



**PINOT'S PALETTE®**  
**FRANCHISE DISCLOSURE DOCUMENT**  
Painting with a Twist, L.L.C. d/b/a Pinot's Palette  
A Louisiana Limited Liability Company  
P.O. Box 1710  
Mandeville, LA 70470  
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[www.pinotspalette.com](http://www.pinotspalette.com)

We offer and award qualified parties a franchise for the right to independently own and operate a business specializing primarily in providing a fun and engaging social setting where guests drink wine or other beverages while creating art or crafts using Pinot's Palette proprietary marks (the **"Proprietary Marks"**), branded products and other services and products that we approve and authorize from a particular location (a **"Franchised Business"**). Each Franchised Business is operated utilizing the Proprietary Marks and the system of business operations (the **"System"**) that we designate from time to time and license to our franchisees under our then-current form of franchise agreement (the **"Franchise Agreement"**).

The total investment necessary to begin operation of a Pinot's Palette Franchised Business is \$119,000 to \$259,000. This includes \$25,000 that must be paid to the franchisor.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact the franchisor at P.O. Box 1710, Mandeville, Louisiana 70470 (Attention: Franchise Development Department), (985) 626-3292, or [franchise@pinotspalette.com](mailto:franchise@pinotspalette.com).

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

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

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

Issuance Date: October 15, 2024

## HOW TO USE THIS FRANCHISE DISCLOSURE DOCUMENT

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

| <b>QUESTION</b>                                                                          | <b>WHERE TO FIND INFORMATION</b>                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>How much can I earn?</b>                                                              | Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit G. |
| <b>How much will I need to invest?</b>                                                   | Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.                                                                  |
| <b>Does the franchisor have the financial ability to provide support to my business?</b> | Item 21 or Exhibit C included financial statements. Review these statements carefully.                                                                                                                                                                    |
| <b>Is the franchise system stable, growing, or shrinking?</b>                            | Item 20 summarizes the recent history of the number of company-owned and franchised outlets.                                                                                                                                                              |
| <b>Will my business be the only Pinot's Palette business in my area?</b>                 | Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.                                                                                                             |
| <b>Does the franchisor have a troubled legal history?</b>                                | Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.                                                                                                                      |
| <b>What's it like to be a Pinot's Palette franchisee?</b>                                | Item 20 and Exhibit G list current and former franchisees. You can contact them to ask about their experiences.                                                                                                                                           |
| <b>What else should I know?</b>                                                          | These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.                                                   |

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

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

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

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

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

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

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

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

### **Some States Require Registration**

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

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

## Special Risks to Consider About *This Franchise*

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation and/or litigation only in Louisiana. Out-of-state mediation or litigation may force you to accept a less favorable settlement for disputes. This may also cost more to mediate or litigate with the franchisor in Louisiana than in your own state.
2. **Turnover Rate.** During the last 3 years, a large percentage of franchised outlets (43%) were terminated, not renewed, reacquired, or ceased operations for other reasons. This franchise could be a higher risk investment than a franchise in a system with a lower turnover rate.

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



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

The State of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in the 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 relating to a franchise:

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

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

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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

Any questions regarding this notice should be directed to the Michigan Department of the Attorney General, P.O. Box 30213, Lansing, MI, 48909, (517) 373-1140.

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### **EXHIBITS**

- A. Franchise Agreement
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    - B. Confidentiality Agreement
    - C. ACH Service Agreement
    - D. Successor Addendum
- B. List of State Administrators and Agents for Service of Process
- C. Financial Statements
- D. Operations Manual Table of Contents
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- J. Receipts

## ITEM 1

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

#### The Franchisor:

To simplify the language in this disclosure document, “**Pinot’s Palette**,” “**we**,” “**our**,” “**our company**,” or “**us**” means Painting with a Twist, L.L.C., dba, Pinot’s Palette, the “**Franchisor**” of the Pinot’s Palette franchise system. “**You**” or “**your**” means a person who acquires a franchise from us. If you are a corporation, partnership, limited partnership or limited liability company “you” or “your” will include all your principals, partners and owners.

We are a Louisiana limited liability company organized in February 2009. Our franchise headquarters address is P.O. Box 1710, Mandeville, LA 70470, and our telephone number is (985) 626-3292. We do business under the names “Pinot’s Palette” and “Painting with a Twist.” Our agents for service of process are disclosed in Exhibit B of this Disclosure Document. We began offering Pinot’s Palette franchises as of the date of issuance of this Disclosure Document.

Under a separate franchise disclosure document we offer Painting with a Twist franchises. We have offered those franchises since March 6, 2009. Painting with a Twist businesses offer substantially the same services as Pinot’s Palette, except Painting with a Twist businesses do business under the name and service mark of Painting with a Twist.

Other than as described above, we have not offered franchises for any other business. We do not operate a business that is the same as or similar to a franchised business.

#### Our Parent, Predecessors and Affiliates:

We have no predecessors. Our parent company is Twist Brands LLC (“**Twist Brands**”), a Louisiana limited liability company that was formed on October 22, 2020, with a principal address of P.O. Box 1710, Mandeville, Louisiana 70470. Twist Brands has not offered franchises in any line of business.

On October 31, 2020, Twist Brands became our parent company. On November 3, 2020 (“**Acquisition Date**”), (i) Color Me Mine LLC (“**CMM**”), a newly formed wholly-owned subsidiary of Twist Brands, acquired all the outstanding stock of Color Me Mine Enterprises, Inc., a California corporation (“**CMME**”), CMME merged with and into CMM, with CMM as the surviving company and (ii) Chesapeake Supply LLC (“**Chesapeake Supply**”), a newly formed wholly-owned subsidiary of Twist Brands, merged with and into Duncan Enterprises Distribution, a California corporation (“**DED**”), with Chesapeake Supply as the surviving company. Prior to the Acquisition Date, CMME and DED were wholly owned subsidiaries of Duncan Enterprises, Inc., a California corporation (“**DEI**”). CMME offered Color Me Mine franchises from December 2014 to October 2020. Twist Brands’ subsidiary, CMM, has operated the “Color Me Mine” franchise system since the Acquisition Date. Prior to the Acquisition Date, CMME and DED never offered franchises in any other line of business. On August 26, 2021, Twist Brands merged with TD Art Supply, LLC (“**TD Art Supply**”), a Florida limited liability company. CMM, Chesapeake Supply, Painting with a Twist and TD Art Supply will be referred to herein as “**Twist Brands Businesses**”.

On June 28, 2024, we acquired substantially all of the assets of GFH Pinot's Palette, LLC and GFH PP, LLC ("**GFH Pinot's Palette**" and "**GFH PP**") both of which are headquartered in Pearland, Texas. In the acquisition we acquired GFH PP's franchising rights, trademarks, other proprietary marks and intellectual property rights, and an assignment of the rights held by GFH Pinot's Palette in franchise agreements for the Pinot's Palette franchisees operating Pinot's Palette franchised businesses under the franchise agreements and Pinot's Palette Proprietary Marks. GFH Pinot's Palette and GFH PP are not predecessors or affiliates of ours.

Pinot's Palette's concept was started in September 2010 by Pinot's Palette LLC, a Texas limited liability company that operated studios of the type being franchised in California and Texas from 2010 until 2020. Pinot's Palette Franchise, LLC, a Texas limited liability company, now known as, 2406 Franchise LLC ("**2406 Franchise**") started offering Pinot's Palette franchises in October 2010 and offered franchises until February 2023 when GFH PP purchased the assets of 2406 Franchise. GFH Pinot's Palette offered Pinot's Palette franchises from February 2023 until April 30, 2024.

The concept of our other franchise brand, Painting with a Twist, was started in November 2007 by Catherine L. Deano and Renee Maloney, who initially opened a studio in Mandeville, Louisiana, that offered painting classes in a social setting under the business name "Corks N Canvas." This flagship studio now operates under the name and service mark Painting with a Twist. Our Co-Owners Catherine L. Deano, Teresa Johnson, Todd Owen and Dave Chmura co-own Corks N Canvas, LLC, a Louisiana limited liability company, whose principal business address is P.O. Box 1710, Mandeville, LA 70470 ("**CNC**"), operating since November of 2007. CNC operates a Painting with a Twist business under a license from us. Catherine L. Deano owns an interest in Vino Picasso, Inc., ("**Vino**") which operates a Painting with a Twist franchised business. Vino is a Texas corporation, whose principal business address is 5202 West Lovers Lane, Dallas, TX 75209 and has been operating since October of 2009. Todd Owen owns an interest in Tuten Enterprises of Brandon, LLC, ("**Tuten**") which operates a Painting with a Twist franchised business. Tuten is a Florida limited liability company, whose principal business address is 1993 W. Lumsden Road, Brandon, FL 33511 and has been operating since September 2015. Todd Owen also owns an interest in Leroga II, LLC, ("**Leroga**") which operates a Painting with a Twist franchised business. Leroga is a Florida limited liability company, whose principal business address is 2821 S. MacDill Avenue, Tampa, FL 33629 and has been operating since January of 2011. Teresa Johnson owns an interest in Paint on Canvas 101, LLC ("**POC**") which operates a Painting with a Twist franchised business. POC is a Tennessee limited liability company whose principal business address is 2615 Medical Center Parkway, #1750, Murfreesboro, TN 37129 and has been operating since December of 2010. Teresa Johnson also owns an interest in Paint on Canvas 201, LLC, ("**POC2**") which operates a Painting with a Twist franchised business. POC2 is a limited liability company whose principal business address is 4009 Charlotte Ave., Nashville, TN 37209 and has been operating since January of 2017. CNC, Vino, Tuten, Leroga, POC and POC2 studios have never offered franchises for this business or in any other line of business. They do not provide services to franchisees.

Painting With A Purpose Foundation ("**PWAP**"), which is owned by us, is a non-profit corporation that provides scholarships for artists working at Painting with a Twist studios. Franchisees may donate to this entity as part of system-wide fundraising for charitable activities. PWAP has an

address of P.O. Box 1710, Mandeville, LA 70470, and has never offered franchises for this business or in any other line of business.

On October 17, 2018, we acquired substantially all of the assets of Bottle & Bottega, Inc. (“**Bottle & Bottega**”) headquartered in Chicago, Illinois, which included the trademarks and other proprietary marks, and the franchise agreements for the Bottle & Bottega franchisees operating under the franchise agreements and Bottle & Bottega proprietary marks. Bottle & Bottega is not a predecessor or affiliate of ours, but we license the use of these proprietary marks to the Bottle & Bottega franchised businesses. We plan to convert the franchised businesses currently operating under the Bottle & Bottega proprietary marks to the Painting with a Twist Proprietary Marks and System in the future. We do not intend to offer any further franchises under the Bottle & Bottega proprietary marks. We owned and operated 2 Bottle & Bottega businesses in Chicago, Illinois from October 2018 until December 2021, when we sold these businesses as franchises. These 2 businesses now operate as franchised “Bottle & Bottega by Painting with a Twist” businesses.

The following is a list of affiliate companies (“**Affiliates**”):

CMM is a Louisiana limited liability company that was formed on October 22, 2020. The principal business address of CMM is P.O. Box 1710, Mandeville, Louisiana 70470. CMM offers franchises in the paint-your own-ceramics “arts-and-crafts-as-entertainment” business.

Chesapeake Supply is a Louisiana limited liability company that was formed on October 22, 2020. The principal business address of Chesapeake Supply is P.O. Box 1710, Mandeville, Louisiana 70470. Chesapeake Supply is the designated supplier for the ceramic materials for CMM franchisees and may offer certain supplies for Pinot’s Palette and Painting with a Twist franchisees. Chesapeake Supply does not offer franchises in any line of business.

TD Art Supply is a Florida limited liability company that was organized on November 27, 2017. The principal place of business for TD Art Supply is 13201 McIntosh Lakes Ln, Dover, FL 33527. TD Art Supply is an approved supplier for materials and supplies for the Pinot’s Palette and Painting with a Twist franchise systems and may offer supplies for certain CMM franchisees. TD Art Supply does not offer franchises in any line of business.

#### The Franchise Offered:

We offer you a franchise specializing primarily in providing a fun and engaging social setting where guests drink wine or other beverages while creating art under the name and service mark PINOT’S PALETTE®. You may choose to open and operate a Franchised Business. Our System permits your patrons to bring their own wine or beverage of choice or purchase alcoholic beverages, depending upon state or local liquor laws.

We developed and own the System which you will utilize in your Franchised Business. This System includes specialized training, methods of operation, uniform standards, distinctive décor and designs, and advertising and promotional programs to assist you in operating your Franchised Business. We will also provide you with certain franchisor-owned artworks, supplier lists, our operations and other manuals (“**Manuals**”), access to a proprietary internet-based franchise administrative/management system (“**ADMIN System**”), and other confidential information and methods for managing your Franchised Business. A Franchised Business is identified by certain

trade names, service marks, trademarks, logos, emblems, and indicia of origin, including, but not limited to PINOT'S PALETTE.

A typical Franchised Business occupies approximately 1,700 to 2,300 square feet of space. The space may be either owned by you or leased from a third party. All locations must be constructed to our specifications. We prefer the Franchised Business to be located in either a freestanding building or an in-line retail plaza space with ample parking, good visibility and visible signage. A typical Franchised Business will employ approximately 5 to 10 people.

You will operate your Franchised Business as your independent business utilizing our System which includes, but is not limited to, our business format, procedures, designs, trade dress, Proprietary Marks, standards, specifications and methods of operation. You must use the Pinot's Palette System at your Franchised Business, which includes, without limitation, the common use and promotion of the name "Pinot's Palette" and other service marks, trademarks, trade names, logos, emblems, signs, slogans, insignia and other commercial symbols we may designate (collectively known as the "**Proprietary Marks**"). You must also use franchisor approved supplies and products, procedures, training manuals, advertising/promotional programs and ongoing assistance. We may add or delete products and/or services and change specifications, standards, procedures and methods of operation, and you will be expected to with these changes. You will offer and provide products and services to the general public, at all times complying with the Franchise Agreement and our confidential Manuals that will be loaned to you at the time of training. You may only offer services and products with our prior approval.

#### Market and Competition:

The market for the products and/or services offered in your Franchised Business is the general public. We have found that social events offered to customers allowing them to enjoy wine or other beverages of their choice while creating art targets the specific market segments of adults aged twenty-one and older. Your Franchised Business may also offer events for children, which targets the specific market segment of children. You will compete with other national franchises, including Painting with a Twist franchises, and independent businesses that offer similar products and/or services. The general market for offering painting events similar to that offered by Pinot's Palette is an emerging market. It may be affected by general economic conditions.

#### Government Regulation:

Local, state and federal laws and regulations will apply to the business operations of your Franchised Business. Some states and local municipalities require Pinot's Palette franchisees to obtain a "liquor" license or permit. You must comply with all local, state, and federal laws that apply to your Franchised Business including health, sanitation, non-smoking, EEOC, OSHA, discrimination, employment and sexual harassment laws. The Americans with Disabilities Act of 1990 requires readily accessible accommodations for disabled people and, therefore, may affect your building construction, entrance ramps, doors, seating, bathrooms and parking. You must obtain building permits, other licenses, and operational permits and certifications.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **Director: Catherine L. Deano, CFE**

Ms. Deano has served as a Director of our company since November 2020. Ms. Deano has also served as a Director of Twist Brands since November 2020. From February 2009 to November 2020, Ms. Deano served as our Managing Member. From February 2009 to July 2018, Ms. Deano served as our COO.

#### **Director and CEO: Todd Owen**

Mr. Owen has served as a Director of our company and our CEO since August 2021. Mr. Owen has also served as a Director of Twist Brands since August 2021. Mr. Owen also serves as a Co-Owner of Painting with a Twist franchise locations in Brandon, Florida since 2014 and Tampa, Florida since 2010. Mr. Owen served as a District Manager of Walmart Stores in Tampa, Florida from January 1990 to October 2021.

#### **Director: Teresa Johnson**

Ms. Johnson has served as a Director of our company since August 2021. She has also served as a Director of Twist Brands and the CEO of our affiliate, CMM, since August 2021. Ms. Johnson also serves as Owner of two Painting with a Twist franchise locations in Nashville, Tennessee since 2015 and Murfreesboro, Tennessee since 2010. Ms. Johnson also serves as Chief Operating Officer for Phoenix Boats in Winchester, Tennessee since 2007.

#### **Director: Dave Chmura**

Mr. Chmura has served as a Director of our company since August 2021. Mr. Chmura has also served as a Director of Twist Brands since August 2021. Mr. Chmura also serves as CEO of TD Art Supply in Tampa, Florida since January 2018; and as Market Manager of Walmart Stores in Bentonville, Arkansas since 1989.

#### **Chief Technology Officer: Gustave “Trey” Manthey, III**

Mr. Manthey has served as our Chief Technology Officer since January 2011. Mr. Manthey has served as Chief Technology Officer of CMM since November 2020.

#### **Senior Director of Operations - Pinot’s Palette: Adina Simpson**

Ms. Simpson has served as our Senior Director of Operations - Pinot’s Palette since July 2024. From February 2023 to June 2024, she served as Director of Operations of GFH Pinot’s Palette, franchisor of Pinot’s Palette in Pearland, Texas. From January 2020 to January 2023, she served as Director of Operations of 2406 Franchise, franchisor of Pinot’s Palette in Houston, Texas. From



February 2016 to December 2019, she served as Customer Service Director of 2406 Franchise in Houston, Texas.

Senior Director of Franchise Development: Katie Richard, CFE

Ms. Richard has served as our Senior Director of Franchise Development since March 2024. Ms. Richard has also served as a Realtor of Latter & Blum Realtors in Mandeville, Louisiana since June 2010. Ms. Richard served as our Senior Director of Operations from August 2018 to March 2024; Operations Business Manager from June 2016 to August 2018; and Operations Consultant from April 2012 to June 2016.

Senior Director of Operations – Painting with a Twist: Rick Tomb

Mr. Tomb has served as our Senior Director of Operations – Painting with a Twist since February 2024. Mr. Tomb also serves as a Co-Owner of Painting with a Twist franchise locations in Melbourne, Florida since 2020 and Kissimmee, Florida since 2016. Mr. Tomb served as Warehouse Manager of our affiliate, Chesapeake Supply, in Baltimore, Maryland from September 2021 to September 2022. Prior to that, he was Market Manager of Walmart Stores in Orlando, Florida from 2007 to 2020.

Senior Director of Marketing: Brittany Graff

Ms. Graff has served as our Senior Director of Marketing since February 2019. Ms. Graff served as Marketing Account Executive of Orthosynthetics, Inc. in Metairie, Louisiana from February 2013 to February 2019.

Director of Business Systems and Franchise Development: Mary Mierl

Ms. Mierl has served as our Director of Business Systems and Franchise Development since October 2009.

Controller: Pam Guerin

Ms. Guerin has served as our Controller since February 2018. Ms. Guerin served as Director of Accounting of Smoothie King Franchises in Metairie, Louisiana from May 2001 to February 2018.

Director of Real Estate & Design: Joshua Bergeron

Mr. Bergeron has served as our Director of Real Estate & Design since October 2015.

**ITEM 3**

**LITIGATION**

No litigation is required to be disclosed in this Item.

## **ITEM 4**

### **BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

## **ITEM 5**

### **INITIAL FEES**

#### **Franchise Agreement**

##### *Initial Franchise Fee*

The initial franchise fee is \$25,000 (the “**Initial Franchise Fee**”). The Initial Franchise Fee is due at the time you sign the Franchise Agreement. The Initial Franchise Fee is uniformly imposed, not refundable and deemed fully earned upon payment by you.

##### *VetFran Discount*

We participate in the International Franchise Association’s VetFran program and offer a 20% discount on the Initial Franchise Fee to eligible Pinot’s Palette franchisees. To be eligible for the VetFran discount, (1) you must be an active member or honorably discharged veteran of the United States Armed Forces, or (2) if franchisee is a business entity, an active member or honorably discharged veteran of the United States Armed Forces must hold in excess of 15% of the total voting power of the business entity’s ownership interests.

##### *Multi-Unit Owner Discount Incentive*

We offer a 20% discount on the Initial Franchise to eligible Pinot’s Palette franchisees (“**Multi-Unit Owner Discount**”). To be eligible for the Multi-Unit Owner Discount, (1) you must be a current franchisee with a Franchised Business which has been operating for at least 6 months, (2) you must be in compliance with any existing franchise agreements and other related agreements with us, and (3) if franchisee is a business entity, you must hold at least 50% of the total voting power of the business entity’s ownership interests.

## **ITEM 6**

### **OTHER FEES**

| <b>Type of Fee</b>     | <b>Amount</b>                         | <b>Due Date</b>                                                          | <b>Remarks</b>                           |
|------------------------|---------------------------------------|--------------------------------------------------------------------------|------------------------------------------|
| Royalty Fee            | 6% of weekly Gross Sales <sup>1</sup> | Automatically withdrawn within five business days after prior week’s end | See Note 1 for definition of Gross Sales |
| System Advertising Fee | 2% of weekly Gross Sales <sup>1</sup> | Automatically withdrawn within                                           | Payable to Franchisor                    |

| Type of Fee                                       | Amount                                                                                                                                 | Due Date                                                                                   | Remarks                                                                                                |
|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
|                                                   |                                                                                                                                        | five business days after prior week's end                                                  |                                                                                                        |
| Regional cooperative advertising <sup>2</sup>     | Currently none; if formed, up to 2% of Gross Sales. (See note 2)                                                                       | Currently not applicable. If established due when members decide                           | Contribution will vary based on cooperative's governing documents, but no more than 2% of Gross Sales. |
| Interest on late payments                         | Prime plus 2% per annum or the maximum rate allowed by the applicable federal and/or state law                                         | Immediately                                                                                | Payable only on past due amounts.                                                                      |
| Transfer Fee <sup>3</sup>                         | Currently, \$7,500 - \$12,500 (30% to 50% of then-current initial franchise Fee)                                                       | 30 days before transfer                                                                    | Payable if you transfer your Franchised Business                                                       |
| Insufficient Funds                                | Prime plus 2.5% per annum or the maximum rate allowed by the applicable federal and/or state law, plus expenses incurred by franchisor | As incurred                                                                                | Payable to Franchisor                                                                                  |
| Technology Fee <sup>4</sup>                       | \$250 per month until January 1, 2026. We plan to implement a reduction of this fee to \$150 per month, effective January 1, 2026      | Monthly-automatically withdrawn on or before the 15th day of the month for the prior month | Payable to Franchisor                                                                                  |
| Painting Rewards Program <sup>5</sup>             | \$5 per painting used per class                                                                                                        | When incurred                                                                              | Payable to originating franchisee or Franchisor                                                        |
| National Conference Registration Fee <sup>6</sup> | \$300-\$500                                                                                                                            | 60 days before the commencement of the scheduled conference date                           | Payable to Franchisor                                                                                  |

| Type of Fee                 | Amount                                                                                                                        | Due Date                         | Remarks               |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------|
| Taxes on Payments to Us     | Amount of tax or assessment                                                                                                   | When imposed by taxing authority | Payable to Franchisor |
| Management Fee <sup>7</sup> | 20% of the Gross Sales of the Franchised Business over the time period that we operate the Franchised Business on your behalf | When incurred                    | Payable to Franchisor |

#### NOTES:

##### General Comments:

Unless otherwise stated, all fees are imposed by and paid to Franchisor and are uniformly imposed. All fees are non-refundable.

(1) Gross Sales: “**Gross Sales**”, means gross revenues received by Franchisee as payment, whether in cash or for credit (and, if for credit, whether or not payment is received therefor), for all offered products and/or services sold in or from Franchisee’s Franchised Business, and gross revenues received by Franchisee from any other business operated at the Premises, excluding sales taxes and discounts approved in writing by Franchisor.

(2) Regional Cooperative Advertising: Currently there are no regional advertising cooperatives, nor do we or franchisees presently have plans to establish regional advertising cooperatives. In the future if established, the members of the regional advertising cooperative (which will include all Pinot’s Palette Businesses in the region) will decide the amount of member contributions and when contributions are due. If established, it is anticipated that: (a) each franchised and franchisor or affiliate-owned Pinot’s Palette Business who are located within the geographic area of the regional advertising cooperative will have a vote; (b) the number of franchised Pinot’s Palette Businesses in any area of a regional advertising cooperative will exceed the number of franchisor or affiliate-owned businesses; and (c) that franchisees will have controlling voting power on any fees imposed by the cooperative, except as to maximum contributions which we will not permit to exceed 2% of Gross Sales.

(3) Transfer Fee: If the transfer of your Franchised Business results in a transfer of control, you must pay Franchisor a nonrefundable transfer fee (the “**Transfer Fee**”) that is 30% to 50% of the then current Initial Franchise Fee depending upon whether the transfer is to a transferee who is a current franchisee or has experience managing a Franchised Business and other factors.

(4) Technology Fee: It is vital for the Pinot’s Palette System to feature state-of-the-art digital, e-commerce and other modern ordering capabilities, platforms, “apps” and other now or hereafter developed infrastructure, tools, systems and analytics, and that these capabilities are constantly evolving and require continued investment and innovation. To support some of the costs of these capabilities, we charge a monthly Technology Fee. We reserve the right to increase this fee only if our technology costs increase and only to the extent of the increase of our technology costs. The

maximum amount of any fee increase that we may implement is equal to the amount per franchisee required to cover an increase in our technology costs. As disclosed in the table, we plan to implement a reduction of the current Technology Fee to take effect January 1, 2026.

(5) **Pinot’s Palette Painting Rewards Program:** We maintain a master paintings and art library collection and a subcollection of test paintings and art which includes paintings we have assembled from multiple sources, including original paintings contributed by current and former Pinot’s Palette franchisees. You must participate in our painting rewards program. As a participating franchisee, you pay a fee of \$5 per painting used per class from the library for the use of any original painting contributed by a current or former Pinot’s Palette franchisee. Your fee goes to the then-current operating franchisee of the Pinot’s Palette location that contributed the original painting to the library. You will likewise be eligible to receive the same fees from other Pinot’s Palette franchisees. Fees paid for the use of paintings contributed by a Pinot’s Palette location that is no longer in operation are retained by the Franchisor.

(6) **National Conference Registration Fee:** If you choose to attend the Pinot’s Palette national conference or convention, we reserve the right to charge you a registration fee up to \$500 to help defray the costs of conducting the conference. The registration fee covers all meals associated with the conference and all conference materials. You must pay all personal expenses incurred by you or your attendees, including costs and expenses of transportation, lodging, some meals, and entertainment.

(7) **Management Fee:** The Management Fee will only be due to us if (a) you are in material default under your Franchise Agreement or become disabled/incapacitated/absent (and unable to perform as the “Franchisee” under your Franchise Agreement), and (b) we exercise our right to temporarily operate your Franchised Business in an effort to assist in getting the operations of the Franchised Business back into compliance with the Franchise Agreement and System standards.

## **ITEM 7**

### **ESTIMATED INITIAL INVESTMENT**

#### **YOUR ESTIMATED INITIAL INVESTMENT**

| <b>Type of Expenditure</b>                             | <b>Amount</b>      | <b>Method of Payment</b> | <b>When Due</b>                   | <b>To Whom Payment is to be Made</b> |
|--------------------------------------------------------|--------------------|--------------------------|-----------------------------------|--------------------------------------|
| Initial Franchise Fee <sup>1</sup>                     | \$25,000           | Lump sum                 | At signing of franchise agreement | Franchisor                           |
| Real Estate Lease for Premises - 2 months <sup>2</sup> | \$4,500 - \$20,000 | As arranged              | As arranged                       | Landlord                             |
| “Grand Opening” Advertising                            | \$5,000            | As arranged              | Within first month of opening     | Approved Vendors                     |

| Type of Expenditure                                    | Amount                       | Method of Payment | When Due       | To Whom Payment is to be Made      |
|--------------------------------------------------------|------------------------------|-------------------|----------------|------------------------------------|
| Training Expenses (salary expenses) <sup>3</sup>       | \$0 - \$1,500                | As arranged       | Before opening | Your employees                     |
| Travel and living Expenses while Training <sup>4</sup> | \$0 - \$2,000                | As arranged       | Before opening | Airlines, hotels and restaurants   |
| Insurance <sup>5</sup>                                 | \$1,500 - \$3,500            | As arranged       | Yearly         | Agent/company of your choice       |
| Furniture, Fixtures and Equipment <sup>6</sup>         | \$14,000 - \$25,000          | As arranged       | Before opening | Suppliers                          |
| Other Prepaid Expenses <sup>7</sup>                    | \$1,000 - \$3,500            | As arranged       | Before opening | Suppliers and Government Agencies  |
| Opening Inventory <sup>8</sup>                         | \$4,000 - \$7,500            | As arranged       | Before opening | Suppliers                          |
| Signage                                                | \$4,000 - \$8,000            | As arranged       | Before opening | Suppliers                          |
| Leasehold Improvements <sup>9</sup>                    | \$30,000 - \$90,000          | As arranged       | Before opening | Suppliers                          |
| Computer Hardware & Software <sup>10</sup>             | \$1,000 - \$3,000            | As arranged       | Before opening | Suppliers                          |
| Legal, Accounting & Organizational Costs               | \$1,000 - \$5,000            | As arranged       | As arranged    | Government, Attorneys, Accountants |
| Additional Funds <sup>11</sup><br>- 3 months           | \$25,000 - \$40,000          | As arranged       | As arranged    | Suppliers. Employees               |
| Architectural                                          | \$2,000 - \$5,000            | Lump sum          | Before opening | Suppliers                          |
| Alcohol Licensing <sup>12</sup>                        | \$1,000 - \$15,000           | Lump sum          | Before opening | Government Agencies                |
| <b>TOTAL<sup>13, 14</sup></b>                          | <b>\$119,000 - \$259,000</b> |                   |                |                                    |

#### NOTES:

General Comments: The above figures are estimates of the complete investment in establishing your Franchised Business. It is possible to significantly exceed these costs in any of the areas listed above. Your actual investment will depend upon many different factors like location, amount of space leased, amount of leasehold improvements, and your ability to efficiently manage and

coordinate the construction and opening of your Franchised Business. The above figures assume that the site falls into the recommended range of square footage and is delivered in the standard white box/vanilla box condition. The amounts paid to us are non-refundable unless otherwise stated. The refund ability of amounts paid to third parties are dependent upon your negotiations with these parties. The following notes are integral to the understanding of the financial commitment required to successfully establish and operate your Franchised Business. You should review the notes thoroughly.

(1) Initial Franchise Fee: See Item 5 for the conditions when this fee may be discounted through the VetFran discount or Multi-Unit Owner Discount Incentive. We do not finance any fee.

(2) Real Estate Lease for Premises: Locations for Franchised Businesses are typically within either a freestanding building or an in-line retail plaza space with ample parking, good visibility and visible signage. Typically, you would lease an existing location in a shopping strip center or other freestanding building and remodel the location to conform to our current design specifications. You may also lease the land and an existing facility and convert the facility to your Franchised Business or enter into a build-to-suit lease under which lease the landlord agrees to construct a structure which is used as your Franchised Business and lease the land and the building back to you. You may also purchase the land and build the facility yourself. The cost of land may vary dramatically depending upon a multitude of factors and it varies by city and region. We have not included costs for land acquisition. You must perform a thorough investigation in your local area concerning land, site, leasehold and construction costs. These costs may vary significantly from location to location and are dependent upon factors like the general cost, location and availability of commercial real estate in your market area and the amount of space desired.

This amount reflects a lease deposit and the amount of lease payments for the first two months that you operate your Franchised Business. Lease payments vary considerably depending upon regional and local factors and the type of lease negotiated by you. For a typical Franchised Business, you must lease approximately 1,700 to 2,300 square feet of space. Lease payments for a typical Pinot's Palette Business usually range from \$1,500 to \$6,000 per month depending upon the size, location and market demand for the property.

(3) Training Expenses: We provide instructors and instructional materials for up to three employees at no cost. However, you are responsible for any wages or other compensation of your employees who attend training. We may conduct training virtually, in Mandeville, Louisiana or another location we designate. If conducted in Mandeville, Louisiana or another location, rather than virtually, then you must also arrange for your attendees' transportation, lodging, and meals for yourself and for any costs incurred by associates. These costs are estimated within the category of Travel and Living Expenses while Training (see Note 4 below). You or the designated manager must attend approximately four to six days of training, which will be conducted (in our discretion) virtually, in Mandeville, Louisiana or another designated location. See Item 11 for additional information on initial training.

(4) Travel and Living Expenses while Training: If we (in our discretion) conduct virtual training, then you should not incur any costs. If conducted in Mandeville, Louisiana or another designated location, these costs will depend on the distance you must travel, the type of accommodations, the number of attendees. The costs listed include estimates for reasonably priced

transportation, lodging and meals for one person. The costs do not include wages paid for associates or employees attending training, local restaurants or other attractions in the New Orleans area, which can significantly increase your costs and affect the quality of experience while attending training.

(5) Insurance: You must procure comprehensive liability (including products liability coverage, sexual harassment coverage, host liquor liability coverage, and off-premises events coverage), property and other types of insurance coverage as provided in your Franchise Agreement, your lease and as may be required by law. The estimate given in the chart is for the first year's premium for a customary insurance coverage as set forth in this note. This does not include health insurance on you and/or your employees.

(6) Furniture, Fixtures and Equipment: We will provide a complete list of furniture needed for your Franchised Business. The amount will depend upon the size of your location. We will provide a complete list of equipment needs and specifications. We estimate that the range given will also be enough to purchase the initial décor package and other miscellaneous equipment.

(7) Other Prepaid Expenses: These costs include installation charges and deposits for a business telephone line, utilities, occupational licensing, health and other permits, and, in some areas, zoning or impact fees.

(8) Opening Inventory: We estimate that the range given will be sufficient to cover a supply of canvases, paints, brushes, and other supplies for the opening of your Franchised Business.

(9) Leasehold Improvements: You must obtain architectural drawings and make certain improvements and modifications to the particular building you will lease or own to conform to the décor and design of other Franchised Businesses. The cost of the improvements will vary depending upon the condition and type of building leased and the willingness of the lessor or owner to contribute to the construction or remodeling of your Franchised Business. Costs could exceed the estimates provided if remodeling is extensive and the lessor or owner does not contribute significantly to the costs of remodeling your Franchised Business. We will provide a complete list of improvements and design and décor criteria for your Franchised Business.

(10) Computer Hardware and Software: You must use a computer system (including both hardware and software) that meets our specifications. The personal computers you own or lease (and which may be obtained from any source) must have the following minimum requirements: 14<sup>th</sup> Generation Intel Core i5 or greater; 16 GB RAM or greater; 500 GB available hard disk space or greater; and wired Ethernet or Wi-Fi 6 capable of connecting to your internet service provider. In addition, the personal computers you lease or own must be capable of running the following software: Microsoft Windows 11 (or higher) or MAC OS 14.3 (or higher); current available Web Browser (Google Chrome recommended); Adobe Acrobat Reader; standard desktop publishing software (Microsoft Office, OpenOffice, etc.); and QuickBooks Online.

(11) Additional Funds: This amount reflects the minimum suggested amount of additional funds you will need for the first three months you operate your Franchised Business. This amount includes the following items: salaries and wages, payroll taxes, advertising, product purchases, payment of royalties, uniforms, utility bills, ongoing professional fees, freight and other



miscellaneous administrative and operating expenses. We assumed payroll expenses for 6 part time staff in calculating the estimate. In formulating the amount of additional funds, we relied on our prior experience in substantially similar businesses as well as certain historical data submitted by our Painting with a Twist franchisees who operate businesses which are substantially similar to Pinot's Palette, including, certain average operating expenses for Painting with a Twist franchised businesses in 2023.

(12) Alcohol Licensing: Some states and local municipalities require Pinot's Palette franchisees to obtain a "beer and wine" or "liquor" license or permit. You are required to offer an option to your customers for the consumption of alcohol within your studio. The requirements to achieve this may differ depending on laws in your area. Depending on your area and the laws in your area, this cost could greatly exceed this estimate.

(13) Total Investment: We relied on our prior experience in substantially similar businesses to compile these estimates.

(14) Financing: We do not offer, either directly or indirectly, financing to you for any items.

## **ITEM 8**

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

#### **Designated Suppliers and Specifications.**

To maintain the reputation, goodwill, high standards, quality and uniformity of our System, you must purchase products and supplies which meet certain specifications. These specifications may include minimum standards for building size, leasehold improvements, zoning, lease provisions, location criteria, qualifications of architects or contractors, signs, equipment, quality, quantity, delivery, performance, design, appearance, durability, style and other related restrictions. You must also use only the standard forms we approve and use the display sales, marketing and promotional material provided in the manner and for the time periods we designate. You must ensure that all items and printed materials used in your Franchised Business bear the Proprietary Marks in the manner we require. We consider these specifications to be of critical importance to the success of the System. These specifications are listed in the Manuals or are otherwise provided to you in writing. We may revise these specifications. If a supplier does not meet our specifications stated in the Manuals or as provided to you in other written materials, we may require you to stop using that supplier.

#### **Purchases from Designated and/or Approved Suppliers or Distributors.**

We have an approved supplier for brokerage services and site selection assistance. At your option you may obtain these services from our approved supplier. The approved supplier for these services is not an Affiliate of our company.

You must purchase or lease all equipment, inventory, supplies, products and materials required for the operation of your Franchised Business in accordance with our specifications and from approved suppliers, except for general office supplies/equipment and other general business items.

These items must be purchased from the designated and/or approved suppliers as listed in the Manuals or as Franchisor may specify in writing from time to time.

You must use a computer system (including both hardware and software) that meets our specifications and are required to access and use the ADMIN System. You are required to process all sales information using the ADMIN System.

You must currently purchase certain approved canvases, paints, brushes, easels, texture and screens required for the operation of your Franchised Business from your choice of two approved national distributors that deliver product to your Franchised Business. These distributors are our Affiliate, TD Art Supply, and JoAnn Fabrics (currently providing only certain canvases). You may also purchase certain approved canvas products that meet our specifications from Michaels and certain approved paints from Dick Blick. Wood products are available from TD Art Supply and P. Graham Dunn Direct. MDF cutouts and pallets are available from Diverse Woodworking. Our Affiliate, Chesapeake Supply, may become an approved national distributor in the future. You may not purchase these products from any other supplier without our written approval. We may add or disapprove designated suppliers from time-to-time. None of our Affiliates are currently the only approved supplier of any product or service.

Our co-owners, Catherine L. Deano, Teresa Johnson, Todd Owen and Dave Chmura are co-owners in our Affiliates, Chesapeake Supply and TD Art Supply. Neither we nor any of our officers currently own an interest in any other designated or approved supplier. Currently, we are not an approved supplier.

Designating suppliers and vendors benefits the Pinot's Palette System in several important ways: (i) it allows us to control the quality and consistency of our products to ensure that we provide quality products to our guests; (ii) it allows us to use our volume buying power to lower prices; (iii) obtain potential marketing benefits from certain suppliers; and (iv) enhances our new product development innovation. We attempt to negotiate purchase agreements with suppliers, including price terms, for your benefit. We consider your use of the designated products essential to the success of the Pinot's Palette System. We may, at any time, change the source of these designated products. We estimate that your purchases from designated suppliers will be approximately 18% of your total investment and 15% of your ongoing expenses in the operation of your Franchised Business. You do not receive material benefits from us if you use designated or approved suppliers.

You should be aware that there might be price increases in any or all of the items you must purchase from our suppliers or distributors. Costs of goods from designated or approved suppliers may fluctuate from month to month. The volume of purchases, usage, vendor minimums, inventory turns, market demand and other similar factors determines prices charged to you. Additionally, freight charges may not be uniform for all locations. Freight charges will depend upon the location of your Franchised Business from supplier or distributor's warehouse and the number of other Franchised Businesses in your area. When entering new markets, you should be aware that your freight costs may be higher than Pinot's Palette franchises in other markets and adjust your cost projections accordingly. We do not know of any pending price increases, but we cannot guarantee that increases will not occur.

### Approval of Alternative Suppliers/Compliance with Specifications.

If you desire to purchase any items from an unapproved supplier that you believe meets our specifications, the supplier must submit to us a written request for approval. We may require that samples from the supplier be delivered to us or our designee for inspection. We will notify you in writing of our decision within ninety (90) days following our evaluation. If we do not notify you within ninety (90) days, the request will be deemed disapproved. We have no obligation to approve any alternative product, supplier or distributor and may revoke our approval at any time.

If you obtain services from third-party providers, we will have the right to review the terms and conditions of your arrangements and require additional information about the business background and qualifications of the providers, including personal interviews with individuals providing the services. If any third party obtains access to confidential information, we may require, as a condition of approval of the provider, the signing of confidentiality and non-competition agreements in a form satisfactory to us. We may disapprove any provider, upon written notice to you, which does not demonstrate an ability to comply with the standards established for the System and to meet our needs promptly and reliably.

We may consider certain criteria in determining whether a supplier will be approved, including, but not limited to: price, ability to produce or deliver the products, services, supplies or equipment in accordance with our standards and specifications for quality and uniformity; production and delivery capabilities and ability to meet supply commitments; conflicts of interest; meeting our reporting requirements for orders/sales by franchisees; financial stability; minimum standards of licensing, insurance and regulatory requirements; the cost to us of testing, evaluating and administering the supplier; the cost of providing technological enhancements and integrating the supplier into our System; and the negotiation of a mutually satisfactory agreement to protect our intellectual property along with other conditions of approval. Our criteria for specific types of suppliers are either made available to you in the Manuals or will be made available to you upon written request.

We will maintain a written list of approved supplies (generally identified by brand name) and suppliers, which is updated and issued to you on a regular basis. We do not provide confidential specifications to you or suppliers, except on a limited basis.

### Revenues from Required Franchisee Purchases.

We and our affiliates may receive revenue from franchisee purchases and leases of products and services and from approved suppliers selling products or services to our franchisees, in the form of rebates or other material consideration. In 2023, neither we or our affiliates received any revenue from required purchases and leases of products or services by our franchisees, or any revenue from approved suppliers based on their sales and leases of products and services to our franchisees. We request that our suppliers pay a sponsorship fee to attend our franchise convention to help defray our costs.

### Cooperatives.

We do not have any purchasing or distribution cooperatives.

### Computer Hardware and Software Components.

You must purchase the computer hardware and software we designate for use in connection with the operation of your Franchised Business.

### Insurance.

Article 16 of your Franchise Agreement requires you to obtain and maintain insurance coverage as specified by us from time to time in the Manuals or otherwise in writing. You shall also designate us as an additional named insured, with an insurance company approved by us, for the following current insurance coverages:

(i) comprehensive general liability insurance (including products liability coverage, sexual harassment coverage, host liquor liability coverage, and off-premises events coverage) with coverage of at least \$1,000,000 per occurrence, and \$2,000,000 aggregate with full replacement value of business contents property coverage. (Our company must be listed as an additional insured);

(ii) business interruption insurance, including location rentals and additional rental for 12 months after casualty, in amounts equal to at least \$100,000 (The business interruption insurance shall include an endorsement providing coverage for off-premise power failure or utility interruption caused by any covered cause of loss as stated in the policy);

(iii) workers' compensation insurance as required by applicable law; (iv) All risk coverage insurance on all property insuring the Franchised Business premises and contents, including, without limitation, the construction of improvements, all supplies, inventory, fixtures, and equipment and personal property, containing a replacement value endorsement in an amount equal to the full replacement value; and (v) Automobile liability insurance, and property damage liability, including owned, non-owned, and hired vehicle coverage, with at least One Million Dollars (\$1,000,000) combined single limit, and Two Million Dollars (\$2,000,000) general aggregate limit. If Franchisee conducts an Offsite Event for Authorized Products and/or Services, Franchisee shall obtain separate non-owned auto coverage insurance, sexual abuse and molestation coverage and general liability insurance coverage. Franchisee may not directly or indirectly conduct such Offsite Event(s) until such insurance is obtained and Franchisor is named as an additional insured.

### Advertising.

We must approve all advertising before first publication or use. Our advertising requirements are discussed more fully in Item 11 of this Disclosure Document.

## **ITEM 9**

### **FRANCHISEE'S OBLIGATIONS**

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

| <b>Obligation</b>                                          | <b>Article(s) in Franchise Agreement or Addendum</b>          | <b>Item Number(s)</b> |
|------------------------------------------------------------|---------------------------------------------------------------|-----------------------|
| a. Site selection and acquisition/lease                    | Articles 1.3 and 1.4                                          | Item 11               |
| b. Pre-opening purchases/leases                            | Articles 10.2 and 10.4                                        | Items 6, 7 and 8      |
| c. Site development and other pre-opening requirements     | Articles 2 and 4.2                                            | Items 6, 7, 8 and 11  |
| d. Initial and ongoing training                            | Articles 3.2, 4 and 13.2                                      | Items 6, 7 and 11     |
| e. Opening                                                 | Articles 1 and 2                                              | Items 7, 8 and 11     |
| f. Fees                                                    | Articles 1.6, 2.2, 4.1, 4.3, 4.4, 4.5, 4.6, 5.1, 5.2 and 13.2 | Items 5, 6 and 7      |
| g. Compliance with standards and policies/operating manual | Articles 6 and 7                                              | Items 8, 9, 16 and 17 |
| h. Trademarks and proprietary information                  | Article 9                                                     | Items 13 and 14       |
| i. Restrictions on products/services offered               | Articles 6.3, 6.5, 6.6, 7.1 and 7.2                           | Items 8 and 16        |
| j. Warranty and customer service requirements              | Articles 6.5 and 7.2                                          | N/A                   |
| k. Territorial development and sales quotas                | Article 1                                                     | Item 12               |
| l. Ongoing product/service purchases                       | Article 10                                                    | Items 8 and 16        |
| m. Maintenance, appearance and remodeling requirements     | Articles 6.4 and 7.3                                          | Items 6, 8 and 11     |
| n. Insurance                                               | Article 16                                                    | Items 6 and 7         |
| o. Advertising                                             | Article 8                                                     | Items 6 and 11        |
| p. Indemnification                                         | Article 18                                                    | Items 6 and 13        |
| q. Owner's participation / management / staffing           | Article 4.2                                                   | Item 15               |
| r. Records and reports                                     | Articles 5.2 and 11                                           | Items 8 and 17        |
| s. Inspections and audits                                  | Articles 6 and 7.6                                            | Items 6 and 11        |
| t. Transfer                                                | Article 13                                                    | Item 17               |
| u. Renewal                                                 | Article 3.2                                                   | Item 17               |
| v. Post-termination obligations                            | Article 15                                                    | Item 17               |
| w. Non-competition covenants                               | Article 12                                                    | Item 17               |
| x. Dispute resolution                                      | Article 19                                                    | Item 17               |

| Obligation                                           | Article(s) in Franchise Agreement or Addendum | Item Number(s) |
|------------------------------------------------------|-----------------------------------------------|----------------|
| y. Personal Guaranty of all obligations of agreement | Articles 1.1, 13.1 and Attachment A           | Item 15        |

## **ITEM 10**

### **FINANCING**

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

## **ITEM 11**

### **FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEM, AND TRAINING**

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

#### **Pre-Opening Obligations**

Before you open your Franchised Business, we may provide you with the following assistance, in our discretion:

**Site Location Assistance:** We will provide you with general site selection criteria and guidance in the selection of an acceptable site. We have an approved supplier for commercial real estate brokerage services. At your option, you may obtain assistance with site selection and lease negotiations from our approved supplier. We do not own any of the location premises currently leased and have no present intention to do so (Franchise Agreement - Article 1.4).

The franchise is granted for a location to be approved by us. You alone must locate a site for your Franchised Business that must be accepted by us. We will evaluate and either accept or reject the location for your Franchised Business based upon the factors we consider in evaluating a location (Franchise Agreement - Article 1.4). Our acceptance will not be unreasonably withheld. Factors considered by us in reviewing and accepting proposed sites include population density, demographics, size of the space, rent, available parking, traffic count and patterns, ease of access, economic and population growth trends, Pinot’s Palette market penetration and proximity to other businesses, including other Franchised Businesses. We also consider whether the lessor will agree to the permitted use language and other lease provisions we require. We are under no obligation to physically visit the site. If we determine that the location is not acceptable at that time or is too close to another Franchised Business, the site will not be accepted and you must locate a new site for your Franchised Business.

We will approve or disapprove the proposed site as soon as reasonably possible in accordance with the procedures in the Manuals or as may be provided in writing by us, but no later than thirty (30) days after you submit for evaluation the proposed lease, site information required by Franchisor

and all other information requested for the proposed site. Failure to acquire a site acceptable to us and open the Franchised Business within one (1) year of the Effective Date of your Franchise Agreement may result in the termination of your Franchise Agreement.

Review of Lease: We will review the lease for the location of your Franchised Business to ensure that provisions required by us are included in the lease and that the terms of the lease are generally acceptable to us. You alone (or with the assistance of a broker or your legal counsel) must negotiate the business and financial terms of your lease (Franchise Agreement - Article 1.4). We recommend that you have your own legal counsel review your lease. The Contingent Assignment of Lease may be required as an addendum of your lease agreement and is attached to this Disclosure Document as Exhibit H.

Approved Plans and Specifications: We will provide you with the specifications and layouts for the structures, equipment, furnishings, décor and signs identified with Franchised Businesses and approved suppliers and specifications for products and supplies (Franchise Agreement - Articles 2, 10, and 17.1). We may provide or deliver some of these items directly to you.

Review of Final Site and Construction Plans: We will review your final site plans and approve the décor and layout for conformity to the construction standards and specifications of the System (Franchise Agreement - Article 2).

Manuals: We will loan or make available on-line to you with the confidential Pinot's Palette Operations Manual and other manuals or writings that we make available to all Pinot's Palette franchisees (Franchise Agreement - Articles 6.2 and 17.1). The Pinot's Palette Operations Manual consists of approximately 609 pages. Our Manuals contain the current System standards and information relating to your obligations as a franchisee. The content of the Manuals belongs to us and you will have no ownership interest in the Manuals. The Manuals may be modified, updated and revised periodically to reflect changes in the System standards and other policies affecting Pinot's Palette franchisees. The table of contents of the Operations Manual is attached to this Disclosure Document as Exhibit D.

### Initial Training

We will provide initial training to operate your Franchised Business (Franchise Agreement - Articles 3.2, 4 and 17.1). Before you open your Franchised Business, you and your designees must attend and complete, to our exclusive satisfaction, a training program in Mandeville, Louisiana or at another training location selected by us and/or complete management training courses on-line ("**Management Training**") (Franchise Agreement - Articles 4.1 and 4.2). The Management Training program is mandatory, conducted on an as-needed basis, depending upon the number of attendees, and will last 4 to 6 days. You will be scheduled to attend the program after you've completed site selection, hired your initial staff, and within a reasonable time before your scheduled opening date. The Management Training will include training in all phases of the operation of a Franchised Business, including staff/instructor training and shop management. When you open your Franchised Business, we will send one representative to your Franchised Business location, at no cost to you, for on-site training and assistance (Franchise Agreement - Articles 4.5 and 17.1). We may require any of your principals or employees who become actively involved in the management of your Franchised Business to attend and satisfactorily complete the

required training programs (Franchise Agreement - Article 4). If at any time Franchisee's trainee voluntarily withdraws from, or is unable to complete its training, or fails to demonstrate an aptitude, spirit or ability to comprehend or carry out the training course to our reasonable satisfaction, then we have the right to require Franchisee's trainee to attend other training class(es) or to complete additional training until we are reasonably satisfied that Franchisee's trainee has satisfactorily completed the training course. You may not open your Franchised Business until training is completed to our satisfaction.

### **TRAINING PROGRAM**

| <b>Subject</b>                                             | <b>Hours of Classroom/<br/>Virtual Training</b> | <b>Hours of On-the-job Training</b> | <b>Location</b>                                                           |
|------------------------------------------------------------|-------------------------------------------------|-------------------------------------|---------------------------------------------------------------------------|
| Pre-Opening                                                | 6                                               | 12                                  | Your Franchise Location<br>(via phone or online)                          |
| Interview and Hiring                                       | 2                                               | 0                                   | Mandeville, Louisiana<br>(via phone or online)                            |
| Management Training<br>(Operations, Marketing, Technology) | 40                                              | 0                                   | Mandeville, Louisiana<br>(via phone or online)                            |
| Shop Opening/On-Site Training                              | 2                                               | 20                                  | Your Franchise Location<br>Mandeville, Louisiana<br>(via phone or online) |
| Artist Training                                            | 12                                              | 0                                   | Mandeville, Louisiana<br>(via phone or online)                            |
| Additional Training                                        | 10-20                                           | 10-20                               | Franchisee's State or<br>Mandeville, Louisiana<br>(via phone or online)   |
| <b>TOTAL</b>                                               | <b>72-82</b>                                    | <b>42-62</b>                        |                                                                           |

All aspects of training are integrated. There is no definite starting and stopping times for each subject, and the timing depends on the progress the students make each day. Our training programs are under the direction of our Senior Director of Operations - Pinot's Palette, Adina Simpson, and



our Director of Training and Operations, Melissa Brown, or any other representative designated by Franchisor. Ms. Simpson has served as our Senior Director of Operations – Pinot’s Palette since July 2024, and has been involved with the Pinot’s Palette System since 2016. Ms. Brown has served as our Director of Training and Operations since July 2024, and has held various positions with GFH Pinot’s Palette and 2406 Franchise since 2014. Other instructors will include Pinot’s Palette artists and operations and marketing representatives. Our corporate artists currently include, but are not limited to Beckie Thomas and Jane Schauer. Ms. Thomas has been involved with the Painting with a Twist System since 2011. She began as an artist, then a multi-unit studio manager, then a franchise owner. Since 2020, Ms. Thomas has been our Art Manager and is responsible for art creation for the System through top artist collaboration, new product and process development and training. She has successfully trained hundreds of artists for the System. Ms. Schauer has been one of our artists since 2011 and with our company since 2014. She has created more than 500 paintings for our library and is passionate about art creation, protection of our intellectual property assets and ensuring the art library is curated to set our studios up for success. All instructors will have a minimum of two years’ experience in their subject area.

The instructional materials for our training programs include videos, handouts, the Manuals, and written tests.

As discussed in Item 6, you must pay all personal expenses incurred by you or your employees attending the initial training program, including costs and expenses of transportation, lodging, meals, and employee wages and benefits (Franchise Agreement - Article 4).

Pinot’s Palette Painting Rewards Program: We maintain a master paintings and art library collection and a subcollection of test paintings and art which includes paintings we have assembled from multiple sources, including original paintings contributed by current and former Pinot’s Palette franchisees. You must participate in our painting rewards program. As a participating franchisee, you pay a fee of \$5 per painting used per class from the library for the use of any original painting contributed by a current or former Pinot’s Palette franchisee. Your fee goes to the then-current operating franchisee of the Pinot’s Palette location that contributed the original painting to the library. You will likewise be eligible to receive the same fees from other Pinot’s Palette franchisees. Fees paid for the use of paintings contributed by a Pinot’s Palette location that is no longer in operation are retained by the Franchisor. (Franchise Agreement - Article 5.1).

### 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 and the opening of a Franchised Business is 6 to 12 months. Factors affecting this length of time include identification of a satisfactory site, lease negotiations, financing, zoning, building and other permits, construction delays (weather, labor, materials), and delivery and installation of equipment and signs. Problems or delays caused by any of these factors could delay the opening of the business beyond eight months. You must have the Franchised Business open and operating no later than 12 months after you sign the Franchise Agreement. (Franchise Agreement - Article 1.3).

You, at your own expense, shall: (i) renovate the location into a Franchised Business; (ii) obtain all necessary governmental permits and licenses prior to beginning the renovation of your location

into a Franchised Business. You shall commence operation of your Franchised Business no later than 30 days following substantial completion of the renovation and equipment installation at your location, but shall not commence operations without our written approval (Franchise Agreement - Article 2.1).

### Post-Opening Obligations

During the operation of your Franchised Business, we may provide you with the following assistance, in our discretion:

On-Site Assistance: We will provide you with on-site assistance upon the opening of your Franchised Business. During the opening of your Franchised Business, we will, at our expense, provide at least one representative to you at your Franchised Business location to facilitate the opening of your Franchised Business (Franchise Agreement - Articles 4.5 and 17.1).

Marketing and Advertising Guidance and Approval: We will provide you with materials and advice to support your marketing and advertising efforts (Franchise Agreement - Article 8). We will also approve or disapprove all advertising and promotional materials you propose to use. Advertising is explained in more detail below.

Consultation: You may contact our representatives on a periodic or as-needed basis to receive consultation and guidance concerning the operation of your Franchised Business (Franchise Agreement - Article 17.1). We will also provide information to you about changes and modifications to the System and Manuals, advertising & marketing activities and provide you with forms for required reports you must submit to us (Franchise Agreement - Articles 6 and 17.1). We will periodically, as we consider necessary, inspect your supplies, merchandise, methods of service and merchandising and speak with you and your employees to ensure you are complying with your agreements, Manuals and the standards established for the System (Franchise Agreement - Article 6). We will not provide any legal or accounting services or advice at any time.

We may, subject to applicable law, establish the minimum prices and maximum prices you charge for the products and services you offer at your Franchised Business, except food and beverage pricing. You must honor all such maximum prices and minimum prices we establish. (Franchise Agreement – Article 7.1).

Additional Training: We will periodically, as we consider necessary, provide you with advanced training in operating your Franchised Business (Franchise Agreement - Article 4.6). You are solely responsible for hiring and training the employees of the Franchised Business. Additional training sessions after the initial Management Training may be available, at our discretion, at your expense. We may offer additional optional training programs, including both advanced and refresher training, for you and your employees. Currently, the optional training programs we offer include regular online webinars that provide franchisees with instruction and guidance relating to business operations and upgrades to the ADMIN System. We may designate certain additional training courses for you or your employees as mandatory (Franchise Agreement - Article 4.6).

We may designate certain additional management and field training courses for you or your employees as mandatory which will be conducted either in franchisee's state or virtually. We will not mandate more than two additional training sessions in a 12-month period unless they are online

or virtual courses (Franchise Agreement - Article 4.6). As discussed in Item 6, you must pay all personal expenses incurred by you or your employees attending additional training sessions, including costs and expenses of transportation, lodging, meals, wages and employee benefits and any training materials (Franchise Agreement - Article 4). At this time, there are no required additional training programs or refresher courses, but we reserve the right to change that at any time in the future.

**New Products and Services:** We will evaluate and consider for approval the products or services you submit for approval for use in your Franchised Business. We will notify you in writing within ninety (90) days following our evaluation. If we do not notify you within ninety days (90) days, the request will be deemed disapproved. We have no obligation to approve new products or services (Franchise Agreement - Articles 10.2 and 10.3).

**Use of the ADMIN System:** We will provide you with access to the ADMIN System for your use in developing and operating your Franchised Business (Franchise Agreement - Article 11).

**Advertising Local Advertising:** For the grand opening of your Franchised Business, you must spend a minimum of \$5,000 in local advertising and marketing. Afterwards, you must expend a minimum of \$1,000 per month on local advertising through mediums approved by us. Franchisor may require you to submit copies of all receipts, invoices, etc. to us within fifteen (15) calendar days after the end of each calendar month as verification of your compliance with this requirement (Franchise Agreement - Article 8.2). All advertising, promotional and marketing activities conducted by you in your local market area will be subject to our prior approval. You shall submit to us pursuant to the Notice requirements of your Franchise Agreement all advertising, promotional and marketing plans and samples of all local advertising materials not prepared or previously approved by us. If any advertising or marketing activities are later disapproved, you must discontinue such use promptly upon written notice from us.

**Advertising Program:** Franchisor has implemented a system-wide advertising program under the following terms and conditions:

(i) **System Advertising Fund:** You must pay 2% of your weekly gross sales to Pinot's Palette system advertising fund ("**System Advertising Fund**") (Franchise Agreement - Article 8.3). Outside vendors and suppliers may contribute to the System Advertising Fund in exchange for promoting their products or using their services. These agreements are negotiated on an individual basis as the opportunity arises by us or a representative of the System Advertising Fund.

We will use System Advertising Fund contributions, in our sole discretion, to develop, produce and distribute national, regional and/or local marketing and to create advertising materials and which promote, in our sole judgment, the services offered by System franchisees. We have the sole right to determine contributions and expenditures from the System Advertising Fund, or any other advertising program, and sole authority to determine, without limitation, the selection of the advertising materials and programs. We may use the System Advertising Fund contributions to satisfy any and all costs of maintaining, administering, directing, preparing, and producing advertisements and other marketing, including the cost of preparing and producing television, radio, magazine, Internet and newspaper advertising campaigns, the cost of direct mail and outdoor billboard advertising; the cost of public relations activities, market research and advertising

agencies; the cost of developing and maintaining an Internet website; and personnel and other departmental costs for marketing that we internally administer or prepare. While we do not anticipate any part of the System Advertising Fund contributions will be used for advertising that is principally a solicitation for franchisees, we reserve the right to use the System Advertising Fund contributions for public relations or recognition of the Pinot's Palette brand and for the creation and maintenance of a website, a portion of which may be used to explain the franchise offering and solicit potential franchisees, and to include a notation in any advertisement indicating the availability of franchises. Sales materials, if developed, may be sold to franchisees at a reasonable cost.

We may periodically assist franchisees to maintain high quality standards through customer surveys, customer interviews, and other similar initiatives ("Surveys"). The cost of such programs may be borne by the System Advertising Fund. The cost of these programs may be charged directly to you if your results from a Survey fall below System-established minimum standards for such Surveys.

We have the right to reimburse ourselves from the System Advertising Fund Contributions for such reasonable costs and overhead, if any, that we may incur in activities reasonably related to the direction and implementation of the System Advertising Fund.

We will prepare and make available for you on a semi-annual basis, an unaudited statement of contributions and expenditures for the System Advertising Fund. The statement will be presented to you upon your written request. All sums paid by you into the System Advertising Fund shall be kept in accounts separate from the other monies of our company and shall not be used to defray any of our general expenses, except for reasonable administrative costs and overhead as we may incur in activities reasonably included in the administration and direction of the System Advertising Fund and advertising programs for you and the System. We or our designees shall maintain separate bookkeeping accounts for the System Advertising Fund.

It is anticipated that all contributions to and earnings of the System Advertising Fund will be expended during the taxable year in which the contributions and earnings are received. If excess amounts remain in the System Advertising Fund at the end of the taxable year, all expenditures in the following taxable year shall be made first out of accumulated earnings from previous years, next out of earnings in the current year, and finally from contributions (Franchise Agreement - Article 8.3).

Although the System Advertising Fund is intended to be of perpetual duration, we maintain the right to terminate the System Advertising Fund. The System Advertising Fund will not be terminated until all monies in the System Advertising Fund have been expended for the purpose described above or returned to contributors on a prorated basis of their contributions. All Franchisor-owned Franchised Businesses will contribute to the System Advertising Fund on the same basis as other franchisees.

We implemented the System Advertising Fund on July 1, 2024. The System Advertising Fund was implemented during the current fiscal year, the fund had no income or expenditures during the last fiscal year (ending on December 31, 2023).

We have created a national Franchise Advisory Council (“**Council**”) made up of Pinot’s Palette franchisees elected by the Pinot’s Palette franchisee community. The Council serves in an advisory capacity role only to provide input on advertising programs and policies and other new and existing programs of and the Council does not have decision making power. We have the authority to change or dissolve the Council at any time without reason.

(ii) Regional Cooperative Advertising: We may establish a regional advertising cooperative covering any protected territory in our discretion, and you may become a member of the cooperative covering your protected territory immediately if you choose. You are not required to be a member of any cooperative. If you participate, you must contribute to the cooperative the amount the members of the cooperative determine, but you will not be required to contribute to any cooperative more than 2% of your monthly Gross Sales. If we or our affiliates own a unit in the cooperative, we or our affiliates will have a vote. The cooperative members will be responsible for administering each cooperative. Cooperatives must operate from written documents. On the establishment of your cooperative, you will be provided a copy of the written document governing the cooperative. The cooperative will determine whether and when financial statements of the cooperatives’ activities will be prepared; however, we may inspect the financial records of any cooperative. We also may change, dissolve or merge any cooperatives. We do not receive payment for providing goods or services to the regional cooperative advertising funds. If a regional advertising cooperative is established requiring you to become a member and contribute to the cooperative, your contributions will count toward your local advertising obligation and you may reduce your required local advertising expenditures by the amount of any contributions you make to a regional advertising cooperative.

### Computer System & Technology

We have the right to specify or require that certain brands, types, makes, and/or models of communications, computer systems, and hardware be used by you, including without limitation: (i) a computer system that complies with our standards and specifications and is capable of operating our designated software; (ii) a custom point of sale system, if applicable; (iii) printers and other peripheral hardware or devices; (iv) archival back-up systems; (v) Internet access mode and speed; and (vi) physical, electronic, and other security systems (collectively, the “Computer System”). Currently, the Computer System must have the following minimum requirements: 14th Generation Intel Core i5 Processor or greater; 16 GB RAM or greater; 500 GB available hard disk space or greater; and wired Ethernet or Wi-Fi 6 capable of connecting to your internet service provider. In addition, the personal computers you lease or own must be capable of running the following software: Microsoft Windows 11 (or higher) or MAC OS 14.3 (or higher); current available Web Browser (Google Chrome recommended); Adobe Acrobat Reader; standard desktop publishing software (Microsoft Office, OpenOffice, etc.); and QuickBooks Online.

You must acquire a Computer System and required software that meets our specifications. The amount you must spend on the Computer System will vary based on the type of computer and software you already have, if any. The estimated cost of purchasing your required Computer hardware and software to open your Franchised Business is between \$1,000 and \$3,000. The high range of these estimates assumes you purchase new computers and all required software, with specifications greater than what we require at a minimum.

It is vital for the Pinot's Palette System to gain competitive advantages by featuring digital, e-commerce and other modern ordering capabilities, platforms, "apps" and other now or hereafter developed infrastructure, tools, systems and analytics, and that these capabilities are constantly evolving and require continued investment and innovation. To support some of the costs of these capabilities, we charge a monthly Technology Fee. Currently this fee is \$250 per month. This fee is subject to change in our sole discretion to keep up with maintaining and keeping up with the rapid industry changes to improve our technology. It includes the maintenance and optimization of the ADMIN System and other software and information technology programs and services to maintain and enhance the System (Franchise Agreement - Article 5.1).

We will have unlimited independent access to your data inputted into the ADMIN System, including reservations, receipts and sales information. You will be provided with specifications and initial training for use of the ADMIN System. We will provide assistance to you through email and in some instances, by telephone, in connection with the use of the ADMIN System we require you to use (Franchise Agreement - Article 11.2). We reserve the right to change the software used with the Pinot's Palette System in our sole discretion and you must comply with any such change at your sole costs.

In addition, you must also purchase or lease all equipment necessary to accept designated credit cards, debit cards and gift cards. The credit/debit card processor you own or lease (and which may be obtained from any source) must be capable of supporting the "Authorize.net" or other gateway we designate. You must have and maintain adequate hardware and software in order to access the Internet at the bit speed we require from time to time.

You are restricted from playing unlicensed music from any service not intended for commercial use, including from any non-commercial streaming service or from your own digital or other playlist. You must install and use the vendors and services we require.

### Website

We may, but are not obligated to, establish an Internet website that provides information about the System and the products and services offered by Franchised Businesses. In the event we exercise our right to create such a website, we have sole discretion and control over the website (including timing, design, contents and continuation). We may, but are not obligated to, create interior pages on our website(s) that contain information about your Franchised Business and other Franchised Businesses. If we do create these pages, we may require you to prepare all or a portion of the page for your Franchised Business, at your expense, using a template that we provide. All such information will be subject to our approval prior to posting (Franchise Agreement - Article 11.2).

Except as approved in advance in writing by us, you may not establish or maintain a separate website, splash page, profile or other presence on the Internet, or otherwise advertise on the Internet or any other public computer network in connection with the Franchised Business, including any profile on Facebook, Pinterest, X, LinkedIn, Instagram, YouTube or any other social media and/or networking site. If such approval is granted by us, you must: (i) establish and operate such Internet site in accordance with System standards and any other policies we designate in the Operations Manual or otherwise in writing from time to time; and (ii) utilize any templates that we provide to you to create and/or modify such site(s) (Franchise Agreement - Article 11.13).

We have the right to modify our policies regarding both our and your use of Internet websites as we deem necessary or appropriate for the best interests of the System. You acknowledge that we and/or our affiliates are the lawful, rightful and sole owner of the Internet domain name [www.pinotspalette.com](http://www.pinotspalette.com), as well as any other Internet domain names registered by us, and you unconditionally disclaim any ownership interest in such domain names and any considerably similar Internet domain names. You agree not to register any Internet domain name in any class or category that contains words used in or similar to any brand name owned by us or our affiliates or any abbreviation, acronym, phonetic variation or visual variation of those words (Franchise Agreement - Article 11.13).

#### Computer Network, Intranet or Extranet Participation

You are required to participate in any System-wide computer network, intranet system or extranet system that we implement and may be required by us to use such computer network, intranet system, or extranet system to, among other things: (i) submit your reports due under the Franchise Agreement to us on- line; (ii) view and print portions of or updates to the Operations Manual; (iii) download approved local advertising materials; (iv) communicate with us and other System franchisees; and (v) complete training. You agree to use the facilities of any computer network, intranet system or extranet system in strict compliance with the standards, protocols, and restrictions that we include in the Operations Manual, including those related to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements (Franchise Agreement - Article 11.12).

#### Payment of Fees

You are required to pay all fees due under the Franchise Agreement by automated bank draft. You must sign the ACH Service Agreement form (Attachment C to the Franchise Agreement) before opening for business. This form allows us to draft royalty payments, advertising fees, training fees or other fees due under your Franchise Agreement directly from your bank account (Franchise Agreement - Article 5.2).

### **ITEM 12**

#### **TERRITORY**

You shall operate your Franchised Business only from a specified location approved by us. We will designate a general geographic area, such as a city or sector of a city (“**Site Selection Area**”), solely for the purpose of limiting the area within which you may seek a site location for your Franchised Business. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. However, upon executing a lease for your Franchised Business and prior to the opening of your Franchised Business, we will designate a geographical area defining your protected territory (your “**Protected Territory**”). The size of the Protected Territory will be determined by general demographics of the area with a minimum residential population of 100,000, the scope of the geographic boundaries, and other similar criteria in order to ensure that you can realistically service the Protected Territory. The boundaries of the Protected Territory may be shaped, at our sole discretion, to match the population criteria and natural geographic features.

As long as you are not in default of your Franchise Agreement, we will not establish, nor license another party or entity to establish a Franchised Business under the trademark “Pinot’s Palette” within the Protected Territory. You may face competition from other channels of distribution or competitive brands that we control.

Under the Franchise Agreement, you may sell proprietary products and services to retail customers who live anywhere but who choose to use your Franchised Business. You may conduct an Offsite Event in accordance with the terms and conditions set forth in the Manuals. However, you may not conduct an Offsite Event within the Protected Territory of another Franchised Business without our approval. Without our prior approval, you may not engage in any promotional activities or sell proprietary products or similar products or services, whether directly or indirectly, through or on the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system; through catalogs or other mail order devices sent or directed to customers or prospective customers located anywhere; or by telecopy or other telephonic or electronic communications, directed to or received from customers or prospective customers located anywhere. You must obtain our prior approval for all advertising, promotional and marketing activities conducted by you in your local market area.

Although we will not grant another Pinot’s Palette franchise in your Protected Territory, customers from your Protected Territory may patronize any business they wish and obtain services and products from other franchisees, franchises operating under the Painting with a Twist proprietary marks, from franchises of our Affiliate, CMM, or directly from us and or Affiliates over the Internet, or in other reserved channels of distribution. As a result, the Protected Territory will not be exclusive. We reserve for ourselves the exclusive right to market any other products or services utilizing the Marks and other marks utilizing alternative distribution channels, including over the Internet. We are not required to compensate you for any solicitation or acceptance of orders inside your territory via alternative channels of distribution.

We further reserve the right to negotiate options, rights of first refusal, and other similar rights to acquire additional franchises upon request by another franchisee. You should not rely on any oral representations that you will be offered the first opportunity to expand in an area or that you have any other expansion rights. If you desire to obtain expansion rights to an area, you should consider applying to us for the rights to that area.

There is no minimum sales quota. You maintain the right to your Protected Territory even if the population increases. Your Protected Territory is not dependent upon achievement of certain sales volume, market penetration, or any other contingency.

### Relocation

Relocation of your Franchised Business requires our prior written approval, which may be withheld in our sole discretion. We may, in our sole discretion, adjust the Protected Territory if you if you relocate your Franchised Business.

### Reserved Rights

We retain the right, in our sole discretion, to own and operate Franchised Businesses at any location(s) outside your Protected Territory under the same or different marks, or to license others



the right to own and operate a Franchised Business at any location(s) outside Franchisee's Protected Territory under the same or different marks.

We reserve the right to use the Marks and System in connection with the provision of other services and products or in alternative channels of distribution at any location including within the Protected Territory without compensation to you.

We reserve the right to acquire businesses that are the same as or similar to the Franchised Business and operate such businesses regardless of where such businesses are located, including inside the Protected Territory and to be acquired by any third party which operates businesses that are the same as or similar to the Franchised Business regardless of where such businesses are located, including inside the Protected Territory.

We further reserve the right to use the Pinot's Palette Proprietary Marks and System in connection with services and products, promotional and marketing efforts or related items, or in alternative channels of distribution, including the sale of products through retail or wholesale stores, and via the Internet and mail order catalogs, without regard to location. We also retain the right to sell products and services through alternative channels of distribution, such as mail order, catalog sales, telemarketing, Internet, television, newspaper, and any other advertising media to consumers located anywhere, and acquire or be acquired by other business systems or entities, including within your Protected Territory. You have no right to share in any revenue generated from these activities.

As stated in Item 1, we established the Painting with a Twist franchise system and have operated that franchise system since 2009 and in 2018 we acquired substantially all of the assets of Bottle & Bottega. We intend to continue to offer franchises using the Painting with a Twist proprietary marks throughout the United States. We will not establish and operate, or grant franchises to others to establish and operate Painting with a Twist business locations within your Protected Territory. We will not designate a protected territory for a Painting with a Twist business location that overlaps with your Protected Territory. We plan to convert the Bottle & Bottega franchised businesses currently operating under the Bottle & Bottega proprietary marks to the Painting with a Twist Proprietary Marks and System in the future. We do not intend to offer any further franchises under the Bottle & Bottega proprietary marks.

As stated in Item 1, Twist Brands acquired the rights to operate the Color Me Mine franchise system in a transaction that closed November 3, 2020. CMM, the franchisor of the Color Me Mine franchise system, offers franchises using the Color Me Mine trademark and system throughout the United States. This means that it is possible that you could have a Color Me Mine franchise location operating in your Protected Territory or a Color Me Mine franchise territory overlapping your Protected Territory. While Color Me Mine and Pinot's Palette services are distinctly different, not directly competitive and primarily attract different market segments of the population, franchisees from both systems occasionally serve the same customers.

## **ITEM 13**

### **TRADEMARKS**

We identify the Pinot's Palette System by means of certain trade names, service marks, trademarks, and logos ("**Proprietary Mark(s)**"). The Franchise Agreement grants you the non-exclusive right to use the Proprietary Marks and any other Proprietary Marks that we may use during the term of the Franchise Agreement in operation of the System. Your use of the Proprietary Marks is limited solely to the operation of the Franchised Business at its approved location and only in accordance with the System. The following Proprietary Marks are currently registered or pending registration on the Principal Register of the United States Patent and Trademark Office (USPTO):

| <b>Trademark, Service Mark or Design</b>                                                                            | <b>U.S. Application or Registration No.</b> | <b>Date of Application or Registration</b> | <b>Comment</b> |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------|----------------|
| PINOT'S PALETTE<br>(word mark) (Class 41)                                                                           | 3,921,188                                   | February 15, 2011                          | Registered     |
| PAINT. DRINK. HAVE FUN.<br>(word mark) (Class 41)                                                                   | 4,645,160                                   | November 25, 2014                          | Registered     |
| LITTLE BRUSHES<br>(word mark) (Class 41)                                                                            | 4,649,007                                   | December 2, 2014                           | Registered     |
| PINOT PERKS<br>(word mark) (Class 35)                                                                               | 5,167,499                                   | March 21, 2017                             | Registered     |
| <br>(mark and design) (Class 41) | 4,992,818                                   | July 5, 2016                               | Registered     |
| <br>(mark and design) (Class 41) | 4,992,819                                   | July 5, 2016                               | Registered     |

| Trademark, Service Mark or Design                                                                                 | U.S. Application or Registration No. | Date of Application or Registration | Comment    |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------|-------------------------------------|------------|
| <br>(mark and design) (Class 41) | 5,168,329                            | March 21, 2017                      | Registered |
| <br>(mark and design) (Class 41) | 5,168,330                            | March 21, 2017                      | Registered |
| PAINT LOCAL<br>(word mark) (Class 41)                                                                             | 5,161,985                            | March 14, 2017                      | Registered |

All required affidavits have been filed for the Proprietary Marks listed in this Item. Registrations which have come up for renewal have been renewed. We also claim common law rights to all of our Proprietary Marks on the basis of use.

There are currently no effective material determinations of the United States Patent and Trademark Office, Trademark Trial and Appeal Board, the Trademark Administrator of any state or any court and there is no pending interference, opposition or cancellation proceeding or any material litigation involving the Proprietary Marks listed in this Item which are relevant to their use in your Franchised Business.

There are currently no agreements in effect, which significantly limit the our rights to use or license the use of its Proprietary Marks in any manner material to your Franchised Business.

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

We have the right, though not the obligation, to defend you against any third-party claim, suit, or demand arising solely out of your use of the Proprietary Marks in a manner expressly authorized by us. If we, in our sole discretion, determine that you have used the Proprietary Marks in accordance with the Franchise Agreement and the Operations Manual, we will pay the cost of defending the action, including the cost of any judgment or settlement. If we, in our sole discretion,

determine that you have not used the Proprietary Marks in accordance with the Franchise Agreement and the Operations Manual, you will be required to pay for the defense or to reimburse us for costs we incurred in providing the defense, including the cost of any judgment or settlement. In the event of any litigation relating to your use of the Proprietary Marks, you are required to sign all documents and assist us, as we deem necessary, to carry out the defense or prosecution including, without limitation, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of your use of the Proprietary Marks in a manner not in accordance with the terms of the Franchise Agreement, we will reimburse you for your out-of-pocket costs in performing such acts.

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

You may use only the Proprietary Marks which we designate, and may use them only in the manner we authorize and permit. Any goodwill associated with Proprietary Marks, including any goodwill which might be deemed to have arisen through your activities, inures directly and exclusively to our benefit. You may use the Proprietary Marks only for the operation of the Franchised Business and only at the location or in advertising for the Franchised Business. You will use all Proprietary Marks without prefix or suffix and in conjunction with the symbols “SM,” “TM,” or “R,” as applicable. You may not use the Proprietary Marks in connection with the offer or sale of any services or products which we have not authorized for use in connection with the System. You may not use the Proprietary Marks as part of your corporate or other legal name. We must approve your corporate name and all fictitious names under which you propose to do business in writing before use.

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

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

## **ITEM 14**

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

There are no patents that are material to the franchise.

We claim copyrights in all artworks used by and in connection with the operation of Pinot's Palette Businesses ("**Copyrights**"). The following copyrights are registered or pending registration with the United States Registrar of Copyrights:

| <b>Title of Work</b>           | <b>U.S. Application or Registration No.</b> | <b>Date of Application or Registration</b> | <b>Comment</b> |
|--------------------------------|---------------------------------------------|--------------------------------------------|----------------|
| Pinot's Palette 2009 Series    | VA 1-882-394                                | July 8, 2013                               | Registered     |
| Pinot's Palette 2010 Series    | VA 1-949-007                                | July 8, 2013                               | Registered     |
| Pinot's Palette 2011 Series    | VA 1-925-839                                | April 3, 2014                              | Registered     |
| Pinot's Palette 2012 Series    | VA 1-913-843                                | April 3, 2014                              | Registered     |
| Pinot's Palette 2013 Series    | VA 1-926-801                                | April 4, 2014                              | Registered     |
| Little Brushes Series          | VA 1-933-220                                | July 7, 2014                               | Registered     |
| Pinot's Palette 2014 Q1 Series | VA 1-929-849                                | September 25, 2014                         | Registered     |
| Pinot's Palette 2014 Q2 Series | VA 1-929-338                                | September 25, 2014                         | Registered     |
| Pinot's Palette 2014 Q3 Series | VA 1-977-966                                | July 20, 2015                              | Registered     |
| Pinot's Palette 2014 Q4 Series | VA 1-953-424                                | March 23, 2015                             | Registered     |

| <b>Title of Work</b>              | <b>U.S. Application or Registration No.</b> | <b>Date of Application or Registration</b> | <b>Comment</b> |
|-----------------------------------|---------------------------------------------|--------------------------------------------|----------------|
| Pinot's Palette 2015<br>Q1 Series | VA 1-961-836                                | April 2, 2015                              | Registered     |
| Pinot's Palette 2015<br>Q2 Series | VA 1-975-693                                | July 9, 2015                               | Registered     |
| Pinot's Palette 2015<br>Q3 Series | VA 1-990-417                                | October 2, 2015                            | Registered     |
| Pinot's Palette 2015<br>Q4 Series | VA 2-001-707                                | January 20, 2016                           | Registered     |
| Pinot's Palette 2016<br>Q1 Series | VA 2-011-749                                | April 12, 2016                             | Registered     |
| Pinot's Palette 2016<br>Q2 Series | VA 2-021-983                                | July 7, 2016                               | Registered     |
| Pinot's Palette 2016<br>Q3 Series | VA 2-063-943                                | October 7, 2016                            | Registered     |
| Pinot's Palette 2016<br>Q4 Series | VA 2-065-642                                | January 12, 2017                           | Registered     |
| Pinot's Palette 2017<br>Q1 Series | VA 2-081-226                                | March 31, 2017                             | Registered     |
| Pinot's Palette 2017<br>Q2 Series | VA 2-097-332                                | July 10, 2017                              | Registered     |
| Pinot's Palette 2017<br>Q3 Series | VA 2-097-333                                | October 26, 2017                           | Registered     |
| Pinot's Palette 2017<br>Q4 Series | VA 2-120-006                                | May 15, 2018                               | Registered     |
| Pinot's Palette 2018<br>Q1 Series | VA 2-120-026                                | May 15, 2018                               | Registered     |
| Pinot's Palette 2018<br>Q2 Series | VA 2-151-999                                | July 27, 2018                              | Registered     |
| Pinot's Palette 2018<br>Q3 Series | VA 2-149-139                                | October 3, 2018                            | Registered     |

| <b>Title of Work</b>           | <b>U.S. Application or Registration No.</b> | <b>Date of Application or Registration</b> | <b>Comment</b> |
|--------------------------------|---------------------------------------------|--------------------------------------------|----------------|
| Pinot's Palette 2018 Q4 Series | VA 2-163-309                                | March 7, 2019                              | Registered     |
| Pinot's Palette 2019 Q1 Series | VA 2-169-393                                | May 1, 2019                                | Registered     |
| Pinot's Palette 2019 Q2 Series | Case #1-8055467891                          | September 10, 2019                         | Registered     |
| Pinot's Palette 2019 Q3 Series | Case #1-8235065691                          | November 7, 2019                           | Registered     |
| Pinot's Palette 2019 Q4 Series | VA 2-260-589                                | June 28, 2021                              | Registered     |
| Pinot's Palette 2020 Q1 Series | VA 2-261-422                                | June 29, 2021                              | Registered     |
| Pinot's Palette 2020 Q2 Series | VA 2-277-455                                | August 10, 2021                            | Registered     |
| Pinot's Palette 2020 Q3 Series | VA 2-268-985                                | August 12, 2021                            | Registered     |
| Pinot's Palette 2020 Q4 Series | VA 2-277-386                                | August 20, 2021                            | Registered     |
| Pinot's Palette 2021 Q1 Series | VA 2-269-244                                | August 30, 2021                            | Registered     |

None of these registrations are subject to renewal terms.

There are currently no effective material determinations of the United States Copyright Office or any court and there is no pending material administrative proceeding or litigation involving the Copyrights listed in this Item which is relevant to their use in your Franchised Business.

There are currently no agreements in effect, which significantly limit our rights to use or license the use of our Copyrights in any manner material to your Franchised Business.

We will defend and hold you harmless from any claims of copyright infringement for the use of the Copyrights if you promptly give written notice to us and tender the full defense of the claims against you to us. We will have complete control of the legal action and may settle the claims at any time without providing notice to you. We have taken and will take all steps reasonably

necessary to preserve and protect the ownership and validity of the Copyrights. You must sign any documents deemed necessary by us or our counsel to obtain protection for the Copyrights or to maintain their continued validity and enforceability. You may not contest the validity or ownership of the Copyrights. If litigation involving the Copyrights is instituted or threatened against you, you must promptly notify us and must cooperate fully with us in defending or settling the litigation.

We do not warrant or guarantee that we have the exclusive right to use the Copyrights. If for any reason it becomes necessary or desirable for us to quit using the Copyrights, we are not obligated to provide you with compensation, nor do you have any other remedy under the Franchise Agreement.

We do not actually know of any superior prior rights or of any infringing uses that could materially affect your use of the Copyrights.

### Confidential and Proprietary Information

During the term of the Franchise Agreement, you will receive information which we consider our trade secret and confidential information (“**Confidential Information**”), including operating procedures, sources of supply, supplier contracts, advertising materials, copyrighted materials, equipment specifications, class offerings, pricing for classes, any information contained in the Operations Manual, trade secrets, and other methods, techniques and know-how concerning the operation of the Franchised Business that may be communicated to you or of which you may be apprised by virtue of your operation of the Franchised Business. You will not, during the term of the Franchise Agreement or thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company any Confidential Information. You may divulge Confidential Information only to those of your employees as must have access to it in order to operate the Franchised Business. You acknowledge and agree that certain information, including (i) current customer and prospective customer names and addresses, (ii) information about credit extensions to customers, (iii) customer service purchasing histories, (iv) rates charged to customers (subsections (i)-(iv) collectively “**Customer Lists**”), and (v) sources of suppliers and purchasing arrangements with suppliers, also constitute our trade secrets and Confidential Information. You may divulge such Confidential Information only to such of your employees as must have access to it in order to operate the Franchised Business. Any and all information, knowledge, know-how, techniques, and other data that we designate as confidential will be deemed Confidential Information for purposes of the Franchise Agreement. You acknowledge and agree that we have expended considerable time, effort, and money to develop the System, that the enumerated Confidential Information is not well known outside of the System, that the Confidential Information is of great value to us, and that we are implementing this non-disclosure policy in an effort to protect its trade secrets and Confidential Information. You acknowledge that in the event of the actual or threatened breach of the section of the Franchise Agreement governing confidentiality, our harm will be irreparable and that we have no adequate remedy at law to prevent such harm.

You must require all of your employees and artists to execute covenants promising to maintain the confidentiality of information they receive in connection with their employment by Franchisee at the Franchised Business and to restrict their ability to compete with the Franchised Business during their employment with Franchisee. Such covenants will be in a form satisfactory to Franchisor and



substantially similar to the Confidentiality Agreement attached as Attachment B to the Franchise Agreement. These covenants must, without limitation, specifically identify Franchisor as a third-party beneficiary of such covenants with independent rights to enforce those covenants.

If you, your employees, or principals develop any new concept, process or improvement in the operation or promotion of the Franchised Business, including, but not limited to, any modifications or additions to the services offered by the Franchised Business, you must promptly notify us and provide us with all necessary related information, without receiving compensation in return. Any such concept, process or improvement will become our sole property, and we will be the sole owner of all patents, patent applications, trademarks, copyrights and other intellectual property rights related thereto. You and your principals and agents hereby assign to us any rights they may have or acquire therein, including the right to modify such concept, process or improvement, and otherwise waive and/or release all rights of restraint and moral rights therein and thereto. You and your principals and agents agree to assist us in obtaining and enforcing the intellectual property rights to any such concept, process or improvement in any and all countries and further agree to execute and provide us with all necessary documentations for obtaining and enforcing such rights. You and your principals and agents hereby irrevocably designate and appoint us as their agent and attorney-in-fact to execute and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property rights related to any such concept, process or improvement. In the event that the foregoing provisions are found to be invalid or otherwise unenforceable, you and your principals and agents hereby grant to us a worldwide, perpetual, non-exclusive, fully paid license to use and sublicense the use of the concept, process or improvement to the extent such use or sublicense would, absent the Franchise Agreement, directly or indirectly infringe your rights.

## **ITEM 15**

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

Participation in Business: As an owner of your Franchised Business, you do not have to conduct on-premises supervision or to personally participate in the direct operation of your Franchised Business. However, we recommend that you are actively involved in the operation of your Franchised Business. You or your designated manager must devote full-time and effort to the management and operation development of your Franchised Business, unless otherwise approved in writing by us. Your Franchised Business must at all times be under the direct, full-time, on-location supervision of you or a trained and competent employee acting as a full-time manager who has satisfactorily completed the initial Management Training program. Your manager must sign a confidentiality agreement to maintain the confidentiality of the information described in Item 14 and may have to sign an agreement that conforms with the covenants not to compete described in Item 17. If you are a business entity, your manager need not have an ownership interest.

Other Written Agreements: If you are a business entity, each individual holding in excess of fifteen percent (15%) of the total voting power of your ownership interests (including each individual holding in excess of twenty percent (20%) of the total voting power of any business entity having a controlling interest in you) must personally guarantee your obligations under your Franchise

Agreement. If you have personally signed the Franchise Agreement and wish to transfer your Agreement to a business entity, you must enter into a personal guaranty regardless of your ownership interest in the business entity. A franchisee's spouse, who is not a party to the Franchise Agreement is not required to sign a personal guaranty. A personal guaranty is attached to the Franchise Agreement as Attachment A. Any person holding an ownership interest in your business entity will have to sign a confidentiality agreement and non-compete as described in Items 14 and 17.

## **ITEM 16**

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

You must offer and sell only those products and services that we have approved.

You must offer all products and services at retail that we designate as required for all Pinot's Palette locations, including new products or services that we develop in the future. There are no limits on our right to change the types of products and services or add new products and services, which you must comply with at your own expense. You have thirty (30) days after receipt of written notice by us to implement any change to the types of products and services designated by us. You may not offer or sell any other products or services without our prior written consent. You must provide for equipment or other items reasonably necessary to support new products or services introduced to enhance the value of the System. You are not restricted as to customers to whom you may offer goods and services; however, you must abide by all local, state, and federal regulations that apply to the operation of your Franchised Business, including but not limited to, any regulations governing the consumption of alcohol.

All Franchised Businesses must offer Pinot's Palette approved products and services as designated in the Operations Manual or in other writings.

You shall open for business and maintain the prescribed days and hours of operation at the Franchised Business as prescribed by us in the Manuals or otherwise in writing from time to time.

You shall diligently and efficiently exercise your best efforts to achieve the maximum Gross Sales possible from your Premises.

You are not permitted to have vending, video gaming devices or game machines or any other mechanical device to be installed or maintained in at your Franchised Business without Franchisor's prior written approval.

## **ITEM 17**

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

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

## THE FRANCHISE RELATIONSHIP

| Provision                                         | Article in Franchise Agreement | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Length of the term of the franchise            | Article 3.1                    | 7 years from the date the Franchised Business opens for business.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| b. Renewal or extension of the term               | Article 3.2                    | Your renewal rights permit you to remain as a franchisee after the initial term of your franchise agreement expires. If you wish to renew and you satisfy the required pre-conditions to renew, we will offer you an additional five-year term. You have the option to renew your agreement for 4 additional terms of 5 years each. You must sign our then-current franchise agreement for the renewal term and this new agreement may have different terms and conditions (such as different fee requirements and different territorial rights) from the agreement that covered your original term.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| c. Requirements for franchisee to renew or extend | Article 3.2                    | “Renewal” means that a franchisee is permitted to continue operating the Pinot’s Palette franchise after the initial term of your Franchise Agreement expires. To renew, you must: give written notice of your election to renew; be in good standing, and not have any uncured defaults under the Franchise Agreement or any other agreement; not have received 2 or more written default notices within the 12 months’ preceding your notice to renew or renewal date; satisfy all monetary obligations to us; renovate and modernize your Franchised Business as we may require; demonstrate you have the right to operate at the Franchised Business location for the renewal term; you or your manager must satisfy renewal training requirements; sign a general release in the form we prescribe; and sign a then-current franchise agreement that may have materially different terms and conditions from the agreement that covered your original term, such as different fee requirements and different territorial rights. |

| <b>Provision</b>                           | <b>Article in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| d. Termination by franchisee               | Not Applicable                        | You may terminate the franchise agreement under any grounds permitted by state law.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| e. Termination by franchisor without cause | Not Applicable                        | We may not terminate your franchise agreement without cause.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| f. Termination by franchisor with “cause”  | Article 14                            | We can terminate only if you default.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| g. “Cause” defined – curable defaults      | Article 14.4                          | Curable defaults: You have 10 days after our written notice to cure: failure, refusal or neglect to promptly pay any monies owed to us or any third-party vendors or submit the financial or other information required by us; you have 30 days after our written notice to cure if you fail to perform or comply with any one or more terms or conditions of the Franchise Agreement, Manuals or other agreements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| h. “Cause” defined – non-curable defaults  | Articles 14.2 and 14.3                | Automatic termination defaults: Voluntary or involuntary bankruptcy; unauthorized transfer. Other non-curable defaults: You knowingly or intentionally maintain false books or records, or submit any false report or payment to us, or you otherwise commit fraud; your conduct is so contrary to the Franchise Agreement and the Manuals as to constitute an imminent danger to the public health or selling regularly unauthorized products to the public after notice of default and continuing to sell these products whether or not you have cured the default after one or more notices; the conviction of a felony, or a crime involving moral turpitude, or any other crime or offense that is reasonably likely, in our sole reasonable opinion, to have an adverse effect on the System, Proprietary Marks or the goodwill associated with our interest in each of them by you, or your controlling or operating shareholders or members if you are a limited liability company; intentional disclosure or use of the contents of the Manuals, trade secrets or confidential or proprietary information, excluding acts of |

| Provision                                              | Article in Franchise Agreement | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------------|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                        |                                | <p>independent employees or others not under your control; repeatedly committing defaults under any provisions of the Franchise Agreement 2 or more occasions in any 12 month period, even if you cured each prior default, and even if you would otherwise be given an opportunity to cure the current default; ceasing to operate or otherwise abandoning your business without consent or, upon destruction of your business, failure to rebuild and resume operation within a reasonable time; you make a misrepresentation or omission in your franchise application; cross-default of another agreement with us or our affiliates, or any Lease for the Premises and fail to cure within cure period; violation of the in-term restrictive covenant; if a lien is placed against you or your principals and is not released or bonded against within 60 days; insolvency; if you misuse the Proprietary Software; failure to maintain insurance as required under the Franchise Agreement; failure to comply with any law or regulation within 15 days of receiving a notice of noncompliance; if there are insufficient funds in your bank account 3 or more times in a 12 month period; misuse or unauthorized use of Proprietary Marks or other impairment of their goodwill or our right to use the Proprietary Marks; failure to procure or maintain any licenses, certifications, or permits necessary for the operation of the Franchised Business.</p> |
| i. Franchisee's obligations on termination/non-renewal | Article 15                     | <p>Obligations include immediately ceasing to operate your Franchised Business; discontinue use of Proprietary Marks; return Manuals, other materials and confidential information; assign telephone numbers if requested; payment of amounts due; assign lease if requested; de-identify the Franchised Business; maintain confidentiality of information; permit us to make a final inspection of your records; amend or cancel any registration containing our trade names or Proprietary Marks; cease engaging with former customers; execute any additional documents that we require; vacate the premises of your</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| <b>Provision</b>                                  | <b>Article in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                   |                                       | Franchised Business if we exercise our rights under a Contingent Assignment of Lease.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| j. Assignment of contract by franchisor           | Article 13.1                          | No restriction on our right to assign.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| k. “Transfer” by franchisee – defined             | Article 13.1                          | Includes transfer of contract, assets or ownership interest.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| l. Franchisor approval of transfer by franchisee  | Article 13                            | We have the right to approve all transfers, except a transfer to an heir or beneficiary after your death or mental incapacity, but will not unreasonably withhold approval as long as certain conditions are satisfied.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| m. Conditions for franchisor approval of transfer | Articles 13.1 and 13.2                | You may transfer your interest to a corporation or other legal entity as long as you retain ownership of a majority of the total voting power; you may transfer to a third party if: we do not exercise our right of first refusal; you are not in default; all of your then-due monetary obligations have been satisfied and other obligations met; you and your shareholders or members have executed a general release under seal of any and all claims against us; the transferee satisfies all of our then-current requirements for new franchisees or holders of an interest in a franchise; the transferee has assumed the Franchise Agreement in a written assumption agreement approved by us, or has agreed to at closing; the transferee, its manager or other employees responsible for the operation of the franchise have satisfactorily completed our training program; the transferee executes other documents as we may require, including our then-current franchise agreement; you paid the Transfer Fee 30 days in advance of the transfer; you comply with post-term obligations under the Franchise Agreement; the transferee obtains all required licenses and permits; transfer in compliance with applicable laws; third party consents have been obtained, if necessary; we are provided with an executed copy of the purchase |

| <b>Provision</b>                                                                   | <b>Article in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------------|---------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                    |                                       | agreement; we can disclose financial information about your Franchised Business to any prospective transferee; you agree to remodel and renovate, and modify existing improvements and replace existing equipment to meet our then-current design standards; the purchase price and terms of the transfer, in our sole discretion, are not burdensome to the prospective transferee as to impair its future operation of the business; our approval of the transfer will not constitute a waiver of any claims we may have, and we may withhold or condition our consent to any transfer as we deem appropriate based on the circumstances of the transfer or otherwise.                                                               |
| n. Franchisor's right of first refusal to acquire franchisee's Franchised Business | Article 13.2                          | We can match any offer for your Franchised Business.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| o. Franchisor's option to purchase franchisee's franchised business                | Not Applicable                        | Not Applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| p. Death or disability of franchisee                                               | Article 13.3                          | In the event of your death, disability, or incapacitation, your legal representative shall have the right to continue the operation of the Franchised Business as franchisee under your franchise agreement if: (i) within 60 days from the date of death, disability or incapacity this person has obtained our prior written approval and has executed our then-current franchise agreement for the unexpired term of the franchise, or has furnished a personal guaranty of any partnership, corporate or limited liability company franchisee's obligations to us and our affiliates; and (ii) this person successfully completes our training program. Before this occurs, we may operate your Franchised Business on your behalf |

| <b>Provision</b>                                                          | <b>Article in Franchise Agreement</b> | <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                           |                                       | and at your expense for such period of time and under such terms and conditions as we determine.                                                                                                                                                                                                                                                                                                                                                    |
| q. Non-competition covenants during the term of the franchise             | Articles 12                           | No involvement in similar business anywhere; cannot divert business to a competitor (subject to state law).                                                                                                                                                                                                                                                                                                                                         |
| r. Non-competition covenants after the franchise is terminated or expires | Article 12                            | No involvement in similar business for 2 years at a site within a radius of 25 miles of any of your former Franchised Businesses or any other Pinot's Palette business locations in operation or under construction at the time of termination or expiration; no diverting business to any competitor, soliciting business from former customers, or contacting our suppliers or vendors for a competitive business purpose (subject to state law). |
| s. Modification of the agreement                                          | Article 21                            | No modifications generally but standards, specifications, Manuals, products and services, Proprietary Marks and other items specified in the Franchise Agreement are subject to change.                                                                                                                                                                                                                                                             |
| t. Integration/merger clause                                              | Article 21                            | Only the terms of the franchise agreement are binding (subject to state law). Any representations or promises outside of the disclosure document and franchise agreement may not be enforceable.                                                                                                                                                                                                                                                    |
| u. Dispute resolution by arbitration or mediation                         | Article 19                            | Subject to state law, you and the Franchisor must resolve disputes or disagreements first through internal dispute resolution, then non-binding mediation, then litigation at the jurisdiction and venue of any court of general jurisdiction in Mandeville, Louisiana.                                                                                                                                                                             |
| v. Choice of forum                                                        | Article 19                            | Litigation must be in Louisiana (Subject to state law).                                                                                                                                                                                                                                                                                                                                                                                             |
| w. Choice of law                                                          | Article 19                            | Louisiana law applies (Subject to state law).                                                                                                                                                                                                                                                                                                                                                                                                       |



## **ITEM 18**

### **PUBLIC FIGURES**

We do not use any public figures to promote the Pinot's Palette franchise.

## **ITEM 19**

### **FINANCIAL PERFORMANCE REPRESENTATIONS**

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Todd Owen, CEO, at P.O. Box 1710, Mandeville, Louisiana 70470 or by telephone at (985) 626-3292, the Federal Trade Commission, and the appropriate state regulatory agencies.

## **ITEM 20**

### **OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1**  
**System-wide Outlet Summary**  
**For years 2021 to 2023 (1)**

| <b>Outlet Type</b> | <b>Year</b> | <b>Outlets at the Start of the Year</b> | <b>Outlets at the End of the Year</b> | <b>Net Change</b> |
|--------------------|-------------|-----------------------------------------|---------------------------------------|-------------------|
| Franchised         | 2021        | 93                                      | 84                                    | -9                |
|                    | 2022        | 84                                      | 74                                    | -10               |
|                    | 2023        | 74                                      | 68                                    | -6                |
| Company-Owned      | 2021        | 0                                       | 0                                     | 0                 |
|                    | 2022        | 0                                       | 0                                     | 0                 |
|                    | 2023        | 0                                       | 0                                     | 0                 |
| Total Outlets      | 2021        | 93                                      | 84                                    | -9                |
|                    | 2022        | 84                                      | 74                                    | -10               |
|                    | 2023        | 74                                      | 68                                    | -6                |

**Table No. 2**  
**Transfers of Outlets from Franchisees to New Owners (Other Than Franchisor)**  
**For years 2021 to 2023 (1)**

| State      | Year | Number of Transfers |
|------------|------|---------------------|
| ALABAMA    | 2021 | 0                   |
|            | 2022 | 1                   |
|            | 2023 | 0                   |
| CALIFORNIA | 2021 | 1                   |
|            | 2022 | 0                   |
|            | 2023 | 0                   |
| FLORIDA    | 2021 | 1                   |
|            | 2022 | 0                   |
|            | 2023 | 0                   |
| KENTUCKY   | 2021 | 0                   |
|            | 2022 | 0                   |
|            | 2023 | 1                   |
| OHIO       | 2021 | 1                   |
|            | 2022 | 0                   |
|            | 2023 | 0                   |
| TENNESSEE  | 2021 | 0                   |
|            | 2022 | 1                   |
|            | 2023 | 0                   |
| TEXAS      | 2021 | 0                   |
|            | 2022 | 1                   |
|            | 2023 | 0                   |
| TOTAL      | 2021 | 3                   |
|            | 2022 | 3                   |
|            | 2023 | 1                   |

**Table No. 3**  
**Status of Franchised Outlets**  
**For years 2021 to 2023 (1)**

| State    | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired By Franchisor | Ceased Operations Other Reasons | Outlets at End of the Year |
|----------|------|--------------------------|----------------|--------------|--------------|--------------------------|---------------------------------|----------------------------|
| ALABAMA  | 2021 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
|          | 2022 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
|          | 2023 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
| ARIZONA  | 2021 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
|          | 2022 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
|          | 2023 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
| ARKANSAS | 2021 | 2                        | 0              | 0            | 0            | 0                        | 2                               | 0                          |
|          | 2022 | 0                        | 0              | 0            | 0            | 0                        | 0                               | 0                          |
|          | 2023 | 0                        | 0              | 0            | 0            | 0                        | 0                               | 0                          |

| State         | Year | Outlets<br>at Start<br>of Year | Outlets<br>Opened | Termi-<br>nations | Non-<br>Renewals | Reacquired<br>By<br>Franchisor | Ceased<br>Operations<br>Other<br>Reasons | Outlets<br>at End of<br>the Year |
|---------------|------|--------------------------------|-------------------|-------------------|------------------|--------------------------------|------------------------------------------|----------------------------------|
| CALIFORNIA    | 2021 | 15                             | 0                 | 0                 | 0                | 0                              | 1                                        | 14                               |
|               | 2022 | 14                             | 0                 | 0                 | 1                | 0                              | 0                                        | 13                               |
|               | 2023 | 13                             | 1                 | 0                 | 0                | 0                              | 1                                        | 13                               |
| COLORADO      | 2021 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2022 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2023 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
| CONNECTICUT   | 2021 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2022 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2023 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
| FLORIDA       | 2021 | 4                              | 0                 | 0                 | 0                | 0                              | 1                                        | 3                                |
|               | 2022 | 3                              | 0                 | 0                 | 0                | 0                              | 1                                        | 2                                |
|               | 2023 | 2                              | 0                 | 0                 | 0                | 0                              | 0                                        | 2                                |
| IDAHO         | 2021 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2022 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2023 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
| ILLINOIS      | 2021 | 5                              | 1                 | 0                 | 0                | 0                              | 0                                        | 6                                |
|               | 2022 | 6                              | 0                 | 0                 | 0                | 0                              | 0                                        | 6                                |
|               | 2023 | 6                              | 0                 | 0                 | 0                | 0                              | 0                                        | 6                                |
| KANSAS        | 2021 | 4                              | 0                 | 0                 | 0                | 0                              | 1                                        | 3                                |
|               | 2022 | 3                              | 0                 | 0                 | 0                | 0                              | 1                                        | 2                                |
|               | 2023 | 2                              | 0                 | 0                 | 0                | 0                              | 0                                        | 2                                |
| KENTUCKY      | 2021 | 2                              | 0                 | 0                 | 0                | 0                              | 0                                        | 2                                |
|               | 2022 | 2                              | 0                 | 0                 | 0                | 0                              | 0                                        | 2                                |
|               | 2023 | 2                              | 0                 | 0                 | 0                | 0                              | 0                                        | 2                                |
| MARYLAND      | 2021 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2022 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2023 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
| MASSACHUSETTS | 2021 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2022 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2023 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
| MISSOURI      | 2021 | 4                              | 0                 | 0                 | 0                | 0                              | 0                                        | 4                                |
|               | 2022 | 4                              | 0                 | 0                 | 1                | 0                              | 0                                        | 3                                |
|               | 2023 | 3                              | 0                 | 0                 | 0                | 0                              | 0                                        | 3                                |
| NEBRASKA      | 2021 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2022 | 1                              | 0                 | 0                 | 0                | 0                              | 0                                        | 1                                |
|               | 2023 | 1                              | 0                 | 0                 | 0                | 0                              | 1                                        | 0                                |
| NEVADA        | 2021 | 3                              | 0                 | 0                 | 0                | 0                              | 0                                        | 3                                |
|               | 2022 | 3                              | 0                 | 0                 | 0                | 0                              | 0                                        | 3                                |
|               | 2023 | 3                              | 0                 | 0                 | 1                | 0                              | 0                                        | 2                                |
| NEW JERSEY    | 2021 | 15                             | 0                 | 0                 | 0                | 0                              | 2                                        | 13                               |
|               | 2022 | 13                             | 0                 | 0                 | 0                | 0                              | 2                                        | 11                               |
|               | 2023 | 11                             | 0                 | 0                 | 0                | 0                              | 2                                        | 9                                |
| NEW YORK      | 2021 | 5                              | 0                 | 0                 | 0                | 0                              | 1                                        | 4                                |
|               | 2022 | 4                              | 0                 | 0                 | 0                | 0                              | 0                                        | 4                                |

| State          | Year | Outlets at Start of Year | Outlets Opened | Terminations | Non-Renewals | Reacquired By Franchisor | Ceased Operations Other Reasons | Outlets at End of the Year |
|----------------|------|--------------------------|----------------|--------------|--------------|--------------------------|---------------------------------|----------------------------|
|                | 2023 | 4                        | 0              | 0            | 0            | 0                        | 2                               | 2                          |
| NORTH CAROLINA | 2021 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
|                | 2022 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
|                | 2023 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
| OHIO           | 2021 | 4                        | 0              | 0            | 0            | 0                        | 0                               | 4                          |
|                | 2022 | 4                        | 0              | 0            | 0            | 0                        | 1                               | 3                          |
|                | 2023 | 3                        | 0              | 0            | 0            | 0                        | 0                               | 3                          |
| OKLAHOMA       | 2021 | 5                        | 0              | 0            | 0            | 0                        | 0                               | 5                          |
|                | 2022 | 5                        | 0              | 0            | 0            | 0                        | 0                               | 5                          |
|                | 2023 | 5                        | 0              | 0            | 0            | 0                        | 0                               | 5                          |
| PENNSYLVANIA   | 2021 | 2                        | 0              | 0            | 0            | 0                        | 1                               | 1                          |
|                | 2022 | 1                        | 0              | 0            | 0            | 0                        | 1                               | 0                          |
|                | 2023 | 0                        | 0              | 0            | 0            | 0                        | 0                               | 0                          |
| TENNESSEE      | 2021 | 0                        | 2              | 0            | 0            | 0                        | 0                               | 2                          |
|                | 2022 | 2                        | 0              | 0            | 0            | 0                        | 1                               | 1                          |
|                | 2023 | 1                        | 0              | 0            | 0            | 0                        | 0                               | 1                          |
| TEXAS          | 2021 | 7                        | 0              | 0            | 0            | 0                        | 3                               | 4                          |
|                | 2022 | 4                        | 0              | 0            | 1            | 0                        | 0                               | 3                          |
|                | 2023 | 3                        | 0              | 0            | 0            | 0                        | 0                               | 3                          |
| VIRGINIA       | 2021 | 2                        | 0              | 0            | 0            | 0                        | 0                               | 2                          |
|                | 2022 | 2                        | 0              | 0            | 0            | 0                        | 0                               | 2                          |
|                | 2023 | 2                        | 0              | 0            | 0            | 0                        | 0                               | 2                          |
| WASHINGTON     | 2021 | 3                        | 0              | 0            | 0            | 0                        | 0                               | 3                          |
|                | 2022 | 3                        | 0              | 0            | 0            | 0                        | 0                               | 3                          |
|                | 2023 | 3                        | 0              | 0            | 0            | 0                        | 0                               | 3                          |
| WISCONSIN      | 2021 | 2                        | 0              | 0            | 0            | 0                        | 0                               | 2                          |
|                | 2022 | 2                        | 0              | 0            | 0            | 0                        | 0                               | 2                          |
|                | 2023 | 2                        | 0              | 0            | 0            | 0                        | 0                               | 2                          |
| TOTAL          | 2021 | 93                       | 3              | 0            | 0            | 0                        | 12                              | 84                         |
|                | 2022 | 84                       | 0              | 0            | 3            | 0                        | 7                               | 74                         |
|                | 2023 | 74                       | 1              | 0            | 1            | 0                        | 6                               | 68                         |

**Table No. 4**  
**Status of Company-Owned Outlets**  
**For Years 2021 to 2023 (1)**

| State     | Year | Outlets at Start of the Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|-----------|------|------------------------------|----------------|------------------------------------|----------------|----------------------------|----------------------------|
| LOUISIANA | 2021 | 0                            | 0              | 0                                  | 0              | 0                          | 0                          |
|           | 2022 | 0                            | 0              | 0                                  | 0              | 0                          | 0                          |
|           | 2023 | 0                            | 0              | 0                                  | 0              | 0                          | 0                          |

| State | Year | Outlets at Start of the Year | Outlets Opened | Outlets Reacquired from Franchisee | Outlets Closed | Outlets Sold to Franchisee | Outlets at End of the Year |
|-------|------|------------------------------|----------------|------------------------------------|----------------|----------------------------|----------------------------|
| TOTAL | 2021 | 0                            | 0              | 0                                  | 0              | 0                          | 0                          |
|       | 2022 | 0                            | 0              | 0                                  | 0              | 0                          | 0                          |
|       | 2023 | 0                            | 0              | 0                                  | 0              | 0                          | 0                          |

**Notes:**

- (1) The numbers for the years 2021, 2022, and 2023 refer to our last three fiscal years. Our fiscal year end is December 31. As noted in Item 1, we acquired the Pinot's Palette franchise system on June 28, 2024. All historical numbers in this Item 20 are for Pinot's Palette outlets and do not include Painting with a Twist outlets. The numbers for those outlets are included in a separate Painting with a Twist franchise disclosure document. All historical numbers in this Item 20 are based on information provided to us by the previous franchisor, GFH Pinot's Palette. We have used reasonable efforts to confirm the numbers. We believe that the 2021, 2022 and 2023 numbers are accurate.

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

| State        | Franchise Agreements Signed but Outlet Not Opened | Projected New Franchised Outlets in the Next Fiscal Year | Projected Company-Owned Openings in Next Fiscal Year |
|--------------|---------------------------------------------------|----------------------------------------------------------|------------------------------------------------------|
| OHIO         | 1                                                 | 1                                                        | 0                                                    |
| WASHINGTON   | 0                                                 | 1                                                        | 0                                                    |
| <b>TOTAL</b> | <b>1</b>                                          | <b>2</b>                                                 | <b>0</b>                                             |

The name, business address and business telephone number of each current Pinot's Palette franchisee as of December 31, 2023 is attached as Exhibit G. Also included in Exhibit G, are the names, city, state and business telephone number (or, if unknown, home telephone number) of each Pinot's Palette franchisee who had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during our last fiscal year, (January 1 to December 31, 2023), or who has not communicated with us within 10 weeks of the date of this disclosure document. If you buy a franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

Except for the following, there are no trademark-specific organizations formed by our franchisees that are associated with the System. The following independent franchisee association has asked to be included in this disclosure document:

PFA  
An Association of Pinot's Palette Franchisees  
A Chapter of the American Association of Franchisees & Dealers  
P.O. Box 10158  
Palm Desert, California 92255-1058  
Telephone: (619) 209-3775  
Fax: (866) 855-1988  
Email: [pfa@aafdchapters.org](mailto:pfa@aafdchapters.org)

During the last three years, no current or former franchisees signed provisions restricting their ability to speak openly about their experience with us.

## **ITEM 21**

### **FINANCIAL STATEMENTS**

Our fiscal year end is December 31. Attached to this disclosure document as Exhibit C are our unaudited financials as of August 31, 2024, as well as our audited, fiscal year end financials for the years ending December 31, 2023, 2022, and 2021.

## **ITEM 22**

### **CONTRACTS**

The following agreements are attached to this Disclosure Document in the pages immediately following:

- A. Franchise Agreement
- E. General Release
- F. Franchisee Compliance Certification
- H. Contingent Assignment of Lease
- I. State Law Addenda

## **ITEM 23**

### **RECEIPT**

Exhibit J of this Disclosure Document contains a detachable document, in duplicate, acknowledging receipt of this Franchise Disclosure Document by a prospective franchisee. You should sign both copies of the Receipt. You should retain one signed copy for your records and return the other signed copy to: Attention: Franchise Development Department, Painting with a Twist, L.L.C., dba, Pinot's Palette, at P.O. Box 1710, Mandeville, Louisiana 70470, or by email to [franchise@pinotspalette.com](mailto:franchise@pinotspalette.com).

**EXHIBIT A**  
**FRANCHISE AGREEMENT**



**PINOT'S PALETTE®**

**FRANCHISE AGREEMENT**



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**PINOT'S PALETTE®**  
**FRANCHISE AGREEMENT**

This Pinot's Palette Franchise Agreement ("Agreement") is made effective on \_\_\_\_\_ (the "Effective Date") by and between **Painting with a Twist, L.L.C., dba, Pinot's Palette**, a Louisiana limited liability company, whose principal business address is P.O. Box 1710 Mandeville, Louisiana 70470 (the "Franchisor" or "Pinot's Palette"), and \_\_\_\_\_, a(n) \_\_\_\_\_ limited liability company, whose address is \_\_\_\_\_ (the "Franchisee").

**RECITALS:**

Franchisor and its affiliate/principals, as a result of the expenditure of time, skill, effort, and money, have developed and continues to develop a system (the "System") for operating distinctive businesses specializing primarily in providing a fun and engaging social setting where guests drink wine or other beverages while creating art or crafts using Pinot's Palette branded products and other services and products that Franchisor approves from time to time through an approved studio location utilizing the System and Proprietary Marks (each, a "Franchised Business").

Franchisor is the owner of certain marks and other intellectual property, including the mark "Pinot's Palette" which have been filed or registered with the United States Patent and Trademark Office, and may, in the future become the owner, licensee or authorized distributor for other trademarks, including logos and designs (the "Proprietary Marks");

Franchisor's System is comprised of various proprietary and, in some cases, distinguishing elements, including the Proprietary Marks, distinctive 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; the "ADMIN System", a proprietary internet-based software application; and other related benefits for use of Franchisee, all of which may be changed, improved, and further developed by Franchisor from time to time.

Franchisor is in the business of granting qualified parties a franchise for the right to independently own and operate a single Franchised Business utilizing the Proprietary Marks and System at a location that Franchisor accepts in writing (the "Premises");

Franchisee desires to acquire, and Franchisor is willing to grant Franchisee the right to operate a single, non-exclusive franchise for the right to operate a single Franchised Business from an approved location, and under the terms and conditions stated in this Agreement.

In consideration of the foregoing, the parties agree as follows:

## **ARTICLE 1**

### **FRANCHISE RIGHT GRANTED, LOCATION.**

#### **1.1 GRANT AND LICENSE.**

Beginning on the Effective Date of this Agreement and subject to the terms and conditions of this Agreement, Franchisor hereby awards Franchisee the right to open and operate one (1) Franchised Business as well as a non-exclusive right and license to use the Proprietary Marks designated by Franchisor. If Franchisee is a business entity, each individual holding in excess of fifteen percent (15%) of the total voting power of Franchisee's ownership interest (including each individual holding in excess of twenty percent (20%) of the total voting power of any business entity having a controlling interest in Franchisee) must execute the Guaranty Agreement and Confidentiality Agreement attached as Attachment A and Attachment B respectively. Any individual who directly or indirectly owns an interest in Franchisee, and any individual who attends Franchisor's Management Training (as defined in Article 4 of this Agreement), must execute the Confidentiality Agreement and Non-Compete Agreement attached as Attachment B.

#### **1.2 RIGHTS NOT GRANTED.**

This Agreement does not grant Franchisee any rights to: (i) operate additional Franchised Businesses or operate the Franchised Business at any location other than the Premises; (ii) offer any product or service via e-commerce; (iii) establish an independent website or establish a URL incorporating the Proprietary Marks or any variation thereof; or (iv) distribute, market, or implement Franchisor's products and services in any channel of distribution not specifically identified in this Agreement.

#### **1.3 SITE SELECTION AREA.**

(i) With Franchisor's acceptance, Franchisee will locate, lease and open, within twelve (12) months from the Effective Date, a Franchised Business within the geographical area of \_\_\_\_\_ (the "Site Selection Area"). The Site Selection Area is described solely for the purpose of limiting the area within which Franchisee may seek a site location for the Franchised Business and it in no way represents any territorial rights granted to Franchisee. If Franchisee is unable to secure an approved site and open a Franchised Business in the Site Selection Area within this twelve (12) month period, Franchisor, in Franchisor's sole discretion, may extend the time period for up to three (3) additional months, provided that Franchisee is making all reasonable efforts to diligently pursue securing a site and opening a Franchised Business. If Franchisee is unable to open a Franchised Business within the twelve (12) month period, as may be extended, this Agreement may be terminated by Franchisor pursuant to Article 14.4 of this Agreement.

(ii) Franchisee acknowledges and agrees that: (a) it does not have any territorial rights within the Site Selection Area; and (b) potential locations for the Franchised Business, and resulting Protected Territories (as defined below), within the Site Selection Area will be reviewed and rejected/granted based on Franchisor's then-current guidelines which are provided by Franchisor at time of site selection.

#### 1.4 PREMISES SELECTION AND ACCEPTANCE.

In order to obtain Franchisor's acceptance of a Premises from which Franchisee is authorized to operate its Franchised Business, Franchisee must first:

(i) Submit for Franchisor's evaluation the proposed lease, site information required by Franchisor of the lease terms and other information available for each proposed site. Franchisee must also give any proposed landlord a copy of the then current Contingent Assignment of Lease or any other Lease Rider then being used by Franchisor in connection with its site approval for a Franchised Business and obtain written verification that each landlord is willing to include the provisions of the Contingent Assignment of Lease or any other Rider's provisions in its lease. Within thirty (30) days of Franchisee providing the required documentation to Franchisor, Franchisor will reasonably evaluate and critique the information on each site and lease summary in consultation with Franchisee. Franchisor may, but will not be required to, visit and inspect the sites that Franchisee proposes.

(ii) If and when Franchisor is satisfied with any one of the sites and the lease terms are acceptable, Franchisor will give Franchisee written authorization to proceed with preliminary lease negotiations. Franchisor reserves the right to reject any site or lease proposal Franchisee submits and to require that Franchisee obtain information on alternative sites.

(iii) Franchisor reserves the right to timely reasonably review, evaluate and approve Franchisee's proposed lease for the Premises ("Lease") prior to execution. Before Franchisee signs the Lease, Franchisee must submit a copy of the Lease to Franchisor for its authorization and review. Franchisor may withhold authorization for Franchisee to sign a lease that omits Franchisor's Contingent Assignment of Lease (or other then used Lease Rider) in substantially the same form in use by Franchisor at the time the Lease is executed, or contains provisions Franchisor considers excessively onerous or restrictive. Upon execution of the Lease, Franchisee must provide a copy of the fully executed Lease, including all exhibits, attachments and addenda thereto. Franchisee shall not agree to an amendment or modification of the Lease terms thereafter without notice and approval by Franchisor. Franchisee shall also provide Franchisor with any notices by Landlord, such as a notice of default, or other such notices that may materially affect the terms of the Lease.

(iv) After Franchisor has accepted a site for the Franchised Business in writing and Franchisee has acquired the site as set forth herein, the site will constitute the Premises.

(v) Franchisee acknowledges that Franchisor will have no responsibility for evaluating or advising Franchisee with respect to any business or legal aspects of the Lease, and that Franchisor expressly advises Franchisee to obtain independent advice of counsel with regard to any Lease terms. Franchisee further acknowledges that Franchisee has conducted an independent investigation of the suitability of the site and that Franchisor's approval of a site does not constitute an assurance, representation or warranty or any kind, express or implied, as to the suitability of the site for the Franchised Business. Franchisor's approval of the site indicates only that Franchisor believes the site complies with acceptable minimum criteria established by Franchisor solely for Franchisor's purposes as of the time of the evaluation. Franchisor will not be responsible for the

failure of a site approved by Franchisor to meet Franchisee's expectations as to revenue or operational criteria.

#### 1.5 LIMITED PROTECTED TERRITORY.

Upon Franchisee executing the Lease for the Premises and prior to the opening of Franchisee's Franchised Business, Franchisor shall designate in writing to Franchisee a geographical area surrounding the Franchisee's Franchised Business ("Protected Territory"). The Protected Territory will be defined by identifiable boundaries and include a residential population count of at least one hundred thousand (100,000), based upon then-current Pinot's Palette site selection data. The boundaries of the Protected Territory may be shaped, at Franchisor's reasonable discretion, to match the population criteria and natural or geographic features. As long as Franchisee is not in default under this Agreement, Franchisor will neither establish, nor license another party or entity to establish a Franchised Business under the "Pinot's Palette" trademark within the Protected Territory. Franchisee understands that this Agreement grants it no rights: (i) to distribute such Pinot's Palette products or services through any other channel of distribution in the Protected Territory; or (ii) to share in any of the proceeds received by any such party therefrom. Franchisee acknowledges that the Protected Territory may be changed or altered, in Franchisor's sole discretion, should Franchisee have to relocate its Franchised Business for any reason.

#### 1.6 RELOCATION.

Once the Franchisor approves the Premises of the Franchised Business, Franchisee may only use the Premises to operate the Franchised Business. Upon written request of Franchisee, Franchisor, in its sole discretion, may grant Franchisee permission to relocate its Franchised Business to a location approved by Franchisor. Any relocation will be at Franchisee's sole expense. If Franchisor approves a relocation of Franchisee's Franchised Business, Franchisor may, in Franchisor's sole discretion, adjust the Protected Territory based on Franchisor's then current site location guidelines.

#### 1.7 EXCLUSIONS AND RESERVATIONS OF RIGHTS.

Franchisee expressly understands and agrees that Franchisor and Franchisor's affiliates will have the right, in Franchisor's sole discretion, to: (i) own and operate, or to license others the right to own and operate, Franchised Businesses at any location(s) outside Franchisee's Protected Territory under the same or different marks; (ii) use the Proprietary Marks and System in connection with services and products, promotional and marketing efforts or related items, or in alternative channels of distribution, including the sale of products through retail or wholesale stores, and via the Internet and mail order catalogs, without regard to location; (iii) sell products and services through alternate channels of distribution such as retail or wholesale stores, via the Internet and mail order catalog; (iv) acquire or be acquired by other business systems, franchise systems or entities, regardless of where they are located, have locations or operate, including inside the Protected Territory; (v) to acquire businesses that are the same as or similar to the Franchised Business and operate such businesses regardless of where such businesses are located, including inside the Protected Territory; (vi) to be acquired by any third party which operates businesses that are the same as or similar to the Franchised Business regardless of where such businesses are located, including inside the Protected Territory; and (vii) engage and license others to engage in

any other activities not expressly prohibited in this Agreement. This Agreement gives Franchisee no rights to conduct any of the above activities or share in any revenue generated from these activities.

## **ARTICLE 2 INSTALLATION AND COMMENCEMENT OF BUSINESS.**

### **2.1 BUILD-OUT; REQUIRED LICENSES.**

Franchisee, at its own expense, shall: (i) renovate the Premises into a Franchised Business in accordance with Franchisor's specifications and standards set forth in the Operations Manual or otherwise in writing; (ii) obtain all necessary governmental permits and licenses prior to beginning the renovation of its Premises into a Franchised Business; and (iii) Franchisee shall fully complete the renovation, construction and equipping within a reasonable time thereafter. Franchisee shall commence operation of each Franchised Business no later than thirty (30) days following substantial completion of the renovation and equipment installation at the Premises, but shall not commence operations without Franchisor's written approval. In no event shall Franchisee construct or remodel the interior or exterior of any Franchised Business or make any improvements which vary from the then-current standards, plans, and specifications approved by Franchisor, without first obtaining Franchisor's prior written approval. Franchisee must use a licensed and insured general contractor for all construction and remodeling on the interior or exterior of the Premises. Franchisee, at its own expense, shall obtain all municipal and state licenses necessary to operate Franchisee's Franchised Business prior to commencing business at its Franchised Business and shall maintain all licenses in full force and effect during the term of this Agreement.

### **2.2 DESIGN PLAN.**

Before commencing any construction or renovations to the Franchised Business or undertaking any leasehold improvements at the Premises, Franchisee must submit a drawing of the physical layout of the Franchised Business to Franchisor for review. Franchisor will utilize the drawing submitted by Franchisee to generate a design plan depicting the interior design, trade dress décor, and color scheme ("Design Plan") that Franchisee must follow to ensure that the design of Franchisee's Franchised Business conforms to Franchisor's then-current standards, plans and specifications. If the renovations, construction, or remodeling of Franchisee's Franchised Business varies in any way from those specifications set forth in the Design Plan, Franchisee must notify Franchisor immediately and Franchisor must approve any variance in writing. In the event Franchisor deems it is necessary or advisable to generate an additional Design Plan(s), Franchisee may be required to pay a fee (or fees) to Franchisor for the additional Design Plan(s). The Design Plan or Design Plans provided by Franchisor are solely for complying with Franchisor's System standards, and not for determining compliances with codes, ordinances or the legal requirements of the Americans with Disabilities Act (the "ADA"). Franchisee is solely responsible for ensuring that its Premises conforms to all codes and ordinances, including the ADA.

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

#### **3.1 TERM.**

The term of this Agreement shall commence on the Effective Date and shall expire seven (7) years from the date the Franchised Business opens for business, unless sooner terminated under the terms hereof (“Term”).

#### **3.2 RENEWAL.**

Franchisee may renew the rights granted by this Agreement for four (4) additional terms of five (5) years each (“Additional Terms”), subject to the following conditions:

(i) Franchisee gives Franchisor written notice of Franchisee’s election to renew not less than nine (9) and not more than fifteen (15) months before the end of the then current term.

(ii) Franchisee must not have: (i) any uncured defaults under this Agreement (including any monetary defaults) or any other agreement between Franchisee and Franchisor, Franchisor’s affiliates, Franchisor’s approved/designated suppliers and vendors, or the landlord of the Premises, either at time of Franchisee’s renewal request or at the time of renewal; and (ii) received two (2) or more separate, written notices of default from Franchisor with respect to this Agreement in the 12-month period preceding the renewal request date or renewal date.

(iii) At Franchisor’s request, Franchisee shall undertake and complete the renovation or modernization of its Franchised Business.

(iv) Franchisee shall execute Franchisor’s then-current franchise agreement and related agreements (“Successor Franchise Agreement”), which may contain materially different terms and conditions from those contained in this Agreement, within thirty (30) days of the date Franchisee is provided with Franchisor’s then-current form of franchise agreement.

(v) Franchisee has demonstrated, to Franchisor’s satisfaction, that Franchisee has the right to operate the Franchised Business at the Premises for the duration of the renewal term.

(vi) Franchisee and/or the “Designated Manager” (as applicable) satisfies Franchisor’s then-current training requirements for renewing franchisees at Franchisee’s expense, including paying Franchisor’s then-current refresher training fee if applicable, as of the date of such renewal, if any.

(vii) Franchisee signs a general release, in the form Franchisor prescribes, of any and all claims it may have against Franchisor and its officers, directors, shareholders, and employees in their corporate and individual capacities, including without limitation, all claims arising out of or related to this Agreement or any federal, state, or local law or ordinance, with the release being consistent with any applicable state statute regulating franchises.

### 3.3 INTERIM PERIOD.

If Franchisee does not sign the Successor Franchise Agreement prior to the expiration of the applicable Term, and Franchisee continues to operate the Studio after this Agreement expires (“Interim Period”), then at Franchisor’s option, Franchisor may treat this Agreement as either: (i) expired as of the date of expiration with Franchisee then operating without a license to do so in violation of Franchisor’s rights; or (ii) continued for the Interim Period until one party provides the other with written notice of such party’s intent to terminate the Interim Period, in which case the Interim Period will terminate thirty (30) days after receipt of the notice. In the latter case, all of Franchisee’s and Franchisor’s obligations will remain in full force and effect during the Interim Period as if this Agreement had not expired, and all obligations and restrictions imposed on Franchisee upon expiration of this Agreement will be deemed to take effect upon termination of the Interim Period.

## **ARTICLE 4 TRAINING.**

4.1 Franchisee will designate individuals as trainees to attend Franchisor’s management training in Mandeville, Louisiana and/or complete management training courses on-line (“Management Training”) or at another training location selected by Franchisor. Franchisor will offer Management Training for Franchisee and its management employees at times selected by Franchisor. Franchisor will bear the costs of providing Franchisee’s initial Management Training, including Franchisor’s overhead costs of training, staff salaries, materials, and all technical training tools. Franchisee shall pay all traveling, living, compensation, and other expenses incurred by Franchisee and/or Franchisee’s employees in connection with attendance at training programs. The training program and manner of conducting such program shall be at Franchisor’s sole discretion and control.

4.2 Franchisee will not allow any Franchised Business to be opened or managed by any person who has not attended and successfully completed Management Training or other training course designated by Franchisor. If Franchisee is an individual, and does not manage its Franchised Business on a day-to-day basis, and in the event its designated business manager resigns or is terminated, Franchisor encourages, but will not require, the successor manager to attend a manager training course provided by Franchisor. If Franchisee elects to not have the successor manager attend the Franchisor’s training, Franchisee must train successor manager using the Franchisor’s designated training resources.

4.3 If at any time the trainee voluntarily withdraws from, or is unable to complete its training, or fails to demonstrate an aptitude, spirit or ability to comprehend and carry out the course of study to the reasonable satisfaction of Franchisor, the trainee may repeat the course, or in the case of an employee, Franchisee may send a replacement (the “Replacement Personnel”) to the next available initial training program. Franchisor may charge for such Replacement Personnel attending an initial training program. Failure by Franchisee, its employee or any Replacement Personnel to complete the initial training program to Franchisor’s satisfaction within the time



period prescribed in this Agreement will constitute a default of this Agreement and Franchisor may terminate the Agreement.

4.4 In the event of a sale to a third party of Franchisee's Franchised Business after opening, the transferee must attend and satisfactorily complete Management Training as a condition of Franchisor's consent to such transfer. All tuition costs for such training are included in the Transfer Fee and shall be deemed paid when Franchisor receives payment of the Transfer Fee due in accordance with Article 13 herein. Transferee shall not be permitted to assume operations until Franchisor certifies that the transferee is approved to operate the respective Franchised Business.

4.5 Franchisor will provide training for Franchisee at Franchisee's Franchised Business at the time of its opening. During the opening of Franchisee's Franchised Business, Franchisor, at its own expense, will provide at least one Pinot's Palette representative to you at the Franchised Business location to facilitate the opening of your business.

4.6 Additional training sessions after the initial Management Training may be available, at Franchisor's discretion, at Franchisee's expense. Franchisee's attendance at additional training sessions may be mandatory if requested by the Franchisor or if they are scheduled in Franchisee's state. Franchisor may not mandate more than two additional training sessions in a twelve (12) month period unless they are online courses. For this additional training, Franchisor will provide the instructors and instructional materials, but Franchisee must arrange for transportation, lodging and food for itself and or its manager. Additionally, Franchisee, at Franchisee's expense, may be required to attend regional meetings when and if established by Franchisor.

## **ARTICLE 5**

### **FEES, REPORTS, BOOKS AND RECORDS.**

#### **5.1 FEES.**

(i) Upon execution of this Agreement, Franchisee must pay Franchisor an initial franchise fee of Twenty-Five Thousand Dollars (\$25,000) (the "Initial Franchise Fee"). Except as provided in Article 1.3 of this Agreement, the Parties acknowledge and agree that the Initial Franchise Fee will be deemed fully earned and non-refundable upon payment.

(ii) Franchisee shall pay to Franchisor weekly during the Term six percent (6%) of the weekly Gross Sales of Franchisee's Franchised Business ("Royalty Fee"). For the purposes of this Agreement, "Gross Sales," means gross revenues received by Franchisee as payment, whether in cash or for credit (and, if for credit, whether or not payment is received therefor), for all offered products and/or services sold in or from Franchisee's Franchised Business, and gross revenues received by Franchisee from any other business operated at the Premises, excluding sales taxes and discounts approved in writing by Franchisor.

(iii) Franchisee shall pay two percent (2%) of its Gross Sales for each and every week of its operations to Franchisor (the "System Advertising Fee"). These funds will be deposited, at Franchisor's sole discretion, into a segregated advertising account (with other advertising collections) controlled by Franchisor (the "System Advertising Fund").

(iv) Franchisee acknowledges that it is vital for the Pinot's Palette System to feature digital, e-commerce and other modern ordering capabilities, platforms, "apps" and other infrastructure, tools, systems and analytics, and that these capabilities are constantly evolving and require continued investment and innovation. Franchisee agrees to pay to Franchisor a monthly fee ("Technology Fee"), subject to change in Franchisor's sole discretion for the maintenance and optimization of the ADMIN System and improving other software and information technology programs and services to maintain and enhance the System, (defined and described in Article 11).

(v) Franchisor maintains a master paintings and art library collection and subcollection of test paintings and art which includes paintings Franchisor has assembled from multiple sources, including original paintings contributed by current and former Pinot's Palette franchisees. Franchisee shall participate in the Pinot's Palette painting rewards program ("Pinot's Palette Painting Rewards Program") and as a program participant, Franchisee shall pay a fee of Five Dollars (\$5) per painting used per class from the library for the use of any original painting contributed by a current or former Pinot's Palette franchisee. Such fee(s) shall be paid in the manner Franchisor specifies. Fees shall be remitted to the then-current operating franchisee of the Pinot's Palette location that contributed the original painting to the library. Provided Franchisee is in substantial compliance with the terms and conditions of this Agreement, Franchisee shall likewise be eligible to receive the same fees from other Pinot's Palette franchisees. Fees paid for the use of paintings contributed by a Pinot's Palette location that is no longer in operation shall be retained by Franchisor.

## 5.2 REPORTS AND INSPECTION OF RECORDS.

(i) At Franchisor's request, Franchisee shall promptly execute or re-execute within five (5) days after Franchisor's request, and deliver to Franchisor a fully executed copy of the ACH Service Agreement attached to this Agreement as Attachment C, to enable Franchisor to electronically (draft on Franchisee's account by electronic withdrawal) collect the six percent (6%) continuing Royalty Fee (see Article 5.1) the System Advertising Fee (see Article 5.1) of Gross Sales payable under the terms of this Agreement as well as the Technology Fee (see Article 5.1) along with any other fee allowed under this Agreement or the ACH Service Agreement.

(ii) Franchisee shall report its Gross Sales using the ADMIN System (see Article 11) within two (2) days after the end of each business week (currently Monday) or at such other times as are established by Franchisor in its sole discretion. Franchisee shall submit written weekly summaries showing results of its operations by the following Saturday. If Franchisee fails to report its sales on a timely basis, Franchisor may estimate the amount of Franchisee's sales. Franchisor will then deposit or transfer the reported, or in the absence of a report, the estimated, amounts due into its own account, using the Franchisee's pre-authorized checks or other instruments. If any draft, electronic or otherwise, is unpaid because of insufficient funds or otherwise, then Franchisee shall pay Franchisor interest on the unpaid sum at a rate of prime plus 2.5% per annum or the maximum rate allowed by the applicable federal and/or state law in addition to Franchisor's expenses arising from such non-payment, including bank fees in the amount of at least \$50, hourly staff charges arising from such default, and any other related expenses incurred by Franchisor. By the fifth (5th) day of each month Franchisee shall pay to Franchisor any sums unpaid for the prior month to adjust for sales owed for any partial week or sales that were unpaid, improperly recorded or not credited on Franchisee's books and records. Franchisee hereby agrees to pay any sales, use

or other tax now or hereinafter imposed on franchise fees, advertising fees or any additional rental collected under the lease for the Premises, imposed by any federal, state or local governmental authorities. Franchisor, at its sole discretion, may collect the taxes in the same manner as franchise fees are collected herein and if Franchisor collects such taxes, Franchisor shall promptly pay the tax collections to the appropriate governmental authority.

(iii) Franchisee shall submit to Franchisor an accurate monthly Profit and Loss Statement within thirty (30) calendar days after the end of each calendar month, using the chart of accounts, format and method prescribed by Franchisor, signed and certified by Franchisee, and shall provide Franchisee's sales, expenses and financial status with respect to the Franchised Business. If requested, Franchisee shall submit to Franchisor annual financial statements, including a Profit and Loss Statement and Balance Sheet prepared by an accounting professional, in accordance with generally accepted accounting principles. Franchisee shall also provide Franchisor with copies of signed original sales and use tax forms upon written request of Franchisor. Franchisor reserves the right to require such further information concerning Franchisee's Franchised Business as Franchisor may from time to time reasonably request. Furthermore, Franchisee shall provide Franchisor with any reports as Franchisor may from time to time require, in the form, method and at the time Franchisor prescribes. Franchisee's fiscal year end will be December 31, unless another date is mutually agreed upon by Franchisor and Franchisee. Within sixty (60) days of Franchisor's fiscal year end, Franchisee will provide Franchisor with the metrics and other financial information Franchisor reasonably requests regarding the operation of Franchisee's Franchised Business.

(iv) Franchisee must maintain accurate business records, reports, accounts, books, and data relating to the operation of Franchisee's Franchised Business. During normal business hours, Franchisor, its agents or representatives may audit Franchisee's books and records in accordance with generally accepted standards established by certified public accountants. In connection with such audit(s) or other operational visits, Franchisee agrees to keep its complete financial records for the operation of the Franchised Business in accordance with generally accepted accounting principles, cash receipts records, weekly and monthly control forms, and accounts payable records including all payments to Franchisee's suppliers in its Franchised Business or at its business office for five (5) years after their due date, which records shall be available for examination by Franchisor or its representative(s), at Franchisor's request. Without any prior written notice, Franchisor, its agents or representatives may inspect Franchisee's entire Franchised Business and Franchisee's daily, weekly and monthly statistical information. Franchisee shall make such information available for such inspections in recognition that an operational inspection cannot succeed without review of essential statistical information. At Franchisor's discretion and request, in lieu of or in addition to conducting an audit, examination or inspection of the Franchised Business during a visit to the Franchised Business, Franchisee shall promptly transmit copies of records, photographs and supply any other specified information requested relating to the operation of the Franchised Business, compliance with the System, Manual and this Agreement.

(v) Franchisee acknowledges that Franchisor regularly reviews ongoing operations at Franchised Businesses to ensure consistency of products and service and compliance with the Manuals and this Agreement. Franchisee therefore agrees to promptly complete and submit all forms requested by Franchisor, whether on a daily, weekly or monthly basis. Non-compliance with this obligation constitutes a material violation of this Agreement.

### 5.3 TAXES AND INDEBTEDNESS.

In the event any taxing authority, wherever located, imposes any future tax, levy or assessment on any payment Franchisee makes to Franchisor, Franchisee must, in addition to all payments due to Franchisor, pay such tax, levy or assessment.

## **ARTICLE 6 MANUALS AND STANDARDS OF FRANCHISEE QUALITY, CLEANLINESS, AND SERVICE.**

### 6.1 STANDARDS.

In order to promote the value and goodwill of the Proprietary Marks and the System, and to protect Franchisor's Marks and the System, Franchisee agrees to conduct its business in accordance with the standards promulgated by Franchisor as set forth in this Article.

### 6.2 MANUALS.

(i) During the Term, Franchisor will loan or make available on-line to Franchisee Franchisor's operations manual, which Franchisor periodically may amend, and other handbooks, bulletins, training and materials Franchisor designates (collectively, the "Manuals"). In the Manuals, Franchisor will list authorized products and/or services (the "Authorized Products and/or Services") to be sold by Franchisee, and promulgate standards of operation for a Franchised Business, including standards of quality, cleanliness, and service for all furnishings, interior and exterior décor, supplies, fixtures, and equipment used in connection with each Franchised Business. Franchisee agrees to operate its Franchised Business in accordance with the then-current standards, specifications and procedures set forth in the Manuals and this Agreement. Furthermore, Franchisee is solely responsible for ensuring that it complies with all such modifications at its sole cost. The sale of any product or service at the Franchisee's Premises, without Franchisor's prior written approval shall constitute a material violation of this Agreement.

(ii) The Manuals (and copies thereof) remain Franchisor's property and must be returned to Franchisor or if Franchisor consents, promptly destroyed upon the Agreement's termination, expiration or nonrenewal. The Manuals are highly confidential documents which contain certain trade secrets of Franchisor, and Franchisee shall never reveal, and shall take all reasonable precautions, both during and after the Term, to assure that its employees and any other party under Franchisee's control, shall never reveal any of the contents of the Manuals or any other secret provided by Franchisor, except as is necessary for the operation of Franchisee's Franchised Business. If Franchisee is not involved in the management of Franchisee's Franchised Business, the manager must execute a Confidentiality Agreement, a copy of which is attached hereto as Attachment B. If Franchisee loses a Manual, Franchisee shall pay Franchisor \$250 to replace such Manual.

### 6.3 HOURS.

Franchisee agrees to open for business and maintain the prescribed days and hours of operation at the Franchised Business as prescribed by Franchisor in the Manuals or otherwise in writing from time to time, unless required otherwise in the Lease. Franchisee shall diligently and

efficiently exercise its best efforts to achieve the maximum Gross Sales possible from its Premises. It is acknowledged that the hours of operation of other Franchisees may vary in relation to each respective location, and local legal restrictions, if any and to each Lease.

#### 6.4 APPEARANCE.

From time to time, Franchisee's Franchised Business may need interior and exterior repairs, maintenance, improvements, updates, or equipment upgrades and additions in order to comply with the Manuals and or to maintain proper operations and an aesthetic appearance and professional image. Accordingly, Franchisor may require remodeling and renovation, and modifications to existing equipment, updates and improvements as is reasonably necessary to comply with Franchisor's then-current standards and specifications described in the Manuals. Franchisor shall not require any such work at a particular Franchised Business less than three (3) years after the opening of the Franchised Business except: (i) if repairs, maintenance or repainting are necessary to maintain the appearance of the interior and exterior of the Premises in a clean and orderly reasonable condition satisfactory to Franchisor; or (ii) upon the sale of the Franchisee's Franchised Business. Within ninety (90) days, or such longer time period that Franchisor reasonably determines that is needed under the circumstances, Franchisee shall fully implement and complete such changes to the Franchised Business subject to receipt of all necessary landlord and governmental permits. To the extent extensive remodeling and/or renovation is reasonably necessary, Franchisee shall fully implement and complete such modifications within six (6) months after receipt of written notice from Franchisor.

#### 6.5 PRODUCT LINE AND SERVICE.

Franchisee agrees to only offer such products or services as specified by Franchisor in this Agreement or in the Manuals, from time to time. Franchisor will provide Franchisee with access to all approved paintings and artworks in Franchisor's master paintings and art library collection as well as any future approved art created by the Franchisor or other franchisees within the System. No work of art shall be used unless the same shall have been first submitted to and approved in writing by Franchisor. Franchisee acknowledges and agrees that all new original paintings and artworks submitted and approved by Franchisor are the exclusive property of Franchisor, and except as provided in Article 5.1(v) above regarding the Pinot's Palette Painting Rewards Program, that Franchisor shall have no obligation to Franchisee with respect thereto.

#### 6.6 FIXTURES AND OTHER GOODS.

No item of merchandise, furnishings, interior and exterior décor items, supplies, fixtures, or equipment bearing any of the Proprietary Marks shall be used in or upon any Franchised Business unless the same shall have been first submitted to and approved in writing by Franchisor, as provided in Article 10.

#### 6.7 OFFSITE EVENTS.

Franchisee may conduct events outside of Franchisee's Franchised Business for Authorized Products and/or Services ("Offsite Event(s)") in accordance with the terms and conditions set forth herein and in the Manuals. Franchisee must comply with the insurance requirements set forth under Article 16.1 of this Agreement before an Offsite Event is conducted.

In addition, Franchisee shall not conduct an Offsite Event within the Protected Territory of another Pinot's Palette franchisee without the prior written consent of Franchisor or in accordance with the Manuals. Franchisee agrees to indemnify and hold Franchisor harmless from any claims, demands, liabilities, actions, suits or proceedings asserted by third parties arising out of or related to Franchisee conducting an Offsite Event.

#### **6.8 OBLIGATION TO MAINTAIN WORKING CAPITAL.**

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

#### **6.9 PERSONAL CONDUCT AND BEST EFFORTS.**

Franchisee agrees to refrain from committing any act or pursuing any course of conduct that tends to bring the Proprietary Marks into disrepute. Furthermore, Franchisee must use its best efforts to promote and increase the demand for Pinot's Palette services. All of Franchisee's advertising and promotion must be completely factual and conform to the highest standards of ethical advertising. Franchisee agrees to refrain from any business or advertising practice which may be injurious to the Franchised Business or the goodwill associated with the Proprietary Marks and the System.

#### **6.10 PENDING ACTIONS.**

Franchisee must notify Franchisor, in writing, within five (5) days of the commencement of any action, suit or proceeding and the issuance of any order, suit or proceeding of any court, agency or other government instrumentality, including the receipt of any notice or citation, which may adversely affect the operation or financial condition of Franchisee or the Franchised Business.

#### **6.11 PAYMENT OF OBLIGATIONS.**

Franchisee is solely responsible for selecting and paying employees, paying all invoices for the purchase of goods and services, and paying all taxes arising from the Franchisee's operation of the Franchised Business and Franchisee agrees to indemnify Franchisor in the event Franchisor elects to pay any of Franchisee's obligations in order to preserve relationships with vendors.

### **ARTICLE 7 SERVICES, INSPECTIONS, SIGNS.**

#### **7.1 SERVICES.**

(i) Franchisee shall not advertise for sale, sell or give away any product and/or service unless such product and/or service has been approved in the Manuals as an Authorized Product and/or Service for sale in Franchisee's Franchised Business and not thereafter disapproved in writing by Franchisor. All Authorized Products and/or Services shall be distributed under the specific name designated by Franchisor. Franchisor has the right, subject to applicable law, to establish minimum prices and/or maximum prices to be charged by Franchisee for the products

and services Franchisee offers at the Franchised Business, except food and beverage pricing. Franchisee must honor all such maximum prices and minimum prices Franchisor establishes in accordance with this Section. Franchisee must also honor and offer all coupons, discounts, campaigns, loyalty programs, gift cards or gift certificates, or similar promotions Franchisor designates and cannot offer coupons, discounts, gift cards or gift certificates, or similar promotions that are not part of a System-wide promotion or program without Franchisor's prior written approval.

(ii) Franchisee shall, upon receipt of notice from Franchisor, add any Authorized Product and/or Service according to the instructions contained in the notice. Franchisee shall have thirty (30) days after receipt of written notice in which to fully implement any such change. Franchisee shall cease selling any previously Authorized Product and/or Service within thirty (30) days after receipt of notice that the product is no longer approved.

## 7.2 COMPLIANCE.

Franchisee shall operate its Franchised Business as a clean, orderly, legal and respectable place of business in accordance with Franchisor's business standards and merchandising policies, and shall comply with all applicable ordinances, laws, statutes and regulations governing the operation of such Premises. Franchisee shall not allow any Premises or part of a Premises to be used for any immoral or illegal purpose.

## 7.3 SIGNS, DESIGNS AND FORMS OF PUBLICITY.

(i) Franchisee shall maintain a suitable sign at, on, or near the front of the Premises, identifying the Premises as a Franchised Business. Such sign shall conform in all respects to Franchisor's requirements stated in the Manuals and in accordance with the layout and Design Plan approved for the Premises.

(ii) No exterior or interior sign or any design, advertisement, internet address, "web page" or world wide web home page, sign, or form of publicity, including form, color, number, location, and size, shall be used by Franchisee or any regional advertising cooperative (see Article 8) unless first submitted to Franchisor and approved in writing. Whenever Franchisee elects to utilize, in the form supplied, advertising supplied by Franchisor or any promotional item specifically approved by Franchisor, no further approval for use of such material is required. Franchisor may subsequently disapprove such material at any time thereafter. Upon written notice from Franchisor, Franchisee shall discontinue and or remove such disapproved material and any objectionable advertising materials or any other materials not suitable for display, in Franchisor's sole discretion.

## 7.4 DRESS CODE AND EMPLOYEE APPEARANCE.

Franchisee shall cause all employees, while working in the Franchised Business to: (i) wear uniforms of such color, design, and other specifications as Franchisor may designate from time to time; and (ii) present a neat and clean appearance, as further stated in the Manuals. If the type of uniform utilized by Franchisee is removed from the list of approved uniforms, Franchisee shall have sixty (60) days from receipt of written notice of such removal to discontinue use of its existing inventory of uniforms and implement the approved type of uniform.

## 7.5 VENDING OR OTHER MACHINES.

Franchisee shall not permit vending, video gaming devices or game machines or any other mechanical device to be installed or maintained in its Premises without Franchisor's prior written approval. Franchisee agrees to purchase, install and maintain a music system, approved by Franchisor, in its Premises. The music selections must be approved by Franchisor.

## 7.6 INSPECTION.

(i) Franchisor's authorized representatives shall have the right to enter upon the Premises of Franchisee's Franchised Business during business hours, without disrupting Franchisee's business operations, for the purposes of examining same, conferring with Franchisee's employees, inspecting and checking operations, furnishings, interior and exterior, décor, supplies, fixtures, and equipment, and determining whether the business is being conducted in accordance with this Agreement, the System and the Manuals.

(ii) In the event any such inspection indicates any deficiency or unsatisfactory condition with respect to any matter required under this Agreement or the Manuals, including but not limited to quality, cleanliness, service, health and Authorized Product and/or Services line, Franchisor will notify Franchisee in writing of Franchisee's non-compliance with the Manuals, the System, or this Agreement. Franchisee shall have twenty-four (24) hours after receipt of such notice, or such other greater time period as Franchisor in its sole discretion may provide, to correct or repair such deficiency or unsatisfactory condition.

# ARTICLE 8 ADVERTISING.

## 8.1 GENERALLY.

(i) Franchisee and Franchisor acknowledge the value of advertising. Franchisor agrees to provide Franchisee with materials and advice to support Franchisee's marketing efforts.

(ii) Franchisor may from time to time develop and create advertising and sales promotion programs designed to promote and enhance the collective success of all or some of the Franchised Businesses operating under the System. Franchisee must participate in all such advertising and sales promotion programs in accordance with the terms and conditions established by Franchisor for each program. In all aspects of these programs, including without limitation, the type/quantity/timing/placement and choice of media, and market areas and advertising agencies, the System standards and specifications established by Franchisor shall be final and binding upon Franchisee. Franchisor may also request that Franchisee purchase and/or make copies of (and Franchisee's expense) and subsequently use certain other advertising or promotional materials that Franchisor designates for use in connection with the Franchised Business.

(iii) All advertising and promotion by Franchisee in any medium must be conducted in a professional manner and shall conform to Franchisor's standards and requirements as set forth in the Manuals. Franchisor shall approve, in Franchisor's sole discretion, all advertising and marketing activities conducted by Franchisee. Franchisee must submit to Franchisor pursuant the Notice requirements in this Agreement, all advertising, promotional and marketing plans and



samples of all local advertising materials not prepared or previously approved by Franchisor. If any advertising or marketing activities are later disapproved, Franchisee shall discontinue use of such promptly upon written notice by Franchisor.

(iv) Franchisee cannot solicit customers and/or advertise outside Franchisee's Protected Territory except to the extent that Franchisee has received Franchisor's prior written authorization, which Franchisor may withhold at its sole discretion. Franchisor may condition Franchisor's authorization upon Franchisee's agreement to offer to other System franchisees, specifically those who operate Franchised Businesses in territories encompassed by the circulation base of the proposed advertising, the opportunity to participate in, and share the expense of, such solicitation and/or advertising. Notwithstanding the forgoing, Franchisee may accept customers from outside Franchisee's Protected Territory at Franchisee's Premises, provided Franchisee did not solicit such customers by advertising outside of Franchisee's Protected Territory without Franchisor's prior written consent. Franchisee may not advertise the Franchised Business or any products or services offered by the Franchised Business via the Internet or any other means of e-commerce without Franchisor's consent.

## 8.2 LOCAL ADVERTISING.

(i) Franchisee agrees to spend the then-current amount that Franchisor has established for its "Grand Opening" promotion through mediums designated and/or approved by Franchisor. The "Grand Opening" event is required for all franchisees and functions to introduce Franchisee's Franchised Business to the public. At Franchisor's request, Franchisee shall, within five (5) days from such request, promptly submit all receipts, invoices, etc. to Franchisor as verification of compliance with this Article 8.2(i).

(ii) Thereafter, Franchisee agrees to spend a minimum of \$1,000 per month on local advertising directed to the Protected Territory, through mediums approved by Franchisor. Franchisee shall submit copies of any and all receipts, invoices, etc. to Franchisor within fifteen (15) calendar days after the end of each calendar month as verification of Franchisee's compliance with this Article 8.2(ii). Included with this requirement, Authorized Products and/or Services shall be marketed by approved materials to be utilized in Franchisee's Franchised Business. The approved and authorized materials may include, in Franchisor's discretion, requirements concerning organization, graphics, product and/or service descriptions, illustrations, and any other matters related to the materials, whether or not similar to those listed. In Franchisor's discretion, the materials may vary depending upon region, market size, and other factors. Franchisor may change the materials from time to time or region to region or authorize tests from region to region or authorize non-uniform regions or non-uniform Franchised Business(es) within regions, in which case Franchisee will be given a reasonable time (not longer than thirty (30) days) to discontinue use of any old materials and implement use of the new materials.

## 8.3 SYSTEM ADVERTISING FUND.

(i) Franchisor will use System Advertising Fund contributions, in Franchisor's sole discretion, to develop, produce and distribute national, regional and/or local marketing and to create advertising materials and public relations programs which promote, in Franchisor's sole judgment, the services offered by System franchisees. Franchisor has the sole right to determine

contributions and expenditures from the System Advertising Fund, or any other advertising program, and sole authority to determine, without limitation, the selection of the advertising materials and programs. Franchisor may use the System Advertising Fund contributions to satisfy any and all costs of maintaining, administering, directing, preparing, and producing advertisements and other marketing, including the cost of preparing and producing television, radio, magazine, Internet and newspaper advertising campaigns, the cost of direct mail and outdoor billboard advertising; the cost of public relations activities and advertising agencies; the cost of developing and maintaining an Internet website; and personnel and other departmental costs for advertising that Franchisor internally administers or prepares. Franchisee acknowledges that not all System franchisees will benefit directly or on a pro rata basis from such expenditures. While Franchisor does not anticipate any part of the System Advertising Fund contributions will be used for advertising that is principally a solicitation for franchisees, Franchisor reserves the right to use the System Advertising Fund contributions for public relations or recognition of the Pinot's Palette brand and for the creation and maintenance of a website, a portion of which may be used to explain the franchise offering and solicit potential franchisees, and to include a notation in any advertisement indicating the availability of franchises. Sales materials, if developed, may be sold to franchisees at a reasonable cost.

(ii) Franchisor may periodically assist franchises to maintain high quality standards through customer surveys, customer interviews, and other similar initiatives ("Surveys"). The cost of such programs may be borne by the System Advertising Fund. The cost of these programs may be charged directly to Franchisee if Franchisee's results from a Survey fall below System-established minimum standards for such Surveys.

(iii) Franchisor has the right to reimburse itself from the System Advertising Fund contributions for such reasonable costs and overhead, if any, that Franchisor may incur in activities reasonably related to the direction and implementation of the System Advertising Fund.

(iv) Franchisor will prepare and make available for Franchisee, on a semi-annual basis, an unaudited statement of contributions and expenditures for the System Advertising Fund. The statement will be presented to Franchisee upon Franchisee's written request.

(v) Franchisor may, in its sole discretion, establish a regional advertising cooperative covering Franchisee's Protected Territory. Franchisee will immediately on Franchisor's request become a member of any cooperative covering Franchisee's Protected Territory. The cooperative will be governed in the manner we require. The cooperative has the right to require each of its members to make contributions to the cooperative, not to exceed 2% of Franchisee's Gross Sales. Franchisor has the right to change, combine or dissolve Cooperatives. Franchisee will not be required to be a member of more than one cooperative. The following provisions will apply to each cooperative:

(a) The cooperative will be organized and governed in a form and manner, and will begin operation on a date, Franchisor approves in advance in writing;

(b) The cooperative will be organized for the exclusive purpose of administering advertising programs and developing, subject to Franchisor's approval, standardized promotional materials for use by the members in local advertising in the cooperative's territory;

(c) The cooperative may adopt its own rules and procedures, but we have the right to approve the rules or procedures. The rules and procedures will not restrict nor expand your rights or obligations under this Agreement. Except as otherwise provided in this Agreement, and subject to our approval, any lawful action of the cooperative at a meeting attended by 2/3 of the members, including assessments, is binding on you if approved by 2/3 of the members present, with each franchised business and company- or affiliate-owned business having 1 vote; and

(d) No advertising or promotional plans or materials may be used by the cooperative or furnished to its members without Franchisor's written approval. All plans and materials must be submitted to Franchisor in accordance with the procedure stated in Article 8.1.

(e) Franchisor reserves the right to establish general standards concerning the operation of all cooperatives, advertising agencies retained by cooperatives, and advertising programs conducted by cooperatives.

(f) Franchisor, in its sole discretion, may grant to any franchisee an exemption for any length of time from the requirement of membership in the cooperative, on written request of the franchisee stating reasons supporting the exemption. Franchisor's decision concerning the request for exemption is final.

(g) Any contributions by Franchisee to a regional advertising cooperative shall be credited toward Franchisee's monthly local advertising obligations and Franchisee shall be entitled to reduce Franchisee's monthly local advertising obligations required under Article 8.2 by the amount of Franchisee's contributions to a regional advertising cooperative.

## **ARTICLE 9**

### **COMPANY NAMES AND MARKS AND ADDITIONAL NAMES AND MARKS.**

9.1 Franchisee must use only the designated Proprietary Marks, and must use them only in the manner Franchisor authorizes and permits.

9.2 Franchisee must use the Proprietary Marks only for the operation of the Franchised Business at the Premises and for advertising the Franchised Business.

9.3 Franchisee will use all of the Proprietary Marks without prefix or suffix and in conjunction with the symbols "TM," "SM," "S," or "R," as applicable. Franchisee may not use Proprietary Marks in connection with the offer or sale of any services or products that Franchisor has not authorized for use in connection with the System. Franchisee may not use the Proprietary Marks as part of Franchisee's corporate or other legal name. Franchisee's corporate name and all fictitious names under which Franchisee proposes to do business must be approved by Franchisor in writing before use.

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

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

9.6 Franchisee will not use the Proprietary Marks to incur any obligation or indebtedness on Franchisor's behalf.

9.7 Franchisee will execute all documents Franchisor deems necessary to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability.

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

9.9 Franchisee expressly understands and acknowledges that:

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

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

(iii) During the Term and after its expiration or termination, Franchisee will not directly or indirectly contest the validity of, or Franchisor's ownership of, or right to use and to license others to use, the Proprietary Marks;

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

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

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

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

## **ARTICLE 10**

### **USE AND PURCHASE OF EQUIPMENT, SUPPLIES AND OTHER PRODUCTS.**

10.1 Franchisee agrees to use, sell, or otherwise dispense, only equipment, supplies, and other products approved or designated by Franchisor, which may, from time to time, be specified in writing, designated, and approved for sale or use by Franchisor.

10.2 To insure the consistent high quality and uniformity of products used by Franchised Businesses, Franchisee shall purchase all equipment, inventory, and other supplies, products, and materials used in the operation of its Franchised Business as Franchisor may specify from time to time, and as applicable, solely from suppliers and/or distributors that Franchisor designates in its sole and absolute discretion, which may include Franchisor or its affiliate(s). If Franchisee desires to purchase any items from an unapproved supplier or distributor, whom Franchisee desires to become an authorized supplier or distributor, Franchisee shall first submit a written request to Franchisor for such approval. Franchisor has the right to require that the proposed supplier or distributor provide reasonable financial, operational and economic information regarding its business and establish economic terms, delivery, service and other requirements as Franchisor may determine to be necessary or desirable for the operation of the System. Franchisor may charge a fee for Franchisor's reasonable costs, to review the application of the supplier or distributor and complete any inspections necessary to evaluate the supplier. Franchisor has no obligation to approve any alternative product, supplier or distributor and may revoke its approval at any time. If a supplier's approval has been revoked, Franchisee shall still be permitted to use reasonable amounts of inventory already purchased from such supplier unless that inventory can be purchased back or sold at Franchisee's cost or Franchisor determines that there is a safety, quality or exigent circumstance that requires the discontinuance of that product. If a product line has been discontinued, Franchisee must immediately discontinue use of any inventory related to the discontinued product line. Upon the receipt by Franchisor of Franchisee and the proposed supplier or distributor's request for approval in full compliance of this article, Franchisor will notify

Franchisee of its decision within ninety (90) days following the evaluation. If we do not notify you within 90 days, the request will be deemed disapproved.

10.3 Franchisor may require Franchisee to purchase designated items and products, and products bearing the Proprietary Marks, as specified in the Manuals from time to time, from Franchisor or its related or affiliated entities or from sources designated or approved by Franchisor, to the extent permitted by law.

10.4 In operating its Franchised Business, Franchisee shall install equipment, signs, furnishings, supplies and fixtures in accordance with the standards and specifications recommended by Franchisor or that will continue to be recommended by Franchisor.

## **ARTICLE 11**

### **FRANCHISE ADMINISTRATIVE AND MANAGEMENT SYSTEM, COLLECTION OF DATA.**

11.1 This Agreement and the Manuals require the submission of weekly statistical control forms as well as other financial, operational and statistical information required by Franchisee and Franchisor to: (i) assist Franchisee in the operation of its Franchised Business in accordance with the System; (ii) allow Franchisor to monitor the Franchisee's Gross Sales, purchases, costs and expenses; (iii) enable Franchisor to develop System wide statistics which may improve bulk purchasing; (iv) assist Franchisor in the development of new Authorized Products and/or Services or the removal of existing unsuccessful Authorized Products and/or Services; (v) enable Franchisor to refine existing Authorized Products; (vi) generally improve System wide understanding of the System; and (vii) obtain new types of information unknown at this time.

11.2 In developing and operating Franchisee's Franchised Business, Franchisee shall use Franchisor's proprietary internet-based franchise administrative/management system and any periodic improvements thereto or such other system that Franchisor may designate in the future (the "ADMIN System"). Franchisee shall input all data into the ADMIN System as designated from time to time in the Manuals, including but not limited to, information relative to reservations, receipts and sales information. Franchisor shall have unlimited access to all data input into the ADMIN System by Pinot's Palette franchisees. Franchisor's improvements to the ADMIN System may require Franchisee to obtain specific computer hardware and software and Franchisor may modify specifications for and components of the ADMIN System from time to time. Franchisor's improvements to the ADMIN System may require Franchisee to incur costs and, if required, to purchase, lease, license new or modified computer hardware or software during the Term or Additional Terms. Franchisee will obtain any such required hardware or software components relative to the ADMIN System Franchisor designates and requires within sixty (60) days after Franchisor notifies Franchisee.

Franchisee's computer hardware must be capable of running and connecting with the ADMIN System so that Franchisee may access the ADMIN System and so Franchisor may review the results of the operation of Franchisee's Franchised Business. Further, Franchisor shall have the right to specify or require that certain brands, types, makes, and/or models of communications, computer systems, and hardware be used by Franchisee, including without limitation: (i) a compatible computer system that complies with Franchisor's standards and specifications and is

capable of operating Franchisor's designated software; (ii) a custom point of sale system, if applicable; (iii) printers and other peripheral hardware or devices; (iv) archival back-up systems; (v) Internet access mode and speed; and (vi) physical, electronic, and other security systems (collectively, the "Computer System"). Franchisor will provide assistance to Franchisee in connection with the connectivity and use of the ADMIN System and any proprietary software Franchisor requires Franchisee to use. For purposes of this Article, "Proprietary Software" shall mean any proprietary software Franchisor has developed and included in or used in conjunction with the ADMIN System, and any proprietary software Franchisor may develop or require Franchisee to use in the future. Franchisor reserves the right to modify the Computer System, hardware, and software requirements, and Franchisee shall comply with any such change at its sole cost.

11.3 The ADMIN System and any Proprietary Software may not be used except as expressly authorized in this Agreement and in the Manuals. Franchisor reserves all rights not expressly granted.

11.4 As between the parties, Franchisor will retain all rights in and to the ADMIN System (excluding hardware, but including disks, drives or other storage devices that carry our proprietary software), including all copyrights and other intellectual property rights in or to the ADMIN System and any Proprietary Software. Except as otherwise expressly provided in this Agreement, Franchisee will not obtain, nor grant to any third party any express or implied rights in or to, any part of the ADMIN System and any Proprietary Software.

11.5 Franchisee shall take all reasonable steps to protect the ADMIN System and any Proprietary Software, from any use, reproduction, publication, disclosure or distribution that is not specifically authorized in this Agreement. Franchisee shall ensure that it and its personnel not disclose their User IDS and passwords, and will immediately notify Franchisor of any suspected or actual theft, loss or fraudulent use of them.

11.6 During the Term, Franchisor will provide limited support services with respect to the ADMIN System and any Proprietary Software to the extent Franchisor deems practicable in the manner Franchisor designates from time to time in the Manuals.

11.7 Any updates, patches, bug fixes, modifications, enhancements and new versions of the ADMIN System and any Proprietary Software and all other deliverables and work product Franchisor develops for such ADMIN System or any Proprietary Software Franchisor provides to Franchisee will be subject to the terms and conditions of this Agreement, unless otherwise expressly agreed in writing by Franchisor. Franchisor's technical support services for the ADMIN System and other proprietary software, if any, extend only to the ADMIN System and any Proprietary Software, free of any additions or modifications that have not been made by Franchisor or our agents, or approved by Franchisor in writing. Our support services do not include the following and we have no responsibility or liability for:

(i) Addressing errors, defects, or damage in or to the Proprietary Software resulting from causes other than those arising in the ordinary permitted use of the Proprietary Software, or from the use of third-party software, firmware or data, or from the use of hardware not meeting our minimum recommended configurations;

- (ii) Providing hardware-related services;
- (iii) Providing training to Franchisee's personnel except as otherwise provided in this Agreement; or
- (iv) Developing or otherwise providing Franchisee with additional features, functionality, or customizations to the Proprietary Software.

11.8 Franchisee will cooperate fully with use in the performance of Franchisor's technical support services, including by providing Franchisor with such timely, accurate and complete information and reasonable access to Franchisee's personnel, if any, as Franchisor may require or request. Franchisee shall be responsible for using the ADMIN System and any other Proprietary Software in compliance with this Agreement and the Manuals and for obtaining written agreements in the form Franchisor provides from each of your personnel who have access to or utilize any aspect of the ADMIN System and any other Proprietary Software to the effect that such persons agree to be bound by the terms of this Agreement (and all other agreements and Manuals) with respect to the use of the ADMIN System and any other Proprietary Software. Franchisee will be in breach of this Agreement if any user to who Franchisee is given access to the ADMIN System or any Proprietary Software fails to comply with the requirements under this Agreement and the Manuals governing the use of the ADMIN System or any Proprietary Software. To the extent Franchisee fails to satisfy Franchisee's obligations to Franchisor, Franchisor will be relieved of Franchisor's obligations under this Agreement and Franchisee will be deemed in breach of it.

11.9 Franchisor will have no responsibility for (a) the results of termination of Franchisee's access to the ADMIN System after Franchisor has notified Franchisee of such termination; (b) Franchisee's use of the Proprietary Software with content, assets, technology or other materials not supplied by Franchisor; or (c) alteration of the ADMIN System or any Proprietary Software or use of a version of the ADMIN System or any Proprietary Software that has been superseded by a newer version.

11.10 Franchisor disclaims any warranties of any nature whatsoever, whether express, written, oral, implied or statutory, including any implied warranties of merchantability or fitness for a particular purpose, title or non-infringement, or any warranties arising under the uniform computer transactions act, however enacted in any state or jurisdiction. Franchisor is not liable under any circumstances to you for any consequential, special, exemplary, indirect, incidental or collateral damages of any nature whatsoever in connection with any of the supplies or the ADMIN System or any Proprietary Software, or any other products, equipment or supplies you obtain from us or others and their design (including Franchisee's right to use, delivery, and installation), the service and functions they perform (or fail to perform), their design and this Agreement, whether by reason of imperfection or defect in them or in their performance, Franchisor's breach or otherwise, even if Franchisor is advised of the possibility of such damages, regardless of whether they are based in tort or in contract.

11.11 On Franchisor's request, Franchisee must apply for and maintain debit card, credit card, gift card or other non-cash payment systems to enable customers to purchase products and/or services through these procedures. Franchisee agrees to accept all forms of payment as directed by



Franchisor, including certain designated credit and/or debit cards and to purchase or lease all necessary equipment to accept such payment.

11.12 Franchisee is required to participate in any System-wide computer network, intranet system, or extranet system that Franchisor implements and may be required by Franchisor to use such computer network, intranet system, or extranet system to, among other things: (i) submit Franchisee's reports due under this Agreement to Franchisor online; (ii) view and print portions of the Manuals, including any updates or modifications thereto; (iii) download approved local advertising materials; (iv) communicate with Franchisor and other System franchisees; and (v) complete any initial or ongoing training. Franchisee agrees to use the facilities of any such computer network, intranet system or extranet system in strict compliance with the standards, protocols, and restrictions that Franchisor included in the Manuals.

#### 11.13 INTERNET AND WEBSITE.

(i) Franchisee must have and maintain adequate hardware and software in order to access the Internet at the bit speed Franchisor requires from time to time. Franchisee is prohibited, however, from establishing any website or other presence on the Internet or on social media, except as provided herein.

(ii) Franchisor may, but is not obligated to, establish an Internet website that provides information about the System and the Pinot's Palette Authorized Products and/or Services. In the event Franchisor exercises its right to create such a website, Franchisor shall have sole discretion and control over the website (including timing, design, contents and continuation). Franchisor may use a portion of the System Advertising Fund contribution to pay or reimburse itself for the costs incurred in connection with the development, maintenance and update of its website.

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

(iv) Except as approved in advance in writing by Franchisor, Franchisee must not establish or maintain a separate website, splash page, profile or other presence on the Internet, or otherwise advertise on the Internet or any other public computer network in connection with the Franchised Business, including any profile on Facebook, MySpace, X, LinkedIn, Plaxo, YouTube, Pinterest, Instagram, or any other social media and/or networking site. If such approval is granted by Franchisor, Franchisee must: (i) establish and operate such World Wide Web or Internet site in accordance with System standards and any other policies Franchisor designates in the Manuals; and (ii) utilize any templates that Franchisor provides to Franchisee to create and/or modify such site(s). Franchisor shall have the right to modify the provisions of this Article, including its social media requirements, at any time.

(v) Franchisee acknowledges that Franchisor and/or Franchisor's affiliates are the lawful, rightful and sole owner of the Internet domain name **Error! Hyperlink reference not valid.** [www.pinotspalette.com](http://www.pinotspalette.com) as well as any other Internet domain names registered by Franchisor

and/or Franchisor's affiliates, and unconditionally disclaims any ownership interest in such Internet domain names and any Internet domain names similar thereto. Franchisee agrees not to register any Internet domain name in any class or category that contains words used in or similar to any brand name owned by Franchisor or Franchisor's affiliates or any abbreviation, acronym, phonetic variation or visual variation of those words.

## **ARTICLE 12**

### **COVENANT REGARDING OTHER BUSINESS INTERESTS.**

12.1 During the Term, Franchisee, and if Franchisee is an entity then each individual who directly or indirectly owns at least ten percent (10%) interest in Franchisee, as well as each of Franchisee's officers, directors, and principals, may not, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation: (a) own, maintain, engage in, be employed by, lend money to, extend credit to or have any interest in any business that offers services related in any way to painting instruction, creating art or crafts in a social setting where guests drink wine or other beverages, or provides any other services offered by or engages in any other business similar to that which is the subject of the Franchised Business ("Competing Services"); or (b) divert or attempt to divert any business or customer of the Franchised Business to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks or the System.

(i) Upon the termination, expiration or nonrenewal of this Agreement, or if Franchisee assigns or transfers its interest herein to any person or business entity, or if any person identified in the first paragraph of this Article terminates its relationship with Franchisee, then for a period of two (2) years thereafter, Franchisee, and if Franchisee is an entity, then any individual that directly or indirectly owns at least ten percent (10%) interest in Franchisee, Franchisee's officers, directors, or principals, may not, directly or indirectly, for themselves or through, on behalf of, or in conjunction with any other person, partnership or corporation: (a) own, maintain, engage in, be employed by, lend money to, extend credit to or have any interest in any business offering or licensing others to offer Competing Services at a location within a radius of twenty-five (25) miles of Franchisee's former Franchised Business or of any other Pinot's Palette business in operation or under construction on the effective date of termination or expiration; (b) divert or attempt to divert any business or customer of the Franchised Business to any competitor, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Proprietary Marks or the System; or (c) solicit business from customers of Franchisee's former Franchised Business or contact any of Franchisor's suppliers or vendors for any competitive business purpose.

(ii) In the event any portion of the above covenants violates laws affecting Franchisee, or is held invalid or unenforceable in a final judgment to which Franchisor and Franchisee are parties, then the maximum legally allowable restriction permitted by law shall control and bind Franchisee. Franchisor may at any time unilaterally reduce the scope of any part of the above covenants, and Franchisee shall comply with any such reduced covenant upon receipt of written notice.

12.2 During the Term, Franchisee will receive information which Franchisor considers its trade secret and confidential information (“Confidential Information”), including operating procedures, sources of supply, supplier contracts, advertising materials, copyrighted materials, equipment specifications, class offerings, pricing for classes, any information contained in the Manuals, trade secrets, and other methods, techniques and know-how concerning the operation of the Franchised Business that may be communicated to Franchisee or of which Franchisee may be apprised by virtue of Franchisee’s operation of the Franchised Business. Franchisee will not, during the Term or thereafter, communicate, divulge, or use for the benefit of any other person, partnership, association, corporation, or limited liability company any Confidential Information. Franchisee acknowledges and agrees that certain information, including (i) current customer and prospective customer names and addresses, (ii) information about credit extensions to customers, (iii) customer service purchasing histories, (iv) rates charged to customers, and (v) sources of suppliers and purchasing arrangements with suppliers, also constitute the trade secrets and Confidential Information of Franchisor. Franchisee may divulge such Confidential Information only to such of Franchisee’s employees as must have access to it in order to operate the Franchised Business. Any and all information, knowledge, know-how, techniques, and other data that Franchisor designates as confidential will be deemed Confidential Information for purposes of this Agreement. Franchisee acknowledges and agrees that Franchisor has expended considerable time, effort, and money to develop the System, that the enumerated Confidential Information is not well known outside of the System, that the Confidential Information is of great value to the Franchisor, and that Franchisor is implementing this non-disclosure policy in an effort to protect its trade secrets and Confidential Information. Franchisee acknowledges that in the event of the actual or threatened breach of this Article, Franchisor’s harm will be irreparable and that Franchisor has no adequate remedy at law to prevent such harm.

12.3 Franchisee must require all of Franchisee’s employees and artists to execute covenants promising to maintain the confidentiality of information they receive in connection with their employment by Franchisee at the Franchised Business and to restrict their ability to compete with the Franchised Business during their employment with Franchisee. Such covenants will be in a form satisfactory to Franchisor and substantially similar to the Confidentiality Agreement attached to this Agreement. These covenants must, without limitation, specifically identify Franchisor as a third-party beneficiary of such covenants with independent rights to enforce those covenants.

12.4 If Franchisee, Franchisee’s employees, or principals develop any new concept, process or improvement in the operation or promotion of the Franchised Business, including, but not limited to, any modifications or additions to the services offered by the Franchised Business, Franchisee must promptly notify Franchisor and provide Franchisor with all necessary related information, without receiving compensation in return. Any such concept, process or improvement will become Franchisor’s sole property, and Franchisor will be the sole owner of all patents, patent applications, trademarks, copyrights and other intellectual property rights related thereto. Franchisee and Franchisee’s principals and agents hereby assign to Franchisor any rights they may have or acquire therein, including the right to modify such concept, process or improvement, and otherwise waive and/or release all rights of restraint and moral rights therein and thereto. Franchisee and Franchisee’s principals and agents agree to assist Franchisor in obtaining and enforcing the intellectual property rights to any such concept, process or improvement in any and all countries and further agree to execute and provide Franchisor with all necessary

documentations for obtaining and enforcing such rights. Franchisee and Franchisee's principals and agents hereby irrevocably designate and appoint Franchisor as their agent and attorney-in-fact to execute and file any such documentation and to do all other lawful acts to further the prosecution and issuance of patents or other intellectual property rights related to any such concept, process or improvement. In the event that the foregoing provisions of this Article are found to be invalid or otherwise unenforceable, Franchisee and Franchisee's principals and agents hereby grant to Franchisor a worldwide, perpetual, non-exclusive, fully paid license to use and sublicense the use of the concept, process, or improvement to the extent such use or sublicense would, absent this Agreement, directly or indirectly infringe Franchisee's rights therein.

12.5 The provisions of this Article shall not limit, restrain or otherwise affect any right or cause of action which may accrue to Franchisor for any infringement of, violation of, or interference with, this Agreement, or the Proprietary Marks, the System, trade secrets, or any other proprietary aspects of Franchisor's business.

### **ARTICLE 13**

#### **NATURE OF INTEREST, AND TRANSFER.**

##### **13.1 GENERAL PROVISIONS.**

(i) This Agreement shall inure to the benefit of the successors and assigns of Franchisor. Franchisor shall have the right to transfer or assign this Agreement to any person or legal entity who assumes its terms and agrees to comply with Franchisor's obligations contained herein. Franchisor shall have no liability for the performance of any obligations contained in this Agreement after the effective date of such transfer or assignment.

(ii) The rights and duties created by this Agreement are personal to Franchisee. Accordingly, except as otherwise permitted herein, neither Franchisee nor any person with an interest in Franchisee shall, without Franchisor's prior written consent, directly or indirectly sell, assign, transfer, convey, give away, pledge, mortgage, or otherwise encumber any direct or indirect interest in this Agreement or, if Franchisee is a partnership, joint venture, limited liability company or corporation, any direct or indirect interest in Franchisee. Any such purported assignment occurring by operation of law or otherwise without Franchisor's prior written consent shall constitute a default of this Agreement by Franchisee, and shall be null and void.

(iii) Thirty (30) days prior to the completion of Franchisee's sales transaction, Franchisee shall pay to Franchisor a nonrefundable transfer fee ("Transfer Fee") to compensate Franchisor in connection with each proposed transfer subject to this Article, as follows:

(a) for the transfer of a controlling interest to (i) a person whose full-time occupation during the two (2) years immediately preceding the proposed transfer has been serving as the manager of a Franchised Business, or (ii) a current Pinot's Palette franchisee who has satisfied all obligations and substantially complied with all material requirements under its agreements with Franchisor, its subsidiaries, affiliates, and divisions up to and including the time of the proposed transfer: a fee that is thirty percent (30%) of the then-current Initial Franchise Fee if the transfer does not involve a relocation, or a fee that is forty percent (40%) of the then-current Initial Franchise Fee if the transfer will require a new location for the Franchised Business;

(b) for any other transfer of a controlling interest to a person other than those specified in Article 13.1(iii)(a), a fee that is fifty percent (50%) of the then-current Initial Franchise Fee.

This Transfer Fee will not be due with respect to any transfer that (together with all other related previous, simultaneous, or proposed transfers) does not result in the transfer of control of Franchisee; provided, however, that Franchisor may charge a reasonable administrative fee not to exceed Five Hundred Dollars (\$500) for such non-controlling transfers.

(iv) Franchisor's consent to a transfer shall not constitute a waiver of any claims it may have against the transferring party arising out of this Agreement or otherwise.

(v) If Transferee is an individual(s), Franchisor hereby consents to the assignment of this Agreement and any and all obligations referable thereto to a corporation, or other entity, principally owned by Transferee; provided, however that Franchisor may charge a reasonable administrative fee not to exceed Five Hundred Dollars (\$500) for such transfer. Upon such assignment and assumption by the corporation, or other entity, along with delivery of executed originals of same to Franchisor, Franchisee/Transferee must enter into a Guaranty Agreement, attached hereto as Attachment A, regardless of your ownership in the business entity.

### 13.2 CONSENT TO TRANSFER.

For all proposed transfers or assignments of this Agreement, Franchisor will not unreasonably withhold its consent to any transfer or assignment which is subject to the restrictions of this Article, provided however, Franchisor shall not be required to give its consent unless all of the following conditions are met prior to the effective date of assignment:

(i) Franchisee's written request for transfer of either a partial or whole interest in this Agreement or Franchisee's Franchised Business must be accompanied by an offer to Franchisor of a right of first refusal at the same price offered by any bona fide buyer. Franchisor shall have the right and option, exercisable within fifteen (15) days after receipt of such written notification, to send written notice to Franchisee or such person that Franchisor or its third-party designee, intends to purchase the interest which is proposed to be transferred, on the same terms and conditions offered by the third party. If Franchisor accepts such offer, the transfer/administrative fee due by Franchisee shall be waived by Franchisor. Any material change in the terms of an offer prior to closing shall cause it to be deemed a new offer, subject to the same right of first refusal by Franchisor, or its third-party designee, as in the case of the initial offer. Franchisor's failure to exercise such option shall not constitute a waiver of any other provision of this Agreement, including any of the requirements of this Article with respect to the proposed transfer.

(ii) All of Franchisee's accrued monetary obligations to Franchisor, Franchisor's affiliates, and Franchisor's designated/approved suppliers and vendors, are satisfied;

(iii) Franchisee must cure all existing defaults under this Agreement, or any other agreement between Franchisee and Franchisor, Franchisor's affiliates, Franchisor's designated/approved suppliers and vendors, within the period permitted for cure and have substantially complied with such agreements during their respective terms;

(iv) The Franchisee and its shareholders or members, if the Franchisee is a corporation or limited liability company, have executed a general release under seal, in a form prescribed by Franchisor, of any and all claims against Franchisor, its shareholders, directors, officers, and employees.

(v) The transferee/assignee has demonstrated to Franchisor's satisfaction that it meets all of Franchisor's then-current requirements for new transferees or for holders of an interest in a franchise, including, without limitation, possession of good moral character and reputation, satisfactory credit ratings, acceptable business qualifications, and the ability to fully comply with the terms of this Agreement.

(vi) The transferee/assignee, its manager or other employees responsible for the operation of the Franchised Business have satisfactorily completed Franchisor's training program.

(vii) The transferee/assignee executes such other documents as Franchisor may require, including the then-current standard franchise agreement form used by Franchisor (which may contain materially different terms than this Agreement);

(viii) Franchisee (and Franchisee's principals if Franchisee is a partnership, corporation or limited liability company), and the members of their respective families must comply with the post- termination provisions of this Agreement.

(ix) The transferee must obtain, within the time limits set by Franchisor, and maintain thereafter, all permits and licenses required for the operation of the Franchised Business.

(x) The transfer must be made in compliance with any laws that apply to the transfer, including state and federal laws governing the offer and sale of franchises.

(xi) To the extent required by the terms of any leases or other agreements, the lessors or other parties must have consented to the proposed transfer.

(xii) Franchisor is provided with binding letter of intent or an executed copy of the purchase agreement.

(xiii) Franchisor's approval of the transfer will not constitute a waiver of any claims Franchisor may have against the transferring party.

(xiv) Franchisor will have the right to disclose to any prospective transferee such revenue reports and other financial information concerning Franchisee and Franchisee's Franchised Business as Franchisee has supplied Franchisor hereunder.

(xv) Franchisee agrees to remodel and renovate, and modify existing improvements and replace existing equipment to meet Franchisor's then-current design standards pursuant to Article 6.4 of this Agreement by a date specified by Franchisor.

(xvi) The purchase price and terms of the proposed transfer, in Franchisor's sole discretion, are not so burdensome to the prospective transferee as to impair or materially threaten its future operation of the Franchised Business and performance under its franchise agreement;

(xvii) In any event, Franchisor may withhold or condition Franchisor's consent to any transfer as Franchisor deems appropriate based on the circumstances of the transfer or otherwise.

### 13.3 DEATH OR DISABILITY.

(i) *Representative's Right to Continue as Franchisee.* In the event of Franchisee's death, disability or incapacitation (or the death, disability or incapacitation of Franchisee's principals, partners or personal guarantors, if Franchisee is an entity), Franchisee's legally appointed agent, as applicable, will have the right to continue the operation of the Franchised Business as franchisee under this Agreement if: (i) within sixty (60) days from the date of death, disability or incapacity (the "60-Day Period"), such person has obtained Franchisor's prior written approval for assignment of the Agreement and has executed Franchisor's then-current franchise agreement for the unexpired term of the franchise, or has executed a personal guaranty to satisfy Franchisee's obligations to Franchisor and Franchisor's affiliates; and (ii) if such death, incapacity or disability is of the person managing the Franchised Business, such person successfully completes Franchisor's training program (which Franchisor will provide at Franchisor's then-current training fees). Such assignment by operation of law will not be deemed in violation of this Agreement, provided such heirs or legatees accept the conditions imposed by the Franchise Agreement and are acceptable to Franchisor.

(ii) *Franchised Business Operation During and After 60-Day Period.* Franchisor is under no obligation to operate the Franchised Business, or incur any obligation on behalf of any incapacitated franchisee, during or after the 60-Day Period. If necessary, Franchisee (or Franchisee's legal representative, as applicable) will appoint an acting interim manager approved by Franchisor to operate the Franchised Business during the 60-Day Period. In the event of Franchisee's death, disability, absence or otherwise, Franchisor has the right, but not the obligation, to operate Franchisee's Franchised Business on Franchisee's behalf and at Franchisee's expense for such period of time (and under such terms and conditions) as Franchisor determines, including paying out the assets and/or revenues of the Franchised Business to cover any or all past, current and/or future obligations of the Franchised Business (including any amounts owed to Franchisor and/or any affiliate) in such priorities as Franchisor determines from time-to-time in Franchisor's sole and absolute discretion. Franchisor may pay itself a management fee of twenty percent (20%) of Gross Sales, in addition to royalties and other amounts due under this Agreement, to reimburse Franchisor for Franchisor's management services and other costs, including, without limitation travel and lodging expenses ("Management Fee"). Franchisor may obtain approval of a court or arbitrator for any such arrangements, the attorneys' fees and other costs incurred in connection with obtaining such approval to be charged against the assets and/or revenues of Franchisee's Franchised Business. Franchisee (and/or Franchisee's estate) will indemnify Franchisor against any costs and/or liabilities incurred by it in connection with, or related in any way to, the operation (or otherwise) of Franchisee's Franchised Business.

## ARTICLE 14 TERM, DEFAULT AND TERMINATION.

### 14.1 GENERALLY.

Franchisor may terminate this Agreement as described in this Article.

#### 14.2 AUTOMATIC TERMINATION WITHOUT NOTICE TO FRANCHISEE.

This Agreement shall automatically terminate without notice or an opportunity to cure upon the occurrence of any of the following:

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

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

(iii) Franchisee purports to sell, transfer or otherwise dispose of Franchisee or any interest in the Franchised Business in violation of Article 13 hereof.

#### 14.3 TERMINATION WITH NOTICE AND WITHOUT OPPORTUNITY TO CURE.

Franchisee shall be in default and Franchisor may, at its option, upon written notice to Franchisee, terminate this Agreement and all rights granted by it, without affording Franchisee any opportunity to cure the default, upon the occurrence of any of the following events:

(i) Franchisee's knowingly or intentionally maintaining false books or records, or submitting any false report or payment to Franchisor or committing any other fraud or misrepresentation with respect to the Franchised Business;

(ii) Franchisee's conduct of the Franchised Business is so contrary to this Agreement, the System and the Manuals as to constitute an imminent danger to the public health, or selling regularly unauthorized products to the public after notice of default and continuing to sell such products whether or not Franchisee has cured the default after one or more notices;

(iii) The Franchisee's conviction of a felony, or a crime involving moral turpitude, or any other crime or offense that is reasonably likely, in the sole reasonable opinion of Franchisor, to adversely affect the System, the Proprietary Marks; the goodwill associated with the System, or its controlling or operating shareholders, principals or members, if Franchisee is an entity;

(iv) Franchisee's intentional disclosure or use of the contents of the Manuals, trade secrets or confidential or proprietary information provided to Franchisee by Franchisor in violation of this Agreement, excluding acts of independent employees or others not under Franchisee's control;

(v) If Franchisee repeatedly commits defaults under any provisions of this Agreement on two (2) or more occasions in any twelve (12) month period, even if Franchisee cured each such



prior default, and even if Franchisee would otherwise be given an opportunity to cure the current default;

(vi) Franchisee's, without Franchisor's consent, ceasing to operate or otherwise abandoning its Franchised Business or, upon destruction of its Franchised Business, failure to rebuild and resume operation within a reasonable time.

(vii) If Franchisee or Franchisee's principals make any intentional misrepresentation or omission in connection with Franchisee's franchise application, including but not limited to any intentional financial misrepresentation;

(viii) If Franchisee or Franchisee's principals breach any other agreement with Franchisor or any of Franchisor's affiliates, or threaten any breach of any such agreement, or any Lease for the Premises, and fail to cure such breach within any permitted period for cure;

(ix) If Franchisee violates the in- term restrictive covenant contained in Article 12.2;

(x) If a levy of writ of attachment or execution or any other lien is placed against Franchisee or any of Franchisee's principals or any of their assets which is not released or bonded against within sixty (60) days, unless such writ of attachment or execution or other lien is damaging the goodwill of the brand associated with the Franchised Business, then such attachment or lien must be released or bonded against within fifteen (15) days;

(xi) If Franchisee or any of Franchisee's principals become insolvent;

(xii) Franchisee misuses or makes unauthorized use of any Proprietary Software;

(xiii) Franchisee fails to maintain insurance or to repay Franchisor for insurance paid for by it, or otherwise fails to adhere to the requirements of Article 16;

(xiv) Franchisee fails, within fifteen (15) days after notification of non-compliance by federal, state or local government authorities to comply with any law or regulation applicable to the Franchised Business;

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

(xvi) Franchisee's misuse or unauthorized use of the Proprietary Marks or other material impairment of the goodwill associated therewith or Franchisor's rights therein; or

(xvii) If Franchisee fails to procure or maintain any licenses, certifications, or permits necessary for the operation of Franchisee's Franchised Business.

#### 14.4 DEFAULTS WITH OPPORTUNITY TO CURE.

Except as otherwise provided in this Agreement, Franchisee shall have ten (10) days after Franchisor's written notice of default within which to remedy Franchisee's failure to promptly pay

any monies owed to Franchisor, Franchisor's affiliates, or any third-party vendors, when due, or to submit the financial or other information required by Franchisor under this Agreement.

Unless a shorter cure period is designated for a default under this Article 14, Franchisor has the right to terminate this Agreement after providing notice and a thirty (30) day cure period if Franchisee fails to perform or comply with any one or more of the terms or conditions of this Agreement, the Manuals, or any ancillary agreements between Franchisee and Franchisor or Franchisor's affiliates. If any such default is not cured within that time period, or such longer time period as applicable by law may require, Franchisor may, at its option, terminate this Agreement and all rights granted by it, immediately upon receipt of a written notice of termination of this Agreement to Franchisee.

14.5 In the event of a default by Franchisee, all of Franchisor's costs and expenses arising from such default, including reasonable legal fees and reasonable costs of Franchisor's administrative employees shall be paid to Franchisor by Franchisee within thirty (30) days after cure.

Notwithstanding the dispute resolution provisions set forth in this Agreement, Franchisee and Franchisor acknowledge that certain defaults require immediate action to protect the appropriate party. Accordingly, Franchisor and Franchisee each hereby consent to and authorize the other party to apply to any court of competent jurisdiction for judicial assistance in restraining and enjoining violations of this Agreement. Both Franchisor and Franchisee are entitled to an injunction restraining Franchisor or Franchisee from committing or continuing to commit any default, breach or threatened breach of this Agreement, without showing or proving any actual damage sustained by the party seeking such relief.

14.6 Franchisor's delay in exercising or failing to exercise any right or remedy under this Agreement or Franchisor's acceptance of any late or partial payment due hereunder will not constitute a waiver of any of Franchisor's rights or remedies against Franchisee.

## **ARTICLE 15**

### **RIGHTS AND OBLIGATIONS UPON TERMINATION.**

15.1 Upon the termination of Franchisee's rights granted under this Agreement (whether during the Term or at its conclusion) the following shall apply.

(i) Upon termination of this Agreement by lapse of time or by default, Franchisee's right to use the Proprietary Marks, or any other mark distributed by Franchisor or insignia or slogan used in connection therewith, or any confusingly similar trademark, service mark, trade name or insignia shall cease. Franchisee shall immediately discontinue use of the Proprietary Marks, System, and color scheme. At Franchisor's sole and reasonable direction, Franchisee shall at its own cost, make cosmetic changes to Franchisee's Franchised Business from Franchisor's proprietary designs including, but not limited to, the removal of all Pinot's Palette identifying materials and distinctive Pinot's Palette cosmetic finishes, tile walls, interior wall coverings and colors, exterior finishes and colors, signage and Pinot's Palette counter equipment (which shall be deemed proprietary to Franchisor) from the Premises.

(ii) Unless otherwise provided for in this Agreement, Franchisor may retain all fees paid pursuant to this Agreement.

(iii) Any and all obligations of Franchisor to Franchisee under this Agreement shall immediately cease and terminate.

(iv) Any and all rights of Franchisee under this Agreement shall immediately cease and terminate.

(v) In no event shall a termination or expiration of this Agreement affect Franchisee's obligations to take or abstain from taking any action in accordance with this Agreement. The provisions of this Agreement which constitute post-termination covenants and agreements including the obligation of Franchisor and Franchisee to arbitrate any and all disputes shall survive the termination or expiration of this Agreement.

(vi) Franchisee acknowledges and agrees that rights in and to the Proprietary Marks and the use thereof shall be and remain the property of Franchisor.

(vii) If Franchisee has registered any of the Proprietary Marks or the name "Pinot's Palette" as part of Franchisee's assumed, fictitious or corporate name, Franchisee shall promptly amend such registration to delete the Proprietary Marks therefrom.

(viii) Franchisee shall immediately pay any and all amounts owing to Franchisor.

(ix) Franchisor shall have the option, exercisable by written notice within thirty (30) days after the termination of this Agreement, to take an assignment of all telephone numbers (and associated listings) for Franchisee's Franchised Business. Franchisee is not entitled to any compensation from Franchisor if Franchisor exercises this option.

(x) Franchisee shall immediately return to Franchisor all Manuals in Franchisee's Franchised Business.

(xi) Franchisee shall permit Franchisor to make a final inspection of Franchisee's financial records, books, and other accounting records within one (1) month of the effective date of termination, expiration, or transfer.

(xii) Franchisee shall take such action as will be necessary to amend or cancel any assumed name, business name or equivalent registration which contains any trade name or other mark Franchisor licensed to Franchisee and furnish Franchisor evidence satisfactory to Franchisor of compliance with this obligation within fifteen (15) days after the termination, expiration or transfer of this Agreement.

(xiii) Franchisee shall immediately cease to engage with any customers of the former Franchised Business.

(xiv) Franchisee shall execute from time to time any necessary papers, documents, and assurances to effectuate the intent of this Article 15.

(xv) Franchisee shall immediately vacate the Premises, and if Franchisor exercised Franchisor's rights pursuant to the Contingent Assignment of Lease, arrange for transfer of the Lease to Franchisor within fifteen (15) days of termination or expiration of this Agreement.

15.2 Upon the termination or expiration of this Agreement, Franchisor, or Franchisor's designee will also have the option, but not the obligation, to purchase any personal property used in connection with operation of Franchisee's Franchised Business by providing Franchisee written notice of Franchisor's election within sixty (60) days after such termination or expiration and by paying Franchisee the book value for such personal property within sixty (60) days of such notice. For purposes of this paragraph, "book value" means the amount Franchisee actually paid for the personal property less depreciation (calculated by using the straight-line depreciation method on a five (5) year depreciation schedule irrespective of the depreciation method or schedule Franchisee uses for accounting purposes). If Franchisor exercises its option to purchase, pending the closing of such purchase, Franchisor has the right to appoint a manager to maintain operation of the Franchised Business, or Franchisor may require that Franchisee close the Franchised Business during such period without removing any assets. Franchisee is required to maintain in force all insurance policies required under this Agreement until the date of such closing. Franchisor has the unrestricted right to assign this option to purchase the Franchised Business. Franchisor will be entitled to all customary warranties and representations in connection with Franchisor's purchase of Franchisee's property, including, without limitation, representations and warranties as to ownership and condition of and title to the property; liens and encumbrances on the property; validity of contracts and agreements; and liabilities affecting the property, contingent or otherwise.

15.3 In the event of termination for any default by Franchisee, Franchisee will promptly pay to Franchisor all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of the default, which obligation will create and remain, until paid in full, a lien in favor of Franchisor against any and all of Franchisee's personal property, furnishings, equipment, signs, fixtures and inventory related to the operation of the Franchised Business.

## **ARTICLE 16 INSURANCE.**

16.1 Franchisee shall obtain and maintain insurance coverages as specified by Franchisor herein or from time to time in the Manuals or otherwise in writing. Franchisee shall in each instance designate Franchisor as an additional named insured, with an insurance company approved by Franchisor, which approval shall not be unreasonably withheld as follows:

(i) Comprehensive general liability insurance (including products liability coverage, sexual harassment coverage, host liquor liability coverage, and off-premises events coverage) with coverage of at least \$1,000,000 per occurrence, and \$2,000,000 aggregate with full replacement value of business contents property coverage.

(ii) Business interruption insurance, including Premises rentals and additional rentals for twelve (12) months after casualty, in amounts equal to at least \$100,000. The business interruption insurance shall include an endorsement providing coverage for off-premise power failure or utility interruption caused by any covered cause of loss as stated in the policy.

(iii) Workers' compensation insurance as required by applicable law.

(iv) All risk coverage insurance on all property insuring the Franchised Business premises and contents, including, without limitation, the construction of improvements, all supplies, inventory, fixtures, and equipment and personal property, containing a replacement value endorsement in an amount equal to the full replacement value.

(v) Automobile liability insurance, and property damage liability, including owned, non-owned, and hired vehicle coverage, with at least One Million Dollars (\$1,000,000) combined single limit, and Two Million Dollars (\$2,000,000) general aggregate limit. If Franchisee conducts an Offsite Event for Authorized Products and/or Services, Franchisee shall obtain separate non-owned auto coverage insurance and general liability insurance coverage. Franchisee may not directly or indirectly conduct such Offsite Event(s) until such insurance is obtained and Franchisor is named as an additional insured.

16.2 In the event of damage to the Franchised Business covered by insurance, the proceeds of any such insurance shall be used to restore the Franchised Business to its original condition as soon as possible, unless such restoration is prohibited by the Lease or Franchisor has otherwise consented to in writing. Upon obtaining such insurance, Franchisee shall promptly provide to Franchisor proof of such insurance coverage and or at such other times upon the request of Franchisor.

16.3 Franchisee shall, prior to opening its Franchised Business, file with Franchisor certificates of such insurance and shall promptly pay all premiums on the policies as they become due. In addition, the policies shall contain a provision requiring 30 days prior written notice to Franchisor of any proposed cancellation, modification, or termination of insurance. If Franchisee fails to obtain and maintain the required insurance, Franchisor may, at its option, in addition to any other rights it may have, procure such insurance for Franchisee without notice and Franchisee shall pay, upon demand, the premiums and Franchisor's costs in taking such action. Franchisee must provide Franchisor with copies of any insurance claims or insurance cancellations within twenty-four (24) hours. Franchisee has one (1) business day to cure any lapses in insurance coverage. Franchisee must submit a certification of insurance that demonstrates compliance with this Article. Franchisor has the right to increase or otherwise modify the minimum insurance requirements upon thirty (30) days prior written notice to Franchisee, and Franchisee shall comply with any such modification within the time specified in said notice. All insurance policies must contain a waiver by the insurance carrier of all subrogation rights against Franchisor.

16.4 Franchisee agrees to provide Franchisor with proof of coverage on demand. Franchisee agrees to obtain these insurance policies from insurance carriers that are rated "A-VIII" or better by Alfred M. Best & Company, Inc. and that are licensed and admitted in the state in which Franchisee operates its Franchised Business.

16.5 Franchisee agrees to carry such insurance as may be required by the Lease of the Premises or by any of Franchisee's lenders or equipment lessors.

16.6 If Franchisee fails to comply with the minimum insurance requirements set forth herein, Franchisor has the right to obtain such insurance and keep same in force and effect and

Franchisee shall pay Franchisor, on demand, the premium cost thereof and administrative costs equal to 18% of the cost of the annual premium in connection with Franchisor's obtaining the insurance.

## **ARTICLE 17**

### **SOLE OBLIGATIONS OF FRANCHISOR.**

17.1 Franchisor agrees to provide the following services to Franchisee:

(i) To reasonably assist Franchisee with any operational or financial problem encountered by Franchisee, after written notice to Franchisor of Franchisee's problem and the type of assistance needed. Franchisor may provide any assistance at Franchisor's designated office or where Franchisee is located at a mutually agreed upon time.

(ii) At Franchisor's election, to reasonably administer the advertising program. Franchisee acknowledges that pursuant to the advice of advertising and marketing professionals, advertising collections will at times be aggregated until sufficient revenues are accumulated to commence or complete an advertising or marketing program. Reasonable administration shall be deemed to be good faith attempts to utilize the advertising funds in accordance with the advice and suggestions of the advertising and marketing staff or outside advertising and or marketing companies, consultants or other entities retained for such purpose.

(iii) To supply to Franchisee a set of standard décor and layout plans and to thereafter approve the initial décor and layout of Franchisee's Franchised Business, upon Franchisee meeting all criteria with regard to same.

(iv) To loan or make available online to Franchisee a copy of its Manuals, which contain mandatory and suggested specifications, standards and procedures produced by Franchisor. These Manuals are confidential and remain Franchisor's property.

(v) To train Franchisee in accordance with this Agreement, and to provide Franchisee with assistance in opening the Franchised Business.

(vi) To maintain and update Franchisor's website in Franchisor's sole discretion.

(vii) To provide maintenance to the ADMIN System and other software and information technology systems and services to maintain and enhance the System.

(viii) To notify Franchisee of changes to Franchisor's operating system that affect Franchisee.

(ix) To perform any other obligations specified in this Agreement.

17.2 Franchisor shall not be held in breach of this Agreement until (i) Franchisor has received notice of any alleged breach from Franchisee; and (ii) Franchisor has failed to remedy the breach within a reasonable period of time after such notice, which period shall not be less than sixty (60) days.

17.3 Franchisee acknowledges and agrees that any designee, employee, or agent of Franchisor may perform any duty or obligation imposed on Franchisor by the Agreement, as Franchisor may direct.

## **ARTICLE 18**

### **RELATIONSHIP OF PARTIES, INDEMNIFICATION.**

18.1 Franchisee is an independent contractor responsible for full control over the internal management and daily operation of Franchisee's Franchised Business, and neither party to this Agreement is the agent, principal, partner, employee, employer or joint venture partner of the other party. Franchisee may not act or represent itself, directly or by implication, as Franchisor's agent, partner, employee or joint venture partner, and Franchisee may not incur any obligation on Franchisor's behalf or in Franchisor's name. All stationery, business cards and contractual agreements entered into by Franchisee must contain Franchisee's corporate or fictitious name and a conspicuously displayed notice in the place Franchisor designates, stating: "Franchisee operates Franchisee's Franchised Business as an independently owned and operated franchise of Pinot's Palette," or such other language as Franchisor designates in writing. Nothing in this Agreement authorizes Franchisee to make any contract, agreement, warranty, or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name; and Franchisor will in no event assume liability for, or be deemed liable hereunder as a result of, any such action; nor will Franchisor be liable by reason of any of Franchisee's acts or omissions in the operation of the Franchised Business or for any claim or judgment arising therefrom against Franchisee or Franchisor.

18.2 Franchisee agrees to indemnify, defend and hold Franchisor, Franchisor's affiliates and their respective shareholders, directors, officers, employees, agents, successors and assignees ("Indemnitees") harmless against and to reimburse them for all claims, obligations, liabilities and damages ("Claims"), including any and all taxes, directly or indirectly arising out of, in whole or in part: (a) the operation of Franchisee's Franchised Business, including the use, condition, or construction, equipping, decorating, maintenance or operation of the Franchised Business, the sale or delivery of painting classes; (b) the use of the Proprietary Marks; (c) the transfer of any interest in this Agreement or Franchisee's Franchised Business in any manner not in accordance with this Agreement; (d) the infringement, alleged infringement, or any other violation or alleged violation by Franchisee or any of Franchisee's principals of any patent, mark or copyright or other proprietary right owned or controlled by third parties; or (e) libel, slander or any other form of defamation of Franchisor, the System or any franchisee or developer operating under the System, by Franchisee or by any of Franchisee's principals. For purposes of this indemnification, "Claims" will mean and include all obligations, actual, consequential, punitive and other damages, and costs reasonably incurred in the defense of any action, including attorneys', attorney assistants' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether or not such claims exceed the amount of insurance coverage available through Franchisee to Franchisor. Franchisor will have the right to defend any such claim against it in such manner as Franchisor deems appropriate or desirable in Franchisor's sole discretion. Such an undertaking by Franchisor will, in no manner or form, diminish Franchisee's and each of Franchisee's principals' obligations to indemnify the Indemnitees and to hold them harmless. This indemnity will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. Franchisee's indemnification

obligations described in this Article 18.2 will not apply if the loss, liability, damage or cost is solely due to the Franchisor's breach of this Agreement, gross negligence or willful misconduct.

## **ARTICLE 19**

### **DISPUTE RESOLUTION: ARBITRATION AND LEGAL PROCEEDINGS.**

19.1 This Agreement will be governed by and construed in accordance with the laws of the State of Louisiana (without reference to its conflict of laws principals).

19.2 Franchisee must first bring any claim or dispute between Franchisee and Franchisor to Franchisor's management, after providing notice as set forth in Article 19.6 below. Franchisee must exhaust this internal dispute resolution procedure before Franchisee may bring Franchisee's dispute before a third party. This agreement to first attempt resolution of disputes internally will survive termination or expiration of this Agreement.

19.3 At Franchisor's option, all claims or disputes between Franchisee and Franchisor or its affiliates arising out of, or in any way relating to, this Agreement or any other agreement by and between Franchisee and Franchisor or its affiliates, or any of the parties' respective rights and obligations arising from such agreement, which are not first resolved through the internal dispute resolution procedure set forth in Article 19.2 above, must be submitted first to mediation, in the city of Franchisor's principal place of business under the auspices of the American Arbitration Association ("AAA"), in accordance with AAA's Commercial Mediation Rules then in effect. Before commencing any legal action against Franchisor or its affiliates with respect to any such claim or dispute, Franchisee must submit a notice to Franchisor, which specifies, in detail, the precise nature and grounds of such claim or dispute. Franchisor will have a period of thirty (30) days following receipt of such notice within which to notify Franchisee as to whether Franchisor or its affiliates elects to exercise its option to submit such claim or dispute to mediation. Franchisee may not commence any action against Franchisor or its affiliates in respect to any such claim or dispute in any court unless Franchisor fails to exercise its option to submit such claim or dispute to mediation, or such mediation proceedings have been terminated either: (i) as the result of a written declaration of the mediator(s) that further mediation efforts are not worthwhile; or (ii) as a result of a written declaration by Franchisor. Franchisor's rights to mediation, as set forth herein, may be specifically enforced by Franchisor. Each party will bear its own cost of mediation, and Franchisor and Franchisee will share mediation costs equally. This agreement to mediate will survive any termination or expiration of this Agreement.

(i) The parties will not be required to first attempt to mediate a controversy, dispute, or claim through mediation as set forth in this Article 19.3 if such controversy, dispute, or claim concerns an allegation that a party has violated (or threatens to violate, or poses an imminent risk of violating) any federally protected intellectual property rights in the Proprietary Marks, the System, or in any Confidential Information, or any of the restrictive covenants contained in this Agreement.

19.4 Nothing contained in this Agreement will prevent Franchisor from applying to and obtaining from any court of competent jurisdiction a preliminary injunction and/or other emergency relief available to safeguard and protect Franchisor's interests. The parties expressly agree to the jurisdiction and venue of any court of general jurisdiction in Mandeville, Louisiana



and the jurisdiction and venue of the United States District Court presiding over Mandeville, Louisiana. Franchisee hereby irrevocably consents to the personal jurisdiction of the state and federal courts of Louisiana set forth above.

19.5 Franchisor's officers each have the authority to specifically enforce the right to mediate/arbitrate claims asserted against such person(s) by Franchisee.

19.6 As a condition precedent to commencing an action for damages or for violation or breach of this Agreement, Franchisee must notify Franchisor within ninety (90) days after the occurrence of the violation or breach, and failure to timely give such notice will preclude any claim for damages.

19.7 Franchisee is prohibited from withholding all or any part of any payment to Franchisor or any of its affiliates on the grounds of Franchisor's alleged nonperformance or as an offset against any amount Franchisor or any of Franchisor's affiliates allegedly may owe Franchisee under this Agreement or any related agreements.

19.8 Nothing in this Agreement will prevent Franchisor from seeking to obtain injunctive relief, without posting a bond, against threatened conduct that will cause Franchisor loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary and permanent injunctions. If injunctive relief is granted, Franchisee's only remedy will be the court's dissolution of the injunctive relief. If the injunctive relief was wrongfully issued, Franchisee expressly waives all claims for damages Franchisee incurred as a result of the wrongful issuance.

19.9 Each party agrees that no cause of action arising out of or under this Agreement may be maintained by one party against the other unless brought before the expiration of one (1) year after the act, transaction or occurrence upon which such action is based or the expiration of one (1) year after the non-breaching party becomes aware of facts or circumstances reasonably indicating that the non-breaching party may have a claim against the breaching party hereunder, whichever occurs later, and that any action not brought within this period will be barred as a claim, counterclaim, defense, or set-off.

19.10 Franchisee hereby waives to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, special or consequential damages (including, without limitation, lost profits) against Franchisor arising out of any cause whatsoever (whether such cause be based in contract, negligence, strict liability, other tort or otherwise) and agrees that in the event of a dispute, that Franchisee's recovery is limited to actual damages. If any other term of this Agreement is found or determined to be unconscionable or unenforceable for any reason, the foregoing provisions will continue in full force and effect, including, without limitation, the waiver of any right to claim any consequential damages.

19.11 The parties hereby agree to waive trial by jury in any action, proceeding or counterclaim, whether at law or equity, regardless of which party brings suit. This waiver will apply to any matter whatsoever between the parties hereto which arises out of or is related in any way to this Agreement, the performance of either party, and/or Franchisee's purchase from Franchisor of the franchise and/or any goods or services. The parties agree that all proceedings

arising out of or related to this Agreement, or the sale of the Franchised Business, will be conducted on an individual, not a class-wide basis, and that any proceeding between Franchisee, Franchisee's guarantors and Franchisor or its affiliates/officers/employees may not be consolidated with any other proceeding between Franchisor and any other third party.

19.12 Franchisee will pay all costs, expenses and interest, including reasonable attorney's fees, that Franchisor incurs in any action brought to enforce any provision of this Agreement or to enjoin any violation of this Agreement.

## **ARTICLE 20**

### **EXECUTION, REQUESTS, CONSENTS, WAIVERS, FORMS OF AGREEMENT, AMENDMENT.**

20.1 This Agreement takes effect upon its execution by both Franchisee and Franchisor, and shall be governed by and construed in accordance with the laws of the State of Louisiana. Franchisee agrees that Franchisor is not required to act uniformly with respect to any request for waivers, requests and consents by its franchisees as each request will be considered on a case by case basis, and nothing shall be construed to require Franchisor to grant any such request. Any waiver granted by Franchisor shall be without prejudice to any other rights Franchisor may have, will be subject to continuing review by Franchisor, and may be revoked, in Franchisor's sole discretion, at any time and for any reason, effective upon ten (10) days prior written notice to Franchisee. Franchisor makes no warranties or guarantees upon which Franchisee may rely, and assumes no liability or obligation to Franchisee by providing any waiver, approval, consent, assistance, or suggestion to Franchisee in connection with this Agreement, or by reason of any neglect, delay, or denial of any request.

20.2 Unless otherwise provided, whenever this Agreement requires Franchisee to obtain Franchisor's prior written consent, Franchisee shall timely address its written request for such consent in to Franchisor. Neither Franchisee nor Franchisor shall be deemed to have waived or impaired any right, power or option reserved by this Agreement, including, without limitation, its right to demand strict compliance with every term, condition, and covenant herein, or to declare any breach thereof a default and to terminate this Agreement prior to the expiration of its term, by virtue of any custom or practice of the parties at variance with the terms hereof; by any forbearance, delay, failure, or omission to exercise any right, power, or option, whether of the same, similar, or different nature, against Franchisor, Franchisee, or any other Franchisee; or by the acceptance of any payments due after any breach of this Agreement.

20.3 Franchisee must from time to time, subsequent to the date first set forth above, at Franchisor's request and without further consideration, execute and deliver such other documentation or agreement and take such other action as Franchisor reasonably may require in order to effectuate the transactions contemplated herein.

20.4 Neither Franchisee nor Franchisor or Franchisor's affiliates will be liable for loss or damage or deemed to be in breach of this Agreement or any related agreement if its failure to perform its obligations is not the fault nor within the reasonable control of the person due to perform but results from, without limitation, fire, flood, natural disasters, acts of God, governmental acts or orders, or civil disorders. Any delay resulting from any such cause will

extend the time of performance for the period of such delay not to exceed thirty (30) days or for such other reasonable period of time as the parties agree in writing or will excuse performance, if the parties agree in writing.

20.5 Franchisee certifies that neither Franchisee, nor Franchisee's owners, principals, employees or anyone associated with Franchisee is listed in the Annex to Executive Order 13224 (the "Annex"). Franchisee agrees not to hire or have any dealings with a person listed in the Annex. Franchisee agrees to comply with and/or assist Franchisor to the fullest extent possible in Franchisor's efforts to comply with the Anti-Terrorism Laws (as defined below). In connection with such compliance, Franchisee certifies, represents, and warrants that none of Franchisee's property or interests are subject to being "blocked" under any of the Anti-Terrorism Laws and that Franchisee and Franchisee's owners or principals are not otherwise in violation of any of the Anti-Terrorism Laws. Franchisee is solely responsible for ascertaining what actions must be taken by Franchisee to comply with all such Anti-Terrorism Laws. Any misrepresentation by Franchisee under this Article or any violation of the Anti-Terrorism Laws by Franchisee, Franchisee's owners, principals or employees will constitute grounds for immediate termination, upon notice of this Agreement. As used herein, "Anti-Terrorism Laws" means Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state and local laws, rules, regulations, and any other requirements of any Governmental Authority (including the United States Department of Treasury Office of Foreign Assets Control) addressing or in any way relating to terrorist acts and acts of war.

20.6 No warranty or representation is made by the Franchisor that for System franchisees all franchise agreements heretofore or hereafter issued by Franchisor do or will contain terms substantially similar to those contained in this Agreement. Further, Franchisee recognizes and agrees that Franchisor may, in its reasonable business judgment due to local business conditions or otherwise, waive or modify comparable provisions of other franchise agreements heretofore or hereafter granted to other System franchise owners in a non-uniform manner.

20.7 Except as provided in Article 21.2 and Franchisor's right to unilaterally modify the System and the Manuals, no amendment, change, or variance from this Agreement shall be binding upon either Franchisor or Franchisee unless set forth in writing and signed by both parties.

## **ARTICLE 21**

### **MISCELLANEOUS PROVISIONS.**

21.1 This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

21.2 This Agreement contains the entire agreement of the parties and cannot be modified, changed or amended except in writing and signed by the parties.

21.3 There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement. This Agreement is not subject to or conditioned upon the obtaining of a Premises for Franchisee's Franchised Business. Notwithstanding the foregoing, nothing in this or any related agreement is

intended to disclaim the representations the Franchisor made in the Franchise Disclosure Document it provided to Franchisee. This Article shall not be read to waive any rights Franchisee may have under any state statute or regulation.

21.4 Each article, paragraph, subparagraph, term, and condition of this Agreement shall be considered severable. If for any reason, any portion of this Agreement is determined to be invalid or in conflict with any law or rule in a final ruling issued by any court, agency, or tribunal with valid jurisdiction in a proceeding to which Franchisor is a party, that ruling shall not affect the validity or enforceability of any other portion of this Agreement.

21.5 All notices to Franchisor and Franchisee required by the terms of this Agreement, unless otherwise provided, shall be deemed to have occurred and been accepted if sent by personal delivery, a nationally recognized overnight delivery service with confirmation of receipt, or by certified or registered mail return receipt requested, addressed to Franchisor at the address first stated above in this Agreement, or at such other address as Franchisor designates in writing. All notices to Franchisee required by the terms of this Agreement shall be addressed to Franchisee at the Premises, or at such other or additional address as Franchisee designates specifically for notice in writing. If Franchisor or Franchisee refuses acceptance of any notice, acceptance shall be deemed to have occurred forty-eight (48) hours after rejection of such notice.

## **ARTICLE 22**

### **REPRESENTATIONS AND ACKNOWLEDGMENTS**

22.1 Franchisee acknowledges that Franchisee has conducted an independent investigation of the Franchised Business contemplated by this Agreement and recognizes that it involves business risks that make the success of the venture largely dependent upon Franchisee's business abilities and efforts.

22.2 Franchisee understands that Franchisor and any of Franchisor's representatives and/or agents with whom Franchisee has met have not made and are not making any guarantees as to the extent of Franchisee's success in Franchisee's Franchised Business, and have not and are not in any way representing or promising any specific amounts of earnings or profits in association with Franchisee's Franchised Business.

22.3 Franchisee acknowledges that this Agreement and Franchisor's Franchise Disclosure Document have been in Franchisee's possession for at least fourteen (14) calendar days before Franchisee signed this Agreement or paid any monies to Franchisor or an affiliate and that any material changes to this Agreement were in writing in this Agreement for at least seven (7) calendar days before Franchisee signed this Agreement.

22.4 No salesperson, representative or other person has the authority to bind or obligate Franchisor except Franchisor's authorized officer by a written document. Franchisee acknowledges that no representations, promises, inducements, guarantees or warranties of any kind were made by Franchisor or on Franchisor's behalf that have led Franchisee to enter into this Agreement. Franchisee understands that whether Franchisee succeeds as a Franchisee is dependent upon Franchisee's efforts, business judgments, the performance of Franchisee's employees, market conditions and variable factors beyond Franchisor's control or influence. Franchisee

further understands that some Franchisees are more or less successful than other Franchisees and that Franchisor has made no representation that Franchisee will do as well as any other Franchisee.

22.5 Franchisee has had the opportunity and adequate time to independently investigate, analyze, and construe both the franchise being offered hereunder and the terms and provisions of this Agreement and Franchisor's Franchise Disclosure Document utilizing the services of legal counsel, accountants, and other advisors (if Franchisee so elects).

22.6 Any and all applications, financial statements, and representations submitted to Franchisor by Franchisee, whether oral or in writing, were complete and accurate when submitted and are complete and accurate as of the date of execution of this Agreement unless the same has been otherwise amended in writing. Franchisee states that he/she is not (a) presently involved in any business activity that could be considered competitive in nature to the System, unless heretofore disclosed to Franchisor in writing, or (b) violating any existing contractual obligations by entering into this Agreement.

22.7 Franchisee's signature to this Agreement has not been induced by any representation inconsistent with the terms of this Agreement or inconsistent with the Franchise Disclosure Document given to Franchisee by Franchisor.

22.8 Franchisee agrees and acknowledges that it is solely responsible for ensuring that: (i) it acquires and maintains all business licenses, permits and approvals that are specifically required to offer and provide services at and operate the Franchised Business at the Premises and within the Protected Territory; and (ii) the Franchised Business is otherwise operated in full compliance with all federal, state and local laws and regulations where the Franchisee is located.

22.9 Franchisee agrees and acknowledges that: (i) Franchisor may enter into franchise agreements with other franchisees that may contain provisions, conditions, and obligations that differ from those contained in this Agreement, including without limitation, franchise agreements for the operation of a Franchised Business; and (ii) the existence of different forms of agreement and the fact that Franchisor and other franchisees may have different rights and obligations does not affect the parties' duty to comply with the terms of this Agreement.

22.10 Each of the undersigned parties warrants that it has the full authority to sign and execute this Agreement. If Franchisee is a legal entity, the person executing this Agreement on behalf of such legal entity warrants to Franchisor, both individually and in his/her capacity as a principal owner or officer that all of the principals or owners of the legal entity, as applicable, have read and approved this Agreement, including any restrictions which this Agreement places upon rights to transfer their interest in the legal entity.

*[SIGNATURES ARE ON FOLLOWING PAGE]*

This Pinot's Palette Franchise Agreement is entered into as of the Effective Date set forth above.

**WITNESSES:**

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

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

**FRANCHISEE:**

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

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

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

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

**FRANCHISOR: PAINTING WITH A  
TWIST, L.L.C., DBA, PINOT'S PALETTE**

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

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

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

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

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

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

## ATTACHMENT A

### GUARANTY AGREEMENT

IN CONSIDERATION of the acceptance by Painting with a Twist, L.L.C., dba, Pinot's Palette, a Louisiana limited liability company, having a principal business address of P.O. Box 1710 Mandeville, LA 70470 (hereinafter called "Franchisor") of a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_, and executed by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ (hereinafter called "Franchisee"), and for other good and valuable consideration, I, we, and each of us solidarily, jointly and severally, absolutely and unconditionally guarantee to Franchisor, (i) the payment and satisfaction of each and every claim, demand, default, liability, indebtedness, right or cause of action of hereafter existing, due, or to become due, or held by Franchisor, its subsidiaries, affiliates or divisions, hereafter existing, due, or to become due, or held by Franchisor, its subsidiaries, affiliates or divisions, together with any interest as it may accrue and if this continuing guaranty is placed with an attorney or if attorney's fees, together with any and all expenses incurred by Franchisor or its affiliates, subsidiaries or divisions; and (ii) the timely performance to each term, covenant, and obligation of the Franchisee set forth in the Franchise Agreement. The undersigned specifically acknowledges that Franchisor is allowing the undersigned to enter into this Guaranty Agreement instead of *individually* executing the Franchise Agreement as a matter of convenience to the undersigned, and the undersigned agrees to be bound by the provisions of the Franchise Agreement relating to non-competition and confidentiality as if those provisions were fully set forth herein. This is a continuing guaranty which shall apply to the Franchise Agreement and any subsequent amendments or modifications thereof, and such modifications to amendments shall be conclusively presumed to be covered by this guaranty without further notice to or acceptance by the undersigned.

The undersigned acknowledges and agrees that possession of this Guaranty Agreement by Franchisor constitutes true and correct executions and actual and proper delivery of same to Franchisor and the undersigned waives notice of acceptance of the guaranty and of any liability to which it applies or may apply, and also waives presentment and demand for payment thereof, notice of dishonor or non-payment thereof, collection thereof including any notice of default in payment thereof of other notice to, or demand of payment therefore on, any party. Payment by the undersigned shall be made at the office of Franchisor in Mandeville, Louisiana, or any other such location as Franchisor may designate from time to time.

Franchisor may, at its option, at any time without the consent of or notice to the undersigned without incurring responsibility to the undersigned, (1) change the manner or frequency of payment or change or extend the time of payment of, renew, or alter any liability of the Franchisee under the Franchise Agreement in accordance with the Franchise Agreement or any liabilities incurred directly or indirectly hereunder, and the guaranty herein made shall apply to the liabilities of the Franchisee, so changed, extended, renewed or altered; (2) exercise or refrain from exercising any rights against Franchisee or others, or otherwise act or refrain from actions; (3) settle or compromise any liabilities hereby guaranteed or hereby incurred, and may subordinate the payment of all or any part of such liabilities to the payment of any liabilities which may be due to Franchisor or others; and (4) apply any sums paid to any liability or liabilities of Franchisee to Franchisor regardless of what liability or liabilities of Franchisee to Franchisor remain unpaid.

The confidentiality obligations, non-competition covenants, and dispute resolution procedures of the Franchise Agreement are applicable under this Guaranty Agreement as if fully restated herein.

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

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



## ATTACHMENT B

### CONFIDENTIALITY AGREEMENT

\_\_\_\_\_ (hereinafter known as “Undersigned”) has expressed an interest in receiving certain information from Painting with a Twist, L.L.C., dba, Pinot’s Palette (“Pinot’s Palette”) for the purpose of becoming a(n) owner/officer/director/employee of \_\_\_\_\_ (“Franchisee”). In order to do so, Undersigned shall require access to Pinot’s Palette’s confidential and proprietary information and processes, (the “information”). As a condition to Pinot’s Palette’s delivery of the information to Undersigned, Pinot’s Palette is requiring that Undersigned agree to the terms set forth in this agreement (“Agreement”).

In consideration of the promises and mutual obligations and undertaking expressed herein, Pinot’s Palette and Undersigned hereby agree as follows:

Undersigned agrees that there will be specialized training and/or additional “confidential information” disclosed, including but not limited to proprietary information concerning customer and supplier lists, product and equipment specifications, and operational, sales, promotional & marketing methods, plans, techniques and other trade secrets. Such confidential information is acknowledged to be special and valuable to Pinot’s Palette.

Undersigned acknowledges that all Confidential Information shall never be disclosed to anyone or any entity, directly or indirectly, without the express written authorization of Pinot’s Palette. Undersigned acknowledges that all Confidential Information shall be owned and shall continue to be owned by Pinot’s Palette.

Undersigned acknowledges that all Confidential Information shall never ever be duplicated nor copied in any manner whatsoever without the express written permission from Pinot’s Palette. Undersigned acknowledges that, upon instruction by Pinot’s Palette, all Confidential Information shall be returned and/or destroyed by Undersigned upon the termination of Undersigned’s relationship with Pinot’s Palette.

Undersigned agrees that it shall (i) maintain the information confidential in the same manner as its own propriety information is maintained, (ii) not disclose the information to any third party other than officers, directors, and employees of its affiliates and those or other consultants (together referred to as Undersigned’s “Representatives”) engaged by Undersigned to evaluate the feasibility of the use of the Confidential Information, without prior written consent from Pinot’s Palette after providing information to Pinot’s Palette as to who and why such other persons need to be provided access to such information, (iii) limit access to the information to a limited number of its employees and representatives, which employees and representatives shall be informed of this Agreement and Undersigned shall be responsible for their compliance herewith to the extent they are acting within their scope of employment and engagement, respectively, and (iv) return all information furnished or made available to Undersigned by Pinot’s Palette in the event Pinot’s Palette and Undersigned elect not to pursue future business with each other.

Should Undersigned or its representatives, in the reasonable opinion of Pinot’s Palette’s counsel, be required by applicable law or regulation to disclose the information, Undersigned may do so

only to comply with such law or regulation. Undersigned shall notify Pinot's Palette before disclosing such information to allow Pinot's Palette to pursue a protective order.

Undersigned's obligation to maintain the Confidential Information gained or learned in confidence shall continue for term of three (3) years from the date of the most recent disclosure.

Undersigned acknowledges and agrees that the Confidential Information is of vital importance to Pinot's Palette, and that its unauthorized disclosure, would cause Pinot's Palette irreparable injury, and that monetary damages would not be sufficient to compensate Pinot's Palette for any breach of this Agreement by Undersigned. In the event of a breach of this Agreement by Undersigned, Pinot's Palette shall be entitled to injunctive or other equitable non-monetary relief, without the necessity of showing any evidence of actual monetary loss. However, nothing herein shall be construed as prohibiting Pinot's Palette from pursuing any other remedies, including monetary remedies, available to it for any such breach by Undersigned and/or its representatives. Such remedy shall not apply to information that was already known to Undersigned or was otherwise generally available to the public.

In the event of any litigation or dispute related hereto, it is agreed that venue and jurisdiction shall be the 22nd Judicial District Court for the Parish of St. Tammany, State of Louisiana. In the event that any portion of this Agreement is found to be unenforceable or invalid for any reason, then that portion shall be deemed severable and that the remainder shall remain in full force and effect.

Undersigned further agrees that in the event of a breach of this Agreement by Undersigned, Undersigned additionally agrees to be liable for all costs related to the breach of this Agreement, including reasonable attorney fees, court costs and all other related costs.

The undersigned representative warrants that he/she has the requisite authority to sign this Confidentiality Agreement and to bind any corporate, partnership joint venture, or limited liability entity to all terms and conditions herein.

ACCEPTED AND AGREED TO THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

---

By:  
Title:

**ATTACHMENT C**

**ACH SERVICE AGREEMENT**

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

ABA#: \_\_\_\_\_

Acct. No.: \_\_\_\_\_

Acct. Name: \_\_\_\_\_

Effective as of the date of the signature below, \_\_\_\_\_  
("Franchisee") hereby authorizes Painting with a Twist, L.L.C., dba, Pinot's Palette ("Company")  
or its designee to withdraw funds from the above- referenced bank account, electronically or  
otherwise, to make the following payments to Company under the Franchise Agreement for the  
franchise located at \_\_\_\_\_:  
(1) all Royalties, (2) all contributions to the System Advertising Fund, and (3) any other amounts  
owed to the Company or the Company's affiliates under this Franchise Agreement. Such  
withdrawals will occur on a weekly basis, or on such other date or schedule as Company will  
specify in writing. Company is also authorized to deposit funds into the above-referenced account,  
electronically or otherwise. This authorization will remain in full force and effect until terminated  
in writing by Company. Franchisee will provide Company, in conjunction with this authorization,  
a voided check from the above- referenced account.

AGREED:

FRANCHISEE

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

Print name: \_\_\_\_\_

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

## ATTACHMENT D

### SUCCESSOR ADDENDUM

This Successor Addendum to the Franchise Agreement ("**Successor Addendum**") is made effective on \_\_\_\_\_ (the "Effective Date") between, **Painting with a Twist, L.L.C., dba, Pinot's Palette**, a Louisiana limited liability company, whose principal business and mailing address is P.O. Box 1710, Mandeville, Louisiana 70470 ("**Franchisor**") and \_\_\_\_\_, with a mailing address of \_\_\_\_\_ ("**Franchisee**").

### BACKGROUND

A. Franchisor and Franchisee entered into that certain franchise agreement dated \_\_\_\_\_ ("**Original Franchise Agreement**") pursuant to which Franchisor granted Franchisee the right to operate a Pinot's Palette® franchised business located at \_\_\_\_\_ ("**Franchised Business**").

B. Pursuant to the rights granted in the Original Franchise Agreement, Franchisee is willing to enter into a new franchise agreement with Franchisor on the terms and conditions of Franchisor's current form of franchise agreement, as modified by this Successor Addendum ("**Successor Franchise Agreement**"), to continue Franchisee's rights to operate the Franchised Business.

C. Franchisee has had a full and adequate opportunity to be advised thoroughly of the terms and conditions of the Successor Franchise Agreement, including this Successor Addendum, by legal counsel or other advisors, and has had sufficient opportunity to evaluate and investigate the System, the financial investment requirements and the business risks associated with operating the Franchised Business.

D. Franchisor and Franchisee desire to amend the terms of the Successor Franchise Agreement by incorporating the terms of this Successor Addendum into the Successor Franchise Agreement

### AGREEMENT

1. Definitions. Capitalized terms used and not defined in this Successor Addendum shall have the meanings assigned to them in the Successor Franchise Agreement.

2. Article 1.1 GRANT & LICENSE

The first sentence of Article 1.1 of the Successor Franchise Agreement is amended to state as follows:

"Beginning on the Effective Date of the Franchise Agreement ("Agreement") and subject to the terms and conditions of this Agreement, Franchisor hereby awards Franchisee the right to continue operating the Franchised Business as well as a non-exclusive right and license to use the

Proprietary Marks designated by Franchisor.”

3. Article 1.3 SITE SELECTION AREA

Article 1.3 (i), (ii) and (iii) of the Successor Franchise Agreement are deleted in its entirety and replaced to state as follows:

“Franchisee shall operate its Franchised Business only at and from the following location Premises: \_\_\_\_\_.”

4. Article 1.5 LIMITED PROTECTED TERRITORY

The first three sentences of Article 1.5 of the Successor Franchise Agreement are deleted and replaced as follows:

“Franchisee’s protected territory (“Protected Territory”) is attached as Exhibit 1.”

5. Article 3.1 TERM

Article 3.1 of the Successor Franchise Agreement is deleted in its entirety and replaced to state as follows:

“Successor Term The term of this Successor Franchise Agreement shall commence on the Effective Date and shall expire in five (5) years thereafter, unless sooner terminated under the terms hereof (“**Successor Term**”).”

6. Article 3.2 RENEWAL OF SUCCESSOR TERM

The first paragraph of Article 3.2 of the Successor Franchise Agreement is deleted in its entirety and replaced to state as follows:

“Franchisee may renew the rights granted by this Agreement for three (3) additional terms of five (5) years each (“Successor Terms”), subject to the following conditions:”

Article 3.2 (v) of the Successor Franchise Agreement is deleted in its entirety and replaced to state as follows:

“(v) Franchisee has demonstrated, to Franchisor’s satisfaction, that Franchisee has the right to operate the Franchised Business at the Premises for the duration of the Successor Term.”

7. Article 5.1 FEES

Article 5.1. (i) of the Successor Franchise Agreement is deleted in its entirety as inapplicable.

The first sentence of Article 5.1. (ii) of the Successor Franchise Agreement is amended to state as follows:

“(ii) Franchisee shall pay to Franchisor weekly during Successor Term and any Successor Terms or extensions of this Agreement six percent (6%) OR five percent (5%) of the weekly Gross Sales of Franchisee’s Franchised Business (“Royalty Fee”).”

#### 8. Article 5.2 REPORTS AND INSPECTION OF RECORDS

Article 5.2 (i) of the Successor Franchise Agreement is deleted in its entirety and replaced to state as follows (if applicable):

“(i) At Franchisor’s request, Franchisee shall promptly execute or re-execute within five (5) days after Franchisor’s request, and deliver to Franchisor a fully executed copy of the ACH Service Agreement attached to this Agreement as Attachment C, to enable Franchisor to electronically (draft on Franchisee’s account by electronic withdrawal) collect the six percent (6%) OR five percent (5%) continuing Royalty Fee (see Article 5.1), the System Advertising Fee (see Article 5.1), and the Technology Fee (see Article 5.1) along with any other fee allowed under this Agreement or the ACH Service Agreement.”

#### 9. SPECIAL CONSIDERATIONS

Franchisee may pursue selling its Franchised Business subject to the terms of its Successor Franchise Agreement at any time. However, if Franchisee desires to close its Franchised Business, Franchisor agrees that, at any time, from the Effective Date of this Successor Addendum, Franchisee may elect to terminate its Successor Franchise Agreement and close its Franchised Business, subject to the following conditions (“Opt-Out Provision”):

- (i) Franchisee provides Franchisor written notice;
- (ii) Franchisee and Franchisor will agree to a range of prices for the sale of the Franchised Business. Franchisee shall set a high range sales list price based upon customary industry valuation methods or Franchisee’s CPA, approved by Franchisor, and a low range sale price that will be accepted in lieu of closing the Franchised Business (“Price Range”);
- (iii) Franchisee commences in an active and diligent manner, in good faith, to sell its Franchised Business pursuant to Franchisor’s then-current resale and transfer guidelines for at least twelve (12) months (“Twelve Month Period”). These guidelines may require Franchisee to follow specific marketing and advertising tactics, including, but not limited to, advertising the Franchised Business online and such other customary tactics used in selling a Franchised Business. Franchisor may also elect to advertise and market for sale the Franchised Business concurrently with Franchisee. Other than the transfer fee (see Article 13 of the Successor Franchise Agreement), Franchisor will not charge a brokerage fee as compensation for its services if it generates a prospect leading to a sale, but will be reimbursed for any outside costs it incurred out of the sale proceeds.
- (iv) Franchisee shall accept the first bona-fide offer it receives, whether from its own efforts or from Franchisor’s;

- (v) The conditions of transfer set forth in Article 13 of the Successor Franchise Agreement and other provisions of the Successor Franchise Agreement continue to apply to any transfer;
- (vi) Franchisee shall not be required to complete the renovation or modernization of its Franchised Business prior to twelve (12) months from the Effective Date of this Successor Addendum; provided, that Franchisee shall otherwise maintain the Franchised Business in good repair and appearance as otherwise provided in its Successor Franchise Agreement;
- (vii) If Franchisee has not received a bona-fide offer for the Franchised Business within the Twelve Month Period, Franchisee may close the Franchised Business conditioned upon Franchisee signing a general release of any claims against Franchisor and other customary closing documentation.

Except as specifically provided in this Successor Addendum, all of the terms, conditions and provisions of the Successor Franchise Agreement will remain in full force and effect as originally written and signed. This Successor Addendum shall not constitute a waiver of any of Franchisor's rights or remedies under the Successor Franchise Agreement or Franchisee's other agreements with Franchisor.

*[SIGNATURES ARE ON FOLLOWING PAGE]*

This Successor Addendum is entered into as of the Effective Date set forth above.

**WITNESSES:**

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

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

**FRANCHISEE:**

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

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

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

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

**FRANCHISOR: PAINTING WITH A  
TWIST, L.L.C., DBA, PINOT'S PALETTE**

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

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

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

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

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

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



EXHIBIT 1

PROTECTED TERRITORY MAP  
UNIT NO. \_\_\_\_\_

**EXHIBIT B**

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

## **STATE ADMINISTRATORS**

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

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

Sacramento Office  
1515 K Street, Suite 200  
Sacramento, CA 95814-4052  
(866) 275-2677

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

San Francisco Office  
One Sansome St., #600  
San Francisco, CA 94104  
(415) 972-8559

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

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

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

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

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

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

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

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21st Floor  
New York, NY 10005  
(212) 416-8222

North Dakota Securities Department  
State Capital, 14<sup>th</sup> Floor, Dept 414  
600 East Boulevard Avenue  
Bismarck, ND 58505-0510  
(701) 328-2910

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

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

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

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

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

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

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

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

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

Wisconsin Commissioner of Securities  
4822 Madison Yards Way, North Tower  
Madison, WI 53705  
(608) 266-8550

## **AGENTS FOR SERVICE OF PROCESS**

California Department of Financial  
Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, CA 90013

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

Illinois Attorney General  
500 South Second Street  
Springfield, IL 62706

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

Maryland Securities Commissioner  
Office of Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, MD 21202-2020

Michigan Department of Attorney General Consumer  
Protection Division  
Antitrust and Franchise Unit  
P.O. Box 30054, 525 West Ottawa Street  
Lansing, MI 48933

Commissioner of Commerce  
Minnesota Department of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101-2198

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

North Dakota Securities Commissioner  
State Capitol – 14<sup>th</sup> Floor, Dept 414  
600 E. Boulevard Avenue  
Bismarck, ND 58505

Director, Department of Business Regulation  
Division of Securities  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 69-1  
Cranston, RI 02920

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

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

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

Wisconsin Commissioner of Securities  
4822 Madison Yards Way, North Tower  
Madison, WI 53705  
(608) 261-9555

**EXHIBIT C**  
**FINANCIAL STATEMENTS**

# UNAUDITED FINANCIALS

**THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT.**

**PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS/HER OPINION WITH REGARD TO THE CONTENT OR FORM**

Painting with a Twist, L.L.C.

**Profit & Loss Statement January 1, 2024 to August 31, 2024**

|                         | <u>Jan - Aug 24</u>      |
|-------------------------|--------------------------|
| Ordinary Income/Expense |                          |
| Income                  | 2,469,329.05             |
| Cost of Goods Sold      | <u>41.02</u>             |
| Gross Profit            | 2,469,288.03             |
| Expense                 | <u>1,838,435.86</u>      |
| Net Ordinary Income     | 630,852.17               |
| Other Income/Expense    |                          |
| Other Expense           | <u>136,914.53</u>        |
| Net Other Income        | <u>-136,914.53</u>       |
| Net Income              | <u><u>493,937.64</u></u> |



Painting with a Twist, L.L.C.

Balance Sheet Statement as of August 31,2024

|                                       | <u>Aug 31, 24</u>          |
|---------------------------------------|----------------------------|
| <b>ASSETS</b>                         |                            |
| Current Assets                        |                            |
| Checking/Savings                      | 2,707,715.45               |
| Other Current Assets                  | <u>-638,629.01</u>         |
| Total Current Assets                  | 2,069,086.44               |
| Fixed Assets                          | 143,494.66                 |
| Other Assets                          | <u>3,411,852.59</u>        |
| <b>TOTAL ASSETS</b>                   | <b><u>5,624,433.69</u></b> |
| <b>LIABILITIES &amp; EQUITY</b>       |                            |
| Liabilities                           | 3,980,383.13               |
| Equity                                | <u>1,644,050.56</u>        |
| <b>TOTAL LIABILITIES &amp; EQUITY</b> | <b><u>5,624,433.69</u></b> |



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## **Painting With A Twist, LLC**

Financial Statements

**December 31, 2023 and 2022**

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*[www.randrcpa.com](http://www.randrcpa.com)*

# Painting With A Twist, LLC

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December 31, 2023 and 2022

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The image is a report cover with a blue, green, and dark blue color scheme. It features a central teal area with a geometric triangle pattern. On the left, there are three horizontal light blue bars. The word 'REPORT' is written in dark blue on the right side of the teal area. The top and bottom of the page have horizontal stripes in blue, green, and dark blue, with a diagonal cut at the bottom left.

# REPORT



JOSEPH REAGAN, CPA  
*Partner*

KIM REAGAN, CPA  
*Partner*

## **Independent Auditor's Report**

To the Members  
Painting With A Twist, LLC  
Mandeville, LA

### ***Opinion***

We have audited the financial statements of Painting With A Twist, LLC, which comprise the balance sheets as of December 31, 2023 and 2022, and the related statements of income, changes in members' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Painting With A Twist, LLC as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Painting With A Twist, LLC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Responsibilities of Management for the Financial Statements***

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

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Painting With A Twist, LLC's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

### ***Auditor's Responsibilities for the Audit of the Financial Statements***

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

Reagan & Reagan CPA, LLC  
512 S. Tyler Street    Covington, LA 70433    Office 985-809-6505    fax 985-809-6507  
www.randrcpa.com

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Painting With A Twist, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Painting With A Twist, LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

*Reagan & Reagan CPA, LLC*

Covington, LA  
April 19, 2024

The cover features a central rectangular area with a green-to-blue gradient and a subtle geometric pattern of triangles. On the left side of this central area, there are four horizontal, rounded rectangular bars in a light blue color. The title 'FINANCIAL STATEMENTS' is positioned on the right side of the central area in a bold, dark blue font. The entire central area is framed by horizontal bands of solid color: a blue band at the top, a green band below it, a dark blue band below that, and a bottom section divided into blue, green, and dark blue segments.

# **FINANCIAL STATEMENTS**

# Painting With A Twist, LLC

Balance Sheets

December 31, 2023 and 2022

|                                                                                                   | <u>2023</u>                | <u>2022</u>                |
|---------------------------------------------------------------------------------------------------|----------------------------|----------------------------|
| <b>ASSETS</b>                                                                                     |                            |                            |
| <b>Current assets</b>                                                                             |                            |                            |
| Cash                                                                                              | \$ 1,798,277               | \$ 1,503,110               |
| Restricted cash                                                                                   | 652,020                    | 904,413                    |
| Investments                                                                                       | 2,630,062                  | 2,499,457                  |
| Accounts receivable:                                                                              |                            |                            |
| Royalties                                                                                         | 113,179                    | 104,138                    |
| Other                                                                                             | 23                         | 3,279                      |
| Due from affiliates                                                                               | -                          | 412,341                    |
| Prepays and other current assets                                                                  | 94,356                     | 51,613                     |
| <b>Total current assets</b>                                                                       | <u>5,287,917</u>           | <u>5,478,351</u>           |
| Property and equipment, less accumulated depreciation<br>of \$222,745 and \$204,560, respectively | 102,925                    | 121,110                    |
| Intangible assets, less accumulated amortization<br>of \$419,899 and \$383,897, respectively      | 42,983                     | 71,531                     |
| Goodwill                                                                                          | 403,135                    | 558,235                    |
| Deposits                                                                                          | 281                        | 1,160                      |
| <b>Total assets</b>                                                                               | <u><u>\$ 5,837,241</u></u> | <u><u>\$ 6,230,387</u></u> |
| <b>LIABILITIES AND MEMBERS' EQUITY</b>                                                            |                            |                            |
| <b>Current liabilities</b>                                                                        |                            |                            |
| Accounts payable                                                                                  | \$ 115,609                 | \$ 99,053                  |
| Accrued expenses                                                                                  | 107,750                    | 110,040                    |
| System-wide payables                                                                              | 2,716,342                  | 2,413,064                  |
| Due to affiliates                                                                                 | 26,276                     | -                          |
| Deferred revenue - current                                                                        | 51,997                     | 107,919                    |
| Current maturities of notes payable                                                               | 2,863                      | 2,758                      |
| <b>Total current liabilities</b>                                                                  | <u>3,020,837</u>           | <u>2,732,834</u>           |
| Notes payable                                                                                     | 147,137                    | 147,242                    |
| Deferred revenue - non-current                                                                    | 157,781                    | 49,896                     |
| <b>Total liabilities</b>                                                                          | <u>3,325,755</u>           | <u>2,929,972</u>           |
| <b>Members' Equity</b>                                                                            | <u>2,511,486</u>           | <u>3,300,415</u>           |
| <b>Total liabilities and members' equity</b>                                                      | <u><u>\$ 5,837,241</u></u> | <u><u>\$ 6,230,387</u></u> |

See accompanying Notes to Financial Statements and Independent Auditor's Report.



# Painting With A Twist, LLC

## Statements of Income

Years ended December 31, 2023 and 2022

|                                  | <u>2023</u>       | <u>2022</u>       |
|----------------------------------|-------------------|-------------------|
| Revenues:                        |                   |                   |
| Franchise fees                   | \$ 95,537         | \$ 222,187        |
| Royalties and other related fees | 3,398,717         | 3,321,952         |
| Advertising fees                 | 1,013,497         | 984,232           |
| Corporate studio sales           | -                 | -                 |
| Total revenue                    | <u>4,507,751</u>  | <u>4,528,371</u>  |
| Costs and expenses:              |                   |                   |
| General and administrative       | 1,557,402         | 1,319,287         |
| Payroll and payroll taxes        | 1,738,068         | 1,757,183         |
| Selling and marketing            | 1,190,265         | 1,040,628         |
| Depreciation and amortization    | 54,189            | 59,771            |
| Impairment charges - goodwill    | <u>155,100</u>    | <u>-</u>          |
| Total costs and expenses         | <u>4,695,024</u>  | <u>4,176,869</u>  |
| Income (loss) from operations    | (187,273)         | 351,502           |
| Other income (expense)           |                   |                   |
| Interest expense                 | (5,625)           | (31,324)          |
| Interest income                  | 167,984           | 9,928             |
| Other income                     | <u>194,317</u>    | <u>359,319</u>    |
|                                  | 356,676           | 337,923           |
| Net income                       | <u>\$ 169,403</u> | <u>\$ 689,425</u> |

See accompanying Notes to Financial Statements and Independent Auditor's Report.

# Painting With A Twist, LLC

## Statements of Cash Flows

Years ended December 31, 2023 and 2022

|                                                                                            | <u>2023</u>         | <u>2022</u>         |
|--------------------------------------------------------------------------------------------|---------------------|---------------------|
| <b>Cash flows from operating activities:</b>                                               |                     |                     |
| Net income                                                                                 | \$ 169,403          | \$ 689,425          |
| Adjustments to reconcile net income to net cash (used in) provided by operating activities |                     |                     |
| Loss on fixed asset disposals                                                              | -                   | -                   |
| Depreciation and amortization                                                              | 54,187              | 59,771              |
| Goodwill impairment charge                                                                 | 155,100             | -                   |
| Changes in assets and liabilities                                                          |                     |                     |
| Deferred revenue                                                                           | 51,963              | (162,811)           |
| Restricted cash                                                                            | 252,393             | 1,654,835           |
| Accounts receivable                                                                        | (9,041)             | (21,668)            |
| Other receivables                                                                          | 3,256               | 3,972               |
| System-wide receivables                                                                    | -                   | -                   |
| Due from/to affiliates                                                                     | 438,617             | (21,012)            |
| Prepaid and other current assets                                                           | (42,743)            | 2,756               |
| Deposits and other assets                                                                  | 879                 | -                   |
| Accounts payable and accrued expenses                                                      | 14,266              | (271,109)           |
| System-wide payables                                                                       | 303,278             | 186,883             |
| <b>Net cash provided by operating activities</b>                                           | <u>1,391,558</u>    | <u>2,121,042</u>    |
| <b>Cash flows from investing activities:</b>                                               |                     |                     |
| Purchase of investments                                                                    | (130,605)           | (2,499,457)         |
| Purchase of trademark and art copy rights, net                                             | (7,454)             | (8,005)             |
| <b>Net cash used in investing activities</b>                                               | <u>(138,059)</u>    | <u>(2,507,462)</u>  |
| <b>Cash flows from financing activities:</b>                                               |                     |                     |
| Payments on long-term debt                                                                 | -                   | (272,294)           |
| Member distributions                                                                       | (958,332)           | (15,320)            |
| <b>Net cash used in financing activities</b>                                               | <u>(958,332)</u>    | <u>(287,614)</u>    |
| <b>Net increase (decrease) in cash</b>                                                     | 295,167             | (674,034)           |
| <b>Cash, beginning of period</b>                                                           | <u>1,503,110</u>    | <u>2,177,144</u>    |
| <b>Cash, end of period</b>                                                                 | <u>\$ 1,798,277</u> | <u>\$ 1,503,110</u> |
| Supplemental cash flow information:                                                        |                     |                     |
| Cash paid during the year for interest:                                                    | \$ 5,625            | \$ 17,239           |

See accompanying Notes to Financial Statements and Independent Auditor's Report.

# Painting With A Twist, LLC

Statement of Changes in Members' Equity  
Years ended December 31, 2023 and 2022

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|                                     | <b>Members'</b>            |
|-------------------------------------|----------------------------|
|                                     | <b>Equity</b>              |
| <b>Balance at January 1, 2022</b>   | <u>\$ 2,626,310</u>        |
| Net income for the period           | 689,425                    |
| Equity-based compensation           | <u>(15,320)</u>            |
| <b>Balance at December 31, 2022</b> | 3,300,415                  |
| Net income for the period           | 169,403                    |
| Member distributions                | <u>(958,332)</u>           |
| <b>Balance at December 31, 2023</b> | <u><u>\$ 2,511,486</u></u> |

See accompanying Notes to Financial Statements and Independent Auditor's Report.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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## NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Nature of Operations

Painting With A Twist, LLC (the “Company”) is a Louisiana based limited liability company, formed on February 25, 2009. The Company offers and sells franchises and area development rights throughout the United States of America for the operation of studios for art instruction and entertainment designed to assist the novice in learning to paint while socializing with other members of the general public.

The Company has established its brand through coordinated marketing and operational execution that ensures brand recognition and quality throughout its concept. The concept is further strengthened by its emphasis on operational excellence supported by operating guidelines as well as employee and franchisee training.

On October 1, 2018 the Company acquired certain assets of Bottle & Bottega, Inc., an Illinois corporation, which provides interactive art entertainment programs and private events to individuals and groups both in a studio and at off-site locations. As part of the acquisition, the Company acquired 2 corporate studio locations and 17 franchise agreements related to studios owned and operated by franchisees. The acquisition of the acquired Bottle & Bottega business was completed pursuant to an Asset Purchase Agreement dated October 1, 2018. In December 2021, the Company sold two corporate studio locations pursuant to an Asset Purchase Agreement and transferred the rights to a new franchisee.

### Basis of Accounting

The Company’s accounts are presented on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America. Income is recorded when earned and expenses are recorded when incurred.

The Company’s franchise arrangements provide its franchisee entities the power to direct the activities that most significantly impact their economic performance; therefore, the Company does not consider it to be the primary beneficiary of any such entity that might be a variable interest entity.

The renewal option terms in certain of the Company’s operating lease agreements give it a variable interest in the lessor entity, however the Company concluded that it does not have the power to direct the activities that most significantly impact the lessor entities’ economic performance and as a result, does not consider it to be the primary beneficiary of such entities.

### Accounting Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets and liabilities as of the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

### Cash and Restricted Cash

The Company continually monitors its positions with, and the credit quality of, the financial institutions in which it maintains its deposits and investments. As of December 31, 2023, and December 31, 2022, the Company maintained balances in various cash accounts in excess of federally insured limits. All highly liquid instruments purchased with an original maturity of three months or less are considered cash equivalents.

Cash held related to the advertising funds and the Company’s gift card programs are classified as restricted cash as there are certain legal restrictions on the use of these funds and as such, the Company intends to use

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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these funds in accordance with these obligations. Total cash balances related to the advertising funds and gift card programs as of December 31, 2023 and December 31, 2022 were \$652,020 and \$904,413, respectively.

## Investments

Investments are reported at fair value and consist of short-term United States Treasury Bills at December 31, 2022 and Money Market Funds at December 31, 2023.

Investments classified as current investments made by the Company are expected to be converted into cash within one year or less.

## Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and investments. The Company places its cash and investments with high quality financial institutions.

## Accounts Receivable

Accounts receivable consists primarily of franchise royalties and are stated at the amount management expects to collect from outstanding balances. Customer accounts are considered delinquent based upon contractual payment terms. Management provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable.

## Property and Equipment

Property and equipment and leasehold improvements are recorded at cost less accumulated depreciation. Depreciation is calculated on the straight-line method over the estimated useful lives of the various classes of depreciable assets, which range from 5-15 years. Leasehold improvements are amortized using the straight-line method over the shorter of their estimated useful lives or the reasonably assured lease term. Routine maintenance, repairs and replacement costs are expensed as incurred and improvements that extend the useful life of the assets are capitalized.

The Company reviews its long-lived assets for impairment on a yearly basis or whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets are considered impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds its fair value. Assets to be disposed of, if any, are reported at the lower of the carrying amount or fair value.

## Goodwill

Goodwill represents the excess of purchase price over the fair value of identifiable net assets acquired. Goodwill is not subject to amortization, but instead is tested for impairment at least annually.

Goodwill is evaluated at the level of the Company's single operating segment, which also represents the Company's only reporting unit. Step one of the impairment test is based upon a comparison of the carrying value of net assets, including goodwill balances, to the fair value of net assets. Fair value is measured using a combination of the income approach and the market approach. The income approach consists of utilizing the discounted cash flow method that incorporates the Company's estimates of future revenues and costs, discounted using a risk-adjusted discount rate. The Company's estimates used in the income approach are consistent with the plans and estimates used to manage operations. The market approach utilizes multiples

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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of profit measures to estimate the fair value of the assets. The Company evaluates all methods to ensure reasonably consistent results. Additionally, the Company evaluates the key input factors in the model used to determine whether a moderate change in any input factor or combination of factors would significantly change the results of the tests.

During the Company's annual goodwill impairment testing conducted during the fourth quarter of 2023, the Company concluded that a portion of the goodwill associated with the 2018 purchase of certain assets from Bottle & Bottega, Inc. had become impaired as a result of certain store location closures and a significant decline in royalties and changes in the operating environment associated with that reporting unit. Accordingly, an impairment charge totaling \$155,100 of goodwill associated with this purchase, was recognized during the fourth quarter of 2023.

## **Intangible Assets**

Intangible assets consist of painting copyrights, trademarks and website and branding development. The Company owns the copyrights to paintings which are designed and painted by artists for use in its business. The art is displayed on the Company's internal website for use by its franchisees to present paintings which can be used for instruction in classes to the general public. The designs and paintings are stated at cost and amortized using the straight-line method over a five-year life. The Company's trademarks are stated at cost and amortized using the straight-line method over a ten-year life. The Company's website and branding development are stated at cost and amortized using the straight-line method over a five to seven-year life. The Company tests for impairment of its intangible assets at a minimum, on an annual basis. The Company does not believe that any impairment exists as of December 31, 2023 and December 31, 2022.

## **Deposits and Other Assets**

Deposits and other assets consist primarily of deposits.

## **Equity-Based Compensation**

Equity options granted to employees and non-employees are recorded as an expense at the date of grant based on the then estimated fair value of the equity granted. The fair value of the option at grant date is estimated using the Black-Scholes Option Pricing Model.

## **Fair Value of Financial Instruments**

The fair value of a financial instrument is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction. At the balance sheet dates, the fair values of the Company's financial assets and financial liabilities (cash, investments, accounts receivable, other receivables, restricted cash, prepaids and other current assets, amounts due to and from affiliates, accounts payable and accrued expenses, system-wide payables, deposits and deferred revenue) approximate their carrying values.

## **Revenue Recognition**

Revenue is recognized in accordance with a five-step revenue model, as follows: identifying the contract with the customer; identifying the performance obligations in the contract; determining the transaction price; allocating the transaction price to the performance obligations; and recognizing revenue when (or as) the entity satisfies a performance obligation.

## ***Franchise fees and royalties and other related fees***

The Company sells individual franchises through franchise agreements with terms ranging from 7 to 10 years. These agreements also convey multiple extension terms of five years, depending on

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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contract terms if certain conditions are met. The Company provides its franchisees system training, preopening assistance, and general assistance in exchange for franchise fees, and royalties of 5%-6% of store sales.

Royalties are accrued as earned and are calculated each period based on reported franchisees' sales.

The Company has determined that a portion of the initial franchise services are distinct from the continuing rights and services offered during the term of the franchise agreement and should not be treated as a single performance obligation; therefore, a portion of such fees are recognized upon the opening of the franchise location. See Note 8.

The Company charges a transfer fee when an existing painting studio is transferred to a new franchisee. Transfer fees are based on management's estimates of anticipated costs and are earned upon execution of the transfer agreement, because substantially all obligations to the new franchisee are met.

The Company requires all franchisees to pay a technology fee ranging between \$55 and \$105 per month and is included in royalties and other related fees in the statement of income.

## ***Corporate studio sales***

Sales from company-owned studio revenues are recognized as revenue at the point of completion of the art classes. The Company reports this revenue net of sales and use taxes collected from customers and remitted to governmental taxing authorities.

## ***Advertising fees and related income***

The Company's franchise agreements typically require the franchisee to pay continuing advertising fees each reporting period based on a percentage of franchisee gross sales.

## **Franchise Operations**

The Company enters into franchise agreements with unrelated third parties to operate locations using the Painting With A Twist brand within a defined geographical area. The Company believes that franchising is an effective and efficient means to expand the Painting With A Twist brand. The franchisee is required to operate its location in compliance with its franchise agreement that includes adherence to operating and quality control procedures established by the Company.

The Company does not provide loans, leases, or guarantees to the franchisee or the franchisee's employees and vendors. If a franchisee becomes financially distressed, the Company does not provide financial assistance. If financial distress leads to a franchisee's noncompliance with the franchise agreement and the Company elects to terminate the franchise agreement, the Company has the right but not the obligation to acquire the assets of the franchisee at fair value. The Company has financial exposure for the collection of the royalty payments. Franchisees generally remit royalty payments weekly for the prior week's sales, which substantially minimizes the financial exposure. Historically, the Company has experienced insignificant write-offs of franchisee royalties. Franchise fees are paid upon the signing of the related agreements.

## **System-wide Payables**

During 2016, the Company started a system-wide gift card fund that consists of a cash balance, which is restricted to the funding of future gift card redemptions and gift card related costs, receivables from retail gift partners, and a corresponding liability for those outstanding gift cards which the Company believes will be redeemed in the future. As of December 31, 2023 and December 31, 2022, the gift card liability was \$2,716,342 and \$2,413,064, respectively.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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The Company accounts for the assets and liabilities of this fund as “restricted cash” and “system-wide payables” in the accompanying balance sheets. The restricted assets of these funds are classified as current as they are expected to be utilized to fund short-term obligations of the national advertising and system-wide gift card funds.

## Advertising Costs

Advertising costs are treated as period costs and expensed as incurred. During the years ended December 31, 2023 and December 31, 2022, advertising costs amounted to \$557,101 and \$274,340, respectively. See Note 8.

## Income Taxes

On the date of formation through December 31, 2011, the Company elected to be treated as a partnership for federal income tax purposes and did not incur income taxes. Instead, its earnings and or losses were included in the personal tax returns of the members.

Effective January 1, 2012 the Company elected to be treated as an S corporation for income tax under the provisions of the Internal Revenue Code. Accordingly, the financial statements do not reflect a provision for income taxes and the earnings and or losses are included in the personal tax returns of the members.

## Recently Issued Accounting Pronouncements

The Company has reviewed recently issued accounting pronouncements and concluded that they are either not applicable to the operations or that no material effects are expected on its financial statements as a result of future adoption.

## Recently Adopted Accounting Pronouncements

The Company adopted ASC 842 at the beginning of 2022. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. There was no impact of adoption as the Company did not have any leases with terms longer than 12 months.

The Company adopted ASC 606 Revenue from Contracts with Customers at the beginning of the first quarter of 2019 using the modified retrospective method. The primary impact of adoption was the enhancement of the Company’s disclosures related to contracts with customers and revenue recognized from those performance obligations, which includes revenue related to initial fees charged to franchisees and revenue recognized related to gift cards. See Note 8.

Further, the Company implemented internal controls related to the recognition and presentation of the Company’s revenues under this new standard.

## NOTE 2 – INVESTMENTS

Disclosure of fair value information about financial instruments, whether or not recognized in the balance sheets is required. Fair value of a financial instrument is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is best determined based upon quoted market prices. In cases where quoted market prices are not available, fair values are based on estimates using present value or other valuation techniques. Those techniques are significantly affected by the assumptions used, including the discount rate and estimates of future cash flows. Accordingly, the fair value estimates may not be realized in an immediate settlement of the instruments. Therefore, the aggregate fair value amounts presented do not represent the underlying value of the Company.



# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

The recent fair value guidance provides a consistent definition of fair value, which focuses on exit price in an orderly transaction (that is, not a forced liquidation or distressed sale) between market participants at the measurement date under current market conditions. If there has been a significant decrease in the volume and level of activity for the asset or liability, a change in valuation technique or the use of multiple valuation techniques may be appropriate. In such instances, determining the price at which willing market participants would transact at the measurement date under current market conditions depends on the facts and circumstances and requires use of significant judgment. The fair value is a reasonable point within the range that is most representative of fair value under current market conditions. In accordance with this guidance, the Company groups its financial assets and financial liabilities generally measured at fair value in three levels:

Level 1 – Observable inputs such as quoted prices in active markets;

Level 2 – Inputs, other than the quoted prices in active markets that are observable either directly or indirectly; and

Level 3 – Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

The following table represents investments that are measured at fair value on a recurring basis at December 31, 2023 and December 31, 2022:

|                            | <u>2023</u>         | <u>Level 1</u>   | <u>Level 2</u> | <u>Level 3</u> |
|----------------------------|---------------------|------------------|----------------|----------------|
| Money market funds         | \$ 2,630,062        | 2,630,062        | -              | -              |
| Total investments          | <u>\$ 2,630,062</u> | <u>2,630,062</u> | <u>-</u>       | <u>-</u>       |
|                            | <u>2022</u>         | <u>Level 1</u>   | <u>Level 2</u> | <u>Level 3</u> |
| U.S. government securities | \$ 2,499,457        | 2,499,457        | -              | -              |
| Total investments          | <u>\$ 2,499,457</u> | <u>2,499,457</u> | <u>-</u>       | <u>-</u>       |

## NOTE 3 – PROPERTY AND EQUIPMENT

Following is a summary of property and equipment at December 31, 2023 and December 31, 2022:

|                                | <u>2023</u>       | <u>2022</u>       |
|--------------------------------|-------------------|-------------------|
| Furniture and fixtures         | \$ 51,326         | \$ 51,326         |
| Computers and equipment        | 17,186            | 17,186            |
| Leasehold improvements         | <u>257,158</u>    | <u>257,158</u>    |
|                                | 325,670           | 325,670           |
| Less: Accumulated depreciation | <u>(222,745)</u>  | <u>(204,560)</u>  |
| Property and equipment, net    | <u>\$ 102,925</u> | <u>\$ 121,110</u> |

The Company recorded depreciation expense related to these assets of \$18,185 and \$19,217 in 2023 and 2022, respectively.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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## NOTE 4 – INTANGIBLE ASSETS

Following is a summary of intangible assets at December 31, 2023 and December 31, 2022:

|                                | <u>2023</u>      | <u>2022</u>      |
|--------------------------------|------------------|------------------|
| Art copy rights                | \$ 191,631       | \$ 184,177       |
| Trademark                      | 111,496          | 111,496          |
| Intangibles - other            | <u>159,755</u>   | <u>159,755</u>   |
|                                | 462,882          | 455,428          |
| Less: Accumulated amortization | <u>(419,899)</u> | <u>(383,897)</u> |
| Net Intangible assets          | \$ <u>42,983</u> | \$ <u>71,531</u> |

Amortization expense for the years ended December 31, 2023 and December 31, 2022 was \$36,002 and \$40,554 respectively. Estimated future amortization expense as of December 31, 2023 is as follows:

|                                   |                  |
|-----------------------------------|------------------|
| Year ending:                      |                  |
| 2024                              | 25,789           |
| 2025                              | 10,429           |
| 2026                              | 3,685            |
| 2027                              | 2,295            |
| 2028                              | 785              |
| Thereafter                        | <u>-</u>         |
| Total future amortization expense | \$ <u>42,983</u> |

## NOTE 5 – ACCRUED EXPENSES

Following is a summary of accrued expenses at December 31, 2023 and December 31, 2022:

|                             | <u>2023</u>       | <u>2022</u>       |
|-----------------------------|-------------------|-------------------|
| Legal and professional fees | \$ 25,000         | \$ 26,645         |
| State and local tax         | 14,595            | 21,816            |
| Marketing and other fees    | 16,127            | 16,617            |
| Accrued interest            | 10,937            | 13,354            |
| Payroll expenses            | <u>41,091</u>     | <u>31,608</u>     |
| Total accrued liabilities   | \$ <u>107,750</u> | \$ <u>110,040</u> |

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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## NOTE 6 – LONG-TERM DEBT

The following is a summary of the Company's long-term debt as of December 31:

|                                                                                                                                                                   | <u>2023</u>       | <u>2022</u>       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------|
| Economic Injury Disaster Loan (EIDL), payable in monthly installments of \$695 at a fixed rate of 3.75% per annum, secured by Company assets, maturing June 2050. | \$ 150,000        | \$ 150,000        |
|                                                                                                                                                                   | <u>\$ 150,000</u> | <u>\$ 150,000</u> |
| Less: Current portion of long-term debt                                                                                                                           | <u>(2,863)</u>    | <u>(2,758)</u>    |
| Long-term debt, net of current maturities                                                                                                                         | <u>\$ 147,137</u> | <u>\$ 147,242</u> |

In connection with the acquisition of the acquired Bottle & Bottega, Inc. business (See Note 1), the Company entered into a promissory note with a local banking institution to fund the remaining amount due. The original amount of the note was \$540,000 with a maturity date of January 2024. During 2022, the Company paid the promissory note in full.

The following is a summary of principal maturities of long-term debt for each of the next five years and thereafter:

|            |                   |
|------------|-------------------|
| 2024       | \$ 2,863          |
| 2025       | 2,973             |
| 2026       | 3,086             |
| 2027       | 3,204             |
| 2028       | 3,204             |
| Thereafter | <u>134,670</u>    |
|            | <u>\$ 150,000</u> |

## NOTE 7 – RELATED PARTY TRANSACTIONS

The Company occasionally pays money to entities under common control or ownership, for the purpose of funding operations of those entities. When the members have determined that these amounts cannot or will not be repaid to the Company, amounts owed by these entities are treated as capital distributions to the members and are recorded as a reduction to members' equity. For the years ended December 31, 2023 and 2022, there was \$0 and \$412,341 due to the Company from entities under common control or ownership, respectively, and is included in Due From Affiliates on the balance sheet. For the years ended December 31, 2023 and 2022, there was \$26,276 and \$0 due from the Company to entities under common control or ownership, respectively, and is included in Due To Affiliates on the balance sheet. These balances owed to or by the Company are non-interest-bearing, unsecured and due on demand.

As of December 31, 2023 and December 31, 2022, five of the franchise locations in operation were owned and operated by related parties.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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## NOTE 8 – REVENUE RECOGNITION

The Company adopted the revenue recognition standards under Topic 606 at the beginning of the first quarter of 2019 using the modified retrospective method. The adoption of these standards did not have an impact on the Company's recognition of revenue from company-owned studios or its recognition of continuing royalty fees from franchisees, which are based on a percentage of franchisee revenues and are recognized in the period the related franchised studios' sales occur.

### Franchise Fees

The adoption of Topic 606 impacted the Company's accounting for initial fees charged to franchisees. In the past, the Company recognized initial franchise fees when all material services or conditions relating to the sale of the franchise had been substantially performed or satisfied by the Company, which was generally when a new franchise studio opened. In accordance with the new guidance, the Company has determined that some of the initial franchise services are not distinct from the continuing rights or services offered during the term of the franchise agreement and those costs should be treated as a separate performance obligation. Therefore, the Company recognizes a portion of the initial fees received from the franchisees as revenue over the term of the respective franchise agreement, ranging from 7-10 years.

The Company recognized franchise fee revenue of \$95,537 and \$222,187 during 2023 and 2022, respectively. At December 31, 2023 and December 31, 2022, the balance of the deferred franchise fees was \$209,778 and \$157,815, respectively and is included in current and long-term deferred revenue on the Balance Sheets.

### Royalty and Other Related Fees

Royalties from franchise studios are based on a percentage of studio revenue and are recognized in the period the related franchised studios' sales occur. For the years ended December 31, 2023 and 2022, the Company recognized \$3,398,717 and \$3,321,952 in royalty and other related fee revenue, respectively.

Transfer fees of \$173,125 and \$162,812 were charged during the years ended December 31, 2023 and December 31, 2022, respectively and are included in royalties and other related fees.

### Advertising Fees

The adoption of the new guidance changed the reporting of advertising fund contributions from franchisees and the related advertising fund expenditures, which were not previously included in the Statements of Income. The new guidance requires these advertising fund contributions and expenditures to be reported on a gross basis in the Statements of Income. The assets and liabilities held by the advertising funds, which were previously reported as restricted assets and liabilities of advertising funds, respectively, are now included within the respective Balance Sheet caption to which the assets and liabilities relate. Additionally, advertising costs that have been incurred by the Company outside of the advertising funds are also included within selling and marketing expenses in the Statements of Income.

### Gift Card Redemptions/Breakage Revenue

The Company and its franchisees sell gift cards that are redeemable at any of the franchise or corporate owned studio locations. The Company manages the gift card program, and therefore collects all funds from the activation of gift cards and reimburses franchisees for the redemption of gift cards in their studios. A liability for unredeemed gift cards is included in system-wide payables in the balance sheets.

There are no expiration dates or service fees charged on the gift cards. While the franchisees continue to honor all gift cards presented for payment, the likelihood of redemption may be determined to be remote for certain cards due to long periods of inactivity. In these circumstances, the Company may recognize revenue from unredeemed gift cards ("breakage revenue") if they are not subject to unclaimed property

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2023 and 2022

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laws. The Company's gift card breakage is estimated and recognized over time in proportion to actual gift card redemptions, based on historical redemption rates. Significant judgment is required in estimating breakage rates and in determining whether to recognize breakage revenue over time or when the likelihood of redemption becomes remote. The Company recognized gift card breakage income of \$194,317 and \$359,319 for the years ended December 31, 2023 and December 31, 2022, respectively and is included in other income on the Statements of Income.

## NOTE 9 – EQUITY-BASED COMPENSATION

On April 15, 2013, the Company granted an option to purchase a 10% capital interest in the Company to a non-employee consultant. The option to purchase the interest became exercisable on October 15, 2013 (six months after the effective date of the option agreement), with the exercise price of the option equal to the value of a 10% minority ownership interest calculated by an accredited independent valuation company. The option expires 5 years after the effective date of the option agreement. The Company used the Black-Scholes valuation model for determining the value of the option on grant date with following assumptions:

|                                              |           |
|----------------------------------------------|-----------|
| Dividend yield                               | 0.00%     |
| Expected volatility                          | 28.5%     |
| Risk-free interest rate                      | 0.16%     |
| Expected life of the option term (in months) | 6         |
| Estimated forfeiture rate                    | 0.00%     |
| Fair value of the option                     | \$190,000 |

As the Company is privately held, there is no active external or internal market for the Company's LLC interest. The Company used the observable data for a group of peer companies that grant options with substantially similar terms to assist in developing the volatility assumption. The expected term was determined based on the contractual term of the award. The weighted-average risk-free interest rate was based on the 6-month U.S. Treasury bond yield. The Company has not paid and does not anticipate paying cash dividends; therefore, the expected dividend yield was assumed to be zero.

An independent valuation was performed to estimate the fair value of the capital interest on the date the option was granted. The valuation utilized the Discounted Future Cash Flow Method of the Income Approach and the Guideline Transactions Method of the Market Approach to estimate enterprise value. When estimating the enterprise value at the valuation date and the corresponding value of the capital interest, an equal weight between the valuations derived from the market approach and the income approaches was utilized.

During 2015, the non-employee consultant was hired by the Company and became a full-time employee.

The non-employee was terminated by the Company in a prior year and settled a dispute during 2022 (See Note 13). The Company charged back compensation expense of \$15,320 that was incurred in a prior year related to the capital interest option and is included in general and administrative expenses in the accompanying Statement of Income for the year ended December 31, 2022.

The Company incurred no compensation expense related to the capital interest option for the year ended December 31, 2023.

## NOTE 10 – LINE OF CREDIT

The Company's line of credit agreement with a banking institution of \$150,000 matured on January 15, 2022 and was not renewed. At December 31, 2023 and 2022, the balance on the line of credit was \$0.

# **Painting With A Twist, LLC**

## **Notes to Financial Statements**

**December 31, 2023 and 2022**

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### **NOTE 11 – LEASE COMMITMENTS**

As of December 31, 2023 and December 31, 2022, the Company had no future minimum rental payments for leased properties in excess of one year.

### **NOTE 12 – LEGAL PROCEEDINGS AND CONTINGENCIES**

The Company is subject to legal proceedings, claims and liabilities, which arise in the ordinary course of business relating to matters including, but not limited to, disputes with franchisees, suppliers, employees and customers, as well as disputes over the Company's intellectual property.

During 2022, the Company settled a dispute with a former executive employee and related party supplier of art canvases related to a claim filed in a previous year seeking specific performance of certain ownership interests in the Company and breach of contract. The Company agreed to pay \$650,000 of which \$250,000 was accrued in a prior year as a potential settlement contingent liability. The remaining portion was expensed during 2022 and recorded in general and administrative expenses on the Statement of Income.

### **NOTE 13 – SUBSEQUENT EVENTS**

Management has evaluated subsequent events through the date that the financial statements were available to be issued, April 19, 2024 and determined that there were no other items for disclosure.



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## **Painting With A Twist, LLC**

Financial Statements

**December 31, 2022 and 2021**

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# Painting With A Twist, LLC

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December 31, 2022 and 2021

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# REPORT



JOSEPH REAGAN, CPA  
*Partner*

KIM REAGAN, CPA  
*Partner*

## **Independent Auditor's Report**

To the Members  
Painting With A Twist, LLC  
Mandeville, LA

### ***Opinion***

We have audited the financial statements of Painting With A Twist, LLC, which comprise the balance sheets as of December 31, 2022 and 2021, and the related statements of income, changes in members' equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Painting With A Twist, LLC as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Painting With A Twist, LLC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Responsibilities of Management for the Financial Statements***

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

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Painting With A Twist, LLC's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

### ***Auditor's Responsibilities for the Audit of the Financial Statements***

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

Reagan & Reagan CPA, LLC  
512 S. Tyler Street   Covington, LA 70433   Office 985-809-6505   fax 985-809-6507  
www.randrcpa.com

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Painting With A Twist, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Painting With A Twist, LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

*Reagan & Reagan CPA, LLC*

Covington, LA  
February 24, 2023



# **FINANCIAL STATEMENTS**

# Painting With A Twist, LLC

Balance Sheets

December 31, 2022 and 2021

|                                                                                                   | <u>2022</u>                | <u>2021</u>                |
|---------------------------------------------------------------------------------------------------|----------------------------|----------------------------|
| <b>ASSETS</b>                                                                                     |                            |                            |
| <b>Current assets</b>                                                                             |                            |                            |
| Cash                                                                                              | \$ 1,503,110               | \$ 2,177,144               |
| Restricted cash                                                                                   | 904,413                    | 2,559,248                  |
| Investments                                                                                       | 2,499,457                  | -                          |
| Accounts receivable:                                                                              |                            |                            |
| Royalties                                                                                         | 104,138                    | 82,470                     |
| Other                                                                                             | 3,279                      | 7,251                      |
| Due from affiliates                                                                               | 412,341                    | 391,329                    |
| Prepays and other current assets                                                                  | <u>51,613</u>              | <u>54,369</u>              |
| <b>Total current assets</b>                                                                       | 5,478,351                  | 5,271,811                  |
| Property and equipment, less accumulated depreciation<br>of \$204,560 and \$268,671, respectively | 121,110                    | 140,327                    |
| Intangible assets, less accumulated amortization<br>of \$383,897 and \$343,343, respectively      | 71,531                     | 104,080                    |
| Goodwill                                                                                          | 558,235                    | 558,235                    |
| Deposits                                                                                          | <u>1,160</u>               | <u>1,160</u>               |
| <b>Total assets</b>                                                                               | <u><u>\$ 6,230,387</u></u> | <u><u>\$ 6,075,613</u></u> |
| <b>LIABILITIES AND MEMBERS' EQUITY</b>                                                            |                            |                            |
| <b>Current liabilities</b>                                                                        |                            |                            |
| Accounts payable                                                                                  | \$ 99,053                  | \$ 54,805                  |
| Accrued expenses                                                                                  | 110,040                    | 425,397                    |
| System-wide payables                                                                              | 2,413,064                  | 2,226,181                  |
| Deferred revenue - current                                                                        | 107,919                    | 102,854                    |
| Current maturities of notes payable                                                               | <u>2,758</u>               | <u>114,072</u>             |
| <b>Total current liabilities</b>                                                                  | 2,732,834                  | 2,923,309                  |
| Notes payable                                                                                     | 147,242                    | 308,222                    |
| Deferred revenue - non-current                                                                    | 49,896                     | 217,772                    |
| <b>Total liabilities</b>                                                                          | <u>2,929,972</u>           | <u>3,449,303</u>           |
| <b>Members' Equity</b>                                                                            | <u>3,300,415</u>           | <u>2,626,310</u>           |
| <b>Total liabilities and members' equity</b>                                                      | <u><u>\$ 6,230,387</u></u> | <u><u>\$ 6,075,613</u></u> |

See accompanying Notes to Financial Statements and Independent Auditor's Report.

# Painting With A Twist, LLC

## Statements of Income

Years ended December 31, 2022 and 2021

|                                  | <u>2022</u>       | <u>2021</u>       |
|----------------------------------|-------------------|-------------------|
| Revenues:                        |                   |                   |
| Franchise fees                   | \$ 222,187        | \$ 60,434         |
| Royalties and other related fees | 3,321,952         | 3,238,102         |
| Advertising fees                 | 984,232           | 900,702           |
| Corporate studio sales           | -                 | 257,961           |
| Total revenue                    | <u>4,528,371</u>  | <u>4,457,199</u>  |
| Costs and expenses:              |                   |                   |
| Studio operating costs:          |                   |                   |
| Cost of sales                    | -                 | 94,223            |
| Labor                            | -                 | 111,484           |
| Occupancy                        | -                 | 91,713            |
| General and administrative       | 1,319,287         | 986,757           |
| Payroll and payroll taxes        | 1,757,183         | 2,067,529         |
| Selling and marketing            | 1,040,628         | 716,704           |
| Depreciation and amortization    | 59,771            | 79,144            |
| Total costs and expenses         | <u>4,176,869</u>  | <u>4,147,554</u>  |
| Income (loss) from operations    | 351,502           | 309,645           |
| Other income (expense)           |                   |                   |
| Interest expense                 | (31,324)          | (30,147)          |
| Interest income                  | 9,928             | 5,528             |
| Loss on fixed asset disposals    | -                 | (58,026)          |
| Other income                     | 359,319           | 611,306           |
|                                  | <u>337,923</u>    | <u>528,661</u>    |
| Net income                       | <u>\$ 689,425</u> | <u>\$ 838,306</u> |

See accompanying Notes to Financial Statements and Independent Auditor's Report.

# Painting With A Twist, LLC

## Statements of Cash Flows

Years ended December 31, 2022 and 2021

|                                                                                            | <u>2022</u>         | <u>2021</u>         |
|--------------------------------------------------------------------------------------------|---------------------|---------------------|
| <b>Cash flows from operating activities:</b>                                               |                     |                     |
| Net income                                                                                 | \$ 689,425          | \$ 838,306          |
| Adjustments to reconcile net income to net cash (used in) provided by operating activities |                     |                     |
| Loss on fixed asset disposals                                                              | -                   | 58,026              |
| Depreciation and amortization                                                              | 59,771              | 79,144              |
| Changes in assets and liabilities                                                          |                     |                     |
| Deferred revenue                                                                           | (162,811)           | 44,965              |
| Restricted cash                                                                            | 1,654,835           | (703,815)           |
| Accounts receivable                                                                        | (21,668)            | 6,407               |
| Other receivables                                                                          | 3,972               | 1,134               |
| System-wide receivables                                                                    | -                   | 291                 |
| Due from/to affiliates                                                                     | (21,012)            | (391,258)           |
| Prepaid and other current assets                                                           | 2,756               | 35,465              |
| Deposits and other assets                                                                  | -                   | 195,061             |
| Accounts payable and accrued expenses                                                      | (271,109)           | (340,727)           |
| System-wide payables                                                                       | 186,883             | 446,252             |
| <b>Net cash provided by operating activities</b>                                           | <u>2,121,042</u>    | <u>269,251</u>      |
| <b>Cash flows from investing activities:</b>                                               |                     |                     |
| Purchase of fixed assets                                                                   | -                   | (4,450)             |
| Purchase of investments                                                                    | (2,499,457)         |                     |
| Purchase of trademark and art copy rights, net                                             | (8,005)             | -                   |
| <b>Net cash used in investing activities</b>                                               | <u>(2,507,462)</u>  | <u>(4,450)</u>      |
| <b>Cash flows from financing activities:</b>                                               |                     |                     |
| Proceeds from PPP funding and EIDL loans                                                   | -                   | 446,215             |
| Repayments on line of credit                                                               | -                   | (150,000)           |
| Forgiveness on PPP loans                                                                   | -                   | (446,215)           |
| Payments on long-term debt                                                                 | (272,294)           | (105,151)           |
| Member distributions                                                                       | (15,320)            | (235,913)           |
| <b>Net cash used in financing activities</b>                                               | <u>(287,614)</u>    | <u>(491,064)</u>    |
| <b>Net increase (decrease) in cash</b>                                                     | (674,034)           | (226,263)           |
| <b>Cash, beginning of period</b>                                                           | <u>2,177,144</u>    | <u>2,403,407</u>    |
| <b>Cash, end of period</b>                                                                 | <u>\$ 1,503,110</u> | <u>\$ 2,177,144</u> |
| Supplemental cash flow information:                                                        |                     |                     |
| Cash paid during the year for interest:                                                    | \$ 17,239           | \$ 30,374           |

See accompanying Notes to Financial Statements and Independent Auditor's Report.

# Painting With A Twist, LLC

Statement of Changes in Members' Equity  
Years ended December 31, 2022 and 2021

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|                                     | <b>Members'</b>            |
|-------------------------------------|----------------------------|
|                                     | <b>Equity</b>              |
| <b>Balance at January 1, 2021</b>   | <u>\$ 2,023,917</u>        |
| Net income for the period           | 838,306                    |
| Member distributions                | <u>(235,913)</u>           |
| <b>Balance at December 31, 2021</b> | 2,626,310                  |
| Net income for the period           | 689,425                    |
| Equity-based compensation           | <u>(15,320)</u>            |
| <b>Balance at December 31, 2022</b> | <u><u>\$ 3,300,415</u></u> |

See accompanying Notes to Financial Statements and Independent Auditor's Report.



# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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## NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Nature of Operations

Painting With A Twist, LLC (the “Company”) is a Louisiana based limited liability company, formed on February 25, 2009. The Company offers and sells franchises and area development rights throughout the United States of America for the operation of studios for art instruction and entertainment designed to assist the novice in learning to paint while socializing with other members of the general public.

The Company has established its brand through coordinated marketing and operational execution that ensures brand recognition and quality throughout its concept. The concept is further strengthened by its emphasis on operational excellence supported by operating guidelines as well as employee and franchisee training.

On October 1, 2018 the Company acquired certain assets of Bottle & Bottega, Inc., an Illinois corporation, which provides interactive art entertainment programs and private events to individuals and groups both in a studio and at off-site locations. As part of the acquisition, the Company acquired 2 corporate studio locations and 17 franchise agreements related to studios owned and operated by franchisees. The acquisition of the acquired Bottle & Bottega business was completed pursuant to an Asset Purchase Agreement dated October 1, 2018. In December 2021, the Company sold two corporate studio locations pursuant to an Asset Purchase Agreement and transferred the rights to a new franchisee.

### Basis of Accounting

The Company’s accounts are presented on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America. Income is recorded when earned and expenses are recorded when incurred.

The Company’s franchise arrangements provide its franchisee entities the power to direct the activities that most significantly impact their economic performance; therefore, the Company does not consider it to be the primary beneficiary of any such entity that might be a variable interest entity.

The renewal option terms in certain of the Company’s operating lease agreements give it a variable interest in the lessor entity, however the Company concluded that it does not have the power to direct the activities that most significantly impact the lessor entities’ economic performance and as a result, does not consider it to be the primary beneficiary of such entities.

### Accounting Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets and liabilities as of the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

### Cash and Restricted Cash

The Company continually monitors its positions with, and the credit quality of, the financial institutions in which it maintains its deposits and investments. As of December 31, 2022, and December 31, 2021, the Company maintained balances in various cash accounts in excess of federally insured limits. All highly liquid instruments purchased with an original maturity of three months or less are considered cash equivalents.

Cash held related to the advertising funds and the Company’s gift card programs are classified as restricted cash as there are certain legal restrictions on the use of these funds and as such, the Company intends to use

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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these funds in accordance with these obligations. Total cash balances related to the advertising funds and gift card programs as of December 31, 2022 and December 31, 2021 were \$904,413 and \$2,559,248, respectively.

## Investments

Investments are reported at fair value and consist of short-term United States Treasury Bills.

Investments classified as current investments made by the Company are expected to be converted into cash within one year or less.

## Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and investments. The Company places its cash and investments with high quality financial institutions.

## Accounts Receivable

Accounts receivable consists primarily of franchise royalties and are stated at the amount management expects to collect from outstanding balances. Customer accounts are considered delinquent based upon contractual payment terms. Management provides for probable uncollectible amounts through a charge to earnings and a credit to a valuation allowance based on its assessment of the current status of individual accounts. Balances that are still outstanding after management has used reasonable collection efforts are written off through a charge to the valuation allowance and a credit to accounts receivable.

## Property and Equipment

Property and equipment and leasehold improvements are recorded at cost less accumulated depreciation. Depreciation is calculated on the straight-line method over the estimated useful lives of the various classes of depreciable assets, which range from 5-15 years. Leasehold improvements are amortized using the straight-line method over the shorter of their estimated useful lives or the reasonably assured lease term. Routine maintenance, repairs and replacement costs are expensed as incurred and improvements that extend the useful life of the assets are capitalized.

The Company reviews its long-lived assets for impairment on a yearly basis or whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets are considered impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds its fair value. Assets to be disposed of, if any, are reported at the lower of the carrying amount or fair value.

## Goodwill

Goodwill represents the excess of purchase price over the fair value of identifiable net assets acquired. Goodwill is not subject to amortization, but instead is tested for impairment at least annually.

Goodwill is evaluated at the level of the Company's single operating segment, which also represents the Company's only reporting unit. Step one of the impairment test is based upon a comparison of the carrying value of net assets, including goodwill balances, to the fair value of net assets. Fair value is measured using a combination of the income approach and the market approach. The income approach consists of utilizing the discounted cash flow method that incorporates the Company's estimates of future revenues and costs, discounted using a risk-adjusted discount rate. The Company's estimates used in the income approach are consistent with the plans and estimates used to manage operations. The market approach utilizes multiples of profit measures to estimate the fair value of the assets. The Company evaluates all methods to ensure

# Painting With A Twist, LLC

## Notes to Financial Statements December 31, 2022 and 2021

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reasonably consistent results. Additionally, the Company evaluates the key input factors in the model used to determine whether a moderate change in any input factor or combination of factors would significantly change the results of the tests. Based on the Company's analysis, no impairment charges were recognized on goodwill for the years ended December 31, 2022 and December 31, 2021.

However, an impairment charge may be triggered in the future if cash flows of the Company's royalties and franchise fees decline significantly, or if there are significant adverse changes in the operating environment of the franchise industry.

### **Intangible Assets**

Intangible assets consist of painting copyrights, trademarks and website and branding development. The Company owns the copyrights to paintings which are designed and painted by artists for use in its business. The art is displayed on the Company's internal website for use by its franchisees to present paintings which can be used for instruction in classes to the general public. The designs and paintings are stated at cost and amortized using the straight-line method over a five-year life. The Company's trademarks are stated at cost and amortized using the straight-line method over a ten-year life. The Company's website and branding development are stated at cost and amortized using the straight-line method over a five to seven-year life. The Company tests for impairment of its intangible assets at a minimum, on an annual basis. The Company does not believe that any impairment exists as of December 31, 2022 and December 31, 2021.

### **Deposits and Other Assets**

Deposits and other assets consist primarily of deposits and cash surrender values of life insurance policies where the Company is the owner and beneficiary of variable universal life insurance policies. During 2021, the Company transferred the life insurance policies to the members personally and recorded distributions to the members for the cash surrender value at the date of transfer.

### **Equity-Based Compensation**

Equity options granted to employees and non-employees are recorded as an expense at the date of grant based on the then estimated fair value of the equity granted. The fair value of the option at grant date is estimated using the Black-Scholes Option Pricing Model.

### **Fair Value of Financial Instruments**

The fair value of a financial instrument is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction. At the balance sheet dates, the fair values of the Company's financial assets and financial liabilities (cash, investments, accounts receivable, other receivables, restricted cash, prepaids and other current assets, amounts due to and from affiliates, accounts payable and accrued expenses, system-wide payables, deposits and deferred revenue) approximate their carrying values.

### **Revenue Recognition**

Revenue is recognized in accordance with a five-step revenue model, as follows: identifying the contract with the customer; identifying the performance obligations in the contract; determining the transaction price; allocating the transaction price to the performance obligations; and recognizing revenue when (or as) the entity satisfies a performance obligation.

### ***Franchise fees and royalties and other related fees***

The Company sells individual franchises through franchise agreements with terms ranging from 7 to 10 years. These agreements also convey multiple extension terms of five years, depending on

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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contract terms if certain conditions are met. The Company provides its franchisees system training, preopening assistance, and general assistance in exchange for franchise fees, and royalties of 5%-6% of store sales.

Royalties are accrued as earned and are calculated each period based on reported franchisees' sales.

The Company has determined that a portion of the initial franchise services are distinct from the continuing rights and services offered during the term of the franchise agreement and should not be treated as a single performance obligation; therefore, a portion of such fees are recognized upon the opening of the franchise location. See Note 9.

The Company charges a transfer fee when an existing painting studio is transferred to a new franchisee. Transfer fees are based on management's estimates of anticipated costs and are earned upon execution of the transfer agreement, because substantially all obligations to the new franchisee are met.

The Company requires all franchisees to pay a technology fee ranging between \$55 and \$105 per month and is included in royalties and other related fees in the statement of income.

## ***Corporate studio sales***

Sales from company-owned studio revenues are recognized as revenue at the point of completion of the art classes. The Company reports this revenue net of sales and use taxes collected from customers and remitted to governmental taxing authorities.

## ***Advertising fees and related income***

The Company's franchise agreements typically require the franchisee to pay continuing advertising fees each reporting period based on a percentage of franchisee gross sales.

## **Franchise Operations**

The Company enters into franchise agreements with unrelated third parties to operate locations using the Painting With A Twist brand within a defined geographical area. The Company believes that franchising is an effective and efficient means to expand the Painting With A Twist brand. The franchisee is required to operate its location in compliance with its franchise agreement that includes adherence to operating and quality control procedures established by the Company.

The Company does not provide loans, leases, or guarantees to the franchisee or the franchisee's employees and vendors. If a franchisee becomes financially distressed, the Company does not provide financial assistance. If financial distress leads to a franchisee's noncompliance with the franchise agreement and the Company elects to terminate the franchise agreement, the Company has the right but not the obligation to acquire the assets of the franchisee at fair value. The Company has financial exposure for the collection of the royalty payments. Franchisees generally remit royalty payments weekly for the prior week's sales, which substantially minimizes the financial exposure. Historically, the Company has experienced insignificant write-offs of franchisee royalties. Franchise fees are paid upon the signing of the related agreements.

## **System-wide Payables**

During 2016, the Company started a system-wide gift card fund that consists of a cash balance, which is restricted to the funding of future gift card redemptions and gift card related costs, receivables from retail gift partners, and a corresponding liability for those outstanding gift cards which the Company believes will be redeemed in the future. As of December 31, 2022 and December 31, 2021, the gift card liability was \$2,413,064 and \$2,226,181, respectively.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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The Company accounts for the assets and liabilities of this fund as “restricted cash” and “system-wide payables” in the accompanying balance sheets. The restricted assets of these funds are classified as current as they are expected to be utilized to fund short-term obligations of the national advertising and system-wide gift card funds.

## Advertising Costs

Advertising costs are treated as period costs and expensed as incurred. During the years ended December 31, 2022 and December 31, 2021, advertising costs amounted to \$274,340 and \$232,136, respectively. See Note 9.

## Income Taxes

On the date of formation through December 31, 2011, the Company elected to be treated as a partnership for federal income tax purposes and did not incur income taxes. Instead, its earnings and or losses were included in the personal tax returns of the members.

Effective January 1, 2012 the Company elected to be treated as an S corporation for income tax under the provisions of the Internal Revenue Code. Accordingly, the financial statements do not reflect a provision for income taxes and the earnings and or losses are included in the personal tax returns of the members.

## Recently Issued Accounting Pronouncements

The Company has reviewed recently issued accounting pronouncements and concluded that they are either not applicable to the operations or that no material effects are expected on its financial statements as a result of future adoption.

## Recently Adopted Accounting Pronouncements

The Company adopted ASC 842 at the beginning of 2022. Under the new guidance, lessees are required to recognize lease assets and lease liabilities on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. There was no impact of adoption as the Company did not have any leases with terms longer than 12 months.

The Company adopted ASC 606 Revenue from Contracts with Customers at the beginning of the first quarter of 2019 using the modified retrospective method. The primary impact of adoption was the enhancement of the Company’s disclosures related to contracts with customers and revenue recognized from those performance obligations, which includes revenue related to initial fees charged to franchisees and revenue recognized related to gift cards. See Note 9.

Further, the Company implemented internal controls related to the recognition and presentation of the Company’s revenues under this new standard.

## NOTE 2 – INVESTMENTS

Disclosure of fair value information about financial instruments, whether or not recognized in the balance sheets is required. Fair value of a financial instrument is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is best determined based upon quoted market prices. In cases where quoted market prices are not available, fair values are based on estimates using present value or other valuation techniques. Those techniques are significantly affected by the assumptions used, including the discount rate and estimates of future cash flows. Accordingly, the fair value estimates may not be realized in an immediate settlement of the instruments. Therefore, the aggregate fair value amounts presented do not represent the underlying value of the Company.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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The recent fair value guidance provides a consistent definition of fair value, which focuses on exit price in an orderly transaction (that is, not a forced liquidation or distressed sale) between market participants at the measurement date under current market conditions. If there has been a significant decrease in the volume and level of activity for the asset or liability, a change in valuation technique or the use of multiple valuation techniques may be appropriate. In such instances, determining the price at which willing market participants would transact at the measurement date under current market conditions depends on the facts and circumstances and requires use of significant judgment. The fair value is a reasonable point within the range that is most representative of fair value under current market conditions. In accordance with this guidance, the Company groups its financial assets and financial liabilities generally measured at fair value in three levels:

Level 1 – Observable inputs such as quoted prices in active markets;

Level 2 – Inputs, other than the quoted prices in active markets that are observable either directly or indirectly; and

Level 3 – Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

The following table represents investments that are measured at fair value on a recurring basis at December 31, 2022:

|                            | <u>2022</u>         | <u>Level 1</u>   | <u>Level 2</u> | <u>Level 3</u> |
|----------------------------|---------------------|------------------|----------------|----------------|
| U.S. government securities | \$ 2,499,457        | 2,499,457        | -              | -              |
| Total investments          | <u>\$ 2,499,457</u> | <u>2,499,457</u> | <u>-</u>       | <u>-</u>       |

At December 31, 2021, the Company did not have any financial assets or liabilities to value.

## NOTE 3 – PROPERTY AND EQUIPMENT

Following is a summary of property and equipment at December 31, 2022 and December 31, 2021:

|                                | <u>2022</u>       | <u>2021</u>       |
|--------------------------------|-------------------|-------------------|
| Furniture and fixtures         | \$ 51,326         | \$ 66,342         |
| Computers and equipment        | 17,186            | 85,498            |
| Leasehold improvements         | <u>257,158</u>    | <u>257,158</u>    |
|                                | 325,670           | 408,998           |
| Less: Accumulated depreciation | <u>(204,560)</u>  | <u>(268,671)</u>  |
| Property and equipment, net    | <u>\$ 121,110</u> | <u>\$ 140,327</u> |

The Company recorded depreciation expense related to these assets of \$19,217 and \$24,013 in 2022 and 2021, respectively.

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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## NOTE 4 – INTANGIBLE ASSETS

Following is a summary of intangible assets at December 31, 2022 and December 31, 2021:

|                                | <u>2022</u>      | <u>2021</u>       |
|--------------------------------|------------------|-------------------|
| Art copy rights                | \$ 184,177       | \$ 176,172        |
| Trademark                      | 111,496          | 111,496           |
| Intangibles - other            | <u>159,755</u>   | <u>159,755</u>    |
|                                | 455,428          | 447,423           |
| Less: Accumulated amortization | <u>(383,897)</u> | <u>(343,343)</u>  |
| Net Intangible assets          | <u>\$ 71,531</u> | <u>\$ 104,080</u> |

Amortization expense for the years ended December 31, 2022 and December 31, 2021 was \$40,554 and \$55,131 respectively. Estimated future amortization expense as of December 31, 2022 is as follows:

|                                   |                  |
|-----------------------------------|------------------|
| Year ending:                      |                  |
| 2023                              | \$ 34,498        |
| 2024                              | 24,579           |
| 2025                              | 7,055            |
| 2026                              | 1,391            |
| 2027                              | 797              |
| Thereafter                        | <u>3,211</u>     |
| Total future amortization expense | <u>\$ 71,531</u> |

## NOTE 5 – ACCRUED EXPENSES

Following is a summary of accrued expenses at December 31, 2022 and December 31, 2021:

|                             | <u>2022</u>       | <u>2021</u>       |
|-----------------------------|-------------------|-------------------|
| Legal and professional fees | \$ 26,645         | \$ 51,469         |
| Legal contingencies         | -                 | 250,000           |
| State and local tax         | 21,816            | 18,600            |
| Marketing and other fees    | 16,617            | 33,820            |
| Accrued interest            | 13,354            | -                 |
| Payroll expenses            | <u>31,608</u>     | <u>71,508</u>     |
| Total accrued liabilities   | <u>\$ 110,040</u> | <u>\$ 425,397</u> |

## NOTE 6 – PAYCHECK PROTECTION PROGRAM PROCEEDS

For the year ending December 31, 2021, the Company received loan proceeds from Hancock Whitney Bank in the amount of \$446,215 under the Paycheck Protection Program (“PPP”). The PPP, established as part of the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”), provided for loans to qualifying businesses for amounts up to 2.5 times of the average monthly payroll expenses of the qualifying business. The loans and accrued interest are forgivable after a specified period of time as long as the borrower uses the loan proceeds for eligible purposes.

# Painting With A Twist, LLC

Notes to Financial Statements  
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Based on the Company's use of the PPP funding during 2021, the Company did qualify for the PPP loan and met all conditions of forgiveness. As such, by analogy, the Company has accounted for the PPP proceeds in accordance with FASB ASC 958-605. Under this method, the Company has treated the PPP loan as a conditional contribution and recognized the proceeds as a refundable advance until the conditions of forgiveness are met or explicitly waived.

For the year ending December 31, 2021, the Company reduced the PPP advance account and recognized \$446,215, in income and is recorded in other income on the Statements of Income.

On January 20, 2022, the Company received a Notice of Paycheck Protection Program Forgiveness Payment ("Notice") from the Small Business Administration ("SBA"), in the amount of \$446,215 in principal and \$4,363 in accrued interest. As authorized by Section 1106 of the CARES Act, the SBA remitted this Notice to Hancock Whitney Bank for full forgiveness of the Company's PPP Loan.

## NOTE 7 – LONG-TERM DEBT

The following is a summary of the Company's long-term debt as of December 31:

|                                                                                                                                                                   | <u>2022</u>              | <u>2021</u>              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| Bank loan, payable in monthly installments of \$10,427, at a fixed rate of 5.95% per annum, secured by Company assets, maturing January 2024.                     | \$ -                     | \$ 272,294               |
| Economic Injury Disaster Loan (EIDL), payable in monthly installments of \$695 at a fixed rate of 3.75% per annum, secured by Company assets, maturing June 2050. | <u>150,000</u>           | <u>150,000</u>           |
|                                                                                                                                                                   | \$ <u>150,000</u>        | \$ <u>422,294</u>        |
| Less: Current portion of long-term debt                                                                                                                           | <u>(2,758)</u>           | <u>(114,072)</u>         |
| Long-term debt, net of current maturities                                                                                                                         | \$ <u><u>147,242</u></u> | \$ <u><u>308,222</u></u> |

In connection with the acquisition of the acquired Bottle & Bottega, Inc. business (See Note 1), the Company entered into a promissory note with a local banking institution to fund the remaining amount due. The original amount of the note was \$540,000 with a maturity date of January 2024. During 2022, the Company paid the promissory note in full.

The following is a summary of principal maturities of long-term debt for each of the next five years and thereafter:

|            |                          |
|------------|--------------------------|
| 2023       | \$ 2,758                 |
| 2024       | 2,863                    |
| 2025       | 2,973                    |
| 2026       | 3,086                    |
| 2027       | 3,204                    |
| Thereafter | <u>135,116</u>           |
|            | \$ <u><u>150,000</u></u> |



# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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## NOTE 8 – RELATED PARTY TRANSACTIONS

The Company leased office space during part of 2021 from a related party entity. The properties were sold to an unrelated party in July 2021. Rent expense paid to this related party for the year ended December 31, 2021 was \$69,773 and is included in general and administrative expenses in the accompanying Statements of Income.

The Company occasionally pays money to entities under common control or ownership, for the purpose of funding operations of those entities. When the members have determined that these amounts cannot or will not be repaid to the Company, amounts owed by these entities are treated as capital distributions to the members and are recorded as a reduction to members' equity. For the years ended December 31, 2022 and 2021, there was \$412,341 and \$391,329 due to the Company from entities under common control or ownership, respectively, and is included in Due From Affiliates on the balance sheet. These balances owed to or by the Company are non-interest-bearing, unsecured and due on demand.

As of December 31, 2022 and December 31, 2021, five of the franchise locations in operation were owned and operated by related parties.

## NOTE 9 – REVENUE RECOGNITION

The Company adopted the revenue recognition standards under Topic 606 at the beginning of the first quarter of 2019 using the modified retrospective method. The adoption of these standards did not have an impact on the Company's recognition of revenue from company-owned studios or its recognition of continuing royalty fees from franchisees, which are based on a percentage of franchisee revenues and are recognized in the period the related franchised studios' sales occur.

### Franchise Fees

The adoption of Topic 606 impacted the Company's accounting for initial fees charged to franchisees. In the past, the Company recognized initial franchise fees when all material services or conditions relating to the sale of the franchise had been substantially performed or satisfied by the Company, which was generally when a new franchise studio opened. In accordance with the new guidance, the Company has determined that some of the initial franchise services are not distinct from the continuing rights or services offered during the term of the franchise agreement and those costs should be treated as a separate performance obligation. Therefore, the Company recognizes a portion of the initial fees received from the franchisees as revenue over the term of the respective franchise agreement, ranging from 7-10 years.

The Company recognized franchise fee revenue of \$222,187 and \$60,434 during 2022 and 2021, respectively. At December 31, 2022 and December 31, 2021, the balance of the deferred franchise fees was \$157,815 and \$320,626, respectively and is included in current and long-term deferred revenue on the Balance Sheets.

### Royalty and Other Related Fees

Royalties from franchise studios are based on a percentage of studio revenue and are recognized in the period the related franchised studios' sales occur. For the years ended December 31, 2022 and 2021, the Company recognized \$3,321,952 and \$3,238,102 in royalty and other related fee revenue, respectively.

Transfer fees of \$162,812 and \$285,625 were charged during the years ended December 31, 2022 and December 31, 2021, respectively and are included in royalties and other related fees.

### Advertising Fees

The adoption of the new guidance changed the reporting of advertising fund contributions from franchisees and the related advertising fund expenditures, which were not previously included in the Statements of

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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Income. The new guidance requires these advertising fund contributions and expenditures to be reported on a gross basis in the Statements of Income. The assets and liabilities held by the advertising funds, which were previously reported as restricted assets and liabilities of advertising funds, respectively, are now included within the respective Balance Sheet caption to which the assets and liabilities relate. Additionally, advertising costs that have been incurred by the Company outside of the advertising funds are also included within selling and marketing expenses in the Statements of Income.

## Gift Card Redemptions/Breakage Revenue

The Company and its franchisees sell gift cards that are redeemable at any of the franchise or corporate owned studio locations. The Company manages the gift card program, and therefore collects all funds from the activation of gift cards and reimburses franchisees for the redemption of gift cards in their studios. A liability for unredeemed gift cards is included in system-wide payables in the balance sheets.

There are no expiration dates or service fees charged on the gift cards. While the franchisees continue to honor all gift cards presented for payment, the likelihood of redemption may be determined to be remote for certain cards due to long periods of inactivity. In these circumstances, the Company may recognize revenue from unredeemed gift cards ("breakage revenue") if they are not subject to unclaimed property laws. The Company's gift card breakage is estimated and recognized over time in proportion to actual gift card redemptions, based on historical redemption rates. Significant judgment is required in estimating breakage rates and in determining whether to recognize breakage revenue over time or when the likelihood of redemption becomes remote. The Company recognized gift card breakage income of \$359,319 and \$164,566 for the years ended December 31, 2022 and December 31, 2021, respectively and is included in other income on the Statements of Income.

## NOTE 10 – EQUITY-BASED COMPENSATION

On April 15, 2013, the Company granted an option to purchase a 10% capital interest in the Company to a non-employee consultant. The option to purchase the interest became exercisable on October 15, 2013 (six months after the effective date of the option agreement), with the exercise price of the option equal to the value of a 10% minority ownership interest calculated by an accredited independent valuation company. The option expires 5 years after the effective date of the option agreement. The Company used the Black-Scholes valuation model for determining the value of the option on grant date with following assumptions:

|                                              |           |
|----------------------------------------------|-----------|
| Dividend yield                               | 0.00%     |
| Expected volatility                          | 28.5%     |
| Risk-free interest rate                      | 0.16%     |
| Expected life of the option term (in months) | 6         |
| Estimated forfeiture rate                    | 0.00%     |
| Fair value of the option                     | \$190,000 |

As the Company is privately held, there is no active external or internal market for the Company's LLC interest. The Company used the observable data for a group of peer companies that grant options with substantially similar terms to assist in developing the volatility assumption. The expected term was determined based on the contractual term of the award. The weighted-average risk-free interest rate was based on the 6-month U.S. Treasury bond yield. The Company has not paid and does not anticipate paying cash dividends; therefore, the expected dividend yield was assumed to be zero.

An independent valuation was performed to estimate the fair value of the capital interest on the date the option was granted. The valuation utilized the Discounted Future Cash Flow Method of the Income Approach and the Guideline Transactions Method of the Market Approach to estimate enterprise value. When estimating the enterprise value at the valuation date and the corresponding value of the capital

# Painting With A Twist, LLC

Notes to Financial Statements  
December 31, 2022 and 2021

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interest, an equal weight between the valuations derived from the market approach and the income approaches was utilized.

During 2015, the non-employee consultant was hired by the Company and became a full-time employee.

The non-employee was terminated by the Company in a prior year and settled a dispute during 2022 (See Note 13). The Company charged back compensation expense of \$15,320 that was incurred in a prior year related to the capital interest option and is included in general and administrative expenses in the accompanying Statement of Income for the year ended December 31, 2022.

The Company incurred no compensation expense related to the capital interest option for the year ended December 31, 2021.

## **NOTE 11 – LINE OF CREDIT**

The Company's line of credit agreement with a banking institution of \$150,000 matured on January 15, 2022 and was not renewed. At December 31, 2022 and 2021, the balance on the line of credit was \$0.

## **NOTE 12 – LEASE COMMITMENTS**

As of December 31, 2022, the Company had no future minimum rental payments for leased properties in excess of one year.

## **NOTE 13 – LEGAL PROCEEDINGS AND CONTINGENCIES**

The Company is subject to legal proceedings, claims and liabilities, which arise in the ordinary course of business relating to matters including, but not limited to, disputes with franchisees, suppliers, employees and customers, as well as disputes over the Company's intellectual property.

During 2022, the Company settled a dispute with a former executive employee and related party supplier of art canvases related to a claim filed in a previous year seeking specific performance of certain ownership interests in the Company and breach of contract. The Company agreed to pay \$650,000 of which \$250,000 was accrued in a prior year as a potential settlement contingent liability (See Note 4). The remaining portion was expensed during 2022 and recorded in general and administrative expenses on the Statement of Income.

## **NOTE 14 – SUBSEQUENT EVENTS**

Management has evaluated subsequent events through the date that the financial statements were available to be issued, February 24, 2023 and determined that there were no other items for disclosure.

**EXHIBIT D**

**OPERATIONS MANUAL TABLE OF CONTENTS**

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**TABLE OF CONTENTS OF CONFIDENTIAL OPERATIONS MANUAL**

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**EXHIBIT E**  
**GENERAL RELEASE**

## **GENERAL RELEASE**

This General Release is entered into this day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, a \_\_\_\_\_ (“Franchisee”), pursuant to the Franchise Agreement dated \_\_\_\_\_ between Franchisee and Painting with a Twist, L.L.C., dba, Pinot’s Palette.

Franchisee hereby acquits, releases, exonerates, covenants not to sue, and forever discharges Franchisor of and from any and all past, present, and future claims, demands, losses, causes of action, damages, costs, rights of reimbursement, loss of earnings, loss of services, and compensation whatsoever, which Franchisee now has or may hereinafter accrue on account of or in any way growing out of the Franchise Agreement or any association, relationship or rights relating thereto of resulting therefrom.

This General Release also applies to, and shall inure to the benefit of, Franchisor’s past, present, and future directors, officers, shareholders, parent companies, agents, servants, employees, insurers, subcontractors, subsidiaries, affiliates, partners, predecessors, successors, assigns, heirs, executors, administrators, attorneys, and all other firms or corporations which any of the former have been, are now or may hereafter be affiliated. This General Release is also binding upon Franchisee’s respective heirs, executors, administrators, successors, assigns, and subrogees.

Franchisee agrees to assume full and sole responsibility for the payment and satisfaction of any and all past, present, and future claims, liens and subrogation rights made or asserted by any third party (including, but not limited to, governmental agencies). Franchisee further agrees to indemnify, protect, defend, and save harmless Franchisor from all claims, liens and subrogation rights made or asserted by any third party. It is Franchisee’s express intent that this General Release completely releases and discharges Franchisor from all liability in connection with or arising out of the Franchise Agreement or any association, relationship or rights relating thereto or resulting therefrom, including, but not limited to, liability to any person, entity, or party for contribution, indemnity, or subrogation.

Franchisee represents and warrants that no other person or entity has, or has had, an interest in any claim Franchisee may have against Franchisor, other than those specifically identified and released herein, and that no other relative(s) of Franchisee is entitled to recovery against Franchisor under any theory of recovery.

**{SIGNATURES BEGIN ON NEXT PAGE}**

IN WITNESS WHEREOF, Franchisee has executed this General Release in the State of \_\_\_\_\_ as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**FRANCHISEE(S):**

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

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

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

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

**\*\*This General Release does not apply with respect to claims arising under the Washington Franchise Investment Protection Act, RCW 19.100, and the rules adopted thereunder.**



**EXHIBIT F**

**FRANCHISEE COMPLIANCE CERTIFICATION**

## **FRANCHISEE COMPLIANCE CERTIFICATION**

\* \* \* \*

**California, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin franchisees should not complete this Franchisee Compliance Certification. If a franchisee in one of these states does so, Painting with a Twist, L.L.C., dba, Pinot's Palette will disregard and not rely on the Franchisee Compliance Certification.**

**Do not sign this Franchisee Compliance Certification if you are a resident of Maryland or Washington or your business will be operated in Maryland or Washington.**

\* \* \* \*

Painting with a Twist, L.L.C., dba, Pinot's Palette and you are preparing to enter into a Pinot's Palette Franchise Agreement for the right to open and operate a Pinot's Palette franchised business (a "Franchised Business"). The purpose of this Questionnaire is to: (i) determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading; (ii) be certain that you have been properly represented in this transaction; and (iii) be certain that you understand the limitations on claims you may make by reason of the purchase and operation of your franchise. You cannot sign or date this Questionnaire the same day as the Receipt for the Franchise Disclosure Document but you must sign and date it the same day you sign the Franchise Agreement, and pay us the appropriate franchise fee. Please review each of the following questions carefully and provide honest responses to each question. If you answer "No" to any of the questions below, please explain your answer on the back of this sheet.

Yes \_\_\_\_\_ No \_\_\_\_\_ 1. Have you received and personally reviewed the Franchise Agreement, as well as each exhibit attached to this agreement, which you intend to enter into with us?

Yes \_\_\_\_\_ No \_\_\_\_\_ 2. Have you received and personally reviewed the Franchise Disclosure Document we provided?

Yes \_\_\_\_\_ No \_\_\_\_\_ 3. Did you sign a receipt for the Disclosure Document indicating the date you received it?

Yes \_\_\_\_\_ No \_\_\_\_\_ 4. Do you understand all the information contained in the Disclosure Document and the Franchise Agreement you intend to enter into with us?

Yes \_\_\_\_\_ No \_\_\_\_\_ 5. Have you reviewed the Disclosure Document and Franchise Agreement with a lawyer, accountant or other professional advisor and discussed the benefits and risks of operating the Franchised Business with these professional advisor(s)?

Yes \_\_\_\_\_ No \_\_\_\_\_ 6. Do you understand the success or failure of your Franchised Business will depend in large part upon your skills, abilities and efforts and those of the persons you employ, as well as many factors beyond your control such as demographics of

your approved location, competition, interest rates, the economy, inflation, labor and supply costs, lease terms and the marketplace?

Yes \_\_\_\_\_ No \_\_\_\_\_ 7. Do you understand we have only granted you certain, limited territorial rights under the Franchise Agreement, and that we have reserved certain rights under the Franchise Agreement?

Yes \_\_\_\_\_ No \_\_\_\_\_ 8. Do you understand we and our affiliates retain the exclusive unrestricted right to engage, directly or through others, in the providing of services under the Proprietary Marks or any other mark at any location outside your (a) Protected Territory under the Franchise Agreement, without regard to the proximity of these activities to the premises of your Franchised Business(es)?

Yes \_\_\_\_\_ No \_\_\_\_\_ 9. Do you understand all disputes or claims you may have arising out of or relating to the Franchise Agreement must be mediated, at our option, at our headquarters in Louisiana?

Yes \_\_\_\_\_ No \_\_\_\_\_ 10. Do you understand the Franchise Agreement provides that you can only collect compensatory damages on any claim under or relating to the Franchise Agreement and are not entitled to any punitive, consequential or other special damages?

Yes \_\_\_\_\_ No \_\_\_\_\_ 11. Do you understand the sole entity or person against whom you may bring a claim under the Franchise Agreement is us?

Yes \_\_\_\_\_ No \_\_\_\_\_ 12. Do you understand that the Franchisee (or one of its principals if Franchisee is an organization), as well as any Designated Managers (as defined in the Franchise Agreement), must successfully complete the appropriate initial training program(s) before we will allow the Franchised Business to open or consent to a transfer of that Franchised Business?

Yes \_\_\_\_\_ No \_\_\_\_\_ 13. Do you understand that we require you to successfully complete certain initial management training program(s) and if you do not successfully complete the applicable training program(s) to our satisfaction, we may terminate your Franchise Agreement?

Yes \_\_\_\_\_ No \_\_\_\_\_ 14. Do you understand that we do not have to sell you a franchise or additional franchises or consent to your purchase of existing franchises?

Yes \_\_\_\_\_ No \_\_\_\_\_ 15. Do you understand that we will send written notices, as required by your Franchise Agreement to either your Franchised Business or home address until you designate a different address by sending written notice to us?

Yes \_\_\_\_\_ No \_\_\_\_\_ 16. Is it true that no broker, employee or other person speaking on our behalf made any statement or promise regarding the costs involved in operating a Franchised Business that is not contained in the Disclosure Document or that is contrary to, or different from, the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_ 17. Is it true that no broker, employee or other person speaking on our behalf made any statement or promise regarding the actual, average or projected profits or earnings, the likelihood of success, the amount of money you may earn, or the total amount of revenue a Franchised Business will generate, that is not contained in the Disclosure Document or that is contrary to, or different from, the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_ 18. Is it true that no broker, employee or other person speaking on our behalf made any statement or promise or agreement, other than those matters addressed in your Franchise Agreement concerning advertising, marketing, media support, marketing penetration, training, support service or assistance that is contrary to, or different from, the information contained in the Disclosure Document?

Yes \_\_\_\_\_ No \_\_\_\_\_ 19. Is it true that no broker, employee or other person providing services to you on our behalf has solicited or accepted any loan, gratuity, bribe, gift or any other payment in money, property or services from you in connection with a Franchised Business purchase with exception of those payments or loans provided in the Disclosure Document?

All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS QUESTIONNAIRE, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS.

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Signature of Franchise Applicant

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

Dated: \_\_\_\_\_, 20\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

**EXHIBIT G**

**LIST OF CURRENT FRANCHISEES AND FRANCHISEES WHO LEFT THE SYSTEM**

**Franchisees in Operation as of December 31, 2023**

| <b>Franchisee</b>                   | <b>Address</b>                     | <b>City</b>               | <b>State</b> | <b>Zip Code</b> | <b>Telephone</b> |
|-------------------------------------|------------------------------------|---------------------------|--------------|-----------------|------------------|
| J&L Acquisitions LLC                | 8 Parade St, Suite 102             | Huntsville                | AL           | 35806           | (256) 801-9640   |
| Chill Lifestyles Inc.*              | 2743 South Market St,<br>Ste 110   | Gilbert                   | AZ           | 85295           | (480) 750-9463   |
| Bodega Dreams LLC                   | 26731 Aliso Creek Rd,<br>Ste 200 A | Aliso Viejo               | CA           | 92656           | (626) 394-4010   |
| Lucia's Palette LLC                 | 110 W Birch St                     | Brea                      | CA           | 92821           | (714) 773-1456   |
| Stannas Studio, Inc                 | 410 Sycamore Valley<br>Rd West     | Danville                  | CA           | 94526           | (925) 743-9900   |
| Pour Decizions, LLC                 | 8962 Elk Grove Blvd<br>A           | Elk Grove                 | CA           | 95624           | (916) 895-2627   |
| Giant Penny, LLC                    | 7811 Edinger Avenue,<br>Ste 110    | Huntington<br>Beach       | CA           | 92647           | (657) 227-9499   |
| L.H.L.L. LLC                        | 153 S L Street                     | Livermore                 | CA           | 94550           | (925) 290-7478   |
| Paint and Wine<br>Collaboration LLC | 168 West Green Street,<br>Ste 109  | Pasadena                  | CA           | 91105           | (626) 755-0383   |
| Skye High Design, Inc.              | 71680 Hwy 111, Ste D               | Rancho<br>Mirage          | CA           | 92270           | (760) 610-1738   |
| Bodega Dreams LLC                   | 22235 El Paseo, Ste B              | Rancho Santa<br>Margarita | CA           | 92688           | (949) 393-1340   |
| Dreaming of Dinosaurs,<br>LLC       | 533 San Mateo Ave                  | San Bruno                 | CA           | 94066           | (650) 392-8014   |
| Commit West, LLC                    | 2820 Roosevelt Rd,<br>Ste 106      | San Diego                 | CA           | 92106           | (619) 675-0058   |
| AMM Studios Inc.                    | 41789 Nicole Lane,<br>Ste B6       | Temecula                  | CA           | 92591           | (951) 331-3301   |
| Artbar, LLC                         | 2479 Park Avenue                   | Tustin                    | CA           | 92782           | (714) 400-9016   |
| Leonor's Shop, LLC                  | 159 W. Mountain Ave                | Fort Collins              | CO           | 80524           | (970) 539-7729   |
| Maple Cookie, LLC*                  | 25 Harbor Point Road               | Stamford                  | CT           | 06902           | (203) 588-9893   |
| Art to Life Studio One,<br>LLC      | 2086 Badlands Dr                   | Brandon                   | FL           | 33511           | (813) 618-3064   |

| Franchisee                                | Address                        | City             | State | Zip Code | Telephone      |
|-------------------------------------------|--------------------------------|------------------|-------|----------|----------------|
| Hkelly Arts LLC                           | 1718 Bruce B. Downs Blvd       | Wesley Chapel    | FL    | 33544    | (863) 662-0909 |
| Jaclyn Casey and Jeff Hansen*             | 728 N 4th Street               | Coeur d'Alene    | ID    | 83814    | (208) 930-4763 |
| Que Of Life Partners, Inc.                | 2768 N. Milwaukee Ave          | Chicago          | IL    | 60647    | (773) 289-1709 |
| Art U Having Fun LLC                      | 214 N York Street              | Elmhurst         | IL    | 60126    | (630) 359-4500 |
| Two Painted Ladies, LLC                   | 175 W. Jackson Ave, Suite 123  | Naperville       | IL    | 60540    | (331) 457-5440 |
| G & C Cook                                | 100 W Higgins Rd, Suite H-80   | South Barrington | IL    | 60010    | (224) 484-8526 |
| Fox River Studio, Inc                     | 3823 E Main St                 | St Charles       | IL    | 60174    | (630) 338-0278 |
| Chanani, Inc                              | 1001 75th Street, Unit 113-B   | Woodridge        | IL    | 60517    | (708) 288-6172 |
| Vineart, LLC*                             | 4817 W. 117th St               | Leawood          | KS    | 66211    | (913) 451-7466 |
| JBC&T LLC                                 | 11945 S. Strang Line Rd        | Olathe           | KS    | 66062    | (913) 732-3768 |
| PDHFLEXKY, LLC                            | 3851 Mall Rd, Suite 110        | Lexington        | KY    | 40503    | (859) 245-0004 |
| Jesse Jay's Pinot, LLC                    | 291 N Hubbards Lane, Suite 160 | Louisville       | KY    | 40207    | (502) 409-4572 |
| Reshma Art Palette, LLC                   | 7A Meriam St                   | Lexington        | MA    | 02420    | (781) 862-3200 |
| ELITE EVENTS, LLC                         | 11105 Resort Rd, Suite 105     | Ellicott City    | MD    | 21042    | (443) 420-8378 |
| Copacabana Arts, LLC                      | 483 NE Coronado Dr             | Blue Springs     | MO    | 64014    | (816) 598-0598 |
| Paulista Arts, LLC                        | 4165 N. Mulberry Dr            | Kansas City      | MO    | 64116    | (816) 492-3772 |
| Vin Bleu Entertainment, Inc.              | 20 Allen Ave Suite 150         | Webster Groves   | MO    | 63119    | (314) 736-6403 |
| Carole's Transitions of the Triangle, LLC | 10410 Moncreiffe Rd, Suite 101 | Raleigh          | NC    | 27617    | (919) 391-0258 |
| Dee1 LLC                                  | 545 Brick Blvd                 | Brick            | NJ    | 08723    | (732) 206-6247 |

| Franchisee                      | Address                            | City           | State | Zip Code | Telephone      |
|---------------------------------|------------------------------------|----------------|-------|----------|----------------|
| Roses & Cleats, INC             | 921 Haddonfield Rd,<br>Ste 2D      | Cherry Hill    | NJ    | 08002    | (856) 312-3727 |
| Kraski LLC                      | 647G Route 18 South                | East Brunswick | NJ    | 08816    | (732) 210-4557 |
| Beaches and Bourbon, LLC        | 1885 NJ-57                         | Hackettstown   | NJ    | 07840    | (908) 651-5033 |
| Carlee's Palette, LLC*          | 351 Bloomfield Ave                 | Montclair      | NJ    | 07042    | (973) 744-7500 |
| Colleen Carlee*                 | 510 Franklin Ave                   | Nutley         | NJ    | 07110    | (973) 284-0700 |
| Apple Day Studios, LLC          | 127 Village Blvd                   | Princeton      | NJ    | 08540    | (609) 285-5102 |
| ArtsyHarvey, LLC*               | 25 Oak Street                      | Ridgewood      | NJ    | 07450    | (201) 389-8676 |
| CHRISUZY LLC                    | 96 Summit Ave                      | Summit         | NJ    | 07901    | (973) 908-9748 |
| Memories in the making, LLC*    | 1000 740 S. Rampart Blvd           | Las Vegas      | NV    | 89145    | (702) 331-2007 |
| TS3, LLC*                       | 6587 Las Vegas Blvd S, Ste 175     | Las Vegas      | NV    | 89119    | (702) 586-6060 |
| Canvas Vibes LLC                | 2557 Hempstead Turnpike            | East Meadow    | NY    | 11554    | (516) 390-8740 |
| Painting the Boulevard LLC      | 992 Main Street, Ste 8             | Fishkill       | NY    | 12524    | (845) 896-8500 |
| Painting Connection Company LLC | 691 North High Street, Suite 101   | Columbus       | OH    | 43215    | (614) 456-7307 |
| Canvas Chaos LLC                | 7334 Tylers Corner, Suite 800      | West Chester   | OH    | 45069    | (513) 342-1927 |
| Art Squirrel Studios LLC        | 28699 Chagrin Blvd, Suite 280      | Woodmere       | OH    | 44122    | (216) 755-4475 |
| Humble Beginnings, LLC*         | 212 South Main Street              | Broken Arrow   | OK    | 74012    | (918) 893-6447 |
| Humble Beginnings, LLC*         | 300 Riverwalk Terrace Ste 160      | Jenks          | OK    | 74037    | (918) 518-5433 |
| ERC Investments, LLC            | 228 E Main Street                  | Norman         | OK    | 73069    | (405) 310-1755 |
| Pinot's Palette Studio 5 LLC    | 115 E California Avenue, Suite 100 | Oklahoma City  | OK    | 73104    | (405) 602-3850 |



| Franchisee                            | Address                              | City             | State | Zip Code | Telephone      |
|---------------------------------------|--------------------------------------|------------------|-------|----------|----------------|
| Humble Beginnings, LLC*               | 1621 East 15th Street                | Tulsa            | OK    | 74120    | (918) 794-7333 |
| Art Start to Finish Inc.              | 103 International Drive Suite 100    | Franklin         | TN    | 37067    | (615) 314-3370 |
| Artista Del Vino, Inc                 | 2406 Taft Street                     | Houston          | TX    | 77006    | (713) 523-4769 |
| Uncorked Artists, LLC                 | 5920 Westheimer Parkway Suite 100    | Katy             | TX    | 77494    | (281) 769-2961 |
| Rosecity Art INC.The Severed Ear, LLC | 322 East Southeast Loop 323, Ste 156 | Tyler            | TX    | 75701    | (903) 561-2773 |
| Fun Fare. LLC                         | 12976 Highland Crossing Dr, Ste D    | Herndon          | VA    | 20171    | (703) 796-0616 |
| Lamby LLC                             | 240 W 21st Street                    | Norfolk          | VA    | 23507    | (757) 386-4679 |
| Pinot's in WA LLC                     | 1066 S 320th St, Ste A/B             | Federal Way      | WA    | 98003    | (253) 429-2871 |
| Pinot's in Tacoma LLC                 | 10507 156th St E, Ste 105            | Puyallup         | WA    | 98374    | (253) 387-9850 |
| Jaclyn Casey and Jeff Hansen*         | 319 W Sprague Ave                    | Spokane          | WA    | 99201    | (509) 290-5098 |
| MK2 Investments, LLC                  | 226 East College Ave                 | Appleton         | WI    | 54911    | (920) 358-7913 |
| AB-Salute Creative, LLC               | 9020 76 <sup>th</sup> Street, Ste E2 | Pleasant Prairie | WI    | 53158    | (262) 818-6519 |

\*Franchisee is an Area Developer

**Franchisees Signed but Not Yet Operating as of December 31, 2023**

| Franchisee | City   | State | Telephone      |
|------------|--------|-------|----------------|
| JANDT LLC  | Dublin | OH    | (614) 580-2595 |

**Transferred Units During 2023**

| Former franchisee      | City         | State | Telephone      |
|------------------------|--------------|-------|----------------|
| Baker's Pinot STM, LLC | St. Matthews | KY    | (702) 588-8777 |

**Closed Units During 2023**

| <b>Former Franchisee</b>           | <b>City</b>      | <b>State</b> | <b>Telephone</b> |
|------------------------------------|------------------|--------------|------------------|
| Adipose, Finn & Rey LLC            | Huntington Beach | CA           | (714) 932-8996   |
| SLK Events and Entertainment, Inc. | La Vista         | NE           | (402) 502-5656   |
| LTJAM LLC                          | Manalapan        | NJ           | (732) 637-8899   |
| Artsy Harvey, LLC                  | Morristown       | NJ           | (973) 671-8676   |
| For the Love of Art Inc.           | Dyker Heights    | NY           | (347) 481-6548   |
| Wiser Time, Inc.                   | Rochester        | NY           | (585) 730-5147   |
| Memories in the Making, LLC        | Las Vegas        | NV           | (702) 910-4700   |

**EXHIBIT H**  
**CONTINGENT ASSIGNMENT OF LEASE**

## CONTINGENT ASSIGNMENT OF LEASE

This Contingent Assignment of Lease (“Agreement”) is made and entered into as of the date set forth below by and among the following parties for a lease at the following street address:

**LESSOR:** \_\_\_\_\_ **LESSEE:** \_\_\_\_\_

**FRANCHISOR:**

Painting with a Twist, L.L.C.,  
Dbas, Pinot’s Palette (“Pinot’s Palette”)  
P.O. Box 1710  
Mandeville, LA 70470  
[franchise@pinotspalette.com](mailto:franchise@pinotspalette.com)

**PREMISES STREET ADDRESS:** \_\_\_\_\_

In consideration of the lease agreement entered into between Lessor and Lessee (“Lease”) and mutual covenants herein contained and other good and valuable consideration, including the acceptance by Pinot’s Palette of the Premises as a location for a Pinot’s Palette Franchised Business, the parties agree as follows:

1. Notices. Lessor agrees to furnish Pinot’s Palette with copies of any and all notices to Lessee pertaining to any default by Lessee under the Lease at the same time and in the same manner as any such notice is sent to Lessee. Lessee agrees to furnish Pinot’s Palette prompt written notice of any and all amendments, waivers, extensions, renewals or other modifications to the Lease. All notices hereunder shall be mailed or delivered to the addresses set forth above, unless changed from time to time by any party through written notice mailed or delivered to the other parties.

2. Assignment. In the event of termination or expiration of the Franchise Agreement or Lessee’s default under the Lease, Lessee shall, at Pinot’s Palette’s option, assign to Pinot’s Palette any and all interest of Lessee in the Lease, including any rights to renew the Lease or to sublease the Premises; and Lessor hereby consents to such assignment, subject to the following conditions:

(a) Pinot’s Palette shall notify Lessee and Lessor in writing (the “Election Notice”) within fifteen (15) days after termination or expiration of the Franchise Agreement, or Pinot’s Palette’s receipt of any notice of default by Lessee under the Lease, if Pinot’s Palette elects to accept assignment of the Lease. Upon receipt of an Election Notice by Lessee and Lessor, Pinot’s Palette shall have the right as between Lessee and Pinot’s Palette to the Premises. Upon receipt of an Election Notice by Lessee from Pinot’s Palette, Lessee hereby grants, assigns, transfers and sets over to Pinot’s Palette all rights, title and interest in and to the Lease and the Premises leased thereunder and abandons any existing leasehold improvements. Pinot’s Palette’s failure to accept assignment of the Lease upon any default of Lessee under the Lease which has

been subsequently cured by Lessee shall not be deemed a waiver of Pinot's Palette's future right to accept such assignment in the event of any future default of Lessee;

(b) If Pinot's Palette elects to accept assignment of the Lease, Pinot's Palette shall (i) cure any monetary defaults and take possession of the Premises as soon as reasonably possible, but no later than thirty (30) days after receipt of the Election Notice by Lessor, and (ii) promptly commence the cure of all non-monetary defaults and diligently pursue such cure until completion. Pinot's Palette shall thereafter commence payment of rent and other customary and reasonable charges and comply with all other obligations under the Lease;

(c) Nothing herein shall affect Lessor's right to require Lessee to remain liable as a guarantor for the remaining term of the Lease, to recover from Lessee any and all amounts due under the Lease or to exercise any rights of Lessor against Lessee as provided under the Lease; provided, that Pinot's Palette's leasehold interest shall not be subject to any claims that may exist between Lessor and Lessee; and

(d) Lessee agrees to take any and all actions under the Lease to effectuate assignment of the Lease to Pinot's Palette. Lessor agrees to the assignment of the Lease from Lessee to Pinot's Palette upon Lessor's receipt of an Election Notice and agrees to take any and all present and/or future action reasonably necessary to assist Pinot's Palette, when and as requested, in effecting the assignment of the Lease to Pinot's Palette; provided, however, that Lessor shall not be required to bear any expense thereof.

3. Assignment to Third Party. At any time after receipt of the Election Notice by Lessor, Pinot's Palette may request to assign its Lease, pursuant to provisions of the Lease concerning lease assignment, or sublease of the Premises, to a third party franchisee of Pinot's Palette for the purpose of continuing to operate the Pinot's Palette Franchised Business at the Premises. Lessor agrees not to unreasonably withhold its consent to any such assignment or sublease.

4. De-Identification. Lessee acknowledges that in the event the Lease or the Franchise Agreement expires or is terminated; Lessee is obligated under the Franchise Agreement to take certain steps to de-identify the Premises as a Pinot's Palette Franchised Business operated by Lessee. Lessor agrees to cooperate with Pinot's Palette in allowing Pinot's Palette to de-identify the Premises, including allowing Pinot's Palette and its employees and agents to enter and remove signs, décor and materials bearing or displaying any marks, designs or logos of Pinot's Palette; provided, however, that Pinot's Palette shall immediately repair all damage caused by such de-identification and Lessor shall not be required to bear any expense thereof. Pinot's Palette shall indemnify, defend, and hold Lessor harmless from and against any and all loss, damage, claim, demand, liability, or expense (including reasonable attorneys' fees) resulting from claims by third parties and based on any actor or omissions of Pinot's Palette and its employees and agents arising out of Pinot's Palette's entry and de-identification of the Premises. Lessee agrees that if Lessee fails to de-identify the Premises promptly upon termination or expiration as required under the Franchise Agreement, Pinot's Palette may cause all required de-identification to be completed at Lessee's expense.

5. General Provisions.

(a) This Agreement is directed to a specific Lease set forth herein but the Lessee, Lessor and Pinot's Palette agree that this Agreement is applicable to any extensions, renewals or other options of Lessee with respect to the Lease and the Premises, as well as being applicable to any subsequent lease agreements between Lessee and Lessor concerning the Pinot's Palette Franchised Business with respect to the Premises;

(b) Nothing contained in this Agreement shall affect any term or condition in the Franchise Agreement between Lessee and Pinot's Palette. Nothing herein shall be deemed to constitute a guaranty or endorsement by Pinot's Palette of the terms and conditions of the Lease between Lessor and Lessee. In the event that Pinot's Palette, in its sole discretion, determines not to accept assignment of the Lease as permitted hereunder, neither Lessor nor Lessee shall have any claims against Pinot's Palette. No terms or conditions contained in the Lease shall be binding on Pinot's Palette unless and until it elects to accept assignment of the Lease hereunder;

(c) This Agreement shall be binding upon the parties hereto and their successors, assigns, heirs, executors, and administrators. The prevailing party in any action shall be entitled to recover its legal fees together with court costs and expenses of litigation; and

(d) In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Lease, the terms of this Agreement shall prevail.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

**WITNESSES:**

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

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

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

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

**LANDLORD:**

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

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

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

**TENANT:**

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

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

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

**FRANCHISOR:**

**PAINTING WITH A TWIST, L.L.C.,  
DBA, PINOT'S PALETTE**

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

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

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

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

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

**EXHIBIT I**  
**STATE SPECIFIC ADDENDA**



**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF CALIFORNIA**

**Table of Contents**

1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF CALIFORNIA
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF CALIFORNIA

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF CALIFORNIA**

This Addendum shall pertain to residents of the State of California or franchises to be located in the State of California and shall be for the purpose of complying with California statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Franchise Agreement shall be amended as follows:

1. Articles 3.2(vii) and 13.2(iv) of the Franchise Agreement require Franchisee to sign a general release of claims. This provision may not be enforceable under California Law.
2. The Franchise Agreement contains covenants not to compete which extends beyond the termination of the franchise. A contract that restrains a former franchisee from engaging in a lawful trade or business is to that extent void under California Business and Professions Code Section 16600.
3. For franchisees operating outlets located in California, the California Franchise Investment Law and the California Franchise Relations Act will apply regardless of the choice of law or dispute resolution stated elsewhere. Any language in the Franchise Agreement or any amendment thereto or any agreement to the contrary is superseded by this provision.
4. The Franchise Agreement requires application of the laws of Louisiana. This provision may not be enforceable under California Law.
5. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):
  - A. In Article 21.3 of the Franchise Agreement, the language, "There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement."
  - B. Articles 19.1, 19.2 and 22 of the Franchise Agreement.
  - C. Paragraph C of the Background of Attachment D (Successor Addendum).
6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.
7. Except as amended herein, the Franchise Agreement will be construed and enforced with its terms.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Franchisor: Painting with a Twist, L.L.C., dba, Pinot's Palette

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

Franchisee:

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF CALIFORNIA**

In recognition of the requirements of the California Franchise Investment Law, Cal. Corporations Code Sections 31000 et seq. the Pinot's Palette Franchise Disclosure Document for use in the State of California shall be amended as follows:

The following risk factors are added to the Special Risks to Consider About *This Franchise* state cover page and are stated as follows:

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

Each owner of the franchise is required to execute a personal guaranty. Doing so could jeopardize the marital assets of non-owner spouses domiciled in community property states such as California.

Item 3 of the FDD is supplemented to include the following:

Neither the franchisor, any person or franchise broker in Item 2 of the FDD is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

Item 17 of the FDD shall be supplemented to include the following:

California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination, transfer or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A Sec. 101 *et seq.*).

The franchise agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

The franchise agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages are unenforceable.

The franchise agreement requires binding arbitration. The arbitration will occur at American Arbitration Association's office in New Orleans, Louisiana, with each party bearing its own costs (including, but not limited to, attorney's fees, expert witness fees, and other costs incurred in connection with arbitration).

The franchise agreement requires application of the laws of Louisiana. This provision may not be enforceable under California law.

Section 31125 of the California Corporation Code requires the franchisor to give the franchisee a disclosure document, in a form and containing such information as the Commissioner may by rule or order require, prior to a solicitation of a proposed material modification of an existing franchise.

You must sign a general release of claims 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).

Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION AT [WWW.DFPI.CA.GOV](http://WWW.DFPI.CA.GOV).

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

Registration of this franchise does not constitute approval, recommendation, or endorsement by the commissioner.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF ILLINOIS**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF ILLINOIS.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
REQUIRED EXCLUSIVELY BY THE STATE OF ILLINOIS  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
REVIEWED IN CONJUNCTION WITH THE FDD**

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF ILLINOIS**

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**ADDENDUM TO PINOT’S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF ILLINOIS**

This Addendum shall pertain to franchises sold in the State of Illinois and shall be for the purpose of complying with Illinois statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement (“Agreement”) to the contrary, the Agreement shall be amended as follows:

Illinois law governs the Franchise Agreement.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

Your rights upon Termination and Non-Renewal of an agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or **any other law of Illinois** is void.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Dated this \_\_\_\_\_ day of 20\_\_\_\_

**Franchisor: Painting with a Twist, L.L.C.,    Franchisee:  
Dba, Pinot’s Palette**

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

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



**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF ILLINOIS**

For franchises and franchisees subject to the Illinois Franchise Disclosure Act of 1987 and the Illinois General Rules and Regulations under the Franchise Disclosure Act, the following information supersedes and supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Illinois Franchise Disclosure Document.

Illinois law governs the Franchise Agreement.

By reading this disclosure document, you are not agreeing to acknowledging, or making any representations whatsoever to the Franchisor or its affiliates.

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

Your rights upon Termination and Non-Renewal of an agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or **any other law of Illinois** is void.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF INDIANA**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF INDIANA.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
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AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

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**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF INDIANA**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF INDIANA
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF INDIANA

**ADDENDUM TO PINOT’S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF INDIANA**

This Addendum shall pertain to franchises sold in the State of Indiana and shall be for the purpose of complying with Indiana statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement (“Agreement”) to the contrary, the Agreement shall be amended as follows:

1. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, “There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement.”

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, “read and.”

D. Paragraph C of the Background of Attachment D (Successor Addendum).

2. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Dated this \_\_\_\_\_ day of 20\_\_\_\_

**Franchisor: Painting with a Twist, L.L.C., Franchisee:  
Db, Pinot’s Palette**

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

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF INDIANA**

This Addendum pertains to franchises sold in the State of Indiana and is for the purpose of complying with Indiana statutes and regulations. For franchises and franchisees subject to Indiana statutes and regulations, the following information supersedes and supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Franchise Disclosure Document.

1. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF MARYLAND**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF MARYLAND.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
REQUIRED EXCLUSIVELY BY THE STATE OF MARYLAND  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE REVIEWED IN  
CONJUNCTION WITH THE FDD**

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MARYLAND**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF MARYLAND
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF MARYLAND

**AMENDMENT TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF MARYLAND**

This Addendum shall pertain to residents of the State of Maryland or franchises to be located in the State of Maryland and shall be for the purpose of complying with Maryland statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Franchise Agreement shall be amended as follows:

1. The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.
2. 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 under the Maryland Franchise Registration and Disclosure Law.
3. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.
4. A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.
5. A provision in the Franchise Agreement which terminates the Franchise Agreement upon the bankruptcy of the franchisee may not be enforceable under Title 11, United States Code Section 101.
6. The following language and Sections are deleted from the Franchise Agreement and Attachment D (Successor Addendum):
  - A. Article 22 (Representations and Acknowledgments) of the Franchise Agreement.
  - B. Paragraph C of the Background of Attachment D (Successor Addendum).
7. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

[signature page follows]



Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Franchisor: Painting with a Twist, L.L.C., dba, Pinot's Palette

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

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

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

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

Franchisee:

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

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

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

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MARYLAND**

For franchises and franchisees subject to the Maryland Franchise Registration and Disclosure Law, the following information replaces or supplements, as the case maybe the corresponding disclosures in the main body of the text of the Pinot's Palette Franchise Disclosure Document:

Item 17.

The Summary of the "Cause" Defined—Non Curable Defaults (provision (h.)) is amended to provide that provisions allowing termination on bankruptcy may not be enforceable under Title 11, United States Code Section 101 *et seq.*

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

A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

Exhibit F of the Franchise Disclosure Document (Franchisee Compliance Certification) is deleted in its entirety.

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF MICHIGAN**

**PINOT'S PALETTE  
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**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MICHIGAN**

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**ADDENDUM TO PINOT’S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF MICHIGAN**

This Addendum shall pertain to franchises sold in the State of Michigan and shall be for the purpose of complying with Michigan statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement (“Agreement”) to the contrary, the Agreement shall be amended as follows:

1. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, “There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement.”

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, “read and.”

D. Paragraph C of the Background of Attachment D (Successor Addendum).

2. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Dated this \_\_\_\_\_ day of 20\_\_\_\_

**Franchisor: Painting with a Twist, L.L.C., Franchisee:  
Dba, Pinot’s Palette**

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

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MICHIGAN**

This Addendum pertains to franchises sold in the State of Michigan and is for the purpose of complying with Michigan statutes and regulations. For franchises and franchisees subject to Michigan statutes and regulations, the following information supersedes and supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Franchise Disclosure Document.

1. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT’S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF MINNESOTA**

**PINOT’S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT (“FDD”)  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF MINNESOTA.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
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AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
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**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MINNESOTA**

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**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF MINNESOTA**

This Addendum shall pertain to those franchises sold in the State of Minnesota and shall be for the purpose of complying with Minnesota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Franchise Agreement shall be amended as follows.

1. Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit Pinot's Palette from requiring litigation to be conducted outside of Minnesota, requiring waiver of 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 Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

2. With respect to franchises governed by Minnesota law, Pinot's Palette will comply with Minnesota Statute Section 80C.14. Subd. 3 – 5, which require (except in certain specified cases) (1) that a franchisee be given 90 days' notice of termination (within 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement.

3. Pinot's Palette will protect your right to use the trademarks, service marks, trade names, logotypes or other commercial symbols or will indemnify you from any loss, costs or expense arising out of any claim, suit or demand regarding the use of the name.

4. Minnesota considers it unfair to not protect the franchisee's rights to use the trademarks. Refer to Minnesota Statutes, Section 80C.12, Subd. 1(g).

5. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release. To the extent that any provision of the Franchise Agreement imposes a different limitations period, the provision of the Act shall control.

6. 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.

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

8. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, "There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement."

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, “read and.”

D. Paragraph C of the Background of Attachment D (Successor Addendum).

9. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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Franchisee’s Initials/ Date

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Franchisor’s Initials/Date

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF MINNESOTA**

For franchises and franchisees subject to the Minnesota Franchise Act, the following information supersedes or supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Franchise Disclosure Document.

**Item 13**

Pinot's Palette will protect your right to use the trademarks, service marks, trade names, logotypes or other commercial symbols or will indemnify you from any loss, costs or expense arising out of any claim, suit or demand regarding the use of the name.

**Item 17**

With respect to franchises governed by Minnesota law, Pinot's Palette will comply with Minnesota Statute Section 80C.14. Subd. 3 – 5, which require (except in certain specified cases) (1) that a franchisee be given 90 days' notice of termination (within 60 days to cure) and 180 days' notice for non-renewal of the Franchise Agreement.

Minn. Stat. Sec. 80C.21 provides that any condition, stipulation or provision, including any choice of law provision, purporting to bind any person who, at the time of acquiring a franchise is a resident of Minnesota or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance or which has the effect of waiving compliance with any provision of Sections 80C.01 to 80C.22 of the Minnesota Franchises Act, or any rule or order thereunder, is void.

Minn. Stat. Sec. 80C.21 and Minn. Rule 2860.4400J prohibit Pinot's Palette from requiring litigation to be conducted outside of Minnesota, requiring waiver of 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 Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

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

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.

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

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance

on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF NEW YORK**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
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COMMISSION AND THE STATE OF NEW YORK.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
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**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE REVIEWED IN  
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**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NEW YORK**

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**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF NEW YORK**

In recognition of the requirements of the New York General Business Law, Article 33, the parties to the attached Pinot's Palette Franchise Agreement agree as follows:

1. Articles 3.2(vii) and 13.2(iv) of the Agreement with respect to your execution of a general release is revised to include the following provision:

Provided, however, that all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the GBL of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the nonwaiver provisions of Sections 687.4 and 687.5 of New York's GBL be satisfied.

2. Article 18.1 of the Agreement shall be supplemented to include the following provision:

Notwithstanding the above, you shall indemnify Pinot's Palette and hold Pinot's Palette harmless from liabilities resulting from your breaches and civil wrongs only.

3. Article 13.1(i) of the Agreement shall be supplemented to include the following provision:

In the event of such an assignment, Pinot's Palette will ascertain that its assignee, in Pinot's Palette's reasonable judgment, possesses the economic resources to fulfill Pinot's Palette's obligations to its franchisees.

4. Article 19.5 of the Agreement shall be supplemented to include the following provision:

However, the foregoing choice of law shall not be considered a waiver of any right conferred upon Franchisee by the provisions of Article 33 of the New York State General Business Law.

5. Franchisee's consent in the Franchise Agreement to Pinot's Palette's right to obtain injunctive and other relief in the event of franchisee's breach of covenants not to compete and non-disclosure covenants contemplates only Pinot's Palette's right to obtain injunctive and other relief only after the proper proofs are made and the appropriate judicial or arbitral authority grants such relief. Nothing within said provisions shall constitute a waiver by Franchisee of Franchisee's right to defend any action.

6. The Franchise Agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under New York law.

7. Pinot's Palette's termination of the Franchise Agreement because of your insolvency or bankruptcy may not be enforceable under applicable federal law (11 U.S.C.A. 101 et seq.)

8. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, “There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement.”

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, “read and.”

D. Paragraph C of the Background of Attachment D (Successor Addendum).

9. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

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Franchisee’s Initials/ Date

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Franchisor’s Initials/Date



**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NEW YORK**

In recognition of the requirements of the New York General Business Law, Article 33, Section 680 through 695, and of the Codes, Rules, and Regulations of the State of New York, Title 13, Chapter VII, Section 200.1 through 200.16 the Franchise Disclosure Document for Pinot's Palette for use in the State of New York shall be amended as follows:

1. The following is added to the Cover Page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SERVICES OR INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THIS FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE APPROPRIATE STATE OR PROVINCIAL AUTHORITY. THE FRANCHISOR, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

- A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony; a violation of a franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices or comparable civil or misdemeanor allegations.
- B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.
- C. No such party has been convicted of a felony or pleaded *nolo contendere* to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded *nolo contendere* to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law; fraud, embezzlement, fraudulent conversion or misappropriation of property, or unfair or deceptive practices or comparable allegations.
- D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State or Canadian franchise, securities,

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

3. The following language replaces the “Summary” section of Item 17, titled, *Requirements for franchisee to renew or extend*, section “c” and *Conditions for franchisor approval of transfer*, section “m”

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of the General Business Law Section =s 687(4) and 687(5) be satisfied.

4. The following language replaces the “Summary” section of Item 17, titled, *Termination by franchisee*, section “d”:

The franchisee may terminate the agreement on any grounds available by law.

5. The following language is added to the end of the “Summary” section of Item 17, titled, *Choice of forum*, section (v) and *Choice of law*, section w:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or the franchisee by Article 33 of the General Business Law of the State of New York.

6. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF NORTH DAKOTA**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF NORTH DAKOTA.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
REQUIRED EXCLUSIVELY BY THE STATE OF NORTH DAKOTA  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
REVIEWED IN CONJUNCTION WITH THE FDD**

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NORTH DAKOTA**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY  
THE STATE OF NORTH DAKOTA
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NORTH DAKOTA

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF NORTH DAKOTA**

This Amendment pertains to franchises sold in the State of North Dakota and is for the purpose of complying with North Dakota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Franchise Agreement is amended as follows:

1. Article 12 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants not to compete may not be enforceable under North Dakota law.

2. Articles 3.2(vii) and 13.2(iv) of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to sign a general release of claims if you renew or transfer your franchise may not be enforceable under North Dakota law.

3. Article 12.1 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to consent to termination or liquidated damages may not be enforceable under North Dakota law.

4. Article 19.1 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants specifying that the agreement is governed by the laws of a state other than North Dakota may not be enforceable in North Dakota.

5. Article 19.3 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring mediation at a location that is remote from the site of the franchisee's business may not be enforceable in North Dakota.

6. Article 19.4 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota may not be enforceable under North Dakota law.

7. Article 19.9 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to consent to a limitation of claim within one year may not be enforceable under North Dakota law.

8. Article 19.10 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to consent to a waiver of exemplary and punitive damages may not be enforceable under North Dakota law.

9. Article 19.11 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to consent to waiver of trial by jury may not be enforceable under North Dakota law.

10. Article 19.12 of the Franchise Agreement is hereby amended by the addition of the following language to the original language that appears therein:

Covenants requiring North Dakota franchisees to pay all costs and expenses incurred by the franchisor in enforcing the agreement may not be enforceable under North Dakota law. The prevailing party in any enforcement action is entitled to recover all costs and expenses, including attorney's fees.

11. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, "There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement."

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, "read and."

D. Paragraph C of the Background of Attachment D (Successor Addendum).

12. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

[signature page follows]

Franchisor: Painting with a Twist, L.L.C., dba, Pinot's Palette

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

Franchisee:

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF NORTH DAKOTA**

For franchises and franchisees subject to the North Dakota Franchise Investment Law Act, the following information supersedes and supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Franchise Disclosure Document.

Item 17 of the FDD shall be supplemented to include the following:

1. Covenants not to compete upon termination or expiration of a franchise agreement are generally unenforceable, except in certain instances as provided by law.
2. Any provision in the Franchise Agreement which requires a franchisee to sign a general release upon renewal of the franchise agreement has been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
3. Any provision in the Franchise Agreement which designates that the agreement is governed by the laws of a state other than North Dakota is void.
4. Any provision in the Franchise Agreement which designates jurisdiction or venue or requires the franchisee to agree to a jurisdiction or venue in a forum outside of North Dakota is void with respect to any cause of action which is otherwise enforceable in North Dakota.
5. Any provision in the Franchise Agreement which requires a franchisee to consent to a waiver of exemplary and punitive damages has been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
6. Any provision in the Franchise Agreement which requires a franchisee to waive his or her right to a jury trial has been determined to be unfair, unjust and inequitable within the intent of Section 51-19-09 of the North Dakota Franchise Investment Law.
7. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.



**ADDENDUM TO PINOT’S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF RHODE ISLAND**

**PINOT’S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT (“FDD”)  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF RHODE ISLAND.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
REQUIRED EXCLUSIVELY BY THE STATE OF RHODE ISLAND  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
REVIEWED IN CONJUNCTION WITH THE FDD**

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF RHODE ISLAND**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY  
THE STATE OF RHODE ISLAND

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF RHODE ISLAND**

This Addendum relates to franchises sold in Rhode Island and is intended to comply with Rhode Island statutes and regulations. In consideration of the execution of the Franchise Agreement, Franchisor and Franchisee agree to amend the Franchise Agreement as follows:

1. The Rhode Island Franchise Investment Act (the "Act") at Section 19-28.1-14 provides that "a provision in a franchise agreement restricting jurisdiction or venue to a forum outside of this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."

2. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, "There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement."

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, "read and."

D. Paragraph C of the Background of Attachment D (Successor Addendum).

3. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

4. Except as amended herein, the Franchise Agreement will be construed and enforced with its terms.

The undersigned does hereby acknowledge receipt of this Amendment.

[signature page follows]

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Franchisor: Painting with a Twist, L.L.C., dba, Pinot's Palette

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

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

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

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

Franchisee:

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

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

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

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

**ADDENDUM TO PINOT’S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF SOUTH DAKOTA**

**PINOT’S PALETTE FRANCHISE DISCLOSURE DOCUMENT (“FDD”)  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF SOUTH DAKOTA.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
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AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
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**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF SOUTH DAKOTA**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF SOUTH DAKOTA
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF SOUTH DAKOTA

**ADDENDUM TO PINOT’S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF SOUTH DAKOTA**

This Addendum shall pertain to franchises sold in the State of South Dakota and shall be for the purpose of complying with South Dakota statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement (“Agreement”) to the contrary, the Agreement shall be amended as follows:

1. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, “There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement.”

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, “read and.”

D. Paragraph C of the Background of Attachment D (Successor Addendum).

2. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

Dated this \_\_\_\_\_ day of 20\_\_\_\_

**Franchisor: Painting with a Twist, L.L.C., Franchisee:  
Dba, Pinot’s Palette**

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

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF SOUTH DAKOTA**

This Addendum pertains to franchises sold in the State of South Dakota and is for the purpose of complying with South Dakota statutes and regulations. For franchises and franchisees subject to South Dakota statutes and regulations, the following information supersedes and supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Franchise Disclosure Document.

1. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.



**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF VIRGINIA**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF VIRGINIA.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
REQUIRED EXCLUSIVELY BY THE STATE OF VIRGINIA  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
REVIEWED IN CONJUNCTION WITH THE FDD**

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF VIRGINIA**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF VIRGINIA
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF VIRGINIA

**ADDENDUM TO PINOT’S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF VIRGINIA**

This Addendum to the Pinot’s Palette Franchise Agreement dated \_\_\_\_\_ (“Addendum”) between Painting with a Twist, L.L.C., dba, Pinot’s Palette (the “Franchisor” or “Pinot’s Palette”) and \_\_\_\_\_ (“Franchisee”) is entered into simultaneously with the execution of Franchise Agreement (“Franchise Agreement” or “Agreement”).

1. The provision of this Addendum forms an integral part of, and is incorporated into, the Franchise Agreement. This Addendum is being executed because: (a) the offer or sale of a franchise to Franchisee was made in the Commonwealth of Virginia; and/or (b) part or all of the Territory is located in the Commonwealth of Virginia.

2. The following is added to the Franchise Agreement:

Pursuant to Section §13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

3. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, “There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement.”

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, “read and.”

D. Paragraph C of the Background of Attachment D (Successor Addendum).

4. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

5. This Addendum will have effect only if the Franchise Agreement and/or the relationship between Franchisor and Franchisee satisfy all of the jurisdictional requirements of the Virginia Securities and Retail Franchising Act, without considering this Addendum. Except as expressly modified by this Addendum, the Franchise Agreement remains unmodified in full force and effect.

The undersigned does hereby acknowledge receipt of this Addendum.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Franchisor: Painting with a Twist, L.L.C., dba, Pinot's Palette

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

Franchisee:

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

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF VIRGINIA**

In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for Pinot's Palette for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure: The following statements are added to Item 17.h:

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

No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF WASHINGTON**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF WASHINGTON.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION REQUIRED  
EXCLUSIVELY BY THE STATE OF WASHINGTON  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

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**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF WASHINGTON**

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1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF WASHINGTON
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF WASHINGTON

THE WASHINGTON ADDENDUM ALSO APPLIES TO EXHIBIT F, FRANCHISE COMPLIANCE CERTIFICATION.

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF WASHINGTON**

This Addendum relates to franchises sold in Washington and is intended to comply with Washington statutes and regulations. In consideration of the execution of the Franchise Agreement, Franchisor and Franchisee agree to amend the Franchise Agreement as follows:

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
2. RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.
3. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
6. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
7. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.



8. Section 13.2(iv) of the Franchise Agreement is hereby amended to state:

Any release signed by a transferring franchisee does not apply with respect to claims arising under the Washington Franchise Investment Protection Act, RCW 19.100, or the rules adopted thereunder.

9. Section 18.2 of the Franchise Agreement is hereby amended to state:

Franchisees have no obligation to indemnify or hold harmless an indemnified party for losses to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.

9. Section 19.12 of the Franchise Agreement is hereby amended to state:

Franchisees are only responsible for court costs and reasonable attorneys' fees incurred by the franchisor if the franchisor is the prevailing party in any action or arbitration proceeding.

10. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, "There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement."

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, "read and."

D. Paragraph C of the Background of Attachment D (Successor Addendum).

11. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

12. Except as amended herein, the Franchise Agreement will be construed and enforced with its terms.

[signature page follows]

The undersigned does hereby acknowledge receipt of this addendum.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Franchisor: Painting with a Twist, L.L.C.,  
Db, Pinot's Palette

Franchisee:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF WASHINGTON**

This Addendum relates to franchises sold in Washington and is intended to comply with Washington statutes and regulations. In consideration of the execution of the Franchise Agreement, Franchisor and Franchisee agree to amend the Franchise Agreement as follows:

1. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
2. RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.
3. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
5. Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.
6. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
7. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.
8. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i)

waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

9. Exhibit F of the Franchise Disclosure Document (Franchisee Compliance Certification) is deleted in its entirety.

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
CONTAINING ADDITIONAL INFORMATION  
REQUIRED BY THE STATE OF WISCONSIN**

**PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT ("FDD")  
CONTAINS INFORMATION REQUIRED BY BOTH THE FEDERAL TRADE  
COMMISSION AND THE STATE OF WISCONSIN.  
THIS ADDENDUM TO THE FDD CONTAINS INFORMATION  
REQUIRED EXCLUSIVELY BY THE STATE OF WISCONSIN  
AND IS BEING PROVIDED TO YOU AT THE SAME TIME AS THE FDD.**

**\*\*\*\*\***

**THE INFORMATION CONTAINED HEREIN MUST BE  
REVIEWED IN CONJUNCTION WITH THE FDD**

**ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF WISCONSIN**

**Table of Contents**

1. ADDENDUM TO PINOT'S PALETTE FRANCHISE AGREEMENT REQUIRED BY THE STATE OF WISCONSIN
2. ADDENDUM TO PINOT'S PALETTE FRANCHISE DISCLOSURE DOCUMENT REQUIRED BY THE STATE OF WISCONSIN

**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE AGREEMENT  
REQUIRED BY THE STATE OF WISCONSIN**

This Addendum shall pertain to franchises sold in the State of Wisconsin and shall be for the purpose of complying with the Wisconsin Fair Dealership Law. Notwithstanding anything which may be contained in the body of the Franchise Agreement to be contrary, the Franchise Agreement shall be amended as follows:

1. Article 14 of the Franchise Agreement pertaining to Defaults and Terminations is amended as follows:

For all franchisees residing in the State of Wisconsin, we will provide you at least 90 days prior written notice of termination, cancellation, or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, or substantial change in competitive circumstances and will provide that you have 60 days in which to cure any claimed deficiency. If this deficiency is cured within 60 days, the notice will be void. If the reason for termination, cancellation, or substantial change in competitive circumstances is nonpayment of sums due under the franchise, you will have 10 days in which to remedy such default from the date of delivery or posting of such notice.

2. Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of this Agreement or a related document between Franchisor and Franchisee inconsistent with the Law.

3. The following language and Sections are removed from the Franchise Agreement and Attachment D (Successor Addendum):

A. In Article 21.3 of the Franchise Agreement, the language, "There is no other agreement, representation or warranty made by Franchisor or any other entity or person associated with Franchisor other than contained in this Agreement."

B. Articles 22.1 through 22.5, and 22.7 of the Franchise Agreement.

C. In Article 22.10 of the Franchise Agreement, the language, "read and."

D. Paragraph C of the Background of Attachment D (Successor Addendum).

4. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

5. Except as amended herein, the Franchise Agreement will be construed and enforced with its terms.

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Franchisee's Initials/Date

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Franchisor's Initials/Date



**ADDENDUM TO PINOT'S PALETTE  
FRANCHISE DISCLOSURE DOCUMENT  
REQUIRED BY THE STATE OF WISCONSIN**

For franchises and franchisees subject to the Wisconsin Fair Dealership Law, the following information supersedes or supplements, as the case may be, the corresponding disclosures in the main body of the text of the Pinot's Palette Wisconsin Franchise Disclosure Document.

1. Item 17

(a) For all franchisees residing in the State of Wisconsin, we will provide you at least 90 days prior written notice of termination, cancellation, or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, or substantial change in competitive circumstances and will provide that you have 60 days in which to cure any claimed deficiency. If this deficiency is cured within 60 days, the notice will be void. If the reason for termination, cancellation, or substantial change in competitive circumstances is nonpayment of sums due under the franchise, you will have 10 days to cure the deficiency.

(b) For Wisconsin Franchisees, ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of the Franchise Agreement or a related contract between Franchisor and Franchisee inconsistent with the Law.

2. No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement by any franchisor, franchise seller, or other person acting on behalf of franchisor. This provision supersedes any other term of any document executed in connection with the franchise.

## STATE EFFECTIVE DATES

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

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

| State        | Effective Date   |
|--------------|------------------|
| California   |                  |
| Hawaii       | Not Registered   |
| Illinois     |                  |
| Indiana      |                  |
| Maryland     |                  |
| Michigan     |                  |
| Minnesota    |                  |
| New York     |                  |
| North Dakota |                  |
| Rhode Island |                  |
| South Dakota |                  |
| Virginia     |                  |
| Washington   | October 25, 2024 |
| Wisconsin    |                  |

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

**EXHIBIT J**

**RECEIPTS**

## **ITEM 23 - RECEIPT**

This Disclosure Document summarizes certain provisions of the franchise agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Painting with a Twist, L.L.C. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with or make payment to the franchisor or an affiliate in connection with the proposed franchise sale. Iowa and New York require that Painting with a Twist, L.L.C. gives you this disclosure document at the earlier of the first personal meeting or 10 business days (or 14 calendar days in Iowa) before the execution of the franchise or other agreement or payment of any consideration that relates to the franchise relationship. Michigan requires that Painting with a Twist, L.L.C. gives you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Painting with a Twist, L.L.C. does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified in Exhibit C.

The name, principal business address, and telephone number of each franchise seller offering the franchise is as follows: Todd Owen, Katie Richard, Brittany Graff, Mary Mierl, and Joshua Bergeron, P.O. Box 1710, Mandeville, Louisiana 70470 (985) 626-3292.

The issuance date of this Franchise Disclosure Document is October 15, 2024.

I received a Disclosure Document from Painting with a Twist, L.L.C. dated October 15, 2024, that included the following Exhibits:

- |                                          |                                        |
|------------------------------------------|----------------------------------------|
| A. Franchise Agreement                   | E. General Release                     |
| a. Guaranty Agreement                    | F. Franchisee Compliance Certification |
| b. Confidentiality Agreement             | G. List of Current Franchisees &       |
| c. ACH Service Agreement                 | Franchisees Who Have Left the System   |
| d. Successor Addendum                    | H. Contingent Assignment of Lease      |
| B. List of State Administrators & Agents | I. State Specific Addenda Agents for   |
| for Service of Process                   | Service of Process                     |
| C. Financial Statements                  | J. Receipts                            |
| D. Operations Manual Table of Contents   |                                        |

Date: \_\_\_\_\_  
(Do Not Leave Blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

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

**YOUR COPY- RETAIN FOR YOUR FILES**

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- |    |                                                              |    |                                                                    |
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| b. | Confidentiality Agreement                                    | G. | List of Current Franchisees & Franchisees Who Have Left the System |
| c. | ACH Service Agreement                                        | H. | Contingent Assignment of Lease                                     |
| d. | Successor Addendum                                           | I. | State Specific Addenda Agents for Service of Process               |
| B. | List of State Administrators & Agents for Service of Process | J. | Receipts                                                           |
| C. | Financial Statements                                         |    |                                                                    |
| D. | Operations Manual Table of Contents                          |    |                                                                    |

Date: \_\_\_\_\_  
(Do Not Leave Blank)

\_\_\_\_\_  
Signature of Prospective Franchisee

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

### **COPY FOR FRANCHISOR**

Please sign and date both copies of this receipt, keep one copy (the previous page) for your records, and mail one copy (this page) to the address listed on the front page of this disclosure document or send to the Painting with a Twist, L.L.C., dba, Pinot's Palette, Franchise Development Department by email to [franchise@pinotspalette.com](mailto:franchise@pinotspalette.com).