4/19/18

# FRANCHISE DISCLOSURE DOCUMENT

*(Single-Unit Franchise and Area Development Rights)*

**HEW Franchising, LLC**
**661 Maplewood Drive**
**Unit 18**
**Jupiter, FL 33458**
**Phone: (561) 339-9035**
**franchise@hardexerciseworks.com**
**www.hardexerciseworks.com**

**FRANCHISE DISCLOSURE DOCUMENT**

HEW Franchising, LLC
a Florida limited liability company
661 Maplewood Drive
Unit 18
Jupiter, FL 33458
Phone: (561) 339-9035
franchise@hardexerciseworks.com
www.hardexerciseworks.com

The Franchise Business you will own and operate is a fitness business that offers nutrition accountability programs, group training programs and other fitness services (based on similar principles as U.S. Navy S.E.A.L. workouts) to get members into shape operating under the trade name "Hard Exercise Works®".

The total investment necessary to begin operation of a Hard Exercise Works Franchise ranges from $136,273 to $466,483. This includes $25,475 to $56,300 that must be paid to us or our affiliate.

If you own and operate a fitness facility and desire to convert to a Hard Exercise Works Franchise, the total investment necessary to begin operation is from $64,523 to $196,233. This includes $25,224 that must be paid to us or our affiliate.

We also offer to certain qualified persons rights to develop 3 Hard Exercise Works Franchises (the "Franchise Businesses") within a Development Area under a Hard Exercise Works Area Development Agreement. You must pay us a Development Fee of $99,500 representing the Initial Franchise Fees for all 3 Franchise Businesses.

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

You may wish to receive this Franchise Disclosure Document in another format that is more convenient for you. To discuss the availability of this Franchise Disclosure Document in different formats, contact Matthew B. Hunt at 661 Maplewood Drive, Unit 18, Jupiter, FL 33458 and (561) 339-9035.

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

Buying a franchise is a complex investment. The information in this Franchise 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 Franchise 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, N.W., Washington, D.C. 20580. You can also visit the FTC's home page at 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.

The date of issuance of this Franchise Disclosure Document is April 19, 2018.

## STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT.

Call the state franchise administrator listed in Exhibit B for information about the franchisor or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOU BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise:

1. THE FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT REQUIRE YOU TO RESOLVE DISPUTES WITH US BY MEDIATION, ARBITRATION AND LITIGATION ONLY IN PALM BEACH COUNTY, FLORIDA. OUT OF STATE MEDIATION, ARBITRATION AND LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO MEDIATE, ARBITRATE AND LITIGATE WITH US IN FLORIDA THAN IN YOUR OWN STATE.

2. THE FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT STATE THAT FLORIDA LAW GOVERNS THE AGREEMENTS, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

3. THE AREA DEVELOPMENT TERRITORY IS NOT EXCLUSIVE. YOU MAY FACE COMPETITION FROM OTHER FRANCHISEES AND/OR FROM THE FRANCHISOR SUBJECT TO YOUR RIGHT OF FIRST REFUSAL) OR FROM OTHER CHANNELS OF DISTRIBUTION OR COMPETITIVE BRANDS THE FRANCHISOR CONTROLS.’

4. YOUR SPOUSE MUST ALSO SIGN A PERSONAL GUARANTEE MAKING YOUR SPOUSE INDIVIDUALLY LIABLE FOR YOUR FINANCIAL OBLIGATIONS UNDER THE AGREEMENT. THE GUARANTEE WILL PLACE YOUR SPOUSE’S MARITAL AND PERSONAL ASSETS AT RISK IF YOUR FRANCHISE FAILS.

5. THERE MAYBE OTHER RISKS CONCERNING THIS FRANCHISE.

We use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should make sure to do your own investigation of the franchise.

Effective Date: See the next page for state effective dates.

## STATE EFFECTIVE DATES

The following states require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This Franchise Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

| State | Effective Date |
|---|---|
| California | |
| Hawaii | |
| Illinois | |
| Indiana | |
| Maryland | |
| Michigan | |
| Minnesota | |
| New York | |
| North Dakota | |
| Rhode Island | |
| South Dakota | |
| Virginia | |
| Washington | |
| Wisconsin | |

In all the other states, the effective date of this Franchise Disclosure Document is the issuance date of April 19, 2018.

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**<u>EXHIBITS TO FRANCHISE DISCLOSURE DOCUMENT</u>**

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

### THE FRANCHISOR, PARENTS AND AFFILIATES

The Franchisor is HEW Franchising, LLC and is referred to in this FDD as "we," "us" and "our." The Franchisee is the person, persons or Business Entity to whom we grant the right to purchase and operate a Franchise Business and is referred to as "you" and "your." If the Franchisee is a Business Entity, each of the equity owners (the "Franchise Owners") must sign the Guaranty of Developer's/Franchisee's Obligations included in Exhibit K. Unless otherwise defined in this FDD, all capitalized terms are defined in ARTICLE 18 of the Franchise Agreement attached as Exhibit E.

**Franchisor**. The name of the Franchisor is HEW Franchising, LLC. Our principal business address is 661 Maplewood Drive, Unit 18, Jupiter, Florida 33458.

**Parent**. We have no parent corporation.

**Affiliates**. We have no affiliates that are selling franchises in any line of business or that will provide products or services to you except:

**HEW Events, LLC**, a Florida limited liability company. The company's principal business address is 661 Maplewood Drive, Unit 18, Jupiter, Florida 33458. The company provides event planning services and hosts the annual competition among HEW members from every Company-Owned Unit and Franchised Unit throughout the country.

### OUR PREDECESSORS

The names and principal business addresses of our predecessors during the past 10 fiscal years are:

**Everybodies Weight Loss For Women Franchise Corp.**, a Georgia corporation located at 701 Church Street. Decatur, Georgia 30030.

**SONZ Franchising Inc.**, a Georgia corporation, located at 701 Church Street, Decatur, Georgia 30030.

**Hard Exercise Works LLC,** a Florida limited liability, located at 603 Commerce Way West, Jupiter, Florida 33458.

### TRADE NAME

We conduct business under the trade name "Hard Exercise Works®."

### OUR AGENTS FOR SERVICE OF PROCESS

Exhibit B contains the identities and principal business addresses of our agents for service of process in all states.

## TYPE OF BUSINESS ORGANIZATION

We are a Florida limited liability company. We originally were formed as a corporation on May 11, 2011. We converted to a Florida limited liability company on February 16, 2018.

## OUR BUSINESS AND THE FRANCHISE OFFERED

**Our Business**. Our sole business is the offer and sale of Hard Exercise Works Franchises and Area Development Rights and the servicing and supporting of our Hard Exercise Works Franchisees. We do not operate a business of the type being franchised.

**Other Business Activities**. We have no other business activities. We have not conducted business in any other line of business and have not offered franchises in any other line of business.

**Franchise Business**. The Franchise Business you will own and operate is an instructional and educational exercise facility that offers nutrition management and fitness training (based on similar principles as U.S. Navy S.E.A.L. workouts) to get members into shape operating under the trade name Hard Exercise Works® Center. Under the Franchise Agreement attached as Exhibit E we offer qualified purchasers the right to establish and operate from a single location within a specified Territory. The Franchise Agreement gives you the right to operate the Franchise Business under the name and mark "Hard Exercise Works" and other marks we designate. You must operate in accordance with the standards and procedures we designate and according to our HEW Intranet/HEW Operations Manuals. If you currently own and operate a business similar to the type of business engaged by our Franchise Businesses, and you desire to convert your business to a Franchise Business (a "Conversion Franchisee"), you must sign the Conversion Franchise Agreement attached as Exhibit G to the Franchise Agreement.

**Area Development Rights**. In addition to the single-Unit Hard Exercise Works Franchise, we offer to certain qualified persons rights to develop 3 Hard Exercise Works Franchises within a specified Development Area in accordance with a Development Schedule to be negotiated by the parties under a Hard Exercise Works Area Development Agreement, a copy of which is included as Exhibit H. For the perimeter of the Development Area, you agree that you will not select a location that is within the Exclusive Territory of a Company-Owned Unit or Franchise Unit that is operating or under construction. We agree not to open a Company-Owned Unit or a Franchise Unit within the Exclusive Territory of any of your Franchise Units even if the Exclusive Territory extends outside the Development Area. For each Hard Exercise Works Franchise you develop, you must sign a Hard Exercise Works Franchise Agreement at the time you sign a lease. If you fail to timely achieve the Development Schedule, you may lose all future Area Development Rights if we elect to terminate the Area Development Agreement. We will then have the right to reassign these Area Development Rights to another party or we may retain these rights. You may keep your Franchise Units then developed or under construction, provided you are not in default under the Franchise Agreements. You must purchase your first Franchise Business when you sign the Area Development Agreement and the Franchise Agreement. If you are not purchasing Area Development Rights, you can ignore Exhibit H and the provisions of this Franchise Disclosure Document involving Area Development Rights.

## GENERAL MARKET

The market for a Hard Exercise Works® Center includes men and women primarily between the ages of 30 and 70 and other members of the general public.

## INDUSTRY-SPECIFIC LAWS OR REGULATIONS

You are required to comply with your state's statutes or regulations regulating Exercise Studios, Health Clubs and Health Studios, if these laws exist in your state. For example:

**California.** California's Health Studio Services Contract Law (Civil Code §§ 1812.80-1812.97) regulates all contracts for health studio services in California.

**Florida.** The Florida Health Studio Act requires health spas to be registered with the Florida Department of Agriculture and Consumer Services. You must provide a written contract containing certain disclosures to prospective members and provide certain financial guarantees including obtaining a $25,000 surety bond and imposing certain restrictions.

**Georgia**. Georgia Code Section 10-1-393.2 requires health spa operators to have a written contract that contains certain provisions including the cancellation and refund policies. The contract must contain certain disclosures to consumers and imposes special requirements to spas who sell memberships before being fully operational and available for use. You must file a copy of the contract with a consumer with the administrator.

**Kentucky.** The Kentucky Health Spa Act requires health spas to be registered with the Office of the Attorney General. You must provide certain disclosures to prospective members and provide certain financial guarantees including obtaining certain bonds and imposing certain restrictions.

**North Carolina**. The North Carolina Prepaid Entertainment Contract Law applies to health or athletic club services or facilities. You must provide a written membership agreement containing certain disclosures to prospective members. The membership agreement cannot have a term longer than 3 years. If you require a member to pay more than 31 days in advance, the contract must comply with this law. This law provides that you must be informed about a member's 3-day right to cancel the agreement. If, for any reason, services under a membership agreement are not available to the member on the date of sale, then you must establish a surety bond issued by a surety company authorized to do business in the State of North Carolina or establish an escrow account with a licensed and insured bank or savings institution located in this State of North Carolina. The surety bond or escrow account shall be in the amount of $10,000 per location or in an amount equal to all agreement costs you receive from the member, whichever is greater

**Pennsylvania.** The Pennsylvania Health Club Registration Act requires health spas to be registered with the Pennsylvania Office of the Attorney General, Bureau of Consumer Protection. You must provide certain disclosures to prospective members and provide certain financial guarantees including obtaining certain bonds and imposing certain restrictions. Your contract must be approved by the Office of the Attorney General before you can sell memberships.

**South Carolina**. The South Carolina Physical Fitness Services Act requires that every fitness center obtain a Certificate of Authority from the South Carolina Department of Consumer Affairs. You must provide a written membership agreement containing certain disclosures to prospective members. If the contract requires prepayment or credit for physical fitness services of over 3 months' duration or over $200 in amount you must obtain a surety bond in a sum to be determined by the Administrator based on the estimated future costs to service contracts sold, but not to exceed $50,000 surety bond.

**Tennessee.** The Tennessee Health Club Act requires health spas to obtain a Certificate of Registration. You must provide certain disclosures to prospective members and provide certain financial guarantees including obtaining certain bonds and imposing certain restrictions.

**Texas.** The Texas Health Spa Act requires health spas to obtain a Certificate of Registration with the Texas Secretary of State. You must provide certain disclosures to prospective members and provide certain financial guarantees including obtaining certain bonds and imposing certain restrictions.

**OTHER STATES MAY ALSO HAVE LAWS OR REGULATIONS THAT REGULATE HEALTH SPAS AND MAY DEFINE HEALTH SPAS DIFFERENTLY. THESE LAWS OR REGULATIONS MAY ALSO AFFECT THE FINANCIAL REQUIREMENTS FOR OPENING A CENTER. THE FRANCHISEE MAY NOT RELY ON OUR LEGAL OPINION CONCERNING THIS OR ANY OTHER LEGAL COMPLIANCE MATTER AND MUST SOLELY RELY ON ITS OWN COUNSEL FOR LEGAL ADVICE.**

You are required to comply with all other local, state and federal laws in the operation of your Hard Works Exercise Franchise. There may be other laws applicable to your business and we urge you to make additional inquiries about these laws. Your failure to comply with these laws constitutes a material breach of your Franchise Agreement. You acknowledge that: (i) federal, state and local governments administer and enforce regulations that include standards, specifications and requirements for the construction and maintenance of your Premises; fire safety, general emergency procedures, and customer/employee safety regulations; (ii) OSHA and health regulations as well as state and local safety and workplace regulations may impact the types of safety training, safety devices, and safety equipment you must make available to or must offer your employees; (iii) the Federal Clean Air Act and various state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide and particles (iv) certain state and local governments have also adopted proposals that regulate indoor air quality, including no smoking policies; and (v) there are federal and state product liability and product warranty laws.

## COMPETITION

The general market for physical fitness services is well established and highly competitive. Your competition may include general physical fitness centers including national and regional chains that may operate more locations and may have greater financial resources, more experienced marketing organizations and greater name recognition than Hard Exercise Works. You may also compete with other businesses, including chains and independents that are primarily directed to specific sports, such as racquetball, swimming, golf, etc., and may offer competitive services. Churches, general businesses, clubs, YMCA's and other entities may also offer competitive facilities and services. In addition to competition, local markets for physical fitness services will be affected by changes in local and national economic conditions and concerns, as well as neighborhood demographics and traffic patterns. The ability of each Franchise Business to compete is dependent on a variety of factors including demographics, the immediate neighborhood location and characteristic, accessibility and the individual service, marketing, merchandising, capitalization and your diligence of the Franchisee.

**Prior Business Experience**

**Our Prior Business Experience**. We have not conducted a business of the type you will operate. We began selling Hard Exercise Works Franchises and Area Development Rights in May 2011. We are not in any other line of business.

**Our Predecessors' Prior Business Experience**

**Everybodies Weight Loss For Women Franchise Corporation,** a Georgia corporation incorporated on January 6, 1998 and operated a type of business you will operate from 1998 to 2008. The corporation did not offer franchises of a business of the type you will operate. The corporation did not offer franchises in any other line of business.

**SONZ Franchising Inc.,** a Georgia corporation incorporated on July 11, 2003. The corporation did not operate a type of business you will operate. The Corporation offered and sold franchises of a business of the type you will operate from 2003 to 2008. The corporation did not offer franchises in any other line of business.

**Hard Exercise Works LLC,** a Florida limited liability organized on June 22, 2009 operated a type of business you will operate from June 2009 to May 10, 2011. The company did not offer franchises of a business of the type you will operate. The company did not offer franchises in any other line of business. The company transferred the Principal Trademark, the other intellectual property and the Business system to us on May 11, 2011.

**Our Affiliates' Prior Business Experience.**

**HEW Events, LLC** has not operated a type of business you will operate. It has not offered franchises providing the type of business you will operate. It has not offered franchises in other lines of business.

**HEW Jupiter, LLC** has conducted a business of the type you will operate since June 2009. It is located at 711 Indiantown Road, Suite A1, Jupiter, Florida 33458. It has not offered franchises providing the type of business you will operate. It has not offered franchises in other lines of business.

## ITEM 2 - BUSINESS EXPERIENCE

**Directors, Officers and Other Executives**

**Matthew B. Hunt, Manager and President/Chief Executive Officer**

Mr. Hunt has been a Director since our incorporation in May 2011 and our President/Treasurer until February 2017. Since February 2017 he has been a Manager and President/Chief Executive Officer. Since October 2013 he has been a Manager of HEW Events, LLC. Since June 2009, he has been a Manager of HEW Jupiter LLC. He is located in Jupiter, Florida.

**RANDALL E. GREER, MANAGER AND VICE PRESIDENT, CHIEF OPWERATING OFFICER/CHIEF FINANCIAL OFFICER**

Mr. Greer has been a Director and our Vice President/Secretary since our incorporation in May 2011 until February 2017. Since February 2017 he has been a Manager and Vice President, Chief Executive Officer/Chief Financial Officer. Since October 2013 he has been a Manager of HEW Events, LLC. Since June 2009, he has been a Manager of HEW Jupiter LLC. He is located in Palm City, Florida.

**NICHOLAS W KUKLA, CHIEF MARKETING OFFICER**

Mr. _Kukla has been our Chief Marketing Officer since January 2015. From October 2011 to December 2015 was our first North Carolina Franchisee located in Asheville. In December 2015, he sold his Franchise Business to the current Franchisee. He is located in Jupiter, Florida.

## ITEM 3 - LITIGATION

*Robert J. Mosebach and HEW Delray Beach, Inc. v. HEW Enterprises, Inc., Matthew Hunt; HEW Franchising, Inc., Hew Ent. Franchising, LLC, and Hard Exercise Works Franchising, Inc.*, Case No. 16-011171, in the Circuit Court of the15th Judicial Circuit in and for Palm Beach County, Florida. On September 30, 2016, the Plaintiffs, our franchisee in Delray Beach, Florida filed a lawsuit against the Defendants, alleging breach of contract, violations if the franchise laws and rescission. The Defendants filed their answer denying the allegations and assets affirmative defenses. The Defendants later requested that the matter be referred to mediation. On April 28, 2017 the parties entered into a Settlement Agreement pursuant to which the Plaintiffs filed a Voluntary Dismissal with Prejudice of their lawsuit, the parties exchanged mutual releases and we agreed to pay the Plaintiffs $25,000 on the signing of the Settlement Agreement, $25,000 when the Plaintiffs sell the assets of their Franchise Business and $3,000 monthly for 50 months. The two $25,000 payments have been made and the $3,000 monthly payments are current.

Other than this 1 action, 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

**DEPOSIT FEE**

If a location suitable for a Franchise Business does not currently exist, you may request we grant you exclusive rights within a defined Reserved Area (*e.g.*, city, county) and our assistance to obtain an approved location for a Franchise Business. You will sign our form of Deposit Agreement included in Exhibit C and pay us a fee of $5,500 (the "Deposit Fee"). We expect that the parties will sign the Franchise Agreement and related documents within 120 days after signing the Deposit Agreement. If you timely sign the Franchise Agreement and related documents, we will credit the Territory Deposit Fee against the Initial Franchise Fee. If you desire to cancel the Deposit Agreement within the next 90 days, you must give us written notice and we will return the Deposit Fee without interest to you less the out-of-pocket expenses we have incurred. You must also sign the General Release included as Exhibit T. If you fail to timely sign the Franchise Agreement and related documents, we will retain the entire Deposit Fee to compensate us for our expenses, and for the time and effort that we expended in reliance upon your Franchise Application and for our lost opportunities. You must also sign the General Release included as Exhibit T.

**TERRITORY RESERVATION FEE**

In consideration of your payment of a reservation fee of $5,500 to us (the "Reservation Fee"), for 12 months from the date of the Territory Reservation Agreement, we will grant you the exclusive right to find a location that we approve for your purchase of a Hard Exercise Works Franchise within a territory to be described on the Map attached to the Territory Reservation Agreement included in Exhibit D (the "Territory"). However, if we receive an offer from another prospective franchisee that: (i) has received our then-current form of FDD, (ii) has gone through our initial franchise inquiries, (iii) has completed a business plan and proforma, (iv) is financially qualified; and (v) wants to complete a Discovery Day visit, we will share his or her interest and the proposed location with you and send you our current form of FDD. You will have 30 days from the date you receive in which to decide to purchase a Hard Exercise Franchise for this location. If you elect to purchase a Hard Exercise Works Franchise for the location by timely giving us written notice, you agree to close on the purchase the Hard Exercise Works Franchise within 30 days from the date you give us notice and sign the Franchise Agreement and related documents included as Exhibits to the FDD for this location. We will credit the Reservation Fee against the Initial Franchise Fee. If you do not decide to purchase a Hard Exercise Works Franchise for the intended location, we are free to sell the Franchise to the other prospective franchisee. In this event we will refund the Reservation Fee without interest to you and this Agreement terminates. You must sign the General Release attached as Exhibit R to our FDD.

**INITIAL FRANCHISE FEE**

The Initial Franchise Fee for a Franchise Business varies as follows:

| | |
|---|---|
| New Franchise | $49,500 |
| Conversion Franchise | $24,750 |

We fully earn the Initial Franchise Fee and it becomes non-refundable

**INITIAL FRANCHISE FEE FOR PURCHASING AN ADDITIONAL FRANCHISE**

If you currently own a Franchise Business and you desire to purchase an additional Franchise Business, regardless of whether under an Area Development Agreement, we will discount the Initial Franchise Fee to $39,500 each additional Franchise.

**TRAINING FEES**

If you elect to have more than 2 Trainees attend Initial Training, you must pay us a training fee for each additional person (currently $250 per day) and pay all their expenses.

**DEVELOPMENT FEE**

When you sign the Area Development Agreement to develop 3 Franchise Businesses, you will pay us a Development Fee equal to $99,500. When you sign each Franchise Agreement no additional Initial Franchise Fee will be charged).

## ITEM 6 - OTHER FEES

| Column 1<br><br>**Type of Fee** | Column 2<br><br>**Amount** | Column 3<br><br>**Due Date** | Column 4<br><br>**Remarks** |
|---|---|---|---|
| Ongoing Service Fee[1] | The greater of 5% of monthly Gross Revenues or $1,000 per month | On the 1st day of each month by EFT | The Ongoing Royalty Fee begins on your Grand Opening. Grand Opening Day means when you begin collecting revenue from customers |
| Contributions to the Brand Fund~~[1]~~ | 1% of monthly Gross Revenues | On the 1st day of each month by EFT | We created the Brand Fund in July 2017. |
| Technology Fee | Currently, $280 per month | On the 1st day of each month by EFT | This is for the use of the MindBody, Constant Contact, Waiver King, Rallio and Qvinci Software |
| Additional Training or Assistance at a Company-Owned Unit's Location[1] | $450 per trainer per day, with a 2 day minimum, plus your travel, meals and lodging expenses. | When training or assistance begins | We may charge you for training newly-hired personnel; for refresher training courses; and for additional or special assistance or training you need or request. For all training sessions and conferences, you must pay for your trainees' and representatives' salaries and benefits, and for their travel, lodging and meal expenses. |
| Additional Training or Assistance at your Location[1] | $450 per trainer per day, with a 2-day minimum, plus travel and lodging expenses of our trainers for training at your location. | When training or assistance begins | We may charge you for training newly-hired personnel; for refresher training courses; and for additional or special assistance or training you need or request. For all training sessions and conferences, you must also pay for our trainees' travel, lodging and meal expenses. |
| Fitness Training and Nutrition for continuing education[1] | $250 - $2,000 per year, varying by state and courses offered. | As incurred, or annual renewal as required by third party source | Provided by a third party source. All Coaches and Trainers are required to have and remain current with these courses as well as CPR certification. |

| Column 1<br><br>**Type of Fee** | Column 2<br><br>**Amount** | Column 3<br><br>**Due Date** | Column 4<br><br>**Remarks** |
|---|---|---|---|
| Transfer Fee[1] | 50% of our then-current initial franchise fee | Before transfer completed | If you sell the assets used in the operation of the Franchise Business or transfer more than 50% of the equity interests if you are a Business Entity. |
| Renewal Fee[1] | $2,000 | When you exercise the option | Rather than paying the new Initial Franchise Fee then in effect when you sign the Renewal Franchise Agreement, you must pay the Renewal Fee to reimburse us for our legal, administrative and other costs for your renewal. |
| Testing[1] | $100 - $1,000, varying by the actual cost of testing | Upon your receipt of our invoice | This covers the costs of testing new products or inspecting new suppliers you propose. |
| Audit[1] | Actual Cost of Audit | Upon your receipt of our invoice | Paid by you, if you do not supply us reports, supporting records or other required information, on a timely basis, or if you understate required Continuing Support and Service payments and/or Fund contributions by more than 2%. |
| Late Penalty Fee[1] | $100 per incident plus 1½% interest per month, or maximum allowed by law | Upon your receipt of our invoice | Due on any overdue or past due amounts of any fees or charges. |
| Maintenance and Refurbishing of Business[1] | Our Actual Costs | Upon your receipt of our invoice | If, after we notify you, you do not undertake efforts to correct deficiencies in Business appearance, then we can undertake the repairs and you must reimburse us. |
| Insurance[1] | Our Actual Costs | Upon your receipt of our invoice | If you fail to obtain insurance, as specified, we may obtain insurance for you and you must reimburse us. |
| Insufficient Funds[1] | $30.00 or as permitted by local law | 15 days upon your receipt of our invoice | Payable if you have insufficient funds in your ACH to cover a payment, or if you pay by check and a check is returned for insufficient funds or a closed account. |

| Column 1<br><br>**Type of Fee** | Column 2<br><br>**Amount** | Column 3<br><br>**Due Date** | Column 4<br><br>**Remarks** |
|---|---|---|---|
| Management Fee[1] | $500 per person per day, plus travel and lodging expenses | 15 days upon your receipt of our invoice | Payable when we (or a third party) are required to manage your Business after you or your managing owner's death or disability, or default or abandon your members. |
| Fines for Unauthorized Use of Trademark | $250 for 1st offense; $500 for 2nd Offense; and $1,000 for 3rd or later offense | 15 days upon your receipt of our invoice | After 3rd offense we reserve the right to terminate your franchise with notice but with no opportunity to cure |
| Relocation Fee[1] | $5,000 | 15 days upon your receipt of our invoice | If you must relocate your Franchise Business, you will pay us a Relocation Fee to reimburse us for our costs incurred in assisting you with relocation. |
| Cost and Attorneys' Fees[1] | Our actual costs | As incurred, 15 days upon your receipt of our invoice | Payable if you do not comply with the Franchise Agreement. |
| Indemnification[1] | Our actual costs and/or liability | As incurred, 15 days upon your receipt of our invoice | You must reimburse us if we are held liable for claims arising from your Business's operation. |
| Liquidate Damages for Unauthorized Access to Intranet[1 and 2] | $5,000 | Immediately upon receipt of invoice | Not allow any unauthorized person to access our Intranet and the information it contains. If you do so, you will pay us liquidated damages. |
| Liquidated Damages for Premature Termination [1and 2] | A lump sum equal to the total of all Royalty Fees and Advertising Contributions for 36 months | Immediately upon receipt of invoice | This amount is due if you default under your Franchise Agreement in lieu of us having to sue and prove our actual damages. You are also liable for pre-judgment and post-judgment interest and our attorneys' fees and costs. Other than a claim for monetary damages or lost profits, this payment is not exclusive of any other remedies that we have including a right to injunctive relief. This payment does not relieve you from your obligations that survive the termination or expiration of the Franchise Agreement including the obligations of indemnification, confidentiality and non-competition. |

**FOOTNOTES**

. [1] All fees are uniformly imposed by us and are payable to us. All fees are non-refundable. All fees may be automatically withdrawn from your account and transferred to our account when due.

[2] Minnesota and North Dakota have statutes that restrict or prohibit the imposition of liquidated damages provisions. Under California Civil Code § 1671, certain liquidated damages clauses are unenforceable. Fair practice laws, contract law and state and federal court decisions also restrict the imposition of liquidated damages.

**AREA DEVELOPMENT AGREEMENT**

| Column 1<br><br>**Type of Fee** | Column 2<br><br>**Amount** | Column 3<br><br>**Due Date** | Column 4<br><br>**Remarks** |
|---|---|---|---|
| Interest on Late Payments[1] | The lesser of: (i) 18% per annum; or (ii) the maximum rate of interest permitted by law. | Immediately upon receipt of invoice | If any payment under your Area Development Agreement or any other agreement between you and us or our Affiliates is overdue for any reason, you must pay to us, on demand, in addition to the overdue amount, interest on the overdue amount from the date it was due until paid. |
| Late Charge[1] | $100 | Immediately upon receipt of invoice | In addition to interest on overdue amounts, you will pay a late charge for each payment that is more than 10 days overdue to cover our administrative costs in dealing with the late payment. |
| Transfer Fee[1] | $10,000 | At the time of transfer | If you intend to transfer the Are Development Agreement as part of your sale of all of the assets comprising your Franchise Businesses under construction or in operation, we will consent to the transfer provided you comply with your obligations under Subsection 10.2(f) of the Franchise Agreements and pay us a transfer fee of $10,000 for the transfer of Area Development Rights |
| Renewal Fee[1] | Then-current Development Fee | At the time the renewal Area Development Agreement is signed | Within 30 days before the end of the Initial Term, you must sign our then-current form of Area Development Agreement, the terms of which may materially differ from the terms of the Area Development Agreement |

| Column 1<br><br>**Type of Fee** | Column 2<br><br>**Amount** | Column 3<br><br>**Due Date** | Column 4<br><br>**Remarks** |
|---|---|---|---|
| | | | including a new Development Schedule and pay us a Development Fee that we are then charging for Area Development Rights. |
| Enforcement Costs[1] | Actual cost to us | Immediately upon receipt of invoice | If any proceeding is begun for the enforcement of your Area Development Agreement, or for an alleged dispute, breach, default or misrepresentation under any provision of your Area Development Agreement, the prevailing party is entitled to recover reasonable attorneys' fees, court costs and expenses. If we engage legal counsel for your failure to comply with your Area Development Agreement, you must reimburse us for all of the Enforcement Costs we incur. |
| Indemnification[1] | Actual cost to us | Immediately upon receipt of invoice | You indemnify and hold us harmless from all damages (including reasonable attorneys' fees and costs, even if incident to appellate, post-judgment or bankruptcy proceedings), from claims brought by third parties involving your ownership or operation of your Franchise Businesses. This indemnity obligation continues in full effect after the expiration or termination of your Area Development Agreement. |

[1] This fee is payable to us.

**REFUNDABILITY**

All fees are nonrefundable.

**UNIFORMITY**

The expenses in this ITEM are uniform for persons currently offered a Franchise Business and/or Area Development Rights.

**ADVERTISING COOPERATIVES – VOTING POWER OF COMPANY-OWNED UNITS**

We have not established advertising cooperatives. Once formed, Company-Owned Units whose exclusive territories are in located within the DMA of the advertising cooperative must join the advertising cooperative and will have the same voting power as Franchised Units. If we create advertising cooperatives, the obligation of each Unit to contribute to an advertising cooperative will be 3% of monthly Gross Revenues. We will credit these contributions against your obligation for Local Advertising.

## ITEM 7 – ESTIMATED INITIAL INVESTMENT

### YOUR ESTIMATED INITIAL INVESTMENT - SINGLE UNIT FRANCHISE

| Column 1<br><br>**Type of Expenditure** | Column 2<br><br>**Amount** | Column 3<br><br>**Method of Payment** | Column 4<br><br>**When Due** | Column 5<br><br>**To Whom Payment Is To Be Made** |
|---|---|---|---|---|
| Initial Franchise Fee[1] | $49,500 | Lump Sum less any Deposit Fee or Territory Reservation Fee paid | On signing Franchise Agreement | Us |
| Rent and Lease Deposit[2] | $10,000 to $25,000 | As Agreed | Generally, the first and last month's rent are payable upon your signing the lease; thereafter, rent is payable monthly. | Landlord |
| Utility Deposits[3] | $500 to $2,500 | Lump Sum | Generally, a security deposit is payable upon connection. | Vendors |
| Leasehold Improvements[4] | $-0- to $171,300 | As Incurred | Before beginning business | Outside Suppliers |
| Business Permits, Licensures[5] | $100 to $6,000 | As Incurred | Before beginning business | Outside Governmental Agencies |
| Electronics and Software[6] | $3,000 to $9,000 | As Incurred | Before beginning business | Us and Outside Suppliers |
| Architectural Fees[7] | $0 to $7,500 | As Incurred | Before beginning business | Architect |
| Furniture and Fixtures[8] | $1,000 to $18,000 | As Incurred | Before beginning business | Approved Suppliers |

| Column 1<br><br>**Type of Expenditure** | Column 2<br><br>**Amount** | Column 3<br><br>**Method of Payment** | Column 4<br><br>**When Due** | Column 5<br><br>**To Whom Payment Is To Be Made** |
|---|---|---|---|---|
| Signage and Interior Graphics[9] | $3,000 to $15,000 | As Incurred | Before beginning business | Approved Suppliers |
| Inventory and Supplies[10] | $2,000 to $5,000 | As Incurred | Before beginning business | Designated and Approved Suppliers |
| Exercise Equipment[11] | $20,000 to $40,000 | As Incurred | Before beginning business | Approved Suppliers |
| Event Kit[12] | $3,773 to $4,848 | As Incurred | Before beginning business | Designated Supplier |
| Grand Opening Marketing and Advertising[13] | $5,000 to $20,000 | As Incurred | Before Beginning business and shortly thereafter | Advertising Sources |
| Training Expenses (out-of-pocket costs for 2 people), including travel, entertainment and housing, etc.[14] | $3,500 to $10,000 | As Incurred | Before beginning business | Third Parties |
| Insurance[15] | $900 to $4,300 | As Incurred | Before beginning business | Insurance Company |
| Floor Scrubber[16] | $2,000 to $5,885 | As Incurred | Before beginning business | Third Party |
| Attorney's Fees[17] | $1,000 to $3,750 | Lump Sum | Before beginning business | Attorney |
| Accountant's Fee[18] | $1,000 to $3,900 | Lump Sum | Before beginning business | Accountant |
| Pre-Opening Salaries[19] | $-0- to $5,000 | As Incurred | Before beginning business | Employees |
| Additional Funds – (3 months)[20] | $30,000 to $60,000 | As Incurred | During the first 3 months of operations | Employees, Third Parties |
| **TOTAL ESTIMATED INITIAL INVESTMENT** | **$136,273 to $466,483** | | | |

## YOUR ESTIMATED INITIAL INVESTMENT – CONVERSION FRANCHISE

| Column 1<br><br>**Type of Expenditure** | Column 2<br><br>**Amount** | Column 3<br><br>**Method of Payment** | Column 4<br><br>**When Due** | Column 5<br><br>**To Whom Payment Is To Be Made** |
|---|---|---|---|---|
| Initial Franchise Fee[1] | $24,750 | Lump Sum | On signing Franchise Agreement | Us |
| Rent and Lease Deposit[2] | $-0- | As Agreed | Has already been paid; thereafter, rent is payable monthly. | Landlord |
| Utility Deposits[3] | $-0- | Lump Sum | Has already been paid | Vendors |
| Leasehold Improvements[4] | $10,000 to $50,000 | As Agreed | As Incurred (before beginning business) | Outside Suppliers |
| Business Permits and Licensures[5] | $-0- | As Agreed | As Incurred (before beginning business) | Outside Governmental Agencies |
| Electronics and Software[6] | $3,000 to $9,000 | As Agreed | As Incurred (before beginning business) | Outside Supplier |
| Architectural Fees[7] | $0 to $3,000 | As Agreed | As Incurred (before beginning business) | Architect |
| Furniture and Fixtures[8] | $1,000 to $3,500 | As Agreed | As Incurred (before beginning business) | Designated and Approved Suppliers, or Us |
| Signage and Interior Graphics[9] | $3,000 to $15,000 | As Agreed | As Incurred (before beginning business) | Approved Suppliers |
| Inventory and Supplies[10] | $2,000 to $5,000 | As Agreed | As Incurred (before beginning business) | Approved Suppliers |
| Exercise Equipment[11] | $0- to $20,000 | As Agreed | As Incurred (before beginning business) | Approved Suppliers |
| Event Kit[12] | $3,773 To $4,848 | As Incurred | Before beginning business | Designated Supplier |
| Grand Opening Marketing and Advertising[12] | $2,500 to $10,000 | As Incurred | As Agreed | Advertising Sources |

| Column 1<br><br>**Type of Expenditure** | Column 2<br><br>**Amount** | Column 3<br><br>**Method of Payment** | Column 4<br><br>**When Due** | Column 5<br><br>**To Whom Payment Is To Be Made** |
|---|---|---|---|---|
| Training Expenses (out-of-pocket costs for 2 people), including travel, entertainment and housing, etc.[13] | $3,500 to $10,000 | As Incurred | As Incurred | Third Parties |
| Insurance[14] | $-0- | As Incurred | Has already been paid | Insurance Company |
| Floor Scrubber[15] | $-0- to $4,500 | As Agreed | As Incurred | Third Party |
| Attorney's Fees[16] | $1,000 to $3,750 | Lump Sum | Before beginning business | Attorney |
| Accountant's Fee[17] | $-0- $1,500 | Lump Sum | Before beginning business | Accountant |
| Pre-Opening Salaries[18] | $-0- | As Incurred | Before beginning business | Employees |
| Additional Funds – (3 months)[19] | $10,000 to $30,000 | As Incurred | During the first 3 months of operations | Employees, Third Parties |
| **TOTAL ESTIMATED INITIAL INVESTMENT** | **$64,523 to $196,233** | | | |

**FOOTNOTES**

[1] **Initial Franchise Fee**. We describe the Initial Franchise Fee in ITEM 5.

[2] **Rent and Lease Deposits** A Hard Exercise Works® Center occupies approximately 4,000 to 6,000 square feet of Center space. Rent varies by geographic location, size, local rental rates, businesses in the area, location profile, and other factors, and may be considerably higher in large metropolitan areas than in more suburban or small town areas. Hard Exercise Works® Centers can be located in strip shopping centers, free-standing locations, and other venues in downtown commercial areas and in multi-use residential areas. The figures in the table include the first 3 months' rent. Whether this rent is refundable depends on your agreement with your landlord. We require you secure and operate from zoned business premises. It is possible, however, that you might choose to buy, rather than rent, real estate on which a building suitable for the Franchise Business already is constructed or could be constructed. Real estate costs depend on location, size, visibility, economic conditions, accessibility, competitive market conditions, and the type of ownership interest you are buying. Because of the

numerous variables that affect the value of a particular piece of real estate, this estimated initial investment table does not reflect the potential cost of the purchase of real estate.

[3] **Utility Deposits** Required upon connection of the utility. Thereafter, is generally paid on a monthly basis. Whether this deposit is refundable depends on your agreement with your Vendor. Amounts vary per location.

[4] **Leasehold Improvements** Leasehold improvement costs including common flooring, Center mirrors, wall treatment, counters, ceilings, painting, window coverings, electrical, plumbing, carpentry and similar work, and contractor's fees depend on the location's condition, location, and size; the demand for the location among prospective lessees; the location's previous use; the build-out required to conform the location for your Franchise Business; and any construction or other allowances the landlord grants. The lower figure assumes that you are remodeling an existing fitness center location in an existing commercial facility; the higher figure assumes you are remodeling a general commercial facility. These figures do not include installation, delivery charges, shipping and/or labor costs, which will vary by location.

[5] **Permits and Licenses** These amounts include permits and licenses that may be required by local or federal law, including a business license, certificate of occupancy, remodeling permit, debris removal permit and signage permit. Regulations may vary depending on Franchisee's location and potential member base. These amounts include possible personal industry specific certifications and/or licensures required by local, municipal, state or federal law, which varies by state and municipality, and may be required by insurance companies, including industry-specific fitness training certifications as required by the state or by us, which includes AFAA certification for a Personal Fitness Trainer and/or Primary Group Fitness Trainer, Nutrition Certifications, and certifications for CPR and first aid. You are required to have fitness training certification before opening a Hard Exercise Works® Center.

[6] **Electronics and Software** You are required to purchase the following items, a flat screen TV, speakers, a printer, a 2-line telephone, an IPad, a wireless keyboard and mouse, a router, a card scanner, security camera system and 2 laptop computers. See the Manual for details. The computer software, MindBody®, Constant Contact®, Waiver King®, Rallio® and Qvinci® are the server software programs that run the exercise coaching, billing, waiver management, appointment scheduler, and handle your e-mail marketing and member check-in functions. You will also need to use Microsoft Excel, Microsoft Word and QuickBooks Online for your accounting needs.

[7] **Architect's Fees** Some jurisdictions may require the building plans to be prepared by a local architect before leasehold improvements can be approved. If the potential location is a pre-existing fitness center, then there may be no need for an architect. We have estimated your architectural fees to be $0 to $7,500.

[8] **Furniture, Fixtures** These amounts include office desk and chairs, locking 2-drawer filing cabinet, shelving, reception desk and chair, cubbies, retail shelving,

and the signage, posters and art that you must purchase from our designated supplier. The estimated amounts do not include installation of the signage. We will determine the furniture and fixtures that you will need to purchase. The lower figure assumes that you are purchasing the minimum amount furniture and fixture required, and the higher figure assumes that you are purchasing multiple furniture and fixture items. Neither figure includes installation, delivery charges, shipping and/or labor costs, which will vary by location.

[9] **Signage** The costs of signage varies depending upon location and may include open channel neon letters over the Center, pole signs, interior and exterior signs and interior wall graphics, and the interior graphics. We must pre-approve all signs. The cost of signage is estimated to be $3,000 to $15,000.

[10] **Inventory/Supplies** This includes cleaning supplies, office supplies, and opening retail inventory. See Pre Opening Manual for detailed lists.

[11] **Exercise Equipment** You must purchase or lease kettle bells, dumbbells, barbells, medicine balls, ropes, pull up bars, agility ladders and agility hurdles, rubber or acrylic plates and other items listed in the HEW Intranet/HEW Operations Manual. These costs are estimated to be to $20,000 to $40,000 and can be purchased from various vendors but we normally use a few specific vendors. We must pre-approve all equipment purchases for an existing facility as many items may already exist and you may save a substantial amount in this category. You may be allowed to purchase good, used equipment rather than purchase new equipment. It may be possible for you to obtain financing from a third party lender or a leasing company. The financing or leasing of equipment will be based upon your credit, financial capabilities and other factors. The lower figure assumes that you are purchasing the minimum amount of exercise equipment required, and the higher figure assumes that you are purchasing multiple exercise equipment. These figures do not include installation, delivery charges, shipping and/or labor costs, which will vary by location.

[12] **Event Kit.** You must purchase an Event Kit that includes: 10x10 Branded Pop Up Tent frame; Branded Canopy with UV Digital Printing, Back Wall with UV Digital Printing;, 2 Medium Flags with Double Sided printing and a 6 ft. Fitted Table Cover with Digital Printing. The Event Kit and additional items are available for purchase through Tent Craft: www.tentcraft.com/hew.

[13] **Grand Opening Marketing and Advertising** Grand Opening Marketing and Advertising expenses are estimated to be $5,000 to $20,000. You must spend the funds the pre-opening preparation for Grand Opening or Pre-Opening marketing of the Franchise Business. This includes flyers, storage, banners, etc. We must pre-approve all Grand Opening Marketing materials.

[14] **Training Expenses** We estimate that your travel expenses for Initial Training will be $3,500 to $10,000. This is estimated to be up to 30 Business Days of Initial Training. If you live in the Palm Beach County/South Florida area, then these expenses should be on the low side.

[15] **Insurance** You must obtain and maintain certain types and amounts of insurance (See ITEM 8). Insurance costs depend on policy limits, types of policies, nature and value of physical assets, gross revenue, the number of employees, square footage, location, business contents, and other factors bearing on risk exposure. We assume a Conversion Franchisee already has insurance.

[16] **Floor Scrubber** You must purchase a floor scrubber comparable to the size and specs of the Tennant 5680 model, or the Viper Fang 32-T. This ensures the floor is area is clean and must be scrubbed at the end of every day.

[17] **Attorney's Fees** You must sign the Franchise Agreement individually. You may decide to form a Business Entity to operate the Franchise Business before beginning operations. You will have to comply with the fictitious, assumed, or trade name statutes of the state in which the Franchise Business will be located. These estimates include attorneys' fees, publication fees, filing fees and other costs for business entity formation, compliance with your state's fictitious or assumed name statute and review of this Franchise Disclosure Document, and lease review and negotiation, depending on the scope of representation. These fees may vary from state to state depending on each state's laws and the prevailing rates of attorneys' fees.

[18] **Accountant's Fees** We recommend that you retain an accountant to advise you including the preparation of a business plan, tax advice on business entity formation, set up of accounting system, tax planning and compliance.

[19] **Pre-Opening Salaries** You may need staff for pre-opening boot camp or pre-opening marketing efforts

[20] **Additional Funds** This item estimates your expenses during the initial phase of operation of your Franchise Business (other than the items identified separately in the table). These expenses include payroll costs, but not any draw or salary for you. These figures are estimates, and we cannot guarantee that you will not have additional expenses starting the Franchise Business. Your costs depend on how much you follow our methods and procedures; your management skill, experience, and business acumen; local economic conditions; the local market for your products and services; the prevailing wage rate; competition; and the sales level reached during the initial phase of operation of your Franchise Business.

**YOUR ESTIMATED INITIAL INVESTMENT - AREA DEVELOPMENT AGREEMENT**

| Column 1<br><br>**Type of Expenditure** | Column 2<br><br>**Amount** | Column 3<br><br>**Method of Payment** | Column 4<br><br>**When Due** | Column 5<br><br>**To Whom Payment Is To Be Made** |
|---|---|---|---|---|
| Development Fee[1] | $99,500 | Lump Sum | On signing the Area Development Agreement | Us |

| Column 1<br><br>**Type of Expenditure** | Column 2<br><br>**Amount** | Column 3<br><br>**Method of Payment** | Column 4<br><br>**When Due** | Column 5<br><br>**To Whom Payment Is To Be Made** |
|---|---|---|---|---|
| Initial Investment for 1st Franchised Unit | $130,498 to $464,483 | As Incurred | As stated in invoices | Us and other Suppliers |

[1] **Development Fee** See ITEM 5 INITIAL FEES for a description of the Development Fee.

**PAYMENTS BY EFT**

You will open a separate operating account with a bank for the Franchise Business. You will make all payments to us by pre-authorized transfers from the operating account by electronic fund transfers that we process at the time any payment is due or by any other payment system that we designate

**REFUNDABILITY**

All fees are nonrefundable.

**UNIFORMITY**

The expenses in this ITEM are uniformly imposed for persons currently offered a Franchise Business and/or Area Development Rights.

**ADVERTISING COOPERATIVES – VOTING POWER OF COMPANY-OWNED UNITS**

We have not established advertising cooperatives. Once formed, Company-Owned Units whose exclusive territories are in located within the DMA of the advertising cooperative must join the advertising cooperative and will have the same voting power as Franchise Units on all matters including fees. DMA means a Designated Marketing Area, which is a geographic area defined by Nielsen Media Research Company as a group of counties that make up a particular television market. These counties comprise the major viewing audience for the television stations located in their particular metropolitan area. For the most part, the metropolitan areas correspond to the standard metropolitan statistical areas defined by the Federal Government Office of Management and Budget. The areas do not overlap, and every county in the United States belongs to only one DMA. If we create advertising cooperatives, the obligation of each Unit to contribute to an advertising cooperative will be 2% of monthly Gross Revenues. We will credit these contributions against your obligation for Local Advertising.

**OUR EXPERIENCE IN COMPILING THESE ESTIMATES**

We relied on the 41 years combined experience of our principals in operating a business similar to the Franchise Business to compile these estimates. You should review these figures carefully with a business advisor before deciding to acquire the Franchise.

**<u>FINANCING</u>**

We do not offer any financing arrangements to you.

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

**<u>PURCHASES FROM US, OUR DESIGNEE OR APPROVED SUPPLIERS OR UNDER OUR SPECIFICATIONS</u>**

You must purchase or lease the following goods, services, supplies, fixtures, equipment, inventory, computer hardware and software, real estate or comparable items related to establishing or operating your Franchise Business from us, from our designee, from suppliers we approve or under our specifications.

**<u>PURCHASES FROM US</u>**

At present, you must purchase solely from us the following goods and services:

**<u>SUBLICENSE OF MINDBODY, CONSTANT CONTACT, WAIVER KING, RALLIO AND QVINCI SOFTWARE</u>**

We are a value-added reseller of the: (i) MindBody® web-based scheduling and business management software including processing of credit card and debit card payments for membership fees; (ii) Constant Contact® web-based e-mail marketing and other online marketing campaign software; (iii) Waiver King® web-based program to obtain liability waivers from members; (iv) Rallio® social media management software; and (v) Qvinci® financial consolidation, reporting and benchmarking software. We sublicense these software products to you pursuant to the Software Sublicense Agreement included as Exhibit O. There is a $280 monthly Technology Fee to be paid on the 1st day of each month by EFT.

We may change these items based on our experience.

**<u>PURCHASES FROM OUR DESIGNATED SUPPLIERS</u>**

At present, you must purchase the following items from our Designated Suppliers:

**<u>REAL ESTATE BROKERAGE SERVICES</u>**

You must retain Morrow Hill (http://www.morrowhill.com) as your Tenant Agent to assist you in finding a suitable location for your Franchise Business.

**<u>OTHER SOFTWARE</u>**

**QuickBooks Online** - You must purchase a license from Intuit, Inc. the right to use the QuickBooks Online accounting system.

We may change our Designated Suppliers and/or the goods or services you must purchase from our Designated Suppliers based on our experience.

**<u>EVENT KIT</u>**

You must purchase the Event Kit from Tent Craft: www.tentcraft.com/hew.

**<u>PURCHASES FROM APPROVED SUPPLIERS</u>**

You must purchase or lease equipment, supplies, inventory, advertising materials, construction services and other products and services used for the operation of your Franchise Business only from Approved Suppliers. These Approved Suppliers have demonstrated: (i) the ability to meet our standards and specifications for these items; (ii) possess adequate quality controls and capacity to supply your needs promptly and reliably; and (iii) have been approved in writing by us and not later disapproved. We will use our best reasonable efforts to negotiate agreements with Approved Suppliers that, in our good faith belief, are in the best interest of all Franchise Businesses. We may approve a single Designated Supplier for any brand and may approve a Designated Supplier only as to a certain brand or brands. We retain the right to receive compensation from these Designated and Approved Suppliers for our negotiation. In approving suppliers for the Business System, we may take into consideration factors like the price and quality of the products or services and the supplier's reliability. We may concentrate purchases with 1 or more suppliers to obtain the lowest prices and/or the best advertising support and/or services. We may condition approval of a supplier on our requirements on the frequency of delivery, standards of service, warranty policies including prompt attention to complaints, and concentration of purchases. We may grant temporary approval pending our additional evaluation of the supplier.

**<u>LIST OF APPROVED SUPPLIERS</u>.**

At present, you must purchase certain items from our list of Approved Suppliers contained in the HEW Intranet/HEW Operations Manual. We may change our list of Approved Suppliers and the items supplied based on our experience. Neither any Affiliate nor we are Approved Suppliers except for items you must purchase from us as described above.

**<u>RELATED SUPPLIERS</u>**

No officer of ours has an ownership interest in any supplier, except for us.

**<u>APPROVAL OF ALTERNATE SUPPLIERS</u>**

**<u>Criteria</u>.** Our criteria for alternate supplier approval are available to you.

**<u>Contact with Alternate Suppliers</u>**. If you propose to purchase or lease any equipment, supplies, inventory, advertising materials, construction services or other products or services that are not proprietary to us or an Affiliate from an unapproved supplier, you must submit to us a written request for approval, or request the supplier to do so itself.

**<u>Procedures for Our Approval</u>**. We have the right to require, as a condition of our approval, that the supplier permit our representatives to inspect its facilities. If we request, the supplier will deliver samples to us or to our designated independent, certified laboratory for testing. We are not liable for damage to any sample that may result from the testing process.

**Fees**. You will pay a charge not to exceed the reasonable cost of the inspection and the actual cost of the testing (estimated to not to exceed $1,000). We may also require as a condition to its approval, that the supplier present satisfactory evidence of insurance, for example, product liability insurance, protecting our Franchisees and us from all claims from the use of the item within the Business System.

**Time Period for Notices**. We will give you written notice of our approval or disapproval by regular mail within 10 days after all testing and completion of the above conditions.

**Right of Revocation**. We reserve the right to reinspect the facilities and products of any approved supplier and continue to sample the products at the supplier's expense. We reserve the right to revoke approval upon the supplier's failure to continue to meet our standards and specifications. You will receive written notification of approval or disapproval of a supplier within 7 days after we have investigated and inspected the supplier.

**PURCHASES UNDER OUR SPECIFICATIONS**

We have developed specifications for a number of goods and services. Specifications are available upon request and include minimum standards of quality, construction, economies of scale, name recognition, appearance and function. We may change our specifications as a result from our experience and or changes in the market place or changes in law. We will issue any changes to all Franchisees through changes to the HEW Intranet/HEW Operations Manual. . The categories for these purchases or leases are as follows:

**LOCATION SELECTION CRITERIA**

We will supply you our location selection criteria. Within 30 days after signing this Agreement, you must find a location that you believe meets our criteria. You must send to us all material information regarding the proposed location including: (a) pictures of the location; (b) population demographics within a 5-mile radius of the location; (c) information regarding traffic counts and patterns; (d) number of parking spaces; (e) visibility from the roadways; (f) the predominant character of the neighborhood; (g) competitive businesses within the area; (h) the nature of other businesses in proximity to the location; and (i) the size, appearance and other physical characteristics of the location.

**PURCHASE OF SITE**

If you intend to purchase the location for the Franchise Business, you must submit the purchase agreement to us for our written approval. You are solely responsible for securing any necessary purchase, construction, permanent or other financing of the location and the Premises. Once you acquire ownership of the Premises, you will enter into with us the Agreement with Landlord, both as landlord and as the Franchisee, in the form included as Exhibit L.

**LEASE OF PREMISES**

You are solely responsible for obtaining a lease of the Premises at a location we approve. Any lease must provide that the effectiveness of the lease is conditioned upon your obtaining our written approval. Our approval will be given when the property owner, you and us sign our form of Agreement with Landlord attached as Exhibit L to the Franchise Disclosure Document.

### PLANS AND SPECIFICATIONS AND/OR STANDARD RECOMMENDED FLOOR PLAN

We will loan to you our prototype architectural drawings for the Premises (which may include sample equipment layouts and floor plans) "(Drawings") for the construction of the Premises. We also loan to you our specifications and standards pertaining to equipment, signage, fixtures, furnishings, accessory features and design and layout we make available to you. (collectively, the "Design Specifications"). The Drawings and Design Specifications may vary in their design and decor by region of the country, at our sole discretion. The Drawings and Design specifications are contained in the HEW Intranet/HEW Operations Manual.

### SPECIFICATIONS FOR UNIFORMS

The HEW Intranet/HEW Operations Manual includes our specifications for uniforms for your employees that you purchase directly from us.

### INSURANCE

You must obtain and maintain at your expense certain insurance that includes the risks, amount of coverage and deductibles we require. This insurance may be in addition to any other insurance that you must obtain based on the requirements of applicable law, your landlord's requirements, your lender's requirements or otherwise. The insurance company must be reasonably satisfactory to us and have a Best rating of "B" or better. We may periodically adjust the amounts of coverage required under the insurance policies and require different or additional kinds of insurance at any time, including excess liability insurance, if the changes are required throughout the Network including any Company-Owned Units. These changes and additions to insurance coverage may be required to reflect inflation, the existence of new risks, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances.

### LOCAL ADVERTISING

You must submit to us for our approval all materials used for Local Advertising unless the materials have been previously approved by us or the materials consist only of materials we provide. You are free to use your own advertising material only if you have obtained our prior written approval.

### NO REVENUE FROM REQUIRED PURCHASES OR LEASES BY FRANCHISEES

We derive revenue from required purchases or leases by franchisees. Our total revenues from all operations during 2017 were $351,932. Of this amount, $49,297 was derived from required purchases or leases by franchisees. This amount represents 14% of our total revenues for 2017.

### MAGNITUDE OF REQUIRED PURCHASES OR LEASES

We estimate that the proportion of required purchases and leases to all purchases and leases by you of goods and services is 20% to 30% in establishing the Franchise Business and 10% to 20% in operating the Franchise Business.

PAYMENTS FROM DESIGNATED SUPPLIERS

We do not currently receive any payments from Designated Suppliers. We may from time to time be reimbursed for helping negotiate leases with brokers by receiving portions of the brokers' commissions.

PURCHASING OR DISTRIBUTION COOPERATIVES

There are currently no purchasing or distribution cooperatives that you must join or in which you may participate.

NEGOTIATION OF PURCHASE ARRANGEMENTS

We do negotiate purchase arrangements with suppliers for your benefit and the benefit of the other franchisees.

MATERIAL BENEFITS

We do not provide material benefits to you based on your purchase of particular products or services or use of particular suppliers.

## ITEM 9 - FRANCHISEE'S OBLIGATIONS

### FRANCHISE AGREEMENT

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

| Obligation | Section in Franchise Agreement | Franchise Disclosure Document ITEM |
|---|---|---|
| a. Site selection and acquisition/lease | Section 4.1 | ITEMS 6, 7, 8 and 11 |
| b. Pre-opening purchases/leases | Sections 4.1, 4.2, 4.3, 4.4, 4.7, 4.8, and 4.9 | ITEMS 5, 7, 8 and 11 |
| c. Site development and other pre-opening requirements | Sections 4.1, 4.2, 4.3, 4.4, 4.7, 4.8 and 4.9 | ITEMS 7, 8 and 11 |
| d. Initial and ongoing training | Sections 2.9, 2.13, 2.15(b) and (f) | ITEMS 6, 7, 8 and 11 |
| e. Opening | Section 4.11 | ITEMS 7, 8 and 11 |
| f. Fees | Sections 1.4(d), 2.9(a), 2.18, 3.1, 3.3, 4.6(d), 4.11(a), 4.17(b), 6.2(c), 10.2(b) and 16.2(b) | ITEMS 5, 6 and 7 |
| g. Compliance with standards and policies/Operating Manual | Sections 1.4, 1.5, 2.2, 2.3, 2.7, 2.8, 2.9, 2.10, 2.17, 4.3, 4.4, 4.5, 4.6, 4.8, 4.11, 4.12, 4.14, 7.2, 8.2, 9.1, 11.4, 12.7, 20.3 and ARTICLE 6 | ITEMS 8, 11 and 14 |

| Obligation | Section in Franchise Agreement | Franchise Disclosure Document ITEM |
|---|---|---|
| h. Trademarks and proprietary information | ARTICLES 5, 6 and 14 | ITEMS 13 and 14 |
| i. Restrictions on products/services offered | Sections 1.2(b), 1.3,1.4, 1.5, 4.7, 4.12, 4.16, and 4.20 | ITEMS 8 and 16 |
| j. Warranty and customer service requirements | Sections 4.12 and 4.16 | ITEM 8 |
| k. Territorial development and sales quotas | Subsection 16.2(iii) | ITEM 17 |
| l. Ongoing product/service purchases | Sections 4.7, 4.11 and 4.12 | ITEMS 6 and 8 |
| m. Maintenance, appearance and remodeling requirements | Sections 4.2, 4.3, 4.11, 4.14 and 4.21 | ITEMS 6, 7 and 8 |
| n. Insurance | ARTICLE 9 | ITEMS 6, 7 and 8 |
| o. Advertising | ARTICLE 7 | ITEMS 6, 7, 8 and 11 |
| p. Indemnification | Section 14.2 | ITEMS 6 and 8 |
| q. Owner's participation/ management/staffing | Sections 2.9,4.5, 4.6, 4.19 and 4.20 | ITEMS 6 and 15 |
| r. Records and reports | ARTICLE 8 | ITEM 8 |
| s. Inspections and audits | ARTICLE 8 | ITEMS 6, 8 and 11 |
| t. Transfer | ARTICLE 10 | ITEMS 6 and 17 |
| u. Renewal | Sections 16.2 and 16.3 | ITEMS 6 and 17 |
| v. Post-termination obligations | ARTICLE 12 | ITEM 17 |
| w. Non-competition covenants | ARTICLE 13 | ITEM 17 |
| x. Dispute resolution | ARTICLE 17 | ITEMS 6 and 17 |
| y. Liquidated Damages | Section 12.9 | ITEM 17 |

## AREA DEVELOPMENT AGREEMENT

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

| Obligation | Section in Area Development Agreement | Franchise Disclosure Document Item |
|---|---|---|
| a. Site selection and acquisition/lease | Not Applicable | Not Applicable |
| b. Pre-opening purchases/leases | Not Applicable | Not Applicable |
| c. Site development and other pre-opening requirements | Not Applicable | Not Applicable |
| d. Initial and ongoing training | Not Applicable | Not Applicable |
| e. Opening | Not Applicable | Not Applicable |

| Obligation | Section in Area Development Agreement | Franchise Disclosure Document Item |
|---|---|---|
| f. Fees | Section 1.3 | ITEMS 5 and 6 |
| g. Compliance with standards and policies/Operating Manual | ARTICLE 3 | ITEMS 8, 11 and 14 |
| h. Trademarks and proprietary information | Not Applicable | Not Applicable |
| i. Restrictions on products/services offered | Section 1.1 | ITEMS 8 and 16 |
| k. Territorial development and sales quotas | Sections 1.4, 1.5 and 3.1 | ITEM 12 |
| l. Ongoing product/service purchases | Not Applicable | Not Applicable |
| m. Maintenance, appearance and remodeling requirements | Not Applicable | Not Applicable |
| n. Insurance | Not Applicable | Not Applicable |
| o. Advertising | Not Applicable | Not Applicable |
| p. Indemnification | Not Applicable | Not Applicable |
| q. Owner's participation/ management/staffing | Not Applicable | Not Applicable |
| r. Records/reports | Section 3.2 | Not Applicable |
| s. Inspections/audits | Not Applicable | Not Applicable |
| t. Transfer | Section 4.1 | ITEMS 6 and 17 |
| u. Renewal | Sections 5.2 and 5.3 | ITEMS 6 and 17 |
| v. Post-termination obligations | Not Applicable | Not Applicable |
| w. Non-competition covenants | Not Applicable | Not Applicable |
| x. Dispute resolution | Section 8.1 | ITEMS 6 and 17 |

## ITEM 10 - FINANCING

We do not offer direct or indirect financing to you. 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.**

## **FRANCHISE AGREEMENT**

### **PRE-OPENING OBLIGATIONS**

After the parties sign the Franchise Agreement but before you open your Franchise Business, we will provide you with the following assistance and services, as long as you are not in default under your Franchise Agreement:

**Location Selection Assistance** (Section 2.1 of the Franchise Agreement)

**Ownership of Location**. We do not generally own the location of the Premises for the Franchise Business and sublease it to you. An unrelated third party will own the location and lease the Premises to you.

**Selecting a Location**. We do not select the location. You must select a proposed location for your Franchise Business and obtain our written approval before you sign a lease or begin any construction. Our approval is only our indication that the proposed location meets our minimum criteria for identifying locations.

**Location Selection Criteria**. We will supply you our location selection criteria. Within 30 days after signing this Agreement, you must find a location that you believe meets our criteria. You must send to us all material information regarding the proposed location including: (a) pictures of the location; (b) population demographics within a 3-mile radius of the location; (c) information regarding traffic counts and patterns; (d) number of parking spaces; (e) visibility from the roadways; (f) the predominant character of the neighborhood; (g) competitive businesses within the area; (h) the nature of other businesses in proximity to the location; (i) the size, appearance and other physical characteristics of the location; and inline tenant notification of our business model of exercise specifically relating to possible vibration from Olympic lifting. We will not unreasonably withhold our approval of any location meeting our standards. We will review location approval submissions on a first-in basis but within 30 days of your submission. If we do not approve the location, you have 30 days in which to submit a new location within the Reserved Area for our written approval. If you fail to do so in a timely manner, we have the right to terminate the Franchise Agreement and retain the Initial Franchise Fee. If we terminate the Franchise Agreement, you will also sign and deliver to us the General Release in the form included as Exhibit R.

**Lease Assistance.** If you intend to lease your Premises from a third party, you must use our designated Tenant Agent (currently, Morrow Hill) to assist you in finding a suitable location. We will advise you in your lease negotiations including giving you our Lease Requirements contained in the HEW Intranet/HEW Operations Manual. Any lease must provide that the effectiveness of the lease is conditioned upon your obtaining our written approval. Our approval will be given upon compliance with our Lease Requirements and when we, you and the property owner sign our form of Agreement with Landlord attached as Exhibit L. It is your primary responsibility to negotiate the terms of the Lease. (Section 2.2 of the Franchise Agreement.)

**Plans and Specifications.** We will loan to you our prototype brand identification, sample equipment layouts and floor plans and architectural drawings for the premises of other Franchisees "(Drawings") for the construction of the Premises. We also loan to you our specifications and standards pertaining to equipment, signage, fixtures, furnishings, accessory features and design and layout we make available to you. (collectively, the "Design Specifications").

The Drawings and Design Specifications may vary in their design and decor by region of the country, at our sole discretion. The Drawings and Design Specifications are contained in the HEW Intranet/HEW Operations Manual. You must comply with local ordinances and building codes, and obtain any required permits. On or before the Opening Date, you must return these Drawings and Design Specifications to us. (Section 2.3 of the Franchise Agreement.)

**Uniform Requirements.** The HEW Intranet/HEW Operations Manual includes our specifications for uniforms for your employees that you must purchase directly from us. (Section 4.5 of the Franchise Agreement.)

**Business Planning Assistance.** You may prepare your own business plan and/or pro forma financial projections. We will provide you with referrals offering working capital lines of credit, term loans and/or equipment lease financing. (Section 2.4 of the Franchise Agreement.)

**Website; Intranet** We have created a Website, www.hardexerciseworks.com and Intranet for use by our Franchisees and us. We will list your Franchise Business on our Website. (Section 2.5 of the Franchise Agreement.)

**Accounting, Cost Control, Nutrition Management and Fitness Services and Products Systems**. We will provide you with the requirements for a standardized system for accounting, cost control, nutrition management and fitness services and products control. (Section 2.6 of the Franchise Agreement.)

**Lists, Forms and Schedules.** (Section 2.7 of the Franchise Agreement.)

We will loan to you, either in hard copy form or as electronic files, the following for use in the operation of the Franchise Business:

**List of Items**. A list of equipment, fixtures, furnishings, supplies, materials, inventory and other items necessary to open and operate your Franchise Business and a list of Designed Suppliers, Approved Suppliers and product specifications;

**Specifications**. Specifications for business cards, stationary, receipts, point-of-sale materials, frequent customer cards, gift cards, reporting documents, and other business forms and materials we deem necessary for the operation of the Franchise Business that you purchase from Approved Suppliers.

**Reporting**. Requirements regarding your establishment of daily, weekly and monthly reporting systems; bookkeeping procedures; and accounting procedures, which you must adopt and implement at the Franchise Business.

These forms and schedules are contained in the HEW Intranet/HEW Operations Manual. You must retain your own legal counsel to review and revise these agreements and forms so they comply with all applicable federal and state laws.

**Employee Information and Assistance.** We will provide to you employee hiring information including pay scale guidelines and a standardized interviewing/selection system as described in the HEW Intranet/HEW Operations Manual. No employee of yours is an employee of ours for any purpose whatsoever. You are solely responsible for the hiring, disciplining, supervising, promoting and firing of your employees and the establishment of their salaries as provided in Section 4.6 of the Franchise Agreement. (Section 2.8 of the Franchise Agreement.)

**Initial Training .** We will provide Initial Training for up to 2 Trainees. (Section 2.9 of the Franchise Agreement.) We describe the details of Initial Training under the heading TRAINING PROGRAM below.

**Access to the HEW Intranet/HEW Operations Manual.** We will give you access to the HEW Intranet/HEW Operations Manual and any supplemental manuals through our Intranet. Our practice is to give you access you shortly after you sign this Agreement. (Section 2.10 of the Franchise Agreement.)

**Pre-Opening Inspection.** We will provide periodic on-location assistance and inspection of the installation of the furniture, fixtures and/or equipment and will generally inspect the Premises. We will provide you with advice, as we deem appropriate, to insure that you conform your Premises to our applicable standards before the Opening Date. (Section 2.11 of the Franchise Agreement.)

**License of Intellectual Property.** Subject to this Agreement, we license to you the right to use the "Hard Exercise Works®" trade name and the other Intellectual Property. (Section 2.13 of the Franchise Agreement.)

**Sublicenses of Software.** We sublicense to you the right to use the MindBody, Constant Contact, Waiver King, Rallio and Qvinci Software pursuant to the Software Sublicense Agreement included in Exhibit O. (Section 2.14 of the Franchise Agreement.)

**MindBody Training**. We will provide live training provided by staff at MindBody, Inc. via the Internet and telephone after MindBody location setup to learn to use the Mindbody software. (Section 2.15 of the Franchise Agreement.)

**Grand Opening Assistance.** We will assist you in the grand opening of the Franchise Business including: (i) social media promotion; (ii) providing you advice and guidance with regard to staffing, decoration, advertising; (iii) developing a guest list and (iv) assisting you in hosting a grand opening celebration. (Section 2.16 of the Franchise Agreement.)

## STATEMENT OF COSTS TO OPEN

Within 3 to 6 months after you open, you will prepare and provide us with a complete and detailed written statement in the form contained in the HEW Intranet/HEW Operations Manual containing a breakdown of all costs you incurred in the constructions and operation of the Franchise Business. [Subsection 4.11(c) of the Franchise Agreement]

## CERTIFICATE OF PERFORMANCE OF PRE-OPENING OBLIGATIONS

After we have performed all of our pre-opening obligations and you are open for business, we may request you to sign a certification in the form included in the HEW Intranet/HEW Operations Manual ("Certificate of Performance") confirming our performance. If, in good faith, you do not believe that we have not completed certain of our pre-opening obligations, you will note the alleged deficiencies on Schedule A – List of Deficiencies to Certificate of Performance specifically describing the obligations that you believe we have not performed. [Subsection 4.11(d) of the Franchise Agreement]

**TIME TO OPEN**

The typical length of time between the signing of the Franchise Agreement or the first payment of any consideration for the Franchise if the Deposit Agreement or Territory Reservation Agreement is signed and the opening of the Franchise Business can vary from 6 months to 12 months. The factors that affect this period usually includes the time needed to acquire a location for your Franchise Business, to negotiate a lease, to arrange for financing, to comply with local ordinances and obtain building permits, to hire employees, weather conditions, shortages, or delayed installation of equipment, fixtures and signs and, other operational issues, etc., and the time when you complete satisfactorily Initial Training. If you fail to open within 12 months of signing the Franchise Agreement, you are in material default under the Franchise Agreement and we have the right to terminate the Franchise Agreement and retain the Initial Franchise Fee. If we terminate the Franchise Agreement you must also sign the General Release included in Exhibit R. (Section 4.4 of the Franchise Agreement)

**ONGOING OBLIGATIONS AFTER OPENING**

Provided you are not in default under your Franchise Agreement, we will perform the following obligations during the operation of your Franchise Business:

**Post-Opening On-Location Training.** We will make available to you post-opening, on-location training of 2 to 5 days conducted at your Franchise Business shortly after the Opening Date. The on-location training program will cover material aspects of the operation of the Franchise Business including financial control, marketing techniques, maintenance of quality standards, employee hiring, training and customer service, inventory control, security standards, merchandising techniques, promotional techniques, operations, purchasing and sales. (Section 2.12 of the Franchise Agreement.) We provide details under the heading "TRAINING PROGRAM."

**Field Visits**. We will assist you in the continued development and operation of your Franchise Business that may include periodic visits by one of our field representatives. [Subsection 2.17(a) of the Franchise Agreement]

**Additional Training at Your Premises**. We will provide additional training resources, at a cost to you to be determined by us (after the first year) to assist you at your Premises for hourly employees. [Subsection 2.17(b) of the Franchise Agreement]

**Seminars**. We may conduct additional virtual or hands-on seminars, or other training programs for your benefit or the benefit of your employees. We may charge a reasonable fee for such seminar or program if it is deemed appropriate. You will pay for any traveling, living and other expenses incurred by you or your employees to attend a seminar. [Subsection 2.17(e) of the Franchise Agreement]

**Additional Training at Our Office**. You will complete and/or cause your employees to complete, to our satisfaction, such other additional training as we may reasonably require from time to time. You may make a reasonable request for training in addition to that specified in Subsection 2.17(b) of the Franchise Agreement. We will provide such training, at your expense, including any travel, lodging, meals and other related costs. [Subsection 2.17(f) of the Franchise Agreement]

**Website; Intranet.** We will maintain the Website and Intranet for use by our Franchisees and us in accordance with Subsection 4.13(c) and Section 7.4 of the Franchise Agreement. [Subsection 2.17(h) of the Franchise Agreement]

**E-mail Address and Accounts**. We will give you an e-mail address. We provide you up to 3 e-mail addresses, which are limited to Franchise Owners, the Designated Representative and your General Manager. We have established reasonable standards for e-mail accounts and their use, which we may periodically revise. You will have reasonable time within which to upgrade when standards change. From time-to-time, we will send important information to your Hard Exercise Works e-mail address. To stay informed on developments affecting the Business System and your Franchise Business, you agree to check your e-mail at least daily. You must respond to any request we send to you by e-mail that requires a response within 24 hours of your receipt of our e-mail. You must send to us an acknowledgment of receipt of our e-mail to you. [Subsection 2.17(i) of the Franchise Agreement]

**Production of Advertising Materials**. We will make available to you various advertising, marketing, and promotional materials using funds from the Brand Fund for your use in your DMA. [Subsection 2.17(j) of the Franchise Agreement]

**Advertising and Public Relations Campaigns**. We will generally promote the Franchise Businesses through advertising and public relations campaigns using funds from the Brand Fund. [Subsection 2.17(k) of the Franchise Agreement]

**Reciprocity Management.** We will oversee the distribution of your membership information to other Hard Exercise Works Franchisees to permit your Members to use the facilities of other Hard Exercise Works Franchisees and *vis versa*. [Subsection 2.17(k) of the Franchise Agreement]

**Research and Development**. We will continue to research and develop new products and services and other aspects of the Business System, as we deem appropriate in our sole discretion. We may conduct market research and testing to determine consumer trends and the salability of new products and services. You acknowledge that we may choose to offer certain products or services that are not a normal part of the Business System to certain Franchisees for test marketing or other purposes. You agree that we may not make these products or services available to you for testing. If we select your Franchise Business, and if you agree, you will participate in our market research programs, in test marketing new products and/or services in the Franchise Business. If you participate in any test marketing, you agree to purchase a reasonable quantity of the products or services to be tested and to effectively promote and make a good faith effort to sell them. You will provide us with timely reports and other relevant information regarding that market research. [Subsection 2.17(l) of the Franchise Agreement]

**License of Intellectual Property.** Subject to this Agreement, we license to you the right to use the “Hard Exercise Works®” trade name and the other Intellectual Property. (Section 2.16 of the Franchise Agreement.)

**OPTIONAL ASSISTANCE AFTER OPENING**

Provided you are not in default under your Franchise Agreement, we may, but are not obligated to, perform the following obligations during the operation of your Franchise Business:

**Operational Advice**. We may provide you from time to time, as we deem appropriate, such merchandising, marketing and other data and advice as we may from time to time develop and we deem to be helpful in the managing and operating the Franchise Business including by a visit by one of our field representatives, virtual communication, telephone, or by newsletter or bulletins made available from time to time to all Franchisees. [Subsection 2.17(c) of the Franchise Agreement]

**Advertising Assistance**. We may, from time to time, provide to you, at your expense, such advertising and promotional plans and materials for Local Advertising. [Subsection 2.17(d) of the Franchise Agreement]

**Plans, Policies, Developments and Activities**. We may provide such bulletins, brochures, manuals and reports, if any, as may from time to time be published by or on behalf of Hard Exercise Works® regarding its plans, policies, developments and activities. In addition, Franchisor may provide such communication concerning new developments, techniques and improvements management, which Franchisor feels are relevant to the operation of the Business. [Subsection 2.17(g) of the Franchise Agreement]

**Our Temporary Operation of Your Franchise Business.** (Section 2.18 of the Franchise Agreement.)

Upon the happening of any of the events described below, we have the right (but not the obligation) to enter your Premises and to operate and manage your Franchise Business for your (or your estate's) account until this Agreement is terminated, the assets are transferred to a party under Subsection 10.2(b) of the Franchise Agreement, we purchase the assets, or until you resume control over your Franchise Business and you operate the Franchise Business in accordance with this Agreement.

**Cessation of Business**. If you fail to operate your Franchise Business for more than 5 Business Days unless due to Force Majeure or with our written consent, or you abandon the Premises without our prior written approval.

**Death or Incapacity**. If you, a Franchise Owner or Designated Representative dies or becomes permanently incapacitated, and the assets comprising the Franchise Business or the ownership interests in the Franchisee, if a Business Entity, are not assigned promptly under Section 10.4 of the Franchise Agreement.

**Material Breach**. If you materially breach any of our standards and specifications for the operation of your Franchise Business after we have given any required written notice and any applicable cure period has expired.

**Our Purchase of Assets**. If we elect to terminate this Agreement and we elect to purchase the assets comprising the Franchise Business as provided in Section 12.4 of the Franchise Agreement.

If we elect to operate your Franchise Business, we will account to you or your estate for all net income from the operation less our reasonable expenses incurred and a management fee of $1,000 per week plus 10% of Gross Revenues (in addition to Royalty Fees and any Advertising and Marketing Contributions) for our management of your Franchise Business. Our operation and management will not continue for more than 30 days, but be renewable as necessary for up to 1 year. We will periodically discuss the status with you or the representatives of your estate.

## ADVERTISING PROGRAMS UNDER FRANCHISE AGREEMENT

**GRAND OPENING MARKETING PLAN** [Section 7.1 of the Franchise Agreement]

You will implement a Grand Opening Advertising Program as specified in the Operations Manual for your Franchise Business budgeting between $5,000 and $20,000 during the period beginning 12 weeks before opening and the first 90 days after opening. You must hold at least a 1-day long "Open House" or "Meet and Greet" where you invite prospective customers to visit the Franchise Business to verify all Systems are in order and for additional training of staff.

**LOCAL ADVERTISING** [Section 7.2 of the Franchise Agreement]

**Your Expenditures**. You must spend at least 4% of Gross Income for Local Advertising during each month of operation. This is in addition to the Grand Opening Marketing Program.

**Our Approval**. You must submit to us for our approval all materials used for Local Advertising, unless we have previously approved the materials or the materials consist of materials we have provided. All materials containing the Intellectual Property must include the applicable designation - service mark$^{sm}$, trademark™, registered® or copyright©, or any other designation we specify. If you have not received our written disapproval of materials you submitted within 10 days from the date we received the materials, then we are deemed to have approved the materials. We may require you to withdraw and/or discontinue the use of any promotional materials or advertising, even if previously approved, if in our judgment, the materials or advertising may injure or be harmful to the Business System. You will have 5 days after you receive of our written notice to discontinue using the materials or advertising, unless otherwise agreed in writing. Your submission of advertising to us for our approval does not affect your right to determine the prices that you sell your products or services.

**Franchise Opportunities Available**. Subject to any legal restrictions, you must place a sign we supply to you in a conspicuous place within the Premises containing substantially the following statement: "Hard Exercise Works Franchise Opportunities Available." You must immediately refer all responses to us at info@hardexerciseworks.com or any other number we designate and include our corporate address. You have no authority to act for us in franchise sales.

**Search Directories**. You must register your franchise business on the top 3 search engine business directories, Google, Bing and Yahoo.

**Social Media**. You must follow our policies and requirements for the use of social media as outlined in the HEW Intranet/HEW Operations Manual or otherwise in writing.

**Participation in Certain Promotions**. You must participate in all required advertising and promotional programs we establish.

**No Solicitation Outside DMA**. We do not grant you an exclusive marketing area but you may advertise outside your Exclusive Territory but within your Designated Marketing Area ("DMA"). You will not solicit business outside your DMA by a toll-free number, catalog, direct mail, Internet, website or other advertising or solicitation method without our prior written consent.

**INTERNET ADVERTISING AND MARKETING/WEBSITE** [Section 7.4 of the Franchise Agreement]

**Website**. We will list your Franchise on our home page of our Website. We maintain sole and exclusive rights to all content and information displayed or collected on our Website. The content and information includes company information, user demographics and profiles, pictures and graphics, testimonials, advertisements, franchise information, product and/or service information and all other information that we may designate in writing.

**Internet Marketing and Advertising**. We are solely responsible for all marketing and advertising on the Internet using funds from the Brand Fund.

**Domain Name**. We prohibit you from registering any domain name using the Intellectual Property and from hosting a website to promote the Franchise Business or the products or services without our prior written consent. We retain all rights to the trade names and other Intellectual Property, and any associated Internet domains used to identify the Business System.

**Coupons**. We are the sole controlling agent for any social media coupon advertising promotion. Any non-approved discounting on rates or any non-approved promotions without our prior written approval is strictly forbidden. We utilize Facebook, Instagram, LivingSocial®, Groupon® and other social media outlets for the explicit purpose running grand opening deals as part of the advertising and promoting your location supplying you with free leads. We also may use them for twice-yearly deals offering a discounted 5- Week Boot Camp offer. We retain the revenue from the 5-Week Boot Camp offer and you service the clients and retain the ongoing revenue from the rollover of the individual client. LivingSocial® and Groupon® are not our affiliates. No shareholder or officer of ours own any part of either company

**REGIONAL COOPERATIVE ADVERTISING** (Section 7.3 of the Franchise Agreement)

You agree that we have the right to establish a regional advertising cooperative in any DMA. Upon our request, you will immediately become a member of the Cooperative for the DMA that includes your Exclusive Territory. Your Franchise Business does not have to be a member of more than 1 Cooperative.

**Purposes of Regional Advertising Cooperative**. We will organize the Regional Advertising Cooperative for the exclusive purposes of administering advertising programs and developing standardized promotional materials for use by its members. The Regional Advertising Cooperative may adopt its own rules and procedures, but we must approve the rules or procedures. The rules and procedures must not restrict or expand your rights or obligations under this Agreement. Except as otherwise contained in the Franchise Agreement, and subject to our approval, any lawful action of the Regional Advertising Cooperative at a meeting attended by 67% of the members, including assessments for Local Advertising and Marketing, binds you if approved by 67% of the members present. Each Franchised Unit and Company-Owned Unit has 1 vote; however no Franchisee (or controlled group of Franchisees) has more than 25% of the vote in the Regional Advertising Cooperative regardless of the number of Franchise Businesses owned by any Franchisee.

**Our Approval of Advertising**. We must approve in writing all advertising or promotional plans or materials the Regional Advertising Cooperative proposes to use or furnish to its members. The Cooperative must submit to us all plans and materials in accordance with the procedure stated in Subsection 7.2(b) of the Franchise Agreement.

**Members' Contributions to Cooperative**. The Regional Advertising Cooperative has the right to require each of its members to contribute to the Regional Advertising Cooperative an amount not to exceed 1% of that member's monthly Gross Income. We credit this amount against your obligation for Local Advertising and Marketing as provided by Subsection 7.2(a) of the Franchise Agreement. Each member will submit to the Regional Advertising Cooperative, no later than the 10th day of each month for the preceding calendar month, his, her or its contribution together with all other statements or reports the Regional Advertising Cooperative or we require. We do not have

**Quarterly Reports**. The Cooperative will prepare quarterly unaudited reports of its advertising and marketing expenditures. The reports will be sent by the Cooperative to its members and to us.

**Impasses**. If an impasse occurs based on its members' inability or failure to resolve within 45 days any issue affecting the establishment or effective functioning of the Regional Advertising Cooperative, the issue, upon request of a member of the Regional Advertising Cooperative, will be submitted to us for consideration. Our resolution of the issue is final and binding on all members of the Regional Advertising Cooperative.

**Changes, Dissolution or Merger of Cooperatives**. We have the right to form, change, dissolve or merge any Cooperative.

**BRAND FUND** (Section 7.5 of the Franchise Agreement.)

**Right to Create**. We have created a special fund called the "Hard Exercise Works Brand Fund" (the "Brand Fund"), into which we deposit the Advertising Contributions described in Subsection 3.1(c) for the benefit of all Franchise Businesses and Company-Owned Outlets who contribute to the Brand Fund.

**Administration**. We administer the Brand Fund. We use the funds in the Brand Fund to pay for the costs of creating various advertising, marketing, and promotional materials that we deem beneficial to the Business System. We also use the funds in the Brand Fund to pay the costs of conducting regional and/or national advertising and promotional activities (including the cost of producing advertising campaigns and marketing materials, conducting test marketing and marketing surveys, and public relations activities) that we deem beneficial to the Business System. We do not have to spend any contributions to the Brand Fund in your Exclusive Territory. We are not obligated to contribute additional funds to the Brand Fund other than contributions from Company-Owned Units. We can charge the Brand Fund for our costs for services we provide, in lieu of engaging third party agencies to provide these services. We will not use any of the funds to offer or sell Hard Exercise Works Franchises to prospective franchisees.

**Expenditures**. All expenditures are at our sole discretion. We may spend in any calendar year more or less than the total Advertising Contributions to the Brand Fund in that year. We may loan to the Brand Fund or borrow from other lenders for the Brand Fund to cover deficits of the Brand Fund or cause the Brand Fund to invest any surplus for future use by the Brand Fund. We will carry any monies not spent by the Brand Fund in any particular year to fund production expenses in the next year.

**Advertising Rebates**. You authorize us to act as your sole agent to enter into contracts with parties, other than Designated Suppliers and Approved Suppliers, offering promotion, discount or other programs where you would receive rebates or marketing allowances ("Advertising Rebates") relating to our purchase of advertising, marketing, and promotional materials. We will contribute all Advertising Rebates paid to us, based on your purchases, and the purchases of other Franchise Businesses and Company-Owned Outlets, to the Brand Fund. By signing this Agreement, you assign all of your right, title and interest in all Advertising Rebates to us, and authorize us to furnish any proof of purchase evidence as may be required in accordance with the contracts.

**Annual Report**. We will prepare an annual report of the receipts and expenditures of the Brand Fund and send a copy of the report to you and all other Franchisees within 150 days after the end of each fiscal year. We will not audit this report.

The advertising funded by the Brand Fund is placed, based on our decisions, in regional and/or national markets and with television, radio, periodicals, newspapers and/or direct mail campaigns. Most marketing materials will be prepared by our advertising department and/or a national or regional advertising agency.

We do not have to spend any of your contributions to the Brand Fund in your Exclusive Territory. [Subsection 7.5(b) of the Franchise Agreement.]

## ADVERTISING RECEIPTS AND EXPENDITURES FOR FISCAL YEAR 2017

### Brand Fund

For the fiscal year ending December 31, 2017 the Brand Fund had an opening balance of $-0-, receipts of $26,622.00 and made the following expenditures of $17,904.69 leaving a closing balance of $8,717.31 that is carried over to fiscal year 2018:

| | | |
|---|---|---|
| Production | $12,200.00 | 68.14% |
| Media Placement | $ 1,731.01 | 9.67% |
| Administrative Expenses | $_ 3,973.68 | 22.19% |
| **TOTAL** | **$17,904.69__** | **100%** |

## OTHER ADVERTISING INFORMATION

We have the sole right to enforce your obligations and all other Franchisees that make Advertising and Marketing Contributions. Neither you, nor any other Franchisee obligated to make Advertising and Marketing Contributions, is a third party beneficiary of the funds nor has any right to enforce any obligation to contribute the funds. [Subsection 3.1(c) of the Franchise Agreement.]

We assume no other direct or indirect liability or obligation to you for the maintenance, direction or administration of the Brand Fund, except as expressly provided in ARTICLE 7 of the Franchise Agreement.

Company-Owned Units are required to contribute to the Brand Fund and any Cooperative on the same basis that Franchise Units are required to contribute. We do not have to use any of our funds on the advertising programs for the franchise system. (Section 7.7 of the Franchise Agreement]

We reserve the right to terminate the collection and disbursement of the Advertising and Marketing Contributions and the Brand Fund. Upon termination, we will disburse the remaining funds to existing Franchise Units and Company-Owned Units on a pro-rata basis based on their relative amount of contributions. (Section 7.8 of the Franchise Agreement.)

Any monies not spent by the Brand Fund in any particular year are carried over to fund production and advertising expenses in the next year. [Subsection 7.5(c) of the Franchise Agreement]

We will receive payment to reimburse us for our costs of providing goods or services to the Brand Fund and any Advertising Cooperative. [Subsection 7.5(b) of the Franchise Agreement]

**FRANCHISEE ADVERTISING COUNCIL**

We have formed a Franchisee Advisory Council whose responsibilities include advertising.

**OTHER ADVERTISING FUNDS**

We have no other advertising funds. There may be additional advertising requirements contained in the lease of your Premises. The extent of these advertising requirements may be subject to negotiation; consequently, the extent of any advertising obligation may be unknown to us.

## COMPUTER SYSTEM FOR FRANCHISEES

You must purchase or lease the following Computer System to operate a Franchise Business:

**Hardware**. You can purchase any Computer System provided it meets the following specifications:

- Front Desk Operating Computer capable of operating Microsoft Office
- Front Desk Check-in computer
- iPad,
- Key Tag Scanner (purchased from Mindbody Online),
- Printer/Scanner Combo,
- Coach's Station Computer/iPad,
- Sound System,
- Wireless Internet Modem and Router
- Security Camera System with access granted to Franchisor

**Software**. You must use the following software:

- MindBody™
- Constant Contact
- Waiver King®
- Rallio
- Qvinci
- Microsoft WORD
- Microsoft Excel
- Internet Service Provider software
- Business e-mail account
- QuickBooks Online

**Cost of the Computer System**. The cost of the Computer System ranges from $3,000 to $9,000, depending on what you already have available.

**Ongoing Maintenance, Repairs, Upgrades or Updates**. We are not obligated to provide you with ongoing maintenance, repairs, upgrades or updates. You must make periodic upgrades and updates to the Computer System's software that we make available for your Franchise Business. There are no contractual limitations on the frequency and cost of this requirement. The annual costs of any optional or required maintenance, upgrade, upgrading, or support contracts for the Computer System is estimated to be $200.

**Type of Data Generated and Stored**. Our affiliate has operated this Computer System since January 2011. Its principal functions are to provide permanent financial records of sales transactions at your Franchise Business and to collect and manage information about the nature of those transactions. The types of information that they collect and generate are sales levels, product movement statistics, individual unit and category sales data, various financial information to prepare reports and time and attendance information for employee payroll calculations.

**Our Independent Access to Your Data**. We will have independent electronic access via the Internet to the information that the Computer System generates. There are no contractual limitations on our right to access this information about your Franchise Business. You agree that we have the right to retrieve all data and information from your Computer System, as we deem necessary.

**HEW INTRANET/HEW OPERATIONS MANUAL**

After you have signed your Franchise Agreement and shortly before Initial Training, we will provide you access to our HEW Intranet/HEW Operations Manual. The Table of Contents of the Operations Manual, as of December 31, 2017 totals 62 pages and is included in Exhibit S.

FRANCHISE AGREEMENT

TRAINING OF FRANCHISEES

## TRAINING PROGRAM

| Column 1<br><br>**Subject** | Column 2<br><br>**Hours of Classroom Training** | Column 3<br><br>**Hours of On-The-Job Training** | Column 4<br><br>**Location** |
|---|---|---|---|
| **Day 1** | | | |
| Company Story - Who is HEW? | 0.5 | 0 | Corporate Headquarters in Jupiter, Florida |
| Vision | 0.25 | 0 | Corporate Headquarters in Jupiter, Florida |
| Why we are successful | 0.25 | 0 | Corporate Headquarters in Jupiter, Florida |
| HEW Culture | 0.5 | 0 | Corporate Headquarters in Jupiter, Florida |
| Overview: Sales, Operations and Marketing | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Overview: Operating Software | 2 | 0 | Corporate Headquarters in Jupiter, Florida |
| Sales Introduction | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Front Desk Tour | 0.5 | 0 | Corporate Headquarters in Jupiter, Florida |
| HEW Class Expectations | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Shadow Front Desk | 0 | 2 | Company-Owned Unit in Jupiter, Florida |
| **Total Hours Day 1** | **7** | **2** | |
| **Day 2** | | | |
| Operating Software: Mindbody | 2 | 0 | Corporate Headquarters in Jupiter, Florida |
| Sales Training | 5 | 0 | Corporate Headquarters in Jupiter, Florida |
| Shadow Coach | 0 | 4 | Company-Owned Unit in Jupiter, Florida |
| Closing Procedures | 0 | 0.5 | Company-Owned Unit in Jupiter, Florida |
| **Total Hours Day 2** | **7** | **4.5** | |
| **Day 3** | | | |
| Front Desk/Coaching | 0 | 4.5 | Company-Owned Unit in Jupiter, Florida |
| Marketing | 2 | 0 | Corporate Headquarters in Jupiter, Florida |
| Basic Barbell | 2 | 0 | Corporate Headquarters in Jupiter, Florida |

| Column 1<br><br>**Subject** | Column 2<br><br>**Hours of Classroom Training** | Column 3<br><br>**Hours of On-The-Job Training** | Column 4<br><br>**Location** |
|---|---|---|---|
| **Total Hours Day 3** | **4** | **4.5** | |
| **Day 4** | | | |
| Front Desk/Coaching | 0 | 7 | Company-Owned Unit in Jupiter, Florida |
| Nutrition Chat | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Sales Training: Using the Telephone | 2 | 0 | Corporate Headquarters in Jupiter, Florida |
| Basic Kettleball | **1** | **0** | Corporate Headquarters in Jupiter, Florida |
| **Total Hours Day 4** | **4** | **7** | |
| **Day 5** | | | |
| Front Desk/Coaching | 0 | 5 | Company-Owned Unit in Jupiter, Florida |
| | | | |
| Basic Gymnastics | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Leadership | 0 | 0 | Corporate Headquarters in Jupiter, Florida |
| **Total Hours Day 5** | **1** | **8** | |
| **Day 6** | | | |
| Sales Training | 2 | 0 | Corporate Headquarters in Jupiter, Florida |
| | | | |
| FrontDesk/Coaching | 2 | 9 | Corporate Headquarters and Company-Owned Unit in Jupiter, Florida |
| **Total Hours Day 6** | **2** | **9** | |
| **Day 7** | | | |
| Money Management | 3 | 0 | Corporate Headquarters in Jupiter, Florida |
| Field Trip to Neighboring HEW Unit | 0 | 8 | To be Determined |
| **Total Hours Day 7** | **3** | **8** | |
| **Day 8** | | | |
| Front Desk/Coaching | 0 | 8 | Company-Owned Unit in Jupiter, Florida |
| Marketing | 3 | 0 | Corporate Headquarters in Jupiter, Florida |
| Clubs and Clinics | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| **Total Hours Day 8** | **4** | **8** | |

| Column 1<br><br>**Subject** | Column 2<br><br>**Hours of Classroom Training** | Column 3<br><br>**Hours of On-The-Job Training** | Column 4<br><br>**Location** |
|---|---|---|---|
| | **Day 9** | | |
| Building Your Team | 0.5 | 0 | Corporate Headquarters in Jupiter, Florida |
| Apprentice Program | 0.5 | 0 | Corporate Headquarters in Jupiter, Florida |
| Coaching: Scaling versus Modifying | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Customer Services and New Client Experience | 0.5 | 0 | Corporate Headquarters in Jupiter, Florida |
| Workout Programming | 1 | 0 | Corporate Headquarters in Jupiter, Florida |
| Front Desk/Coach | 0 | 5 | Company-Owned Unit in Jupiter, Florida |
| **Total Hours Day 9** | **3.5** | **5** | |
| | **Day 10** | | |
| Proficiency Testing | 6 | 4 | Corporate Headquarters in Jupiter, Florida |
| **TOTAL HOURS OF TRAINING** | **35.5** | **56** | **91.5** |

**Training Schedule and Location**. We conduct the training classes Training classes on a bi-monthly schedule at our Corporate Headquarters in Jupiter, Florida and at our Company-Owned Unit in Jupiter, Florida. Initial Training will occur at least 6 weeks before you open your Franchise Business.

**Instructional Materials**. The HEW Intranet/HEW Operations Manual will be used as the basis for our training.

**Experience of Instructors.** We maintain a training staff. The following is experience of each instructor including his length of experience in the field and with us that are relevant to the subjects taught by each instructor.

**Matthew B. Hunt** began experimenting with varied, functional Movements in 1991 in his Decatur, Georgia facility. In 1998, he began documenting all the system procedures for sales, operations and coaching for a successful replicable business model. Mr. Hunt has trained over 30-center owners and was employed by CrossFit in 2008 as a Subject Matter Expert (SMI), where he ran week-long seminars on how to open a successful and sustainable "box" model. Mr. Hunt has been involved in training 11 different operators under the HEW system since 2010.

**Randall E. Greer** began as an Assistant Coach at CrossFit Palm Beach. Mr. Greer soon became Head Coach in 2009, along with becoming an owner of the Jupiter location. Mr. Greer has been involved in training 16 different operators under the HEW system since 2010.

**Nicholas Kukla** opened and operated the HEW Franchise in Asheville, North Carolina from 2011 to 2016. He sold his Franchise and returned to Florida to work for us

**Your Expenses in Attending Training**. You are responsible for all expenses of the Trainees to attend Initial Training including all payroll, travel, lodging and meal expenses. If you elect to have more than 2 Trainees attend Initial Training, you must pay us a training fee for each additional person (currently $250 per person per day) and pay all their expenses. [Subsection 2.9(a) of the Franchise Agreement.]

**Trainees**. You must send 2 Trainees to Initial Training. We must approve all Trainees. Each Trainee that is not a Franchise Owner or a Guarantor must sign our form of Confidentiality and Non-Competition Agreement contained in the HEW Intranet/HEW Operations Manual as a condition of our approval. You, a principal Franchise Owner or the Designated Representative must be one of the Trainees. If you will not be managing the day-to-day operations of your Franchise Business, you may designate another person as your Manager who will manage the day-to-day activities of your Franchise Business as one of the Trainees. All Trainees must successfully complete our Initial Training to our satisfaction. [Subsection 2.9(a) of the Franchise Agreement.]

**Pre-Opening On-Location Training**. We will make available to you post-opening, on-location training of 2 to 5 days conducted at your Franchise Business shortly after the Opening Date. The on-location training program will cover material aspects of the operation of the Franchise Business including financial control, marketing techniques, maintenance of quality standards, employee hiring, training and customer service, inventory control, security standards, merchandising techniques, promotional techniques, operations, purchasing and sales. (Section 2.12 of the Franchise Agreement)

**Additional Training at Our Office**. You will complete and/or cause your employees to complete, to our satisfaction, such other additional training as we may reasonably require from time to time. You may make a reasonable request for training in addition to that specified in Subsection 2.16(a) of the Franchise Agreement. We will provide such training, at your expense, including any travel, lodging, meals and other related costs. [Subsection 2.15(f) of the Franchise Agreement.]

**New Manager Training** If the General Manager fails to satisfy his or her obligations provided in Subsection 4.6(c) due to death, disability, termination of employment or for any other reason, you must employ a replacement General Manager that we approve within 30 days. The replacement General Manager must complete our Initial Training to our satisfaction within 3 weeks of hire. In the interim, an assistant manager may manage the Franchise Business. You are solely responsible for the expenses associated with Initial Training of the replacement General Manager including the then-prevailing standard training fee we charge (currently $500 per day). [Subsection 4.6(d) of the Franchise Agreement.]

**ADDITIONAL TRAINING PROGRAMS OR REFRESHER COURSES**

**Additional Training at Your Premises**. We will provide additional training resources, at a cost to Franchisee to be determined by Franchisor to assist you at your Premises for hourly employees. [Subsection 2.15(b) of the Franchise Agreement.]

**Seminars**. We may conduct additional virtual or hands-on seminars, or other training programs for your benefit or the benefit of your employees. We may charge a reasonable fee for such seminar or program if it is deemed appropriate. You will pay for any traveling, living and other expenses incurred by you or your employees to attend a seminar. [Subsection 2.15(e) of the Franchise Agreement.]

## AREA DEVELOPMENT AGREEMENT

### PRE-OPENING OBLIGATIONS

We have no pre-opening obligations to you under the Area Development Agreement. We will approve the locations of future Franchise Units in accordance with our then-current standards and criteria for sites and Limited Exclusive Territories.

### TIME PERIOD

The typical length of time between the signing of the Area Development Agreement, or the first payment of any consideration for the first Franchise if the Deposit Agreement or the Territory Reservation Agreement is signed, and the opening of the first Franchise Business can vary from 6 months to 12 months.

### ONGOING OBLIGATIONS AFTER OPENING

We have no ongoing obligations to you under the Area Development Agreement.

### OPTIONAL ASSISTANCE AFTER OPENING

We do not offer to you any optional assistance after you open.

### ADVERTISING PROGRAMS UNDER AREA DEVELOPMENT AGREEMENT

There are no advertising programs under the Area Development Agreement.

### TRAINING FOR DEVELOPERS

There are no separate training programs for Developers.

# ITEM 12 - TERRITORY

## FRANCHISE AGREEMENT

### LOCATION OF FRANCHISE UNIT

The Franchise Business is to be operated at a specific location you select that we approve in accordance with the terms of the Franchise Agreement. If you have not found a specific location before the parties sign the Franchise Agreement, if you request, we will specify a Reserved Area in the Deposit Agreement included in Exhibit C within which you will locate an approved location for the Franchise Business. A Reserved Area is a general area, usually a DMA, county or city. Once you find a location that we approve, we will designate the approved location and the Exclusive Territory in the Franchise Agreement.

## NO MINIMUM TERRITORY

We do not grant to you a minimum territory.

## RELOCATION RIGHTS

You may not change the location without our written consent and compliance with our relocation procedures.

**Loss of Lease**. If you lease the Premises and the lease expires or terminates before the expiration of this Agreement (provided termination is not due to your default), we permit you 30 days to obtain a lease of new Premises within your Exclusive Territory. The relocated Premises must not infringe upon the exclusive territory of a Company-Owned Unit or another Franchised Unit then operating or under development. We must approve the new location in writing in accordance with Section 2.1 of the Franchise Agreement. During the period when your Franchise Business is not in operation due to the relocation of the Premises, you must still pay the Service Fee but you are not required to spend funds on Local Advertising. You have 60 days from the date you sign a new lease in which to open and begin operating the Franchise Business, unless we otherwise agree in writing to extend the time. Your failure to secure a new location and begin operation within the specified times is an Event of Default on your part.

**Casualty**. If the Premises is substantially destroyed by fire or other casualty and the lease is terminated by either you or landlord as a result of the casualty, we permit you 60 days in which to locate and sign a lease of the new Premises within your Exclusive Territory following the date on which the lease is terminated. The relocated Premises must not infringe upon the exclusive territory of a Company-Owned Unit or another Franchised Unit then operating or under development. We must approve the new location in writing in accordance with Section 2.1 of the Franchise Agreement. During the period when your Franchise Business is not in operation due to the relocation of the Premises, you must still pay the Service Fee but you are not required to spend funds on Local Advertising. You have 60 days from the date you sign the new lease in which to open and begin operating the Franchise Business, unless we otherwise agree in writing to extend the time. Your failure to secure a new location and begin operation within the specified times is an Event of Default on your part. The provisions of this Section are not applicable if the Premises is substantially destroyed by fire or other casualty, but the lease is not terminated as a result of the casualty, so long as you re-open the Premises for the full operation of a Hard Exercise Works Franchise in compliance with this Agreement within 180 days from the date of the casualty, unless we otherwise agree in writing to extend the 180-day period.

**Condemnation**. You will give us notice of any proposed taking of the Premises by eminent domain, as soon as possible. We permit you 30 days from the date you have to vacate the Premises to obtain a lease for the new Premises within your Exclusive Territory. The relocated Premises must not infringe upon the exclusive territory of a Company-Owned Unit or another Franchised Unit then operating or under development. We must approve the new location in writing in accordance with Section 2.1 of the Franchise Agreement. During the period when your Franchise Business is not in operation due to the relocation of the Premises, you must still pay the Service Fee. but you are not required to spend funds on Local Advertising. You have 60 days from the date you sign the new lease in which to open and begin operating the Franchise Business, unless we otherwise agree in writing to extend the time. Your failure to secure a new location and begin operation within the specified times is an Event of Default on your part.

**Relocation Fee**. If you must relocate your Franchise Business, you will pay us a Relocation Fee of $5,000 to reimburse us for our costs incurred in assisting you with relocation.

## NO OPTIONS, RIGHTS OF FIRST REFUSAL OR SIMILAR RIGHTS

Except for any Area Development Rights you have also purchased, you have no option to purchase an additional Franchise Business, no right of first refusal to purchase an additional Franchise Business and no similar rights to acquire additional Franchise Business in the Exclusive Territory or any contiguous territory.

## EXCLUSIVE TERRITORY

We grant you an Exclusive Territory comprised of an area equal to a 3-mile door-to-door driving distance from your Hard Exercise Works Center. During the Initial Term, if you are not in default under the Franchise Agreement, we agree not to open the premises of a Company-Owned Unit within your Exclusive Territory or franchise another Hard Exercise Works Franchise having premises located within your Exclusive Territory. This does not mean that there might not be overlap with a Company-Owned Unit's or another Franchise Unit's exclusive territory as long as the Premises of the Company-Owned Unit or the other Franchise Unit is not physically located in your Exclusive Territory. In addition, we expressly reserve the rights stated in the Franchise Agreement that are superior to your rights.

**Conditions to Continued Exclusivity**. The exclusivity of your Exclusive Territory is not dependent upon the achievement of any certain sales volume, market penetration or other contingency.

**Our Right to Modify the Exclusive Territory**. We may not unilaterally alter your Exclusive Territory. The parties may alter the Exclusive Territory by a written amendment to the Franchise Agreement signed by the parties.

## OUR RESERVED RIGHTS

You agree that the license of the Intellectual Property granted to you has limited exclusivity. In addition to our right to use and grant others the right to use the Intellectual Property outside the Exclusive Territory, we expressly reserve all rights that we do not expressly grant to you in the Franchise Agreement concerning the Intellectual Property or other matters.

## NO COMPENSATION TO YOU

We will not compensate you for any of these sales made within your Exclusive Territory.

## RESTRICTIONS ON ADVERTISING AND OPERATING OUTSIDE OF EXCLUSIVE TERRITORY

You will not solicit business outside your DMA by a toll-free number, catalog, direct mail, Internet, website or other advertising or solicitation method without our prior written consent. You cannot engage in catering and delivery services and activities outside the Exclusive Territory, unless we authorize you in writing.

**OUR OPERATION OF A SIMILAR BUSINESS UNDER A DIFFERENT MARK**

Neither we nor any affiliate operate or have plans to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those you will offer.

## AREA DEVELOPMENT AGREEMENT

**NO MINIMUM TERRITORY**

You are not obtaining any minimum territory as a Developer but we grant you a Development Area described below.

**RELOCATION RIGHTS**

There are no written conditions under the Area Development Agreement allowing you to relocate the Franchise Business.

**NO EXCLUSIVE TERRITORY**

You will not receive an exclusive territory. You may face competition from other Franchised Units, Company-Owned Units, or from other channels of distribution or competitive brands that we control.

**DEVELOPMENT AREA**

We grant you a Development Area that will be described in the Map attached as Exhibit A to the Area Development Agreement. The Development Area is usually based on a city or county basis, or a Designated Marketing Area depending on the number of Franchise Units to be developed.

**NO EXCLUSIVE RIGHTS TO DEVELOPMENT AREA**

We do not grant to you exclusive rights within the Development Area. We grant you the right to construct open and operate Franchise Businesses within the Development Area pursuant to a Development Schedule under which you must open a specified number of Franchise Business within a specified time. We will grant each Franchise Unit you open within the Development Area an Exclusive Territory. For the perimeter of the Development Area, you agree that you will not select a location that is within the Exclusive Territory of a Company-Owned Unit or Franchise Unit that is operating or under construction. Except as stated in Subsection 1.3(c) and Section 1.4 of the Area Development Agreement, while the Area Development Agreement remains in effect and you have complied with the Development Schedule and have not otherwise defaulted under this Agreement, we:

(i) will not enter into Franchise Agreements for the purpose of operating Franchise Businesses with any person or business entity other than you within the Development Area; and

(ii) will not establish Company-Owned Units within the Development Area.

**Exception; Option to Purchase**. If we determine that it is necessary to locate a Company-Owned Unit or Franchise Unit in the Development Area to prevent a Competitive Business from being located in the Development Area, we will give you written notice of this determination and advise you of the proposed location of the proposed Unit. For 30 days after the date of the notice, you have the sole option to purchase a Franchise Business for the location; provided you are not ineligible to operate the Franchise Unit at the proposed location due to, for example, governmental requirements or restrictions. If you fail to exercise this option timely, we have the right to open a Company-Owned Unit or grant a Franchise Unit at that location without any liability to you.

**Conditions to Continued Area Development Rights**. The Area Development Rights are dependent upon your continued achievement of the Development Schedule. If you fail to meet that Development Schedule, we have the right to terminate the Development Agreement and all your Development Rights cease rights cease. We are then free to open Company-Owned Units or franchise Hard Exercise Works Franchises to others within your former Development Area but outside any Exclusive Territories granted to you under Franchise Agreements for Franchise Units you are currently operating or are under construction, provided you are not in otherwise in default under any Franchise Agreement.

**Our Right to Modify the Development Area**. We may not unilaterally alter your Development Area. The parties may alter the Development Area by a written amendment to the Area Development Agreement signed by the parties.

### APPROVAL OF LOCATIONS FOR FUTURE UNITS

We must approve the location for all future Franchise Units that you develop and the Exclusive Territory for each of these Franchise Units. Our then current standards for sites and territories will apply.

### OUR RESERVED RIGHTS

The Area Development Rights granted to you have limited exclusivity. In addition to our right to use and grant others the right to use the Proprietary Mark outside the Development Area and as described above, we reserve all rights not expressly granted in the Area Development Agreement to you concerning the Proprietary Mark or other matters.

### NO COMPENSATION TO YOU

We will not compensate you for any of these sales made within your Development Area.

### RESTRICTIONS ON ADVERTISING AND OPERATING OUTSIDE OF DMA

You will not solicit business outside your DMA by a toll-free number, catalog, direct mail, Internet, website or other advertising or solicitation method without our prior written consent.

### NO OPTIONS, RIGHTS OF FIRST REFUSAL OR SIMILAR RIGHTS

Except for the Development Rights you have purchased, you have no option to purchase an additional Franchise Business, no right of first refusal to purchase an additional Franchise Business and no similar rights to acquire additional Franchise Business in the Development Area or any contiguous territory.

### OUR OPERATION OF A SIMILAR BUSINESS UNDER A DIFFERENT MARK

Neither we nor any affiliate operate or have plans to operate or franchise a business under a different trademark that sells or will sell goods or services similar to those you will offer.

## ITEM 13 - TRADEMARKS

### FEDERAL REGISTRATIONS ON PRINCIPAL REGISTER

We own the following Principal Trademark and Other Trademark that are registered on the Principal Register of the United States Patent and Trademark Office, which we license to you for your use in operating the Franchise Business under the Franchise Agreement:

| Mark | International Class | Registration Date | Registration Number |
|---|---|---|---|
| Hard Exercise Works® | 041 | December 20, 2011 | 4072769 |
| | 041 | July 8, 2014 | 4564086 |

### RENEWAL OF FEDERAL REGISTRATIONS

We have filed a Combined Declaration of Use and Incontestability under Sections 8 and 15 of the U.S. Trademark Law for our "Hard Exercise Works® Principal Trademark. It has been renewed and is incontestable. Since the federal registration for the logo is not at least 5 years old, we have not filed a Combined Declaration of Use and Incontestability under Sections 8 and 15 of the U.S. Trademark Law. This Other Trademark does not have to be renewed at this time and remains contestable.

### MATERIAL DETERMINATIONS AND PROCEEDINGS

There are no currently effective material determinations of the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, or any state trademark administrator or court. There is no currently pending infringement, opposition or cancellation proceeding in which we unsuccessfully sought to prevent registration in order to protect the Principal Trademarks we license to you.

### PENDING TRADEMARK LITIGATION

There is no currently pending material federal or state court litigation involving our use of, or ownership rights in, the Principal Trademarks.

### CURRENTLY EFFECTIVE AGREEMENTS

There are no agreements currently in effect that significantly limit our rights to sublicense the use to Franchise Businesses of the Principal Trademarks, the other Intellectual Property and Business System in any manner material to you.

**OUR INDEMNIFICATION OF YOU FOR CLAIMS**

If there is any claim of infringement, unfair competition or other challenge to your right to use the Principal Trademarks or any of the other Intellectual Property, or if you become aware of any use of, or claims to, any of the Intellectual Property by persons other than us or our Franchisees, you will promptly (within 7 days) notify us in writing. You will not communicate with anyone except our counsel and us on any infringement, challenge or claim except under judicial process. We have sole discretion as to whether we take any action on any infringement, challenge or claim. We have the sole right to control any litigation or other proceeding arising out of any infringement of, challenge to, or claim to any Intellectual Property. You must sign all documents, render all assistance, and do all acts that our attorneys deem necessary or advisable in order to protect and maintain our interest in any litigation or proceeding involving the Intellectual Property or otherwise to protect and maintain our interests in the Intellectual Property. We indemnify you against and will reimburse you for all damages and costs (including reasonable attorneys' fees and costs) for which you are held liable in any proceeding based on your use of any of the Intellectual Property in accordance with the Franchise Agreement, provided you: (a) have timely notified us of the claim or proceeding; (b) have otherwise complied with the Franchise Agreement; (c) allow us sole control of the defense and settlement of the action; and (d) cooperate fully with our counsel in the defense of the action.

**MODIFICATION OF PRINCIPAL TRADEMARKS**

If we deem it advisable to modify or discontinue the use the Principal Trademark or any of the other Intellectual Property and/or use an additional or substitute Principal Trademark including: (i) due to the rejection of any pending application for registration: (ii) revocation of any existing registration of any of the Intellectual Property (ii) the rights of senior users; (iv) our negligence; (v) a radical change in direction of the Business System we unilaterally cause or mandate; or (vi) the modification or discontinuation of the use of any of the Intellectual Property is due to a continuing need to modernize the Business System, you are liable for all expenses in substituting the modified or new Intellectual Property in your Franchise Business, subject to the Capital Expenditure Limitation. You are obligated to do so within 30 days of our request. We will only be liable to reimburse you for your reasonable direct printing and signage expenses in modifying or discontinuing the use of our Principal Trademarks and substituting a different principal trademark. These expenses do not include expenditures you make to promote the modified or substituted principal trademark.

**SUPERIOR PRIOR RIGHTS OR INFRINGING USES**

There are no superior prior rights or infringing uses actually known to us that could materially affect your use of the Principal Trademarks. However, our registration of the Principal Trademarks does not prohibit others from using the Principal Trademarks or confusingly similar variations of the Principal Trademarks who may have established prior rights to the use of the Principal Trademarks, or confusingly similar variations of the Principal Trademarks, in those territories where neither we nor our Franchisees have operated or advertised under the Principal Trademarks and that are not within the natural zone of expansion for future Franchise Units or Company-Owned Units; provided others do so in good faith and without actual knowledge of our existence or our Franchisees' use of the Principal Trademarks. We would therefore be unable to prohibit the use of the Principal Trademarks by others who had prior use of the Principal Trademarks or confusingly similar variations of the Principal Trademarks when we first used them. If others establish prior rights to the Principal Trademarks in certain territories, we may be restricted in our ability to use and sublicense the use of the Principal Trademarks when expanding into those territories.

## ITEM 14 - PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

### PATENTS

We do not currently own any rights in any patents or have any patents pending that are material to the Franchise Business.

### COPYRIGHTS

We claim all common law copyrights covering various materials used in our business and the operation of Company-Owned Units and Franchise Units, including the HEW Intranet/HEW Operations Manual, advertising, promotional literature, or any other works protectable under the copyright laws. In addition, we own right to use other original and derivative copyrightable works such as architectural designs, plans, specifications, menus, photographs and décor. We do not license the copyrights in these materials to you under the Franchise Agreement but we consent to your use in accordance with the terms of the Franchise Agreement.

We have not registered these copyrights in the United States Registrar of Copyrights but we may do so in our sole discretion. We prohibit you from attempting to register with the United States Copyright Office any works you create relative to the Franchise Business. You will not otherwise claim authorship or exclusive ownership of any of the works.

We loan you the HEW Intranet/HEW Operations Manual as discussed in ITEM 11.

### MATERIAL DETERMINATIONS

There are not currently any effective determinations of the United States Patent and Trademark Office, United States Copyright Office, or a court regarding any of our Copyrights.

### CURRENTLY EFFECTIVE AGREEMENTS

There are no currently effective agreements between us and third parties pertaining to our Copyrights that will or may significantly limit your use of our copyrighted materials.

### OUR INDEMNIFICATION OF YOU FOR CLAIMS

If there is any claim of copyright infringement, unfair competition or other challenge to your right to use of any Copyright, or if you become aware of any use of, or claims to, any Copyright by persons other than us or our Franchisees, you will promptly (within 7 days) notify us in writing. You will not communicate with anyone except our counsel and us on any infringement, challenge or claim except under judicial process. We have sole discretion as to whether we take any action on any infringement, challenge or claim. We have the sole right to control any litigation or other proceeding arising out of any infringement of, challenge to, or claim to any Copyright. You must sign all documents, render all assistance, and do all acts that our attorneys deem necessary or advisable in order to protect and maintain our interest in any litigation or proceeding involving the Copyright or otherwise to protect and maintain our interests in the Copyright. We indemnify you against and will reimburse you for all damages and costs (including reasonable attorneys' fees and costs) for which you are held liable in any proceeding based on your use of any Copyright in accordance with the Franchise Agreement, provided you: (a) have timely notified us of the claim or proceeding; (b) have otherwise complied with the Franchise Agreement; (c) allow us sole control of the defense and settlement of the action; and (d) cooperate fully with our counsel in the defense of the action.

**MODIFICATION**

If we deem it advisable to modify or discontinue use of any copyrighted work and/or use one or more new or derivative copyrighted works, you must do so and our sole obligation in this event is to reimburse you for your tangible costs (for example, changing materials) of complying with this obligation.

**INFRINGING USES**

We are not aware of any infringing uses that could materially affect your use of the patents or copyrights in the state where your Franchise Business is to be located.

**PROPRIETARY RIGHTS IN CONFIDENTIAL INFORMATION AND TRADE SECRETS**

The HEW Intranet/HEW Operations Manual and other copyrighted materials we make available to you contain confidential and proprietary information and are our trade secrets. We possess and will continue to develop and acquire confidential and proprietary information, and trade secrets. The confidential information consists of the following categories of information, methods, techniques, procedures and knowledge we or our Franchisees develop (collectively, the "Confidential Information") including: (a) our methods, techniques, tools, specifications, standards, policies, procedures, information, concepts, systems, and knowledge of the experience in our development, operation and franchising; (b) our marketing and promotional programs for Franchise Businesses; (c) knowledge of specifications for and knowledge of our suppliers of certain materials, equipment, furniture and fixtures for a Franchise Business; and (d) knowledge of our customer lists, operating results and financial performance.

We will disclose to you the Confidential Information required for the operation of the Franchise Business during Initial Training, in the HEW Intranet/HEW Operations Manual, and in the guidance and assistance that we furnish you, and you may learn of additional Confidential Information. You may disclose the Confidential Information to your employees or other persons only to the extent reasonably necessary and provided the person has signed our form of Confidentiality and Non-Competition Agreement contained in the HEW Intranet/HEW Operations Manual before disclosure. You agree, during and after the Initial Term, that you, your Franchise Owners, employees and independent contractors will: (i) not use the Confidential Information in any other business or capacity, including any derivative or spin-off of the fitness concept; (ii) maintain the absolute secrecy and confidentiality of the Confidential Information during and after the Initial Term; (iii) not make unauthorized copies of any portion of the Confidential Information disclosed or recorded in written or other tangible form or electronic form; and (iv) adopt and implement all procedures that we require to prevent unauthorized use or disclosure of, or access to, the Confidential Information. You agree that any suggestions you make that we incorporate into the Business System are our exclusive property.

Nothing contained in the Franchise Agreement prohibits you from using the Confidential Information in the operation of your Franchise Business under the terms of your Franchise Agreement.

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

### YOUR PERSONAL PARTICIPATION

You are not our employee. You are your own boss running your own business subject to our rights under your Franchise Agreement. You acknowledge and agree that your Franchise Business is not a "passive" investment. We recommend that you be active in the operation of your Franchise Business but we do not require any personal "on-premises" participation by you provided you hire a Manager that we approve and who completes Initial Training to our satisfaction. You are solely liable and responsible for the operation of the Franchise Business in accordance with the terms of the Franchise Agreement and the HEW Intranet/HEW Operations Manual, regardless of whether you choose to operate the Franchise Business as a full-time owner/operator or hire a Manager.

### BUSINESS ENTITY FRANCHISEE

If you are a Business Entity, we recommend that one or more of the Franchise Owners participate personally in the direct operation of the Franchise Business but we do not require any personal "on-premises" participation by a Franchise Owner provided you hire a Manager that we approve and who completes Initial Training to our satisfaction. You are solely liable and responsible for the operation of the Franchise Business in accordance with the terms of this Agreement and the HEW Intranet/HEW Operations Manual, regardless of whether you choose to operate the Franchise Business as a full-time owner/operator or hire a Manager. All Franchise Owners owning more than 5% of the equity interests in the Business Entity must personally guaranty the Franchisee's obligations under the Franchise Agreement and all other agreements by signing the Guarantee of Franchisee's Obligations included in Exhibit K.

### DESIGNATED REPRESENTATIVE

If this Agreement is signed by 2 or more individuals or by a Business Entity, you agree to designate in writing 1 individual or a Franchise Owner as the Designated Representative upon signing this Agreement. We have the right to rely solely on instructions of the Designated Representative concerning the operation of the Franchise Business until we receive a duly signed written notice changing the Designated Representative.

### MANAGER

Either Trainee may act as Manager. If you choose to operate the Franchise Business using a Manager, you may experience lower sales and/or higher costs than other Franchise Units managed by owner/operators. The Manager must devote his or her best reasonable full-time efforts to the management and operation of your Franchise Business. You agree that your Franchise Business requires the day-to-day supervision of the Manager (or an assistant manager) at all times your Franchise Business is open for business. The Manager must complete Initial Training before managing your Franchise Business, unless we otherwise agree in writing. If the Manager fails to satisfy his or her obligations due to the Manager's death, disability, termination of employment or for any other reason, you will satisfy these obligations until you designate a new Manager acceptable to us who has successfully completed Initial Training. You are solely responsible for the expenses associated with Initial Training, including the then-prevailing standard training fee we charge (currently $500 per day). If you retain a Manager, the Manager does not have to own an equity interest in the Business Entity.

**RESTRICTIONS ON MANAGER AND OTHER EMPLOYEES**

Any Manager and other employees having access to our HEW Intranet/HEW Operations Manual and other Confidential Information must sign the Confidentiality and Non-Competition Agreement included in the HEW Intranet/HEW Operations Manual.

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

**USE OF THE PREMISES**

You must use your Premises only for the operation of your Franchise Business. You must keep your Franchise Business open for business and in normal operation for the minimum hours and days as we reasonably require in the HEW Intranet/HEW Operations Manual or otherwise in writing except as may be limited by local law or the landlord's rules and regulations.

**APPROVED PRODUCTS AND SERVICES**

You must offer, sell, and use all approved products and items, and perform all approved nutrition management and fitness services that we periodically require for Hard Exercise Works® Centers. You may not offer, sell or use any products or items, or perform any nutrition management and fitness services that we have not authorized. Our system standards may regulate required and/or authorized items and nutrition management and fitness services and products; unauthorized and prohibited products and nutrition management and fitness services; purchase, storage, member nutrition management and fitness preparation procedures, handling, and cleaning techniques for items and nutrition management and fitness services and products; and inventory requirements for nutrition management and fitness services and products and other products and supplies so that your Franchise Business operates at full capacity. We periodically may change required and/or authorized items and nutrition management and fitness services and products. There are no limits on our right to do so.

**SALES RESTRICTIONS**

We do not restrict you in the type of customers to whom you may sell approved products or services. All your sales must be retail sales occurring at the Premises.

**ADVERTISING RESTRICTIONS**

You will not solicit business outside your DMA by a toll-free number, catalog, direct mail, Internet, website or other advertising or solicitation method without our prior written consent.

**PRICING REQUIREMENTS**

We establish the membership and product pricing for you to charge for clients. You must obtain our written approval of any deviation in pricing. Nothing contained in the Franchise

Agreement is deemed a representation by us that the use of our pricing schedule will in fact optimize profits.

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

## THE FRANCHISE RELATIONSHIP

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

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| a. Length of the franchise term | Section 16.1 | The initial term of the Franchise Agreement is 35 years beginning on the Agreement Date. |
| b. Renewal or extension of the term[1] | Section 16.2 | You have the right to renew for an unlimited number of additional terms of 35 years each, if you meet the requirements for renewal. |
| c. Requirements for you to renew or extend[1] | Sections 16.2 and 16.3[(1)] | 1. You must give us timely written notice of your intention to exercise the option.<br>2. You must not be in default of your Franchise Agreement or any other agreement with us or our Affiliates.<br>3. You have attained during the last 12 months of the Initial Term or a Renewal Term, Gross Income of not less than 75% of the Network median (including both Company-Owned Units and Franchised Units) over the same period and receive an average score of at least 85% on audits and mystery shopping at your Franchise Business over the last 3 years.<br>4. You will sign a Renewal Franchise Agreement that may impose materially different terms and conditions than those in your original Franchise Agreement. You will not pay another Initial Franchise Fee but you will pay a Renewal Fee of $2,000.<br>5. You must sign a general release of all claims against us and its affiliates, and their respective officers, directors, shareholders, agents and employees, the form included in Exhibit R.<br>6. You must be entitled to continue to occupy your Premises for the entire Renewal Term or must obtain our approval of a new location for your Franchise Business within your Exclusive Territory but not within the exclusive territory of a Company-Owned Unit or another Franchise Unit in accordance with the Franchise Agreement. |

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| | | 7. You must complete to our reasonable satisfaction, all maintenance, refurbishing, renovating and upgrading we require.<br>8. If renovation or maintenance of your Franchise Business is not possible or feasible, you must relocate your Franchise Business within your Exclusive Territory but not within the exclusive territory of a Company-Owned Unit or another Franchise Unit.<br><br>If you have not met all of the conditions stated in the Franchise Agreement, we may elect not to enter into a Successor Franchise Agreement. If, within 5 days of notice from us that you have elected not to enter into a Successor Franchise Agreement, you request our permission for you to sell your Franchise Business, then for a 180-day period following this notice (this notice will extend the Initial Term, as necessary, to the end of the 180-day period, unless we have grounds to otherwise terminate the Initial Term), we will permit you to sell your Franchise Business to a purchaser subject to our right of first refusal. This transfer must be in compliance with the provisions of Subsection 10.2(b) of the Franchise Agreement and all the other applicable terms of this Agreement. During this period, you must continue to operate your Franchise Business.<br><br>You will be asked to sign a contract with materially different terms and conditions than your original contract. |
| d. Termination by you[1] | Section 11.1 | If you have substantially complied with the Franchise Agreement and we materially breach the Franchise Agreement, you may give us written notice of the nature of the breach. If we do not cure the breach within 30 days or, within a longer period if the nature of the breach is such that we cannot cure within 30 days, you have the right to terminate the Franchise Agreement. You may also terminate the Franchise Agreement upon the mutual written agreement with us. Any termination of the Franchise Agreement by you other than as stated above is a wrongful termination by you. |
| e. Termination by us without cause | Not Applicable | Not Applicable |

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| f. Termination by us with cause | Sections 11.2, 11.3 and 11.4 | We may only terminate your Franchise Agreement with cause. |
| g. "Cause" defined – curable defaults | Section 11.4 | You may cure any non-monetary default other than those specified in Sections 11.2 and 11.3 of your Franchise Agreement within 30 days of written notice from us of the default. |
| h. "Cause" defined – non-curable defaults[1] | Sections 11.2 and 11.3 | The following defaults may not be cured:<br>1. Violation of environmental laws;<br>2. Insolvency or general assignment for creditors;<br>3. Filing in bankruptcy;<br>4. Adjudication of bankruptcy;<br>5. Filing for appointment of a receiver or custodian;<br>6. Appointment of a receiver or custodian;<br>7. Filing for composition with creditors;<br>8. Judgment of $25,000 or more remains unsatisfied;<br>9. Execution of levy;<br>10. Filing of foreclosure suit;<br>11 Sale of your assets after levy;<br>12. Abandonment;<br>13. Threat to public safety remains uncorrected;<br>14. Failure to maintain cleanliness or sanitation;<br>15. Conviction of any offense that might materially adversely affect the Business System;<br>16. You deny us our right of inspection or audit;<br>17. You engage in deleterious conduct;<br>18. Unauthorized assignment;<br>19. Breach of confidentiality or noncompetition provisions of your Franchise Agreement;<br>20. You knowingly maintain false books or records;<br>21. Failure to timely transfer on your death or incapacity;<br>22. Uncured default under your lease;<br>23. You misuse any of the Intellectual Property; or<br>24. Three or more notices of default for same or similar default during any 12 consecutive months. |
| i. Your obligations on termination/non-renewal[1] | Sections 13.1(a)(ii), 14.2 ARTICLES 6 and 12[(4)] | You must:<br>1. Not compete with us or any of our Franchise Businesses for 24 months after the end of your Franchise Agreement within 10 miles of any Franchise Business or Company-Owned Unit then in operation or under contract.<br>2. Indemnify us from any losses or damages we sustain as a result of your Franchise Business;<br>3. Maintain confidentiality of all our Confidential Information; |

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| | | 4. Cease operating your Franchise Business;<br>5. Pay all amounts you owe to us;<br>6. Comply with our option to purchase your Franchise Business;<br>7. Distinguish your Premises from any indicia of the Business System;<br>8. Avoid unfair competition with us;<br>9. Return all Intellectual Property to us;<br>10. Discontinue use of the Principal Trademark;<br>11. Assign your lease to us at our option;<br>12. Pay us liquidated damages; and<br>13. If you are an Area Developer, you may lose your Development Rights |
| j. Assignment of contract by us | Section 10.1 | We have the absolute right to transfer, assign or delegate all or any part of our rights or obligations under this Agreement to any person without your consent or approval. |
| k. "Transfer" by you defined | Sections 10.2 and 10.3 | Transfer means any sale, assignment, transfer, conveyance or gift, whether voluntarily or involuntarily, directly or indirectly, by operation of law or otherwise, of any direct or indirect interest in your Franchise Agreement or in your Franchise Business. A transfer of less than 25% of the voting rights or ownership interests in the above and a transfer to any other original owner of your Franchise Business is not considered a transfer. |
| l. Our approval of transfer by you | Sections 10.2 and 10.3 | We have the right to approve or disapprove of any transfers. |
| m. Conditions for our approval of transfer | Sections 10.2 and 10.3 | 1. We do not exercise our right of first refusal;<br>2. You are not in default under any agreement you have with us or any Affiliate;<br>3. You must sign a general release of us, the form of which is attached as Exhibit R;<br>4. The transferee may not have any other business that competes with us or any Franchise Business;<br>5. The transferee must sign a new franchise agreement that may impose materially different terms and conditions than those in your original Franchise Agreement but the transferee will not have to pay a new Initial Franchise Fee;<br>6. The transferee must pay a transfer fee equal to 50% of the then-current Initial Franchise Fee;<br>7. We must interview and approve the transferee;<br>8. The transferee must satisfactorily complete our application procedures; |

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| | | 9. The transferee must renovate your Franchise Business as we specify;<br>10. The transferee must properly assume all your obligations, including your lease;<br>11. The transferee must successfully complete Initial Training and pay a training fee of $15,000; and<br>12. We must approve of the proposed terms of sale or other factors involved in the transfer.<br><br>Your buyer will be asked to sign a contract with materially different terms and conditions than your original contract. |
| n. Our right of first refusal to acquire your business | Section 10.5 | We have the option to purchase on the same terms as contained in the Offer. We will give you written notice of election within 30 days after our receipt of the Offer notice and all required information. |
| o. Our option to purchase your business | Section 12.4 | We have the right (but not the duty), exercisable upon written notice to you given within 30 days after termination of the Franchise Agreement, to purchase for cash any assets of your Franchise Business at the fair market value. |
| p. Your death or disability | Section 10.4 | You or your representative must:<br>1. Provide a replacement manager satisfactory to us; and<br>2. Your personal representative must transfer the Franchise Business within 6 months of your death in accordance with the transfer provisions of your Franchise Agreement. |
| q. Non-competition covenants during the term of the franchise[1] | Subsection 13.1(b)(i) | You may not:<br>1. Influence any Business Associate of us to modify its relationship with us;<br>2. Have any involvement with any Competitive Business; or<br>3. Interfere with our business or any of our other Franchise Businesses. |
| r. Non-competition covenants after the franchise is terminated or expires[1] | Subsection 13.1(b)(ii) | You may not, for 24 months after the end of your Franchise Agreement:<br>1. Influence any Business Associate of us to modify its relationship with us;<br>2. Have any involvement with any Competitive Business, within 10 miles of any Franchise Business then in operation or under contract; or<br>3. Interfere with our business or any of our other Franchise Businesses. |

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| s. Modification of the agreement | Sections 6.3, 13.1(d), 19.2 and 19.3 | Your Franchise Agreement may not be modified without the consent of both you and us except:<br>1. We may change the contents of the HEW Intranet/HEW Operations Manual;<br>2. We may modify the Business System; and<br>3. A court may modify any provision of your Franchise Agreement in accordance with applicable law. |
| t. Integration/merger clause | Section 19.14 | Only the terms of the Franchise Agreement and other written agreements are binding (subject to applicable state law). Nothing in the Franchise Agreement or in any other related written agreement is intended to disclaim the representations we made in this FDD. Any representations or promises outside the FDD and Franchise Agreement may not be enforceable. |
| u. Dispute resolution by arbitration or mediation[1] | ARTICLE 17 | All disputes must be resolved first by mediation and, if mediation is not successful, then by arbitration except claims involving:<br>1. The Intellectual Property;<br>2. Any lease or sublease of real property;<br>3. Your obligations upon termination or expiration of your Franchise Agreement;<br>4. Any transfers;<br>5. Matters involving claims of danger, health or safety; and<br>6. Requests for restraining orders, injunctions or similar procedures.<br>You must also waive your rights to a jury trial and claims for punitive damages. |
| v. Choice of forum[1] | Section 17.4 | Subject to state law, any mediation or arbitration proceeding must be conducted where our principal office is located when demand for mediation or arbitration is filed. Any litigation to enforce the Franchise Agreement must be filed in the courts where our principal office is located when litigation is filed (currently Palm Beach County, Florida). |
| w. Choice of law[1] | Section 17.6 | Except to the extent governed by the United States Trademark Act, the United States Copyright Act or the United States Arbitration Act, and subject to applicable state law, the Franchise Agreement is interpreted under Florida law. |

[1] See Exhibits A and I to this Franchise Disclosure Document for certain state-specific requirements.

## THE DEVELOPMENT RELATIONSHIP

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

| Provision | Section in Area Development Agreement | Summary |
|---|---|---|
| a. Length of Area Development Rights term | Section 5.1 | The Initial Term of this Agreement is the earlier of: (i) the date when we approve the site for your 3rd Franchised Unit or (ii) 3 years from the Agreement Date, unless otherwise sooner terminated due to default. |
| b. Renewal or extension of the term[1] | Section 5.2 | You have the right to renew for an additional term of 3 years, if you meet the requirements for renewal. |
| c. Requirements for you to renew or extend | Sections 5.2 and 5.3 | 1. You must timely give us written notice of your intention to exercise the option.<br>2. You must not be in default of your Area Development Agreement or any other agreement with us.<br>3. You have, when you renew, sufficient financial and management resources in our discretion to continue development of additional Franchise Businesses in the Development Area.<br>4. You must meet our then-current qualification and training requirements.<br>5. You, within 30 days before the end of the Initial Term, sign a new Area Development Agreement that may contain materially different terms and conditions than in your existing Area Development Agreement including a new Development Fee and new Development Schedule.<br>6. You must sign a General Release, the form of which is included in Exhibit R.<br>You will be asked to sign a contract with materially different terms and conditions than your original contract. |
| d. Termination by you[1] | Section 6.1 | If you have substantially complied with the Area Development Agreement and we materially breach the Area Development Agreement, you may give us written notice of the nature of the breach. If we do not cure the breach within 30 days or within a longer period, if the nature of the breach is such that we cannot cure within 30 days, you have the right to terminate the Area Development Agreement. |

| Provision | Section in Franchise Agreement | Summary |
|---|---|---|
| e. Termination by us without cause | Not Applicable | Not Applicable |
| f. Termination by us with cause | Section 6.2 | We may only terminate your Area Development Agreement with cause. |
| g. "Cause" defined – curable defaults | Section 6.3 | You have 30 days or any longer period as applicable law may require, after we deliver you a written notice of default to cure any default. If you fail to cure timely any curable default, we have the right to terminate the Area Development Agreement effective upon your receipt of our written notice of termination. You have the burden of proving you have timely cured any default, to the extent it is a curable default under the Area Development Agreement. |
| h. "Cause" defined – non-curable defaults | Section 6.2 | We may terminate the Area Development Agreement by giving you written notice of termination if we terminate any Franchise Agreement between the parties due to your default, after we have given you written notice of default if notice is required, and afforded you an opportunity to cure if you have a right to cure. |
| i. Your obligations on termination/ nonrenewal | Section 7.4 | Upon termination or expiration of the Area Development Agreement, all your Area Development Rights cease rights cease and you must comply with your post-termination and post-expiration obligations under the Franchise Agreements and those obligations that survive the termination or expiration of the Franchise Agreements including the obligations of indemnification, confidentiality and non-competition. You retain all rights under the Franchise Agreements for Franchised Units you are currently operating or are under construction, provided you are not in otherwise in default under any of these Franchise Agreement. |
| j. Assignment of contract by us | Section 4.1 | We have the absolute right to transfer, assign or delegate all or any part of our rights or obligations under the Area Development Agreement to any person without your consent or approval. |
| k. "Transfer" by you defined | Section 4.2 | Transfer means any sale, assignment, transfer or gift, of any direct or indirect interest in your Area Development Agreement. A transfer of less than 50% of the equity interests in Business Entity or a transfer to any other original Franchise Owners is not considered a transfer. |

| Provision | Section in Area Development Agreement | Summary |
|---|---|---|
| l. Our approval of transfer by you | Section 4.2 | You must obtain our prior written approval of any transfers. |
| m. Conditions for our approval of transfer | Section 4.2 | You may transfer the Area Development Agreement to a Business Entity you own but you continue to remain personally liable for all of your obligations under the Development Agreement. If you intend to transfer the Development Agreement as part of your sale of all of the assets comprising your Franchise Businesses under construction or in operation, we will consent to the transfer provided you comply with your obligations under Subsection 10.2(f) of the Franchise Agreements and pay us a $10,000 transfer fee. |
| n. Our right of first refusal to acquire your business | Not Applicable | Not Applicable |
| o. Our option to purchase your business | Not Applicable | Not Applicable |
| p. Your death or disability | Not Applicable | Not Applicable |
| q. Non-competition covenants during the term | Not Applicable | Not Applicable |
| r. Non-competition covenants after the agreement is terminated or expires | Not Applicable | Not Applicable |
| s. Modification of the agreement | Section8.2 | Your Development Agreement may not be modified without the consent of both you and us except:<br>1. We may change the contents of the Manuals;<br>2. We may modify the System; and<br>3. A court may modify any provision of your Area Development Agreement in accordance with applicable law. |

| Provision | Section in Area Development Agreement | Summary |
|---|---|---|
| t. Integration/ merger clause | Section 8.11 | Only the terms of the Area Development Agreement and other written agreements are binding (subject to applicable state law). Nothing in the Area Development Agreement or in any other related written agreement is intended to disclaim the representations we made in this FDD. Any representations or promises outside the FDD and Area Development Agreement may not be enforceable. |
| u. Dispute resolution by arbitration or mediation[1] | Section 8.1 | All disputes must be resolved first by mediation and, if mediation is not successful, then by arbitration except claims involving:<br>1. The Intellectual Property;<br>2. Any lease or sublease of real property;<br>3. Your obligations upon termination or expiration of your Area Development Agreement;<br>4. Any transfers;<br>5. Matters involving claims of danger, health or safety; and<br>6. Requests for restraining orders, injunctions or similar procedures.<br>You must also waive your rights to a jury trial and claims for punitive damages. |
| v. Choice of forum[1] | Section 8.1 | Any mediation or arbitration proceeding must be conducted where our principal office is located when demand for mediation or arbitration is filed. Any litigation to enforce the Area Development Agreement must be filed in the courts where our principal office is located when litigation is filed (currently Palm Beach County, Florida) |
| w. Choice of law[1] | Section 8.1 | Except to the extent governed by the United States Trademark Act, the United States Copyright Act or the United States Arbitration Act, and subject to applicable state law, the Area Development Agreement is interpreted under Florida law. |

[1] See Exhibits A and I to this Franchise Disclosure Document for certain state-specific requirements.

## ITEM 18 - PUBLIC FIGURES

We do not use any public figure to promote our Franchise Businesses.

## ITEM 19 – FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's Franchise Rule permits us to provide information about the actual or potential financial performance of our Franchise Units and/or Company-Owned Units, if there is a reasonable basis for the information, and if the information is included in this Franchise Disclosure Document. We may give you financial performance information that differs from that included in this ITEM 19 only if: (1) we provide the actual records of an existing Unit that you are considering buying; or (2) we supplement the information provided in this ITEM 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

**HISTORICAL FPR**

We make the following historical Financial Performance Representation:

| Location | Opening Date | 2016 Revenues | 2017 Revenue | % Growth |
|---|---|---|---|---|
| Boca Raton, Florida[2] | March 1, 2014 | $299,604 | $348,717 | 16.36% |
| Clearwater, Florida | October 16, 2017 | N/A | $ 26,961 | |
| Coral Springs, Florida | September 8, 2016 | $ 88,547 | $469,364 | |
| Deerfield Beach, Florida[2] | October 19, 2015 | $261,233 | $495,284 | 89.59% |
| Delray Beach, Florida[2] | January 1, 2014, | $295,945 | $337,612 | 14.08% |
| Jacksonville-San Marco, Florida[2] | May 18, 2015 | $282,994 | $326,260 | 15.29% |
| Jensen Beach, Florida[2] | November 10, 2010 | $192,660 | $240,796 | 24.98% |
| Jupiter, Florida[1] | October 6, 2008 | $743,508 | $693,981 | - 6.66% |
| Lake Worth, Florida[2] | June 1, 2015 | $376,400 | $393,563 | 4.56% |
| Orlando-University, Florida | August 26, 2016 | $ 28,783 | $238,344 | |
| Palm Beach Gardens, Florida[2] | August 8, 2008 | $404,304 | $521,471 | 28.98% |
| Port St. Lucie, Florida | May 30, 2017 | N/A | $186,523 | |
| South Stuart, Florida[2] | February 16, 2015 | $168,668 | $201,665 | 19.56% |
| Wellington, Florida[2] | September 17, 2012 | $620,038 | $607,447 | - 2.03% |
| West Palm Beach, Florida[2] | July 25, 2011 | $294,335 | $230,106 | -21.82% |
| John's Creek, Georgia[2] | January 3, 2011 | $284,019 | $300,714 | 5.88% |
| Roswell, Georgia[2] | October 3, 2016 | $ 31,581 | $221,160 | |
| Asheville, North Carolina[2] | October 31, 2011 | $564,659 | $606,740 | 7.45% |

[1] Company-Owned Unit

[2] Franchised Unit

**MATERIAL BASES FOR THE HISTORICAL FPR**

The following are 6 elements comprising a "material" basis for the historical performance representation:

**1. Group Measured** – The group measured is all operating Units including 1 Company-Owned Unit and 17 Franchised Units that were operational at any time during calendar year 2017.

2. **Time Period Measured** – The time period measured is calendar years 2016 and 2017.

3. **Number of Units Measured** – The number of Units measured is 18.

4. **Number of Units Reporting** - The number of Units reporting is 18.

5. **Number and Percentage of Units** – The number and percentage of Units, both Company-Owned Units and Franchised Units that achieved the stated level of performance is 18 Units representing 100% of all Units that were operational at any time during calendar years 2016 and 2017.

6. **Distinguishing Characteristics** - The distinguishing characteristics of the group measured are all Units, both Company-Owned Units and Franchised Units that were operational at any time during calendar year 2017.

**ADMONITION**

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

**SUBSTANTIATION**

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

Other than the preceding financial performance representation, we do not make any other financial performance representations. We also do not authorize our employees or representatives to make any such other representations orally or in writing. If you are purchasing an existing Unit, however, we may provide you with the actual records of that Unit. If you receive any other information or projections of your future income, you should report it to our management by contacting contact Matthew B. Hunt at 661 Maplewood Drive, Unit 18, Jupiter, FL 33458 and (561) 339-9035, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20 – OUTLETS AND FRANCHISEE INFORMATION

Table No. 1

**System wide Unit Summary**
**For Years 2015 to 2017**

| Column 1<br><br>**Unit Type** | Column 2<br><br>**Year** | Column 3<br><br>**Units at the Start of the Year** | Column 4<br><br>**Units at the End of the Year** | Column 5<br><br>**Net Change** |
|---|---|---|---|---|
| Franchised | 2015 | 12 | 14 | +2 |
| | 2016 | 14 | 16 | +2 |
| | 2017 | 16 | 17 | +1 |
| Company-Owned | 2015 | 2 | 1 | -1 |
| | 2016 | 1 | 1 | 0 |
| | 2017 | 1 | 1 | 0 |

| | | | | |
|---|---|---|---|---|
| **Total Units** | **2015** | **14** | **15** | **+1** |
| | **2016** | **15** | **17** | **+2** |
| | **2017** | **17** | **18** | **+13** |

Table No. 2

**Transfers of Units from Franchisees to New Owners (other than Us)**
**For Years 2015 to 2017**

| Column 1<br><br>**State[1]** | Column 2<br><br>**Year** | Column 3<br><br>**Number of Transfers** |
|---|---|---|
| Florida[1] | 2015 | 0 |
| | 2016 | 3 |
| | 2017 | 1 |
| **Total** | **2015** | **0** |
| | **2016** | **3** |
| | **2017** | **1** |

[1] No other states are involved

Table No. 3

**Status of Franchise Units**
**For Years 2015 to 2017**

| Col. 1<br><br>**State[1]** | Col. 2<br><br>**Year** | Col. 3<br><br>**Units at Start of Year** | Col. 4<br><br>**Units Opened** | Col. 5<br><br>**Termin-ations** | Col. 6<br><br>**Non-Renewals** | Col. 7<br><br>**Re-acquired by Us** | Col. 8<br><br>**Ceased Operations -Other Reasons** | Col. 9<br><br>**Units at End of the Year** |
|---|---|---|---|---|---|---|---|---|
| Florida | 2015 | 8 | 4 | 0 | 0 | 0 | 1 | 11 |
| | 2016 | 11 | 2 | 0 | 0 | 0 | 0 | 13 |
| | 2017 | 13 | 2 | 1 | 0 | 0 | 0 | 14 |
| Georgia | 2015 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| | 2016 | 2 | 1 | 1 | 0 | 0 | 0 | 2 |
| | 2017 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| North Carolina | 2015 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 2016 | 1 | 1 | 1 | 0 | 0 | 0 | 1 |
| | 2017 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| **Totals** | **2015** | **11** | **4** | **0** | **0** | **0** | **1** | **14** |
| | **2016** | **14** | **4** | **2** | **0** | **0** | **0** | **16** |
| | **2017** | **16** | **2** | **1** | **0** | **0** | **0** | **17** |

[1] No other states are involved

Table No. 4

**Status of Company-Owned Units**
**For Years 2015 to 2017**

| Column 1<br><br>**State[1]** | Column 2<br><br>**Year** | Column 3<br><br>**Units at Start of Year** | Column 4<br><br>**Units Opened** | Column 5<br><br>**Units Reacquired From Franchisee** | Column 6<br><br>**Units Closed** | Column 7<br><br>**Units Sold to Franchisee** | Column 8<br><br>**Units at End of the Year** |
|---|---|---|---|---|---|---|---|
| Florida | 2015 | 2 | 0 | 0 | 0 | 1 | 1 |
| | 2016 | 1 | 0 | 0 | 0 | 0 | 1 |
| | 2017 | 1 | 0 | 0 | 0 | 0 | 1 |
| **Totals** | **2015** | **2** | **0** | **0** | **0** | **1** | **1** |
| | **2016** | **1** | **0** | **0** | **0** | **0** | **1** |
| | **2017** | **1** | **0** | **0** | **0** | **0** | **1** |

[1] No other states are involved

Table No .5

**Projected Openings as of December 31, 2017**

| Column 1<br><br>**State[1]** | Column 2<br><br>**Franchise Agreements Signed But Unit Not Open** | Column 3<br><br>**Projected New Franchise Units In the Next Fiscal Year** | Column 4<br><br>**Projected New Company Owned Units in the Next Fiscal Year** |
|---|---|---|---|
| California | 1 | 1 | 0 |
| Florida | 1 | 2 | 0 |
| Texas | 0 | 1 | 0 |
| **TOTALS** | **2** | **4** | **0** |

[1] No other states are involved

**LIST OF CURRENT FRANCHISEES**

Exhibit P contains the names, addresses and telephone numbers of all 19 Franchise Businesses under a Franchise Agreement with us, 17 of which are operating and 2 of which are not yet to open.

**LIST OF FORMER FRANCHISEES**

Exhibit P also contains the name, last known home address and home telephone number of the -1- Franchise Business that has been terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year (since January 1, 2017) or who have not communicated with us within 10 weeks of the effective date of this Franchise Disclosure Document.

**YOUR CONTACT INFORMATION**

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

**CONFIDENTIALITY AGREEMENTS**

There are franchisees who have signed confidentiality clauses during the last 3 fiscal years. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with our franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

**TRADEMARK-SPECIFIC FRANCHISEE ORGANIZATIONS**

The name, address, telephone number, e-mail address, and Web address (to the extent known) of each trademark-specific franchisee organization associated with the franchise system:

None

## ITEM 21 - FINANCIAL STATEMENTS

Attached as Exhibit Q are our:

1. Unaudited[1] balance sheet as of March 31, 2018 and our unaudited[1] income statement for the 3-month period ending March 31, 2018

2. Audited comparative financial statements for the fiscal years ended December 31, 2017; December 31, 2016; and December 31, 2015.

**[1] THE INTERIM BALANCE SHEET AS OF MARCH 31, 2018 AND INCOME STATEMENT FOR THE 3-MONTH PERIOD FROM JANUARY 1, 2018 THROUGH MARCH 31, 2018 WERE INTERNALLY PREPARED BY THE FRANCHISOR IN ACCORDANCE WITH GAAP. PROSPECTIVE FRANCHISEES ARE ADVISED THAT NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HAS COMPILED, REVIEWED OR AUDITED THESE FIGURES OR EXPRESSED HIS OR HER OPINION WITH REGARD TO THEIR CONTENT OR FORM.**

Our fiscal year ends December 31.

## ITEM 22 - CONTRACTS

The following contracts, agreements and other relevant documents are attached as Exhibits to this Franchise Disclosure Document:

| | |
|---|---|
| C | Deposit Agreement |
| D | Territory Reservation Agreement |
| E | Franchise Agreement |
| F | Approved Location Addendum to Franchise Agreement |
| G | Conversion Addendum to Franchise Agreement |
| H | Area Development Agreement |
| I | State Addenda to Agreements (if applicable) |
| J | Authorization Agreement for Direct Withdrawals (ACH Debits) |
| K | Guaranty of Developer's/Franchisee's Obligations |
| L | Agreement with Landlord |
| M | Telephone Number and Directory Advertising Assignment Agreement |
| N | Franchisee Closing Questionnaire |
| O | Software Sublicense Agreement |

## ITEM 23 - RECEIPTS

You will find copies of a detachable Receipt attached as Exhibit T at the very end of this Franchise Disclosure Document. It is not a binding contract. This merely verifies that you have received this Franchise Disclosure Document. Please complete and sign both copies. Keep a copy of your files and mail the other copy to us.

**EXHIBIT A – STATE ADDENDA TO FRANCHISE DISCLOSURE DOCUMENT**

The States of California, Hawaii, Illinois, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, Virginia and Washington require that we amend the Franchise Disclosure Document and Franchise Agreement to conform to their state's franchise laws as part of the state's registration and approval of the franchise offering. We must do this before we offer or sell any franchises intended to be operated in those states or to residents of these states. If we have registered in any of these states, attached are the applicable Addendum to Franchise Disclosure Document in this Exhibit and Addenda to Franchise Agreement and Area Development Agreement (in Exhibit H) that apply only to residents of that state and/or where the Hard Exercise Works Franchise will be operated in that state.

**CALIFORNIA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

1. As security for our performance for our pre-opening obligations under the Franchise Agreement, we have obtained a surety bond from JW Surety Bonds (the Surety") in the amount of $49,500 (the "Surety Bond") for the benefit of the State of California and for the use of any franchisee who may have a cause of action against us under the provisions of the California Franchise Investment Law. The Surety Bond is subject to the following provisions:

(a) Any person who sustains an injury covered by the Surety Bond may, in addition to any other remedy that he, she or it may have, bring an action in his, her or its own name upon the Surety Bond for the recovery of any damage sustained by him, her or it.

(b) The total aggregate liability of the Surety for all claims which may arise under the Surety Bond is limited to the payment of $49.500.

(c) The Surety may cancel the Surety Bond and be relieved of further liability under the Surety Bond by delivering 30 days' written notice to the Commissioner of Business Oversight of the State of California: however, such cancellation does not affect any liability incurred or accrued under the Surety Bond before the termination of the 30-day period.

(d) The Surety Bond remains in force and effect until the Surety is released from liability by the Commissioner or until the Surety Bond is canceled by the Surety.

2. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.

3. Please consider the following additional RISK FACTORS before you buy this franchise:

RISK FACTORS:

1. THE FRANCHISE AGREEMENT CONTAINS PROVISIONS THAT LIMIT FRANCHISEE'S RIGHTS AND MAY NOT BE ENFORCEABLE IN CALIFORNIA INCLUDING BUT NOT LIMITED TO LIMITATION OF DAMAGES.

2. PURSUANT TO THE FRANCHISE AGREEMENT, THE PARTIES WILL INFORMALLY ATTEMPT TO RESOLVE ANY DISPUTES AT OUR PRINCIPAL PLACE OF BUSINESS IN FLORIDA BEFORE MEDIATION OR ARBITRATION.

3. WE RESERVE THE RIGHT TO ESTABLISH, DEVELOP, LICENSE OR FRANCHISE A NON-TRADITIONAL UNIT WITHIN THE EXCLUSIVE TERRITORY.

4. WE HAVE THE RIGHT TO BUY A COMPETITIVE BUSINESS IN YOUR EXCLUSIVE TERRITORY.

5. WE HAVE COMPLETE DISCRETION TO MODIFY OR DISCONTINUE THE USE OF THE TRADEMARKS AND YOU MUST COMPLY WITHIN 30 DAYS AT YOUR SOLE COST.

6. INDIVIDUAL FRANCHISEES ARE REQUIRED TO SIGN A PERSONAL GUARANTEE AND WILL BE PERSONALLY LIABLE FOR ALL OBLIGATIONS UNDER THE FRANCHISE AGREEMENT.

7. YOUR SPOUSE MUST ALSO SIGN A PERSONAL GUARANTEE MAKING YOUR SPOUSE INDIVIDUALLY LIABLE FOR YOUR FINANCIAL OBLIGATIONS UNDER THE FRANCHISE AGREEMENT. THE GUARANTEE WILL PLACE YOUR SPOUSE'S MARITAL AND PERSONAL ASSETS AT RISK IF YOUR FRANCHISE FAILS.

8. THE FRANCHISE AGREEMENT INCLUDES A PROVISION THAT PURPORTS TO WAIVE YOUR RIGHT TO SEEK PUNITIVE DAMAGES.

9. THE FRANCHISE AGREEMENT INCLUDES A PROVISION THAT PURPORTS TO WAIVE YOUR RIGHT TO BE PART OF A CLASS ACTION.

10. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS INVOLVING THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT ("FDD").

11. ITEM 3 is amended to add: Neither we, nor any person in ITEM 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. § 78 *et seq.*, suspending or expelling these persons from membership in that association or exchange.

12. ITEM 6 and ITEM 10 are amended to add that the maximum interest rate in California is 10% annually.

13. ITEM 17: The following additional paragraphs are added:

(a) California Business and Professions Code §§ 20000 through 20043 provides you rights concerning termination or nonrenewal of a Franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law controls.

(b) The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. § 101 *et seq.)*

(c) The Franchise Agreement contains a covenant not to compete, which extends beyond the termination of the Franchise. This provision may not be enforceable under California law.

(d) The Franchise Agreement contains a liquidated damages clause. Under California Civil Code § 1671, certain liquidated damages clauses are unenforceable.

(e) The Franchise Agreement requires binding arbitration. The arbitration will occur in Palm Beach County, Florida with the costs being born by the non-prevailing party. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and Federal laws (including Business and Professions Code § 20040.5, Code of Civil Procedure § 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

(f) The Franchise Agreement requires application of the laws of the State of Florida. This provision may not be enforceable under California law.

(g) You must sign a general release if you renew or transfer your franchise. California Corporations Code § 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code §§ 31000 through 31516). Business and Professions Code § 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code §§ 20000 through 20043).

14. Section 31125 of the California Corporations Code requires us to give you a Franchise Disclosure Document, in a form containing the information that the Commissioner may by rule or order require, before a solicitation of a proposed material modification of an existing franchise (California Corporation Code §§ 31000 through 31516).

15. Business and Professions Code § 20010 voids a waiver of your rights under the Franchise Relations Act. (Business and Professions Code §§ 2000 through 20043).

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT www.dbo.ca.gov.

## HAWAII ADDENDUM TO FRANCHISE DISCOSURE DOCUMENT

1. ITEM 17 of the Franchise Disclosure Document is amended by the addition of the following language to the original language:

Upon termination or refusal to renew the Franchise Business, we will compensate you for the fair market value your inventory, supplies, equipment and furnishings purchased from us or a supplier we designated. We will not compensate you for your personalized materials that have no value to us. If we refuse to renew your Franchise Business because we desire to convert your Franchise Business to a Company-Owned Unit, we, in addition to the remedies provided in this paragraph, will compensate you for the loss of goodwill. We may deduct from this compensation reasonable costs incurred in removing, transporting and disposing of your inventory, supplies, equipment, and furnishings, and may offset from this compensation any moneys due us.

**ILLINOIS ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

1. Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void.

2. ITEM 17, (v) and (w), respectively, are amended to add the following paragraphs:

(v) Section 4 of the Illinois Franchise Disclosure Act dictates that any provision in a Franchise Agreement that designates jurisdiction or venue in a forum outside of this State is void as to any cause of action that otherwise is enforceable in this State, but a Franchise Agreement may provide for arbitration in a forum outside of this State.

(w) Any governing law or choice of law clause granting authority to a state other than Illinois effectively negates the Illinois Franchise Disclosure Act. The Franchise Agreement will be interpreted and construed under Illinois law.

**MARYLAND ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

1. ITEM 17(c)(7) is amended to add the following sentence:

   The general release required as a condition of renewal, sale and/or assignment/transfer does not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. ITEM 17(h) is amended to add the following sentence:

   The provision in the Franchise Agreement that provides for termination upon your bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 *et seq.*).

3. ITEM 17(m)(3) is amended to add the following sentence:

   The general release required as a condition of renewal, sale and/or assignment/transfer does not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

4. ITEM 17(v) is amended to replace the existing Summary language with the following sentence:

   You may sue in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law within 3 years after the grant of the Franchise.

**NOTICE FOR PROSPECTIVE FRANCHISEES REQUIRED BY THE STATE OF MICHIGAN**

HEW Franchising, LLC
661 Maplewood Drive
Unit 18
Jupiter, FL 33458
(561) 339-9035

**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.**

Each of the following provisions is void and unenforceable if contained in any documents involving a Franchise

(a) A prohibition on your right to join an association of franchisees.

(b) A requirement that you assent to a release, assignment, novation, waiver, or estoppel that deprives you of rights and protections provided in the Michigan Franchise Investment Law. This will not preclude you, after entering into a Franchise Agreement, from settling any claims.

(c) A provision that permits us to terminate a Franchise before the expiration of its term except for good cause. Good cause includes your failure to comply with any lawful provision of the Franchise Agreement and to cure any failure after being given written notice of that failure and a reasonable opportunity, which need not be more than 30 days, to cure the failure.

(d) A provision that permits us to refuse to renew your Franchise without fairly compensating you by repurchase or other means for the fair market value of your inventory, supplies, equipment, fixtures and furnishings. Personalized materials that have no value to us and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the Franchise Business are not subject to compensation. This subsection applies only if:

(i) the term of the Franchise is less than 5 years; and

(ii) you are prohibited by the Franchise Agreement 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 after the end of the franchise or you do not receive at least 6 months' advance written notice of our intent not to renew the Franchise.

(e) A provision that permits us to refuse to renew your 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 arbitration or litigation be conducted outside this state. This will not preclude you from entering into an agreement when the dispute arises, to conduct arbitration at a location outside this state.

(g) A provision that permits us to refuse to permit a transfer of ownership of your Franchise, except for good cause. This subsection does not prevent us from exercising a right of first refusal to purchase your franchise. Good cause includes:

(i) The failure of the proposed transferee to meet our then current reasonable qualifications or standards.

(ii) The fact that the proposed transferee is our competitor.

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

(iv) Your failure or the proposed transferee's failure to pay any sums owing to us or to cure any default in the Franchise Agreement existing when the transfer is proposed.

(h) A provision that requires you to resell to us items that are not uniquely identified with us. This subsection does not prohibit a provision that grants to us a right of first refusal to purchase the assets of your Franchise on the same terms as a bona fide third party willing and able to purchase those assets. This subsection does not prohibit a provision that grants us the right to acquire the assets of your Franchise for the market or appraised value of the assets if you have breached the lawful provisions of the Franchise Agreement and have failed to cure the breach in the manner provided in subsection (c).

(i) A provision that permits us to directly or indirectly convey, assign, or otherwise transfer our obligations to fulfill contractual obligations to you unless provision has been made for providing the required contractual services.

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

Any questions regarding the notice should be directed to Consumer Protection Division, Antitrust and Franchise Unit, Michigan Department of Attorney General, 670 Law Building, Lansing, Michigan 48913 (517) 373-7117.

**MINNESOTA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

1. ITEM 13 is amended by the addition of the following language to the original language:

Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statues, 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.

2. ITEMS 17(c) and (g) are amended by addition of the following language:

With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) 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 (2) that consent to the transfer of the franchise will not be unreasonably withheld.

3. ITEMS 17(c) and (m) are amended by addition of the following language:

Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

4. ITEMS 17(q) and (r) are amended by addition of the following language:

The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J. Also, a court will determine if a bond is required.

5. ITEM 17(u) is amended by addition of the following language:

The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

6. ITEMS 17(v) and (w) are amended by the addition of the following language:

Minnesota Statutes, 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 agreements can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C or (2) the franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

# NEW YORK ADDENDUM TO OFFERING PROSPECTUS

1. All references made herein to a Franchise Disclosure Document (FDD) shall be amended refer to an Offering Prospectus.

2. ITEM 3 is amended to add the following paragraph:

Neither the Franchisor, its Predecessor, a person identified in ITEM 2, nor an Affiliate offering Franchises under the Franchisor's principal trademark:

A. Has an administrative, criminal or civil action pending against that person alleging: a felony; a violation of a franchise, antitrust or securities law; fraud, embezzlement, fraudulent conversion, misappropriation of property; unfair or deceptive practices or comparable civil or misdemeanor allegations.

B. Has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law; fraud, embezzlement, fraudulent conversion or misappropriation of property, or unfair or deceptive practices or comparable allegations.

C. Is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. ITEM 4 is amended to add the following paragraph:

Neither the Franchisor or any predecessor, officer or general partner of the Franchisor has, during the 10-year period immediately preceding the date of the Offering Prospectus, been adjudged bankrupt or reorganized due to insolvency, or was a principal office of the company or a general partner in any partnership that was adjudged bankrupt or reorganized due to insolvency during or within one year after the period that any officer or general partner of the Franchisor held that position in that company or partnership, or when any bankruptcy or reorganization proceeding has been commenced.

4. ITEM 8, **Revisions to Manuals** is amended to add the following sentence:

However, no changes to the Manuals will be made that would impose an unreasonable economic burden on you or unreasonably increase your obligations.

5. ITEM 17(c)(6) is amended to add the following:

; provided, however that all rights you enjoy and any causes of action from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued under it will remain in force; it being the intent of this proviso that the non-waiver provisions of GBL 687.4 and 687.5 be satisfied.

6. ITEM 17(d) is amended to add the following sentence:

You may terminate the Franchise Agreement on any ground available by law.

7. ITEM 17(j) is amended to add the following sentence:

No assignment will be made except to an assignee that, in our good faith judgment is able to assume our obligation under the Franchise Agreement.

8. ITEM 17(m)(3) is amended to add the following:

; provided, however that all rights enjoyed by you and any causes of action from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued under it will remain in force; it being the intent of this proviso that the non-waiver provisions of GBL 687.4 and 687.5 be satisfied.

9. ITEM 17(u) is amended to add the following paragraph:

Your agreement to our right to obtain injunctive and other relief for your breach of covenants not to compete and non-disclosure covenants contemplates only our right to obtain injunctive and other relief, only after the proper proofs are made and the appropriate judicial or arbitrative authority grants the relief. Nothing in these provisions constitute a waiver by you of your right to defend any action.

10. ITEM 17(v) is amended to add the following paragraph:

The choice of forum will not be considered a waiver of any right conferred upon you by the provisions of Article 33 of the General Business Law of the State of New York.

**<u>NEW YORK MATERIAL FACT STATEMENT</u>**

WE REPRESENT THAT THIS OFFERING PROSPECTUS DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT.

**NORTH DAKOTA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

1. ITEM 17(c) is amended to delete the requirement that you must sign and deliver to us a general release in our favor as part of the renewal of the franchise.

2. ITEM 17(m) is amended to delete the requirement that you must sign and deliver to us a general release in our favor as part of the transfer of the franchise.

3. ITEM 17(o) is amended to add the following paragraph:

If the parties cannot agree on fair market value within a reasonable time, an independent appraiser will be selected by both parties. If the parties are unable to select an appraiser together, then one will be chosen by us, one by you and the two appraisers will select a third.

4. ITEMS 17(q) and (r) are amended to state that: "Covenants not to complete as mentioned in these ITEMS are generally considered unenforceable in the State of North Dakota.

5. ITEM 17(u) is amended is provide that the location of mediation, arbitration or litigation be agreeable to all parties.

6. ITEM 17(v) is amended to state that any litigation or arbitration proceeding begun for the purpose of enforcing the Franchise Agreement will be filed in the courts and arbitration board located in the State of North Dakota.

7. ITEM 17(w) is amended to change the governing law from Florida to North Dakota.

**RHODE ISLAND ADDENDUM FRANCHISE DISCLOSURE DOCUMENT**

1. ITEM 17(v) is amended to add the following sentence:

§ 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 as to a claim otherwise enforceable under this Act.

**VIRGINIA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**

1. ITEM 17(h) is amended to read as follows:

Under Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for us to cancel a Franchise without reasonable cause. If any ground for default or termination stated in the Franchise agreement, Area Development Agreement or Area Representative Agreement does not constitute "reasonable cause" as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

2. ITEM 17(x) is amended to read as follows:

Virginia law applies.

## WASHINGTON ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

## STATE OF WASHINGTON FRANCHISEE'S TERMINATION AND RENEWAL RIGHTS RCW 19.100.180(2) (g), (i) and (j)

### GENERAL RELEASE

Any provisions regarding your signing a general release of any claims against us does not apply to a release of any claims arising under the Washington Franchise Investment Protection Act except when signed as part of a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions that unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act including the right to a jury trial may not be enforceable.

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### RENEWAL

We will not refuse to renew a Franchise without fairly compensating you for the fair market value of your inventory, supplies, equipment, and furnishings purchased from us and goodwill when the franchise expires, exclusive of personalized materials which have no value to us, and inventory, supplies, equipment and furnishing not reasonably required in the conduct of the Franchise Business. However, compensation will not be made to you for goodwill if: (a) you have been given 1 year's written notice of nonrenewal; and (b) we have agreed in writing not to enforce any covenant which restrains you from competing with us. We may offset against amounts we owe you, any amounts you owe us.

### TERMINATION

We will not terminate a Franchise before the expiration of its term except for good cause. Good cause includes your failure to comply with lawful material provisions of the Franchise Agreement or other agreement between you and us and to cure the default after being given written notice and a reasonable opportunity, which need be at least 30 days in which to cure the default, or if the default cannot reasonably be cured in 30 days, your failure to initiate within 30 days substantial and continuing action to cure the default. After 3 willful and material breaches of the same provision of the Franchise Agreement occurring within a 12-month period, for which you have been given written notice and an opportunity to cure, you may terminate the Franchise Agreement upon any later willful and material breach of the same provision within the 12-month period without providing you written notice or opportunity to cure. We may terminate a Franchise without giving you prior written notice or opportunity to cure a default if you:

I. are adjudicated a bankrupt or insolvent;

II. make an assignment for the benefit of creditors or similar disposition of the assets of the Franchise Business;

III. voluntarily abandon the Franchise Business; or

IV. are convicted of or plead guilty or no contest to a charge of violating any law involving the Franchise Business.

Upon termination for good cause, we will purchase from you at a fair market value your inventory and supplies, exclusive of:

I. personalized materials that have no value to us;

II. inventory and supplies not reasonably required in the conduct of the Franchise Business; and

III. if you retain control of the Premises of the Franchise Business, any inventory and supplies not purchased from us or on our express requirement.

We may offset against any amount we owe you, any amounts you owe us.

**EXHIBIT B -LIST OF STATE ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS**

| STATE | STATE ADMINISTRATOR | AGENT FOR SERVICE OF PROCESS |
|---|---|---|
| **CALIFORNIA** | Commissioner of Business Oversight<br>California Department of Business Oversight<br>One Sansome Street, Suite 600<br>San Francisco, CA 94104<br>(866) 275-2677 | Commissioner of Business Oversight<br>California Department of Business Oversight<br>One Sansome Street, Suite 600<br>San Francisco, CA 94104 |
| **HAWAII** | Business Regulation Division<br>Securities Compliance<br>Department of Commerce and Consumer Affairs<br>335 Merchant Street<br>Room 203<br>Honolulu, HI 96813<br>(808) 586-2722 | Commissioner of Securities<br>335 Merchant Street<br>Room 203<br>Honolulu, HI 96813 |
| **ILLINOIS** | Illinois Attorney General<br>500 S. Second Street<br>Springfield, IL 62706<br>(217) 782-4465 | Illinois Attorney General<br>500 South Second Street<br>Springfield, IL 62706 |
| **INDIANA** | Indiana Secretary of State<br>Securities Division<br>Room E-11<br>302 West Washington Street<br>Indianapolis, IN 46204<br>(317) 232-6681 | Indiana Secretary of State<br>201 State House<br>Indianapolis, IN 46204 |
| **MARYLAND** | Office of the Attorney General<br>Securities Division<br>200 Saint Paul Place<br>Baltimore, MD 21202-2020<br>(410) 576-6360 | Maryland Securities Commissioner<br>200 Saint Paul Place<br>Baltimore, MD 21202-2020 |
| **MICHIGAN** | Michigan Attorney General's Office<br>Consumer Protection Division<br>Attn: Franchise Section<br>525 W. Ottawa Street<br>Williams Building, 6th Floor<br>Lansing, MI 48933<br>(517) 373-7117 | Michigan Department of Commerce,<br>Corporations and Securities Bureau<br>6546 Mercantile Way<br>P.O. Box 30222<br>Lansing, MI 48910 |
| **MINNESOTA** | Franchise Examiner<br>Minnesota Department of Commerce<br>85 7th Place East<br>Suite 500<br>St. Paul, MN 55101-2198<br>(651) 539-1600 | The Commissioner of Commerce of Minnesota<br>Department of Commerce<br>85 7th Place East<br>Suite 500<br>St. Paul, MN 55101-2198 |

| STATE | STATE ADMINISTRATOR | AGENT FOR SERVICE OF PROCESS |
|---|---|---|
| **NEW YORK** | Bureau of Investor Protection and Securities<br>New York State Department of Law<br>23rd Floor<br>120 Broadway<br>New York, NY 10271<br>(212) 416-8211 | Secretary of State of the State of New York<br>99 Washington Street<br>Albany, NY 12231 |
| **NORTH DAKOTA** | North Dakota Securities Department<br>600 East Boulevard Avenue<br>State Capitol<br>5th Floor, Department 414<br>Bismarck, ND 58505-0510<br>(701) 328-4712 | North Dakota Securities Commissioner<br>600 East Boulevard Avenue<br>State Capitol<br>Bismarck, ND 58505-0510 |
| **OREGON** | Department of Consumer and Business Services<br>Labor and Industries Building<br>Salem, Oregon 97310<br>(503) 378-4140 | Department of Consumer and Business Services<br>Labor and Industries Building<br>Salem, Oregon 97310<br>(503) 378-4140 |
| **RHODE ISLAND** | Chief Securities Examiner<br>Division of Securities<br>John O. Pastore<br>Building 69-1<br>1511 Pontiac Avenue<br>Cranston, RI 02920-4407<br>(401) 462-9500 | Director of Rhode Island Department of Business Regulation<br>John O. Pastore<br>Building 69-1<br>1511 Pontiac Avenue<br>Cranston, RI 02920-4407 |
| **SOUTH DAKOTA** | Franchise Administrator<br>Department of Labor and Regulation<br>SD Division of Securities<br>124 S. Euclid, Suite 104<br>Pierre, SD 57501<br>(605) 773-4823 | Director of South Dakota Division of Securities<br>124 S. Euclid, Suite 104<br>Pierre, SD 57501 |
| **VIRGINIA** | State Corporate Commission<br>Division of Securities and Retail Franchising<br>1300 East Main Street<br>9th Floor<br>Richmond, VA 23219<br>(804) 371-9051 | Clerk of the State Corporation Commission<br>1300 East Main Street<br>1st Floor<br>Richmond, VA 23219 |
| **WASHINGTON** | Administrator<br>Department of Financial Institutions<br>Securities Division<br>P.O. Box 9033<br>Olympia, WA 98507-9033<br>(360) 902-8760 | Department of Financial Institutions<br>Securities Division<br>150 Israel Rd. SW<br>Tumwater, WA 98501 |

| STATE | STATE ADMINISTRATOR | AGENT FOR SERVICE OF PROCESS |
|---|---|---|
| **WISCONSIN** | Franchise Administrator<br>Division of Securities<br>Department of Financial Institutions<br>P.O. Box 1768<br>Madison, WI 53701<br>(608) 266-8559 | Commissioner of Securities of Wisconsin<br>101 East Wilson Street<br>Madison, WI 53702 |
| **ALL OTHER STATES** | Not Applicable | Keith J. Kanouse, Esq.<br>Kanouse & Walker, P.A.<br>One Boca Place, Suite 324 Atrium<br>2255 Glades Road<br>Boca Raton, FL 33431 |

**EXHIBIT C- DEPOSIT AGREEMENT**

4/19/18

**DEPOSIT AGREEMENT**

________________________, ("you" or “your”) have made a formal application for a Hard Exercise Works Franchise (the “Franchise Business”). HEW Franchising, LLC (“we, "us" or “our”) acknowledge receipt of $5,000 (the “Deposit Fee”), which you are depositing with us as an indication of your *bona fide* intent to enter into a Hard Exercise Works Franchise Agreement. You acknowledge that you have received from us a copy of our Franchise Disclosure Document dated April 19, 2018 (the “FDD”) that includes as exhibits this Deposit Agreement, the Franchise Agreement and all other exhibits listed in the FDD’s Table of Contents. You acknowledge that you have had a copy of the FDD for at least 14 days before you signed this Agreement, or before you paid us the Deposit Fee or any other consideration for a Hard Exercise Works Franchise. The dispute resolution provisions of ARTICLE 17 of the Franchise Agreement are incorporated into this Agreement by reference and are a part of this Agreement.

You understand that, in reliance on your signing this Agreement and giving us the Deposit Fee, we will exert a substantial amount of time and effort in seeking, surveying and showing locations suitable for a Franchised Business to be located within the Territory described on the Map attached as Exhibit A (the “Reserved Area”) and in undertaking various other steps preliminary to the granting of a Hard Exercise Works Franchise. We expect that the parties will sign the Franchise Agreement and related documents within the next 90 days. If you desire to cancel this Agreement within the next 90 days, you must give us written notice and we will return the Deposit Fee without interest to you less the out-of-pocket expenses we have incurred. You must also sign the General Release included in Exhibit R to the FDD. If you do not cancel, you must sign the Franchise Agreement 8 days after you receive the completed Franchise Agreement and related documents. If you timely sign the Franchise Agreement and related documents, we will credit the entire Deposit Fee against the Initial Franchise Fee. If you fail to timely sign the Franchise Agreement and related documents, we will retain the entire Deposit Fee to compensate us for our expenses, and for the time and effort that we expended in reliance upon your Franchise Application and for our lost opportunities.

In consideration of the services we will render to you, you agree not to disclose or make use of, directly or indirectly, any trade secrets or confidential information we disclose to you in reliance on this Agreement, including contemplated locations for a Franchise Business, demographic data, methods of financing, sources of supply, merchandising techniques and operating methods. This provision is effective regardless of whether the parties sign a Franchise Agreement. If the parties do not sign a Franchise Agreement and related documents within the specified time, you will immediately return to us copies of any documents, manuals, or other materials, in whatever form, in your possession or in the possession of your advisors, and will verify in writing that you have returned all copies to us. You also agree to sign the General Release included as Exhibit R to the FDD.

HEW Franchising, LLC

By: ________________________________________
Matthew B. Hunt, President

Dated: _________________, 2018

________________________________________
Depositor's Signature

Dated: _________________, 2018

**EXHIBIT A –MAP OF RESERVED AREA**

**EXHIBIT D – TERRITORY RESERVATION AGREEMENT**

4/19/18

## TERRITORY RESERVATION AGREEMENT

**THIS TERRITORY RESERVATION AGREEMENT** (the “Agreement”) is signed on ________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("we,” “us” or “our”) and ________________________ ("you" or “your”).

## BACKGROUND

A. You are interested in reserving a territory in which to find a location for a Hard Exercise Works Franchise.

B. We have agreed to grant you a right to purchase for a Hard Exercise Works Franchise for a territory in accordance with the terms of this Addendum.

The parties agree as follows:

## TERMS

1. You acknowledge that you have received from us a copy of our Franchise Disclosure Document dated April 19, 2018 (the “FDD”) that includes as exhibits this Agreement, the Franchise Agreement and all other exhibits listed in the FDD’s Table of Contents. You acknowledge that you have had a copy of the FDD for at least 14 days before you signed this Agreement, or before you paid us the Reservation Fee or any other consideration for a Hard Exercise Works Franchise. The dispute resolution provisions of ARTICLE 17 of the Franchise Agreement are incorporated into this Agreement by reference and are a part of this Agreement.

2. In consideration of your payment of a reservation fee of $5,500 to us (the “Reservation Fee”), for 12 months from the date of this Agreement, we grant you the exclusive right to find a location that we approve for your purchase of a Hard Exercise Works Franchise within the Territory described on the Map attached as Exhibit A (the “Territory”), subject to Sections 3, 4 and 5.

3. However, if we receive an offer from another prospective franchisee that: (i) has received our then-current form of FDD, (ii) has gone through our initial franchise inquiries, (iii) has completed a business plan and proforma, (iv) is financially qualified; and (v) wants to complete a Discovery Day visit, we will share his or her interest and the proposed location with you and send you our current form of FDD. You will have 30 days from the date you receive in which to decide to purchase a Hard Exercise Franchise for this location.

4. If you elect to purchase a Hard Exercise Works Franchise for the location by timely giving us written notice, you agree to close on the purchase the Hard Exercise Works Franchise within 30 days from the date you give us notice and sign the Franchise Agreement and related documents included as Exhibits to the FDD for this location. We will credit the Reservation Fee against the Initial Franchise Fee.

5. If you do not decide to purchase a Hard Exercise Works Franchise for the intended location, we are free to sell the Franchise to the other prospective franchisee. In this event we will refund the Reservation Fee without interest to you and this Agreement terminates. You must sign the General Release attached as Exhibit R to our FDD.

6. We may cancel this Reservation Agreement at any time in our sole discretion by returning the Reservation Fee without interest to you.

6. This right of first refusal expires automatically upon the termination or expiration of any Franchise Agreement or other agreement between the parties.

**IN WITNESS WHEREOF,** the parties have signed this Reservation Agreement as of the day and year set forth above.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

________________________________

**EXHIBIT A –MAP OF TERRITORY**

# EXHIBIT E - FRANCHISE AGREEMENT

4/19/18

**HARD EXERCISE WORKS FRANCHISE AGREEMENT**

**between**

**HEW Franchising, LLC,**
**a Florida limited liability company**

**and**

**____________________________**

**Dated: ________________, 2018**

**Approved Location: ______________________________**

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**HARD EXERCISE WORKS FRANCHISE AGREEMENT**

**THIS FRANCHISE AGREEMENT** (this "Agreement") is signed on ____________, 2018 between HEW Enterprises, LLC, a Florida limited liability company, as the Franchisor, and ___________________________, as the Franchisee.

We have written this Agreement in plain English to make it easy to read and to help you become thoroughly familiar with all of the important rights and obligations that this Agreement covers before you sign it. In this Agreement, we refer to HEW Enterprises, LLC., the Franchisor, as "we," "us" or "our." We refer to the Franchisee as "you" or "your." If you are a Business Entity, we refer to its equity owners as the "Franchise Owners." All capitalized terms are defined in ARTICLE 18.

**BACKGROUND**

A. We have developed a system or business program, including expertise for conducting and operating a business that offers nutrition accountability program, group training program and other fitness services under the mark Hard Exercise Works and such other trade names, service marks, trademark and trade dress as are now designated (and may be hereafter be designated by us in writing) for use in connection with its System (the "Marks").

B. We have devised a uniform system for the establishment and operation of Hard Exercise Works Franchise, including a distinctive exterior and interior design, trade dress décor and color scheme; uniform standards, specifications, and procedures for operations; procedures for quality control; training and ongoing operational assistance; advertising and promotional programs; and other related benefits for use of Franchisee under the Marks, all of which we may change, improve and further developed from time to time.

C. You desire to obtain a franchise from us for the right to use the Marks and the expertise for operating a Hard Exercise Works Franchise and to obtain the benefits and knowledge of our System including, as detailed in our HEW Intranet/HEW Operations Manual; business design, operating methods, product preparation, advertising, sales techniques and materials, signs, personnel management, control systems, bookkeeping and accounting methods, and in general a style, method and procedure of business operation utilizing the Marks.

D. You recognize the benefits to be derived from being identified with and licensed by us and understand and acknowledge the importance of our high standards of quality, cleanliness, appearance, and service and the necessity of operating the Franchise Business in conformity with our standards and specifications.

E. You have had sufficient time and opportunity to evaluate and investigate the business concept and the procedures and financial requirements associated with the development and operation of the Franchise Business as well as the competitive market in which it will operate.

F. You have had a full and adequate opportunity to seek independent legal counsel to advise you of the terms and conditions of this Agreement and your rights and obligations to us under this Agreement.

G. We have reviewed your application and have decided to award a Hard Exercise Works Franchise to you evidenced by this Agreement.

## TERMS

The parties agree as follows:

## ARTICLE 1 - APPOINTMENT

### SECTION 1.1 GRANT OF FRANCHISE

We grant to you the right and you undertake the obligation, to develop and operate a Franchise Business subject to the terms of this Agreement. You will operate the Franchise Business in accordance with the Business System. We grant you the right to use the Principal Trademark and other Intellectual Property. You will operate the Franchise Business only at the location described in Section 1.2.

### SECTION 1.2 LOCATION OF YOUR FRANCHISE BUSINESS

(a) **Existing Premises**. You agree that you will operate your Franchise Business only at the Premises described in Section 18.1. If you are a Conversion Franchisee, the parties will sign the Conversion Addendum to Franchise Agreement attached as Exhibit G to the FDD.

(b) **Premises to be Determined**. If the Premises do not exist at the time the parties sign this Agreement, the Premises will be at a location that you select and we approve. We will describe the approved location in the Approved Location Addendum attached as Exhibit F to the FDD that the parties will sign at that time.

(c) **Change in Location**. You cannot change the location of the Premises without our written consent and your compliance with our relocation procedures.

### SECTION 1.3 EXCLUSIVE TERRITORY

We grant you an Exclusive Territory that consists of an area that is within a 3-mile driving distance from the Premises. During the Initial Term, if you are not in default, we agree not to open the premises of a Company-Owned Unit within your Exclusive Territory or franchise another Hard Exercise Works Franchise having premises located within your Exclusive Territory including at any Non-Traditional Location. This does not mean that there might not be overlap with a Company-Owned Unit's or another Franchised Unit's exclusive territory as long as the premises of the Company-Owned Unit or the other Franchised Unit is not physically located in your Exclusive Territory. In addition, we expressly reserve the rights stated in Section 5.7. These reserved rights are superior to your rights we grant to you under this Agreement.

### SECTION 1.4 MEMBERS' PREROGATIVE

Prospective members residing in your Exclusive Territory may choose to become Members of another Franchise Business located outside of your Exclusive Territory. Prospective members residing outside of your Exclusive Territory may choose to become Members of your Franchise Business. The Manual contains rules for dealing with membership sales by a Franchise Business to persons residing outside your Exclusive Territory and residing in another Hard Exercise Works Franchisee's area concerning allocation of membership fees, referral fees, etc., and dealing with member transfers between Franchise Businesses, transfer fees, etc. We reserve the right to adopt and implement procedures prohibiting, limiting or regulating your business conduct, solicitation and marketing in the exclusive territories other Hard Exercise Works Units or Company-Owned Units.

### SECTION 1.5 RECIPROCAL MEMBERSHIP PROGRAM

Each member of any Franchised Unit or Company-Owned Unit has the right to use any Hard Exercise Works Unit in accordance with the terms and conditions of the Membership Agreement included in the HEW Intranet/HEW Operations Manual.

### SECTION 1.6 RELOCATION OF YOUR FRANCHISE BUSINESS

(a) **Loss of Lease**. If you lease the Premises and the lease expires or terminates before the expiration of this Agreement (provided termination is not due to your default), we permit you 30 days to obtain a lease of new Premises within your Exclusive Territory. The relocated Premises must not infringe upon the exclusive territory of a Company-Owned Unit or another Franchised Unit then operating or under development. We must approve the new location in writing in accordance with Section 2.1. During the period when your Franchise Business is not in operation due to the relocation of the Premises, you must still pay the Service Fee but you are not required to spend funds on Local Advertising. You have 60 days from the date you sign a new lease in which to open and begin operating the Franchise Business, unless we otherwise agree in writing to extend the time. Your failure to secure a new location and begin operation within the specified times is an Event of Default on your part.

(b) **Casualty**. If the Premises is substantially destroyed by fire or other casualty and the lease is terminated by either you or landlord as a result of the casualty, we permit you 60 days in which to locate and sign a lease of the new Premises within your Exclusive Territory following the date on which the lease is terminated. The relocated Premises must not infringe upon the exclusive territory of a Company-Owned Unit or another Franchised Unit then operating or under development. We must approve the new location in writing in accordance with Section 2.1. During the period when your Franchise Business is not in operation due to the relocation of the Premises, you must still pay the Service Fee but you are not required to spend funds on Local Advertising. You have 60 days from the date you sign the new lease in which to open and begin operating the Franchise Business, unless we otherwise agree in writing to extend the time. Your failure to secure a new location and begin operation within the specified times is an Event of Default on your part. The provisions of this Section are not applicable if the Premises is substantially destroyed by fire or other casualty, but the lease is not terminated as a result of the casualty, so long as you re-open the Premises for the full operation of a Hard Exercise Works Franchise in compliance with this Agreement within 180 days from the date of the casualty, unless we otherwise agree in writing to extend the 180-day period.

(c) **<u>Condemnation</u>**. You will give us notice of any proposed taking of the Premises by eminent domain, as soon as possible. We permit you 30 days from the date you have to vacate the Premises to obtain a lease for the new Premises within your Exclusive Territory. The relocated Premises must not infringe upon the exclusive territory of a Company-Owned Unit or another Franchised Unit then operating or under development. We must approve the new location in writing in accordance with Section 2.1. During the period when your Franchise Business is not in operation due to the relocation of the Premises, you must still pay the Service Fee but you are not required to spend funds on Local Advertising. You have 60 days from the date you sign the new lease in which to open and begin operating the Franchise Business, unless we otherwise agree in writing to extend the time. Your failure to secure a new location and begin operation within the specified times is an Event of Default on your part.

(d) **<u>Relocation Fee</u>**. If you must relocate your Franchise Business, you will pay us a Relocation Fee of $5,000 to reimburse us for our costs incurred in assisting you with relocation.

## ARTICLE 2 - OUR DUTIES

We will provide you with the following initial and ongoing assistance and services, as long as you are not in default under this Agreement:

### SECTION 2.1 LOCATION SELECTION ASSISTANCE

(a) **<u>Our Approval of Location</u>**. You must obtain our written approval of the proposed locations for the Premises for your Franchise Business before you sign a lease or begin any construction. You have 90 days from the Agreement Date to find an approved location.

(b) **<u>Location Selection Criteria</u>**. We will supply you our location selection criteria. Within 30 days after signing this Agreement, you must find a location that you believe meets our criteria. You must send to us all material information regarding the proposed location including: (a) pictures of the location; (b) population demographics within a 3-mile radius of the location; (c) information regarding traffic counts and patterns; (d) number of parking spaces; (e) visibility from the roadways; (f) the predominant character of the neighborhood; (g) competitive businesses within the area; (h) the nature of other businesses in proximity to the location; and (i) the size, appearance and other physical characteristics of the location. We will not unreasonably withhold our approval of any location meeting our standards. We will review location approval submissions on a first-in basis but within 30 days of your submission. If we do not approve the location, you have 30 days in which to submit a new location within the Reserved Area for our written approval. If you fail to do so in a timely manner, we have the right to terminate this Agreement and retain the Initial Franchise Fee. If we terminate the Franchise Agreement, you will also sign and deliver to us the General Release in the form included as Exhibit Q to the FDD.

**(c) <u>No Special Expertise</u>. WE DO NOT REPRESENT THAT WE HAVE ANY SPECIAL EXPERTISE IN SELECTING LOCATIONS FOR THE OPERATION OF A FRANCHISE BUSINESS. OUR APPROVAL OF A LOCATION IS NOT A REPRESENTATION OR WARRANTY THAT THE FRANCHISE BUSINESS WILL BE PROFITABLE OR THAT YOUR SALES WILL ATTAIN ANY PREDETERMINED LEVELS. OUR APPROVAL IS ONLY OUR INDICATION THAT THE PROPOSED LOCATION MEETS OUR MINIMUM CRITERIA FOR IDENTIFYING LOCATIONS.**

### SECTION 2.2 LEASE ASSISTANCE

If you intend to lease your Premises from a third party, you must use our designated Tenant Agent (currently, Morrow Hill (http://www.morrowhill.com) to assist you in finding a suitable location. We will advise you in your lease negotiations including giving you our Lease Requirements contained in the HEW Intranet/HEW Operations Manual. Any lease must provide that the effectiveness of the lease is conditioned upon your obtaining our written approval. Our approval will be given upon compliance with our Lease Requirements and when we, you and the property owner sign our form of Agreement with Landlord attached as Exhibit L to the Franchise Disclosure Document. It is your primary responsibility to negotiate the terms of the Lease. **WE DO NOT REPRESENT THAT WE HAVE ANY SPECIAL EXPERTISE IN NEGOTIATING LEASES. YOU AGREE THAT OUR APPROVAL OR DISAPPROVAL OF A PROPOSED LEASE DOES NOT IMPOSE ANY LIABILITY ON US.**

### SECTION 2.3 PLANS AND SPECIFICATIONS

We will loan to you our prototype brand identification, sample equipment layouts and floor plans and architectural drawings for the premises of other Franchisees "(Drawings") for the construction of the Premises. We also loan to you our specifications and standards pertaining to equipment, signage, fixtures, furnishings, accessory features and design and layout we make available to you. (collectively, the "Design Specifications"). The Drawings and Design Specifications may vary in their design and decor by region of the country, at our sole discretion. The Drawings and Design Specifications are contained in the HEW Intranet/HEW Operations Manual. You must comply with local ordinances and building codes, and obtain any required permits. On or before the Opening Date, you must return these Drawings and Design Specifications to us.

### SECTION 2.4 BUSINESS PLANNING ASSISTANCE

You may prepare your own business plan and/or pro forma financial projections. We will provide you with referrals offering working capital lines of credit, term loans and/or equipment lease financing.

### SECTION 2.5 WEBSITE; INTRANET

We have created a Website, www.hardexerciseworks.com and an Intranet for use by our Franchisees and us. We will list your Franchise Business on our Website.

### SECTION 2.6 ACCOUNTING, COST CONTROL, NUTRITION MANAGEMENT AND FITNESS SERVICES AND PRODUCTS SYSTEMS

We will provide you with the requirements for a standardized system for accounting, cost control, nutrition management and fitness services and products control.

### SECTION 2.7 LISTS, FORMS AND SCHEDULES

We will loan to you, either in hard copy form or as electronic files, the following for use in the operation of the Franchise Business:

(a) **List of Items**. A list of equipment, fixtures, furnishings, supplies, materials, inventory and other items necessary to open and operate your Franchise Business and a list of Designed Suppliers, Approved Suppliers and product specifications;

(b) **Specifications**. Specifications for business cards, stationary, receipts, point-of-sale materials, frequent customer cards, gift cards, reporting documents, and other business forms and materials we deem necessary for the operation of the Franchise Business that you purchase from Approved Suppliers.

(c) **Reporting**. Requirements regarding your establishment of daily, weekly and monthly reporting systems; bookkeeping procedures; and accounting procedures, which you must adopt and implement at the Franchise Business.

(d) **Forms.** We will supply you with our sample forms of membership agreement and waiver.

(e) **Materials**. We will loan you copies of our advertising and marketing materials.

These forms and schedules are contained in the HEW Intranet/HEW Operations Manual. **WE DO NOT WARRANT THE COMPLETENESS, LEGALITY OR ENFORCEABILITY OF ANY AGREEMENTS OR FORMS WE PROVIDE TO YOU. YOU MUST RETAIN YOUR OWN LEGAL COUNSEL TO REVIEW AND REVISE THESE AGREEMENTS AND FORMS SO THEY COMPLY WITH ALL APPLICABLE FEDERAL AND STATE LAWS.**

### SECTION 2.8 EMPLOYEE INFORMATION AND ASSISTANCE

We will provide to you employee hiring information including pay scale guidelines and a standardized interviewing/selection system as described in the HEW Intranet/HEW Operations Manual. No employee of yours is an employee of ours for any purpose whatsoever. You are solely responsible for the hiring, disciplining, supervising, promoting and firing of your employees and the establishment of their salaries as provided in Section 4.6.

### SECTION 2.9 INITIAL TRAINING

(a) **Initial Training**. We will provide 12 days of Initial Training for up to 2 Trainees at our Corporate Headquarters and at our Company-Owned Unit in Jupiter, Florida. We must approve all Trainees. You, a Franchise Owner or a Designated Representative must be one of the Trainees. If you, the Franchise Owner or the Designated Representative will not be managing the day-to-day operations of your Franchise Business, you may designate another person as your General Manager to manage the day-to-day activities of your Franchise Business as the other Trainee. We will give you not less than 15 days' written notice of when training will begin. In order for training to begin, you must have received a Certificate of Occupancy and Health Department approval for the Premises, and all furniture, fixtures and equipment is installed and functioning. All Trainees must successfully complete our Initial Training to our satisfaction. Each Trainee that is not a Franchise Owner or a Guarantor must sign our form of Confidentiality, Non-Solicitation and Non-Competition Agreement (the form of which is included in the HEW Intranet/HEW Operations Manual) as a condition of our approval. The Initial Training program includes facility development, product purchasing and sources of supply, instruction in marketing, promotion and advertising, merchandising techniques, sales techniques, customer service techniques and procedures for services. Training programs may differ in content and length for you, a Franchise Owner or the

Designated Representative, your General Manager and your other employees depending upon their previous experiences and their responsibilities at your Franchise Business. Initial Training is included in the Initial Franchise Fee. You are responsible for all expenses of the Trainees to attend Initial Training including all payroll, travel, lodging and meal expenses. If you elect to have more than 2 Trainees attend Initial Training, you must pay us a training fee for each additional person (currently $250 per day) and pay all their expenses.

(b) **Failure to Complete Initial Training**. If you, a Franchise Owner or the Designated Representative, or your General Manager fails to complete Initial Training, as we reasonably determine, we may: (i) at your expense and direction, retrain the Trainee or train another Trainee; or (ii) elect to terminate this Agreement. If we elect to terminate this Agreement, we will refund to you 50% of the Initial Franchise Fee without interest, and we will retain the balance to cover our costs and expenses for the assistance we have provided to you under this Agreement and for our lost opportunities. You will also sign and deliver to us the General Release in the form included as Exhibit Q to the FDD.

(c) **No Warranty of Success**. Our determination that your Trainees have successfully completed any Initial Training, Post-Opening On-Location Training or Additional Training is not a warranty or representation that a Trainee will successfully operate the Franchise Business or any aspect of the Franchise Business.

### SECTION 2.10 ACCESS TO THE OPERATION & POLICIES MANUAL

We will give you access to the HEW Intranet/HEW Operations Manual and any supplemental manuals through our Intranet. Our practice is to give you access you shortly after you sign this Agreement.

### SECTION 2.11 PRE-OPENING INSPECTION

We will provide periodic on-locations assistance and inspection of the installation of the furniture, fixtures and/or equipment and will generally inspect the Premises. We will provide you with advice, as we deem appropriate, to insure that you conform your Premises to our applicable standards before the Opening Date.

### SECTION 2.12 POST-OPENING ON-LOCATION TRAINING

We will make available to you post-opening, on-location training of 2 to 5 days conducted at your Franchise Business shortly after the Opening Date. The on-location training program will cover material aspects of the operation of the Franchise Business including financial control, marketing techniques, maintenance of quality standards, employee hiring, training and customer service, inventory control, security standards, merchandising techniques, promotional techniques, operations, purchasing and sales.

### SECTION 2.13 LICENSE OF INTELLECTUAL PROPERTY

Subject to this Agreement, we license to you the right to use the "Hard Exercise Works®" Principal Trademark and the other Intellectual Property.

### SECTION 2.14 SUBLICENSE OF SOFTWARE

We sublicense to you the right to use the MindBody® Software, the Constant Contact® Software, the Waiver King® Software, the Rallio® Software and the Qvinci® Software pursuant to the Software Sublicense Agreements included in Exhibit O of the FDD.

### SECTION 2.15 MINDBODY TRAINING

We will provide live training provided by staff at MindBody, Inc. via the Internet and telephone after MindBody locations setup to learn to use the Mindbody software.

### SECTION 2.16 GRAND OPENING ASSISTANCE

We will assist you in the grand opening of the Franchise Business including: (i) social media promotion; (ii) preparation of a press release; (iii) providing you advice and guidance with regard to staffing, decoration, advertising; (iv) developing a guest list and (v) assisting you in hosting a grand opening celebration.

### SECTION 2.17 CONTINUED ASSISTANCE AND SUPPORT

Upon the opening of your Franchise Business, we will or may provide to you the following:

(a) **Field Visits**. We will assist you in the continued development and operation of your Franchise Business that may include periodic visits by one of our field representatives.

(b) **Additional Training at Your Premises**. We will provide additional training resources, at a cost to you to be determined by us (after the first year) to assist you at your Premises for hourly employees.

(c) **Operational Advice**. We may provide you from time to time, as we deem appropriate, such merchandising, marketing and other data and advice as we may from time to time develop and we deem to be helpful in the managing and operating the Franchise Business including by a visit by one of our field representatives, virtual communication, telephone, or by newsletter or bulletins made available from time to time to all Franchisees.

(d) **Advertising Assistance**. We may, from time to time, provide to you, at your expense, such advertising and promotional plans and materials for Local Advertising.

(e) **Seminars**. We may conduct additional virtual or hands-on seminars, or other training programs for your benefit or the benefit of your employees. We may charge a reasonable fee for such seminar or program if it is deemed appropriate. You will pay for any traveling, living and other expenses incurred by you or your employees to attend a seminar.

(f) **Additional Training at Our Office**. You will complete and/or cause your employees to complete, to our satisfaction, such other additional training as we may reasonably require from time to time. You may make a reasonable request for training in addition to that specified in Subsection 2.15(b) above. We will provide such training, at your expense, including any travel, lodging, meals and other related costs.

(g) **Plans, Policies, Developments and Activities**. We may provide such bulletins, brochures, manuals and reports, if any, as may from time to time be published by or on behalf of Hard Exercise Works® regarding its plans, policies, developments and activities. In addition, Franchisor may provide such communication concerning new developments, techniques and improvements management, which Franchisor feels are relevant to the operation of the Business.

(h) **Website; Intranet.** We will maintain the Website and Intranet for use by our Franchisees and us in accordance with Subsection 4.13(c) and Section 7.4.

(i) **E-mail Address and Accounts**. We will give you an e-mail address. We provide you up to 3 e-mail addresses, which are limited to Franchise Owners, the Designated Representative and your General Manager. We have established reasonable standards for e-mail accounts and their use, which we may periodically revise. You will have reasonable time within which to upgrade when standards change. From time-to-time, we will send important information to your Hard Exercise Works e-mail address. To stay informed on developments affecting the Business System and your Franchise Business, you agree to check your e-mail at least daily. You must respond to any request we send to you by e-mail that requires a response within 24 hours of your receipt of our e-mail. You must send to us an acknowledgment of receipt of our e-mail to you.

(j) **Production of Advertising Materials**. We will make available to you various advertising, marketing, and promotional materials using funds from the Brand Fund for your use in your DMA.

(k) **Advertising and Public Relations Campaigns**. We will generally promote the Franchise Businesses through advertising and public relations campaigns using funds from the Brand Fund.

(l) **Reciprocity Management.** We will oversee the distribution of your membership information to other Hard Exercise Works Franchisees to permit your Members to use the facilities of other Hard Exercise Works© Franchisees and *vis versa*.

(m) **Research and Development**. We will continue to research and develop new products and services and other aspects of the Business System, as we deem appropriate in our sole discretion. We may conduct market research and testing to determine consumer trends and the salability of new products and services. You acknowledge that we may choose to offer certain products or services that are not a normal part of the Business System to certain Franchisees for test marketing or other purposes. You agree that we may not make these products or services available to you for testing. If we select your Franchise Business, and if you agree, you will participate in our market research programs, in test marketing new products and/or services in the Franchise Business. If you participate in any test marketing, you agree to purchase a reasonable quantity of the products or services to be tested and to effectively promote and make a good faith effort to sell them. You will provide us with timely reports and other relevant information regarding that market research.

**SECTION 2.18 OUR TEMPORARY OPERATION OF YOUR FRANCHISE BUSINESS**

Upon the happening of any of the events described below, we have the right (but not the obligation) to enter your Premises and to operate and manage your Franchise Business for your (or your estate's) account until this Agreement is terminated, the assets are transferred to a party under Subsection 10.2(b), we purchase the assets, or until you resume control over your Franchise

Business and you operate the Franchise Business in accordance with this Agreement. We may temporarily operate your Franchise Business on your behalf:

(a) **Cessation of Business**. If you fail to operate your Franchise Business for more than 5 Business Days or you abandon the Premises and cease operating the Franchised Business without our prior written consent, unless due to Force Majeure.

(b) **Death or Incapacity**. If you, a Franchise Owner or Designated Representative dies or becomes permanently incapacitated, and the assets comprising the Franchise Business or the ownership interests in the Franchisee, if a Business Entity, are not assigned promptly under Section 10.4.

(c) **Material Breach**. If you materially breach any of our standards and specifications for the operation of your Franchise Business after we have given any required written notice and any applicable cure period has expired.

(d) **Our Purchase of Assets**. If we elect to terminate this Agreement and we elect to purchase the assets comprising the Franchise Business as provided in Section 12.4.

If we elect to operate your Franchise Business, we will account to you or your estate for all net income from the operation less our reasonable expenses incurred and a management fee of $1,000 per week plus 10% of Gross Revenues (in addition to Service Fees and any Advertising Contributions) for our management of your Franchise Business. Our operation and management will not continue for more than 30 days, but be renewable as necessary for up to 1 year. We will periodically discuss the status with you or the representatives of your estate.

### SECTION 2.19 DUTIES SOLELY TO YOU

All of our obligations under this Agreement are only to you. No other party is entitled to rely on, enforce, or obtain relief for breach of the obligations directly or by subrogation.

### SECTION 2.20 OUR RIGHT TO DELEGATE DUTIES

You agree to our right to delegate our duties under this Agreement to a Designee. You must discharge your duties with our Designee to the extent we request. We remain responsible for our obligations under this Agreement even if delegated to our Designee.

### SECTION 2.21 OUR REASONABLE BUSINESS JUDGMENT

Whenever we reserve discretion in a particular area or where we agree to exercise our rights reasonably or in good faith, we will satisfy our obligations using reasonable business judgment in making our decision or exercising our rights. Our decisions or actions are deemed to be using reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended, in whole or significant part, to promote or benefit the Business System generally, even if the decision or action also promotes our financial or other interest. Examples of items that will promote or benefit the Business System include enhancing the value of the Intellectual Property, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization and improving the competitive position of the Business System.

## ARTICLE 3 - FEES AND PAYMENTS

### SECTION 3.1 TYPES OF FEES

In consideration of our signing this Agreement, you must pay to us the following fees all payable in United States currency at our principal office:

(a) **Initial Franchise Fee**. You must pay to us an Initial Franchise Fee of $__________ payable at the same time you sign this Agreement. The Initial Franchise Fee is non-refundable upon signing this Agreement except as expressly provided otherwise in this Agreement.

(b) **Ongoing Royalty Fee**. You will pay a continuing monthly non-refundable Royalty Fee equal to the greater of 5% of monthly Gross Revenues or $1,000 per month. The Ongoing Services Fee begins on your Grand Opening Day.

(c) **Ongoing License Fees**. You will pay ongoing License Fees of $280 per month to use the Software described in Section 2.14. These fees are subject to change.

(d) **Advertising Contributions to Brand Fund.** If we create the Brand Fund, you must also pay to us a continuing monthly Advertising Contributions to the Brand Fund in an amount equal to 1% of monthly Gross Revenues. We have the sole right to enforce your obligations and all other Franchisees that make Advertising Contributions. Neither you, nor any other Franchisee obligated to make Advertising Contributions, is a third party beneficiary of the funds. Neither you, nor any other Franchisee has any right to enforce any obligation of another Franchisee to contribute the funds. We will use these funds to develop and produce advertising and/or marketing materials for use by us regionally and/or nationally and by you and the other Franchisees for your Local Advertising activities.

(e) **Transfer Fee**. If you sell the assets used in the operation of the Franchise Business under Subsection 10.2(b) or transfer more than 50% of the equity interests if you are a Business Entity, you must pay us a Transfer Fee equal to 50% of the then-current Initial Franchise Fee.

(f) **Renewal Fee**. Shortly before the expiration of the Initial Term, if you decide to obtain a Renewal Franchise Agreement in accordance with Subsection 16.2(b), you must pay us a Renewal Fee of $2,000.

(g) **Our Attorneys' Fees**. If after the Franchise Agreement is signed by the parties: (i) you request our written consent to any action of yours and we consult our attorney; or (ii) we have our attorney prepare a letter, a Notice of Default or a Notice of Termination to you, then you agree to reimburse us for our attorneys' fees and costs under these circumstances.

(h) **Other Fees**. There are other fees, and reimbursement and indemnification obligations on your part contained in this Agreement and disclosed in ITEM 6 of the FDD.

### SECTION 3.2 PAYMENT SCHEDULE

We will use the MindBody Software to collect all amounts due and owing to us for Service Fees and Advertising Contributions on the 1st day of each month by Automated Clearing House("ACH"). All other amounts due to us from you are payable as specified in this Agreement. If we do not specify a due date, these amounts are due upon receipt of our invoice. Any payment or report not actually received by us on or before the due date is overdue.

### SECTION 3.3 INTEREST ON LATE PAYMENTS; LATE CHARGE

(a) **Interest**. If any payment under this Agreement or any other agreement between us or our Affiliates and you for your Franchise Business is overdue for any reason, you must pay to us, on demand, in addition to the overdue amount, any insufficient funds (NSF) charges we incur and interest on the overdue amount from the date it was due until paid equal to the lesser of: (i) 18% per annum; or (ii) the maximum rate of interest permitted by law.

(b) **Late Charge**. You must also pay a late charge of $100 for each overdue payment.

(c) **NSF Charges**. If you deliver a check which is returned due to insufficient funds or is otherwise not paid, we may assess you a service charge of $50 or 5% of the face value of the check, whichever is greater, limited to the highest amount permitted by law.

### SECTION 3.4 APPLICATION OF PAYMENTS

We have sole discretion to apply any payments you make to us to your past due indebtedness including Service Fees, License Fees, Advertising Contributions, purchases from us, interest, NSF charges, or any other indebtedness of you to us in any manner we choose regardless of your designation.

### SECTION 3.5 NO WITHHOLDING

You agree that your obligations to make payments under this Agreement and any other agreement entered into with us for your Franchise Business, and our rights to receive these payments, are absolute and unconditional. All payments are not subject to any withholding, abatement, reduction, setoff, defense, counterclaim or recoupment due or alleged to be due to, or by reason of, any past, present or future claims that you have or may have against us, any of our Designees or against any other person for any reason.

## ARTICLE 4 - YOUR DUTIES

### SECTION 4.1 ACQUISITION OF THE LOCATION

(a) **Location Approval**. You are solely responsible for selecting the location for the Franchise Business. If a location that we approve does not exist at this time, you must complete the acquisition or lease arrangements for your Premises within 3 months after the Agreement Date and obtain our written approval under Section 2.1. We may require that you engage a real estate broker of your choosing or, at our discretion, our approved Tenant Agent, to advise and assist you in locating a suitable locations and negotiating the terms of the lease. You are responsible for any fee charged by our Tenant Agent for this service. If we have not approved a location within 3 months after the Agreement Date, we have the right to terminate this Agreement. Upon termination we will retain the Initial Franchise Fee. You will also sign and deliver to us the General Release in the form included as Exhibit Q to the FDD.

(b) **Lease of the Location**. We must approve any lease of the Premises. You must deliver a copy of the proposed lease to us at least 10 days before you sign it. The property owner, you and we must sign our form of Agreement with Landlord included in Exhibit L to the FDD.

### SECTION 4.2 CONSTRUCTION OF FRANCHISE BUSINESS

(a) **Layout and Design**. We will assist you with the layout and design of the Franchise Business, including location of walls, counters and the location of equipment and fixtures within 2 weeks following the lease of the Premises and delivery of the floor plan to us.

(b) **Construction Process**. You must promptly after obtaining possession of the location for the Franchise Business: (i) retain the services of an architect to create your building plans, which we must approve; (ii) retain the services of a general contractor; (iii) obtain all necessary permits, licenses and architectural seals; (iv) use only approved building materials, equipment, fixtures, furniture and signs; (v) complete the construction and the equipment, fixtures, furniture and sign installation and decorating of the Franchise Business in full and strict compliance with the building plans and specifications we have approved and in full compliance with all applicable laws, ordinances, building codes and permit requirements including the Americans With Disabilities Act without any unauthorized alterations; and (vi) obtain all customary contractors' sworn statements and partial and final waivers. You must begin substantial construction (locations work, utility infrastructure and building erection) of the Franchise Business within 4 months after the Agreement Date. It is your responsibility to comply with the foregoing conditions. We reserve the right to require you to retain the services of a company specialized in assisting Franchisees during the construction process to assist you in submitting, processing, monitoring and obtaining in a timely manner all necessary construction documents, licenses and permits and to advise you throughout the construction of your Franchise Business. Construction must be completed and the Franchise Business open for business within 8 months after the Agreement Date.

(c) **Construction Progress Reports**. We may require you to provide us semi-weekly development and construction progress reports in the form we designate from the date you begin development until the date you open the Franchise Business. You agree that our representatives have the right to inspect the construction at all reasonable times. You agree that time is of the essence in constructing and opening your Franchise Business.

### SECTION 4.3 EQUIPMENT, FURNITURE, FURNISHING AND FIXTURES

You must purchase the equipment, furniture, furnishings and fixtures necessary to operate the Franchise Business as set forth in the HEW Intranet/HEW Operations Manual.

### SECTION 4.4 COMPUTER SYSTEM

(a) **Procurement and Installation**. Before the Opening Date, you must procure and install at your Franchise Business a Computer System capable of running the MindBody Software, Constant Contact Software, Waiver King Software and QuickBooks Software.

(b) **IP Address**. We may require that you obtain a dedicated IP address for use with the Computer System. You are responsible for all charges for these services.

(c) **Sublicense of Software**. We are a value-added reseller of the: (i) MindBody® web-based scheduling and business management software including processing of credit card and debit card payments for membership fees; (ii) Constant Contact® web-based e-mail marketing and other online marketing campaign software; (iii) Waiver King® web-based program to obtain liability waivers from members; (iv) Rallio® social media management software; and (v) Qvinci® financial consolidation, reporting and benchmarking software. We sublicense these software products to you pursuant to the Software Sublicense Agreement included as Exhibit O of the FDD. You must also purchase a license to use the QuickBooks Online accounting system from Intuit Inc. All right, title and interest in the software will remain with the licensor of the software.

(d) **Our Right of Access.** You agree that we have the right to retrieve all data and information from your Computer System, as we deem necessary. We maintain all rights to the customer data and financial information collected via the Computer System and on our Website. The information includes customer data, financial data, customer demographic information, customer use and purchasing data, business and financial records and reports, and all other information that we designate in the HEW Intranet/HEW Operations Manual or otherwise in writing.

(e) **Maintenance and Upgrades**. To ensure full operational efficiency and communication capability between your Computer System and our Internet-based system, you will keep the Computer System in good maintenance and repair. You will install all additions, changes, modifications, substitutions and/or replacements to your Computer Systems' hardware and software, and your telephone and power lines, that we specify, in our sole discretion, in the HEW Intranet/HEW Operations Manual or otherwise on a Franchise Network-wide basis. We have no obligation to provide ongoing upgrades and updates to the Computer System. It may become necessary for you to replace or upgrade the entire Computer System with a larger or different system capable of assuming and discharging all of those computer-related tasks and functions as we specify.

### SECTION 4.5 HIRING, TRAINING AND APPEARANCE OF EMPLOYEES

(a) **Your Employment Decisions.** You will maintain a competent, conscientious staff and employ the minimum number of employees necessary to meet the anticipated volume of business. The HEW Intranet/HEW Operations Manual includes our specifications for uniforms for your employees that you purchase directly from us. You will take all steps necessary to ensure that your employees and independent contractors meet the employment or retention criteria, keep a neat appearance and comply with any dress code that we require. You are solely responsible for the terms of their employment or engagement and their compensation and, except for training required under this Agreement, for the proper training of the employees in the operation of your Franchise Business. We have no responsibly or authority for your employment decisions and functions, including hiring, firing, establishing wage and hour requirements, disciplining, supervising, and record keeping. You will not recruit or hire any employee or independent contractor of a Company-Owned Unit or another Franchised Unit without obtaining the employer's written permission, which permission the employer will not unreasonably withhold, delay or condition, subject to any written covenant not to compete, the provisions of which will be respected and not challenged.

(b) **Employment Records**. If we request, you will provide us copies of employment materials or independent contractor agreements relating to each of your employees, including employment or other application materials, I-9 immigration and naturalization forms and the results of criminal background checks. You must timely and fully pay each of your employees and independent contractors to ensure that there is no interruption of services to your customers. All costs associated with your obligations under this Section are your sole responsibility.

### SECTION 4.6 MANAGEMENT OF YOUR FRANCHISE BUSINESS

(a) **Your Management Responsibility**. You are solely liable and responsible for the operation of the Franchise Business in accordance with the terms of this Agreement and the HEW Intranet/HEW Operations Manual, regardless of whether you choose to operate the Franchise Business as a full-time owner/operator or hire a General Manager. You acknowledge that, if you choose to operate the Franchise Business using a General Manager, you may experience lower sales and/or higher costs than other Franchise Businesses managed by owner/operators.

(b) **Designated Representative**. If this Agreement is signed by 2 or more individuals or by a Business Entity, you designate in Section 18.1 an individual or a Franchise Owner as the Designated Representative. We have the right to rely solely on instructions of the Designated Representative concerning the operation of the Franchise Business until we receive a duly signed written notice changing the Designated Representative. Upon the death or disability of the Designated Representative, the remaining individuals or Franchise Owners must appoint a new Designated Representative with 10 days of the disability or death of the Designated Representative.

(c) **General Manager**. The General Manager must devote his or her best reasonable full-time efforts to the management and operation of your Franchise Business. You agree that your Franchise Business requires the day-to-day supervision of the General Manager at all times your Franchise Business is open for business. The General Manager must complete Initial Training before managing your Franchise Business, unless we otherwise agree in writing.

(d) **Change in General Manager**. If the General Manager fails to satisfy his or her obligations provided in Subsection 4.6(c) due to death, disability, termination of employment or for any other reason, you must employ a replacement General Manager that we approve within 30 days. The replacement General Manager must complete our Initial Training to our satisfaction within 3 weeks of hire. In the interim, an assistant manager may manage the Franchise Business. You are solely responsible for the expenses associated with Initial Training of the replacement General Manager including the then-prevailing standard training fee we charge (currently $500 per day).

### SECTION 4.7 APPROVED SPECIFICATIONS AND SOURCES OF SUPPLY

(a) **Purchases from Us**. You must sublicense from us the MindBody Software, Constant Contact Software, Waiver King Software and other items that we require if implemented on a Franchise Network-wide basis. We will charge you the same price that we charge all Franchisees.

(b) **Purchases from Designated Suppliers**. You must purchase certain products or services solely from third party suppliers that we designate and from no other suppliers. ITEM 8 of the FDD discloses the current types of products and/or services and the names of our current Designated Suppliers.

(c) **Approved Suppliers and Specifications**. You must purchase or lease equipment, supplies, inventory, advertising materials, construction services and other products and services used for the development and operation of your Franchise Business only from Authorized Suppliers and/or in accordance with our specifications. These Authorized Suppliers have demonstrated: (i) the ability to meet our standards and specifications for the specified items; and (ii) possess adequate quality controls and the capacity to supply your needs promptly and reliably. We will use our best reasonable efforts to negotiate agreements with Approved Suppliers that are in the best interest of all Franchise Businesses. We retain the right to receive compensation from these Approved Suppliers for our negotiation. In approving suppliers for the Business System, we may take into consideration factors like the price and quality of the products or services and the supplier's reliability. Approval of a supplier may be conditioned on requirements on the frequency of delivery, standards of service, warranty policies including prompt attention to complaints, and concentration of purchases, as stated above, and may be temporary, pending our additional evaluation of the supplier.

(d) **Approval of New Suppliers**. If you propose to purchase or lease any equipment, supplies, inventory, advertising materials, construction services, or other products or services that are not proprietary to us or an Affiliate from an unapproved supplier, you must submit to us a written request for approval, or request that the supplier do so itself. We have the right to require, as a condition of our approval, that the supplier permit our representatives to inspect its facilities. If we request, the supplier will deliver samples to us or to our designated independent, certified laboratory for testing. We are not liable for damage to any sample that may result from the testing process. You will pay a charge not to exceed the reasonable cost of the inspection and the actual cost of the testing (not to exceed $1,000). We may also require as a condition to our approval, that the supplier present satisfactory evidence of insurance, for example, product liability insurance, protecting our Franchisees and us from all claims from the use of the item within the Business System. We will give you written notice of our approval or disapproval within 10 days after all testing and completion of the above conditions. We reserve the right to reinspect the facilities and products of any approved supplier and continue to sample the products at the supplier's expense. We reserve the right to revoke approval upon the supplier's failure to continue to meet our standards and specifications.

(e) **Revenues from Suppliers**. We reserve the right to receive payments from Designated Suppliers and Approved Suppliers based on your purchases and the purchases of other Franchisees.

### SECTION 4.8 CREDIT CARDS AND OTHER METHODS OF PAYMENT

You will establish and maintain merchant account services through MindBody in order to accept VISA, MasterCard, American Express and all other credit and debit card issuers or sponsors, check verification services, financial center services, and electronic fund transfer systems as we designate in order that you may accept customers' credit and debit cards, checks, and other methods of payment. We reserve the right to require the addition or deletion of credit card relationships and other methods of payment if implemented on a Franchise Network-wide basis. You will comply with all our credit card policies for a customer's use of a credit card as stated in the Operation & Policies Manual.

### SECTION 4.9 TELEPHONES, ANSWERING SERVICE AND INTERNET DATA LINE

You will maintain:

(a) **Telephone System**. A sufficient number of operating telephone lines and telephone numbers to be used exclusively for the operation of your Franchise Business that we reasonably require, with sufficient staff to handle telephone calls in an efficient and courteous manner at all times during normal business hours;

(b) **After Business Hours**. A voice mail system after normal business hours; and

(c) **Operating Internet Data Line**. You must maintain an operating Internet data line at your Franchise Business that permits us to monitor accounting and operational information electronically.

### SECTION 4.10 FRANCHISE MARKETING PLAN

Within 30 days after you open for business, you must submit to us a 12-month 1st year marketing plan. The plan should be no more than 10 pages and should explain the monthly approach to marketing and advertising to which you commit to fund and implement.

### SECTION 4.11 OPENING OF THE FRANCHISE BUSINESS

(a) **No Opening Without Our Consent.** You agree not to open your Hard Exercise Works Franchise for business before we have given you our written consent. At least 15 days before your proposed opening of the Premises, you will send us written notice of your contemplated opening date. Within 10 days after receipt of such notice, we will send you notice of our election either to consent to your proposed opening or to disapprove such opening (in which event our notice will specify the reasons for disapproval). If we fail to respond to your notice within the 10-day period, then we will be deemed to have consented to your proposed opening and opening date for all purposes under this Agreement. Subject to the foregoing, if you open your Hard Exercise Works Franchise before we have given our written consent (or are deemed to have given our consent), you must cease operating immediately after receipt of written notice from us to cease operating. If you fail to cease operating you must pay us liquidated damages of $500 per day for each day you were open.

(b) **Conditions to Opening**. We will give our written consent when: (a) all your obligations under Sections 4.1 through 4.10 have been fulfilled; (b) we determine that your Franchise Business has been constructed, furnished, equipped, and decorated in accordance with approved plans and specifications; (c) the training of the Trainees has been completed to our reasonable satisfaction; (d) the Initial Franchise Fee and all amounts due to us and our Affiliates under this Agreement have been paid in full; (e) we have been furnished with certificates of insurance and copies of all insurance policies or all other evidence of insurance coverage as we reasonably request; (f) you have obtained a certificate of occupancy for your Premises; and (g) you have obtained all necessary licenses and permits to operate your Franchise Business. You will comply with these conditions and be prepared to open your Franchise Business for business within 8 months after the Agreement Date. If you fail to open your Franchise Business within 12 months after the Agreement Date, we have the right to terminate this Agreement and retain the Initial Franchise Fee to cover our costs and expenses for the assistance we have provided to you under this Agreement and for our lost opportunities. You must sign the General Release included as Exhibit Q to the FDD we previously delivered to you.

(c) **Statement of Costs to Open**. Within 6 months after you open, you will prepare and provide us with a complete and detailed written statement in the form contained in the HEW Intranet/HEW Operations Manual containing a breakdown of all costs you incurred in the construction and initial operation of the Franchise Business.

(d) **Certificate of Performance**. After we have performed all of our pre-opening obligations and you are open for business, we may request you to sign a certification in the form included in the HEW Intranet/HEW Operations Manual ("Certificate of Performance") confirming our performance. If, in good faith, you do not believe that we have not completed certain of our pre-opening obligations, you will note the alleged deficiencies on Schedule A – List of Deficiencies to Certificate of Performance specifically describing the obligations that you believe we have not performed.

### SECTION 4.12 OPERATIONAL REQUIREMENTS

You agree to operate the Franchise Business in conformity with all uniform methods, standards and specifications as we reasonably require in the HEW Intranet/HEW Operations Manual to ensure that the highest degree of quality and service is uniformly maintained.

(a) **Use of Premises**. You must use your Premises only for the operation of your Franchise Business. You must keep your Franchise Business open for business and in normal operation for the minimum hours and days as we reasonably require in the HEW Intranet/HEW Operations Manual or otherwise in writing except as may be limited by local law or the landlord's rules and regulations.

(b) **Use of Computer System**. You must record all Gross Revenues on the approved Computer System and in your accounting software.

(c) **Intranet Access**. We also provide you access to our password protected Intranet areas within our Website to our "Back Office" web system to assist you with the operation of the Franchise Business including having a calendar, downloading documents, accessing the HEW Intranet/HEW Operations Manual, processing credit card payments, making Service Fees payments and other payments to us, downloading advertising and marketing materials and other uses.. We will also use the Intranet to post updates and announcements, conduct surveys and polls, etc. We may rescind your access to these services if, you are in default under this Agreement, violate the conditions and terms of use as contained in the HEW Intranet/HEW Operations Manual or otherwise in writing.

(d) **Standards of Conduct**. You will adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct in all dealings with customers, suppliers, employees, independent contractors, the public and us.

(e) **Payment of Debts**. You agree to pay promptly when due: (i) all payments, obligations, assessments and taxes due and payable to us, your suppliers, suppliers, lessors, federal, state or local governments, or creditors in connection with your Franchise Business; (ii) all liens and encumbrances of every kind and character created or placed upon or against any of the property used in connection with the Franchise Business; and (iii) all accounts and other indebtedness of every kind incurred by you in the conduct of the Franchise Business. If you default in making any payment when due, we are authorized, but not required, to pay them on your behalf. You agree promptly to reimburse us on demand for any such payment.

(f) **Membership Agreement.** We will provide you our Florida form of membership agreement. Your attorney must conform the membership agreement to comply with the laws of the state in which your Franchise Business will be operated. You acknowledge that all memberships sold by Franchise Businesses are our sole property and will be on consecutively-numbered membership agreement forms. You are solely responsible for fulfilling the terms and conditions of the membership agreement for its duration including providing all services as prescribed in the Manuals. You are further responsible for notifying us if the membership agreement requires modification in order to continuously comply with local, state and federal requirements.

(g) **Payment Processing; MindBody Software**. You will facilitate electronic transfers for membership dues for your Members through the MindBody Software. You are to provide to us full access to the MindBody database and ownership of the account. . MindBody collects all weekly proceeds from your membership agreements. MindBody retains the processing fees, the remits to us the Service Fees, License Fees, Advertising Contributions, purchases of Products and any other payment due us under this Agreement or any other agreement between the parties for each week you provide your Members with services as prescribed within the HEW Intranet/HEW Operations Manual at your Franchise Business and remits the balance to you.

(h) **Member Complaints**. You must respond to a member complaint within 7 days of receipt. You must send to us a copy of the complaint and your written response. We may, but without having any responsibility to do so, direct you in resolving the complaint and you agree to work diligently with us in resolving the matter.

(i) **Hours of Operation**. Subject to any contrary requirements of local law or lease restrictions, you will keep the Franchise Business' class hour open, and in normal operation during normal business administrative hours for its geographical region, for 6 days per week, 52 weeks per year, with minimum hours of 5:50 a.m. to 7:30 p.m. Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday, closed Sundays, except New Year's Day, Easter, 4th of July, Thanksgiving and Christmas, unless we otherwise authorize in writing. The minimum hours and days of operation may be changed as we may from time to time specify in the HEW Intranet/HEW Operations Manual. You acknowledge and agree that if your Franchise Business is closed for a period of 2 consecutive days or 5 or more days in any 12-month period without our prior written consent, such closure constitutes your voluntary abandonment of the Franchise and Franchise Business, unless the closure was due to Force Majeure as provided in Section 19.13.

(j) **Pricing Policies**. We establish the membership and product pricing for you to charge for members. You must obtain our written approval of any deviation in pricing Nothing contained in this Agreement is deemed a representation by us that the use of our pricing schedule will in fact optimize profits.

(k) **No Wholesale Sales**. You will not under any circumstances engage in any wholesale trade or sale of System nutrition management and fitness services and products for resale.

(l) **Wireless Internet Access.** You must install a wireless internet system labeled "Hard Exercise Works" in your Franchise Business offering your customers open, unsecured and free Internet access.

### SECTION 4.13 COMPLIANCE WITH LAWS, RULES AND REGULATIONS

You will comply with all federal, state, and local laws, rules and regulations. You will timely obtain, maintain and renew when required all permits, certificates and licenses necessary for the proper conduct of your Franchise Business under this Agreement. These include anti-terrorism laws (Executive Order 13224), qualification to do business, fictitious, trade or assumed name registration, building and construction permits, occupational licenses, sales tax permits, health and sanitation permits and ratings, fire clearances, hazardous waste and other environmental permits. You acknowledge that: (i) federal, state and local governments administer and enforce regulations that include standards, specifications and requirements for the construction and maintenance of your Premises; fire safety, general emergency procedures, and customer/employee safety regulations; (ii) OSHA and health regulations as well as state and local safety and workplace regulations may impact the types of safety training, safety devices, and safety equipment you must make available to or must offer your employees; (iii) the U.S. Food & Drug Administration, the U.S. Department of Agriculture, and state and local health departments administer and enforce regulations related to the storage and disposal of waste, cleaning supplies, and other hazardous materials; (iv) the Federal Clean Air Act and various state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide and particles; and (v) certain state and local governments have also adopted proposals that regulate indoor air quality, including no smoking policies. You will comply with all of these laws and regulations and all other applicable laws and regulations relating to the operation of the Franchise Business.

**SECTION 4.14 MAINTENANCE AND REPAIRS**

(a) **Ongoing Maintenance**. You must maintain and repair the building, equipment, fixtures, furnishings, signage and Trade Dress (including the interior and exterior appearance) employed in the operation of your Franchise Business in the highest degree of sanitation, appearance, condition and security as stated in the HEW Intranet/HEW Operations Manual. Within 30 days after the receipt of any particular report prepared following an evaluation by our field representative, you must perform the items of maintenance and repair that we designate. If, however, any condition presents a threat to customers or public health or safety, you must immediately cure the condition regardless of cost, as further described in this Agreement. The items of maintenance generally result from common wear and tear over a period of time, accidents or lack of care. Examples include: (i) repairing or replacing HVAC equipment, plumbing and electrical systems that are not functioning properly; (ii) repairing a leaking roof; (iii) repairing or replacing broken equipment; (iv) refreshing general appearance items such as paint (interior and exterior) and landscaping; (v) replacing worn flooring, furniture and other furnishings; and (vi) conducting routine maintenance of areas that affect the appearance of the Franchise Business and goodwill of the Trademarks such as the appearance of the outdoor signage, the parking lot and dumpster area.

(b) **Additional or Replacement Equipment**. If we determine additional or replacement equipment is required on a Franchise Network-wide basis because of a change in technology, a change in services, customer concerns or health or safety considerations, you will install the additional equipment or replacement equipment within the time we specify.

(c) **Maintenance Contracts**. You must maintain contracts with third parties for the maintenance of the Premises, the equipment and the landscaped areas, unless such maintenance is the responsibility of your landlord. These contracts must provide for the performance of services, including preventative maintenance services, and be with financially responsible firms that: (i) maintain adequate insurance and bonding; (ii) have personnel who are factory trained to service equipment of the type in the Premises; and (iii) maintain an adequate supply of parts for the equipment. You will provide us with a copy of any contract for maintenance that you enter into with any outside maintenance firm if we request.

(d) **Signage**. The outdoor signage at your Franchise Business must comply with our then-current specifications, which we may modify and change from time to time due to modifications to the Business System, including changes to the Principal Trademark or other trademark. You must make such changes to the outdoor signage that we require. Any upgrades to the type or size of your outdoor signage will be at your expense.

**SECTION 4.15 TAX PAYMENTS; CONTESTED ASSESSMENTS**

You will obtain a sales tax dealer certificate and a tax resale certificate for inventory resold to customers, if required by state or local law. You will promptly pay when due all taxes required by any federal, state or local tax authority including unemployment taxes, withholding taxes, sales taxes, use taxes, income taxes, tangible commercial personal property taxes, real estate taxes, intangible taxes and all other indebtedness you incur in the conduct of your Franchise Business. You will pay to us an amount equal to any sales tax, goods and services tax, gross receipts tax, or similar tax imposed on us for any payments you make to us, unless the tax is based on our net income or our corporate status in a state. If we pay any tax on your behalf, you will promptly reimburse us the amount paid. If there is any *bona fide* dispute as to liability for taxes assessed or other indebtedness, you may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law. However, you will not permit a tax sale or seizure by levy or execution or similar writ or warrant, or attachment by a creditor, to occur against the Premises or any assets used in your Franchise Business.

**SECTION 4.16 CUSTOMER SURVEYS; CUSTOMER LIST**

You will present to customers any evaluation forms we require and will participate and/or request your customers to participate in any marketing surveys performed by or for us. You will maintain a current customer list containing each customer's name, address, telephone number and e-mail address, and supply a copy of the list to us on a quarterly basis. You must participate in any process we develop to record all customer information. We retain ownership of your customer lists. We will not use your customer list in any activity adverse to, or in competition with, you.

**SECTION 4.17 INSPECTIONS AND EVALUATIONS**

(a) **Periodic Inspections**. You will permit our field representatives to enter your Franchise Business at all reasonable times during the business day to assist you, to evaluate your business operations and to ascertain that you are complying with the provisions of this Agreement. We have the right to inspect and evaluate your building, land and equipment, and to test, sample, inspect and evaluate your supplies and products. We will perform an inspection in a manner that minimizes interference with the operation of your Franchise Business. You will cooperate fully with our field representatives in the inspection. You will render assistance as they may reasonably request. You will permit them to observe how you are selling the products and rendering the services, to monitor sales volume, to conduct a physical inventory, to confer with your employees and customers and to remove samples of any products, supplies and materials in amounts reasonably necessary for inspection at our office and record keeping. We may videotape the inspection.

(b) **Mystery Shoppers**. Our inspections and evaluations may include a "mystery shopper" program from time to time. We hire various suppliers who send the "mystery shoppers" into the Franchise Businesses. If you fail an evaluation by us or by a mystery shopper or if we receive a specific customer complaint, you must pay for the mystery shoppers that we send to your

Franchise Business (until the issue is resolved to our satisfaction). The current fee charged by the suppliers is between $15 and $75 per visit, which you must pay directly to the vendor. The fee per visit does not include the reimbursement of the tab paid by the mystery shopper for the services used and items purchased at your Franchise Business and, therefore, the actual fee for each visit will vary.

(c) **Evaluation Report**. We will give you an evaluation report listing the deficiencies and the corrective action you must take. Without limiting our other rights under this Agreement, you will take all steps necessary to immediately correct any deficiencies detected during inspections, including immediately stopping use of any equipment, advertising, materials, products, supplies or other items that do not conform to our then-current requirements. If you fail or refuse to correct any deficiency, this is an Event of Default on your part.

### SECTION 4.18 NOTICES TO US

(a) **Lawsuits and Warning Letters**. You must notify us in writing and supply us copies of all relevant documents within 5 days of any of the following events:

(i) The commencement of any action, suit or other proceeding against you or any of your employees that may have a material adverse effect on the Franchise Business or the Business System;

(ii) Any communication by any governmental entity involving the conduct of your Franchise Business that indicates your material non-compliance with any applicable law, rule or regulation; or

(iii) The issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality against you or any of your employees that may have a material adverse effect on the Franchise Business or the Business System.

(b) **Progress Reports**. You will provide us with any information we request about the progress and outcome of these events within 5 days of our request.

### SECTION 4.19 FRANCHISE OWNERS' MEETINGS OR CONVENTION

You must attend a minimum of 75% of Franchise Owners' meetings that we conduct, which may include remote meetings conducted via the Internet or by another electronic method. Should we offer only a single Franchise Owners' meeting or convention in a calendar year, you, a Franchise Owner or a Designated Representative is obligated to attend the meeting in person. We do not charge a fee for Franchise Owners' meetings. However, you are responsible for meals, travel, lodging or other expenses you incur to attend these meetings.

### SECTION 4.20 OPERATIONAL SUGGESTIONS

You are encouraged to submit to us written suggestions for improving elements of the Business System, including products, services, equipment, service format, advertising and any other relevant matters for our consideration. You agree that any suggestions you make are our exclusive property. We have no obligation to use any suggestions. You may not use any suggestion inconsistent with your obligations under this Agreement without our written consent.

**SECTION 4.21 RENOVATION AND UPGRADING**

You agree that you will make capital improvements or modifications necessary to modernize, redecorate and upgrade your Franchise Business. This may include an upgrade of your equipment to reflect the current image and Trade Dress of new Hard Exercise Works Franchises we reasonably request, taking into consideration the cost of the modernization, the life expectancy of the equipment and the then-remaining term of this Agreement but not more frequently than every 7 years. Generally, these requirements will not exceed those applicable to new Franchise Businesses and new Company-Owned Outlets. You must complete to our satisfaction any changes we require within a reasonable time, not to exceed 12 months from the date we notify you of any required changes (other than signage). You acknowledge and agree that the requirements of this Section are both reasonable and necessary to ensure continued public acceptance and patronage of the Franchise Business and to avoid deterioration or obsolescence in connection with the operation of the Franchise Business. If you fail to make any improvement as required by this Section, this is an Event of Default on your part.

**SECTION 4.22 PUBLICITY**

We have the right to take and use photographs, audio and/or video of the Franchise Business or testimonials from customers of the Franchise Business for publicity and/or advertising purposes, without charge or compensation to you. The photographs, videos, and/or testimonials are our sole property. You acknowledge that we own all right, title and interest and any other rights, as permitted under applicable law, to these photos, audio and video recordings. You agree that we may use your and your Franchise Owners' names, likeness and voices in promoting the Franchise Businesses and the Business System. You consent and assign to us all right, title and interest to our use of these names, likenesses and voices. You will cooperate with us in obtaining these audio, video, photographs, testimonials, and the consent of any persons included in these materials.

## ARTICLE 5 - INTELLECTUAL PROPERTY

**SECTION 5.1 OUR REPRESENTATIONS AS TO THE INTELLECTUAL PROPERTY**

We represent to you that:

(a) **Ownership**. We are the sole owner of the Intellectual Property;

(b) **Licenses**. We have not licensed the Intellectual Property to any others except other Franchisees and our affiliates; and

(d) **Protection**. We will take all steps necessary to preserve and protect the ownership and validity of the Intellectual Property.

**SECTION 5.2 YOUR USE OF THE INTELLECTUAL PROPERTY**

You may use the Intellectual Property only in accordance with standards and specifications we reasonably determine and implement on a Network-wide basis. You agree that:

(a) **Limitation on Use**. You will use the Intellectual Property only for the operation of your Franchise Business at the Premises.

(b) **Prohibitions**. You will not employ any of the Intellectual Property in signing any contract, check, negotiable instrument or legal obligation, application for any license or permit, or in a manner that may result in liability to us for any indebtedness or obligation of yours.

(c) **Sole Business Name**. You will use our Principal Trademarks as the sole service mark identification for your Franchise Business and will display prominently our Principal Trademarks on and/or with all materials that we designate and authorize and in a manner that we specify.

(d) **No Encumbrance**. You will not use any of the Intellectual Property as security for any obligation or indebtedness.

(e) **Fictitious Name**. You cannot use the Hard Exercise Works trade name as part of your legal business name. You must comply in filing and maintaining any required fictitious, trade or assumed name registrations for the "Hard Exercise Works" trade name for example, John Jones d/b/a "Hard Exercise Works" or ABC, Inc. d/b/a "Hard Exercise Works," and will sign all documents that we or our counsel deem reasonably necessary to obtain protection for the trademarks and our interest in the trademarks.

(f) **Signage**. You will maintain a suitable sign or graphics package at, or near the front of the Premises, on any pylon sign, building directory or other area identifying the Premises only as "HEW." The signage must conform in all respects to our requirements except to the extent prohibited by local governmental restrictions or by landlord regulations.

(g) **Materials**. All materials including plastic or paper products and other supplies and packaging materials used in the Network will bear our Intellectual Property, as we specify.

(h) **Impairment**. You will exercise caution when using the Intellectual Property to ensure that the Intellectual Property is not in any manner jeopardized.

**SECTION 5.3 INFRINGEMENT BY YOU**

You acknowledge that the use of the Intellectual Property outside the scope of this Agreement, without our written consent, is an infringement of our rights in the Intellectual Property. You agree that during the Initial Term, and after the expiration or termination of this Agreement, you will not, directly or indirectly, commit an act of infringement or contest or aid in contesting the validity of, or our right to, the Intellectual Property, or take any other action in derogation of our rights.

**SECTION 5.4 CLAIMS AGAINST THE INTELLECTUAL PROPERTY**

If there is any claim of infringement, unfair competition or other challenge to your right to use the Principal Trademarks or the other Intellectual Property you will promptly (within 7 days) notify us in writing. If you become aware of any use of, or claim to, the Principal Trademarks or the other Intellectual Property by persons other than us or our Franchisees, you will promptly (within 7 days) notify us in writing. You will not communicate with anyone except our counsel and us on any infringement, challenge or claim except under judicial process. We have sole discretion as to whether we take any action on any infringement, challenge or claim. We have the sole right to control any litigation or other proceeding arising out of any infringement of, challenge to, or claim to any Intellectual Property. You must sign all documents, render all assistance, and do all acts that our attorneys deem necessary or advisable in order to protect and maintain our interest in any litigation or proceeding involving the Intellectual Property or otherwise to protect and maintain our interests in the Intellectual Property.

**SECTION 5.5 YOUR INDEMNIFICATION.**

We indemnify you against and will reimburse you for all damages and costs (including reasonable attorneys' fees and costs) for which you are held liable in any proceeding based on your use of any of the Intellectual Property in accordance with this Agreement, provided you: (a) have timely notified us of the claim or proceeding; (b) have otherwise complied with this Agreement; (c) allow us sole control of the defense and settlement of the action; and (d) cooperate fully with our counsel in the defense of the action.

**SECTION 5.6 OUR RIGHT TO MODIFY THE INTELLECTUAL PROPERTY**

If we deem it advisable to modify or discontinue the use the Principal Trademark or any of the other Intellectual Property and/or use an additional or substitute Principal Trademark including: (i) due to the rejection of any pending application for registration: (ii) revocation of any existing registration of any of the Intellectual Property (ii) the rights of senior users; (iv) our negligence; (v) a radical change in direction of the Business System we unilaterally cause or mandate; or (vi) the modification or discontinuation of the use of any of the Intellectual Property is due to a continuing need to modernize the Business System, you are liable for all expenses in substituting the modified or new Intellectual Property in your Franchise Business. You are obligated to do so within 30 days of our request.

**SECTION 5.7 OUR RESERVATION OF RIGHTS**

You agree that the license of the Intellectual Property we grant to you has limited exclusivity. In addition to our right to use and grant others the right to use the Intellectual Property outside the Exclusive Territory, we expressly reserve all rights that we do not expressly grant to you in this Agreement concerning the Intellectual Property or other matters. You will not receive any compensation if we exercise these reserved rights.

**SECTION 5.8 OWNERSHIP; INUREMENT SOLELY TO US**

You agree that: (a) you have no ownership or other rights in the Intellectual Property, except as expressly granted in this Agreement; and (b) we are the owner of the Intellectual Property. You agree that all goodwill associated with the Franchise Business inures directly and exclusively to our benefit and is our sole and exclusive property except through any profit you receive from the permitted sale of your Franchise Business during the Initial Term or any Renewal Term. You will not in any manner prohibit, or do anything that would restrict, us or any Franchisee from using the Intellectual Property or filing any trade name, assumed name or fictitious name registration of the Principal Trademark with respect to any Franchise Business to be conducted outside the Exclusive Territory or any business within the Exclusive Territory that is permitted by this Agreement. If you secure in any jurisdiction any rights to any of the Intellectual Property (or any other Intellectual Property) not expressly granted under this Agreement, you will immediately notify us and immediately assign to us all of your right, title and interest to the Intellectual Property (or any other Intellectual Property).

## ARTICLE 6 - HEW INTRANET/HEW OPERATIONS MANUAL

### SECTION 6.1 IN GENERAL

To protect our reputation and goodwill and to maintain uniform standards of operation under the Intellectual Property, you will conduct your Franchise Business in accordance with the HEW Intranet/HEW Operations Manual. The HEW Intranet/HEW Operations Manual is an integral part of this Agreement with the same effect as if fully stated in this Agreement.

### SECTION 6.2 CONFIDENTIAL USE

(a) **Trade Secret**. You will treat and maintain the Confidential Information as our confidential trade secrets except for information previously known or obtained through independent sources and found within the public domain. You will strictly limit access to the Confidential Information to your employees that have signed a Confidentiality, Non-Solicitation and Non-Competition Agreement in the form included in the HEW Intranet/HEW Operations Manual and to the extent they have a "need to know" in order to perform their duties. You will report any unauthorized access to the HEW Intranet/HEW Operations Manual immediately to us.

(b) **Unauthorized Use**. You agree that, during and after the Initial Term, you, your Franchise Owners, Designated Representative, General Managers and employees will:

(i) Not use the Confidential Information in any other business or capacity, including any derivative or spin-off of the Hard Exercise Works concept;

(ii) Maintain the absolute secrecy and confidentiality of the Confidential Information during and after the Initial Term;

(iii) Not make unauthorized copies of any portion of the Confidential Information disclosed or recorded in written or other tangible form; and

(iv) Adopt and implement all procedures that we require to prevent unauthorized use or disclosure of, or access to, the Confidential Information. If

(v) Not modify, reverse engineer, decompile, create other works from or disassemble any of our or any of our Affiliates' Confidential Information, except as we permit in writing.

(c) **Unauthorized Access**. You agree that, during and after the Initial Term, you, your Franchise Owners and Designated Representative will not allow any unauthorized person to access to our Intranet and the Confidential Information it contains. If you fail to do so, you will pay us liquidated damages of $5,000.

### SECTION 6.3 PERIODIC REVISIONS

(a) **Changes to Manual**. We will revise the HEW Intranet/HEW Operations Manual and these standards, procedures, techniques and management systems periodically to meet changing conditions. You will comply with each new or changed provision beginning on the 30th day (or any longer time as we specify) after our written notice. We will base revisions to the HEW Intranet/HEW Operations Manual on what we determine to be in the best interests of the Business

System, our interest and the interest of our Franchisees, including promoting quality, enhancing goodwill, increasing efficiency, decreasing administrative burdens, or improving profitability.

(b) **Variances**. Because complete and detailed uniformity under many varying conditions may not be possible or practical, we reserve the right, in our sole discretion and as we may deem to be in the best interests of all concerned in any specific instance, to vary standards for any Franchisee based on the circumstances then existing. You are not entitled to require us to grant to you a similar variation under this Agreement.

### SECTION 6.4 PRIOR INFORMATION

You agree that all Confidential Information received before the Agreement Date was unknown to you except through our disclosure and that the marketing practices and operating procedures we develop and franchise to you for the operation of the Franchise Business are important for the success of the Business System. If you receive any Confidential Information after signing this Agreement, and you do not object in writing to us within 30 days after signing this Agreement that any of the information comprising the Confidential Information not be considered Confidential Information, then you have irrevocably waived your right to make any objection. You agree that this representation and warranty is a material inducement for us to enter into this Agreement, and any breach is an Event of Default on your part.

## ARTICLE 7 - ADVERTISING

Recognizing the value of advertising, and the importance of the standardization of advertising programs to the goodwill and public image of the Business System, the parties agree to the following provisions.

### SECTION 7.1 GRAND OPENING ADVERTISING PROGRAM

You will implement a grand opening advertising and promotional program for your Franchise Business budgeting at least $5,000 during the period beginning 2 weeks before opening and the first 90 days after opening. You must hold at least a 1-day long "Open House" or "Meet and Greet" where you invite prospective customers to visit the Franchise Business to verify all Systems are in order and for additional training of staff. You will submit to us an accounting of your expenditures for advertising and promotional items as described above within 10 days from the end of the 3rd month.

### SECTION 7.2 LOCAL ADVERTISING

(a) **Your Expenditures**. You must spend at least 4% of Gross Revenues for Local Advertising during each month of operation. We will be responsible for all Internet marketing and advertising activities. This is in addition to the Grand Opening Advertising Program.

(b) **Our Approval**. You must submit to us for our approval all materials used for Local Advertising, unless we have previously approved the materials or the materials consist of materials we have provided. All materials containing the Intellectual Property must include the applicable designation - service mark℠, trademark™, registered® or copyright©, or any other designation we specify. If you have not received our written disapproval of materials you submitted within 10 days from the date we received the materials, then we are deemed to have approved the materials. We may require you to withdraw and/or discontinue the use of any promotional materials or advertising, even if previously approved, if in our judgment, the materials or advertising may injure or be harmful to the Business System. You will have 5 days after you receive of our written notice to discontinue using the materials or advertising, unless otherwise agreed in writing. Your submission of advertising to us for our approval does not affect your right to determine the prices that you sell your products or services.

(c) **Franchise Opportunities Available**. Subject to any legal restrictions, you must place a sign we supply to you in a conspicuous place within the Premises as well as on all menus, containing substantially the following statement: "Hard Exercise Works Franchise Opportunities Available." You must immediately refer all responses to us at info@hardexerciseworks.com. You have no authority to act for us in franchise sales.

(d) **Search Directories**. You must also register your franchise business on the top 3 search engine business directories, Google, Bing and Yahoo.

(e) **Social Media**. You must follow our policies and requirements for the use of social media as outlined in the HEW Intranet/HEW Operations Manual or otherwise in writing.

(f) **Participation in Certain Promotions**. You must participate in all required advertising and promotional programs we establish.

(g) **No Solicitation Outside DMA**. We do not grant you an exclusive marketing area but you may advertise outside your Exclusive Territory but within your Designated Marketing Area ("DMA"). You will not solicit business outside your DMA by a toll-free number, catalog, direct mail, Internet, website or other advertising or solicitation method without our prior written consent.

### SECTION 7.3 REGIONAL ADVERTISING COOPERATIVE

You agree that we have the right to establish a Regional Advertising Cooperative in any DMA. Upon our request, you will immediately become a member of the Regional Advertising Cooperative for the DMA that includes your Exclusive Territory. Your Franchise Business does not have to be a member of more than 1 Regional Advertising Cooperative.

(a) **Purposes of Regional Advertising Cooperative**. We will organize the Regional Advertising Cooperative for the exclusive purposes of administering advertising programs and developing standardized promotional materials for use by its members. The Regional Advertising Cooperative may adopt its own rules and procedures, but we must approve the rules or procedures. The rules and procedures must not restrict or expand your rights or obligations under this Agreement. Except as otherwise contained in this Agreement, and subject to our approval, any lawful action of the Regional Advertising Cooperative at a meeting attended by 67% of the members, including assessments for Local Advertising, binds you if approved by 67% of the members present. Each Franchised Unit and Company-Owned Unit has 1 vote; however no Franchisee (or controlled group of Franchisees) has more than 25% of the vote in the Regional Advertising Cooperative regardless of the number of Franchise Businesses owned by any Franchisee.

(b) **Our Approval of Advertising**. We must approve in writing all advertising or promotional plans or materials the Regional Advertising Cooperative proposes to use or furnish to its members. The Cooperative must submit to us all plans and materials in accordance with the procedure stated in Subsection 7.2(b).

(c) **Members' Contributions to Cooperative**. The Regional Advertising Cooperative has the right to require each of its members to contribute to the Regional Advertising Cooperative an amount not to exceed 4% of that member's monthly Gross Revenues. We credit this amount against your obligation for Local Advertising as provided by Subsection 7.2(a). Each member will submit to the Regional Advertising Cooperative, no later than the 10th day of each month for the preceding calendar month, his, her or its contribution together with all other statements or reports the Regional Advertising Cooperative or we require.

(d) **Quarterly Reports**. The Cooperative will prepare quarterly unaudited reports of its advertising and marketing expenditures. The reports will be sent by the Cooperative to its members and to us.

(e) **Impasses**. If an impasse occurs based on its members' inability or failure to resolve within 45 days any issue affecting the establishment or effective functioning of the Regional Advertising Cooperative, the issue, upon request of a member of the Regional Advertising Cooperative, will be submitted to us for consideration. Our resolution of the issue is final and binding on all members of the Regional Advertising Cooperative.

(f) **Changes, Dissolution or Merger of Cooperatives**. We have the right to form, change, dissolve or merge any Cooperative.

**SECTION 7.4 INTERNET ADVERTISING AND MARKETING/WEBSITE.**

(a) **Website**. We will list your Franchise on our home page of our Website. We maintain sole and exclusive rights to all content and information displayed or collected on our Website. The content and information includes company information, user demographics and profiles, pictures and graphics, testimonials, advertisements, franchise information, product and/or service information and all other information that we may designate in writing.

(b) **Your Home Page**. We will provide you with a customizable home page for you to create ("Your Home Page") that we must approve. We will place Your Home Page on our Website to promote the Franchise Business. We prohibit you from offering or selling products through the Internet. You must adhere to the methods and procedures we provide for uploading content and managing Your Home Page. You must secure our written permission if you desire to link Your Home Page to other website on the Internet. We have the sole right to modify, change, add to, or delete our domain, Website and Your Home Page. We maintain all rights of ownership in and to Your Home Page. We may discontinue making Your Home Page accessible to you upon 30 days' written notice, if you are in breach of this Agreement, if we terminate this Agreement or if this Agreement expires and is not renewed.

(c) **Internet Marketing and Advertising**. We are solely responsible for all marketing and advertising on the Internet using funds from the Brand Fund.

(d) **Domain Name**. We prohibit you from registering any domain name using the Intellectual Property and from hosting a website to promote the Franchise Business or the products or services without our prior written consent. We retain all rights to the trade names and other Intellectual Property, and any associated Internet domains used to identify the Business System.

(e) **Coupons**. We are the sole controlling agent for any social media coupon advertising promotion. Any non-approved discounting on rates or any non-approved promotions without our prior written approval is strictly forbidden. We utilize LivingSocial® and Groupon® for the explicit purpose running grand opening deals as part of the advertising and promoting your location supplying you with free leads. We also may use them for twice-yearly deals offering a discounted 5-Week Boot Camp offer. We retain the revenue from the 5-Week Boot Camp offer and you service the members and retain the ongoing revenue from the rollover of the individual member. LivingSocial® and Groupon® are not our affiliates. No shareholder or officer of ours own any part of either company

**SECTION 7.5 BRAND FUND**

(a) **Right to Create**. We have created a special fund called the "Hard Exercise Works Brand Fund" (the "Brand Fund"), into which we deposit the Advertising Contributions described in Subsection 3.1(c) for the benefit of all Franchise Businesses and Company-Owned Outlets who contribute to the Brand Fund.

(b) **Administration**. We will administer the Brand Fund. We use the funds in the Brand Fund to pay for the costs of creating various advertising, marketing, and promotional materials that we deem beneficial to the Business System. We also use the funds in the Brand Fund to pay the costs of conducting regional and/or national advertising and promotional activities (including the cost of producing advertising campaigns and marketing materials, conducting test marketing and marketing surveys, and public relations activities) that we deem beneficial to the Business System. We do not have to spend any contributions to the Brand Fund in your Exclusive Territory. We are not obligated to contribute additional funds to the Brand Fund other than contributions from Company-Owned Units. We can charge the Brand Fund for our costs for services we provide, in lieu of engaging third party agencies to provide these services. We will not use any of the funds to offer or sell Hard Exercise Works Franchises to prospective franchisees.

(c) **Expenditures**. All expenditures are at our sole discretion. We may spend in any calendar year more or less than the total Advertising Contributions to the Brand Fund in that year. We may loan to the Brand Fund or borrow from other lenders for the Brand Fund to cover deficits of the Brand Fund or cause the Brand Fund to invest any surplus for future use by the Brand Fund. We will carry any monies not spent by the Brand Fund in any particular year to fund production expenses in the next year.

(d) **Advertising Rebates**. You authorize us to act as your sole agent to enter into contracts with parties, other than Designated Suppliers and Approved Suppliers, offering promotion, discount or other programs where you would receive rebates or marketing allowances ("Advertising Rebates") relating to our purchase of advertising, marketing, and promotional materials. We will contribute all Advertising Rebates paid to us, based on your purchases, and the purchases of other Franchise Businesses and Company-Owned Outlets, to the Brand Fund. By signing this Agreement, you assign all of your right, title and interest in all Advertising Rebates to us, and authorize us to furnish any proof of purchase evidence as may be required in accordance with the contracts.

(e) **Annual Report**. We will prepare an annual report of the receipts and expenditures of the Brand Fund and send a copy of the report to you and all other Franchisees within 150 days after the end of each fiscal year. We will not audit this report.

### SECTION 7.6 CONTENT AND CONCEPTS

We retain sole discretion over all advertising, marketing and public relations programs and activities financed by the Brand Fund, including the creative concepts, materials and endorsements used and the geographic market, media placement and allocation. You agree that the Brand Fund may be used to pay the costs of preparing and producing associated materials and programs that we determine, including video, audio and written advertising materials employing advertising agencies; sponsorship of sporting, charitable or similar events, administering regional and multi-regional advertising programs including purchasing direct mail and other media advertising, social media programs, and employing advertising agencies to assist with marketing efforts; and supporting public relations, market research and other advertising, promotional and marketing activities.

### SECTION 7.7 ADVERTISING CONTRIBUTIONS BY US

Company-Owned Outlets are required to contribute to the Brand Fund and any Cooperative on the same basis that Franchise Businesses are required to contribute. We do not have to use any of our other funds on the advertising programs for the franchise system.

### SECTION 7.8 TERMINATION OF EXPENDITURES

We maintain the right to terminate the collection and disbursement of the Advertising Contributions and the Brand Fund. Upon termination, we will disburse the remaining funds to existing Franchise Businesses and Company-Owned Outlets on a *pro-rata* basis based on their relative amount of contributions.

## ARTICLE 8 - ACCOUNTING AND RECORDS

### SECTION 8.1 RECORDS

(a) **Paper and Electronic Records**. You will maintain complete and accurate records for the operation of your Franchise Business. These records may be in paper form but you must maintain in Adobe PDF electronic versions of all paper records along with all e-mail communications and electronically created records. These records include detailed daily sales, cost of sales, all communications and attachments sent by e-mail and other relevant records or information. You must provide this information to us according to reporting formats, methodologies and time schedules that we establish from time to time. You must segregate these records from all other records that do not concern your Franchise Business. You must preserve these records in a cloud based web storage we designate, accessible to us; for at least 6 years from the dates of their preparation including after the termination, transfer or expiration of this Agreement.

(b) **Customer Information**. All Customer lists and files, phone and contact lists; databases, etc. containing Customer, marketing and financial data that you develop or store are and remain our sole property during and after this Agreement terminates or expires.

### SECTION 8.2 REPORTS AND STATEMENTS; CONFIDENTIALITY

(a) **Monthly Reports**. You will e-mail to us as an attachment by the 5$^{th}$ day of each month, our Monthly Report form included in the HEW Intranet/HEW Operations Manual that includes accurate records reflecting all Gross Revenues for the previous month, the computation of Advertising Contributions, a list of expenditures for Local Advertising, and all other information we require.

(b) **Annual Financial Statements**. You must also submit to us, an annual balance sheet and income statement within 90 days of the end of your fiscal year prepared in accordance with Generally Accepted Accounting Principles. You, your treasurer or your chief financial officer must sign and attest that the financial statements are true and correct and fairly present your financial position at and for the times indicated. You will also supply to us copies of your federal and state income tax returns at the time you file these returns with the appropriate tax authorities. The financial statements and/or other periodic reports described above must segregate the income and related expenses of your Franchise Business from the income and expenses of any other business that you may conduct.

(c) **Confidentiality**. We agree to maintain the confidentiality of all financial information we obtain about your Franchise Business. We may disclose this financial information to our professional advisors and any third party that is bound to maintain the confidentiality of the information. We may use the information to prepare a financial performance representation or other information required or permitted by federal or state franchise law. We may prepare a composite list of financial performances by our Franchisees for dissemination among the Franchisees that identifies your Gross Revenues and advertising expenditures.

**SECTION 8.3 REVIEW AND AUDIT**

(a) **Our Right of Audit**. Our representatives have the right at all times to examine and copy your records. We have the right, at any time, to access your Computer System to determine, among other things, sales activity and Gross Revenues. We also have the right, at any time, to conduct an independent audit of your records but no more than 2 times a year, or more frequently if you are in default under this Agreement. To verify the information you supply, we have the right to reconstruct your sales by any reasonable method of analyzing and reconstructing sales. You agree to accept any reconstruction of sales unless you provide evidence in a form satisfactory to us of your sales within a period of 14 days from the date of notice of understatement or variance. You must fully cooperate with our representative in performing these activities and you must reimburse us for any expenses we incur based on your lack of cooperation.

(b) **Underreporting**. If an inspection reveals you have understated any financial information you have reported to us (including Gross Revenues or payments owed to us), you must immediately pay to us, upon demand, the amount understated and interest at the maximum rate permitted by law beginning from the time the required payment was due. If any inspection discloses an understatement of 2% or more of Gross Revenues, you must also reimburse us for the expenses for the inspection or audit (including reasonable auditing, accounting, attorneys' fees and costs). In addition, we reserve the right to require you retain an independent certified public accountant reasonably acceptable to us to audit all future year-end financial statements at your expense. These remedies are in addition to any other remedies we have under this Agreement or under applicable law. If the audit discloses an overpayment in any amount you paid to us, we will promptly pay you the amount of the overpayment or offset the overpayment against any amounts owed to us.

### Section 8.4 Your Name, Address and Telephone Number

Under federal and state franchise laws, while you are a Franchisee, we must disclose your name, business address and business telephone number of each of your Franchise Businesses in ITEM 20 of the FDD. After you cease being a Franchisee, we must disclose your name, city and state and then current business telephone number (or if unknown, your last known home telephone number) for a certain time. You agree to this disclosure. You must notify us of any change in your name, address and telephone number within 10 days of the change. This obligation survives the expiration or termination of this Agreement.

## ARTICLE 9 – INSURANCE AND BONDING

### Section 9.1 Types and Amounts of Coverage

You must purchase and maintain at your expense certain insurance that includes the risks, amount of coverage and deductibles as stated in the HEW Intranet/HEW Operations Manual, This insurance may be in addition to any other insurance that you must obtain based on the requirements of applicable law, your landlord's requirements, your lender's requirements or otherwise. The insurance company must be reasonably satisfactory to us and have a Best rating of "B" or better. We may periodically adjust the amounts of coverage required under the insurance policies and require different or additional kinds of insurance at any time. These include excess liability insurance, to reflect inflation, identification of new risks, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances, if the changes are required throughout the Network including any Company-Owned Units.

### Section 9.2 Evidence of Insurance

At least 10 days before you begin any construction of the Premises, or 10 days from the Agreement Date, if the Premises are constructed and presently owned or leased by you, you must furnish to us a certificate of insurance issued by an approved insurance company showing compliance with these insurance requirements and a paid receipt showing the policy number. The certificate of insurance must include a statement by the insurer that the policy will not be canceled, be subject to nonrenewal or be materially altered without at least 30 days' written notice to us. You will send to us current certificates of insurance on an annual basis. You will submit to us promptly copies of all insurance policies and proof of payment upon our request.

### Section 9.3 Requirements for Construction or Renovation

For any construction or renovation of the Premises, you must require the general contractor to maintain with an approved insurer commercial general liability insurance (with comprehensive automobile liability coverage for both owned and non-owned vehicles, builder's risk, product liability, and independent contractor's coverage) for at least $1,000,000, with you and us named as additional named insureds, as their interests may appear, together with workers' compensation and employer's liability insurance required by law.

### Section 9.4 Our Right to Participate in Claims Procedure

Our insurer or we have the right to participate in discussions with your insurance company or any claimant (with your insurance company) regarding any claim. You agree to discuss our reasonable recommendations with your insurance carrier regarding the settlement of any claims.

**SECTION 9.5 WAIVER OF SUBROGATION**

The parties agree that, for any loss covered by insurance carried by the parties, their respective insurance companies have no right of subrogation against the other.

**SECTION 9.6 EFFECT OF OUR INSURANCE**

Your obligation to maintain the policies in the amounts required is not limited because of any insurance we maintain. Our performance of your obligations does not relieve you of liability under the indemnity provisions in this Agreement.

**SECTION 9.7 FAILURE TO MAINTAIN INSURANCE**

If you fail to maintain the insurance required by this Agreement, we have the right and authority (but without any obligation to do so), after written notice to you and 10 days in which to cure, to procure the insurance on your behalf. If we do so, we will charge you the cost of the insurance, plus interest at the maximum rate permitted by law and a 15% administrative fee for so acting, that you agree to pay immediately upon notice.

**SECTION 9.8 GROUP INSURANCE**

If we arrange any insurance coverage through group or master policies such as property and casualty, workers' compensation, liability and health, life and disability insurance, we will offer you the right to participate in this group insurance programs at your expense if the insurance is available in the state in which your Franchise Business is located.

## ARTICLE 10 - TRANSFER OF INTEREST

**SECTION 10.1 TRANSFER BY US**

(a) **No Restrictions on Transfer**. We have the right to assign this Agreement to any person without your consent.

(b) **Estoppel Certificate**. Within 10 days after we request, you must sign, acknowledge and deliver to us, a written estoppel certificate stating: (a) confirmation of the existence of this Agreement; (b) that this Agreement has not been amended and is in full force and effect (or, if amended, stating the nature of the amendment); (c) that there are not, to your knowledge, any uncured defaults on our part or by you under this Agreement or specifying the defaults, if any, that are claimed; (d) that you have no, and know of no basis for, any claims of any kind against us (or, if you have or know of any claims, a detailed statement of all claims and a statement that you have no, and know of any basis for, any other claims); and (e) any other matter upon which certification is requested by us or a prospective assignee or lender. We and any prospective purchaser or lender of ours may rely upon any estoppel certificate you give under this Subsection. Any failure or refusal to timely sign a truthful estoppel certificate under this Subsection is an Event of Default on your part.

**SECTION 10.2 TRANSFER BY YOU**

(a) **Transfer Restrictions**. Except as otherwise expressly provided in this Agreement, you agree not to transfer: (i) any interest in this Agreement, (ii) any portion of the assets used in the operation of the Franchise Business outside of the ordinary course, (iii) more than 50% of the equity or voting interests of the Franchisee if you are a Business Entity. If we provide our written consent to a transfer, the transfer does not release any Guaranty of Franchisee's Obligations previously signed.

(b) **Permitted Sale of Assets**. We will consent to a sale of the assets used in the operation of the Franchise Business, which consent we will not unreasonably withhold, if you satisfy the following requirements:

(i) You must submit to us our form of Application for Consent to Sell. You will also submit other information and documents (including a copy of the proposed asset purchase agreement or other agreement) we require under our then-current transfer procedures. The application must indicate whether you or a Franchise Owner proposes to receive by the buyer a security interest in the property transferred. You may not receive a security interest without our prior written consent and upon conditions acceptable to us. Any agreement used in connection with a sale is subject to our prior written approval.

(ii) We have not exercised our right of first refusal under Section 10.5.

(iii) You are not in default of any term of this Agreement or any other agreement between you and us at the time of transfer.

(iv) The buyer interviews at our principal office and demonstrates to our reasonable satisfaction that he or she has the business and personal skills, reputation and financial capacity that we require of new Franchisees and has no ownership interest in a Competitive Business.

(v) We have the right to require you to prepare and furnish to the buyer and/or us such financial reports and other data relating to the Franchise Business and its operations reasonably necessary or appropriate for the buyer and/or us to evaluate the Franchise Business and the proposed sale. You agree that we have the right to confer with any proposed buyer and furnish him or her with information concerning the Franchise Business and the proposed sale without being liable to you, except for intentional misstatements we made to a buyer. Any information furnished by us to a proposed buyer is for the sole purpose of permitting the buyer to evaluate the Franchise Business and proposed sale and must not be construed in any manner or form whatsoever as financial performance representations or claims of success or failure.

(vi) The buyer must sign our then-current form of Franchise Agreement and all other agreements attached as exhibits to our then-current FDD. The new Franchise Agreement and other agreements may vary in material aspects from this Agreement, including higher Service Fees and Advertising Contributions and a change to the Exclusive Territory. Neither party is obligated to perform their respective pre-opening obligations. We will not charge an Initial Franchise Fee.

(vii) You will pay us a Transfer Fee set forth in Subsection 3.1(e).

(viii) The buyer must assume your obligations under the lease of the Premises or sign a new lease with the landlord.

(ix) You and your shareholders (members), and your directors and officers (managers) must sign a General Release, in the form attached as Exhibit Q to the FDD, of any claims against us and our subsidiaries and Affiliates, and their respective officers, directors, agents and employees.

(x) At the buyer's expense, the buyer or a Designated Representative and the buyer's General Manager and assistant managers (unless the General Manager and assistant managers have been previously approved and trained by us) completes Initial Training then in effect for new Franchisees upon all terms that we reasonably require.

(xi) The buyer, at its expense, will upgrade the Franchise Business to conform to the then-current standards and specifications of the new Franchise Business and complete the upgrading and other requirements within the time we specify.

(xii) The buyer must allocate at least $6,000 for "Under New Management" advertising.

(xiii) You remain liable for all of your obligations to us in connection with the Franchise Business before the effective date of the transfer. You will sign any instruments we reasonably request to evidence the liability.

(xvi) You agree to remain obligated under the covenants against competition of this Agreement as if this Agreement had been terminated on the date of the transfer;

(c) **No Subfranchising Rights**. You have no right to grant a subfranchise.

(d) **No Encumbrance of Franchise Right and Controlling Interest**. While you may encumber the assets comprising your Franchise Business with our prior written consent, you may not grant a security interest, collaterally assign or otherwise encumber your interest in this Agreement. You may not pledge or otherwise encumber a controlling voting or equity interest in a Business Entity if you assign this Agreement to a Business Entity. Any attempted encumbrance is void and is an Event of Default on your part.

(e) **"For Sale" Restrictions**. You will not permit to be placed upon the Premises a "Business For Sale" or "For Sale" sign, or any sign of a similar nature or purpose, nor in any manner use the Principal Trademark or other trademarks to advertise the sale of your Franchise Business or the sale or lease of the Premises. These prohibitions apply to any activities under a listing agreement into which you may enter with a real estate or business broker.

(f) **Disapproval of Transfer**. Our disapproval of the transfer for failure to satisfy the transfer conditions described in this Subsection, or of any other condition to transfer stated in this Agreement, does not cause us any liability to you or the transferee. Our consent to a transfer is not a waiver of any claims we may have against you. Our consent to a transfer is not a waiver of our right to demand the transferee's exact compliance with this Agreement. No transfer we approve relieves you of liability for your conduct before the transfer, including conduct in breach of this Agreement. You are relieved of all liability for your transferee's conduct after a permitted transfer except you remain obligated to comply with those provisions that expressly survive an expiration or termination of this Agreement including the obligations of indemnification, confidentiality and non-competition.

(g) **Transfer Without Our Consent**. Any attempted transfer by you without our prior written consent or otherwise not in compliance with the terms of this Agreement is void. We will consider that your interest in this Agreement has been voluntarily abandoned giving us the right to deem you in non-curable default and terminate this Agreement. You will also sign the General Release included as Exhibit T to the FDD previously delivered to you.

**SECTION 10.3 TRANSFER UPON DIVORCE OR BUSINESS ENTITY DISSOLUTION**

If this Agreement is in the name of 2 persons who are married or 2 or more persons who are owners of a Business Entity, this Section describes the policies to be applied upon a divorce or dissolution of the Business Entity. During the period when a divorce or dissolution action is pending, you must give us written notice and adopt one of the following methods of operation:

(a) **Relinquishment of Interest**. If a party relinquishes his or her right and interest in the Franchise Business and the other spouse or owner will continue to operate the Franchise Business, he or she must assign the interest to the other spouse or owner if the other spouse or owner has successfully completed Initial Training. This does not relieve that person relinquishing his or her interest of his or her personal obligations under this Agreement including the personal obligations of indemnification, confidentiality and noncompetition.

(b) **Joint Cooperation**. If the parties to a divorce or dissolution action agree that, despite their difficulties, they can continue to operate the Franchise Business jointly on a "business-as-usual" basis during the proceeding, they may do so.

(c) **Third Party General Manager**. If the parties in a divorce action or dissolution do not agree to operate under alternates (a) or (b), they must arrange to have a third party act as General Manager pursuant to Subsection 4.5(d) to operate the Franchise Business until the divorce or dissolution is completed.

(d) **Final Order or Judgment**. After a final order or judgment, the divorcing parties may continue to operate the Franchise Business. In this case, however, each person must enter a formal agreement defining their respective rights and obligations, file a signed copy with us, assign this Agreement to the new Business Entity, appoint a Designated Representative and comply with all other requirements for operating the Franchise Business as a Business Entity. Neither party is released from their obligations under this Agreement.

**SECTION 10.4 TRANSFER UPON DISABILITY OR DEATH**

(a) **Disability**. If you or any Franchise Owner/Designated Representative becomes disabled from any cause and is unable to perform his or her obligations under this Agreement, you will immediately provide and maintain a replacement General Manager satisfactory to us to perform your obligations. If you fail or are unable to provide and maintain a replacement General Manager, we may hire and maintain the replacement General Manager in accordance with Section 2.17. Upon a determination of permanent disability or the disability lasts for more than 3 months, your interests in the Franchisee (if you are a Business Entity) or in this Agreement must be sold within 12 months (or a shorter period if required by state law) to an approved transferee in accordance with the terms of this ARTICLE.

(b) **Death**. Upon your death if you are an individual, or the death of any Franchise Owner who owns more than 50% of the equity interests or a controlling interest in you if you are a

Business Entity, the authorized representative of the decedent will transfer the interest or all of the assets used in the operation of the Franchise Business to a third party that we approve within 6 months after death. Such transfers including transfers by inheritance are subject to the same conditions as any transfer under Subsection 10.2(b). In the case of inheritance, if the heirs are unable to meet the conditions of Subsection 10.2(b) or it will violate the in-term covenant not to compete in Subsection 13.1(a), the authorized representative of the decedent will sell the decedent's interest or assets to another party we approve within 6 months from the date of death subject to Subsection 10.2(b). If necessary, the authorized representative will, as soon as reasonably possible, provide and maintain a replacement General Manager satisfactory to us. If the authorized representative fails to provide and maintain a replacement General Manager, we may hire and maintain the replacement General Manager in accordance with Section 2.17.

**SECTION 10.5 OUR RIGHT OF FIRST REFUSAL**

(a) **Notice of Offer**. If you are a Business Entity and the Franchise Owners receive an offer from a third party to purchase 100% of the equity interests of the Business Entity ("Equity Interest Offer") or the Franchisee receives an offer from a third party to purchase, outside the ordinary course of business, a material part or all of the Business Assets of the Franchise Business ("Asset Offer"), then you must ensure that the person receiving the Interest Offer, or upon the Franchisee receiving the Asset Offer (and in either case the person receiving the third party's offer is referred to as the "Offeror") understands that, if the Offeror desires to accept the Equity Interest Offer or the Asset Offer, the Offeror first offer to sell to us the Interest or the Assets for the consideration and on the terms stated in the third party's written offer (the "Offer"). The Offeror must give us written notice that includes the name and address of the Offeree, the price and terms of the Offer, a copy of the signed purchase agreement and a franchise application completed by the Offeree, and any other information that we request in order to evaluate the Offer. We have the right of first refusal to purchase the Interest or the Assets by accepting the Offer within 30 days after our receipt of the Offer and all required information.

(b) **Acceptance of Offer**. If we give notice of acceptance of the Offer, then the Offeror will sell and we will purchase the Interest or the Assets in accordance with the terms of the purchase agreement made by the Offeree. However, if Offeror was obligated to pay a broker's commission on the sale to the Offeree, which brokerage commission is not due if we exercise our right of first refusal, the purchase price will be reduced by the amount of the brokerage commission that would have been paid by Offeror. If the Offeror is extending purchase money financing, our creditworthiness is deemed at least equal to the creditworthiness of the Offeree.

(c) **Unique Consideration**. If the purchase agreement provides for the Offeree’s full or partial payment to include consideration that is of a nature that we cannot reasonably duplicate (the “Unique Consideration”), we may substitute cash or stock (of we are a public company with registered shares) in lieu of the Unique Consideration. The parties will agree on the value of the Unique Consideration within 30 days after we received the purchase agreement and other information. If the parties cannot agree on the fair market value of the Unique Consideration, an independent appraiser the parties select will determine its fair market value. If the parties are unable to agree on an independent appraiser within 10 days, the parties will each select an independent appraiser, and the appraisers will select a third independent appraiser (the "Third Appraiser"). The Third Appraiser will determine the fair market value of the Unique Consideration. If either party fails to select an appraiser and give notice to the other of the identity of the appraiser within the 10-day period, the appraiser selected by the other party will be the appraiser. The parties will pay the cost of the appraisal equally.

(d) **Other Assets**. If the proposed sale includes assets that are not part of the operation of the Franchise Business, we may elect to purchase only the assets that comprise the Franchise Business. The parties will determine an equitable purchase price. If the parties cannot agree and allocate the purchase price to each asset included in the sale the value will be determined by the appraisal process described in Subsection 10.5(c).

(e) **Representations and Warranties**. We will purchase the Interest or Assets subject to all customary representations and warranties given by a seller of stock or assets. These representations and warranties include warranties as to ownership, condition and title to the Interest and/or Assets, absence of liens and encumbrances on the Interest and/or Assets, validity of contracts and the extent and natures of any liabilities of the Business Entity relating to the Interest purchased.

(f) **Closing**. Unless otherwise agreed to by the Offeror and us, the closing of the purchase of the Interest or the Assets will take place at our principal office no later than 60 days after you delivered the purchase agreement and other documents to us. The closing of any purchase where Unique Consideration is determined in accordance with Subsection 10.5(c) will occur within 15 days after the value of the Unique Consideration is determined. At any closing, the Offeror must deliver to us an assignment and other documents we request representing a transfer of ownership of the Interest or the Assets free of all liens, claims, pledges, options, restrictions, charges and encumbrances, in proper form for transfer and with evidence of payment by the Offeror of all applicable transfer taxes. We will simultaneously make payment of any cash consideration for the Interest or Assets by a cashier's check drawn on a financial institution or payment by the issuance of the shares less any amounts you then owe us, if any.

(g) **Waiver of Right**. If we do not accept the Offer, the Offeror is free, within the next 60 days after we have elected not to exercise our option, to sell the Interest or the Assets to the Offeree for the consideration and upon the terms specified in the Offer, subject to full compliance with all the terms of transfer required under this Agreement including those stated in Section 10.2. Before any sale of the Interest to the Offeree, the Offeree must deliver to us a written acknowledgment that the Interest purchased is subject to the terms of this Agreement and that the Offeree agrees to be bound to the terms of this Section on transferring the Interest, in the same manner as the Offeror. If the Offeror does not sell the Interest or the Assets within the 60-day period, then any later transfer by the Offeror of the Interest or the Assets is again subject to the restrictions stated in this Agreement.

(h) **Exceptions to Right**. If a proposed Offeree is a corporation wholly owned by the Offeror or to the Offeror's spouse or child, we will not have any right of first refusal. All transferees are subject to all of the restrictions on transfer of ownership imposed on the Offeror under this Agreement.

## ARTICLE 11 - DEFAULT AND TERMINATION

### SECTION 11.1 TERMINATION BY YOU

If you have substantially complied with this Agreement and we materially breach this Agreement, you may give us written notice of the nature of the breach. If we do not cure the breach within 30 days or, within a longer period if the nature of the breach is such that we cannot cure within 30 days, you have the right to terminate this Agreement. You may also terminate this

Agreement upon the mutual written agreement with us. Any termination of this Agreement by you other than as stated above is a wrongful termination by you.

### SECTION 11.2 TERMINATION BY US - WITHOUT NOTICE

(a) **Automatic Termination**. Subject to applicable law, this Agreement automatically terminates without notice to you or giving you an opportunity to cure on the date that any of the following Events of Default occurs:

(i) You damage our Business System through violation of federal, state or local environmental laws.

(ii) You make a general assignment for the benefit of creditors.

(iii) You file a petition in bankruptcy, a petition for involuntary bankruptcy is filed against you, you consent to the petition, or the petition is not dismissed within 45 days.

(iv) You are adjudicated as bankrupt, a bill in equity or other proceeding for the appointment of a receiver or other custodian for your Franchise Business or its assets is filed and you consent to it.

(v) If a court appoints a receiver or other custodian (permanent or temporary) of your Franchise Business or its assets, or proceedings for a composition with creditors under federal or any state law is filed by or against you.

(vi) A final judgment in excess of $25,000 remains unsatisfied for 30 days or longer (unless you file a *supersedeas* bond).

(vii) Execution is levied against the assets of your Franchise Business, or suit to foreclose any lien or mortgage against the assets of your Franchise Business is filed against you and is not dismissed within 45 days.

(b) **Notice to Us**. You will notify us within 3 days of the occurrence of any of the events described in Subsection 11.2(a).

### SECTION 11.3 TERMINATION BY US - AFTER NOTICE

We may terminate all rights granted to you under this Agreement, without affording you any opportunity to cure the default, effective immediately upon notice to you, if any of the following Events of Default occur:

(a) **Cessation**. You cease to do business at the Premises for more than 14 days in any calendar year or for more than 7 consecutive days, or lose the right of possession of the Premises after the expiration of all redemption periods and you have not satisfied the provisions of Section 1.5, if applicable.

(b) **Forfeiture**. You forfeit the right to do or transact business in the jurisdiction where your Franchise Business is located.

(c) **Health or Safety Violation**. You violate any health or safety law, ordinance or regulation, and you do not correct the violation within 3 days after written notice from us or a governmental authority. If you cannot reasonably cure in this time, then you must begin taking all reasonable steps to cure within this time and complete a cure in no more than 30 days after receipt of written notice.

(d) **Conviction**. You or the General Manager, or any officer, director, or Franchise Owner, are convicted of a felony, a crime of moral turpitude or any other crime or offense that we reasonably believe is likely to have a material adverse effect on the Business System, the Intellectual Property, the goodwill associated with the Intellectual Property, or our interest in any of the Intellectual Property, unless you immediately but legally terminate that individual's relationship with you.

(e) **Denial of Inspection**. You deny us the right to inspect your Franchise Business or to audit your records.

(f) **Moral Turpitude**. You engage in conduct that we determine is deleterious to or reflects unfavorably on you, the Franchise Business or the Business System in that the conduct exhibits a reckless disregard for the physical or mental well-being of employees, customers, our representatives or the public at large, including battery, assault, sexual harassment or discrimination, racial harassment or discrimination, alcohol or drug abuse or other forms of threatening, outrageous or unacceptable behavior.

(g) **Unauthorized Encumbrance or Transfer**. You attempt to encumber or transfer any rights or obligations under this Agreement (including transfers of any interest in a Business Entity that owns the Franchise Business) in violation of this Agreement, without our written consent.

(h) **Breach of Personal Covenants**. If any breach occurs under Sections 6.2 or 13.1 concerning confidentiality and non-competition covenants.

(i) **Falsehoods**. You knowingly maintain false records or knowingly submit any false reports to us.

(j) **Infringement**. You misuse or make any unauthorized use of the Intellectual Property or otherwise materially impair the goodwill associated with the Intellectual Property or our rights in the Intellectual Property.

(k) **Recurring Defaults**. You receive from us 3 or more Notices of Default for the same or similar defaults during any 12 consecutive-month period, even if all defaults were cured.

### SECTION 11.4 TERMINATION BY US - AFTER NOTICE AND RIGHT TO CURE

(a) **Health or Safety Violation**. If a default under this Agreement occurs that violates any health safety or sanitation law or regulation, violates any system standard as to cleanliness, health and sanitation, or if the operation of the Franchise Business presents a health or safety hazard to your customers or to the public: (i) you will have no more than 24 hours after we provide written notice of the default to cure the default; and (ii) if you fail to cure the default within the 24 hour period, this Agreement will terminate effective immediately on our issuance of written notice of termination.

(b) **Monetary Defaults**. With respect to monetary defaults, you have 10 days after delivery from us of a written Notice of Default specifying the amount due to pay us the full amount due plus interest, late charges and our attorneys' fees. Failure to remedy any monetary default within 10 days of receipt of Notice of Default is an Event of Default giving us the right to terminate this Agreement.

(c) **Other Non-Monetary Defaults**. With respect to non-monetary defaults, except as otherwise provided in Section 11.2 and 11.3, you have 30 days after delivery from us of a written Notice of Default specifying the nature of the default and what steps you must take to remedy any default. You must timely provide evidence of cure satisfactory to us. If you fail to cure any default within that time (or any longer time required by applicable law), you have committed an Event of Default giving us the right to terminate this Agreement. In addition to the Events of Default specified in Sections 11.2 and 11.3, it is an Event of Default if you fail to comply with any requirement imposed by this Agreement, as it may be revised or supplemented by the HEW Intranet/HEW Operations Manual. You have the burden of proving that you properly and timely cured any default, to the extent we permit a cure under this Agreement.

(d) **Cessation of Services**. During a cure period, we reserve the right to refuse to provide services or products to you without our being in default of this Agreement.

## ARTICLE 12 - YOUR OBLIGATIONS UPON TERMINATION DUE TO YOUR DEFAULT OR ON NONRENEWAL

Upon our termination of this Agreement due to your default or upon the expiration and nonrenewal of the Agreement, the Sections of this ARTICLE apply to the parties' rights and obligations.

### SECTION 12.1 CEASE OPERATION OF THE FRANCHISE BUSINESS

You will immediately cease operating the Franchise Business. You will not, directly or indirectly, use any of the Intellectual Property. You will not represent yourself as a present or former Franchisee of us. You must not continue to associate yourself with the Intellectual Property or use the Business System. You will immediately cease using all stationery, signage and other materials containing the Intellectual Property. You will also immediately cease using all telephone numbers for the Franchise Business. You authorize us to take whatever actions are necessary to comply with this Section and in accordance with the Telephone Number and Directory Advertising and Assignment Agreement, the form of which is included as Exhibit M to the FDD. You must cease using our Website. You must cease using any URL and Internet addresses used for your Franchise Business that we do not own and immediately transfer to us the URL and Internet addresses. You must return to us all software, disks, tapes and other magnetic storage media we provided to you in good condition (reasonable wear and tear excepted). You must delete all software and applications from all memory and storage devices.

### SECTION 12.2 PAYMENT OF OUTSTANDING AMOUNTS

We will retain all fees paid under this Agreement except for refunds expressly required in this Agreement. You must pay to us: (a) all unpaid Service Fees, License Fees and Advertising Contributions: (b) all amounts owed for products or services you purchased from us; (c) all payments we paid to Designated Suppliers and Approved Suppliers on your behalf and to the Landlord to cure your default under the Lease; and (d) all other amounts owed to us within 10 days after the effective date of the termination, or any later dates as we determine that amounts are due to us. You must also pay all Affiliates, Designated Suppliers, Approved Suppliers and other creditors the amounts you owe to them.

### SECTION 12.3 DISCONTINUANCE OF USE OF TRADE NAME

You must immediately cancel any fictitious, trade or assumed name registration that contains our trademark, trade name or service mark or colorable imitation of our trademark, trade name or service mark. You will furnish us with evidence of compliance with this obligation within 30 days after our termination or the expiration of this Agreement. If you fail to cancel, you appoint us as your attorney-in-fact to do so.

### SECTION 12.4 OUR OPTION TO PURCHASE CERTAIN ASSETS USED IN YOUR FRANCHISE BUSINESS

(a) **Option to Purchase**. We have the option to purchase from you all the Assets used in your Franchise Business by giving you written notice within 30 days from the date of expiration or termination. We have the unrestricted right to assign this option to purchase. We are entitled to all customary warranties given by a seller of a business, including: (i) ownership, condition and title to the assets; (ii) the absence of liens and encumbrances on the assets; and (iii) validity of contracts and liabilities, inuring to us or affecting the assets, contingent or otherwise. The purchase price for the Assets is their respective fair market value, determined as of the effective date of purchase, in a manner consistent with reasonable depreciation of your leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and other depreciable assets of your Franchise Business. The purchase price will take into account the termination of the Franchise granted under this Agreement and will not contain any factor or increment for any trademark, service mark or other commercial symbol used in the operation of your Franchise Business.

(b) **Fair Market Value**. The parties will agree on the fair market value within 30 days after your receipt of our notice exercising our option. Absent agreement, within 10 days thereafter, the parties will select an independent appraiser to determine the fair market value. If the parties are unable to agree on the appraiser, the parties will each select an appraiser, and the 2 appraisers will select a third independent appraiser (the "Third Appraiser"). The Third Appraiser will determine the fair market value. If either party fails to select timely an appraiser, the appraiser selected by the other party will select the Third Appraiser. You will give the Third Appraiser full access to your Franchise Business, the Premises and your records during normal business hours to conduct the appraisal. The parties will pay the Third Appraiser's costs equally.

(c) **Closing**. We will pay the purchase price in cash at the closing of the purchase. The closing will take place within 90 days after your receipt of our notice of exercise. At the closing, you will deliver instruments transferring to us good and merchantable title to the Assets purchased, free and clear of all liens and encumbrances (other than liens and security interests assumable and acceptable to us) with all transfer taxes paid. If you cannot deliver clear title to all of the Assets, or if there are other unresolved issues, the closing of the sale will be in escrow. The parties will comply with all applicable legal requirements, including the bulk sales provisions of the Uniform Commercial Code of the state where your Franchise Business is located, if any, and the bulk sales provisions of any applicable tax laws and regulations. You will pay all tax liabilities incurred in the operation of your Franchise Business before or at the closing of the purchase. We have the right to set off against and reduce the purchase price by all amounts you owe to us, and the amount of any encumbrances or liens against the assets or any obligations we assume. If we elect to assume the lease of the Premises, you will vacate and deliver possession upon demand.

(d) **Interim Management**. If we exercise the option to purchase, pending the closing of the purchase, we have the right to appoint a General Manager to maintain the operation of your Franchise Business under Section 2.18. Alternatively, we may require you to close your Franchise Business until the closing without removing any assets if the landlord consents. You will maintain in force all insurance policies required in this Agreement until the date of closing.

(e) **Lease**. If you lease the Premises, we agree to use reasonable efforts to either assume the lease, or effect a termination of the lease and enter into a new lease. If we assume your lease, we will indemnify you from any ongoing liability under the lease that occurs after the date we assume possession of the Premises. If you own the Premises, upon purchase of the Assets, you will enter into a new lease with us. The lease will be on terms comparable for similarly leased commercial properties in the area for a term of at least 10 years and for a rental equal to the fair market rental value of the Premises. The Appraiser (selected in the manner described above) will determine the rental value, if the parties cannot agree on the fair market rental value of the Premises.

### SECTION 12.5 DISTINGUISHING OPERATIONS

(a) **Non-Competitive Business**. If we do not exercise our option under Section 12.4 and you desire to remain in possession of the Premises, you may only operate a business that does not violate your covenant not to compete. You must make all modifications to the Premises immediately upon termination of this Agreement as necessary to distinguish the appearance of the Premises from that of other Franchise Businesses.

(b) **De-Identification**. You must immediately remove all identifying architectural superstructure and signage on, about or in the Premises bearing the name or logos of Hard Exercise Works (or any name or logo similar to Hard Exercise Works), in the manner we specify. You will hold all property belonging to us for delivery to us, at our expense, upon request. Any signage that you are unable to remove within 1 Business Day of the termination or expiration of this Agreement you must completely cover the signage until the time of their removal. If you fail or refuse to comply with this obligation, we have the right to enter the Premises, without being guilty of trespass or any other tort for the purpose of removing the signage and storing them at another location, at your reasonable expense (for signage not owned by us) payable by you on demand.

(c) **Notice to Customers**. Until you complete all modifications and alterations required by this Section, you must maintain a conspicuous sign at the Premises in a form we specify stating that your business is no longer associated with our Business System. You also must advise all customers or prospective customers calling your new telephone number that your new business is no longer associated with our Business System.

(d) **Our Entry Right**. If you fail or refuse to comply with the requirements of this Section, we have the right to enter upon the Premises to make all changes as may be required at your expense and at your sole risk. We have no responsibility for any actual or consequential damages to your property or others, and without liability for trespass or other tort or criminal act. You agree that your failure to make these alterations will cause us irreparable injury.

### SECTION 12.6 UNFAIR COMPETITION

You agree, if you continue to operate or later begin to operate any other business, you will not engage in any unfair competition as that term has been interpreted under 15 U.S.C. § 1125(a), commonly known as Subsection 43(a) of the Lanham Act or under Florida law including trademark infringement, passing off, false advertising, misappropriation and unfair competition. This Section does not relieve, directly or indirectly, your obligations under ARTICLE 13.

### SECTION 12.7 RETURN OF MATERIALS

You will immediately deliver to us all Confidential Information including the HEW Intranet/HEW Operations Manual in your possession or control, and all copies and any other forms of reproductions of these materials. You agree that all these materials are our exclusive property.

### SECTION 12.8 OUR PURCHASE RIGHTS OF ITEMS BEARING INTELLECTUAL PROPERTY

Even if we do not exercise our option under Section 12.4, we have the option (but not the obligation), upon notice to you within 30 days after termination or expiration, to purchase any assets used in the Franchise Business bearing the Intellectual Property. This includes signs, advertising materials, supplies, inventory or other items at a price equal to the lesser of your cost or fair market value (less a 20% restocking charge). If the parties fail to agree on fair market value, the parties will use the same appraisal process described in Subsection 12.4(b). If we elect to exercise our option to purchase, we will have the right to set off all amounts due from you under this Agreement and ½ the cost of the Third Appraisal, if any, against any payment to you. If you fail to sign and deliver to us the necessary documents to transfer good title to these assets, we are entitled to apply to any court of competent jurisdiction for a mandatory injunction and specific performance to compel you to comply with our rights granted in this Agreement. You will pay to us all of the expenses, including our reasonable attorneys' fees relating to our exercise of this option or we will credit these expenses against the purchase price.

### SECTION 12.9 LIQUIDATED DAMAGES FOR PREMATURE TERMINATION

If we terminate this Agreement due to your default or you terminate this Agreement without cause, in addition to all amounts you owe us at the time of termination, you will also pay us a lump sum payment (as liquidated damages for causing the premature termination of this Agreement and not as a penalty) equal to the total of all Service Fees for: (i) the 36 calendar months of operation of your Franchise Business preceding the termination; (ii) the period of time your Franchise Business has been in operation preceding the termination, if fewer than 36 calendar months, projected on a 36-calendar-month basis; or (iii) any shorter period that equals the unexpired period of the Initial Term. The parties agree that a precise calculation of the full extent of the damages that we will incur on termination of this Agreement as a result of your default is difficult to calculate and the parties desire certainty in this matter. The parties agree that the lump sum payment is reasonable in light of the damages for premature termination that we will incur in this event. You are also liable for pre-judgment and post-judgment interest and our attorneys' fees and costs. Other than a claim for monetary damages or lost profits, this payment is not exclusive of any other remedies that we have including a right to injunctive relief. This payment does not relieve you from your obligations that survive the termination or expiration of this Agreement including the obligations of indemnification, confidentiality and non-competition.

## ARTICLE 13 - YOUR INDEPENDENT COVENANTS

### SECTION 13.1 DIVERSION OF BUSINESS; COMPETITION AND INTERFERENCE WITH US.

(a) **Covenant Not to Compete.** You agree that we would be unable to protect the Confidential Information against unauthorized use or disclosure and would be unable to encourage a free exchange of ideas and information among the Franchisees if we permit Franchisees to hold interests in any Competitive Business. You covenant that during the Initial Term or a Renewal Term and for 24 months after the termination of this Agreement due to your default, for 24 months after the expiration and non-renewal of this Agreement, or for 24 months after you transfer your Franchise Business, except as we otherwise approve in writing, you and your officers, agents, servants, employees, and all others in active concert or participation with you, will not, directly or indirectly:

A. Solicit, or otherwise attempt to induce by combining or conspiring with another person, or attempting to do so, or in any other manner influence any Business Associate to terminate or modify his, her or its existing or prospective business relationship with us or to compete against us;

B Be involved with a Competitive Business as owner, officer, director, employee, agent, lender, landlord, broker, consultant, franchisee or any other capacity (this restriction will not apply to a 5% or less beneficial interest in a publicly-held corporation) having a location within 10 miles of the Premises or within 10 miles of any Franchised Unit or Company-Owned Unit then in operation or under contract; or

C. Interfere with, disturb, disrupt, harm or attempt to diminish any relationships, agreements or understandings, written or oral, decrease or otherwise jeopardize our business or the business of any of our Franchisees or any other Hard Exercise Works locations, customers, employees, shareholders, suppliers, suppliers, lenders or creditors including inducing employees to leave, ceasing doing business with, or diminish his, her or its relationship with us or our Franchisees.

(b) **Section 542.335 of the Florida Statutes**. You, your Franchise Owners and your guarantors agree that we have a legitimate business interest justifying the enforcement of this restrictive covenant, consistent with Section 542.335 of the Florida Statutes, which legitimate business interest includes:

(i) Substantial relationships with employees and valuable confidential business or professional information that does not otherwise qualify as trade secrets;

(ii) Substantial relationships with specific prospective or existing customers and suppliers;

(iii) Customer and Customer goodwill associated with:

1. An ongoing fitness training business;
2. A specific geographic location.
3. A specific marketing and trade area;
4. A specific marketing plan to prospects;
5. A list of subcontractors;

6. A list of 1099 Recipients; and
7. A list of customers.

(c) **Reasonableness of Covenant.** You agree that the length of the term and geographical restrictions contained in this Section are fair and reasonable and are not the result of overreaching, duress or coercion of any kind. You agree that your full, uninhibited and faithful observance of each of the covenants in this Section will not cause you any undue hardship, financial or otherwise. The enforcement of each of the covenants in this Section will not impair your ability to obtain employment commensurate with your abilities and on terms fully acceptable to you or otherwise to obtain income required for the comfortable support of yourself and your family, and the satisfaction of your creditors. You agree that your special knowledge of the business operated by a Franchise Businesses (and anyone acquiring this knowledge through you) would cause us and our Franchisees serious injury and loss if you (or anyone acquiring this knowledge through you) were to use this knowledge to the benefit of a competitor or were to compete with us or any of our Franchisees.

(d) **Tolling.** You agree that the 24-month period will be tolled for any period during which you are in breach of the covenants or any other period during which we seek to enforce this Agreement.

(e) **Court Modification**. If any court rules that the time, territory, scope or any other provision in this Section is an unreasonable restriction upon you, you agree that these provisions are not rendered void, but apply as to time, territory, scope or to any other extent that the court determines or indicates are reasonable restrictions under the circumstances involved.

**SECTION 13.2 INDEPENDENT COVENANTS; THIRD PARTY BENEFICIARIES**

(a) **Independent Covenants**. The parties agree that the covenants in this ARTICLE are independent of any other provision of this Agreement. You agree that the existence of any claim you may have against any affiliate or us under this Agreement or otherwise, is not a defense to our enforcement of these covenants.

(b) **Third Party Beneficiaries**. The parties agree that all other Franchisees are third party beneficiaries of the terms of Section 13.1. Another Franchisee has the right to enforce these covenants at its expense without our joinder or participation, if we are unwilling or unable to enforce these covenants, but without any liability to the Franchisee on our part.

## ARTICLE 14 - INDEPENDENT CONTRACTOR AND INDEMNIFICATION

**SECTION 14.1 INDEPENDENT STATUS**

You are an independent contractor. Nothing in this Agreement is intended to designate either party an agent, legal representative, subsidiary, joint venture partner, joint employer, partner, employee, affiliate or servant of the other party for any purpose, unless expressly provided in this Agreement to the contrary. The parties agree that nothing in this Agreement authorizes either party to make any agreement, warranty or representation on behalf of the other party, nor to incur any debt or other obligation in the other party's name. You will take all affirmative action we request to indicate that you are an independent contractor, including placing and maintaining a plaque in a conspicuous place within the Premises and a notice on all stationery, business cards, sales literature, contracts and similar documents that states that your Franchise Business is independently owned and operated by you. The content of any plaque and notice is subject to our written approval.

### SECTION 14.2 INDEMNIFICATION

(a) **Our Indemnification**. You are responsible for all losses or damages from contractual liabilities to third persons from the possession, ownership and operation of your Franchise Business and for all claims for damages to property or for injury, illness or death of persons directly or indirectly resulting from your or your employees' and agents' action or inaction. You indemnify us and hold us harmless from all costs, losses and damages (including reasonable attorneys' fees and costs, even if incident to appellate, post-judgment or bankruptcy proceedings) from claims brought by third parties involving your ownership and/or operation of your Franchise Business, unless caused by our negligence or intentional misconduct. This indemnity obligation continues in full effect after the expiration, transfer or termination of this Agreement. We will notify you of any claims. You have the opportunity to assume the defense of the matter. If you fail to assume the defense, we may defend the action in any manner we deem appropriate. You will pay to us all costs, including attorneys' fees that we incur in effecting the defense, in addition to any sum that we may pay by any settlement or judgment against us. Our right to indemnity under this Agreement arises and is valid regardless of any joint or concurrent liability imposed on us by statute, ordinance, regulation or other law.

(b) **Your Indemnification**. We fully protect, indemnify and defend you and hold you harmless from and against any and all claims, demands, damages and liabilities of any nature whatsoever arising in any manner, directly or indirectly, out of or in connection with or incidental to the operation of our Company-Owned Outlets (regardless of cause or any concurrent or contributing fault or negligence by you) or any breach by us or our failure to comply with the terms and conditions of this Agreement.

## ARTICLE 15 - REPRESENTATIONS AND WARRANTIES

### SECTION 15.1 OUR REPRESENTATIONS

We make the following representations and warranties to you that are true and correct upon the signing of this Agreement:

(a) **Organization**. We are a limited liability company duly organized, validly existing and in good standing under the laws of the State of Florida.

(b) **Authorization**. We have the company power to sign, deliver, and carry out the terms of this Agreement. We have taken all necessary action for proper authorization. This Agreement has been duly authorized, signed and delivered by us and is our valid, legal and binding agreement and obligation in accordance with this Agreement, except as may be limited by applicable bankruptcy, insolvency, reorganization and other laws and equitable principles affecting creditors' rights generally.

(c) **No Violation**. Our performance of our obligations under this Agreement will not result in: (i) the breach of any term of any contract or agreement to which we are a party to or that we are bound by, or be an event that, with notice, lapse of time or both, would result in a breach or event of default; or (ii) the violation by us of any statute, rule, regulation, ordinance, code, judgment, order, injunction or decree.

### Section 15.2 Your Representations

You make the following representations and warranties to us that are true and correct upon signing this Agreement and throughout the Initial Term:

(a) **Authorization**. You have the power to sign, deliver, and carry out this Agreement. You have taken all necessary action for proper authorization. This Agreement has been duly authorized, signed and delivered by you and is your valid, legal and binding agreement and obligation in accordance with this Agreement, except as may be limited by applicable bankruptcy, insolvency, reorganization and other laws and equitable principles affecting creditors' rights generally.

(b) **No Violation**. The performance by you of your obligations under this Agreement will not result in: (i) the breach of any term of, or be a default under, any term of any contract, agreement or other commitment to which you are a party to or you are bound by, or be an event that, with notice, lapse of time or both, would result in a breach or event of default; or (ii) the violation by you of any statute, rule, regulation, ordinance, code, judgment, order, injunction or decree.

(c) **No Speculative Intent**. You are not obtaining the Franchise Business for speculative or investment purposes and have no present intention to sell or transfer or attempt to sell or transfer any part of this Agreement or the assets comprising the Franchise Business.

(d) **True Copies**. Copies of all documents you furnished to us are correct copies of the documents, including all amendments or modifications, and contain no misleading or incorrect statements or material omissions.

### Section 15.3 Receipt of Franchise Disclosure Document

You acknowledge you have received from us our Franchise Disclosure Document for the state of your residence and where your Franchise Business will be located containing all exhibits to the Franchise Disclosure Document at least 14 days before: (a) you signed this Agreement and any other agreement with us imposing a binding obligation on you; and (b) your paying any consideration to us for the sale or proposed sale of a Franchise.

### Section 15.4 Receipt of Completed Franchise Agreement

You also acknowledge that you have received from us a completed copy of this Agreement and all related agreements, containing all material terms, (except for the date, signatures and any minor matters not material to the agreements), with all blanks filled in, at least 7 days before you signed this Agreement.

### Section 15.5 Acknowledgment of Risk

You agree to the following:

**(A) YOUR SUCCESS IN OWNING AND OPERATING YOUR FRANCHISE BUSINESS DEPENDS ON MANY FACTORS INCLUDING YOUR INDEPENDENT BUSINESS ABILITY. NO REPRESENTATIONS OR PROMISES, EXPRESS OR IMPLIED, HAVE BEEN MADE BY US OR ANY OF OUR EMPLOYEES, BROKERS OR REPRESENTATIVES, TO INDUCE YOU TO ENTER INTO THIS**

**AGREEMENT EXCEPT AS INCLUDED IN THIS AGREEMENT. WE DO NOT AUTHORIZE ANY OFFICER, DIRECTOR, EMPLOYEE, BROKER OR OTHER REPRESENTATIVE TO DO OTHERWISE.**

**(B) YOU AGREE THAT, IN ALL OF YOUR DEALINGS WITH US, OUR OFFICERS, DIRECTORS, EMPLOYEES, BROKERS (IF ANY) AND OTHER REPRESENTATIVES, ARE ACTING ONLY IN A REPRESENTATIVE CAPACITY AND NOT IN AN INDIVIDUAL CAPACITY. YOU AGREE THAT THIS AGREEMENT AND ALL BUSINESS DEALINGS BETWEEN YOU AND ANY INDIVIDUALS AS A RESULT OF THIS AGREEMENT ARE ONLY BETWEEN YOU AND US AND NOT THE INDIVIDUALS.**

**(C) IN ADDITION, WE MAKE NO WARRANTY AS TO YOUR ABILITY TO OPERATE THE FRANCHISE BUSINESS IN THE JURISDICTION WHERE YOU INTEND TO OPERATE YOUR FRANCHISE BUSINESS. IT IS YOUR OBLIGATION TO SEEK OR OBTAIN ADVICE OF COUNSEL SPECIFICALLY ON THIS ISSUE. IF A GOVERNMENTAL BODY ENACTS ANY LEGISLATION OR REGULATION THAT PREVENTS YOU FROM OPERATING YOUR FRANCHISE BUSINESS, WE ARE NOT LIABLE TO YOU FOR ANY DAMAGES. WE DO NOT HAVE TO INDEMNIFY YOU OR RETURN TO YOU ANY MONIES WE RECEIVED FROM YOU.**

## ARTICLE 16 - TERM

### SECTION 16.1 INITIAL TERM

The Initial Term of this Agreement is 10 years from the Agreement Date, unless sooner terminated under ARTICLE 11. The conditions to obtain a Renewal Franchise Agreement at the expiration of this Agreement are those stated in Section 16.2.

### SECTION 16.2 OPTION TO OBTAIN RENEWAL FRANCHISE AGREEMENT

(a) **Evergreen Renewal**. We grant you unlimited options to obtain a Renewal Franchise Agreement for a term of 10 years each. You must satisfy all of the following conditions before the expiration of the Initial Term or a Renewal Term, unless we specified another time below.

(i) You must give us written notice of your intention to exercise the option at least 6 months before but not more than 12 months before the end of the Initial Term or a Renewal Term.

(ii) You cannot be in default of any provision of this Agreement or any other agreement between you and us at the time of renewal.

(iii) You have attained during the last 12 months of the Initial Term or a Renewal Term, Gross Revenues of not less than 75% of the Network median (including both Company-Owned Units and Franchised Units) over the same period and receive an average score of at least 85% on audits and mystery shopping at your Franchise Business over the last 3 years.

(iv) Within 30 days before the end of the Initial Term or a Renewal Term, you must sign and deliver to us a Renewal Franchise Agreement. The Renewal Franchise Agreement may have material business terms that are different from the terms of this Agreement. We are not obligated to provide any initial or other pre-opening obligations and you are not obligated to perform any pre-opening duties contained in the Renewal Franchise Agreement that apply only to new franchisees. You must also sign all other agreements ancillary to the Renewal Franchise Agreement.

(iv) You will not pay another Initial Franchise Fee but you will pay to us the Renewal Fee described in Subsection 3.1(f);

(v) You and your shareholders (members), and your directors and officers (General Managers) must sign a general release, in the form attached as Exhibit T to the FDD, releasing any claims you may have against us and/or our subsidiaries and affiliates, and their respective officers, directors, agents and employees.

(vi) You must be entitled to continue to occupy the Premises for the entire Renewal Term including renewal rights or obtain our approval of a new location for the Franchise Business within the Exclusive Territory, but not within the exclusive territory of a Company-Owned Unit or Franchised Unit, in accordance with our relocation procedures stated in Section 1.6.

(vii) You must renovate and modernize the Premises if they do not conform to our then-current Trade Dress requirements, if we require.

(b) **Our Right Not to Renew**. If you have not met all of the conditions stated in Subsection 16.2(a), or if you have received 4 or more notices of default during the Initial Term, even if you cured the defaults, we may elect not to enter into a Renewal Franchise Agreement. Within 5 days after you receive our written notice that we have elected not to enter into a Renewal Franchise Agreement, you may request our permission for you to sell your Franchise Business. You will then have 180 days to sell the Franchise Business, subject to our right of first refusal. This notice will extend the Initial Term, as necessary, to the end of the 180-day period, unless we have other grounds to terminate the Initial Term). This transfer must comply with the provisions of Subsection 10.2(b) and all the other applicable terms of this Agreement. During this period, you must continue to operate your Franchise Business in accordance with the terms of this Agreement.

### SECTION 16.3 REINSTATEMENTS AND EXTENSIONS

If any termination or expiration of the Initial Term would violate any applicable law, we may reinstate or extend the Initial Term to comply with the law for the duration provided by us in a written notice to you, without waiving any of our rights under this Agreement or otherwise modifying this Agreement.

## ARTICLE 17 - DISPUTE RESOLUTION

This is a long-term business relationship. If a dispute arises at any time between the parties relating to this Agreement, the parties will follow the dispute resolution procedures set forth in this ARTICLE.

### SECTION 17.1 INFORMAL DISPUTE RESOLUTION

Except for the matters involving the remedies in Section 17.4, the parties will attempt in good faith to meet in person to discuss and resolve the dispute. The party requesting the meeting will send a written notice to the other party detailing what the party believes to be the nature of the dispute including the facts and the provisions in this Agreement on which the dispute is based-and how the dispute may be satisfactorily resolved. The meeting will take place at our headquarters (currently Jupiter, Florida). At the meeting, each party will be represented by a person authorized to conclusively resolve the dispute on that party's behalf and to bind that party to any agreed-upon resolution. Discussions and exchanges of information and materials, if any, are confidential and must be treated as part of compromise and settlement negotiations for purposes of applicable rules of evidence. If the parties resolve the dispute at the meeting, they shall immediately formalize that resolution by an agreement that they both sign at the time. This step must occur before either party can file a request for mediation. Any party that fails to attend or participate in the meeting, within 30 days of written request, may not begin any mediation under Section 17.2 to resolve the dispute. If the parties cannot informally resolve the dispute, the party seeking formal resolution of the dispute must, before it may commence or initiate a legal or administrative proceeding relating to the dispute, submit the dispute to nonbinding mediation as described in Section 17.2.

**SECTION 17.2 MEDIATION**

Except for the matters involving the remedies in Section 17.4, if the parties have failed to informally resolve the dispute under Section 17.1, the dispute initiating party must submit the dispute to non-binding mediation with the other party before a mediator that is a member of the FORUM Arbitration, Mediation International ("FORUM") or another mutually agreeable mediator within 30 days after informal dispute resolution has concluded. Mediation must take place before the dispute initiating party can file any demand for arbitration or complaint. Both parties will sign a confidentiality agreement reasonably satisfactory to both parties. The parties will conduct the mediation in Jupiter, Florida. Each party will bear his, her or its own costs for the mediation and each party will pay 50% of FORUM'S fees and the mediator's fee. If a dispute initiating party refuses to mediate the dispute, the dispute initiating party cannot file any demand for arbitration or complaint involving the matter in dispute. If the other party refuses to mediate, the other party has waived mediation and the dispute initiating party may immediately file a demand for arbitration or a complaint.

**SECTION 17.3 ARBITRATION**

(a) **FORUM** . Except as specifically modified by this ARTICLE and matters involving the remedies in Section 17.4, any controversy or claim under this Agreement, including any claim that this Agreement, or any part of this Agreement, is invalid, illegal or otherwise voidable or void, including any claim of fraud in the inducement, the dispute must be submitted by the dispute initiating party to arbitration before FORUM or any other mutually agreeable arbitration association to be resolved by a single arbitrator.

(b) **Enforceability**. The provisions of this Section are independent of any other covenant or provision of this Agreement. If a court of competent jurisdiction determines that any provision is unlawful in any way, that court will modify or interpret the provisions to the minimum extent necessary to have the provisions comply with the law. All issues of the arbitrability and the enforcement of this agreement to arbitrate are governed by the Federal Arbitration Act, the federal common law of arbitration and the laws of the State of Florida including the Revised Florida Arbitration Code and Florida's statutes of limitation.

(c) **Venue**. The parties agree that any state laws attempting to prohibit arbitration or void out-of-state forums for arbitration are preempted by the Federal Arbitration Act and the arbitration will be conducted as provided in Section 17.5.

(d) **<u>Injunctive Relief</u>**. Either party may file for injunctive relief through Forum in accordance with its rules to protect the effectiveness of the arbitration proceeding and promote the fair and expeditious resolution of the controversy.

(f) **<u>No Group or Class Action Arbitration</u>**. Only your individual claims may be raised in arbitration. There will be no group or class action arbitration.

(f) **<u>Joinder</u>**. All parties who may be legally responsible agree to participate in the arbitration and the parties must join all potential legal claims in the arbitration forum.

(g) **<u>Rules</u>**. The rules governing the conduct of the arbitration proceedings are consistent with generally prevailing standards of due process.

(h) **<u>Panel</u>**. The panel from which the parties choose the arbitrator must be comprised of persons knowledgeable in the franchise industry and who have demonstrated a capability for unbiased decision.

(i) **<u>Limited Discovery</u>**. The arbitrator will permit limited discovery consistent with due process and the arbitrating organization's discovery rules and the discovery plan approved by the arbitrator.

(j) **<u>Preliminary Hearing</u>**. For claims in excess of $75,000, before the actual hearing on the merits, either party may elect to have the arbitrator conduct a preliminary hearing. At this hearing, each party may present testimony and other evidence. Either party may submit briefs including a brief stating their legal theories and the applicable statutory or common law, and the methods of measuring damages relating to the controversy or claim.

(k) **<u>Hearing</u>**. The actual hearing on the merits must occur within 6 months of the date of the filing of the arbitration proceeding.

(l) **<u>Opinion; Final Award</u>**. The arbitrator must issue a reasoned written award on the merits within 30 days of the completion of the hearings on the merits. The arbitrator has the right to award or include in the award any relief with he or she deems proper in the circumstances, including money damages, liquidated damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, in accordance with this provision.

(m) **<u>Final Judgment</u>**. The court is vested with jurisdiction over the arbitration award immediately upon the entry of the award. After 30 days from the issuance of the arbitration award, if there is no appeal, either party may request that the court issue a final judgment based on an arbitration award in any court having competent jurisdiction. The judgment is binding, final and non-appealable.

(n) **<u>Appeal</u>**. If any party to arbitration wishes to appeal any final award (there will be no appeal of interim awards or other interim relief), the party may appeal, within 30 days of the final award, to a 3-arbitrator panel appointed by the same organization that conducted the arbitration. The issues on appeal will be limited to the proper application of the law to the facts found at the arbitration hearing and will not include any trial *de novo* or other fact-finding function. The party requesting the appeal must pay all expenses charged by the arbitration appeal panel and/or arbitration organization in the appeal and must post any bond deemed appropriate by the arbitration organization or arbitration appeal panel. In addition, a party requesting appeal that does not prevail on the appeal will pay the attorneys' fees and other costs that the other party incurred in responding to the appeal.

(o) **Failure to Pay Costs**. If a party fails to pay its, his or her share of the costs of arbitration, the arbitrator may enter an award against that non-paying party as to liability but not as to damages. The arbitrator will conduct a special hearing for the paying party on the issue of damages. The other party may attend the hearing.

(p) **Failure to Appear**. If either party fails to appear at any properly noticed arbitration proceeding, an award on liability may be entered against that party by default or otherwise. The arbitrator will conduct a special hearing for the appearing party on the issue of damages. The other party may attend the hearing.

(q) **Self-Execution**. This arbitration provision is self-executing and remains in full effect after the expiration, transfer or termination of this Agreement.

### SECTION 17.4 EXCEPTIONS TO MEDIATION AND ARBITRATION; EQUITABLE RELIEF

(a) **Exceptions**. The obligations set forth in Sections 17.1 to 17.3 are not binding on either party for: (i) claims involving the Intellectual Property; (ii) claims involving any lease of real property between the parties or their related entities; (iii) your obligations upon the termination, transfer or expiration of this Agreement; (iv) any encumbrances or transfers restricted under this Agreement concerning interests in the Franchisee, the Franchise Business and this Agreement; (v) matters involving actions that may impair the goodwill associated with the Intellectual Property; (vi) matters involving claims of danger, health or safety involving the Franchise, the employees, customers or the public; or (vii) requests for restraining orders, injunctions or other procedures in a court of competent jurisdiction to obtain specific performance when deemed necessary by any court to preserve the *status quo* or prevent irreparable injury pending resolution by mediation or arbitration of the actual dispute between the parties.

(b) **Injunction**. You recognize that your Franchise Business is just one of a large number of businesses identified by the Intellectual Property in selling to the public the products and services associated with the Intellectual Property. The failure on the part of a Franchisee to comply with the terms of the Franchise Agreement is likely to cause irreparable damage to us and damages at law would be an inadequate remedy. Upon your breach or threatened breach of any of the terms of this Agreement concerning any matters referenced in Subsection 17.4(a), we are entitled to seek an injunction restraining the breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and costs incurred in obtaining equitable relief. This equitable remedy is in addition to all remedies that we have by virtue of your breach of this Agreement. We are entitled to seek this relief without the posting of any bond or security or, if a bond is required by the temporary arbitrator appointed by Forum or a court of competent jurisdiction, the parties agree that the sum of $1,000 is a sufficient bond.

### SECTION 17.5 VENUE AND JURISDICTION

(a) **Venue**. The parties irrevocably and unconditionally: (i) agree that any informal dispute meetings, mediation, arbitration or suit, action or legal proceeding involving your Franchise

Business or this Agreement will be conducted in the county where our principal place of business is then located or may be brought in the District Court of the United States, in the district where our principal place of business is then located or, if this court lacks jurisdiction, the courts of record of the state and county where our principal place of business is then located; (ii) consent to the jurisdiction of each court in any suit, action or proceeding; (iii) waive any objection that he, she or it may have to the laying of venue of any suit, action or proceeding in any of these courts; and (iv) agree that service of any court paper may be effected on the party by mail at the last known address, as provided in this Agreement, or in any other manner as may be provided under applicable laws or court rules in the state where our principal place of business is then located. Our principal place of business is currently, Palm Beach County, Florida.

(b) **Jurisdiction.** The parties specifically agree that this Agreement requires systematic and continuous contact with the State of Florida or where our principal place of business is located. These contacts include the payment of fees in State of Florida, the supplying of financial and other information into the State of Florida, training and orientation and the performance of other obligations under this Agreement in the State of Florida. This exclusive choice of jurisdiction does not preclude the bringing of any action by the parties for the enforcement in any other appropriate jurisdiction of any judgment obtained in the State of Florida.

**SECTION 17.6 ENFORCEMENT COSTS**

(a) **Informal Dispute Resolution and Mediation Costs**. Each party will bear its, his or her own costs in engaging in informal dispute resolution. Each party will bear its, his or her own costs in any mediation except the filing fee and the fees to the mediator will be shared equally by the parties.

(b) **Arbitration Costs**. Each party will initially pay one-half of the costs of the filing fee and the fees for the arbitrator subject to reimbursement by the non-prevailing party to the prevailing party as determined by the arbitrator. If either party fails to pay its, his or her share of any arbitration fee or deposit, the other party who has paid its, his or her share may move for the arbitrator to issue an award on liability but the arbitrator will conduct a separate hearing to determine damages or other relief.

(c) **Prevailing Party**. If any arbitration or legal action is permitted and instituted under Sections 17.3 or 17.4, the Prevailing Party is entitled to recover reasonable pre-institution and post-institution attorneys' fees, court costs and all expenses even if not taxable as court costs (including all fees and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in the action or proceeding, in addition to any other relief that the party is entitled. Attorneys' fees include paralegal fees, administrative costs, investigative costs, costs of expert witnesses, court reporter fees, sales and use taxes, if any, and all other charges billed by the attorneys to the Prevailing Party.

**SECTION 17.7 GOVERNING LAW**

All disputes between the parties are governed by the Federal Arbitration Act, the federal common law of arbitration and the laws of the State of Florida including the Revised Florida Arbitration Code and Florida’s statutes of limitation.

SECTION 17.8 WAIVER OF PUNITIVE DAMAGES CLAIMS

**THE PARTIES WAIVE ALL RIGHT TO ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT UPON A DISPUTE BETWEEN THEM, EACH IS LIMITED TO THE RECOVERY OF ACTUAL DAMAGES HE, SHE OR IT SUSTAINS.**

SECTION 17.9 WAIVER OF JURY TRIAL

**THE PARTIES WAIVE THE RIGHT TO A TRIAL BY JURY OF ALL CLAIMS MADE BETWEEN THEM WHETHER EXISTING NOW OR IN THE FUTURE, INCLUDING ALL CLAIMS, DEFENSES, COUNTERCLAIMS, CROSS CLAIMS, THIRD PARTY CLAIMS AND INTERVENOR'S CLAIMS INVOLVING THE SALE, NEGOTIATION, SIGNING OR PERFORMANCE OF THE TRANSACTIONS INVOLVING THIS AGREEMENT.**

## ARTICLE 18 - DEFINITIONS

SECTION 18.1 DEFINITIONS

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

"**Advertising Contributions**" means the payments described in Subsection 3.1(d).

"**Advertising Rebates"** means the funds we received from purchases from the Brand Fund.

"**Agreement**" means this Hard Exercise Works Franchise Agreement, as it may be amended, supplemented or otherwise modified by the parties under Section 19.1.

"**Agreement Date**" means the date set forth on page 1 of this Agreement.

"**Approved Supplier**" means a supplier of a particular product or service, possibly among several other suppliers, that we have approved.

"**Brand Fund**" means the fund described in Section 7.5 into which Advertising Contributions described in Subsection 3.1(d) are deposited to purchase various advertising, marketing, and promotional materials.

"**Business Associate**" means any of our employees, officers, directors, agents, consultants, representatives, contractors, suppliers, distributors, franchisees or other business contacts.

"**Business Day**" means the period from 9:00 a.m. to 5:p.m Monday through Friday except for national holidays.

"**Business Entity**" means a corporation, limited liability company, general partnership, limited partnership or other Business Entity authorized or qualified by state law of the state in which it will own and operate the Franchise Business as the Franchisee.

"**Business Office**" means the office either at home or at commercial complex.

"**Business System**" means our business system including: uniform system for the establishment and operation of Hard Exercise Works Franchise, including a distinctive exterior and interior design, trade dress décor and color scheme; uniform standards, specifications, and procedures for operations; procedures for quality control; training and ongoing operational assistance; advertising and promotional programs; and other related benefits for use of Franchisee under the Marks, all of which we may change, improve and further developed from time to time for operating a Franchise Business.

"**Company-Owned Unit**" means a Hard Exercise Works business operated under the Business System and owned by us or any Affiliate or Predecessor.

"**Competitive Business**" means a business engaged, wholly or partially, directly or indirectly, in an instructional and educational exercise facility that offers nutrition management and fitness training or any other business in which we and our other franchisees are then engaged.

"**Computer System**" means the computer, printer and modem or other computer hardware you are must purchase in accordance with our specifications contained in the HEW Intranet/HEW Operations Manual.

"**Confidential Information**" means the HEW Intranet/HEW Operations Manual and other copyrighted materials made available to you contain confidential and proprietary information and are our trade secrets. We possesses and will develop and acquire confidential and proprietary information, and trade secrets consisting of the following categories of information, methods, techniques, procedures and knowledge we or our Franchisees develop all information, knowledge, know-how and technologies that we designate as confidential, proprietary or trade secrets including information developed during the Initial Term or Renewal Term that derives independent economic value from being not generally known or readily ascertainable by other persons who could obtain economic value from its disclosure or use, yet, excluding information that is in the public domain.

"**Cooperative**" means the regional advertising cooperative described in Section 7.3.

“**Copyrights**” means the HEW Intranet/HEW Operations Manual, any marketing and advertising materials, forms, lists, schedules and other documents and materials in whatever form that we or our Affiliate assert common law copyright rights regardless of whether the copyrighted work has been registered with United States Registrar of Copyrights.

“**Designated Representative**” means _______________________, the person you designate to act on your behalf as described in Subsection 4.6(b).

“**Designated Supplier**” means a supplier from whom you must purchase certain products or services for your Franchise Business.

"**Designee**" means our representative who is an independent contractor appointed by us to perform certain of our duties under this Agreement as described in ARTICLE 2.

"**Design Specifications**" means the specifications described in Section 2.3.

"**DMA**" means a Designated Marketing Area, which is a geographic area defined by Nielsen Media Research Company as a group of counties that make up a particular television market. These counties comprise the major viewing audience for the television stations located in their particular metropolitan area. For the most part, the metropolitan areas correspond to the standard metropolitan statistical areas defined by the Federal Government Office of Management and Budget. The areas do not overlap, and every county in the United States belongs to only one DMA.

"**Enforcement Costs**" means the costs described in Section 17.6.

"**Event of Default**" means a breach of this Agreement including those situations described in Sections 1.6(a), 1.6(b), 1.6(c), 4.21, 6.4, 10.1, 10.2(a), 10.2(d), 11.2, 11.3 and 11.4, subject to any requirement for the giving of notice, the lapse of time, or both, or any other condition is satisfied.

"**Exclusive Territory**" means ______________________________

"**Franchise**" means the rights granted to you under this Agreement.

"**Franchise Business**" means the instructional and educational exercise facility offering nutrition management and fitness training we authorize you to establish and operate under the Business System and under the terms of this Agreement.

"**Franchise Disclosure Document**" or "**FDD**" means our current Franchise Disclosure Document and its Exhibits.

"**Franchisee**" means the individuals or Business Entity signing this Agreement.

"**Franchise Network**" means the group of Company-Owned Outlets and Franchise Outlets.

"**Franchise Owner**" means any individual that owns an equity interests in the Business Entity signing this Agreement as Franchisee.

"**Franchised Unit**" means a Franchise Business owned and operated under the Business System by a Franchisee.

"**Generally Accepted Accounting Principles**" means those standards, conventions and rules accountants follow in recording and summarizing transactions, and in the preparation of financial statements. The generally accepted accounting principles are derived, in order of importance, from: (i) issuances from an authoritative body designated by the American Institute of Certified Public Accountants ("AICPA") Council; (ii) other AICPA issuances including AICPA Industry Guides; (iii) industry practice; and (iv) accounting literature in the form of books and articles.

"**General Manager**" means you unless you hire another person to act as the General Manager.

"**Gross Revenues**" means all revenue earned or received from the nutrition management and fitness services, performance of those services, and products in, at, upon, about, through or from the Franchise Business and every kind and nature related to the Franchise Business, whether for cash or credit and regardless of collection in the case of credit, including insurance proceeds and/or condemnation awards for loss of sales, profits or business; provided, however, that "Gross Revenues" does not include revenues from any sales taxes or other add on taxes you collect from customers for transmittal to the appropriate taxing authority, the retail value of any complimentary services or trade-outs or credit card discounts from Gross Revenues up to a maximum of 2% of

Gross Revenues in the aggregate, and the amount of cash refunds to, and coupons used by customers, provided such amounts have been included in Gross Revenues.

**"Guarantor"** means the person, persons or Business Entity that signs a Guaranty of Franchisee's Obligations as the Guarantor with us in the form attached as Exhibit K to the FDD for the purpose of guaranteeing to us and our Affiliates, and their respective successors and assigns, every obligation of the Franchisee to us and our Affiliates and their respective successors and assigns.

"**HEW Intranet/HEW Operations Manual**" means all manuals produced by, or for the benefit of, us and any revisions prepared for your internal use involving the operation and management of the Franchise Business.

"**Holidays**" mean New Year's Day, Easter, the 4th of July, Thanksgiving and Christmas.

"**Initial Franchise Fee**" means the fee described in Subsection 3.1(a).

"**Initial Term**" means the term described in Section 16.1.

"**Initial Training**" means the training described in Subsection 2.9(a).

"**Intellectual Property**" means the Principal Trademark, other Trademarks, Copyrights, Trade Dress, Patent, and the Confidential Information we or our Affiliates own that you are entitled to use under this Agreement as described in ITEMS 13 and 14 of the FDD.

"**Lease Requirements**" means the provisions we require to be included in your lease of the Business Premises.

"**Local Advertising**" means (i) advertising, promotion and marketing you undertake in media directed primarily in your local market area including television, radio, newspapers, magazines, billboards, posters, handbills, direct mail, yellow pages, sports program booklet advertising, church bulletins, collateral promotional and novelty items (for example, matchbooks, pens and pencils, bumper stickers, calendars) that prominently display the Intellectual Property; (ii) advertising on public vehicles including cabs and buses; (iii) the cost of producing materials necessary to participate in these media; (iv) agency commissions on the production of the advertising; and (v) amounts paid to an approved regional advertising cooperative or to a merchant's association for advertising where you are a member. Local Advertising does not include: (i) payments to the Brand Fund; (ii) payments for permanent on-premises signs: (iii) purchasing or maintaining vehicles even though the vehicles display in some manner the Intellectual Property (except the cost of the materials displayed are included); (iv) contributions or sponsorships (unless the Intellectual Property are prominently displayed by the group or activity receiving the contribution or sponsorship): (v) premium or similar offers including discounts, price reductions, special offers, free offers and sweepstake offers (except that the media costs associated with promoting the premium offers are included): (vi) employee incentive programs: and (viii) other similar payments that we may determine in our sole discretion should not be included in determining whether you have met your obligation for Local Advertising.

"**Media Rebates**" means the payments described in Subsection 7.5(d).

"**Mystery Shopper Fee**" means the fee described in Subsection 4.17(b).

"**Notice of Default**" means the notices described in Section 11.4.

"**Opening Date**" means: (i) the date your Franchise Business is first opened for business to the general public after being newly constructed; (ii) the date your Franchise Business is first opened for business to the general public as a Franchise Business after being converted to a Franchise Business from another restaurant concept where the business was shut down during the conversion period; or (iii) the Agreement Date where the existing restaurant is being converted to a Franchise Business without the operation being shut down, whichever is applicable.

"**Payment System**" means the system created by you to make payments to us as described in Section 3.3.

"**Premises**" means the leased property located at ____________________ or to be described in the Location Approval Addendum.

"**Prevailing Party**" means a person that successfully brings or defends an action and, as a result, receives a favorable award or judgment.

"**Principal Trademark**" means "Hard Exercise Works®" the name under which every Unit does business.

"**Renewal Fee**" means the fee described in Subsection 3.1(f).

"**Renewal Franchise Agreement**" means our then-current form of Franchise Agreement for new Franchisees at the time you elect to renew the franchise relationship in accordance with Section 16.2.

"**Renewal Term**" means the term of the Renewal Franchise Agreement signed at the time the parties renew the franchise relationship.

"**Reserved Area**" means the area where you will undertake your location selection process to submit proposed locations for our approval in accordance with our locations approval process. The Reserved Area will be ____________________________________________ or has been described in the Deposit Agreement but excluding any exclusive territory of a Company-Owned Unit or another Franchised Unit within the Franchise Network who already has a Franchise Business under construction or in operation in the Reserved Area.

"**Service Fee**" means the fee described in Subsection 3.1(b).

"**Trade Dress**" means the distinctive exterior of the Franchise Business, the distinctive interior décor, distinctive uniforms worn by staff, as well as the many other items, which together form the overall look and feel of the Franchise Business and its products and services –or- the store design and image we developed and own for the Franchise Business as it may be revised and developed by us. The Trade Dress currently emphasizes our colors (light blue, dark blue and green) throughout the Franchise Business and includes the following features: a faith banner, wall ball targets, wall ball banner, HEW icon logo, and custom color rig.

"**Trademarks**" means the service mark and logo "Hard Exercise Works®" and all other trademarks, service marks, trade names, logos and commercial symbols authorized by us as part of the Business System.

"**Trainees**" mean the persons approved by us who attend Initial Training.

"**Transfer Fee**" means the fee described in Subsection 3.1(e).

"**Unique Consideration**" means the consideration described in Subsection 10.5(c).

"**Unit**" means either a Company-Owned Unit or a Franchised Unit.

"**Website**" means www.hardexerciseworks.com.

"**You**" or "**Your**" means the person, persons or Business Entity that signs this Agreement as the Franchisee.

"**Your Home Page**" means the page we allow on our Website describing your Franchise Business.

**SECTION 18.2 OTHER DEFINITIONAL PROVISIONS**

(a) All of the words or terms defined in this Agreement have these defined meanings when used in other documents issued under or delivered under this Agreement unless the context otherwise requires or unless specifically otherwise defined in the other document; and

(b) The term "**person**" includes any corporation, limited liability company, partnership, estate, trust, association, branch, bureau, subdivision, venture, associated group, individual, government, institution, instrumentality and other entity, enterprise, association or endeavor of every kind.

## ARTICLE 19 - GENERAL PROVISIONS

**SECTION 19.1 AMENDMENTS**

Except as stated in this Agreement including Sections 19.2 and 19.6, a party cannot amend, supplement or change the provisions of this Agreement except by an Amendment to Franchise Agreement signed by the parties. Only our President has the authority to sign an Amendment to Franchise Agreement on our behalf.

**SECTION 19.2 MODIFICATION OF THE SYSTEM**

**YOU AGREE THAT AFTER THE AGREEMENT DATE WE MAY MODIFY THE SYSTEM UNDER THE TERMS OF THIS AGREEMENT. YOU AGREE TO ABIDE BY ANY MODIFICATIONS IN THE SYSTEM AS IF THEY WERE PART OF THIS AGREEMENT AT THE TIME THE PARTIES SIGNED THIS AGREEMENT. YOU WILL MAKE ALL EXPENDITURES AND MODIFICATIONS OF THE SYSTEM, AS WE REQUIRE.**

**SECTION 19.3 BINDING EFFECT**

The provisions of this Agreement binds, benefits and are enforceable by the parties and their respective personal representatives, legal representatives, heirs, successors and permitted assigns.

### SECTION 19.4 COMMUNICATIONS AND NOTICES

(a) **E-Mails**. All electronic business correspondence by you, your Franchise Owners, the Designated Representative or a General Manager must be conducted through an approved [name@hardexerciseworks.com] e-mail address. This will be the sole e-mail address on your business cards, stationery, etc.

(b) **Other Writings**. All notices, requests, consents and other written communications required or permitted under this Agreement should be given by e-mail to the e-mail address below or to another e-mail address that one party provides to the other party except for those matters specifically required to be sent USPS, FedEx or UPS addressed to:

| | |
|---|---|
| If to us: | With a copy to: |
| HEW Franchising, LLC<br>661 Maplewood Drive<br>Unit 18<br>Jupiter, FL 33458<br>Attn: Matthew B. Hunt, President<br>E-Mail: matt@hardexerciseworks.com | Keith J. Kanouse, Esquire<br>Kanouse & Walker, P.A.<br>One Boca Place, Suite 324 Atrium<br>2255 Glades Road<br>Boca Raton, FL 33431<br>E-Mail: Keith@Kanouse.com |
| If to you: | With a copy to: |
| __________<br>__________<br>__________<br>Attn: ________<br>E-Mail: ____@____.com | __________<br>__________<br>__________<br>__________<br>E-Mail: ____@____.com |

or to any other address a party designates by notice to the other party complying with the terms of this Section. The receiving party will send an e-mail to the sending party acknowledging of receipt of the e-mail and any attachments. The parties agree that each notice is deemed delivered on the date delivered by USPS, FedEx or UPS.

### SECTION 19.5 HEADINGS

The headings and subheadings in this Agreement are for convenience of reference only, are not to be considered a part of this Agreement and will not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

### SECTION 19.6 SEVERABILITY

(a) If any provision of this Agreement or any other agreement entered into under this Agreement is contrary to, prohibited by or invalid under applicable law or regulation, that term only will be inapplicable and omitted to the extent so contrary, prohibited or invalid. The parties agree that the remainder of this Agreement continues in full effect so far as possible. If any provision of this Agreement can be construed in more than one way, one that renders the term invalid or otherwise voidable or unenforceable and another that renders the term valid and enforceable, that provision has the meaning that renders it valid and enforceable.

(b) If a law of any applicable jurisdiction requires us to give a greater notice of the termination of or non-renewal of this Agreement (if permitted) than is required under this Agreement, or requires us to take of some other action not required under this Agreement, or if under a law of any applicable jurisdiction, any term of this Agreement or any of our requirements is invalid or unenforceable, the notice and/or other action required by that law will be substituted for the comparable provisions of this Agreement. We have the right, in our sole discretion, to modify any invalid or unenforceable requirement to the extent to make it valid and enforceable. Any modification to this Agreement will be effective only in that jurisdiction, unless we elect to give the modification greater applicability, and this Agreement is enforceable as originally entered into by the parties in all other jurisdictions.

**SECTION 19.7 WAIVERS**

The failure or delay of a party to require performance by another party of any term of this Agreement, even if known, will not affect the right of that party to require performance of that provision or to exercise any right or remedy under this Agreement. Any waiver by any party of a breach of any term of this Agreement is not a waiver of any continuing or later breach of that term, a waiver of the term itself, or a waiver of any right or remedy under this Agreement. No notice to or demand on any party in any case, of itself, entitles that party to any other notice or demand in similar or other circumstances.

**SECTION 19.8 REMEDIES CUMULATIVE**

Except as otherwise stated in this Agreement, no remedy in this Agreement for any party is intended to be exclusive of any other remedy. Each remedy is cumulative and is in addition to every other remedy given under this Agreement, now or later existing, at law, in equity, by statute or otherwise. No single or partial exercise by any party of any right or remedy under this Agreement precludes any other exercise of any other right or remedy.

**SECTION 19.9 EFFECTIVENESS; COUNTERPARTS**

This Agreement is not effective or binding and enforceable against us until we accept this Agreement at our home office in Jupiter, Florida and our President signs this Agreement. We advise you not to incur any expenses for opening your Franchise Business until you have received a final signed copy of this Agreement. The parties may sign this Agreement in counterparts, each of which is a duplicate original, but together are the same instrument. Confirmation of signing by sending the signature page by telecopy or e-mail binds any party to the confirmation.

**SECTION 19.10 SURVIVAL**

The parties' obligations that expressly or by their nature survive the expiration or termination of this Agreement continue in full force after the transfer, expiration or termination of this Agreement until they are satisfied or by their nature expire.

**SECTION 19.11 FORCE MAJEURE**

Neither party is liable for loss or damage or is in breach of this Agreement, if the failure to perform his, her or its obligations is based solely from the following causes beyond his, her or its reasonable control: (a) transportation shortages, inadequate supply of equipment, merchandise, supplies, labor, material, or energy; (b) compliance with any applicable law; or (c) war, terrorism, strikes, natural disaster or acts of God. Any delay resulting from any of these causes extends performance accordingly or excuses performance as may be reasonable, except that these causes do not excuse payments of amounts owed to us for any reason.

### SECTION 19.12 THIRD PARTIES

Except as provided in this Agreement to the contrary for other Franchisees, nothing in this Agreement, whether express or implied, confers any rights or remedies under this Agreement on any person (including other Franchisees) other than the parties and their respective personal representatives, other legal representatives, heirs, successors and permitted assigns. Except as provided in this Agreement to the contrary for any Designee, nothing in this Agreement relieves or discharges the obligation or liability of any third person to any party to this Agreement, nor does any provision give any third person any right of subrogation or action over or against any party to this Agreement.

### SECTION 19.13 INTERPRETATION

Each of the parties agree that he, she or it has have been or has had the opportunity to be represented by its own counsel throughout the negotiations and at the signing of this Agreement and all of the other documents signed incidental to this Agreement. You will not, while this Agreement is effective or after its termination or expiration, claim or assert that any term of this Agreement or any of the other documents be construed against us.

### SECTION 19.14 ENTIRE AGREEMENT

This Agreement and all other written agreements involving this Agreement and expressly referenced in this Agreement, represent the entire understanding and agreement between the parties on the subject matter of this Agreement and supersede all other negotiations, understandings and representations, if any, made between the parties. No representations, inducements, promises or agreements, oral or otherwise, if any, not contained in this Agreement or all other written agreements concerning this Agreement and expressly referenced in this Agreement, are of any effect. Nothing in this Agreement or in any related document is intended to disclaim the representations we made in the Franchise Disclosure Document that we furnished to you.

**IN WITNESS WHEREOF**, the parties have duly signed this Agreement.

**WE, US, or OUR (Franchisor):**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR (Franchisee):**

______________________________

**<u>EXHIBIT A – MAP OF EXCLUSIVE TERRITORY</u>**

**EXHIBIT F – APPROVED LOCATION ADDENDUM TO FRANCHISE AGREEMENT**

4/19/18

## APPROVED LOCATION ADDENDUM TO HARD EXERCISE WORKS FRANCHISE AGREEMENT

**THIS APPROVED LOCATION ADDENDUM** is signed on __________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("we, "us" or "our") and ________________________________ ("you" or "your").

### BACKGROUND

A. The parties have signed a Hard Exercise Works Franchise Agreement (the "Agreement") before you selected a location that we had approved for the Franchise Business.

B. You have now selected a location that we have approved and, under Section 1.2 of the Agreement, the parties are entering into this Addendum.

The parties agree as follows:

### TERMS

1. You agree that you will operate the Franchise Business only at ______________________ (the "Premises").

2. Your Exclusive Territory is consists of an area that is within a 3-mile driving distance from the Premises as designated on the Map attached as Exhibit A.

3. Upon any inconsistency between the terms of the Franchise Agreement and the terms of this Addendum, the terms of this Addendum supersede and control. In all other respects, the parties ratify and confirm the terms of the Franchise Agreement.

**IN WITNESS WHEREOF,** the parties have signed this Addendum.

**WE, US, or OUR (Franchisor):**

HEW Franchising, LLC

By: ________________________________
Matthew B. Hunt, President

**YOU or YOUR (Franchisee):**

________________________________________

## EXHIBIT G – CONVERSION ADDENDUM TO FRANCHISE AGREEMENT

4/19/18

## CONVERSION ADDENDUM TO HARD EXERCISE WORKS FRANCHISE AGREEMENT

**THIS CONVERSION ADDENDUM** is signed on _______________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("we, "us" or "our") and ____________________________ ("you" or "your").

## BACKGROUND

A. You currently and own and operate a ____________ (the "Operating Unit") located at ____________ (the "Premises").

B. We are the franchisor of Hard Exercise Works Franchises and you desire to purchase franchise rights from us and convert the Operating Unit into a Hard Exercise Works Franchise (the "Franchise Business").

C. The parties are entering into the Franchise Agreement (the "Agreement") at the same time as this Addendum and agree to amend certain terms of the Agreement to reflect the conversion of the Operating Unit into a Franchise Business in accordance with the terms of this Conversion Addendum.

The parties agree as follows:

## TERMS

1. Sections 2.1, 2.2 and 4.1 of the Agreement are deleted.

2. Before signing the Agreement and this Addendum, you furnished to us as part of your application for a Franchise Business, information regarding your existing Premises including a copy of the lease, a written description of the site, exterior and interior photographs of the Premises, plans and specifications, and such other information we reasonably require. You also have obtained the written consent of your landlord for the conversion including any required construction, renovation, refurbishing, décor changers, new signage and variance from the use clause of the lease and out Agreement with Landlord.

3. After the parties sign the Agreement and this Addendum, we will furnish you with our requirements for the conversion of the Operating Unit to a Franchise Business including any required construction, renovation and refurbishing to conform to our Trade Dress of a Franchise Business in accordance with Sections 4.2 and 4.3 of the Agreement. As part of the conversion process, you agree to sell, remove or otherwise dispose of all inventory, materials, furniture, fixtures, signs and equipment that do not conform with the Business System, are not approved by us or do not meet our standards and specifications.

4. Upon signing the Franchise Agreement and this Conversion Addendum to Franchise Agreement, you will take the necessary steps to cancel all current advertisements for the business

that is now being conducted at the Operating Unit location, and you will not renew any of the former advertisements or telephone listings in any directory for the Operating Unit.

5. You will convert all of your books, accounts, ledgers, bookkeeping systems and related records and systems to comply in format and content with our standards and specifications as set forth in the Agreement and the Operation & Policies Manual. You must also modify or replace you existing Computer/POS systems and/or software as required to comply with our specification for Franchise Businesses.

6. You acknowledge that, notwithstanding the fact that you operated a business similar to a Franchise Business, you are subject to all of the terms of the Agreement including the confidentiality and non-competition provisions and our ownership of the Confidential Information.

7. You represent and warrant to us as follows:

(a) You are the sole owner of the Operating Unit;

(b) You do not operate any other business, other than the Operating Unit, that is in competition with our business that would be in violation of Subsection 13.1(b)(i) of the Agreement;

(c) You and the Operating Unit are not subject to any other franchise, license, loan or other agreement that restricts you from entering into the Agreement and this Addendum; and

(d) The assets comprising the Operating Unit are not subject to any lien, security interest or other encumbrance.

8. Upon any inconsistency between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum supersede and control. In all other respects, the parties ratify and confirm the terms of the Agreement.

**IN WITNESS WHEREOF,** the parties have signed this Addendum.

**WE, US, or OUR (Franchisor):**

HEW Franchising, LLC

By: ____________________________
Matthew B. Hunt, President

**YOU or YOUR (Franchisee):**

______________________________________

# EXHIBIT H – AREA DEVELOPMENT AGREEMENT

4/19/18

**HARD EXERCISE WORKS AREA DEVELOPMENT AGREEMENT**

**between**

**HEW Franchising, LLC**
**a Florida limited liability company**

**(Franchisor)**

**and**

______________________________

**(Developer)**

**Dated: ____________, 2018**

**Number of Franchised Units: 3**

**Development Area: ___________**


**Kanouse & Walker, P.A.**
**One Boca Place, Suite 324 Atrium**
**2255 Glades Road**
**Boca Raton, Florida 33431**

## TABLE OF CONTENTS

**<u>HARD EXERCISE WORKS AREA DEVELOPMENT AGREEMENT</u>**

**THIS AREA DEVELOPMENT AGREEMENT** is signed on ______________, 2018 between HEW Franchising, LLC, a Florida limited liability company (the "Franchisor") and ______________________________ (the "Developer").

The Franchisor has written this Agreement in plain English to make it easy to read and to help you become thoroughly familiar with all of the important rights and obligations that the Agreement covers before you sign it. In this Agreement, the Franchisor is referred to as "we," "us" or "our." The Developer is referred to as "you" or "your." All capitalized terms are defined in ARTICLE 9.

**<u>BACKGROUND</u>**

A. We have developed a system or business program, including expertise for conducting and operating a business that offer nutrition management and fitness training, group fitness training, boot camp classes, personal training, resistance training, yoga, spinning classes, nutrition counseling, and other fitness services under the mark Hard Exercise Works and such other trade names, service marks, trademark and trade dress as are now designated (and may be hereafter be designated by us in writing) for use in connection with its System (the “Marks”).

B. We have devised a uniform system for the establishment and operation of Hard Exercise Works Franchise, including a distinctive exterior and interior design, trade dress décor and color scheme; uniform standards, specifications, and procedures for operations; procedures for quality control; training and ongoing operational assistance; advertising and promotional programs; and other related benefits for use of Franchisee under the Marks, all of which we may change, improve and further developed from time to time.

C. You recognize the benefits of receiving the right of first refusal from us to develop up to 3 Franchise Businesses in a given non-exclusive area (the “Development Area”) each operating under a Franchise Agreement with us (the “Area Development Rights”).

D. We have reviewed your application and have decided to award Area Development Rights to you under the terms of this Agreement.

F. You are simultaneously entering into a Franchise Agreement for your first Franchise Business (in the form included in Exhibit C to our Franchise Disclosure Document dated April 1, 2018).

The parties agree as follows:

**<u>TERMS</u>**

## ARTICLE 1 - APPOINTMENT OF THE DEVELOPER

### SECTION 1.1 GRANT OF AREA DEVELOPMENT RIGHTS

We grant to you the Area Development Rights, and you undertake the obligation to, construct, open and operate up to 3 Franchise Businesses within the Development Area described in Section 1.2 in accordance with the Development Schedule stated in Section 1.4 and subject to the terms in this Agreement.

### SECTION 1.2 DEVELOPMENT AREA; RIGHT OF FIRST REFUSAL

(a) **Development Area**. Your Development Area is described on the Map attached as Exhibit A. All Franchise Businesses you construct and open must be within the Development Area. We do not grant you any exclusive rights to develop within the Development Area but we grant you the right of first refusal described in Subsection 1.2(b).

(b) **Right of First Refusal**. If we have a bona fide prospective franchisee who wants to purchase a Hard Exercise Works Franchise to be located in the Development Area, we will give you written notice along with our current of FDD. You have 30 days after you receive our written notice within which to exercise your right of first refusal. If you give us written notice within the 30-day period that you intend to exercise your right of first refusal you must satisfy all of the following conditions within 30 days after you send us written notice of your intention to exercise your right of first refusal:

(i) You must date, sign and return to us the FDD Receipt.

(i) You must sign a new Franchise Agreement in the form of our then-current Franchise Agreement.

(iii) For all additional Units you purchase beyond the first 3 Franchised Units, the Initial Franchise Fee is $30,000.

(iv) You are not in default under this Agreement or any other agreement with us, including any other Franchise Agreement and have fully and faithfully performed all of your material obligations under each agreement throughout its term.

(v) This Agreement, any Franchise Agreement or any other agreement with you has not expired or has been terminated by us.

(vi) There has been no change in the effective control of your franchisee business entity (by way of change in share ownership, membership or partnership interest, or otherwise) without our written consent.

(vii) Your Manager has successfully completed our Initial Training program.

If you do not accept the offer, we are free for 90 days after you have elected not to exercise your right of first refusal, to sell the Form Stores Franchise to the third party. If we do not sell the Farms Stores Franchise within the 90-day period, then any future offers from a third party to purchase a Farm House Franchise to be located in the Development Area is again subject to the your right of first refusal.

**SECTION 1.3 DEVELOPMENT FEE**

In consideration of the rights granted to you, you will pay to us a Development Fee of $119,000 at the same time this Agreement is signed. This includes the Initial Franchise Fees for all 3 Franchise Businesses. The Development Fee is nonrefundable and we fully earn it upon signing this Agreement.

**SECTION 1.4 DEVELOPMENT SCHEDULE**

(a) **Development Schedule**. You will construct, open and operate 3 Franchise Businesses located within the Development Area in accordance with the following minimum Development Schedule:

| **Number of Operating Franchise Businesses** | **Date When Franchised Businesses are to be Operating** |
|---|---|
| 1 | __________, 2018 |
| 2 | __________, 2019 |
| 3 | __________, 2020 |

(b) **Additional Franchised Units**. You agree that the Development Schedule is fixed upon signing this Agreement. You may not open additional Franchise Businesses in excess of the number of Franchise Businesses listed above except upon:

(i) our consent that may be withheld in our complete discretion;

(ii) your payment of the $30,000 Initial Franchise Fee and the other fees we are then charging to new Franchisees; and

(iii) your signing of our then-current form of Franchise Agreement and related documents.

(c) **No Subfranchise Rights**. You have no authority to, and will not, subfranchise or sublicense your rights under this Agreement to any person.

(d) **Individual Business Entities**. You may form individual business entities to own and operate 1 or more of the Franchise Businesses that you develop, but you must own at least 51% of the voting equity interests in each business entity.

**SECTION 1.5 MINIMUM DEVELOPMENT PERFORMANCE**

You will submit to us Franchise Applications for each Franchise Business stating the specific site for which a proposed Franchise Business will be located before the time that you acquire any interest in the site. You agree to enter into Franchise Agreements based on our then-current form of Franchise Agreement and related documents, and have opened in the Development Area the number of Franchise Businesses listed in Section 1.4 on or before the times indicated. If we terminate a Franchise Agreement, we will deduct that Franchise Business from the number of Operating Franchise Businesses and a new Franchise Business must replace it within the time established by the Development Schedule. A Franchise Business remains credited against the Development Schedule if relocated with our consent.

### SECTION 1.6 TIME OF THE ESSENCE

Time is of the essence for your obligations under this Agreement.

## ARTICLE 2 - OUR DUTIES

We will provide you with the following assistance and services as necessary for the development and operation of the Franchise Businesses if you are not in default under this Agreement:

### SECTION 2.1 SERVICES AND SUPPORT

We will provide you the services and continual support for each Franchise Business as stated in ARTICLE 2 of each Franchise Agreement.

### SECTION 2.2 DUTIES SOLELY TO YOU

All of our obligations under this Agreement are solely to you. No other party is entitled to rely on, enforce, or obtain relief for breach of these obligations directly or by subrogation.

### SECTION 2.3 OUR RIGHT TO DELEGATE DUTIES

You agree to our right to delegate any of our duties under this Agreement to a Designee. You must discharge your duties with any Designee to the extent we request in the same manner that you must do so with us.

## ARTICLE 3 - YOUR DUTIES

### SECTION 3.1 ACHIEVEMENT OF DEVELOPMENT SCHEDULE

You will use your best efforts to confine your activities exclusively to constructing, opening and operating the Franchise Businesses contemplated under this Agreement in order to achieve the Development Schedule. You will maintain sufficient financial resources to construct, open and operate the Franchise Businesses. You will maintain a minimum net worth of $______________ during the Term or have a firm commitment from a lender reasonably satisfactory to us for financing the development of the Franchise Businesses. If you fail to achieve the Development Schedule, we have the right to terminate this Agreement and retain the entire Development Fee. If we terminate this Agreement for your failure to meet the Development Schedule, we may immediately grant other individuals and entities the right to develop and open Franchise Businesses in the Development Area, or ourselves open Company-Owned Units in the Development Area. You will retain all rights under the Franchise Agreements for the Franchise Businesses you have under lease, construction or in operation, provided you are not otherwise in default under the Franchise Agreements.

### SECTION 3.2 REPORTS

You agree to maintain and preserve accurate records for the development and operation of the Franchise Businesses at your principal office. These records and information must include site reports, leases for the Franchise Businesses, supervisory reports on the operation of the Franchise Businesses, records reflecting your financial condition and all other records and reports required under the Franchise Agreements.

### SECTION 3.3 COMPLIANCE WITH FRANCHISE AGREEMENTS

You will sign a Franchise Agreement and related documents for the first Franchise Business at the same time you sign this Agreement and comply with the duties stated in this ARTICLE. You will develop, institute and maintain all management system, procedures and personnel, as we require, assuring your efficient operation of each of the Franchise Businesses.

## ARTICLE 4 - TRANSFER OF INTEREST

### SECTION 4.1 TRANSFER BY US

We have the absolute right to transfer, assign or delegate all or any part of our rights or obligations under this Agreement to any person without your consent.

### SECTION 4.2 TRANSFER BY YOU

The rights and duties in this Agreement are personal to you. We have granted this Agreement in reliance on your business and personal skills, reputation, aptitudes and financial capacity. Accordingly, you agree that you cannot sell, assign, transfer, convey, give or encumbered (collectively "transfer") this Agreement without our written consent (which may be granted or withheld by us in our sole and absolute discretion).

## ARTICLE 5 - TERM

### SECTION 5.1 INITIAL TERM

The Initial Term of this Agreement is the earlier of: (i) the date when we approve the site for your 3rd Franchised Unit or (ii) 3 years from the Agreement Date, unless otherwise sooner terminated due to default. The conditions under which you have the opportunity of obtaining a renewal Development Agreement at the expiration of this Agreement are those stated in Section 6.2.

### SECTION 5.2 OPTION TO OBTAIN RENEWAL DEVELOPMENT AGREEMENT

(a) **Conditions to Renew**. If you desire to continue to develop the Development Area, you are granted the option to obtain a renewal Development Agreement for an additional 3-year term on the following conditions, which must be met at the time the option is exercised and immediately before the beginning of the Renewal Term, unless another time is specified:

(i) You give us written notice of your intention to exercise your option to renew your Area Development Rights by giving us written notice at least 6 months before the end of the Initial Term.

(ii) You are not in default of any provision of this Agreement including the Development Schedule or any other agreement between you and us at the time you give us written notice and at the time the Initial Term expires.

(iii) You have, at the time of renewal, sufficient financial and management resources in our discretion to continue development of additional Franchise Businesses in the Development Area;

(iv) You meet our then-current qualification and training requirements.

(v) Within 30 days before the end of the Initial Term, you sign and deliver to us our then-current form of Development Agreement, the terms of which may materially differ from the terms of this Agreement including a new Development Schedule and pay us another Development Fee we are then charging for Area Development Rights.

(vi) You sign a general release in the form included in Exhibit T to the FDD of all claims against us and our affiliates, and their respective officers, directors, shareholders, agents and employees except for our known liabilities to you and liabilities from which we may not require a release under any applicable state law.

(b) **Our Right Not to Renew**. If you have not met all of the conditions in Subsection 5.2(a), we may elect not to enter into a renewal Development Agreement if we provide you with written notice of our intention not to enter a renewal Development Agreement.

### SECTION 5.3 OUR RIGHT NOT TO ENTER INTO A RENEWAL DEVELOPMENT AGREEMENT

Notwithstanding Section 5.2, we may elect not to enter into a renewal Development Agreement with you, if: (i) we provide you with written notice at least 180 days before the expiration of this Agreement; (ii) we reasonably believe that the Development Area has been adequately saturated with Franchise Businesses; and (iii) our refusal to enter into a renewal Development Agreement is not for the purpose of appointing another developer for the Development Area or for the opening of additional Franchise Businesses or Company-Owned Units in the Development Area.

## ARTICLE 6 - DEFAULT AND TERMINATION

### SECTION 6.1 TERMINATION BY YOU

If you have substantially complied with this Agreement and we materially breach this Agreement, you may give us written notice of the nature of the breach. If we do not cure the breach within 30 days or within a longer period, if the nature of the breach is such that we cannot cure within 30 days, you have the right to terminate this Agreement. You may also terminate this Agreement upon the mutual written agreement with us. Any termination of this Agreement by you other than as stated above is a wrongful termination by you.

### SECTION 6.2 TERMINATION BY US WITH NOTICE

If we terminate any Franchise Agreement between the parties due to your default, after we have given you written notice of default if notice is required, and afforded you an opportunity to cure if you have a right to cure, we may terminate this Agreement by giving you written notice of termination.

### SECTION 6.3 TERMINATION BY US WITH NOTICE AND OPPORTUNITY TO CURE

You have 30 days or any longer period as applicable law may require, after we deliver you a written notice of default to cure any default under this Agreement and provide evidence of cure satisfactory to us. If you fail to cure timely any curable default, we have the right to terminate this Agreement effective upon your receipt of our written notice of termination. You have the burden of proving you have timely cured any default, to the extent it is a curable default under this Agreement.

### SECTION 6.4 EFFECT OF TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all your Area Development Rights cease. You retain all rights under the Franchise Agreements for Franchised Units you are currently operating or are under construction, provided you are not in otherwise in default under any of these Franchise Agreements.

## ARTICLE 7 - DEFINITIONS

### SECTION 8.1 DEFINITIONS

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

"**Agreement**" means this Hard Exercise Works Development Agreement, as it may be amended, supplemented or otherwise modified by a written agreement the parties sign.

"**Agreement Date**" means the date set forth on page 1 of this Agreement.

"**Area Development Rights**" means the rights granted to you under ARTICLE 1 to construct and operate 3 Franchise Businesses in the Development Area under the terms of this Agreement and the Franchise Agreements.

"**Company-Owned Unit**" means a Hard Exercise Works business operating pursuant to the Business System owned by us or by any affiliate.

"**Designee**" means an Area Representative who is an independent contractor appointed by us to perform certain of our duties under this Agreement as described in ARTICLE 2.

"**Development Area**" means the area described in Section 1.2.

"**Development Fee**" means the fee described in Section 1.4.

"**Development Schedule**" means the number of Franchise Businesses to be developed and the period in which to open the Franchise Businesses as stated in Section 1.3.

"**Franchise Agreement**" means the then-standard form of Hard Exercise Works Franchise Agreement we are offering to new franchisees, the current form of which is included in Exhibit C to the Franchise Disclosure Document.

"**Franchise Business**" means the Hard Exercise Works Franchise we authorize you to establish and operate under a Franchise Agreement.

“**Franchise Disclosure Document**” or "**FDD**" means our current Franchise Disclosure Document and all Exhibits.

"**Initial Term**" means the term of the Agreement described in Section 5.1.

"**Renewal Term**" means the term of the renewal Development described in Subsection 5.2(a).

"**Unit**" means a Franchise Business owned and operated by a Franchise or by us or an affiliate.

**SECTION 7.2 OTHER DEFINITIONAL PROVISIONS**

(a) **Same Meanings**. All of the terms defined in this Agreement have these defined meanings when used in other documents issued under, or delivered under this Agreement unless the context otherwise requires or unless specifically otherwise defined in the other document; and

(b) **Person**. The term "person" includes any limited liability company, partnership, estate, trust, association, branch, bureau, subdivision, venture, associated group, individual, government, institution, instrumentality and other entity, enterprise, association or endeavor of every kind.

## ARTICLE 8 - GENERAL PROVISIONS

**SECTION 8.1 DISPUTE RESOLUTION**

The parties incorporate the dispute resolution provisions contained in ARTICLE 17 of the Franchise Agreement into this Agreement.

**SECTION 8.2 AMENDMENTS**

The parties may only amend, supplement or change the provisions of this Agreement by an Amendment to Area Development Agreement signed by the parties except: (a) we may change the contents of the Manuals; (ii) we may modify the System; and a court may modify any provision of the Development Agreement in accordance with applicable law. Only our President has the authority to sign an Amendment to Area Development Agreement on our behalf.

**SECTION 8.3 BINDING EFFECT**

The provisions of this Agreement binds, benefits and are enforceable by the parties and their respective personal representatives, legal representatives, heirs, successors and permitted assigns.

**SECTION 8.4 NOTICES AND COMMUNICATIONS**

All notices, requests, consents and other written communications required or permitted under this Agreement must be in writing and sent by e-mail to the e-mail addresses set forth below:

If to us:

HEW Franchisi8ng, LLC
661 Maplewood Drive
Unit 18
Jupiter, FL 33458
Attn: Matthew B. Hunt, President
E-Mail: matt@hardexerciseworks.com

With a copy to:

Keith J. Kanouse, Esquire
Kanouse & Walker, P.A.
One Boca Place, Suite 324 Atrium
2255 Glades Road
Boca Raton, FL 33431
E-Mail: Keith@Kanouse.com

| If to you: | With a copy to: |
| --- | --- |
| ______________________ | __________________________ |
| ______________________ | __________________________ |
| ______________________ | __________________________ |
| Attn: __________________ | __________________________ |
| E-Mail: ________@________.com | E-Mail:_____@___.com |

or to any other e-mail address any party designates by notice to the other parties. The parties agree to confirm receipt of each e-mail notice from another party.

### SECTION 8.5 HEADINGS

The headings and subheadings in this Agreement are for convenience of reference only, are not to be considered a part of this Agreement and do not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

### SECTION 8.6 SEVERABILITY

(a) If any provision of this Agreement or any other agreement entered into under this Agreement is contrary to, prohibited by or invalid under applicable law or regulation, that term only will be inapplicable and omitted to the extent so contrary, prohibited or invalid. The parties agree that the remainder of this Agreement continues in full effect so far as possible. If any provision of this Agreement can be construed in more than one way, one that renders the term invalid or otherwise voidable or unenforceable, and another that renders the term valid and enforceable, that provision has the meaning that renders it valid and enforceable.

(b) If a law of any applicable jurisdiction requires us to give a greater notice of the termination of or non-renewal of this Agreement (if permitted) than is required under this Agreement, or requires us to take of some other action not required under this Agreement, or if under a law of any applicable jurisdiction, any term of this Agreement or any of our requirements is invalid or unenforceable, the notice and/or other action required by that law will be substituted for the comparable provisions of this Agreement. We have the right, in our sole discretion, to modify any invalid or unenforceable requirement to the extent to make it valid and enforceable. Any modification to this Agreement will be effective only in that jurisdiction, unless we elect to give the modification greater applicability, and this Agreement is enforceable as originally entered into by the parties in all other jurisdictions.

### SECTION 8.7 WAIVERS

The failure or delay of a party to require performance by another party of any term of this Agreement, even if known, will not affect the right of that party to require performance of that provision or to exercise any right or remedy under this Agreement. Any waiver by any party of a breach of any term of this Agreement is not a waiver of any continuing or later breach of that term, a waiver of the term itself, or a waiver of any right or remedy under this Agreement. No notice to or demand on any party in any case, of itself, entitles that party to any other notice or demand in similar or other circumstances.

### SECTION 8.8 REMEDIES CUMULATIVE

Except as otherwise stated in this Agreement, no remedy afforded a party in this Agreement is exclusive of any other remedy. Each remedy is cumulative and is in addition to every other remedy, now or later existing, at law, in equity, by statute or otherwise. No single or partial exercise by any party of any right or remedy under this Agreement precludes any other exercise of any other right or remedy.

### SECTION 8.9 EFFECTIVENESS; COUNTERPARTS

This Agreement is not effective or binding and enforceable against us until we accept this Agreement at our home office in Jupiter, Florida and our President signs this Agreement. The parties may sign this Agreement in counterparts, each of which is a duplicate original, but together are the same document. Confirmation of signing by sending a PDF version of the signature page by e-mail binds the party to the confirmation.

### SECTION 8.10 INTERPRETATION

Each of the parties agree that he, she or it had the opportunity to have been represented by its own counsel throughout the negotiations and at the signing of this Agreement and all of the other documents signed incidental to this Agreement. You will not, while this Agreement is effective or after its termination or expiration, claim or assert that any term of this Agreement or any of the other document be construed against us.

### SECTION 8.11 ENTIRE AGREEMENT

This Agreement represents the entire understanding and agreement between the parties on the subject matter of this Agreement, and supersedes all other negotiations, understandings and representations, if any, made between the parties. No representations, inducements, promises or agreements, oral or otherwise, if any, not embodied in this Agreement are of any effect. Nothing in the Agreement disclaims the representations we made in the Franchise Disclosure Document and Exhibits that we furnished to you.

### SECTION 8.12 SURVIVAL

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

### SECTION 8.13 LIABILITY OF MULTIPLE DEVELOPERS

If the Developer consists of more than one person, all persons are jointly and individually liable for your obligations under this Agreement.

### SECTION 8.14 FORCE MAJEURE

Neither party is liable for loss or damage or is in breach of this Agreement, if the failure to perform his, her or its obligations is based solely from the following causes beyond his, her or its reasonable control: (a) transportation shortages, inadequate supply of equipment, merchandise, supplies, labor, material, or energy; (b) compliance with any applicable law; or (c) war, terrorism, strikes, natural disaster or acts of God. Any delay resulting from any of these causes extends performance accordingly or excuses performance as may be reasonable, except that these causes do not excuse payments of amounts owed to us for any reason.

**SECTION 8.15 THIRD PARTIES**

Nothing in this Agreement, whether express or implied, confers any rights or remedies under or based on this Agreement on any person other than the parties and their respective personal representatives, other legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement relieves or discharges the obligation or liability of any third persons to any party to this Agreement, nor does any provision give any third person any right of subrogation or action over or against any party to this Agreement.

**IN WITNESS WHEREOF,** the parties have duly signed and delivered this Agreement.

**YOU or YOUR (Developer):**

______________________________

**WE, US, or OUR (Franchisor):**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**EXHIBIT A – DESCRIPTION OF DEVELOPMENT AREA**

## EXHIBIT I – STATE ADDENDA TO FRANCHISE AND AREA DEVELOPMENT AGREEMENTS

# CALIFORNIA ADDENDUM TO FRANCHISE AGREEMENT

This California Addendum to Franchise Agreement is signed on __________, 2018 between HEW Franchising, LLC ("we," "us" or "our") and__________________________ ("you" or "your") to amend the Franchise Agreement as follows:

1. There is added new Section 3.6 as follows:

**SECTION 3.6 SECURITY BOND**

As security for our performance for our pre-opening obligations under the Franchise Agreement, we have obtained a surety bond from JW Surety Bonds (the Surety") in the amount of $49,500 (the "Surety Bond") for the benefit of the State of California and for the use of any franchisee who may have a cause of action against us under the provisions of the California Franchise Investment Law. The Surety Bond is subject to the following provisions:

(a) Any person who sustains an injury covered by the Surety Bond may, in addition to any other remedy that he, she or it may have, bring an action in his, her or its own name upon the Surety Bond for the recovery of any damage sustained by him, her or it.

(b) The total aggregate liability of the Surety for all claims which may arise under the Surety Bond is limited to the payment of $49.500.

(c) The Surety may cancel the Surety Bond and be relieved of further liability under the Surety Bond by delivering 30 days' written notice to the Commissioner of Business Oversight of the State of California: however, such cancellation does not affect any liability incurred or accrued under the Surety Bond before the termination of the 30-day period.

(d) The Surety Bond remains in force and effect until the Surety is released from liability by the Commissioner or until the Surety Bond is canceled by the Surety.

2. **California Law**

The California Department of Business Oversight requires that certain provisions contained in the Franchise Agreement be amended to be consistent with California law, including the California Franchise Investment Law. CAL. BUS. & PROF. CODE Section 31000 *et seq.* and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 *et seq.* To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, those provisions are amended as follows:

(a) **Nonrenewal and Termination**

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination or nonrenewal of a franchise. The Federal Bankruptcy Code also provides rights to you concerning termination of the Franchise Agreement upon the occurrence of certain bankruptcy-related events. If the Franchise Agreement contains a provision that is inconsistent with these laws, these laws will control.

(b) **General Releases**

You must sign a general release if you renew or transfer your franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

(c) **Liquidated Damages**

If the Franchise Agreement requires payment of liquidated damages that is inconsistent with California Civil Code Section 1671, the liquidated damages clauses may be unenforceable.

(d) **Covenants Not to Compete**

If the Franchise Agreement contains a covenant not to compete that extends beyond the termination of the Franchise Agreement, the covenant may be unenforceable under California law.

(e) **Venue**

If the Franchise Agreement requires litigation, arbitration or mediation to be conducted in a forum other than the State of California, the requirement may be unenforceable under California law.

(f) **Governing Law**

If the Franchise Agreement requires that it be governed by a state's law other than the State of California, the requirement may be unenforceable.

(g) **Arbitration**

The Franchise Agreement requires binding arbitration. The arbitration will occur at Palm Beach County, Florida with the costs being born by the non-prevailing party. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and Federal laws (including Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

3. **Alternate Channels of Distribution**

The Franchisor reserves the right to establish alternatives channels of distribution within the Franchisee's Exclusive Territory without compensation.

4. **<u>Continuation of Exclusive Territory</u>**

Continuation of your Exclusive Territory and continuation of your rights under your Franchise Agreement are dependent upon meeting the Minimum Performance Standard.

**IN WITNESS WHEREOF**, the parties have signed and delivered this Addendum on the day and year first written.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

________________________________________

## CALIFORNIA ADDENDUM TO AREA DEVELOPMENT AGREEMENT

This California Addendum to Area Development Agreement is signed on __________, 2018 between HEW Franchising, LLC ("we," "us" or "our") and___________________________ ("you" or "your") to amend the Area Development Agreement as follows:

1. There is added new Section 2.4 as follows:

**SECTION 2.4 SECURITY BOND**

As security for our performance for our pre-opening obligations under the Area Development Agreement, we have obtained a surety bond from JW Surety Bonds (the Surety") in the amount of $49,500 (the "Surety Bond") for the benefit of the State of California and for the use of any franchisee who may have a cause of action against us under the provisions of the California Franchise Investment Law. The Surety Bond is subject to the following provisions:

(a) Any person who sustains an injury covered by the Surety Bond may, in addition to any other remedy that he, she or it may have, bring an action in his, her or its own name upon the Surety Bond for the recovery of any damage sustained by him, her or it.

(b) The total aggregate liability of the Surety for all claims which may arise under the Surety Bond is limited to the payment of $49.500.

(c) The Surety may cancel the Surety Bond and be relieved of further liability under the Surety Bond by delivering 30 days' written notice to the Commissioner of Business Oversight of the State of California: however, such cancellation does not affect any liability incurred or accrued under the Surety Bond before the termination of the 30-day period.

(d) The Surety Bond remains in force and effect until the Surety is released from liability by the Commissioner or until the Surety Bond is canceled by the Surety.

2. **California Law**

The California Department of Business Oversight requires that certain provisions contained in the Area Development Agreement be amended to be consistent with California law, including the California Franchise Investment Law. CAL. BUS. & PROF. CODE Section 31000 *et seq.* and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 *et seq.* To the extent that the Area Development Agreement contains provisions that are inconsistent with the following, those provisions are amended as follows:

(a) **Nonrenewal and Termination**

California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination or nonrenewal of an Area Development Agreement. The Federal Bankruptcy Code also provides rights to you concerning termination of the Area Development Agreement upon the occurrence of certain bankruptcy-related events. If the Area Development Agreement contains a provision that is inconsistent with these laws, these laws will control.

(b) **General Releases**

You must sign a general release if you renew or transfer your Area Development Agreement. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

(c) **Venue**

If the Area Development Agreement requires litigation, arbitration or mediation to be conducted in a forum other than the State of California, the requirement may be unenforceable under California law.

(d) **Governing Law**

If the Area Development Agreement requires that it be governed by a state's law other than the State of California, the requirement may be unenforceable.

(e) **Arbitration**

The Area Development Agreement requires binding arbitration. The arbitration will occur at Palm Beach County, Florida with the costs being born by the non-prevailing party. Prospective developers are encouraged to consult private legal counsel to determine the applicability of California and Federal laws (including Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of an Area Development Agreement restricting venue to a forum outside the State of California.

**3. Alternate Channels of Distribution**

We reserve the right to establish alternatives channels of distribution within your Development Area without compensation.

**IN WITNESS WHEREOF**, the parties have signed and delivered this Addendum on the day and year first written.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

## ILLINOIS ADDENDUM TO THE FRANCHISE AGREEMENT

This Addendum to the Franchise Agreement is agreed to on ___________, 2018 between HEW Franchising, LLC (we," "us," or "our") and ______________________________ ("you" or "your").

The Illinois Attorney's General's Office requires that certain provisions contained in the Franchise Agreement be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, Ill. Comp. Stat. Ch. 815 ¶¶ 705/1 – 705/44 (1994) (the "Act"). To the extent that the Franchise Agreement contains provisions that are inconsistent with the Act, the provisions are amended:

1. Section 3.1(a) of the Franchise Agreement is amended as follows:

   (a) **Initial Franchise Fee.** You must pay to us an Initial Franchise Fee of $_____. The Initial Franchise Fee will be deferred and is not payable to us until we have complied with all of our pre-opening obligations to you under this Agreement and you have begun doing business. The Initial Franchise Fee is uniform as to all Franchisees currently purchasing a Franchise.

2. Sections 19 and 20 of the Act provide rights to you concerning nonrenewal and termination of the Franchise Agreement. If this provision contains a provision that is inconsistent with the Act, the Act will control.

3. If you must sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, the release excludes claims arising under the Act, and any acknowledgments are void as to claims under the Act and are deleted.

4. Section 41 of the Act provides that any condition, stipulation, or provision requiring any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void.

5. Section 17.5, **Jurisdiction and Venue**, is amended to add the following paragraph:

   Section 4 of the Illinois Franchise Disclosure Act dictates that any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of this State is void as to any cause of action that otherwise is enforceable in this State, except that a franchise agreement may provide for arbitration in a forum outside of this State.

6. Section 17.7, **Governing Law**, is amended to add the following paragraph:

   Any governing law or choice of law clause granting authority to a state other than Illinois effectively negates the Illinois Franchise Disclosure Act. The Franchise Agreement will be interpreted and construed under the laws of the State of Illinois.

7. Section 17.9, **Limitation of Claims**, is amended in its entirety to read as follows:

   No action will be maintained under Section 26 of the Illinois Franchise Disclosure Act to enforce any liability created by the Act unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of one year after you become aware of facts or circumstances reasonably indicating that you may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to you of a written notice disclosing the violation, whichever first expires. No cause of action barred under existing law on the effective date of the Act is revived by this Act. Every cause of action under the Act survives the death of any person who might have been a plaintiff or defendant.

8. This Amendment is effective only to the extent that the jurisdictional requirements of the Act are met independent of this Amendment. This Amendment has no force and effect if the jurisdictional requirements are not met.

In witness whereof, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

______________________________

# ILLINOIS ADDENDUM TO THE AREA DEVELOPMENT AGREEMENT

This Addendum to the Area Development Agreement is agreed to on ___________, 2018 between HEW Franchising, LLC ("we," "us" or "our") and____________________________ ("you" or "your").

The Illinois Attorney's General's Office requires that certain provisions contained in the Area Development Agreement be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, Ill. Comp. Stat. Ch. 815 ¶¶ 705/1 – 705/44 (1994) (the "Act"). To the extent that the Area Development Agreement contains provisions that are inconsistent with the Act, such provisions are hereby amended:

1. Section 3.1 is amended in its entirety to read as follows:

**SECTION 3.1 DEVELOPMENT FEE**

In consideration of the rights granted to you, and once we have performed our pre-opening obligations to you under the Franchise Agreement for your first Franchise Business, you will pay to us a Development Fee of $10,000. This is in addition to the Initial Franchise Fee that you pay for your first Franchise Business after we have performed our pre-opening obligations to you and you have begun doing business. When you sign the Franchise Agreement for a Franchise Business after the first Franchise Agreement, we will give you a credit of $5,000 against the then-current Initial Franchise Fee.

2. 815 ILCS 705/19 and 705/20 provides rights to you concerning nonrenewal and termination of the Franchise Agreement. If this provision contains a provision that is inconsistent with the Act, the Act will control.

3. 815 ILCS 705/41 provides that any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Act or any other law of this State is void.

4. If you are required to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, the release will exclude claims arising under the Act, and such acknowledgments are void with respect to claims under the Act and are deleted.

5. Section 9.1, **Jurisdiction and Venue**, is amended to add the following paragraph:

Section 4 of the Illinois Franchise Disclosure Act dictates that any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of this State is void with respect to any cause of action that otherwise is enforceable in this State, provided that a franchise agreement may provide for arbitration in a forum outside of this State.

5. Section 9.1, **Governing Law**, is amended to add the following paragraph:

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§ 1051 *et seq*. or the United States Arbitration Act, 9 U.S.C.

§§ 1 *et seq.*), this Agreement and any other agreement between the parties and all transactions contemplated by this Agreement are governed by, and construed and enforced in accordance with the laws of the State of Illinois.

6. Section 9.1 **Limitation of Claims**, is amended in its entirety to read as follows:

No action will be maintained under Section 26 of the Illinois Franchise Disclosure Act to enforce any liability created by the Act unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of one year after you become aware of facts or circumstances reasonably indicating that you may have a claim for relief in respect to conduct governed by the Act, or 90 days after delivery to you of a written notice disclosing the violation, whichever first expires. No cause of action barred under existing law on the effective date of the Act is revived by this Act. Every cause of action under the Act survives the death of any person who might have been a plaintiff or defendant.

7. This Amendment is effective only to the extent that the jurisdictional requirements of the Act are met independent of this Amendment. This Amendment has no force and effect if the jurisdictional requirements are not met.

In witness whereof, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

______________________________

**MARYLAND ADDENDUM TO FRANCHISE AGREEMENT**

This Addendum to Franchise Agreement is agreed to on ___________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("we," "us," or "our") and ________________________________________ ("you" or "your") to amend the Franchise Agreement as follows:

1. Subsection 10.2(f)(iv), **TRANSFER BY YOU**, is amended to provide that the general release does not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Section 15.1, **NO RELIANCE,** is amended to add:

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.

3. Section 15.3 **RECEIPT OF FDD**, is amended to add:

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.

4. Section 15.4 **ACKNOWLEDGMENT OF RISK**, is amended to add:

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.

5. Subsection 16.2(a)(vii), **RENEWAL**, is amended to provide that the general release does not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

6. Section 17.4, **JURISDICTION AND VENUE**, is amended to add the following paragraph:

A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

7. Section 17.6, **Governing Law**, is amended to add the following sentence:

Any claims under the Maryland Franchise Registration and Disclosure Law may be brought in Maryland within 3 years after the grant of the franchise.

8. Section 19.3, **ENTIRE AGREEMENT,** is amended to add the following sentence:

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.

In witness whereof, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

________________________________________

# MARYLAND ADDENDUM TO AREA DEVELOPMENT AGREEMENT

This Addendum to Area Development Agreement is agreed to on ___________, 2018 between HEW Franchising, LLC ("we," "us," or "our") and ______________________________________ ("you" or "your") to amend the Area Development Agreement as follows:

1. Section 5.2, **TRANSFER BY YOU**, is amended to provide that any general release does not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

2. Section 9.12, **ENTIRE AGREEMENT,** is amended to add:

> 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.

3. Section 9.7, **DISPUTE RESOLUTION**, is amended to add the following paragraph:

> A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Any claims under the Maryland Franchise Registration and Disclosure Law may be brought in Maryland within 3 years after the grant of the franchise.

In witness whereof, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: _______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

_________________________________

**MINNESOTA ADDENDUM TO FRANCHISE AGREEMENT**

This Addendum to Franchise Agreement is signed on _____________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("us" 'we" and "our") and ____________________________________ ("you" or "your") to amend the Franchise Agreement as follows:

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in the Franchise Agreement be amended to be consistent with the Minnesota Franchise Act, Minn. Stat. §§ 80.01 *et seq.,*(the "Minnesota Franchise Act") and of the Rules and Regulations promulgated under the Minnesota Franchise Act. To the extent that the Franchise Agreement contains provisions that are inconsistent with the following, the provisions are amended:

(a) Minnesota Statutes, 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 Minnesota Statutes, Chapter 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

(b) With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) 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 (2) that consent to the transfer of the franchise will not be unreasonably withheld.

(c) 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.

(d) Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statues, Section 80C.12, Subd. 1(g).

(e) Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

(f) The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J. Also, a court will determine if a bond is required.

(g) The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

2. Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the Minnesota law applicable to the provision are met independent of this Amendment. This Amendment has no force or effect if the jurisdictional requirements are not independently met.

In witness whereof, each of the undersigned hereby acknowledges having read this Amendment, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ________________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

________________________________________

**MINNESOTA ADDENDUM TO AREA DEVELOPMENT AGREEMENT**

This Addendum to Area Development Agreement is signed on ___________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("us" 'we" and "our") and ____________________________ ("you" or "your") to amend the Area Development Agreement as follows:

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in the Area Development Agreement be amended to be consistent with the Minnesota Franchise Act, Minn. Stat. §§ 80.01 *et seq.,*(the "Minnesota Franchise Act") and of the Rules and Regulations promulgated under the Minnesota Franchise Act. To the extent that the Area Development Agreement contains provisions that are inconsistent with the following, the provisions are amended:

(a) Minnesota Statutes, 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 Minnesota Statutes, Chapter 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

(b) With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) 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 (2) that consent to the transfer of the franchise will not be unreasonably withheld.

(c) 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.

(d) Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statues, Section 80C.12, Subd. 1(g).

(e) Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

(f) The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor <u>may seek</u> injunctive relief. See Minn. Rules 2860.4400J. Also, a court will determine if a bond is required.

(g) The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

2. Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the Minnesota law applicable to the provision are met independent of this Amendment. This Amendment has no force or effect if the jurisdictional requirements are

not independently met.

In witness whereof, each of the undersigned hereby acknowledges having read this Amendment, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

______________________________

# NEW YORK ADDENDUM TO FRANCHISE AGREEMENT

This Addendum to Franchise Agreement is agreed on __________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and ________________________________________________ ("you" or "your") to amend the Franchise Agreement as follows:

1. **New York Law Modifications**

The New York Department of Law requires that certain provisions contained in the Franchise Agreement be amended to be consistent with New York law, including the General Business Law, Article 33, Sections 680 through 695 (1989). To the extent that the Franchise Agreement contains provisions that are inconsistent with the following provisions those provisions are amended as follows:

(a) **Release of Claims**

If you are required in the Franchise Agreement to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, representation or action that would violate the General Business Law, regulation, rule or order under the Law, the release must exclude claims arising under the New York General Business Law, Article 33, Sections 680 through 695 and its regulations, and any acknowledgments are void. It is the intent of this provision that the non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.

(b) **Governing Law**

If the Franchise Agreement requires that it be governed by a state's law other than the State of New York, the choice of law provision will not be considered to waive any rights conferred upon the Franchisee under the New York General Business Law, Article 33, Sections 680 through 695.

2. **Jurisdictional Requirements**

Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the New York law applicable to the provision are met independent of this Amendment. This Amendment has no force or effect if the jurisdictional requirements are not independently met.

**IN WITNESS WHEREOF**, the parties have signed and delivered this Amendment on the day and year first written.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ___________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

## NEW YORK ADDENDUM TO AREA DEVELOPMENT AGREEMENT

This Addendum to Area Development Agreement is agreed on __________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and ________________________________________________ ("you" or "your") to amend the Area Development Agreement as follows:

1. **New York Law Modifications**

The New York Department of Law requires that certain provisions contained in the Area Development Agreement be amended to be consistent with New York law, including the General Business Law, Article 33, Sections 680 through 695 (1989). To the extent that the Area Development Agreement contains provisions that are inconsistent with the following provisions those provisions are amended as follows:

(a) **Release of Claims**

If you are required in the Area Development Agreement to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, representation or action that would violate the General Business Law, regulation, rule or order under the Law, the release must exclude claims arising under the New York General Business Law, Article 33, Sections 680 through 695 and its regulations, and any acknowledgments are void. It is the intent of this provision that the non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.

(b) **Governing Law**

If the Area Development Agreement requires that it be governed by a state's law other than the State of New York, the choice of law provision will not be considered to waive any rights conferred upon the Franchisee under the New York General Business Law, Article 33, Sections 680 through 695.

2. **Jurisdictional Requirements**

Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the New York law applicable to the provision are met independent of this Amendment. This Amendment has no force or effect if the jurisdictional requirements are not independently met.

**IN WITNESS WHEREOF**, the parties have signed and delivered this Amendment on the day and year first written.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

**NORTH DAKOTA ADDENDUM TO FRANCHISE AGREEMENT**

This Addendum to Franchise Agreement is signed on ____________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and ___________________________ ("you" or "your").

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 through 51-19-17 (1993). To the extent that the Franchise Agreement contains provisions that are inconsistent with the following provisions are amended:

(a) If you are required in the Franchise Agreement to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, the release excludes claims arising under the North Dakota Franchise Investment Law, and any acknowledgments are void as to claims under the Law.

(b) Covenants not to compete during the term or upon termination or expiration of the Franchise Agreement are enforceable only under certain conditions according to North Dakota law. If the Franchise Agreement contains a covenant not to compete, which is inconsistent with North Dakota law, the covenant may be unenforceable.

(c) If the Franchise Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void as to any claims under the North Dakota Franchise Investment Law.

(d) If the Franchise Agreement requires that it be governed by a state's law, other than the State of North Dakota, to the extent that the law conflicts with the North Dakota Franchise Investment Law, the North Dakota Law will control.

(e) If the Franchise Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon before the arbitration or if the parties cannot agree on a location, the arbitrator will determine the location.

(f) If the Franchise Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.

(g) Any provision in the Franchise Agreement which requires you to consent to a waiver of exemplary and punitive damages will not apply to any claims brought under the under the North Dakota Franchise Investment Law.

2. Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law as to each provision are met independent of this Addendum. A provision has no force or effect if the jurisdictional requirements are not met independent of this Addendum. If this Addendum is inconsistent with any terms of the Franchise Agreement, the terms of this Addendum govern.

**IN WITNESS WHEREOF,** each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ___________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

________________________________________

**NORTH DAKOTA ADDENDUM TO AREA DEVELOPMENT AGREEMENT**

This Addendum to Area Development Agreement is signed on _____________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and _____________________________ ("you" or "your").

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 through 51-19-17 (1993). To the extent that the Area Development Agreement contains provisions that are inconsistent with the following provisions are amended:

(a) If you are required in the Area Development Agreement to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, the release excludes claims arising under the North Dakota Franchise Investment Law, and any acknowledgments are void as to claims under the Law.

(b) If the Area Development Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void as to any claims under the North Dakota Franchise Investment Law.

(c) If the Area Development Agreement requires that it be governed by a state's law, other than the State of North Dakota, to the extent that the law conflicts with the North Dakota Franchise Investment Law, the North Dakota Law will control.

(d) If the Area Development Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon before the arbitration or if the parties cannot agree on a location, the arbitrator will determine the location.

(e) If the Area Development Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.

(f) Any provision in the Area Development Agreement which requires you to consent to a waiver of exemplary and punitive damages will not apply to any claims brought under the under the North Dakota Franchise Investment Law.

2. Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law as to each provision are met independent of this Addendum. A provision has no force or effect if the jurisdictional requirements are not met independent of this Addendum. If this Addendum is inconsistent with any terms of the Area Development Agreement, the terms of this Addendum govern.

**IN WITNESS WHEREOF,** each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

______________________________

**RHODE ISLAND ADDENDUM TO FRANCHISE AGREEMENT**

This Addendum to the Franchise Agreement is agreed to on ___________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("we" "us" or "our") and _______________________ ("you" or "your").

1. The Rhode Island Securities Division requires that certain provisions contained in the Franchise Agreement be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R. I. Gen. Law Ch. 395 Sec. 19-28.1-1 to 19-28.1-34 (the "Act"). To the extent that the Franchise Agreement contains provisions that are inconsistent with the Act, the provisions are amended:

(a) **Venue**

If the Franchise Agreement requires litigation or arbitration to be conducted in a forum other than the State of Rhode Island, the requirement is void under the Act.

(b) **Governing Law**

If the Franchise Agreement requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that this law conflicts with the Act, the Act will control.

(c) **Release of Claims**

If you are required in the Franchise Agreement to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, the release exclude claims arising under the Act, and the acknowledgments are void as to claims under the Act.

2. Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the Acts applicable to the provision are met independent of this Amendment. This Amendment has no force or effect if the jurisdictional requirements are not independently met.

In witness whereof, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________
Matthew B. Hunt, President

**YOU or YOUR:**

_________________________________

## RHODE ISLAND ADDENDUM TO AREA DEVELOPMENT AGREEMENT

This Addendum to the Area Development Agreement is agreed to on ___________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and _________________________ ("you" or "your").

1. The Rhode Island Securities Division requires that certain provisions contained in the Area Development Agreement be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R. I. Gen. Law Ch. 395 Sec. 19-28.1-1 to 19-28.1-34 (the "Act"). To the extent that the Area Development Agreement contains provisions that are inconsistent with the Act, the provisions are amended:

(a) **Venue**

If the Area Development Agreement requires litigation or arbitration to be conducted in a forum other than the State of Rhode Island, the requirement is void under the Act.

(b) **Governing Law**

If the Area Development Agreement requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that this law conflicts with the Act, the Act will control.

(c) **Release of Claims**

If you are required in the Area Development Agreement to sign a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, the release exclude claims arising under the Act, and the acknowledgments are void as to claims under the Act.

2. Each provision of this Amendment is effective only to the extent that the jurisdictional requirements of the Acts applicable to the provision are met independent of this Amendment. This Amendment has no force or effect if the jurisdictional requirements are not independently met.

In witness whereof, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

____________________________________

# VIRGINIA ADDENDUM TO FRANCHISE AGREEMENT

This Addendum to Franchise Agreement is signed on _________________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and _________________________ ("you" or "your") to amend the Franchise Agreement as follows:

1. Section 17.6 is amended to read as follows:

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§ 1051 *et seq*.), this Agreement and any other agreement involving this Agreement and all transactions contemplated by this Agreement and any other agreement involving this Agreement shall be governed by, and construed and enforced in accordance with the Virginia Retail Franchising Act, without giving effect to its choice of law or conflicts of law.

**IN WITNESS WHEREOF**, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ___________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

_______________________________________

# VIRGINIA ADDENDUM TO AREA DEVELOPMENT AGREEMENT

This Addendum to Area Development Agreement is signed on _______________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and ______________________ ("you" or "your") to amend the Area Development Agreement as follows:

1. Section 9.2 is amended to read as follows:

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §§ 1051 *et seq*.), the Area Development Agreement and any other agreement involving the Area Development Agreement and all transactions contemplated by the Area Development Agreement and any other agreement involving the Development will be governed by, and construed and enforced in accordance with the Virginia Retail Franchising Act, without giving effect to its choice of law or conflicts of law.

**IN WITNESS WHEREOF**, each of the undersigned acknowledges having read this Addendum, understands and consents to be bound all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew B. Hunt, President

**YOU or YOUR:**

___________________________________

**<u>WASHINGTON ADDENDUM TO FRANCHISE AGREEMENT</u>**

This Addendum to Franchise Agreement is signed on ___________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and ______________________ ("you" or "your") to amend the Franchise Agreement as follows:

1. The State of Washington has a statute, RCW 19.100.180, which may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal rights of your Franchise. There may also be court decisions that may supersede the Franchise Agreement in your relationship with us including the areas of termination and renewal by us.

2. In any arbitration involving a franchise purchased in Washington, the arbitration location must be either in the State of Washington, or in a place mutually agreed upon when the dispute arises, or as determined by the arbitrator.

3. Upon a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW prevails.

4. A release or waiver of rights you sign will not include rights under the Washington Franchise Investment Protection Act except when signed as part of a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions that unreasonably restrict or limit the statute of limitations period for claims under the Act including the right to a jury trial may not be enforceable.

5. Transfer fees are collectable to the extent that they may reflect our reasonable estimated or actual costs in effecting a transfer.

**IN WITNESS WHEREOF**, each of the undersigned acknowledges having read this Addendum understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: _________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

_______________________________________

**WASHINGTON ADDENDUM TO AREA DEVELOPMENT AGREEMENT**

This Addendum to Area Development Agreement is signed on ___________, 2018 between HEW Franchising, LLC ("we" "us" or "our") and ______________________ ("you" or "your") to amend the Area Development Agreement as follows:

1. The State of Washington has a statute, RCW 19.100.180, which may supersede the Area Development Agreement in your relationship with us including the areas of termination and renewal rights of your Area Development Rights. There may also be court decisions that may supersede the Area Development Agreement in your relationship with us including the areas of termination and renewal by us.

2. In any arbitration involving Area Development Rights purchased in Washington, the arbitration location must be either in the State of Washington, or in a place mutually agreed upon when the dispute arises, or as determined by the arbitrator.

3. Upon a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW prevails.

4. A release or waiver of rights you sign will not include rights under the Washington Franchise Investment Protection Act except when signed as part of a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions that unreasonably restrict or limit the statute of limitations period for claims under the Act including the right to a jury trial may not be enforceable.

5. Transfer fees are collectable to the extent that they may reflect our reasonable estimated or actual costs in effecting a transfer.

**IN WITNESS WHEREOF**, each of the undersigned acknowledges having read this Addendum understands and consents to be bound by all of its terms.

**WE, US, or OUR:**

HEW Franchising, LLC

By: ________________________________
Matthew B. Hunt, President

**YOU or YOUR:**

_____________________________________

## EXHIBIT J – AUTHORIZATION AGREEMENT FOR DIRECT WITHDRAWALS (ACH DEBITS)

4/19/18

## AUTHORIZATION AGREEMENT FOR DIRECT WITHDRAWALS (ACH DEBITS)

I (we) hereby authorize HEW Franchising, LLC, hereinafter called COMPANY, to initiate debit entries and to initiate, if necessary, credit entries and adjustments for any credit entries in error to my (our) Checking account at the depository financial institution, hereinafter called DEPOSITORY, and to credit the same to such account. I (we) understand that we will receive notification of such debits to our account if we provide a direct fax number or e-mail address below, or otherwise it shall be by ordinary mail. I (we) agree to reimburse the COMPANY for all costs or expenses it may incur if we do not have sufficient funds in the account on the date of the scheduled debit or on any future attempted debit of that amount. I (we) understand that our failure to have such necessary funds in the account on the scheduled due date is evidence of non-payment, and that the COMPANY may proceed to take any action it deems necessary to collect a debt due to our failure to pay or to have such sufficient funds on account for payment of the debt.

DEPOSITORY NAME ______________________

CITY ______________________ STATE ______________________

ROUTING NO. _______________ ACCOUNT NO. ______________

**Attach a voided check for verification.

I understand that this is a continuing authorization for the COMPANY to initiate debit transactions to my account listed above upon my written or verbal authorization. This authorization is to remain in full force and effect until COMPANY has received written notification from me (or either of us) of its termination in such time and in such manner as to afford COMPANY and DEPOSITORY a reasonable opportunity to act on it.

Franchise Company Name _____________________________________________

Authorized Signer(s)

_______________________________ or _______________________________

Signer 1 Signer 2

_______________________________ _______________________________

Printed Name Printed Name

Date __________________________ Fax No. ________________________

E-mail Address ______________________________________________________

**EXHIBIT K – GUARANTY OF DEVELOPER'S/FRANCHISEE'S OBLIGATIONS**

# GUARANTY OF DEVELOPER'S/FRANCHISEE'S OBLIGATIONS

**THIS GUARANTY OF DEVELOPER'S/FRANCHISEE'S OBLIGATIONS** (this "Guaranty") is signed on ________________, 2018 by _____________________ (the "Guarantor").

## INTRODUCTION

A. HEW Franchising, LLC, a Florida limited liability company (the "Franchisor") is granting to _________________________ (the "Franchisee") Hard Exercise Works Area Development Rights and/or a Hard Exercise Works Franchise.

B. The Guarantor represents and warrants to the Franchisor that it, he or she will benefit by the grant to the Franchisee of the Area Development Rights and/or a Franchise.

C. The Franchisor has declined to enter into the Hard Exercise Works Area Development Agreement and/or the Hard Exercise Works Franchise Agreement and other agreements (collectively, the "Agreements") with the Franchisee unless the Guarantor signs and delivers this Guaranty to the Franchisor.

## TERMS

The Guarantor agrees for the benefit of the Franchisor and its affiliates as follows:

1. **Guaranteed Obligations.** The Guarantor absolutely and unconditionally, guarantees to the Franchisor and its affiliates, and their respective successors and assigns, for the respective terms of the Agreements and thereafter as provided in the Agreements, that the Franchisee will punctually pay and perform every obligation stated in the Agreements and agrees to be personally bound by, and personally liable for the breach of, every term of the Agreements, together with charges, fees and all expenses including attorneys' fees and costs incurred in enforcing the terms of the Franchise Agreement or this Guaranty through litigation, arbitration, appellate, bankruptcy and post-judgment proceedings (the "Guaranteed Obligations").

2. **Incorporationity of Terms.** The terms of the Agreements are incorporated in this Guaranty as if stated in full, including the covenants stated in ARTICLE 13 and the dispute resolutions provisions stated in ARTICLE 17 of the Franchise Agreement by which Guarantor agrees to be bound. The Guarantor has had an opportunity to read, and to receive advice by his or her counsel of, the terms of the Agreements and the Franchisor's Franchise Disclosure Document.

3. **Guaranty Absolute and Irrevocable.** The obligation of the Guarantor is absolute and unconditional irrespective of the validity or enforceability of any of the Agreements. This is an irrevocable and continuing guaranty. This Guaranty covers and secures any amount at any time owing on the Guaranteed Obligations and remains in full effect until all Guaranteed Obligations have been satisfied and all amounts due have been paid in full to the Franchisor or its affiliates. The Guarantor waives the benefit of any circumstance, defense or statute of limitations affecting his

liability that might otherwise discharge a guarantor or hinder prompt enforcement of this Guaranty. The Guarantor irrevocably waives any requirement that the Franchisor must proceed against or exhaust any collateral or security that the Franchisor may now hold or obtain for any of the Guaranteed Obligations before collecting from the Guarantor. The Franchisor is under no obligation to keep the Guarantor informed of the Franchisee's financial condition.

4. **Payment.** If the Franchisee fails to make any payment when due or otherwise defaults under the terms of any of the Guaranteed Obligations, the Guarantor will pay to the Franchisor immediately upon demand the full amount of the Guaranteed Obligations then due (by acceleration or otherwise), in immediately available funds. All payments are made without set-off, deduction or withholding for any reason, and are final and free from any defense, claim or counterclaim of the Guarantor except the defense that the Franchisee has paid in full all Guaranteed Obligations.

5. **Enforcement.** In any proceeding under this Guaranty, the Franchisor may act against the Guarantor separately, or against 2 or more Guarantors jointly, or against some separately and some jointly. In any action or proceeding to enforce this Guaranty against the Guarantor, the Franchisor is not required to join the Franchisee, or any other Guarantor, unless it elects to do so in its sole discretion.

6. **Waiver.** The Guarantor irrevocably waives notice of the extension of any Guaranteed Obligation, or of the acceptance of this Guaranty, and protest, presentment, diligence, demand for payment, notice of default, nonpayment or dishonor of any Guaranteed Obligation, and any other notice except as expressly provided in this Guaranty.

7. **Consent to Certain Actions.** Without in any way affecting or impairing the liability of the Guarantor and, without notice to or additional consent from the Guarantor:

(a) the Guaranteed Obligations may be renewed, extended, modified (in time for payment or the terms of indebtedness or otherwise), compromised, settled, released or discharged by the Franchisor, whether by agreement with the Franchisee or under any insolvency, bankruptcy or similar proceeding;

(b) any security or collateral for the Guaranteed Obligations may be assigned, exchanged, sold, released or surrendered by the Franchisor, and the Franchisor may abstain from perfecting its security interest in any security or collateral, or from taking upon new security or collateral;

(c) the Franchisor may exercise or refrain from exercising any right against the Franchisee or any other person or entity;

(d) the Franchisor has sole discretion to apply any payments received by the Franchisee or any Guarantor to the Franchisee's past due indebtedness including Royalty Fees, E-Mail/Home Page Fees, Advertising Contributions, purchases from the Franchisor or its Affiliates, interest, NSF charges, or any other indebtedness of the Franchisee to the Franchisor, its affiliates, lessor, vendor, taxing authority or third party creditor, in any manner the Franchisor chooses regardless of the Franchisee's designation;

(e) the Franchisor may consent to or waive any breach of, or any act, omission or default of, the Guaranteed Obligations; and

(f) the Franchisor may agree to any amendment to or modification of, any of the Agreements, applicable to the Guaranteed Obligations.

The Franchisor has no duties to the Guarantor except as expressly provided in this Guaranty.

8. **Continuing Guarantee.** The guarantee of the Guarantor under this Guaranty continues to be effective, or is reinstated, as the case may be, if at any time any payment to the Franchisor of the Guaranteed Obligations is rescinded or must otherwise be returned for any reason, including the insolvency, bankruptcy or reorganization of the person or entity making the payment, all as though the payment had not been made.

9. **Successors and Assigns.** The Guarantor cannot delegate any of his, her or its obligations under this Guaranty. This Guaranty is binding upon the heirs, personal representatives, successors and assigns of the Guarantor, and inures to the benefit of the Franchisor, its affiliates, and their respective successors and assigns. The Franchisor may at any time, without notice to the Guarantor, transfer or assign to any person or entity any of the Guaranteed Obligations, or any interest in the Guaranteed Obligations. In this event, the assignee or transferee of the Guaranteed Obligations, or any interest in the Guaranteed Obligations is, to the extent of its interest, is entitled to the benefits of this Guaranty to the same extent as if the assignee or transferee were the Franchisor.

10. **Representations and Warranties.** The Guarantor represents as follows:

(a) The Guarantor has the capacity to enter into, perform and deliver this Guaranty;

(b) This Guaranty is the legal, valid, binding and enforceable obligations of the Guarantor;

(c) There is no litigation or governmental proceeding pending or threatened against the Guarantor, nor has there occurred any event, nor does there exist any condition, on the basis of which any litigation or proceeding might be begun, which litigation or proceeding, if adversely determined, could have a material adverse effect on the respective properties, operations, assets, condition (financial, business, labor or otherwise) or prospects of the Guarantor;

(d) The Guarantor has independent means of obtaining reports and financial information about the Franchisee and the Franchisor has no obligation, either before the signing of this Guaranty or any time thereafter, to notify the Guarantor concerning the Franchisee's financial condition or of any event or occurrence affecting the Franchisee's financial condition or business operation; and

(e) Any financial statements previously delivered by the Guarantor to the Franchisor were true and correct in all respects as of the date delivered. At any time this Guaranty is in effect, Guarantor will, upon 7-days prior written notice from the Franchisor, provide the Franchisor with a current financial statement and such other financial information as the Franchisor may reasonably request (including copies of Guarantor's filed federal and state income tax returns for the most recent taxable year). The Franchisor agrees to keep confidential and not use such financial statements and information, except in connection with the administration or enforcement of the Franchise Agreement or this Guaranty. The financial statements must be prepared in accordance with generally accepted accounting principles.

11. **<u>Notices</u>.** Any notice or demand required or permitted to be given under this Guaranty to the Guarantor must be in writing and must be either: (a) personally delivered; or (b) by FedEx or UPS to the following address for the Guarantor:

____________________________
____________________________

12. **<u>Subordination and Subrogation</u>.** Until the Guaranteed Obligations are paid in full, the Guarantor subordinates and assigns all direct or indirect claims and rights that he, she or it may have against the Franchisee, now existing or later arising, to all claims by the Franchisor for amounts owing from the Franchisee to the Franchisor or its affiliates for the Guaranteed Obligations.

13. **<u>Miscellaneous</u>.** This Guaranty contains the entire agreement of the Guarantor and is not subject to any oral conditions. Time is of the essence for the terms of this Guaranty. This Guaranty cannot be changed or modified orally. Upon request from the Franchisor, the Guarantor will provide to the Franchisor all information regarding his, her or its financial condition and business operations as the Franchisor requests including personal financial statements. This Guaranty is deemed and treated as being drafted jointly by the Guarantor and the Franchisor. No term of this Guaranty is construed more strictly against the Guarantor or the Franchisor because the Franchisor, or its counsel, was responsible for the physical preparation of this Guaranty.

**IN WITNESS WHEREOF,** the Guarantor signed this Guaranty on the date stated above.

______________________________________

**EXHIBIT L – AGREEMENT WITH LANDLORD**

4/19/18

**AGREEMENT WITH LANDLORD**

**THIS AGREEMENT** is signed on ___________, 2018 among HEW Franchising, LLC (the "Franchisor"); _______________________________ (the "Landlord") and _________________________ (the "Tenant/Franchisee").

**BACKGROUND**

A. The Tenant/Franchisee is a franchisee of the Franchisor under a Hard Exercise Works Franchise Agreement between the Franchisor and the Tenant/Franchisee dated _________________, 2018 (the "Franchise Agreement") for the operation of a Hard Exercise Works Franchise (the "Franchise Business").

B. The Landlord and the Tenant/Franchisee are parties to a Lease Agreement dated ______________________, 2018 (the "Lease") for the premises located at ____________________ (the "Premises") that the Franchisor has approved on condition that all the parties sign this Agreement.

C. In order to assure that a Franchise Business may continue to operate at the Premises, the Landlord grants certain rights to the Franchisor under the Lease to protect the Franchisor's interest under the Franchise Agreement.

The parties agree as follows:

**TERMS**

1. **Signage.** The Landlord agrees to the Franchisor's signage requirements for the Tenant/Franchisee, subject to local signage ordinances and approval by local governmental agencies, if necessary.

2. **Use of Premises**. The Landlord and the Tenant/Franchisee agree that the Tenant/Franchisee may only use the Premises for the operation of the Franchised Business, unless the Franchisor otherwise approves in writing. The Landlord acknowledges that this use does not violate any zoning restrictions, restrictive covenants or existing exclusive uses granted to any other tenant of the Landlord in the building/center or adjacent outparcel owned by the Landlord in which the Premises are located. The Landlord further acknowledges that during the term of the Lease or any extension of the Lease, the Landlord will not lease space within the building/center or outparcel to a business similar to the Franchised Business, or permit an existing tenant to offer products that compete with the Franchised Business. Competitive business means any business that operates, or franchises or licenses others to operate, an instructional and educational exercise facility that offers nutrition management and fitness training.

3. **Tenant Information; Notices of Default**. The Landlord will send to the Franchisor at the address set forth below by regular U.S. mail copies of all sales reports, financial information,

correspondence and other communications sent by the Landlord to the Tenant/Franchisee or sent by the Tenant/Franchisee to the Landlord. The Landlord will overnight to the Franchisor at the address below by USPS, FedEx or UPS copies of all written notices of default sent by the Landlord to the Tenant/Franchisee. The Landlord acknowledges that the Franchisor is not responsible for any actions of the Tenant/Franchisee or any of its employees, agents, suppliers or customers.

HEW Franchising, LLC
661 Maplewood Drive, Unit 18
Jupiter, Florida 33458.
Attn: Matthew Hunt, President

4. **Right to Cure and Take Occupancy.**

(a) If the Tenant/Franchisee defaults under the Lease, the Franchisor may (but is under no obligation to), within 30 days after receipt of written notice from the Landlord, cure the default (or a longer period of time if the default is not capable of being cured within 30 days and the Franchisor is diligently proceeding to cure the default). If the Franchisor cures the Tenant/Franchisee's default, the Franchisor has the right to occupy the Premises and operate the Franchised Business. The Tenant/Franchisee is deemed to have assigned the Lease to the Franchisor, but the Tenant/Franchisee and any guarantors are not released from their obligations under the Lease. From and after the deemed assignment, the Franchisor will assume and perform all of the obligations of the Tenant/Franchisee under the Lease until the Franchisor is released in accordance with Subsection 4(b).

(b) The Franchisor may assign the Lease to another Hard Exercise Works Franchisee with the Landlord's written approval of the new tenant/franchisee. The Landlord will not unreasonably withhold, delay or condition its approval of the new tenant/franchisee. Upon the permitted assignment by the Franchisor to the new tenant/franchisee, the Franchisor is released from all further obligations under the Lease.

5. **Franchisor's Rights Upon Termination or Expiration of Franchise Agreement.** The Landlord acknowledges that any landlord's lien or security interest does not include any property of the Tenant/Franchisee that includes any items bearing the Franchisor's trademarks including the signage and proprietary trade dress. If the Franchisor does not take occupancy of the Premises and does not assume the Lease, the Landlord agrees to the Franchisor's rights under the Franchise Agreement, upon reasonable notice to the Landlord, to enter the Premises solely for the purposes of taking all steps necessary to protect its interest under the Franchise Agreement including the removal of all signs and other items bearing the Proprietary Marks of the Franchisor (without damage to the Premises).

6. **Modification of Lease.** The Landlord and the Tenant/Franchisee will not make any material modifications to the Lease without the Franchisor's written consent, which consent the Franchisor will not unreasonably withhold, delay or condition.

7. **Noncompetition.** If the Franchisor does not take over the Lease upon the termination or expiration of the Franchise Agreement and the Tenant/Franchisee remains in possession of the Premises, the Landlord and the Tenant/Franchisee agree that, for a period of 2 years after the expiration or termination of the Franchise Agreement, the Premises will not be used

for any business that operates, or franchises or licenses others to operate, an instructional and educational exercise facility that offers nutrition management and fitness training.

8. **Landlord's Statutory Lien or Security Interest**. The Landlord subordinates its statutory lien or security interest in the Tenant's property to the security interest of the Franchisor. The Landlord will further cooperate in signing all required documents to recognize the subordination.

9. **Non-Disturbance Agreement**. The Landlord will use its best efforts to obtain a non-disturbance agreement from Landlord's existing mortgagee.

10. **Attorneys' Fees**. If a party institutes any action to enforce any provision of this Agreement, the prevailing party is entitled to recover all attorneys' fees and costs incurred in connection with the action from the non-prevailing party.

11. **Governing Law; Venue**. This Agreement is governed by and construed in accordance with the laws of the state in which the Premises are located. Venue will be in the county in which the Premises are located.

12. **Conflict.** Upon any inconsistency between this Agreement and the terms of the Lease, this Agreement supersedes and controls.

13. **Binding Effect.** This Agreement is binding upon the personal representatives, heirs, successors and assigns of the parties.

**IN WITNESS WHEREOF,** this Agreement has been signed the date and year first above written.

**FRANCHISOR:**

HEW Franchising, LLC

By: ______________________________
Matthew Hunt, President

**LANDLORD:**

______________________________

By: ______________________________
Its:

**TENANT/FRANCHISEE:**

______________________________

**EXHIBIT M – TELEPHONE NUMBER AND DIRECTORY ADVERTISING**
**ASSIGNMENT AGREEMENT**

4/19/18

# TELEPHONE NUMBER AND DIRECTORY ADVERTISING
# ASSIGNMENT AGREEMENT

**THIS ASSIGNMENT AGREEMENT** is signed on ___________, 2018, between HEW Franchising, LLC, a Florida limited liability company ("we," "us" or "our") and ______________________________ ("you" or "your").

## BACKGROUND

A. The parties have entered into a Hard Exercise Works Franchise Agreement on ______________________, 2018 (the "Franchise Agreement").

B. As a condition to signing the Franchise Agreement, we have required that you assign to us all of your right, title and interest in the telephone numbers, telephone listings, facsimile numbers, and telephone directory advertisements relating to the Hard Exercise Works Franchise (the "Franchise Business") upon the expiration or termination of the Franchise Agreement

The parties agree as follows:

## TERMS

1. **Assignment**. In order to secure continuity and stability of our operation of the Franchise Business, immediately upon the expiration or termination of the Franchise Agreement, this Agreement constitutes your automatic assignment to us all of your right, title and interest in and to certain telephone numbers, facsimile numbers, telephone listings and telephone directory advertisements, whether on the Internet or in print, pursuant to which you operate your Franchise Business in accordance with the terms of the Franchise Agreement without further action on your part.

2. **Assumption.** Immediately upon the expiration or termination of the Franchise Agreement, in consideration of the transfer of telephone service for the telephone numbers, we may assume and pay all future obligations for the telephone numbers, including the payment of all charges for future local and long distance service, telecommunications equipment, toll credit cards, public telephone service and equipment and directory advertising existing.

3. **Your Representation and Warranties**. You represent, warrant and covenant to us that:

(a) As of the effective date of the Assignment, all of your obligations and indebtedness for telephone services, telephone listing services and telephone directory advertisement services must be paid and current.

(b) As of the date of this Agreement, you have full power and legal right to enter into, sign, deliver and perform this Agreement.

(c) This Agreement is your legal and binding obligation enforceable in accordance with its terms.

(d) The signing, delivery and performance of this Assignment does not conflict with, violate, breach or constitute a default under any contract, agreement or instrument to which you are a party or by which you are bound, and no consent of nor approval by any third party is required.

(e) You have the specific power to assign and transfer your right, title and interest in your telephone numbers, telephone listings and telephone directory advertisements, and you have obtained all necessary consents to this Assignment.

4 **Other Documents**. You agree to sign any other documents required by the telephone service provider and/or publisher required to make the assignment effective.

5. **Miscellaneous**. The validity, construction and performance of this Assignment is governed by the laws of the State in which we are located (currently, Florida). All agreements, covenants, representations and warranties made in this Agreement survive the signing of this Agreement. All our rights inure to our benefit and to the benefit of our successors and assigns.

**IN WITNESS WHEREOF**, each of the parties has signed this Assignment as of the day and year first written above.

**YOU or YOUR:**

______________________________

**WE, US, or OUR:**

HEW Franchising, LLC

By: ______________________________
Matthew Hunt, President

# EXHIBIT O – SOFTWARE SUBLICENSE AGREEMENT

4/19/18

**SOFTWARE SUBLICENSE AGREEMENT**

**THIS SOFTWARE SUBLICENSE AGREEMENT** ("Agreement") is signed on ____________, 2018 between HEW Franchising, LLC, a Florida limited liability company ("we," "us" and "our") and _________ ("you" or "your").

1. **General.** This Agreement is being entered into pursuant to Section 2.14 of the Hard Exercise Works Franchise Agreement between the parties dated the same date as this Agreement (the "Franchise Agreement"). All capitalized terms used in this Agreement have the same definitions as set forth in ARTICLE 19 of the Franchise Agreement, unless otherwise expressly defined in this Agreement.

2. **Grant of Sublicense.** Subject to the terms of this Agreement, we agree to: (a) furnish the MindBody®, Constant Contact®, Waiver King®, Rallio® and Qvinci® Software (collectively, the Software) to you; (b) furnish Related Materials including any printed material not consisting of Software programs, like Software user instructions in support of the Software (the "Related Materials"); (c) grant you a nontransferable and nonexclusive sublicense to use the Software and Related Materials; and (d) provide Software maintenance, all as described in this Agreement. Software does not include any source code.

3. **Terms of Use.** The Software (including any changes to the Software made by Mindbody, Inc., Constant Contact, Inc., Waiver King, Inc., Socialwise, Inc. d/b/a Rallio and Qvinci Software, LLC) may be used by you only in connection with the operation of the Franchise Business. MindBody, Inc., Constant Contact, Inc., Waiver King, Inc., Socialwise, Inc. d/b/a Rallio and Qvinci Software, LLC. retain the title and full ownership rights to their respective Software. You may not enhance or modify the Software in any manner without our written consent. The rights granted under this Agreement authorize you to utilize the Related Materials in printed form, in support of your use of the Software in machine readable form. You will maintain no more than 1 copy of the Software at any time except with our written consent.

4. **Technology Fee.** The Technology Fee for the use of the MindBody, Constant Contact, Waiver King, Rallio and Qvinci Software is $280 per month payable on the 1st of each month. The License Fee is subject to change upon 30 days' written notice from us.

5. **Taxes.** You will declare and pay when due all assessments, charges and taxes, including sales, use, excise and property taxes, and penalties and interest with respect to this Agreement, imposed in connection with this Agreement, if any; excluding, however, any taxes based on or measured solely by our net income.

6. **Technical Services, Updates and Enhancements.** During the Term, we will, from time to time, as we deem necessary, forward to you any technical bulletins and updated user guides, and supply you with updates and enhancements. You are responsible for the costs of postage, insurance and handling. In addition, if we determine that the Software update or enhancement

significantly improves the function or performance of the Software you use, and you elect to or are required to obtain the update or enhancement, you will be required to pay a reasonable fee as we specify.

7. **Warranties.** We warrant that the Software will be free of defects in materials and perform the functions we specify in writing in applicable user manuals or as otherwise provided in writing. We do not warrant that the functions contained in the Software will meet all of your requirements or will operate with hardware we have not approved, or that the operations will be uninterrupted or error free or that all program defects, if any will be corrected. **EXCEPT AS PROVIDED IN THIS SECTION, WE MAKE NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE AND SERVICES FURNISHED UNDER THIS AGREEMENT, AND EXPRESSLY DISCLAIMS THEM.**

8. **Termination.** The license granted under this Agreement for the Software terminates at the expiration or termination of the Franchise Agreement, or as otherwise provided in this Agreement. Upon expiration or termination of this Agreement, you will immediately deliver to us all Software. This requirement will apply to all copies in any form including translations, compilations or partial copies within modifications, derivative works, and updated works, whether partial or complete, and whether modified or merged into other programs or materials (collectively, the "Modifications").

9. **Hardware.** It is your obligation to obtain the computer hardware required for the operation of the Software.

10. **Confidentiality.** Without limiting any of your other confidentiality requirements under the Franchise Agreement, you agree not to provide or otherwise make available any portion of the Software, including documentation and machine readable code, in any form to any person other than you or your employees without our prior written consent. You will not reverse assemble or reverse compile the Software in whole or in part. You may not copy the Software in any manner without our prior written consent. The Software is our proprietary information and trade secrets whether any portion is or may be validly copyrighted or patented. The Software will be treated by you as proprietary information and trade secrets. We may enforce independently all our rights under this Agreement against you. In order to protect our trade secrets and copyright notices with respect to the Software, you agree to reproduce or incorporate our trade secret and copyright notices, if any, in any copies, modifications or partial copies of the Software.

11. **Assignment.** Without our prior written consent and only in connection with a permitted transfer or sale of the Hard Exercise Works Franchise, you will not: (a) assign, transfer, or grant a security interest in this Agreement, the Software or any part of the Software or any interest in the Software; (b) sublicense or lend the Software or any part of the Software, or any interest in the Software; (c) permit the Software or any part of the Software to be used by anyone other than by you and your employees; or (d) change the location of the Software. We may assign or otherwise transfer all or a portion of our respective interests in the Software or this Agreement. You: (i) consent to our assignment or transfer; (ii) agree to sign and deliver promptly any further acknowledgements, agreements and other instruments as may be reasonably requested by our assignee or transferee (the "Transferee") to effect the assignment or transfer; and (iii) agree to comply fully with the terms of any assignment or transfer. Upon an assignment or transfer, we will notify you and thereafter all references to us includes the Transferee; provided, however, that the Transferee will not be obligated

to perform our obligations under this Agreement unless the Transferee expressly agrees in writing to do so.

12. **Limitation of Liability.** Our entire liability and your exclusive remedy are as follows:

(a) In all situations involving performance or nonperformance of the Software or services furnished under this Agreement, provided you have paid all amounts due pursuant to the applicable Schedule, your remedies are:

(i) the correction by us of the Defects (as defined later in this Agreement), or

(ii) if, after repeated efforts, we are unable to correct the Defects, you are entitled to recover actual damages from us up to the limits set forth in this Section; and

(b) For any other claim concerning performance or nonperformance by us pursuant to, or in any other way related to, the subject matter of this Agreement, you are entitled to recover actual damages up to the limits set forth in this Section.

(c) Our liability for damages to you for any cause whatsoever, and regardless of the form of action, whether in contract or in tort including negligence, is limited to the amount of the charge set forth on any Schedule to this Agreement which is paid for use of the Software, or for the services provided by or on our behalf that caused the damages or that is the subject matter of, or is directly related to the cause of action. **IN NO EVENT WILL WE BE LIABLE FOR ANY DAMAGES CAUSED BY YOUR FAILURE TO PERFORM YOUR RESPONSIBILITIES OR FOR ANY LOST PROFITS, LOST SAVINGS OR OTHER CONSEQUENTIAL DAMAGES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES, OR FOR ANY CLAIM AGAINST YOU BY ANY OTHER PARTY.**

(d) Our liability for any payments under this Section is contingent upon your delivery to us of a disk containing a copy of the defective Software from which we are able to reproduce the reported defect. If we verify the reported defect (the "Defect"), at our request, you will immediately return to us the defective Software and all Modifications, if any. If any reported Defect is found to be caused by your negligence, error, mistake or modification, by the data you supply, equipment or operator failure, or by any other cause not inherent to the Software we furnish, we reserve the right to charge you for time and materials, if any, incurred by us or on our behalf in connection with responding to the reported Defect.

13. **Default.** Any default under the Franchise Agreement or other agreement between the parties is deemed a default under this Agreement.

14. **Remedies.** Upon any default under this Agreement, we may, by written notice to you, terminate this Agreement. This remedy is not exclusive, but is cumulative and in addition to any other remedy referred to in this Agreement or otherwise available to either party.

15. **Schedules.** The Schedules are considered incorporated by reference and deemed a part of this Agreement. No Schedule is effective until properly signed by the parties.

16. **Incorporation Into Franchise Agreement.** This Agreement is deemed incorporated into and made a part of the Franchise Agreement including its Dispute Resolution provisions.

**IN WITNESS WHEREOF,** the parties have signed this Agreement as of the day and year first above written.

FRANCHISOR:

HEW Franchising, LLC

By: ______________________________
Matthew Hunt, President

FRANCHISEE:

__________________________________

## EXHIBIT P – LIST OF FRANCHISEES

(a) **Operational Franchisees.** The following are the names, addresses and telephone numbers of the 17 Franchise Businesses in the United States as of December 31, 2017 who are operational:

| Name of Franchised Unit | Name and Address of Franchisee | Telephone Number |
|---|---|---|
| HEW Boca Raton | Jason Martin and Tonya Martin<br>21065 Powerline Road<br>Bay C-9<br>Boca Raton, FL 33433 | (561) 218-4069 |
| HEW Clearwater | LT&W, LLC<br>314 S. Belcher Road<br>Clearwater, Florida 33765 | (727) 223-8729 |
| HEW Coral Springs | Justin Ziegler, Kristie Ziegler and Ed Ziegler<br>5884 W. Sample Road<br>Coral Springs, FL 33073 | (754) 222-2725 |
| HEW Deerfield Beach | Bryan Stutevoss<br>1215 S. Federal Highway<br>Deerfield Beach, FL 33441 | (954) 482-0756 |
| HEW Delray Beach | JayKayV, LLC<br>5195 West Atlantic Avenue<br>Unit B<br>Delray Beach, FL 33484 | (561) 789-3000 |
| | | |
| HEW Jacksonville – San Marco | Mark Jankovich and Liz Jankovich<br>2777 University Boulevard West<br># 16<br>Jacksonville, FL 32217 | (904) 570-9990 |
| HEW Jensen Beach (formerly Stuart) | Justin Bartlett and Caitlin Bartlett<br>1495 N. Federal Highway<br>Stuart, FL 34994 | (772) 232-4944 |
| HEW Lake Worth | Chad Bonta and Stephanie Bonta<br>5516 State Road 7<br>Suite 118<br>Lake Worth, FL 33449 | (561) 357-9244 |
| HEW Orlando-University Boulevard | Jason Wagner and Stephanie Wagner<br>International Plaza<br>11551 University Boulevard<br>Suite 4-C, Building 1<br>Orlando, FL 32817 | (561) 818-8091 |
| HEW Palm Beach Gardens | The Gardens Gym, LLC<br>Nick Perry and Melissa Perry<br>10190 Riverside Drive, #101<br>Palm Beach Gardens, FL 33410 | (561) 627-7277 |

| Name of Franchised Unit | Name and Address of Franchisee | Telephone Number |
|---|---|---|
| HEW Port St. Lucie | John Welch and Kendra Welch<br>464 S.W. Port St. Lucie Boulevard<br># 101<br>Port St. Lucie, FL 34953 | (772) 529-0108 |
| HEW South Stuart | Jamie Murray and Kelly Murray<br>4245 S.E. Federal Highway<br>Stuart, FL 34997 | (772) 403-7828 |
| HEW Wellington | John Szarszewski and Alexis Hernandez<br>8751 Southern Boulevard<br>West Palm Beach, FL 33411 | (561) 422-0330 |
| HEW West Palm Beach | Shannon Ruest and Kristen Ruest<br>332 Evernia Street<br>West Palm Beach, FL 33411 | (561) 355-1225 |
| HEW Roswell | Lanny Branum and Laurie Branum<br>Rivermont Square<br>8560 Holcomb Bridge Road<br>Alpharetta, GA 30022 | (404) 545-0351 |
| HEW Johns Creek | Anthony Hippeli<br>10305 Medlock Bridge Road<br>Johns Creek, GA 30096 | (678) 262-8389 |
| HEW Ashville | Arnaldo Alvarez, TJ Robinson and Meghan Wells<br>1636 Hendersonville Road<br>## 86 and 87<br>Asheville, NC 28803 | (828) 575-2556 |

(b) **<u>Franchise Executed But Not Yet Operational</u>.** The following are the name, address and telephone number of the -2- Franchise Business in the United States as of December 31, 2017 who is not yet operational but has signed a Franchise Agreement:

| Name of Franchised Unit | Name and Address of Franchisee | Telephone Number |
|---|---|---|
| HEW Rocklin | Nick Perry<br>925 U Street<br>Rio Linda, CA 95673 | (916) 947-5686 |
| HEW Boynton Beach | Neil Tashman<br>8089 Pinnacle Pass Way<br>Boynton Beach, FL 33473 | (305) 989-6110 |

(c) **Former Franchisees.** The following are the name, last known home address and home telephone or cell number of the -1- Franchisee in the United States that has been terminated, canceled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year (since January 1, 2017) or who have not communicated with us within 10 weeks of the effective date of this Franchise Disclosure Document.

| Name of Former Franchised Unit | Name of Former Franchisee and Last Known Home Address | Last Known Home Telephone Number |
|---|---|---|
| HEW Boynton Beach | Sergio Esteves, Larissa Esteves, Chad Bonta and Stephanie Bonta<br>12126 Sugar Pine Trail<br>West Palm Beach, FL 33414 | (561) 371-3811 |
| HEW Jacksonville Beach | Hard Exercise Works Jax Beach Corp.<br>1500 Beach Boulevard<br>Suite 117 A & B<br>Jacksonville, FL 32250 | (904) 853-5911 |

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

(d) **Transferred Franchises**. The following are the names, last known home addresses and home telephone or cell numbers of the -1- Franchisee in the United States that has sold their Franchise to another during the most recently completed fiscal year (since January 1, 2017) and until the effective date of this Franchise Disclosure Document:

| Name of Transferee | Last Known Home Address | Last Known Home Telephone Number |
|---|---|---|
| HEW Delray Beach | Bobby Mosebach<br>5195 West Atlantic Avenue<br>Unit B<br>Delray Beach, FL 33484 | (561) 789-3000 |

**EXHIBIT Q - FINANCIAL STATEMENTS**

Attached are our:

1. Unaudited[1] balance sheet as of March 31, 2018 and our unaudited[1] income statement for the 3-month period ending March 31, 2018; and

2. Audited comparative financial statements for the fiscal years ended December 31, 2017; December 31, 2016; and December 31, 2015.

[1] **THE BALANCE SHEET AS OF MARCH 31, 2018 AND INCOME STATEMENT FOR THE 3-MONTH PERIOD FROM JANUARY 1, 2018 THROUGH MARCH 31, 2018 WERE INTERNALLY PREPARED BY THE FRANCHISOR IN ACCORDANCE WITH GAAP. PROSPECTIVE FRANCHISEES ARE ADVISED THAT NO INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT HAS COMPILED, REVIEWED OR AUDITED THESE FIGURES OR EXPRESSED HIS OR HER OPINION WITH REGARD TO THEIR CONTENT OR FORM.**

Our fiscal year ends December 31

# HEW Enterprises

## BALANCE SHEET

As of March 31, 2018

| | TOTAL |
|---|---|
| ASSETS | |
| Current Assets | |
| Bank Accounts | |
| BB&T - Deposits - xxx5893 | 6,000.00 |
| BB&T - Operating - xxx2415 | 46,061.07 |
| **Total Bank Accounts** | **$52,061.07** |
| Accounts Receivable | |
| Note Receivable - Jax Beach Settlement | 47,083.99 |
| **Total Accounts Receivable** | **$47,083.99** |
| Other Current Assets | |
| Loan to HEW South Stuart (MDUSA) | 0.00 |
| Loans to Others | 0.00 |
| Prepaid Supplies | 0.00 |
| Uncategorized Asset | 0.00 |
| **Total Other Current Assets** | **$0.00** |
| **Total Current Assets** | **$99,145.06** |
| Fixed Assets | |
| Accumulated Depreciation | -35,188.95 |
| Electronics | 2,318.65 |
| Furniture & Fixtures | 419.37 |
| Leasehold Improvements - 661 Maplewood Unit #18 | 2,325.41 |
| Machinery & Equipment | 24,009.97 |
| Vehicle-Ford | 10,875.00 |
| Vehicle-Ford-F-250 | 38,829.60 |
| **Total Fixed Assets** | **$43,589.05** |
| Other Assets | |
| 661 Maplewood Rd - Lease Deposit | 2,000.00 |
| **Total Other Assets** | **$2,000.00** |
| **TOTAL ASSETS** | **$144,734.11** |
| LIABILITIES AND EQUITY | |
| Liabilities | |
| Current Liabilities | |
| Credit Cards | |
| AMEX - Gold Card - xxx 3008 | 3,323.18 |
| Chase - ink Business CASH | 3,000.13 |
| **Total Credit Cards** | **$6,323.31** |
| Other Current Liabilities | |
| Accrued Interest | 0.00 |
| Accrued Payroll | 0.00 |
| Current Portion LTDebt | 25,700.00 |
| Direct Deposit Payable | 0.00 |

| | TOTAL |
| --- | --- |
| Loan from S/H - Greer (D-Fit) | 0.00 |
| Loan from S/H - Hunt (D-Fit) | 0.00 |
| Loan From Shareholder - Greer | 43,051.91 |
| Loan From Shareholder - Hunt | 15,189.08 |
| Payroll Liabilities | |
| Federal Taxes (941/944) | 0.00 |
| Federal Unemployment (940) | 0.00 |
| FL Unemployment Tax | 0.00 |
| **Total Payroll Liabilities** | **0.00** |
| Payroll Taxes Payable | 0.00 |
| **Total Other Current Liabilities** | **$83,940.99** |
| **Total Current Liabilities** | **$90,264.30** |
| Long-Term Liabilities | |
| Deferred Franchise Fee Income | 46,810.00 |
| Less Current Portion of LTDebt | -25,700.00 |
| Loan From S/H - Greer (John A Buy Out) | 100,528.53 |
| Note Payable - DFit | 0.00 |
| Note Payable - Greer - LOC | 20,000.00 |
| Settlement Costs-Mosebach | 120,000.00 |
| Territory Reservation - Deposit | 6,000.00 |
| **Total Long-Term Liabilities** | **$267,638.53** |
| **Total Liabilities** | **$357,902.83** |
| Equity | |
| Common Stock | 100.00 |
| Distributions-Annunziata | 0.00 |
| Distributions-Greer | -23,300.00 |
| MetLife - Greer | 0.00 |
| **Total Distributions-Greer** | **-23,300.00** |
| Distributions-Hunt | -23,300.00 |
| MetLife - Hunt | 0.00 |
| **Total Distributions-Hunt** | **-23,300.00** |
| Opening Balance Equity | 0.00 |
| Paid in Capital | 100,000.00 |
| Retained Earnings | -130,301.40 |
| Treasury Stock | -181,600.00 |
| Net Income | 45,232.68 |
| **Total Equity** | **$ -213,168.72** |
| **TOTAL LIABILITIES AND EQUITY** | **$144,734.11** |

# HEW Enterprises

## PROFIT AND LOSS

January - March, 2018

| | TOTAL |
|---|---|
| Income | |
| Brand Fund - Income | 13,036.17 |
| Commissary - Income | 3,866.50 |
| Commissary Commission | 2,068.71 |
| Franchise Royalties - Income | 49,633.33 |
| Franchise Software - Income | |
| Sweat Angels - Income | 8,052.85 |
| Technology Fee | 13,720.00 |
| **Total Franchise Software - Income** | **21,772.85** |
| Initial Franchise Fee - Income | 49,500.00 |
| Refunds - Franchise Fees | -2,500.00 |
| Unapplied Cash Payment Income | 4,064.22 |
| **Total Income** | **$141,441.78** |
| Cost of Goods Sold | |
| Apparel - COGS | 4,426.52 |
| **Total Cost of Goods Sold** | **$4,426.52** |
| GROSS PROFIT | **$137,015.26** |
| Expenses | |
| Advertising | 549.89 |
| Annual Franchise Event | 4,912.51 |
| Auto | 50.00 |
| Auto - Fuel | 1,398.11 |
| **Total Auto** | **1,448.11** |
| Bank Charges | 19.00 |
| Dues & Subscriptions | 6,358.73 |
| FAC | |
| FAC - Fuel | 663.81 |
| **Total FAC** | **663.81** |
| Franchise Software | |
| Brand Folder | 1,866.68 |
| Constant Contact | 3,340.00 |
| Emma | 843.00 |
| MINDBODY Online | 5,010.73 |
| Qvinci | 1,063.79 |
| Rallio | 1,458.00 |
| Sweat Angels - Expense | 7,861.32 |
| Waiver King | 1,260.00 |
| **Total Franchise Software** | **22,703.52** |
| Licenses & Fees | 400.00 |
| Meals and Entertainment | 1,306.45 |
| Merchant Service Fees | 2,033.59 |
| Office/General Administrative Expenses | 1,016.13 |
| Payroll Expenses | |

| | TOTAL |
|---|---|
| Payroll Service Fee | 296.64 |
| Salary & Wages | 26,262.99 |
| Tax Expense | 5,983.34 |
| **Total Payroll Expenses** | **32,542.97** |
| Professional Fees | |
| Professional Fees - Legal | 5,115.00 |
| Professional Fees - Media | 1,491.60 |
| Workout Programming | 350.00 |
| **Total Professional Fees** | **6,956.60** |
| Promotional | 900.00 |
| Rent or Lease | |
| Rent - 661 Maplewood Drive #18 | 5,610.50 |
| Rent - Trailer Storage | 318.00 |
| **Total Rent or Lease** | **5,928.50** |
| Supplies | 23.87 |
| Travel | 41.95 |
| Travel - Airfare | 2,108.98 |
| Travel - Rent a Car | 254.68 |
| **Total Travel** | **2,405.61** |
| Utilities | 683.29 |
| **Total Expenses** | **$90,852.58** |
| NET OPERATING INCOME | **$46,162.68** |
| Other Expenses | |
| Miscellaneous | 930.00 |
| **Total Other Expenses** | **$930.00** |
| NET OTHER INCOME | **$ -930.00** |
| NET INCOME | **$45,232.68** |

# *HEW ENTERPRISES,INC.*

## *Financial Statements and Supplementary Information*

## *December 31, 2017*

# HEW ENTERPRISES, INC.
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Established in 1932
Divine Blalock Martin Sellari LLC
Your gain...our goal!

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**REGULATED BY THE STATE OF FL AND THE STATE OF TN
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**INDEPENDENT AUDITOR'S REPORT**

To the Stockholders'
HEW Enterprises, Inc.
Jupiter, FL

We have audited the accompanying financial statements of HEW Enterprises, Inc. (an S corporation), which comprise the balance sheet as of December 31, 2017, and the related statements of income and retained deficit and cash flows for the year then ended, and the related notes to the financial statements.

## Management's Responsibility for the Financial Statements

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

## Auditor's Responsibility

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

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

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

## Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of HEW Enterprises, Inc. as of December 31, 2017, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

## Report on Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The schedule of general and administrative expenses on page 12 is presented for purposes of additional analysis and are not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

*Divine, Blalock, Martin & Sellari, LLC*

**West Palm Beach, FL**
**April 16, 2018**

# HEW ENTERPRISES, INC.
# BALANCE SHEET
# DECEMBER 31, 2017

## Assets

| | |
|---|---|
| **Current Assets** | |
| Cash and Cash Equivalents | $ 88,295 |
| Settlement Receivable | 47,084 |
| **Total Current Assets** | 135,379 |
| | |
| **Property and Equipment** | |
| Vehicles | 49,705 |
| Machinery and Equipment | 23,914 |
| Leasehold Improvements | 2,325 |
| Computer Software | 2,319 |
| Furniture and Fixtures | 419 |
| | 78,682 |
| Less: Accumulated Depreciation | (35,189) |
| **Net Property and Equipment** | 43,493 |
| | |
| **Other Assets** | |
| Deposits | 2,000 |
| **Total Other Assets** | 2,000 |
| | |
| **Total Assets** | $ 180,872 |

# HEW ENTERPRISES, INC.
# BALANCE SHEET
# DECEMBER 31, 2017

## Liabilities and Stockholders' Deficit

| | |
|---|---|
| **Current Liabilities** | |
| Accounts Payable | $ 9,694 |
| Accrued Settlement Liability | 129,000 |
| Deferred Revenue | 96,310 |
| Territory Reserve Deposit | 5,500 |
| **Total Current Liabilities** | 240,504 |
| | |
| **Long-Term Liabilities** | |
| Notes Payable - Stockholders | 178,770 |
| **Total Long-Term Liabilities** | 178,770 |
| | |
| **Total Liabilities** | 419,274 |
| | |
| **Stockholders' Deficit** | |
| Common Stock - no par, 100 shares authorized, 66.667 shares issued, and outstanding | 100 |
| Additional Paid in Capital | 100,000 |
| Treasury Stock - at cost, 33.333 shares | (181,600) |
| Retained Deficit | (156,902) |
| **Total Stockholders' Deficit** | (238,402) |
| | |
| **Total Liabilities and Stockholders' Deficit** | $ 180,872 |

# HEW ENTERPRISES, INC.
# STATEMENT OF INCOME AND RETAINED DEFICIT
# FOR THE YEAR ENDED DECEMBER 31, 2017

| | |
|---|---|
| **Revenue** | |
| Initial Franchise Fees | $ 117,235 |
| Franchise Royalty Fees | 192,400 |
| Rebates & Commissions | 38,709 |
| Promotion Income | 10,588 |
| Less Refunds and Allowances | (7,000) |
| **Net Revenue** | 351,932 |
| **General & Administrative Expenses** | 305,938 |
| **Income From Operations** | 45,994 |
| **Other Income/(Expense)** | |
| Interest Income | 1,986 |
| Other Income - Settlement (Note 2) | 65,000 |
| Interest Expense | (8,440) |
| Lawsuit Settlement Expense (Note 3) | (200,000) |
| **Total Other Income/(Expense)** | (141,454) |
| **Net Loss** | (95,460) |
| **Retained Deficit, Beginning of Year** | (34,842) |
| **Less: Distributions** | (26,600) |
| **Retained Deficit, End of Year** | $ (156,902) |

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

# HEW ENTERPRISES, INC.
# STATEMENT OF CASH FLOWS
# FOR THE YEAR ENDED DECEMBER 31, 2017

| | |
|---|---|
| **CASH FLOWS FROM OPERATING ACTIVITIES** | |
| Net Loss | $ (95,460) |
| Adjustments to reconcile Net Income to net Cash provided by operating activities: | |
| Depreciation & Amortization | 18,627 |
| Decrease (Increase) in Operating Assets: | |
| Settlement Receivable | (47,084) |
| Prepaid Expenses | 3,275 |
| Increase (Decrease) in Operating Liabilities | |
| Accounts Payable | (4,626) |
| Accrued Payroll | (2,922) |
| Accrued Interest | (1,157) |
| Accrued Settlement Liability | 129,000 |
| Deferred Revenue | 76,015 |
| Territory Reserve Deposit | (5,000) |
| Total Adjustments | 166,128 |
| **Net Cash Provided By Operating Activities** | 70,668 |
| **CASH FLOWS FROM INVESTING ACTIVITIES** | |
| Purchases of Property and Equipment | (49,705) |
| **Net Cash Used By Investing Activities** | (49,705) |
| **CASH FLOWS FROM FINANCING ACTIVITIES** | |
| Repayment of Note Payable - DFIT, LLC | (22,978) |
| Distributions to Stockholders | (26,600) |
| Notes Payable - Stockholders (net) | 77,378 |
| **Net Cash Provided By Financing Activities** | 27,800 |
| **NET INCREASE IN CASH AND CASH EQUIVALENTS** | 48,763 |
| **CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD** | 39,532 |
| **CASH AND CASH EQUIVALENTS AT END OF PERIOD** | $ 88,295 |

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

## NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Company's Activities and Operating Cycle

HEW Enterprises, Inc. (the Company) was incorporated in the state of Florida and started operations in May 2011. The Company has internally designed a fitness approach based on similar principles as U.S. Navy S.E.A.L. workouts and is a Distributor/Supplier who allows operators (franchisees) to use the supplier's trademark and distribute the supplier's goods and services. In return, the operators pay the supplier a fee while making American's strong and confident! The franchise agreements require the Company to provide assistance and services to each franchise in becoming operational. This assistance includes marketing, licenses, facility lease and other assistance as detailed in the franchise agreements.

### Basis of Accounting

The Company's policy is to prepare its financial statements on the accrual basis of accounting; consequently, revenues are recognized when earned rather than when received, and expenses are recognized when the obligation is incurred rather than when cash is disbursed.

### Revenue Recognition

The Company's income is recognized from the sale of franchises (license fees) as earned at the time the franchise begins operations and the royalty charges, as earned, on a monthly basis. The Company's policy is to recognize expenses as incurred.

### Cash Equivalents

For purposes of the statement of cash flows, the Company considers all highly liquid debt instruments purchased with an original maturity of three months or less to be cash equivalents.

### Accounts Receivable and Bad Debts

Customer accounts receivable are stated at the amount management expects to collect on balances. The Company uses the direct write-off method for bad debts; management closely monitors outstanding balances and writes off, as of year-end, any balances that are considered to be uncollectible. Accordingly, no allowance for doubtful accounts is required. Bad debts amounted to $0 for the year ended December 31, 2017.

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**

**Property and Equipment**

Property and equipment acquisitions of $1,000 or more are capitalized while lesser amounts are expensed. Depreciation is being provided by use of various methods of depreciation over estimated useful lives of the related assets from five (5) to seven (7) years.

**Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**Compensated Absences**

Employees compensated absences are not accrued as of December 31, 2017, because no reasonable estimate of the amount can be made.

**Advertising Costs**

Advertising costs are expensed when incurred. Advertising expense amounted to $8,335 for the year ended December 31, 2017.

**Fair Values of Financial Instruments**

The Company's financial instruments consist primarily of cash, accounts receivable, accounts payable and other accrued expenses, and debt instruments. The carrying values of cash, accounts receivable, accounts payable and other accrued expenses are considered to be representative of their respective fair values. The carrying values of the Company's debt instruments approximate their fair values as of December 31, 2017, based on current incremental borrowing rates for similar types of borrowing arrangements.

**Concentration of Credit Risk**

The Company maintains its cash balances in financial institutions located in Florida. The balances are insured by the Federal Deposit Insurance Corporation up to $250,000. At December 31, 2017, the Company's uninsured cash balances totaled $0.

## NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

### Income Taxes

The Company is treated as an S corporation for federal income tax purposes. In lieu of corporate income taxes, the shareholders are taxed on their personal return for their proportionate share of the Company's taxable income. Therefore, no provision or liability for federal or state income taxes has been included in the financial statements. Generally, the Company will distribute cash to the shareholder to pay his share of the federal and state taxes.

The Company's tax returns are subject to possible examination by the taxing authorities. For federal income tax purposes, the tax returns essentially remain open for possible examination for a period of three years after the respective filing deadlines of those returns.

## NOTE 2: SETTLEMENT RECEIVABLE

Pursuant to the terms of a settlement agreement, an accrued receivable in the amount of $65,000 has been recorded in 2017. The settlement is secured by a first priority security interest in the assets of the guarantors. During 2017 the company received 1 payment of $5,000 and 11 equal monthly payments of principal and interest in the amount of $1,355 in accordance with the settlement agreement. As of December 31, 2017 the outstanding balance was $47,084.

## NOTE 3: ACCRUED SETTLEMENT LIABILITY

Pursuant to the terms of a settlement agreement executed with claimants of the Company, an accrued liability in the amount of $200,000 has been recorded in 2017. The promise to pay is secured by a first priority security interest in the assets of the Company and the personal guarantees of its owners. During 2017 the company has made 2 payments of $25,000 and 7 monthly payments of $3,000 in accordance with the settlement agreement. As of December 31, 2017 the outstanding balance was $129,000.

## NOTE 4: RELATED PARTY TRANSACTIONS

The shareholders of the Company also own a HEW franchise under the name Hard Exercise Works Jupiter, LLC, which pays the Company fees at the same rate as other franchisees. At December 31, 2017, transactions between the two companies were as follows:

Fees and other income paid to HEW Enterprises, Inc. were $12,000 for the year ended December 31, 2017.

Commissions and facility charges paid to Hard Exercise Works Jupiter, LLC were $0 for the year ended December 31, 2017.

Notes Payable Stockholders – the Company owes a stockholder in the amount of $100,529 at December 31, 2017. This note is unsecured and repayment terms are $2,497 per month including interest of 13.65% per annum. In 2016 the shareholder agreed to defer payments to him on the note for three years. The shareholder has the right to re-negotiate the balance in 2018. The Company also owes the stockholders $78,241 at December 31, 2017. These loans are unsecured and due on demand, with no set repayment terms or interest rate.

## NOTE 5: OPERATING LEASE COMMITMENTS

The Company conducts its operations from facilities that are leased under a 3 year operating lease, with an option to renew for another 3 years, commencing May 1, 2016. Under the terms of the lease the minimum monthly base rental payments of $1,855 including estimated common area rent expenses during the lease term.

Future minimum rental payments required under the operating lease at December 31, 2017 are as follows:

| | |
|---|---|
| For the years ending December 31: | |
| 2018 | $ 22,260 |
| 2019 | 9,275 |
| 2020 | - |
| 2021 | - |
| 2022 & Thereafter | - |
| | $ 31,535 |

Rent expense for the year ended December 31, 2017 was $21,471.

**NOTE 6: SUPPLEMENTAL CASH FLOW DISCLOSURE**

Cash paid for interest amounted to $8,440 for the year ended December 31, 2017

**NOTE 7: SUBSEQUENT EVENTS**

The Company has evaluated subsequent events occurring after the balance sheet date of December 31, 2017 through the date of April 16, 2018, which is the date the financial statements were available to be issued. Based on this evaluation, the Company has determined that no subsequent events have occurred, which require disclosure in the financial statements.

# SUPPLEMENTARY INFORMATION

**HEW ENTERPRISES, INC.**
**SCHEDULE OF GENERAL & ADMINISTRATIVE EXPENSES**
**FOR THE YEAR ENDED DECEMBER 31, 2017**

| | |
|---|---|
| Advertising | $ 8,335 |
| Bank & Wire Fees | 7,661 |
| Commissions | 2,398 |
| Depreciation Expense | 18,627 |
| Dues & Subscriptions | 19,034 |
| Employee Benefits | 1,880 |
| Insurance | 6,030 |
| Legal Fees | 88,159 |
| License & Permits | 925 |
| Meals & Entertainment | 3,031 |
| Miscellaneous | 977 |
| Office Expense | 2,720 |
| Payroll Service Fees | 899 |
| Payroll Taxes | 6,353 |
| Professional Fees | 16,345 |
| Rent | 22,849 |
| Salaries & Wages | 77,178 |
| Supplies | 3,497 |
| Travel Expense | 4,633 |
| Utilities | 2,759 |
| Vehicle Expense | 11,648 |
| | $ 305,938 |

# HEW ENTERPRISES, INC.

FINANCIAL STATEMENTS

December 31, 2016 & 2015

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J. Mark Baltrun, CPA
Member:
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Florida Institute of C.P.A.'s

# INDEPENDENT AUDITOR'S REPORT

Board of Directors
HEW Enterprises, Inc.
Jupiter, Florida

**Report on the Financial Statements**

We have audited the accompanying financial statements of HEW Enterprises, Inc., which comprise the balance sheet as of December 31, 2016, and the related statements of income and cash flows for the year then ended, and the related notes to the financial statements.

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

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

**Auditor's Responsibility**

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

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

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

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of HEW Enterprises, Inc. as of December 31, 2016, and the results of its operations and its cash flow for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Baltrun & Baltrun, LLC

Baltrun & Baltrun, LLC
April 28, 2017

# CONTENTS

**HEW ENTERPRISES, INC.**
BALANCE SHEETS
December 31,

ASSETS

| | 2016 | 2015 |
|---|---|---|
| CURRENT ASSETS | | |
| Cash & Cash Equivalents | $ 39,532 | $ 43,603 |
| Prepaid Supplies | 3,275 | 3,275 |
| TOTAL CURRENT ASSETS | 42,807 | 46,878 |
| FURNITURE, FIXTURES & EQUIPMENT AT COST | | |
| Leasehold Improvements | 2,325 | - |
| Furniture & Equipment | 26,652 | 23,914 |
| Less: Accumulated Depreciation | (16,562) | (14,072) |
| NET FURNITURE, FIXTURES & EQUIPMENT | 12,415 | 9,842 |
| OTHER ASSETS | | |
| Security Deposit | 2,000 | - |
| TOTAL ASSETS | $ 57,222 | $ 56,720 |

The accompanying notes are an integral part of the financial statements.

**HEW ENTERPRISES, INC.**
BALANCE SHEETS
December 31,

LIABILITIES AND STOCKHOLDERS' EQUITY

| | 2016 | 2015 |
|---|---|---|
| CURRENT LIABILITIES | | |
| Accounts Payable | $ 14,320 | $ 6,687 |
| Accrued Payroll | 2,922 | 2,922 |
| Territory Reserve - Deposit | 10,500 | - |
| Accrued Interest | 1,157 | 1,157 |
| Current Portion of Long-Term Debt | 22,978 | 32,063 |
| Deferred Revenue | 20,295 | 12,000 |
| TOTAL CURRENT LIABILITIES | 72,172 | 54,829 |
| LONG-TERM DEBT | | |
| Deferred Revenue | - | 36,000 |
| Notes Payable - Stockholders | 101,392 | 208,259 |
| Note Payable – DFIT, LLC | 22,978 | 52,759 |
| Total Long-Term Debt | 124,370 | 297,018 |
| Less: Current Portion of Long Term Debt | (22,978) | (32,063) |
| NET LONG-TERM DEBT | 101,392 | 264,955 |
| TOTAL LIABILITIES | 173,564 | 319,784 |
| STOCKHOLDERS' EQUITY | | |
| Common stock, $ No par value | | |
| Authorized 100 shares | | |
| Issued and outstanding 66 2/3 shares | 100 | 100 |
| TREASURY STOCK – 33 1/3 shares | (181,600) | (181,600) |
| PAID IN CAPITAL | 100,000 | - |
| Retained earnings: | | |
| Balance – beginning | (81,564) | 102,512 |
| Net income (loss) – for year | 93,595 | (129,673) |
| Less draws paid | (46,873) | (54,403) |
| Balance – ending | (34,842) | (81,564) |
| TOTAL STOCKHOLDERS' EQUITY (DEFICIT) | (116,342) | (263,064) |
| TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY | $ 57,222 | $ 56,720 |

The accompanying notes are an integral part of the financial statements.

**HEW ENTERPRISES, INC.**
STATEMENTS OF INCOME
For the year ended December 31,

| | 2016 | Percent of Sales | 2015 | Percent of Sales |
|---|---|---|---|---|
| REVENUE | | | | |
| Initial Franchise Fees | $ 202,205 | 50.44% | $ 27,000 | 11.69% |
| Royalty Fees | 143,800 | 35.87 | 156,250 | 67.65 |
| Rebates and Commissions | 29,318 | 7.31 | 10,052 | 4.35 |
| Promotion Income | 25,530 | 6.38 | 37,681 | 16.31 |
| TOTAL REVENUE | 400,853 | 100.00% | 230,983 | 100.00% |
| LESS: REFUNDS AND ALLOWANCES | (8,000) | (2.00) | (96,500) | (41.78) |
| NET REVENUE | 392,853 | 98.00 | 134,483 | 58.22 |
| OPERATING EXPENSES | | | | |
| Advertising and Promotion | 25,093 | 6.26 | 24,795 | 10.73 |
| Auto and Truck Expense | 4,869 | 1.21 | 5,089 | 2.20 |
| Bank Charges | 6,213 | 1.55 | 5,839 | 2.53 |
| Contract Labor | 2,550 | .64 | 4,000 | 1.73 |
| Contributions | 300 | .07 | 400 | .17 |
| Dues and Subscriptions | 14,913 | 3.72 | 14,927 | 6.46 |
| Entertainment and Meals | 9,523 | 2.38 | 1,590 | .69 |
| Insurance – General | - | - | 1,437 | .62 |
| Legal and Professional | 58,674 | 14.64 | 57,063 | 24.70 |
| Taxes and Licenses | 1,880 | .47 | 775 | .33 |
| Office Expense | 5,852 | 1.46 | 1,773 | .77 |
| Repairs and Maintenance | 2,427 | .60 | 543 | .24 |
| Payroll | 71,700 | 17.89 | 85,172 | 36.87 |
| Supplies & Miscellaneous | 1,660 | .41 | 106 | .05 |
| Taxes – Payroll | 6,569 | 1.64 | 7,777 | 3.37 |
| Travel | 14,602 | 3.64 | 6,740 | 2.92 |
| Utilities | 2,328 | .58 | - | - |
| Commissions and Fees | 20,398 | 5.09 | 10,000 | 4.33 |
| Depreciation | 2,489 | .62 | 3,872 | 1.68 |
| Rent | 18,133 | 4.53 | 2,356 | 1.02 |
| Special Events | - | - | 4,938 | 2.14 |
| TOTAL OPERATING EXPENSES | 270,173 | 67.40 | 239,192 | 103.55 |
| INCOME (LOSS) FROM OPERATIONS | 122,680 | 30.60 | (104,709) | (45.33) |
| OTHER INCOME AND (EXPENSE) | | | | |
| Interest (Expense) | (29,085) | (7.25) | (24,964) | (10.81) |
| NET INCOME (LOSS) | $ 93,595 | 23.35 % | $(129,673) | (56.14)% |

The accompanying notes are an integral part of the financial statements.

**HEW ENTERPRISES, INC.**
STATEMENTS OF CASH FLOWS
December 31,

| | 2016 | 2015 |
|---|---|---|
| CASH FLOWS FROM OPERATING ACTIVITIES | | |
| NET INCOME (LOSS) | $ 93,595 | $(129,673) |
| Adjustments to reconcile change in net assets to net cash provided by operations activities: | | |
| Depreciation Expense | 2,490 | 3,872 |
| (Increase)/Decrease in operating assets: Security Deposit | (2,000) | - |
| Increase/(Decrease) in operating liabilities: | | |
| Accounts Payable | 7,633 | (9,735) |
| Accrued Payroll and Taxes | - | (4,193) |
| Accrued Interest | - | 1,157 |
| Deferred Revenue | (27,705) | 48,000 |
| Territory Reserve Deposit | 10,500 | - |
| NET CASH PROVIDED/(USED) BY OPERATING ACTIVITIES | 84,513 | (90,572) |
| CASH FLOW PROVIDED/(USED) BY INVESTING ACTIVITIES | | |
| Proceeds from Issuance of Paid in Capital | 100,000 | - |
| Purchase of Furniture, Fixtures, & Equipment | (5,063) | - |
| NET CASH PROVIDED/(USED) BY INVESTING ACTIVITIES | 94,937 | - |
| CASH FLOW PROVIDED/(USED) BY FINANCING ACTIVITIES | | |
| Distributions to Stockholders | (46,873) | (54,404) |
| Loans from Stockholders – Net | (106,867) | 208,259 |
| Note Payable – DFIT, LLC | (29,781) | 52,759 |
| Purchase of Treasury Stock | - | (181,600) |
| NET CASH PROVIDED/(USED) BY FINANCING ACTIVITIES | (183,521) | 25,014 |
| NET INCREASE/(DECREASE) IN CASH & CASH EQUIVALENTS | (4,071) | (65,558) |
| CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR | 43,603 | 109,161 |
| CASH AND CASH EQUIVALENTS, END OF YEAR | $ 39,532 | $ 43,603 |

The accompanying notes are an integral part of the financial statements.

**HEW ENTERPRISES, INC.**
NOTES TO FINANCIAL STATEMENTS
December 31, 2016 and 2015

## *NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES*

*Nature of Activities* – The Company has internally designed an exercise approach based upon a proprietary Navy Seal Exercise Program and is a Distributor/Supplier who allows operators (franchisees) to use the supplier's trademark and distribute the supplier's goods and services. In return, the operators pay the supplier a fee while making American's strong and confident! The franchise agreements require the Company to provide assistance and services to each franchisee in becoming operational. This assistance includes marketing, licenses, facility lease and other assistance as detailed in the franchise agreements.

The company was incorporated in the State of Florida and started operations during May, 2011.

*Use of Estimates* – The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

*Basis of Accounting* – The financial statements of the Company have been prepared on the accrual basis of accounting and accordingly reflect income when earned and expenses when incurred.

*Income Tax Status* – No provision has been made for federal income tax because the Company has elected under Subchapter S of the Internal Revenue Code to have the net income or loss taxed directly to the stockholders.

*Property and Equipment Capitalization Policy* – In general, costs of property and equipment are capitalized based on a floor amount of $500. Costs per item less than this amount are expense as incurred.

*Depreciation Policy* – Depreciation is provided on various methods over 5 to 7 years.

*Income Recognition* – The Company recognizes income from the sale of the franchise (license fees) as earned at the time the franchise begins operations and the royalty charges, as earned, on a monthly basis. All expenses are recognized as incurred.

## *NOTE 2 – CONCENTRATIONS OF CREDIT RISK*

The Company maintains cash balances at a financial institution located in Florida. Accounts are insured by the Federal Deposit Insurance Corporation up to $250,000. At December 31, 2016 and 2015, the Company's uninsured cash balances totaled approximately $--0--.

## *NOTE 3 – RELATED PARTY TRANSACTIONS*

The shareholders' of the Company also own a HEW franchise under the name Hard Exercise Works Jupiter, LLC, which pays the Company fees at the same rate as other franchisees. At December 31, 2016 and 2015, transactions between the two companies were as follows:

Fees and other income paid to HEW Enterprises, Inc. were $12,000 and $20,890 respectfully.

Commissions and facility charges paid to Hard Exercise Works Jupiter, LLC $4,000 and $5,000 respectfully.

## *NOTE 4 – CASH FLOW INFORMATION*

Interest paid for the year ending December 31, 2016 and 2015 amounted to $29,085 and $24,964, respectively. Income taxes paid for the years ending December 31, 2016 and 2015 amounted to $--0--.

## *NOTE 5 – DEPRECIATION EXPENSE*

Depreciation expense amounted to $2,490 and $3,872 for 2016 and 2015, respectively.

## *NOTE 6 – LONG-TERM DEBT*

| Long-term debts consists of the following: | December 31 | |
|---|---|---|
| | 2016 | 2015 |
| Note payable to stockholder, unsecured. $2,497 per month payment including interest of 13.65% per annum | $ 101,392 | $ 203,259 |
| Note payable to stockholder, unsecured and non-interest bearing | - | 5,000 |
| Note payable – DFIT,LLC – secured by settlement agreement.$2,605 per month payment including interest of 4% per annum | 22,978 | 52,759 |
| TOTAL | $ 124,370 | $ 261,018 |

## *NOTE 7 – NOTES PAYABLE*

The aggregate annual maturities and payments of principal of notes payable for five years subsequent to December 31, 2016 are as follows:

| Year Ended December 31 | Amount |
|---|---|
| 2017 | $ 22,978 |
| 2018 | 0 |
| 2019 | 0 |
| 2020 | 16,947 |
| 2021 and after | 84,445 |
| Total | $ 124,370 |

## *NOTE 8 – TREASURY STOCK*

On February 17, 2015 the Company repurchased 33 1/3 shares of Company stock at a price of $181,600.

## *NOTE 9 – UNCERTAIN TAX POSITIONS*

The Company has adopted FASB ASC 740-10-25 *Accounting for Uncertainty in Income Taxes*. The Company will record a liability for uncertain tax positions when it is more likely than not that a tax position would not be sustained if examined by the taxing authority. The Company continually evaluates expiring statutes of limitations, audits, proposed settlements, changes in tax law and new authoritative rulings.

The Company's evaluation on December 31, 2016 revealed no uncertain tax positions that would have a material impact on the financial statements. The 2013 through 2015 tax years remain subject to examination by the IRS. The Company does not believe that any reasonably possible changes will occur within the next twelve months that will have a material impact on the financial statements.

## *NOTE 10 – SUBSEQUENT EVENTS*

Management has evaluated subsequent events through April 28, 2017, the date on which the financial statements were available to be issued.

### *NOTE 11 – LEASED FACILITIES*

The Company has entered into an operating lease for its office space. The lease commenced May 1, 2016 for a three year term with one option to renew for another three years. Monthly lease expense is $1,607.66 for the first twelve months, plus common area maintenance and sales tax. Lease expense at December 31, 2016 was $12,861.36. Future minimum lease payments are as follows.

| Year ending | Amount |
|---|---|
| 12/31/2017 | $21,411 |
| 12/31/2018 | 24,467 |
| 12/31/2019 | 8,489 |
| | $54,367 |

### *NOTE 12 – DEBT RESTRUCTERING*

One of the stockholders of the Company has agreed to restructure the note payable to him in the amount of $201,392.00 as follows:

The stockholder has agreed to contribute $100,000.00 of his loan to permanent paid-in-capital as of December 31, 2016 and has further agreed to defer payments to him under the note for three years. The stockholder does have the right to re-negotiate the loan balance after two years.

The Board of Directors has approved the restructuring.

# <u>**EXHIBIT R – GENERAL RELEASE**</u>

4/19/18

GENERAL RELEASE

__________________________________ ("you" or "your""), for and in consideration of the consent of HEW Franchising, LLC, a Florida limited liability company ("we," "us" or "our") to: (check one):

☐ the signing by you and us of our current form of Hard Exercise Works Franchise Agreement and related documents granting you the right to continue to operate the Hard Exercise Works Franchise (the "Franchise Business") granted to you by us pursuant to the Hard Exercise Works Franchise Agreement dated _________, 2018 (the "Franchise Agreement").

☐ your sale of the assets comprising the Hard Exercise Works Franchise Business to an approved transferee and the transferee's signing our current form of Hard Exercise Works Franchise Agreement with us.

☐ our refund of $__________ of the Initial Franchise Fee you previously paid to us.

do release and forever discharge, and by this document for you and your personal representatives and your heirs, release and forever discharge us, our subsidiaries and affiliates, and their respective officers, directors, shareholders, managers, members, partners, employees, servants, representatives and agents, in their corporate and individual capacities, including::

(a) claims arising under the Hard Exercise Works Franchise Agreement and any other agreement between you and us or our subsidiaries or affiliates,

(b) claims under federal, state and local laws, rules and ordinances: and

(c) claims of and from any and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, contracts, controversies, agreements, claims and demands whatsoever, in law or in equity

that you, your personal representatives or heirs, have had, nor have or which you, your heirs, personal representatives hereinafter can, will or may have, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the date of this Release (collectively "Claims").

This Release extends and applies to and also covers and includes all unknown, unforeseen, or unanticipated and unsuspected injuries, damages, loss or liability, and the consequences therefrom as well as those now disclosed and known to exist. The provisions of any federal, state or local law or statute, providing in substance that releases will not extend to claims, demands, injuries or damages, loss or liability, which are unknown or unsuspected to exist at the time, to the persons signing the releases, are expressly waived. This Release expressly excludes claims arising from representations in our Franchise Disclosure Document or its Exhibits. In addition, this release does not act as a release of any liability incurred under applicable state franchise laws including the Maryland Franchise Registration and Disclosure Law provided the laws jurisdictional limits are satisfied.

You represent and warrant to us that you have not assigned or otherwise transferred any of the Claims or any portion of the Claims. This Release extends and applies to, and also covers any and all persons from whom we may be deliberatively liable.

You will not represent yourself, directly or indirectly, as our employee, officer, agent, or representative to any person or business entity.

**WITNESS MY HAND AND SEAL** on __________________________, 2018.

________________________________________

## EXHIBIT S– TABLE OF CONTENTS OF OPERATIONS MANUAL

## TABLE OF CONTENTS OF OPERATIONS MANUAL

## EXHIBIT T - RECEIPT

This Franchise Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Franchise Disclosure Document and all agreements carefully.

If HEW Franchising, LLC offers you a Franchise Business, we must provide this Franchise Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale or grant.

New York and Rhode Island require that we give you this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the Franchise Agreement or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan requires that we give you this Franchise Disclosure Document at least 10 business days before the execution of any binding Franchise Agreement or other agreement or the payment of any consideration, whichever occurs first.

If HEW Franchising, LLC does not deliver this Franchise Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state agency listed on Exhibit B.

The franchisor is HEW Franchising, LLC, located at 661 Maplewood Drive, Unit 18, Jupiter, FL 33458. Its telephone number is (561) 339-9035.

The FTC issuance date of this Franchise Disclosure Document is April 19, 2018.

The franchise seller for this offering is (check one):

☐ Matthew B. Hunt, 661 Maplewood Drive, Unit 18, Jupiter, FL 33458 and (561) 339-9035.

-or-

☐ Please add the name, principal business address, and telephone number of the franchise seller who offered you the franchise. ______________________________________________

______________________________________________________________________

The name and address of the franchisor's registered agent authorized to receive service of process is listed in Exhibit B.

I received this Franchise Disclosure Document dated April 19, 2018 that included the following Exhibits:

A - State Addenda to FDD
B – List of State Administrators and our Agents for Service of Process
C - Deposit Agreement
K – Guaranty of Franchisee's Obligations
L – Agreement with Landlord
M – Telephone Number Assignment
N – Franchisee Closing Questionnaire

D – Territory Reservation Agreement
E – Franchise Agreement
F – Approved Location Addendum
G – Conversion Addendum
H – Area Development Agreement
I – State Addenda to Agreements
J – ACH Checking Account

O – Software Sublicense Agreement
P – List of Franchisees
Q - Financial Statements
R - General Release
S – Table of Contents of Manual
T – Receipt

**Prospective Franchisee:**

Sign________________________________ Dated: _______________, 2018

Print________________________________

(copy #1 - to be retained for your records)

**RECEIPT**

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J – ACH Checking Account

O – Software Sublicense Agreement
P – List of Franchisees
Q - Financial Statements
R - General Release
S – Table of Contents of Manual
T – Receipt

**Prospective Franchisee:**

Sign________________________________ Dated: ______________, 2018

Print________________________________

Please print out the last 2 pages of this FDD (our copy of the Receipt) sign it, print your name and add the date you signed the Receipt. Then do any of the following:

1. You can mail the signed Receipt back to us at:

   Matthew B. Hunt
   661 Maplewood Drive
   Unit 18
   Jupiter, FL 33458

2. You can fax the signed Receipt: back to us at:

   Attn: Matthew B. Hunt

3. You can e-mail the signed Receipt back to us, by scanning the signed Receipt to create a PDF and e-mail the signed Receipt back to us as an attachment to:

   franchise@hardexerciseworks.com