System, Marks and development of Spas, including the right to establish, and grant to franchisees the right to establish, Spas anywhere outside ~~your Territory and within transportation facilities within and outside of~~ your Territory; to establish, and grant to franchisees the right to establish, businesses within your Territory or outside of your Territory under trademarks or service marks different than the Marks or systems different from the System; to sell our services or ancillary products, whether or not using the Marks, inside or outside your Territory through distribution channels other than Spas, including through catalogs distributed within your exclusive Territory, the Internet, print, direct marketing media and any other non-spa outlets inside or outside your Territory, and we may promote services and products bearing the Marks at special events, conventions, athletic contests, etc., through temporary locations and mobile units (both inside and outside your Territory); and to purchase, be purchased, merge, acquire, be acquired or affiliate with a competitor or any other business regardless of the location of the competitor or business, and to operate, franchise or license these businesses as Spas under the System or Marks or under other proprietary marks, regardless of the location of these businesses, whether they are in your Territory or outside your Territory. You will not receive any compensation if we exercise these reserved rights, and you are prohibited from soliciting customers outside of the Territory through the Internet without our prior consent and on terms we specify.

Nothing will prohibit us and our affiliates from doing business within your Territory for National Accounts. A "National Account" means those customers, with more than 1 location covered by an agreement for services which are not located solely in the territory of one of our franchisees. If you obtain an account that is considered a National Accounts, you must refer it to us and it will be treated as a National Account; however, we reserve the absolute right to reject any such account for any reason. National Accounts shall be negotiated solely by us or our affiliates, even if you procure the National Account. All National Accounts will be considered our property and you will have no claim to them. If one or more

locations of a National Account falls within your Territory, we will first offer you the opportunity to provide services to those locations on the terms and conditions that we have established with the National Account. You are not required to service a National Account and if you do not accept our offer to do so in the manner and within the time period that we specify, we have the right to service the account ourselves, or may authorize other Spas, to provide these services. However, the decision to accept or reject you as a provider of services for the National Account ultimately rests with the National Account.

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

You do not receive the right to acquire additional franchises within your area. Relocation of your Spa must be approved by us. We may approve or disapprove a relocation in our sole discretion. The factors we consider regarding whether to approve your proposed site to relocate your Spa include general location and neighborhood, demographics, zoning, traffic patterns, parking, overall interior and exterior size, lease terms and proximity to other Spas. [If you relocate your Spa, you must pay us a "Relocation Fee" of 25% of the then current Initial Franchise Fee.](#) If you want to open additional Spas, you will have to submit a new application that will be treated like any application submitted by a new franchisee. You do not acquire any options, right of first refusal, or similar rights to acquire additional franchises when you sign a Franchise Agreement.

Your rights in and to your Territory are not dependent upon your meeting a minimum sales volume or market penetration. The configuration of your Territory will not change except by mutual agreement of you and us.

Neither we nor any of our affiliates operate, franchise, or plan to operate or franchise a business under a different trademark that will sell goods or services similar to those which you will offer.

### **Multi-Unit Development Agreement**

If you sign a Multi-Unit Development Agreement, we give you the right to develop and open a specific number of Spas as designated in your Multi-Unit Development Agreement. The territory for your Multi-Unit Development Agreement ("MUD Territory") will be determined by us before you sign the Multi-Unit Development Agreement based on various market and economic factors like market demographics and the penetration of Spas and similar businesses in the market, the availability of appropriate sites and growth trends in the market. You may not establish a Spa anywhere outside the MUD Territory. The ~~minimum~~ number of Spas required to be opened under the Multi-Unit Development Agreement is 3. ~~The exact number of Spas required to be opened will be determined by us based on the size of the territory and various market and economic factors.~~ You must operate each Spa that you establish under your Multi-Unit Development Agreement under a separate Franchise Agreement with us.

Except for the right you have in any Territory designated in a Franchise Agreement you sign with us, we are not limited in our ability to include some or all of your MUD Territory in the development territory of other multi-unit developers. You will not receive an exclusive territory under the Multi-Unit Development Agreement. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands we control.

We reserve all rights with respect to the System, Marks and development of Spas, including the right to own or operate, or license others to own or operate Spas in any location, both inside or outside of

your MUD Territory; to develop, merchandise, sell and license others to sell products bearing the Marks (including the products and services offered at your Spas) through other channels of distribution such as catalogs distributed within the MUD Territory, the Internet, print, direct marketing media and any other non-spa outlets inside or outside your MUD Territory; and to purchase, be purchased, merge, acquire, be acquired or affiliate with a competitor or any other business regardless of the location of the competitor or business, and to operate, franchise or license these businesses as Spas under the System or Marks or under other proprietary marks, regardless of the location of these businesses, whether such businesses are in your MUD Territory or outside your MUD Territory. You will not receive any compensation if we exercise these reserved rights.

You do not acquire any options, rights of first refusal, or similar rights when you enter into the Multi-Unit Development Agreement, other than the right to open the minimum number of Spas specified in your Multi-Unit Development Agreement.

Your rights in and to your MUD Territory are dependent upon your meeting the development schedule specified in the Multi-Unit Development Agreement but is otherwise not dependent on your meeting a minimum sales volume or market penetration. The configuration of your MUD Territory will not change except by mutual agreement of you and us.

Neither we nor any of our affiliates have granted, or presently intend to grant other multi-unit development rights for franchises selling or leasing similar products or services under a different trade name or trademark, but we have the right to do so.

**ITEM 13  
TRADEMARKS**

We grant you the right to operate your Spa under the Marks. Our trademarks listed below are registered on the Principal Register with the United States Patent and Trademark Office ("PTO"). Our principal Marks include:

<b>TRADEMARK</b>	<b>REGISTRATION NUMBER</b>	<b>REGISTRATION DATE</b>	<b>PTO REGISTER</b>
MassageLuXe	3,463,781	July 8, 2008	Principal
	3,996,943	July 19, 2011	Principal
FaceLuXe	3,996,944	July 19, 2011	Principal
	4,912,422	March 8, 2016	Principal
	4,755,037	June 16, 2015	Principal

All affidavits or renewal filings that were required to be filed have been filed in connection with the registration of these Marks. We intend to file all affidavits and to renew the registrations for the Marks when they become due. You must follow our operating procedures when you use the trademarks. You cannot use the Marks or any of our other trademarks or service marks as part of your corporate name. You may not use the Marks if you wish to advertise the sale of your franchise.

There are no currently effective material determinations of the PTO, Trademark Trial and Appeal Board, or any state trademark administrator or any court. There are no pending infringements, oppositions or cancellations concerning the Marks. There is no federal or state court pending material litigation involving the Marks. We are not required under the Franchise Agreement to protect your right to use the Marks or to protect you against claims of infringement or unfair competition arising out of your use of the Marks. If you become aware of any apparent infringement or challenge to your use of the Marks, you must notify us immediately. We are not required to take affirmative action if we are notified of an infringement, but have the right to do so, in our sole discretion. We have the right to control any administrative proceedings or litigation involving the Marks. We do not have to participate in your defense and/or indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving the Marks, or if the proceeding is resolved unfavorably to you. If we require you to modify or discontinue the use of the Marks, you must comply with our directions within a reasonable time and at your sole expense.

There are no agreements currently in effect that significantly limit our rights to use or license the use of the Marks in a manner material to the System. We are not obligated, by the terms of the Franchise Agreement or otherwise, to protect your right to use the Marks. Nor are we obligated to protect you against claims of infringement or unfair competition arising out of your use of the Marks.

We have no actual knowledge of superior prior rights or infringing uses that could materially affect your use of the Marks in the state where your Spa may be located.

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

No patents are material to the operation of the System.

We claim copyright protection covering various materials used in our business and the development and operation of Spas, including the Operations Manual, software, advertising and promotional materials, and any other materials we give you for your use or for public dissemination. It also includes proprietary information and publications that we own or have acquired under license from a third party and similar materials. We have not registered these materials with the United States Registrar of Copyrights and are not required to do so.

There are no currently effective determinations of the United States Copyright Office or any court, nor any pending litigation or other proceedings, regarding any copyrighted materials. No agreement limits our rights to use or allow franchisees to use the copyrighted materials. We do not know of any superior prior rights or infringing uses that could materially affect your use of the copyrighted materials. No agreement requires us to protect or defend our copyrights or to indemnify you for any expenses or damages you incur in any judicial or administrative proceedings involving the copyrighted materials. No provision in the Franchise Agreement requires you to notify us of claims by others of rights to, or infringements of, the copyrighted materials. If we require, you must immediately modify or discontinue using the

copyrighted materials. Neither we nor our affiliates will have any obligation to reimburse you for any expenditures you make because of any discontinuance or modification.

Except for the purpose of operating the Spa under the Franchise Agreement and for the operation of your business under the Multi-Unit Development Agreement, you may never (during a Franchise Agreement's or the Multi-Unit Development Agreement's term or later) use in any other business or capacity any of the confidential information concerning the operation of a Spa that may be communicated to you or that you may learn by virtue of your operation of the Spa. Confidential information includes the Operations Manual. You must maintain absolute confidentiality of the confidential information during and after the term of the Franchise Agreement and/or Multi-Unit Development Agreement, and you must implement reasonable procedures to avoid unauthorized use or disclosure of the confidential information.

The Franchise Agreement provides that all ideas, concepts, techniques, or materials concerning your Spa, whether or not protectable intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be our sole and exclusive property, part of the System, and works made-for-hire for us. To the extent any item does not qualify as a "work made-for-hire" for us, you assign ownership of that item and all related rights to that item, to us and must take whatever action (including signing assignment or other documents) we request to show our ownership or help us obtain intellectual property rights in the item. In the event that these requirements are found to be invalid or unenforceable, the Franchise Agreement provides that you and your owners grant to us a worldwide, perpetual, non-exclusive and fully paid license to use and sublicense the use of such ideas, concepts, techniques, innovations, developments, improvements, suggestions or materials.

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

~~You (or your managing owners) agree~~ Although you are not required to personally ~~manage and operate the franchise as your (or their) primary occupation and will not, without our prior written consent, delegate your (or your managing owner's) authority and responsibility for~~ participate in the day-to-day management of your Spa, we recommend that you do, and no matter what your participation in management ~~and is, you are required to devote your best efforts to the~~ operation of your Spa. You or your managing owner must, at all times, faithfully, honestly and diligently perform and exert your best efforts in performing your obligations under the Franchise Agreement. ~~Each of your owners must be bound by the terms of the Franchise Agreement. If you are a corporation or other business entity, each individual owning an interest in the entity, and their spouse, if applicable, must agree to be bound by the confidentiality and exclusive dealing/non-competition obligations imposed on you under the Franchise Agreement.~~

~~If the franchisee is a business entity, you must~~ You are permitted to designate ~~and we must approve~~ a managing owner to operate the franchise. There is no required amount of equity interest that the managing owner must have in the franchise. If you elect to hire a manager or supervisor to operate the franchise and we consent, the employee must successfully complete our initial training program and must be bound to the confidentiality and noncompetition provisions of the Franchise Agreement. ~~We have the unrestricted right to approve or disapprove of your choice of whom you can hire as manager or supervisor~~ You are required to carefully monitor and be responsible for the performance of anyone designated to manage the operation of your Spa.

At our request, your officers, directors, shareholders, partners, members, owners, their respective spouses and all managerial employees must sign the Non-Competition and Confidentiality Agreement

~~attached to the e Franchise Agreement as Exhibit IV~~ [in a form acceptable to us](#). All owners of any entity franchisee and their spouses must also sign a Guaranty and Assumption of Obligations in the form attached to the Franchise Agreement assuming and agreeing to discharge all of your obligations under your Franchise Agreement.

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

You must operate your franchise in accordance with our Operations Manual. Our Operations Manual contains mandatory and suggested specifications, standards, operating procedures and rules that we specify periodically for the operation of the franchise business (i.e., the purchase of supplies and other products, membership transfers, etc.) and information about your other obligations under the Franchise Agreement and related agreements. The Operations Manual may be modified by us from time to time to reflect changes in our operations.

You may only offer and sell those services and related goods that we have approved. You must offer all services and related goods that we designate as required for all franchisees. We have the right to change the types of authorized services or goods offered by your franchise. To the extent permitted by applicable law, we have the right to set the prices at which you sell services and goods.

You must sell memberships in your Spa ("Memberships") only on such terms and conditions as we specify from time to time in the Manual. All Memberships must be evidenced by a written membership agreement based on our then-current standard form of membership agreement, except when local laws require you to alter the membership agreement in order for it to be enforceable in the jurisdiction in which your Spa is located, or as agreed by us in writing prior to use. The membership agreement must include a provision that permits members from your Spa to use other Spas. You must permit members from other Spas to use your Spa. All sales of Memberships must be made on a face-to-face basis, although you are permitted to solicit Memberships through non face-to-face methods. If a member of your Spa receives services under their Membership at another Spa, you will be required to share a portion of the fees received by you from the member to compensate the Spa providing the services to the Member. Your obligation to share these fees will survive the expiration or termination of your Franchise Agreement.

We may require you, if permitted by applicable law, to participate in a gift card or other customer loyalty program in accordance with the provisions either set forth in the Operations Manual or otherwise disclosed to you. In order to participate, you may be required to purchase additional equipment and pay any fees applicable to the use of that equipment. We have the right to determine how the amount of the gift cards or loyalty cards will be divided or otherwise accounted for, and we reserve the right to retain the amount of any unredeemed gift cards. Currently, all gift cards you sell at your Spa are included in your Gross Receipts. You are required to honor all gift cards being redeemed for Services at your Spa whether or not you sold the applicable gift card. If a Spa provides Services in exchange for a gift card that was not sold at the Spa, we designate the portion of the gift card sale that will be paid to the provider of Services and the portion that is retained by the Spa that sold the gift card, and if a Spa sells a gift card that is redeemed for Services at another Spa, we designate a portion of the gift card sale will be paid to the provider of Services and the Spa that sold the gift card will only retain the remaining portion. Your obligation to share this portion of any gift card sale will survive the expiration or termination of your Franchise Agreement.

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

## THE FRANCHISE RELATIONSHIP

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

PROVISION	ARTICLE IN FRANCHISE AGREEMENT AND OTHER AGREEMENTS	SUMMARY
a. Length of the franchise term	13.1 of the FA  1.A. of the MUD	Term is 10 years in the FA.  The Term begins on the date you sign the MUD and pay the MUD Fee and <del>it</del> terminates on the earlier of the <del>opening of expiration date, the signing of the lease for the last Spa or the signing of the Franchise Agreement for</del> the last Spa listed in the Mandatory Development Schedule <del>or the expiration date.</del>
b. Renewal or extension of the term	13.2 of the FA	If you are in full compliance and meet other requirements, you may acquire a renewal franchise.
c. Requirements for franchisee to renew or extend	13.2 of the FA	Under the FA, you must give notice, remodel your Spa to meet our current standards, pay a <u>renewal</u> fee <del>of \$5,000</del> , sign a general release and sign a new franchise agreement, which may have materially different terms and conditions than your original agreement.
d. Termination by franchisee	14.1 of the FA	If we breach the agreement and do not cure or attempt to cure the breach after notice from you.
e. Termination by franchisor without cause	Not applicable	Not applicable
f. Termination by franchisor with cause	14.2 of the FA  6. of the MUD	Material, uncured breaches of the FA. The termination of the MUD does not terminate the FA.  Material, uncured breaches of the MUD. The termination of the FA is grounds for termination of the MUD.
g. "Cause" defined - curable defaults	14.2.10, 14.2.12, 14.2.14 and 14.2.16 of the FA  6.A. of the MUD	You may cure certain defaults (i.e. payment of overdue amounts to us, submission of required reports, non-compliance) before we will terminate the FA.  You may cure certain defaults (i.e. failure to comply with the development schedule, etc.) before we will terminate the MUD.

PROVISION	ARTICLE IN FRANCHISE AGREEMENT AND OTHER AGREEMENTS	SUMMARY
h. "Cause" defined - non-curable defaults	14.2.1 – 14.2.9, 14.2.11 and 14.2.13 and 14.2.15 of the FA  6.A (1), (3) and (4) of the MUD	Certain defaults cannot be cured (i.e. you or your owners are convicted or plead or have pleaded guilty to a felony; you disclose Confidential Information, etc.) and will result in termination of the FA. Termination of the MUD does not terminate the FA.  Certain defaults cannot be cured (i.e. you make an unauthorized transfer of the MUD or your FA is terminated) and will result in termination of the MUD.
i. Franchisee's obligations on termination/nonrenewal	15 of the FA	Under the FA, you must pay us what you owe us, cease using the Marks and any Confidential Information and follow our termination procedures.
j. Assignment of Contract by franchisor	12.1 of the FA, and 8.A of the MUD	FA and MUD are fully transferable by us.
k. "Transfer" by franchisee – defined	12.2 – 12.3 of the FA  7 of the MUD	Includes transfer of the FA, change in ownership, sale of assets.  <del>Includes</del> <u>No right to transfer of the MUD and a change in ownership.</u>
l. Franchisor approval of transfer by franchisee	12.4 of the FA, and 7.B of the MUD	We have the right to approve all transfers.
m. Conditions for franchisor approval of transfer	12.4 of the FA  <del>7.B of the MUD</del>	The transferee meets our qualifications, signs our then-current FA which might contain different terms and conditions, and satisfactorily completes training; a transfer fee is paid to us; and you must sign a general release.  <del>The transferee meets our qualifications and signs our then-current MUD which might contain different terms and conditions; a transfer fee is paid to us; and you must sign a general release.</del>
n. Franchisor's right of first refusal to acquire franchisee's business	12.7 and 8 of the FA	Under the FA, we have the right of first refusal to purchase your Spa or ownership interest in you.
o. Franchisor's option to	15.10 of the FA	Under the FA, we may purchase, at book value, the personal property of the Spa

PROVISION	ARTICLE IN FRANCHISE AGREEMENT AND OTHER AGREEMENTS	SUMMARY
purchase franchisee's business		
p. Death or disability of franchisee	12.6 of the FA, and 8.F of the MUD	The FA and MUD must be transferred to a third party within 6 months of death or disability.
q. Non-competition covenants during the term of the franchise	7.1 and 7.2 of the FA	Under the FA, you may not have direct or indirect involvement in a Competitive Business.
r. Non-competition covenants after the franchise is terminated or expires	7.3 of the FA	Under the FA, you may not have direct or indirect involvement in a Competitive Business for 24 months within 25 miles of the Location or within 5 miles of any other Spa.
s. Modification of the agreement	18.10 of the FA, and 11 of the MUD	The FA and MUD may not be modified except by written agreement signed by you and us.
t. Integration / merger clause	18.10 of the FA, and 11 of the MUD	Only the terms of the Franchise Agreement and other related written agreements are binding (subject to applicable state law). Any representations or promises outside of the disclosure document and franchise agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	17.1 and 17.3 of the FA, and 9 of the MUD	Except for certain disputes involving the Marks or injunctive relief, all disputes must be submitted to mediation. Certain types of disputes must be submitted to arbitration.
v. Choice of forum	17 of the FA, and 9 of the MUD	Any mediation or arbitration must be in St. Louis County, Missouri, and any litigation must be in the United States District Court for the Eastern District of Missouri or in St. Louis County, Missouri (subject to state law).
w. Choice of law	18.7 of the FA, and 10 of the MUD	Missouri law applies (subject to applicable state law).

**ITEM 18  
PUBLIC FIGURES**

At this time, there are no public figures involved in the sale of this franchise.

**ITEM 19  
FINANCIAL PERFORMANCE REPRESENTATIONS**

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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.

## **Part I – Average Gross Revenue, Average Prospect Client Visits, Average New Members**

### **Overall System for ~~2020~~2021**

MassageLuXe Spa Count: ~~666~~65 spas (Franchise MassageLuXe Spas open and operating at least 12 months and operating as December 31, ~~2020~~2021. These franchise MassageLuXe Spas are hereafter referred as “Spas”.)

### **Average Gross Revenue**

The average annual Gross Revenue for the Spas were ~~\$724,852~~\$855,445 with median Gross Revenue of ~~\$674,349~~\$819,571.

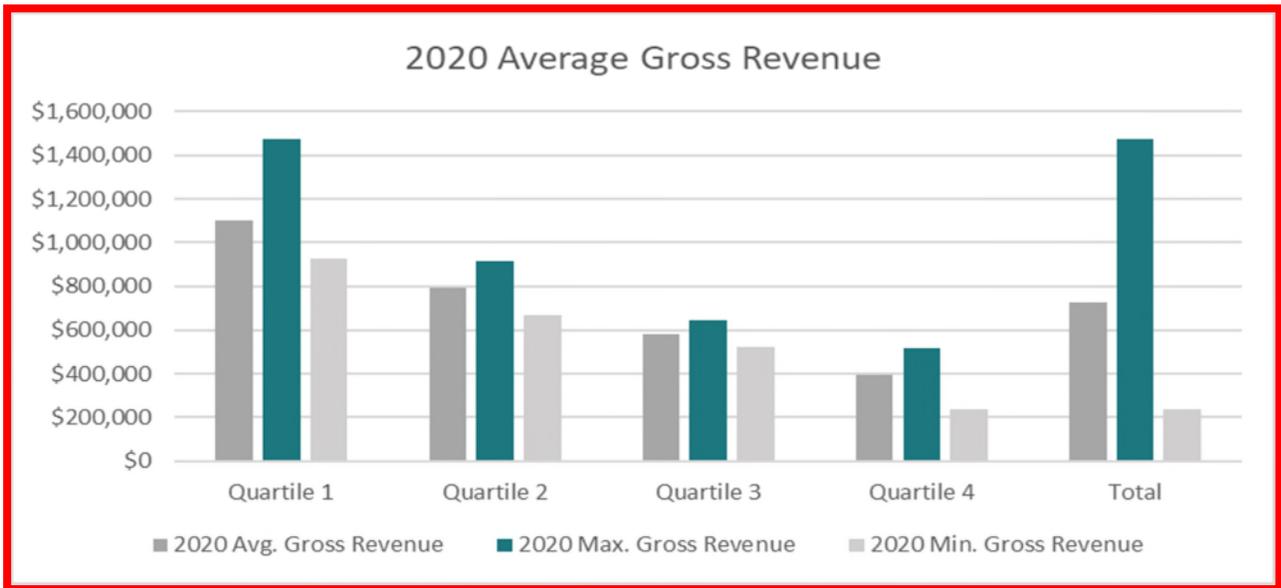
We break down the Spas by quartiles. The average Gross Revenue for the first quartile is ~~\$1,099,148~~\$1,225,911 with the median Gross Revenue of ~~\$1,046,718~~\$1,227,154. The average Gross Revenue for the second quartile is ~~\$793,092~~\$940,332 with the median Gross Revenue of ~~\$790,203~~\$962,401. The average Gross Revenue of the third quartile is ~~\$583,893~~\$732,300 with the median Gross Revenue of ~~\$578,751~~\$718,728. The average Gross Revenue for the fourth quartile is ~~\$395,621~~\$514,542 with the median Gross Revenue of ~~\$414,967~~\$584,313.

### **Quartiles**

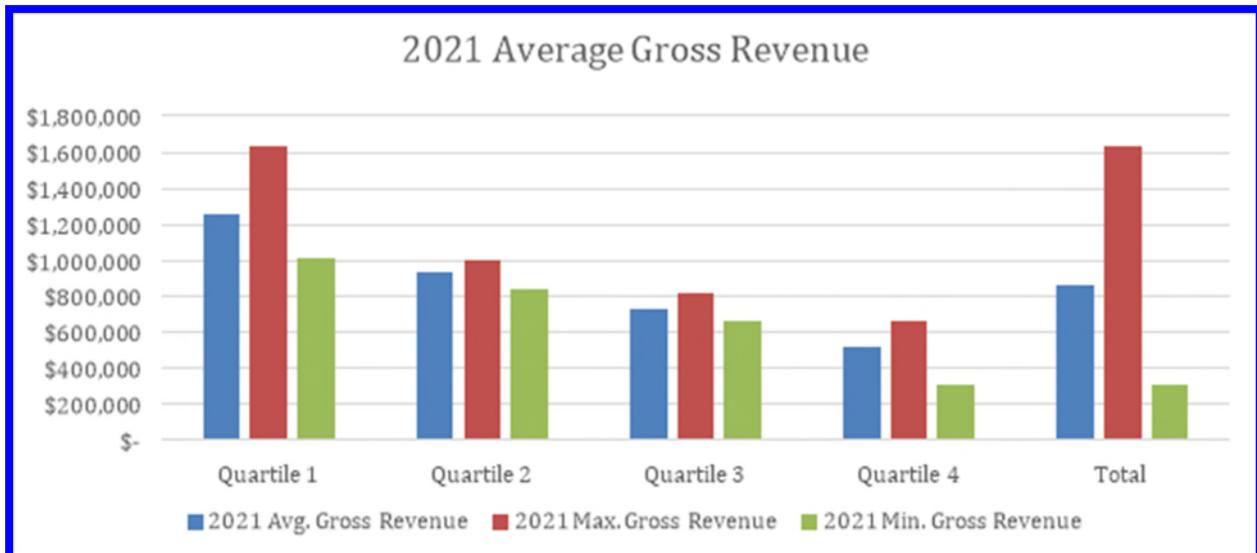
Table 19.1 shows average annual Gross Revenue of the Spas by quartile, and the number and percentage of Spas within each quartile that exceeded the quartile's average Gross Revenue during the year.

TABLE 19.1: AVERAGE GROSS REVENUE FOR SPAS IN ~~2020~~2021

Quartile	# of Spas	% of Spas	2020 Average Gross Revenue	2020 Maximum Gross Revenue	2020 Minimum Gross Revenue	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average
1	17	25%	\$ 1,099,148	\$ 1,475,422	\$ 924,603	6	35%
2	17	25%	\$ 793,092	\$ 913,064	\$ 672,151	8	47%
3	16	25%	\$ 583,893	\$ 643,271	\$ 524,408	6	38%
4	16	25%	\$ 395,621	\$ 520,048	\$ 240,352	9	56%
Total	66	100%	\$ 724,852	\$ 1,475,422	\$ 240,352	30	45%



Quartile	# of Spas	% of Spas	2021 Average Gross Revenue	2021 Maximum Gross Revenue	2021 Minimum Gross Revenue	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average	Median
1	16	25%	\$ 1,255,911	\$ 1,637,816	\$ 1,012,453	8	50%	1,227,154
2	16	25%	\$ 940,332	\$ 1,003,816	\$ 833,938	9	56%	962,401
3	16	25%	\$ 732,300	\$ 819,571	\$ 661,059	7	44%	718,728
4	17	25%	\$ 514,542	\$ 656,622	\$ 312,138	10	59%	584,313
Total	65	100%	\$ 855,445	\$ 1,637,816	\$ 312,138	30	46%	819,571



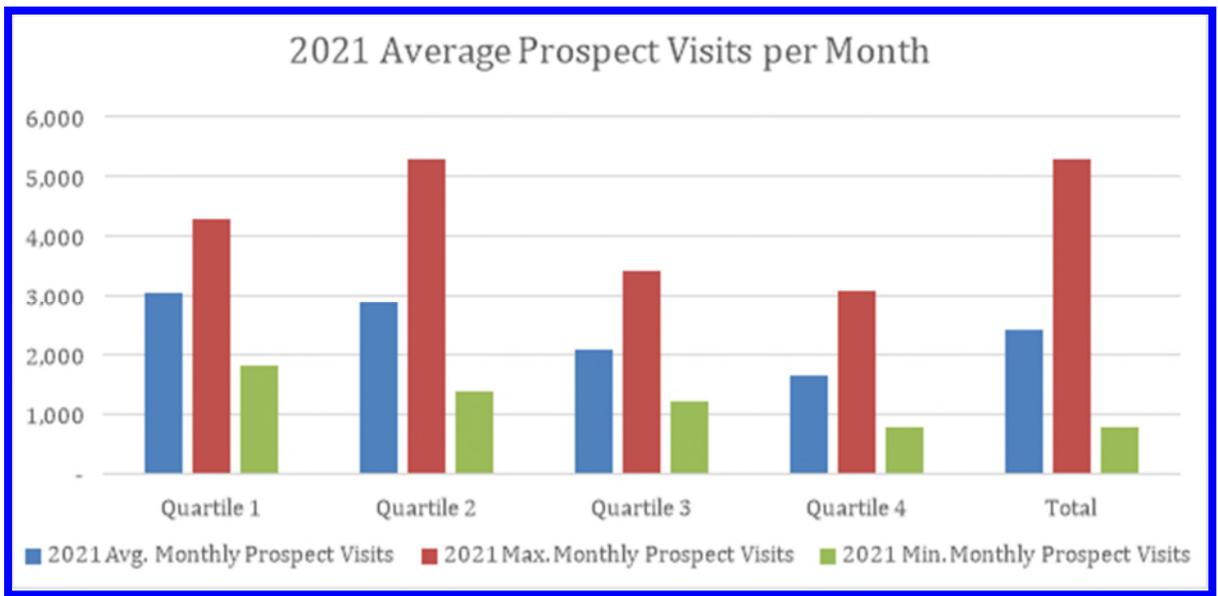
### Average Prospect Client Visits

The average prospect client (“prospect”) visits per month for the Spas were 2,0382,412 with the median number of prospect visits per month of 1,9462,299. We breakdown the Spas by quartiles using the Gross Revenue performance numbers from chart 19.1. The average prospect visits per month for the first quartile was 2,4493,051 with the median number of prospect visits of 2,2553,030. The average prospect visits per month for the second quartile was 2,4832,888 with the median number of prospect visits of 2,1932,831. The average prospect visits per month for the third quartile was 1,6442,090 with the median number of prospect visits of 1,3641,860. The average prospect visits per month for the fourth quartile was 1,5271,665 with the median number of prospect visits of 1,3711,645.

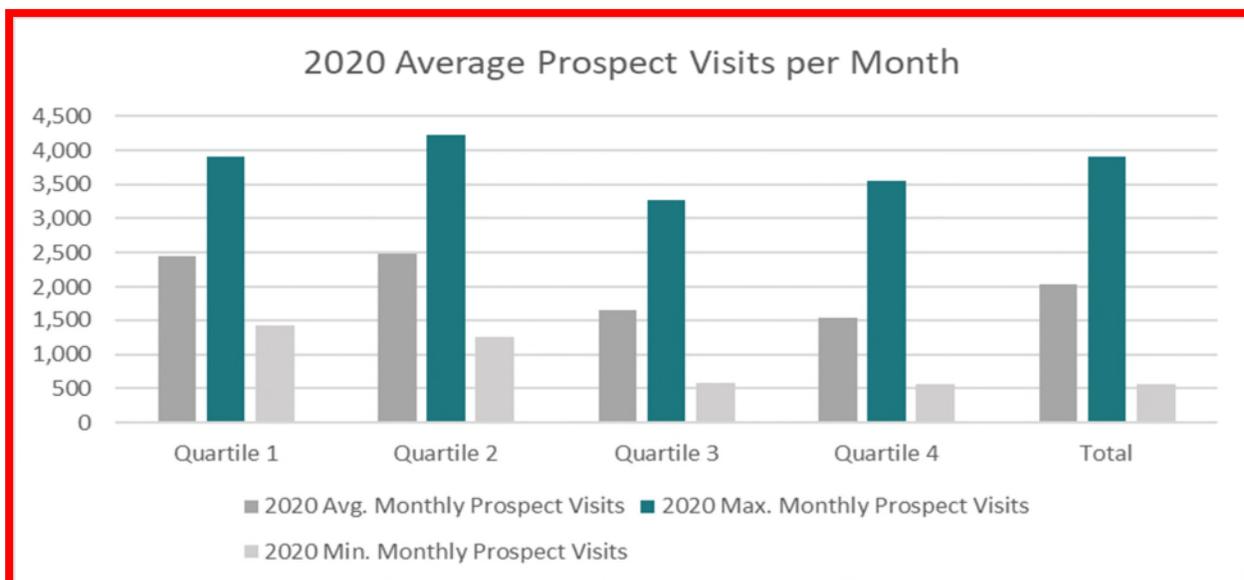
Table 19.2 shows the average prospect client visits per month for the Spas by quartiles. The quartiles are broken out by the Gross Revenue performance numbers from table 19.1 and the number and percentage of the Spas within each quartile that exceeds the quartile’s average prospect client visits per month during the year.

TABLE 19.2: AVERAGE PROSPECT CLIENT (“PROSPECT”) VISITS PER MONTH FOR SPAS IN 20202021

Quartile	# of Spas	% of Spas	2021 Ave Prospect Visits Per Month	2021 Maximum Prospect Visits per Month	2021 Minimum Prospect Visits per Month	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average	
1	16	25%	3,051	4,296	1,834	5	31%	3,030
2	16	25%	2,888	5,311	1,389	6	38%	2,831
3	16	25%	2,090	3,418	1,232	8	50%	1,860
4	17	25%	1,665	3,092	773	8	47%	1,645
Total	65	100	2,412	5,311	773	31	48%	2,299



Quartile	# of Spas	% of Spas	2020 Ave Prospect Visits Per Month	2020 Maximum Prospect Visits per Month	2020 Minimum Prospect Visits per Month	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average
1	17	25%	2,449	3,909	1,420	7	41%
2	17	25%	2,483	4,223	1,243	8	47%
3	16	25%	1,641	3,276	573	7	44%
4	16	25%	1,527	3,557	570	7	44%
Total	66	100	2,038	3,909	570	31	47%



### Average New Members

The average new members per month for the Spas were [497517](#) with the median number of new members were [440516](#). We break down the Spas by quartiles using the Gross Revenue performance numbers from table 19.1. The average new members per month for the first quartile was [605633](#) with median number of new members per month at [534651](#). The average new members per month for the second quartile was [576603](#) with median number of new members per month at [553622](#). The average new members per month for the third quartile was [459520](#) with median number of new members per month at [381519](#). The average new members per month for the fourth quartile was [337324](#) with median number of new members per month at [283293](#).

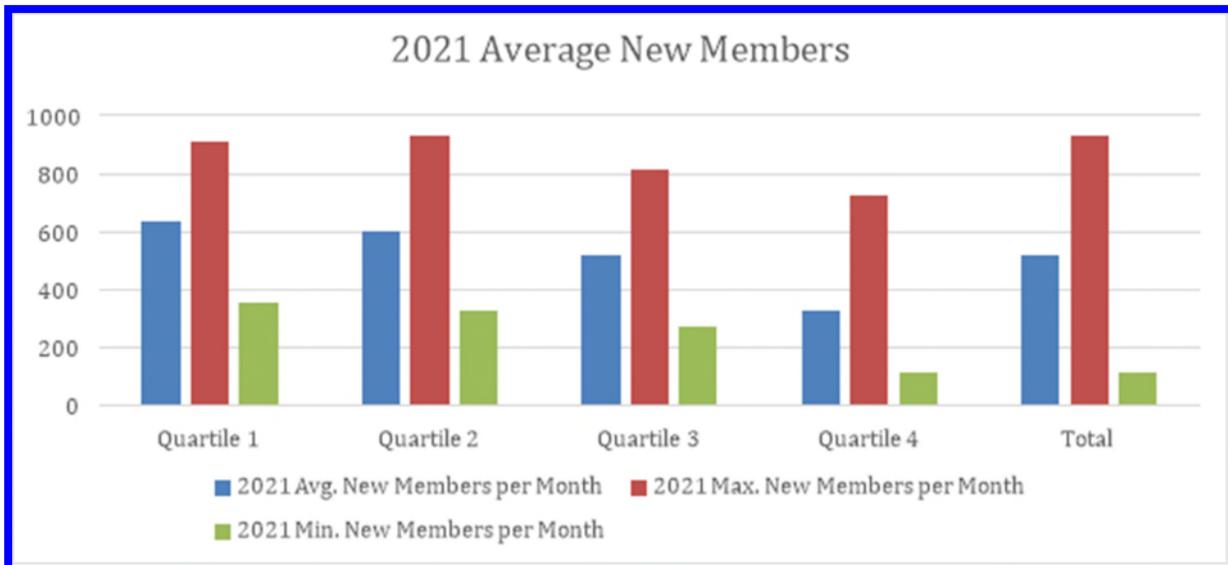
Table 19.3 shows the average new members per month of the Spas by quartiles. The quartiles are broken out by the Gross Revenue numbers from table 19.1 and the number and percentage of the Spas within each quartile that exceeds the quartile's average new members per month during the year.

TABLE 19.3: AVERAGE NEW MEMBERS PER MONTH FOR SPAS IN [20202021](#)

Quartile	# of Spas	% of Spas	2020 Ave New Members Per Month	2020 Maximum # of New Members per Month	2020 Minimum New Member per Month	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average
1	17	25%	605	1,279	352	6	35%
2	17	25%	576	1,285	282	7	41%
3	16	25%	459	981	194	5	31%
4	16	25%	337	893	117	6	38%
Total	66	100	497	1,279	117	29	44%



Quartile	# of Spas	% of Spas	2021 Ave New Members Per Month	2021 Maximum # of New Members per Month	2021 Minimum New Member per Month	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average	
1	16	25%	633	911	350	9	56%	651
2	16	25%	603	934	328	9	56%	622
3	16	25%	520	816	268	8	50%	519
4	17	25%	324	724	115	7	41%	293
Total	65	100	517	934	115	33	51%	516



**Recap of Average Prospect Client Visits and New Members**

Table 19.4 is presented for presentation purposes only as a recap of the average prospect client visits and new members per months as presented in tables 19.2 and 19.3 above.

TABLE 19.4: RECAP OF AVERAGE PROSPECT CLIENT VISITS AND NEW MEMBERS PER MONTH FOR SPAS IN ~~2020~~2021

Quartile	# of Spas	% of Spas	2020 Ave Prospect Visits Per Month	2020 Ave New Members Per Month	% of New Clients to Prospects
1	17	25%	2,449	605	25%
2	17	25%	2,483	576	23%
3	16	25%	1,641	459	28%
4	16	25%	1,527	337	22%
Total	66	100	2,038	497	24%



**Overall System for 2019**

MassageLuXe Spa Count: 61 spas (Franchise MassageLuXe Spas open and operating at least 12 months and operating as December 31, 2019. These franchise MassageLuXe Spas are hereafter referred as “Spas”.)

This financial performance representation is based on actual Gross Revenue of the Spas.

**Average Gross Revenue**

The average annual Gross Revenue for the Spas were \$897,439 with median Gross Revenue of \$833,435.

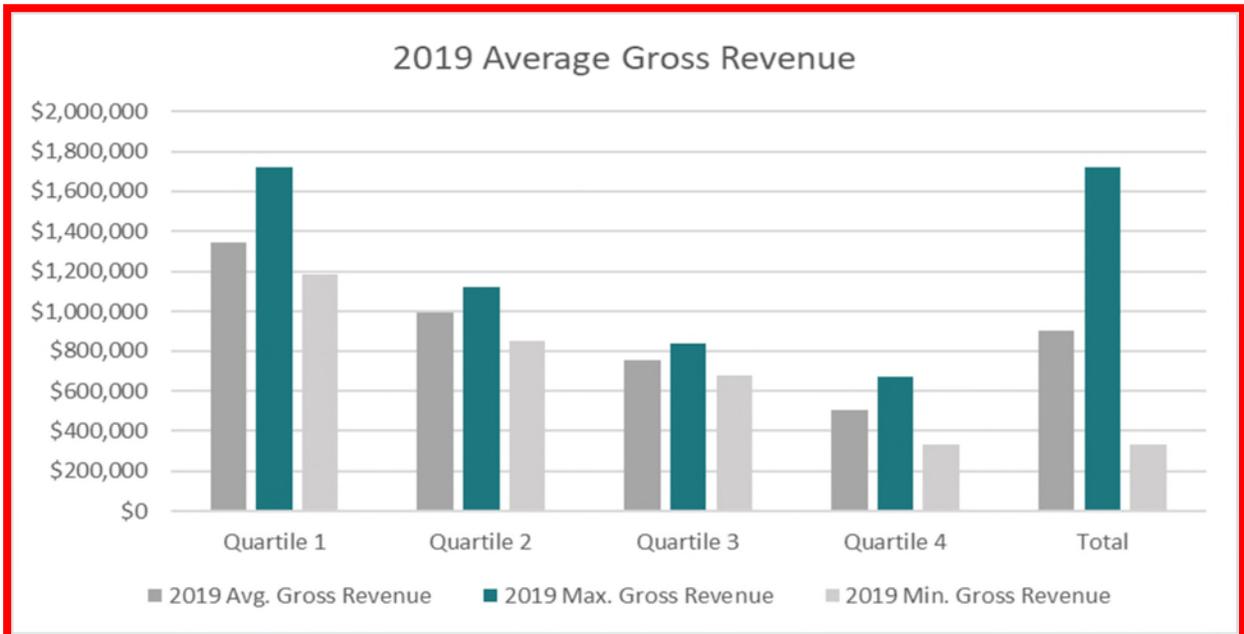
We break down the Spas by quartiles. The average Gross Revenue for the first quartile is \$1,343,925 with the median Gross Revenue of \$1,261,513. The average Gross Revenue for the second quartile is \$996,945 with the median Gross Revenue of \$1,011,774. The average Gross Revenue of the third quartile is \$752,439 with the median Gross Revenue of \$756,380. The average Gross Revenue for the fourth quartile is \$506,114 with the median Gross Revenue of \$470,055.

**Quartiles**

Table 19.5 shows average annual Gross Revenue of the Spas by quartile, and the number and percentage of Spas within each quartile that exceeded the quartile’s average Gross Revenue during the year.

TABLE 19.5: AVERAGE GROSS REVENUE FOR SPAS IN 2019

Quartile	# of Spas	% of Spas	2019 Average Gross Revenue	2019 Maximum Gross Revenue	2019 Minimum Gross Revenue	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average
1	15	25%	\$ 1,343,925	\$ 1,719,418	\$ 1,187,636	5	33%
2	15	25%	\$ 996,945	\$ 1,122,238	\$ 848,180	10	67%
3	16	25%	\$ 752,439	\$ 833,435	\$ 676,834	8	50%
4	15	25%	\$ 506,114	\$ 671,491	\$ 330,193	6	40%
Total	61	100%	\$ 897,439	\$ 1,719,418	\$ 330,193	26	43%



### Average Prospect Client Visits

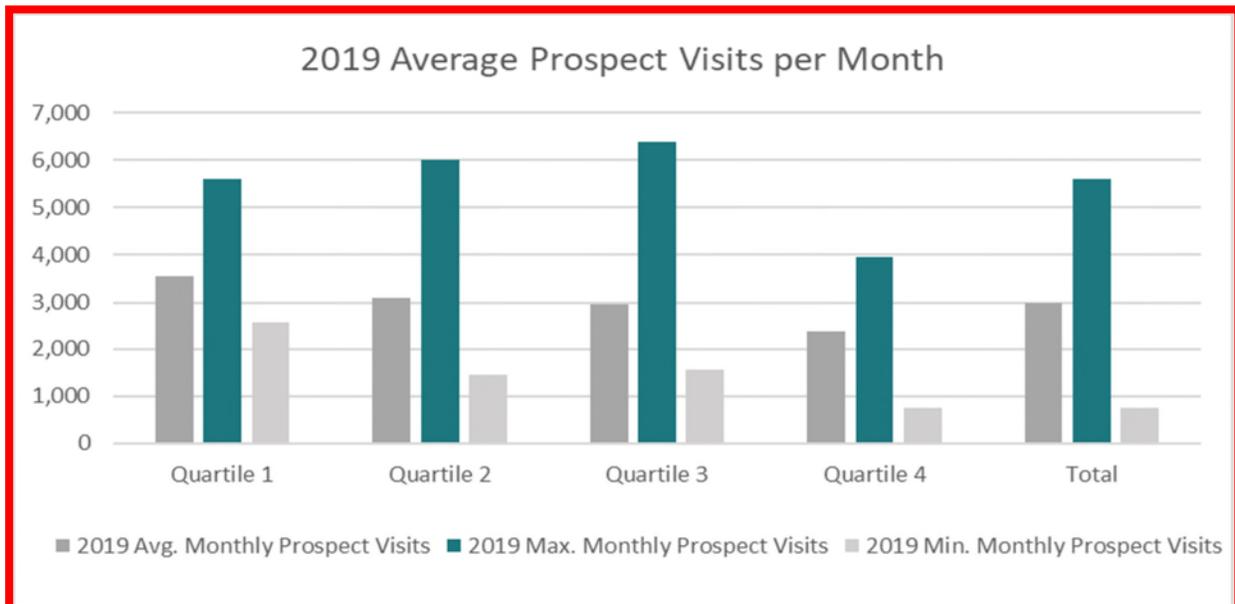
The average prospect client (“prospect”) visits per month for the Spas were 2,991 with the median number of prospect visits per month of 2,949. We breakdown the Spas by quartiles using the Gross Revenue performance numbers from chart 19.5. The average prospect visits per month for the first quartile was 3,541 with the median number of prospect visits of 3,360. The average prospect visits per month for the second quartile was 3,093 with the median number of prospect visits of 2,985. The average prospect visits per month for the third quartile was 2,963 with the median number of prospect visits of 2,484. The average prospect visits per month for the fourth quartile was 2,369 with the median number of prospect visits of 2,654.

Table 19.6 shows the average prospect client visits per month for the Spas by quartiles. The quartiles are broken out by the Gross Revenue performance numbers from table 19.5 and the number and percentage of

the Spas within each quartile that exceeds the quartile’s average prospect client visits per month during the year.

**TABLE 19.6: AVERAGE PROSPECT CLIENT (“PROSPECT”) VISITS PER MONTH FOR SPAS IN 2019**

Quartile	# of Spas	% of Spas	2019 Ave Prospect Visits Per Month	2019 Maximum Prospect Visits per Month	2019 Minimum Prospect Visits per Month	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average
1	15	25%	3,541	5,613	2,548	5	33%
2	15	25%	3,093	6,023	1,441	7	47%
3	16	25%	2,963	6,382	1,550	6	38%
4	15	25%	2,369	3,959	758	8	53%
Total	61	100	2,991	5,613	758	28	46%



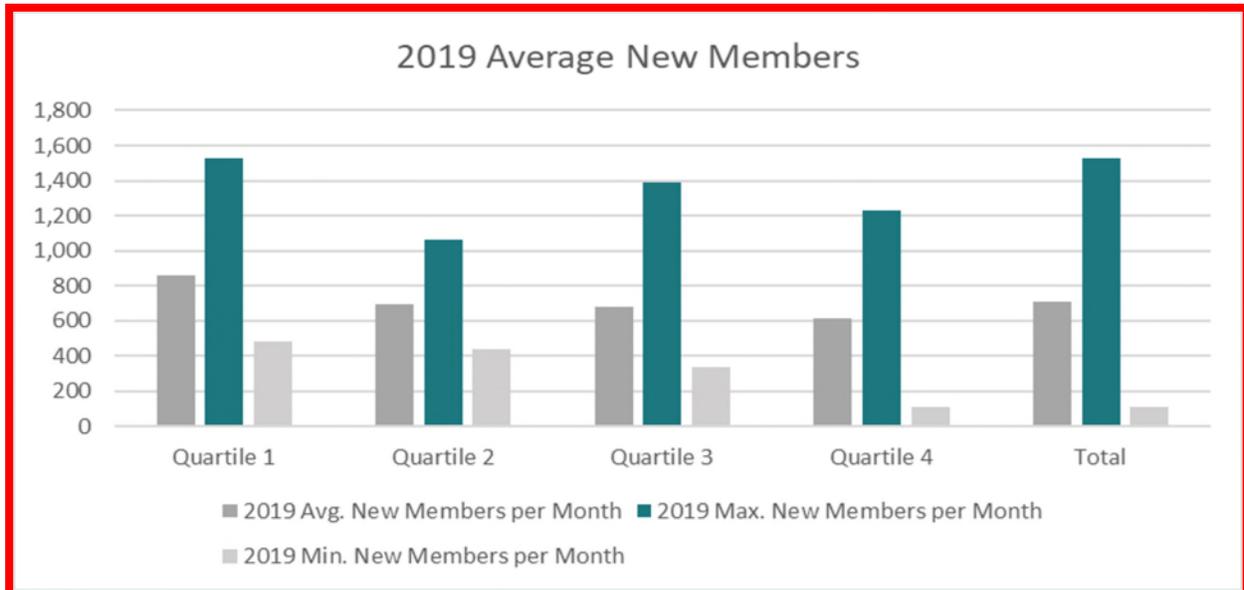
**Average New Members**

The average new members per month for the Spas were 710 with the median number of new members were 713. We break down the Spas by quartiles using the Gross Revenue performance numbers from table 19.5. The average new members per month for the first quartile was 860 with median number of new members per month at 845. The average new members per month for the second quartile was 696 with median number of new members per month at 731. The average new members per month for the third quartile was 676 with median number of new members per month at 572. The average new members per month for the fourth quartile was 610 with median number of new members per month at 681.

Table 19.7 shows the average new members per month of the Spas by quartiles. The quartiles are broken out by the Gross Revenue numbers from table 19.5, and the number and percentage of the Spas within each quartile that exceeds the quartile's average new members per month during the year.

TABLE 19.7: AVERAGE NEW MEMBERS PER MONTH FOR SPAS IN 2019

Quartile	# of Spas	% of Spas	2019 Ave New Members Per Month	2019 Maximum # of New Members per Month	2019 Minimum New Member per Month	# of Spas that attained or exceed Average	% of Spas that attained or exceeded Average
1	15	25%	860	1,525	484	7	47%
2	15	25%	696	1,065	439	9	60%
3	16	25%	676	1,387	338	7	44%
4	15	25%	610	1,233	111	8	53%
Total	61	100	710	1,525	111	31	51%



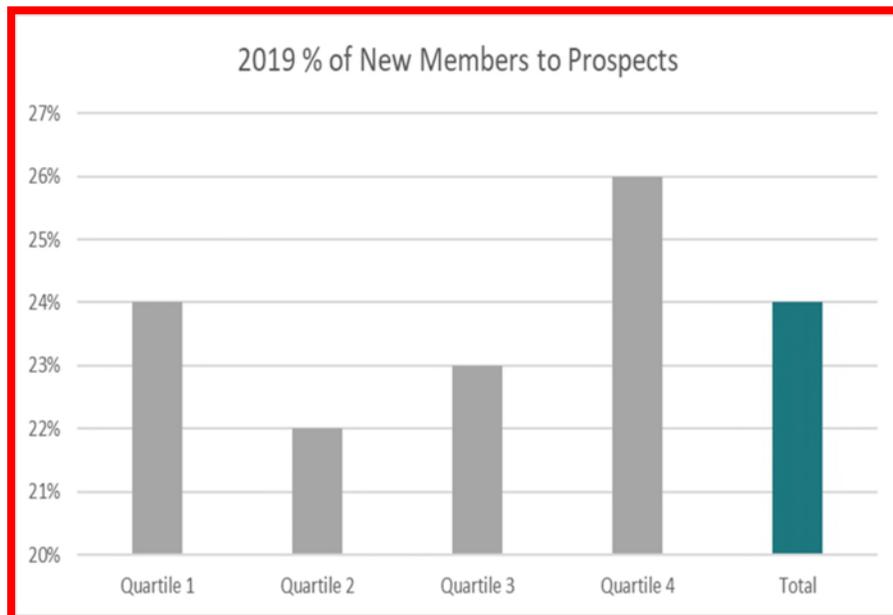
**Recap of Average Prospect Client Visits and New Members**

Table 19.8 is presented for presentation purposes only as a recap of the average prospect client visits and new members per months as presented in tables 19.6 and 19.7 above.

**TABLE 19.8: RECAP OF AVERAGE PROSPECT CLIENT VISITS AND NEW MEMBERS PER MONTH FOR SPAS IN 2019**

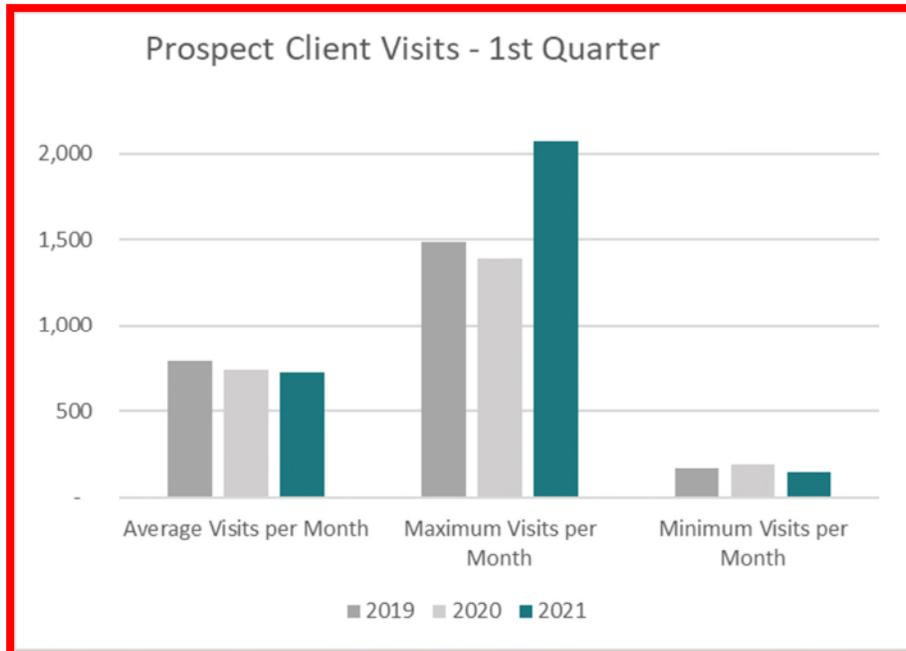
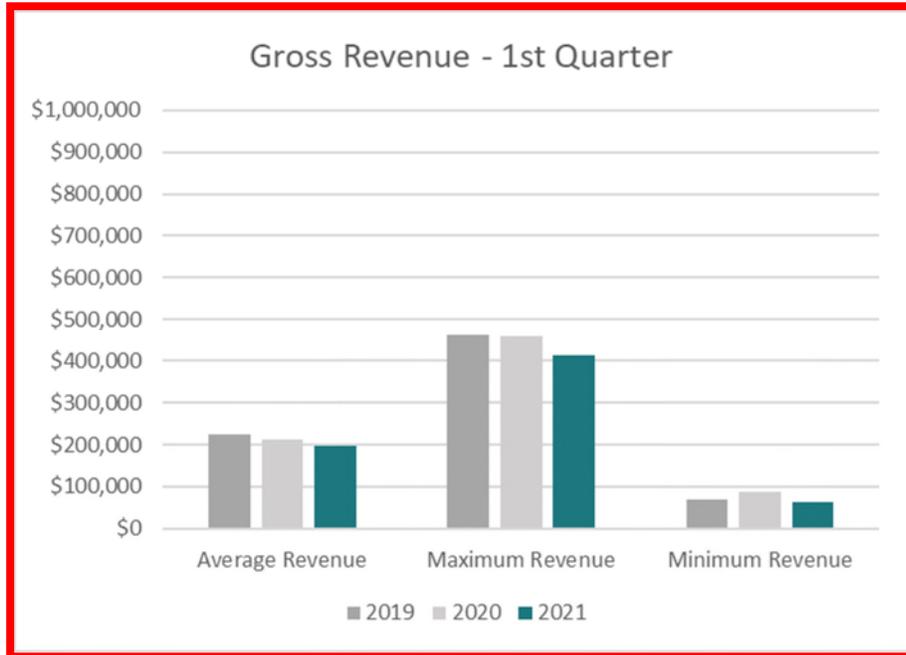
Quartile	# of Spas	% of Spas	2021 Ave Prospect Visits Per Month	2021 Ave New Members Per Month	% of New Clients to Prospects
1	16	25%	3051	633	21%
2	16	25%	2888	603	21%
3	16	25%	2090	520	25%
4	17	25%	1665	324	19%
Total	65	100	2412	517	21%

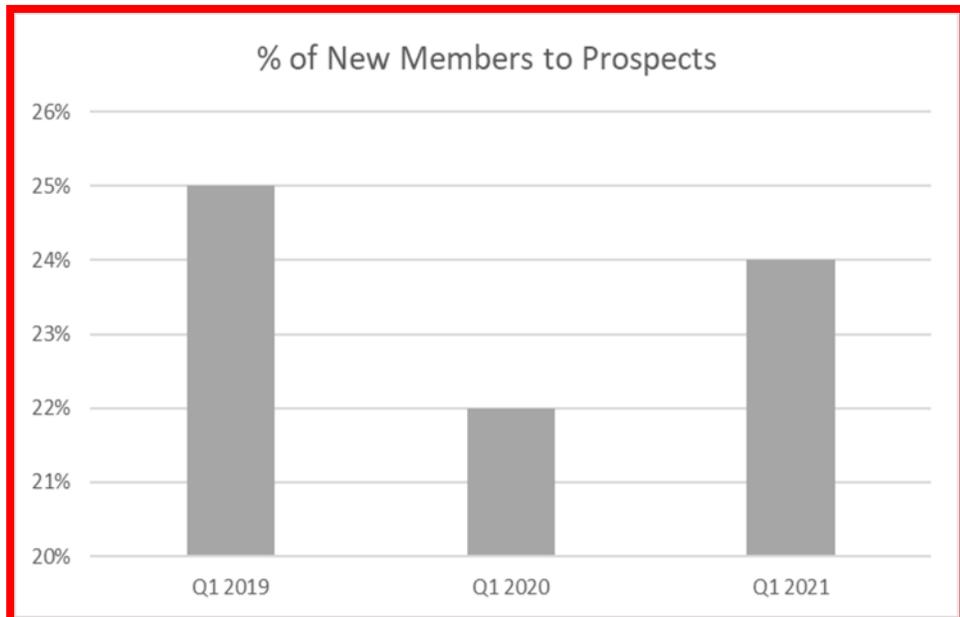
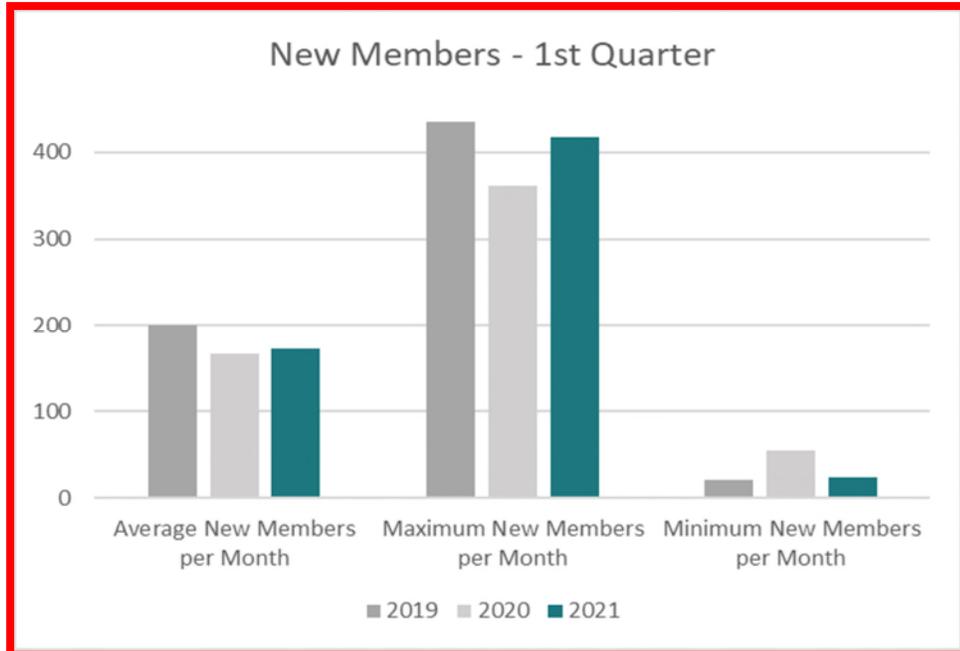
Quartile	# of Spas	% of Spas	2019 Ave Prospect Visits Per Month	2019 Ave New Members Per Month	% of New Clients to Prospects
1	15	25%	3,541	860	24%
2	15	25%	3,093	696	22%
3	16	25%	2,963	676	23%
4	15	25%	2,369	610	26%
Total	61	100	2,991	710	24%

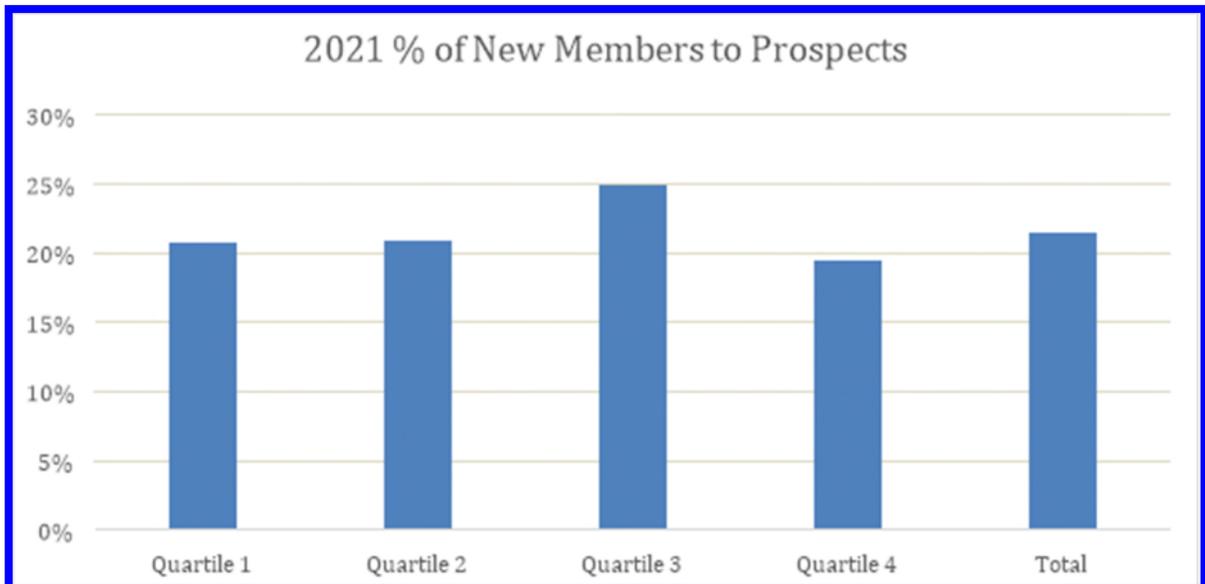


**Part II—First Quarter Gross Revenue, Prospect Client Visits, New Member**

The charts below reflect Gross Revenue, Prospect Client Visits, New Members and Percentage of New Members to Prospects comparison for first quarters of 2019, 2020 and 2021.







Part ~~III~~ – Adjusted Average and Median Operating Results of Certain ~~Old Affiliate~~ Spas

The financial performance representation in this Part ~~III~~ contains the ~~adjusted~~ average and median ~~2020 and 2019~~ operating ~~results~~ of ~~3 Old Affiliate Spas~~ the 15 franchised locations which were: (i) the size Spa we require; (ii) the information they provided to us was complete; and (iii) the salaries they reported were not inflated (“Franchisee Units”).

~~These results are based on the internally prepared financial statements of these Old Affiliate Spas information provided by these Franchisee Units and information we obtained through the POS System and have not been audited. We have also adjusted certain expenses for presentation purposes in order to assist you in understanding the net income experience from the operation of a Spa. These adjustments include adding certain expenses that a typical franchised outlet would experience, as well as excluding expenses that the Old Affiliate Spas experienced that a typical franchised outlet would not experience. All adjustments are described in the footnotes following the reported results. We have only included Old Affiliate Spas because we do not receive reliable expense reports for franchised Spas. We have included information for 3 of the Old Affiliate Spas, each of which were operated for the entire 12 months during this period. We excluded one Old Affiliate Spas that is not located in an area that we would typically approve for a franchised outlet given various demographic features, and we excluded one Old Affiliate Spa that was built far larger than a typical Spa. These 3 Spas represent 4.5% of the 66 total Spas open for business as of December 31, 2019 and 4.5% of the 67 total Spas open for business as of December 31, 2020. The Old Affiliate Spas included have been in operation for an average of 10.7 years and 11.7% as of December 31, 2019 and 2020 respectively. In addition, all of the Old Affiliate Spas are located in the St. Louis, Missouri metropolitan area and surrounding communities, where we have a more concentrated market presence.~~

Income Statement						
For the Year Ended December 31, 2021						
	High	Low	Median	Average	At or Above Average	Below Average
<b>REVENUE</b>						
Member and Other Revenue	\$ 1,376,971	\$ 605,747	\$ 793,064	\$ 879,396	5	10
Gift Card Revenue	179,287	38,355	86,781	94,310	7	8
<b>TOTAL REVENUE</b>	<b>1,487,607</b>	<b>692,528</b>	<b>910,197</b>	<b>973,705</b>	<b>5</b>	<b>10</b>
<b>EXPENSES</b>						
Payroll and Payroll Taxes	701,914	235,523	396,725	414,899	7	8
Facilities Expense	162,253	81,499	131,205	125,470	8	7
Royalties	89,256	41,552	54,612	58,422	5	10
Advertising - Franchisor	37,190	17,313	22,755	24,393	5	10
Operating Expense	149,496	67,856	107,433	112,939	6	9
<b>TOTAL EXPENSES</b>	<b>1,120,538</b>	<b>488,076</b>	<b>693,867</b>	<b>736,074</b>	<b>8</b>	<b>7</b>
<b>NET INCOME</b>	<b>\$ 482,908</b>	<b>\$ 69,463</b>	<b>\$ 190,673</b>	<b>\$ 237,632</b>	<b>8</b>	<b>7</b>

MassageLuXe						
Income Statement						
For the Year Ended December 31, 2020						
	High	Low	Median	Average	At or Above Average	Below Average
<b>REVENUE</b>						
Member Revenue	\$ 1,120,350	\$ 638,943	\$ 874,449	\$ 877,914	1.00	2.00
Gift Card Revenue	105,692	54,850	70,067	76,870	1.00	2.00
Other Revenue	161,321	68,923	138,212	122,819	2.00	1.00
<b>TOTAL REVENUE</b>	<b>1,387,363</b>	<b>762,716</b>	<b>1,082,728</b>	<b>1,077,602</b>	<b>2.00</b>	<b>1.00</b>
<b>EXPENSES</b>						
Payroll and Related Taxes	520,477	256,715	354,702	377,298	1.00	2.00
Operating Expense	151,295	109,104	135,634	132,011	2.00	1.00
Facility Expenses	140,969	120,560	127,130	129,553	1.00	2.00
Royalties	82,342	46,807	65,856	65,002	2.00	1.00
Advertising - Franchisor	44,897	25,472	36,014	35,461	2.00	1.00
<b>TOTAL EXPENSES</b>	<b>939,980</b>	<b>558,658</b>	<b>719,336</b>	<b>739,325</b>	<b>1.00</b>	<b>2.00</b>
<b>NET INCOME</b>	<b>\$ 447,383</b>	<b>\$ 204,058</b>	<b>\$ 363,392</b>	<b>\$ 338,278</b>	<b>2.00</b>	<b>1.00</b>

<b>MassageLuXe</b> <b>Income Statement</b> <b>For the Year Ended December 31, 2019</b>						
	High	Low	Median	Average	At or Above Average	Below Average
<b>REVENUE</b>						
Member Revenue	\$ 1,195,385	\$ 813,961	\$ 1,013,184	\$ 1,007,510	2.00	1.00
Gift Card Revenue	145,252	71,537	75,436	\$ 97,408	1.00	2.00
Other Revenue	208,418	149,874	206,206	188,166	2.00	1.00
<b>TOTAL REVENUE</b>	<b>1,549,055</b>	<b>1,039,271</b>	<b>1,290,927</b>	<b>1,293,084</b>	<b>1.00</b>	<b>2.00</b>
<b>EXPENSES</b>						
Payroll and Related Taxes	592,768	441,856	525,646	520,090	2.00	1.00
Operating Expense	169,365	126,368	149,229	148,321	2.00	1.00
Facility Expenses	143,163	130,418	135,972	136,518	1.00	2.00
Royalties	95,252	60,234	76,987	77,491	1.00	2.00
Advertising - Franchisor	55,564	35,166	44,909	45,213	1.00	2.00
<b>TOTAL EXPENSES</b>	<b>1,056,112</b>	<b>794,042</b>	<b>932,743</b>	<b>927,633</b>	<b>2.00</b>	<b>1.00</b>
<b>NET INCOME</b>	<b>\$ 492,943</b>	<b>\$ 245,229</b>	<b>\$ 358,184</b>	<b>\$ 365,452</b>	<b>1.00</b>	<b>2.00</b>

### Part III Explanatory Notes

Each number reported under the "Median" column reflects the data point that is in the center of all data points among the ~~3-Old-Affiliate-Spas~~ Franchised Units reported for that particular revenue or expense item. As a result, the "Total REVENUE", "Total EXPENSES" and "NET INCOME" numbers reported are the center of the "Total REVENUE", "Total EXPENSES" and "NET INCOME" numbers achieved by all ~~Old-Affiliate-Spas~~ Franchisee Units and are not the sum of the Median REVENUE or EXPENSE numbers shown above each Total category.

"Gift Card Revenue" includes the income collected on the sale of gift cards, ~~less the amount of gift cards redeemed.~~

~~The Old Affiliate Spas do not pay Royalties to us at the same rate as you will as our franchisee. In order to demonstrate what a franchisee might experience in operating a Spa that does pay Royalties at 6%, we have adjusted the expenses to include the full amount of Royalties they would have paid at this rate based on their Gross Revenue.~~

The Total Expenses reflected above do not include certain expenses that were attributed to specific experiences of the ~~Old-Affiliate-Spas~~ Franchisee Units and are either atypical of an outlet's operation (such as legal fees incurred for extraordinary items) or are materially different expenses than what a typical franchise-owned outlet would experience. ~~For example, the Old-Affiliate-Spas share certain management overhead that would not be experienced by a franchisee, including district manager salaries, benefits, automobile expenses and meal and entertainment expenses which would not normally be incurred by an operator of a single Spa. For these reasons, these sorts of expenses have not been included in calculating the average net income reported above. We have also excluded depreciation expenses. While it is likely that you will depreciate assets in your Spa, the particular experience of the Old-Affiliate Spas' depreciation is likely to be different from what you may experience given the length of time the Old-Affiliate Spas have~~

~~operated and other accounting factors. In addition, the expenses do not include the salary of a manager. Many single unit Spas are owner managed. If you hire a manager, your expenses will increase.~~

**Bases and Assumptions**

All of the Spas included in this Item 19 are similar in operation to the franchises offered by us under this disclosure document; however, there are differences. A new franchisee's results are likely to differ from the results listed above since new Spas commonly experience lower revenues than Spas that have been operating for the number of years of those Spas included in our sample. Revenues will also vary from Spa to Spa due to various factors, including the demand for Services, related products and services, the type and number of competitive businesses in the market, advertising efforts, management experience, location, presence and prevalence of the Marks in the region, and other factors. Since actual results will vary from Spa to Spa, we cannot estimate actual results for any particular Spa.

**Some of our Spas have earned this amount. Your individual results may differ. There is no assurance you will earn as much.**

This financial performance representation was prepared without an audit. Prospective franchisees should be advised that no certified public accountant has audited these figures or expressed an opinion with regard to their contents or form.

Written substantiation for the financial performance representation will be made available to you upon reasonable request.

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 outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Mark Otter, President and CEO, at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017, telephone no. (636) 600-4056, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

**TABLE 1  
SYSTEMWIDE OUTLET SUMMARY  
FOR YEARS ~~2018~~2019 TO ~~2020~~2021**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	<del>2018</del>	48	<del>60</del>	<del>+12</del>
	2019	60	66	+6
	2020	66	67	+1
	<u>2021</u>	<u>67</u>	<u>69</u>	<u>+2</u>

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Company-Owned*	<del>2018</del>	<del>5</del>	<del>0</del>	<del>-5</del>
Company-Owned	2019	0	0	0
	2020	0	0	0
	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Outlets±	<del>2018</del>	<del>53</del>	<del>60</del>	<del>+7</del>
	2019	60	66	+6
	2020	66	67	+1
	<u>2021</u>	<u>67</u>	<u>69</u>	<u>+2</u>

\* ~~We do not operate any outlets. Prior to September 27, 2018, we had affiliates that operated the Old Affiliate Spas and we included these as "Company Owned" outlets in Item 20. Each of the Old Affiliate Spas is now included as a "Franchised" outlet in Item 20.~~

**TABLE 2**  
**TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS**  
**(OTHER THAN THE FRANCHISOR)**  
**FOR YEARS ~~2018~~2019 TO ~~2020~~2021**

State	Year	Number of Transfers
Arizona	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
California	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
Colorado	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
Florida	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
Illinois	<del>2018</del>	<del>0</del>
	2019	0
	2020	0

State	Year	Number of Transfers
	<u>2021</u>	<u>0</u>
Indiana	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
Michigan	<del>2018</del>	<del>0</del>
	2019	2
	2020	0
	<u>2021</u>	<u>0</u>
Missouri	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
New Jersey	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
North Carolina	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>2</u>
Virginia	<del>2018</del>	<del>0</del>
	2019	0
	2020	1
	<u>2021</u>	<u>0</u>
Texas	<del>2018</del>	<del>0</del>
	2019	0
	2020	0
	<u>2021</u>	<u>0</u>
Total	<del>2018</del>	<del>0</del>
	2019	2
	2020	1
	<u>2021</u>	<u>2</u>

**TABLE 3**  
**STATUS OF FRANCHISED OUTLETS**  
**FOR YEARS ~~2018~~2019 TO ~~2020~~2021**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations- Other Reasons	Outlets at End of the Year
Arizona	<del>2018</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
	2019	1	0	0	0	0	0	1

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
	2020	1	0	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
California	<del>2018</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
	<u>2021</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>
Colorado	<del>2018</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
District of Columbia	<del>2018</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2019	0	0	0	0	0	0	0
	2020	0	1	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Florida	<del>2018</del>	<del>14</del>	<del>3</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>17</del>
	2019	17	2	0	0	0	0	19
	2020	<u>19</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>19</u>
	<u>2021</u>	<u>19</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>19</u>
Illinois	<del>2018</del>	<del>4</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>5</del>
	2019	5	1	0	0	0	1	5
	2020	5	0	0	0	0	0	5
	<u>2021</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
Indiana	<del>2018</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
Kansas	<del>2018</del>	<del>0</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>1</del>
	2019	1	0	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
Michigan	<del>2018</del>	<del>3</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>4</del>
	2019	4	1	0	0	0	0	5
	2020	5	1	0	0	0	0	6
	<u>2021</u>	<u>6</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>6</u>
Missouri	<del>2018</del>	<del>9</del>	<del>5</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>14</del>
	2019	14	1	0	0	0	0	15
	2020	15	1	0	0	0	0	16
	<u>2021</u>	<u>162</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>17</u>
New Jersey	<del>2018</del>	<del>2</del>	<del>1</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>3</del>
	2019	3	0	0	0	0	0	3
	2020	3	0	0	0	0	0	3
	<u>2021</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
	<del>2018</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of the Year
North Carolina	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	0	2
	<u>2021</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
Pennsylvania	<del>2018</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2019	0	1	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Tennessee	<del>2018</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>
	2019	0	1	0	0	0	0	1
	2020	1	0	0	0	0	0	1
	<u>2021</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Texas	<del>2018</del>	<del>2</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>2</del>
	2019	2	0	0	0	0	0	2
	2020	2	0	0	0	0	1	1
	<u>2021</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
Virginia	<del>2018</del>	<del>7</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>7</del>
	2019	7	0	0	0	0	0	7
	2020	7	0	1	0	0	0	6
	<u>2021</u>	<u>6</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>6</u>
<b>Totals*</b>	<del>2018</del>	<del>48</del>	<del>12</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>60</del>
<b>Totals</b>	2019	60	7	0	0	0	1	66
	2020	66	3	1	0	0	1	67
	<u>2021</u>	<u>67</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>69</u>

\*-The 5 outlets opened in Missouri reflect the Old Affiliate Spas.

**TABLE 4**  
**STATUS OF COMPANY-OWNED OUTLETS\***  
**FOR YEARS ~~2018~~2019 TO ~~2020~~2021**

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Missouri	<del>2018</del>	<del>5</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>5</del>	<del>0</del>
	2019	0	0	0	0	0	0
	2020	0	0	0	0	0	0
	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	<del>2018</del>	<del>5</del>	<del>0</del>	<del>0</del>	<del>0</del>	<del>5</del>	<del>0</del>
	2019	0	0	0	0	0	0
	2020	0	0	0	0	0	0
	<u>2021</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

\* We do not operate any outlets. ~~Prior to September 27, 2018, we had affiliates that operated the Old Affiliate Spas and we included these as "Company Owned" outlets in Item 20. Each of the Old Affiliate Spas is now included as a "Franchised" outlet in Item 20.~~

TABLE 5

PROJECTED OPENINGS AS OF DECEMBER 31, ~~2020~~2021

State	Franchise Agreements Signed But Outlet Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Affiliate – Owned Outlets In the Next Fiscal Year
<a href="#">Colorado</a>	<u>1</u>	<u>2</u>	<u>0</u>
<a href="#">Delaware</a>	<u>0</u>	<u>1</u>	<u>0</u>
<del>California</del>	<del>1</del>	<del>0</del>	<del>0</del>
<del>Iowa</del>	<del>0</del>	<del>1</del>	<del>0</del>
Florida	<del>1</del> <u>2</u>	1	0
<a href="#">Georgia</a>	<u>0</u>	<u>1</u>	<u>0</u>
Indiana	<del>1</del>	0	<u>2</u>
<del>Kansas</del>	<del>2</del>	<del>0</del>	<del>0</del>
Michigan	<del>1</del>	<del>1</del> <u>3</u>	<u>0</u>
Missouri	<del>2</del>	0	<u>1</u>
<a href="#">North Carolina</a>	<u>2</u>	<u>1</u>	<u>0</u>
<a href="#">Oklahoma</a>	<u>0</u>	<u>0</u>	<u>0</u>
<a href="#">South Carolina</a>	<u>1</u>	<u>0</u>	<u>0</u>
<a href="#">Tennessee</a>	<u>0</u>	<u>1</u>	<u>0</u>
<a href="#">Texas</a>	<u>1</u>	<u>2</u>	<u>0</u>
Utah	<del>0</del>	1	<u>0</u>
<del>Texas</del>	<del>0</del>	<del>1</del>	<del>0</del>
<b>TOTAL</b>	<u>811</u>	<u>12</u>	<u>50</u> <del>tr</del>

**Exhibit F** lists the names, addresses and telephone numbers of all of our franchisees. **Exhibit F** also lists the name, city and state, and the current business telephone number (or, if unknown, the last known home telephone number) of every franchisee who had an outlet transferred, terminated, canceled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during our most recently completed fiscal year or who has not communicated with us within 10 weeks of the issuance date of this disclosure document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

In certain instances, our franchisees may have signed confidentiality clauses restricting their ability to speak openly about their experience with us during the last 3 years. Some former franchisees have also signed provisions restricting their ability to speak about their experience with us. You may wish to speak with franchisees or former franchisees, but be aware that not all such franchisees or former franchisees will be able to communicate with you. There is no trademark-specific franchisee organization associated with the franchise system that must be disclosed in this Item 20.

ITEM 21  
FINANCIAL STATEMENTS

Attached to this disclosure document as **Exhibit D** are our audited financial statements as of December 31, 2021, 2020, ~~2019~~ and ~~2018~~2019. If unaudited financials are required, these will also be found in **Exhibit D**.

## **ITEM 22 CONTRACTS**

The following agreements are attached to this franchise disclosure document:

<b>Exhibit A -</b>	Franchise Agreement
<b>Exhibit B -</b>	Multi-Unit Development Agreement
<b>Exhibit H -</b>	General Release

## **ITEM 23**

### **RECEIPTS**

See **Exhibit I**

**EXHIBIT A**  
**TO THE DISCLOSURE DOCUMENT**  
**FRANCHISE AGREEMENT**

**MASSAGELUXE®  
FRANCHISE AGREEMENT**

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# MASSAGELUXE® FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (the "Agreement") is made and entered into ~~this on~~  
~~\_\_\_\_\_ day of \_\_\_\_\_, 201~~, by and between MASSAGE LUXE INTERNATIONAL,  
LLC, a limited liability company organized under Missouri law, with its principal business address at 16052  
Swingley Ridge Road, Suite 120, Chesterfield, MO 63017 (referred to in this Agreement as "we," "us" or  
"our"), and \_\_\_\_\_, whose principal business address is  
\_\_\_\_\_ (referred to in this Agreement as "you," "your" or "owner").

## 1. DEFINITIONS, ACKNOWLEDGMENTS AND GRANTS.

**1.1 DEFINITIONS.** For purposes of this Agreement, the following terms will have the meaning as defined below:

1.1.1 "Marks" means such service marks, trademarks, trade dress, trade names, logos and commercial symbols, as may presently exist, or which may be modified, changed, or acquired by us or our affiliates, in connection with the operation of a Spa. Marks currently include the "MassageLuXe Spa", "MassageLuXe", "ML and design", "LuXe" and "FaceLuXe" and the silhouette design mark.

1.1.2 "Spa" means any business operated under the Marks according to the System regardless of whether it is owned by you, us, our affiliates or any other franchisee or licensee.

1.1.3 "Services" mean massages, facials, waxing and skin care treatments, together with related services that exist or which may be modified, changed or acquired by us.

1.1.4 "System" means our distinct and proprietary business format for the operation of massage therapy businesses offering the Services, including the methods, procedures, signs, designs, layouts, equipment, standards and specifications, and the Marks, as the same may be modified, amended or replaced from time to time hereafter, the distinguishing characteristics of which include proprietary operating procedures and standards and specifications for the Services.

**1.2 ACKNOWLEDGMENTS.** You acknowledge that you have read this Agreement and our Franchise Disclosure Document, and you understand and accept the terms, conditions and covenants contained in this Agreement as being reasonably necessary to maintain our high standards of quality and service and the uniformity of those standards at each Spa and thereby necessary to protect and preserve the goodwill of the Marks. Any information you acquire from other MassageLuXe franchisees relating to their sales, profits or cash flows does not constitute information obtained from us, nor do we make any representation as to the accuracy of any such information. You acknowledge that, in all their dealings with you, our officers, directors, employees and agents act only in a representative, and not in an individual, capacity. All business dealings between you and such persons as a result of this Agreement are solely between you and us. You further acknowledge that we have advised you to seek franchise counsel to review and evaluate this Agreement.

**1.3 GRANT OF FRANCHISE.** We have expended considerable time and effort in developing a massage therapy spa featuring massages, facials, waxing and skin care treatments, together with related services, products, merchandise, and accessories under the Marks and in accordance with the System.

You desire a franchise to own and operate a Spa at the location listed in Appendix A attached hereto (the "Location"). If no Location is specified at the time you and we sign this Agreement, an appropriate location will be specified when it is determined and you and we agree to initial a completed Appendix A describing that location. Subject to the terms of and upon the conditions contained in this Agreement, we hereby grant you a franchise (the "Franchise") to operate a Spa solely at the Location, and a license to use the Marks and the System in the operation thereof. You may not operate your Spa from any site other than the Location without our prior written consent. If we consent to a relocation of the Spa, we have the right to charge you ~~for the expenses we incur in connection with the relocation~~ a Relocation Fee of 25% of the then current Initial Franchise Fee. Except as otherwise provided in Articles 1.5 and 1.6 and so long as you are not in default under this Agreement, we (and our affiliates) will not establish, or grant to a franchisee the right to establish, another Spa to be located within the geographical area set forth in Appendix A attached hereto (the "Territory"). ~~Notwithstanding the foregoing, we reserve the right to operate locations within transportation facilities even if these transportation facilities are within your Territory.~~

**1.4 YOUR PERFORMANCE.** You (or your limited liability company manager or managing member, managing shareholder or managing partner) agree to personally manage and operate your Spa ~~as your primary occupation and~~ and will not, without our prior written consent, delegate your (or your limited liability company manager's or managing member's, managing shareholder's or managing partner's) authority and responsibility with respect to management and operation. You agree that you will at all times faithfully, honestly and diligently perform your obligations hereunder, continuously exert your best efforts to promote and enhance your Spa and not engage in any other business or activity that conflicts with your obligations to operate your Spa in compliance with this Agreement. If your owners do not operate the Spa as their primary occupation, your Spa must be managed by an individual who has completed our training program to our satisfaction. You and your owners will, however, remain responsible for the actions or inactions of your designated person.

**1.5 RIGHTS WE RESERVE.** We and our affiliates reserve all rights not specifically granted to you pursuant to this Agreement, including the right to do any of the following without compensation to you:

1.5.1 establish, and grant to franchisees the right to establish, Spas anywhere ~~outside the Territory and within the transportation facilities within and~~ outside the Territory;

1.5.2 establish, and grant to franchisees the right to establish, businesses within the Territory or outside of the Territory under trademarks and/or service marks different than the Marks or systems offering services different from the Services;

1.5.3 sell our services or ancillary products, whether or not using the Marks, inside or outside the Territory through distribution channels other than Spas, including through catalogs distributed within your exclusive Territory, the Internet, print, direct marketing media and any other non-spa outlets inside or outside the Territory, and we may promote services and products bearing the Marks at special events, conventions, athletic contests, etc., through temporary locations and mobile units (both inside and outside your Territory); and

1.5.4 to purchase, be purchased, merge, acquire, be acquired or affiliate with a competitor or any other business regardless of the location of the competitor or business, and to operate, franchise or license such businesses as Spas under the System or Marks or under other proprietary marks, regardless of the location of such businesses, whether such businesses are in your Territory or outside your Territory.

**1.6 NATIONAL ACCOUNTS.** Nothing will prohibit us and our affiliates from doing business within your Territory for National Accounts. A "National Account" means those customers with more than 1 location covered by an agreement for services which are not located solely in the territory of one franchisee. If you obtain an account that may be considered a National Account, you must refer it to us and it will be treated as a National Account; however, we reserve the absolute right to reject any such account for any reason. National Accounts shall be negotiated solely by us or our affiliates, even if you procure the National Account. All National Accounts will be considered our property and you will have no claim to them. If one or more locations of a National Account falls within your Territory, we will first offer you the opportunity to provide Services to those locations on the terms and conditions that we have established with the National Account. You are not required to provide Service to a National Account and if you do not accept our offer to do so in the manner and within the time period that we specify, we have the right to provide Services to the account ourselves, or may authorize other Spas, to provide such Services. However, the decision to accept or reject you as a provider of Services for the National Account ultimately rests with the National Account.

**1.7 POS SOFTWARE AND TECHNOLOGY SERVICES.**

1.7.1 We have been licensed the right to grant sublicenses to, and hereby grant you a nonexclusive, nontransferable, non-assignable and non-sublicensable license to, use the proprietary computer software program licensed or such other software as we may designate, including any modifications, additions or enhancements to such software ("POS Software") during the term of this Agreement and subject to the limitations on use and other requirements set forth in this Article 1.7. You understand that we have the right to change the POS Software at any time in our sole discretion. In such event, you may be required to change the licensed software you use at your sole cost and expense and may be required to sign new documentation to license the right to use the new software.

1.7.2 You and your employees will use the POS Software for the operation of your Spa in accordance with the terms of this Agreement and the terms, conditions and procedures set forth in the Operations Manual or otherwise disclosed to you, which may change from time to time. We may require you to modify, enhance and/or replace all or any part of the POS Software at any time and at your sole expense.

1.7.3 We or our affiliates may host some portion or all the POS Software on our corporate servers as an ASP provider. In the event we or our affiliates provide any hosting services, we or they reserve the right to do so according to terms and conditions we or they may establish, including limiting our liability for the security of data transmitted over the Internet and establishing limitations on data storage size and the periodic purging of your data required as a result thereof.

1.7.4 You acknowledge that the only rights in the POS Software granted by us to you are those specified in this Article 1.7. You have no rights other than those granted by this Article 1.7 to use the POS Software or any enhancements thereto or documentation relating to either of the foregoing and any adaptations or modifications thereof. You agree to make no claim of any ownership interest in the intellectual property rights, including copyright in the POS Software and any adaptations or modifications thereof.

1.7.5 You acknowledge that the POS Software, in both object code and source code, is secret and proprietary and that its use and disclosure is restricted by the provisions of this Agreement. You shall not (i) make any copies of POS Software (except for one copy of the POS Software in object code for archival purposes only); (ii) shall not attempt to disassemble or decompile the POS Software object code or otherwise attempt to discern the POS Software source code; (iii) access or allow the access of the POS Software (or any addition to or modification of the POS Software) other than by your authorized employees;

(iv) sell, lease, assign, sublicense or otherwise transfer your license to use the POS Software other than in connection with a transfer of this Agreement; (v) alter, maintain, enhance or otherwise modify the POS Software; (vi) decompile, disassemble, or otherwise analyze for reverse engineering purposes, the POS Software; (vii) permit any parent, subsidiary, affiliate or third party to use the POS Software; (viii) alter, amend, modify or mask any copyright, trademark, proprietary or other notice affixed to or incorporated in the POS Software; or (ix) circumvent or otherwise interfere with any security measures we or our affiliates may use in connection with any hosting services we or they may provide.

1.7.6 Documentation that accompanies the POS Software, if any, is provided solely to support your authorized use of the POS Software. You may not use, copy, modify or distribute the documentation, or any copy, adaptation, transcription, summary or merged portion thereof.

1.7.7 You shall promptly disclose to us all ideas and suggestions for modification or enhancements of the POS Software, or any component thereof, and we and all our affiliates and franchisees shall have the right to use, develop and license such ideas and suggestions in any manner, in our sole discretion, and without any obligation to you therefore.

1.7.8 In the event your use of the POS Software is enjoined as a result of a claim by a third party of patent or copyright infringement or violation of proprietary rights, we shall, in our sole discretion, either (A) procure for you the right to continue to use the POS Software as contemplated hereunder, or (B) replace the POS Software or modify it such that there is no infringement of the third party's rights; and such action by us shall be your sole and exclusive remedy against us in such event.

1.7.9 We do not represent or warrant to you and we expressly disclaim any warranty that the POS Software is error-free or that the operation and use of the POS Software by you will be uninterrupted or error-free. We shall have no obligation or liability for any expense or loss incurred by you arising from your use of the POS Software.

1.7.10 WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE POS SOFTWARE OR ANY PORTION THEREOF, INCLUDING ANY PROGRAM DOCUMENTATION OR OTHER MATERIAL FURNISHED HEREUNDER OR ANY COMPONENT THEREOF, AND THERE ARE EXPRESSLY EXCLUDED ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT THERETO. WE SHALL HAVE NO LIABILITY FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES.

1.7.11 You shall bear all costs of purchase, installation, operation, maintenance, and upgrading the POS Software. In connection therewith, you will pay us POS System Software Fees described in Article 3.5 below.

1.7.12 At all times, we shall be granted "administrator" rights to the POS Software licensed hereunder, permitting us to remotely access such POS Software, and all information contained therein. We may use the information contained in your copy of the POS Software for any purpose we deem appropriate, including disseminating such information to our creditors and potential franchisees; provided, no social security number, birth date or home address information contained therein, if any, shall be disclosed without your prior written consent, unless required or permitted by law.

[1.7.13 We reserve the right to institute a Technology Services Fee which you will pay to us when you pay your POS Software System Fee. We may increase the Technology Fee annually.](#)

## **2. YOUR OBLIGATIONS.**

**2.1 LOCATION SELECTION.** You acknowledge that, following your signing this Agreement, you (with or without our assistance) will find and submit to us for our consent a location for your Spa. You acknowledge and agree that our recommendation of or consent to the Location, and any information regarding the Location communicated to you by us or our representatives or affiliates, does not constitute a representation or warranty of any kind, express or implied, as to the suitability of the Location for a Spa or for any other purpose. Such recommendation or consent indicates only that we believe that the Location falls within the acceptable criteria for locations that we have established as of the time of our recommendation or consent. You acknowledge and agree that your acceptance of the Location is based on your own independent investigation of the suitability of the Location.

**2.2 LEASE OF LOCATION.** You acknowledge that we and you may approve a lease or sublease for a Location subsequent to signing this Agreement. You are obligated to deliver a copy of the signed lease to us within 15 days after its execution. Your lease for the Location must contain substantially the same terms as found on Appendix B attached to this Agreement. At our request, you agree that you will collaterally assign the lease for the Location to us as security for your timely performance of all obligations under this Agreement and secure the landlord's consent to the collateral assignment (see Appendix C to this Agreement). You acknowledge that our approval of certain provisions of the lease for the Location does not constitute a guarantee or warranty, express or implied, of the successful operation or profitability of a Spa operated at the Location under such lease. Such approval indicates only that we believe that the Location and certain terms of the lease fall within the acceptable criteria we have established as of the time of our approval. You further acknowledge that we have advised you to seek counsel to review and evaluate the lease.

**2.3 ESTABLISHMENT OF THE SPA.** You are responsible for developing your Spa. We will furnish you with mandatory specifications and layouts for a Spa, including requirements for dimensions, design, image, interior layout, decor, fixtures, equipment, signs, furnishings, color schemes and other suggestions. You are obligated to have prepared, at your expense, all required construction plans and specifications to suit the shape and dimensions of the Location and to ensure that such plans and specifications comply with applicable zoning and other ordinances, building codes and permit requirements and with lease requirements and restrictions. You are obligated to submit construction plans and specifications to us for approval before construction of your Spa is commenced and, at our request, to submit all revised or "as built" plans and specifications during the course of such construction. We or our designees will assist you in constructing your Spa by recommending contractors (which may include us and/or our affiliates) and architects, coordinating delivery and installation services for fixtures and equipment and otherwise furnishing information to assist you in establishing your Spa in accordance with our specifications. In addition, we will provide "Construction Support Services" for limited onsite visits to ensure compliance with our guidelines. You are required to pay us the Construction Support Fee for the Construction Support Services. You acknowledge and agree that any review and/or approval of any construction plans you submit to us for approval under this paragraph, any inspections we or our affiliates make of your premises during construction of your Spa, and any of the Construction Support Services are solely to assure your compliance with the System and not whether it is compliant with any laws, local building codes or the Americans with Disabilities Act. You expressly represent and warrant to us that your Spa will be built and operated in compliance with all local, state and federal laws, ordinances, rules and regulations, including the Americans with Disabilities Act. You acknowledge that neither we nor our affiliates are not a licensed architect or construction manager, and you are not relying on us or our affiliates for any architectural or construction management services, and you agree that neither we nor our affiliates are responsible for the quality or workmanship of the construction, or of the fixtures and equipment provided to you.

**2.4 YOUR OBLIGATIONS.** You agree, at your own expense, to do the following with respect to establishing your Spa at the Location: (i) secure all financing required to develop and operate your Spa; (ii) obtain all permits and licenses required to construct and operate your Spa; (iii) construct all required improvements to the Location in compliance with plans and specifications we have approved and which comply with all governmental requirements; (iv) purchase or lease and install all required fixtures, furniture, equipment, furnishings and signs required for your Spa; and (v) purchase an initial inventory of authorized and approved products, materials and supplies.

**2.5 FIXTURES, FURNISHINGS, EQUIPMENT, SIGNS, PRODUCTS, AND AUTHORIZED EQUIPMENT REPAIR SERVICES.** You agree to use in establishing and operating your Spa only those fixtures, furnishings, equipment (including cash registers/POS systems, satellite music systems and computer hardware and software) signs and products that we have approved for Spas as meeting our specifications and standards for quality, design, appearance, function and performance. You agree to place or display at the Location (interior and exterior) only such signs, emblems, lettering, logos and display materials that we approve from time to time. You agree to purchase or lease approved brands, types or models of fixtures, furnishings, equipment, signs and products only from suppliers we have designated or approved (which may include us and/or our affiliates). You agree to utilize only authorized equipment repair services at the Location, either directly or indirectly (through an approved supplier). We may from time to time develop proprietary private label equipment and products that are an integral part of our System and you acknowledge and agree that you will comply with all our specifications and requirements relating to incorporating and using such equipment and products in the operation of your Spa, as we may require. You understand that you may be required to purchase additional or upgraded furniture, fixtures and equipment from time to time at your sole expense as we require.

**2.6 SPA OPENING.** You agree not to open your Spa for business until: (i) we approve your Spa as developed in accordance with our specifications and standards; (ii) pre-opening training has been completed to our satisfaction by you and/or your employees; (iii) you have given us a copy of your lease for the Location; (iv) the Initial Franchise Fee and all other amounts then due to us, our affiliates and our approved suppliers have been paid; (v) we have been furnished with copies of all insurance policies required by this Agreement, or such other evidence of insurance coverage and payment of premiums as we request or accept; and (vi) you have obtained all required permits, licenses and certifications for operating your Spa, and the Location is in compliance with all laws, rules and regulations.

**2.7 COMMENCEMENT DEADLINE.** You agree to open your Spa for business within ~~270 days~~one year of execution of this Agreement. If you are unable to begin operating your Spa within ~~270 days~~one year of execution of this Agreement due to circumstances beyond your reasonable control, you may request a reasonable extension of time from us to commence operations prior to the expiration of the ~~270 days~~one year period, which we may grant or deny in our sole discretion.

**2.8 GRAND OPENING PROGRAM.** You agree to conduct a grand opening advertising and promotional program for your Spa during the 30-day period prior to opening and during the 30-day period after opening and to expend not less than ~~\$7,500~~15,000 (the "Start-Up Marketing") for such purpose. Such Start-Up Marketing will utilize the marketing and public relations programs and media and advertising materials we have approved. Such Start-Up Marketing shall be conducted at such times as we consider prudent. You shall provide to us, within 30 days of our request, copies of all receipts and other documents, as we may reasonably request, demonstrating your compliance with this Article 2.8.

**2.9 COMPLIANCE WITH LAWS.** You agree to operate your Spa in compliance with all applicable laws and governmental regulations and in accordance with the operational standards we may establish from time to time. At all times you will comply with all federal, state, municipal and local laws,

rules, regulations, ordinances and codes applicable and related to this Agreement, your Spa, and all aspects of the conduct of business at your Spa. You must obtain all licenses and permits required by any applicable federal, state, municipal, and local law, rule, regulation, ordinance and code to operate your Spa as required by this Agreement. At no time are we required to inform you of any federal, state, municipal or local law, rule, regulation, ordinance, code or tax. Within 5 days of your receipt of any inspection report you receive from a governmental authority related to your providing any of the Services or otherwise operating your Spa, you must forward a copy of this/these reports to us.

**2.10 PROFESSIONAL LICENSES.** You acknowledge and agree that the services provided at your Spa may be regulated by certain state or local laws or regulations; that state governments, municipalities, regulatory bodies, or others may regulate your Spa now or in the future; and that many states regulate providing the Services. You represent that you have investigated and ascertained the laws and regulations specific to the activities licensed hereunder that affect your Spa, including state, municipal and local laws and regulations. Further, you agree that, unless otherwise permitted or required by applicable law, all massage therapists and the estheticians who are employed or otherwise perform Services in your Spa must be duly licensed and in good standing with the applicable state regulatory bodies governing the provision of the Services at your Spa and be adequately insured at all times.

**2.11 STANDARDS OF OPERATIONS.** Your Spa must conform with the mandatory standards relating to signage, color scheme, appearance, hours of operation, cleanliness, sanitation, safety, methods of operation, type of equipment and décor, and types of payment methods accepted, all as designated by us. Unless we give you our prior consent, you must offer all Services required by us in the Operations Manual or in any other written instruction we give to you. You will not conduct any business or sell any products or services other than those approved by us. Uniformity of products and services offered by all Spas is of utmost importance to us and the entire System. At no time will you or your employees solicit or provide any illegal, immoral, questionable or inappropriate services. We may require you to make capital expenditures to remodel the Spa to reflect our then current standards. Compliance with these standards may be an ongoing obligation of yours, and may be a condition of our consenting to a renewal of this Agreement, or our consenting to a transfer.

You must keep the premises clean and provide prompt and courteous service to customers. You agree to, and will take all steps as are necessary to, ensure that all your employees treat each customer fairly and provide services in an honest, ethical and non-discriminatory manner. You must not advertise in a deceptive, misleading or unethical manner, and you agree to meet such minimum standards as we may establish from time to time in the Operations Manual.

[We have the right, in our sole discretion, to attempt to remedy the customer complaints about your Spa. In such event, you will reimburse us for all costs, actual and administrative, incurred in providing assistance to your customer.](#)

**2.12 MEMBERSHIPS.** You must sell memberships in your Spa ("Memberships") only on such terms and conditions as we specify from time to time in the Operations Manual. All Memberships and the use of services must be evidenced by a written and signed membership agreement, related service agreements and all associated waiver and consent documents, which may change from time to time, ("MLI Forms") which you must submit to us within 5 days of our request. You must use the MLI Forms that are based on our then-current standard MLI Forms, except when local laws require you to alter the MLI Forms in order for it to be enforceable in the jurisdiction in which your Spa is located, or as agreed by us in writing prior to use. You must permit members from other Spas to use their membership at your Spa and vice versa pursuant to the requirements set forth in the Operations Manual or as we may otherwise require from time to time. Your Spa must at all times be identified as a MassageLuXe franchised location in the manner

described in the Operations Manual. All sales of Memberships must be made on a face-to-face basis, although you are permitted to solicit Memberships through non face-to-face methods. We have the right to prohibit or cancel Memberships you sell that will expire beyond the expiration of the term of this Agreement and any exercised renewal term.

**2.13 GIFT CARDS.** We may require you, if permitted by applicable law, to participate in a gift card or other customer loyalty program in accordance with the provisions either set forth in the Operations Manual or otherwise disclosed to you. In order to participate, you may be required to purchase additional equipment and pay any fees applicable to the use of that equipment. If we establish a gift card or loyalty program, we have the right to determine how the amount of the gift cards or loyalty cards will be divided or otherwise accounted for, and we reserve the right to retain the amount of any unredeemed gift cards.

**2.14 MAINTENANCE OF THE SPA.** You must keep the exterior and interior of your Spa and all fixtures, equipment, furnishings and signs in the highest degree of cleanliness, orderliness, sanitation and repair and in accordance with the Operations Manual. You may not make material alterations, additions, replacements or improvements to your Spa without our prior written consent. You shall equip the Spa with furniture, fixtures, signs and equipment, including computer equipment, and use the computer software as required in the Operations Manual, which we may change or modify from time to time. You acknowledge and understand that in the future, and from time to time, you may be required to upgrade or purchase or lease new or different furniture, fixtures, equipment and signs. You acknowledge and agree that we have the right to independently access all information collected or compiled by you at any time without first notifying you. There are no contractual limitations on our right to access such information.

### 3. FEES.

**3.1 INITIAL FRANCHISE FEE.** You agree to pay us a nonrecurring and nonrefundable initial franchise fee in the amount of \$42,500 when you sign this Agreement ("Initial Franchise Fee"). ~~The~~ [Currently, if you are a service member of U.S. Army, Navy, Air Force, Marines, or Coast Guard \(active or honorably discharged\), we will discount the Initial Franchise Fee by 20%. We may require reasonable documentation of your eligibility for this program. This](#) fee will be fully earned by us upon the execution of this Agreement.

**3.2 ROYALTY.** You will pay us a non-refundable royalty ("Royalty") each week beginning on Saturday and ending on Friday (the "Accounting Period") in the amount of 6% of Gross Revenue (as defined below) commencing the earlier of: (i) the date of the initial opening of your Spa; or (ii) any presale of Services and continuing thereafter during the remaining term of the Agreement.

**3.3 REGIONAL AD FEE.** You agree to contribute to the Creative Services Advertising Fund for each Accounting Period a Regional Ad Fee in the amount of 2.5% of Gross Revenues ("Regional Ad Fee") commencing the earlier of: (i) the date of the initial opening of your Spa; or (ii) any presale of Services and continuing thereafter during the remaining term of the Agreement.

**3.4 NATIONAL AD FEE.** You agree to contribute to the Creative Services Advertising Fund for each Accounting Period a National Ad Fee in the amount of 1% of Gross Revenues ("National Ad Fee") commencing the earlier of: (i) the date of the initial opening of your Spa; or (ii) any presale of Services and continuing thereafter during the remaining term of the Agreement.

**3.5 POS SYSTEM SOFTWARE FEE.** You must pay us an initial POS System Software Fee in the amount of \$500 prior to installation of the POS Software and an ongoing POS System Software Fee

of \$125 per week ("POS System Software Fee") commencing on the date of the initial opening of the Spa and continuing thereafter during the remaining term of the Agreement. We reserve the right to increase the POS System Software Fee up to 5% annually.

**3.6 CONSTRUCTION SUPPORT FEE.** You agree to pay us a Construction Support Fee based on the amount of Construction Support Services you require as described in Article 2.3.

**3.7 REPORT AND MANNER OF PAYMENTS.** You shall provide to us via facsimile transmission or email, or such other form of delivery we approve, a report of the Gross Revenue derived from operating your Spa for each Accounting Period no later than the Monday following the end of the Accounting Period. Royalties, Regional Ad Fees, National Ad Fees, POS System Software Fees and all other periodic fees due under this Agreement, or under any other agreement with us or our affiliates, will, unless otherwise specified in this or such other agreement, be paid in arrears on every Friday (unless a legal holiday falls on a Friday, in which case the payment will be made on the next day which is not a legal holiday). All of these payments will be made via electronic funds transfer ("EFT") or such other manner which we may designate from time to time. None of these fees are refundable. Any payment or report not received by us on or before the date they are due will be deemed overdue. You will comply with the procedures specified in the Operations Manual or as otherwise communicated for such EFT or other program and will perform the acts and sign the documents, including authorization forms that we, our bank, and your bank may require to accomplish payment by EFT or such other method we designate, including authorizations for us to initiate debit entries and/or credit correction entries to a designated checking or savings account. In addition, you will pay all costs associated with utilizing an EFT or other payment program. ~~Failure~~[If you fail to maintain sufficient funds in the designated account, we have the right to charge you our costs associated with this failure. In addition, failure](#) to maintain adequate funds in the designated account or your failure to pay all amounts when due will be considered a breach of this Agreement and grounds for termination, and we may further terminate your ability to access and use the POS system and/or the POS Software for failure to pay any amount when due. If we terminate your ability to access and use the POS system or the POS Software for failure to pay any amount when due, full payment of all sums owed to us must be made before we give you access to and use of the POS system or the POS Software. If you fail to timely report to us, in addition to any applicable late charges, we have the right, but not the obligation, to debit from your designated account an estimated amount of the Royalties, Regional Ad Fees, National Ad Fees, POS System Software Fees, and other periodic fees due under this Agreement, or under any other agreement with us or our affiliates. We have the right to review your sales receipts on a daily basis.

**3.8 TAXES.** You agree to pay to us the amount of any State or local sales, use, gross receipts or similar tax that we may be required to pay on payments which you make to us under this Agreement, regardless of whether the State or local tax is imposed directly on us, is required to be withheld by you from amounts due to us under this Agreement, or is otherwise required to be collected by you from us. Your obligations under this Article shall not be reduced or offset by any type of claim, credit or deduction of any kind. This provision shall not apply to income taxes or comparable taxes measured by income to which we may be subject.

**3.9 DEFINITION OF "GROSS REVENUE".** As used in this Agreement, the term "Gross Revenue" means all revenue you derive from operating your Spa, including, but not limited to, all amounts you receive from pre-opening sales, services, merchandise, gift cards or goods sold at or away from the Location, and whether from cash, check or credit transactions, excluding all federal, state or municipal sales, use or service taxes collected from customers and paid to the appropriate taxing authority and customer refunds, adjustments, credits and allowances actually made by your Spa in compliance with the Operations Manual.

**3.10 INTEREST ON LATE PAYMENTS.** All amounts that you owe us and do not pay us or our affiliates when due will bear interest after their due date at the lesser of 1.5% per month or the maximum legal rate in the jurisdiction where your Spa is located. You acknowledge that this Article does not constitute our or our affiliates' agreement to accept any payments after they are due or our commitment to extend credit to, or otherwise finance the operation of your Spa. Notwithstanding the provisions of this Article, your failure to pay all amounts when due constitutes grounds for termination of this Agreement.

**3.11 APPLICATION OF PAYMENTS.** Notwithstanding any designation you might make, we and our affiliates have sole discretion to apply any of your payments to any of your past due indebtedness to us or them. You acknowledge and agree that we and our affiliates have the right to set off any amounts you or your owners owe us against any amounts we or our affiliates might owe you or your owners.

**3.12 SPECIFIC GOODS PURCHASES.** The specifics of your initial purchase of inventory and supplies and the delivery of same and all subsequent inventory and supplies transactions will be dealt with in the normal course of business subject to the terms hereof. We, our affiliates and/or our approved suppliers may require a deposit for your initial purchase of inventory, supplies, fixtures, furniture and other equipment. If you fail to timely make payments to us, one of our affiliates or an approved supplier for any purchases, we, our affiliates or the approved suppliers may collect such amounts due via debit draft of your account, may require you to pay for all future purchases on a C.O.D. basis by cashier's check, or may refuse to make further sales to you.

#### **4. OUR OBLIGATIONS.**

**4.1 TRAINING.** Before you open your Spa for business, we will furnish initial training on the operation of a Spa to you (or, if you are a limited liability company, corporation or partnership, your limited liability company manager or managing member, managing shareholder or managing partner), and up to 2 additional employees you elect to enroll in the training program. Initial training consists of 10 working days to be furnished at our training location or at an operating Spa. You (or your limited liability company manager or managing member, managing shareholder or managing partner), and your employees are required to complete the initial training to our satisfaction. You also are required to participate in all other activities required to operate your Spa. You are responsible for all travel and living expenses that you (or your limited liability company manager or managing member, managing shareholder or managing partner) and your employees incur in connection with training. If we determine that you (or your limited liability company manager or managing member, managing shareholder or managing partner) are unable to complete initial training to our satisfaction, we have the right to terminate this Agreement. Notwithstanding the foregoing, in the event that you already own a Spa, your initial training program will not be provided unless we deem it necessary, however you are responsible for providing training to all of your employees.

**4.2 REFRESHER TRAINING.** We may require you (or your limited liability company manager or managing member, managing shareholder or managing partner) and/or previously trained and experienced employees to attend periodic refresher training courses at such times and locations that we designate, and we may charge reasonable fees for such courses. You are responsible for the travel and living expenses of you and your employees during any such refresher training.

**4.3 GENERAL GUIDANCE.** We will advise you from time to time regarding operating issues concerning your Spa disclosed by reports you submit to us or on-site inspections we make from time to time. Such guidance will, at our discretion, be furnished in our operations manual ("Operations

Manual"), bulletins or other written materials and/or during telephone consultations and/or consultations at our office or the Location. We reserve the right to charge a reasonable fee for providing this guidance.

**4.4 ON-SITE CONSULTATION AND ADDITIONAL GUIDANCE.** Our representative will spend 3 to 5 days at your Location to assist you with the grand opening of your Spa. In the event that you already own a Spa, the on-site consultation will not be provided unless we deem it necessary.

**4.5 OPERATIONS MANUAL.** During the term of this Agreement, we will loan you 1 copy of our Operations Manual. The Operations Manual will be in a format determined by us (i.e. in writing, on CD-Rom, via electronic media through a secure website, etc.), and all other supplemental bulletins, notices, revisions, modifications, or supplemental information, either in document or electronic form, concerning the System are considered part of the Operations Manual. Also included are any passwords or other digital identifications necessary to access the Operations Manual on a website or extranet. The Operations Manual contains mandatory and suggested specifications, standards, operating procedures and rules that we prescribe from time to time for the operation of a Spa and related agreements. You will at all times be responsible for ensuring that your employees and all other persons under your control comply with the mandatory provisions of the Operations Manual in all respects. The Operations Manual constitutes a confidential trade secret of ours and will remain our property. The Operations Manual cannot be photocopied, reproduced, or disseminated without our written consent. The Operations Manual may be modified from time to time. You agree to comply with all modifications, additions or deletions to the Operations Manual at your sole cost and expense. You acknowledge that due to the changing nature of this type of business, as well as changing attitudes of customers and other factors, changes to the System or the Operations Manual may be necessary and may involve your expenditure of substantial sums of money, including purchasing new equipment, computer hardware and software, and other items. We and you intend that the exercise of our right or discretion will not be subject to limitation or review. You agree to keep your copy of the Operations Manual current and in a secure location at your Spa. In the event of a dispute relating to its contents, the master copy of the Operations Manual we maintain at our principal office will be controlling. You may not at any time copy, duplicate, record or otherwise reproduce any part of the Operations Manual. The Operations Manual and other specifications, standards and operating procedures communicated to you shall be deemed a part of this Agreement.

**4.6 TRAINING AND ASSISTANCE BY AREA DEVELOPER.** The parties agree, that if your Spa is to be located in an area covered by an Area Development Agreement entered into between us and one of our area developers, some or all of the assistance under this Agreement to be provided to you by us may be provided by such area developer.

**4.7 ON-LINE CONTINUING EDUCATION PROGRAMS.** We may, in our sole discretion offer on-line continuing education programs for your therapists or estheticians. The programs may or may not qualify for continuing education requirements in your state and you will be responsible for determining whether these programs qualify. These programs are optional; however, you must pay us a fee if your therapists or estheticians take any of these programs. We anticipate the fee will range between \$100 - \$500 per attendee per program.

## **5. MARKS.**

**5.1 OWNERSHIP AND GOODWILL OF MARKS.** We own the Marks. Your right to use the Marks is derived solely from this Agreement and limited to the operation of your Spa pursuant to and in compliance with this Agreement and the Operations Manual. Your unauthorized use of the Marks will be a breach of this Agreement and an infringement of our and our affiliate's rights in and to the Marks. You acknowledge and agree that your usage of the Marks and any goodwill established by such use will be

exclusively for our and our affiliate's benefit and that this Agreement does not confer any goodwill or other interests in the Marks upon you (other than the right to operate your Spa in compliance with this Agreement). You will not represent in any manner that you have any ownership in the Marks or the right to use the Marks except as provided in this Agreement and the Operations Manual.

**5.2 LIMITATIONS ON YOUR USE OF MARKS.** You agree to use the Marks as the sole identification of your Spa, except that you agree to identify yourself as the independent owner thereof in the manner we prescribe. You may not use any Marks as part of any corporate or legal business name. You will not maintain a website, or social media (e.g., LinkedIn, Facebook or Twitter) account or user name, or any other presence, or otherwise advertise on the Internet, or any other public computer network, in connection with your Spa, without our prior written consent or in the manner we approve. You agree not to register any Internet address name under any Internet domain, class or category that contains the Marks or any abbreviation, acronym or variation of the Marks. We and our affiliates retain the sole right to advertise on the Internet and create a website or websites using any of the Marks or any variation of the Marks. We and our affiliates retain the sole right to determine the content on any website we create and on any social media outlet we may permit you to use. You may not use any Marks in connection with the performance or sale of any unauthorized services or products or in any other manner we have not expressly authorized in writing. No Marks may be used in any advertising concerning the transfer, sale or other disposition of your Spa or an ownership interest in you. You agree to display the Marks prominently in the manner we prescribe at your Spa, on supplies or materials we designate and in connection with forms and advertising and marketing materials. You agree to give such notices of copyright, trademark and service mark rights; i.e., "©", "@", "™" or "SM", as we specify and to obtain any fictitious or assumed name registrations required under applicable law. You agree to withdraw any fictitious or assumed name registrations immediately upon termination or expiration of this Agreement.

**5.3 NOTIFICATION OF INFRINGEMENTS AND CLAIMS.** You agree to notify us immediately of any apparent infringement or challenge to your use of any Marks, or of any claim by any person of any rights in any Marks, and agree not to communicate with any person other than us, our attorneys and your attorneys in connection with any such infringement, challenge or claim. We and our affiliates have the sole discretion to take such action as we deem appropriate and the right to control exclusively any litigation, United States Patent and Trademark Office ("USPTO") proceeding or any other administrative proceeding arising out of any such infringement, challenge or claim or otherwise relating to any Marks. You agree to sign all instruments and documents, render such assistance and do such acts and things as, in the opinion of our attorneys, may be necessary or advisable to protect and maintain our interests in any litigation or USPTO proceeding or other proceeding or otherwise to protect and maintain our interests in the Marks.

**5.4 DISCONTINUANCE OF USE OF MARKS.** If it becomes advisable at any time in our sole discretion for us and/or you to modify or discontinue the use of any Marks and/or use one or more additional or substitute Marks, you agree to comply with our directions within a reasonable time after receiving notice thereof, at your sole cost and expense. We will not be obligated to reimburse you for any loss of revenue attributable to any modified or discontinued Marks or for any expenditures you make to promote a modified or substitute Mark.

## **6. CONFIDENTIAL INFORMATION.**

**6.1 DETERMINATION OF CONFIDENTIAL INFORMATION.** We possess (and will continue to develop and acquire), and may disclose to you, certain confidential information (the "Confidential Information") relating to the development and operation of Spas, which may include (without limitation): (i) the System; (ii) Operations Manual; (iii) location selection criteria; (iv) methods, formats,

specifications, standards, systems, procedures, any other proprietary materials, the sales and marketing techniques used, and knowledge of and experience in developing and operating Spas; (v) marketing and advertising programs for Spas; (vi) knowledge of specifications for and suppliers of certain fixtures, furnishings, equipment, products, materials and supplies used in the Spas; and (vii) knowledge of the operating results and financial performance of Spas other than your Spa.

**6.2 YOUR USE.** You acknowledge and agree that you will not acquire any interest in Confidential Information, other than the right to utilize Confidential Information disclosed to you in establishing and operating your Spa during the term of this Agreement, and that the use or duplication of any Confidential Information in any other business will constitute an unfair method of competition and a violation of this Agreement. You further acknowledge and agree that Confidential Information is proprietary, includes our trade secrets and is disclosed to you solely on the condition that you agree, and you do hereby agree, that you: (i) will not use Confidential Information in any other business or capacity; (ii) will maintain the absolute confidentiality of Confidential Information during and after the term of this Agreement; (iii) will not make unauthorized copies of any portion of Confidential Information disclosed via electronic medium or in written or other tangible form; (iv) will cease using the Confidential Information after the termination or expiration of this Agreement, or after any transfer (as described herein); and (v) will adopt and implement all reasonable procedures, including those that we prescribe from time to time to prevent unauthorized use or disclosure of Confidential Information, including restrictions on the disclosure of Confidential Information to your personnel and others.

[You will have all of your executives, managers, employees and staff who have access to Confidential Information sign a confidentiality and non-competition agreement in a form acceptable to us.](#)

**6.3 IDEAS, CONCEPTS, TECHNIQUES OR MATERIALS.** All ideas, concepts, techniques or materials relating to a Spa, all copyrights embodied therein and all goodwill arising therefrom, whether or not constituting protectable intellectual property, and whether created by or on behalf of you or your owners, will be promptly disclosed to us, deemed to be our sole and exclusive property, part of the System and deemed to be works made for hire for us. You and your owners agree to sign whatever assignment or other documents we may request from time to time to evidence our ownership or to assist us in securing intellectual property rights in such ideas, concepts, techniques or materials. In the event that these requirements are found to be invalid or unenforceable, you and your owners hereby grant to us a worldwide, perpetual, non-exclusive and fully paid license to use and sublicense the use of such ideas, concepts, techniques, innovations, developments, improvements, suggestions or materials.

## **7. EXCLUSIVE RELATIONSHIP.**

**7.1 EXCLUSIVE DEALINGS.** You acknowledge that we have granted the Franchise to you in consideration of and reliance upon your agreement to deal exclusively with us. You therefore agree that, during the term of this Agreement, neither you nor any of your owners (nor any of your or your owners' spouses, children ~~or other relatives by blood or marriage~~, stepchildren, or spouses of such children or stepchildren) will: (i) have any direct or indirect interest as a disclosed or beneficial owner in a Competitive Business, wherever located; or (ii) perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for a Competitive Business, wherever located.

**7.2 COMPETITIVE BUSINESS.** The term "Competitive Business" as used in this Agreement means any business operating, or granting franchises or licenses to others to operate, any business which derives more than 10% of its gross revenue from providing Services or any other type of services offered in the Spa (other than a Spa operated under a franchise agreement with us).

**7.3 COVENANT NOT TO COMPETE AFTER TERM.** Upon termination of this Agreement, expiration of this Agreement, or assignment or transfer, you and your owners agree that, for a period of 24 months (the "Restriction Period") commencing on the effective date of termination or expiration or the date on that a person restricted by this Article begins to comply with this Article, whichever is later, neither you nor any of your owners will have any direct or indirect interest (i.e., through a spouse or child) as a disclosed or beneficial owner, investor, partner, director, officer, employee in a management or sales capacity, consultant, representative or agent or in any other capacity in any Competitive Business (except as a duly licensed franchisee, multi-unit developer or area developer of ours) operating: (i) at the Location; (ii) within 25 miles of the Location; or (iii) within 5 miles of any other Spa in operation or under construction on the later of the effective date of the termination, expiration or transfer, or the date on which a person restricted by this Article complies with this Article.

**7.4 REASONABLENESS OF COVENANTS.** You acknowledge and confirm that the length of the term and geographical restrictions contained in Articles 6 and 7 are fair and reasonable and not the result of overreaching, duress or coercion of any kind. You acknowledge and confirm that your and their full, uninhibited and faithful observance of each of the covenants contained in Articles 6 and 7 will not cause any undue hardship, financial or otherwise, and that enforcement of each of the covenants contained in Articles 6 and 7 will not impair your or their ability to obtain employment commensurate with their respective abilities and on terms fully acceptable to you or them or otherwise to obtain income required for your or their comfortable support and, if such person is an individual, his or her family, and the satisfaction of the needs of his or her creditors. You acknowledge that to disregard the provisions of Articles 6 and 7 would effectively foreclose us from selling other franchises and you or they could be unjustly enriched and unfairly derive benefit from the goodwill of and training you or they receive from us. Moreover, our franchisees and the Spa could be severely disadvantaged if you compete against them using the Marks or other Confidential Information. We intend to restrict your activities under Articles 6 and 7 of this Agreement only to the extent necessary for the protection of our, our affiliates', our franchisees' and our affiliates' franchisees' legitimate business interests. Each of the foregoing covenants will be construed as severable and independent and will be interpreted and applied consistent with the requirements of reasonableness and equity. In the event a court of competent jurisdiction will determine the business, time, or geographic limitations contained in this Agreement are illegal, invalid or unenforceable, then, the court so holding will reduce the limitation necessary to render such restriction enforceable by the court. We will have the right to reduce the scope of any covenant contained in Articles 6 and 7, without your consent, effective immediately upon receipt by you of our written notice; and you will comply with any reduced covenant. In addition to any other remedies available at law or equity, we will have the right to injunctive relief for your violation or threatened violation of any covenant described in Articles 6 and 7 without the obligation to post a bond. The terms of the restrictions in this Article 7 are assignable by us and will inure to our benefit, as well as our successors and assigns. In the event of any assignment, sale, merger or change in our ownership or structure, the resulting entity will step into our place, without any additional consent of or notice to you, as if the term "us" was defined in this Agreement to include such entity.

## **8. SERVICES, PRODUCTS AND SUPPLIERS.**

**8.1 SOURCES OF PRODUCTS.** You must purchase equipment, supplies, products and other materials for the operation of your Spa that meet our specifications, and you must purchase such items only from manufacturers, suppliers or distributors designated by us, or from other suppliers we approve who meet our specifications. Some of the approved suppliers may be affiliated with us. Specification of a supplier may be conditioned on requirements relating to frequency of delivery, standards of services, including prompt attention to complaints, as well as payments, contributions or other consideration to us, our affiliates or the Creative Services Advertising Fund, and may be temporary, in each case in our reasonable discretion.

We, our affiliates and suppliers may receive rebates, commissions, promotional allowances, and other benefits from suppliers in relation to items purchased by you and other franchisees. We have the right to condition or revoke your right to participate in any supplier programs if you are in default under this Agreement. We and our affiliates reserve the right to negotiate with various vendors for quantity discount contracts which may include rebates to us or our affiliates under these contracts. You may or may not find the contracts to your advantage and may elect to participate or not to participate in them. We have the right to affiliate ourselves with suppliers or become an approved supplier or the sole supplier. Any purchases from us or our affiliates will generally be at prices exceeding our or our affiliate's costs.

**8.2 WE AND OUR AFFILIATES AS APPROVED SUPPLIERS.** Currently, neither we nor our affiliates are approved suppliers. We and our affiliates reserve the right to become approved suppliers and to be the sole approved supplier.

**8.3 ALTERNATIVE PRODUCTS AND SUPPLIERS.** Before using an alternative supplier or an alternative product to the suppliers or products required to be used in your Spa, you must submit to us an approval request in writing, together with a non-refundable fee of \$500 ("Alternative Supplier or Product Approval Fee"). You must submit whatever information, specifications or samples we require in addition to your approval request. If our costs of reviewing and testing the alternative supplier or product exceed the Alternative Supplier and Product Approval Fee, then we may require you to pay us a reasonable fee based on these costs. You must reimburse our costs promptly upon receipt of an invoice. We reserve the right to approve or disapprove proposed alternative suppliers and products in our sole discretion. We may revoke an approval previously given at any time in our discretion, upon written notice to you.

**8.4 ~~UNIFORMITY OF PRODUCTS AND SERVICES. Uniformity of Services offered by all Spas is of utmost importance to us, our franchisees and the System.~~ LIQUIDATED DAMAGE.** If you offer to sell or do sell products or services which are not authorized or are not provided in accordance with the Operations Manual, you use unauthorized advertising or you do not comply with the requirements of the System, you agree we will be damaged by your non-compliance. These damages will be calculated at the rate of \$1,000 per day for each day unauthorized products or services are offered or sold ~~and; each time there is unauthorized advertising or for each day you are in default for failure to follow the requirements of our System.~~ This liquidated damage will be in addition to any other rights and remedies we may have against you. We have the right to collect these amounts in addition to all our other rights for non-compliance provided for under this Agreement. You agree that a precise calculation of the full extent of the damages that we will incur from the offer or sale of unauthorized products and services are difficult to determine and we and you desire certainty in this matter and agree that the damages provided here are reasonable, constitute liquidated damages and are not a penalty.

## **9. MARKETING.**

**9.1 CREATIVE SERVICES ADVERTISING FUND.** Recognizing the value of advertising and marketing to the goodwill and public image of the Spas, we have established an advertising fund (the "Creative Services Advertising Fund") for such creative services, advertising, marketing and public relations programs and materials as we deem necessary or appropriate in our sole discretion. We will direct all programs financed by the Creative Services Advertising Fund, with sole discretion over the creative concepts materials and endorsements used therein and the geographic market and media placement and allocation thereof. You agree that the Creative Services Advertising Fund may be used to pay the costs of preparing and producing video, audio and written advertising materials, administering regional and multiregional advertising programs, including, without limitation, purchasing direct mail and other media advertising, and employing advertising, promotion and marketing agencies to assist therewith, and

supporting public relations, market research and other advertising promotion and marketing activities. The Creative Services Advertising Fund may furnish you with samples of advertising, marketing formats, promotional formats and other materials at a reasonable charge. We have established an Internet website that provides information about the Spa locations. We will have sole discretion and control over the website (including timing, design, contents and continuation). We may use part of the National Ad Fees we collect to pay or reimburse the costs associated with the development, maintenance and update of this or any other website we may use. At your expense, we will include at the website an interior page containing information about your Spa. We may require you to prepare all or a portion of the page, at your expense, using a template that we provide. All such information will be subject to our prior written approval prior to posting. Except for this interior page, you may not maintain a presence on the Internet for your Spa.

**9.2 ACCOUNTING.** The Creative Services Advertising Fund will be accounted for separately from our other funds and will not be used to defray any of our general operating expenses, except for such reasonable salaries, administrative costs, travel expenses and overhead as we may incur in activities related to the administration of the Creative Services Advertising Fund. We may spend, on behalf of the Creative Services Advertising Fund, in any fiscal year, an amount that is greater or less than the aggregate contribution of all Spas to the Creative Services Advertising Fund in that year and the Creative Services Advertising Fund may borrow from us or others to cover deficits or invest any surplus for future use. All interest earned on monies contributed to the Creative Services Advertising Fund will be used to pay advertising costs before other assets of the Creative Services Advertising Fund are expended. We will prepare an annual unaudited statement of monies collected and costs incurred by the Creative Services Advertising Fund and furnish the statement to you upon written request.

**9.3 PROPORTIONALITY.** You acknowledge that the Creative Services Advertising Fund is intended to maximize recognition of the Marks and patronage of Spas. Although we will endeavor to utilize the Creative Services Advertising Fund to develop advertising and marketing materials and programs and to place advertising that will benefit all Spas, we undertake no obligation to ensure that expenditures by the Creative Services Advertising Fund in or affecting any geographic area are proportionate or equivalent to the contributions to the Creative Services Advertising Fund by Spas operating in that geographic area; however, we will provide some direct marketing in your area at our sole discretion. Except as expressly provided in this Article, we assume no direct or indirect liability or obligation to you with respect to collecting amounts due to, or maintaining, directing or administering the Creative Services Advertising Fund.

**9.4 LOCAL ADVERTISING.** We recommend that you spend money for local advertising and promotion of your Spa in addition to the Regional Ad Fee and National Ad Fee you pay to the Creative Services Advertising Fund and the Start-Up Marketing Expense described in Article 2.8 above.

**9.5 TRUTHFUL ADVERTISING, RESALE PRICES, OUR APPROVAL OF MARKETING AND PROMOTIONAL MATERIALS.** You agree that any advertising, promotion and marketing you conduct will be completely clear and factual and not misleading and conform to the highest standards of ethical marketing and the promotion policies that we prescribe from time to time. Samples of all advertising, promotional and marketing materials that we have not prepared or previously approved must be submitted to us for approval before you use them. If you do not receive written approval within 15 days after our receipt of such materials, we will be deemed to have disapproved the materials. You may not use any advertising or promotional materials that we have not approved, and any advertising on the Internet, delivered by facsimile, electronic mail or other electronic means shall be pre-approved by us and on terms specified by us. We own the copyrights embodied in anything so submitted, whether approved by us or not. We may, to the extent permitted by applicable law, set resale prices from the products or services you offer at your Spa.

## 10. RECORDS, REPORTS AND FINANCIAL STATEMENTS.

**10.1 BOOKKEEPING.** You agree to establish and maintain at your own expense a bookkeeping, accounting and record keeping system conforming to the requirements and formats we prescribe from time to time. We may require you to use approved computer hardware and software in order to maintain certain sales data and other information. You agree to furnish to us, upon our request, any financial report we may require or designate in the Operations Manual including, but not limited to, copies of federal and state income tax and sales tax returns, profit and loss statements for your Spa, and Gross Revenue reports of your Spa.

**10.2 VERIFICATION.** You agree to verify and sign each report and financial statement in the manner we prescribe. We have the right to disclose data derived from such reports without identifying you or the location of your Spa. If we at any time desire to utilize a financial performance representation or similar disclosure in connection with the sale of franchises, you will permit us to utilize such information as we deem necessary (which may include disclosing information about you or the location of your Spa). We also have the right to require you to have reviewed or audited financial statements prepared on an annual basis. Moreover, we have the right, as often as we deem appropriate, including on a daily basis, to access the POS system and other computer systems that you are required to maintain in connection with the operation of your Spa and to retrieve all information relating to your Spa's operations.

## 11. INSPECTIONS AND AUDITS.

**11.1 OUR RIGHT TO INSPECT THE BUSINESS.** To determine whether you and your Spa are in compliance with this Agreement and the Operations Manual, we and our designated agents have the right at any time during your regular business hours, and without prior notice to you, to: (i) inspect your Spa; (ii) observe, photograph and videotape the operations of your Spa for such consecutive or intermittent periods as we deem necessary; (iii) remove samples of any products, materials or supplies for testing and analysis; (iv) interview personnel and customers of your Spa; and (v) inspect and copy any books, records and documents relating to the operation of your Spa.

**11.2 OUR RIGHT TO AUDIT.** We have the right at any time during your business hours, and without prior notice to you, to inspect and audit, or cause to be inspected and audited, your (if you are a limited liability company, corporation or partnership) and your Spa's business, bookkeeping and accounting records, sales and income tax records and returns and other records. You agree to cooperate fully with our representatives and independent accountants we hire to conduct any such inspection or audit. In the event such inspection or audit is made necessary by your failure to furnish reports, supporting records or other information as herein required, or to furnish such items on a timely basis, you agree to reimburse us for the reasonable cost of such inspection or audit, including, the charges of attorneys and independent accountants and the travel expenses, room and board and compensation of our employees. In the event an inspection or audit reveals that any payments have been understated in any report to us, then you shall immediately pay to us the amount understated upon demand, in addition to interest from the date such amount was due until paid, at the lesser of 1.5% per month or the maximum legal rate in the jurisdiction where your Spa is located. If an inspection or audit discloses an understatement in any report of 2% or more, and/or if you fail to provide us reports we require in a timely manner, you shall, in addition to repayment of monies owed with interest, reimburse us for any and all costs and expenses connected with the inspection, audit or efforts we undertake to obtain required reports, including the charges of attorneys and independent accountants

and the travel expenses, room and board and compensation of our employees. The foregoing remedies are in addition to our other remedies and rights under this Agreement and applicable law.

## 12. TRANSFER.

**12.1 BY US.** We are free to assign all our rights and obligations under this Agreement, and upon such assignment we will be relieved of all liability under this Agreement, and all rights and obligations will accrue to our successor or assignee.

**12.2 BY YOU.** You understand and acknowledge that the rights and duties created by this Agreement are personal to you (or, if you are a limited liability company, corporation, partnership or other entity, to your owners) and that we have granted the Franchise to you in reliance upon our perceptions of your (or your owners') individual or collective character, skill, aptitude, attitude, business ability, acumen and financial capacity. Accordingly, neither this Agreement (or any interest therein) nor any ownership or other interest in you or your Spa may be transferred without our prior written approval. Any transfer without such approval constitutes a breach of this Agreement and is void and of no effect.

**12.3 ASSIGNMENT, ETC.** As used in this Agreement, the term "transfer" or "assignment" includes the following events:

12.3.1 transfer of ownership of limited liability company interest, capital stock, partnership interest or other equity interest in you;

12.3.2 merger, consolidation or issuance of additional securities or interests representing an ownership interest in you;

12.3.3 any issuance or sale of your stock, or any security convertible to your stock, to any person or entity other than an existing owner;

12.3.4 transfer of an interest in you, this Agreement or your Spa voluntarily, or in a divorce, insolvency, any limited liability company, corporate or partnership dissolution proceeding, or otherwise by operation of law;

12.3.5 transfer of an interest in you, this Agreement or your Spa, in the event of your death or the death of one of your owners, by will, declaration of or transfer in trust or under the laws of intestate succession;

12.3.6 sale of assets (including the inventory, furniture, fixtures, equipment and other operating assets of your Spa), other than in the ordinary course of business; or

12.3.7 pledge of this Agreement (to someone other than us) or of an ownership interest in you as security, foreclosure upon your Spa, or your transfer, surrender or loss of possession, control or management of your Spa.

[If you want to transfer or assign your interest in you, this Agreement or the assets of your Spa, you must pay us a "Transfer Deposit" of \\$5,000. This amount is to cover our administrative costs, legal costs and training costs related to the proposed transfer or assignment. If the proposed transfer is consummated, then the Transfer Deposit is applied against the Transfer Fee which is owed to us. If not, we will refund the amount of the Transfer Deposit, if any, in excess of our administrative costs, legal costs and training costs which we incurred relating to this transfer or assignment.](#)

**12.4 CONDITIONS FOR APPROVAL OF TRANSFER.** If you (and your owners) are in full compliance with this Agreement, then subject to the other provisions of this Article 12, we will approve a transfer that meets all the applicable requirements of this Article. The proposed transferee and its direct and indirect owners must be individuals of good moral character and otherwise meet our then applicable standards for MassageLuXe franchisees. Neither the transferee nor any of its direct or indirect owners or its affiliates may have an ownership interest in or perform services for a Competitive Business. Our consent to a transfer does not constitute a representation as to the fairness of the terms of any contract between you and the transferee, a guarantee of the prospects of success of the Spa or transferee, a waiver of any claims we may have against you or of our right to demand the transferee's exact compliance with any of the terms or conditions of this Agreement. A transfer of ownership, possession or control of your Spa may be made only in conjunction with a transfer of this Agreement. All the following conditions must be met prior to or concurrently with the effective date of the transfer:

12.4.1 you have paid all Royalties, Regional Ad Fees, National Ad Fees, POS System Software Fees, amounts owed for purchases from us and all other amounts owed to us, our affiliates, approved suppliers and/or to third party creditors such that all outstanding obligations relating to the Spa are fully paid and satisfied, and you must have submitted all required reports and statements;

12.4.2 the transferee (or its owners) has agreed to complete training to our satisfaction and does complete training to our satisfaction prior to closing;

12.4.3 the transferee has agreed to be bound by all of the terms and conditions of this Agreement for the remainder of its term or, at our option, must (i) execute our then current standard form of franchise agreement and related documents used in the state in which your Spa is located (which may provide for different royalties, advertising contributions and expenditures, duration and other rights and obligations than those provided in this Agreement); (ii) pay a transfer fee of ~~25~~50% of the then current Initial Franchise Fee in lieu of the Initial Franchise Fee required in the then current form of franchise agreement for the state in which the Spa is located; and (iii) cause its owners (actual and beneficial) and their spouses to execute a Guaranty and Assumption of Obligations attached to this Agreement or, at our election, in the form attached to our then current standard form franchise agreement;

12.4.4 you (and your transferring owners and other signatories to this Agreement or the Guaranty and Assumption of Obligations) have executed a general release, in form satisfactory to us, of all claims against us and our members, officers, limited liability company managers, employees and agents;

12.4.5 we have approved the material terms and conditions of such transfer and determined that the price and terms of payment will not adversely affect the transferee's operation of the Spa;

12.4.6 if you or your owners finance any part of the sale price of the transferred interest, you and/or your owners have agreed that all of the transferee's obligations pursuant to any promissory notes, agreements or security interests that you or your owners have reserved in your Spa are subordinate to the transferee's obligation to pay Royalties, Advertising Fees, POS System Software Fees, contributions and other amounts due to us, our affiliates and/or approved suppliers, and otherwise to comply with this Agreement;

12.4.7 you and your transferring owners (and your and their spouses) have executed an agreement in favor of us agreeing to be bound, commencing on the effective date of the transfer, by the restrictions contained in Articles 6 and 7 hereof; and

12.4.8 you and your transferring owners have agreed that you and they will not directly or indirectly at any time or in any manner (except with respect to other Spas you own and operate) identify yourself, themselves or any business you or they may operate as a current or former Spa, or as one of our licensees or franchisees, use any Marks, any colorable imitation thereof or other indicia of a Spa in any manner or for any purpose, nor will you or they utilize for any purpose any trade name, trademark or service mark or other commercial symbol that suggests or indicates a connection or association with us.

**12.5 TRANSFER TO A WHOLLY OWNED ENTITY.** Notwithstanding Article 12.4, if you are an individual in full compliance with this Agreement, you may transfer this Agreement to an entity which conducts no business other than your Spa and, if applicable, other Spas, in which you maintain management control and of which you own and control 100% of the equity and voting power of all issued and outstanding capital stock, membership interest or other equity interest, and further provided that all assets of your Spa are owned, and the entire business of the Spa is conducted, by a single entity. ~~If~~ if such event transfer occurs within 3 months of the signing of your Franchise Agreement, we will waive the Transfer Fee. Otherwise, the Transfer Fee you will pay us is reduced to the amount of the legal fees we incurred during the preparation of the documents. In no event will this be more than \$3,500. Transfers of shares, membership interests or such other equity interest in such entity will be subject to the provisions of Article 12.4. Notwithstanding anything to the contrary herein, you agree to remain personally liable under this Agreement as if the transfer to such corporation or limited liability company had not occurred.

**12.6 TRANSFER UPON YOUR DEATH OR DISABILITY.** You (or your owners), by will or other written instrument, may appoint a designated heir to continue operation of the Spa upon your death or disability. The designated heir must meet the qualifications of Article 12.4, including the requirement to meet our standards for new franchisees, execute the then-current form of franchise agreement used in the state in which the Spa is located and the designated heir has, or within 60 days will have, satisfactorily completed our initial training program; provided that no transfer fee will be charged on a transfer pursuant to this Article 12.6. The designated heir must begin operating the Spa within 6 months of the death or disability. But the transfer to a designated heir, personal representative or conservator, as applicable, in the event of your death or legal incapacity, will not give rise to our right of first refusal as described in Article 12.8 below.

**12.7 BONA FIDE OFFERS.** If you (or any of your owners) at any time determine to sell, assign or transfer for consideration an interest in this Agreement and your Spa or an ownership interest in you, you (or such owner) agree to obtain a bona fide, executed written offer and earnest money deposit (in the amount of 5% or more of the offering price) and a completed franchise application from a fully disclosed offeror (including lists of the owners of record and beneficially of any corporate or limited liability company offeror, and all general and limited partners of any partnership offeror and, in the case of a publicly held corporation or limited partnership, copies of the most current annual and quarterly reports and Form 10K), and immediately submit to us a true and complete copy of such offer, which includes details of the payment terms of the proposed sale. To be a valid bona fide offer, the proposed purchase price must be denominated in a U.S. dollar amount. The offer must apply only to an interest in you or in this Agreement and your Spa and may not include an offer to purchase any of your (or your owners') other property or rights. However, if the offeror proposes to buy any other property or rights from you (or your owners) under a separate, contemporaneous offer, such separate, contemporaneous offer must be disclosed to us, and the price and terms of purchase offered to you (or your owners) for the interest in you or in this Agreement and your Spa must reflect the bona fide price offered therefor and not reflect any value for any other property or rights.

**12.8 OUR RIGHT OF FIRST REFUSAL.** We have the right, exercisable by written notice delivered to you or your selling owners within 30 days from the date of the delivery to us of both an exact copy of any bona fide offer and all other information required under Article 12.7 or which we request, to

purchase such interest for the price and on the terms and conditions contained in such bona fide offer, provided that: (i) we may substitute cash for any form of payment or non-cash consideration proposed in such offer; (ii) our credit will be deemed equal to the credit of any proposed purchaser; (iii) we will have not less than 60 days after giving notice of our election to purchase to prepare for closing; and (iv) we are entitled to receive, and you and your owners agree to make, all customary representations and warranties given by the seller of the assets of a business or the equity of a business entity, as applicable, including representations and warranties as to: ownership and condition of and title to stock or other forms of ownership interest and/or assets; liens and encumbrances relating to the stock or other ownership interest and/or assets; and validity of contracts and the liabilities, contingent or otherwise, of the corporation whose stock is being purchased.

If we do not exercise our right of first refusal, you or your owners may complete the sale to such purchaser pursuant to and on the exact terms of such bona fide offer, subject to our approval of the transfer as provided in Articles 12.2, 12.3 and 12.4. If the sale to such purchaser is not completed within 120 days after delivery of such bona fide offer to us, or if there is a material change in the terms of the sale (which you agree promptly to communicate to us), the sale will be treated as a new sale subject to our right of first refusal as provided in Articles 12.7 and 12.8.

### **13. TERM AND RENEWAL OF THIS AGREEMENT.**

**13.1 TERM.** The term of this Agreement is for 10 years commencing on the date of this Agreement, and expiring on the 10th anniversary of that date unless sooner terminated in accordance with this Agreement. If you continue to operate your Spa with our express or implied consent following the expiration of this Agreement, the terms and conditions of this Agreement shall continue to apply and this Agreement may be terminated by either party upon 30 days written notice.

**13.2 RENEWAL.** If you are in full compliance with the terms of this Agreement, you will have the right to renew your franchise on the terms and conditions of our most current franchise agreement being utilized by us at the time you renew, which you must sign along with all ancillary agreements required in that franchise agreement (including the Guaranty and Assumption of Obligations). The most current franchise agreement may contain significantly different terms than this Agreement. In any event, we may in our discretion, refuse to renew this Agreement if you have been notified of defaults (even if subsequently cured) under this Agreement more than 2 times during the initial term or more than 2 times during any renewal term, even if you are not in default at the time of the renewal. You agree to give us not less than 6 nor more than 12 months written notice of an election to renew this Agreement, prior to the end of the term. Your failure to give us this notice will be deemed an election not to renew this Agreement. You will also be required to pay us a renewal fee equal to ~~\$5,000~~25% of the then current Initial Franchise Fee. Additionally, you must remodel your Spa to meet our then current standards of decor in accordance with the provisions of our Operations Manual and must execute a general release, to the extent permitted by applicable law, of any and all claims against us and our affiliates, and our and our affiliates' respective owners, officers, directors, employees, agents, successors and assigns arising under or from this Agreement and/or any related agreements between you and us or our affiliates, or under any applicable law, rule or regulation.

### **14. TERMINATION OF AGREEMENT.**

**14.1 BY YOU.** If you and your owners are in compliance with this Agreement and we materially fail to comply with this Agreement and do not correct such failure within 60 days after written notice of such material failure is delivered to us, you may terminate this Agreement effective 30 days after delivery to us of written notice of termination.

**14.2 BY US.** We have the right to terminate this Agreement, effective upon delivery of written notice of termination to you if you (or any of your owners or other individuals who sign a Guaranty and Assumption of Obligations ("Guarantors")):

14.2.1 fail to successfully complete initial training to our satisfaction within the required periods;

14.2.2 fail to begin operating your Spa within 270 days after executing this Agreement;

14.2.3 abandon or fail to actively operate your Spa for 3 or more consecutive days, unless your Spa has been closed for a purpose we have approved;

14.2.4 have made any material misrepresentation or omission in connection with your purchase of the Franchise;

14.2.5 have been convicted by a trial court of, or plead or have pleaded guilty or no contest to, or commit or be alleged to have committed, a felony or any crime involving moral turpitude;

14.2.6 engage in any criminal, dishonest or unethical conduct that may, in our opinion, adversely affect the reputation of your Spa, another Spa or the goodwill associated with the Marks;

14.2.7 make an unauthorized assignment or transfer in violation of this Agreement;

14.2.8 lose the right to possession of and use for your Spa at the Location and, ~~if such loss is the result of eminent domain, casualty or other event beyond your control,~~ you also fail to secure a suitable replacement location within 36 months;

14.2.9 make any unauthorized use or disclosure of any Confidential Information or use, duplicate or disclose any portion of the Operations Manual in violation of this Agreement;

14.2.10 violate any health, safety, sanitation or other applicable law, ordinance or regulation and do not immediately begin to cure the noncompliance or violation, and correct such noncompliance or violation within 24 hours after written notice thereof is delivered to you;

14.2.11 violate the "Providing a SAFE Spa Experience for Clients and Staff" or other rules dealing with sexual misconduct in the Operations Manual;

14.2.12 misuse the Marks, fail to act honestly and fairly in your dealing with the public or engage in fraudulent, disparaging or other conduct which, in our opinion, reflects unfavorably upon the operation, maintenance, goodwill and/or reputation of the franchise system or your Spa;

14.2.13 fail to make payments of any amounts due to us, our affiliates and/or approved suppliers and do not correct such failure within 7 days after written notice of such failure is delivered to you;

14.2.14 fail to pay when due any federal or state income, service, sales, employment related or other taxes due, unless you are, in good faith, legally contesting your liability for such taxes;

14.2.15 fail to comply with any other provision of this Agreement or the mandatory requirements of the Operations Manual and do not correct such failure within 30 days after written notice of such failure to comply is delivered to you;

14.2.16 ~~repeatedly fail on 3 or more separate occasions within any period of 12 consecutive months to submit when due reports or other data, information or supporting records, to pay when due any amounts due to us, our affiliates and/or approved suppliers or otherwise~~ refuse to comply with the lawful provisions of this Agreement (i.e. two (2) or more times in any 24 month period), whether or not ~~such the repeated failures to comply were or refusals are~~ corrected after ~~written notice of such failures were delivered to you.~~ Under no circumstances do you have a 30 day opportunity to cure this default; or

14.2.17 make an assignment for the benefit of creditors or admit in writing your insolvency or inability to pay your debts generally as they become due; you consent to the appointment of a receiver, trustee or liquidator of all or the substantial part of your property; your Spa or any of its assets is attached, seized, subjected to a writ or distress warrant or levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within 30 days; or any order appointing a receiver, trustee or liquidator of you or your Spa is not vacated within 30 days following the entry of such order.

**14.3 RIGHT TO DISCONTINUE SERVICES TO YOU. In the event of a default by you, we have the right to withhold any and all services we provide to you until such default is cured or the Agreement is terminated.**

## **15. OBLIGATIONS UPON TERMINATION, EXPIRATION OR ASSIGNMENT.**

Upon termination of this Agreement for any reason, expiration of the term of this Agreement, or any assignment or transfer:

**15.1** You agree to pay us within 15 days after the effective date of such termination, expiration, assignment or transfer, or on such later date that the amounts due to us are determined, such Royalties, Regional Ad Fees, National Ad Fees, POS Systems Software Fees, amounts owed for purchases from us, our affiliates, or approved suppliers, interest due on any of the foregoing and all other amounts owed to us or our affiliates which are then unpaid. We have the right to require you to obtain tail insurance at your sole cost and expense in the amount and for the duration we require.

**15.2** You may not directly or indirectly at any time or in any manner (except with respect to other Spas you own and operate) identify yourself or any business as a current or former Spa, or as one of our licensees or franchisees, use any Marks, any derivation or colorable imitation thereof or other indicia of a Spa in any manner or for any purpose, or utilize for any purpose any trade name, trademark or service mark or other commercial symbol that indicates or suggests a connection or association with us;

**15.3** You will immediately discontinue use of all Marks, signs, colors, structures, printed goods and forms of advertising indicative of our business, any Spa or the System, and return any Confidential Information or other copyrighted materials, including the Operations Manual, to us.

**15.4** If we request, you will assign your telephone numbers, white and yellow page telephone references and advertising to us or any of our designees, including any other Spas.

**15.5** You must turn over all your Memberships, membership agreements, files and customers upon our request. You agree that if your Spa ceases operating as a result of the expiration or termination of the term of this Agreement, you will remain responsible for and must continue to pay all fees, expenses,

transfer charges and other liabilities associated with your then-current Memberships and with the gift cards and loyalty cards you previously sold.

**15.6** You will cancel any assumed name registration or equivalent registration which contains the Marks or any name that is confusingly similar to any of the Marks and you will furnish us with evidence satisfactory to us of your compliance with this obligation within 5 days of any transfer or assignment, or any termination or expiration of the term of this Agreement.

**15.7** Pursuant to the Collateral Assignment of Lease, upon our request, you will assign to us any interest that you may have in any lease or sublease for the Location. We may exercise the option at or within 30 days after either (i) the termination or expiration of the term of this Agreement, or (ii) our receipt of notice by your landlord of its intent to terminate the lease or sublease for the Location. If we exercise this option, we will have the right and are hereby empowered to take possession of the Location demised by the lease or sublease and expel you from the Location, after which you will have no further right, title or interest in the lease or sublease. In the event that we do not exercise our option to acquire the lease or sublease for the Location, you will make such modifications or alterations to the premises immediately upon the termination or expiration of the term of this Agreement, as we may deem necessary, to distinguish the appearance of the Location from that of other Spas. In the event you fail or refuse to comply with the requirements of this subsection, we or our designees will have the right to enter upon the premises without being guilty of trespass or any other tort for the purposes of making or causing to be made the changes that may be required by this subsection at your expense. You agree to pay us this expense upon demand.

**15.8** You (and your owners) will comply with all post-term restrictive covenant obligations including the Confidential Information, non-competition and indemnification.

**15.9** In the event this Agreement is terminated by us pursuant to Articles 14.2.3 – 14.2.17 after your Spa is opened for business, then you shall reimburse us for all of our expenses incurred as a result of your breach (including, without limitation, our attorneys' fees and costs relating to issuing any default notice and performing any obligations required of you under Article 15 which you fail to perform in a timely manner and pay us an Early Termination Fee of \$50,000 ("Early Termination Fee"). You acknowledge and agree that we will be damaged by the early termination and closure of your Spa. You agree that a precise calculation of the full extent of the damages that we will incur from such termination and closure are difficult to determine and all parties desire certainty in this matter and agree that the Early Termination Fee provided herein is reasonable and constitute liquidated damages and not a penalty. We have the right to collect these amounts in addition to exercising any and all other rights we may have for non-compliance under this Agreement.

**15.10** Neither a transfer or assignment nor the termination or expiration of the term of this Agreement will relieve you of any of your obligations to us or our affiliates existing at the time of such transfer, assignment, termination or expiration, or terminate your obligations that, by their nature, survive such transfer, assignment, termination or expiration. All of our and your (and your owners' and affiliates') obligations that expressly or by their nature survive the transfer, assignment, expiration or termination of this Agreement will continue in full force and effect subsequent to and notwithstanding its expiration, transfer, assignment or termination and until they are satisfied in full or by their nature expire. Furthermore, a transfer or assignment, or a termination or expiration of the term of this Agreement will be without prejudice to our rights against you; and in the event of a termination which is the result of your material breach or default under this Agreement, we will, in addition to our rights set forth above, also be entitled to all rights and remedies available at law or in equity.

**15.11 OUR RIGHT TO PURCHASE YOUR PERSONAL PROPERTY.** After the termination or expiration of this Agreement, but not upon an approved assignment or transfer pursuant to Article 12.4, we will have the right, but not the obligation, to purchase any or all of your equipment, inventory, supplies and other personal property used in connection with the operation of the Spa. The purchase price will be book value less any liens. We will have 60 days after the termination, expiration, assignment or transfer to notify you whether or not we want to exercise our option ("Notification Date"). The closing will take place within 90 days after determination of the purchase price. We have the right to set off against the purchase price, and thereby reduce the purchase price, by all amounts you or your owners owe to us or our affiliates. At the closing, you agree to deliver instruments transferring good and merchantable title to the assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to us), with all sales and other transfer taxes paid by you, and your owners will execute a general release, in form satisfactory to us, of all claims against us, our affiliates, owners, employees, agents, successors and assigns. We have the right to assign this purchase option to any other person or entity.

## **16. RELATIONSHIP OF THE PARTIES AND INDEMNIFICATION.**

**16.1 INDEPENDENT CONTRACTORS.** You and we understand and agree that this Agreement does not create a fiduciary relationship between you and us, that we and you are and will be independent contractors and that nothing in this Agreement is intended to make either you or us a general or special agent, joint venturer, partner or employee of the other for any purpose. You agree to conspicuously identify yourself in all dealings with customers, suppliers, public officials, personnel and others as the owner of your Spa under a franchise we have granted and to place such notices of independent ownership on such forms, checks, business cards, stationery, advertising and other materials as we may require from time to time.

**16.2 NO LIABILITY FOR ACTS OF OTHER PARTY.** You agree not to employ any of the Marks in signing any contract or applying for any license or permit, or in a manner that may result in our liability for any of your indebtedness or obligations, and that you will not use the Marks in any way we have not expressly authorized. Neither we nor you will make any express or implied agreements, warranties, guarantees or representations or incur any debt in the name or on behalf of the other, represent that our respective relationship is other than franchisor and franchisee or be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized in writing. We will not be obligated for any damages of any nature whatsoever to any person or property directly or indirectly arising out of the Spa's operation.

**16.3 TAXES.** We will have no liability for any sales, use, service, occupation, excise, employment related, gross receipts, income, property or other taxes, whether levied upon you or your Spa, in connection with the business you conduct (except any taxes we are required by law to collect from you with respect to purchases from us). Payment of all such taxes is your responsibility.

**16.4 INDEMNIFICATION.** You agree to indemnify, exculpate, defend and hold us, our affiliates, and our and their respective shareholders, directors, members, limited liability company managers, partners, officers, employees, agents, successors and assigns (the "Indemnified Parties") harmless from and against, and to reimburse any one or more of the Indemnified Parties for all claims, obligations and damages described in this Article, any and all taxes described in Article 16.3 and any and all claims and liabilities directly or indirectly arising out of your Spa's operation or your breach of this Agreement. For purposes of this indemnification, "claims" includes all obligations, damages (actual, consequential or otherwise) and costs incurred in the defense of any claim against any of the Indemnified Parties, including reasonable accountants', arbitrators', attorneys' and expert witness fees, costs of

investigation and proof of facts, court costs, other expenses of litigation, arbitration or alternative dispute resolution, and travel and living expenses. We have the right to defend any such claim against us at your expense. This indemnity will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

**16.5 INSURANCE.** Upon execution of a lease for your Spa or 90 days prior to commencing operations of your Spa, whichever is earlier, you shall obtain, and shall maintain in full force and effect at all times during the term of this Agreement, at your own expense, an insurance policy or policies protecting you, us, our affiliates, successors and assigns, and the officers, directors, shareholders, partners, members, limited liability company managers, agents, representatives, independent contractors and employees of each of them against any demand or claim with respect to personal injury, death or property damage, or any loss, liability or expense whatsoever arising or occurring at or in connection with the operation of your Spa.

The Operations Manual will provide the type and minimum coverage [including the minimum acceptable deductible limits](#) which you will be required to maintain and which may be changed and modified from time to time. All insurance policies required herein, with the exception of worker's compensation, shall name us and our affiliates, and the officers, directors, shareholders, partners, members, limited liability company managers, agents, representatives, independent contractors, and employees of each of them, as additional insureds, and shall expressly provide that our and their interest shall not be affected by your breach of any policy provisions. Within 30 days after obtaining the insurance required herein and within 30 days of written request by us, you shall provide a copy of certificates of insurance evidencing the existence and continuation of the insurance coverage required by this Article 16.5. All insurance policies required shall expressly provide that no less than 30 days prior written notice shall be given to us in the event of material alteration to or cancellation of the policy. If you fail to obtain or maintain the insurance required by this Agreement, we shall have the right and authority, but not the obligation to do so, to obtain such insurance and to charge the cost of such insurance to you, along with a reasonable fee for our expenses in connection with obtaining such insurance. Such amounts shall be due to us upon demand. The foregoing remedy shall be in addition to any other remedies we may have at law or in equity.

**16.6 MITIGATION NOT REQUIRED.** Under no circumstances will we or any other Indemnified Party be required to seek recovery from any insurer or other third party, or otherwise to mitigate our, their or your losses and expenses, in order to maintain and recover fully a claim against you. You agree that a failure to pursue such recovery or mitigate a loss will in no way reduce or alter the amounts we or another Indemnified Party may recover from you.

## **17. DISPUTE RESOLUTION.**

### **17.1 MEDIATION.**

17.1.1 Before any party may bring an action in court for any controversy, dispute or claim between you and us arising from this Agreement or the franchise relationship set forth in this Agreement, the parties must first have a conference with each other to try to resolve the dispute. If this fails to bring about a resolution, the dispute will first be submitted to non-binding mediation (the "Mediation") in St. Louis, Missouri, unless the parties mutually agree to another location. The Mediation shall be conducted in accordance with then-current AAA mediation rules (the "AAA Mediation Rules") except to the extent the AAA Mediation Rules differ from the terms of this Agreement, in which event the terms of this Agreement shall be applied. Notwithstanding the foregoing, the mediation does not have to be conducted under the AAA. You and we will select the mediator. If the parties cannot agree on the selection of a mediator, the mediation shall be conducted through the AAA who will make the selection of mediator using their rules and guidelines. The cost of the Mediation, including the mediator's fee and expenses, shall be

paid by you. All negotiations and mediation proceedings (including without limitation, discovery conducted therein, as well as all statements and settlement offers made by either party or the mediator in connection with the Mediation) shall be strictly confidential, shall be considered as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence, and shall not be admissible or otherwise used in connection with any court or arbitration proceeding for any purpose. The mediator may not be called as a witness in any court or arbitration proceeding for any purpose. If the parties, after a good faith effort to settle the dispute using Mediation, are unable to reach settlement, you and we agree that the dispute will be resolved according to the Articles below. Failure to submit the dispute to Mediation prior to commencing any litigation or arbitration proceeding shall be grounds for dismissal of the litigation or arbitration proceedings.

17.1.2 Notwithstanding the foregoing, the obligation of this Article 17.1 to mediate will not be binding with respect to claims brought by us relating to our trademarks, service marks, patents, or copyrights, including the Marks; claims relating to any lease or sublease of any real property between the parties or their affiliated entities; or requests by either party for temporary restraining orders, preliminary injunctions, permanent injunctions or other proceedings in a court of competent jurisdiction to obtain interim or permanent relief when deemed necessary by such court to preserve the *status quo* or prevent irreparable injury pending resolution of the actual dispute between the parties, which may be brought by us in accordance with Article 17.2.

## **17.2 LITIGATION.**

17.2.1 Except as otherwise provided in this Agreement, all controversies, disputes or claims between you and us arising from this Agreement or the franchise relationship set forth in this Agreement shall be filed in the Federal District Court for Eastern District of Missouri when the grounds set forth in 28 U.S.C. § 1332 are present. Both parties and each guarantor of this Agreement irrevocably submit to the jurisdiction of this court and waive any objection to the application of Missouri law or to the jurisdiction or venue in this court. In the event that the above-referenced federal court does not have jurisdiction over the dispute, the parties shall submit to binding arbitration as provided below.

17.2.2 Notwithstanding the foregoing, any claims we have relating to our trademarks, service marks, patents, or copyrights, including the Marks; claims relating to any lease or sublease of any real property between the parties or their affiliated entities; or requests by us for temporary restraining orders, preliminary injunctions, permanent injunctions or other proceedings in a court of competent jurisdiction to obtain interim or permanent relief when deemed necessary by such court to preserve the *status quo* or prevent irreparable injury pending resolution of the actual dispute between the parties may also be brought by us in state courts in St. Louis County, Missouri. You agree to submit to the jurisdiction of the state courts in St. Louis County, Missouri.

## **17.3 ARBITRATION.**

17.3.1 In the event that the federal court described above does not have subject matter jurisdiction over the dispute, the parties, subject to all other provisions above, will submit the dispute to binding arbitration conducted in St. Louis, Missouri (unless the parties mutually agree otherwise). The arbitration proceeding will be conducted in accordance with the then current commercial arbitration rules of the American Arbitration Association ("AAA Rules"), except to the extent the AAA Rules differ from the terms of this Agreement, in which event the terms of this Agreement will apply. Notwithstanding the foregoing, the arbitration does not have to be conducted under the AAA. The arbitrator must be mutually selected by the parties and must have at least 5 years of substantial experience in franchise law. Each party will be limited to 25 document requests, 15 interrogatories and 2 depositions unless otherwise agreed to between the parties. For purposes of this Article, if any dispute that names, involves or includes us, our

respective affiliates, officers, directors, agents, brokers or employees, such persons or entities shall also be included in and made party to the arbitration proceeding to the extent such parties consent to proceeding forward in arbitration.

17.3.2 The arbitrator will have the right to award or include in his award any relief which he deems proper in the circumstances, including money damages (with interest on unpaid amounts from date due), specific performance, and attorneys' fees and costs; however, the arbitrator will not be allowed to award or include in his award any punitive, exemplary, or consequential damages, to which the parties waive any right. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability or enforceability of this Article, including but not limited to any claim that all or any part of this Article is void or voidable. The award and decision of the arbitrator will be conclusive and binding upon all parties, and judgment upon the award may be entered in any court of competent jurisdiction; however, the arbitrator may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; or (2) make any award which extends, modified or suspends any lawful term of this Agreement. Each party waives any right to contest the validity or enforceability of the award of an arbitrator under this Article except to the extent permitted by applicable law. The arbitrator must submit a reasoned award and this award must be consistent with the terms of this Agreement. If the arbitrator's award is not reasoned or not consistent with the terms of this Agreement, then notwithstanding the foregoing, we may appeal the arbitration award in Federal or State Court. An arbitration award or decision entered in any other case (whether or not we were a party) will not be binding on us in any other dispute, will have no precedential value and cannot be used as evidence in any other proceeding.

17.3.3 The arbitrator will apply the provisions of any applicable statute of limitations. In connection with any arbitration proceeding, you and we will submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any of these compulsory claims which are not submitted or filed in the same proceeding in which they relate will be barred. This provision will continue in full force and effect subsequent to and notwithstanding the transfer of this Agreement, or the termination or expiration of the term of this Agreement. Except as provided in Article 17.3.1 above, the arbitration will be conducted on an individual, not a class-wide basis. None of the parties to the arbitration will be entitled to consolidation of the arbitration proceedings with the proceedings of any third party, nor will the arbitrator or any court be empowered to order a consolidation of proceedings with any third party.

17.3.4 Notwithstanding the foregoing, the obligation of this Article 17.3 to arbitrate will not be binding with respect to claims brought by us relating to our trademarks, service marks, patents, or copyrights, including the Marks; claims relating to any lease or sublease of any real property between the parties or their affiliated entities; or requests by either party for temporary restraining orders, preliminary injunctions, permanent injunctions or other proceedings in a court of competent jurisdiction to obtain interim or permanent relief when deemed necessary by such court to preserve the *status quo* or prevent irreparable injury pending resolution by arbitration of the actual dispute between the parties, which may be brought by us in accordance with Article 17.2.

**17.4 DISPUTE RESOLUTION FEE.** In the event that you or your guarantors have not complied with the provisions in this Article 17, you shall reimburse us for all of our expenses incurred in curing your breach (including, without limitation, our attorneys' fees and costs related to dismissing and responding to any improperly filed claim) and pay us a Dispute Resolution Fee of \$50,000 ("Dispute Resolution Fee"). You acknowledge and agree that we will be damaged by such breach. You agree that a precise calculation of the full extent of the damages that we will incur from the breach of the Dispute Resolution provisions of this Agreement are difficult to determine and all parties desire certainty in this matter and agree that the Dispute Resolution Fee provided herein is reasonable and constitute liquidated

damages and not a penalty. We have the right to collect these amounts in addition to exercising any and all other rights we may have for non-compliance under this Agreement.

## **18. ENFORCEMENT AND MISCELLANEOUS MATTERS.**

**18.1 SEVERABILITY AND SUBSTITUTION OF VALID PROVISIONS.** Except as expressly provided to the contrary herein, each provision of this Agreement, and any portion thereof, will be considered severable, and if, for any reason, any such provision is held to be invalid or contrary to or in conflict with any applicable present or future law or regulation in a final, unappealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which we are a party, that ruling will not impair the operation of, or have any other effect upon, such other portions of this Agreement as may remain otherwise intelligible, which will continue to be given full force and effect and bind the parties hereto, although any portion held to be invalid will be deemed not to be a part of this Agreement from the date the time for appeal expires, if you are a party thereto, or otherwise upon your receipt from us of a notice of non-enforcement thereof.

**18.2 LESSER COVENANT ENFORCEABLE.** If any covenant herein that restricts competitive activity is deemed unenforceable by virtue of its scope in terms of area, business activity prohibited and/or length of time, but would be enforceable by reducing any part or all thereof, you and we agree that such covenant will be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction whose law is applicable to the validity of such covenant.

**18.3 GREATER NOTICE.** If any applicable and binding law or rule of any jurisdiction requires a greater prior notice than is required hereunder of the termination of this Agreement or of our refusal to enter into a renewal franchise agreement, or the taking of some other action not required hereunder, or if, under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement is invalid or unenforceable, the prior notice and/or other action required by such law or rule will be substituted for the comparable provisions hereof, and we will have the right in our sole discretion to modify such invalid or unenforceable provision without further notice to you to the extent required to be valid and enforceable. You agree to be bound by any promise or covenant imposing the maximum duty permitted by law which is subsumed within the terms of any provision hereof as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions hereof, any portion or portions which a court or arbitrator may hold to be unenforceable in a final decision to which we are a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order or arbitration award. Such modifications to this Agreement will be effective only in such jurisdiction, unless we elect to give them greater applicability, and will be enforced as originally made and entered into in all other jurisdictions.

**18.4 NON-WAIVER.** We and you will not be deemed to have waived or impaired any right, power or option reserved by this Agreement (including without limitation the right to demand exact compliance with every term, condition and covenant herein, or to declare any breach thereof to be a default and to terminate this Agreement prior to the expiration of its term) by virtue of any custom or practice at variance with the terms hereof; our or your failure, refusal or neglect to exercise any right under this Agreement or to insist upon exact compliance by the other with our and your obligations hereunder, including the Operations Manual; our waiver, forbearance, delay, failure, or omission to exercise any right, power or option, whether of the same, similar or different nature, with respect to other Spas; the existence of other franchise agreements for Spas that contain different provisions from those contained herein; or our acceptance of any payments due from you after any breach of this Agreement. All rights and remedies granted in this Agreement shall be cumulative. Our election to exercise any remedy available by law or contract shall not be deemed a waiver or preclude exercise of any other remedy. No special or restrictive

legend or endorsement on any check or similar item given to us will constitute a waiver, compromise, settlement or accord and satisfaction. Such legend or endorsement will have no effect, and we are authorized to remove or obliterate any such legend or endorsement.

**18.5 FORCE MAJEURE.** With the exception of your obligation to pay to us and our affiliates any sums when due, neither we nor you will be liable for loss or damage or deemed to be in breach of this Agreement if our or your failure to perform our or your obligations is not our or your fault and results from: transportation shortages, inadequate supply of equipment, products, merchandise, supplies, labor, material or energy, or the voluntary foregoing of the right to acquire or use any of the foregoing in order to accommodate or comply with the orders, requests, regulations, recommendations or instructions of any federal, state or municipal government or any department or agency thereof; acts of nature; fires, strikes, embargoes, war or riot, epidemics, pandemics, or other public health emergencies of local, national or international concern; or any other similar event or cause. Any delay resulting from any of said causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable, except that said causes will not excuse payments of amounts owed at the time of such occurrence or payment of Royalties, Regional Ad Fees, National Ad Fees and POS System Software Fees due on any sales thereafter.

**18.6 COSTS AND ATTORNEYS' FEES.** If we or our affiliates incur expenses in connection with your failure to pay when due amounts owed to us or them, to submit when due any reports, information or supporting records or otherwise to comply with this Agreement, you agree to reimburse us and our affiliates for any of the costs and expenses which we or they incur, including reasonable accounting, attorneys' and related fees. If we or our affiliates incur attorneys' fees or other expenses in seeking enforcement of this Agreement or defending any other claim you bring against us or them, including without limitation, a claim related to the offering of a franchise or the franchise relationship, you will be required to reimburse us and our affiliates for our reasonable costs and expenses (including attorneys' and expert witness fees).

**18.7 CHOICE OF LAW.** You acknowledge that this Agreement was accepted in the State of Missouri. You acknowledge that you have and will continue to develop a substantial and continuing relationship with us at our principal offices in Missouri, where our decision-making authority is vested and franchise operations are conducted and supervised. Except to the extent that this Agreement or any particular dispute is governed by the U.S. Trademark Act of 1946 (Lanham Act, 115 U.S.C. 1051), this Agreement will be governed, to the extent permissible, by the laws of the State of Missouri without regard to principles of conflicts of law; provided, however, that the Missouri Franchises Act (Rev. Stats. Mo. §407.400 to §407.420) shall apply only if its independent jurisdictional requirements are met. If, however any provision of this Agreement would not be enforceable under the laws of Missouri, and if your Spa is located outside of Missouri and the provision would be enforceable under the laws of the State in which your Spa is located, then the provision in question (and only that provision) will be interpreted and construed under the laws of the State where your Spa is located. The Federal Arbitration Act governs all matters relating to arbitration. If applicable law provides you with additional rights as to notices, opportunities to cure or otherwise than as are provided by this Agreement as to termination, renewal, transfers or otherwise, we shall comply with the requirements of such laws to the extent they exceed our obligations under this Agreement. If a state regulator requires an amendment to this Agreement, the amendment is attached to this Agreement. We will not, however, be precluded from contesting the validity, enforceability, or applicability or such regulator's required amendment in any action relating to this Agreement or to its rescission or termination. The parties hereto recognize, and any mediator, arbitrator or judge is affirmatively advised, that certain provisions of this Agreement describe our right to take (or refrain from taking) certain actions in the exercise of our business judgment based on our assessment of the overall best interests of the System and/or franchise network. Where such discretion has been exercised, and is

supported by our business judgment, neither a mediator, an arbitrator nor a judge shall substitute his or her judgment for the judgment so exercised by us.

**18.8 DAY-TO-DAY CONTROL.** You have the sole right and responsibility for the manner and means by which the day-to-day operation of our Spa is determined and conducted and for achieving your business objectives. Subject to any approval, inspection and enforcement rights reserved to us in this Agreement, this right and responsibility possessed by you includes the employment, supervision, setting the conditions of employment and discharge for your employees, daily maintenance, safety concerns and the achievement of conformity with the System.

**18.9 ~~18.8~~ **LIMITATION OF LEGAL ACTIONS.****

**18.9.1 ~~18.8.1~~** EXCEPT WITH RESPECT TO YOUR OBLIGATIONS REGARDING THE MARKS AND CONFIDENTIAL INFORMATION, YOU (AND YOUR OWNERS) WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO OR CLAIM FOR PROSPECTIVE PROFITS OR SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES FOR ANY CONDUCT ARISING OUT OF THIS AGREEMENT OR OUR RELATIONSHIP WITH YOU.

**18.9.2 ~~18.8.2~~** THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THEM RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP OF THE PARTIES.

**18.9.3 ~~18.8.3~~** ANY DISAGREEMENT BETWEEN YOU (AND YOUR OWNERS) AND US (AND OUR AFFILIATES AND OWNERS) WILL BE CONSIDERED UNIQUE AS TO ITS FACTS AND MUST NOT BE BROUGHT AS A CLASS ACTION AND YOU (AND YOUR OWNERS) WAIVE ANY RIGHT TO PROCEED AGAINST US (AND OUR AFFILIATES, OWNERS, MEMBERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS) BY WAY OF CLASS ACTION, OR BY WAY OF A MULTI-PLAINTIFF, CONSOLIDATED OR COLLECTIVE ACTION.

**18.9.4 ~~18.8.4~~** YOU WILL BE BARRED FROM BRINGING ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR OUR RELATIONSHIP WITH YOU, UNLESS A JUDICIAL PROCEEDING IS COMMENCED WITHIN ONE (1) YEAR FROM THE DATE ON WHICH YOU KNEW OR SHOULD HAVE KNOWN OF THE FACTS GIVING RISE TO THAT CLAIM.

**18.9.5 ~~18.8.5~~** OUR MAXIMUM AGGREGATE LIABILITY AND THE MAXIMUM AGGREGATE LIABILITY OF ANY OF OUR OFFICERS, OWNERS, DIRECTORS, MEMBERS, MANAGERS, EMPLOYEES, AFFILIATES, PARENTS OR SUBSIDIARIES RELATED TO ANY AND ALL CLAIMS RELATING TO OR ARISING FROM THIS AGREEMENT OR THE FRANCHISE RELATIONSHIP SET FORTH IN THIS AGREEMENT SHALL BE COLLECTIVELY LIMITED TO THE AGGREGATE AMOUNT OF INITIAL FRANCHISE FEES AND ROYALTY FEES YOU PAID TO US WITHIN THE PRIOR 12 MONTHS IMMEDIATELY BEFORE WRITTEN NOTICE OF ANY PROPER CLAIM IS RECEIVED BY US.

**18.10 ~~18.9~~ **BINDING EFFECT.** This agreement is binding upon us and you and our respective executors, administrators, heirs, beneficiaries, assigns and successors in interest and may not be modified except by written agreement signed by you and us.**

**18.11 ~~18.10~~ ENTIRE AGREEMENT.** The preambles and exhibits are a part of this Agreement which together with the Operations Manual and our other written policies, constitute our and your entire agreement, provided, however, that nothing in this Agreement or any related document is intended to disclaim the representations we made in the Franchise Disclosure Document furnished to you. There are no other oral or written understandings or agreements between us and you relating to the subject matter of this Agreement, except that you acknowledge that we justifiably have relied on your representations made prior to the execution of this Agreement as set forth in the questionnaire in Appendix G attached hereto. Except as contemplated by the provisions of this Article 18.10, nothing in this Agreement is intended, nor is deemed, to confer any rights or remedies upon any person or legal entity not a party hereto. Any changes or modifications to this Agreement must be in writing and signed by all parties.

**18.12 ~~18.11~~ WITHHOLD APPROVAL.** Except where this Agreement expressly obligates us to reasonably approve or to not unreasonably withhold our approval of any of your actions or requests, we have the absolute right to refuse any request you make or to withhold our approval of any of your proposed or effected actions that require our approval.

**18.13 ~~18.12~~ HEADINGS.** The headings of the several Articles hereof are for convenience only and do not define, limit or construe the contents of such Articles. Unless expressed to the contrary, references in this Agreement to "we," "us" and "our," with respect to all our rights and all your obligations to us under this Agreement, will be deemed to include any of our affiliates with whom you deal, whether or not our affiliates are specified therein. The term "affiliate" as used herein with respect to you or us, means any person or entity directly or indirectly owned or controlled by, under common control with or owning or controlling you or us. For purposes of this definition, "control" means the power to direct or cause the direction of management and policies.

**18.14 ~~18.13~~ JOINT AND SEVERAL OWNERS' LIABILITY.** If two or more persons are at any time the owner of your Spa hereunder, whether as partners, joint venturers or otherwise, their obligations and liabilities to us and our affiliates will be joint and several. References to "owner" means any person holding a direct or indirect, legal or beneficial ownership interest or voting right in you (or a transferee of this Agreement, your Spa or an interest in you), including any person who has a direct or indirect interest in you (or a transferee), this Agreement, the Franchise or your Spa and any person who has any other legal or equitable interest, or the power to vest in himself any legal or equitable interest, in the revenue, profits, rights or assets thereof. References to a "controlling interest" in you means 33.33% or more of your voting shares or other voting rights if you are a limited liability company, corporation or partnership owned by 3 or more persons; otherwise, 50% or more of your voting shares or other voting rights will constitute a "controlling interest." "Person" means any natural person, corporation, limited liability company, general or limited partnership, unincorporated association, cooperative or other legal or functional entity.

**18.15 ~~18.14~~ EXECUTION AND ELECTRONIC SIGNATURES.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement and all related documents may be executed and delivered by facsimile or other electronic signature method by any of the parties to any other party and each will be deemed original signatures. Electronic copies of this document shall constitute and be deemed an original copy of this document for all purposes, provided that such electronic copies are fully executed, dated and identical in form to the original hard copy version of this document. The receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

**18.16 ~~18.15~~ NOTICES.** All written notices and reports permitted or required to be delivered by the provisions of this Agreement or the Operations Manual will be deemed so delivered: (i) at the time delivered by hand; (ii) 1 business day after transmission by telecopy, facsimile or other electronic system, provided there is evidence of receipt; (iii) 1 business day after being placed in the hands of a commercial courier service for next business day delivery, provided there is evidence of receipt; or (iv) 3 business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid; and must be addressed to the party to be notified at its most current principal business address of which the notifying party has been notified. Any required payment or report that we do not actually receive during regular business hours on the date due (or postmarked by postal authorities at least 2 days prior thereto) will be deemed delinquent. You are required to notify us within 30 days if any change in address is required.

## **19. MISCELLANEOUS.**

### **19.1 YOUR WARRANTIES AND REPRESENTATIONS.**

19.1.1 You have been advised to make an independent investigation of our operations. We have not and do not represent that you can expect to attain a specific level of sales, profits or earnings. You have been advised to obtain independent professional advice regarding this Franchise. You acknowledge that you are entering into this Agreement, and all ancillary agreements executed contemporaneously with this Agreement, as a result of your own independent investigation of this Franchise and not on reliance of or as a result of any representations made by our owners, officers, directors, managers, employees, agents, representatives, attorneys, franchisees, area representatives, or brokers which are not contained in or are contrary to the terms set forth in this Agreement or of any representation in the Franchise Disclosure Document we furnished to you. You understand that you may sustain losses as a result of the operation or the closing of the Spa. You understand that the business venture contemplated by this Agreement involves a high degree of financial risk and depends to a large degree on your skills, abilities, initiative and hard work.

19.1.2 You represent to us that your signature on and performance of this Agreement does not violate or constitute a breach of the terms of any other agreement or commitment to which you or any of your affiliates are a party.

19.1.3 Under applicable U.S. Law, including without limitation Executive Order 13224, signed on September 23, 2001 (the "Order"), we are prohibited from engaging in any transaction with any person engaged in, or with a person aiding any person engaged in, acts of terrorism, as defined in the Order. Accordingly, you do not, and hereafter will not, engage in any terrorist activity. In addition, you are not affiliated with and do not support any individual or entity engaged in, contemplating or supporting terrorist activity. Finally, you are not acquiring the rights granted under this agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating or supporting terrorist activity, or to otherwise support or further any terrorist activity.

19.1.4 You represent to us that all information set forth in any and all applications, financial statements and submissions to us are and will be true, complete and accurate in all respects, and you acknowledge that we are relying upon the truthfulness, completeness and accuracy of such information in both awarding and continuing the license granted to you by this Agreement.

### **19.2 CAVEAT.**

19.2.1 THE SUCCESS OF YOUR SPA IS SPECULATIVE AND DEPENDS, TO A LARGE EXTENT, UPON YOUR ABILITY AS AN INDEPENDENT BUSINESS PERSON, AS WELL AS OTHER FACTORS. WE DO NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE POTENTIAL SUCCESS OF YOUR SPA AND NO ONE IS AUTHORIZED TO MAKE ANY SUCH REPRESENTATION OR WARRANTY ON OUR BEHALF. YOU FURTHER ACKNOWLEDGE THAT YOU HAVE READ AND COMPLETED THE QUESTIONNAIRE, A COPY OF WHICH IS ATTACHED TO THIS AGREEMENT AS APPENDIX G.

19.2.2 YOU UNDERSTAND AND AGREE THAT WE HAVE NO OBLIGATION TO ACCEPT YOUR APPLICATION AND MAY REFUSE TO GRANT YOU A FRANCHISE FOR ANY REASON, OR NO REASON, WITHOUT DISCLOSING THE BASIS FOR OUR DECISION. YOU ACKNOWLEDGE THAT UNLESS AND UNTIL WE SIGN THIS AGREEMENT, THE FRANCHISE HAS NOT BEEN GRANTED, YOU ARE NOT A FRANCHISEE OF OURS AND YOU MAY NOT RELY UPON BECOMING A FRANCHISEE OF OURS.

[Signature page to follow]

**THIS CONTRACT CONTAINS A BINDING ARBITRATION CLAUSE WHICH MAY BE ENFORCED BY THE PARTIES**

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

MESSAGE LUXE INTERNATIONAL, LLC

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

Mark Otter, President and CEO

[CORPORATION, LLC OR PARTNERSHIP:]

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

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

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

[AS INDIVIDUALS:]

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

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

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

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

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

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

## GUARANTY AND ASSUMPTION OF OBLIGATIONS

In consideration of, and as an inducement to, the execution of the above Franchise Agreement (the "Agreement"), by MASSAGE LUXE INTERNATIONAL, LLC ("MLI") in favor of \_\_\_\_\_ ("FRANCHISEE"), each of the undersigned ("GUARANTORS") hereby personally and unconditionally guarantees to MLI, its affiliates, and their successors and assigns for the term of the Agreement and thereafter as provided in the Agreement, that FRANCHISEE will punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement and agrees to be personally bound by, and personally liable for the breach of each and every provision in the Agreement. The GUARANTORS each agree to be personally and unconditionally bound by each and every undertaking, agreement and covenant set forth in the Agreement, including, the restrictive covenants and non-disclosure provisions contained in the Agreement, as well as the provisions in the Agreement relating to the Marks and Transfers (as defined in the Agreement) to the same extent as and for the same period of time as FRANCHISEE is required to comply with and abide by such covenants and provisions. All of the foregoing obligations of the undersigned will survive any expiration or termination of the term of the Agreement or this Guaranty and Assumption of Obligations. The GUARANTORS further hereby personally and unconditionally guarantee all debts and obligations FRANCHISEE incur to MLI, its successors, assigns, affiliated entities, parent corporation, and subsidiaries ("Affiliates"), as the case may be, as a result of any obligations under the Agreement and as a result of purchases of products or services from MLI and its affiliates. Each of the undersigned waives:

- (1) acceptance and notice of acceptance by MLI or affiliates of the foregoing undertakings;
- (2) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed;
- (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed;
- (4) any right he or she may have to require that an action be brought against FRANCHISEE or any other person as a condition of liability;
- (5) all rights to payments and claims for reimbursement or subrogation which any of the GUARANTORS may have against the FRANCHISEE arising as a result of the GUARANTORS' execution of and performance under this Guaranty and Assumption of Obligations; and
- (6) any and all other notices and legal or equitable defenses to which he or she may be entitled.

Each of the undersigned consents and agrees that:

- (1) his or her direct and immediate liability under this guaranty will be joint and several;
- (2) he or she will render any payment or performance required under the Agreement upon demand if the FRANCHISEE fails or refuses punctually to do so;
- (3) such liability will not be contingent upon or conditioned upon pursuit by MLI or affiliates of any remedies against the FRANCHISEE or any other person; and

(4) such liability will not be diminished, relieved or otherwise affected by any extension of time, credit or the indulgence which MLI or Affiliates may from time to time grant to the FRANCHISEE or to any other person, including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims, none of which will in any way modify or amend this Guaranty and Assumption of Obligations, which will be continuing and irrevocable during the term of the Agreement.

If MLI or any of the affiliates are required to enforce this Guaranty and Assumption of Obligations in any judicial proceeding or appeal thereof, the GUARANTORS will reimburse MLI and Affiliates for its costs and expenses, including, but not limited to, reasonable accountants', 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 incurred prior to, in preparation for or in contemplation of the filing of any written demand, claim, action, hearing or proceeding to enforce this Guaranty and Assumption of Obligations.

The undersigned GUARANTORS also recognize that certain disputes relating to this Franchise Agreement are to be resolved by mediation and litigation or arbitration, and hereby consent to such process in accordance with the terms of the Franchise Agreement. Further, undersigned GUARANTORS also hereby consent to the applicability of the venue and jurisdiction provision in the Franchise Agreement to this Guaranty and Assumption of Obligations.

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed their signatures on the same day and year as the Agreement was executed.

GUARANTORS:

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

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

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

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

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

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

\_\_\_\_\_

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

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

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

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

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

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

\_\_\_\_\_

**APPENDIX A**

**LOCATION AND TERRITORY**

LOCATION. The Location referred to in Article 1.3 of the Franchise Agreement shall be as follows:

\_\_\_\_\_  
(Street Address)

MESSAGE LUXE INTERNATIONAL, LLC

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

FRANCHISEE

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

TERRITORY. The Territory referred to in Article 1.3 of the Franchise Agreement shall be as follows:

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

\*(A separate territory formula is used for major metropolitan areas, as defined by us in our sole discretion.)

AS OF TODAY. If the Territory is identified by counties or other political subdivisions, political boundaries shall be considered fixed as of the date of this Agreement and shall not change for the purpose hereof, notwithstanding a political reorganization or change to such boundaries or regions. All street boundaries shall be deemed to end at the street center line unless otherwise specified above.

MESSAGE LUXE INTERNATIONAL, LLC

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

FRANCHISEE

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

## APPENDIX B

### LEASE PROVISIONS

Any lease executed by you for the operation of the Spa will contain the following provisions or an addendum to the lease as follows.

#### ADDENDUM TO LEASE

This Lease Addendum entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ ("FRANCHISEE") and \_\_\_\_\_ ("LANDLORD") for the premises located at \_\_\_\_\_ in the City of \_\_\_\_\_, State of \_\_\_\_\_ ("Premises");

WHEREAS, FRANCHISEE has executed a Franchise Agreement ("Franchise Agreement") with MASSAGE LUXE INTERNATIONAL, LLC, ("MLI"), and as part of said Franchise Agreement, the lease ("Lease") for the franchised MassageLuXe Spa ("Spa") must contain certain provisions; and

WHEREAS, LANDLORD and FRANCHISEE agree that the terms contained herein will be applicable to the Lease, notwithstanding anything contained in the Lease to the contrary;

NOW, therefore, in consideration of the mutual promises contained herein and the execution of the Lease, which execution is made simultaneously with this Lease Addendum, LANDLORD and FRANCHISEE hereby agree as follows:

1. LANDLORD agrees that FRANCHISEE will not otherwise assign the Lease or renew, amend or extend the term of the Lease without the prior written consent of MLI.
2. LANDLORD agrees to furnish MLI with copies of any and all letters and notices sent to FRANCHISEE pertaining to the Lease at the same time that such letters and notices are sent to FRANCHISEE. LANDLORD further agrees that, if it intends to terminate the Lease, the LANDLORD will give MLI 30 days advance written notice of such intent, specifying in such notice all defaults that are the cause of the proposed termination. MLI will have, after the expiration of the period during which FRANCHISEE may cure such default, an additional 15 days (or if there is no cure period, at least 15 days) to cure, at its sole option, any such defaults. MLI, or an affiliate of MLI, will have the right, but not obligation, upon giving written notice of its election to FRANCHISEE and LANDLORD, to cure the breach and succeed to FRANCHISEE's rights under the Lease, and any renewals or extensions thereof.
3. Upon default, expiration or termination of the Franchise Agreement, or the Lease, and upon notice to LANDLORD, MLI or its designee will have the option, without however any obligation, to assume the FRANCHISEE's obligations under the Lease, on the same terms and conditions available to the FRANCHISEE. Further, if FRANCHISEE or any other party with an interest in FRANCHISEE transfers to MLI or another party all of its or their interest in the Franchise Agreement, the FRANCHISEE or the Spa, the transferee will have the right to assume the Lease on the same terms and conditions as contained in the Lease.
4. MLI will have the right to enter the Premises to make any reasonable modification or reasonable alteration necessary to protect MLI's interest in its proprietary marks. LANDLORD agrees that in such event MLI will not be liable for trespass or any other crime or tort. Further, MLI or its designated agents

MassageLuXe®  
2021-2022 Franchise Agreement

will be permitted to enter the Premises for purposes of making inspections in accordance with the terms of the Franchise Agreement.

5. FRANCHISEE may assign to MLI all of its rights of further assignment at any time if the LANDLORD is given reasonable notice thereof. Such an assignment will be effective only if accepted in writing by MLI.

6. Upon request of MLI, the LANDLORD will provide MLI with copies of all reports, information, or data in LANDLORD's possession with respect to sales made from the leased Premises. Copies of any and all notices pertaining to the Lease will also be sent to MLI at the following address, or at such other address as may be designated by MLI in writing: 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017

7. LANDLORD acknowledges that the Franchise Agreement grants FRANCHISOR the right of inspection of the Premises, and LANDLORD agrees to cooperate with FRANCHISOR's efforts to enforce FRANCHISOR's inspection rights.

8. LANDLORD agrees that FRANCHISEE will have the right to remodel, equip, paint and decorate the interior of the Premises and to display the proprietary marks and signs on the interior and exterior of the Premises as FRANCHISEE is reasonably required to do pursuant to the Franchise Agreement and any successor Franchise Agreement under which FRANCHISEE may operate a Spa at the Premises.

9. MLI will be a third-party beneficiary of this Addendum to Lease and has the right independently of FRANCHISEE to enforce all of its rights hereunder.

10. To the extent of any conflict between the terms and conditions of this Addendum to Lease and the Lease, this Addendum to Lease will govern.

FRANCHISEE  
\_\_\_\_\_

LANDLORD  
\_\_\_\_\_

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

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



## APPENDIX D

### SBA ADDENDUM TO THE FRANCHISE AGREEMENT

THIS ADDENDUM ("SBA Addendum") is made and entered into on \_\_\_\_\_, ~~20~~ by MASSAGE LUXE INTERNATIONAL, LLC, a limited liability company organized under Missouri law, with its principal business address at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017 ("Franchisor"), and \_\_\_\_\_, located at \_\_\_\_\_ ("Franchisee").

**Recitals.** Franchisor and Franchisee entered into a Franchise Agreement on \_\_\_\_\_, 20\_\_ ("Franchise Agreement"). Franchisee agreed among other things to operate and maintain a franchise located at \_\_\_\_\_. Franchisee has obtained from a lender a loan ("Loan") in which funding is provided with the assistance of the United States Small Business Administration ("SBA"). SBA requires the execution of this Addendum as a condition for obtaining the SBA assisted financing.

NOW, THEREFORE, in consideration of the mutual promises below, and for good and valuable considerations in hand paid by each of the parties to the others, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. The Franchise Agreement is in full force and effect, and Franchisor has sent no official notice of default to Franchisee under the Franchise Agreement that remains uncured on the date hereof.

2. If Franchisee intends to own the Location, Franchisee will not be obligated to execute the collateral assignment of lease for the Location to Franchisor.

3. Notwithstanding anything to the contrary in Article 9.5 of the Franchise Agreement, Franchisee shall have the discretion to set pricing for its products and services provided that, subject to applicable antitrust laws, such pricing: (1) is at or below any maximum price cap programs established by the franchisor for its franchise system ; or (2) is at or above any minimum price threshold programs established by the franchisor for its franchise system; or (3) conforms to any bona fide promotional programs or national or regional accounts programs established from time to time by the franchisor for its franchise system.

4. The following is added to the end of Article 12.8 of the Franchise Agreement:

However, we may not exercise a right of first refusal:

(a) If a proposed Transfer is between or among individuals (including members of their immediate families and their respective spouses) who, at the time of the proposed Transfer, have an ownership interest in you or the Spa, and who have guaranteed your obligations under a then outstanding indebtedness which is guaranteed by the SBA ("Owner/Guarantors"); or

(b) If a proposed Transfer involves a Person other than an Owner/Guarantor and the proposed Transfer involves a noncontrolling ownership interest in you or the Spa, unless such noncontrolling interest: (1) represents less than a 20% ownership interest in you or the Spa, or (2) we (in combination with you) qualify as a small business and the exercise of the right does not affect the eligibility of the borrower to qualify for the SBA loan guarantee program.

Franchisor's right to approve or to disapprove a proposed Transfer or transferee, or to exercise its right of first refusal with respect to a Transfer of a controlling interest in Franchisee or the Spa, shall not be affected by any of the foregoing provisions. If Franchisor does not qualify as a small business under SBA regulations, the parties acknowledge and understand that Franchisor's exercise of its right of first refusal may result in an SBA guaranteed loan becoming immediately due and payable.

5. Franchisor will not unreasonably withhold, delay or condition its consent to any proposed transfer or assignment by Franchisee which requires Franchisor's consent under Article 12 of the Franchise Agreement.

6. This Addendum automatically terminates on the earliest to occur of the following: (i) a termination occurs under the Franchise Agreement; (ii) the Loan is paid; or (iii) SBA no longer has any interest in the Loan.

IN WITNESS WHEREOF, the parties hereto have duly signed and executed this Addendum as of the day and year first above written.

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

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

Name: Mark Otter  
Title: President and CEO

FRANCHISEE:

OWNER:  
[CORPORATION, LLC OR PARTNERSHIP:]

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

Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[AS INDIVIDUALS:]

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

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

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

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

## APPENDIX E

### MULTI-UNIT DEVELOPER ADDENDUM TO THE FRANCHISE AGREEMENT

THIS ADDENDUM ("Multi-Unit Developer Addendum") is made and entered into on \_\_\_\_\_, ~~20~~\_\_\_\_\_, by MASSAGE LUXE INTERNATIONAL, LLC, a limited liability company organized under Missouri law, with its principal business address at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017 ("Franchisor"), and \_\_\_\_\_, located at \_\_\_\_\_ ("Franchisee").

#### Recitals.

The Franchisor and Franchisee entered into a Multi-Unit Development Agreement on \_\_\_\_\_, 20\_\_\_\_, ("MUD Agreement") requiring the Franchisee to open and operate 3 or more Spas in the MUD Territory (as such term is defined in the MUD Agreement).

Or

The Franchisor and \_\_\_\_\_, an [owner or affiliate] of Franchisee ("Developer") entered into a Multi-Unit Development Agreement on \_\_\_\_\_, \_\_, ("MUD Agreement") requiring the Developer to open and operate 3 or more Spas within the MUD Territory (as such term is defined in the MUD Agreement). Franchisor and Developer desire to permit the Spa to be developed by Franchisee to count as a Developer Spa (as defined in the MUD Agreement) under the MUD Agreement.

On \_\_\_\_\_, ~~20~~\_\_\_\_\_ Franchisor and Franchisee entered into a Franchise Agreement ("Franchise Agreement") to open one of the Spas required under the MUD Agreement.

NOW, THEREFORE, in consideration of the mutual promises below, and for good and valuable considerations in hand paid by each of the parties to the others, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

**1. Amendment to Article 3.1.** Article 3.1 of the Franchise Agreement is hereby deleted in its entirety and replaced with the following:

**"INITIAL FRANCHISE FEE.** Because the initial franchise fee was paid when you signed the MUD Agreement, no additional initial franchise fee is due under this Agreement."

**2. Effectiveness of Agreement.** To the extent not amended herein, all other terms and conditions of the Franchise Agreement shall remain in full force and effect. No references to the amendments contained herein need be made in any instrument or document at any time referring to the Franchise Agreement and any such reference is deemed to be a reference to the Franchise Agreement as amended by this Multi-Unit Developer Addendum. In the event of any conflict between the terms of the Franchise Agreement and the terms of the Multi-Unit Developer Addendum, the terms of this Multi-Unit Developer Addendum shall control.

**3. Entire Agreement; Governing Law; Counterparts.** This Multi-Unit Developer Addendum contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior negotiations, agreements, and understandings with respect thereto; provided, however, that nothing in this Multi-Unit Developer Addendum or any related document is intended to disclaim the representations

MessageLuXe®  
2024/2022 Franchise Agreement

we made in the Franchise Disclosure Document furnished to you. This Multi-Unit Developer Addendum may only be amended by a written document duly executed by all parties hereto. This Multi-Unit Developer Addendum shall be governed by and construed in accordance with the Choice of Laws provision in the Franchise Agreement.

IN WITNESS WHEREOF, the parties hereto have duly signed and executed this Multi-Unit Developer Addendum as of the day and year first above written.

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

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

Name: Mark Otter

Title: President and CEO

FRANCHISEE:

OWNER:  
[CORPORATION, LLC OR PARTNERSHIP:]

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

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

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

[AS INDIVIDUALS:]

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

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

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

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

DEVELOPER: \_\_\_\_\_

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

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

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

## APPENDIX F

### AREA DEVELOPER ADDENDUM TO THE FRANCHISE AGREEMENT

THIS ADDENDUM ("Area Developer Addendum") is made and entered into on \_\_\_\_\_, ~~20~~, by MASSAGE LUXE INTERNATIONAL, LLC, a limited liability company organized under Missouri law, with its principal business address at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017 ("Franchisor"), and \_\_\_\_\_, located at \_\_\_\_\_ ("Franchisee").

#### Recitals.

The Franchisor and Franchisee entered into an Area Development Agreement on \_\_\_\_\_, ~~20~~, ("Area Development Agreement") requiring the Franchisee to open and operate one or more Spas in the Territory (as such term is defined in the Area Development Agreement).

Or

The Franchisor and \_\_\_\_\_, an [owner or affiliate] of Franchisee ("Developer") entered into an Area Development Agreement on \_\_\_\_\_, \_\_, ("Area Development Agreement") requiring the Developer to open and operate one or more Spas within the Territory (as such term is defined in the Area Development Agreement). Franchisor and Developer desire to permit the Spa to be developed by Franchisee to count as a Developer Spa (as defined in the Area Development Agreement) under the Area Development Agreement.

On \_\_\_\_\_, ~~20~~ Franchisor and Franchisee entered into a Franchise Agreement ("Franchise Agreement") to open [check the correct box]:

a Spa to function as the Model Spa (as such term is defined in the Area Development Agreement) in the Territory.

an additional Spa in the Territory (an "Additional Spa").

NOW, THEREFORE, in consideration of the mutual promises below, and for good and valuable considerations in hand paid by each of the parties to the others, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

**1. Amendment to Article 3.1.** Article 3.1 of the Franchise Agreement is hereby deleted in its entirety and replaced with the following:

If this Area Developer Addendum applies to a Model Spa:

**"INITIAL FRANCHISE FEE.** There shall be no initial franchise fee payable under this Agreement."

If this Area Developer Addendum applies to an Additional Spa:

**"INITIAL FRANCHISE FEE.** You agree to pay us a nonrecurring and nonrefundable initial franchise fee in the amount of \$16,250 when you sign this Agreement. The fee will be fully earned by us upon the execution of this Agreement."

**2. Effectiveness of Agreement.** To the extent not amended herein, all other terms and conditions of the Franchise Agreement shall remain in full force and effect. No references to the amendments contained herein need be made in any instrument or document at any time referring to the Franchise Agreement and any such reference is deemed to be a reference to the Franchise Agreement as amended by this Area Developer Addendum. In the event of any conflict between the terms of the Franchise Agreement and the terms of the Area Developer Addendum, the terms of this Area Developer Addendum shall control.

**3. Entire Agreement; Governing Law; Counterparts.** This Area Developer Addendum contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior negotiations, agreements, and understandings with respect thereto; provided, however, that nothing in this Area Developer Addendum or any related document is intended to disclaim the representations we made in the Franchise Disclosure Document furnished to you. This Area Developer Addendum may only be amended by a written document duly executed by all parties hereto. This Area Developer Addendum shall be governed by and construed in accordance with the Choice of Laws provision in the Franchise Agreement.

IN WITNESS WHEREOF, the parties hereto have duly signed and executed this Area Developer Addendum as of the day and year first above written.

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

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

Name: Mark Otter

Title: President and CEO

FRANCHISEE:

OWNER:  
[CORPORATION, LLC OR PARTNERSHIP:]

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

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

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

[AS INDIVIDUALS:]

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

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

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

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

DEVELOPER: \_\_\_\_\_

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

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

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



10. Has any employee or other person speaking on our behalf made any statement or promise concerning the likelihood of success that you should or might expect to achieve from operating a MassageLuXe Franchise?  
Yes \_\_\_ No \_\_\_
11. Has any employee or other person speaking on our behalf made any statement, promise or agreement concerning the advertising, marketing, training, support service or assistance that we will furnish to you that is contrary to, or different from, the information contained in the FDD?  
Yes \_\_\_ No \_\_\_
12. I understand that this franchise business may be impacted by other risks, including those outside your or our control such as economic, political or social disruption, including pandemics. In addition, I understand that the aforementioned risks and any preventative or protective actions that federal, state, and local governments may take in response may result in a period of business disruption, reduced customer demand, and reduced operations for a MassageLuXe Spa. The extent to which an event impacts the MassageLuXe system will depend on precise occurrences which are highly uncertain and which we cannot predict.  
Yes \_\_\_ No \_\_\_

\* \* \*

Please understand that your responses to these questions are important to us and that we will rely on them.

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.

By signing this Questionnaire, you are representing that you have responded truthfully to the above questions. You are also representing that you have reviewed all of these questions and the answers with the other owners of the business and any of your representatives who had discussions with us or any of our officers, agents, or employees. The responses from those people are also included by you above.

Dated on \_\_\_\_\_, ~~20~~ 20\_\_\_\_.

FRANCHISE APPLICANT

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

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

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

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

Document comparison by Workshare Compare on Wednesday, April 27, 2022  
2:55:25 PM

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Document 1 ID	12
Description	#24001849v12<work.lathrogpm.com> - Massage Franchise Agreement
Document 2 ID	13
Description	#24001849v13<work.lathrogpm.com> - Massage Franchise Agreement
Rendering set	Standard

Legend:	
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<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	71
Deletions	68
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	139



**EXHIBIT B**  
TO THE DISCLOSURE DOCUMENT  
MULTI-UNIT DEVELOPMENT AGREEMENT

**MASSAGELUXE®  
MULTI-UNIT DEVELOPMENT AGREEMENT**

THIS MULTI-UNIT DEVELOPMENT AGREEMENT (the "Agreement") is made ~~as of this~~  
~~\_\_\_\_\_ day of \_\_\_\_\_ and entered into on \_\_\_\_\_, 20\_\_\_\_\_~~ between MASSAGE LUXE INTERNATIONAL,  
LLC, a Missouri limited liability company, with an address at 16052 Swingley Ridge Road, Suite 120,  
Chesterfield, MO 63017 ("Franchisor") and \_\_\_\_\_, with an  
address at \_\_\_\_\_ ("MUD Developer").

**BACKGROUND**

A. Through the expenditure of money, time and effort, Franchisor has developed a distinct and proprietary method business format for the operation of business offering the Services, including but not limited to the methods, procedures, signs, designs, layouts, equipment, standards and specifications and the Marks, as the same may be modified, amended or replaced from time to time hereafter the distinguishing characteristics of which include proprietary operating procedures and standards and specifications for products and services, as amended from time to time in Franchisor's sole discretion ("System").

B. "Marks" means such service marks, trademarks, trade dress, trade names, logos and commercial symbols, as may presently exist, or which may be modified, changed, or acquired by Franchisor or its affiliates, in connection with the operation of a Spa. Marks currently include the "MassageLuXe Spa", "MassageLuXe", "ML and design", "LuXe" and "FaceLuXe" and the silhouette design mark.

C. "Services" means the massages, facials, waxing and skin care treatments as may presently exist or which may be modified, changed or acquired by Franchisor or its affiliates.

D. Franchisor offers franchises to qualified individuals for the right to operate a business at a single approved location that features the Services and operates under the Marks according to the System (a "Spa") and grants rights to developers to open multiple Spas in specific geographic territories.

E. MUD Developer desires to obtain the right to develop a certain number of Spas in the territory ("MUD Territory") and Franchisor is willing to grant MUD Developer such right under the terms and conditions of this Agreement.

**AGREEMENT**

NOW, THEREFORE, the parties, in consideration of the promises, undertakings and commitments of each party to the other party set forth herein, hereby mutually agree as follows:

**1. GRANT**

A. Franchisor hereby grants to MUD Developer the right and license to develop and open \_\_\_\_\_ (\_\_\_\_) Spas in the MUD Territory which is set forth in Exhibit A. Franchisor does not grant any territorial protections in the MUD Territory (other than any protections contained in a signed Franchise Agreement for a Spa located within the MUD Territory). The term of this Agreement shall commence on the date first written above and shall expire ~~the earlier of:~~ (i) \_\_\_\_\_; (ii) the signing of the lease for the last Spa required to be opened under this Agreement; or ~~upon~~ (iii) the opening signing of the Franchise Agreement for the last Spa required to be opened under this Agreement, ~~whichever date is earlier~~ unless it is otherwise terminated in accordance with this Agreement. There is no right to renew this Agreement. This

Agreement does not give MUD Developer any right to license others to operate Spas under the System. Each Spa shall operate according to the terms of an individual single unit franchise agreement between Franchisor and MUD Developer ("Franchise Agreement"). The Franchise Agreement that MUD Developer executes for each Spa will be the Franchisor's then current form franchise agreement (and related documents), any or all of the terms of which may differ substantially from the terms contained in the current form franchise agreement. Notwithstanding any other term or condition of this Agreement to the contrary, MUD Developer may not develop a Spa that is within the franchised territory of another Spa which is either open or has been approved for development prior to the effectiveness of this Agreement. The boundaries of the MUD Territory shall not change regardless of political reorganization or geographic changes.

B. If MUD Developer fails to meet any of its obligations under this Agreement, including compliance with the Mandatory Development Schedule, or if MUD Developer breaches any Franchise Agreement executed by it pursuant to this Agreement, Franchisor may terminate this Agreement along with MUD Developer's right to develop, open and operate new Spas within the MUD Territory, but the termination of this Agreement and the right to develop the MUD Territory will not terminate any rights granted under the Franchise Agreements then in effect between MUD Developer and Franchisor in which MUD Developer is in compliance.

C. Franchisor and its affiliates retain all rights with respect to Spas, the Marks, the sale of similar or dissimilar products and services and any other activities Franchisor deems appropriate whenever and wherever Franchisor desires, including (1) the right to establish and grant to franchisees the right to establish Spas anywhere inside or outside the MUD Territory; and (2) the right to develop, merchandise, sell and license others to sell products bearing the Marks (including the products and services offered at the MUD Developer's Spa(s)) through other channels of distribution such as catalogs distributed within the MUD Territory, the Internet, print, direct marketing media and any other non-spa outlets inside or outside the MUD Territory.

Franchisor and its affiliates also reserve the right to purchase, be purchased, merge, acquire, be acquired or affiliate with a competitor or any other business regardless of the location of the competitor or business, and to operate, franchise or license such businesses as Spas under the System or Marks or under other proprietary marks, regardless of the location of such businesses, whether such businesses are in the MUD Territory or outside the MUD Territory.

MUD Developer understands and acknowledges that although MUD Developer is granted the right to develop Spas within the MUD Territory, Franchisor and its affiliates are permitted to establish or grant to a franchisee, multi-unit developer or area developer the right to establish Spas or Spa-development businesses within the MUD Territory.

## 2. MULTI-UNIT DEVELOPMENT FEES

A. In consideration of the rights granted under this Agreement, MUD Developer agrees to pay to Franchisor a development fee in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the "MUD Fee"), which is equal to the initial franchise fee for the first Spa (the initial franchise fee for the first Spa is \$42,500, ~~\$32,500~~42,500 for the second Spa to be opened under this Agreement ~~plus \$21,500 for each additional Spa (the~~ There will be no initial franchise fee charged ~~for each additional~~the third Spa is ~~\$21,500)~~ to be ~~opened~~open under this Agreement. The portion of the MUD Fee attributable to a particular Spa to be developed under this Agreement is credited to the initial franchise fee for such Spa at the time the payment of the initial franchise fee for such Spa is due. The MUD Fee is due and deemed fully earned upon execution of this Agreement and is nonrefundable.

B. MUD Developer agrees to pay to Franchisor the amount of any State or local sales, use, gross receipts, or similar tax that Franchisor may be required to pay on payments which MUD Developer makes to Franchisor under this Agreement, regardless of whether the State or local tax is imposed directly on Franchisor, is required to be withheld by MUD Developer from amounts due to Franchisor under this Agreement, or is otherwise required to be collected by MUD Developer from Franchisor. MUD Developer's obligations under this Article shall not be reduced or offset by any type of claim, credit or deduction of any kind. This provision shall not apply to income taxes or comparable taxes measured by income to which Franchisor may be subject.

### **3. MANDATORY DEVELOPMENT SCHEDULE**

A. MUD Developer shall commence operations of the first Spa to be developed under this Agreement within ~~270 days~~ 1 year after execution of this Agreement. MUD Developer must commence operations of the second Spa within 18 months after the opening of the first Spa, and shall continue to commence operations of subsequent Spas at 18-month intervals until all Spas required to be developed under this Agreement have been developed ("Mandatory Development Schedule").

B. The development of any Spas in excess of the minimum number required in any time period shall be credited to the Spas required to be developed during any subsequent time period. If MUD Developer fails to meet the Mandatory Development Schedule, MUD Developer may request from Franchisor a 90-day extension to cure the default in the Mandatory Development Schedule. Franchisor shall have sole discretion in granting or rejecting such request for an extension to cure the default in the Mandatory Development Schedule. The purchase of a pre-existing Spa in the MUD Territory by MUD Developer shall not count towards the mandatory number of Spas to be developed under this Agreement. Franchisor and MUD Developer hereby acknowledge and agree that the Mandatory Development Schedule contained herein is a fair and reasonable time frame for the development of Spas within the MUD Territory and is an accurate reflection of market demand without over saturation of Franchisor's proprietary services offered under the System.

C. After MUD Developer signs a Franchise Agreement, it must fully comply with all the terms contained in the Franchise Agreement including paying all the fees required by that Franchise Agreement in a timely manner. MUD DEVELOPER DOES NOT OBTAIN ANY RIGHTS AS A FRANCHISEE FOR A PARTICULAR LOCATION UNTIL A FRANCHISE AGREEMENT IS SIGNED BY IT AND FRANCHISOR. MUD Developer must submit all proposals for sites to Franchisor for consent. Franchisor has the right, in its absolute discretion, to withhold its consent to any site MUD Developer proposes. Franchisor's consent to a site is no assurance of success.

D. MUD Developer acknowledges that all Spas must be developed and operated according to Franchisor's standards. MUD Developer agrees and recognizes that Franchisor may refuse to grant a Franchise Agreement for a Spa if Franchisor believes, in its reasonable judgment, that MUD Developer does not have sufficient financial resources and other ability (including, but not limited to, experience, character, skill, aptitude, attitude, and business acumen sufficient to operate multiple locations) to properly develop and operate the proposed Spa. Franchisor may take into account, among other things, MUD Developer's past performance and financial success of MUD Developer's existing Spas. In order to assist Franchisor in making such a determination, MUD Developer must provide Franchisor, upon request, the financial and other information regarding MUD Developer's existing Spa(s) and the proposed Spa. Franchisor's approval, however, is not deemed to be a warranty of MUD Developer's financial or other ability to develop and operate the proposed Spa(s).

E. MUD Developer acknowledges that Franchisor is not granting any right to use the Marks under this Agreement. Any rights MUD Developer receives regarding the use of the Marks arises from the Franchise Agreement(s) MUD Developer signed or will sign and MUD Developer may only use the Marks pursuant to the terms of that (those) Franchise Agreement(s).

#### **4. RELATIONSHIP OF THE PARTIES**

Neither this Agreement nor the relationship between the parties hereto constitutes a partnership or a joint venture between MUD Developer and Franchisor. Subject to any provisions contained in this Agreement to the contrary, the relationship of Franchisor and MUD Developer with respect to the ownership and operation by MUD Developer of Spas within the MUD Territory will be governed by the individual Franchise Agreement(s) executed in connection therewith.

#### **5. INDEMNIFICATION**

MUD Developer, to the extent permitted by law, agrees to indemnify, exculpate, defend and hold Franchisor, its affiliates and respective shareholders, directors, officers, employees, agents, successors and assignees (the "Indemnified Parties") harmless from and against and to reimburse any one or more of the Indemnified Parties for all claims, obligations and damages described in this Article, any and all taxes and any and all claims and liabilities directly or indirectly arising out of MUD Developer's performance of its obligations under this Agreement, MUD Developer's breach of this Agreement, or MUD Developer's non-compliance or alleged non-compliance with any law, ordinance, rule or regulation. For purposes of this indemnification, "claims" includes all obligations, damages (actual, consequential or otherwise) and costs incurred in the defense of any claim against any of the Indemnified Parties, including, without limitation, reasonable accountants', arbitrators', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other expenses of litigation, arbitration or alternative dispute resolution and travel and living expenses. Each of the Indemnified Parties shall have the right to defend any such claim against it at MUD Developer's expense. This indemnity will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. An Indemnified Party need not seek recovery from an insurer or other third party, or otherwise mitigate its losses and expenses, in order to maintain and recover fully a claim against MUD Developer. MUD Developer agrees and acknowledges that a failure to pursue a recovery or mitigate a loss will not reduce or alter the amounts that an Indemnified Party may recover from MUD Developer.

#### **6. DEFAULT AND TERMINATION**

A. The rights, licenses and territorial exclusivity may be terminated, effective upon delivery of written notice of termination to MUD Developer, upon the happening of any of the following events:

1. In the event MUD Developer is adjudicated bankrupt, becomes insolvent, suffers a permanent or temporary court-appointed receivership of substantially all of MUD Developer's property, makes a general assignment for the benefit of creditors or suffers the filing of a voluntary or involuntary bankruptcy petition which is not dismissed within one year after filing;

2. If MUD Developer fails to comply with the Mandatory Development Schedule set forth in Article 3 herein; provided, however, if Franchisor has granted a 90-day extension to MUD Developer to cure such default as set forth in Article 3.B. of this Agreement, then MUD Developer shall have such 90 days to cure the default;

3. If MUD Developer makes an unauthorized transfer or assignment under this Agreement;

4. If MUD Developer or its affiliates commit any material breach of any Franchise Agreement between it or them and Franchisor which is not cured within the applicable cure period in the applicable Franchise Agreement; or

5. If MUD Developer, its affiliates or any of MUD Developer's owners violate the "Providing a SAFE Spa Experience for Clients and Staff" or other sexual misconduct policies in the Operations Manual.

B. The events of default and grounds for termination described in this Article 6 will be in addition to any other grounds for termination and remedies contained elsewhere in this Agreement or in any individual Franchise Agreement executed between Franchisor and MUD Developer. No right or remedy herein conferred upon or reserved to Franchisor is exclusive of any other right or remedy provided or permitted by law or equity. Upon termination of this Agreement, MUD Developer will have no further rights to develop Spas within the MUD Territory, and Franchisor may offer the right to develop the MUD Territory to a third party or may directly develop the MUD Territory itself. If MUD Developer at the time of termination or expiration of this Agreement is operating one or more Spas pursuant to the terms of individual Franchise Agreements entered into with Franchisor, then all the rights and obligations under such individual Franchise Agreements will continue to be applicable in accordance with their terms.

## 7. TRANSFERABILITY

A. Franchisor has the right to assign this Agreement, and all its rights and privileges hereunder, to any person, firm, corporation or other entity and upon such assignment Franchisor will be relieved of all liability under this Agreement, and all rights and obligations will accrue to Franchisor's successor or assignee. Specifically, and without limitation to the foregoing, MUD Developer expressly affirms and agrees that Franchisor may sell its assets, its Marks, or its System outright to a third party; may go public; may engage in a private placement of some or all of its securities; may merge, acquire other corporations, partnerships or limited liability companies, or be acquired by another corporation, partnership or limited liability company; may undertake a refinancing, recapitalization, leveraged buy out or other economic or financial restructuring; and, with regard to any or all of the above sales, assignments and dispositions, MUD Developer expressly and specifically waives any claims, demands or damages arising from or related to the loss of said Marks (or any variation thereof) and/or the loss of association with or identification of "MassageLuXe" as Franchisor hereunder. Nothing contained in this Agreement requires Franchisor to remain in the massage therapy business or to offer the same products and services, whether or not bearing Franchisor's Marks, in the event that Franchisor exercises its rights hereunder to assign its rights in this Agreement.

B. MUD Developer understands and acknowledges that the rights and duties set forth in this Agreement are personal to MUD Developer and are granted in reliance upon the individual or collective character, skill, aptitude and business and financial capacity of MUD Developer or its principals. MUD Developer has represented to Franchisor that MUD Developer is entering into this Agreement with the intention of complying with its terms and conditions and not for the purpose of resale of its rights and obligations hereunder. Neither MUD Developer nor any member, partner or shareholder thereof may, without Franchisor's prior written consent, directly or indirectly sell, assign, transfer, convey, give away, pledge, mortgage or otherwise encumber any interest in the MUD Developer or this Agreement ~~without the~~

~~prior written consent of Franchisor. Franchisor will not unreasonably withhold or delay its consent to the transfer of any interest in the MUD Developer; provided, however, that prior to the time of the transfer, Franchisor requires that: (i) The transferee demonstrate to Franchisor's satisfaction that it meets Franchisor's requirements that existed under this Agreement and have the adequate financial resources and capital to develop the MUD Territory; and (ii) the transferee must submit to Franchisor an application in the form prescribed by Franchisor; (iii) a transfer fee of \$5,000 per Spa to be developed pursuant to this Agreement shall be paid to Franchisor from MUD Developer; (iv) MUD Developer and each of its owners, if applicable, shall execute a general release, in a form prescribed by Franchisor, of all claims against Franchisor, its affiliates and its officers, directors, agents, and employees; and (v) transferee executes the then current Multi Unit Development Agreement which might contain terms different than in this Agreement.~~

C. Upon the death or permanent disability MUD Developer or, if MUD Developer is a limited liability company, corporation or partnership, the death or permanent disability of the owner of a controlling interest in MUD Developer, MUD Developer's or such owner's executor, administrator, conservator, guardian or other personal representative must transfer MUD Developer's interest in this Agreement or such owner's interest in MUD Developer to a third party. Such disposition of this Agreement or the interest in MUD Developer (including, without limitation, transfer by bequest or inheritance) must be completed within a reasonable time, not to exceed 6 months from the date of death or permanent disability, and will be subject to all the terms and conditions applicable to transfers contained in this Article. A failure to transfer MUD Developer's interest in this Agreement or the ownership interest in MUD Developer within this period of time constitutes a breach of this Agreement. For purposes hereof, the term "permanent disability" means a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent MUD Developer or an owner of a controlling interest in MUD Developer from conducting day-to-day business for a period of 3 months from the onset of such disability, impairment or condition.

## 8. NOTICES

All written notices and reports permitted or required to be delivered by the provisions of this Agreement will be deemed so delivered (i) at the time delivered by hand; (ii) 1 business day after being placed in the hands of a commercial courier service for next business day delivery, provided there is evidence of receipt; or (iii) 3 business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid; and must be addressed to the party to be notified at the address set forth above unless and until a different address has been designated by written notice to the other party.

## 9. DISPUTE RESOLUTION

### A. MEDIATION.

1. Before any party may bring an action in court for any controversy, dispute or claim between MUD Developer and Franchisor arising from this Agreement or the franchise relationship set forth in this Agreement, the parties must first have a conference with each other to try to resolve the dispute. If this fails to bring about a resolution, the dispute will first be submitted to non-binding mediation (the "Mediation") in St. Louis, Missouri, unless the parties mutually agree to another location. The Mediation shall be conducted in accordance with then-current AAA mediation rules (the "AAA Mediation Rules") except to the extent the AAA Mediation Rules differ from the terms of this Agreement, in which event the terms of this Agreement shall be applied. Notwithstanding the foregoing, the mediation does not have to

be conducted under the AAA. MUD Developer and Franchisor will select the mediator. If the parties cannot agree on the selection of a mediator, the mediation shall be conducted through the AAA who will make the selection of mediator using their rules and guidelines. The cost of the Mediation, including the mediator's fee and expenses, shall be paid by MUD Developer. All negotiations and mediation proceedings (including without limitation, discovery conducted therein, as well as all statements and settlement offers made by either party or the mediator in connection with the Mediation) shall be strictly confidential, shall be considered as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence, and shall not be admissible or otherwise used in connection with any court or arbitration proceeding for any purpose. The mediator may not be called as a witness in any court or arbitration proceeding for any purpose. If the parties, after a good faith effort to settle the dispute using Mediation, are unable to reach settlement, MUD Developer and Franchisor agree that the dispute will be resolved according to the Articles below. Failure to submit the dispute to Mediation prior to commencing any litigation or arbitration proceeding shall be grounds for dismissal of the litigation or arbitration proceedings.

2. Notwithstanding the foregoing, the obligation of this Article 9.A.1 to mediate will not be binding with respect to claims brought by Franchisor relating to its trademarks, service marks, patents, or copyrights, including the Marks; claims relating to any lease or sublease of any real property between the parties or their affiliated entities; or requests by either party for temporary restraining orders, preliminary injunctions, permanent injunctions or other proceedings in a court of competent jurisdiction to obtain interim or permanent relief when deemed necessary by such court to preserve the *status quo* or prevent irreparable injury pending resolution of the actual dispute between the parties, which may be brought by Franchisor in accordance with Article 9.B.

## **B. LITIGATION.**

1. Except as otherwise provided in this Agreement, all controversies, disputes or claims between MUD Developer and Franchisor arising from this Agreement or the franchise relationship set forth in this Agreement shall be filed in the Federal District Court for Eastern District of Missouri when the grounds set forth in 28 U.S.C. § 1332 are present. Both parties and each guarantor of this Agreement irrevocably submit to the jurisdiction of this court and waive any objection to the application of Missouri law or to the jurisdiction or venue in this court. In the event that the above-referenced federal court does not have jurisdiction over the dispute, the parties shall submit to binding arbitration as provided below.

2. Notwithstanding the foregoing, any claims Franchisor has relating to its trademarks, service marks, patents, or copyrights, including the Marks; claims relating to any lease or sublease of any real property between the parties or their affiliated entities; or requests by Franchisor for temporary restraining orders, preliminary injunctions, permanent injunctions or other proceedings in a court of competent jurisdiction to obtain interim or permanent relief when deemed necessary by such court to preserve the *status quo* or prevent irreparable injury pending resolution of the actual dispute between the parties may also be brought by Franchisor in state courts in St. Louis County, Missouri. MUD Developer agrees to submit to the jurisdiction of the state courts in St. Louis County, Missouri.

## **C. ARBITRATION.**

1. In the event that the federal court described above does not have subject matter jurisdiction over the dispute, the parties, subject to all other provisions above, will submit the dispute to binding arbitration conducted in St. Louis, Missouri (unless the parties mutually agree otherwise). The arbitration proceeding will be conducted in accordance with the then current commercial arbitration rules

of the American Arbitration Association ("AAA Rules"), except to the extent the AAA Rules differ from the terms of this Agreement, in which event the terms of this Agreement will apply. Notwithstanding the foregoing, the arbitration does not have to be conducted under the AAA. The arbitrator must be mutually selected by the parties and must have at least 5 years of substantial experience in franchise law. Each party will be limited to 25 document requests, 15 interrogatories and 2 deposition unless otherwise agreed to between the parties. For purposes of this Article, if any dispute that names, involves or includes Franchisor, its respective affiliates, officers, directors, agents, brokers or employees, such persons or entities shall also be included in and made party to the arbitration proceeding to the extent such parties consent to proceeding forward in arbitration.

2. The arbitrator will have the right to award or include in his award any relief which he deems proper in the circumstances, including money damages (with interest on unpaid amounts from date due), specific performance, and attorneys' fees and costs; however, the arbitrator will not be allowed to award or include in his award any punitive, exemplary, or consequential damages, to which the parties waive any right. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability or enforceability of this Article, including but not limited to any claim that all or any part of this Article is void or voidable. The award and decision of the arbitrator will be conclusive and binding upon all parties, and judgment upon the award may be entered in any court of competent jurisdiction; however, the arbitrator may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; or (2) make any award which extends, modified or suspends any lawful term of this Agreement. Each party waives any right to contest the validity or enforceability of the award of an arbitrator under this Article except to the extent permitted by applicable law. The arbitrator must submit a reasoned award and this award must be consistent with the terms of this Agreement. If the arbitrator's award is not reasoned or not consistent with the terms of this Agreement, then notwithstanding the foregoing, Franchisor may appeal the arbitration award in Federal or State Court. An arbitration award or decision entered in any other case (whether or not Franchisor was a party) will not be binding on Franchisor in any other dispute, will have no precedential value and cannot be used as evidence in any other proceeding.

3. The arbitrator will apply the provisions of any applicable statute of limitations. In connection with any arbitration proceeding, MUD Developer and Franchisor will submit or file any claim which would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any of these compulsory claims which are not submitted or filed in the same proceeding in which they relate will be barred. This provision will continue in full force and effect subsequent to and notwithstanding the transfer of this Agreement, or the termination or expiration of the term of this Agreement. Except as provided in Article 17.3.1 above, the arbitration will be conducted on an individual, not a class-wide basis. None of the parties to the arbitration will be entitled to consolidation of the arbitration proceedings with the proceedings of any third party, nor will the arbitrator or any court be empowered to order a consolidation of proceedings with any third party.

4. Notwithstanding the foregoing, the obligation of this Article 9.C.3 to arbitrate will not be binding with respect to claims brought by Franchisor relating to its trademarks, service marks, patents, or copyrights, including the Marks; claims relating to any lease or sublease of any real property between the parties or their affiliated entities; or requests by either party for temporary restraining orders, preliminary injunctions, permanent injunctions or other proceedings in a court of competent jurisdiction to obtain interim or permanent relief when deemed necessary by such court to preserve the *status quo* or prevent irreparable injury pending resolution by arbitration of the actual dispute between the parties, which may be brought by Franchisor in accordance with Article 9.B.

D. **DISPUTE RESOLUTION FEE.** In the event that MUD Developer or its guarantors have not complied with the provisions in this Article 9, MUD Developer shall reimburse Franchisor for all of Franchisor's expenses incurred in curing MUD Developer's breach (including, without limitation, Franchisor's attorneys' fees and costs related to dismissing and responding to any improperly filed claim) and pay Franchisor a Dispute Resolution Fee of \$50,000 ("Dispute Resolution Fee"). MUD Developer acknowledges and agrees that Franchisor will be damaged by such breach. MUD Developer agrees that a precise calculation of the full extent of the damages that Franchisor will incur from the breach of the Dispute Resolution provisions of this Agreement are difficult to determine and all parties desire certainty in this matter and agree that the Dispute Resolution Fee provided herein is reasonable and constitute liquidated damages and not a penalty. Franchisor has the right to collect these amounts in addition to exercising any and all other rights it may have for non-compliance under this Agreement.

## 10. CHOICE OF LAW; LIMITATION OF LEGAL ACTIONS

A. MUD Developer acknowledges that this Agreement was accepted in the State of Missouri. MUD Developer acknowledges that it has and will continue to develop a substantial and continuing relationship with Franchisor at its principal offices in Missouri, where its decision-making authority is vested and franchise operations are conducted and supervised. This Agreement will be governed, to the extent permissible, by the laws of the State of Missouri without regard to principles of conflicts of law; provided, however, that the Missouri Franchises Act (Rev. Stats. Mo. §407.400 to §407.420) shall apply only if its independent jurisdictional requirements are met. If, however any provision of this Agreement would not be enforceable under the laws of Missouri, and if the MUD Territory is located outside of Missouri and the provision would be enforceable under the laws of the State in which the MUD Territory is located, then the provision in question (and only that provision) will be interpreted and construed under the laws of the State where the MUD Territory is located. The Federal Arbitration Act governs all matters relating to arbitration. If applicable law provides MUD Developer with additional rights as to notices, opportunities to cure or otherwise than as are provided by this Agreement as to termination, renewal, transfers or otherwise, Franchisor shall comply with the requirements of such laws to the extent they exceed Franchisor's obligations under this Agreement. If a state regulator requires an amendment to this Agreement, the amendment is attached to this Agreement. We will not, however, be precluded from contesting the validity, enforceability, or applicability or such regulator's required amendment in any action relating to this Agreement or to its rescission or termination.

B. The parties hereto recognize, and any mediator, arbitrator or judge is affirmatively advised, that certain provisions of this Agreement describe the right of Franchisor to take (or refrain from taking) certain actions in the exercise of its business judgment based on its assessment of the overall best interests of the System and/or franchise network. Where such discretion has been exercised, and is supported by the business judgment of Franchisor, neither a mediator, an arbitrator nor a judge shall substitute his or her judgment for the judgment so exercised by Franchisor.

C. THE PARTIES HEREBY AGREE TO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR EQUITY, REGARDLESS OF WHICH PARTY BRINGS SUIT. THIS WAIVER SHALL APPLY TO ANY MATTER WHATSOEVER BETWEEN THE PARTIES HERETO WHICH ARISES OUT OF OR IS RELATED IN ANY WAY TO THIS AGREEMENT OR THE PERFORMANCE OF EITHER PARTY.

D. ANY DISAGREEMENT BETWEEN MUD DEVELOPER (AND ITS OWNERS) AND FRANCHISOR (AND ITS AFFILIATES AND OWNERS) WILL BE CONSIDERED UNIQUE AS TO ITS FACTS AND MUST NOT BE BROUGHT AS A CLASS ACTION AND MUD DEVELOPER (AND

ITS OWNERS) WAIVE ANY RIGHT TO PROCEED AGAINST FRANCHISOR (AND ITS AFFILIATES, OWNERS, MEMBERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS) BY WAY OF CLASS ACTION, OR BY WAY OF A MULTI-PLAINTIFF, CONSOLIDATED OR COLLECTIVE ACTION.

E. MUD DEVELOPER WILL BE BARRED FROM BRINGING ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR FRANCHISOR'S RELATIONSHIP WITH MUD DEVELOPER, UNLESS A JUDICIAL PROCEEDING IS COMMENCED WITHIN ONE (1) YEAR FROM THE DATE ON WHICH MUD DEVELOPER KNEW OR SHOULD HAVE KNOWN OF THE FACTS GIVING RISE TO THAT CLAIM.

F. The parties waive to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) which either party may have against the other 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, recovery shall 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 shall continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

G. FRANCHISOR'S MAXIMUM AGGREGATE LIABILITY AND THE MAXIMUM AGGREGATE LIABILITY OF ANY OF ITS OFFICERS, OWNERS, DIRECTORS, MEMBERS, MANAGERS, EMPLOYEES, AFFILIATES, PARENTS OR SUBSIDIARIES RELATED TO ANY AND ALL CLAIMS RELATING TO OR ARISING FROM THIS AGREEMENT OR THE FRANCHISE RELATIONSHIP SET FORTH IN THIS AGREEMENT SHALL BE COLLECTIVELY LIMITED TO THE AMOUNT MUD DEVELOPER PAID TO FRANCHISOR WITHIN THE PRIOR 12 MONTHS IMMEDIATELY BEFORE WRITTEN NOTICE OF ANY PROPER CLAIM IS RECEIVED BY FRANCHISOR.

H. If Franchisor incurs expenses in connection with MUD Developer's failure to pay when due amounts owed to Franchisor, to submit when due any reports, information or supporting records or otherwise to comply with this Agreement, MUD Developer agrees to reimburse Franchisor for any of the costs and expenses which Franchisor incurs, including reasonable accounting, attorneys' and related fees.

I. Franchisor's failure to insist upon strict compliance with any provision of this Agreement shall 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 shall not affect Franchisor's rights respecting any subsequent breaches or defaults. All rights and remedies granted in this Agreement shall be cumulative. Franchisor's election to exercise any remedy available by law or contract shall not be deemed a waiver or preclude exercise of any other remedy.

## **11. MISCELLANEOUS**

A. This Agreement contains the entire agreement between the parties concerning the subject matter hereof; no promises, inducements or representations not contained in this Agreement have been made, nor shall any be of any force or effect, or binding on the parties; provided, however, that nothing in this or any related agreement is intended to disclaim the representations that Franchisor made in the Franchise Disclosure Document furnished to MUD Developer. 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, form of Franchise Agreement or manuals at Franchisor's discretion.

B. Any provisions of this Agreement that may be reasonably interpreted to impose any obligation after termination or expiration hereof shall survive such termination or expiration and be binding upon the parties.

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

D. The term "MUD Developer" shall be construed to refer to the male or female gender in all cases where the MUD Developer is an individual, masculine or feminine modifiers and pronouns notwithstanding. The term "principals" shall include MUD Developer's general and limited partners, if it is a partnership, its officers, directors and shareholders, if MUD Developer is a corporation, and its members and managers, if MUD Developer is a limited liability company. The Article captions are inserted only for convenience and reference, and are not intended to define, limit or describe the scope, intent or language of this Agreement or any provisions hereof.

E. This Agreement shall be binding upon the parties and their heirs, executors, personal representatives, successors and assigns. All signatories to this Agreement and all partners of a partnership MUD Developer, all officers, directors and shareholders of a corporate MUD Developer, and all members and managers of a limited liability company MUD Developer, shall be jointly and severally liable for the performance of all terms, covenants and conditions hereof.

F. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement and all related documents may be executed and delivered by facsimile or other electronic signature method by any of the parties to any other party and each will be deemed original signatures. Electronic copies of this document shall constitute and be deemed an original copy of this document for all purposes, provided that such electronic copies are fully executed, dated and identical in form to the original hard copy version of this document. The receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

## 12. ACKNOWLEDGEMENTS

A. The success of the business venture contemplated to be undertaken by MUD Developer by virtue of this Agreement is speculative and depends, to a large extent, upon the ability of the MUD Developer as an independent businessman, and its active participation in the daily affairs of the business as well as other factors. Franchisor does not make any representations or warranty, express or implied, as to the potential success of the business venture contemplated hereby.

B. MUD Developer acknowledges that it is entering into this Agreement, and all ancillary agreements executed contemporaneously with this Agreement, as a result of its own independent investigation of this franchise and not in reliance on or as a result of any representations made by Franchisor or any of its owners, officers, directors, managers, employees, agents, representatives, attorneys, franchisees, brokers or other franchise sellers that are not contained in or are contrary to the terms set forth in this Agreement or any representation in the Franchise Disclosure Document.

C. MUD Developer represents that it has read this Agreement in its entirety and that it has been given the opportunity to clarify any provisions that it did not understand and to consult with an attorney or other professional advisor. MUD Developer further represents that it understands the terms, conditions and obligations of this Agreement and agrees to be bound thereby.

### **13. ANTI-TERRORISM REPRESENTATIONS**

A. MUD Developer agrees to comply with and/or to assist Franchisor to the fullest extent possible in Franchisor's efforts to comply with Anti-Terrorism Laws (as defined below). In connection with such compliance, MUD Developer certifies, represents and warrants on behalf of itself and MUD Developer's Principal that none of their property or interests are subject to being "blocked" under any of the Anti-Terrorism Laws and that MUD Developer is not otherwise in violation of any of the Anti-Terrorism Laws. "Anti-Terrorism Laws" means Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state and local laws, ordinances, regulations, policies, lists and any other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of, or "blocking" of assets under, the Anti-Terrorism Laws shall constitute grounds for immediate termination of this Agreement and any other agreement MUD Developer has entered into with Franchisor or one of its affiliates, in accordance with the termination provisions of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

**THIS CONTRACT CONTAINS A BINDING ARBITRATION CLAUSE WHICH MAY BE ENFORCED BY THE PARTIES**

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have duly executed and delivered this Agreement the date and year first written above.

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

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

Mark Otter, President and CEO

MUD DEVELOPER: \_\_\_\_\_

[CORPORATION, LLC OR PARTNERSHIP:]

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

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

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

[AS INDIVIDUALS:]

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

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

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

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

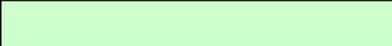
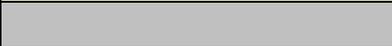
Signature: \_\_\_\_\_

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

**EXHIBIT A**  
**MUD TERRITORY**

Document comparison by Workshare Compare on Wednesday, April 27, 2022  
10:01:05 AM

Input:	
Document 1 ID	8
Description	#25470172v8<work.lathrogpm.com> - Massage Multi-Unit Development Agreement (MUD)
Document 2 ID	9
Description	#25470172v9<work.lathrogpm.com> - Massage Multi-Unit Development Agreement (MUD)
Rendering set	Standard

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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	0
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Format changes	0
Total changes	40



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**EXHIBIT D**  
TO THE DISCLOSURE DOCUMENT  
FINANCIAL STATEMENTS

**MESSAGE LUXE INTERNATIONAL, LLC**

**FINANCIAL STATEMENTS  
AND  
INDEPENDENT AUDITORS' REPORT**

**FOR THE YEARS ENDED  
DECEMBER 31, 2021, 2020, AND 2019**

Massage Luxe International, LLC

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## INDEPENDENT AUDITORS' REPORT

To the Member  
of Massage Luxe International, LLC

### **Opinion**

We have audited the accompanying financial statements of Massage Luxe International, LLC, which comprise the balance sheets as of December 31, 2021, 2020, and 2019, and the related statements of operations, member equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Massage Luxe International, LLC as of December 31, 2021, 2020, and 2019, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Massage Luxe International, LLC 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 Massage Luxe International, LLC's ability to continue as a going concern within 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 generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Massage Luxe International, LLC'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 Massage Luxe International, LLC'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.

*Schmersahl Treloar & Co.*

St. Louis, Missouri  
April 25, 2022

**FINANCIAL STATEMENTS**

Massage Luxe International, LLC  
BALANCE SHEETS

	ASSETS		
	December 31,		
	<u>2021</u>	<u>2020</u>	<u>2019</u>
<b>CURRENT ASSETS</b>			
Cash	\$1,746,716	\$1,021,011	\$1,071,068
Accounts receivable	108,571	221,505	186,288
Notes receivable	-	63,188	150,000
Prepaid expenses and deposits	<u>44,178</u>	<u>11,150</u>	<u>15,148</u>
Total Current Assets	<u>1,899,465</u>	<u>1,316,854</u>	<u>1,422,504</u>
<b>PROPERTY AND EQUIPMENT, net of accumulated depreciation</b>			
	<u>-</u>	<u>11,771</u>	<u>13,294</u>
<b>INTANGIBLE ASSETS, net of accumulated amortization</b>			
	<u>139,129</u>	<u>131,886</u>	<u>73,993</u>
<b>OTHER ASSETS</b>			
Accounts receivable, noncurrent, net of allowance of \$3,050 in 2021, 2020, and 2019	62,750	62,750	62,750
Notes receivable, noncurrent	<u>-</u>	<u>568,693</u>	<u>481,881</u>
Total Other Assets	<u>62,750</u>	<u>631,443</u>	<u>544,631</u>
Total Assets	<u><u>\$2,101,344</u></u>	<u><u>\$2,091,954</u></u>	<u><u>\$2,054,422</u></u>
<b>LIABILITIES AND MEMBER EQUITY</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable and accrued expenses	\$1,022,049	\$ 883,742	\$1,032,586
Current portion - note payable, related party	6,344	11,712	10,831
Deferred revenue	<u>573,955</u>	<u>288,545</u>	<u>224,909</u>
Total Current Liabilities	1,602,348	1,183,999	1,268,326
<b>NOTE PAYABLE, RELATED PARTY</b>	628,021	1,159,533	1,072,318
<b>MEMBER EQUITY</b>	<u>( 129,025)</u>	<u>( 251,578)</u>	<u>( 286,222)</u>
Total Liabilities and Member Equity	<u><u>\$2,101,344</u></u>	<u><u>\$2,091,954</u></u>	<u><u>\$2,054,422</u></u>

See accompanying notes to financial statements

Massage Luxe International, LLC  
STATEMENTS OF OPERATIONS

	Years Ended December 31,		
	2021	2020	2019
<b>REVENUE</b>			
Royalty revenue	\$ 2,791,439	\$ 2,357,054	\$ 2,744,335
Advertising revenue	1,735,748	1,441,997	1,636,336
Franchise fees	100,750	19,000	29,000
Area development agreement fees	20,000	-	-
Other franchise fee revenue	287,775	265,803	266,025
Other revenue	499,509	492,891	214,174
	<b>Total Revenue</b>	<b>4,576,745</b>	<b>4,889,870</b>
<b>COST OF SALES</b>			
Advertising	1,735,748	1,441,997	1,636,336
Area developer commissions and royalties	950,256	806,533	931,976
Other cost of sales	294,139	265,803	266,025
	<b>Total Cost of Sales</b>	<b>2,514,333</b>	<b>2,834,337</b>
<b>OPERATING EXPENSES</b>			
Salaries and taxes	1,557,686	1,371,275	1,315,707
Occupancy expenses	139,403	152,229	152,737
Other advertising	130,602	25,500	-
Professional services	121,916	242,182	335,048
Amortization and depreciation	69,773	37,230	20,790
Operating expenses	57,523	39,771	63,609
Insurance expense	56,364	50,544	51,752
Other expenses	39,172	26,124	25,685
Travel	34,786	27,018	99,428
Franchise operator expenses	18,193	8,264	134,235
Bad debt expense	-	-	369
	<b>Total Operating Expenses</b>	<b>1,980,137</b>	<b>2,199,360</b>
<b>NET OPERATING INCOME (LOSS)</b>	<b>229,660</b>	<b>82,275</b>	<b>( 143,827)</b>
<b>OTHER INCOME (EXPENSE)</b>			
Interest income	146	41,757	51,256
Interest expense	( 96,498)	( 89,388)	( 82,779)
Discontinued use of leased property	( 10,755)	-	-
Other non-operating expense	-	-	( 188,686)
	<b>Total Other Expense</b>	<b>( 47,631)</b>	<b>( 220,209)</b>
<b>NET INCOME (LOSS)</b>	<b>\$ 122,553</b>	<b>\$ 34,644</b>	<b>(\$ 364,036)</b>

See accompanying notes to financial statements

Massage Luxe International, LLC  
STATEMENTS OF MEMBER EQUITY

BALANCE, December 31, 2018	\$ 77,814
Net loss	<u>( 364,036)</u>
BALANCE, December 31, 2019	( 286,222)
Net income	<u>34,644</u>
BALANCE, December 31, 2020	( 251,578)
Net income	<u>122,553</u>
BALANCE, December 31, 2021	<u><u>(\$ 129,025)</u></u>

See accompanying notes to financial statements

Massage Luxe International, LLC  
STATEMENTS OF CASH FLOWS

	Years Ended December 31,		
	<u>2021</u>	<u>2020</u>	<u>2019</u>
<b>OPERATING ACTIVITIES</b>			
Net income (loss)	\$ 122,553	\$ 34,644	(\$ 364,036)
Adjustments to reconcile net (loss) income to net change in cash from operating activities:			
Amortization and depreciation	69,773	37,230	20,790
Discontinued use of leased property	10,755	-	-
Bad debt expense	-	-	369
(Increase) decrease in assets:			
Accounts receivable, net	112,934	( 35,217)	107,588
Prepaid expenses and deposits	( 33,028)	3,998	( 284)
Increase (decrease) in liabilities:			
Accounts payable and accrued expenses	233,308	( 60,748)	341,147
Deferred revenue	<u>285,410</u>	<u>63,636</u>	<u>139,916</u>
Net Change in Cash from Operating Activities	<u>801,705</u>	<u>43,543</u>	<u>245,490</u>
<b>INVESTING ACTIVITIES</b>			
Payments on notes receivable	-	-	165,000
Purchases of intangible assets	<u>( 76,000)</u>	<u>( 93,600)</u>	<u>( 60,000)</u>
Net Change in Cash from Investing Activities	<u>( 76,000)</u>	<u>( 93,600)</u>	<u>105,000</u>
NET CHANGE IN CASH	725,705	( 50,057)	350,490
CASH, Beginning of year	<u>1,021,011</u>	<u>1,071,068</u>	<u>720,578</u>
CASH, End of year	<u>\$ 1,746,716</u>	<u>\$ 1,021,011</u>	<u>\$ 1,071,068</u>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOWS INFORMATION:</b>			
Cash paid during the year for interest expense	<u>\$ 1,138</u>	<u>\$ 959</u>	<u>\$ 1,192</u>

See accompanying notes to financial statements

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019

**A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Operations**

Massage Luxe International, LLC (“MLI”) was formed in 2007 as a Missouri limited liability company and began operations in 2008. MLI enters into franchise agreements in the massage and facial spa industry throughout the United States that offer therapeutic massages, facials and waxing services and related auxiliary products. All spas are independently owned and operated under the terms of franchise agreements and offer spa services to the public on a membership and non-membership basis. MLI also offers multi-unit agreements and area development agreements. Once these agreements have been established, MLI will continue to manage its network of franchises and collect royalty, advertising fees, and other franchise fees. MLI operates under the name of Massage Luxe International, LLC and the franchises are operated under the name of MassageLuXe.

The Federal Trade Commission and various states authorities regulate the franchising activities of MLI.

**Cash**

MLI maintains its cash in bank deposit accounts, which at times, may exceed federally insured limits insured by the Federal Deposit Insurance Corporation (FDIC).

**Accounts Receivable**

MLI generates accounts receivable in the normal course of business. MLI grants credit to franchisees throughout the United States, and generally does not require collateral to secure the accounts receivable. Accounts receivable are stated at the net realizable value. Accounts receivable from franchisees in accordance with the franchise agreement are due immediately. Accounts greater than 120 days past due are reviewed and written off based on individual credit evaluation and specific circumstances of the customer. MLI provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance.

**Intangible Assets**

Acquisitions of intangible assets are recorded at cost. When assets are sold or retired, the cost and related accumulated amortization are removed from the accounts and any gain or loss is reported in the statements of operations. Amortization is provided over the estimated useful life of each class of amortizable asset and is computed using the straight-line method over the estimated useful life.

**Property and Equipment**

Acquisitions of property and equipment are recorded at cost. Improvements and replacements of property and equipment are capitalized. Maintenance and repairs that do not improve or extend the lives of property and equipment are charged to expense as incurred. When assets are sold or retired, the cost and related accumulated depreciation are removed from the accounts and any gain or loss is reported in the statements of operations. Depreciation is provided over the estimated useful life of each class of depreciable assets and is computed using the straight-line and accelerated method over the estimated useful life of 10 years.

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

A. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

**Revenue Recognition**

Franchise Fees

MLI sells individual franchises. The franchise agreements require the franchisee to pay an initial, non-refundable fee prior to opening the respective location(s). Under the terms of the franchise agreements, MLI's obligations include training, general operational guidance, and on-site consultation. Under Topic 606, MLI determined that these certain activities represent one single performance obligation. Initial franchise fees paid by franchisees for each arrangement are deferred until the spa opens, and are recognized as revenue in their entirety on that date. If approved, a franchisee may transfer a franchise agreement to a new or existing franchisee, at which point a transfer fee is typically paid.

Area Development Agreements Fees

Area development agreements provide for the development of a specified number of spas within a defined geographic territory in accordance with a schedule of opening dates. Development schedule timeframes are dependent on the size of the territory and the recognition of the franchise name within the territory. Development agreement payments are initially made when the agreement is executed and are paid in full at that time. Revenue related to area development agreements will be recognized in line with the related franchise fee. As of December 31, 2021, MLI has 11 area development agreements requiring the development of 389 MassageLuXe spas at various dates, up to October 30, 2038. A total of 69 MassageLuXe spas have been developed of which 58 spas were developed in connection with these development agreements as of December 31, 2021. Over the past three years, four, three, and five, new spas were added for the years ended 2021, 2020, and 2019, respectively.

Royalty Revenue

Royalty fees are earned on a daily basis and collected on a weekly basis.

Advertising Revenue

Advertising fees are earned on a daily basis and collected on a weekly basis. MLI collects advertising funds for its Creative Services Advertising Fund per the franchise agreements. Advertising fund monies are used to promote brand awareness of the services provided by franchisees, including, but not limited to, creation of marketing and promotional materials, maintenance of websites, social media advertising, search engine marketing and advertising support and services for the franchise system. Advertising fund revenue is recognized per the franchise agreements. Any amount collected but unspent at the end of the year is reported as accrued expenses on the accompanying balance sheets. The related accrued expenses on the balance sheets as of December 31, 2021, 2020, and 2019, were \$234,723, \$172,046, and \$198,607, respectively.

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

A. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

**Revenue Recognition** (Continued)

Gift Card Revenues

MLI sells gift cards online to its customers. The gift cards do not have an expiration date. An obligation is recorded at the time of sale of the gift card and it is included in deferred revenue. These gift cards are valid for services and products at any franchise location. Once the gift card is redeemed at a franchise location, MLI reimburses the franchisee. Under Topic 606, MLI recognizes gift card breakage based on historical redemption rates and recognized in proportion to the actual redemptions of the gift card. Significant judgments and estimates are required in determining the breakage rate and will be assessed annually. It is possible that the judgments and estimates used will change in the near term.

**Advertising**

MLI expenses advertising costs as they are incurred. Advertising expenses for the years ended December 31, 2021, 2020, and 2019 were \$1,735,748, \$1,441,997 and \$1,636,336 respectively.

**Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from these estimates.

**Income Taxes**

MLI has elected to be treated as a Limited Liability Company (LLC) under the provisions of the Internal Revenue Code. As a result of this election, the earnings of MLI are taxable to its member and no provision has been made for federal or state income taxes in the accompanying financial statements for the years ending December 31, 2021, 2020, and 2019. MLI follows the provisions related to uncertain tax positions as addressed by the Financial Accounting Standards Board and management is not aware of any uncertain tax positions of MLI related to the tax filings. MLI's tax returns for tax years 2018 and later remain open to examination by taxing authorities, generally for three years after the returns are filed.

**Concentration of Credit Risk**

MLI generates accounts receivable in the normal course of business. MLI grants credit to franchisees throughout the United States and generally does not require collateral to secure the accounts receivable. Management provides for potential uncollectible amounts through a charge to earnings and a credit to a valuation allowance based on its assessment of the current status of individual accounts. The allowance is estimated at \$3,050 for the years ending December 31, 2021, 2020, and 2019, respectively.

**Reclassification**

Certain 2020 amounts have been reclassified to conform with the 2021 financial statement presentation.

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

A. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (Continued)

**Subsequent Events**

In preparing these financial statements, MLI has evaluated events and transactions for potential recognition or disclosure through April 25, 2022, the date the financial statements were available to be issued.

B. **NOTES RECEIVABLE**

Note Receivable A

As of December 31, 2019, MLI had a line of credit promissory note with an unrelated party, of which \$405,479 was used at December 31, 2019. Monthly payments of interest only were due on the line of credit promissory note. The note originally matured December 31, 2019 and carried an annual interest rate of 6.5%. During the fiscal year 2019, \$100,000 was paid on the promissory note. At December 31, 2019, the line of credit promissory note was extended with a maximum line of credit balance of \$310,000, of which \$305,479 was used at December 31, 2019. Monthly payments of interest only are due on the line of credit promissory note. The note matured December 31, 2020 and carried an annual interest rate of 6.5%. At December 31, 2020, the note receivable has a balance of \$305,479. During 2021, the note receivable balance in the amount of \$305,479 was assumed by the investor/lender as partial payment of the related party term loan (Note F).

Note Receivable B

As of December 31, 2019, MLI had a line of credit promissory note with an unrelated party, of which \$93,288 was used at December 31, 2019. Monthly payments of interest only were due on the line of credit promissory note. The note originally matured December 31, 2019 and carried an annual interest rate of 6.5%. During the fiscal year 2019, \$248,114 was transferred from the line of credit promissory note with BRJ, LLC. At December 31, 2019, the line of credit promissory note was extended with a maximum line of credit balance of \$330,000, of which \$326,402 was used at December 31, 2019. Monthly payments of interest only are due on the line of credit promissory note. The note matured December 31, 2020 and carried an annual interest rate of 6.5%. At December 31, 2020, the note receivable had a balance of \$326,402. During 2021, the note receivable balance in the amount of \$326,402 was assumed by the investor/lender as partial payment of the related party term loan (Note F).

Note Receivable C

As of December 31, 2019, MLI had a line of credit promissory note with an unrelated party, of which \$298,114 was used at December 31, 2019. Monthly payments of interest only were due on the line of credit promissory note. The note matured December 31, 2019 and carried an annual interest rate of 6.5%. During the fiscal year 2019, \$50,000 was paid on the promissory note and the remaining balance due of \$248,114 was transferred to the line of credit promissory note with Note Receivable B, representing payment in full of the note balance.

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

**C. PROPERTY AND EQUIPMENT**

	2021	2020	2019
Property and equipment	\$ 5,925	\$ 21,161	\$ 21,161
Less: accumulated depreciation	( 5,925)	( 9,390)	( 7,867)
Total Property and Equipment, Net	<u>\$ -</u>	<u>\$ 11,771</u>	<u>\$ 13,294</u>

Depreciation expense for the years ended December 31, 2021, 2020, and 2019 was \$1,016, \$1,523, and \$2,413, respectively.

**D. INTANGIBLE ASSETS**

Intangible assets consist of the following at December 31, 2021:

	Weighted Average <u>Useful Life</u>	Carrying <u>Amount</u>	Accumulated <u>Amortization</u>	Net Carrying <u>Amount</u>
Other intangibles	15	\$ 66,561	(\$ 61,381)	\$ 5,180
Trademarks	10	38,162	( 31,938)	6,224
Branding	5	41,500	( 41,500)	-
Website development	3	60,200	( 26,450)	33,750
Software development	3	214,200	( 120,225)	93,975
Total Intangible Assets, Net		<u>\$ 420,623</u>	<u>(\$ 281,494)</u>	<u>\$ 139,129</u>

Intangible assets consist of the following at December 31, 2020:

	Weighted Average <u>Useful Life</u>	Carrying <u>Amount</u>	Accumulated <u>Amortization</u>	Net Carrying <u>Amount</u>
Other intangibles	15	\$ 66,561	(\$ 56,944)	\$ 9,617
Trademarks	10	38,162	( 30,235)	7,927
Branding	5	41,500	( 41,500)	-
Website development	3	50,200	( 15,200)	35,000
Software development	3	148,200	( 68,858)	79,342
Total Intangible Assets, Net		<u>\$ 344,623</u>	<u>(\$ 212,737)</u>	<u>\$ 131,886</u>

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

D. **INTANGIBLE ASSETS** (Continued)

Intangible assets consist of the following at December 31, 2019:

	Weighted Average <u>Useful Life</u>	Carrying <u>Amount</u>	Accumulated <u>Amortization</u>	Net Carrying <u>Amount</u>
Other intangibles	15	\$ 66,561	(\$ 52,507)	\$ 14,054
Trademarks	10	38,162	( 27,389)	10,773
Branding	5	41,500	( 41,500)	-
Website development	3	15,200	( 15,200)	-
Software development	3	89,600	( 40,434)	49,166
Total Intangible Assets, Net		<u>\$ 251,023</u>	<u>(\$ 177,030)</u>	<u>\$ 73,993</u>

Amortization expense for 2021, 2020, and 2019 was \$68,757, \$35,707, and \$18,377, respectively. Estimated amortization expense at December 31, 2021 for each of the five succeeding fiscal years is as follows:

<u>Year Ending December 31,</u>	
2022	71,555
2023	50,269
2024	15,334
2025	1,418
2026	553

E. **DEFERRED REVENUE**

Deferred revenue includes unearned franchise fees received and gift card funds received that have not yet been redeemed in a spa.

Initial franchise fees paid by franchisees are deferred until MLI performs the obligations included in respective franchise agreements: training, general operational guidance, and on-site consultation. Under Topic 606, MLI determined that these certain activities represent one single performance obligation. Initial franchise fees paid by franchisees for each arrangement are deferred until the spa opens and are recognized as revenue in their entirety on that date. For the years ended December 31, 2021, 2020, and 2019, deferred franchise revenue was \$331,000, \$170,500, and \$95,000, respectively.

An obligation is recorded at the time of sale of the gift card and it is included in deferred revenue. Gift cards are valid for services and products at any franchise location. Once the gift card is redeemed at a franchise location, MLI reimburses the franchisee. Under Topic 606, MLI recognizes gift card breakage based on historical redemption rates and recognized in proportion to the actual redemptions of the gift card. For the years ended December 31, 2021, 2020 and 2019, total deferred revenue related to gift cards was \$242,955, \$118,045 and \$129,909, respectively.

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

**F. NOTE PAYABLE, RELATED PARTY AND NOTE RECEIVABLE OFFSET**

MLI has a related party term loan payable to the investor/lender in the original amount of \$1,002,091.

MLI had a noncash investing and financing transaction during the year ended December 31, 2021. The investor/lender agreed to a reduction in the amount due on the term loan in exchange for the assignment of amounts due to MLI for two notes receivable from an unrelated party (Note B). The agreed reduction in the amount due on the term loan was \$631,881, resulting in a loan balance of \$634,365 as of December 31, 2021.

During the year ended December 31, 2021, \$95,001 of interest incurred during 2021 was converted to principal on December 14, 2021 as a noncash transaction.

During the year ended December 31, 2020, \$88,096 of interest incurred during 2020 was converted to principal on December 14, 2020 as a noncash transaction.

During the year ended December 31, 2019, \$81,058 of interest incurred during 2019 was converted to principal on December 14, 2019 as a noncash transaction.

Related interest expense in the amount of \$95,360, \$88,096 and \$81,587 was incurred during 2021, 2020 and 2019, respectively. The term loan bears interest at 8% per annum with a maturity date of December 14, 2026. Future minimum payments are as follows:

<u>Year Ending December 31,</u>	<u>Amount</u>
2022	\$ 6,344
2023	6,280
2024	6,217
2025	6,155
2026	<u>609,369</u>
	<u>\$634,365</u>

**G. PAYROLL PROTECTION PROGRAM INCOME**

On April 24, 2020, MLI was granted a loan in the amount of \$291,933, pursuant to the Paycheck Protection Program (PPP), established as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Under certain circumstances, all or part of the loan may be forgiven.

As of December 31, 2020, MLI spent PPP funds on eligible expenses based on regulations such that the loan would be forgiven in full. As such, the MLI converted \$291,933 to PPP income for the year ended December 31, 2020, of which \$39,941 is included in advertising revenue and \$251,992 is included in other revenue on the statements of operations. On January 7, 2021, MLI received notification from the Small Business Administration (SBA) that the full amount of the loan had been forgiven.

Massage Luxe International, LLC  
NOTES TO FINANCIAL STATEMENTS  
December 31, 2021, 2020, and 2019  
(Continued)

**H. LEASE AGREEMENT**

During fiscal year 2019, MLI entered into a verbal agreement for a month-to-month operating lease to rent office and warehouse space. In addition to monthly rent, MLI is responsible for common area maintenance fees and real estate taxes. Total rent expense under this lease agreement was \$67,370, \$101,130 and \$101,511 during 2021, 2020 and 2019, respectively. During fiscal year 2021, MLI terminated this lease agreement.

During fiscal year 2021, MLI entered into a sub-lease agreement for office space set to expire June 30, 2022. Total rent expense under this agreement was \$28,714 during 2021.

Additionally, during fiscal year 2021, MLI has signed a lease agreement to lease the office space and a buildout of additional office space to commence February 23, 2022 through September 30, 2025. In addition to monthly rent, MLI is responsible for any increases in real estate taxes and operating expenses over the base year.

The future minimum lease commitments are as follows:

<u>Year Ending December 31,</u>	<u>Amount</u>
2022	\$ 91,687
2023	113,268
2024	115,617
2025	<u>88,029</u>
	<u><u>\$408,601</u></u>

**I. CONTINGENCIES**

In the ordinary course of business, MLI receives information regarding potential claims against MLI from customers. Management has represented that its insurance company is responsible for handling any and all such claims and believes the insurance coverage is adequate to protect MLI in the event of a successful claim. An estimate of possible damages, if any, which MLI would be liable for, cannot be made at this time.

**J. ECONOMIC UNCERTAINTY**

As the spread of the COVID-19 coronavirus continues worldwide, economic uncertainties have arisen that are likely to impact the MLI's financial results. While management expects this impact to be temporary, the severity and duration of the impact is uncertain at this time.

**EXHIBIT E**  
**TO THE DISCLOSURE DOCUMENT**  
**STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

**LIST OF STATE ADMINISTRATORS**

Listed below are the names, addresses and telephone numbers of the state agencies having responsibility for franchising disclosure/registration laws:

**California**

Department of Financial  
Protection & Innovation  
One Sansome Street, Suite 600  
San Francisco, CA 94104  
(415) 557-3787  
(866) 275-2677

**Florida**

Department of Agriculture and  
Consumer Services  
Division of Consumer Services  
227 N. Bronough Street  
City Centre Building, 7<sup>th</sup> Floor  
Tallahassee, FL 32301  
(904) 922-2770

**Hawaii**

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

**Illinois**

Office of Attorney General  
Franchise Division  
500 South Second Street  
Springfield, IL 62706  
(217) 782-4465

**Indiana**

Indiana Secretary of State  
Securities Division  
302 West Washington Street  
Room E-111  
Indianapolis, IN 46204  
(317) 232-6681

**Maryland**

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

**Michigan**

Attorney General  
Consumer Protection Division  
525 W. Ottawa Street  
G. Mennen Williams Bldg. 1<sup>st</sup> Fl  
Lansing, MI 48913  
(517) 373-7117

**Minnesota**

Department of Commerce  
Securities-Franchise Registration  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101-2198  
(651) 539-1500

**Nebraska**

Department of Banking and  
Finance  
1526 K Street, Suite 300  
P.O. Box 95006  
Lincoln, NE 68508  
(402) 471-3445

**New York**

NY State Attorney General  
Division of Economic Justice  
Investor Protection Bureau  
28 Liberty Street  
New York, NY 10005  
(212) 416-8222

**North Dakota**

North Dakota Securities  
Department  
600 East Boulevard, State  
Capitol, 5<sup>th</sup> Floor, Dept. 414  
Bismarck, ND 58505-0510  
(701) 328-4712

**Oregon**

Depart. Of Ins. And Finance  
Corporate Securities Section  
Labor and Industries Building  
Salem, OR 97310  
(503) 378-4387

**Rhode Island**

Depart. Of Business Regulation  
Division of Securities  
233 Richmond Street, Suite 232  
Providence, RI 02903  
(401) 222-3048

**South Dakota**

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

**Texas**

Secretary of State  
Statutory Document Section  
P.O. Box 13563  
Austin, TX 78711  
(512) 475-1769

**Virginia**

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

**Washington**

Securities Administrator  
Department of Financial  
Institutions  
Securities Division  
P.O. Box 9033  
Olympia, WA 98507-9033  
(360) 902-8760

**Wisconsin**

Department of Financial  
Institutions Div. of Securities  
345 W. Washington Ave., 4<sup>th</sup> FL  
Madison, WI 53703  
(608) 261-9555

## **Agents for Service of Process**

### **California**

Commissioner of Financial Protection & Innovation  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, California 90013-2344  
(213) 576-7505  
(866) 275-2677

### **Hawaii**

Commissioner of Securities  
Business Registration Division  
335 Merchant Street, Room 203  
Honolulu, HI 96813  
(808) 586-2722

### **Illinois**

Illinois Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-1090

### **Indiana**

Indiana Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, Indiana 46204  
(317) 232-6531

### **Maryland**

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

### **Michigan**

Department of Commerce,  
Corporations and Securities Bureau  
6546 Mercantile Way  
Lansing, Michigan 48910  
(517) 334-6212

### **Minnesota**

Commissioner of Commerce  
Department of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, Minnesota 55101-2198  
(651) 539-1500

### **New York**

New York Secretary of State  
99 Washington Avenue  
Albany, New York 12231  
(518) 473-2492

### **North Dakota**

North Dakota Securities Department  
600 East Boulevard, State Capitol  
5<sup>th</sup> Floor, Dept. 414  
Bismarck, ND 58505-0510  
(701) 328-4712

### **Oregon**

Director of Oregon  
Department of Insurance and Finance  
700 Summer Street, N.E., Suite 120  
Salem, Oregon 97310  
(503) 378-4387

### **Rhode Island**

Director of Rhode Island  
Department of Business Regulation  
233 Richmond Street, Suite 232  
Providence, Rhode Island 02903-4232  
(401) 222-3048

### **South Dakota**

Director of South Dakota Division of Insurance  
124 S Euclid, Suite 104  
Pierre, South Dakota 57501  
(605) 773-3563

### **Virginia**

Clerk of the State Corporation Commission  
1300 East Main Street, 9<sup>th</sup> Floor  
Richmond, Virginia 23219  
(804) 371-9733

### **Washington**

Securities Administrator  
Department of Financial Institutions  
150 Israel Rd.  
Tumwater, Washington 98501  
(360) 902-8760

### **Wisconsin**

Wisconsin Commissioner of Securities  
345 W. Washington Ave., 4<sup>th</sup> Floor  
Madison, Wisconsin 53703  
(608) 261-9555

**EXHIBIT F**  
**TO THE DISCLOSURE DOCUMENT**  
**LIST OF FRANCHISEES**

**LIST OF FRANCHISEES**

<b>FRANCHISEE NAME</b>	<b>ADDRESS</b>	<b>TELEPHONE</b>
Desert Spa, LLC Attn: Matt and Carissa Krupski	2975 East Ocotillo Road, Suite 13 Chandler, AZ 85249	(480) 626-1221
WRENCO Attn: TJ Wren	3800 Barranca Parkway Irvine, CA 92606	(949) 783-5893
<del>ALLINVESTMENT, INC. Attn: Min Lin</del>	<del>1581 Sloat Boulevard San Francisco, CA 94132</del>	<del>(415) 702-6415</del>
Serenity Den 1, LLC Attn: Steve Allison	5058 East Hampden Avenue Denver, CO 80222	(303) 756-5893
Amani, Enterprises LLC Attn: Danielle McLean	609 H Street N.E. Washington, D.C.	(202) 558-6160
Bonita Springs 3306 LLC Attn: Randy and Linda Cofield	3300 Bonita Beach Road Suite 127-129 Bonita Springs, FL 34134	(239) 992-5893
Little John, LLC Attn: Eric Jenkins	2301 Del Prado Boulevard S. Suite 810 Cape Coral, FL 33990	(239) 202-0522
GGMJ, LLC Attn: Monique J. Monteiro	4637 North University Drive Coral Springs, FL 33067	(954) 227-0106
Carr Group Enterprises, LLC Attn: Greg Carr	4969 Volunteer Rd. Davie, FL 33330	(954) 380-8554
Gulf Shores Spas, LLC Attn: Eric and Rachel Jenkins	13401 Summerlin Road, Suite 4 Fr. Myers, FL 33919	(239) 332-5893
Florida Massage Lake Mary LLC Attn: Michael Cavaseno	1125 Townpark Avenue, Suite 1031 Lake Mary, FL 32746	(239) 250-7777
Lakewood Ranch, LLC Attn: Michele Smith	8378 Market St., Suite A40 Lakewood Ranch, FL 34202	(941) 358-5893
First Cornerstone, LLC Attn: Bill Voegtli	3919 Van Dyke Road Lutz, FL 33558	(813) 681-2232
Rontu Investment Group, Inc. Attn: Greg Carr	244 NE 3 <sup>rd</sup> Street Miami, FL 33132	(305) 676-6766
Stormborn Heavens, LLC Attn: Eric Jenkins	7729 Collier Blvd., Suite 504 Naples, FL 34114	(239) 214-8995
Florida Massage Naples, LLC Attn: Michael Cavaseno	2460 Vanderbilt Beach Road Unit 400 Naples, FL 34109	(239) 254-5893
Mattisyn, LLC	5310 Donald Ross Road, Suite	(561) 270-5151

FRANCHISEE NAME	ADDRESS	TELEPHONE
Attn: Paula Francese	105 Palm Beach Garden, FL 33415	
Third Cornerstone, LLC Attn: Bill Voegtli	30549 US Highway 19 North Palm Harbor, FL 34684	(727) 489-9700
Happily Balanced, Inc. Attn: Michelle Kameka	602 N. University Drive Pembroke Pines, FL 33024	(954) 228-7188
Pelican3306, LLC Attn: Randy Cofield	8230 South Tamiami Trail Sarasota, FL 34238	(941) 966-5893
Mass Luxury Tampa LLC Attn: Gita Dassani	206 37th Ave. North St. Petersburg, FL 33704	(727) 895-5893
Mass Luxury St Pete, LLC Attn: Gita Dassani	1706 South Dale Mabry Highway Tampa, FL 33629	(813) 489-6486
Second Cornerstone, LLC Attn: Bill Voegtli	12161 W. Linebaugh Ave. Tampa, FL 33626	(813) 343-0024
Florida Massage Winter Park, LLC Attn: Michael Cavaseno	2217 Aloma Avenue Winter Park, FL 32792	(407) 740-5893
VV Concepts, LLC Attn: Rahul Kommineni	204 South Buchanan Street Edwardsville, IL 62025	(618) 307-0093
MARLAK, LLC Attn: Mike and Rebecca Collins	6540 N. Illinois, Suite 103 Fairview Heights, IL 62208	(618) 624-5893
D&P I, LTD Attn: Don Anderson	2728 W. 75 <sup>th</sup> Street, Suite 112 Naperville, IL 60564	(630) 281-2500
VV Designs, LLC Attn: Rahul Kommineni	2314 Wabash Avenue Springfield, IL 62704	(217) 702-4444
Ken and Gulu Luxury Massage Spa, Inc. Attn: Ken and Gulu Khangura	7181 Kingery Road Willowbrook, IL 60527	(630) 455-4090
VV Indiana, LLC Attn: Rahul Kommineni	11529 Spring Mill Rd., Suite 200 Carmel, IN 46032	(317) 203-3303
<a href="#">VV INDYSPA, LLC</a> <a href="#">Attn: Rahul &amp; Haritha Kommineni</a>	<a href="#">325 N. Pennsylvania St Indianapolis, IN 46204</a>	<a href="#">(463) 224-8399</a>
Drishti Corporation Attn: Rahul Patel	15913 Antioch Road Overland Park, KS 66223	(913) 538-5558
<a href="#">Kubera, LLC</a> <a href="#">Attn:Srinvas &amp; Kalpana Devarasetty</a>	<a href="#">11536 Ash Street Leawood, KS 66211</a>	<a href="#">(913) 906-8826</a>
R & J Spa 1, LLC	2222 S. Main Street	(734) 418-3111

<b>FRANCHISEE NAME</b>	<b>ADDRESS</b>	<b>TELEPHONE</b>
Attn: Bhupinder S Nijjar	Ann Arbor, MI 48103	
R & J Spa 2, LLC Attn: Bhupinder S. Nijjar	160 S. Zeeb Rd, Suite B Ann Arbor, MI 48103	(734) 773-0523
Lucky One Enterprises, LLC Attn: Rupinder Narsinghia	33347 Woodward Avenue Birmingham, MI 48009	(248) <del>214-4371</del> <a href="tel:248-963-1117">963-1117</a>
Neena Enterprises 4, LLC Attn: Surinder and Neena Judge	43296 11 Mile Road Novi, MI 48375	(248) 214-4371
C E Kuehnel Enterprises LLC Attn: Colleen Kuehnel	4050 Rochester Rd., Suite B Troy, MI 48085	(248) 532-0008
Neena Enterprises 5, LLC Attn: Surinder and Neena Judge	6563 Orchard Lake Road West Bloomfield, MI 48322	(248) 214-4371
T & E, LLC Attn: Erika Hill	1409 South Hanley Road Brentwood, MO 63144	(314) 594-5893
Show Me Luxe, LLC Attn: Mike and Rebecca Collins	1208 NE Coronado Drive Blue Springs, MO 64014	(816) 229-5893
ML Chesterfield, LLC Attn: Damon Schwartz	1656 Clarkson Road Chesterfield, MO 63017	(636) 536-1330
DREAMZ, LLC Attn: Todd Layton and Donna Lauer	3507 Norfleet Drive, Suite 103 Columbia, MO 65201	(573) 227-4300
Serenity COT 3, LLC Attn: Steve Allison	4500 Mid Rivers Mall Drive Cottleville, MO 63376	(636) 224-4099
ABTB ML Creve Coeur, LLC Attn: Stephanie Bozich	12410 Olive Boulevard Creve Coeur, MO 63141	(314) 439-5893
MO SOCO, LLC Attn: Darren and Jane Thomas	672 Gravois Bluffs Boulevard Suite B Fenton, MO 63026	(636) 349-5893
ABTB ML Kirkwood, LLC Attn: Stephanie Bozich	1246 South Kirkwood Road Kirkwood, MO 63122	(314) 821-9191
<a href="#">Serenity 5, LSL, LLC</a> <a href="#">Attn: Margo Allison</a>	<a href="#">6103 Ronald Reagan Dr, Suite A Lake St Louis, MO 63367</a>	<a href="tel:636-856-5455">(636) 856-5455</a>
<a href="#">LEE LUXE, LLC</a> <a href="#">Attn: Mike and Rebecca Collins</a>	<a href="#">940 NW Pryor Rd Suite H Lee's Summit, MO 64081</a>	<a href="tel:816-224-7967">(816) 224-7967</a>
ML Highlands, LLC Attn: Darren and Jane Thomas	921 Brittany Parkway Manchester, MO 63011	(636) 527-5893
Serenity Investments 1 L.L.C.	2526 Hwy K O'Fallon, MO 63368	(636) 272-5893

MassageLuXe®

2021-2022 Franchise/MUD Multistate

FRANCHISEE NAME	ADDRESS	TELEPHONE
Attn: Steve Allison		
ML Salon Investments, LLC Attn: Jason Malacarne	9572 Manchester Road Rock Hill, MO 63119	(314) 961-5893
Serenity 2 STC, L.L.C. Attn: Steve Allison	1520 S. Fifth Street, Suite 104 St. Charles, MO 63303	(636) 724-0123
ML South55, LLC Attn: Jane Thomas	4100 Elm Park Drive St. Louis, MO 63123	(314) 375-3737
<del>ABTB ML CWE, LLC</del> <del>Attn: Stephanie Bozieh</del>	<del>11 N. Euclid</del> <del>St. Louis, MO 63108</del>	<del>(314) 367-5893</del>
Serenity 4 STL, LLC Attn: Steve Allison	7505 Watson Road St. Louis, MO 63119	(314) 256-9966
Wentzville ML, LLC Attn: Khalid Ramadan	1851 Wentzville Parkway Wentzville, MO 63385	(636) 639-6006
<del>Layne Spa</del> <a href="#">RAMCES</a> , LLC Attn: <del>Bill Taylor and Stephanie Wrenn</del> <a href="#">Mike and Rebecca Collins</a>	1009 Beaver Creek Commons Dr. Apex, NC 27502	(919) 261-3121
<del>Layne Spas</del> <a href="#">MAREAC</a> , LLC Attn: <del>Bill Taylor and Stephanie Wrenn</del> <a href="#">Mike and Rebecca Collins</a>	7436 Creedmore Road Raleigh, NC 27613	(919) 249-5244
Kendall Park ML, LLC Attn: Sapan Inamdar	3562 Route 27, Suite 111 Kendall Park, NJ 08824	(732) 821-5893
Middletown ML, LLC Attn: Sapan Inamdar	1387 Route 35 Middletown, NJ 07748	(732) 856-9483
Fred Ebrahimi	327 Franklin Avenue Wyckoff, NJ 07481	(201) 425-8338
Wayne & Grayson, LLC Attn: Eric Jenkins	1400 Gilbert Way, Suite 102 Lancaster, PA 17601	(717) 431-6588
KASA X, LLC – Series Capital View, LLC Attn: Stephanie Attarian	400 11 <sup>th</sup> Avenue N Nashville, TN 37203	(615) 346-9222
500WSB Southlake Spa, Inc. Attn: Raj Rametra (transferred in 2022)	500 W. Southlake Blvd., Suite #106 Southlake, TX 76092	(817) 484-0488
MLuxe Volvo, LLC Attn: <del>Parisa N. Grainger</del> <a href="#">Hugh Fard</a>	109 Volvo Parkway, Suite 101 Chesapeake, VA 23320	(757) 512-5380
Holding Onto Our Dreams LLC Attn: Quintin Hood	9054 Staples Mill Road Henrico, VA 23228	(804) 332-5006
MLuxe 3, LLC Attn: <del>Parisa N. Grainger</del> <a href="#">Hugh Fard</a>	6255 College Drive, Suite A-P Suffolk, VA 23435	(757) 468-6300

FRANCHISEE NAME	ADDRESS	TELEPHONE
MLuxe 2, LLC Attn: <del>Parisa N. Grainger</del> <a href="#">Hugh Fard</a>	Brenneman Farms Shopping Center 4540 Princess Anne Road Virginia Beach, VA 23462	(757) 468-6300
<a href="#">RAEMAE Wellness, LLC</a> Attn: <a href="#">Tyler and Parisa Grainger</a>	<a href="#">1860 Laskin Road</a> <a href="#">Virginia Beach, VA 23454</a>	<a href="#">(757) 422-5893</a>
MLuxe Williamsburg LLC Attn: <del>Parisa N. Grainger</del> <a href="#">Hugh Fard</a>	5239 Monticello Ave. Williamsburg, VA 23188	(757) 645-9788

**FRANCHISEES WHO HAVE SIGNED A FRANCHISE AGREEMENT  
BUT HAD NOT OPENED AS OF DECEMBER 31, ~~2020~~2021**

FRANCHISEE NAME	STREET ADDRESS	TELEPHONE
<del>VV</del> INDYSPA, LLC Attn: <del>Rahul &amp; Haritha Kommineni</del>	<del>325 N. Pennsylvania St</del> <del>Indianapolis, IN 46204</del>	<del>(901) 497-2649</del>
Rontu Investment Group, Inc. Attn: Greg Carr	TBD in Florida	(305) 676-6766
TRILUXE, LLC Attn: Mike and Rebecca Collins	<del>TBD in Overland Park, KS</del>	(618) 978-1393
<a href="#">Bloomfield MassageLuxe, LLC</a> Attn: <a href="#">Reuben Levy</a>	<a href="#">2125 S. Telegraph Rd</a> <a href="#">Unit #2</a> <a href="#">Bloomfield Hills, MI 48302</a>	<a href="#">(248) 449-9100</a>
<a href="#">MASKLUXE LLC</a> Attn: <a href="#">Matt and Stephanie Hotchkiss</a>	<a href="#">2560 Maguire Rd</a> <a href="#">Suite 308</a> <a href="#">Ocoee, FL 34761</a>	<a href="#">(407) 749-6700</a>
<a href="#">PATCO ML MB, LLC</a> Attn: <a href="#">Patrick and Robin Coble</a>	<a href="#">7937 N Kings Hwy</a> <a href="#">Suite 220</a> <a href="#">Myrtle Beach, SC 29572</a>	<a href="#">(843) 492-5055</a>
<a href="#">Butterfly Adventures, Inc.</a> Attn: <a href="#">Travis and Erica Terran</a>	<a href="#">11336 South Beckstead Lane</a> <a href="#">Suite 1</a> <a href="#">South Jordan, UT 84095</a>	<a href="#">(801) 208-9525</a>
<a href="#">Brave Worldwide LLC</a> Attn: <a href="#">David Reed</a>	<a href="#">9525 Birkdale Crossing Drive</a> <a href="#">Suite 14</a> <a href="#">Huntersville, NC 28078</a>	<a href="#">(860) 921-7701</a>
<a href="#">Eze Libra LLC</a> Attn: <a href="#">Apollos Eze</a>	<a href="#">TBD in Denver CO</a>	<a href="#">(303) 505-5618</a>
<a href="#">LDMTC Group, LLC</a> Attn: <a href="#">Lillian Greg</a>	<a href="#">TBD in Bradenton FL</a>	<a href="#">(718) 926 - 5810</a>
<del>Epic Management Solutions, LLC</del> Attn: <del>Ghazala Khan</del>	<del>TBD in California</del>	<del>(734) 693-4011</del>
<del>Rockstar Investments</del> <a href="#">Rochester Hills #2, LLC</a> Attn: <a href="#">Reuben Levy</a>	<del>TBD in Michigan</del> <a href="#">144 E. Tienken Rd</a> <a href="#">Rochester Hills, MI 48307</a>	(248) 449-9100
<a href="#">Shelby #3, LLC</a>	<a href="#">50304 Schoenherr Rd</a>	<a href="#">(248) 449-9100</a>

FRANCHISEE NAME	STREET ADDRESS	TELEPHONE
<a href="#">Attn: Reuben Levy</a>	<a href="#">Shelby Township, MI 48315</a>	
Kubera, LLC Attn: Srinvas & Kalpana Devarasetty	11536 Ash Street Leawood, KS 66211	(949) 371-7488
LEE LUXE, LLC Attn: Rebecca Collins	TBD in Lee's Summit, MO	(618) 978-1393
<a href="#">KeChe's Serenity-5, LSL, LLC</a> Attn: <del>Margo Allison</del> <a href="#">Kevin Taylor</a>	6103 Ronald Reagan Dr, Suite A <del>Lake St Louis, MO 63367</del> <a href="#">TBD in Charlotte NC</a>	(636) 856-5455 <a href="#">(704) 451-9866</a>
<a href="#">Camino Bandera ML Corporation</a>	<a href="#">14244 Potranco Rd</a> <a href="#">Suite 150</a> <a href="#">San Antonio, TX 78253</a>	<a href="#">(636) 980-6590</a>

## FRANCHISEES WHICH LEFT THE SYSTEM

(The list of franchisees which have been terminated, transferred, 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 10 weeks of the Application Date.) If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

<del>MLuxe Ghent, LLC</del>	<del>Virginia Beach, VA</del>	<del>(757) 468-6300</del>
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<del>Attn: Parisa N. Grainger</del>		
5000BLR Addison Spa, Inc. Attn: Raj Rametra	Addison, TX	(817) 484 0488
MLuxe LaPro, LLC (family transfer) Attn: Parisa N. Grainger	Virginia Beach, VA 23454	(757) 468 6300

ALLINVESTMENT, INC.

Attn: Min Lin

San Jose, CA

(415) 702-6415

admin@allinvestmentinc.com

ABTB ML CWE, LLC

Attn: Stephanie Bozich

St. Louis, MO

314-420-5531

Layne Spas (2 locations transferred in North Carolina)

Bill Taylor and Stephanie Wrenn

Norfolk, VA

757-270-2822

**EXHIBIT G**  
TO THE DISCLOSURE DOCUMENT  
STATE SPECIFIC ADDENDA

**ADDENDUM TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF HAWAII**

For franchises and franchisees subject to the Hawaii Franchise Investment Law and the Rules and Regulations promulgated thereunder, the following information supersedes or supplements, as the case may be, the corresponding disclosures in the main body of the text of the MESSAGE LUXE INTERNATIONAL, LLC Hawaii franchise disclosure document.

1. Item 5 is hereby amended as follows: The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be deferred until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The Hawaii Department of Commerce and Consumer Affairs has imposed the deferral requirement because of our financial condition.

Notwithstanding the requirements of the FDD, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

**FACTORS TO BE CONSIDERED IN THE STATE OF HAWAII**

THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF REGULATORY AGENCIES THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS FRANCHISE DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS, AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

THE NAME AND ADDRESS OF OUR AGENT TO RECEIVE SERVICE OF PROCESS IN THE STATE OF HAWAII IS LISTED IN EXHIBIT E ATTACHED HERETO.

THIS REGISTRATION IS, OR WILL SHORTLY BE ON FILE IN THE FOLLOWING STATES: CALIFORNIA, FLORIDA, HAWAII, ILLINOIS, INDIANA, KENTUCKY, MARYLAND, MICHIGAN, MINNESOTA, NEBRASKA, NEW YORK, NORTH DAKOTA, RHODE ISLAND, SOUTH DAKOTA, TEXAS, UTAH, VIRGINIA, WASHINGTON AND WISCONSIN. NO STATES HAVE REFUSED, BY

ORDER OR OTHERWISE, TO REGISTER THESE FRANCHISES. NO STATES HAVE REVOKED OR SUSPENDED THE RIGHT TO OFFER THESE FRANCHISES.

**AMENDMENT TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF HAWAII**

This Amendment shall pertain to franchises sold in the State of Hawaii and shall be for the purpose of complying with Hawaii statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement or Multi-Unit Development Agreement to the contrary, each shall be amended as follows:

1. The Hawaii Department of Commerce and Consumer Affairs has imposed financial assurances based on our financial condition. For this reason, the initial franchise fees are to be deferred. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be deferred until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement.

Notwithstanding the requirements of the Franchise Agreement, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MASSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT, FRANCHISE AGREEMENT AND MULTI-UNIT  
DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF ILLINOIS**

Notwithstanding anything contained in the foregoing Franchise Agreement, Multi-Unit Development Agreement and Franchise Disclosure Document ("FDD") to the contrary, the following provisions of the Illinois Franchise Disclosure Act ("Act") shall apply to any franchise located in the State of Illinois, which shall control to the extent of any inconsistency:

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 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.

Item 5 is hereby amended as follows: The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The Illinois Attorney General's Office has imposed the escrow requirement because of our financial condition. The escrow agreement is on file with the Illinois Attorney General's Office.

Notwithstanding the requirements of the FDD, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF INDIANA**

1. **REGISTRATION OF THIS FRANCHISE IN THE STATE OF INDIANA DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER.**

2. The following is in addition to the disclosure in Item 17 of the Franchise Disclosure Document:

The release that you must sign as a condition to renewal or transfer excepts claims arising under the Indiana Deceptive Franchise Practices Law, Indiana Code 23-2-2.7.

The Franchise Agreement and Multi-Unit Development Agreement for use in the State of Indiana specify that the Agreements and the construction of the Agreements will be governed by the laws of the State of Missouri except for the applicability of the Federal Arbitration Act and except that the Indiana Franchise Law (Indiana Code 23-2-2.5 and 23-2-2.7) will control where applicable.

**AMENDMENT TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF INDIANA**

This Amendment shall pertain to franchises sold in the State of Indiana and shall be for the purpose of complying with Indiana statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement or Multi-Unit Development Agreement to the contrary, each shall be amended as follows:

In recognition of the requirements of the Indiana Deceptive Franchise Practices Act, Indiana Code 23-2-2.7, the parties agree as follows:

1. The release that you must sign as a condition to renewal or transfer shall not apply to claims arising under the Indiana Deceptive Franchise Practices Law, Indiana Code 23-2-2.7.
2. The Indiana Franchise Law (Indiana Code 23-2-2.5 and 23-2-2.7) will control where applicable.

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MARYLAND**

For franchises and franchisees subject to the Maryland Franchise Registration and Disclosure Law, the following information amends or supplements, as the case may be, the corresponding disclosures in the main body of the text of the MASSAGE LUXE INTERNATIONAL, LLC Franchise disclosure document:

Item 5.

Item 5 is hereby amended as follows: The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The Maryland Attorney General's Office has imposed the escrow requirement because of our financial condition. The escrow agreement is on file with the Maryland Attorney General's Office.

Notwithstanding the requirements of the FDD, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

Item 17.

The Franchise Agreement and Multi-Unit Development Agreement provide that we may terminate the agreement if you voluntarily or involuntarily file for bankruptcy. These provisions may not be enforceable under federal bankruptcy law.

Pursuant to Code of Maryland Regulations Section 02.02.08.16L, any general release required of the franchisee as a condition of renewal, sale, assignment and/or transfer shall not apply to any release from liability under the Maryland Franchise Registration and Disclosure Law.

Section 14-216(c)(25) of the Maryland Franchise Registration and Disclosure Law requires the franchisor to file an irrevocable consent to be sued in Maryland. Accordingly, choice of forum provisions contained in the Franchise Agreement or Multi-Unit Development Agreement are amended to provide that you may file a lawsuit alleging a cause of action arising under the Maryland Franchise Registration and Disclosure Law in any court of competent jurisdiction within the State of Maryland.

Section 14-227 of the Maryland Franchise Registration and Disclosure Law provides that any action brought under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.

**AMENDMENT TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF MARYLAND**

This Amendment shall pertain to franchises sold in the State of Maryland and shall be for the purpose of complying with Maryland statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement or Multi-Unit Development Agreement to the contrary, each Agreement shall be amended as follows:

1. The Maryland Attorney General's Office has imposed financial assurances based on our financial condition. For this reason, the initial franchise fees are to be escrowed. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The escrow agreement is on file with the Maryland Attorney General's Office.

Notwithstanding the requirements of the Franchise Agreement, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

2. Pursuant to Code of Maryland Regulations section 02.02.08.16L, any general release required of the franchisee as a condition of renewal, sale, assignment and/or transfer shall not apply to any release from liability under the Maryland Franchise Registration and Disclosure Law. The Franchise Agreement and Multi-Unit Development Agreement are each amended accordingly.
3. Section 14-226 of the Maryland Franchise Registration and Disclosure Law prohibits a franchisor from requiring a prospective franchisee to agree to any release, estoppel or waiver of liability as a condition of purchasing a franchise. To the extent that the Franchise Agreement or Multi-Unit Development Agreement may require you to disclaim the occurrence and/or acknowledge the non-occurrence of acts that would constitute a violation of the Maryland Franchise Registration and Disclosure Law in order to purchase your franchise, each is hereby amended to state that such representations are not intended to nor shall they act as a release, estoppel or waiver of any liability under the Maryland Franchise Registration and Disclosure Law.
4. Section 14-227 of the Maryland Franchise Registration and Disclosure Law provides that any action brought under the Maryland Franchise Registration and Disclosure Law must be brought within three years after the grant of the franchise.
5. Section 14-216(c)(25) of the Maryland Franchise Registration and Disclosure Law requires the franchisor to file an irrevocable consent to be sued in Maryland. Accordingly, the Franchise Agreement and Multi-Unit Development Agreement are amended to provide that you may file a lawsuit alleging a cause of action arising under the Maryland Franchise Registration and Disclosure Law in any court of competent jurisdiction within the State of Maryland.
6. The Franchisee Disclosure Questionnaire in Appendix F is amended as follows: "Notwithstanding anything in the Franchise Agreement or the Franchise Disclosure Questionnaire to the contrary, all representations requiring prospective franchisee 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."

~~{Signatures follow}~~

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:  
MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR THE STATE OF MINNESOTA**

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 MESSAGE LUXE INTERNATIONAL Franchise disclosure document.

Item 13

MESSAGE LUXE INTERNATIONAL, 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 Minn. Stat. Sec. 80C.12 Subd. 1(G).

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 – 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 or Multi-Unit Development Agreement, and that consent to transfer may not be unreasonably withheld.

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 Minn. Stat. Chapter 80C, or any rule or order thereunder, is void.

Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota. In addition, nothing in the franchise disclosure document, the Franchise Agreement or Multi-Unit Development Agreement can abrogate or reduce any of your rights as provided for in Minn. Stat., 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 MESSAGE LUXE INTERNATIONAL, LLC, such release shall exclude liabilities arising under the Minnesota Franchises Act, Minn. Stat. 80C.01 *et seq.* as provided by Minn. Rule 2860.4400D.

Minn. Rule 2860.4400(J) provides that you cannot consent to MESSAGE LUXE INTERNATIONAL, LLC obtaining injunctive relief. MESSAGE LUXE INTERNATIONAL, LLC may seek injunctive relief and a court will determine if a bond is required.

Minn. Stat. Sec. 80C.17, Subd. 5 will govern any Limitations of Claims in the Franchise Agreement or Multi-Unit Development Agreement.

**AMENDMENT TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF MINNESOTA**

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 or Multi-Unit Development Agreement to the contrary, the Agreement shall be amended as follows:

1. MINN. STAT. SECTION 80C.21 and MINNESOTA RULES 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the franchisee's rights as provided for in MINN. STAT. CHAPTER 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
2. With respect to franchises governed by Minnesota law, the franchisor will comply with MINN. STAT. SECTION 80C.14 SUBD. 3-5, which require (except in certain specified cases)
  - (i) that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement and
  - (ii) that consent to the transfer of the franchise will not be unreasonably withheld.
3. Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to MINN. STAT. SECTION 80C.12 SUBD. 1(G). The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes, or other commercial symbols or indemnify the franchisee from any loss, costs, or expenses arising out of any claim, suit, or demand regarding the use of the name.
4. MINNESOTA RULES 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.
5. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See MINNESOTA RULES 2860.4400(J) also, a court will determine if a bond is required.
6. The Limitations of Claims section must comply with MINN. STAT. SECTION 80C.17 SUBD. 5.

[Signatures to follow]

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

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

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

**ADDENDUM TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NEW YORK**

ADDITIONAL RISK FACTORS:

INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT E OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23RD FLOOR, NEW YORK, NEW YORK 10271.

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE PROSPECTUS. 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 PROSPECTUS.

In recognition of the requirements of the New York General Business Law, Article 33, Section 680 through 695, and of the Codes, Rules, and Regulations of the State of New York, Title 13, Chapter VII, Section 200.1 through 201.16 the franchise disclosure document for MESSAGE LUXE INTERNATIONAL, LLC for use in the State of New York shall be amended as follows:

1. Item 3 shall be supplemented by the following:

Except as set forth above, neither we, our predecessor, nor any person identified in Item 2 or an affiliate offering franchises under our principal trademark 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. Nor do we or any person identified in Item 2 have any 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.

Except as set forth above, neither we, our predecessor, nor any person identified in Item 2 or an affiliate offering franchises under our principal trademark has been convicted of a felony or pleaded *nolo contendere* to a felony charge or, within the ten-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.

Neither we, our predecessor, any person identified in Item 2 or an affiliate offering franchises under our principal trademark 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.

2. Item 4 shall be supplemented by the following:

During the 10-year period immediately before the application for registration, neither we nor our affiliate, any predecessor, current officers or general partner has: (a) filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after our officer or general partner held this position in the company or partnership.

3. Item 5 shall be supplemented by the following:

All franchisee fees are applied to the franchisor's general operating fund. All obligations of franchisor, whether to franchisees or otherwise, are paid out of this fund.

4. Paragraph "d" under the section labeled "termination by franchisee" in Item 17 shall be supplemented to state that the franchisee may terminate the agreement on any grounds available by applicable law.

5. Paragraph "j" under the section labeled "assignment of contract by us" in Item 17 shall be supplemented by the following provision:

However, no assignment shall be made except to an assignee who, in our good faith judgment, is willing and able to assume your obligations under the Franchise Agreement or Multi-Unit Development Agreement, respectively.

6. Paragraph "m" under the section in Item 17 titled "conditions for our approval of transfer" shall be supplemented as follows with respect to your execution of a general release:

Provided, however, that all rights you enjoy and any causes of action which arise in its favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder remain in force; it being the intent of this proviso that the nonwaiver provisions of the GBL Sections 687.4 and 687.5 be satisfied.

7. Paragraph "w" under the section in Item 17 titled "choice of law" shall be supplemented as follows:

Any choice of law provision shall not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by the provisions of Article 33 of the New York State General Business Law.

**AMENDMENT TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF NEW YORK**

In recognition of the requirements of the New York General Business Law, Article 33, the parties to the attached MESSAGE LUXE INTERNATIONAL, LLC the Franchise Agreement or Multi-Unit Development Agreement, as applicable, agree as follows:

1. Any provision of the Franchise Agreement or Multi-Unit Development Agreement requiring you to sign a general release shall be supplemented by the following provision:

Provided that all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the GBL of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the nonwaiver provisions of Sections 687.4 and 687.5 of New York's GBL be satisfied.

2. The Franchise Agreement and Multi-Unit Development Agreement are supplemented to include the following provision:

Notwithstanding anything to the contrary in this Agreement, you shall indemnify MESSAGE LUXE INTERNATIONAL, LLC and hold MESSAGE LUXE INTERNATIONAL, LLC harmless from liabilities resulting from your breaches and civil wrongs only.

3. The Franchise Agreement and Multi-Unit Development Agreement are supplemented to include the following provision:

In the event of an assignment by MESSAGE LUXE INTERNATIONAL, LLC, MESSAGE LUXE INTERNATIONAL, LLC will ascertain that its assignee, in MESSAGE LUXE INTERNATIONAL, LLC'S reasonable judgment, possesses the economic resources to fulfill MESSAGE LUXE INTERNATIONAL, LLC'S obligations to its franchisees.

4. The Franchise Agreement and Multi-Unit Development Agreement are supplemented by the following provision:

Any choice of law provision shall not be considered a waiver of any right conferred upon Franchisee by the provisions of Article 33 of the New York State General Business Law.

5. The Franchise Agreement and Multi-Unit Development Agreement are supplemented by the following provision:

Nothing contained in this Agreement shall bar either party's right to seek to obtain injunctive relief against threatened conduct that will cause a loss or damage, under the usual equity rules, including the applicable rules for seeking to obtain restraining orders and preliminary injunctions.

6. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under New York law.

7. MESSAGE LUXE INTERNATIONAL, LLC'S termination of the Franchise Agreement or Multi-Unit Development Agreement because of your insolvency or bankruptcy may not be enforceable under applicable federal law (11 U.S.C.A. 101 et seq.).

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NORTH DAKOTA**

Notwithstanding anything to the contrary in the franchise disclosure document, the following provisions shall supersede and apply to all franchises offered and sold in the State of North Dakota:

1. Waiver of trial by jury is prohibited by law in the State of North Dakota.
2. Waiver of exemplary and punitive damages is prohibited by law in the State of North Dakota.
3. North Dakota prohibits a provision that the franchisee shall pay all costs and expenses incurred by Franchisor in enforcing the Franchise Agreement or Multi-Unit Development Agreement.
4. North Dakota requires the following:

"In the event either party incurs legal fees or costs or other expenses to enforce any obligation of the other party hereunder, or to defend against any claim, demand, action or proceeding by reason of the other party's failure to perform or observe any obligation imposed upon that party by an agreement, then the prevailing party shall be entitled to recover from the other party the amount of all legal fees, costs and expenses, including reasonable attorneys' fees, whether incurred prior to, or in preparation for or contemplation of the filing of any claim, demand, action or proceeding to enforce any obligation of the other party hereunder or thereafter or otherwise."
5. The laws of the State of North Dakota supersede any provisions of the Franchise Agreement and Multi-Unit Development Agreement, if those provisions are in conflict with North Dakota law.
6. Any provision in the Franchise Agreement and Multi-Unit Development Agreement which designates jurisdiction or venue, or requires the Franchisee to agree to jurisdiction or venue, in a forum outside of North Dakota, is deleted when issued in the State of North Dakota.
7. North Dakota has determined that requiring a franchisee to sign a general release upon renewal of the franchise agreement is unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law. Accordingly, all references to the Franchisee signing a general release upon renewal of the Franchise Agreement or Multi-Unit Development Agreement are deleted.
8. Covenants not to compete are generally considered unenforceable in the State of North Dakota. The Commissioner has held that covenants restricting competition are contrary to Section 9-08-06 of the North Dakota Century Code, and are unfair, unjust, or inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
9. North Dakota prohibits limiting the time period for bringing claims and the North Dakota statute of limitations will apply.
10. Item 5 is hereby amended as follows: The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be deferred until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit

Development Agreement. The North Dakota Securities Department has imposed the deferral requirement because of our financial condition.

Notwithstanding the requirements of the FDD, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

**AMENDMENT TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF NORTH DAKOTA**

MESSAGE LUXE INTERNATIONAL, LLC and Franchisee hereby agree that the Franchise Agreement and Multi-Unit Development Agreement, if applicable, dated \_\_\_\_\_, ~~20~~, as applicable, will be amended as follows:

1. Article 7 of the Franchise Agreement is amended to add the following:  
  
"Covenants not to compete such as those mentioned above are generally considered unenforceable in the State of North Dakota."
2. The Franchise Agreement and Multi-Unit Development Agreement are amended as follows:  
  
"In the event either party incurs legal fees or costs or other expenses to enforce any obligation of the other party hereunder, or to defend against any claim, demand, action or proceeding by reason of the other party's failure to perform or observe any obligation imposed upon that party, then the prevailing party shall be entitled to recover from the other party the amount of all legal fees, costs and expenses, including reasonable attorneys' fees, whether incurred prior to, or in preparation for or contemplation of the filing of any claim, demand, action or proceeding to enforce any obligation of the other party hereunder or thereafter or otherwise."
3. The laws of the State of North Dakota supersede any provisions of the Franchise Agreement and Multi-Unit Development Agreement if such provisions are in conflict with North Dakota law.
4. Any provision in the Franchise Agreement or Multi-Unit Development Agreement which designates jurisdiction or venue, or requires the Franchisee to agree to jurisdiction or venue, in a forum outside of North Dakota, is deleted when issued in the State of North Dakota. Article 17.7 of the Franchise Agreement and Article 9 of the Multi-Unit Development Agreement are deleted.
5. Articles 13.2 and 12.4.4 of the Franchise Agreement is amended to delete the requirement that a general release be signed.
6. Article 17.8 of the Franchise Agreement and Article 9.D-F of the Multi-Unit Development Agreement are deleted.
7. The North Dakota Securities Department has imposed financial assurances based on our financial condition. For this reason, the initial franchise fees are to be deferred. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be deferred until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement.

Notwithstanding the requirements of the Franchise Agreement, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF RHODE ISLAND**

In recognition of the requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34 the Franchise Disclosure Document Massage Luxe International, LLC for use in the State of Rhode Island shall be amended to include the following:

1. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following:

§ 19-28.1-14 of the Rhode Island Franchise Investment Act provides that "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."

2. This addendum to the Franchise Disclosure Document shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the Rhode Island Franchise Investment Act, §§ 19-28.1-1 through 19-28.1-34, are met independently without reference to this addendum to the Franchise Disclosure Document.

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF SOUTH DAKOTA**

Item 5 is hereby amended as follows: The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The South Dakota Securities Regulation Office has imposed the escrow requirement because of our financial condition. The escrow will be held by Lindell Bank. The escrow agreement is on file with the Securities Regulation Office.

**AMENDMENT TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF SOUTH DAKOTA**

This Amendment shall pertain to franchises sold in the State of South Dakota and shall be for the purpose of complying with South Dakota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement or Multi-Unit Development Agreement to the contrary, each shall be amended as follows:

1. The South Dakota Securities Regulation Office has imposed financial assurances based on our financial condition. For this reason, the initial franchise fees are to be escrowed. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The escrow will be held by Lindell Bank. The escrow agreement is on file with the Securities Regulation Office.

Notwithstanding the requirements of the Franchise Agreement, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC**  
**FRANCHISE DISCLOSURE DOCUMENT**  
**REQUIRED BY THE STATE OF VIRGINIA**

Item 5 is hereby amended as follows: The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The Virginia State Corporation Commission has imposed the escrow requirement because of our financial condition. The escrow will be held by EagleBank. The escrow agreement is on file with the Division of Securities and Retail Franchising.

Notwithstanding the requirements of the FDD, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the Franchise Agreement or Multi-Unit Development Agreement do not constitute "reasonable cause" as the term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to use undue influence to induce a franchisee to surrender any right given to him under the franchise. If any provision of the Franchise Agreement or Multi-Unit Development Agreement involves the use of undue influence by the franchisor to induce a franchisee to surrender any rights given to him under the franchise, that provision may not be enforceable.

**Estimated Initial Investment.** The franchisee will be required to make an estimated initial investment ranging from \$339,000 to \$571,100. This amount exceeds the franchisor's stockholders equity as of December 31, 2020, which is a deficit of \$251,578.

**AMENDMENT TO MESSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF VIRGINIA**

This Amendment shall pertain to franchises sold in the State of Virginia and shall be for the purpose of complying with Virginia statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement or Multi-Unit Development Agreement to the contrary, each shall be amended as follows:

1. The Virginia State Corporations Commission has imposed financial assurances based on our financial condition. For this reason, the initial franchise fees are to be escrowed. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The initial franchise fees will be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement or the first Spa under the Multi-Unit Development Agreement. The escrow will be held by EagleBank. The escrow agreement is on file with the Division of Securities and Retail Franchising.

Notwithstanding the requirements of the Franchise Agreement, due to the imposition of the financial assurances set forth above, you may be required to purchase products and services for the opening of the Spa directly from our approved vendors instead of from us or our affiliates until we have satisfied our pre-opening obligations. Thereafter, you will again be required to purchase these items and pay the fees from us or our affiliates.

The parties have signed this Amendment as of ~~the~~ \_\_\_\_\_ ~~day of~~ \_\_\_\_\_, \_\_\_\_\_.

FRANCHISEE:

FRANCHISOR:

MESSAGE LUXE INTERNATIONAL, LLC

By:

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

**ADDENDUM TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED FOR THE STATE OF WASHINGTON**

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. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

In lieu of an impound of franchise fees, the initial franchise fees are to be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement. For a Multi-Unit Development Agreement, the fees will be collected on a prorated basis and not upon the opening of the first Spa. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The escrow agreement is on file with the Washington Department of Financial Institutions.

**AMENDMENT TO MASSAGE LUXE INTERNATIONAL, LLC  
FRANCHISE AGREEMENT AND MULTI-UNIT DEVELOPMENT AGREEMENT  
REQUIRED BY THE STATE OF WASHINGTON**

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. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

In lieu of an impound of franchise fees, the initial franchise fees are to be escrowed until all of our initial obligations to you have been fulfilled and the opening of your Spa under the Franchise Agreement. For a Multi-Unit Development Agreement, the fees will be collected on a prorated basis and not upon the opening of the first Spa. The initial franchise fees include fees and payments you make to us and our affiliates for goods and services before your Spa opens for business. The escrow agreement is on file with the Washington Department of Financial Institutions.



**EXHIBIT H**  
TO THE DISCLOSURE DOCUMENT  
GENERAL RELEASE

**GENERAL RELEASE**

THIS GENERAL RELEASE (the "General Release") is made by the undersigned (hereinafter "Releasor") for the benefit of Massage Luxe International, LLC, a Missouri limited liability company (hereinafter, "Franchisor"), on ~~this~~ \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

RECITALS:

WHEREAS, Releasor is a MassageLuXe franchisee and operates a MassageLuXe Spa (the "Franchised Business") pursuant to that certain \_\_\_\_\_ [Franchise] [Multi-Unit Development] Agreement dated \_\_\_\_\_ (the "Franchise Agreement");

WHEREAS, Releasor desires to renew its franchise with Franchisor or desires Franchisor's consent to \_\_\_\_\_ in connection with the Franchise Agreement; and

WHEREAS, certain states require certain changes be made to this General Release specific to such state.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, Releasor hereby agrees, covenants and promises as follows:

1. Releasor, on behalf of itself and each of the persons and entities described in Section 2 hereof, hereby absolutely and forever releases, remises and discharges Franchisor and each of the persons and entities described in Section 3 hereof, from any and all claims, demands, damages, liabilities, costs (including, but not limited to reasonable attorneys' fees, accounting fees or experts' fees, and the costs of litigation, arbitration or other proceedings), expenses, liens, losses, charges, audits, investigations, injunctions, orders, rulings, subpoenas, controversies, obligations, debts, loans, interest, dues, accounts, awards, reckonings, bonds, bills, covenants, promises, undertakings, variances, trespasses, judgments, executions, sums of money owed, arbitrations, suits, decisions, proceedings, verdicts entered, issued, made or rendered and causes of action of every kind and nature whatsoever, whether now known or unknown, suspected or unsuspected, which Releasor now has, owns or holds, or at any time heretofore ever had, owned or held, or could, shall or may hereafter have, own or hold, pertaining to, arising out of or in connection with the Franchise Agreement, any related agreements or the franchisor franchisee relationship between Releasor and Franchisor. Notwithstanding the foregoing, if this General Release is entered into in conjunction with the renewal, assignment or transfer of the Franchise Agreement, the foregoing release shall not apply to any liability under any state franchise law which governs this Release.

2. Releasor hereby understands and agrees that this General Release shall extend to and be binding upon any and all of Releasor's past, present and future officers, directors, owners, employees, representatives, agents, trustees, successors, affiliates and assigns, and their respective insurers and underwriters. If more than one party shall execute this General Release, the term "Releasor" shall mean and refer to each of the parties executing this General Release, and all such parties shall be bound by its terms, jointly and severally.

3. Releasor hereby understands and agrees that this General Release shall extend to and inure to the benefit of Franchisor and any and all of Franchisor's past, present and future officers, directors,

owners, employees, representatives, agents, trustees, successors, affiliates and assigns, and their respective insurers and underwriters.

4. Releasor hereby understands and agrees that this General Release supersedes any prior agreement, oral or written, with respect to its subject matter. Releasor understands and agrees that no representations, warranties, agreements or covenants have been made by Franchisor with respect to this General Release, other than those expressly set forth herein, and that in executing this General Release, Releasor is not relying upon any representations, warranties, agreements or covenants not expressly set forth in this General Release.

5. This General Release may not be changed except in a writing signed by the person(s) against whose interest such change shall operate. This General Release and all acts and transaction under it shall in all respects be interpreted, enforced and governed by the internal laws of the state in which Franchisor's principal place of business is located without regard to principles of conflicts of law

6. If any provision of this General Release is found or declared invalid or unenforceable by any arbitrator, court or other competent authority having jurisdiction, such finding or declaration shall not invalidate any other provision hereof and this General Release shall thereafter continue in full force and effect except that such invalid or unenforceable provision, and (if necessary) other provisions hereof, shall be reformed by such arbitrator, court or other competent authority so as to effect insofar as is practicable, the intention of the parties set forth in this General Release, provided that if such arbitrator, court or other competent authority is unable or unwilling to effect such reformation, the invalid or unenforceable provision shall be deemed deleted to the same extent as if it had never existed.

7. Releasor hereby certifies that Releasor has read all of this General Release and fully understands all of the same, and that Releasor has executed this General Release only after having received full legal advice and disclosure as to Releasor's rights from legal counsel of Releasor's choice.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, each Releasor party hereto has executed this General Release effective as the day and year first above written.

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

**FRANCHISEE:**

**[CORPORATION, LLC OR PARTNERSHIP:]**

\_\_\_\_\_

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

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

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

**[INDIVIDUAL FRANCHISEE OR OWNER(S):]**

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

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

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

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

**EXHIBIT I**  
**TO THE DISCLOSURE DOCUMENT**  
**STATE EFFECTIVE DATES AND RECEIPT**

## State Effective Dates

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration as of the Effective Date stated below:

State	Effective Date
California	Pending
Hawaii	<del>May 12, 2021</del> <a href="#">Pending</a>
Illinois	<del>April 29, 2021</del> <a href="#">Pending</a>
Indiana	<del>April 28, 2021</del> <a href="#">Pending</a>
Maryland	Pending
Michigan	<del>March 24, 2021</del> <a href="#">Pending</a>
Minnesota	<del>June 10, 2021</del> <a href="#">Pending</a>
New York	<del>May 6, 2021</del> <a href="#">Pending</a>
North Dakota	<del>May 25, 2021</del> <a href="#">Pending</a>
Rhode Island	<del>May 3, 2021</del> <a href="#">Pending</a>
South Dakota	<del>May 29, 2021</del> <a href="#">Pending</a>
Virginia	<del>May 18, 2021</del> <a href="#">Pending</a>
Washington	Pending
Wisconsin	<del>April 29, 2021</del> <a href="#">Pending</a>

Other states may require registration, filing or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

**RECEIPT**

This disclosure document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Massage Luxe International, LLC offers you a franchise, we must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. Under Iowa law, if applicable, Massage Luxe International, LLC must provide this disclosure document to you at the earlier of your 1st personal meeting to discuss the franchise or 14 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. Under Michigan law, if applicable, Massage Luxe International, LLC must provide this disclosure document to you at least 10 business 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. Under New York law, if applicable, Massage Luxe International, LLC must provide this disclosure document to you at the earliest of your 1st personal meeting to discuss the franchise or 10 business 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.

If Massage Luxe International, LLC, does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and any governing state agency.

The franchise seller is Sean Rentchler, located at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017, with telephone number 636-680-9014.

The issuance date is April ~~27~~26, ~~2021 as amended August 9, 2021~~2022. See **Exhibit E** for a list of our registered agents authorized to receive service of process.

I received a disclosure document dated April ~~27~~26, ~~2021 as amended August 9, 2021~~2022, that included the following exhibits:

- A. Franchise Agreement
- B. Multi-Unit Development Agreement
- C. Operations Manual Table of Contents
- D. Financial Statements
- E. State Administrators and Agents for Service of Process
- F. List of Franchisees
- G. State Specific Addenda for FDD, Franchise Agreement and Multi-Unit Development Agreement
- H. Sample General Release
- I. State Effective Dates and Receipt

**Signature:**

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

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

Individually and as an officer of \_\_\_\_\_

- (a \_\_\_\_\_ corporation)
- (a \_\_\_\_\_ partnership)
- (a \_\_\_\_\_ limited liability company)

**(Your Copy. Sign, Date and Retain)**

**RECEIPT**

This disclosure document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Massage Luxe International, LLC offers you a franchise, we must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale. Under Iowa law, if applicable, Massage Luxe International, LLC must provide this disclosure document to you at the earlier of your 1st personal meeting to discuss the franchise or 14 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. Under Michigan law, if applicable, Massage Luxe International, LLC must provide this disclosure document to you at least 10 business 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. Under New York law, if applicable, Massage Luxe International, LLC must provide this disclosure document to you at the earliest of your 1st personal meeting to discuss the franchise or 10 business 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.

If Massage Luxe International, LLC, does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and any governing state agency.

The franchise seller is Sean Rentchler, located at 16052 Swingley Ridge Road, Suite 120, Chesterfield, MO 63017, with telephone number 636-680-9014.

The issuance date is April ~~27~~26, ~~2021 as amended August 9, 2020~~2022. See **Exhibit E** for a list of our registered agents authorized to receive service of process.

I received a disclosure document dated April ~~27~~26, ~~2021 as amended August 9, 2021~~2022, that included the following exhibits:

- A. Franchise Agreement
- B. Multi-Unit Development Agreement
- C. Operations Manual Table of Contents
- D. Financial Statements
- E. State Administrators and Agents for Service of Process
- F. List of Franchisees
- G. State Specific Addenda for FDD, Franchise Agreement and Multi-Unit Development Agreement
- H. Sample General Release
- I. State Effective Dates and Receipt

**Signature:**

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

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

Individually and as an officer of \_\_\_\_\_

- (a \_\_\_\_\_ corporation)
- (a \_\_\_\_\_ partnership)
- (a \_\_\_\_\_ limited liability company)

**(Our Copy, Sign, Date and Return to Sean Rentschler, Massage Luxe International, LLC 16052  
Swingley Ridge Road, Suite 120, Chesterfield, MO 63017 or by facsimile at (636) 651-3513.**

Document comparison by Workshare Compare on Wednesday, April 27, 2022  
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Split/Merged cell	
Padding cell	

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